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IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Case No. 07-1156

OMAR KHADR,
Petitioner,

v.

ROBERT M. GATES,
Respondent.

OMAR KHADR'S MOTION FOR JUDGMENT AS A MATTER OF LAW BASED ON HIS JUVENILE STATUS

Petitioner Omar Khadr hereby moves for judgment as a matter of law on the ground that the determination of the Combatant Status Review Tribunal ("CSRT") that he was an "enemy combatant" while still a juvenile was inconsistent with the laws of the United States, and inconsistent with the standards and procedures specified for CSRTs by the Secretary of Defense.

INTRODUCTION

Petitioner was 15 years old—a juvenile—when he allegedly committed the offenses for which he is being detained. Under U.S. law, that fact means that he

cannot be treated as a valid, consenting "member" of al-Qaeda, or (indeed) as an "enemy combatant" at all.

At least two sources of law compel that result. First is the Authorization for Use of Military Force ("AUMF"), Pub. L. No. 107-40 (codified at 50 U.S.C. § 1541 note). The AUMF gives the President authority to detain persons connected with the nations or organizations involved in the September 11, 2001 terrorist attacks. But that authority is limited to detention consistent with the law of war, *see Hamdi v. Rumsfeld,* 542 U.S. 507, 516, 520 (2004) (plurality); and the law of war recognizes that juveniles lack the capacity and judgment to become valid, consenting "members" of armed forces, and therefore cannot properly be considered "enemy combatants."

Second, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict ("Optional Protocol"),[1] ratified by the United States in 2002, prohibits juveniles under the age of 18 from being recruited or used by non-state armed forces under "any circumstances." And if (despite the Protocol) they are so used, the Optional Protocol further requires that they be treated as victims of inappropriate recruitment, and offered rehabilitation services and assistance re-integrating into society. *See* Optional Protocol, art. 4.

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[1] G.A. Res. 54/263, U.N. Doc. A/RES/54/263 (May 25, 2000), *entered into force* Feb. 12, 2002 ("Optional Protocol") arts. 8, 7.

The Optional Protocol thus confirms that Petitioner could not have been a valid "member" of al-Qaeda.

The CSRT's determination that Petitioner is an "enemy combatant" was inconsistent with both of these provisions of U.S. law. That determination was based solely on a finding that Petitioner was a "member of, or affiliated with al-Qaida." But both the AUMF and the Optional Protocol make clear that juveniles under 18—let alone those who are only 15—lack the capacity to become "member[s]" or "affiliate[s]" of non-state armed groups. More broadly, these sources of law make clear that, as a juvenile, Petitioner cannot be properly detained as an "enemy combatant" on *any* basis. In addition, because the CSRT standards and procedures promulgated by the Secretary of Defense incorporate the limitations imposed by the AUMF and the Optional Protocol, the CSRT's determination was inconsistent with those standards and procedures as well.

In light of these deficiencies, this Court should grant the Petition for Review and reverse the CSRT's decision. Because Petitioner cannot be validly classified as an "enemy combatant," this Court should, consistent with the Secretary of Defense's CSRT Order, direct that Petitioner be transferred to his country of citizenship—Canada—where he can be required to participate in a rehabilitation and reintegration program consistent with the requirements of the Optional Protocol. *See* Order Establishing Combatant Status Review Tribunal ¶ *i* (Deputy

Secretary of Defense July 7, 2004) ("July 7 Order") (attached hereto as Exhibit A). In the alternative, even if this Court disagrees that Petitioner could *never* be properly classified as an enemy combatant, it is clear that no proper classification took place here. Instead, the CSRT relied on an unsustainable finding that Petitioner was a "member" or "affiliat[e]" of al-Qaeda. Thus, at minimum, this Court should reverse that determination and remand for a new CSRT hearing to determine whether there is any valid basis for continuing to detain Petitioner.

FACTUAL AND PROCEDURAL HISTORY

Petitioner, a Canadian national, was born on September 19, 1986. *See* Charge Sheet, *United States v. Omar Khadr*, at ¶ 4 (preferred Feb. 2, 2007). Petitioner's father, Ahmad Sa'id Khadr, was (according to the Government's charge sheet) a senior al-Qaeda member and close associate of Osama bin Laden and numerous other senior al-Qaeda members. *Id.* ¶ 5. From the age of 10, Petitioner was taken by his family on regular trips through Afghanistan and Pakistan, including yearly trips to Osama bin Laden's compound in Jalalabad. *Id.* ¶ 8. As part of these childhood excursions, Petitioner was exposed by his father to senior al-Qaeda officials and to al-Qaeda training camps and guest houses. *Id.* After the September 11, 2001 terrorist attacks, Petitioner's family remained in Afghanistan, where Petitioner received one-on-one al-Qaeda basic training. *Id.* ¶¶

9-10. During the summer of 2002, when Petitioner was 15, he was captured by U.S. forces following a firefight in Afghanistan. *Id.* ¶ 12.

Approximately three months after his capture, Petitioner was brought to Guantanamo Bay, Cuba. When he arrived at Guantanamo, the Government did not place him in the special camp that had been established for juveniles. Instead—presumably because Petitioner had turned sixteen a few weeks before his arrival at Guantanamo—the United States treated him as an adult, designating him an "enemy combatant" like the adults held at Guantanamo and detaining him in adult facilities. *See* Affidavit of Lt. Cmdr. William C. Kuebler dated March 31, 2008 (attached hereto as Exhibit B).[2]

On September 7, 2004, the Government brought Petitioner before a CSRT. Established by Order of the Secretary of Defense, CSRTs have the authority and obligation to determine whether detainees are "enemy combatant[s]" subject to continued detention at Guantanamo Bay. *See* July 7 Order; *accord* Detainee Treatment Act of 2005 ("DTA"), Pub. L. No. 109-148, §1005(e)(2), 119 Stat. 2680, 2742 (2005) (codified at 10 U.S.C. § 801 note (supp. 2007)). The Secretary of Defense's Order defines "enemy combatant" as "an individual who was part of or supporting Taliban or al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners," including "any person

[2] *See also* News Release, Department of Defense, Transfer of Juvenile Detainees Completed (Jan. 29, 2004) (attached hereto as Exhibit C).

who has committed a belligerent act or has directly supported hostilities in aid of enemy forces." July 7 Order at ¶ a.

Applying this definition, the CSRT concluded that Petitioner was "properly designated as an enemy combatant." Combatant Status Review Tribunal Decision Report Cover Sheet ("CSRT Cover Sheet") at ¶ 2 (attached hereto as Exhibit D). Specifically, the Tribunal found that Petitioner was "a member of, or affiliated with al-Qaida as more fully discussed in the [mostly Confidential] enclosures." *Id.* at ¶ 3. The unclassified summary of the CSRT's basis for its decision reiterated the conclusion that Petitioner "is a member of, or affiliated with al-Qaida," and that he was "properly classified as an enemy combatant because he is a member of, or affiliated with al-Qaida." Unclassified Summary of Basis for Tribunal Decision ("Summary Basis") at ¶¶ 1, 7(c) (emphasis added) (attached hereto as Exhibit E). Following the CSRT's determination, Petitioner remained in detention with the general adult population at Guantanamo. *See* Kuebler Affidavit, Exhibit B.

In May of 2007, Petitioner filed a petition for review before this Court under the DTA, challenging the CSRT's determination that he was an "enemy combatant." *See* Petition for Review, *Khadr v. Gates*, No. 07-1156 (May 23, 2007).[3] By order dated December 10, 2007, this Court held the petition in

[3] At around the same time, the United States charged Petitioner with war crimes under the Military Commissions Act of 2006, Pub. L. No. 109-366, 120 Stat. 2600 (codified at 10 U.S.C. § 948a *et seq.*), for his alleged offenses. On June 2007, the

abeyance pending its final disposition of *Bismullah v. Gates*, No. 06-1197. On February 1, 2008, this Court denied the Government's petition for rehearing en banc in *Bismullah*. *Bismullah v. Gates,* 514 F.3d 1291 (D.C. Cir. 2008).[4]

STATEMENT OF JURISDICTION

The DTA grants this Court "exclusive jurisdiction to determine the validity of any final decision of a Combatant Status Review Tribunal that an alien is properly detained as an enemy combatant." 10 U.S.C. § 801(e)(2)(A) (2001). In particular, this Court has jurisdiction to review "whether the [CSRT] status determination . . . was consistent with the standards and procedures specified by the Secretary of Defense" and "whether the use of such standards and procedures to make the determination is consistent with . . . [the applicable] laws of the United States." *Id.* § 801(C)(i), (ii).

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military commission dismissed all charges against Petitioner for lack of jurisdiction, and the Court of Military Commission Review ("CMCR") subsequently reversed. Petitioner filed a petition for review of the CMCR decision with this Court. The Government's motion to dismiss that petition is currently pending, with oral argument set for April 15, 2008. *See Khadr v. United States*, No. 07-1405 (D.C. Cir. Feb. 27, 2008) (scheduling order).

[4] The Government subsequently filed a motion to stay these proceedings pending disposition of its petition for certiorari in *Bismullah*. Petitioner responded, agreeing to a stay of proceedings that challenge the CSRT's determination based on the full record as described in *Bismullah*, but opposing a stay as to the present motion, which presents a question of law and can be resolved without reference to the full record.

ARGUMENT

Two sources of U.S. law place special restrictions on the treatment of juveniles detained in armed conflict. The AUMF requires that the United States treat persons detained in connection with the "war on terror" in a manner consistent with the law of war. The law of war, in turn, makes clear that because juveniles lack the capacity to consent to military service, they cannot have the status of "members" of armed groups or "enemy combatants." Confirming these limitations, the Optional Protocol provides that juveniles under the age of 18 cannot become consenting members of non-state armed groups, and must (if they are nevertheless used by such groups) be treated as victims of improper recruitment, and given assistance with rehabilitation and reintegration into society.

The CSRT's determination that Petitioner was a "member of, or affiliated with al-Qaida" was inconsistent with both the AUMF and the Optional Protocol: both establish that, as a juvenile subjected to al-Qaeda indoctrination from an early age, Petitioner lacked the capacity to become a "member" or "affiliate[]" of al-Qaeda. Indeed, for the same reason, the AUMF and Optional Protocol would preclude *any* determination that Petitioner is an "enemy combatant." And because the Secretary of Defense's CSRT Order does not evince any intent to alter these laws, it should be read as implicitly incorporating the limitations on "enemy combatant" status imposed by the AUMF, the law of war, and the Optional

Protocol. The CSRT's determination was therefore inconsistent with that Order as well. Accordingly, this Court should grant the Petition for Review and release Petitioner to the custody of the Canadian government; or, at minimum, remand for a new CSRT hearing to determine whether there is any valid basis for continuing to detain Petitioner.

I. U.S. LAW PROVIDES THAT JUVENILES INVOLVED IN ARMED CONFLICT CANNOT BE TREATED AS "MEMBERS" OF NON-STATE ARMED GROUPS OR "ENEMY COMBATANTS"

A. Under the Authorization for Use of Military Force, a Juvenile Cannot Be a "Member" of an Armed Group or an "Enemy Combatant"

The AUMF, passed a week after the September 11 attacks, authorizes the President "to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001." Pub. L. No. 107-40, § 2. As the Supreme Court recognized in *Hamdi v. Rumsfeld*, the phrase "necessary and appropriate force"—the source of authority for detaining persons at Guantanamo Bay—must be understood in light of, and is limited by, the law of war. *See Hamdi*, 542 U.S. at 516-24.

Hamdi involved the question whether the AUMF authorized detention of an individual classified as an "enemy combatant" because he was "part of or supporting forces hostile to the United States" in Afghanistan and "engaged in an

armed conflict against the United States" there. *Id.* at 516 (internal quotation marks omitted). To determine whether detention of such a person constituted a "necessary and appropriate" use of force under the AUMF, the Court looked to the law of war. It concluded that such detention was "so fundamental and accepted an incident to war as to be an exercise of the 'necessary and appropriate force' Congress has authorized the President to use." *Id.* at 518; *see also id.* (military detention of combatants was recognized by "universal agreement and practice") (quoting *Ex Parte Quirin*, 317 U.S. 1, 28, 30 (1942)). And in clarifying the duration of permissible detention, the Court again looked to the law of war, noting that "[i]t is a clearly established principle of the law of war that detention may last no longer than active hostilities," and concluding that "Congress' grant of authority for the use of 'necessary and appropriate force'" includes "the authority to detain for the duration of the relevant conflict," specifically observing that this conclusion was "based on longstanding law-of-war principles." *Id.* at 520-21.[5]

[5] The Court's reliance on the law of war to analyze the limits of "necessary and appropriate force" was clearly correct. As a textual matter, nothing in the AUMF indicates that Congress, in authorizing the use of such force as was "necessary and appropriate," intended to permit the detention of individuals who would *not* be susceptible to detention under the law of war. Further, as scholars have recognized, it has been "well understood since the Founding" that "the president and every member of the executive branch are bound by the law of war." Jordan J. Paust, *International Law Before the Supreme Court: A Mixed Record of Recognition*, 45 Santa Clara L. Rev. 829, 838-39 & n.53 (2005).

Under *Hamdi*, it is clear that the government's detention authority under the AUMF extends only to the limits of the law of war. And it is equally clear that under "longstanding law-of-war principles," *id.*, juveniles cannot become "members" of armed forces, or be detained as "enemy combatants." The law of war defines "combatants" as "*[m]embers* of the armed forces of a Party to a conflict" other than medical and religious personnel. Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, June 8, 1977, art. 43(2), 1125 U.N.T.S. 3 (Additional Protocol I) (emphasis added); *see also Hamdi*, 542 U.S. at 519 (noting that *Quirin* had defined "enemy belligerents" as those who "associate themselves with the military arm of the enemy government, and with its aid, guidance and direction . . . [intend to commit] hostile acts" (quoting *Quirin*, 317 U.S. at 20)).

And under the law of war, juveniles cannot become "members" of armed forces because they cannot meaningfully consent to join or otherwise affiliate themselves with armed forces. As numerous military and civil courts have recognized, joining an armed force is akin to entering into a contract that changes one's legal status from "civilian" to "soldier." But juveniles cannot change their status in this way, because such contracts are invalid below the age of consent. In *United States v. Blanton*, 7 C.M.A. 664 (1957), for example, the Court of Appeals for the Armed Forces ("CAAF") considered whether enlistment of a person below

the statutory age for enlistment was void, precluding his trial by court-martial on the charge of desertion. Looking to a long line of precedent, the CAAF held that "[a]n agreement to enlist in an armed service is often referred to as a contract. However, more than a contractual relationship is established. What is really created is a status." *Id.* at 665. When a person is below the minimum age for enlistment, the CAAF continued, "a person is deemed *incapable of changing his status* to that of a member of the military establishment." *Id.* at 666 (emphasis added). Because the defendant had enlisted in the Army when he was 14, the court concluded that "at no time was he on active duty at an age when he was legally competent to serve in the military." *Id.* at 667 (internal citation omitted). As a result, he could not be subjected to trial by court-martial. *Id.* Numerous other cases have reached a similar conclusion.[6] Petitioner—who was 15 years old when he was detained—thus cannot be considered a "member" of al-Qaeda or an "enemy combatant" under the law of war.[7]

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[6] *See, e.g.*, *United States v. Brown*, 23 C.M.A. 162 (1974) (holding that a defendant who enlisted at age sixteen was incompetent to acquire military status); *Commonwealth ex rel. Webster v. Fox*, 7 Pa. 336, 340 (1847) (court released from custody a minor who had "unlawfully enlisted" and was therefore "held without authority of law"); *In re McDonald*, 16 F. Cas. 33 (D. Mass. 1866); *In re Higgins,* 16 Wis. 351 (1863); *Bamfield v. Abbot*, 2 F. Cas. 577 (D. Mass. 1847); *Commonwealth v. Downes*, 41 Mass. 227 (1833); *Commonwealth v. Callan*, 6 Binn. 255 (Pa. 1814).

