

EXHIBIT 9



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December 29, 2016

VIA EMAIL

Andrew I. Warden
U.S. Department of Justice
Civil Division
Federal Programs Bench
20 Massachusetts Avenue, N.W.
Washington, D.C. 20530
andrew.warden@usdoj.gov

Re: Salim et al. v. Mitchell et al., No. 2:15-CV-286-JLQ

Dear Andrew:

Pursuant to the Court's Order, attached is an outline containing the subject matters and anticipated questions for the upcoming deposition of James Cotsana. Please note that Defendants reserve the right to alter and/or expand the scope of the subject matters and/or questions that will be posed to Mr. Cotsana during his deposition as they continue to review and assess the CIA's December 20, 2016 document production and related items.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Brian S. Paszamant". The signature is stylized with large loops and a long horizontal stroke extending to the right.

BRIAN S. PASZAMANT

Attachment

cc: Hank Schuelke, III, Esquire (via email; w/attachment)
James Smith, Esquire (via email; w/attachment)
Christopher Tompkins, Esquire (via email; w/attachment)
Jeffrey Rosenthal, Esquire (via email; w/attachment)

JAMES COTSANA DEPOSITION SUBJECT MATTER/QUESTIONS OUTLINE

I. IDENTIFICATION AND RESUME

- A. Name, current occupation etc.
- B. Currently bound by nondisclosure restrictions; origins; scope?
- C. Occupational history w/emphasis on positions w/in CIA and when
 - Duties/responsibilities associated with such positions?

II. KNOWLEDGE OF ORIGINS OF CIA'S RENDITION, DETENTION AND INTERROGATION PROGRAM FOR HIGH VALUE DETAINEES (THE "HVD PROGRAM") PRIOR TO BECOMING INVOLVED IN IT

- A. How became aware of the HVD Program, and when and why?
 - Where employed at the time?
 - Status of the HVD Program at that point?
 - o Explore
 - Purpose of the HVD Program?
 - o Developed initially for Zubaydah and others considered High Value Detainees ("HVDs")?
 - o Explore
 - Only for use with certain types of detainees?
 - o What detainee type(s)/classification(s)?
 - o Developed for "High Value Detainees" ("HVDs") only?
 - o Explore concept of HVD; explore distinction b/w HVD and other detainees
 - Group/entity within CIA operating the HVD Program at that pt.?
 - o Inquire re: details of HVD Program's structure and chain of command
 - Jose Rodriguez's role?

- Gina ____ (Jose Rodriguez's Chief of Staff) role?.
- Who made decisions as to who to capture/detain as a HVD?
- Everything discussed with and approved by CIA Headquarters prior to being implemented?
- How were approvals sought? Means?
- HQ approvals sent to Chief of Base or Site Manager?
- Chief of Base or Site Manager would advise what approved/not approved?
- Understanding of training used in HVD Program
 - Explore
- Understanding of Drs. Mitchell's and Jessen's ("M&J") involvement in the HVD Program at that point, if any
 - Explore
- Understanding of M&J involvement in the approval of HVD Program, if any?
- Understanding of M&J's role, if any, in the HVD Program's design and/or development
 - Questioning based, in part, upon:
 - i) Incipency of CTC/RDG Enhanced Interrogation Techniques and Program, dated April 11, 2007 (**US Bates 001099-1100**)
 - Inquire whether he can authenticate the document.
 - Confirm accuracy of statements, specifically timing of when M&J suggested EITs (June 2002), other approaches were suggested, and CIA refused the technique of manhandling.
 - ii) July 7, 2002 Letter from Goldsmith to Muller (**US Bates 000485**)
 - Requested to and wrote up potential procedures/protocols?
 - When asked; how? (**See US Bates 001109**)

