

Executive Summary

1. Drawing on over a decade of Physician for Human Rights (PHR) research, this submission provides information regarding the United States' compliance with its international human rights obligations. In particular, it highlights four practices in the national security and/or the immigration context that violate the prohibition against torture and other forms of ill-treatment: solitary confinement; indefinite detention; force-feeding of mentally competent hunger strikers at Guantánamo Bay, Cuba; and interrogation techniques authorized by Appendix M of the 2006 Army Field Manual.

Normative Framework

2. The United States has ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which obligates it to refrain from participating in torture or cruel, inhuman, or degrading treatment, even in states of war or public emergency. Furthermore, the Convention obligates the United States to investigate any potential acts of torture and provide full redress to victims.¹

3. The United States has ratified the International Covenant on Civil and Political Rights (ICCPR), Article 7 of which forbids torture and cruel, inhuman, or degrading treatment or punishment.² General Comment 20 interprets the prohibition as applying to acts that cause mental suffering in addition to physical pain.³ Article 9 forbids arbitrary arrest and detention, requires those in detention to be informed of the reason for their detention, and promptly tried when charged.⁴ General Comment 8 requires those in preventative detention settings also receive the protections afforded in the treaty.⁵ Article 10 protects the inherent dignity of those detained and Article 14 provides standards of due process to those in criminal proceedings.⁶

4. The United States has ratified all four Geneva Conventions of 1949. Common Article 3, which applies to all individuals detained in any armed conflict, prohibits “cruel treatment and torture” as well as “outrages upon personal dignity, in particular humiliating and degrading treatment.”⁷

Immigration and National Security

A. Solitary Confinement

5. *During the United States' first UPR process in 2011, the state committed to: Ensure the full enjoyment of human rights by persons deprived of their liberty, including by way of ensuring treatment in maximum security prisons in conformity with international law.*⁸ An estimated 80,000 inmates in the United States are held in some form of solitary confinement, such as administrative segregation, disciplinary segregation, and protective custody.⁹ People in solitary confinement are generally held in small cells for 23 hours a day and rarely have contact with other people. The practice is used in federal and state prisons, local jails, and immigration and national security detention facilities.¹⁰

6. Even brief periods in solitary confinement can result in severe psychological and physical trauma. Psychological symptoms include hyperresponsivity to external stimuli; perceptual distortions, illusions, and hallucinations; panic attacks; difficulties with thinking, concentration, and memory; intrusive obsessional thoughts; overt paranoia; problems with impulse control, including random violence and self-harm; flashbacks, chronic hypervigilance, and hopelessness; and post-traumatic stress disorder (PTSD).

Inmates can also suffer corresponding physiological consequences, including sleep disturbances, headaches, and lethargy; dizziness and heart palpitations; appetite loss, weight loss, and severe digestive problems; diaphoresis; back and joint pain; deterioration of eyesight; shaking and feeling cold; and aggravation of pre-existing medical problems.¹¹

7. As a result of the psychological trauma common to inmates in solitary confinement, they are more likely to engage in self-harm and suicide attempts than inmates in the general population. Psychological trauma is exacerbated if the individual has previously been subject to torture and abuse, as is often the case with many immigration and national security detainees. International and regional human rights bodies have consistently held that solitary confinement should be the very rare exception, not the rule, and have repeatedly found conditions of solitary confinement to violate international prohibitions against torture.¹²

8. In recent years, two UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment have issued reports assessing the use of solitary confinement around the world. In his 2008 interim report, Manfred Nowak concluded after receiving reports of solitary confinement from a diverse array of countries that “the prolonged isolation of detainees may amount to cruel, inhuman or degrading treatment or punishment and, in certain instances, may amount to torture.” In 2011, Juan Mendez devoted his entire interim report to the use of solitary confinement. Mendez concluded that “the social isolation and sensory deprivation that is imposed by some States does, in some circumstances, amount to cruel, inhuman and degrading treatment and even torture.”¹³

9. The United States’ over-reliance on solitary confinement, particularly in immigration and national security detention settings reflects an abdication by the federal government of its moral and legal responsibility to treat those in their custody humanely.

