

IN THE SUPREME COURT OF THE UNITED STATES

KHALED A.F. AL ODAH, *et al.*,
Petitioners,

v.

UNITED STATES OF AMERICA, *et al.*,
Respondents.

AFFIDAVIT OF LIEUTENANT COMMANDER WILLIAM C. KUEBLER

Lieutenant Commander William C. Kuebler, being duly sworn, deposes and says:

1. I am Counsel of Record for Omar A. Khadr ("Mr. Khadr"), as Respondent Supporting Petitioners, in the above-captioned case. I am also the Detailed Defense Counsel for Mr. Khadr in the military commission case of *United States v. Omar A. Khadr*. Mr. Khadr is a 21 year-old Canadian citizen, currently detained as an "enemy combatant" by the United States at the Guantanamo Bay Naval Station.
2. On 5 and 6 June 2008, while reviewing materials provided to the defense in the course of discovery in Mr. Khadr's pending military commission case, I reviewed a document entitled "Tiger Team Standard Operating Procedure (SOP) for the JTF GTMO Joint Intelligence Group (JIG) Interrogation Control Element (ICE). ("Tiger Team SOP").¹ The Tiger Team SOP is an attachment to the "Schmidt-Furlow Report," a Department of Defense ("DoD") investigation into allegations of detainee abuse at the Guantanamo Bay Naval Station. The paragraphs of the Tiger Team SOP are individually marked as to their level of classification. The matters referenced herein are derived exclusively from the unclassified portions of the Tiger Team SOP.
3. The contents of the Tiger Team SOP, as related herein, are based on my verbatim transcription of unclassified portions of the Tiger Team SOP. Although the prosecution in Mr. Khadr's military commission case has made the Schmidt-Furlow report available for review in its offices, the prosecution has refused to provide the defense with a copy of the report or its attachments. Upon leaving the prosecution offices on 6 June 2008, I confirmed with counsel for the government that it would be appropriate to use information from the unclassified portions of the Tiger Team SOP in an unclassified filing.

¹ The unclassified cover page, indicates that the Tiger Team SOP was initially promulgated on 21 January 2003, and subsequently "revised" on 12 June 2003 and 26 July 2004, suggesting it was in effect (at a minimum) during most of 2003 and 2004.

4. Paragraph 2 of the Tiger Team SOP prescribes its scope and applicability:

“(U) **Scope.** These procedures and responsibilities apply to Tiger Teams serving within the Interrogation Control Element (ICE), Joint Interrogation Group (JIG) of Joint Task Force (JTF) GTMO.”

5. Paragraph 6 defines the term “Tiger Team”:

“(U) **Tiger Teams.** Intelligence exploitation teams consisting primarily of an Analyst and Interrogator who continuously work together during the Battle Rhythm Cycle.”

6. Subparagraph 3 of paragraph 14 governs policy relating to retention of handwritten interrogator notes by Tiger Team interrogators:

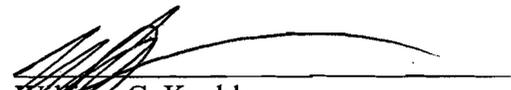
“(3) (U) Once Interrogator Notes² and/or [Intelligence Information Reports] have been created (Appendix G), handwritten interrogator notes may be destroyed. This mission has legal and political issues that may lead to interrogators being called to testify, keeping the number of documents with interrogation information to a minimum can minimize certain legal issues.”

7. The defense in Mr. Khadr’s military commission case has re-requested the government to provide it with a copy of Tiger Team SOP. If not immediately forthcoming, the defense will request the military judge to compel such production on an expedited basis. Given previous rulings of the military commission relating to the scope of discovery, the defense expects to receive a copy of the Tiger Team SOP and will file an appropriately-redacted, unclassified version of the document (or excerpts thereof) with this Court at the earliest opportunity.

8. The defense in Mr. Khadr’s military commission case has requested production of handwritten notes relating to intelligence interrogations of Mr. Khadr at both the Guantanamo Bay Naval Station and the Bagram Collection Point, Bagram Airbase, Afghanistan.³ Counsel for the government claim that, after a diligent search, they have been unable to locate and unable to provide responsive materials.

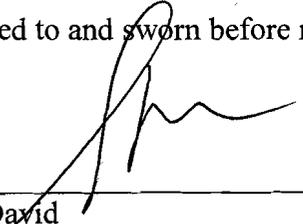
² Despite the name, these are *typewritten* documents summarizing the interrogation.

³ The government appears to have preserved, and has provided the defense with copies of handwritten notes taken by *law enforcement* agents, e.g., agents of the Federal Bureau of Investigation and Criminal Investigation Task Force, for *some* interrogations. The defense has, however, been provided with numerous Intelligence Information Reports and typewritten Interrogator Notes relating to *intelligence* interrogations for which there are no known handwritten interrogator notes.



William C. Kuebler
LCDR, JAGC, USN

Subscribed to and sworn before me this 8th day of June 2008



Steven David
Col, JA, USAR
Authority: 10 U.S.C. § 1044a
No seal required