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DEATH IN CAMP DELTA

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EXECUTIVE SUMMARY

On the night of June 9, 2006, three detainees died in a maximum security section of the Guantánamo Bay Detention facility. The military's initial press releases reported not only that the detainees were found hanging in their cells but also that their actions were a conspiracy as part of "asymmetrical warfare" against the United States. At the same time, the military ordered all media off the island and prevented all lawyers from visiting their clients.

Questions immediately arose about how three detainees, under constant supervision, were able to conspire effectively to commit coordinated suicides. The military soon announced that it was conducting an investigation, but the results were not published until more than two years later. In August 2008 a heavily redacted report of the investigation concluded that the detainees had hanged themselves in their cells and that one detainee, while walking the corridors that night, had announced, "tonight's the night."

The investigation, however, leaves many unanswered questions. Three years later it is still unclear how such coordinated conduct could have occurred, much less how heavily supervised detainees could have been dead for more than two hours before they were discovered. Both the time and exact manner of the deaths remain uncertain, and the presence of rags stuffed in the detainees' throats is unexplained. Negligence of the guards seems to have been ruled out by the absence of any disciplinary action by any military personnel. Although some of the guards were formally warned that their original statements were suspected to be false or that they were suspected of failing to follow direct orders, no guard was ultimately charged with either making a false statement or being derelict in his duty.

The following report examines the investigation, not to determine what happened that night, but rather to assess why an investigation into three deaths could have failed to address significant issues. Further, the report raises serious questions that must be addressed to dispose of rumors that have circulated—rumors that the cause of the deaths was more sinister than "asymmetrical warfare."

This report reveals the following facts:

- The original military press releases did not report that the detainees had been dead for more than two hours when they were discovered, nor that rigor mortis had set in by the time of discovery.
- There is no explanation of how three bodies could have hung in cells for at least two hours while the cells were under constant supervision, both by video camera and by guards continually walking the corridors guarding only 28 detainees.
- There is no explanation of how each of the detainees, much less all three, could have done the following: braided a noose by tearing up his sheets and/or clothing, made a mannequin of himself so it would appear to the guards he was asleep in his cell, hung sheets to block vision into the cell—a violation of Standard Operating Procedures, tied his feet together, tied his hands together, hung the noose from the metal mesh of

the cell wall and/or ceiling, climbed up on to the sink, put the noose around his neck and released his weight to result in death by strangulation, hanged until dead and hung for at least two hours completely unnoticed by guards.

- There is no indication that the medics observed anything unusual on the cell block at the time that the detainees were hanging dead in their cells.
- The initial military press releases did not report that, when the detainees' bodies arrived at the clinic, it was determined that each had a rag obstructing his throat.
- There is no explanation of how the supposed acts of “asymmetrical warfare” could have been coordinated by the three detainees, who had been on the same cell block fewer than 72 hours with occupied and unoccupied cells between them and under constant supervision.
- There is no explanation of why the Alpha Block guards were advised that they were suspected of making false statements or failing to obey direct orders.
- There is no explanation of why the guards were ordered not to provide sworn statements about what happened that night.
- There is no explanation of why the government seemed to be unable to determine which guards were on duty that night in Alpha Block.
- There is no explanation of why the guards who brought the bodies to the medics did not tell the medics what had happened to cause the deaths and why the medics never asked how the deaths had occurred.
- There is no explanation of why no one was disciplined for acts or failures to act that night.
- There is no explanation of why the guards on duty in the cell block were not systematically interviewed about the events of the night; why the medics who visited the cell block before the hangings were not interviewed; or why the tower guards, who had the responsibility and ability to observe all activity in the camp, were not interviewed.

As these many unanswered questions suggest, the investigations were themselves contrary, not only to best practices for investigations of serious matters, but also failed to conform to minimum standards in several ways. These include:

- Failure to review relevant information, most of which was easily available including audio and video recordings which are systematically maintained; “Pass-On” books prepared by each shift to describe occurrences on the block for the next shift; the Detainee Information Management System, which contains records of all activity for

that night as the events occur; and Serious Incident Reports, which are the reports used when there are suicide attempts.

- Failure to investigate an alleged conspiracy among detainees to commit suicide, despite the Naval Criminal Investigative Service’s statement that on the night in question another detainee—who did not later commit suicide—walked through the cell block telling people, “tonight’s the night.” There is no indication of how this could have happened given camp security rules or, if it had taken place, why security was not tighter than usual as a result.
- Failure to investigate all available material witnesses who would have had an opportunity to observe what happened that night.

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1. Introduction and Summary of Events and Military Investigations

On June 9, 2006, three detainees died while in custody at Camp 1 of the Guantánamo Bay detention facility. Yassar Talal Al Zahrani, Mani Shaman Turki Al Habardi Al Tabi, and Ali Abdullah Ahmed were each reported to have been found hanging in his cell at approximately 00:20 on June 10. The military conducted several investigations in the aftermath of the incident, producing thousands of pages of material and finally releasing approximately 1,700 pages to the public in August 2008 and April 2009. Despite months of investigation and multiple interviews with guards, medical personnel, and commanding officers, the government does not answer the question of how the detainees could have committed suicide in such a closely guarded, high-security facility.

The military and government reacted swiftly to the deaths. Shortly after Joint Task Force Guantánamo (“JTF-GTMO”) announced the deaths, the Commander of the Guantánamo Naval Forces, Rear Admiral Harry Harris stated, “I believe this was not an act of desperation, but rather an act of asymmetrical warfare waged against us.”¹ Deputy Assistant Secretary of State Colleen Graffy described the deaths as a “good PR move to draw attention” and nothing more than “a tactic to further the jihadi cause.”² Both Harris and Graffy made these statements prior to the completion of any investigation.

Before the last detainee was declared dead, investigators from the Naval Criminal Investigation Service (“NCIS”) began interviewing military personnel who “had any dealings with the response and treatment of the three [dead] detainees.”³ Investigative action continued for several months, but it took more than two years for NCIS to release its findings concluding that the detainees killed themselves by hanging in their cells.

Six weeks after the June 9 deaths, Admiral Harris initiated an investigation into the possible failure of Naval personnel to follow the Standard Operating Procedures (“SOPs”) and how such failures may have related to the detainees’ deaths. Admiral Harris’ report, released publicly in April 2009, found that SOPs were violated and recommended that no disciplinary action be taken. How Admiral Harris reached such conclusions is confusing as the autopsy reports indicate that the detainees were hanging in their cells for at least two hours before guards noticed them that night.

¹ See “Admiral: Gitmo suicides a ‘planned event,’” CNN News, June 11, 2006, <http://www.cnn.com/2006/WORLD/americas/06/10/guantanamo.suicides/index.html?iref=newssearch>; see also “DoD Identifies Guantánamo Detainee Suicides,” June 12, 2006, U.S. Department of Defense, DefenseLINK, <http://www.defenselink.mil/news/newsarticle.aspx?id=16072>.

² See “Guantánamo suicides a ‘PR move,’” BBC News, June 11, 2006, <http://news.bbc.co.uk/2/hi/americas/5069230.stm>.

³ See Naval Criminal Investigative Service, Report of Investigation, 2, http://www.dod.mil/pubs/foi/detainees/death_investigation/NCIS_DeathInvestigativeFiles.pdf [hereinafter NCIS].

A. Summary of Events as Described by the Investigative File

On the night of the deaths, Alpha Block was monitored by guards and videos cameras. Guards observed the detainees at least every 10 minutes while walking the tier. Cells on Alpha Block have one solid wall and three metal mesh sides so that guards on the block, and tower guards outside, are able to see into the cells. The five Alpha Block guards monitored 28 detainees. The three detainees in question were in cells located on the same side of Alpha Block. At least three of the cells in between them were empty.

Accepting the military investigation findings as true and complete, in order to commit suicide by hanging, the detainees must have:

- Braided a noose by tearing up their sheets and/or clothing
- Made mannequins of themselves so it would appear to the guards that they were asleep in their cells
- Hung sheets to block the view into the cells, a violation of SOPs
- Tied their feet together
- Tied their hands together
- Shoved rags in their mouths and down their throats
- Hung the noose from the metal mesh of the cell wall and/or ceiling
- Climbed up on to the sink, put the noose around their necks and released their weight, resulting in death by strangulation
- Hung dead for at least two hours completely unnoticed by guards

SOPs required guards to note movement or to see the detainee's skin while walking the block. This raises many questions as to how three detainees on the same cell block, on the same side of the block, were able to complete the aforementioned acts without any Alpha guards noticing.

Al Zahrani was reportedly discovered hanging in his cell after midnight on June 10. Upon discovery, the Alpha guards did not call the medics to assist, nor did they advise the medical clinic or call for escort guards or any kind of assistance, as required by SOPs. Instead, all five Alpha guards transported Al Zahrani to the medical clinic approximately 100 yards away. According to the autopsy reports, it took about 28 minutes to do so, leaving the cell block completely unguarded while two other detainees hung in their cells. The Alpha guards did not notice two other detainees hanging dead in their cells.

The Alpha guards who brought Al Zahrani to the clinic reported that the doors of the clinic were closed, and they had to knock repeatedly until they were finally admitted. No doctor was on duty that evening, so clinic personnel had to call a doctor to properly attend to the detainee. When they were unable to locate the doctor's telephone number, clinic personnel had to call 911 for medical assistance. During this time the Alpha guards did not explain to the clinic personnel what had happened to the detainee or how he was found, nor did the clinic personnel ask the guards what had happened. Other guards from around the camp who happened to be on or around Alpha block discovered the second hanging detainee. Al Tabi was found in his cell and

brought to the clinic about 10 minutes after Al Zahrani. Minutes later, other guards discovered Ahmed hanging in his cell and brought him to the clinic.

The medics began resuscitation attempts on each detainee after his arrival. According to descriptions from the guards, medics, and autopsy reports, all three detainees were cold to the touch, bluish in color, and in a state of rigor mortis, indicating that each had been dead for more than two hours at the time of discovery. Their eyes were rolled back in their sockets and they had no pulse. Rigor mortis locked their jaws and impeded resuscitation attempts. In the case of one detainee, his jaw had to be pried open with a metal instrument that broke his teeth. At that time, medical personnel discovered that he had a cloth deep in his mouth and down his throat. The same condition was discovered in the other two bodies. The investigations did not explain why the detainees had rags in their throats.

Al Zahrani was subsequently transported to the hospital where he was declared dead at 01:50. Al Tabi and Ahmed were declared dead at the clinic at 01:15 and 01:16, respectively. Immediately after the detainees were declared dead, Admiral Harris arrived at the clinic and praised the medical staff and the guards for the manner in which they had performed, stating that they could not have done anything more to save the detainees.

B. Initial Inquiries by Colonel Bumgarner

On June 10, 2006, Colonel Michael Bumgarner (“Commander”), the commanding officer responsible for the guards at Camp Delta initiated the first investigation into the night’s events. The Commander initially ordered the guards to write sworn statements of what had occurred that night. After they started to do so, however, he countermanded his own order and no statements were ever produced.

All of the witnesses were brought into the conference room to await individual interviews by the commanding officer. The Commander told them to sign their names and to indicate with an asterisk next to their signatures if they had been assigned to Alpha Block. During these interviews, all other witnesses were told to remain in the conference room without talking. The Commander interviewed some of the Alpha guards to discover what happened. He did not take notes or record any names, and subsequently did not remember with whom he had met.

Those interviewed privately by the Commander joined the other witnesses in the conference room to await interviews with NCIS and the Criminal Investigation Task Force (CITF), which began about two hours later. The investigative file contains only brief summaries of these interviews, which were conducted by local NCIS and CITF and appear to be the only interviews conducted before the NCIS investigative team arrived from Miami at about 15:30 that afternoon.

C. The Investigations

From the afternoon of June 10 to the morning of June 14, there is no evidence of any NCIS or CITF interviews. When the investigations resumed, investigators notified each of the Alpha Block guards that he was suspected of having made false statements or failing to obey direct orders. The NCIS and CITF investigative documents do not indicate what allegedly false

statements were, when they were made, or what direct order was disobeyed. The only record of any previous statements made by the Alpha guards was the unrecorded statement taken by the commanding officer in his office early on the morning of June 10 before the NCIS investigation began.

The NCIS and CITF investigators interviewed guards, medics, detainees, and the commanding officer between June 14 and June 20, 2006. The next reported interview was not until 21 days later on July 11, 2006. It is possible that additional information and interviews are contained in the more than 600 missing and completely redacted pages in the combined investigative file. Nevertheless, there is no record of any investigatory body reviewing direct evidence from Camp Delta or Alpha Block from June 9-10, 2006.

The investigations apparently did not review videotapes of the cell block, “pass-on” books, the duty roster for Alpha Block that night, audio recordings, records of detainee transfers from Alpha Block, or medical records from the detainee clinic that night. Furthermore, the investigation did not review records from the tower guards—who would have had a clear view of cell block, records of the camp communication center, or Block Documentation Detainee Information Management Systems (“DIMS”) records of all computer communications between all cell blocks and the Command Center.⁴

The investigative reports did not determine which Alpha guards were assigned to the block, what the Alpha guard shift schedule was for that night, and which Alpha guard was responsible for carrying out specific SOPs that night, including cell checks and headcounts. The investigations also failed to determine what the guards who were in a position to observe and/or prevent the deaths saw or did not see. Various guards and a platoon leader were documented as walking the block from 21:30 to 23:47, but according to the investigation there were no determinations made about what they saw. Finally, no investigation recognized or addressed the fact that the detainees had been dead for hours before they were discovered or the presence of cloth lodged in the mouths and deep down the throats of all three detainees.

D. The Staff Judge Advocate (SJA) Report ordered by Admiral Harris

The NCIS investigation was not tasked with recommending disciplinary proceedings for violations of the SOPs that might have contributed to the deaths. Instead, Admiral Harris appointed an Investigating Officer at least one month after the detainee’s deaths to determine whether there had been any SOPs violations on June 9-10, and if so, whether those violations contributed to the ability of the detainees to commit suicide.

Admiral Harris concluded no disciplinary action was necessary. He stated that even if all SOPs had been followed, it was possible that the detainees still could have committed suicide. Additionally, there was confusion among the guards regarding the SOPs.

⁴ NCIS did attempt to retrieve the 911 logs from June 9-10, 2006; however, the system had a power failure and was not properly reactivated. The system was not in operation from May 3, 2006 until June 10, 2006. NCIS at 926.

E. The Issue

Three men died, and there is little to no explanation of how this could have occurred in a maximum security facility. The investigations do not clarify what occurred that night, nor do they answer basic questions: who, what, where, when, why, and how Al Zahrani, Al Tabi, and Ahmed died.

After NCIS released its initial summary, news media, academics, and other critics questioned the events of that night.⁵ Based on the facts presented in the released documents, a number of questions remain about the events of June 9 and 10.

There is no indication in any of the interviews or statements of any suspicious activity on Alpha Block before the discovery of the bodies. As the Commander himself noted, in past suicide attempts other detainees made it “urgently and loudly known that a detainee was carrying out some type of self-harm.”⁶ No cries were heard from the detainees, and aside from chanting earlier in the day, no other unusual activity was noted that might indicate a suicide attempt. None of the guards or medics on the floor that night noticed any of the detainees hanging dead, although the detainees were hanging for more than two hours before discovery.

The report that follows maps the events of that night as described in statements made in the investigative files and explains the relevant SOP regulations governing the personnel on duty. In doing so, the report documents that the guards who were on duty, other military personnel, and various detainees all made statements that create inconsistencies and questions. This report makes no conclusions regarding what actually transpired on June 9 and 10, 2006.

