

C06555318

Approved for Release: 2016/09/30 C06555318

28 January 2003

MEMORANDUM FOR: Deputy Director for Operations

VIA: Associate Deputy Director for Operations/Counterintelligence

FROM:

[Redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

SUBJECT: Death Investigation - Gul RAHMAN

(b)(1)

SCOPE OF INVESTIGATION (b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

1. (S) The scope of this investigation was to determine the cause of the [Redacted] November 2002 death of Gul RAHMAN, a member of Hezbi Islami, who was being detained at an [Redacted]

prison facility [Redacted] known to CIA personnel as [Redacted] RAHMAN had been undergoing interrogation by CIA personnel, [Redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

[Redacted] Information contained in this report regarding the background of [Redacted] as well as the treatment of detainees at [Redacted] is provided for background and context as it relates to the investigation of the death of Gul RAHMAN. It is not intended to be a comprehensive review, survey or inspection of the operational procedures at [Redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(3) CIAAct  
(b)(3) NatSecAct

[Redacted]

~~TOP SECRET//X1~~

A24-2

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

BACKGROUND ON (b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

2. (TS) [redacted] is a prison located (b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

This prison, which became operational on [redacted] September 2002, is designed to house high value terrorist targets during the screening and interrogation phase of their detention, and is viewed by [redacted] Station as critical to Station's efforts to exploit these targets for intelligence and imminent threat information.<sup>2 3 4</sup> [redacted] was set up with isolation of the detainee being the primary goal. Each detainee's interaction with the outside world was intended to be limited to brief contact with the guards and more extensive contact with his CIA interrogators. This allows CIA personnel to control almost all aspects of the detainees' existence.<sup>5</sup>

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

3. (TS) The construction of the prison was funded by CIA

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

There are 20 cells located inside the prison [redacted] The cells are stand-alone concrete boxes.

(b)(1)  
(b)(3) NatSecAct

[redacted] All cells have a metal ring

- 1 [redacted] Sep 2002 (Attachment 1)
- 2 [redacted] Sep 2002 (Attachment 2)
- (b)(3) CIAAct [redacted] May 2002 (Attachment 3)
- (b)(3) NatSecAct [redacted] Jun 2002 (Attachment 4)
- 5 [redacted] Jun 2002 (Attachment 5)
- 6 [redacted] Jun 2002 (Attachment 6)
- 7 [redacted] Oct 2002 (Attachment 7)

~~TOP SECRET//X1~~

A24-3

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

attached low to the wall to which prisoners are secured. Four of the cells have high bars that run between two walls to which prisoners can be secured. These four cells are designed for sleep deprivation.

(b)(1)  
(b)(3) NatSecAct

The cellblock windows are covered with two coats of black paint and heavy curtains making the cellblock completely dark. Stereo speakers in the cellblock play constant music to prevent communications between detainees.<sup>8 9</sup>

(b)(1)

4. (TS) The prison is protected by guard force.<sup>10</sup> The guards protect the exterior of the facility. Guards are stationed in the interior of the building and handle the prisoners.

(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

interior guards are present almost constantly.

(b)(1)

(b)(3) NatSecAct

According to Station personnel, although the prison guards lack significant training, all are very professional in duties. No station officer has ever witnessed or documented an instance of prisoner mistreatment by guard or witnessed any animosity by the guards toward the prisoners. No interrogator has ever seen or documented signs of physical abuse on any of the prisoners.

(b)(1)

(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

- 8 | May 2002 (Attachment 8)
- 9 | Oct 2002 (Attachment 9)
- 10 | Jun 2002 (Attachment 10)
- 11 | Sep 2002 (Attachment 11)
- 12 Interview of | Nov 2002 (Attachment 12)
- 13 Interview of | Nov 2002 (Attachment 13)
- 14 Interview of | Nov 2002 (Attachment 14)

(b)(1)

(b)(3) CIAAct

(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(7)(c)

~~TOP SECRET//X1~~

A24-4

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

(b)(1)  
(b)(3) NatSecAct SUBJECT: ~~(S)~~ Death Investigation - Gul RAHMAN

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)  
According to COS [redacted] the guards are very professional [redacted]

[redacted] For the most part, the guards are unaware of the identities of the prisoners. According to [redacted] in some instances the prisoners have told the guards their identities. [redacted] (b)(1)  
[redacted] According to [redacted] (b)(3) NatSecAct guards are not privy to information derived from [redacted] (b)(1) interrogations of the prisoners.<sup>15</sup> (b)(3) CIAAct  
(b)(7)(c) (b)(3) NatSecAct

5. ~~(TS)~~ Since the establishment of [redacted] (b)(3) NatSecAct Station has made an effort to provide training to the guards [redacted]

(b)(1)  
(b)(3) NatSecAct  
(b)(1)  
(b)(3) NatSecAct  
(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
[redacted] With no exception, individuals interviewed stated that the guards treated prisoners well and "by-the-book," following all [redacted] directions regarding the treatment and handling of prisoners. On [redacted] June 2002, two and a half months prior to [redacted] receipt of its first prisoner, Station cabled Headquarters outlining the need to provide comprehensive training to the [redacted] guards in regard to their safe and [redacted] (b)(1) secure handling of the prisoners, [redacted] (b)(3) NatSecAct  
On [redacted] June 2002, Headquarters concurred in principle with the need to adequately train [redacted]

(b)(1)  
(b)(3) NatSecAct

On [redacted] June 2002, Station sent a cable

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
[redacted] Dec 2002 (Attachment 15) (b)(1)  
[redacted] Nov 2002 (Attachment 13) (b)(3) CIAAct  
[redacted] Oct 2002 (Attachment 7) (b)(3) NatSecAct  
[redacted] Jun 2002 (Attachment 5) (b)(6)  
[redacted] Jun 2002 (Attachment 16) (b)(7)(c)

~~TOP SECRET//X1~~

A24-5

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

SUBJECT: (G) Death Investigation - Gul RAHMAN

to Headquarters requesting that Headquarters identify staff personnel or independent contractors who could provide the training [redacted]<sup>20</sup> On 3 July 2002,

(b)(1)  
(b)(3) NatSecAct

Headquarters cabled [redacted] and notified them that they were still attempting to identify a training program, but had been unable to do so thus far.<sup>21</sup> Some time between 3 July 2002 and 18 August 2002, the idea of using the US Bureau of Prisons (BOP) personnel to provide training to the (b)(1) guard force was suggested. On [redacted] August 2002, (b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

Station sent a cable to Headquarters stating the following regarding the guard force:

(b)(1)  
(b)(3) NatSecAct [redacted]

(b)(1)  
(b)(3) NatSecAct

Request update on the status of BOP personnel TDY [redacted] to train the [redacted] guards and prison staff. Station believes this training will be essential. given the near certainty that we will be called to account for our efforts at some future date; either within the USG or to the international community (through the ICRC.)"<sup>22</sup>

(b)(1)  
(b)(3) NatSecAct

Some time between [redacted] September and the arrival of the first prisoner on [redacted] September 2002, [redacted] Station utilized its own resources to provide initial training for the interior [redacted] guards. [redacted]

(b)(1)  
(b)(3) NatSecAct

Station provided training to the guards on how to handle, move, restrain prisoners, lock them in cells, and handle them safely and securely. [redacted]

(b)(1)  
(b)(3) NatSecAct

(b)(3) NatSecAct (b)(3) NatSecAct

[redacted] Between [redacted] August and [redacted] September 2002, Headquarters was able to make arrangements with the BOP to provide training in [redacted] guard force at [redacted] On [redacted] September 2002, [redacted] cabled Headquarters and noted that they looked forward to receiving a timeline for the TDY of BOP personnel (b)(1)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(3) NatSecAct (b)(3) NatSecAct

<sup>20</sup> [redacted] Jun 2002 (Attachment 17)

(b)(1)

<sup>21</sup> [redacted] Jul 2002 (Attachment 18)

(b)(3) CIAAct

<sup>22</sup> [redacted] Aug 2002 (Attachment 19)

(b)(3) NatSecAct

<sup>23</sup> Interview of [redacted] Dec 2002 (Attachment 15)

(b)(6)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

~~TOP SECRET//X1~~ (b)(7)(c)

A 24-6

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

(b)(1) SUBJECT: (S) Death Investigation - Gul RAHMAN (b)(1)  
(b)(3) NatSecAct (b)(3) NatSecAct

(b)(1) indicating "sooner is better."<sup>24</sup> On [redacted] November 200[redacted] (b)(1)  
(b)(3) NatSecAct BOP officers arrived in [redacted] and trained the [redacted] (b)(3) NatSecAct  
guards from [redacted] November. BOP instructors trained [redacted]  
[redacted] guards in restraint techniques, escort procedures,  
security checks, entrance procedures, cell searches, watch  
calls, and patdown searches. BOP also made a number of  
recommendations to improve the security of the prison.<sup>25</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

[redacted]

6. (b)(1) [redacted] (b)(3) NatSecAct  
[redacted] son guards are [redacted] highly  
cooperative with [redacted] personnel.

[redacted] (b)(1)  
[redacted] (b)(3) NatSecAct

(b)(1) <sup>28</sup> The guards [redacted]  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

[redacted] do whatever they are told to do by  
[redacted] personnel, and often will not do anything until  
told to do so by [redacted] personnel.<sup>29</sup> All activities that  
Station officers wish to undertake at the facility are  
fully supported and rapidly carried out by the guard force.  
[redacted] stated, that although they will do anything he asks  
of them, nothing prevents the guards from taking  
independent action. If a guard noticed that a prisoner was  
cold, he could give the prisoner a blanket.<sup>30</sup> That said,  
[redacted] believed that the  
guards would take no independent action at that prison  
without permission from [redacted]

(b)(1)  
(b)(3) NatSecAct  
(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

[redacted] the [redacted] guards [redacted] does not want any  
of the prisoners to die, no matter how good or bad they  
are. He told the guards that this (ensuring the well being  
of the prisoner) was their responsibility.<sup>31</sup> According to  
[redacted] Station has recently made an effort to instill this  
responsibility in the guard force by appointing one of the

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct (Attachment 20)  
(b)(3) NatSecAct (Attachment 21)

<sup>26</sup> Interview of [redacted] Nov 2002 (Attachment 13)  
<sup>27</sup> Interview of [redacted] Dec 2002 (Attachment 15)  
[redacted] (b)(1) in 2002 (Attachment 11)  
<sup>29</sup> Interview of [redacted] Nov 2002 (Attachment 13)  
<sup>30</sup> Interview of [redacted] Nov 2002 (Attachment 13)  
<sup>31</sup> Interview of [redacted] Nov 2002 (Attachment 22)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(7)(c)

6  
~~TOP SECRET//X1~~

A24-7

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//XI~~

(b)(1) SUBJECT: (S) Death Investigation - Gul RAHMAN  
(b)(3) NatSecAct

guards responsible for detainee safety. This particular guard, [redacted] has been identified by Station personnel and BOP personnel as one of the best [redacted] guards.<sup>32</sup>  
(b)(1) (b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

7. (S) Heating and cooling are problematic at the prison facility. There is no insulation in the building and no central heating or cooling. [redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