- What specifically asked for?
- Understanding whether procedures/protocols influenced by methods used in SERE Program
 - Proven?
 - Safe?
- Awareness of role “learned helplessness” played, if any, in M&J’s potential procedures/protocols, if any?
 - Explore
- Awareness of role “breaking” of detainee played in M&J’s potential procedures/protocols, if any?
 - Explore
- Understanding of what safeguards put in place as part of M&J’s potential procedures/protocols?
 - Medical personnel in room? Purpose?
 - Psychologists in room? Purpose?
- Ability to discontinue use of procedures/protocols?
 - Who had ability to discontinue use of procedures/protocols?
 - Each person involved had ability to discontinue?
- Understanding of M&J’s role, if any, in interrogation training?
 - First training course held in November 2002 (not trainers). M&J seem to be indicated as students in the class, but they were at GREEN at the time. *See* (SSCI Report at 58, **PLAINTIFF00003678**) and (OIG Report at 31-32, **US Bates 001370-71**) (noting that M&J attended training course run by CTC/RDG in Nov. 2002)
- Understanding of whether M&J ever conducted the interrogation of any HVD at COBALT?
- Understanding whether M&J ever at COBALT except: (1) while

Rahman there; or (2) while al Nishiri there for a night?

○ Awareness of Dr. Mitchell's contracts with the CIA?

• Explore

- Ever witness M&J do anything that was inconsistent with the assumptions and limitation in the Aug. 1, 2002 Bybee Memo?

B. Awareness of any then-existing different/separate CIA rendition, detention and interrogation program for use with "Medium Value Detainees" ("MVDs") and "Low Value Detainees" ("LVDs") (the "MVD Program")

- Specifically, speaking of the interrogation effort that was started out of ALEC station by the Deputy Chief of ALEC Station (note: red headed female); the "New Sheriff" (i.e. "Chief Interrogator"), and the CIA Officer with OTS who was a retired SERE Military Instructor before the formal DOJ approved HVD Program was stood up to deal with Zubaydah. The Program that was active at COBALT when Rahman was at COBALT and that later became the MVD Program.

- How, when and why became aware of MVD Program?

- Purpose of MVD Program?

○ Only for use with certain types of detainees (i.e. MVDs and LVDs)?

○ Who determined which individuals to render, detain and/or interrogate; based upon what criteria?

- Being used by CIA prior to HVD Program's adoption?

- Group/entity within CIA heading and operating the MVD Program at that pt.?

○ Initially run by ALEC Station before transfer to RGG after Gul Rahman's death?

○ Inquire re: details of MVD Program's structure and chain of command

○ Specifically inquire re: role of following individuals within MVD Program: (1) Deputy Chief of ALEC Station (note: female); (2) the "New Sheriff" (i.e. "Chief Interrogator"); and (3) the CIA Officer with OTS who was a retired SERE Military Instructor

- *See* (SSCI Report at 58 of 499, PLAINTIFF00003678)
(speaking of foregoing individuals' role with training in connection with MVD Program, i.e. while Zubaydah was being interrogated at GREEN)
- *See* (OIG Report at 31 ¶ 66, US Bates 001370-71) (referencing 11/02 RDG 2 week interrogator training course)
- Interrogation techniques used in MVD Program?
 - Who developed?
 - When?
 - Who authorized usage and how?
- EITs used in MVD Program?
 - Same/different than in HVD Program?
 - Explore
- Training used for MVD Program?
 - Same/different than in HVD Program?
 - Explore
- M&J's involvement, if any, in the MVD Program, including its design and development?
 - M&J not involved
- What became of MVD Program?
 - When?
 - Explore
- New Sheriff, i.e. Chief Interrogator, sanctioned for use of improper/unauthorized interrogation techniques?
 - Explore

III. THE HVD PROGRAM AT TIME COMMENCED INVOLVEMENT

A. Initial involvement in HVD Program (11/02)

1. When, how and why
 - When in relation to death of Gul Rahman (11/20/02)
 - Became involved in MVD Program as a result of Rahman's death?
2. Title and responsibilities
3. Supervisor(s); who reported to you
4. Stage/scope of HVD Program at that pt.?
 - How got up to speed?
 - Only for use with certain types of detainees? HVDs?
 - Who determined which individuals to render, detain and/or interrogate; based upon what criteria?
 - Process employed?
5. HVD Program approved as legal (in whole or in part) at that point?
 - What seen/told about HVD Program's legality
 - When? How?
 - Who did you tell of HVD Program's legality?
 - i) Mitchell/Jessen? When?
 - Who specifically had approved the HVD Program?
 - Names? What presented for approval? When? How?
 - Personal concerns about HVD Program's legality?
 - What? Shared with others? How?
6. HVD Program's structure, including chain of command, at the time
 - Jose Rodriguez's role?