[7] There is nothing anomalous about the special status accorded juveniles under the law of war. Indeed, it would have been surprising if the law of war did *not* reflect the same distinction between juveniles and adults that is a bedrock principle of

B. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict Likewise Provides that Juveniles Cannot be Consenting Members of Non-State Armed Groups

In 2002—after the September 11 attacks—the United States reaffirmed its commitment to these limitations on the treatment of juveniles involved in armed conflict by ratifying the Optional Protocol.[8] Signed by more than 80 countries, the Optional Protocol was enacted to address the serious problem of children who are coerced into becoming soldiers as a "result of indoctrination, incitement to vengeance, . . . severe pressure, . . . or simply immaturity." As a treaty signed and ratified by the United States, the Optional Protocol is "supreme law of the land" on par with any other act of Congress. U.S. Const. art. VI, cl. 2; *see, e.g.*, *Whitney v. Robertson*, 124 U.S. 190, 194 (1888) ("By the constitution a treaty is placed on the same footing, and made of like obligation, with an act of legislation.").

United States domestic criminal law, articulated in numerous legal provisions acknowledging the limited capacity and culpability of juveniles and requiring that juveniles be treated differently than adults. *See, e.g.*, 18 U.S.C. § 5031 ("'juvenile delinquency' is the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult"); 18 U.S.C. § 5031 *et seq.* (providing different procedures for prosecution and detention of juveniles); *see also generally Roper v. Simmons*, 543 U.S. 551 (2005) (distinguishing between adults and juveniles for death penalty purposes).

[8] Various components of the Department of Defense have issued memoranda recognizing the United States' obligations to comply with the dictates of the Optional Protocol. *See* U.S. Marines Directive (Apr. 22, 2007) (recognizing U.S. obligations under Optional Protocol) (attached hereto as Exhibit F); Sec'y of Defense Memo, Enforcement of Child Soldier Implementation Policies (Mar. 23, 2007) (attached hereto as Exhibit G).

The Optional Protocol prohibits the United States from recognizing juveniles as legitimate members of non-state armed forces. This prohibition is embodied in two aspects of the Optional Protocol. First, the Protocol restricts the ability of both states and non-state armed groups to recruit juveniles under 18 to serve in armed forces, but imposes an absolute bar only with respect to non-state groups. Article 1 of the Optional Protocol requires states that are party to the Protocol ("States Parties") to take "all feasible measures to ensure that" members of their armed forces under age 18 "do not take a direct part in hostilities." Optional Protocol art. 1. But the Protocol goes on to allow States Parties to recruit person under 18 into their armed forces for use in *non*-combat roles, if: (1) the recruitment is "genuinely voluntary;" (2) it is done with the consent of the recruit's parent or guardian; (3) the recruit is fully informed of the duties of military service; and (4) the recruit provides proof of age prior to acceptance into the national military. *Id.* art. 3(3).

With respect to non-state groups, in contrast, the Protocol states categorically that "[a]rmed groups that are distinct from the armed forces of a State should not, under *any* circumstances, recruit or use in hostilities persons under the age of 18 years." *Id.* art. 4 (emphasis added). Unlike in the case of States Parties, there is *no* exception from this categorical prohibition on the recruitment or use of

minors in non-combat roles. The Protocol thus establishes a bright-line rule that persons under 18 may not be recruited by or serve in non-state armed groups.[9]

Second, the Optional Protocol provides that juveniles who are (despite the Protocol) recruited or used in armed hostilities by a non-state armed group must be treated not as combatants, but as "victims" of acts contrary to the Protocol. Optional Protocol art. 7(1). Rather than detaining or punishing them as adults, States Parties must attempt to facilitate their rehabilitation and reintegration into society. Thus, Article 7 states that "States Parties shall cooperate in the implementation of the present Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary thereto." *Id.* art. 7(1). Article 6(3), similarly, provides that "States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilized or otherwise released from service." *Id.* art. 6(3). It further requires States Parties, when necessary, to "accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration." *Id.*

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[9] *See Hearing on Protocols on Child Soldiers and Sale of Children (Treaty Doc. 106–37) before the Sen. Foreign Relations Comm.*, 107th Cong. (2002) (Annex to S. Exec. Rep. 107-4 at 53-54 (2002) (statement of E. Michael Southwick, State Dep't) (noting that the Optional Protocol "creates a standard, which is readily understandable, that 18 is the breakpoint for these non-state actors").

Accordingly, under the Optional Protocol, Petitioner should not have been treated as a valid member of al-Qaeda, but rather as a "victim" of al-Qaeda's improper recruitment and alleged use of Petitioner in armed conflict. Indeed, the facts of this case make particularly clear why the line between juveniles and adults drawn by the Protocol (and the law of war) makes sense. Petitioner was 10 years old, without any significant autonomy or ability to distance himself from his family, when his family first began to expose him to al-Qaeda officials and operations. This indoctrination continued, intensifying into active, one-on-one basic training, up until Petitioner, at age 15, was captured by U.S. forces following a firefight. In light of this history, it would make little sense to conclude that Petitioner's association with al-Qaeda was fully "voluntary," or to hold him accountable for that association in the same manner as if he were an adult.

II. THE CSRT'S DETERMINATION IN PETITIONER'S CASE CONFLICTS WITH THE LAWS OF THE UNITED STATES

The CSRT determination in Petitioner's case was inconsistent with the AUMF, the law of war, and the Optional Protocol. As noted above, the CSRT concluded that Petitioner was "properly classified as an enemy combatant" and subject to continuing detention at Guantanamo Bay "because he is a member of, or affiliated with al-Qaida." Summary Basis at ¶¶ 1, 7(c). However, as discussed, both the AUMF and the Optional Protocol recognize that juveniles like Petitioner *cannot* be valid "member[s]" or "affiliate[s]" of an armed group such as al-Qaeda,

because they lack the capacity to consent to such membership. For this reason alone, the CSRT's determination must be reversed. *See* 10 U.S.C. § 801(C)(ii).

More broadly, there is *no* basis on which Petitioner could be validly determined to be an "enemy combatant" consistent with U.S. law. As discussed below, the best interpretation of the Secretary of Defense's CSRT Order is that its definition of "enemy combatant" is consistent with the law of war. *See* Section III *infra*. But even if that definition purported to permit Petitioner's detention despite the fact that he was a juvenile when detained, Petitioner's detention would be contrary to U.S. law, and any CSRT determination permitting his continued detention would have to be reversed. *See* 10 U.S.C. § 801(C)(ii). As set forth above, the AUMF does not authorize detention of "combatants" based on their involvement with al-Qaeda unless such detention is consistent with the law of war; and juveniles cannot be "combatants" under the law of war. The Optional Protocol likewise fails to recognize "*any* circumstances" in which a non-state armed group may legitimately "recruit or use in hostilities persons under the age of 18 years," Optional Protocol art. 4(1) (emphasis added), and proscribes States Parties from treating juveniles improperly recruited or used by non-state groups as valid participants in armed conflict. There is thus no basis on which a CSRT could, consistent with U.S. law, conclude that Petitioner may be detained as an enemy combatant.

III. THE CSRT'S DETERMINATION ALSO CONFLICTS WITH THE CSRT STANDARDS AND PROCEDURES

The CSRT's determination was also inconsistent with the CSRT standards and procedures promulgated by the Secretary of Defense. *See* 10 U.S.C. § 801(C)(i). The Secretary of Defense issued the CSRT standards and procedures on July 7, 2004, immediately after the Supreme Court's decision in *Hamdi*. As discussed, *Hamdi* held that the AUMF authorized the detention of individuals who could be properly detained as "enemy combatants" under the law of war. *See* 542 U.S. at 518-19. *Hamdi* also required the Government to establish a process by which individuals so detained could "challenge [their] classification" by rebutting the "factual basis for [their] classification" before a "neutral decisionmaker." *Id.* at 533. The July 7 Order was a direct response to that decision.[10]

As such, the Order should be read in light of *Hamdi*'s clarification that the AUMF only conferred authority to detain individuals within the limits of the law of war. Nothing in the Order itself suggests that, in setting forth a definition of "enemy combatant," the Secretary of Defense intended to go beyond the limits of

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[10] *See* Transcript, Defense Department Background Briefing on the Combatant Status Review Tribunal (July 7, 2004), *available at* http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=2751 ("In response to last week's decisions by the Supreme Court, the deputy secretary of Defense today issued an order creating procedures establishing a Combatant Status Review Tribunal, which will provide detainees at the Guantanamo Bay Naval Base with notice of the basis for their detention and an opportunity for them to contest their detention as enemy combatants.").

the law of war discussed in *Hamdi*. And reading the Order as expanding the definition of "enemy combatant" beyond those limits would be inconsistent with the principle that regulations should be read, if possible, consistently with the statutes they are promulgated to implement.[11]

Accordingly, the CSRT standards and procedures should be read to incorporate the limitations on the definition of the term "enemy combatant" imposed by the law of war. As noted above, the Order defines "enemy combatant" as "an individual who was part of or supporting Taliban or al-Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners," including "any person who has committed a belligerent act or has directly supported hostilities in aid of enemy forces." July 7 Order at ¶ a. Reading this definition in light of the law of war, Petitioner cannot have been meaningfully "part of" or "supporting" al-Qaeda forces, and cannot have been a "belligerent," because he was below the age of consent at the time he allegedly committed the acts for which he is being detained. Accordingly, the CSRT's determination that Petitioner was an "enemy combatant" under this definition was inconsistent with the CSRT standards and procedures—as would be *any* finding that Petitioner was an "enemy combatant" under the same definition.

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[11] *See, e.g., Thomas v. Commissioner of Social Sec.*, 294 F.3d 568, 573 (3d Cir. 2002), *overruled on other grounds, Barnhart v. Thomas*, 540 U.S. 20 (2003); *Joy Techs., Inc. v. Sec'y of Labor*, 99 F.3d 991, 995 (10th Cir. 1996).

PRAYER FOR RELIEF

In light of these considerations, this Court should grant the Petition for Review and reverse the CSRT's determination. Because Petitioner cannot be properly detained as an "enemy combatant" at all, he should be released to the custody of his country of citizenship—Canada—consistent with the provisions of the Secretary of Defense's July 7 Order.[12] In the alternative, even if this Court declines to hold that there is *no* basis on which Petitioner can be held as an "enemy combatant," it should at minimum reverse the CSRT's determination that he was a "member of, or affiliated with al-Qaeda," and remand for a new CSRT hearing to determine whether there is a valid alternate basis for detaining Petitioner.

CONCLUSION

The Petition for Review should be granted, and the determination of the CSRT should be reversed.

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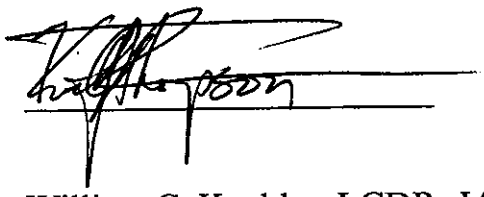
[12] *See* July 7 Order at ¶ i ("If the Tribunal determines that the detainee shall no longer be classified as an enemy combatant . . . . [t]he Secretary or his designee shall so advise the Secretary of State, in order to permit the Secretary of State to coordinate the transfer of the detainee for release to the detainee's country of citizenship or other disposition consistent with domestic and international obligations and the foreign policy of the United States."). As the attached Affidavit of Professor Doob makes clear, if released to the custody of Canada, the Canadian government could then remand Petitioner to a legally obligatory rehabilitation and reintegration program appropriate to his status as a former child soldier. *See* Affidavit of Anthony N. Doob (Mar. 14, 2008) (attached hereto as Exhibit H).

Respectfully submitted,



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March 31, 2008

**Admitted to practice outside of the District of Columbia; Supervised by principals of the firm.*

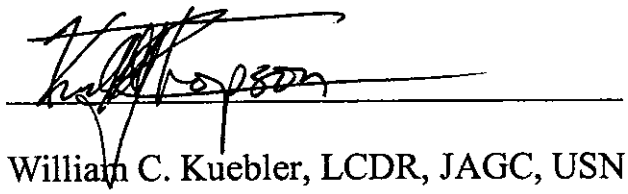
CERTIFICATE OF PARTIES AND DISCLOSURE STATEMENT

This proceeding was filed directly in this Court pursuant to the Detainee Treatment Act of 2005, Pub. L. No. 109-148 § 1005(e)(2), 119 Stat. 2680, 2747 (2005) (codified at 10 U.S.C. §801(e)) (supp. 2007). No parties, intervenors, or amici appeared before a district court in connection with this dispute. Pursuant to Circuit Rule 27(a)(4) the following list contains all parties, intervenors, and amici in this court to date:

1. Omar Khadr, petitioner
2. Robert M. Gates, Secretary of Defense, United States of America.

No corporation, association, joint venture, partnership, syndicate or other similar entity appears as a party or amicus curiae in this proceeding. Thus, no disclosure statement is required by Circuit Rule 26.1

Dated: March 31, 2008



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**Admitted to practice outside of the District of Columbia; Supervised by principals of the firm.*

CERTIFICATE OF SERVICE

I certify that on March 31, 2008, three true copies of the foregoing were sent, via Federal Express, to:

Robert Loeb, Esq.
Douglas N. Letter, Esq.
Sarang Damle, Esq.
Civil Division
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington DC 20530
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DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

- 7 JUL 2004

MEMORANDUM FOR THE SECRETARY OF THE NAVY

SUBJECT: **Order Establishing Combatant Status Review Tribunal**

This Order applies only to foreign nationals held as enemy combatants in the control of the Department of Defense at the Guantanamo Bay Naval Base, Cuba ("detainees").

a. Enemy Combatant. For purposes of this Order, the term "enemy combatant" shall mean an individual who was part of or supporting Taliban or al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who has committed a belligerent act or has directly supported hostilities in aid of enemy armed forces. Each detainee subject to this Order has been determined to be an enemy combatant through multiple levels of review by officers of the Department of Defense.

b. Notice. Within ten days after the date of this Order, all detainees shall be notified of the opportunity to contest designation as an enemy combatant in the proceeding described herein, of the opportunity to consult with and be assisted by a personal representative as described in paragraph (c), and of the right to seek a writ of habeas corpus in the courts of the United States.

c. Personal Representative. Each detainee shall be assigned a military officer, with the appropriate security clearance, as a personal representative for the purpose of assisting the detainee in connection with the review process described herein. The personal representative shall be afforded the opportunity to review any reasonably available information in the possession of the Department of Defense that may be relevant to a determination of the detainee's designation as an enemy combatant, including any records, determinations, or reports generated in connection with earlier determinations or reviews, and to consult with the detainee concerning that designation and any challenge thereto. The personal representative may share any information with the detainee, except for classified information, and may participate in the Tribunal proceedings as provided in paragraph (g)(4).

d. Tribunals. Within 30 days after the detainee's personal representative has been afforded the opportunity to review the reasonably available information in the possession of the Department of Defense and had an opportunity to consult with the detainee, a Tribunal shall be convened to review the detainee's status as an enemy combatant.

e. Composition of Tribunal. A Tribunal shall be composed of three neutral commissioned officers of the U.S. Armed Forces, each of whom possesses the appropriate security clearance and none of whom was involved in the apprehension,

detention, interrogation, or previous determination of status of the detainee. One of the members shall be a judge advocate. The senior member (in the grade of O-5 and above) shall serve as President of the Tribunal. Another non-voting officer, preferably a judge advocate, shall serve as the Recorder and shall not be a member of the Tribunal.

f. Convening Authority. The Convening Authority shall be designated by the Secretary of the Navy. The Convening Authority shall appoint each Tribunal and its members, and a personal representative for each detainee. The Secretary of the Navy, with the concurrence of the General Counsel of the Department of Defense, may issue instructions to implement this Order.

g. Procedures.