[redacted] The facility is hot in the summer and cold in the winter. There are ceiling fans that help cool the facility in the summer. According to [redacted] in late September 2002, Station purchased 10 electric heaters that were delivered in early October 2002. Five of the electric heaters were placed in the administrative section of the prison and five were placed in the guard shacks. They could not place any of the electrical heaters in the prisoner housing area [redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

[redacted] In mid-October 2002, five gas heaters were purchased and delivered sometime shortly thereafter. All five gas heaters were placed in the guard towers. In early November 2002, five more gas heaters were purchased and delivered at a later date. These heaters were placed in the housing area of the prison. These heaters were in place prior to RAHMAN's death. On [redacted] November 2002, the day of RAHMAN's death, five more gas heaters were ordered and set up in the housing area circa [redacted] November 2002. On [redacted] November 2002, 15 more gas heaters were ordered and set up sometime in December 2002. Some were used to replace broken heaters.<sup>34</sup> According to [redacted] there are approximately 15 gas heaters currently set up in the prisoner housing area.<sup>35</sup> [redacted] has now placed a thermometer inside the housing area [redacted]

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

<sup>32</sup> Interview of (b)(1) [redacted] Dec 2002 (Attachment 15)  
<sup>33</sup> Interview of (b)(3) CIAAct [redacted] Dec 2002 (Attachment 15)  
<sup>34</sup> Lotus Note for (b)(3) NatSecAct [redacted] Nov 2002 (Attachment 23)  
<sup>35</sup> Interview of (b)(6) [redacted] Dec 2002 (Attachment 15)

(b)(7)(c)

~~TOP SECRET//XI~~

A24-8

C06555318

Approved for Release: 2016/09/30 C06555318

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

~~TOP SECRET//X1~~

SUBJECT: ~~(S)~~ Death Investigation - Gul RAHMAN

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

[redacted] stated that he has requested that the guards record the temperatures in the housing area each day.<sup>36</sup>

(b)(1)  
(b)(3) NatSecAct

8. ~~(S)~~ From the conception of [redacted] Headquarters and [redacted] Station have made efforts to ensure the physical health of the detainees. On [redacted] June 2002, [redacted] Station cabled Headquarters and stated the following: (b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

"Station can support initial, non-emergency medical treatment with use of Station medics. [redacted]"

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

[redacted] Station has requested that a small medical room be constructed [redacted] so that detainees may receive medical care via visiting medical personnel within the facility."<sup>37</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

<sup>36</sup> Interview of [redacted] 19 Dec 2002 (Attachment 15)

<sup>37</sup> [redacted] Jun 2002 (Attachment 24)

<sup>38</sup> [redacted] Jul 2002 (Attachment 25)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

~~TOP SECRET//X1~~

A24-9



C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

SUBJECT: (S) Death Investigation - Gul RAHMAN

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

Note: CIA was already funding the operation of a facility to include all prison expenses.

10. (S) According to [redacted] a CIA medical officer TDY to [redacted] at the end of August 2002, [redacted] had agreed to provide [redacted] physician to examine the prisoners. As of [redacted] November 2002, [redacted] has failed to do so. As a result, Station assumed by default the responsibility of taking care of the prisoner's health care needs. [redacted] stated that he first visited [redacted] on [redacted] November 2002, shortly after his arrival for his second TDY to [redacted]. [redacted] stated that if a prisoner becomes ill, he and another Station medic go to [redacted] and treat them. [redacted] stated that his guidelines for treating the prisoners were vague and needed to be further defined. [redacted] stated that he called the Acting Chief of the Office of Medical Services, [redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

(OMS [redacted] and asked for guidance. [redacted] was told, "the Hippocratic Oath states that if someone is sick, you treat

them" <sup>40</sup>  
(b)(3) CIAAct (b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

11. (S) [redacted] dated [redacted] November 2002, provides a detailed outline of Station's medical support to the detainees at [redacted]. The cable is quoted below in its entirety:

SUBJECT: (b)(1)  
(b)(3) CIAAct  
DETAINEES (b)(3) NatSecAct STATION MEDICAL SUPPORT TO

REF: NONE

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

TEXT:

1. ACTION REQUIRED: NONE, FYI ONLY.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

[redacted] Aug 2002 (Attachment 26)  
<sup>40</sup> Interview of [redacted] Nov 2002 (Attachment 27)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

~~TOP SECRET//X1~~

A24-10

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//XI~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct 2. [ ] STATION MEDICAL PERSONNEL PROVIDE SUPPORT TO CIA RENDITIONS AND [ ] DETAINEE PROGRAMS. [ ] MEDICAL PERSONNEL ARE ALL [ ] PHYSICIAN ASSISTANTS OR NURSE PRACTITIONERS. ONE TO TWO [ ] PERSONNEL ARE ASSIGNED TDY [ ] AT ANY GIVEN TIME.

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct 3. [ ] STANDARD RENDITION PROCEDURE REQUIRES THAT ONE MEDICAL OFFICER PARTICIPATE IN ALL RENDITIONS. THE REASON FOR THIS IS THREEFOLD. FIRST, TO ENSURE THAT THE DETAINEE DOES NOT HAVE ANY ITEMS CONCEALED ON HIS PERSON WHICH MIGHT BE USED AS A WEAPON (THROUGH A COMPLETE FULL-BODY AND CAVITY SEARCH). SECOND, TO DETERMINE THE INITIAL MEDICAL CONDITION OF THE DETAINEE; AND THIRD, TO STABILIZE THE CONDITION OF THE DETAINEE DURING THE RENDITION - INCLUDING SEDATION IF NECESSARY.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

[ ] STATION MEDICAL PERSONNEL ALSO PROVIDE SUPPLEMENTAL MEDICAL SUPPORT ON AN AS-NEEDED BASIS. THIS TYPICALLY CONSISTS OF TREATMENT FOR ACUTE MEDICAL PROBLEMS AND FOLLOW-UP TREATMENT FOR PRE-EXISTING MEDICAL CONDITIONS.

10

~~TOP SECRET//XI~~

A24-11

Approved for Release: 2016/09/30 C06555318

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1) (b)(1)  
(b)(3) CIAAct (b)(3) CIAAct  
(b)(3) NatSecAct (b)(3) NatSecAct

THE  
LAST REGULAR ASSISTANCE VISIT TO [REDACTED] WAS CONDUCTED  
FROM [REDACTED] NOVEMBER 2002. THE NEXT PLANNED VISIT WILL BE  
DURING [REDACTED] WEEK OF NOVEMBER 2002. BASED ON THE LAST  
[REDACTED] VISIT, FOLLOW-UP CARE WAS PROVIDED TO SEVERAL  
INMATES FROM [REDACTED] NOVEMBER 2002.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1) (b)(1)  
(b)(3) CIAAct (b)(3) CIAAct  
(b)(3) NatSecAct (b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

DURING THE MOST RECENT  
SCHEDULED VISIT TO [REDACTED] [REDACTED] DETAINEES WHO PREVIOUSLY  
IDENTIFIED THEMSELVES AS DIABETICS WERE TESTED FOR BLOOD  
SUGAR LEVELS (WHICH WERE NORMAL), [REDACTED] DETAINEE WITH A  
VARIETY OF PRE-EXISTING CONDITIONS WAS PRESCRIBED FIVE  
DIFFERENT MEDICATIONS, AND SEVERAL DETAINEES WERE  
PRESCRIBED MILD PAIN RELIEVERS. URINE TESTING OF THE  
INMATES INDICATED ALL OF THE [REDACTED] DETAINEES WERE  
RECEIVING SUFFICIENT NOURISHMENT AND HYDRATION. ALL OF THE  
DETAINEES AT [REDACTED] (WITH THE EXCEPTION OF GUL RAHMAN)  
HAVE BEEN FULLY COOPERATIVE WITH THE MEDICAL PERSONNEL IN  
RESPONDING TO QUESTIONS ABOUT THEIR HEALTH AND WELFARE.  
THE ONE EXCEPTION, GUL RAHMAN, WOULD ONLY STATE THAT  
"THANKS TO GOD, ALL IS WELL" IN RESPONSE TO QUESTIONING.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

12. (S) Additionally, prisoners with significant  
health problems are not accepted at [REDACTED] During a  
proposed rendition of a detainee with a [REDACTED] condition,  
[REDACTED] Station provided the following guidance: "If Subject  
does have a significant [REDACTED] condition, Subject should not  
be transferred to [REDACTED] Appropriate specialized  
medical care is not available [REDACTED] No  
unlawful enemy combatant with pre-existing medical  
conditions can be brought to [REDACTED] If there is reason

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

(b)(1) (b)(1)  
(b)(3) NatSecAct (b)(3) CIAAct  
(b)(3) NatSecAct (b)(3) NatSecAct

~~TOP SECRET//X1~~

A24-12

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

to believe that Subject has (b)(1) condition, he should be transferred (b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

TREATMENT OF PRISONERS

13. (S) [redacted] was constructed as a result of shortcomings in the handling of detainees [redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct (b)(1)  
(b)(6) (b)(3) CIAAct  
(b)(7)(c) (b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

[redacted] was designed to isolate and enhance control over the prisoners.<sup>42</sup> (b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

14. (S) [redacted] a [redacted] Officer, is responsible for detainee affairs at [redacted] Station, and is viewed by Station management and personnel as the "site manager." [redacted] arrived in [redacted] on [redacted] August 2002. Prior to his arrival in [redacted] [redacted] did not know he would be responsible for detainee affairs. [redacted] stated that he learned that he would have this responsibility approximately three days after his arrival in [redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

[redacted] had no prior experience in interrogation or prison operations prior to his arrival in [redacted] aside from four days as a detainee during Survival, Evasion, Resistance, Escape (SERE) training [redacted] According to [redacted] this training provided him with some understanding as to how prisoners would react to various handling, treatment, and interrogation methods. [redacted] was approximately one month short of being operational at the time of [redacted] arrival. In addition to assuming control over the final construction details of [redacted] [redacted] was also responsible for coordinating interrogations [redacted] and coordinating renditions of high and medium value terrorist targets throughout [redacted]

(b)(1)  
(b)(3) NatSecAct

[redacted] In conjunction with his (b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1) Oct 2002 (Attachment 28)  
(b)(3) CIAAct Apr 2002 (Attachment 29)  
(b)(3) NatSecAct 12

~~TOP SECRET//X1~~

A24-13

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

SUBJECT: (b)(1) Death Investigation - Gul RAHMAN  
(b)(3) CIAAct  
(b)(3) NatSecAct  
duties as [redacted] "site manager," [redacted] was responsible for devising the operating procedures for [redacted]. These procedures concerned the handling and treatment of prisoners and the operation of the facility.<sup>43</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

15. (S) John B. Jessen (known by the name Bruce), a Psychologist who works for CIA as an independent contractor, and is involved in the use of enhanced interrogation techniques with high value targets, spent two and a half weeks at [redacted] from early-to mid-November 2002. Jessen worked directly with [redacted] on RAHMAN and other detainees at [redacted]. Jessen has a Ph.D. in Clinical Psychology, and spent 20 years on active duty with the US Air Force as a Psychologist. After his retirement from the Air Force, Jessen spent eight years as a DOD civilian Psychologist. During his tenure with the Air Force and DOD, Jessen worked on captivity related issues. While on active duty, he served as a Psychologist with the Joint Personnel Recovery Agency. While employed as a civilian with DOD, Jessen was the Senior Psychologist for the SERE program. Jessen was able to observe operations at [redacted] and had discussions with [redacted] regarding methods of handling, treating, and interrogating prisoners. Jessen also made some recommendations to [redacted] to improve operations at the facility. Jessen stated

