

CA: This periodic review board is being conducted at 0902 hours on 19 June 2014, at the Periodic Review Secretariat Headquarters, with regard to the following detainee: Muhammad Murdi Issa Al-Zahrani, ISN 713.

As a reminder, the unclassified portions of these proceedings are being recorded for the purpose of generating a transcript to be posted on the PRS website.

TRANS 1: [Translation of above.]

CA: Representatives from the following agencies are present and are members of the board:

DEPARTMENT OF DEFENSE;

DEPARTMENT OF STATE;

DEPARTMENT OF JUSTICE;

DEPARTMENT OF HOMELAND SECURITY;

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE;

OFFICE OF THE JOINT CHIEFS OF STAFF.

The following personnel are also present:

LEGAL ADVISOR TO THE BOARD;

CASE ADMINISTRATORS;

PERSONAL REPRESENTATIVES;

TWO TRANSLATORS;

THE DETAINEE; and

SECURITY OFFICER.

TRANS 1: **[Translation of above.]**

PM: This board ----

CA: The detainee's personal representatives, the detainee, and one translator are located at the detention facility, U.S. Naval Station Guantanamo Bay, Cuba. They are attending via video teleconference.

This session is being observed by foreign, national, and local media; foreign government officials, and representatives from national governmental organizations.

TRANS 1: **[Translation of above.]**

PM: This board is called to order. This board is convened to determine whether continued law of war detention is warranted for Muhammad Murdi Issa Al-Zahrani, ISN 713, in order to protect against a continuing significant threat to the security of the United States.

TRANS 1: **[Translation of above.]**

PM: This session of the periodic review board is unclassified. Classified documents and classified discussions relating to classified information shall not be presented or discussed during the unclassified session of this hearing.

TRANS 1: **[Translation of above.]**

PM: Mr. Al-Zahrani, this is your periodic review board to determine whether continued law of war detention is warranted in your

case. Your continued law of war detention will be warranted if such detention is necessary to protect against a continuing significant threat to the security of the United States. The focus of this hearing is on the threat you may pose to the United States and its interests if transferred or released from U.S. custody, and not on the lawfulness of your detention.

TRANS 1: **[Translation of above.]**

PM: The personal representatives are your representatives to assist you during this process.

Finally, the translators ensure that everyone understands your statements and that you understand what is being said here during the hearing.

TRANS 1: **[Translation of above.]**

PM: Personal representatives, has the detainee had an opportunity to review the Unclassified Summary?

TRANS 1: **[Translation of above.]**

PR2: Yes, sir.

TRANS 2: **[Translation of above.]**

PM: I will now read the Unclassified Summary:

"Muhammad Murdi Issa Al-Zahrani, ISN SA-713, in 1999 probably traveled from Saudi Arabia to Afghanistan and almost certainly joined al-Qaida. Between 1999 and the late 2001, he received training in military tactics and explosives from al-Qaida,

fought on the frontlines against the Northern Alliance, and participated in two assassinations of Northern Alliance leaders.

The detainee swore allegiance to Osama bin Laden, which the detainee has said he views as a lifelong commitment to al-Qaida and Bin Ladin's successors.

Information about the detainee's activities before detention is derived almost entirely from his own statements, which largely are uncorroborated but are consistent with al-Qaida's operational practices. He possibly at times has exaggerated his role in and significance to al-Qaida in which he remains devoted.

The detainee, while at the Guantanamo Bay detention facility, has presented few significant force protection problems relative to other detainees. He has provided information of value but appears to have withheld details, avoided implicating other al-Qaida members, provided conflicting information on dates and locations of his activity, employed counter-interrogation techniques, and admitted to working with other detainees to manipulate guards' and interviewers' activities and opinions. He has declined all interviews since 2010.

The detainee throughout his detention has offered conflicting thoughts on how he envisions his future. On a few occasions, he has shown intent in returning home and establishing a

family life, but he otherwise has consistently expressed lifelong dedication to al-Qaida and the life of a jihadist.

If the detainee was repatriated to Saudi Arabia, he possibly would return to his family after completing the Kingdom's Rehabilitation Program.

He has no known associations with at-large extremists, based on his lack of interaction with anyone outside of Guantanamo except for family members who have no identified extremist affiliations.