2. Methodology

The Center for Policy and Research began investigating the government response to the June 10 deaths days after the incident in 2006. On August 21, 2006, the Center published, “June 10th Suicides at Guantánamo: Government Words and Deeds Compared.”⁷ This report profiled the three detainees who committed suicide—Ahmed, Al Zahrani, and Al Tabi—and found that critical information was withheld from the detainees at the time of their deaths.⁸

⁵ See Father of Gitmo Suicide Victim Blames U.S., MSNBC, June 14, 2006, available at <http://www.msnbc.msn.com/id/13300107>; Andy Worthington, Guantanamo Suicide Report: Truth or Travesty?, THE HUFFINGTON POST, Aug. 25, 2008, available at http://www.huffingtonpost.com/andy-worthington/guantanamo-suicide-report_b_121358.html; Anger at US response to suicides, BBC NEWS, June 12, 2006, available at http://news.bbc.co.uk/2/hi/uk_news/5070574.stm; Josh White, How three Guantanamo Bay prisoners killed themselves under guards' noses, STAR TRIBUNE, Aug. 30, 2008, available at http://www.startribune.com/nation/27674259.html?elr=KArksLckD8EQDUoaEyqyP4O:DW3ckUiD3aPc:_Yyc:aU UJ.

⁶ See NCIS at 1063.

⁷ Mark Denbeaux, et al, *June 10th Suicides at Guantánamo: Government Words and Deeds Compared* (2006), available at http://law.shu.edu/publications/guantanamoReports/guantanamo_report_june_suicides_8_21_06.pdf.

⁸ See *id.*

Approximately two and a half years after the incident on August 22, 2008, the Department of Defense (“DOD”) released its official findings statement. Admiral Harris’s report was released the next April. In all, the investigative documents contain more than 1,700 pages.

This report relies primarily upon those documents prepared and released by the United States Government after the June 10, 2006, incident, but also includes public statements of certain high-ranking individuals and official press releases. Some of the documents were released to the public through the Freedom of Information Act (“FOIA”); others the Department of Justice (“DOJ”) and the DOD released voluntarily. Some were leaked. It was not until all of these independent sources were painstakingly compiled that the picture began to take form.

In developing and writing this report, the research fellows at Seton Hall University School of Law’s Center for Policy and Research reviewed and analyzed the investigative files of the June 10, 2006, deaths released by the DOD. These files include reports from the Naval Criminal Investigation Service (“NCIS”), the Criminal Investigation Task Force (“CITF”), US Southern Command (“SOUTHCOM”), the Staff Judge Advocate’s Report (“SJA Report”), and the Armed Forces Medical Examiner’s autopsies of the three men. This report accepts as true all of the information released by the government to the extent that the information is not internally inconsistent.

Since all documents are heavily redacted—names, dates, and other facts are on most pages completely obscured—the Center Research Fellows worked more than six months to deconstruct the investigation, synthesize the information, and construct the events of June 9 and 10. In developing this report, the Center examined the government’s investigative findings by combining separate investigative files using the handwritten page numbers. Then, each interview summary or statement was identified. The names of the interviewees are redacted from the documents, so each interview was labeled and categorized by the date, type of personnel, and contents therein.⁹

This report provides an in-depth look at the SOPs of Camp Delta in the Guantánamo Bay Detention Facility.¹⁰ It then scrutinizes the deaths of the detainees and the subsequent autopsies. Next, the report analyzes the findings of the investigations. Finally, it points out the defects in the investigation.

3. Government Investigation

The investigations of the June 10, 2006, deaths at Camp Delta came to similar conclusions concerning the detainees’ deaths. Each investigation conducted its own interviews but relied on findings from the other investigative files in making its own conclusions.¹¹ The investigative documents are organized with handwritten page numbers; where page numbers are missing from one investigative document, they are found in another investigative document or

⁹ See Appendix A for a list of interviews for each personnel.

¹⁰ The SOPs used in the report are the 2004 Standard Operating Procedures, the latest publicly available edition. The 2005 SOPs were adopted in March of that year and were in place at the time of the suicides.

¹¹ See Table 1, Appendix A for a list of those interviewed and the dates of the interviews.

are redacted entirely. While each investigation began in 2006, the first findings were not released until August 2008, more than two years after the incident. The investigations concluded that the detainees committed suicide in a coordinated act of asymmetrical warfare against the guards in the facility.

A. NCIS Investigation

NCIS is the “primary law enforcement and counterintelligence arm of the United States Department of the Navy.”¹² NCIS has three main strategic objectives: to prevent terrorism, protect secrets, and reduce crime.¹³ In its efforts to prevent terrorism, NCIS is responsible for conducting “suspicious incident investigations and operations aimed at detecting, deterring and disrupting terrorist activities against the Department of the Navy personnel and assets worldwide.”¹⁴ In an attempt to reduce crime, NCIS provides criminal investigations of all major criminal offenses punishable under the Uniform Code of Military Justice that occur within the Department of the Navy.¹⁵

“This is a reactive investigation initiated to determine cause and manner of death...”¹⁶

- NCIS Investigative File

On June 10, 2006, NCIS initiated an investigation into the deaths of detainees Al Zahrani (ISN 093), Al Tabi (ISN 588), and Ahmed (ISN 693).¹⁷ After all three bodies were removed and the death scenes secured, NCIS arrived at Camp 1 to begin its investigation.¹⁸ NCIS conducted interviews with specific personnel involved in the response and treatment of the three detainees.¹⁹ Those interviewed include the Alpha guards, the officers on duty, escort control, guards from other cell blocks, and medical personnel at the Detention (“DET”) Clinic.²⁰ NCIS officials interviewed 16 detainees assigned to Alpha Block; however, it reported that the detainees did not provide any substantive information.²¹ The NCIS investigative file included information from the Armed Forces Institute of Pathology, the institution that performed autopsies on the three detainees.²² NCIS accepted the conclusion from the autopsies that the cause of death for all three victims was hanging, but NCIS fails to address the findings of the autopsies that the bodies had been dead for more than two hours. In addition, the U.S. Army

¹² NCIS, <http://www.ncis.navy.mil/mission/crime.asp>.

¹³ NCIS, <http://www.ncis.navy.mil/mission/crime.asp>.

¹⁴ NCIS, <http://www.ncis.navy.mil/mission/terrorism/counterterr.asp>.

¹⁵ NCIS, <http://www.ncis.navy.mil/mission/terrorism/counterterr.asp>.

¹⁶ NCIS at 62.

¹⁷ NCIS at b.

¹⁸ NCIS at b.

¹⁹ NCIS at b.

²⁰ NCIS at b.

²¹ NCIS at b.

²² NCIS at b.

Criminal Investigation Laboratory (“USACIL”) revealed that Ahmed’s and Al Zahrani’s fingerprints were on apparent suicide notes discovered on the bodies.²³

During the on-site investigations, all paper documents were removed from all detainee cells in the camp. NCIS subsequently established a Filter Litigation Team (“FLT”) to review the seized documents, both to determine whether they were relevant to the investigation and to identify attorney-client privileged information.²⁴ The FLT determined that twelve of the seized documents were relevant to the investigation, none of which were cited in the conclusions of any of the investigations.²⁵

On May 12, 2008, the investigation was closed.²⁶ NCIS issued a press release on August 22, 2008. Its preliminary findings concluded that the three detainees committed suicide by hanging from “braided rope made from bed sheets and tee shirts.”²⁷ They were found inside their cells on Alpha Block of Camp Delta around 00:30 on June 10, 2006, and taken to the DET Clinic.²⁸ The detainees were last seen alive at 22:00 that night.²⁹ Afterwards, Al Zahrani was transported by ambulance to the Naval Hospital.³⁰ He was pronounced dead at the Naval Hospital, while Al Tabi and Ahmed were both pronounced dead at the DET Clinic.³¹ The only evidence of a conspiracy is the statement that “representatives of other law enforcement agencies” reported that on the night of the hangings a detainee had “walked through the cell block telling people ‘tonight’s the night.’”³² On each body, medical personnel found a short written statement indicating the detainees coordinated the effort to rebel against their detainment as martyrs.³³ Lengthier statements were also found in each of their cells.³⁴

B. CITF Report

CITF was established in 2002 by the Department of Defense to conduct investigations of detainees captured in the war on terrorism.³⁵ The organization investigates and builds criminal cases against accused terrorists.³⁶ CITF is comprised of a Joint Task Force made up of members from the Army Criminal Investigation Division (“CID”), NCIS, and the Air Force Office of

²³ NCIS at b.

²⁴ NCIS at b.

²⁵ NCIS at 26; *see also* NCIS at b–c.

²⁶ NCIS at c.

²⁷ NCIS Statement of Findings from Suicide Investigation, 1, available at http://www.dod.mil/pubs/foi/detainees/NCISStatement_Suicide_Investigation.pdf [hereinafter NCIS Statement].

²⁸ NCIS Statement at 1.

²⁹ NCIS Statement at 1.

³⁰ NCIS Statement at 1.

³¹ NCIS Statement at 1.

³² NCIS Summary at 1-2.

³³ NCIS Statement at 1.

³⁴ NCIS Statement at 1.

³⁵ Powlen, Jim, *Criminal Investigation Task Force*, MILITARY POLICE, March 22, 2007 at 1, available at <http://www.wood.army.mil/mpbulletin/pdfs/Spring%2007%20pdfs/Powlen.pdf>. [hereinafter Powlen 2007].

³⁶ Powlen 2007.

Special Investigations (“OSI”).³⁷ The headquarters for CITF is located in Virginia, but “forward-deployed detachments [are located] in Guantánamo Bay, Cuba; Iraq; and Afghanistan.”³⁸

The CITF documents are comprised of various interviews with Alpha Block guards, three guards from other blocks who responded to the scene, various medical staff, and six detainees. In addition, the report includes earlier interviews with Ahmed before his death. For example, one document shows an interview dated September 18, 2003, where Ahmed claimed to be innocent and in detention at Guantánamo by mistake.³⁹ Furthermore, roughly half of the CITF pages are redacted completely, and a review of the documents therein reveals neither a final conclusion nor a set of findings. CITF made no official conclusions regarding its investigation.

C. SOUTHCOM

Located in Miami, Florida, SOUTHCOM is one of the Combatant Commands in the Department of Defense that provides “contingency planning, operations, and security cooperation” for Cuba.⁴⁰ As the umbrella unit for JTF-GTMO, SOUTHCOM was involved in investigation of the three June 10, 2006 deaths.⁴¹

The SOUTHCOM investigative file contains a series of documents that supplement the NCIS and CITF investigative files. Specifically, the SOUTHCOM file includes information regarding the documents confiscated from detainees’ cells and copies of the suicide notes and uncertified translations.⁴² The file contains no conclusions regarding the information collected and examined during its involvement with the investigation.

D. The SJA Report

The SJA Report is the result of an “informal investigation” conducted by Admiral Harris, Commander of the Guantánamo Naval Forces. On July 20, 2006, Admiral Harris appointed an Investigating Officer to look into the June 10, 2006, deaths of the three detainees.⁴³ The investigation focused on whether there were any specific SOP violations on June 9-10, 2006, and if so, whether the violations contributed to the ability of the detainee’s to commit suicide.⁴⁴

³⁷ Powlen 2007.

³⁸ Powlen 2007.

³⁹ Criminal Investigation Task Force, Report of Investigative Activity, 92, available at http://www.dod.mil/pubs/foi/detainees/death_investigation/Dickstein_CITF_docs.pdf [hereinafter CITF].

⁴⁰ United States Southern Command, <http://www.southcom.mil/AppsSC/pages/about.php>.

⁴¹ United States Southern Command, <http://www.southcom.mil/AppsSC/pages/about.php>. See Joint Task Force Guantanamo, <http://www.jtftgmo.southcom.mil>. (“JTF Guantanamo conducts safe, humane, legal and transparent care and custody of detainees, including those convicted by military commission and those ordered released. We conduct intelligence collection, analysis and dissemination for the protection of detainees and personnel working in JTF Guantanamo facilities and in support of the Global War on Terror. We provide support to the Office of Military Commissions and support law enforcement and war crimes investigations.”)

⁴² See e.g. US Southern Command 478-523, 609-48, 665-63, 664-672 [hereinafter SOUTHCOM].

⁴³ Staff Judge Advocate, Investigation initiated by Admiral Harris, 149, available at http://www.dod.mil/pubs/foi/detainees/death_investigation/DicksteinGTMO_SJA_DeathInvestigation.pdf [hereinafter SJA].

⁴⁴ SJA at 4.

Specifically, he ordered the inquiry into two questions that NCIS was not investigating: (1) whether the Camp Delta SOPs were followed by relevant Joint Detention Group (“JDG”) personnel during the overnight hours of June 9-10, 2006; and (2) if the SOPs were not followed, whether that failure contributed to the ability of any of the three detainees to commit suicide on that night. The investigation was completed, and the report was sent to the DOD on September 6, 2006.

In his final endorsement of the investigation, Admiral Harris accepted three of the Investigating Officer’s conclusions and rejected two of the Investigating Officer’s conclusions. The findings of the Harris report revealed that there were six SOP violations; the exact SOPs that were violated are redacted from the file.⁴⁵ The Admiral concluded that the SOP violations were “not insignificant” and the proper JDG procedures should be followed to ensure accountability in the future.⁴⁶ The Admiral accepted that the SOP violations regarding guard coverage may have contributed to the detainees’ “preparation of their suicides.”⁴⁷ The Admiral did not rule out that the SOP violation regarding head counts contributed to the “ability of the detainees to commit suicide.” Admiral Harris further accepted that other SOP violations “potentially contributed to the ability of the detainees to commit suicide; however...it is possible...the detainees could have successfully committed suicide regardless.”⁴⁸

Despite the SOP violations, Admiral Harris concluded that disciplinary action was not warranted. Specifically, he determined that the “permissive environment that persisted within the JDG prior to the suicides” as well as the JDG leadership’s “apparent failure” to address guards’ concerns, created circumstances that did not make disciplinary action necessary.⁴⁹

4. Operation of Camp Delta

The Guantánamo Bay Detention Facility is located on the southern coast of Cuba, inside the Guantánamo Bay Naval Base. Sitting on the shore of the eastern tip of Guantánamo Bay approximately four miles to the east of the naval airfield is Camp Delta, one of three known camps that make up the detention facility.⁵⁰

To ensure total supervision and control of the detainees, Guantánamo Camp Delta is governed by SOPs that are established by the Department of Defense. These guidelines provide “policy, procedures, and responsibilities for the security, administration, and treatment of detainees in custody at Camp Delta.”⁵¹

In addition to physical security measures at the camp, the SOPs create an extremely secure environment where detainees are extensively monitored from the moment they arrive at the Camp. Camp guards are instructed to maintain “continuous presence on the blocks” by

⁴⁵ SJA at 1–2.

⁴⁶ SJA at 2.

⁴⁷ SJA at 1.

⁴⁸ See Appendix D.

⁴⁹ SJA at 2.

⁵⁰ SOP at Appendix D.1 (2003). See Maps of Camp Delta, Appendix B.

⁵¹ SOP 1-1 (a) (2004).

frequently conducting headcounts, cell searches and various other security measures.⁵² Below is a more detailed description of Camp Delta's layout and the specific SOPs governing the guards' conduct.

A. Detained in Maximum Security Facility

Camp Delta contains four smaller camps, numbered 1 through 4, and the DET Clinic.⁵³ Camp 1 sits between Camp 2 to the west and Camp 4 to the east.⁵⁴ Camp 1 is connected to the detainee hospital to the east by a small service road that enters through the main gates of Camp 1.⁵⁵ Camp 1 faces outward toward the Caribbean Sea and, at its closest point, is less than 400 feet from the water.⁵⁶ Each Camp is separately enclosed and surrounded by barbed wire fence.⁵⁷ A sally port is located at the entrance of each Camp, where armed guards maintain access into and out of the camp according to specific procedures.⁵⁸ Sally Ports 4 and 6 control entrance to Camp 1.⁵⁹

Camp 1 consists of ten cell blocks labeled A through J.⁶⁰ Each block contains 48 cells which are lined up into two rows that face each other along a corridor known as the tier.⁶¹ The cells are entirely visible from the tier and are enclosed with mesh metal.⁶²

Within Camp 1, Alpha Block is a maximum security facility that houses detainees who have been placed in segregation for either behavioral reasons or for intelligence purposes.⁶³ Alpha Block is situated between Juliet Block and Bravo Block and is adjacent to Foxtrot Block.⁶⁴ Sally Port 4 has unobstructed views of the entire Alpha Block.⁶⁵

Alpha Block contains individual cells for each detainee.⁶⁶ Each cell is approximately six feet, eight inches by eight feet and consists of a sink, toilet, and cot for sleeping.⁶⁷ On the door of each cell is a "bean hole," which is a small window-like opening where the block guards deliver

⁵² SOP 6-1 (a) (2004).