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

[redacted] did a great job setting up [redacted]. Jessen described [redacted] as being very bright, motivated, and possessing good intuition. Jessen said [redacted] was doing a great job with the guard force. [redacted] was very level headed and acted in a measured manner. Jessen said the atmosphere of the facility was excellent for the type of prisoners kept there - "nasty, but safe." Jessen commented that although [redacted] had never worked in this line of business prior to arriving in [redacted] he did not see any "hiccups" in security or prisoner safety. Jessen commented that he would be pleased to work with [redacted] in the future, and believed that [redacted] should be a member of [redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

<sup>43</sup> Interview of [redacted] Dec 2002 (Attachment 15)

<sup>44</sup> Interview of John B. Jessen, 9 Jan 2003 (Attachment 30)

~~TOP SECRET//X1~~

A24-14

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

(b)(1)  
 (b)(3) CIAAct  
 (b)(3) NatSecAct

SUBJECT: (S) Death Investigation - Gul RAHMAN

(b)(1)  
 (b)(3) CIAAct  
 (b)(3) NatSecAct  
 (b)(6)  
 (b)(7)(c)

16. (S) Although [ ] does not have a written set of Standard Operating Procedures (a flaw noted by Jessen), [ ] has established a standard method of operation. For security reasons, prisoners are brought to the facility with their hands and feet shackled. Blindfolds are placed over their eyes and a hood is placed over their heads. Ear plugs are also placed in their ears. This is done so that prisoners have no knowledge of where they are being housed, cannot hear what is being said around them, and have no idea if they are alone or with other prisoners. Additionally, it prevents any form of communication between prisoners. Prisoners are handled by guards in complete silence. Hand signals are used by the guards to communicate with each other. Prisoners are dressed in sweatsuits and adult diapers. The diapers are used for sanitary reasons during transportation, and as a means to humiliate the prisoner. When prisoners are delivered to their cell, one hand or foot is shackled to the wall. This is done for the safety of the guard. Later, the manner in which a prisoner is shackled is based on his level of cooperation and the danger he presents to the guards. However, all prisoners are shackled in some manner. If they are not shackled to the wall, their hands and feet may be shackled. If a prisoner is uncooperative, or presents a significant physical threat to the guards, he may be shackled in a "short chain" position. This method was taught to the guards by BOP instructors as a safer alternative to hog-tying prisoners. Hog-tying prisoners has resulted in a number of deaths in the US, and the "short chain" method is safer for the prisoners while still providing a higher degree of safety and security for the guards. In the "short chain" method, the prisoner's hands are shackled together as are his feet. Then a short chain is used to shackle the hands to the feet. This keeps a prisoner's hand shackled within several inches of his feet. The prisoner's feet are then shackled to the wall. This provides for the maximum degree of control over the prisoner while allowing for prisoner safety.<sup>45</sup>

<sup>45</sup> Interview of (b)(1) [ ] Dec 2002 (Attachment 15)  
 (b)(3) CIAAct 14  
 (b)(3) NatSecAct ~~TOP SECRET//X1~~  
 (b)(7)(c)

A24-15

C06555318

Approved for Release: 2016/09/30 C06555318

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)~~TOP SECRET//X1~~SUBJECT: ~~(S)~~ Death Investigation - Gul RAHMAN

17. ~~(S)~~ Prior to the guards' departure from the cell, the hood, blindfold, and ear plugs are taken from the prisoner. Prisoners are housed in total darkness. [redacted] stated that this is done for a couple of reasons. [redacted] stated that he wanted to disorient prisoners so they didn't know if it was day or night. [redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

Additionally, music is played in the prisoner housing area 24 hours a day. This is done to prevent prisoners from communicating with each other.<sup>46</sup>

18. ~~(S)~~ Sleep deprivation is also used to enhance successful interrogation. The decision to use sleep deprivation is made by the individual CIA officer who is working with a particular prisoner. When sleep deprivation is utilized, the prisoner is chained by one or both wrists to a bar running across the ceiling of the cell. This forces the prisoner to stand. [redacted] stated that he consulted with Jessen and was told that no prisoner should undergo more than 72 hours of sleep deprivation because lucidity begins to decline and questioning become ineffective.<sup>47</sup> During our interview with Jessen, he stated that sleep deprivation could be used indefinitely without harming the prisoner; however, you could not chain him overhead indefinitely.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

19. ~~(S)~~ Often, prisoners who possess significant or imminent threat information are stripped to their diapers during interrogation and placed back into their cells wearing only diapers. This is done solely to humiliate the prisoner for interrogation purposes. When the prisoner soils a diaper, they are changed by the guards. Sometimes the guards run out of diapers and the prisoners are placed back in their cells in a handcrafted diaper secured by duct tape. If the guards don't have any available diapers, the prisoners are rendered to their cell nude.<sup>48</sup>

<sup>46</sup> Interview of [redacted] Dec 2002 (Attachment 15)  
<sup>47</sup> Interview of [redacted] Dec 2002 (Attachment 15)  
<sup>48</sup> Interview of [redacted] Dec 2002 (Attachment 15)  
 (b)(3) CIAAct  
 (b)(3) NatSecAct  
 (b)(6)  
 (b)(7)(c)

~~TOP SECRET//X1~~

A24-16

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

20. (S) Prisoners' cells are austere. A prisoner begins his confinement with nothing in his cell except a bucket used for human waste. Prisoners are given rewards for cooperation. Rewards can consist of a light, "foamies" for the prisoners' ears (blocks out the music), a mat to sleep on, extra blankets, etc. Additionally, a luxury room has been built which has a light, a rocking chair, a table, and carpeting on the floor. Prisoners are not punished for lack of cooperation. Instead, rewards that they have received for cooperation are taken from them if they become uncooperative.<sup>49</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

21. (S) When guards move prisoners from their cell to the interrogation room, usually [redacted] guards enter the cell with a flashlight. A hood is placed over the prisoner's head and he is lead to the interrogation room in shackles. The guards do not speak to the prisoners and all communication between the guards is completed with hand signals. Once the detainee is placed in the interrogation room the guards depart, and the hood is removed by [redacted] personnel. Every effort is made to ensure that the only person a detainee communicates with is his CIA interrogator.<sup>50</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

DEATH OF GUL RAHMAN

22. (S) Gul RAHMAN was a Hezbi Islami official from Wardak province, Afghanistan, who was known to interact with and support Al Qa'ida. He was known to be a close associate of Gulbuddin Hekmatyar and Abu Abd Al-RAHMAN Al-Najdi.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) NatSecAct

[redacted] Station  
Jessen stated that [redacted]

<sup>49</sup> Interview of [redacted] Dec 2002 (Attachment 15)  
<sup>50</sup> Interview of [redacted] Dec 2002 (Attachment 15).  
<sup>51</sup> Alec [redacted] Oct 2002 (Attachment 31)  
<sup>52</sup> Alec [redacted] Nov 2002 (Attachment 32)  
<sup>53</sup> [redacted] Nov 2002 (Attachment 33)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(7)(c)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

~~TOP SECRET//X1~~

A24-17



C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

was very optimistic that they had somebody who was going to have some good information.<sup>54</sup>

(b)(1)  
(b)(3) NatSecAct

23. (S) RAHMAN was apprehended in Islamabad, Pakistan on [redacted] October 2002, during an early morning raid

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

<sup>54</sup> Interview of John B. Jessen, 9 Jan 2003 (Attachment 30)

[redacted] Oct 2002 (Attachment 34)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

~~TOP SECRET//X1~~

A 24-18

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

SUBJECT: ~~(S)~~ Death Investigation - Gul RAHMAN

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
  
(b)(1)  
(b)(3) NatSecAct

27. ~~(S)~~ On  November 2002, Headquarters agreed in transferring him to

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

<sup>56</sup>  Oct 2002 (Attachment 34)  
<sup>57</sup>  Nov 2002 (Attachment 35)  
<sup>58</sup> Alec | Nov 2002 (Attachment 36)  
<sup>59</sup> Alec | Nov 2002 (Attachment 37)

~~TOP SECRET//X1~~

A24-19

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

29. (S) Later that day, RAHMAN [redacted] were flown from [redacted] where they were subsequently transferred to [redacted].<sup>61</sup> Upon RAHMAN's arrival at [redacted] he was given a physical examination and all of his personal clothes and effects were removed. He was dressed in standard prison garb and placed in a single cell.<sup>62</sup> [redacted] described the standard prison garb as a sweatshirt and sweat pants. RAHMAN was also wearing an adult diaper that was placed on him in [redacted]. This is done because prisoners are not allowed to use bathroom facilities on the airplane during rendition, and later as a means of humiliation. According to standard operating procedures, one of RAHMAN's hands or feet would have been shackled to the wall when he was placed in his cell. According to [redacted] the physical examination of RAHMAN took place in [redacted]. [redacted] stated that there are a number of reasons for the physical examination. One reason is so that Station can conduct a body cavity search to ensure the prisoner is not carrying a weapon or some other substance. The second reason is so that Station can ensure that the prisoner is in good enough condition to travel and be housed at [redacted]. Lastly, [redacted] indicated that the physical examination serves to document if a prisoner has been beaten or traumatized. The person conducting the

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

<sup>60</sup> [redacted] Nov 2002 (Attachment 38)  
<sup>61</sup> [redacted] Nov 2002 (Attachment 39)  
<sup>62</sup> [redacted] Nov 2002 (Attachment 40)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

~~TOP SECRET//X1~~

A24-20

C06555318

Approved for Release: 2016/09/30 C06555318

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

physical exam would note such observations. [redacted] also indicated that the prisoner would be photographed. A search of cable traffic related to RAHMAN found no record of any reporting indicating that any injuries or health conditions were noted. [redacted] stated that they keep no medical records on the prisoners and the digital photographs taken of RAHMAN at rendition have long been overwritten.<sup>63 64</sup>

30. (S) According to Jessen, he was at [redacted] in early November 2002, in conjunction with the interrogations of a few other prisoners. Although Jessen's recollections were fuzzy, Jessen recalled that he might have been present during the first interrogation of RAHMAN at [redacted]. Jessen recalled that [redacted] approached him, and they discussed strategies to use during his interrogation. Jessen stated that he believes [redacted] conducted the first interrogation, and he watched from behind the lights. Jessen stated that they talked afterwards and collaborated on some approaches he might want to take.<sup>65</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

31. (S) Cable traffic reflects that on [redacted] and [redacted] November 2002, [redacted] and Jessen interrogated RAHMAN. The cable goes on to state that despite 48 hours of sleep deprivation, auditory overload, total darkness, isolation, a cold shower, and rough treatment, RAHMAN maintained a high interrogation resistance posture and continued to deny that he was RAHMAN, despite overwhelming evidence to the contrary. His resistance posture suggested a sophisticated level of resistance training. The cable cited several examples of his interrogation resistant behavior:

(b)(1)  
(b)(3) NatSecAct  
(b)(1)  
(b)(3) NatSecAct

- o Remained steadfast in outright denials (ignored obvious facts).
- o Was unresponsive to provocation.
- o Claimed inability to think due to conditions (cold)
- o Complained about poor treatment.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

<sup>63</sup> Lotus Note from [redacted] to [redacted] Jan 2003 (Attachment 41)  
<sup>64</sup> Interview of [redacted] Dec 2002 (Attachment 15)  
<sup>65</sup> Interview of John B. Jessen, 7 Jan 2003 (Attachment 30)

(b)(6)  
(b)(7)(c)

~~TOP SECRET//X1~~

A24-21

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

- o Complained about the violation of his human rights.
- o Remained consistently unemotional, calm, and composed.
- o Blatantly lied while attempting to appear sincere in his desire to cooperate.
- o Consistently used his cover story.
- o Displayed no anxiety (calmly picked at his skin/nails during confrontations with damning evidence against him.
- o Was unfazed by physical and psychological confrontations.<sup>66</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

32. (S) Cable traffic reflects that sleep deprivation for RAHMAN began almost immediately after his arrival at [redacted] Jessen stated that he believed that RAHMAN's sleep deprivation started from the beginning. According to [redacted] RAHMAN's clothes were taken from him at this point, and he was left wearing a diaper. During the period of sleep deprivation, RAHMAN's arms were shackled to a bar that ran between the walls of the cell. This prevented RAHMAN from sitting down.<sup>67 68</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

33. (S) During the first few days of RAHMAN's incarceration at [redacted] cable traffic also reflects that he received a cold shower. During our interview with [redacted] he indicated that RAHMAN received a cold shower because the water heater was not working. Jessen stated that he was deliberately given a cold shower as a deprivation technique. Cable traffic tends to support Jessen's statements. Jessen stated that after RAHMAN received the cold shower, he saw RAHMAN standing with the guards. Jessen stated that RAHMAN was shivering and showing early signs of hypothermia. Jessen instructed the guards to provide RAHMAN with a blanket, which they did.<sup>69 70</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

34. (S) Cable traffic also reflects that during his first two days of incarceration, RAHMAN underwent "rough

<sup>66</sup> [redacted] Nov 2002 (Attachment 33)  
<sup>67</sup> Interview of John B. Jessen, 9 Jan 2003 (Attachment 30)  
<sup>68</sup> Interview of [redacted] Dec 2002 (Attachment 15)  
<sup>69</sup> Interview of [redacted] Dec 2002 (Attachment 15)  
<sup>70</sup> Interview of John B. Jessen, 9 Jan 2003 (Attachment 30)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

~~TOP SECRET//X1~~

A24-22

C06555318

Approved for Release: 2016/09/30 C06555318

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

treatment." [redacted] stated that they occasionally pushed and shoved RAHMAN while he had a hood over his head to disorient him and scare him. Jessen described witnessing what he termed "a rough takedown." Jessen stated that when a detainee is strong and resilient, you have to establish control or you are not going to get anywhere. So you try different techniques to try to get him to open up. One of them is rough threatening treatment. The treatment is never to the point that you hurt the prisoner physically, you simply want to instill fear and despair in the prisoner. [redacted] came up with the idea of the hard takedown and asked Jessen for his thoughts. While Jessen has not used this technique at facilities at which he has worked, and had never seen one conducted, he thought it was worth trying. According to Jessen, there were approximately [redacted] CIA officers from the [redacted] team. Each one had a role during the takedown and it was thoroughly planned and rehearsed. They opened the door of RAHMAN's cell and rushed in screaming and yelling for him to "get down." They dragged him outside, cut off his clothes and secured him with Mylar tape. They covered his head with a hood and ran him up and down a long corridor adjacent to his cell. They slapped him and punched him several times. Jessen stated that although it was obvious they were not trying to hit him as hard as they could, a couple of times the punches were forceful. As they ran him along the corridor, a couple of times he fell and they dragged him through the dirt (the floor outside of the cells is dirt). RAHMAN did acquire a number of abrasions on his face, legs, and hands, but nothing that required medical attention. (This may account for the abrasions found on RAHMAN's body after his death. RAHMAN had a number of surface abrasions on his shoulders, pelvis, arms, legs, and face.) At this point, RAHMAN was returned to his cell and secured. Jessen stated that [redacted] may have spoken to RAHMAN for a few moments, but he did not know what [redacted] said. Jessen stated that after something like this is done, interrogators should speak to the prisoner to "give them something to think about."<sup>71 72</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

<sup>71</sup> Interview of [redacted] Dec 2002 (Attachment 15)(b)(1)

<sup>72</sup> Interview of John B. Jessen, 9 Jan 2003 (Attachment 30) (b)(3) CIAAct

~~TOP SECRET//X1~~

(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

A24-23

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

(b)(1) SUBJECT: ~~(S)~~ Death Investigation - Gul RAHMAN (b)(1)  
(b)(3) NatSecAct (b)(3) NatSecAct

35. ~~(S)~~ On  November 2002,  Station forwarded a cable to Headquarters indicating that to date, RAHMAN had provided no information to his interrogators. He still refused to admit his true name was Gul RAHMAN. He appeared somewhat fatigued relative to his appearance upon arrival at  and remained resolutely defiant as interrogators attempted to obtain information from him. Station believed that physical pressure was unlikely to change RAHMAN's attitude; but alternative psychological pressures may have more success.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

36. ~~(S)~~ On  November 2002, Station Officers  Jessen,  again met with RAHMAN. RAHMAN had spent the days since his last session with Station officers in cold conditions with minimal food or sleep. RAHMAN appeared incoherent for portions of this session, but was completely lucid by mid-session.<sup>74</sup> During this session, RAHMAN finally admitted that he was indeed Gul RAHMAN.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) NatSecAct

<sup>73</sup>  Nov 2002 (Attachment 42)  
<sup>74</sup>  Nov 2002 (Attachment 43)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

23  
~~TOP SECRET//X1~~

A24-24

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

(b)(1)  
(b)(3) NatSecAct

[redacted] cable detailing this session reads as follows:

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

"Assessment: RAHMAN was finally showing the results of his stay at [redacted] during this session. While he was still clearly resisting, we believe he may have chosen to compromise somewhat in exchange for improved conditions. However, it was also possible that RAHMAN was so fatigued that he was unable to consistently stay with his cover story even if he wished to do so. During portions of interrogation, RAHMAN was confused as to his location, and the passage of time. At other times he would forget what he had been asked [redacted] would have to recapture his attention. It is difficult to know precisely how much of his behavior was feigned and how much was a result of his physical and psychological condition; however, IC Jessen's impression was that he continues to use 'health and welfare' behaviors and complaints as a major part of his resistance posture. After the session, RAHMAN was afforded some improvement in his conditions.

(b)(3) CIAAct  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) NatSecAct

Interrogators plan to reinterview RAHMAN on [redacted] November."<sup>75</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

37. (S) [redacted] and Jessen both attributed this small interrogation breakthrough to the pressure techniques used on RAHMAN. Jessen stated that he believed RAHMAN would have never made the admission without the pressures placed on him. Jessen stated that he considered RAHMAN's

admission of his identity as a breakthrough but did not believe that RAHMAN had been "broken." Jessen stated that he believes RAHMAN made a compromise. He knew he was in trouble and knew we had a lot of evidence that he was RAHMAN. Jessen believes that RAHMAN knew that he could give up his identity and possibly get a little better treatment, but still protect the information that was important to him.<sup>76 77</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

<sup>75</sup> [redacted] Nov 2002 (Attachment 43)  
<sup>76</sup> Interview of John B. Jessen, 9 Jan 2003 (Attachment 30)  
<sup>77</sup> Interview of [redacted] Dec 2002 (Attachment 15)

~~TOP SECRET//X1~~

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(7)(c)

A 24-25



C06555318

Approved for Release: 2016/09/30 C06555318

(b)(1)  
 (b)(3) NatSecAct ~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

38. (S) On [ ] November 2002, Headquarters requested that psychologist ICs Jessen and James E. Mitchell conduct a psychological assessment exam of RAHMAN to determine which interrogation measures would be required to render RAHMAN compliant. The cable stated that Headquarters was motivated to extract any and all operational information on Al-Qa'ida and Hezbi Islami from RAHMAN. The cable noted that it was the assessment of the debriefers that RAHMAN may need to be subjected to enhanced interrogation measures to induce him to comply.

(b)(1)  
 (b)(3) NatSecAct

[ ] Headquarters requested that the results of the examination be sent to Headquarters where a determination on the course of action could be made.<sup>78</sup>

(b)(1)  
 (b)(3) NatSecAct

39. (S) On that same day [ ] November 2002), Jessen conducted a psychological captivity assessment of RAHMAN. Jessen found that RAHMAN was able to accurately describe the circumstances, time, and location of his capture he was able to identify those captured with him. He was slow to answer some questions, which Jessen attributed to fatigue and active resistance. He was able identify all members of his family, their ages, and places of birth. Questions that were non-sensitive to his resistance posture were answered quickly and accurately. Sensitive questions yielded stalling and prevarication. Throughout this evaluation and the six interrogation sessions Jessen participated in up to that point, Jessen saw no signs of psychopathology. RAHMAN did feign incoherence and profound confusion at times, but would immediately revert to a coherent dialogue when it was in his best interest. Jessen assessed RAHMAN as being of above average intelligence. Jessen stated that RAHMAN was a mentally stable individual exhibiting extraordinary resilience in his ability to withstand the vicissitudes of captivity and persist in

<sup>78</sup> Alec [ ] Nov 2002 (Attachment 32).