(1) The Recorder shall provide the detainee in advance of the proceedings with notice of the unclassified factual basis for the detainee's designation as an enemy combatant.

(2) Members of the Tribunal and the Recorder shall be sworn. The Recorder shall be sworn first by the President of the Tribunal. The Recorder will then administer an oath, to faithfully and impartially perform their duties, to all members of the Tribunal to include the President.

(3) The record in each case shall consist of all the documentary evidence presented to the Tribunal, the Recorder's summary of all witness testimony, a written report of the Tribunal's decision, and a recording of the proceedings (except proceedings involving deliberation and voting by the members), which shall be preserved.

(4) The detainee shall be allowed to attend all proceedings, except for proceedings involving deliberation and voting by the members or testimony and other matters that would compromise national security if held in the presence of the detainee. The detainee's personal representative shall be allowed to attend all proceedings, except for proceedings involving deliberation and voting by the members of the Tribunal.

(5) The detainee shall be provided with an interpreter, if necessary.

(6) The detainee shall be advised at the beginning of the hearing of the nature of the proceedings and of the procedures accorded him in connection with the hearing.

(7) The Tribunal, through its Recorder, shall have access to and consider any reasonably available information generated in connection with the initial determination to hold the detainee as an enemy combatant and in any subsequent reviews of that determination, as well as any reasonably available records, determinations, or reports generated in connection therewith.

(8) The detainee shall be allowed to call witnesses if reasonably available, and to question those witnesses called by the Tribunal. The Tribunal shall determine the

reasonable availability of witnesses. If such witnesses are from within the U.S. Armed Forces, they shall not be considered reasonably available if, as determined by their commanders, their presence at a hearing would affect combat or support operations. In the case of witnesses who are not reasonably available, written statements, preferably sworn, may be submitted and considered as evidence.

(9) The Tribunal is not bound by the rules of evidence such as would apply in a court of law. Instead, the Tribunal shall be free to consider any information it deems relevant and helpful to a resolution of the issue before it. At the discretion of the Tribunal, for example, it may consider hearsay evidence, taking into account the reliability of such evidence in the circumstances. The Tribunal does not have the authority to declassify or change the classification of any national security information it reviews.

(10) The detainee shall have a right to testify or otherwise address the Tribunal in oral or written form, and to introduce relevant documentary evidence.

(11) The detainee may not be compelled to testify before the Tribunal.

(12) Following the hearing of testimony and the review of documents and other evidence, the Tribunal shall determine in closed session by majority vote whether the detainee is properly detained as an enemy combatant. Preponderance of evidence shall be the standard used in reaching this determination, but there shall be a rebuttable presumption in favor of the Government's evidence.

(13) The President of the Tribunal shall, without regard to any other provision of this Order, have authority and the duty to ensure that all proceedings of or in relation to the Tribunal under this Order shall comply with Executive Order 12958 regarding national security information.

h. The Record. The Recorder shall, to the maximum extent practicable, prepare the record of the Tribunal within three working days of the announcement of the Tribunal's decision. The record shall include those items described in paragraph (g)(3) above. The record will then be forwarded to the Staff Judge Advocate for the Convening Authority, who shall review the record for legal sufficiency and make a recommendation to the Convening Authority. The Convening Authority shall review the Tribunal's decision and, in accordance with this Order and any implementing instructions issued by the Secretary of the Navy, may return the record to the Tribunal for further proceedings or approve the decision and take appropriate action.

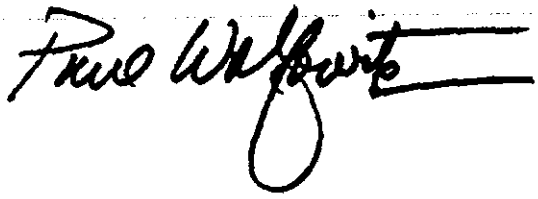
i. Non-Enemy Combatant Determination. If the Tribunal determines that the detainee shall no longer be classified as an enemy combatant, the written report of its decision shall be forwarded directly to the Secretary of Defense or his designee. The Secretary or his designee shall so advise the Secretary of State, in order to permit the Secretary of State to coordinate the transfer of the detainee for release to the detainee's

country of citizenship or other disposition consistent with domestic and international obligations and the foreign policy of the United States.

j. This Order is intended solely to improve management within the Department of Defense concerning its detention of enemy combatants at Guantanamo Bay Naval Base, Cuba, and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law, in equity, or otherwise by any party against the United States, its departments, agencies, instrumentalities or entities, its officers, employees or agents, or any other person.

k. Nothing in this Order shall be construed to limit, impair, or otherwise affect the constitutional authority of the President as Commander in Chief or any authority granted by statute to the President or the Secretary of Defense.

This Order is effective immediately.



IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Case No. 07-1156

OMAR KHADR,
Petitioner,

v.

ROBERT M. GATES,
Respondent.

AFFIDAVIT OF LT. CMDR. WILLIAM C. KUEBLER

I, Lt. Cmdr. William C. Kuebler, hereby declare that:

1. I am the detailed defense counsel for Omar Khadr (Mr. Khadr). Mr. Khadr is a 21-year-old Canadian citizen, currently detained as an "enemy combatant" at the U.S. Naval Station, Guantanamo Bay, Cuba. I represent Mr. Khadr in connection with military commission proceedings in the case of *U.S. v. Omar Khadr*, and related proceedings in the federal courts.

2. Upon information and belief, Mr. Khadr was initially detained by U.S. forces in Afghanistan on or about 27 July 2002. He was transferred to the

U.S. detention facility at Bagram Airbase, Afghanistan, where he remained until on or about 29 October 2002, when he was transferred to the U.S. detention facility at Guantanamo Bay, Cuba.

3. Upon information and belief, notwithstanding his age at the time of capture, Mr. Khadr has, throughout the course of his detention by U.S. authorities, been detained as an adult. That is, Mr. Khadr has at no time been purposely segregated from adult detainees or afforded special treatment because of his status as a juvenile when initially charged.

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct.

Executed on March 31, 2008.

Lt. Cmdr. William C. Kuebler

IMMEDIATE RELEASE

No. 057-04
January 29, 2004

Transfer of Juvenile Detainees Completed

The Department of Defense announced today that it transferred three juvenile detainees from Guantanamo Bay, Cuba. They have been released to their home country today.

Defense Department senior leadership, in consultation with other senior U.S. government officials, determined that the juvenile detainees no longer posed a threat to our nation, that they have no further intelligence value and that they are not going to be tried by the U.S. government for any crimes. As with all detainees, these juveniles were considered enemy combatants that posed a threat to U.S. security, and their transfer for release was contingent upon this determination.

The juveniles were removed from the battlefield to prevent further harm to U.S. forces and to themselves. Two of the three juvenile detainees were captured during U.S. and allied forces raids on Taliban camps. One juvenile detainee was captured while trying to obtain weapons to fight American forces.

Age is not a determining factor in detention. We detain enemy combatants who engaged in armed conflict against our forces or provided support to those fighting against us.

After medical tests determined all three juveniles were under the age of 16, the juveniles were housed in a separate detention facility modified to meet the special needs of juveniles. In this facility, they were not restricted in the same manner as adult detainees and underwent assessments from medical, behavioral, educational, intelligence and detention specialists to address their unique needs while detained at Guantanamo.

With the assistance of non-government organizations (NGOs), the juveniles will be resettled in their home country. It was our goal to return them to an environment where they have an opportunity to reintegrate into civil society.

While at Guantanamo, every effort was made to provide the juvenile detainees a secure environment free from the influences of the older detainees, as well as providing for their special physical and emotional care. While in detention, these juveniles were provided the opportunity

to learn math, as well as reading and writing in their native language. Each took part in at least a portion of the opportunity to better themselves through education and participated in courses to improve their literacy and social skills. The juveniles also participated in daily physical exercise and sports games.

We are concerned al Qaida or Taliban sympathizers may threaten the safety of these juveniles. For this reason, we will not provide their names publicly or further details regarding their capture and release.

As we have stated in the past, the evaluation of the detainees is a time-consuming and deliberate process. To date, 87 detainees have been released. Four other detainees have been transferred to the Saudi Arabian government for continued detention. We stand firm on our commitment to release detainees when we are able to determine that they no longer pose a threat to our nation, that they are of no intelligence value and that they are not appropriate for criminal prosecution.

(U) **Combatant Status Review Tribunal Decision Report Cover Sheet**

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) (3) and (4).

(U) TRIBUNAL PANEL: #5

(U) ISN#: [redacted]

Ref: (a) (U) Convening Order for Tribunal #5, 17 August 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (Not Used)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).

2. (U) On 7 September 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #[redacted] is properly designated as an enemy combatant as defined in reference (c).

3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with al-Qaida as more fully discussed in the enclosures.

4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).

[redacted], Colonel, USAF
Tribunal President

UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: #5
ISN #: [redacted]

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of, or affiliated with al-Qaida. In reaching its conclusions, the Tribunal considered classified information only. The following is an account of the Tribunal proceedings. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The Detainee chose not to participate in the Tribunal process. Because the unclassified evidence only consisted of the Unclassified Summary of evidence and the FBI redacted information statement, the Tribunal relied exclusively on classified information in reaching its decision.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

a. Exhibits: D-a, R-1 through R-12

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested no witnesses or evidence.

5. Discussion of Unclassified Evidence

The Tribunal considered no unclassified evidence in making its determinations. The recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2, an FBI certification regarding redacted information, provided no usable evidence. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.

b. The detainee understood the Tribunal proceedings. The detainee chose not to participate in the Tribunal process, as indicated in Exhibit D-a.

c. The detainee is properly classified as an enemy combatant because he is a member of, or affiliated with al-Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

[redacted], Colonel, USAF
Tribunal President

MARADMIN 272/07

«««----------»»»

Date signed: 04/22/2007 **MARADMIN Number:** 272/07

UNCLAS 192140Z APR 07
CMC WASHINGTON DC(UC)
TO AL MARADMIN(UC)
MARADMIN 272/07
MSGID/GENADMIN/CMC WASHINGTON DC/MPO-40//
SUBJ/REVISED 17 YEAR OLD MARINES IN COMBAT POLICY//
REF/A/MSGID:MSG/CMC (MP)/231139ZJAN2003//
REF/B/MSGID:DOC/PUSD (PR)/23MAR2007//
NARR/REF A IS MARADMIN 030/03, 17 YEAR OLD MARINES IN COMBAT AND PROVIDES EXISTING MARINE CORPS POLICY. REF B IS PRINCIPAL DEPUTY UNDERSECRETARY OF DEFENSE (PERSONNEL AND READINESS)(PDUSD (P&R)) MEMO< ENFORCEMENT OF CHILD SOLDIER IMPLEMENTATION POLICIES, THAT CHANGES EXISTING DOD POLICY BY MAKING IT MORE RESTRICTIVE.//
POC/K. A. CERNY/GS-14/-/-/TEL:DSN 278-9387/TEL:COMM (703)784-9387//
GENTEXT/REMARKS/1. PURPOSE. TO ANNOUNCE A CHANGE TO EXISTING MARINE CORPS POLICY. EFFECTIVE IMMEDIATELY, MARINES YOUNGER THAN 18 YEARS OF AGE ARE PROHIBITED FROM BEING OPERATIONALLY DEPLOYED. THIS POLICY CHANGE TO REF A ENSURES COMPLIANCE WITH REF B.
2. BACKGROUND
A. THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT (CHILD SOLDIER PROTOCOL) STATES PARTIES SHALL TAKE ALL FEASIBLE MEASURES TO ENSURE THAT MEMBERS OF THEIR ARMED FORCES WHO HAVE NOT ATTAINED THE AGE OF 18 YEARS DO NOT TAKE A DIRECT PART IN HOSTILITIES. REF A STATES COMMANDERS SHALL TAKE ALL FEASIBLE MEASURES TO ENSURE THAT MARINES UNDER THE AGE OF 18 YEARS OF AGE DO NOT TAKE DIRECT PART IN HOSTILITIES.
B. REF B DIRECTS THE SERVICES TO NOT DEPLOY SERVICE MEMBERS YOUNGER THAN 18 YEARS OF AGE IN SUPPORT OF OPERATIONS IN IRAQ AND AFGHANISTAN. REF B FURTHER DIRECTS THE SERVICES TO IDENTIFY ACTIONS TO ELIMINATE SUCH AN OCCURRENCE. THE REVISED POLICY OF REF B ENSURES THAT MEMBERS YOUNGER THAN 18 YEARS OF AGE DO NOT INADVERTANTLY TAKE A DIRECT PART IN HOSTILITIES, IN CONTRAVENTION OF THE CHILD SOLDIER PROTOCOL.
3. ACTION. TO IMPLEMENT MARINE CORPS POLICY THAT COMPLIES WITH REF B, THE FOLLOWING GUIDANCE IS EFFECTIVE IMMEDIATELY:
A. CMC (MM) AND (RA) WILL NOT ASSIGN A MARINE YOUNGER THAN 18 YEARS OF AGE TO A UNIT THAT IS SCHEDULED TO OPERATIONALLY DEPLOY PRIOR TO THE DATE THE MARINE ATTAINS 18 YEARS OF AGE.
B. COMMANDING GENERALS AND COMMANDING OFFICERS WILL NOT OPERATIONALLY DEPLOY A MARINE UNDER 18 YEARS OF AGE. COMMANDING GENERALS AND COMMANDING OFFICERS ARE RESPONSIBLE FOR MANAGING UNIT ASSIGNMENTS OF THOSE MARINES TO ENSURE THAT THEY DO NOT OPERATIONALLY DEPLOY PRIOR TO THE DATE THE MARINE ATTAINS 18 YEARS OF AGE.
C. AS NECESSARY, COMMANDING GENERALS AND COMMANDING OFFICERS WILL COORDINATE WITH CMC (MM) AND (RA) ON THE REASSIGNMENT OF A MARINE YOUNGER THAN 18 YEARS OF AGE TO A UNIT THAT IS SCHEDULED TO OPERATIONALLY DEPLOY AFTER THE DATE THE MARINE ATTAINS 18 YEARS OF AGE.
D. THIS POLICY DOES NOT APPLY TO DEPLOYING MARINES YOUNGER THAN 18 YEARS FOR THE PURPOSES OF TRAINING (INDIVIDUAL OR UNIT) OR EXERCISES.