⁵³ SOP at Appendix D.1 (2003). *See* Maps of Camp Delta, Appendix B.

⁵⁴ SOP at Appendix D.1 (2003). *See* Maps of Camp Delta, Appendix B.

⁵⁵ SOP at Appendix D.1 (2003). *See* Maps of Camp Delta, Appendix B.

⁵⁶ SOP at Appendix D.1 (2003). *See* Maps of Camp Delta, Appendix B.

⁵⁷ SOP at Appendix D.1 (2003). *See* Maps of Camp Delta, Appendix B.

⁵⁸ SOP at Appendix D.1 (2003). *See* Maps of Camp Delta, Appendix B.

⁵⁹ SOP at Appendix D.1 (2003). *See* Maps of Camp Delta, Appendix B.

⁶⁰ SOP at Appendix D.1 (2003). *See* Maps of Camp Delta, Appendix B. *See also* SOP at 6-11 (2004). (The Detention Facility and personnel refer to each block using the NATO Phonetic Alphabet, thus A Block becomes Alpha Block, B becomes Bravo, C becomes Charlie, and so forth).

⁶¹ SOP 2-2 (2004).

⁶² *See* Appendix C for pictures of the cells.

⁶³ SOP 2-2(c) (2004).

⁶⁴ SOP at Appendix D.1 (2003). *See* Maps of Camp Delta, Appendix B.

⁶⁵ SOP at Appendix D.1 (2003). *See* Maps of Camp Delta, Appendix B.

⁶⁶ SOP 2-2 (2004).

⁶⁷ *See* Appendix C.

meals to the detainees and perform shackling and medical checks.⁶⁸ In the rear of each cell is a small window allowing for some natural light.⁶⁹

Camp 1 in Guantánamo is a secure facility under constant surveillance. In addition to the guards who patrol the cell blocks, there are several other security measures in place designed to ensure that the camp is watched at all times. Camp 1 has six guard towers posted around its perimeter.⁷⁰ The guard towers look directly onto the cells of each of the blocks and monitor any and all movement throughout the camps.⁷¹ The Sally Ports regulate access to all persons entering or exiting the camp and are each staffed by one guard.

Entrance to Camp Delta is made through the Detention Operations Center (“DOC”), the headquarters of the camp. The DOC oversees all detention and security operations. “It is from here that all detainee movements are directed, controlled, and accounted for; that all keys are controlled and accounted for; where entry and exit of all detainees are accounted for and where emergency equipment is stored.”⁷² The DOC regulates visitation and limits access to the facility to persons with a valid reason.⁷³ Every aspect of Camp Delta is under the complete control of the DOC and guard personnel.

B. Standard Operating Procedures

The SOPs are the guidelines for all camp personnel in carrying out daily activities. Camp personnel are not only required to follow these procedures but also to “sign a statement of understanding/acknowledgement that they have read and will adhere to all SOP provisions for Camp Delta.”⁷⁴

1. Chain of Command

The SOPs delineate the chain of command for the camp, headed by the Commander of the Joint Detention Operations Group (“CJDOG”) who has overall responsibility for the Camp. The on-duty Commanding Officer (“CO”) is in charge of Camp Delta and reports to the CJDOG.⁷⁵ The CO is responsible for the day-to-day care, custody, control, discipline, safety, and welfare of all detainees.⁷⁶ In addition, the CO is responsible for the conduct and discipline of the guard force personnel.⁷⁷

⁶⁸ SOP 6-6 (2004).

⁶⁹ SOP 6-26 (2004).

⁷⁰ SOP at Appendix D.1 (2003). *See* Maps of Camp Delta, Appendix B.

⁷¹ SOP at Appendix D.1 (2003). *See* Maps of Camp Delta, Appendix B.

⁷² SOP 2-7 (a) (2004).

⁷³ SOP 2-7 (c) (2004).

⁷⁴ SOP at 1-1 (e) (2004).

⁷⁵ SOP at 2-4 (c) (2004).

⁷⁶ SOP at 2-4 (c) (2004).

⁷⁷ SOP at 2-4 (c) (2004).

There are two Platoon Leaders (“PLs”) on duty for each shift, who report to the CO and assist in the day-to-day operation of the camp.⁷⁸ Below the PLs are the Sergeants of the Guard (“SOGs”).⁷⁹

The SOGs are responsible for the care, conduct, and safety of the guard force. They enforce accountability, control, safety, care, and humane treatment of detainees; ensure that all personnel perform their assigned duties and tasks to standard and adhere to the Camp Delta SOP[s].⁸⁰

During each shift, a Block Non-Commissioned Officer (“NCO”) is assigned to each block and reports to the SOG for his or her respective camp. The Block NCO “supervises all guards assigned to the block and is responsible for all aspects of custody and control, care, shelter, feeding, and treatment of all detainees housed in the cell block.”⁸¹

In addition to the line of command dealing with actual detention, the Escort Control personnel are responsible for the movement of detainees and personnel throughout the camp.⁸² The Escort Control NCO reports directly to the DOC.⁸³

2. Constant Supervision

All detainee movement is highly secure. Whenever a detainee is removed from his cell, the SOPs require that he wear three-piece restraints to prevent escape as well as self-injury.⁸⁴ In addition to the restraints, the detainee is accompanied by a team of escorts whenever he is moved outside the cell.⁸⁵ Each time a detainee is moved, the Escort Guards must go through an extensive checklist.⁸⁶ This checklist includes notifying all relevant officers and personnel involved, logging the start and stop times of detainee movement, and securing the detainee once he has been escorted to his destination.⁸⁷ Furthermore, there are differing sets of procedures depending on whether the detainee is being moved for intelligence reasons or medical reasons.⁸⁸ The purpose of this is to ensure that any and all detainee activity is kept under constant surveillance and security.

⁷⁸ SOP at 2-4 (d) (2004).

⁷⁹ SOP 2-4 (e) (2004).

⁸⁰ SOP 2-4 (e) (2004).

⁸¹ SOP 2-4 (f) (2004).

⁸² SOP 2-4 (g) (2004).

⁸³ SOP 2-4 (g) (2004).

⁸⁴ SOP 19-1 (a) (2004).

⁸⁵ SOP 11-1 (2004).

⁸⁶ SOP 11-4 (2004).

⁸⁷ SOP 11-4 (2004).

⁸⁸ SOP 11-4 (2004).

*“There must be a continuous presence on the blocks by the guards. At no time should the block not have a guard walking up and down the block.”*⁸⁹

- SOP 6-1(d) (2004)

In addition to constantly walking the block, the SOPs also mandate headcounts to be conducted at least every three hours to account for every detainee on the cell block.⁹⁰ The guard conducting the headcount must compare the Internment Serial Number (“ISN”) number on the ID bracelet with the ISN number on the Alpha roster, as well as the picture on the ID bracelet to the detainee himself.⁹¹ Headcounts are to be done at the start of every shift, and the DOC calls for an additional three randomly-timed headcounts throughout the remainder of the shift.⁹² “The most time between headcounts is three hours.”⁹³ A block guard must observe skin or movement for every detainee on the block every ten minutes even during the overnight hours while detainees sleep.⁹⁴ The headcounts are entered into the DIMS, noting which guard conducted the headcount and the results.⁹⁵ “Midnight shift will conduct [a] visual search of the cells and [the] detainees every ten minutes by walking through the block.”⁹⁶ The midnight searches must also be noted in the pass-on book and all unusual activity must be documented.⁹⁷

Detainees are subject to intense intelligence-gathering operations.⁹⁸ Not only are the detainees routinely interrogated by Counterintelligence Agents but they are also constantly watched by the guards themselves, who are then required to fill out various forms documenting any suspicious activity or disturbances.⁹⁹

3. Security Response Force

The Immediate Response Force (“IRF”) is a five member team “intended to be used primarily as a forced cell extraction team, specializing in the extraction of a detainee who is combative, resistive, or if the possibility of a weapon is in the cell at the time of the extraction.”¹⁰⁰ The IRF team may also be called in during a self-harm incident.¹⁰¹ When the IRF team is used, the SOPs require the SOG or PL to ensure that a video camera operator documents

⁸⁹ SOP 6-1(d) (2004).

⁹⁰ SOP 6-2 (2004).

⁹¹ SOP 6-2 (2004).

⁹² SOP 6-2 (f) (2004).

⁹³ SOP 6-2 (f) (2004).

⁹⁴ SOP 6-2 (g) (2004).

⁹⁵ SJA at 22.

⁹⁶ SOP 6-3 (2004).

⁹⁷ SOP 6-3 (2004).

⁹⁸ SOP 14-1-14-13 (2004).

⁹⁹ SOP 14-13 (2004).

¹⁰⁰ SOP 24-7 (2004).

¹⁰¹ SOP 24-7 (2004).

the entire incident.¹⁰² After the incident, the SOPs call for a Serious Incident Report to be completed and submitted to the CJDOG, along with the video and copies of statements, all to be kept as evidence.¹⁰³

4. SOP Compliance Mandatory at All Times

The guards' knowledge and execution of the SOPs is central to the camp's security mission.

Security is a series of checks and balances performed at various levels both internal and external to the facility. It requires all personnel to continually maintain an effective working knowledge of rules, regulations, and special orders; maintain constant vigilance throughout their daily duties; review/evaluate procedures and initiate recommendations to proper authority for improvements.¹⁰⁴

The guards are required to maintain a “[f]air, firm, and impartial enforcement of rules and regulations” in order to facilitate control of the detainees.¹⁰⁵ The guards are required to sign a document stating that they are familiar with all the provisions of the SOPs.

The SOPs also state that “[t]his policy is punitive in that a violation of any provision of this policy may provide a basis for appropriate administrative or judicial/disciplinary action under the Uniform Code of Military Justice (UCMJ), or appropriate military/civilian personnel regulations, ejection from Camp Delta, and/or denial of entry.”¹⁰⁶ Therefore, should any portion of the SOPs be violated, the perpetrator is subject to disciplinary action.

5. The Deaths

The three deaths are alleged to be coordinated suicides despite the intensive security and protective measures of the Camp. The detainees were dead for “at least” two hours before discovery according to the government medical examiner.¹⁰⁷ All detainees were reportedly alive or accounted for at 22:00 on June 9, 2006, according to the NCIS Statement of Findings, and found dead between 00:20 and 00:45.¹⁰⁸ Assuming the victims were deceased for the minimum amount of time possible according to the medical examiner, the detainees had 20 to 36 minutes to simultaneously complete their suicides. None of the three detainees' cells was adjacent to any other.

¹⁰² SOP 24-7 (2004).

¹⁰³ SOP 24-9 (2004).

¹⁰⁴ SOP 6-1 (c) (2004).

¹⁰⁵ SOP 6-1 (a) (2004).

¹⁰⁶ SOP 1-1 (d) (2004).

¹⁰⁷ Autopsy Report for ISN 588 at 28; Autopsy Report for 693 at 19.

¹⁰⁸ NCIS at 965; NCIS Statement at 1; Autopsy Report for ISN 093 at 1; Autopsy Report for 693 at 12; Autopsy Report for 588 at 22.

A. What the Detainees had to do to Commit Suicide by Hanging

According to government investigations, the detainees had “apparently taken their own lives by hanging themselves with braided rope made from bed sheets and tee shirts.”¹⁰⁹ Each detainee reportedly had a cloth mask around his face and cloth stuffed in his mouth and down his throat, with his hands and feet bound together.¹¹⁰

Despite strict SOPs stating that detainees may only hang items to dry no higher than half way up the cell walls, the guard statements allege that they were unable to see the detainees hanging as sheets and blankets were arranged to obstruct their view.¹¹¹ According to SOPs, “[d]etainees may only hang wet clothing and linen items in cell windows so that they may dry. Once dry, they must be removed.”¹¹²

*“Blankets or sheets may be temporarily hung up, no higher than half way up the cell walls, to provide privacy while using the toilet. Once the detainee has completed using the toilet, the blankets and sheets must be taken down.”*¹¹³

- SOP 6-21(d) (2004)

Based on the government reports, each detainee individually must have performed a series of ten tasks to create the opportunity to hang himself. Then, each detainee had to hang in his cell long enough to die—all without a single guard noticing.

To successfully hang himself, each detainee had to (in no certain order):

1. Tear, braid, and twist cloth into nooses¹¹⁴
2. Push his mattress up against the cell wall facing the tier¹¹⁵
3. Hang up sheets blocking the guards’ view into his cells¹¹⁶
4. Create a mannequin of his body under sheets and/or blankets on his bunks¹¹⁷
5. Tie his feet together¹¹⁸
6. Tie his hands together¹¹⁹
7. Stuff cloth in his mouth and down his throat¹²⁰

¹⁰⁹ NCIS Statement at 1.

¹¹⁰ NCIS at 938, 950, 966, 975.

¹¹¹ SOP 6-21(d) (2004). NCIS at 950, 975, 1039, 990, 966.

¹¹² SOP 6-21 (d) (2004).

¹¹³ SOP 6-21 (d) (2004).

¹¹⁴ NCIS at 958, 966, 1024, 1031, 1039; CITF at 34, 41, 44, 47. Blankets and sheets are comfort items. It is unclear why two of the detainees (693 and 588) would have these comfort items for good behavior after they just were taken off force feeding procedures for refusing to eat. (NCIS at 1062).

¹¹⁵ NCIS at 950, 958; CITF at 37.

¹¹⁶ NCIS at 946, 949, 958, 965; CITF at 31, 34, 37, 44, 45, 47. SOP 6-21 (d) (2004).

¹¹⁷ NCIS at 1062.

¹¹⁸ NCIS at 950.

¹¹⁹ NCIS at 950, 958, 975, 1091, 1094; CITF at 34, 44, 45.

8. Wrap his face and head in cloth to make a mask¹²¹
9. Hang a noose from the top of the cell wall¹²²
10. Step up onto the ledge of the sink and step off the edge¹²³

The government describes this as the manner in which the detainees disguised their cells and successfully hanged themselves without guards detecting an incident of self-harm.

B. Description of the Corpses

The guards who reported discovering the detainees' bodies after midnight reported that they were found hanging in their cells with their feet dangling just off the ground.¹²⁴ The hands and feet of each detainee was bound, a mask covered each detainee's face, and rags were lodged in each of their mouths and down their throats.¹²⁵ Guards and medical personnel similarly described each of the bodies as having the following conditions:

- Rigor mortis¹²⁶
- Cool or cold to the touch¹²⁷
- Blue feet and extremities¹²⁸
- Stiff¹²⁹
- Jaw clenched¹³⁰
- Not breathing¹³¹
- Abrasion around the neck¹³²
- Fixed or dilated pupils¹³³

Upon arrival at the clinic, the automated external defibrillator (AED) did not detect a shockable rhythm.¹³⁴ The medical personnel tried to pry the detainees' jaws open to remove the

¹²⁰ NCIS at 938, 950, 959, 966, 975, 1073, 1079, 1091, 1093, 1097; CITF at 32, 49, 50. The investigative reports and the autopsies provided no explanation for why the three detainees each had cloths in their mouths and deep in their throats.

¹²¹ NCIS at 946, 950, 966, 975; CITF at 32, 34, 37, 41.

¹²² NCIS at 975; CITF at 32, 34, 37, 45. *See* 2004 SOP at 6.9 (Hanging anything from the ceiling is in violation of the SOPs.)

¹²³ NCIS at 1004 (noting that "ISN-693 was suspended approximately six (6) inches from the deck. No part of his body was in contact with the deck"; NCIS at 1031 ("I saw the detainee's feet off the ground approximately one and a half inches with no shoes on"); NCIS at 950 ("The detainee was suspended above the floor on the side of the cell..."); NCIS at 975 ("...I saw the detainee hanging fully suspended off the floor of his cell"). *See also* CITF at 45 (in which one guard stated that he "saw ISN 093 hanging from the ceiling").