(b)(1) 25  
 (b)(3) CIAAct ~~TOP SECRET//X1~~  
 (b)(3) NatSecAct

A 24-26

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

an effective resistance posture. There was no indication that RAHMAN suffered from any psychopathology nor that he would be profoundly or permanently affected by continuing interrogations, to include HVT enhanced measures.<sup>79</sup>

40. (S) In the last paragraph of Jessen's mental examination report, Jessen recommended an interrogation plan for RAHMAN. The last paragraph of the cable reads as follows:

"Interrogation Plan Recommendation: Because of his [RAHMAN's] remarkable physical and psychological resilience and determination to persist in his effective resistance posture, employing enhanced measures is not the first or best option to yield positive interrogation results. In fact, with such individuals, increasing physical pressures often bolsters their resistance. The most effective interrogation plan for Gul RAHMAN, is to continue environmental deprivations he is experiencing and institute a concentrated interrogation exposure regimen. This regimen would consist of repeated and seemingly constant interrogations (18 out of 24 hours per day).. These interrogations should be coordinated and present with the same set of key subject areas. Interrogators should have the flexibility and insight to deviate with the Subject when he begins to move in a desired direction. It will be the consistent and persistent application of deprivations (sleep loss and fatigue) and seemingly constant interrogations, which will be most effective in wearing down this Subject's resistance posture. It will be important to manage the deprivations so as to allow Subject adequate rest and nourishment so he remains coherent and capable of providing accurate information. The station physician should collaborate with the interrogation team to achieve this optimum balance. It is reasonable to expect two weeks or more of this regimen before significant movement occurs."<sup>80</sup>

<sup>79</sup> [redacted] Nov 2002 (Attachment 44)

<sup>80</sup> (b)(1) [redacted] Nov 2002 (Attachment 44)

(b)(3) CIAAct

(b)(3) NatSecAct

26

~~TOP SECRET//X1~~

A24-27

C06555318

Approved for Release: 2016/09/30 C06555318

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct TOP SECRET//X1

(b)(1)  
(b)(3) NatSecAct

SUBJECT: (S) Death Investigation - Gul RAHMAN (b)(1)  
(b)(3) NatSecAct

41. (S) On [ ] November 2002, [ ] Station Medical Officer, [ ] examined Gul RAHMAN and found no health problems.<sup>81</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

42. (S) The afternoon of [ ] November 2002, was the last time [ ] saw RAHMAN alive. At that time, [ ] assessed RAHMAN to be in good overall health. [ ] noted that RAHMAN had small abrasions on his wrist and ankles as a result of the restraints. His ankle restraints were loosened, and his hand restraints were removed when RAHMAN was returned to his cell.<sup>82</sup> According to [ ] RAHMAN had complained that he was cold, so [ ] gave him a sweatshirt.<sup>83</sup>

(b)(1)  
(b)(3) NatSecAct

43. (S) According to [ ] Guard [ ] RAHMAN was fed at 2100 on [ ] November 2002. Because prisoners are fed one large meal a day, and because of RAHMAN's actions on the following day, this is the last meal RAHMAN consumed prior to his death.<sup>84</sup>

(b)(1)  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

44. (S) According to [ ] RAHMAN was fed again at 1500 on [ ] November 2002.<sup>85</sup> According to numerous sources, when the guards gave RAHMAN his food, he threw the plate, waterbottle, and waste bucket at the guards. He began yelling at the guards, repeating his threat, last stated approximately one week prior, that he knew their faces and he would kill them when he got out of the prison. As a result of his violent behavior, [ ] ordered that the guards put RAHMAN's hand restraints back on to prevent him from taking any other violent actions.<sup>86</sup> The guards proceeded to shackle RAHMAN to the wall of his cell in a short chain position. (In the "short chain" method, the prisoner's hands are shackled together as are his feet. Then a short chain is used to shackle the hands to the

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

<sup>81</sup> Interview of [ ] Nov 2002 (Attachment 27)

<sup>82</sup> [ ] Nov 2002 (Attachment 40)

<sup>83</sup> Interview of [ ] Dec 2002 (Attachment 15)

<sup>84</sup> Interview of [ ] Nov 2002 (Attachment 45) (b)(1)

<sup>85</sup> Interview of [ ] Nov 2002 (Attachment 45) (b)(3) CIAAct

<sup>86</sup> [ ] Nov 2002 (Attachment 40) (b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct TOP SECRET//X1 (b)(6)  
(b)(3) NatSecAct (b)(7)(c)

A24-28

C06555318

Approved for Release: 2016/09/30 C06555318

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

feet. This keeps a prisoner's hand shackled within several inches of his feet. The prisoner's feet are then shackled to the wall). The only clothing being worn by RAHMAN at this point was the sweatshirt given to him by [redacted] the day before. RAHMAN was nude from the waist down. RAHMAN had been nude, with the exception of a diaper for most of his incarceration. There is uncertainty as to when RAHMAN's diaper had been removed. As of approximately 1500 on [redacted] November 2002, RAHMAN was shackled in a sitting position on bare concrete while nude from the waist down. The manner in which he was shackled prevented him from standing upright.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

45. (S) The [redacted] guards made their normal rounds to check on the prisoners on [redacted] November 2002, at 2200 and 2300. The guards did not enter RAHMAN's cell, but visually inspected him from the outside using a flashlight.<sup>87</sup>

According to [redacted] guard [redacted] he and [redacted] checked RAHMAN's cell at 0400 on [redacted] November 2002. [redacted] stated that they looked into his cell and whistled. RAHMAN was sitting in his cell, alive and shaking.<sup>88</sup> At 0800, [redacted] guards [redacted]

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

[redacted] made the rounds to check on the prisoners. According to the guards, RAHMAN was alive, sitting on the floor and shaking. [redacted] noted that RAHMAN's eyes were open and blinking. [redacted] said RAHMAN's shaking did not seem unusual because all of the prisoners shake.<sup>89</sup> According to [redacted]

(b)(1)  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

guard [redacted] he checked RAHMAN's cell at 1000. He noted that the prisoner was lying on his side. [redacted] tapped the door with his nightstick; however, the prisoner did not move. At that point, [redacted] sought out [redacted] a CIA TDY'er who was at [redacted] to debrief other detainees.<sup>90</sup>

(b)(1)  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

46. (S) According to interviews conducted with Agency personnel present at [redacted] when RAHMAN's body was discovered, [redacted] were

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

<sup>87</sup> [redacted] Nov 2002 (Attachment 40)  
(b)(1)  
(b)(3) CIAAct, <sup>88</sup> Interview of [redacted] Nov 2002 (Attachment 45)  
(b)(3) NatSecAct, <sup>89</sup> Interviews of [redacted] Nov 2002 (Attachment 45)  
(b)(1)  
(b)(3) NatSecAct, <sup>90</sup> Interview of [redacted] Nov 2002 (Attachment 45)  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) NatSecAct  
(b)(7)(c)

~~TOP SECRET//X1~~

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

SUBJECT: (S) Death Investigation - Gul RAHMAN

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

all at [redacted] to interrogate other prisoners. At approximately 1000 on [redacted] November 2002, one of the guards walked up to [redacted] and informed him that one of the prisoners was not moving. The [redacted] officers went with the guard to RAHMAN's cell. The guard unlocked the cell and opened the door. RAHMAN was lying motionless on his right side with his hands and feet shackled together and his feet shackled to the wall. There was a small amount of blood coming from his nose and mouth. RAHMAN was clothed in a sweatshirt but had no pants. [redacted] noted that the only things in his cell were an empty red waste bucket, and a food tray with a small piece of bread on it. [redacted] stated that there was rice strewn all over cell. [redacted] entered the cell and checked RAHMAN's pulse. When he could not find a pulse, he began CPR chest compressions. With each chest compression, [redacted] noted that more blood would come from his mouth and mucous from his nose. [redacted] returned to the area where interrogations are conducted and called one of the Station medics on the radio. [redacted] also tried to contact [redacted] but he could not find him. Station medic [redacted] stated that he received the radio call, but it was very cryptic. [redacted] stated that he did not know why he was being summoned to [redacted]. [redacted] stated that he and [redacted] (the other Station medic) grabbed their medical bags, obtained transportation, and traveled to [redacted].<sup>91 92 93 94</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

47. (S) When [redacted] noted that CPR was unsuccessful in reviving RAHMAN, he ordered that the cell be sealed until the doctor arrived. [redacted] arrived 30-45 minutes later. Upon arrival, Station personnel greeted [redacted] and informed him that a prisoner was dead.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

[redacted] went to RAHMAN's cell and found him lying on his side. [redacted] examined RAHMAN's body and rolled it on both sides. [redacted] stated that there was no evidence that the prisoner had been abused and no evidence of a cause of death. [redacted] noted that the blood coming

<sup>91</sup> Interview of [redacted] Nov 2002 (Attachment 14)  
<sup>92</sup> Interview of [redacted] Nov 2002 (Attachment 46)  
<sup>93</sup> Interview of (b)(1) [redacted] Nov 2002 (Attachment 47)  
<sup>94</sup> Interview of (b)(3) CIAAct [redacted] Nov 2002 (Attachment 27)  
(b)(3) NatSecAct 29  
(b)(7)(c)

~~TOP SECRET//X1~~

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

A24-30

C06555318

Approved for Release: 2016/09/30 C06555318

(b)(1)  
(b)(3) CIAAct |  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

~~TOP SECRET//X1~~

SUBJECT: ~~(S)~~ Death Investigation - Gul RAHMAN

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

from the nose and mouth was dark and inconsistent with a wound to that area. [redacted] estimated that RAHMAN died within the past few hours.<sup>95 96</sup> (b)(1)  
(b)(3) NatSecAct

48. ~~(S)~~ [redacted] noted that they found it unusual that the [redacted] guard commander was not present at the prison at the time of RAHMAN's death. The interior prison guards live inside the prison and rarely leave. When [redacted] questioned the guards about the Commander's absence he was told that the Commander was at [redacted] (b)(1) [redacted] said he heard second hand that the guards told [redacted] (b)(3) NatSecAct [redacted] that the Commander had a family emergency.<sup>97 98</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

49. ~~(S)~~ It is important to note that during this investigation several officers made reference to an unexpected temperature drop [redacted] immediately prior to RAHMAN's death. The following are the Accuweather temperatures [redacted] during the month of November 2002:

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

50. ~~(S)~~ No photographs were taken at the scene of RAHMAN's death. Later that evening, [redacted] delivered a freezer to the facility and RAHMAN's body was frozen until investigating personnel could arrive to conduct an autopsy.<sup>99</sup> (b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

- <sup>95</sup> Interview of [redacted] Nov 2002 (Attachment 14)
- <sup>96</sup> Interview of [redacted] Nov 2002 (Attachment 27)
- <sup>97</sup> Interview of [redacted] Nov 2002 (Attachment 12)
- <sup>98</sup> Interview of [redacted] Nov 2002 (Attachment 46)
- <sup>99</sup> Interview of [redacted] Nov 2002 (Attachment 12)

~~TOP SECRET//X1~~

A24-31

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

SUBJECT: (S) Death Investigation - Gul RAHMAN

(b)(1)  
(b)(3) NatSecAct **AUTOPSY**

51. (S) Dr. [redacted] conducted an autopsy on RAHMAN on [redacted] November 2002. His findings are presented in his report entitled, "Final Autopsy Findings, CASE # [redacted]" (b)(3) CIAAct

(b)(1)  
(b)(3) CIAAct [redacted] which is attached to this report. In summary,  
(b)(3) NatSecAct Dr. [redacted] listed the cause of death as "undetermined."  
(b)(6) [redacted] stated, however, that it was his clinical impression  
(b)(7)(c) that RAHMAN died of hypothermia.<sup>100</sup>

52. (S) [redacted] stated that hypothermia is a diagnosis of exclusion. In essence, other potential causes are ruled out one by one until you are left with no other possibility. [redacted] stated that he conducted a full anterior neck dissection. [redacted] found no evidence of hemorrhage in the tissue, muscles, and cartilage around the neck and no evidence of damage to the Hyoid bone. Injuries such as these are common in cases of strangulation. [redacted] examined the soft tissue on the inside of the mouth and found no evidence that pressure was placed over the mouth as is common in cases of smothering. There was no trauma to the teeth. The head and skull were examined and displayed no evidence of facial or skull fractures and no blood in the anterior chambers of the eyes. [redacted] examined the chest, trunk, abdomen, and genitals and found no evidence of trauma. RAHMAN had abrasions to both wrists and ankles, but there was no evidence of infection. RAHMAN had a number of scrapes on his shoulders, legs, and hips; however, there was no bruising around the abrasions suggesting that there was no blunt force trauma.<sup>101</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