During his time in Afghanistan, however, the detainee almost certainly cultivated direct and indirect relationships with numerous terrorist leaders who could provide him avenues to reengage.

TRANS 1: [Translation of above.]

PM: Do the personal representatives wish to make an unclassified opening statement at this time?

TRANS 1: [Translation of above.]

PR 2: Yes, sir.

TRANS 2: [Translation of above.]

PM: I would like to remind all participants that any information shared at this time must be unclassified. If there is a concern about the classification of the information, I will indicate such and the proceedings will stop until the classification issue is resolved.

TRANS 1: [Translation of above.]

PM: Personal representatives, you may proceed with your opening statements.

PR 1: Good morning, ladies and gentlemen of the board. We are the personal representatives for Muhammad Murdi Issa Al-Zahrani. We will be presenting Mr. Al-Zahrani's case to you today without the aid of private counsel. Additionally, until recently Mr. Al-Zahrani had elected not to participate during this process, but we want you to know that although he made the personal decision not to participate, he has been cooperative. He met with us in person and provided information to us via a letter that includes some information about what he would like to do in the future.

We will present a two-part presentation to you today. I will briefly discuss information about Mr. Al-Zahrani's detention that will shed light on his current circumstances and frame of mind, and will then project forward to Mr. Al-Zahrani's life post-detention. Then, as this board's recommendation is made on the basis of whether a detainee presents a continuing significant threat to the security of the United States, my colleague will compare Mr. Al-Zahrani's threat potential to the standard established for a continuing significant threat.

On our PRS website, a "continuing significant threat" is defined as "a threat to the national security of the United States that cannot be mitigated through feasible and appropriate security

measures implemented by another country, organization, or entity." What you will come to see is that Mr. Al-Zahrani's threat potential is largely overstated, due to conflicting information he provided, and that even if his self-described worst case propensities were true, he does not rise to the standard of a continuing significant threat to national security. Why? Because he lacks the capability and his opportunities to impose harm can be sufficiently mitigated.

Mr. Al-Zahrani has spent 12 years at Guantanamo Bay, and presented few force protection problems relative to other detainees. His limited negative -- excuse me. His limited negative conduct while detained is that of an inmate, rather than that of a terrorist. Such resistance and noncompliance with correctional staff is commonplace in penal systems, including in the U.S., and reflects that of a typical inmate who has been influenced by 12 years of detention, frustration, separation from family, and boredom with no possible end in sight. His limited efforts toward noncompliance while detained have no bearing on any risk he may pose toward the United States. Accordingly, we recommend that the board discount this information in your assessment of Mr. Al-Zahrani's future risk potential.

As mentioned, Mr. Al-Zahrani declined to participate in this process until recently, but this should not be seen as a harboring of ill intent toward the United States, nor should it be

detrimental to the board's recommendation.

From the psychiatrist's report submitted previously on behalf of ISN 128, episodic refusal to meet and participate in various activities is common among the detainees, and is, "often rooted in a detainee's sense that their indefinite confinement constitutes cruel, degrading, and inhumane treatment."

Further, this psychiatrist states, "Deprived of the ability to make basic decisions...they may seek to be able to influence decisions in the small arena left to them." Hence, while it may seem counterintuitive to decline participation in the PRB process, non-participatory tendencies among the detainees can be viewed as, "exerting their humanity and autonomy by engaging in what they refer to as a 'peaceful protest' of their detention."

In the specific case of Mr. Al-Zahrani, his unclassified dossier also indicates a diagnosis of what the Mayo Clinic classifies as a treatable, stress-related mental illness brought on by any number of significant life changes. Mr. Al-Zahrani's condition may precipitate from injuries, as he alludes to in his letter, or his indefinite captivity. In either case, the typical symptoms of this condition may shed some light on why Mr. Al-Zahrani made the choice of not participating until this week.

During Mr. Al-Zahrani's detention, he has missed significant changes in the lives of many family members. Now, as per

his unclassified dossier, his letter to us, and consistent indicators in camp records, Mr. Al-Zahrani desires to be reunited with his family and make up for lost time. Indeed, Mr. Al-Zahrani states his only wish is to see his ailing mother before she passes away; an opportunity he missed when his father died three years ago.