¹²⁴ NCIS at 950, 991, 1004.

¹²⁵ NCIS at 950, 975, 938, 966, 1073-74, 1025, 958, 1024, 1079, 1091.

¹²⁶ NCIS at 1071, 1078-9.

¹²⁷ NCIS at 1071, 984, 943, 1019.

¹²⁸ NCIS at 950, 974, 984, 943, 1019, 1073, 1024.

¹²⁹ NCIS at 1070, 1073, 1024.

¹³⁰ NCIS at 1071, 1085, 1079, 1073.

¹³¹ NCIS at 1078, 1068, 1092.

¹³² NCIS at 1071, 1085, 1004.

¹³³ NCIS at 1070, 1108, 1003, 1024.

¹³⁴ NCIS at 1070, 1078, 1097, 1080, 1091.

cloth.¹³⁵ In one instance, the medics broke at least one of the detainee's teeth during the attempt.¹³⁶ The medical personnel performed CPR on each of the three detainees for as long as 30 minutes.¹³⁷ Both Al Tabi and Ahmed were declared dead at 01:15 according to the guard statements.¹³⁸

According to the accounts reported in the NCIS and CITF investigations, not one of the three detainees exhibited any sign of life from the moment they were discovered, throughout the medical response, until they were declared dead at the clinic or the hospital.¹³⁹ Each detainee is described as having an airway obstructed by a piece of cloth and bound hands, feet, and neck. These facts are not explained by the investigations.

Because no doctor was on staff at the time of his arrival, Al Zahrani was transported to the Naval Hospital.¹⁴⁰ During the ride, the medics finally removed the cloth wrapped around the detainee's neck, which caused the detainee to "expel[] blood from his nose and mouth."¹⁴¹ At the hospital, the medics continued attempts to revive Al Zahrani for approximately one hour, after which he was declared dead at 01:50.¹⁴²

C. Autopsies

The Armed Forces Institute of Pathology conducted autopsies on each detainee on June 10, 2006, the day of their reported deaths. The autopsies report that each detainee was discovered at approximately 00:20.¹⁴³ The detainees' bodies began arriving at the clinic 28 minutes after discovery.¹⁴⁴ All three had arrived by 00:58.¹⁴⁵ The autopsy report for each detainee lists the manner of death as suicide by hanging.¹⁴⁶ The evidence of hanging is based upon the ligature that was found wrapped around each detainee's neck and the circumferential dried abrasion furrow around the neck.¹⁴⁷ The furrow is described as being imprinted with the very fine weave pattern of the ligature, creating an inverted "V" on the back of the head consistent with a hanging victim.¹⁴⁸

The autopsy report describes the detainees' condition at the time of discovery as "in rigor mortis."¹⁴⁹ Rigor mortis is considered to be an indication of death and no amount of resuscitation

¹³⁵ NCIS at 1071, 1085.

¹³⁶ NCIS at 1091.

¹³⁷ NCIS at 1070, 1078, 1097, 1094, 1091.

¹³⁸ NCIS at 1069, 1079.

¹³⁹ NCIS at 1068. One medic described ISN 588 as having a faint pulse, but no other medic confirmed this.

¹⁴⁰ NCIS at 1071.

¹⁴¹ NCIS at 1103.

¹⁴² NCIS at 1016-17, 1113.

¹⁴³ Autopsy Report for ISN 093 at 1; Autopsy Report for ISN 588 at 22; Autopsy Report for ISN 693 at 12.

¹⁴⁴ Autopsy Report for ISN 093 at 1.

¹⁴⁵ Autopsy Report for ISN 693 at 12; Autopsy Report for ISN 588 at 22.

¹⁴⁶ Autopsy Report for ISN 093 at 1; Autopsy Report for ISN 588 at 22; Autopsy Report for ISN 693 at 12.

¹⁴⁷ Autopsy Report for ISN 093 at 4; Autopsy Report for ISN 588 at 25; Autopsy Report for ISN 693 at 15.

¹⁴⁸ Oxford American Dictionary, Herald Colleges Edition, 1980 ("A long cut in the ground made by a plow or other implement. 2. A groove resembling this, a deep wrinkle in the skin.").

¹⁴⁹ Autopsy Report for ISN 093 at 4; Autopsy Report for ISN 588 at 22; Autopsy Report for ISN 693 at 12.

offered after it sets in will be effective.¹⁵⁰ Both autopsy reports for Al Tabi and Ahmed state that the detainees were dead at least two hours prior to discovery.¹⁵¹ The autopsy of Ahmed also revealed a broken hyoid bone.¹⁵² The hyoid is located within the neck and is a distinct sign of manual strangulation when broken.¹⁵³

Lifesaving attempts used on the detainees included a nasal airway, an oral-gastric tube, an orally-placed endotracheal tube, an intravenous catheter, a urinary bladder catheter, and multiple electrocardiogram pads on their chests.¹⁵⁴

D. Estimated Time of Death

By the accounts of the medical examiner, all three detainees were dead and hanging in their cells for an extended period of time without being noticed. The medical examiner from the Armed Forces Institute of Pathology concludes that detainees Al Tabi and Ahmed were deceased for “at least a couple hours prior to the discovery.”¹⁵⁵ The medical examiner did not include a similar time frame for Al Zahrani, although the condition of his body was similar to that of the other two deceased detainees. Descriptions of the condition of the bodies upon discovery indicate that they were deceased for more than two hours.

1. Dried Abrasion Furrow

The government’s SJA Report contains an essay written by Dr. Dean Hawley, a Professor of Pathology at Indiana University and an expert in the field of strangulation and asphyxiation deaths.¹⁵⁶ The essay describes the creation of ligature abrasions on a hanging victim:

External injury including the dramatic “rope burns” or ligature abrasions only occur after the body has been suspended for several hours after death. If the ligature is released at the moment of death, there will be no mark in the skin. Leave the body hang[ing] suspended by the ligature for a few hours, and a very dramatic furrow and ligature abrasion will develop post-mortem.¹⁵⁷

According to Dr. Hawley’s explanation, the presence of dried abrasion furrows on each of the detainees’ necks indicates that they were hanging post-mortem for several hours.

¹⁵⁰ Richard W. O. Beebe & Deborah L. Fink, *Fundamentals of Emergency Care* 37 (Delmar 10th ed. 2001). [Hereinafter Fink]

¹⁵¹ Autopsy Report for ISN 588 at 28; Autopsy Report for ISN 693 at 19.

¹⁵² Autopsy Report for ISN 693 at 13.

¹⁵³ Clinically Oriented Anatomy, 6th Ed. by Keith L. Moore, Arthur F. Dalley II, Anne M. R. Agur.

¹⁵⁴ Autopsy Report for ISN 093 at 3; Autopsy Report for ISN 588 at 24; Autopsy Report for ISN 693 at 14-15.

¹⁵⁵ Autopsy Report for ISN 693 at 19; Autopsy report for 588 at 28.

¹⁵⁶ SJA at 223.

¹⁵⁷ SJA at 226.

2. Rigor Mortis

Rigor mortis is the stiffening of the body after death.¹⁵⁸ Rigor mortis normally presents itself between two and four hours after death and fully develops after more than six and up to twelve hours.¹⁵⁹ It first manifests itself in the small muscles, such as the eyelids and jaw, and then gradually it spreads to larger muscle groups.¹⁶⁰

The guards and medics describe all three detainees as stiff with rigor.¹⁶¹ Not only had rigor mortis set in the detainees' small facial muscles, but their limbs were also described as being stiff.¹⁶² Such an advanced level of rigor mortis indicates that the detainees were dead for significantly longer than two hours, all the while under continuous guard presence.¹⁶³

3. Body Temperature

The post-mortem body cools at an average rate of 1.5 degrees per hour during normal air temperatures of 70 to 75 degrees Fahrenheit.¹⁶⁴ The rate of cooling can be affected by air temperature. The closer one's body temperature is to the air temperature surrounding the body, the slower the rate of change in body temperature.¹⁶⁵

Each of the detainees was described as "cold to the touch" by no fewer than four camp personnel.¹⁶⁶ The warm climate of Guantánamo would have slowed the body's rate of cooling. The coldness of the bodies indicates that the bodies were hanging for a long period of time.

4. Hang Time

As described in the preceding paragraphs, there is medical evidence the detainees were hanging in their cells for a significant period of time. It is unclear how the detainees had been hanging for such a period of time when the camp's security is predicated on procedures that the guards must follow while monitoring the detainees. "Custody and control measures maintain good order and discipline and protect the welfare of all personnel and detainees alike."¹⁶⁷

¹⁵⁸ Forensic Pathology at 27.

¹⁵⁹ Forensic Pathology at 26.

¹⁶⁰ Forensic Pathology at 26.

¹⁶¹ NCIS at 1070, 1071, 1078-9.

¹⁶² NCIS at 1070, 1073, 1024.

¹⁶³ SOP 6-2 (f) (2004). ("A headcount will be conducted at the start of each guard shift. The DOC will then call for an additional three randomly timed headcounts throughout the guard shift. The most time between headcounts is three hours.")

¹⁶⁴ Forensic Pathology at 26.

¹⁶⁵ Forensic Pathology at 27.

¹⁶⁶ NCIS at 950, 1073, 1024.

¹⁶⁷ SOP 6-1 (a) (2004).

*“There must be a continuous presence on the blocks by the guards. At no time should the block not have a guard walking up and down the block.”*¹⁶⁸

- SOP 6-1(d) (2004)

The SOPs demand that the guards maintain a heightened level of vigilance and alertness while watching the detainees. “Supervision of detainees consists of much more than observing detainee conduct and activity. Supervision includes searching the detainee’s person, his billeting areas, conducting counts, conducting night inspections of billeting areas, and maintaining a high level of alertness to prevent escapes, violence, sexual incidents, or other disturbances.”¹⁶⁹ To effectively supervise the detainees, the guards must maintain a “continuous presence” on the blocks.¹⁷⁰

5. Summary

The government medical examiners concluded that two of the three victims, Al Tabi and Ahmed, were deceased for at least two hours.¹⁷¹ The government’s experts, its research of the science of pathology, and its physical descriptions of the bodies, each indicate that all three victims were dead for several hours or more upon discovery. Accepting the minimum time that the government’s examiner believes the detainees were dead, the three men hung in their cells, while under continuous surveillance, for two hours.

6. June 9 and 10, 2006

The NCIS, CITF, and SJA investigations concluded that three detainees died in their cells on Alpha Block. The interviews from the investigations recount a series of events that occurred after the guards came on duty the night of June 9, including what the guards were doing before discovering the bodies, how they discovered the bodies, and the events that occurred after the detainees were found and pronounced dead.¹⁷²

The investigations focused on Alpha guards, including their officers, and medical personnel. In addition, the investigations included interviews of detainees, Escort Control, other officers, and six other guards not assigned to Alpha Block. Although there are hundreds of pages of interviews and information, it is impossible to discern who was responsible for walking the block when the detainees died or for failing to notice the detainees hanging for two hours. The investigation did not examine the duty roster for the night.¹⁷³

¹⁶⁸ SOP 6-1(d) (2004).

¹⁶⁹ SOP 6-1 (b) (2004). Billeting is military parlance for the lodging area assigned to each detainee.

¹⁷⁰ SOP 6-1 (d) (2004).

¹⁷¹ Autopsy Report for 693 at 18; Autopsy Report for 588 at 28.

¹⁷² See Appendix D and E.

¹⁷³ The duty roster is formally called “Guard Shift Manning Roster.” SOP 5-3(f) (2004).

Because the personnel are unnamed in the investigations, each person is labeled for reference purposes according to his or her position and given a number. For example, Alpha guards are referred to as AG1, AG2, AG3, and AG4.¹⁷⁴ The following timeline of events was created from all interviews provided in the NCIS and CITF investigations. NCIS and CITF interviewed several other guards not on duty on Alpha block that night but who witnessed some of the events that occurred.¹⁷⁵ Some parts of the statements by personnel not assigned to Alpha corroborate some aspects of the Alpha guards' statements. Due to their importance—and the amount of detail they contain—the Alpha Guard statements are cited more than others.

A. Climate of the Camp

“...[O]n the night in question, another detainee (who did not later commit suicide) had walked through the cell block telling people ‘tonight’s the night.’”¹⁷⁶

- NCIS Statement of Findings

In the weeks leading up to the three deaths, the guards and officers were on high alert. According to NCIS, there had been 44 reported suicide attempts prior to June 9, 2006, and more recent events including a detainee riot on May 18, 2006, increased the need for special vigilance.¹⁷⁷

Higher authorities sent out messages to guards on May 28 and May 30, 2006, to warn that a violent act might take place in the future and held trainings in order to teach appropriate procedures and “to reiterate the seriousness of the threat[s].”¹⁷⁸ In an interview with Fox News commentator Bill O’Reilly just a day before the deaths, the Commander stated that “the detainees were planning something more violent.”¹⁷⁹

¹⁷⁴ See Appendix A.

¹⁷⁵ See Appendices E, F, and G for more information regarding the contents of the interviews.

¹⁷⁶ NCIS Statement at 2.

¹⁷⁷ NCIS at 462. See William Branigin, *Six Gitmo Inmates Hurt in Fight With Guards*, THE WASHINGTON POST, May 19, 2006, available at <http://www.washingtonpost.com/wp-dyn/content/article/2006/05/19/AR2006051900605.html> (On May 18, 2006, the some detainees rioted against the guards by feigning suicide to lure guards into their cells and then attack them with make-shift weapons. Two days before the incident, two detainees attempted to commit suicide by taking large quantities of medication they hoarded.). See, e.g., SJA at 135 (noting that “[t]here was always a general level of threat of suicide in the camp however, the weeks before the Alpha Block incident the threat level was HIGH. This was due to intelligence leading the command to believe an incident of a mass self harm was eminent [sic]”); See also NCIS at 1063.

¹⁷⁸ NCIS at 1063; SJA at 135.

¹⁷⁹ NCIS at 1063.

B. Emergency Procedures

Camp Delta has a series of procedural codes for dealing with medical emergencies such as attempted suicide or self-harm.¹⁸⁰ First, the guard must call a “Code Blue,” meaning the detainee has no heartbeat and/or respiration and requires immediate medical care, triggering a response from a variety of personnel.¹⁸¹ Guard responsibilities in the event of a Code Blue include:

- Radio the location of the incident and identify it as a “Code Blue,”¹⁸²
- Request medical assistance at the location of the incident directly from the medical personnel,¹⁸³
- Render medical care in accordance with their level of training until medical personnel arrive.¹⁸⁴

The DOC will dispatch administrative personnel with video cameras and Escort Control guards to assist with the transport to the clinic.¹⁸⁵

The block NCO then ensures that at least one person continues to walk the tier, observes the other detainees, and secures the cell after the detainee is removed to prevent tampering with potential evidence.¹⁸⁶ Then, the NCO must fill out a DA Form 2823 regarding the incident and ensure that all other guards complete a form.¹⁸⁷ The Commander must also fill out a similar report following the incident.¹⁸⁸

C. Actions of the Guards, Medics, and Detainees Prior to Discovery of the Bodies

“There must be a continuous presence on the blocks by the guards. At no time should the block not have a guard walking up and down the block.”¹⁸⁹

- SOP 6-1(d) (2004)

In Alpha Block, cells A-8, A-12, and A-5 are located on the left side of the tier; on the night in question, cell A-5 was separated from cell A-8 by two empty cells, and cell A-8 was

¹⁸⁰ SOP 19-6 (a) (2004).

¹⁸¹ SOP 19-6 (c) (2004).

¹⁸² SOP 19-6 (c) (1) (a) (2004).

¹⁸³ SOP 19-6 (c) (1) (a) - (b) (2004).

¹⁸⁴ SOP 19-6 (c) (1) (c) (2004).

¹⁸⁵ SOP 32-1 (e) (4) - (5) (2004).

¹⁸⁶ SOP 32-1 (e) (4);(8) (2004).

¹⁸⁷ SOP 32-1 (e) (10) (2004).; *see also* SOP 6-15 (d)(2)(2004). (DA Form 2823 is a sworn statement in which the person completing it recounts exactly what occurred during the reported incident.)