53. (S) The toxicology was conducted by the [redacted] (b)(1)  
[redacted] (b)(3) NatSecAct  
The toxicology included testing for all of the classic poisons to include cyanide. Additionally, they tested for substances used in truth serums and found no evidence of toxic substances. During the autopsy, [redacted] specifically looked for injection marks on the body and searched for pill fragments in the mouth and stomach and found no indication that he had ingested any pills or received any injections.<sup>102</sup>

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

(b)(3) CIAAct

<sup>100</sup> Final Autopsy Findings, [redacted] (Attachment 48)  
<sup>101</sup> Interview of Dr. [redacted] (b)(1) Dec 2002 (Attachment 49)  
<sup>102</sup> Interview of Dr. [redacted] (b)(3) CIAAct Dec 2002 (Attachment 49)  
[redacted] (b)(3) NatSecAct 31  
~~TOP SECRET//X1~~  
(b)(6)  
(b)(7)(c)

A24-32

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//XI~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

54. (S) In making the clinical diagnosis of death by hypothermia, [ ] based his conclusion and the clinical environment in which RAHMAN was found and the information compiled during the investigation. [ ] based his conclusions on the following factors

(b)(1)

(b)(3) CIAAct

(b)(3) NatSecAct

(b)(6)

(b)(7)(c)

- o RAHMAN's urine had high catecholamine levels, which is consistent with hypothermic deaths.
- o RAHMAN was seen shivering for a number of hours immediately prior to his death.
- o The environment in which he was housed was extremely cold. On the night of his death, the outside temperature was 31 degrees. The prison facility is not insulated.
- o RAHMAN had not eaten in approximately 36 hours. No food was found in his stomach during the autopsy. RAHMAN's glycogen levels would have been depleted. Glycogen is a fuel source used by the body to stay warm.
- o RAHMAN was unclothed from the waist down and was in direct contact with cold concrete. Direct conduction is a significant cause of heat loss in the body.
- o RAHMAN was chained in a short chain position. This prevented him from standing up and moving around to warm his body.
- o RAHMAN was dehydrated which is a contributing factor to hypothermia.<sup>103</sup>

(b)(1)

(b)(3) CIAAct

(b)(3) NatSecAct

(b)(6)

(b)(7)(c)

<sup>103</sup> Interview of Dr. [ ] Dec 2002 (Attachment 49)

32

~~TOP SECRET//XI~~

A24-33



C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

SUBJECT: (S) Death Investigation - Gul RAHMAN

## CONCLUSIONS

The evidence developed during the course of this investigation suggests the following:

- o There is no evidence to suggest that RAHMAN's death was deliberate.
- o There is no evidence to suggest that RAHMAN was beaten, tortured, poisoned, strangled, or smothered.
- o Hypothermia was the most likely cause of death of Gul RAHMAN.
- o His death was not deliberate, but resulted from his incarceration in a cold environment while nude from the waist down, and shackled in a position that prevented him from moving around to keep warm. Additionally, this kept him in direct contact with the cold concrete floor leading to a loss of bodyheat through conduction.
- o Gul RAHMAN's actions contributed to his own death. By throwing his last meal he was unable to provide his body with a source of fuel to keep him warm. Additionally, his violent behavior resulted in his restraint which prevented him from generating body heat by moving around and brought him in direct contact with the

concrete floor leading to a loss of bodyheat through conduction.

(b)(1)  
 (b)(3) CIAAct  
 (b)(3) NatSecAct  
 (b)(6)  
 (b)(7)(c)

Attachments  
 As stated

33

~~TOP SECRET//X1~~

A 24-34

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

SUBJECT: ~~(S)~~ Death Investigation - Gul RAHMAN

Distribution:

Original & 1 - Addressee  
1 - ADDO/CI

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct  
(b)(6)  
(b)(7)(c)

~~TOP SECRET//X1~~

A24-35

C06555318

Approved for Release: 2016/09/30 C06555318

~~TOP SECRET//X1~~

ATTACHMENTS

- 1. (b)(3) CIAAct [redacted] Sep 2002 (b)(1)
- 2. [redacted] Sep 2002 (b)(3) CIAAct
- 3. [redacted] May 2002 (b)(3) NatSecAct
- 4. [redacted] Jun 2002
- 5. [redacted] Jun 2002
- 6. (b)(3) CIAAct [redacted] Jun 2002 (b)(1)
- 7. [redacted] Oct 2002 (b)(3) CIAAct
- 8. [redacted] May 2002 (b)(3) NatSecAct
- 9. [redacted] Oct 2002
- 10. [redacted] Jun 2002
- 11. [redacted] Sep 2002 (b)(1)
- 12. Interview of [redacted] Nov 2002 (b)(3) CIAAct
- 13. Interview of [redacted] Nov 2002 (b)(3) NatSecAct
- 14. Interview of [redacted] Nov 2002 (b)(6)
- 15. Interview of [redacted] Dec 2002 (b)(7)(c)
- 16. (b)(3) CIAAct [redacted] Jun 2002
- 17. [redacted] Jun 2002
- 18. [redacted] Jul 2002
- 19. [redacted] Aug 2002
- 20. [redacted] Sep 2002
- 21. [redacted] Nov 2002
- 22. [redacted] (b)(1)
- 23. [redacted] (b)(3) CIAAct
- 24. [redacted] Jun 2002 (b)(3) NatSecAct
- 25. [redacted] Jul 2002
- 26. [redacted] Aug 2002 (b)(1)
- 27. [redacted] (b)(3) CIAAct
- 28. [redacted] Oct 2002 (b)(3) CIAAct
- 29. [redacted] Apr 2002 (b)(3) NatSecAct
- 30. Interview of John B. Jessen, 9 Jan 2003 (b)(6)
- 31. ALEC [redacted] Oct 2002 (b)(7)(c)
- 32. ALEC [redacted] Nov 2002
- 33. [redacted] Nov 2002
- 34. [redacted] Oct 2002
- 35. [redacted] Nov 2002
- 36. ALEC [redacted] Nov 2002
- 37. ALEC [redacted] Nov 2002 (b)(1)
- 38. [redacted] Nov 2002 (b)(3) CIAAct
- 39. [redacted] Nov 2002 (b)(3) NatSecAct
- 40. [redacted] Nov 2002
- 41. [redacted] (b)(1)
- 42. [redacted] Nov 2002 (b)(3) CIAAct
- 43. (b)(1) [redacted] Nov 2002 (b)(3) NatSecAct
- (b)(3) CIAAct
- (b)(3) NatSecAct

~~TOP SECRET//X1~~

A27

C06555318

Approved for Release: 2016/09/30 C06555318

(b)(1)	(b)(1)
(b)(3) CIAAct	(b)(3) CIAAct
(b)(3) NatSecAct	(b)(3) NatSecAct

~~TOP SECRET//X1~~

- 44. [redacted] Nov 2002
- 45. [redacted] Nov 2002
- 46. Interview of [redacted] Nov 2002
- 47. Interview of [redacted] Nov 2002
- 48. Final Autopsy Findings, [redacted] (b)(3) CIAAct
- 49. Interview of Dr. [redacted] Dec 2002
- 50. Interview of [redacted] Nov 2002
- 51. Gul Rahman Autopsy Photographs

- (b)(1)
- (b)(3) CIAAct
- (b)(3) NatSecAct
- (b)(6)
- (b)(7)(c)

- (b)(1)
- (b)(3) CIAAct
- (b)(3) NatSecAct
- (b)(6)
- (b)(7)(c)

~~TOP SECRET//X1~~

A24-37

PREET BHARARA  
United States Attorney for the  
Southern District of New York  
By: KIRTI VAIDYA REDDY  
Assistant United States Attorney  
86 Chambers Street, Third Floor  
New York, New York 10007  
Telephone No. (212) 637-2751  
kirti.reddy@usdoj.gov

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

X

UNITED STATES OF AMERICA and THE  
STATE OF NEW YORK *ex rel.*  
LUCILLE ABRAHAMSEN,

Plaintiff,

v.

**COMPLAINT-IN-INTERVENTION**

HUDSON VALLEY HEMATOLOGY-  
ONCOLOGY ASSOCIATES, R.L.L.P.;  
RAM R. KANCHERLA; PONCIANO L.  
REYES; MICHAEL J. MARESCA; LEV  
DAVIDSON; JULIA A. SCHAEFER-  
CUTILLO; JEFFREY A. STEWARD;  
GERALD A. COLVIN; TAUSEEF AHMED;  
JOHN C. NELSON; CARMELLA A.  
PUCCIO; KAREN P. SEITER; DELONG  
LIU; ASIM AIJAZ; SHEETAL  
SHRIMANKER,

**14 Civ. 2653 (KMK)**

Jury Trial Demanded

Defendants.

X

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

HUDSON VALLEY HEMATOLOGY-  
ONCOLOGY ASSOCIATES, R.L.L.P.,

Defendant.

X



The United States of America (the “Government”), by its attorney, Preet Bharara, United States Attorney for the Southern District of New York, files this Complaint-In-Intervention against Hudson Valley Hematology Oncology Associates, R.L.L.P., (“Hudson Valley” or “Defendant”), alleging as follows:

### **PRELIMINARY STATEMENT**

1. The Government brings this Complaint-In-Intervention seeking damages and civil penalties against Hudson Valley, a hematology and oncology medical practice, under the False Claims Act, 31 U.S.C. §§ 3729 *et seq.* (the “False Claims Act”), and the Anti-Kickback Statute, 42 U.S.C. § 1320a-7b (the “Anti-Kickback Statute”), based on Hudson Valley’s schemes to defraud the United States in connection with federally-funded health care programs, namely the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 *et seq.* (“Medicare”), and the Medicaid Program, 42 U.S.C. §§ 1396 *et seq.* (“Medicaid”).

2. As set forth more fully below, the United States alleges in this action that Hudson Valley, a medical practice that provides services to individuals with cancer and blood disorders through its offices in the Hudson Valley Region of New York, engaged in two separate fraudulent schemes, each resulting in the submission of false and fraudulent claims for reimbursements from Medicaid and Medicare.

3. In the first scheme, Hudson Valley provided kickbacks to Medicare beneficiaries by routinely waiving their copayments, which is the amount the beneficiaries were required to pay for services rendered, without an individualized determination of financial hardship or exhaustion of reasonable collection efforts. In addition, even though Hudson Valley waived the copayments, it included the copayment amounts in billings submitted to Medicare for reimbursement, thereby falsely inflating its bills to Medicare for those services.





4. In the second scheme, Hudson Valley submitted claims for Medicare and Medicaid reimbursements for Current Procedural Terminology (“CPT”) billing codes 99211 and 99212, although the services (i) were not medically necessary, (ii) were not actually performed, (iii) were not documented in the medical record, and/or (iv) failed to otherwise comply with Medicare and Medicaid rules and regulations. Hudson Valley submitted thousands of fraudulent claims to Medicare and Medicaid, and was paid based on those claims.

### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over the claims brought under the False Claims Act pursuant to 31 U.S.C. § 3730(a) and 28 U.S.C. §§ 1331 and 1345, as well as pursuant to the Court’s general equitable jurisdiction.

6. Venue is appropriate in this District pursuant to 31 U.S.C. § 3732(a) and 28 U.S.C. §§ 1391(b) and 1391(c), because Hudson Valley is located in this District and a substantial part of the events or omissions giving rise to the claims occurred in this District.