E. CMC (M&RA) AND COMMANDING OFFICERS WHO HAVE ADMINISTRATIVE CONTROL OF MARINES WILL ENSURE THAT MARINES YOUNGER THAN 18 YEARS OF AGE ARE IDENTIFIED IN THE MARINE CORPS TOTAL FORCE SYSTEM (MCTFS) WITH THE DUTY LIMITATION REMARK TO INDICATE THEY ARE UNDER 18 YEARS OF AGE (I.E., TTC 157 012, 17 YEARS OLD, CODE "P").

(1) ON 6 APR 2007, CMC (M&RA)/MISSA RAN A ONE-TIME UTILITY TO UPDATE THE DUTY LIMITATION REMARK OF CODE "P", FOR ALL MARINES UNDER 18 YEARS OF AGE (ACTIVE AND RESERVE COMPONENT, WHETHER ON ACTIVE DUTY AT THE TIME OR NOT), WHO DID NOT ALREADY HAVE THIS DUTY LIMITATION CODE. LOCAL COMMANDS ARE NOT TO OVERWRITE THIS CODE FOR THEIR ASSIGNED MARINES UNLESS ANOTHER DUTY LIMITATION CODE IS MORE APPROPRIATE.

(2) BY 12 APR 2007, CMC (M&RA) WILL HAVE COMPLETED A LOGIC CHANGE TO MCTFS THAT WILL AUTOMATICALLY GENERATE THIS DUTY LIMITATION CODE WHEN A MARINE YOUNGER THAN 18 YEARS OF AGE IS INITIALLY ACCESSED INTO THE MARINE CORPS. MCTFS CURRENTLY AUTOMATICALLY UPDATES A MARINE'S DUTY LIMITATION CODE OF "P" BY CHANGING IT TO CODE "0" (I.E., THE NUMBER ZERO) WHEN SUCH A MARINE ATTAINS 18 YEARS OF AGE.

(3) FOR THE FUTURE, COMMANDING OFFICERS WILL ENSURE THAT UPON JOINING TO THEIR UNIT, MARINES YOUNGER THAN 18 YEARS OF AGE ARE IDENTIFIED IN MCTFS WITH THE DUTY LIMITATION CODE OF "P".

4. THE POLICY IN THIS MARADMIN SUPERSEDES THAT IN REF A.

5. THE POLICY IN THIS MARADMIN APPLIES TO THE TOTAL FORCE.//

OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

MAR 2 3 2007

PERSONNEL AND READINESS

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY
(MANPOWER & RESERVE AFFAIRS
ASSISTANT SECRETARY OF THE NAVY
(MANPOWER & RESERVE AFFAIRS
ASSISTANT SECRETARY OF THE AIR FORCE
(MANPOWER & RESERVE AFFAIRS

SUBJECT: Enforcement of Child Soldier Implementation Policies

The Department leaned recently that some Service members younger than 18 have been deployed in support of operations in Iraq and Afghanistan. This of course would contravene Article 1 of the Child Soldiers Protocol Letters which essentially requires that Parties (including the United States), "take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities."

The Defense Manpower Data Center provided data confirming the assertion that troops younger than 18 had been deployed. Informal discussions with Service colleagues suggest such deployments have in fact occurred, but did not identify specific actions now in place to eliminate the potential for reoccurrence.

To sustain high standards in the execution of U.S. agreements, please let me know the actions you are taking to conform such deployments to your Service policies. A response by April 6, 2007 would be particularly helpful. Please contact Mr. Brad Loo, 697-5045, Bradford.loo@osd.mil, should your staff have questions on this requirement. Thank you for reviewing this important matter.

Michael L. Dominguez
Principal Deputy

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Case No. 07-1156

OMAR KHADR,
Petitioner,

v.

ROBERT M. GATES,
Respondent.

AFFIDAVIT OF ANTHONY N. DOOB

I, Anthony N. Doob, hereby declare that:

1. I am a professor of criminology at the Centre of Criminology, University of Toronto. As part of my work, I study the process by which policy is made in the area of criminal justice in Canada. I have appeared numerous times before committees of the House of Commons and the Senate of Canada to give evidence about the usefulness and impact of bills that these two legislative bodies consider. A copy of my *Curriculum Vitae* is attached.

2. It is my understanding that S. 810 of the Criminal Code of Canada (as well as the related sections) is a codification of the common law power to compel people to enter into bonds or recognizances to keep the peace. It is designed to be an alternative to the criminal

process such that the court can put controls on those people in society who might, in the future, commit criminal offences. This is a recognized example of the preventive not punitive dimension of the criminal law power.

3. Traditionally, the most frequent use of this original section (S. 810) of this portion of the Criminal Code was for those people who were involved in some kind of dispute, often that involved violence or possible violence in the future. They were used quite frequently in the past in cases of domestic violence. The offender – typically the man – would be ordered not to have contact, etc., with his spouse and often as a result a criminal charge would not proceed. The idea behind S. 810 orders is that society – or in the case of S.810, a specific person – can be protected from being victimized by putting controls on a person who might be expected to victimize that person. Hence it was seen as a way of preventing future offending rather than responding to past offending.

4. The growth of these powers in the past couple of decades (e.g., 810.1, 810.01) has been where the future risk is generalized, and does not have an identified target.

5. In *Budreo* (R. v. Budreo in 2000 (142 C.C.C. (3d) 225; Leave to appeal to the Supreme Court of Canada denied), Laskin JA noted that these were not offences, and did not relate to the person's status *per se*. Instead they are preventative sections. Specifically with respect to S. 810.1 (sex offences) he said

> 33 Moreover, I do not regard S. 810.1 as authorizing court-ordered restrictions on a person's liberty because of that person's status. S. 810.1 looks not to a person's status but to a person's present risk of future dangerousness. That risk

will have to be assessed by looking at all relevant factors in a person's life, factors that are not immutable but will change over time.

34 Thus, I conclude that s. 810.1 does not create a status offence. It is a preventive measure.

6. The procedure used for a S. 810 order is laid out in the Criminal Code in that section (for 'simple' S. 810 orders) and in S. 810.1 in the case of concern about future sexual offending, S. 810.2 for violent offending, and in S. 810.01 in the case of concerns about intimidation or offences involving criminal organization or terrorism offences.

7. The basic procedure with 810 orders (of all kinds) is that someone (the informant) who has a reasonable belief that a person is going to commit an offence in the future can go to court and lay an information before a judicial officer. The big difference between S. 810, on the one hand, and S. 810.01, 810.1, and 810.2, on the other hand, is that in S. 810 the concern relates to a specified person or persons. Section 810.1 relates to concern, generally, about sexual offences; S. 810.2 deals with serious personal injury offences; and S. 810.01 relates to terrorism, intimidation, and organized crime, without a need to specify who, exactly, the potential victims might be. Said differently there is no need to identify who might be harmed by the subject of orders under S. 810.1, 810.2 or 810.01.

8. There is one additional requirement contained in S. 810.01 that is not contained in S. 810 or S. 810.1: the consent of the Attorney General (of the province or the Attorney General of Canada) is required in the case of S. 810.2 and S. 810.01. Under Section 2 (c) of the Criminal Code it would appear that the deputy attorney general can, as well, give

consent.

9. Section 810.01 as well as S. 810.1 and S. 810.2 orders must be brought before a provincial court judge (who, among other things, is legally trained) whereas S. 810 applications can be brought before justices of the peace who often, or perhaps typically, are not legally trained.

10. The judicial officer before whom the information is laid may then require the person about whom there is concern to appear before the court. The powers of arrest and bail applicable to the general criminal process apply to these preventive measures as well. In other words, the court has the power to compel the accused to appear before it.

11. A hearing then takes place in which evidence must be presented to substantiate the fear that the informant has. If the judicial officer decides that there is evidence to support the conclusion that the informant's fear is reasonable, that judicial officer can require the defendant to enter into a recognizance "to keep the peace and be of good behaviour for any period that does not exceed twelve months and to comply with any other reasonable conditions prescribed in the recognizance, including the conditions set out in subsection (5) [weapons and explosive devices prohibitions] that the provincial court judge considers desirable for preventing of an offence referred to in subsection (1) [intimidation, criminal organization offence, or terrorism offence] " (S. 810.01 (3)). Note that there is no requirement that anyone prove that the defendant must have committed an offence. The defendant may well *never* have committed an offence. The court simply needs to be satisfied that the fear is reasonable. In the case of S. 810.01, this is a preventive measure based on reasonably held fear that another person will commit an

offence under section 423.1, a criminal organization offence, or a terrorism offence.

12. The defendant *must* enter into the recognizance for a specified period of up to 12 months. If the defendant refuses to do so, the judicial officer can send the defendant to prison for up to 12 months (S. 810.01(4)). If the defendant enters into the recognizance but commits a breach of the recognizance, that breach is itself a criminal offence punishable by up to 2 years in prison (Section 811).

13. Essentially, then, the defendant can be ordered to comply with certain types of restrictions on his life. He must agree to these. If he doesn't he can be imprisoned. If he does agree to the conditions and then violates them, he has committed a criminal offence and can be put in prison.

14. These orders have a maximum length of one year, but they can be renewed an infinite number of times. It is my understanding that it is not unusual for 810.1 orders to be renewed.

15. The constitutional validity of the section relating to sexual offenders (S. 810.1) has been challenged and the Ontario Court of Appeal in *R. v. Budreo* in 2000 (142 C.C.C. (3d) 225; Leave to appeal to the Supreme Court of Canada was denied) found it to be constitutional.

16. Section 810.01 existed prior to 2001, but did not include 'terrorism' offences until December 2001. Prior to December 2001, the section dealt only with a "criminal organization offence" as defined in Section 2 of the Criminal Code.

17. As I have already mentioned, S. 810 orders (for ordinary cases) have been with us in one

form or another for a very long time. Section 810.1 which deals with concerns that someone might commit a sexual offence came into effect in 1993, followed in 1997 by S. 810.01 and S. 810.2. Each of these four separate sections has, in general terms, the same basic structure.

18. The purpose of each of these sections is clearly preventative rather than punitive. Indeed, the Ontario Court of Appeal decision in Budreo (see *supra*) makes this point explicitly. At paragraph 34, Laskin, J.A. of that court finds, specifically, that S. 810.1 (that deals with concern about future sex offending) is preventative not punitive. Since the language is so similar in the other sections of S. 810 orders, it would be hard to believe that these other sections would be seen in any different terms by this Court.

19. As I have already mentioned, S. 810.01 existed prior to the fall of 2001, though it did not include terrorism offences. On 15 October 2001, the Government of Canada introduced into the House of Commons a bill known as the "Anti-Terrorism Act." The Bill included, when it was proclaimed into force on December 24, 2001, a section that simply added the following italicized words to S. 810.01: "A person who fears on reasonable grounds that another person will commit a criminal organization offence *or a terrorism offence* may, with the consent of the Attorney General, lay an information before a provincial court judge."

20. One can infer the purpose of S. 810.01 orders from three separate sources. First, the Minister of Justice and Attorney General of Canada along with the Solicitor General of Canada, and the Minister of Foreign Affairs announced the day of the introduction of the Bill into the House of Commons that the overall "Anti-Terrorism Plan" had four

objectives including to "stop terrorists from getting into Canada and protect Canadians from terrorist acts" (Press Release, October 15, 2001). Clearly S. 810.01 is related to protecting Canadians.

21. Second, the preamble to the Act as it was introduced indicated that the "Parliament of Canada, recognizing that terrorism is a matter of national concern that affects the security of the nation, is committed to taking comprehensive measures to protect Canadians against terrorist activity...." (Preamble to Bill C-36, First Session, 37th Parliament, 49-50 Elizabeth II, 2001).

22. Third, the section clearly specifies (S. 810.01(3)) that the conditions that can be put on a S. 810.01 order that the defendant are designed to prevent crime. The defendant can be ordered to "comply with any other reasonable conditions prescribed in the recognizance... that the provincial court judge considers desirable for preventing the commission of an offence referred to in subsection (1)"(e.g., a terrorism offence).

23. Typically a S. 810 order starts with a person – most commonly a police officer in S. 810.1 orders (the type of order closely associated with S. 810.01 orders) – laying an information before a provincial court judge to initiate proceedings. In other words, the informant presents a sworn document known as an information that sets out the basic elements of the claim under S. 810.01. There is no requirement that the person laying the information be a police officer, but it is my understanding that it typically is a police officer. In the case of an application under S. 810.01, the consent of the Attorney General is also required. The Attorney General, in our system, is an elected official who is a member of the provincial Cabinet and is the Chief Law Officer of the Crown.

24. I believe that a summons is issued to get the defendant to court, but the Crown can also apply for an arrest warrant.

25. The application is heard in open court where the respondent can be [and usually is] represented by counsel. The judge hears from the informant and any other witnesses who have evidence that support the claim of reasonably held fear. The respondent can challenge the evidence and can testify on his own behalf. The judge then decides the matter by asking whether he or she is satisfied on a balance of probabilities that the informant has reasonable grounds to fear that the respondent will commit an offence within a stipulated category.

26. The defendant is then required enter into a recognizance with the conditions set out by the court. If he does not, he can be immediately imprisoned for up to 12 months. (S. 810.01(4)).

27. If he violates a condition of the recognizance, he can be imprisoned for up to 2 years (Section 811).

28. In the case of Omar Khadr, one key question that can be asked is what is the extent of the types of controls that might be placed on him as part of a S. 810.01 order. It is my understanding that the section has not yet been used. Hence we do not have any *direct* information from conditions used in the past. However, the test is simple: The conditions must be reasonable ones that are likely to help prevent the commission of a terrorist offence.

29. There are conditions that prohibit a person from possessing certain weapons or explosive

substances under S. 810.01(5). I would suggest that the legislation intends that these be imposed in all but the very unusual case, since there is a requirement that "Where the provincial court judge does not add a condition described in subsection (5) to a recognizance, the provincial court judge shall include in the record a statement of the reasons for not adding the condition" (S. 810.01(5.2)).

30. In this context, I would conclude that the provincial court judge could impose virtually any treatment condition on the defendant including a requirement that the defendant reside in a secure psychiatric facility. The test is that the provincial court judge must consider the condition to be desirable for preventing the commission of the offence. It should be noted that the conditions need not be voluntarily entered into. It is clear that the judge can impose these conditions, and if the defendant does not agree to them, the defendant can be sent to prison for up to twelve months, at which point, presumably, the process could start anew. But clearly if the defendant were to agree to these conditions and enter into a recognizance, the defendant would be bound by those conditions for up to a year unless they were modified by the court at a later date.