10. Recommendations.

- Cease the use of solitary confinement as a disciplinary tool.
- Use segregation only when absolutely necessary to protect the safety of those detained, and take all necessary measure to ensure that the conditions are not punitive, such as the denial of recreation opportunities, access to lawyers and legal materials, and visitation.
- Implement measures that restrict the duration of solitary confinement to no more than 10 days.
- Provide notice to inmates as they enter solitary confinement about the duration of their isolation.
- Provide notice to inmates about their ability to challenge to challenge their solitary confinement.
- Increase the availability of health care to inmates in solitary confinement, including mental health care.
- Allow independent organizations to visit inmates in solitary confinement at all such detention facilities.

B. Indefinite Detention

11. *During the United States’ first UPR process in 2011, the state committed to: Reconsider alternatives to the detention of migrants.*¹⁴ Under U.S. law, asylum seekers can only be detained for the period of time it takes to determine if they are excludable. Nevertheless, the United States indefinitely detains tens of thousands of refugee and non-refugee immigrants a year. Many asylum seekers arrive on U.S. soil traumatized by persecution and other root causes of migration, as well as the experience of exile. At

the same time, many other intending immigrants have languished in detention for years waiting for deportation or release.¹⁵

12. *The United States also committed to: Close without delay all detention facilities at the Guantánamo Bay as President Barack Obama has promised.*¹⁶ Nevertheless, the United States continues to hold 149 detainees at the prison, the vast majority without charge or trial for over a decade. More than half, 79, remain imprisoned despite being cleared. Some have been waiting years for release. Another 41 men have been designated for continued detention until the end of hostilities, meaning they will not be tried, released or resettled.¹⁷

13. Indefinite detention causes harmful psychological and physical effects in healthy individuals, independent of other aspects or conditions of detention. These include severe and chronic anxiety, acute fear, and dread; pathological levels of stress that damage core functions of the immune, cardiovascular, and central nervous systems; hypertension; depression and suicide; post-traumatic stress disorder (PTSD); dissociation, schizophrenia, and psychosis; and enduring personality changes and permanent estrangement from family and community that foreclose opportunities to heal.¹⁸

14. These negative psychological and physical consequences are exacerbated in individuals who have been traumatized by torture or persecution.¹⁹ As PHR and others have documented, and as the public record reflects, national security detainees have been systematically tortured and abused in U.S. custody.²⁰ Despite this known risk factor for PTSD and other disorders, it appears that military medical staff at Guantánamo fail to take trauma histories, make timely diagnoses, and provide effective treatment.

15. For example, PHR medical advisor Dr. Sondra Crosby has examined Abd al Rahim al-Nashiri and testified that physical, psychological, and sexual torture caused his PTSD. Despite this medical evidence, as well as his known history of torture, there was no trauma history in the medical records Dr. Crosby reviewed.²¹ Similarly, PHR medical advisors Dr. Vincent Iacopino and Brig. Gen. Dr. Stephen Xenakis analyzed the medical records of nine Guantánamo detainees who had alleged torture and found that authorities failed to diagnose obvious conditions and illnesses associated with trauma, abuse, and torture.²²

16. As noted by the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the practice of indefinite detention constitutes ill-treatment and can amount to torture in some cases.²³ Continued indefinite detention will increase the trauma of detainees while preventing them from obtaining the treatment and care they need. PHR acknowledges that the United States justifies the indefinite detention of detainees in Guantánamo through the end of hostilities under the laws of war. Nevertheless, we press the Human Rights Council to challenge this paradigm of perpetual war and urge the United States not to use the veil of perpetual war in order to avoid what would otherwise be its international legal obligations regarding a detained population.

17. Recommendations:

- Reject solutions to national security problems that permit or rely on indefinite detention and take affirmative efforts to end its current practice, including the closure of Guantánamo Bay.
- Strictly limit mandatory detention in the immigration setting to ensure that individuals who do not pose a security threat nor flight risk have the opportunity to pursue release from detention and strictly limit the use of detention for asylum applicants.
- Until the time that indefinite detention is abolished as a matter of policy, provide measures that mitigate the social, psychological, and physical harms such detention causes among detainees.