### **PARTIES**

7. Plaintiff is the United States of America.

8. Defendant Hudson Valley is a hematology and oncology practice, registered as a limited liability partnership, with three partners and owners: Ramamohana R. Kancherla, M.D., Michael J. Maresca, M.D., and Ponciano L. Reyes, M.D. Although it previously had as many as eleven offices, Hudson Valley currently has six offices located in Poughkeepsie, Carmel, Yorktown Heights, Middletown and Hawthorne, New York. Hudson Valley employs physicians, nurses, and other medical professionals who provide services to individuals with cancer and blood disorders, including chemotherapy and radiology.



9. Relator Lucille Abrahamsen (“Relator”) is a resident of New York. Relator is a former Accounts Receivable Representative at Hudson Valley, responsible for coding and charge entry for billing purposes.

## **FACTS**

### **A. The Anti-Kickback Statute**

10. The Anti-Kickback Statute makes it illegal for individuals or entities to knowingly and willingly offer or pay remuneration (including any kickback, bribe, or rebate) to any person to induce business that is reimbursed under a Federal health care program. 42 U.S.C. § 1320a-7b.

11. Congress enacted a prohibition against the payment of kickbacks in any form to protect the Medicare and Medicaid programs because remuneration can influence health care decisions that would result in services being provided that are medically unnecessary, of poor quality, or even harmful to a vulnerable patient population. *See* Social Security Amendments of 1972, Pub. L. No. 92-603, §§ 242(b) and (c); 42 U.S.C. § 1320a-7b(i)(6)(A), Medicare-Medicaid Antifraud and Abuse Amendments, Pub. L. No. 95-142; Medicare and Medicaid Patient Program Protection Act of 1987, Pub. L. No. 100-93.

12. As codified in the Patient Protection and Affordable Care Act of 2010 (“PPACA”), Pub. L. No. 111-148, § 6402(f), 124 Stat. 119, codified at 42 U.S.C. § 1320a-7b(g), “a claim that includes items or services resulting from a violation of [the Anti-Kickback Statute] constitutes a false or fraudulent claim for purposes of [the False Claims Act].”

### **B. Hudson Valley’s Copayment Waiver Scheme**

13. Generally, Medicare covers 80% of the “reasonable charges” billed by the provider for the Medicare-approved health services provided to a patient. 42 U.S.C.



§ 1395(a)(1). Accordingly, the patient is normally required to contribute the remaining 20% of the “reasonable charges” as a copayment. 42 U.S.C. § 1395cc(a)(2)(A)(ii).

14. Waiver of copayments in consideration of a particular patient’s financial hardship is permitted in exceptional circumstances. The hardship exception, however, must not be used routinely; it should be used occasionally to address the special financial needs of a particular patient, supported by documentation of financial hardship. Except in such special cases, a good faith effort to collect deductibles and copayments must be made.

15. Hudson Valley routinely waived copayments, without making an individualized determination of financial hardship or exhausting reasonable collection efforts.

16. Hudson Valley waived copayments for various reasons, including for individuals who sought frequent medical services from Hudson Valley, had a high balance, whose insurance did not pay certain amounts, or who expressed an inability to pay. None of these reasons were allowable exceptions. Additionally, Hudson Valley consistently waived the copayments without receiving any supporting documentation or additional information from the patients.

17. Hudson Valley noted the waiver of these copayments in its billing system using terms such as “write-off,” “down coding for Medicare,” and “professional courtesy.”

18. As one example, between August 2012 and September 2014, Patient A was treated 34 times at Hudson Valley. Hudson Valley did not collect the copayment for any of these treatments and its records do not contain any documentation explaining the reasons for the waivers.

19. Further, specifically as to Current Procedural Terminology (“CPT”) code 99212, Hudson Valley often waived the copayment associated with it even if the patient did not request



a waiver. Hudson Valley would note the automatic waiver in its billing systems by indicating “99212 courtesy write off.”

20. For example, Hudson Valley used CPT code 99212 to bill Medicare for services rendered to Patient B on eleven separate occasions. On each of those dates, Hudson Valley waived the copayment. Patient B’s medical charts contain no documentation for the basis on which Hudson Valley waived the copayments.

21. In addition to waiving copayments, Hudson Valley overbilled Medicare by including the value of the waived copayment in the amount that it billed Medicare for the service, instead of subtracting that copayment because Hudson Valley hadn’t actually received it, as dictated by Medicare regulations. *See*

<https://oig.hhs.gov/fraud/docs/alertsandbulletins/121994.html> (last accessed October 15, 2016).

22. For example, in the case of Patient B, Hudson Valley submitted a claim for \$125.00 for each 99212 code and received reimbursement from Medicare for a percentage of that amount. However, Hudson Valley waived the \$9.21 copayment amount, and therefore, the actual amount of that claim should have been \$115.79, for which Medicare would have reimbursed a lower amount based on the same percentage.

### **C. Billing Codes**

23. The CPT codes are a set of standardized medical codes developed and maintained by the American Medical Association. CPT codes are used to describe and report medical, surgical and diagnostic procedures and services to public and private health insurance programs for medical billing purposes.





24. The United States uses CPT codes to determine both coverage, *i.e.* if it will pay for the billed medical procedures and services, and reimbursement, *i.e.* how much it will pay for the billed medical procedures and services.

25. There are thousands of CPT codes; each procedure or service or item furnished to a patient has a specific CPT code. Each CPT code receives a certain level of reimbursement, which can vary depending on what other codes are billed. The amount of money a physician or medical provider is paid for his or her services by Medicare or Medicaid depends on which CPT codes are used.

26. As directed by the American Medical Association, in addition to CPT codes used to bill for a procedure, service or item, certain CPT codes, specifically 99211, 99212, 99213, 99214, and 99215, are used to indicate various degrees of evaluation and management (“E/M”) of established patients when they make an in-office visit for treatment. These codes are, accordingly, referred to as “E/M codes.” These codes differ depending on whether the patient is seen by a doctor, the amount of time spent with the patient, and what services are performed. As the patient’s examination becomes increasingly in-depth or greater time is spent with the patient, the code number increases, with 99211 as the lowest level and 99215 as the highest level.

27. Code 99211 is used when the patient’s problems are “minimal,” meaning they require little to no independent medical evaluation; typically only 5 minutes are spent “performing or supervising” routine patient services. Code 99211 is the only E/M code that explicitly states that it “may not require the presence of a physician or other qualified healthcare professional.” Code 99211 is typically used to bill for services provided exclusively by nurses.

28. Code 99212 is used for office or outpatient E/M visits with established patients that require two of three key components: (1) a problem-focused history; (2) a problem-focused



examination; and (3) a straightforward medical decision. This code is typically appropriate where approximately 10 minutes are spent face-to-face with the patient and/or family.

29. Codes 99213-99215 are used when the patient's examination becomes increasingly in-depth, the medical decisions become more complex, and/or greater time is spent with the patient.

30. Some CPT codes used to bill for a procedure, service or item automatically include a designated E/M code (99211-99215). This is referred to as "bundling." For these codes, a separate E/M code should not be billed.

31. As relevant to Hudson Valley, for the administration of infusions, injections and chemotherapy, the relevant CPT codes for those treatments have been "bundled" with, i.e., valued to automatically include, CPT code 99211. *See* <https://www.cms.gov/Medicare/Coding/NationalCorrectCodInitEd/index.html> (CMS-published National Correct Coding Initiative Policy Manual for Medicare Services – 2015). Therefore, when nurses, under the guidance of a physician, administer an infusion, injection, or chemotherapy, claims for such services must be billed for only the specific procedure codes; E/M code 99211 cannot also be billed.

32. In order to use an E/M code that meets a higher complexity level than a code 99211 on the same day as another bundled procedure such as an infusion, injection, or chemotherapy, there must be "a significant, separately identifiable E/M service that is above and beyond the usual pre- and post-operative work of the procedure." *See* CMS Manual System, Transmittal 954, Pub. 100-04 (May 19, 2006), available at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R954CP.pdf> (last accessed Oct. 15, 2016).



33. Venipuncture, which is the puncturing of a vein as part of a medical procedure, typically to withdraw a blood sample or for an intravenous injection, also utilizes a bundled code. Unlike the services described above, it is permissible to code an E/M 99211 together with the procedure code for venipuncture, so long as there is a separately identifiable E/M service that is above and beyond the usual pre- and post-operative work of the procedure.

34. For all codes, the medically necessary E/M service and the procedure must be appropriately and sufficiently documented by the physician or qualified non-physician practitioner in the patient's medical record to support the claim for these services. Medicare Claims Processing Manual, Chap. 12 at § 30.6.6(B).

35. Medicare reimburses only for "medically necessary," or "reasonable and necessary" services and procedures, including levels of E/M. 42 U.S.C. § 1395y(a)(1)(A).

**D. Hudson Valley's Overcoding Scheme for CPT 99211 and 99212 Codes**

36. On a daily basis, Hudson Valley created two schedules: an "M.D. schedule" and a "Chem/Inj/RN schedule" (the "R.N. schedule"). The patients on the R.N. schedule were scheduled to receive minor or routine services administered by a nurse, such as B12 injections, blood withdrawals or chemotherapy. The patients on the R.N. schedule typically were not seen by a doctor during the appointment.

37. In fact, given the large number of patients listed on both the R.N. and the M.D. schedules for any particular date, it typically would have been impossible for a physician to examine and/or manage all of the patients scheduled on both the R.N. and M.D. schedules.

38. Despite the fact that the physicians at Hudson Valley typically did not see any of the patients on the R.N. schedule, at the end of each day, the nonphysician practitioners who treated patients on the R.N. schedule left all of those patients' medical charts on the desk of one



of the Hudson Valley physicians to sign the progress notes. For those charts, the doctor would falsely certify that he or she had participated in the evaluation and management of the patients on the R.N. schedule.

39. Specifically, the doctor would fill in a time period in the form portion of the progress note which stated “I spent \_\_\_ minutes in evaluation and management of the patient,” and would sign the note.

40. Thus, despite the fact that patients on the R.N. schedule typically were not treated by a physician and did not receive a “significant, separately identifiable service” while undergoing chemotherapy, a B12 injection, venipuncture, or other similar service, Hudson Valley billed Medicare or Medicaid an additional amount for those patients using a separate E/M code, based upon the false certification by the Hudson Valley doctors.

41. For example, Patient C was treated on the R.N. schedule on three occasions in September 2012. The progress note for each of those dates states that Patient C received an infusion due to her anemia. The notes do not indicate any treatment above and beyond the usual infusion procedure, which was performed by a nurse. The patient’s chart, however, falsely certifies for each of those dates that a physician spent at least ten minutes “in evaluation and management of the patient,” and contains the physician’s signature. For these procedures Hudson Valley submitted claims to Medicare for CPT code 99212, in addition to the CPT codes relating to venipuncture and infusion, although no separate evaluation and management service was necessary, nor is there evidence that any such service was actually provided to the patient, apart from the doctor’s false certification.

42. Similarly, Patient D was treated on the R.N. schedule on three occasions in June and July of 2015. The progress notes for those dates indicate that the patient received





venipuncture services, but no additional services were necessary or were provided to her.

However, for those procedures, Hudson Valley submitted claims to Medicare for both the CPT code 36415 and the E/M code 99212.