Mr. Al-Zahrani benefits from being a Saudi citizen, and according to the unclassified dossier, "The Saudi government has provided the appropriate security and humane treatment assurances to facilitate the transfer of detainees." Resultantly, the United States has transferred over 100 detainees, including two in 2013, to Saudi Arabia.

Saudi Arabia has established a robust rehabilitation and aftercare program focused on changing the attitudes of Saudis who have been involved in terrorism and include detainees transferred from the Guantanamo Bay detention facility. These components of the program include counseling, religious instruction, sports, and social and therapeutic activities. Additionally, family members are able to visit the detainees going through the program.

Mr. Al-Zahrani told us he is willing to go through the government program, agree to any terms leading to his release, and will fully cooperate with any stipulations his country places on him. We believe this shows his desire to capitalize on a second chance at life and return home to be with his family.

As we share Mr. Al-Zahrani's own words with you, we believe you will see that his actions do not imply an unwillingness to cooperate. Rather, you will see a middle-aged, ailing man who desperately wants to return to Saudi Arabia so he can receive the healthcare provided by his country's nationalized healthcare system, go through the country's extensive detainee rehabilitation program, reintegrate as a productive member of society, and shoulder the responsibility of taking care of his family.

Per Mr. Al-Zahrani's letter, which you will hear shortly, his entire family has voiced their commitment to assisting and supporting him during his transition home. This includes financial support, assistance with gaining employment, and embracing him into an extended family support network.

We believe his close family structure will be a significant benefit in transitioning Mr. Al-Zahrani to a normal life, but their assistance may not even be necessary. Mr. Al-Zahrani indicates he has a home, a job to return to, back-pay for his time during detention, and associates within the Saudi Ministry of the Interior to help him as he starts his new life.

Mr. Al-Zahrani's dossier shows that historical information that led to his detention. As you review the additional documentation we have provided, and have the opportunity to ask questions, we urge you to consider the whole picture when making your

recommendation.

Evaluating Mr. Al-Zahrani's dossier requires recognition of the fact that any negative information found therein is derived from his own admission; purposely exaggerated and conflicting as is typical of many detainees. This exaggerated information serves to cloud the matter at hand and artificially inflate the perceived risk presented by Mr. Al-Zahrani.

We do not know why Mr. Al-Zahrani provided false or overstated accounts, nor the circumstances under which he provided them, but the previously cited psychiatrist's report provides some insight as to why previous detainees have given conflicting statements. It indicates detainees often provide discrepant information, "attempting to improve their situation, meaning reducing interrogator use of enhanced interrogation techniques, to regain comfort items removed prior to interrogation, and to have access to medical attention and treatment."

Further, "Some detainees reported that prolonged sleep deprivation led to their reporting conflicting stories as a result of endorsing information they thought the interrogators were seeking, because of confusion or in hope that they would be allowed to sleep." Moreover, all negative accounts in Mr. Al-Zahrani's classified dossier that make him out to be other than a low-level fighter have been refuted by either Mr. Al-Zahrani, other detainees, or his

interrogators.

The fact is: Mr. Al-Zahrani is a man who has stated that he wants to start over. He should be given a second chance because he does not meet the defined threshold of presenting a continuing significant threat to the United States. This is especially true in light of mitigating factors put in place to enable the recent release of five Taliban detainees, who were all classified as higher threats than Mr. Al-Zahrani. These same mitigators provided sufficient assurance that those five detainees no longer pose a continuing significant threat to the United States' national security, which implies a lower-level threat such as Mr. Al-Zahrani, if afforded similar mitigators like those available in Saudi Arabia, would no longer pose a continuing significant threat.

Thank you for your time and consideration. We are happy to answer any questions you may have throughout this proceeding. With that, I will turn it over to my colleague to discuss our threat analysis methodology.

TRANS 1: **[Translation of above.]**

PR 2: Ladies and gentlemen of the board, good morning. During a previous board hearing, I characterized "threat" in terms of motive, capability, and opportunity, and discussed the fact that the detainee in that case demonstrated a lack of motive, that his dossier did not demonstrate sufficient capability, and that in your

recommendation you can ensure a lack of opportunity. As you know, every case is different, and this one will be as well.