¹⁸⁸ SOP 32-1 (g) (2004).

¹⁸⁹ SOP 6-1(d) (2004).

separated from cell A-12 by one empty cell and two occupied cells.¹⁹⁰ At 22:00, the lights were shut off on the side of the block where all three cells were located, so that it would be darker while the detainees slept.¹⁹¹ At this time the guards were to walk the block in half hour intervals.¹⁹²

Those in charge that night included the Commander, Camp 1 PL, and the SOG.¹⁹³ Escort Control guards were also on duty.¹⁹⁴ Alpha Block staffed five guards, including the NCO or block leader.¹⁹⁵ Colonel Bumgarner served as the warden of Guantánamo Bay and was the Commander of the Joint Detention Group at Camp Delta from April 2005 to June 2006.¹⁹⁶ He was “responsible for a guard force of more than 1000 individuals whose mission is to provide safe care and custody to all detainees.”¹⁹⁷ He also oversaw the implementation and development of the SOPs.¹⁹⁸

Admiral Harris commanded the Joint Task Force Guantánamo (JTF GITMO) from March 2006 to May 2007.¹⁹⁹ He previously served as the Director of the Information, Plans, and Security Division for the staff of the Chief of Naval Operations where he was responsible for Navy operations and anti-terrorism/force protection policy.²⁰⁰

The June 9, 2006 day shift proceeded normally on Alpha Block.²⁰¹ The night shift reported for their assignments at approximately 17:15.²⁰² Like other nights, the guards performed a headcount of the detainees at the start of the shift at 18:00.²⁰³ The guards then served dinner to the detainees.²⁰⁴ Afterwards, the detainees had a call to prayer and sang until around 21:30.²⁰⁵ During this time, the DOC sent a headcount request to be entered into the DIMS system.²⁰⁶ The headcount reported that 28 detainees were “present” and/or “accounted for” and that five guards were present on Alpha Block.²⁰⁷

¹⁹⁰ SJA at 11.

¹⁹¹ SJA at 14; NCIS at 1056.

¹⁹² SJA at 14.

¹⁹³ SJA at 19–20.

¹⁹⁴ SJA at 20.

¹⁹⁵ NCIS at 1061; CITF at 35.

¹⁹⁶ Tim Golden, *The Battle for Guantánamo*, THE NEW YORK TIMES MAGAZINE, Sept. 17, 2006, available at <http://www.nytimes.com/2006/09/17/magazine/17guantanamo.html?pagewanted=all>. At the time of the suicides, Colonel Bumgarner had more than 24 years of experience as a military police officer. *Id.*

¹⁹⁷ NCIS at 1054.

¹⁹⁸ NCIS at 1054, 1056.

¹⁹⁹ United States Navy Biography: Admiral Harris, <http://www.navy.mil/navydata/bios/bio.asp?bioID=136>.

Following his tenure at JTF GITMO, Admiral Harris served as the Director of Operations for SOUTHCOM. *Id.*

²⁰⁰ *Id.*

²⁰¹ NCIS at 993.

²⁰² NCIS at 964.

²⁰³ NCIS at 957; *See* NCIS at 982 (states headcount was requested at 17:35).

²⁰⁴ NCIS at 973, 948, 982; CITF at 36.

²⁰⁵ NCIS at 949, 965; CITF at 36.

²⁰⁶ The guard interviews note the headcount request occurred at 20:17. NCIS at 974, 949. However, the SJA report states that the headcount was ordered at 20:04. SJA at 12.

²⁰⁷ SJA at 12; CITF at 36.

All the detainees were last seen alive around 21:30 that night, according to the Alpha guard interviews.²⁰⁸ At that time, an Alpha guard was specifically assigned to walk the block.²⁰⁹ That person was not identified.

[Redacted] stated he walked the block between 2330 and 2400 or 0000 to 0030... ”²¹⁰

- Name redacted

At 23:00, AG2 walked the block with the PL.²¹¹ At this time other guards did a walk-through of the block, as well.²¹² The DOC ordered a DIMS headcount at 23:35, which recorded that at 23:50, 28 detainees were “present” and “accounted for” and five guards were present on Alpha Block.²¹³

“At 2350...a headcount was conducted...”²¹⁴

- Name redacted

No guard noted anything suspicious while on duty at that time. Medical personnel also walked the block between 21:37 and 21:49 handing out medication to the detainees and reported nothing unusual.²¹⁵

On June 10, 2006, AG1 reported beginning his shift to walk the block at 00:00.²¹⁶ Shortly thereafter, AG3 traded shifts with AG1, and AG1 returned to the guard shack while AG3 took over the duty of walking the block.²¹⁷ AG3 reported entering Alpha Block around 00:36 to take over that half-hour shift.²¹⁸ Shortly thereafter, he discovered Al Zahrani.²¹⁹

²⁰⁸ NCIS at 965 (Alpha Guard 2 was “positive that all three detainees were alive when [she] completed sweeping”). Although the NCIS Statement of Findings states that all detainees were alive at 22:00, the interviews only confirm that the latest the detainees were seen alive is 21:30.

²⁰⁹ NCIS at 958.

²¹⁰ NCIS at 921.

²¹¹ SJA at 33; NCIS at 965; CITF at 35.

²¹² NCIS at 965.

²¹³ SJA at 14-15; *see also* NCIS at 950 (No guard reports knowing who conducted the headcount at this time.).

²¹⁴ NCIS at 921.

²¹⁵ NCIS at 1084; *see also* NCIS at 1093, 1088.

²¹⁶ NCIS at 958; CITF at 31.

²¹⁷ NCIS at 958; CITF at 31.

²¹⁸ NCIS at 974; CITF at 36.

²¹⁹ NCIS at 974; CITF at 36.

*“[O]ther detainees make it urgently and loudly known that a detainee was carrying out some type of self-harm.”*²²⁰

- Name redacted

Prior to that time, there is no indication that either the guards or the other detainees observed anything unusual. In past detainee self-harm attempts, “other detainees make it urgently and loudly known that a detainee was carrying out some type of self-harm.”²²¹ Despite their ability to see into other cells, no detainee alerted the guards to any acts of self-harm that night, nor did the guards, who were on high alert, notice anything unusual that night.

D. Discovery of the Bodies According Guard Statements

According to guard interviews obtained by the investigation, at 00:00, AG1 walked the cell block and reportedly continued without noticing any suspicious activity.²²²

AG3 came on the block at 00:36-00:37, asked to trade half-hour shifts with AG1, and took over the guard duty on the block.²²³ AG3 began walking down one side of the tier, checking cells.²²⁴ When AG3 arrived at cell A-8, at approximately 00:40-00:45, he tried to locate Al Zahrani but was unable to do so.²²⁵ AG3 went to the guard shack for assistance, where AG1, AG2 and the Block NCO were present.²²⁶ AG3 entered the guard shack and asked AG1 to come look at a cell; AG1 followed him to cell A-8.²²⁷ Upon calling his name, the detainee did not respond.²²⁸ At this point, AG1 went to the guard shack to get someone whose name is redacted from the file.²²⁹

According to AG2’s report, she returned to the guard shack around 23:40 (according to NCIS) or 00:40 (according to CITF).²³⁰ Two minutes later AG1 ran in shouting that he thought Al Zahrani was attempting self-harm.²³¹ The NCO tapped on the bean hole to get Al Zahrani’s attention.²³² When he could not obtain a response from him, the NCO opened the bean hole and tugged on the detainee’s blanket until it came off the bunk, revealing a comfort items arranged to look like a body.²³³ AG2 unlocked a neighboring cell, A-7, and jumped on the bed to get a visual

²²⁰ NCIS at 1063.

²²¹ NCIS at 1063.

²²² NCIS at 958.

²²³ CITF at 36.

²²⁴ NCIS at 974; CITF at 37.

²²⁵ NCIS at 975; CITF at 37.

²²⁶ NCIS at 965; *see also* CITF at 34; NCIS at 950.

²²⁷ NCIS at 958.

²²⁸ NCIS at 958.

²²⁹ NCIS at 958.

²³⁰ NCIS at 965. CITF at 34.

²³¹ NCIS at 958, 965.

²³² NCIS at 950.

²³³ NCIS at 950.

of Al Zahrani.²³⁴ From A-7 another guard was able to push the sheet aside to see Al Zahrani hanging.²³⁵

“There were white sheets crammed in his mouth and he appeared blue and lifeless.”²³⁶

- Name redacted

Someone (name redacted) went outside Alpha Block to peer into cell A-8 from the outside rear window and started yelling, “[H]e’s hanging, he’s hanging.”²³⁷ AG2 unlocked A-8 and entered the cell along with AG1, AG3, and the NCO.²³⁸ Al Zahrani was hanging behind blankets with a sheet wrapped around his neck and his hands were bound together.²³⁹

Someone shackled his arms, and AG1 and AG2 both reported shackling his legs.²⁴⁰ AG3 recalls that zip ties were used on Al Zahrani’s wrists and ankles instead of shackles.²⁴¹

The NCO tried to pull the cloth lodged in the detainee’s mouth and throat.²⁴² AG1 and the NCO both tried to obtain a pulse, but there was none.²⁴³ The detainee looked dead, and it appeared as if rigor mortis had set in.²⁴⁴ The guards placed Al Zahrani on a backboard and transported him to the medical clinic.²⁴⁵

The SOG and PL arrived on Alpha Block as military personnel were bringing Al Zahrani out of cell A-8.²⁴⁶ The PL went to the guard shack and called the DOC requesting a medical response; no medical response ever occurred.²⁴⁷

As noted above, the proper SOP required the guards to call a “Code Blue” which refers to a critical life-threatening medical condition, such as where the detainee is not breathing or has no heartbeat.²⁴⁸ The steps for a “Code Blue” call were not taken on June 9-10, according to government documents.

²³⁴ NCIS at 966.

²³⁵ NCIS at 966.

²³⁶ NCIS at 950, 959, 975.

²³⁷ NCIS at 975, 950; *see also* CITF at 37; CITF at 969 (“At this time, some of the detainees had awoken from the noise and were saying, ‘Shhh! Quiet!’”)

²³⁸ NCIS at 966, 950, 975, 958.

²³⁹ NCIS at 950, 958.

²⁴⁰ NCIS at 966.

²⁴¹ NCIS at 975.

²⁴² NCIS at 950, 966.

²⁴³ NCIS at 966.

²⁴⁴ NCIS at 959, 966.

²⁴⁵ NCIS at 950, 959, 975, 983.

²⁴⁶ NCIS at 941, 943, 938.

²⁴⁷ NCIS at 938. NCIS at 943.

²⁴⁸ SOP 32-1(a) (2004).

That night, however, the four block guards, the NCO, and the Platoon leader all transported Al Zahrani to the medical clinic.²⁴⁹ There are no reports of any guards left on the tier at that time. Instead of checking cells, the SOG went back to the NCO shack.²⁵⁰ The IRF Guard, who went to Alpha Block on his NCO's orders as the Alpha guards carried Al Zahrani to the clinic, described that for that moment "the block was empty of guards because they were all attending to ISN 93."²⁵¹ According to the government investigation, no one noticed that there were any other detainees hanging dead in their cells.

Shortly after hearing of the first incident with Al Zahrani, the primary IRF guard waited for the call for the IRF team to respond; no such call came, nor did any other IRF guards run to get their gear from the station.²⁵²

Subsequently, other guards discovered Al Tabi hanging in his cell. A few minutes later Ahmed was found in similar state. The Alpha guards arrived back on the block at this time.²⁵³ AG2 unlocked the door to A-12 and found Al Tabi's body hidden behind a sheet.²⁵⁴ The other detainees on the block "were awake and verbally communicating" at this time.²⁵⁵

Al Tabi's condition, as described by the guards, included signs of rigor mortis, blue feet, and cold extremities.²⁵⁶ A makeshift rope was tied around his neck, and "what looked like a t-shirt...cut up to make sort of a mask" was wrapped around his face.²⁵⁷ Escort Control 2 checked Al Tabi's pulse, but "detected no signs of life."²⁵⁸ Guard 3, Guard 1, and Escort Control 4 all arrived to assist the IRF guard and AG4 to take him off of the tier and to the clinic.²⁵⁹

Observing the commotion from the tier, the SOG called the tower to have the sally gate opened.²⁶⁰ After returning from the clinic, AG1 inspected the block but was not immediately able to locate Ahmed in cell A-5.²⁶¹ When found, Ahmed had material around "at least one wrist" and "cloth material around his neck."²⁶² Escort Control 5 was "immediately struck with how deep the indentation [from the rope around his neck] was."²⁶³ His body was "blue" and "stiff"

²⁴⁹ NCIS at 938, 959, 966, 975, 984, 1032.

²⁵⁰ NCIS at 943.

²⁵¹ NCIS at 1038-1039.

²⁵² NCIS at 1038. The SOPs state that IRF teams are generally supposed to be used in these situations although it is not always required. "If the detainee's condition is or becoming life threatening, and only two to three block guards are available, they [can] form an entry team and enter the cell to secure and attend to the detainee. The guards do not have to wait for the IRF team, they can take immediate action if the block NCO, according to his/her best judgment, deems he/she can control the situation to secure and safeguard the detainee." SOP 32-1 (d) (2004).

²⁵³ NCIS at 966, 975, 959, 950.

²⁵⁴ NCIS at 966.

²⁵⁵ CTF at 1044.

²⁵⁶ NCIS at 942, 984.

²⁵⁷ NCIS at 991; *see* NCIS at 1039.

²⁵⁸ NCIS at 1003.

²⁵⁹ NCIS at 1042, 1032, 1019, 984, 1039.

²⁶⁰ NCIS at 944.

²⁶¹ NCIS at 959.

²⁶² NCIS at 1024.

²⁶³ NCIS at 1024.

yet still “pliable.”²⁶⁴ Once strapped to a backboard, Escort Control 5, Escort Control 6, and Escort Control 2 took Ahmed to the clinic.²⁶⁵

Before being transported to the DET clinic, each of the detainees’ bodies was shackled as per the SOPs and put on a backboard. All four Alpha guards and the Alpha Block NCO left their post unattended to transport Al Zahrani to the medical clinic.²⁶⁶

1. Medical Response for Al Zahrani

Around 00:40, a nurse at the DET Clinic received a call that a detainee with no pulse was being brought to the clinic.²⁶⁷ “Normal operating procedures state that [medical personnel] respond to the cell for medical care.”²⁶⁸ Non-medical personnel delivered the detainee to the clinic.²⁶⁹ According to statements the guards made that night, the medics did not know that the bodies were coming, the condition of the bodies, or the cause of death.

The guards described the medics as completely unprepared for and unaware of the emergency situation.²⁷⁰ The guards had to knock on the doors to get into the DET Clinic, and once inside, the “medical personnel were just standing around at first,” unsure of how to proceed.²⁷¹ Personnel walked around casually and slowly putting on their blouses.²⁷² The doctors were coming out of different rooms and “did not administer care to [Al Zahrani] for approximately two to three minutes.”²⁷³

“The corpsman trying to call the doctor on call could not find the number, so I stepped away from the detainee to call 911...”²⁷⁴

- Name redacted

²⁶⁴ NCIS at 1024, 1044.

²⁶⁵ NCIS at 1044, 1024, 1004.

²⁶⁶ NCIS at 959, 966, 975, 984.

²⁶⁷ NCIS at 1068; *see* NCIS at 1073 (00:30-00:35); NCIS at 1070 (00:43).

²⁶⁸ NCIS at 1068.

²⁶⁹ NCIS at 1068. This assessment conflicts with the autopsy report which states that it took the guards 28 minutes to remove 093 from his cell and transport him to the clinic. Autopsy Report for ISN 093 at 1.

³⁴² NCIS at 959 (“Once we arrived at the medical unit, it appeared as if the medical personnel were not prepared. Some of them had their blouse tops off and they scrambled out of different rooms. We placed him on a bed while a female Captain put her blouse on. REDACTED stayed at the medical unit and we all went back to the block.”); NCIS at 966 (“We transported 93 to medical and when we got there we pounded on the door. I opened the door and screamed ‘we got something serious’. People were casually walking out of random rooms and slowly putting on their stab vests and blouses. They didn’t even know what room to put him in. They appeared to be more interested in just looking at him than trying to help. I told them they needed to remove the rag from his mouth and that we had already tried. REDACTED told us to get back to Alpha Block.”).