- If indefinite detention of individuals is allowed to continue, permit non-governmental, independent medical and psychological experts to evaluate the mental and physical health of detainees.

National Security

A. Force-Feeding of Mentally Competent Hunger Strikers

18. *During the United States' first UPR process in 2011, the state committed to: [E]radicate all forms of torture and ill treatment of detainees by military or civilian personnel, in any territory of jurisdiction, and that any such acts be thoroughly investigated.*²⁴ Nevertheless, the United States continues to force-feed mentally competent detainees on hunger strike at Guantánamo Bay. This process entails strapping individuals into a restraint chair and forcibly administering nutrition through a nasogastric tube.²⁵ Those who do not agree to be force-fed are restrained, “forcibly extracted” from their cells by prison guards in riot gear, and carried to the feeding chair.²⁶

19. Since 2002, detainees at Guantánamo have engaged in successive hunger strikes to express their profound hopelessness and despair over indefinite detention, harsh treatment, and inhumane conditions.²⁷ The most recent hunger strike dates to February 2013 and included 100 of then-166 detainees in July 2013, 46 of whom were being force-fed.²⁸ After PHR,²⁹ the American Medical Association (AMA)³⁰ and others pressured the United States to stop force-feeding, the government imposed an information blackout. The current number of hunger strikers is therefore unknown, yet court filings and news reports reveal that force-feeding continues.

20. Force-feeding is unequivocally prohibited by the World Medical Association (WMA), which comprises around 100 national medical associations, including the AMA. The WMA's 1975 Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment (Declaration of Tokyo) states: “Where a prisoner refuses nourishment and is considered by the doctor as capable of forming an unimpaired and rational judgment concerning the consequences of such voluntary refusal of nourishment, he or she shall not be fed artificially.”³¹

21. In addition, the WMA's 1991 Declaration of Malta on Hunger Strikers states: “Forcible feeding is never ethically acceptable. Even if intended to benefit, feeding accompanied by threats, coercion, force or use of physical restraints is a form of inhuman and degrading treatment.” It further states, “It is ethical to allow a determined hunger striker to die in dignity rather than submit that person to repeated interventions against his or her will.”³²

22. No professional justification exists to support force-feeding the detainees. To the contrary, the violation of internationally agreed standards for the management of hunger strikers, the routine use of excessive force and violence, and the nonmedical justifications offered by the military, all suggest it is done for punitive rather than therapeutic purposes.³³ Force-feeding also carries serious medical risks, including potentially lethal metabolic disturbances; trauma to the nose, throat, and esophagus, including perforations; major infections; pneumonia; collapsed lungs; heart failure; PTSD and other psychological trauma.³⁴

23. Numerous authorities have condemned force-feeding at Guantánamo, including the AMA,³⁵ the UN Rapporteur on Torture, the UN Rapporteur on Health, the UN Rapporteur on Human Rights and

Counterterrorism, the UN Working Group on Arbitrary Detention, and the Inter-American Commission on Human Rights.³⁶ A U.S. District Judge found that “force-feeding is a painful, humiliating, and degrading process.”³⁷ A spokesperson for the UN High Commissioner for Human Rights stated, “If it’s perceived as torture or inhuman treatment — and it’s the case, it’s painful — then it is prohibited by international law.”³⁸

24. In July 2014, news reports indicated that an unnamed Navy nurse had invoked medical ethics as a basis for refusing to force-feed detainees at Guantánamo.³⁹ In August 2014, the Navy confirmed that the nurse had been sent home and placed on leave, and that the results of an investigation were pending.⁴⁰ Given that the practice of force-feeding at Guantánamo violates medical ethics and constitutes ill-treatment tantamount to torture, no health professional should be compelled to participate in force-feeding or punished for refusing to do so.

25. Recommendations:

- Immediately end the policy and practice of force-feeding detainees and institute policies fully consistent with the WMA’s Declaration of Malta.
- Ensure full transparency around the hunger strikes and medical management protocols.
- Allow independent medical professionals to review and monitor the status of hunger-striking prisoners.
- Ensure that no health personnel are compelled to engage in force-feeding, and that any who refuse do not face adverse consequences for acting in accordance with their professional ethical obligations.