43. Likewise, for Patient E, on May 19, 2014 and June 16, 2014, the progress notes indicate that he had his blood drawn and do not reflect that any other “significant, separately identifiable service” was necessary or was provided. Again, however, Hudson Valley submitted billings to Medicare for both the venipuncture and, unjustifiably, the E/M 99212 code.

### **CLAIM FOR RELIEF**

#### **FIRST CLAIM**

##### **Violation of the False Claims Act: Presenting False Claims for Payment (31 U.S.C. § 3729(a)(1) (2006), and, as amended, 31 U.S.C. § 3729(a)(1)(A))**

44. The United States incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.

45. The Government seeks relief against Hudson Valley under Section 3729(a)(1)(A) of the False Claims Act.

46. As a result of offering kickbacks in the form of waived copayments, in violation of the Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b)(2)(B), Hudson Valley knowingly caused false claims to be presented for reimbursement by Medicare, in violation of 31 U.S.C. § 3729(a)(1) (2006), and, as amended, 31 U.S.C. § 3729(a)(1)(A).

47. Specifically, Hudson Valley knowingly certified and/or represented that the reimbursements it sought were in full compliance with applicable federal and state laws prohibiting fraudulent and false reporting, including but not limited to the Anti-Kickback Statute, 42 U.S.C. § 1320a-7b.



48. By reason of these false or fraudulent claims that Hudson Valley caused to be presented to Medicare, the United States has paid millions of dollars in Medicare reimbursements to Hudson Valley, and is entitled to recover treble damages plus a civil monetary penalty for each false claim.

**SECOND CLAIM**

**Violation of the False Claims Act: Use of False Statements  
(31 U.S.C. § 3729(a)(2) (2006), and, as amended, 31 U.S.C. § 3729(a)(1)(B))**

49. The Government incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.

50. The Government seeks relief against Hudson Valley under Section 3729(a)(1)(B) of the False Claims Act.

51. As a result of providing kickbacks in the form of waived copayments, in violation of the Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b)(2)(B), Hudson Valley knowingly caused false records or statements to be made that were material to getting false or fraudulent claims paid by Medicare, in violation of 31 U.S.C. § 3729(a)(2) (2000), and, as amended, 31 U.S.C. § 3729(a)(1)(B).

52. By reason of these false or fraudulent claims that Hudson Valley caused to be presented to Medicare, the United States has paid millions of dollars in Medicare reimbursements to Hudson Valley, and is entitled to recover treble damages plus a civil monetary penalty for each false claim.



**THIRD CLAIM**

**Violation of the False Claims Act: Presenting False Claims for Payment  
(31 U.S.C. § 3729(a)(1) (2006), and, as amended, 31 U.S.C. § 3729(a)(1)(A))**

53. The United States incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.

54. The Government seeks relief against Hudson Valley under Section 3729(a)(1)(A) of the False Claims Act.

55. By inflating the amount of the value of services rendered to Medicare beneficiaries by including the waived copayment amount when submitted its claims for reimbursement, Hudson Valley knowingly caused false claims to be presented for reimbursement by Medicare.

56. Accordingly, Hudson Valley knowingly caused to be presented false or fraudulent claims for payment or approval in violation of 31 U.S.C. § 3729(a)(1) (2006), and, as amended, 31 U.S.C. § 3729(a)(1)(A).

57. By reason of these false or fraudulent claims that Hudson Valley caused to be presented to Medicare, the United States has paid millions of dollars in Medicare and Medicaid reimbursements to Hudson Valley, and is entitled to recover treble damages plus a civil monetary penalty for each false claim.

**FOURTH CLAIM**

**Violation of the False Claims Act: Use of False Statements  
(31 U.S.C. § 3729(a)(2) (2006), and, as amended, 31 U.S.C. § 3729(a)(1)(B))**

58. The United States incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.



59. The Government seeks relief against Hudson Valley under Section 3729(a)(1)(B) of the False Claims Act.

60. By inflating the amount of the value of services rendered to Medicare beneficiaries by including the waived copayment amount when submitted its claims for reimbursement, Hudson Valley knowingly caused false claims to be made for reimbursement by Medicare.

61. Accordingly, Hudson Valley knowingly caused false or fraudulent claims to be made for payment or approval in violation of 31 U.S.C. § 3729(a)(2) (2006), and, as amended, 31 U.S.C. § 3729(a)(1)(B).

62. By reason of these false or fraudulent records or statements that Hudson Valley caused, the United States has paid millions of dollars in Medicare reimbursements to Hudson Valley, and is entitled to recover treble damages plus a civil monetary penalty for each false record or statement.

#### **FIFTH CLAIM**

##### **Violation of the False Claims Act: Presenting False Claims for Payment (31 U.S.C. § 3729(a)(1) (2006), and, as amended, 31 U.S.C. § 3729(a)(1)(A))**

63. The United States incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.

64. The Government seeks relief against Hudson Valley under Section 3729(a)(1)(A) of the False Claims Act.

65. By falsifying progress notes to state that a specific, routine procedure included separate and additional evaluation and management services, Hudson Valley knowingly caused to be presented false records or statements for reimbursement by Medicare and Medicaid.





66. Accordingly, Hudson Valley knowingly caused to be presented false or fraudulent claims for payment or approval in violation of 31 U.S.C. § 3729(a)(1) (2000), and, as amended, 31 U.S.C. § 3729(a)(1)(A).

67. By reason of these false or fraudulent claims that Hudson Valley caused to be presented to Medicare and Medicaid, the United States has paid millions of dollars in Medicare and Medicaid reimbursements to Narco Freedom, and is entitled to recover treble damages plus a civil monetary penalty for each false claim.

### **SIXTH CLAIM**

#### **Violation of the False Claims Act: Use of False Statements (31 U.S.C. § 3729(a)(2) (2006), and, as amended, 31 U.S.C. § 3729(a)(1)(B))**

68. The United States incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.

69. The Government seeks relief against Hudson Valley under Section 3729(a)(1)(B) of the False Claims Act.

70. By falsifying progress notes to state that a specific, routine procedure included separate and additional evaluation and management services, Hudson Valley knowingly caused to be made false records or statements for reimbursement by Medicare and Medicaid.

71. Accordingly, Hudson Valley knowingly caused to be made false or fraudulent claims for payment or approval in violation of 31 U.S.C. § 3729(a)(2) (2006), and, as amended, 31 U.S.C. § 3729(a)(1)(B).

72. By reason of these false or fraudulent records or statements that Hudson Valley caused, the United States has paid millions of dollars in Medicare and Medicaid reimbursements to Hudson Valley, and is entitled to recover treble damages plus a civil monetary penalty for each false record or statement.



**PRAYER FOR RELIEF**

WHEREFORE, the United States demands judgment against the defendant as follows:

- A. Treble the United States' damages, in an amount to be established at trial, plus an \$11,000 penalty for each false claim submitted in violation of the False Claims Act;
- B. Award of costs pursuant to 31 U.S.C. § 3792(a)(3); and
- C. Such further relief as is proper.

Dated: New York, New York  
October 17, 2016

Respectfully submitted,

PREET BHARARA  
United States Attorney for the  
Southern District of New York  
Attorney for the United States

By:

KIRTI VAIDYA REDDY  
Assistant United States Attorney  
86 Chambers Street, 3d Floor  
New York, NY 10007  
Tel.: (212) 637-2751  
Fax: (212) 637-2786  
Email: Kirti.reddy@usdoj.gov





**UNITED STATES ATTORNEY'S OFFICE**  
*Southern District of New York*

U.S. ATTORNEY PREET BHARARA

FOR IMMEDIATE RELEASE

date-----

<http://www.justice.gov/usao/nys>

CONTACT: U.S. ATTORNEY'S OFFICE  
Jim Margolin, Dawn Dearden  
Nicholas Biase  
(212) 637-2600

HHS-OIG  
Katherine Harris/Donald White  
(202) 619-0088

**MANHATTAN U.S. ATTORNEY ANNOUNCES \$5.3 MILLION CIVIL  
SETTLEMENT AGAINST HEMATOLOGY-ONCOLOGY MEDICAL  
PRACTICE FOR SUBMITTING FALSE CLAIMS TO MEDICARE AND  
MEDICAID**

Preet Bharara, the United States Attorney for the Southern District of New York, and Scott Lampert, Special Agent-in-Charge of the New York Field Office of the U.S. Department of Health and Human Services, Office of Inspector General's ("HHS-OIG") New York Region, announced a \$5.31 million settlement of a civil fraud lawsuit against HUDSON VALLEY HEMATOLOGY ONCOLOGY ASSOCIATES, R.L.L.P. ("HUDSON VALLEY"). This settlement resolves claims brought under the False Claims Act, alleging that HUDSON VALLEY routinely waived copayments without lawful basis and systematically submitted false claims for services that it did not provide and/or were not permitted under the Medicare and Medicaid program rules.

The Government simultaneously intervened in and settled this lawsuit, which was initially filed by a whistleblower. As alleged in the Government's complaint, from approximately 2010 through June 2015, HUDSON VALLEY engaged in two false and fraudulent schemes to defraud the Government. In the first scheme, HUDSON VALLEY routinely waived Medicare beneficiaries' required copayments and instead fraudulently billed Medicare for those copayments. In the second scheme, HUDSON VALLEY submitted claims for payment by Medicare and Medicaid for services that were not actually performed, were not medically necessary, and/or were not properly documented.

Today, United States District Judge Kenneth M. Karas approved the settlement stipulation to resolve the Government's claims against HUDSON VALLEY. Under that settlement, HUDSON VALLEY admits to and accepts responsibility for the misconduct alleged in the complaint and agrees to pay \$5.31 million to the United States.



Manhattan U.S. Attorney Preet Bharara said: “HUDSON VALLEY improperly billed Medicare and Medicaid for reimbursement, costing the taxpayers millions of dollars. This settlement restores those funds to the public fisc and sends a message that fraudulent billing by healthcare providers will not be tolerated.”

HHS-OIG Special Agent-in-Charge Scott Lampert said: [need quote]

As part of the settlement, HUDSON VALLEY admitted, acknowledged, and accepted responsibility for engaging in the following conduct from 2010-2015:

- Routinely waiving Medicare beneficiaries’ copayments without an individualized documented determination of financial hardship or exhaustion of reasonable collection efforts;
- Billing Medicare for the waived copayments, resulting in higher reimbursement amounts from Medicare than HUDSON VALLEY was entitled to;
- Overbilling Medicare and Medicaid for evaluation and management services codes, in addition to billing for routine procedures (such as chemotherapy, injections or venipunctures) on the same date, even though Hudson Valley had not documented that it provided any significant, separately identifiable evaluation and management services to the beneficiaries; and
- Billing Medicare and Medicaid for evaluation and management services codes, without documenting in the medical record that those services were medically necessary and/or that those services were actually performed.

Mr. Bharara praised the extensive investigative work performed by HHS-OIG.

The case is being handled by the Office’s Civil Frauds Unit. Mr. Bharara established the Civil Frauds Unit in March 2010 to bring renewed focus and additional resources to combating healthcare and other types of frauds. Assistant U.S. Attorney Kirti Vaidya Reddy is in charge of the case.