31. On the other hand, it would, I believe, be contrary to the intent of the section to impose prison. Prison would appear to remain as an option only for those sentenced or those awaiting trial for a criminal offence who have not been granted bail.

32. There is an analogous case dealing with what is normally a community-based sentence in which a period of time in a secure psychiatric facility was imposed as a community (non-prison) sanction (*Knoblauch v. R* ([2000] 2 S.C.R. 780)). In *Knoblauch* which was heard by the Supreme Court of Canada, the offender had received a "conditional sentence of

imprisonment" under Section 742.1 of the Criminal Code. With the offender's and the hospital's consent, he was given the non-prison sanction of a period of time in this secure psychiatric facility.

33. Section 742.1 states that "Where a person is convicted of an offence, except an offence that is punishable by a minimum sentence of imprisonment, and the court (a) imposes a sentence of imprisonment of less than two years, and (b) is satisfied that serving the sentence in the community would not endanger the safety of the community and would be consistent with the fundamental purpose and principles of sentencing set out in sections 718 to 718.2, the court may, for the purpose of supervising the offender's behaviour in the community, order that the offender serve the sentence in the community, subject to the offender's complying with the conditions of a conditional sentence order made under section 742.3.

34. For the most part, Section 742.3 looks like the conditions that relate to a probation order in that there are mandatory conditions and optional conditions. Section 742.3(2) states that "The court may prescribe... that the offender do one or more of the following.... (e) attend a treatment program approved by the province; and (f) comply with such other reasonable conditions as the court considers desirable ... for securing the good conduct of the offender and for preventing a repetition by the offender of the same offence or the commission of other offences."

35. In 2000, the Supreme Court of Canada released its decision in *Knoblauch*. Knoblauch was described by the court as having a "lengthy history of mental illness and of dangerous handling of explosives." He had pleaded guilty to two charges.

36. At para. 2 of the majority opinion, the court noted that, "A detailed agreed statement of facts was read into the record, and the matter proceeded to a sentencing hearing in which the defence called two forensic psychiatrists in support of its request that a conditional sentence be imposed, under the terms of which the appellant would reside in a secure mental health institution, under the care and supervision of psychiatrists. After hearing the submissions of the parties, the trial judge imposed a conditional sentence followed by three years of probation. The conditions of both the two-year sentence and the probation order required the appellant to reside in a psychiatric treatment unit at the Alberta Hospital Edmonton."

37. The issue that is relevant to Omar Khadr in this case was "whether the court can require that a conditional sentence be served in a secure mental health institution" (para 4). In Mr. Khadr's case, of course, the analogous situation is a S. 810.01 order. Omar Khadr could be placed in a secure psychiatric facility without a formal finding of guilt or a formal mental health warrant. Knoblauch was placed in a secure psychiatric hospital ward as part of a non-custodial sentence. It was noted by the Supreme Court of Canada that, "The salient condition of his conditional sentence was that the appellant was to reside at the Alberta Hospital Edmonton in a locked secure psychiatric treatment unit where he was currently receiving treatment, until a consensus of psychiatric professionals made a decision to transfer him from that locked unit."

38. The court did not dispute the original trial court's decision that the appropriate sentence was two years less a day. Arbour J stated "Before turning to an examination of the applicable law, I wish to stress two important aspects of this case. The first one is that it

is beyond dispute that the appellant is potentially extremely dangerous. The second is that it is equally beyond dispute that the appropriate sentence for this appellant, in all of the circumstances, is a sentence of two years less a day, whether it is served in a penal institution or in a mental health hospital." (Para. 16)

39. In the end, the Court concluded that, "In the case of a conditional sentence, a regime uniquely suited to the offender is put in place by the terms of the order under which the conditional sentence is imposed. It is tailored to take into account the needs of the offender and those of the community into which he will need to be reintegrated. In my view, this includes taking full advantage of all community-based services, including residential programs, and including residential programs that may have a compulsory residential element, as long as the programs serve the ends expressed in s. 718 of the *Criminal Code*. When properly viewed as an alternative to incarceration as previously defined, conditional sentences do not preclude the resort to community-based facilities, some of which are residential, simply because they have a custodial aspect. Mental health facilities exist within our communities, and some of them offer residential programs which can clearly be an optional condition under s. 742.3(2)(*f*). The intent of s. 742.1 is to invite courts to draw on all available services in the community to act as an alternative to imprisonment in penal institutions" (Para 41).

40. One could make the identical argument in the case of a S. 810.01 order.

41. The court continues by noting that "As the present case illustrates, a person may be confined in a locked secure mental health facility under various legal provisions. The person may have been the subject of a civil committal under the provisions of an

applicable provincial mental health legislation, he or she may have been remanded by a criminal court for assessment, or he or she may have entered such programs voluntarily. The person may be there as part of the terms of a probation order, or under conditions set out by the National Parole Board. As indicated earlier, a person may also be there serving a term of imprisonment, if that part of the hospital has been designated a penitentiary within the meaning of the *Corrections and Conditional Release Act*. In my view, the person may also be there under a condition of a conditional sentence, at least one to which he or she consented" (para. 42).

42. And finally, Judge Arbour of the Supreme Court of Canada concluded, "I stress that in this case the accused not only agreed to but advocated the terms that were imposed upon him by the sentencing judge, which included his confinement in a locked mental health institution. Whether a lock-up in a mental institution for two years against the will of an accused would have any therapeutic value, and whether it would be permissible under the *Code*, should be left for another day." (para 43).

43. In an earlier (1992) case – involving a man who was acquitted of killing his mother-in-law while he was asleep (and sleepwalking) on the basis of the defence of non-insane automatism, the Chief Justice raised the question from the bench about the utility of a common law peace bond. At that time, S. 810 could not be used because there would no threat to a specific person. In effect, then, the Supreme Court of Canada confirmed in this case that the common law power still exists and Lamer, CJC recommended that in the future it be considered in such cases, subject of course to there being reasonable evidence to support the conclusion that the informant has reasonable grounds for his

fears. In this case (*R. v. Parks*, [1992] 2 S.C.R. 871) the Supreme Court was suggesting that it would not be unreasonable at least to consider putting restrictions on someone even though that person had been acquitted of the behaviour that had raised the concern.

44. The Chief Justice of Canada made this suggestion, it seems, to assuage the fears of the community.

> **35** If conditions should be imposed on Mr. Parks they will restrict his liberty. It follows that the decision to impose such conditions and the terms of those conditions should not violate the rights guaranteed under s. 7 of the Canadian Charter of Rights and Freedoms. However, such a hearing is justified, as the sleepwalker has, although innocently, committed an act of violence which resulted in the death of his mother-in-law. Members of the community may quite reasonably be apprehensive for their safety. In those circumstances it cannot be said that the Court has unduly intruded upon the liberty of the accused by exploring, on notice to the accused, the possibility of imposing some minimally intrusive conditions which seek to assure the safety of the community. If conditions are imposed, then they obviously must be rationally connected to the apprehended danger posed by the person and go no further than necessary to protect the public from this danger.

45. There would appear to be a wide range of concerns that might be addressed and options that are available under S. 810 orders.

46. Returning, finally to Omar Khadr's case, any set of reasonable grounds that have a

logical association with keeping him from being involved in terrorist activities would likely be acceptable under a S. 810.01 order. Counseling (religious, psychological, etc.) would fit in with this, as could 'non-association' orders. Certainly requiring him to submit to medical and psychiatric treatment would make logical sense as would requirements that he participate in normal educational training that would make him more likely to be able to integrate back into Canadian society. And, clearly if he were to consent (and quite possibly if he did not), an order that he reside in a secure psychiatric facility would be permissible.

47. There are two other considerations relevant to the imposition of a S. 810.01 order in this case. Sub-section (6) of S. 810.01 states that "A provincial court judge may, on application of the informant, the Attorney General or the defendant, vary the conditions fixed in the recognizance." This provision could, I think, be very important for all parties. It may be difficult to predict exactly how Omar Khadr would respond to treatment. The S. 810.01 order has an enormous advantage over a sentence in that sentences, once handed down are fixed. Though an appeal can be made immediately after the sentence is handed down, and correctional authorities have some discretion on the choice of institution in which a sentence is served and what programs are made available to the offender, and a paroling authority can make decisions on release from prison, there is relatively little flexibility on the nature and length of the controls imposed on an offender. In contrast, under a S. 810.01 order, conditions can be varied (repeatedly) to meet the needs as they are assessed and re-assessed over time. In other words, if those providing physical or psychiatric treatment to him thought that additional conditions or different conditions should be imposed on him, it would be relatively easy

to do so simply by bringing him back to court.

48. The second consideration that may be relevant in considering a S. 810.01 order in the case of Omar Khadr is that it could be accomplished very quickly – indeed almost immediately or within hours of his arrival in Canada – if he were to consent to reasonable conditions that were suggested by the court.

49. Finally, it is worth pointing out that the terrorist portion of S. 810.01 was made law slightly after the terrorist acts of September 11, 2001. There are many laws that deal with other aspects of terrorism – laws which make it difficult for terrorists to enter Canada, laws about terrorist activities, etc. Section 810.01 was clearly designed to address exactly the types of the concerns that people have about Omar Khadr. Those concerns can be addressed by placing conditions on him that aim to prevent what he might otherwise do in the future through the imposition of a S. 810.01 order.

50. In sum, the order can be placed on him very quickly if he were to consent to the conditions; it allows a very broad scope of reasonable conditions to be considered; and it is flexible and renewable.

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on March 14, 2008.

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Publications

Marlowe, D., Beecher, R. S., Cook, J. B., and Doob, A. N. The approval motive, vicarious reinforcement, and verbal conditioning. *Perceptual and Motor Skills,* 1964, *19*, 523-530.

Miller, N., Doob, A. N., Butler, D. C., and Marlowe, D. The tendency to agree: Situational determinants and social desirability. *Journal of Experimental Research in Personality,* 1965, *1*, 78-83.

Marlowe, D., Gergen, K. J., and Doob, A. N. Opponents personality, expectation of social interaction, and interpersonal bargaining. *Journal of Personality and Social Psychology*, 1966, *3*, 206-213.

Doob, A. N., and Gross, A. E. Status of frustrator as an inhibitor of horn-honking responses. *Journal of Social Psychology*, 1968, *76*, 213-218.

Freedman, J. L., and Doob, A. N. *Deviancy: The psychology of being different.* Academic Press, 1968.

Doob, A. N., Carlsmith, J. M., Freedman, J. L., Landauer, T. K., and Tom, S. Effect of initial selling price on subsequent sales. *Journal of Personality and Social Psychology,* 1969, *11*, 345-350.

Doob, A. N., and Ecker, B. P. Stigma and compliance. *Journal of Personality and Social Psychology*, 1970, *14*, 302-304.

Doob, A. N. Catharsis and aggression: the effect of hurting one's enemy. *Journal of Experimental Research in Personality*, 1970, *4*, 291-296.

Doob, A. N. and Regan, D. T. (eds.) *Readings in experimental social psychology.* New York: Appleton-Century-Crofts, 1971.

Furedy, J. J. and Doob, A. N. Autonomic responses and verbal reports in further tests of the preparatory-adaptive-response interpretation of reinforcement. *Journal of Experimental Psychology*, 1971, *89*, 258-264.

Furedy, J. J. and Doob, A. N. Classical aversive conditioning of human digital volume-pulse change, and tests of the preparatory-adaptive-response interpretation of reinforcement. *Journal of Experimental Psychology*, 1971, *89*, 403-407.

Doob, A. N. and Zabrack, M. The effect of freedom-threatening instructions and monetary inducement on compliance. *Canadian Journal of Behavioural Science* 1971, *3*, 408-412.

Doob, A. N. and Wood, L. Catharsis and aggression: The effects of annoyance and retaliation on aggressive behaviour. *Journal of Personality and Social Psychology*, 1972, *22*, 156-162.

Doob, A. N., Freedman, J. L., and Campisi, D. J. Deviance and control of one's fate. *Canadian Journal of Behavioural Science*, 1972, *4* 165-171.

Furedy, J. J. and Doob, A. N. Signaling unmodifiable shocks: limits on human cognitive control. *Journal of Personality and Social Psychology*, 1972, *21*, 111-115.

Doob, A. N. and Climie, R. J. Delay of measurement and the effects of film violence. *Journal of Experimental Social Psychology*, 1972, *8*, 136-142.

Konecni, V. J. and Doob, A. N. Catharsis through displacement of aggression. *Journal of Personality and Social Psychology*, 1972, *23*, 379-387.

Doob, A. N. and Kirshenbaum, H. M. Some empirical evidence on the effect of S. 12 of the Canada Evidence Act upon an accused. *Criminal Law Quarterly*, 1972, *15*, (1), 88-96.

Doob, A. N., Freedman, J. L., and Carlsmith, J. M. The effects of sponsor and prepayment on compliance to a mailed request. *Journal of Applied Psychology*, 1973, *57*, 346-347.

Doob, A. N. and Kirshenbaum, H. M. The effects on arousal of frustration and aggressive films. *Journal of Experimental Social Psychology*, 1973, *9*, 57-64.

Doob, A. N. and Kirshenbaum, H. M. Bias in police lineups: partial remembering, *Journal of Police Science and Administration, 1973*, *1*, 287-293.

Doob, A. N. Psychology and evidence. In M. L. Friedland (ed.) *Courts and trials* (pages 40-51). University of Toronto Press, 1975.

Koza, P. and Doob, A. N. Some empirical evidence on judicial interim release proceedings. *Criminal Law Quarterly*, 1975, *17*, 258-272.

Koza, P. and Doob, A. N. The relationship of pretrial custody to the outcome of a trial. *Criminal Law Quarterly*, 1975, *17*, 391-400.

Brooks, W. N. and Doob, A. N. Justice and the jury. *Journal of Social Issues*, 1975, *31*(3), 171-182.

Hans, V.P. and Doob, A. N. S.12 of the Canada Evidence Act and the deliberation of simulated juries. *Criminal Law Quarterly*, 1976, *18* (2), 235-253.

Konecni, V. J., Crozier, J. B. and Doob, A. N. Anger and expression of aggression: effects on aesthetic preference. *Scientific Aesthetics*, 1976, *1*, 47-55.

Doob, A. N. Evidence, procedure, and psychological research. In Bermant, Nemeth, & Vidmar (eds.) *Psychology and the law: Research frontiers*. Lexington Books (D.C. Heath and Company) pages 135-147. (1976)

Frenkel, O. J. and Doob, A. N. Postdecision dissonance at the poling booth. *Canadian Journal of Behavioural Science*, 1976, *8*, 347-350.

Koza, P. and Doob, A. N. Police attitudes toward the bail reform act. *Criminal Law Quarterly*, 1977, *19*, 405-414.

Doob, A. N. and Cavoukian, A. The effect of the revoking of bail: R. v. Demeter. *Criminal Law Quarterly*, 1977, *19*(2), 196-202.