B. Interrogation Practices Authorized by Appendix M of the Army Field Manual

26. *During the United States’ first UPR process in 2011, the state committed to: [E]radicate all forms of torture and ill treatment of detainees by military or civilian personnel, in any territory of jurisdiction, and that any such acts be thoroughly investigated;*⁴¹ *Make fully consistent all domestic anti-terrorism legislation and action with human rights standards;*⁴² *and Enact a federal crime of torture, consistent with the Convention, and also encompassing acts described as ‘enhanced interrogation techniques’.*⁴³

27. President Obama’s 2009 Executive Order 13491 prohibits the use of any interrogation technique not authorized by and listed in the Army Field Manual for Human Intelligence Collector Operations No. 2-22.3.⁴⁴ However, when the Field Manual was revised in 2006, several notable amendments were made to its text, including the addition of Appendix M. Couched in language authorizing the separation of detainees, Appendix M authorizes the use of abusive techniques such as extreme isolation, sleep manipulation and sensory deprivation.⁴⁵

28. These techniques do not relate to legitimate efforts to separate detainees, and they are documented to have profoundly negative impacts on physical and mental health, and alone or in combination they may amount to torture. By authorizing techniques that can constitute torture and ill-treatment, Appendix M leaves open a door for the continued abuse of detainees. PHR has documented the devastating and long-term health consequences of these abusive practices.

29. Recommendations.

- Rescind Appendix M of the Army Field Manual, along with any other documents that could be construed as authorizing interrogation techniques that constitute torture or ill-treatment.
- Enact reforms to ensure that practices are consistent with our obligations under domestic and international law, including the rescission of Appendix M of the Army Field Manual.

- Hold public hearings and investigations into the alleged torture and ill treatment of detainees.
- Compensate detainees found to have been tortured or abused, and appropriate support to those released to rebuild their lives, including access to medical care.

General Recommendations

30. In order to uphold its obligations and commitments to human rights, the U.S. government should immediately take the following actions:

- Immediately cease the force-feeding of competent individuals in detention settings; abusive interrogation practices; and the reliance on solitary confinement and indefinite detention regimes.
- Revise any laws or policies that authorize or condone these practices to align with the United States' international human rights obligations.
- Officially acknowledge the U.S. government's use of torture and ill-treatment and provide official apology to the victims.
- Ensure effective remedy for victims, including access to treatment and rehabilitation for the physical and mental harms suffered, as well as financial compensation.
- Allow independent organizations to visit detainees in all immigration and national security detention facilities and permit non-governmental, independent, medical and psychological experts to evaluate the mental and physical health of detainees.

¹ Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, G.A. Res. 39/46, U.N. GAOR, 39th Sess., Supp. No. 51, U.N. Doc. A/Res/39/46 (Dec. 10, 1984), <http://www.un.org/documents/ga/res/39/a39r046.htm>.

² International Covenant on Civil and Political Rights, G.A. Res. 2200, U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (Dec. 16., 1966), Art. 7 [hereinafter ICCPR], <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

³ UN Human Rights Committee. General Comment No. 20 (Article 7), UN Doc. CCPR/C/21/Rev. 1/Add. 13, 2004.

⁴ ICCPR, *supra* note 2, at Art. 9.

⁵ UN Human Rights Committee. General Comment No. 8 (Article 9). UN Doc. HRI/GEN/1/Rev. 6, 1982.

⁶ ICCPR, *supra* note 2, at Art. 10 and 14.

⁷ International Committee of the Red Cross (ICRC), Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention), 12 August 1949, 75 UNTS 31; ICRC, Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Geneva Convention), 12 August 1949, 75 UNTS 85; ICRC, Geneva Convention Relative to the Treatment of Prisoners of War (Third Geneva Convention), 12 August 1949, 75 UNTS 135; ICRC, Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 August 1949, 75 UNTS 287.

⁸ Humanrights.gov, *Accepted UPR Recommendations* (March 2012), para. 177,

<http://www.humanrights.gov/wp-content/uploads/2012/03/USAcceptedRecommendations-2010UPR.pdf>.

