

March 31, 2020

The Honorable Mark T. Esper
United States Secretary of Defense
1010 Defense Pentagon
Washington, DC 20301-1010

Dear Secretary Esper:

Our organizations, the Center for Victims of Torture (CVT) and Physicians for Human Rights (PHR), were among a larger group of human rights, civil liberties, and faith based NGOs that wrote to you in September 2019 to express our grave concern over the then-recent suicide attempt by Sharqawi Al Hajj (ISN 1457) at the Guantanamo Bay detention facility.ⁱ CVT and PHR are writing now because we understand that Mr. Al Hajj's health has again significantly deteriorated, and to urge you to take appropriate steps to mitigate the situation before it becomes catastrophic.

It is our understanding that Mr. Al Hajj is a 45 year-old man with a history of chronic mental health problems, including depression, anxiety, and suicidality. On August 19, 2019, Mr. Al Hajj cut his wrists with a piece of broken glass during a telephone call with counsel.ⁱⁱ He threatened additional self-harm shortly thereafter.ⁱⁱⁱ At the time, two mental health professionals with whom Mr. Al Hajj's counsel consulted—psychologists Katherine Porterfield and Jess Ghannam—characterized him as “actively” suicidal.^{iv} According to Mr. Al Hajj and his counsel, while his care would eventually improve, Guantanamo staff's initial response was dangerously inadequate; Mr. Al Hajj alleges that he was moved to “isolating conditions” in a “freezing cold” cell, and refused a warm blanket and warm clothes, both against the recommendations of his doctors at Guantanamo.^v

While we do not know the full details of Mr. Al Hajj's current condition—which could be provided if unprotected copies of his medical records were made available to appropriate parties with his consent—this deterioration is alarming. In particular, if his mental health has again reached a crisis point, we are concerned that COVID-19 related restrictions on travel to Guantanamo, coupled with insufficient opportunities for remote access to counsel or to independent medical providers, will exacerbate his decline. For example, we understand the legal mail courier service to and from Guantanamo was recently suspended, and while temporary measures have been put in place, there will be an impact on both the privilege and frequency of legal mail to detainees.

Whatever the exact nature of Mr. Al Hajj's condition—which, again, would be made clear with transparent provision of unprotected copies of his medical records to appropriate parties with his consent—his life and health are the Defense Department's responsibility. His care, like that of all Guantanamo detainees, must meet the standard that President Trump signed into law as part of the fiscal year 2020 National Defense Authorization Act: “evaluation and treatment that is accepted by medical experts and reflected in peer-reviewed medical literature as the appropriate medical approach for a condition, symptoms, illness, or disease and that is widely used by healthcare professionals”^{vi}

This requires, first and foremost, providing attentive, humane care that minimizes the risk of further self-harm by Mr. Al Hajj. The Defense Department should also immediately turn over unprotected and unredacted copies of his medical records—including as near to real-time updates as practicable—so that both counsel and the independent medical experts involved in Mr. Al Hajj's case can monitor his progress during the period when travel to Guantanamo is effectively impossible.

Moreover, as a torture survivor, Mr. Al Hajj needs trusted human connections.^{vii} He cannot form those connections with Guantanamo staff—a phenomenon that, as CVT and PHR have documented, is far from unique to Mr. Al Hajj^{viii}—both because the United States is responsible for his torture, and because U.S. medical personnel were complicit in torture, including at Guantanamo.

To the extent that there are legitimate, COVID-19-related public health justifications for placing appropriate limits on Mr. Al Hajj’s ability to meet in person with his counsel or with independent medical providers at this time, we urge you to facilitate those connections remotely to the greatest extent possible. And as soon as regular travel to Guantanamo resumes, Mr. Al Hajj should be given an independent medical evaluation by medical experts that he trusts.

Thank you for your prompt attention to this situation.

Sincerely,

/S/ Scott Roehm
Director of the Washington, DC Office
Center for Victims of Torture

/S/ Susannah Sirkin
Director of Policy and Senior Advisor
Physicians for Human Rights

/S/ Alison Beckman
Senior Clinician for External Relations
Center for Victims of Torture

/S/ Vincent Iacopino, MD, PhD
Advisory Council Member
Physicians for Human Rights

CC:

Adm. Craig S. Faller, Commander, U.S. Southern Command
The Hon. Thomas McCaffery, Assistant Secretary of Defense for Health Affairs
Rear Adm. Timothy C. Kuehhas, JTF-GTMO Commander
Col. Steven Yamashita, JDG Commander

ⁱ See https://www.cvt.org/sites/default/files/attachments/u101/downloads/al_hajj_coalition_letter.pdf.

ⁱⁱ Respondent’s Status Report, Ex. 1, Decl. of Lieutenant Commander [REDACTED], MD, FAAFP, Al Hajj v. Trump, 09- cv-745 (RCL) (Sept. 4, 2019).

ⁱⁱⁱ Id.

^{iv} Emergency Motion for Status Conference to Report Petitioner’s Recent Suicide Attempt and Obtain Decision on Pending Emergency Motion for Independent Medical Relief, Al Hajj v. Trump, 09-cv-745 (RCL) (Aug. 22, 2019).

^v Emergency Motion for Status Conference to Report Petitioner’s Recent Suicide Attempt and Obtain Decision on Pending Emergency Motion for Independent Medical Relief, Ex. A, Decl. of Pardiss Kebriaei in Support of Petitioner Sharqawi Al Hajj, Al Hajj v. Trump, 09-cv-745 (RCL) (Aug. 22, 2019).

^{vi} Public Law No: 116-92, National Defense Authorization Act for Fiscal Year 2020 § 1046.

^{vii} Al Hajj v. Trump, Case No. 09-cv-745 (RCL) at 1-2, (D.D.C. May 23, 2011) (Memorandum Opinion); Human Rights Watch, Double Jeopardy, CIA Renditions to Jordan, April 7, 2008, available at <https://www.hrw.org/report/2008/04/07/double-jeopardy/cia-renditions-jordan>; Deprivation and Despair: The Crisis of Medical Care at Guantanamo at 38-40, available at <https://www.cvt.org/DeprivationandDespair>.

^{viii} Deprivation and Despair: The Crisis of Medical Care at Guantanamo at 16-20, available at <https://www.cvt.org/DeprivationandDespair>.