

March 22, 2021

The Honorable Lloyd J. Austin III  
United States Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

The Honorable John E. Whitley  
Acting Secretary of the Army  
101 Army Pentagon  
Washington, DC 20301-0101

Dear Secretary Austin and Acting Secretary Whitley,

We are a coalition of human rights, civil liberties, and faith groups – joined by torture treatment programs from across the country – writing to express grave concern over the government’s treatment of Mohammed al-Qahtani, a man with schizophrenia and other serious psychological conditions who has been imprisoned at U.S. Naval Station Guantánamo Bay, Cuba for nineteen years without trial. Many of our groups sent a similar letter to then-Defense Secretary Esper in September, 2020.<sup>1</sup> We welcome your new leadership and urge you to chart a different course than your predecessors in Mr. al-Qahtani’s case – one consistent with President Biden’s commitment to closing the Guantánamo detention facilities and upholding the rule of law – by taking the steps identified below.

The severity of Mr. al-Qahtani’s mental health condition is not in dispute, and his health is rapidly deteriorating. Recent court filings detail multiple suicide attempts driven by Mr. al-Qahtani’s schizophrenic hallucinations. According to a court-appointed medical expert who has “conducted an ongoing and extensive evaluation” of him over the last seven years:

It is my opinion, to a reasonable degree of medical certainty, that Mr. al-Qahtani’s psychiatric symptoms have severely worsened since the fall of 2020. He is at high risk for suicide due to his underlying diagnoses of schizophrenia and PTSD, his indefinite detention, and the [Joint Medical Group’s] inability to deliver effective treatment given the constraints of providing care at Guantánamo. It is my opinion that Mr. al-Qahtani requires urgent, immediate and potentially life-saving mental health treatment.<sup>2</sup>

On August 8, 2017, Mr. al-Qahtani filed a motion in federal court requesting a Mixed Medical Commission (MMC). Army Regulation 190-8 (AR 190-8), which implements the Geneva Conventions and related protections for detainees in military custody, provides for MMCs, and mandates them to independently assess whether a detainee is entitled to medical repatriation. In March 2020, the district court determined that AR 190-8 applies to Mr. al-Qahtani and granted his motion. The government appealed the decision to the D.C. Circuit Court of Appeals, and asked permission to delay establishing Mr. al-Qahtani’s MMC until the Court ruled. Both efforts were dismissed.

It has now been a full year since the Defense Department was ordered to establish Mr. al-Qahtani’s MMC and we are not aware of any steps it has taken in that direction. Instead, on January 11, 2021, the previous Army Secretary improperly issued a sweeping memorandum that purports to deny Mr. al-Qahtani an MMC by claiming that AR 190-8 “is not applicable to any

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<sup>1</sup> Available at [https://www.cvt.org/sites/default/files/attachments/u93/downloads/al-qahtani\\_coalition\\_letter.pdf](https://www.cvt.org/sites/default/files/attachments/u93/downloads/al-qahtani_coalition_letter.pdf).

<sup>2</sup> Supplemental Declaration of Dr. Emily A. Keram, M.D., *Al-Qahtani v. Biden*, No. 05-CV-1971 (D.D.C. Feb. 26, 2021).

[Guantánamo] detainee” *at all*, regardless of the nature of the detainee’s claim and notwithstanding any court order to the contrary.

The consequences of Mr. al-Qahtani’s torture by military interrogators at Guantánamo—as detailed by the Senate Armed Services Committee in its 2008 detainee treatment report, and as admitted by a senior Defense Department official—and his prolonged detention, are predictable: he is psychologically injured to the point where he requires long-term, carefully managed treatment. He should be repatriated to psychiatric care in Saudi Arabia.

You have an opportunity to align the Defense Department’s actions in this case with the President’s interim national security strategic guidance that the United States must “remain committed to realizing and defending the democratic values at the heart of the American way of life,” “lead by the power of our example,” and “liv[e] up to our ideals.”

We appreciated Secretary Austin’s recent testimony that it is time to close the Guantánamo detention facilities and that he “would emphasize the need for the continued safe, humane, and legal care and treatment of detainees.” Toward those ends, we urge you to rescind the January 11 memorandum and immediately begin the process of repatriating Mr. al-Qahtani—including notifying the Court of the decision to transfer him and providing a timeline for doing so. Otherwise, the Defense Department should comply with its obligations under the Geneva Conventions, as incorporated into domestic law, by facilitating an MMC for Mr. al-Qahtani without further delay.

Thank you for your prompt attention to this important matter. Please direct any response to Scott Roehm, Washington Director, Center for Victims of Torture (sroehm@cvt.org).

Sincerely,

AACI’s Center for Survivors of Torture	National Religious Campaign Against Torture
American Civil Liberties Union	National Association of Criminal Defense Lawyers
Amnesty International USA	Northern California Human Rights Clinic
Bellevue Program for Survivors of Torture	Partnerships for Trauma Recovery
Center for Survivors of Torture	Physicians for Human Rights
Center for Victims of Torture	Program for Torture Victims
De Novo Center for Justice and Healing	Saint Alphonsus Program for Survivors of Torture
Defending Rights and Dissent	September 11 Families for Peaceful Tomorrows
HealthRight International	Survivors of Torture, International
Heartland Alliance Marjorie Kovler Center	Western New York Center for Survivors of Torture
Human Rights First	Win Without War
Human Rights Watch	Witness Against Torture
Justice for Muslims Collective	Mount Sinai Human Rights Program
Khmer Health Advocates	Libertas Center for Human Rights
Torture Abolition And Survivors Support Coalition International	

CC: Beth George  
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