⁹ Mike Corradini, Kristine Huskey, and Christy Fujio, *Buried Alive: Solitary Confinement in U.S. Detention System*, Physicians for Human Rights, April 2013, at 9,

<http://physiciansforhumanrights.org/library/reports/buried-alive-solitary-confinement-in-the-us-detention-system.html>.

¹⁰ *Id.* at 1.

¹¹ *Id.* at 31-34.

¹² *Id.* at 1-2.

¹³ Id. at 2.

¹⁴ Humanrights.gov, supra note 8, at para. 212, <http://www.humanrights.gov/wp-content/uploads/2012/03/USAcceptedRecommendations-2010UPR.pdf>.

¹⁵ Cara M. Cheyette, *Punishment Before Justice: Indefinite Detention in the U.S.*, Physicians for Human Rights, June 2011, at 5, <http://physiciansforhumanrights.org/library/reports/indefinite-detentionjune2011.html>.

¹⁶ Humanrights.gov, supra note 8, at para. 159.

¹⁷ “The Guantánamo Docket,” *New York Times*, <http://projects.nytimes.com/Guantánamo/>

¹⁸ Cheyette, *Punishment Before Justice*, supra note 15, at 25.

¹⁹ Id. at 27.

²⁰ See, e.g., Gretchen Borschelt, *Break Them Down: Systematic Use of Psychological Torture by U.S. Forces*, Physicians for Human Rights, May 2005; Scott A. Allen, Devon Chaffee, and Farnoosh Hashemian, *Leave No Marks: Enhanced Interrogation Techniques and the Risk of Criminality*, Physicians for Human Rights, August 2007; Farnoosh Hashemian et al., *Broken Laws, Broken Lives: Medical Evidence of Torture by U.S. Personnel and Its Impact*, Physicians for Human Rights, June 2008; Allen Keller et al., *Aiding Torture: Health Professionals' Ethics and Human Rights Violations Revealed in the May 2004 CIA Inspector General's Report*, Physicians for Human Rights, August 2009; and Nathaniel Raymond et al., *Experiments in Torture: Evidence of Human Subject Research and Experimentation in the “Enhanced” Interrogation Program*, Physicians for Human Rights, June 2010, <http://physiciansforhumanrights.org/issues/torture/us-torture/reports-on-torture.html>.

²¹ Carol Rosenberg, “Expert testifies accused USS Cole bomber was tortured,” *Miami Herald*, April 24, 2014, <http://www.miamiherald.com/2014/04/24/4078197/expert-testifies-accused-uss-cole.html>.

²² Vincent Iacopino and Stephen N. Xenakis, “Neglect of Medical Evidence of Torture in Guantánamo Bay: A Case Series,” *PLoS Medicine* 8, no. 4 (2011), <http://www.plosmedicine.org/article/info%3Adoi%2F10.1371%2Fjournal.pmed.1001027>.

²³ UN Special Rapporteur on Torture, “Statement at the Expert Meeting on the situation of detainees held at the U.S. Naval Base at Guantánamo Bay,” Inter-American Commission on Human Rights, October 3, 2013, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=13859&LangID=E>.

²⁴ Humanrights.gov, supra note 8, at para. 139.

²⁵ Physicians for Human Rights, *Hunger Strikers and the Practice of Force-Feeding*, October 2013, at 1, <http://physiciansforhumanrights.org/library/other/hunger-strikes-and-the-practice-of-force-feeding.html>

²⁶ Michael Martinez, “Judge orders Guantánamo to stop detainee’s forced feedings,” CNN, May 16, 2014, <http://www.cnn.com/2014/05/16/justice/Guantánamo-detainee-forced-feeding-order/>.

²⁷ UN Office of the High Commissioner for Human Rights, “Pillay says Guantánamo detention regime is in ‘clear breach of international law’ and should be closed,” April 5, 2013, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13212&LangID=E>.

²⁸ “Tracking the Hunger Strike,” *Miami Herald*, http://www.miamiherald.com/static/media/projects/gitmo_chart/.