- Role of Gina ____ (Jose Rodriguez's Chief of Staff)?
 - Process (granular) for requesting and obtaining approval to use EITs on detainee (and what specific EITs), and method of conveying scope of approval; timing
 - Question re: actual means of asking and approval
 - Latitude, if any, for determining what approved EITs to use, why and when
 - Means of ensuring scope and application compliance
 - Requisite staffing during use of EITs (including psychologists and/or medical staff); how determined and compliance ensured
 - Process, including timing, of reporting EIT use
 - Ability to discontinue interrogation and/or use of EITs?
 - Who possessed such authority? Everyone involved at any time?
 - Process (granular) for requesting and obtaining approval to continue use of same or different EITs (and what specific EITs), and method of conveying scope of approval; timing
7. Training conducted in connection with HVD Program
- Who conducted; where and when?
 - Instructional literature?
8. M&J
- Role, if any, in the HVD Program at the time
 - M&J running the HVD Program?
 - M&J ever conduct HVD interrogations at COBALT?
 - Understanding whether M&J ever at COBALT except: (1) while Rahman there; or (2) while al Nishiri there for a night?
 - Who supervised M&J; who did they report to; who instructed them
 - Cotsana?

- When in field Chief of Base or Site Manager?
- How was supervision and/or instruction handled, including means of conveyance
 - Question re: daily cable usage; information conveyed
 - Confirm cables typically not shown to M&J; instructions conveyed by Site Manager of Chief of Base
 - Confirm nothing done to detainee if not in cable.
- Involved in deciding which individuals to render, detain and/or interrogate?
 - Whose decision?
 - M&J involved at all in such decisions?
- At all involved in determining that an individual was a HVD?
- At all involved in rendition or detention activities?
 - Confirm that M&J would not have been involved with anything that occurred with detainee during rendition; whose decisions during this period?
 - Confirm that M&J could, at most, make recommendations regarding the conditions of a detainee's detention or confinement, including temperature; whose decisions concerning confinement?
 - Confirm that M&J would not have been involved with a detainee's medical treatment and/or nutrition; whose decisions?
- At all involved in securing approval(s) to use EITs on a particular detainee
 - Whose decisions?
- Role, if any, played in determining what EITs to use on a detainee and when?
 - Whose decision?

- Latitude, if any, to disregard instruction to use EITs on a detainee
 - Whose decision?
 - Ever a time when detainee under full control of M&J?
 - Explore
 - Ever a time when M&J had physical custody of a detainee?
 - Explore
 - M&J involved in training in connection with HVD Program?
 - How; to what degree?
 - M&J's role/activities re: Zubaydah
9. Continued operation of MVD Program once became involved in HVD Program?
- For specific type(s) of detainees? For MVDs and LVDs?
 - Who decided classification; based on what criteria?
 - Combined with HVD Program at some point? When, if ever?
 - Explore their separateness
 - Management and chain of command of MVD Program at that pt.
 - ALEC Station?
 - Deputy Chief of ALEC Station (note: female)?
 - The "New Sheriff" (i.e. "Chief Interrogator")?
 - SERE Instructor?
 - Training same/different than in HVD Program?
 - Explore
 - M&J at all involved in MVD Program?

- Explore

- B. Continued involvement in the HVD Program over time
- Inquire re: same subject matters as set forth above, including tracking of MVD Program vis-à-vis HVD Program
 - Continue questioning to establish that M&J had no involvement whatsoever in MVD Program design, implementation and/or use
- C. Knowledge of M&J using unauthorized EITs on detainee
- On what detainee, what EIT, by whom and when?