Younger, J.C. and Doob, A. N. Attribution and aggression: the misattribution of anger. *Journal of Research in Personality*, 1978, *12*, 164-171.

Hemsley, G. and Doob, A. N. The effect of looking behaviour on perceptions of a communicator's credibility. *Journal of Applied Social Psychology*, 1978, *8*, 136-144.

Doob, A. N. and Macdonald, G. E. Television viewing and fear of victimization: Is the relationship causal? *Journal of Personality and Social Psychology*, 1979, *37*, 170-179.

Cavoukian, A. and Doob, A. N. The effects of a judge's charge and subsequent re-charge on judgements of guilt. *Basic and Applied Social Psychology*, 1980, *1*, 103-114.

Doob, A. N. Montée et declin de la déjudiciarisation dans la legislation sur les mineurs délinquants au Canada. *Déviance et Societé*, 1980, *4* 231-243.

Doob, A. N. The role of the mass media in creating exaggerated levels of fear of being the victim of a violent crime. In Stringer, P. (ed.) *Confronting social issues: Applications of social psychology, Volume 1*. Academic press (London), 1982.

Doob, A. N. and Chan, J. B. L. Factors affecting police decisions to take juveniles to court. *Canadian Journal of Criminology*, 1982, *24*, 25-37.

Doob, A. N. The reliability of ethical reviews: Is it desirable? *Canadian Psychology*, 1983, *24*, 269-270.

Doob, A. N. Turning decisions into non-decisions. In Corrado, R.R., LeBlanc, M. and Trépanier, J. *Current issues in juvenile justice* (pages 147-168). Toronto: Butterworths, 1983.

Doob, A. N. The organization of criminological research: Canada. In M. Tonry and N. Morris *Crime and Justice: An annual review of research.* Volume 5. The University of Chicago Press, 1983.

Doob, A. N. and Roberts, J. V. (1984) Social psychology, social attitudes, and attitudes toward sentencing. *Canadian Journal of Behavioural Science, 16*, 269-280.

Doob, A. N. (1984) Understanding the nature of investigations into alleged fraud in alcohol research: A reply to Walker and Roach. *British Journal of Addiction, 79*, 169-174.

Doob, A. N. and Greenspan, E. L. (eds.) *Perspectives in criminal law: Essays in honour of John Ll. J. Edwards*. Toronto: Canada Law Book, 1985.

Doob, A. N. The many realities of crime. In Doob & Greenspan *Perspectives in Criminal Law* (Toronto: Canada Law Book, 1985) p. 61-80.

Doob, A. N. Sentencing criminal offenders: principles, purposes, and punishments. (1987) *Ethics in education, 7* (1), 3-5.

Doob, A. N. and Park, N. W. (1987) Computerized sentencing information for judges: An aid to the sentencing process. *Criminal Law Quarterly, 30* (1), 54-72.

Doob, A. N. and Roberts, J. V. Public punitiveness and public knowledge of the facts: Some Canadian Surveys. In Walker, Nigel and Hough, Mike (eds.) *Public attitudes to sentencing: Surveys from five countries*. Cambridge Studies in Criminology, *LIX*.(Gower: 1988)

Doob, A. N. Judging the jury. An essay review of Hans, V. P. and Vidmar, N. *Judging the jury* (New York: Plenum, 1986). *Canadian Bar Review, 66*, 1987, 424-431.

Brodeur, Jean-Paul and Doob, A. N. Rehabilitating the debate on rehabilitation. *Canadian Journal of Criminology* (1989), *31*(2), 179-192.

Roberts, J. V. and Doob, A. N. (1989) Sentencing and public opinion: Taking false shadows for true substances. *Osgoode Hall Law Journal, 27*, 491-515.

Brooks, N. and Doob, A.N. (1990) Tax evasion: searching for a theory of compliant behaviour. In Friedland, M.L. (ed.) *Securing compliance: Seven case studies*, (Toronto: University of Toronto Press), p. 120-164.

Doob, A. N. and McLaughlin, D. S. (1989) Ask and you shall be given: Request size and donations to a good cause. *Journal of Applied Social Psychology, 19*, 1049-1056.

Doob, A. N. Dispositions under the Young Offenders Act: Issues without answers? In L. A. Beaulieu (ed.) *Young offender dispositions: Perspectives on principles and practice*. Toronto: Wall and Thompson, 1989.

Also appeared in translation as "Les décisions dans l'application de la *Loi sur les jeunes contrevenants:* Questions sans réponses?" in Beaulieu, L. (ed.) *Le jeune contrevenant: Les décisions*. Toronto: Wall and Emerson, 1990.

Cohen, S. A. and Doob, A. N. Public attitudes to plea bargaining. *Criminal Law Quarterly*, 1989 (December), *32* (1), 85-109.

Doob, A. N. Community sanctions and imprisonment: Hoping for a miracle but not bothering even to pray for it. 1990. *Canadian Journal of Criminology*, *32* (3), 415-428.

Roberts, J. V. and Doob, A. N. (1990) Media influences on public views of sentencing. *Law and Human Behaviour*, 1990, *14*(5), 451-468.

Doob, A. N. Sentencing reform: Learning from other jurisdictions. Samuelson, L. and Dickinson, H. (eds.) *Criminal justice: Sentencing issues and reforms* (Toronto: Garamond Press, 1991)

Doob, A. N., P. M. Baranek, and S. M. Addario *Understanding Justices: A Study of Canadian Justices of the Peace*. (280 pages) (Research Report #25 of the Centre of Criminology) Toronto: Centre of Criminology, 1991.

Doob, A. N. and Beaulieu, L. A. Variation in the exercise of judicial discretion with young offenders. *Canadian Journal of Criminology*, 1992, *34*(1), 35-50.

Doob, A. N. Trends in the use of custodial dispositions for young offenders. *Canadian Journal of Criminology*, 1992, *34*(1), 75-84.

Auger, Donald J., Doob, A. N., Auger, Raymond P. and Driben, P. (1992) Crime and control in three Nishnawbe-Aski Nation communities: An exploratory investigation. *Canadian Journal of Criminology*, *34* (3-4), 317-338.

Doob, A. N. and Meen, Jennifer (1993) An exploration of changes in dispositions for young offenders in Toronto. *Canadian Journal of Criminology*, *35* (1) 19-29.

Doob, A. N. (editor) *Thinking about police resources*. (Research Report of the Centre of Criminology) Toronto: Centre of Criminology, 1993.

Doob, A. N., Grossman, Michelle G. and Auger, Raymond P. (1994) Aboriginal homicides in Ontario. *Canadian Journal of Criminology*, *36* (1), 29-62.

Gartner, Rosemary and A. N. Doob. Trends in criminal victimization: 1988-1993. Canadian Centre for Justice Statistics, Statistics Canada: *Juristat*, Volume 14 (13), June 1994.

Doob, Anthony N. Sentencing reform in Canada. *Overcrowded Times*. Volume 5 (4), August 1994, p. 1, 11-13.

Doob, A. N. The United States Sentencing Commission Guidelines: If you don't know where you are going, you may not get there. Chris Clarkson and Rod Morgan (editors) *The politics of sentencing reform.* Oxford: Clarendon Press, 1995 (pages 199-250).

Doob, Anthony N. and Voula Marinos. Reconceptualizing punishment: Understanding the limitations on the use of intermediate punishments. *University of Chicago Law School Roundtable*, 1995, *2*(2), 413-433.

Doob, Anthony N., Voula Marinos, and Kimberly N. Varma. *Youth crime and the youth justice system in Canada: A research perspective.* Toronto: Centre of Criminology, 1995. (168 pages).

Doob, Anthony N. and Jean-Paul Brodeur. "Achieving accountability in sentencing." In Philip Stenning, editor, *Accountability for criminal justice: Selected essays.* University of Toronto Press, 1995. Pages 376-396.

Doob, Anthony N. Understanding the attacks on Statistics Canada's violence against women survey. In Valverde, Mariana, L. MacLeod, and K. Johnson *Wife assault and the Canadian criminal justice system: Issues and policies.* Toronto: Centre of Criminology, 1995 (pages 157-165)

Doob, A.N. and Jane B. Sprott. Interprovincial variation in the use of the youth court. *Canadian Journal of Criminology*, 1996, *38*, 401-412.

Doob, Anthony N. Criminality and security. In Serge Brochu (editor) *Perspectives actuelles en criminologie.* Université de Montréal: Centre international de criminologie comparée, 1996.

Doob, A. N. Criminal justice reform in a hostile climate. In Canadian Institute for the Administration of Justice, *Public perceptions of the administration of justice,* pages 253-275. (Montréal: Les Éditions Thémis, Inc., 1996) Originally presented at the CIAJ conference in Banff, Alberta. October 1995.

Doob, A. N. Punishment in late-twentieth-century Canada: An afterword. In Carolyn Strange (Editor) *Qualities of Mercy: Justice, punishment, and discretion.* Vancouver: UBC Press, 1996 (pages 166-175).

Roberts, Julian V. and Anthony N. Doob. Race, ethnicity, and criminal justice in Canada. In Michael Tonry (editor). *Ethnicity, crime, and immigration: Comparative and cross-national perspectives.* Volume 21 of *Crime and Justice: A Review of Research.* Pages 469-522. University of Chicago Press, 1997.

Sprott, Jane B. and A. N. Doob (1997). Fear, victimization, and attitudes to sentencing, the courts, and the police. *Canadian Journal of Criminology, 39*(3), 275-291.

Doob, Anthony N. The new role of Parliament in Canadian sentencing. *Federal Sentencing Reporter,* March/April 1997, 9 (5), 239-244.

Doob, Anthony N. What can Canada learn from sentencing reform efforts in other countries? Canadian Institute for the Administration of Justice. *Dusk or dawn in sentencing*. Montréal: Éditions Thémis, 1997.

Driben, Paul, Donald J. Auger, Anthony N. Doob, and Raymond P. Auger. No killing ground: Aboriginal law governing the killing of wildlife among the Cree and Ojibwa of Northern Ontario. *Ayaangwaamizin: The International Journal of Indigenous Philosophy*, 1997, *1*(1), 91-107.

Varma, Kimberly and Anthony N. Doob (1998) Deterring economic crimes: the case of tax evasion. *Canadian Journal of Criminology*, *40*(2), 165-184.

Doob, Anthony N. and Jane B. Sprott. (1998) Is the "quality" of youth violence becoming more serious? *Canadian Journal of Criminology, 40(2),* 185-194.

Sprott, Jane and Anthony N. Doob. Understanding provincial variation in incarceration rates. *Canadian Journal of Criminology,* 1998, *40*(3), 305-322.

Sprott, Jane and A. N. Doob. Imprisonment rates in Canada: One law, ten outcomes. *Overcrowded Times, Volume 9 (4),* August 1998, 1,6-9.

Marinos, Voula and Anthony N. Doob. Understanding public attitudes toward conditional sentences of imprisonment. *Criminal Reports,* (Fifth Series), 1999, *21*, 31-41.

Doob, Anthony N. (1999) Should Canada maintain its system of discretionary release from prison? In Stuart, Donald, Ronald Delisle, and Allan Manson (editors) *Towards a Clear and Just Criminal Law*. Toronto: Carswell. p. 543-558.

Doob, Anthony N. (1999) Can a sentencing commission without power accomplish anything? In Stuart, Donald, Ronald Delisle, and Allan Manson (editors) *Towards a Clear and Just Criminal Law*. Toronto: Carswell. p. 496-500.

Doob, Anthony N. Youth Justice Research in Canada: An Assessment. *Canadian Journal of Criminology*, 1999, *41*(2), 217-224.

Doob, Anthony N. Sentencing reform: Where are we now? In Roberts, Julian V. and David Cole (editors). *Making Sense of Sentencing.* Toronto: University of Toronto Press, 1999, p. 349-363.

Doob, Anthony N. and Jane B. Sprott. Changes in the sentencing of youth in Canada. *Federal Sentencing Reporter*, 1999, *11*(5), 262-268.

Doob, Anthony N. and Jane B. Sprott. Canada considers new sentencing laws for youth: A sheep in wolf's clothing? *Overcrowded Times,* April 1999, Volume 10(2), 1,5-11.

Doob, Anthony N. and Jane B. Sprott. The pitfalls of determining validity by consensus. *Canadian Journal of Criminology*, 1999, *41*, 535-543.

Sprott, Jane and Doob, A. N. Bad, sad, and rejected: the lives of aggressive children. *Canadian Journal of Criminology,* 2000, *42*(2), 123-133.

Doob, Anthony N. Transforming the punishment environment: Understanding public views of what should be accomplished at sentencing. *Canadian Journal of Criminology*, 2000, *42*(3), 323-340.

Sprott, Jane B., Anthony N. Doob, and Jennifer M. Jenkins. Problem behaviour and delinquency in children and youth. *Juristat.* June 2001. Ottawa: Canadian Centre for Justice Statistics, Statistics Canada.

Dioso, Rachel and Anthony N. Doob. An analysis of public support for special consideration of Aboriginal offenders at sentencing. *Canadian Journal of Criminology*, 2001, *43*, 405-412.

Doob, Anthony N. If electronic monitoring is the answer, what is the question? *Canadian Criminal Law Review,* 2001, *6*, 363-366.

Sprott, Jane B. and Doob, Anthony N. (2002). Two solitudes or just one? Provincial differences in youth court judges and the operation of youth courts. *Canadian Journal of Criminology, 44,* 165-180.

Doob, Anthony N. and Cesaroni, Carla. The political attractiveness of mandatory minimum sentences. *Osgoode Hall Law Journal*, Summer/Fall 2001 (appeared: July 2002), 287-304.

Cesaroni, Carla and Anthony N. Doob. (2003) The decline in support for penal welfarism: Evidence of support among the elite for punitive segregation. *British Journal of Criminology, 43,* 434-441.

Sprott, Jane B. and Anthony N. Doob (2003). It's all in the denominator: Trends in the processing of girls in Canada's youth courts. *Canadian Journal of Criminology and Criminal Justice, 45*(1), 73-80.

Webster, Cheryl Marie and Anthony N. Doob. (2003) The Superior/Provincial Criminal Court Distinction: Historical Anachronism or Empirical Reality? *Criminal Law Quarterly, 48,* 77-109.

Doob, Anthony N. and Cheryl Marie Webster (2003). Sentence Severity and Crime: Accepting the Null Hypothesis. Tonry, Michael (ed.) *Crime and Justice: A Review of Research.* Volume 30. Chicago: University of Chicago Press (pages 143-195).

Doob, Anthony N. and Cheryl Marie Webster (2003). Looking at the Model Penal Code Sentencing Provisions through Canadian Lenses. *Buffalo Criminal Law Review, 7,* 139-170.

Sprott, Jane B. and Doob, A. N. (2004) Regulating the use of Youth Court and Youth Custody: the Youth Criminal Justice Act, in Julian V. Roberts and Michelle Grossman (eds.) *Criminal Justice in Canada: A Reader,* (2nd edition) Nelson Publishing.