Until the very end, Mr. Al-Zahrani explained to us that he did not wish to participate in the PRB process, and my colleague has addressed why that decision may have resulted from captivity rather than from nefarious intent towards the U.S. Nonetheless, as a result, we have had to use a different methodology to demonstrate why Mr. Al-Zahrani does not rise to the standard of continuing significant threat to the security of the United States.

Without active participation from Mr. Al-Zahrani, it would be presumptive of us to attempt to refute either his motive or the capability as laid out in his dossier. Instead, in our submission we used a risk/threat methodology, to show that even assuming the worst intent, and the full scope of capabilities as shown in the dossier, Mr. Al-Zahrani still does not meet the standard. In other words, any threat that he might represent can be sufficiently mitigated through feasible and appropriate security measures implemented by another country, organization, or entity.

For the methodology used in our submission for Mr. Al-Zahrani's case, we laid out several representative scenarios which might demonstrate a threat to the U.S. or its interests if Mr. Al-Zahrani is released. I invite your attention to the matrix in Exhibit 3.5.1: Risk Scenarios.

For each scenario, we defined the threat that could exist, worst case consequences for that scenario, and existing mitigating factors. All existing mitigating factors were drawn from the dossier. We assigned a severity to the consequences based on the worst case, and assigned a likelihood value to the scenario based on the stated events occurring in spite of listed safeguards.

Based on those values, we have assigned a risk to each threat scenario according to the matrix. Please see Exhibit 3.4.1, the Risk Matrix for the definitions of Severity, Likelihood, and Risk Values, and for the Risk Matrix itself.

The matrix used is common in risk assessments, although the severity and likelihood values had to be developed specifically for this application. If any risk met a certain threshold, then we would offer recommendations to the board to attempt to mitigate the higher risk to a lower risk.

Out of all the scenarios, the highest existing risk did not meet that threshold. Note that this value takes into account only existing mitigating factors. It requires no special mitigations or security precautions above those currently undergone by all transferees.

In conclusion, the standard for continuing significant threat to the United States is higher than the standard for a simple threat.

On May 31st, both President Obama and Defense Secretary Hagel stated that the government of Qatar put into place measures that would ensure that the national security of the United States would not be compromised by the recent release of five Guantanamo detainees. In so doing, we suggest that the released detainees represent a possible upper bound to a continuing significant threat because the threat that the released detainees represent could be mitigated through feasible and appropriate security measures implemented by another country, organization, or entity.

We have demonstrated that Mr. Al-Zahrani represents a lower threat than the detainees that have been released and therefore does not rise to the standard for continuing significant threat to the security of the United States.

TRANS 1: **[Translation of above.]**

PM: Thank you.

As indicated, the detainee has elected not to be assisted by a private counsel in these proceedings. As a result, there is not an opening ----

PR 1: We don't have audio down here.

PM: ---- statement from private counsel.

Do you have audio?

PR 2: Yes, sir.

PR 1: Yes, sir.

PR 2: Yes, sir.

PM: Did you hear my last statement?

PR 2: Negative, sir.

PM: I'll repeat it for you.

As indicated, the detainee has elected not to be assisted by a private counsel in these proceedings. As a result, there is not an opening statement from private counsel.

TRANS 1: **[Translation of above.]**

PM: We understand that board members may reserve questions until the detainee and witness statements have been presented in their entirety.

TRANS 1: **[Translation of above.]**

PM: Does any board member have a question for the personal representatives in this unclassified session?

TRANS 1: **[Translation of above.]**

[No verbal response from the members.]

PM: Seeing no questions, this concludes this portion of the hearing.

I would request that all remain seated until further instructed by the case administrator.

TRANS 1: **[Translation of above.]**

CA: We will take a 15-minute recess to prepare for the remaining sessions.

[The public session closed at 0956, 19 June 2014.]

[At this point, the unclassified portion of the hearing ended.]

[END OF PAGE]

ABBREVIATION AND ACRONYM KEY

BM: BOARD MEMBER

DET: DETAINEE

CA: CASE ADMINISTRATOR

PM: PRESIDING MEMBER

PR 1: PERSONAL REPRESENTATIVE ONE

PR 2: PERSONAL REPRESENTATIVE TWO

TRANS 1: TRANSLATOR ONE (LOCATED AT PRS HQ)

TRANS 2: TRANSLATOR TWO (LOCATED AT GUANTANAMO BAY)