²⁹ Letter (dated November 1, 2013) from doctors and public health professionals to President Barack Obama regarding force-feeding at Guantánamo, https://s3.amazonaws.com/PHR_other/Letter-to-President-Obama-Guantanamo-November-2013.pdf

³⁰ Letter (dated April 23, 2013) from Dr. Jeremy A. Lazarus (president of the American Medical Association) to the Honorable Chuck Hagel regarding the treatment of hunger strikers at Guantánamo and force-feeding, <http://www.jhsph.edu/research/centers-and-institutes/center-for-public-health-and-human-rights/pdf/AMA%20Hunger%20Strikes%20Letter.pdf>

³¹ “WMA Declaration of Tokyo - Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment,” World Medical Assembly, October 1975 (last amended May 2006), <http://www.wma.net/en/30publications/10policies/c18/index.html>.

³² “WMA Declaration of Malta on Hunger Strikers,” World Medical Assembly, November 1991, (last amended October 2006), <http://www.wma.net/en/30publications/10policies/h31/>.

³³ Albert J. Shimkus, Jr., “Medical staff at Guantánamo should not compromise ethical principles,” *Miami Herald*, July 17, 2014, <http://www.miamiherald.com/2014/07/17/4241582/medical-staff-at-Guantánamo-should.html>.

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- ³⁴ Sondra S. Crosby, Caroline M. Apovian, and Michael A. Grodin, “Hunger Strikes, Force-feeding, and Physicians’ Responsibilities,” *JAMA* 298, no. 5 (2007), <http://www.globallawyersandphysicians.org/storage/JAMA%20Hunger%20Strikes.pdf/>.
- ³⁵ Jeremy A. Lazarus, MD, “Physicians’ Ethical Obligations to Hunger Strikers,” *British Medical Journal*, June 13, 2013, <http://detaineeataskforce.org/wp-content/uploads/2013/12/Lazarus-Hunger-Strikes.pdf>.
- ³⁶ See UN Special Rapporteur on Torture, *supra* note 23; Organization of American States, Press Release, *IACHR, UN Working Group on Arbitrary Detention, UN Special Rapporteur on Torture, UN Special Rapporteur on Human Rights and Counter-Terrorism, and UN Special Rapporteur on Health Reiterate Need to End the Indefinite Detention of Individuals at Guantánamo Naval Base in Light of Current Human Rights Crisis*, May 1, 2013, https://www.oas.org/en/iachr/media_center/PReleases/2013/029.asp; and UN Economic and Social Council, Commission on Human Rights, *Situation of Detainees at Guantánamo Bay*, UN Doc. E/CN.4/2006/120. February 27, 2006, http://www.bbc.co.uk/turkish/16_02_06_un_Guantánamo.pdf.
- ³⁷ Charlie Savage, “Judge Orders U.S. to Stop Force-Feeding Syrian Held at Guantánamo,” *New York Times*, May 16, 2014, <http://www.nytimes.com/2014/05/17/us/politics/judge-orders-us-to-stop-force-feeding-syrian-held-at-Guantánamo.html>.
- ³⁸ “UN calls force-feeding 'torture' amid Guantánamo hunger strike,” *AFP*, May 2, 2013, <http://www.france24.com/en/20130501-force-feeding-torture-un-law-Guantánamo-hunger-strike/>.
- ³⁹ Carol Rosenberg, “Navy nurse refuses to force-feed Guantánamo captive,” *Miami Herald*, July 15, 2014, <http://www.miamiherald.com/2014/07/15/4237720/navy-nurse-refuses-to-force-feed.html>
- ⁴⁰ Ben Fox, “US pulls protesting nurse from Guantánamo,” *Associated Press*, August 26, 2014, <http://bigstory.ap.org/article/us-navy-pulls-protesting-nurse-Guantánamo>.
- ⁴¹ Humanrights.gov, *supra* note 8, at para. 139.
- ⁴² *Id.* at para. 58.
- ⁴³ *Id.* at para. 66.
- ⁴⁴ See Exec. Order No. 13,491, 74 Fed. Reg. 4,893, Jan. 22, 2009, <http://edocket.access.gpo.gov/2009/pdf/E9-1885.pdf>.
- ⁴⁵ See U.S. Dep’t of Army, Field Manual 2-22.3 Human Intelligence Collector Operations, at para. M-28 (Sept. 6, 2006).