Barber, Jody and Anthony N. Doob (2004). An analysis of public support for severity and proportionality in the sentencing of youthful offenders. *Canadian Journal of Criminology and Criminal Justice, 46,* 327-342.

Tonry, Michael and Anthony N. Doob (eds.). (2004) *Youth Crime and Youth Justice: Comparative and Cross-national Perspectives. Crime and Justice: A review of research,* Volume 31. University of Chicago Press

Doob, Anthony N. and Jane B. Sprott. (2004) Changing models of youth justice in Canada. In: Tonry, Michael and Anthony N. Doob (eds.). *Youth Crime and Youth Justice: Comparative and Cross-national Perspectives. Crime and Justice: A review of research,* Volume 31. University of Chicago Press (pages 185-242)

Doob, Anthony N. and Tonry, Michael (2004) Varieties of Youth Justice: An Introduction. In Tonry, Michael and Anthony N. Doob (eds.). *Youth Crime and Youth Justice: Comparative and Cross-national Perspectives. Crime and Justice: A review of research,* Volume 31. University of Chicago Press (Pages 1-20).

Doob, Anthony N. and Carla Cesaroni. (2004) *Responding to Youth Crime in Canada.* University of Toronto Press.

Webster, Cheryl Marie and Anthony N. Doob. (2004) Classification Without Validity or Equity: An Empirical Examination of the Custody Rating Scale for Federally Sentenced Women Offenders in Canada. *Canadian Journal of Criminology and Criminal Justice, 46* (4), 395-422.

Webster, Cheryl Marie and Anthony N. Doob (2004). "Taking Down the Straw Man" or Building a House of Straw? Validity, Equity, and the Custody Rating Scale. *Canadian Journal of Criminology and Criminal Justice, 46* (5), 631-638.

Doob, Anthony N. Preventing violent offending in youth. In Kidd, Bruce and Jim Phillips (eds.) *From Enforcement and Prevention to Civic Engagement: Research on Community Safety.* Centre of Criminology, University of Toronto, November 2004.

Sprott, Jane B. and Anthony N. Doob. (2004) Trends in Youth Crime in Canada. In Kathryn Campbell, (Ed.) *Understanding Youth Justice in Canada*. Toronto: Pearson Publishing. (pages 114-134).

Doob, Anthony N. and Jane B. Sprott. (2004) Sentencing under the *Youth Criminal Justice Act:* An Historical Perspective. In Kathryn Campbell, (Ed.) *Understanding Youth Justice in Canada*. Toronto: Pearson Publishing. (pages 221-241).

Sprott, Jane B., Jennifer M. Jenkins and Anthony N. Doob. The importance of school: Protecting at-risk youth from early offending. *Youth Violence and Juvenile Justice, 3* (1), January 2005, 59-77.

Doob, Anthony N. "Política criminal en Canadá: Ladra Mucho Y Muerde Poco". In Ripollés, José Luis Díez, Ana María Prieto Del Pino and Susana Soto Navarro (editors). *La Política legislative penal en Occidente: Una Perspectivea comparada.* Valencia, Spain: Tirant Lo Blanch, 2005 [Spanish Translation of a paper with the English Title: *Crime Policy in Canada: Speak Harshly, But Carry a Soft Stick.*]

Webster, Cheryl Marie, Rosemary Gartner and Anthony N. Doob. (2006) Results by Design: The Artefactual Construction of High Recidivism Rates for Sex Offenders. *Canadian Journal of Criminology and Criminal Justice, 48* (1), *79-93.*

Doob, Anthony N. and Cheryl Marie Webster (2006) Countering Punitiveness: Understanding Stability in Canada's Imprisonment Rate. *Law & Society Review, 40* (2), 325-367.

Doob, Anthony N. and Jane B. Sprott (2006) Punishing Youth Crime in Canada: The Blind Men and the Elephant. *Punishment and Society, 8* (2), 223-233.

Webster, Cheryl Marie, Anthony N. Doob and Franklin E. Zimring (2006) Proposition 8 and Crime Rates in California: The Case of the Disappearing Deterrent. *Criminology and Public Policy, 5*(3), 417-447.

Doob, Anthony N. and Jane B. Sprott (2006) Assessing Punitiveness in Canadian Youth Justice. *Punishment and Society,* 8 (4), 477-480.

Sprott, Jane B. and Anthony N. Doob. (2006).The Use of Court and Custody under the First Year of the Youth Criminal Justice Act. In Julian V. Roberts and Michelle Grossman (eds.) *Criminal Justice in Canada: A Reader*, (3rd edition) Nelson Publishing.

Webster, Cheryl Marie and Anthony N. Doob (2007). Superior Courts in the Twenty-First Century: An Historical Anachronism? Russell, Peter (editor). *Canada's Trial Courts: Two Tiers or One?* Toronto: University of Toronto Press. Pages 57-84.

Doob, Anthony N. and Jane B. Sprott. (2007). The Sentencing of Aboriginal and Non-Aboriginal Youths: Understanding Local Variation. *Canadian Journal of Criminology and Criminal Justice*, 49, 109-123.

Webster, Cheryl Marie and Anthony N. Doob (2007) Punitive Trends and Stable Imprisonment Rates in Canada. In Tonry, Michael (ed.). *Crime and Justice: A Review of Research.* Volume 36. Chicago: University of Chicago Press. Pages 297-369.

Sprott, Jane B. and Anthony N. Doob. The effect of urban neighbourhood disorder on evaluations of the police and courts. In press, *Crime and Delinquency* (probable publication date: 2008)

- -

Other Papers

Doob, A. N. Self-direction vs. conformity. Review of Melvin L. Kohn: *Class and conformity: A study of values.* In *Contemporary Psychology*, 1970, *15*, 612-614.

Doob, A. N. A new theory? Review of Stuart Palmer: Deviance and conformity: Roles, Situations and Reciprocity. In *Contemporary Psychology*, 1971, *16*, 136-140.

Doob, A. N. Deviance: Society's side show. In *Psychology Today*, 1971, *5*(5), 47-51,113.

Doob, A. N. Evidence of identity and limiting instructions. *Criminal Law Quarterly*, 1973, *15*, 119-122.

Moyer, S. Doob, A. N., and Stewart, V. L. The pre-judicial exercise of discretion and its impact on children: A review of the literature. February, 1975 (368 pages). A report to the Solicitor General of Canada.

Gross, A. E. and Doob, A. N. Some comments on the running of "Status of frustrator as an inhibitor of horn-honking responses". In M. Patricia Golden (ed.) *The Research Experience* (Itasca, Illinois: F. E. Peacock Press, 1976)

Doob, A. N. and Macdonald G. E. The news media and perceptions of violence. In the *Report of the Royal Commission on Violence in the Communications Industry*, Volume 5 "Learning from the media" pages 171-226. (1977)

Doob, A. N. Rules of evidence and laws of behaviour. In Law Society of Upper Canada. *Psychology and the litigation process*. Toronto, 1977.

Doob, A. N. and Chan, J. B. L. The exercise of discretion with juveniles: A study of the Youth Bureau of the Peel Regional Police. A report to the Solicitor General, Canada. (1978) (108 pages)

Doob, A. N. The public's view of the criminal jury trial. In Law Reform Commission of Canada *Studies on the jury*, p. 1-26. Ottawa, 1979.

Doob, A. N. The Canadian juror's view of the criminal jury trial. Law Reform Commission of Canada *Studies on the jury* p. 29-82. Ottawa, 1979.

Doob, A. N. The Canadian trial judges' view of the criminal jury trial. In Law Reform Commission of Canada *Studies on the jury* p. 85-139. Ottawa, 1979.

Doob, A. N. Diversion: Promise and problems. In the proceedings of the Seminaire avancé sur la justice des mineurs. École de criminologie, Université de Montréal. August, 1980.

Doob, A. N. Who goes to court? The second step in the exercise of discretion with juveniles: The police. In the proceedings of the Seminaire avancé sur la justice des mineurs. École de criminologie, Université de Montréal. August, 1980.

Doob, A. N. and Roberts, J. V. The relationship between belief in the usefulness of having firearms in the home for self- protection and other crime related issues. A report for the Firearms Police Centre, Solicitor General, Canada. January, 1982

Doob, A. N. and Roberts, J. V. Crime and official response to crime: the view of the Canadian public. A report to the Department of Justice, Canada. April, 1982.

Dickens, B M., Doob, A. N., Warwick, O. H., and Winegard, W. C. Report of the committee of enquiry into allegations concerning Drs. Linda and Mark Sobell. Toronto: Addiction Research Foundation, October, 1982. (123 pages)

Doob, A. N. and Macfarlane, P. D. The community service order for youthful offenders: Perceptions and effects. A report to the Ministry of Community and Social Services, Ontario. March 1983. (83 pages)

Doob, A. N. and Roberts, J. V. An analysis of the public's view of sentencing. A report to the Department of Justice, Canada. October, 1983. (81 pages)

Doob, A. N. Public perception of crime and punishment and its relationship to recommendations of the Canadian Sentencing Commission. (1987) *Perspectives*

on Corrections, (Published by the John Howard Society of Newfoundland) *2* (2), 29-36.

Doob, A. N. Sentencing and sentencing reform in Canada: Comparing the approaches. A paper prepared for and distributed at the conference on the "Reform of the Criminal Law" (London, England, July 1987)

Doob, A. N. The Canadian Psychological Association and Sentencing Policy: A commentary. Canadian Psychological Association *Highlights*, Winter 1988, p. 4E.

Doob, A. N. Community sanctions as "real" alternatives to imprisonment rather than as supplements to it: A case history of hoping for a miracle but not bothering even to pray for it. A paper prepared for and presented to the Interregional preparatory meeting (on "Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures") for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Vienna, May 1988. (10 pages, single spaced)

Doob, A. N. What are the problems in sentencing and what problems have to be overcome before there can be any real reform of sentencing? A paper prepared for and presented to the conference on "Reform of sentencing, parole, and early release" (10 pages, single spaced) (Ottawa, August 1988)

Doob, A. N. and Brodeur, J.-P. The structure and role of a permanent sentencing commission. Why would one want one anyway. A paper prepared for and distributed to the Conference on Reform of Sentencing, Parole and Early Release. (8 pages single spaced). (Ottawa, August 1988).

Doob, A. N. Review of *Judicial Decision Making, Sentencing Policy, and Numerical Guidance*, by Austin Lovegrove. (New York: Springer-Verlag, 1989) In *Contemporary Sociology*, 1990 (March), *19*(2), 264-5.

Doob, A. N. Public attitudes toward plea bargaining. In *Plea discussions and agreements*. Law Reform Commission of Canada. Working paper 60. Ottawa, 1989. (pages 83-97).

Doob, A.N. Review of *A view from the shadows: The Ministry of the Solicitor General of Canada and the Justice for Victims of Crime Initiative* by Paul Rock. Oxford: Clarendon Press, Oxford University Press, 1986. In *University of Toronto Law Journal*. (1990)

Doob, A. N. A plan for criminal justice research for the Department of Justice, Canada. A paper prepared for the Department, 30 March 1990 (34 pages).

Doob, A. N. and Brodeur, J.-P. Accountability in sentencing. In *Consistency in Sentencing*. A paper prepared for the meeting of Commonwealth Law Ministers

in Christchurch, New Zealand, in April 1990, by members of the Society for the Reform of the Criminal Law. Pages 18-35.

Doob, A. N. and Stenning, P.C. An approach to responding to the aboriginal justice issues in the reference by the Minister of Justice, Canada, to the Law Reform Commission of Canada. Prepared for the Law Reform Commission of Canada, September, 1990. (27 pages).

Brooks, N. and Doob, A. N. Making taxpayer compliance easier: Preliminary findings of a Canadian survey. Prepared for the November 1990 United States Internal Revenue Service Research Conference (Washington, D.C.) on "How do we affect taxpayer behaviour? The case for positive incentives, assistance or enforcement." (14 pages).

Doob, A. N. Report on the "Workshop on collecting race and ethnicity statistics in the criminal justice system." (Centre of Criminology, University of Toronto, November, 1991. 29 pages).

Auger, Donald J., Anthony N. Doob, Raymond P. Auger, and Paul Driben (1991-1992). Four separate papers: *Crime and the Criminal Justice System in Mattagami First Nation, Crime and Justice in Eabametoong First Nation, Crime and the Criminal Justice System in Aroland First Nation, A view of the operation of the Euro-Canadian Criminal Justice System in Fort Albany First Nation.* Thunder Bay, Ontario: Nishnawbe-Aski Legal Services Corporation (30-40 single spaced pages each; 1991-1993)

Auger, Donald J., Anthony N. Doob and Raymond P. Auger *A view of the operation of the Euro-Canadian Criminal Justice System in Pikangikum First Nation.* Thunder Bay, Ontario: Nishnawbe-Aski Legal Services Corporation (32 single spaced pages; 1993)

Auger, Donald J., Anthony N. Doob and Raymond P. Auger *Crime and the Criminal Justice System in the First Nation Communities of Matawa First Nation* (67 single spaced pages; 1993). *Police activity and police decision making in Mushkegowuk Tribal Council Communities* Thunder Bay, Ontario: Nishnawbe-Aski Legal Services Corporation (25 single spaced pages; 1993).

Auger, Donald J., Anthony N. Doob and Raymond P. Auger *Family violence in Matawa Tribal Council Communities*. Thunder Bay, Ontario: Nishnawbe-Aski Legal Services Corporation (30 single spaced pages; 1993).

Doob, A. N. *Understanding crime and criminal justice statistics: Examining the reports of the Canadian Centre for Justice Statistics*. Paper prepared for the Canadian Centre for Justice Statistics. March 1993. (43 pages, single spaced).

Doob, A. N. *The United States Sentencing Commission Guidelines: If you don't know where you are going, you may not get there.* Paper prepared for the Colston

International Sentencing Symposium, University of Bristol (England). April 1993 (45 single spaced pages).

Doob, A. N. The police, policing, and the allocation of resources to each: A report of a workshop. In Doob, A. N. (editor) *Thinking about police resources*. (Research Report of the Centre of Criminology), pages 83-114. Toronto: Centre of Criminology, 1993.

Doob, A. N. Review of *Contempt of Court: The Betrayal of Justice in Canada* (by Carsten Stroud; Macmillan Canada, 1993). In Toronto *Star*, 1 May 1993.

Doob, A. N. and Marinos, Voula *Judges, courts, and racism in the Ontario criminal justice system*. A report to the Commission on Systemic Racism in the Ontario Criminal Justice System. January, 1994. (84 single spaced pages).

Doob, A. N. *Race, bail and imprisonment*. A report to the Commission on Systemic Racism in the Ontario Criminal Justice System. February, 1994. (123 single spaced pages).

Doob, A. N. *Beyond the red book: A workshop on recommendations for amendments to the Young Offenders Act (Final report)*. Centre of Criminology, University of Toronto. March 1994. (28 pages).

Doob, A. N. and Rosemary Gartner. "Some thoughts about crime statistics." Paper prepared for the National Crime Prevention Council and presented at their workshop in October 1994 in Ottawa. (10 pages, single spaced).