²⁷¹ NCIS at 950, 975.

²⁷² NCIS at 966, 984.

²⁷³ NCIS at 984.

²⁷⁴ NCIS at 1070.

The medics' descriptions confirmed the guards' reports that the detainees were unresponsive, cold, and stiff, with fixed dilated pupils and a locked jaw.²⁷⁵ Statements from medical personnel reported that the medics responded promptly by administering CPR, hooking up an IV, and getting the AED set up, in accordance with the SOPs. Further, the medics had to pry the detainees' mouths open in order to insert tubes.²⁷⁶

During this time no doctor was present at the scene.²⁷⁷ The medics had to call 911 to get a doctor because the corpsman could not find his number at the clinic.²⁷⁸

*"There was material jammed into his mouth."*²⁷⁹

- Name redacted

*"I told them they needed to remove the rag from his mouth and that we had already tried."*²⁸⁰

- Name redacted

An ambulance arrived to take Al Zahrani to the Naval Hospital located on the edge of Camp Delta.²⁸¹ While en route, the EMTs discovered that cloth was lodged in Al Zahrani's mouth and throat, blocking his airway.²⁸² One medic reported that his heart was beating during the ambulance ride;²⁸³ however, no other interview confirms that his heart was beating at any time. About halfway through the ride, the detainee began expelling "thick and orange" blood from his mouth.²⁸⁴ The medics then noticed a piece of material wrapped several times around his neck, though they were never able to cut all the way through it.²⁸⁵ The commanding officer of the hospital pronounced Al Zahrani dead at 01:50.²⁸⁶

²⁷⁵ CITF at 1049.

²⁷⁶ NCIS at 1070, 1073. Medical SOP 68: Emergency Medical Treatment SOP at 15-17.

²⁷⁷ NCIS at 1070.

²⁷⁸ NCIS at 1070-1071. *See also* NCIS at 920 (NCIS investigators were not able to retrieve the logs for the JTF-GTMO medical emergency call on June 10, 2006. "[REDACTED] determined the recording system had experienced a power failure and had not be reactivated properly.").

²⁷⁹ NCIS at 975.

²⁸⁰ NCIS at 966.

²⁸¹ NCIS at 1071; *Contra* CITF at 49, 50 (stating Al Zahrani was pronounced dead at 01:05 prior to his transport to the Naval Hospital.). Upon arrival, the two EMTs went into the clinic to get detainee 093. The nurse interviewed on page 1081 was asked to drive the ambulance to the clinic while the EMTs worked on the detainee. No explanation was provided as to why the nurse drove the ambulance to the clinic or whether the nurse was qualified to drive the ambulance.

²⁸² NCIS at 1103. The detainee also "began expelling blood from his nose and mouth" when the material was cut away from his neck.

²⁸³ SJA at 118-19 ("When the corpsman checked the first set of vitals in the ambulance, he said the detainee's heart was beating, and I observed this on the monitor. But I am not sure if his heart was beating on its own or if we were doing it. The heart beat was up and down the whole way to the hospital").

²⁸⁴ SJA at 119; *see also* NCIS at 998.

²⁸⁵ SJA at 119

²⁸⁶ NCIS at 1113.

2. Medical Response for Al Tabi and Ahmed

Guards and Escort Control arrived at the DET Clinic with Al Tabi when personnel began taking Al Zahrani to the ambulance just before 01:00.²⁸⁷ Ahmed arrived shortly thereafter.²⁸⁸ No guards told the medics how the detainees were found.²⁸⁹

“The[n] he tried to tube him but we could not get his jaw open. REDACTED used a lyroscope...blade, which is made of metal, to pry the detainee’s mouth open and in doing so broke some of the detainee’s teeth. Once the mouth was open we saw that there was a big piece of cloth lodged in the back of the detainee’s mouth. REDACTED extracted it with the forceps and it appeared to take a good amount of force to get it out. Once it was out I saw that it was folded repeatedly on itself and nearly as big as a wash cloth that was folded once in half.”²⁹⁰

- Night Shift Team Leader at the DET clinic

The detainees’ mouths were shut so tightly that medics were unable to pry them open to clear the airway.²⁹¹ The doctor had to use a special instrument to open each detainee’s mouth.²⁹² Two combat camera personnel filmed two detainees with digital camcorders but “Colonel B told them to stop fairly quickly.”²⁹³

After a half hour of administering CPR, the Senior Medical Officer (SMO) pronounced Al Tabi dead at 01:15.²⁹⁴ Ahmed received CPR for about forty-five minutes, after which a doctor arrived and tried to intubate him.²⁹⁵ Ahmed was also pronounced dead at 01:15.²⁹⁶

3. Aftermath

Admiral Harris arrived at around 01:00 and called the medics into a meeting to give them a “pep talk” and praise their efforts, stating the detainees were most likely dead on arrival.²⁹⁷

²⁸⁷ NCIS at 1070–71, 1073.

²⁸⁸ NCIS at 1069.

²⁸⁹ NCIS at 1079 (“I never heard anyone describe how the detainees were found.”).

²⁹⁰ NCIS at 1079.

²⁹¹ NCIS at 1025, 1020.

²⁹² NCIS at 1044.

²⁹³ SJA at 118; NCIS at 998; *See* NCIS at 1004 (“Someone called for a combat camera. I am combat camera qualified so I volunteered to videotape the event. I ran the video camera for approximately two (2) minutes until I was instructed by [REDACTED] to halt taping”). The SOPs also require that the DOC “dispatch the admin [sic] personnel with the camera, extra disks and extra battery to the incident site” in the event of an attempted self-harm. SOP 32-1 (e)(4) (2004).

²⁹⁴ NCIS at 1069; CITF at 49.

²⁹⁵ NCIS at 1044.

²⁹⁶ NCIS at 1079; CITF at 49.

This meeting occurred before the Al Tabi and Ahmed were declared dead at 01:15.²⁹⁸ At that time two Escort Control guards were assigned to monitor their bodies.²⁹⁹ Between 02:00 and 03:00, both a chaplain and a cultural advisor came to and then left the clinic.³⁰⁰ Local NCIS and CITF agents arrived shortly thereafter.³⁰¹ Sometime before 06:00, the bodies were transported to the morgue.³⁰² The medical staff was relieved at 06:30.³⁰³

E. Pre-Investigation Intervention

“[P]rior to finishing his report [of the incident], he was instructed to simply wait within the JDG conference room, where he was told someone would come and interview him.”³⁰⁴

- Alpha Guard

After the detainees’ bodies had been found and transported, the Commander, Colonel Bumgarner, ordered all guards involved in the incident to the JDG conference room in Building 1 at approximately 01:10.³⁰⁵ First, they were told to write 2823 sworn statements as mandated by the SOPs.³⁰⁶ Then, they were told not to write the 2823 statements; those who had begun writing their statements, as per the SOPs, were told to stop and go to the JDG conference room.³⁰⁷ Others never began to write their statements.

The investigation does not contain any 2823 sworn statements. Based on the nature of the incident on June 9-10, 2006, it is unclear why the Commander did not have the guards, medics, and others involved fill out sworn statements. The SOP’s require that 2823 sworn statements must be made for all such incidents immediately upon the happening of the event.³⁰⁸

²⁹⁷ NCIS at 1092, 1081, 1060, 1069; *see also* NCIS 1079 (Guard recalling that “[t]he admiral and some other people came in. The admiral gathered us all up and gave a little pep talk and debrief where he praised our efforts and said that the detainees had been trying to commit suicide for a long time”).

²⁹⁸ NCIS at 1069, 1079.

²⁹⁹ NCIS at 1004, 1020.

³⁰⁰ NCIS at 1094, 1101.

³⁰¹ NCIS at 1086, 1101.

³⁰² NCIS at 1094.

³⁰³ NCIS at 1089.

³⁰⁴ CITF at 41.

³⁰⁵ CITF at 41, 45, 47; NCIS 1004, 1026. This is prior to ISN 093 being declared dead, which was stated as early as 0105 hours (CITF at 49) to as late as 0210 hours (NCIS at 1074.)

³⁰⁶ CITF at 41; NCIS at 944.

³⁰⁷ CITF at 41; NCIS at 944. The SOP that mandates this procedure is 32-1 (2004).

³⁰⁸ SOP 32-1 (2004).

“I pulled three or four guards from Alpha block into my office to find out what had happened and put together a series of events.”³⁰⁹

- Colonel Bumgarner

Colonel Bumgarner gathered everyone involved into the conference room.³¹⁰ He then told everyone to sit and ordered all the guards to sign a roster and to indicate with an asterisk if they had been assigned to Alpha Block that night.³¹¹

The Commander called Alpha guards aside “to put together the series of events.”³¹² He spoke with each Alpha Block guard for approximately four or five minutes.³¹³ Although he reports that he knew what each guard looked like, he did not know their names.³¹⁴ While he was certain that five people were on duty the night of June 9, 2006, “nobody could tell [him] at that time who walked the tier prior to discovering the first detainee.”³¹⁵

At about 02:00 hours, the Commander left the guards in the conference room so that he could brief another officer.³¹⁶ Local NCIS, CITF, and FBI representatives arrived sometime later.³¹⁷ Colonel Bumgarner briefed the representatives on what he knew and instructed all personnel in the room to speak with NCIS.³¹⁸ He then went back to Alpha Block to look at the cells where the reported suicides occurred.³¹⁹ Investigative representatives, who arrived on the scene around the same time, subsequently interviewed some guards.³²⁰

F. Colonel Bumgarner’s and Admiral Harris’ Statements

On June 9, 2006, Colonel Bumgarner gave an interview to Fox News personality, Bill O’Reilly, who was at Guantánamo filming a special for his show, *The O’Reilly Factor*.³²¹ During the course of the interview, Colonel Bumgarner painted a strikingly significant picture of Camp Delta. He stated that he believed an Al Qaeda cell was operating from inside the camp.³²² He

³⁰⁹ NCIS at 1061.

³¹⁰ NCIS at 1061.

³¹¹ NCIS at 1013, 1061.

³¹² NCIS at 1061.

³¹³ NCIS at 1061.

³¹⁴ NCIS at 1061.

³¹⁵ NCIS at 1061.

³¹⁶ NCIS at 1061.

³¹⁷ NCIS at 1061.

³¹⁸ NCIS at 1061.

³¹⁹ NCIS at 1061-62.

³²⁰ NCIS at 1061, 1017, 1020, 991, 944.

³²¹ NCIS at 1063.

³²² Col. Michael Bumgarner, Interview with Bill O’Reilly, June 9, 2006, *available at* <http://www.foxnews.com/story/0,2933,199439,00.html>.

affirmed that the detainees had attacked the guards previously and would attack guards again if given the chance.³²³

“Make no mistake bit [sic], they will cut your throat in a heartbeat. Make no mistake about it”³²⁴

- Colonel Bumgarner

After the alleged suicides, Colonel Bumgarner provided a statement on June 17, 2006, recounting his and Admiral Harris’s involvement in the night’s events.³²⁵ In his 11-page statement, he described his concern that the detainees were becoming more violent and the steps taken to ensure that the guards took appropriate precautions.³²⁶

Colonel Bumgarner reports that on June 9, 2006, he spent the night at Admiral Harris’s home.³²⁷ At 00:48, the DOC called him to the Camp, and he immediately drove to the DET Clinic, following the ambulance into the Camp.³²⁸ Before he left, however, he called Admiral Harris to inform him that a suicide attempt had occurred.³²⁹ There was no doctor at the clinic when he arrived; only guards and medical personnel attended to the three lifeless detainees.³³⁰ Again, Colonel Bumgarner called Admiral Harris; this time stating he believed all three were dead.³³¹ After the second detainee was declared dead at 01:16, Colonel Bumgarner notified the Joint Operations Center (“JOC”) of the deaths, and Admiral Harris arrived minutes later.³³²

Colonel Bumgarner did not know how the detainees had died but he did notice the indentations on Al Tabi’s and Ahmed’s necks.³³³

“...[T]he Admiral gave a pep talk to medical staff as they all appeared very despondent....”³³⁴

- Colonel Bumgarner

³²³ Col. Michael Bumgarner, Interview with Bill O’Reilly, June 9, 2006, *available at* <http://www.foxnews.com/story/0,2933,199439,00.html>.

³²⁴ Col. Michael Bumgarner, Interview with Bill O’Reilly, June 9, 2006, *available at* <http://www.foxnews.com/story/0,2933,199439,00.html>.

³²⁵ NCIS at 1054-1064.

³²⁶ NCIS at 1063.

³²⁷ NCIS at 1059.

³²⁸ NCIS at 1059.

³²⁹ NCIS at 1059.

³³⁰ NCIS at 1059.

³³¹ NCIS at 1059.

³³² NCIS at 1060.

³³³ NCIS at 1060 (“While I suspected that had all been [sic] found hanging, I told the Admiral [sic] was not sure if they had been found hanging, but I pointed out the ligature marks on each detainee, and the material that had [REDACTED] of ISN 588...”).

³³⁴ NCIS at 1060.

Colonel Bumgarner went further with his statement, including information about Camp 1, its rules, and the detainees housed there. He discussed the relevant SOPs in place that night, specifically describing the SOPs regulating the hanging of items in cells and prohibiting the detainees from damaging items.³³⁵ Guards were not to allow detainees to hang items higher than halfway up the cell or to allow detainees to damage comfort items.³³⁶

*"I stake my reputation and my life as a career military policeman on this. No if, ands, or buts."*³³⁷

- Colonel Bumgarner

In the days following the deaths, the commanding officers at Guantánamo spoke with media regarding the reported suicides. Despite the extremely high level of security at the detention facility and the absence of an opportunity to conspire, Admiral Harris stated that the detainees committed suicide as an act of coordinated "asymmetric warfare" against the US, "not [as] an act of desperation."³³⁸ Admiral Harris explained further that "the acts were tied to a 'mystical' belief at Guantánamo that three detainees must die at the camp for all the detainees to be released."³³⁹

Colleen Graffy, Deputy Assistant Secretary of State for Public Diplomacy, described the incident as a "good PR move to draw attention."³⁴⁰

*"They [the detainees] are smart. They are creative. They are committed. They have no regard for human life, neither ours nor their own.... I believe this was not an act of desperation, but rather an act of asymmetrical warfare waged against us."*³⁴¹

- Admiral Harris

³³⁵ NCIS at 1057.

³³⁶ NCIS at 1058.

³³⁷ Col. Michael Bumgarner, Interview with Bill O'Reilly, June 9, 2006, available at <http://www.foxnews.com/story/0,2933,199439,00.html>.

³³⁸ Laura Parker, Bush: Guantanamo's future up to Supreme Court, USA TODAY, June 14, 2006, available at http://www.usatoday.com/news/washington/2006-06-14-bush-gitmo_x.htm; James Risen and Tim Golden, 3 Prisoners Commit Suicide at Guantánamo, N.Y. TIMES, June 11, 2006, available at <http://www.nytimes.com/2006/06/11/us/11gitmo.html>.

³³⁹ James Risen & Tim Golden, 3 Prisoners Commit Suicide at Guantánamo, N.Y. TIMES, June 11, 2006, available at <http://www.nytimes.com/2006/06/11/us/11gitmo.html>.

³⁴⁰ See "Guantánamo suicides a 'PR move,'" BBC News, June 11, 2006, available at <http://news.bbc.co.uk/2/hi/americas/5069230.stm>.

³⁴¹ James Risen & Tim Golden, 3 Prisoners Commit Suicide at Guantánamo, N.Y. TIMES, June 11, 2006, available at <http://www.nytimes.com/2006/06/11/us/11gitmo.html>.

*"I feel that the guards and myself on Alpha block did an inadequate job monitoring the detainees that night to make sure that they were following the rules...."*³⁴²

- Name Redacted

G. Silence

The statements from medical personnel fail to show how the three detainees died. After the first detainee arrived at the clinic, the medics never asked what had happened or how he had died. They failed to ask the same questions about the second and third detainees. As each detainee arrived at the clinic, none of the guards mentioned how the detainees had died or what had occurred. From the arrival of the first body until all three were declared dead, no medics asked and no guards described what had happened on the cellblock that night.

