

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

IN RE:

GUANTANAMO BAY

DETAINEE LITIGATION

)
) **Misc. No. 08-442 (TFH)**
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)

) **02-cv-0828, 04-cv-1136, 04-cv-1164, 04-cv-1194,**
) **04-cv-1254, 04-cv-1937, 04-cv-2022, 04-cv-2035,**
) **04-cv-2046, 04-cv-2215, 05-cv-0023, 05-cv-0247,**
) **05-cv-0270, 05-cv-0280, 05-cv-0329, 05-cv-0359,**
) **05-cv-0392, 05-cv-0492, 05-cv-0520, 05-cv-0526,**
) **05-cv-0569, 05-cv-0634, 05-cv-0748, 05-cv-0763,**
) **05-cv-0764, 05-cv-0877, 05-cv-0883, 05-cv-0889,**
) **05-cv-0892, 05-cv-0993, 05-cv-0994, 05-cv-0998,**
) **05-cv-0999, 05-cv-1048, 05-cv-1189, 05-cv-1124,**
) **05-cv-1220, 05-cv-1244, 05-cv-1347, 05-cv-1353,**
) **05-cv-1429, 05-cv-1457, 05-cv-1458, 05-cv-1487,**
) **05-cv-1490, 05-cv-1497, 05-cv-1504, 05-cv-1505,**
) **05-cv-1506, 05-cv-1509, 05-cv-1555, 05-cv-1592,**
) **05-cv-1601, 05-cv-1602, 05-cv-1607, 05-cv-1623,**
) **05-cv-1638, 05-cv-1639, 05-cv-1645, 05-cv-1646,**
) **05-cv-1678, 05-cv-1704, 05-cv-1971, 05-cv-1983,**
) **05-cv-2010, 05-cv-2088, 05-cv-2104, 05-cv-2185,**
) **05-cv-2186, 05-cv-2199, 05-cv-2249, 05-cv-2349,**
) **05-cv-2367, 05-cv-2370, 05-cv-2371, 05-cv-2378,**
) **05-cv-2379, 05-cv-2380, 05-cv-2381, 05-cv-2384,**
) **05-cv-2385, 05-cv-2386, 05-cv-2387, 05-cv-2444,**
) **05-cv-2479, 06-cv-0618, 06-cv-1668, 06-cv-1684,**
) **06-cv-1690, 06-cv-1758, 06-cv-1759, 06-cv-1761,**
) **06-cv-1765, 06-cv-1766, 06-cv-1767, 07-cv-1710,**
) **07-cv-2337, 07-cv-2338, 08-cv-0987, 08-cv-1085,**
) **08-cv-1101, 08-cv-1104, 08-cv-1153, 08-cv-1185,**
) **08-cv-1207, 08-cv-1221, 08-cv-1223, 08-cv-1224,**
) **08-cv-1227, 08-cv-1228, 08-cv-1229, 08-cv-1230,**
) **08-cv-1231, 08-cv-1232, 08-cv-1233, 08-cv-1235,**
) **08-cv-1236, 08-cv-1237, 08-cv-1238, 08-cv-1310,**
) **08-cv-1360, 08-cv-1440, 08-cv-1733, 08-cv-1805,**
) **08-cv-2083, 08-cv-1828, 08-cv-1923, 08-cv-2019,**
) **09-cv-0031**
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[PROPOSED] ORDER

The Court, having fully considered the Government's Motion to Amend September 11, 2008 Protective Order and Counsel Access Procedures and January 9, 2009 Amended TS/SCI Protective Order and Counsel Access Procedures, hereby **ORDERS** that the Motion be **GRANTED**.