Doob, A. N. and Marnie Crouch *Understanding property crime: An examination of break-and-enter and motor vehicle theft victimization in the 1993 Statistics Canada General Social Survey*. (A report prepared for the Insurance Bureau of Canada, November, 1994 (98 pages).

Doob, A. N. Briefs to the House of Commons Standing Committee on Justice and Legal Affairs (September 1994: 9 pages), and to the Senate Committee (March 1995: 6 pages), examining Bill C-37 (An Act to Amend the *Young Offenders Act* and the *Criminal Code*.

Doob, A. N. and Clifford D. Shearing. Creating a climate for criminal law reform: Understanding the difference between justice and security. (19 single spaced page) paper prepared for the Institute for Research in Public Policy. Montreal. October, 1995.

Doob, A. N. "Some comments on achieving compliance with the retail sales tax in Ontario." A brief to the Standing Committee on Public Accounts (appearance: 14 December 1995). (6 single spaced pages).

Doob, A. N. and Clifford D. Shearing "Comments to the *Strict Discipline Task Force* on the development of a strict discipline program for Ontario young offenders." (30 January 1996). (6 single spaced pages).

Doob, A. N. and Dianne Martin "Comments to the Standing Committee on the Administration of Justice (Ontario) on the issue of electronic monitoring and halfway houses." (30 April 1996). (5 single spaced pages).

Doob, A. N. "Performance measures in policing and corrections: Ideas derived from a workshop" (Report to the Ministry of the Solicitor General and Correctional Service, Province of Ontario. October 1996. (19 single spaced pages).

Doob, Anthony N. An examination of the views of defence counsel of wrongful convictions. (A report to the Commission on Proceedings Involving Guy Paul Morin). November, 1997 (20 single spaced pages).

Marinos, Voula and Anthony N. Doob. A preliminary examination of public views of conditional sentences of imprisonment. A report to the Department of Justice, Canada. December 1997. (51 pages).

Doob, Anthony N., Jane B. Sprott, Voula Marinos, and Kimberly N. Varma. *An exploration of Ontario residents' views of crime and the criminal justice system. A report to Operation Springboard.* Published by the Centre of Criminology, University of Toronto, 1998 (61 pages).

Doob, Anthony N., Tom Finlay, and others. *Criminological Highlights*. (An information service produced approximately six times a year highlighting recently published research of special interest). September, 1997 - present.

Community Peace Programme (Cape Town, South Africa) Understanding problems of order in Zweletemba. (Prepared by Julia Ndlovu and A. N. Doob). February 1998, revised November, 1998. (14 pages).

The Canadian Foundation for Children, Youth, and the Law. *The experiences of Phase II Male Young Offenders in Secure Facilities in the Province of Ontario.* Research directed by A.N. Doob and Michelle Peterson-Badali and carried out by Chris Koegl and Carla Cesaroni. Report prepared by A. N. Doob (March 1999: 30 pages).

Roberts, Julian V., Anthony N. Doob, and Voula Marinos. *Judicial attitudes to conditional terms of imprisonment: Results of a national survey.* Report to the Department of Justice, Canada. March 1999. (39 pages).

Doob, Anthony N. Comments made to the Sub-Committee on Corrections and Conditional Release Act of the Standing Committee on Justice and Human Rights (House of Commons, Canada). 13 May 1999. (5 pages single spaced).

Doob, Anthony N. Comments made to the Sub-Committee on the Corrections and Conditional Release Act of the Standing Committee on Justice and Human Rights of the House of Commons, Canada (22 November 1999) on the topic of the "Statutory Release." (4 pages single spaced).

Doob, Anthony N. and Jean-Paul Brodeur. Comments on the proposed *Youth Criminal Justice Act* (Bill C-3) submitted to the House of Commons Standing Committee on Justice and Human Rights. Ottawa: 8 February 2000 [10 pages + 4 (summary and addendum)]

Sprott, Jane B., Jenny Jenkins, and Anthony N. Doob "Early Offending: Understanding the mechanisms that place youth at risk and understanding why some "at risk" youth do not become delinquent." A report to Human Resources Development, Canada. November 2000. (52 pages)

Doob, A. N. and Jane B. Sprott. Fostering respect for the youth justice system. Paper prepared for the Department of Justice, Canada. April 2000.

Sprott, Jane B. and Doob, A. N. The use of custody under S.38 of the *Youth Criminal Justice Act*. Paper prepared for the Department of Justice, Canada. April 2000.

Doob, A. N. and Jane B. Sprott. Protection of society under the *Youth Criminal Justice Act*. Paper prepared for the Department of Justice, Canada. April 2000.

Sprott, Jane B. and A. N. Doob. The "intensive support and supervision" provisions of the *Youth Criminal Justice Act*. Paper prepared for the Department of Justice, Canada. April 2000.

Doob, A. N. and Jane B. Sprott. The "adult sentence" provisions of the *Youth Criminal Justice Act*. Paper prepared for the Department of Justice, Canada. April 2000.

Brodeur, Jean-Paul and Anthony N. Doob. Locking up young offenders for their own good. Paper prepared for the Department of Justice, Canada. (14 single spaced pages). October 2000.

Doob, Anthony N. Criminal justice needs that might be addressed by private sector charitable organizations. A report for the Kahanoff Foundation, Toronto (12 single spaced pages). October 2000.

Doob, Anthony N. and Sprott, Jane B: The public's view of sentences in youth courts: The careful judge's guide to interpreting demands for harsh sentences. Paper prepared for the Department of Justice, Canada. November 2000. (12 single spaced pages)

Doob, Anthony N. Youth court judges' views of the youth justice system: The results of a survey. Report to the Department of Justice, Canada. May 2001. (59 pages).

Doob, Anthony N. Comments on the proposed *Youth Criminal Justice Act* (Bill C-7) submitted to the Senate of Canada Standing Committee examining this bill. Ottawa: 24 October 2001 [7 pages, single spaced].

Doob, Anthony N. and Cheryl Marie Webster. Understanding Public Attitudes About the Criminal Justice System. A report to the Auditor General of Canada. 28 November 2001. (54 pages).

Webster, Cheryl Marie and Anthony N. Doob. A preliminary exploration of adult criminal court data. A report to the Department of Justice, Canada. 18 March 2002. (37 pages).

Webster, Cheryl Marie and Anthony N. Doob. The Superior/Provincial Court Distinction: Historical Anachronism or Rational Allocation of Resources? A report to the Department of Justice, Canada. 14 May 2002. (60 single spaced pages).

Webster, Cheryl Marie and Anthony N. Doob. The Preliminary Inquiry: An Initial Investigation. A report to the Department of Justice, Canada. 30 May 2002. (32 single spaced pages).

Webster, Cheryl Marie and Anthony N. Doob. Times of Concern: A Preliminary Examination of Court Delay in Canadian Provincial Courts. A report to the Department of Justice, Canada. December 2003. (25 single spaced pages).

Doob, A. N. "Speak Harshly, But Carry a Soft Stick." Paper prepared for and circulated to participants at the Universidad de Málaga, Facultad de Derecho, Seminario internacional: Politica Legislativa Penal en Occidente. February 2004.

Webster, Cheryl Marie and Anthony N. Doob. Everything in its Own Time: A Preliminary Examination of Case Processing Time in Canadian Criminal Courts. A report to the Department of Justice, Canada. 22 April 2004. (66 single spaced pages)

Sprott, Jane B., Anthony N. Doob, and Carolyn Greene. An examination of the Toronto Police Service Youth Referral Program. A report to the Department of Justice, Canada. September 2004. (vi + 165 single spaced pages).

Doob, Anthony N. Backlog is Not the Whole Problem: The Determinants of Court Processing Time in Canadian Provincial and Territorial Courts. A report to the Department of Justice, Canada. March 2005. (55 single spaced pages).

Doob, Anthony N. and Sprott, Jane B. The Use of Custody under the *Youth Criminal Justice Act.* (2005) A paper prepared for Youth Justice Policy, Department of Justice, Canada. Available from http://canada.justice.gc.ca/en/ps/yj/research/doob-sprott/pdf/doob-sprott-custody.pdf (30 November 2005)

Sprott, Jane B. and Anthony N. Doob. Understanding Trends in the Use of Youth Court and in the Use of Custody under the *Youth Criminal Justice Act.* A Report to Youth Justice Policy Department of Justice, Canada (15 March 2006)

Doob, Anthony N. and Jane B. Sprott. A Framework for Evaluating the Evidence Related to the Decision Concerning the Renewal of the Service Agreement for the Operation of Central North Correctional Centre. A Report to the Ministry of Community Safety and Correctional Services, Ontario (March 2006).

Doob, Anthony N. The cost of possible increased recidivism at Central North Correctional Centre, Ontario. A Report to the Ministry of Community Safety and Correctional Services, Ontario (April 2006).

Doob, Anthony N. Comments on Bill C-9 (Conditional Sentences of Imprisonment) to The Standing Committee on Justice and Human Rights, House of Commons. Ottawa. 5 October 2006. (5 single spaced pages)

Doob, Anthony N. Understanding the Impact of Mandatory Minimum Sentences. Brief to the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness of the House of Commons, Parliament of Canada. December 2006. (9 single spaced pages).

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Editorial work

Journal of Experimental Social Psychology. Editorial board, 1971-72. Associate editor, 1972-1974. Editor, 1974- 1977. Editorial board, 1978-1987.

Journal of Law and Human Behaviour. Editorial and Advisory Board, 1975-1982.

Journal of Personality and Social Psychology. Editorial board, 1979.

British Journal of Social Psychology. Member of the overseas editorial board, 1979-1983.

Canadian Journal of Behavioural Science. Editorial board, 1982-1985.

Basic and Applied Social Psychology. Editorial board, 1979 - 1990.

Journal of Applied Social Psychology. Editorial board, 1979- 1995.

Crime and Justice: A review of research. Editorial board, 1988-1995.

Criminal Law Forum. Editorial Board, 1989-1992.

Social Behaviour and Personality. Board of consulting editors, 1992-2000.

Canadian Journal of Community Mental Health. Editorial Board, 2000 – 2002.

*Canadian Journal of Criminology and Criminal Justice (*formally the *Canadian Journal of Criminology)*. Editorial Advisory Board, 1995-present

Criminologie. Editorial Board, 1991-present.

Criminal Justice: The International Journal of Policy and Practice. [Renamed *Criminology and Criminal Justice*, February 2006]. Editorial board, 2001-present.

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Other Positions

Department of Psychology, University of Toronto: Undergraduate secretary, 1969-1972. Associate chairman, 1972-1974.

Centre of Criminology, University of Toronto. Director, 1979-1989. Graduate coordinator, 1993-1995. Acting Director, 2001-2.

Law Reform Commission of Canada. Consultant (evidence, criminal jury, sentencing, 1972-1978; Public opinion of plea bargaining, 1988; Aboriginal peoples and the criminal law, 1990).

Social Science Research Council of Canada. (subsequently renamed "Social Science Federation of Canada"). Canadian Psychological Association representative on Committee on Policy and Finance, 1971-1974. Chairman of Committee on Policy and Finance, 1973-1974. Member of the Council 1972-1974. Member of the Research policy Committee, 1974-1977.

Psychology consultant, 1973-1975. Hamilton Publishing company (Division of John Wiley and Sons)

Canadian Psychological Association: Member of the Scientific Affairs Committee, 1973-1978. Member of the Publications Committee, 1976-1978.

Advisory Board of Psychiatric Consultants of the Canadian Penitentiary Service: Member, 1974-75.

American Psychological Association. Member of Ad Hoc Committee on the future of the *Journal of Personality and Social Psychology* 1974-1975). Member of Division 8 (Personality and Social Psychology) Publications Committee, 1973-1975.

Consultant: Time-Life Books, 1975-1976 (for a book on Violence and aggression in their Human Behaviour series).

Canada Council: Member of Consultative Committee on Ethics, 1975-1976.

Addiction Research Foundation of Ontario: Member of the Professional Advisory Board, 1977-1983.

National Research Council. Member of the Advisory Committee on Biosafety. 1977-1978.

Consultant to Bureau of Management Consulting, Supply and Services, Canada, on various projects, 1977-1978.

Task Force on vandalism (Ministry of the Attorney General of Ontario) Research director, 1979-1981.

Research Advisory Committee of the Children's Services Division of the (Ontario) Ministry of Community and Social Services. Member, 1979-1983.

Canadian Police College. Police manager curriculum panel. 1979- 1980.

The Ontario Legal Aid Plan. Member, area committee, York County. 1979-1989.

Canadian Civil Liberties Association. Member of the Board of Directors, 1981-1982. Vice-President, 1982-1984 and 1990-1996. Treasurer, 1984-1990.

Fellow of the Canadian Psychological Association (1983-1995) and the American Psychological Association (1982-1995).

Canadian Centre for Justice Statistics. Member, Programme Advisory Committee for the Courts Programme, 1985-1989.

Canadian Sentencing Commission. Commissioner, 1984-1987.

Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on "Criminal justice policies..." Vienna, 30 May to 3 June 1988. Vice-Chairperson and one of ten experts invited by the Secretary-General.

Nishnawbe-Aski Legal Services Corporation (Thunder Bay, Ontario). Consultant on the assessment of criminal justice problems in NAN communities. 1990-1995.

Expert Advisory Group for the National Longitudinal Survey of Children and Youth (Health and Welfare, Canada and subsequently Human Resources Development, Canada). Member, August 1992 – 1998.

Office of the Auditor General, Canada. Member of the Advisory Committee for the audit of Revenue Canada, Tax Expenditures. 1994. Member of the Advisory Committee for the audit of the National Parole Board, and Community Corrections branch of Correctional Services, Canada. 1994. Member of Advisory Committee for the audit of penitentiary treatment programs, 1995-6. Member of Advisory committee on correctional issues, 1998-9. Consultant on their overview of the criminal justice system, 2001-2002. Member of Advisory Committee on Male Offender Reintegration, 2002 – 2003.

National Center for Juvenile Justice (U.S.A.) Pittsburgh, Pennsylvania. Member of the Board of Fellows, 1995 - present.

Correctional Research and Development Committee of Correctional Service Canada. Member, 1995 - 1997.

Justice for Children and Youth. Member, Board of Directors, 1996 - 2000.

Revenue Canada. Member, Compliance Advisory Committee, 1996-1999.

Correctional Service Canada. Commissioner's Forum. Member, 1997 – 2001.

Community Peace Programme. School of Government, University of the Western Cape. Cape Town, South Africa. Consultant, 1997-1999.

Consultant to Department of Justice, Canada, on the development of the *Youth Criminal Justice Act* May 1998 to March 1999.

National Judicial Institute (Ottawa). Member of planning group for training program for youth court judges with respect to the *Youth Criminal Justice Act*. January, 2000-September 2002.

Legal Aid Ontario. Member, Criminal Law Advisory Committee, 2002- present.

Consultant to Ministry of the Attorney General and the Ministry of Community Safety and Correctional Services, Ontario. Empirical aspects of assessing the effectiveness and efficiency of Ontario's justice system. August 2005-2006.

Consultant to Ministry of the Attorney General, Ontario. "Measuring the Effectiveness and Efficiency of Ontario's Justice System." May 2006- present.