*"...I am not sure if I walked Alpha Block or not. If I did, I do not recall anything being out of the ordinary."*³⁴³

*- Name redacted,
suspected of making false official statements*

1. Silence of the Medics

The medics, according to SOPs, should have responded to the cell block, but they did not. Instead, the guards brought all three detainees to the clinic. The medics then performed CPR on the detainees, whose mouths were locked shut and who still had makeshift ropes tied around their necks.³⁴⁴ Despite all three detainees presenting with both extreme and similar conditions, none of the medics ever asked what had happened to the detainees or how they had been discovered.

*"I never heard anyone describe how the detainees were found."*³⁴⁵

- DET Clinic Medic

³⁴² NCIS at 984.

³⁴³ NCIS at 937.

³⁴⁴ NCIS at 1103, 1025, 1020, 1045.

³⁴⁵ NCIS at 1079.

2. Silence of the Commander

Neither the guards nor the medics advised the commanding officer about how, where or when the detainees had died. When Colonel Bumgarner was at the DET clinic after the detainees were declared dead, he still did not know how the detainees had died, though he did notice the indentations on Al Tabi's and Ahmed's necks.³⁴⁶

*"I was still not sure how it [the detainees' deaths] had happened."*³⁴⁷

- Colonel Bumgarner

3. Silence of the Detainees

The investigative files contain a total of 21 brief summaries of detainee interviews regarding the events of June 9 and 10, 2006.³⁴⁸ Some detainees claimed that they slept through the entire event;³⁴⁹ others reported they were asleep until awoken by the yelling and running of the guards.³⁵⁰

*"Every detainee was alive and moving."*³⁵¹

- Name redacted

*"I told all the detainees to take down anything hanging and woke them all up."*³⁵²

- Name redacted

According to the investigation, the detainee statements prove to be of limited guidance in ascertaining what happened that night. Only 3 of the 21 statements account for seeing all three of the deceased detainees.³⁵³ Some detainees claim to have seen only one.³⁵⁴ Most of the detainees

³⁴⁶ NCIS at 1060 ("While I suspected that had all been [sic] found hanging, I told the Admiral [sic] was not sure if they had been found hanging, but I pointed out the ligature marks on each detainee, and the material that had [REDACTED] of ISN 588...").

³⁴⁷ NCIS at 1060.

³⁴⁸ There are a total of 22 interviews (6 from the NCIS file and 16 from the CITF file); however, it is uncertain as to whether investigators interviewed 22 different detainees or if the investigators interviewed some detainees more than once. See Appendix F for an account of the detainee statements.

³⁴⁹ NCIS at 1130; CITF at 72.

³⁵⁰ See, e.g., NCIS at 1130–1131, 1140; see also CITF at 37, 44, 52, 54, 60, 48.

³⁵¹ NCIS at 984.

³⁵² NCIS at 966.

³⁵³ CITF at 52, 54, 70.

³⁵⁴ See, e.g., CITF at 58, 60, 68, 76; NCIS at 1140.

provided minimal information in the interviews.³⁵⁵ Two statements provide great detail about the guard's discovery of Al Zahrani, but do not account for the discovery of the other dead detainees moments later.³⁵⁶

*"Interviews were conducted with all detainees assigned to alpha block, however, none of the interviewees could provide any substantive information."*³⁵⁷

- Name redacted

The detainees seemed surprised by the suicides and blamed the pressures of living at the camp under the guards' watch.³⁵⁸ One detainee "believes the Americans are the reason for the deaths of the three detainees."³⁵⁹ Only one statement alludes to any coordinated plan between the detainees, claiming that 40 brothers had made a commitment to die, and "they would see their commitment when doing the autopsies."³⁶⁰

Most of the interviewed detainees noted that they had no prior knowledge of the suicides, and if they had, they would have immediately informed the guards.³⁶¹ In particular, one detainee stated, "[i]t is well known . . . that it is unlawful in Islam to kill oneself," and "it was his religious duty to tell if he knew of a plan to harm oneself."³⁶² Based on the information provided in the investigations, there is no record that any detainee spoke up to prevent the detainees from harming themselves.

³⁵⁵ See, e.g., NCIS at 1130 (stating that the detainee slept through the entire commotion); NCIS at 1131 (stating that the detainee's cell was too far away to see anything); NCIS at 1134 (stating that the detainee's cell was too far away to see anything); CITF at 54 (stating that the detainee responded "I don't know" or one word answers to most of the questions asked); CITF at 64 (stating that detainee refused to talk about the incident except for "blam[ing] the Americans"); CITF at 65 (stating that the detainee awoke to the "guards yelling at people to get out of their cells," but "was not focusing on anything at the time"); CITF at 66 (stating that the detainee was "woken up by guard personnel after discovering one of the detainees (NFI) had apparently hung himself"); CITF at 72 (stating that detainee simply said "nothing happened in [his] cell" and that he "did not see anything"); CITF at 75 (stating that "[redacted] provided minimal information during the discussion, offering limited responses").

³⁵⁶ CITF at 58; CITF at 60 ("[redacted] was oblivious of the fact [that] two other detainees died.").

³⁵⁷ NCIS at 35.

³⁵⁸ NCIS at 1141.

³⁵⁹ CITF at 64.

³⁶⁰ NCIS at 1201.

³⁶¹ NCIS at 1130; CITF at 57, 58, 60, 62, 69, 71, 75.

³⁶² CITF at 69.

7. Failures of the Investigations

A. Evidence Without Findings, Findings Without Evidence

1. Evidence Without Findings

The investigations contain many pieces of evidence that are never explained or explored further. Evidence in the report stated: (1) the detainees' hands and feet were bound when the detainees were discovered;³⁶³ (2) rags were imbedded deep into their throats;³⁶⁴ (3) the detainees had been dead for hours;³⁶⁵ and (4) the guards on duty constantly watched each of the detainees cells and reported nothing unusual during the hours between the deaths and the discovery of the bodies.³⁶⁶

Many interviews and other evidence in the investigative files support these four pieces of information. However, each was inexplicably omitted from the conclusions of the investigation.

2. Findings Unsupported by Evidence

The government reported that the detainees committed suicide as part of a conspiracy.³⁶⁷ The investigations, however, fail to present any evidence of a conspiracy. In fact, all other evidence is inconsistent with the conclusion that the detainees conspired. There are three points in the NCIS Statement of Findings which are unsupported by evidence in the investigative files.

“Possible Suicide Notes”

The NCIS investigative file states that possible suicide notes were found on all of the detainees' bodies and in their cells.³⁶⁸ The NCIS Statement of Findings states that the similar wording of the notes supports the fact that the detainees conspired to commit suicide.³⁶⁹ However, the language in the notes is ambiguous. The NCIS investigation states that “there is not explicit discussion of suicide in the handwritten portion” of a longer suicide note found in one detainee's cell.³⁷⁰ The shorter notes found on the bodies contain one sentence and are labeled “possible suicide notes.”³⁷¹

³⁶³ NCIS at 950, 958, 975, 1091, 1094; CITF at 34, 44, 45.

³⁶⁴ NCIS at 938, 950, 959, 966, 975, 1073, 1079, 1091, 1093, 1097; CITF at 32, 49, 50.

³⁶⁵ Autopsy Report for ISN 588 at 28; Autopsy Report for ISN 693 at 19.

³⁶⁶ NCIS at 921, 958, 965, 974; CITF at 31, 35, 36; SJA at 33.

³⁶⁷ James Risen & Tim Golden, *3 Prisoners Commit Suicide at Guantánamo*, N.Y. TIMES, June 11, 2006, available at <http://www.nytimes.com/2006/06/11/us/11gitmo.html>. See NCIS Statement at 2.

³⁶⁸ NCIS at 2.

³⁶⁹ NCIS Statement at 1.

³⁷⁰ NCIS at 1372.

³⁷¹ NCIS at 1239. The NCIS translates these “suicide notes” to: “I gave the Koran so they won’t violate it. here I am giving my body ...so they don’t violate or shame it...”; “I got out of the cages whether you like it or not. Punishment for my action ...They put me in Oscar isolation rooms forever”; “You did not except the tube on my nose!!! So except the rope on my neck???”

Detainees are prohibited from passing any paper between cells,³⁷² and empty cells separated the three detainees from each other. Collaboration through notes would have been very difficult if not impossible.

“Representatives of other law enforcement agencies involved in the investigation were later told that on the night in question, another detainee (who did not later commit suicide) had walked through the cell block telling people ‘tonight’s the night.’”³⁷³

- NCIS Statement of Findings

Anonymous Rumor: “tonight’s the night”

NCIS accepts as fact a statement from an unidentified law enforcement agency, quoting an unidentified source, describing an unidentified detainee’s statement. Its Statement of Findings concludes that a detainee walked through the cell block informing the other detainees that “tonight’s the night.”³⁷⁴ There is no evidence in the investigative files that this statement was ever made. Further, detainees are not permitted to walk through the corridors of the maximum security cell block to communicate with one another.³⁷⁵

“...[T]here was growing concern that someone within the Camp Delta population was directing detainees to commit suicide....”³⁷⁶

- NCIS Statement of Findings

Camp Delta Suicide Director

The NCIS Statement of Findings asserts that “there was a growing concern that someone within the Camp Delta population was directing detainees to commit suicide.”³⁷⁷ The investigative files fail to reveal who had this concern or the basis for it. There is no evidence that any steps were taken by officers or guards to identify which detainee was directing others to commit suicide. In fact, the investigative files contain no evidence of any detainee directing or coordinating suicides. Nor is there any evidence of enhanced security measures to address this reportedly “growing concern.”

³⁷² SOP 8-7 (m) (2) (2004).

³⁷³ NCIS Statement at 1-2.

³⁷⁴ NCIS Statement at 1-2.

³⁷⁵ SOP 11-1 (d) (2004) (Escort Operations); SOP 10-7 (a) (2004) (Showers and Laundry); 10-6 (c) (3) (c) (2004) (Exercise).

³⁷⁶ NCIS Statement at 1.

³⁷⁷ NCIS Statement at 1.

Lack of Documentation

There are no documents, statements, video surveillances, log-book notes, DIMS reports, or other records that suggests a coordinated act. No guard was questioned about how the detainees could have communicated to conspire or coordinate their elaborate acts while under constant surveillance.

*"The majority of the items [pieces of paper] were reviewed with only twelve (12) documents of potential evidentiary value being seized."*³⁷⁸

- NCIS Investigative File

The investigation collected and reviewed 1,065 pounds of paper³⁷⁹ and other means of communication, but none of it indicated that the dead men conspired to coordinate their deaths in the camp. A total of 12 documents were found to be of "potential evidentiary value."³⁸⁰ There is no indication which 12 papers were of interest or what information these 12 pages contained. The NCIS Statement of Findings, however, did not mention those 12 documents, indicating that they did not provide any valuable evidence that the three men coordinated suicides or conspired in an act of "asymmetrical warfare."³⁸¹

*"No information relating to future acts of imminent violence or threats to national security were found."*³⁸²

- NCIS Investigative File

Evidence Inconsistent with Conspiracy

The investigation fails to mention that Al Tabi was cleared for transfer to his native Saudi Arabia and scheduled to leave Guantánamo before the end of the month.³⁸³ Additionally, Ahmed was not brought to the cell block until 72 hours before his death,³⁸⁴ which would seem to reduce his opportunity to conspire.

³⁷⁸ NCIS at 62.

³⁷⁹ This equals more than 50,000 pages of material. NCIS at 69.

³⁸⁰ NCIS at 26.

³⁸¹ See NCIS Statement.

³⁸² NCIS at 70.

³⁸³ *Gitmo Detainee Was Cleared for Transfer before Suicide*, ST. PETERSBURG TIMES, June 12, 2006, available at http://www.sptimes.com/2006/06/12/Worldandnation/Gitmo_detainee_was_cl.shtml.

³⁸⁴ "Transfer off [redacted] to a transition out-patient BLOCK"; typed statement with portion struck through by hand, followed by handwritten statement: "non-feeding block per DOC." Dickstein Medical Files, Redacted 1272, available at http://www.dod.mil/pubs/foi/detainees/death_investigation/DicksteinMedicalFilesRedacted-2.pdf.

Although the three men were in the same cell block, they were not in adjacent cells and were separated by empty cells, making it difficult to communicate.³⁸⁵ Only the SJA report includes any information regarding the set up of Alpha Block, which housed 28 detainees who were supervised by five guards.³⁸⁶ All three detainees were housed on the same side of the cell block in cells A-5, A-8 and A-12.³⁸⁷ Two vacant cells separated A-5 from A-8.³⁸⁸ One vacant cell and two occupied cells separated A-8 from A-12.³⁸⁹

“[T]he detainees are not allowed to talk to each other.”³⁹⁰

- Name Redacted

The investigative file contains no evidence of either oral or written communications between the three detainees or any others or any evidence to show how the three would be able to coordinate all the necessary preparations for committing suicide simultaneously.

B. Defective Interviews

The investigations rely upon information provided in interviews and statements from a wide variety of guards, escorts, medical personnel, and officers on duty that night. However, the investigation does not determine which guards were responsible for failing to notice suspicious activity that led to the deaths of the three detainees. The interviews of the Alpha guards do not systematically review the events of the night or provide information regarding the most troublesome problems.

1. Tainted Interviews: Commanding Officer

Immediately after the first detainees were declared dead, the Commander gathered everyone involved that evening.³⁹¹ At the meeting in the conference room, he ordered all the guards to sign a roster and to indicate with an asterisk if they had been assigned to Alpha Block that night.³⁹² Then the Commander brought three or four of the Alpha guards aside to put together “the series of events,” and he spoke with each of them for approximately four or five minutes.³⁹³ He took no notes and did not record the names of those with whom he spoke. He said that he thought that he could recognize their faces but that he did not know their names.³⁹⁴ There is no record of what was said at this meeting, and neither the Commander nor the guards were ever asked what took place at this meeting.

³⁸⁵ SJA at 11.

³⁸⁶ SJA at 12; CITF at 36.

³⁸⁷ SJA at 11.

³⁸⁸ SJA at 11.

³⁸⁹ SJA at 11.

³⁹⁰ NCIS at 732.

³⁹¹ NCIS at 1061.

³⁹² NCIS at 1013, 1061.

³⁹³ NCIS at 1061.

³⁹⁴ NCIS at 1061.

2. Investigating Officers Unable to Identify Those Responsible for the Detainees' Ability to Commit Suicide

Another defect in the investigations is the failure to determine which personnel were responsible for the detainees' ability to commit suicide.

- The Investigating Officer was never able to determine which guard or guards were responsible for the detainees' ability to commit suicide without being seen.³⁹⁵
- The Commander reported that he could not determine who had been walking Alpha Block that night just prior to finding the first detainee hanging.³⁹⁶
- NCIS could not determine which guards were responsible for the detainees' ability to complete the steps necessary to commit suicide in the manner described without being detected.³⁹⁷

While no investigative body could determine which guards were responsible for the detainees who died that night, there were only seven people who were assigned to guard them: the Alpha guards, the NCO and the PL.

3. Superficial Guard Interviews

The investigations did not include systematic interviews of any of guards who were or should have been on duty that night during the time leading up to the detainees' deaths. While CITF interviewed four Alpha guards in the hours after the deaths, the interviews—which an investigator wrote to recount the guards' statements—contain little information regarding what each saw and did before the discovery of the bodies.³⁹⁸ Those four guards did not give more detailed first-person accounts of what happened until four or five days later.³⁹⁹ The PL, however, was not interviewed at all on June 10, and did not provide any statement until four days after the incident.⁴⁰⁰ Additionally, the June 10 interview of the Alpha NCO was only a paragraph long, written by the interviewer, and contains no information regarding the events leading up to the discovery of the bodies, despite the NCO's presence on the block throughout the evening.⁴⁰¹ The NCO did not provide a first-person statement until five days later.⁴⁰²

It is unclear why the investigators would not try to obtain more information from the seven key persons sooner, as these individuals were in the best position to provide information necessary to the investigation. The interviews did not provide detailed information as to what the guards observed about the detainees and the other guards that evening. There was no systematic attempt to reconstruct what each guard experienced from the time that he or she came on duty until the bodies arrived at the clinic to show how suicides could have occurred on the block.