IV. **PLAINTIFF SULEIMAN ABDULLAH SALIM (“SALIM”)**

- A. Salim captured/rendered in 3/03, at COBALT from 3/03-5/03, at SALT PIT from 5/03-7/04, and at Bagram A.F.B. from 7/04-8/17/08
- B. Any knowledge of Salim?
- C. Knowledge of Salim’s capture, rendition and/or detention
- How? Process?
 - *See* CIA 31 at 1508-10
 - *See* CIA 34 at 1530, 1534-1536
 - Criteria used to determine Salim should be captured, rendered and detained?
 - Who decided?
 - Injuries sustained by Salim during capture, rendition and/or detention?
- D. Salim declared/designated an “enemy combatant”?
- *See* **US Bates 001510** – “Outcome: Bagram/GITMO, Detain as a low level enemy combatant”
 - *See* **US Bates 001514, 1524** – Suliman . . . “was detained _____ as a facilitator of Al-Qaeda’s 1998 attacks against the US Embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, as well as the 2002 attack on the Paradise Hotel in Kenya”
 - *See* **US Bates 001528** - Sulieman “has been reclassified ‘no longer

enemy combatant' (NLEC) after a review by _____”.

- *See US Bates 001530* – “An _____ review led to the conclusion that although Abdullah was an associate of the conspirators, he was uniformly considered too addicted to drugs to be trusted with operations.”
- *See US Bates 001540* – “As a follow up to _____ communications that as of 07/MAY/2008, East Africa Al-Qa’ida Associate and current Bagram Detainee Suleiman ((Abdullah)) was reclassified as ‘no longer enemy combatant,’ which opens the door for his repatriation to Tanzania.”
- *See US Bates 001544* - Information about Suliman’s ties to terrorism. (note: references Jose Rodriguez)

E. Knowledge of Salim’s classification and why so classified?

- Part of HVD Program (HVD)?
- Part of MVD Program?
 - a) *See US Bates 001510* – “Outcome: Bagram/GITMO, Detain as a low level enemy combatant”
 - b) *See US Bates 001514, 001524* – Suliman . . . “was detained _____ as a facilitator of Al-Qaeda’s 1998 attacks against the US Embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, as well as the 2002 attack on the Paradise Hotel in Kenya”
 - c) *See US Bates 001530* – “An _____ review led to the conclusion that although Abdullah was an associate of the conspirators, he was uniformly considered too addicted to drugs to be trusted with operations.”
 - d) *See US Bates 001536* – “Outcome: Bagram/GITMO, detain as a low level enemy combatant.”

F. Use of EITs

- What EITs approved for use and when; who approved?
 - o How requests made and approvals conveyed?
- Safeguards in place during use?

- Explore
- Injuries, if any, sustained by Salim as a result of EITs
- G. M&J's direct involvement, if any, with Salim?
 1. M&J's involvement in Salim's capture and/or rendition
 2. M&J's involvement in Salim's detention, including conditions of detention
 3. M&J custody over Salim?
 4. M&J control over Salim?
 5. M&J's involvement in Salim's medical care and/or nutrition?
 6. M&J's involvement in Salim's interrogation (including developing methodology/approach(es) to use?
 7. M&J's use of EITs on Salim?
 - If so, approved; by whom; means of communicating approval?
- H. M&J's involvement, if any, with training those who interrogated Salim, including those who used EITs on Salim
 - Role of ALEC Station, Deputy Chief of ALEC Station, the New Sheriff and the SERE Instruction via-a-vis Salim
- I. Knowledge of what occurred with Salim subsequent to release from U.S. custody
 - Injuries sustained by Salim during this period
- V. **PLAINTIFF MOHAMED AHMED BEN SOUD F/K/A MOHAMED SHOROEIYA, ABD AL-KARIM ("SOUD")**
 - Soud captured/rendered in 4/03, at COBALT from 4/03-4/04, at a 2nd CIA prison from 4/04-8/05 and then sent to Libya
 - Inquire re: same subject matters as set forth above for Salim
 - Re: CIA HQS approval to detain/ "Enemy Combatant"
 - How/process for determining "enemy combatant" status?

