



NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

17 August 2004

Honorable Gordon England
Secretary of the Navy
The Pentagon
Washington, D.C. 20301

Re: Use of Detainee Statements in Administrative Review Proceedings at Guantanamo Bay Navy Base, Cuba

Dear Secretary England:

Now that Administrative Review proceedings have begun for suspected enemy combatants at Guantanamo Bay, I am taking the liberty of writing you again to share the concerns of the National Association of Criminal Defense Lawyers (NACDL) regarding certain coercive interrogation techniques that have been employed against detainees in Afghanistan and at Camps X-Ray and Delta. In particular, I direct your attention to the enclosed joint statement by former Guantanamo detainees Shafiq Rasul, Asif Iqbal and Rhuheh Ahmed, three British citizens from Tipton, Midlands, captured in Afghanistan, who have since recanted their purported confessions and subsequently cleared by British military intelligence.

Statements extracted through fear and physical duress have been assumed presumptively unreliable in American and English common law for over 200 years. DOD's own intelligence interrogation field manuals recognize that a person subjected to prolonged fear and pain is a high risk for telling his captors whatever he may come to believe they want to hear.

NACDL strongly urges that administrative reviews and military commission trials be halted until these abuse allegations have been thoroughly investigated. The association firmly stands by our insistence that no prisoner statements be admitted in administrative review hearings, whether made by the detainee or others without the panel first conducting a thorough and comprehensive inquiry as to the circumstances under which each statement was made, by whom and to whom. Also to that end, we particularly object to the lack of assistance of mental health experts to assist the review panel in assessing the mental fitness of the detainee and the witnesses against him and on his behalf.

The "aggressive interrogation" techniques at Guantanamo disclosed in the joint statement include shackling of a prisoner's ankles and wrists together for hours, known as "short shackling" (Rasul §§184, 189-91; Iqbal, §§223-25), extended isolation (Rasul, §§194-204), forced medication with drugs (§§166-70), beatings (*en passim*) and food deprivation (§285).

The composite statement was compiled with the assistance of British barrister Gareth Peirce, whose tenacious investigation resulted in the exoneration of several Irish nationals falsely convicted of terrorism in England in the 1970s, and for which she was awarded the Order of the British Empire by Queen Elizabeth II. Although the former prisoners' allegations may seem incredible, the lawyers disseminating them are known and reputable.

I congratulate you for opening some portions of the proceedings to the press. However, as I stated in NACDL's letter of 28 June, inquiry into, and public disclosure of, the methods used to obtain detainee and witness statements is absolutely necessary if the ARP process is to be both transparent and credible to neutral observers in the court of public and world opinion.

I would be more than happy to meet with you again for further discussion of the Tipton Three charges, which have yet to be discredited.

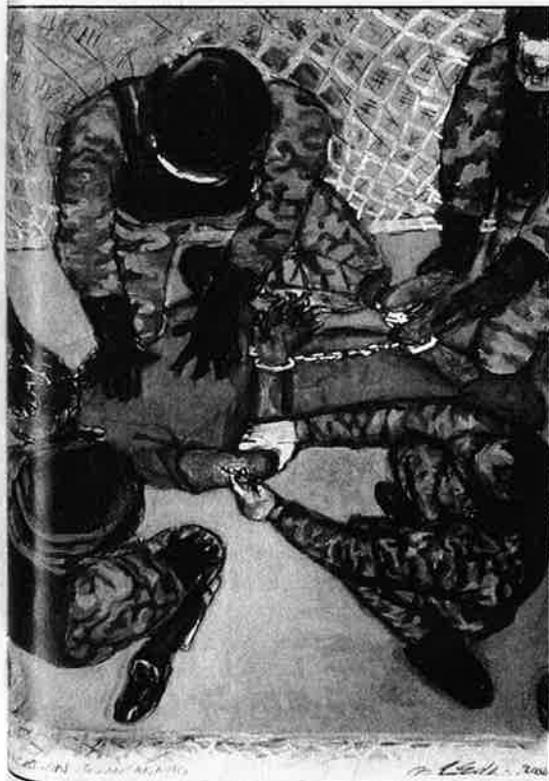
Yours sincerely,

Barry C. Scheck
President

Enclosure: "Detention in Afghanistan and Guantanamo Bay:
Statement of Shafiq Rasul, Asif Iqbal and Rhuheh Ahmed"



Guantanamo Haircut: "You would be pepper-sprayed in the face.... Five of them would come in with a shield and smack you and knock you to the floor and ... put chains on you. And then you would be taken outside where there would already be a person with clippers who would forcibly shave your hair and beard." — Shafiq Rasul and Asif Iqbal



Pacification at Guantanamo: "The ERF [extreme reaction force] team would come into the cell, place us face down on the ground, then putting our arms behind our backs and our legs bending backwards, they would shackle us and hold us restrained in that position whilst somebody from the medical corps pulled up my sleeve and injected me in the arm ... making me feel very drowsy." — Rhuheh Ahmed