The September 11, 2008 Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantanamo Bay, Cuba ("Protective Order" and "Counsel Access Procedures" respectively) and the January 7, 2009 Protective Order for Habeas Cases Involving Top Secret/Sensitive Compartmented Information and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantanamo Bay, Cuba, in Habeas Cases Involving Top Secret/Sensitive Compartmented Information, as amended on January 9, 2009, ("TS/SCI Protective Order" and "TS/SCI Counsel Access Procedures" respectively) are hereby amended as follows:

- Protective Order Paragraph 29 is hereby amended to read:

Petitioners' counsel shall not disclose to a petitioner-detainee classified information which was not communicated by that petitioner-detainee directly to counsel during the course of communications (i.e., legal mail, counsel meeting). Statements of the petitioner-detainee that counsel acquires from classified documents cannot be shared with the petitioner-detainee absent authorization from the appropriate government agency authorized to declassify the classified information. Should a petitioner's counsel desire to disclose classified information not communicated directly by that petitioner-detainee to counsel during the course of communications (i.e., legal mail, counsel meeting) to that petitioner-detainee, that petitioner's counsel will provide in writing to the privilege review team, see *infra* Section II.G, a request for release clearly stating the classified information they seek to release. The privilege review team will forward a petitioner's counsel's release request to the appropriate government agency authorized to declassify the classified information for a determination. The privilege review team will inform petitioner's counsel of the determination once it is made.

- Protective Order Paragraph 39 is hereby amended to read:

Petitioners' counsel shall not disclose to a petitioner-detainee protected information which was not communicated by that petitioner-detainee directly to counsel

during the course of communications (i.e., legal mail, counsel meeting) without prior concurrence of government counsel or express permission of the Court.

- Counsel Access Procedures Paragraph 31 is hereby amended to read:

Counsel may not divulge to the petitioner-detainee classified information which was not communicated by that petitioner-detainee directly to counsel during the course of communications (i.e., legal mail, counsel meeting). Statements of the petitioner-detainee that counsel acquires from classified documents cannot be shared with the petitioner-detainee absent authorization from the appropriate government agency authorized to declassify the classified information. Counsel may not otherwise divulge classified information related to a detainee's case to anyone except those with the requisite security clearance and need to know using a secure means of communication. Counsel for detainees in these coordinated cases are presumed to have a "need to know" information in related cases pending before this Court. Counsel for respondents in these cases may challenge this presumption on a case-by-case basis for good cause shown.

- TS/SCI Protective Order Paragraph 30 is hereby amended to read:

Petitioners' counsel shall not disclose to a petitioner-detainee classified information which was not communicated by that petitioner-detainee directly to counsel during the course of communications (i.e., legal mail, counsel meeting). Statements of the petitioner-detainee that counsel acquires from classified documents cannot be shared with the petitioner-detainee absent authorization from the appropriate government agency authorized to declassify the classified information. Should a petitioner's counsel desire to disclose classified information not communicated directly by that petitioner-detainee to counsel during the course of communications (i.e., legal mail, counsel meeting) to that petitioner-detainee, that petitioner's counsel will provide in writing to the Privilege Team, see *infra* Section II.G, a request for release clearly stating the classified information they seek to release. The Privilege Team will forward a petitioner's counsel's release request to the appropriate government agency authorized to declassify the classified information for a determination. The Privilege Team will inform petitioner's counsel of the determination once it is made.

- TS/SCI Protective Order Paragraph 40 is hereby amended to read:

Petitioners' counsel shall not disclose to a petitioner-detainee protected information which was not communicated by that petitioner-detainee directly to counsel during the course of communications (i.e., legal mail, counsel meeting) without prior concurrence of government counsel or express permission of the Court.

- TS/SCI Counsel Access Procedures Paragraph 34 is hereby amended to read:

Counsel may not divulge to the petitioner-detainee classified information which was not communicated by that petitioner-detainee directly to counsel during the course of communications (i.e., legal mail, counsel meeting). Statements of the petitioner-detainee that counsel acquires from classified documents cannot be shared with the petitioner-

detainee absent authorization from the appropriate government agency authorized to declassify the classified information. Counsel may not otherwise divulge classified information related to a detainee's case to any person, except those authorized under these Procedures of the TS/SCI Protective Order, the Court, and government counsel with the requisite security clearance and need to know.

IT IS SO **ORDERED**, this _____ day of _____, 2009.

United States District Judge