- *See* **US Bates 001494** – “HQS approves ___ proposal to move Abd Al-Karim detainees to _____ with the possibility that the detainees may have important information about ___ al-Qaida network, believe intensive interrogation at ___ would aid us greatly in CT efforts”
- *See* **US Bates 001496-1498** – Stating that he was a “senior” and “chief” member responsible for running a military camp for an Islamic fighting group
- *See* **US Bates 001501-02** – States AZ identified Soud as member of Libyan Islamic Fighting Group with “strong and immediate ties” to Al-Qa’ida
- *See* **US Bates 001503** – HQS congratulating them on the capture of Soud as a success in the war against terrorism

VI. PLAINTIFF GUL RAHMAN (“RAHMAN”)

- Rahman captured/rendered 11/5/02, at COBALT until 11/20/02 when he died
- Inquire re: same subject matters as set forth above for Salim
 - Re: “Enemy Combatant”
 - How/process for determining “enemy combatant” status?
 - *See* **US Bates 001061** – Rahman Chronology Cable re: “Enemy Combatant”
 - *See* **US Bates 001278** – OIG Rahman Death Investigation – Of the six cables sent about Rahman, only one identified him as an “enemy combatant”
- Inquire re: Investigator General’s Report concerning Rahman’s death
 - Inaccuracies within Report? - **US Bates 001267-1334** – OIG Rahman Death Investigation
 - Failures within Investigation?
- Inquire re: M&J’s communications concerning Rahman
 - His medical condition

a) **US Bates 001290** – OIG Rahman Death Investigation – Mitchell stated Rahman appeared healthy, however he had scratches on his face, bruises on his ankles, and his wrists were black and blue. Mitchell request that the PA examine Rahman’s hands. But the PA denied that such a request was made.

- Concerns re: his medical condition
- Efforts to improve his detention conditions

a) **US Bates 001299** – OIG Rahman Death Investigation; **US Bates 1057-58** – Cable – Jessen examines Rahman and does not recommends EITs, but recommends deprivation of sleep indicating “it will be important to manage the deprivations so as to allow the subject adequate rest and nourishment so he remains coherent and capable of providing accurate information”

VII. COMPLAINT SPECIFIC QUESTIONING

- ¶ 17, ¶ 18, ¶ 20, ¶ 21, ¶ 22, ¶ 23, ¶ 24, ¶ 26, ¶ 27, ¶ 29, ¶ 30, ¶ 32, ¶ 34, ¶ 35, ¶ 36, ¶ 38, ¶ 39, ¶ 40, ¶ 41, ¶ 42, ¶ 43, ¶ 44, ¶ 45, ¶ 46, ¶ 47, ¶ 48, ¶ 49, ¶ 50, ¶ 51, ¶ 52, ¶ 53, ¶ 55, ¶ 56, ¶ 57, ¶ 58, ¶ 59, ¶ 60, ¶ 61, ¶ 62, ¶ 63, ¶ 64, ¶ 66, ¶ 67, ¶ 68, ¶ 69, ¶ 70, ¶ 74, ¶ 75, ¶ 86, ¶ 87, ¶ 88, ¶ 89, ¶ 90, ¶ 91, ¶ 94, ¶ 95, ¶ 97, ¶ 98, ¶ 99, ¶ 100, ¶ 101, ¶ 102, ¶ 106, ¶ 108, ¶ 109, ¶ 110, ¶ 118, ¶ 119, ¶ 121, ¶ 122, ¶ 124, ¶ 127, ¶ 128, ¶ 129, ¶ 130, ¶ 132, ¶ 134, ¶ 136, ¶ 137, ¶ 138, ¶ 141, ¶ 142, ¶ 143, ¶ 144, ¶ 145, ¶ 146, ¶ 148, ¶ 159, ¶ 160, ¶ 161, ¶ 162, ¶ 163, ¶ 164, ¶ 165, ¶ 169, ¶ 170, ¶ 171