³⁹⁵ SJA at 4-5.

³⁹⁶ NCIS at 1061.

³⁹⁷ See NCIS Statement.

³⁹⁸ CITF at 953, 961, 968, 978.

³⁹⁹ NCIS at 957, 964, 973, 982.

⁴⁰⁰ NCIS at 936.

⁴⁰¹ NCIS at 948-950.

⁴⁰² NCIS at 948.

“The possibility that the now deceased detainees were in fact alive at 2300 on 9 June 2006, cannot be ruled out.”⁴⁰³

- Admiral Harris

4. Unasked Questions

The interviewers did not ask the guards or other personnel specific questions about evidence obtained during the investigation. Specifically, those interviewed were not asked:

- If he or she had observed the detainees hanging in their cells or what would have prevented the guard from seeing three dead bodies hanging for two hours
- If he or she noticed the blankets hanging up in the cells,⁴⁰⁴ and if so, why he or she did not inquire about them
- If he or she had observed detainees tearing up or braiding cloth, or preparing mannequins in their bunks
- How and where the detainees each obtained sufficient amounts of cloth to hang up to block the guards’ vision and to braid nooses and other bindings
- How and where the detainees each obtained sufficient amounts of comfort items necessary to make mannequins that looked sufficiently life-like to deceive the guards into believing that the detainees were asleep in their beds
- If he or she observed any note-passing between the detainees or heard any communications between the detainees that night or previously

5. Interrupted Investigation: Afternoon of June 10 to June 14

The local NCIS and CITF investigators conducted some interviews on June 10, but they are written in the third person, unsigned, and do not take the form of official sworn statements. The Miami NCIS investigative team was flown in on the afternoon of June 10, but there is no record of any investigative action taken by the investigative team until June 14. Further, the NCIS investigative file does not explain the gap between the last interview on June 20 and the next interview on July 11.

There is no evidence of any investigation by any other investigative body, including local CITF, during the period of June 11-13, 2006.⁴⁰⁵ NCIS conducted interviews and collected statements from June 14-17, with several follow-ups later in July. The later statements contained

⁴⁰³ SJA at 2.

⁴⁰⁴ One guard did notice that Al Zahrani had a blanket hanging up covering part of his cell at 20:30, but the statement contains no further information as to why the guard did not ask the detainee to take them down as it blocked the view part of the cell. *See* NCIS 964.

⁴⁰⁵ The SOUTHCOM file contains two interviews dated June 12, 2006 from the Department of the Navy. While these interviews contain handwritten page numbers indicating they belong in the combined investigative file, the interviews were not conducted by NCIS or CITF officials. SOUTHCOM at 525-529.

in the NCIS file are first-person narratives of the events of that night and include some information of what happened before discovery of the three men, how they were discovered, and some of the events that occurred in the hours thereafter.⁴⁰⁶

6. Questionable Framing of the Interviews and Statements

There is reason to suspect that the interviewers designed questions to obtain particular results. The interviewers failed to frame their inquiries neutrally. For example, the PL stated that he did not remember if he had walked the cell block that night. An interviewer advised him that other guards had said that the Platoon Leader had walked the block that night; the PL said he still could not remember doing so, but “he said he would ‘go with’ that account, if that was what the others remembered.”⁴⁰⁷

“[Redacted] maintained that he still could not remember [if he had walked the block]. ... He then admitted to walking all the way to the end of A-Block and back.”⁴⁰⁸

- Name Redacted

Additionally, the guards’ first-person narratives often describe what they did not see. Instead of describing the scene, they explicitly state what they did not notice. For instance, one guard explains, “I did not see anything in his mouth.”⁴⁰⁹ Another states, “I do not remember any bindings around his ankles.”⁴¹⁰ This suggests that the investigators (or others) had directed the guards’ attention to those questions. While these types of questions are acceptable, they are appropriate only after the interviewer has first elicited the interviewee’s complete recollections.

C. False Statements

As of June 14, 2006, all four Alpha guards assigned to Alpha Block that night, the Alpha Block NCO, and the Alpha Block PL were informed that he or she was suspected of making false official statements and/or failing to obey direct orders.⁴¹¹ There is no evidence of the contents of these statements, what they were, or the time and place they were made. The investigation does not indicate what prompted the suspected false statements and failures to obey direct orders. No evidence of any disciplinary action taken as a result of these false statements exists.

⁴⁰⁶ See Table 1.

⁴⁰⁷ NCIS at 940.

⁴⁰⁸ NCIS at 940.

⁴⁰⁹ NCIS at 1004.

⁴¹⁰ NCIS at 975.

⁴¹¹ NCIS at 935, 947, 956, 963, 972, 981.

Each guard was advised to sign the following:

1. I have the right to remain silent and make no statement at all;
2. Any statement I make can be used against in me in a trial by a court-martial or other judicial or administrative proceeding;
3. I have the right to consult with a lawyer prior to any questioning. This lawyer may be a civilian lawyer retained by me at no cost to the United States, a military lawyer appointed to act as my counsel at no cost to me, or both;
4. I have the right to have my retained lawyer and/or appointed military lawyer present during this interview; and
5. I may terminate this interview at any time, for any reason.⁴¹²

If convicted of making a false statement under the Uniform Code of Military Justice, a person “shall be punished as a court-martial may direct,”⁴¹³ which can include reprimand, fines, forfeiture of pay and allowances, demotion, restriction to confined limits, hard labor without confinement, confinement with hard labor, and punitive separation, including dishonorable discharge.⁴¹⁴

Several of the guards’ interviews appear in consecutive pages as a set. “Military Suspect’s Acknowledgement and Waiver of Rights” forms are included with six statements of guards who were on Alpha block that night.⁴¹⁵ This form appears before each of their respective “sets” of interviews and is signed by the designee.⁴¹⁶ The four Alpha Block guards signed these waivers the same day that they made the first statements included in the report—June 14 or 15. Thus, it appears that the suspected false statements were made sometime before June 14 or 15.

Table 3: Waiver Statements⁴¹⁷

GUARD	“Military Suspect’s Acknowledgement and Waiver of Rights” Accusation	When Signed
AG1	“I am suspected of <u>False official Statement Article 107, and Failure to obey an order or regulation Article 92.</u> ”	Signed the same day as written narrative.
AG2	“I am suspected of <u>failure to obey a direct order.</u> ”	Signed one day before written narrative.
AG3	“I am suspected of <u>providing a false official statement.</u> ”	Signed the same day as written narrative.
AG4	“I am suspected of <u>False official statements, UCMJ Article 107.</u> ”	Signed the same day as written narrative.

⁴¹² NCIS at 935, 947, 956, 963, 972, 981.

⁴¹³ U.C.M.J. § 107 (10 U.S.C.S. § 907).

⁴¹⁴ Rules of Courts Martial § 1003, (Manual for Courts-Martial 2008).

⁴¹⁵ NCIS at 935, 947, 956, 963, 972, 981.

⁴¹⁶ See Table 1 below.

⁴¹⁷ See Appendix L.

Alpha NCO	“I am suspected of <u>False Official Statements, UCMJ Article 107.</u> ”	Signed the same day as written narrative.
Camp 1 Platoon Leader	“I am suspected of <u>FALSE OFFICIAL STATEMENT.</u> ”	Signed one day after June 14 interview. Signed a second time on June 16 during a re-interrogation, which is subsequently dated June 17.

D. Missing Evidence

The investigators conducted many interviews to gather information. The report, however, does not include:

- Sworn statements on required forms
- Serious Incident Reports
- Surveillance video
- Audio recordings
- Duty roster
- Detainee transfer book
- Pass-on book
- DIMS system information
- Statements from additional witnesses, including tower guards

1. Missing Sworn Statements

The SOPs require all personnel involved in incidents to write sworn statements (DA 2823 form).⁴¹⁸ Initially, some of those involved in the incident were asked to do so. No sworn statements were available for the NCIS investigators, however, because personnel were then ordered to stop writing them.⁴¹⁹ No explanation was given as to why they were ordered not to follow this standard procedure. The investigative file does not comment on this or contain the partial statements.

⁴¹⁸ See NCIS at 944, 1086, CITF at 41; SOP 32-1 (e)(10) (2004); SOP 6-15 (d)(2)(2004). (DA Form 2823 is a sworn statement in which the person completing it recounts exactly what occurred during the reported incident.).

⁴¹⁹ NCIS at 944, 1086; CITF at 41.

*“[Redacted] continued to explain that once roll call was complete, he was advised to report to the JDG office wherein he would prepare a report of the incident. [Redacted] said however that prior to finishing his report, he was instructed to simply wait within the JDG conference room, where he was told someone would interview him.”*⁴²⁰

- Redacted name

2. Missing Surveillance Video and Audio Recordings

NCIS was provided all videotapes on or about June 13, 2006, but there is no mention that NCIS reviewed them.⁴²¹ It is clear from a statement by Rear Admiral Mark H. Buzby that hallway and common area video monitoring at Guantánamo is standard practice.⁴²² A memorandum dated June 15, 2006, confirms that SOUTHCOM delivered “a videotape of the events of 10 Jun 06.... The video is the only tape the command holds relating to the events under investigation.”⁴²³ Aside from the two memoranda in the SOUTHCOM file that mention delivery of the videotapes to NCIS, the government never refers to any videos in the investigative documents.

Further, audio recordings of the radio and telephone calls were not reviewed.⁴²⁴ Despite reviewing the June 9 DIMS headcounts recorded in the system, NCIS could not determine which guard made the headcounts.⁴²⁵

3. Missing Duty Roster, Detainee Transfer Book, and Pass-on Book

At Camp Delta, successful operation depends on accountability. “Supervisors must know where assigned detainees are and what they are doing at all times.”⁴²⁶ Everything that occurs must be documented by the guards, including: suspicious activity, meal consumption, missing or damaged equipment, detainee behavior, detainees’ attempts to harm themselves, headcount times, headcount performers, instances when guards randomly walk the block together, instances

⁴²⁰ CITF at 44.

⁴²¹ SOUTHCOM at 837.

⁴²² White, Josh. *Defendants' Lawyers Fear Loss of Potential Evidence at Guantanamo Bay*. THE WASHINGTON POST. February 14, 2008, available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/02/13/AR2008021303164.html> (“Buzby’s declaration, filed in federal cases Friday and yesterday, said the video recordings were part of a surveillance system used to monitor the camps and were mostly of mundane operations.”)

⁴²³ SOUTHCOM at 839.

⁴²⁴ The Dictaphone recording system, which records emergency calls throughout the camp, was reported to have been inactive and not available for the investigators to review. NCIS at 926 (“Reporting Investigator and [name redacted] logged into the Dictaphone recording system and discovered it had experienced a power failure and had not been properly reactivated. Because the Dictaphone was deactivated, it did not record any calls from 03MAY06 until about 2100 on 10JUN06, when power was restored during maintenance.”).

⁴²⁵ NCIS at 952, 977.

⁴²⁶ SJA at 19-20.

when a search is conducted, instances when a response team is called, or when any major incident occurs.⁴²⁷ Most of this information was not reviewed.

A duty roster listing every shift of all guards on Alpha Block and elsewhere is required and must be maintained.⁴²⁸ That night, instead of looking to the duty roster, the Commander asked those guards who were on Alpha Block to place an asterisk next to their names.⁴²⁹ No duty roster was subsequently produced in the investigative file.

While NCIS investigators did look into the log book from that night, which documented the entry and exit of persons from the block, a page from June 10, 2006 had been removed from the book.⁴³⁰ Although this was noted and the book was seized, questions remain as to who had entered Alpha Block during the undocumented time period on June 10.

Additionally, the investigations did not address or reproduce the pass-on book for Alpha Block for that day or night. All activity must be noted in the pass-on book, which is passed from one shift to the next to provide information of the prior happenings on the block.⁴³¹

All data and documentation regarding the detainees and the cell blocks is also entered into the DIMS. "All documentation needs to answer Who, What, When, Where, Why, and How."⁴³² To ensure that the Block NCO knows the total number of detainees on the cell block and their ISNs when he or she is assuming his or her shift, the guards must complete the Detainee Alpha Roster and enter it into the DIMS.⁴³³ This further verifies that the Block NCO knows exactly which detainees he or she is responsible for during his or her shift.⁴³⁴

The roster of detainee location for that night, however, was not investigated, addressed, or provided in the file to determine whether or not the deceased detainees may have been removed from their cells at some time during the day or night.⁴³⁵

4. Missing Witnesses

Many guards, escort control, medical personnel, and officers on duty that night were interviewed. The investigation does not contain any interviews, however, with any personnel in the Detainee Operations Center or in the nearby guard towers who had visual access into each camp.⁴³⁶ Only one member of the IRF team, one Sally guard, and few guards from other blocks who saw bodies were interviewed or asked to make a statement. The investigators did not

⁴²⁷ SOP 6-15 (2004).

⁴²⁸ SOP 36-6 (c) (6); (10) (2004).

⁴²⁹ NCIS at 1013.

⁴³⁰ NCIS at 1354.

⁴³¹ SOP 33-6 (e) (15) (2004).

⁴³² SOP 6-15 (a) (2004).

⁴³³ SOP 6-15 (d) (7) (2004).

⁴³⁴ SOP 6-15 (d) (7) (2004).

⁴³⁵ SOP 5-8 (b) (2004) (A roster binder is kept on the block.).

⁴³⁶ SJA at 19-20.

interview any of the guards recalled to the camp for their observations of the detainees on Alpha block in the aftermath of the incident.

5. Missing Serious Incident Reports

According to SOPs, Serious Incident Reports are used when an event occurs that requires the use of force, such as a cell extraction or in cases of attempted suicides.⁴³⁷ The Commander will complete the Serious Incident Report and will forward it to the CJDOG.⁴³⁸ These would have been required for June 9 and June 10. The investigative file does not contain any record of Serious Incidents Reports despite SOPs mandating this procedure.

E. Impenetrable Presentation

The way in which the investigative files are presented makes it difficult to understand how the investigation was conducted. It produced more than 1,700 pages of interviews and information regarding the events of June 9 and 10, but the evidence obtained as presented is virtually impenetrable.⁴³⁹ Pages are missing, paragraphs are redacted, and documents with information are disorganized, making it difficult to review any of the evidence obtained through the investigations.

Over one third (35.8 percent) of the pages are fully redacted, and another 22.7 percent has more than half of its information redacted. In fact, only 13.3 percent of the pages have not been redacted at all, and of that number, 47 pages are Deleted Page Information Sheets (“DPIS”).⁴⁴⁰ Some of the DPIS pages refer to documents not released by the DOD. The NCIS investigative file contains only handwritten page numbers, but where pages are missing, a DPIS alerts the reader to sections of the text that must be obtained from another file. These sheets indicate that the NCIS, CITF, and SOUTHCOM investigative files are meant to fit together into one combined investigative document.

The CITF and SOUTHCOM documents all contain typed page numbers appearing at the bottom of each individual document. Some of the pages in those files also contain different handwritten page numbers, similar to those on the NCIS investigative file, next to the typed page numbers. The handwritten page numbers range from 1 to 1,426, and when all the pages are combined and in order, the document becomes one complete investigative document that includes sections from all three separate investigations.

The order of the pages hinders the reader in understanding the events of that night. There is no table of contents, no index, and no indication that the last page is the end of the investigative file. While all written page numbers are accounted for by the DPIS pages, it is impossible to locate those pages in the other investigative files due to the large number of fully

⁴³⁷ SOP 5-7 (a) (2004).

⁴³⁸ SOP 5-7 (b) (2004).

⁴³⁹ This includes the NCIS, CITF, SOUTHCOM, SJA reports, and the AFME autopsies for the three detainees.

⁴⁴⁰ See Table 5, Appendix J.

redacted pages in those documents.⁴⁴¹ Some DPIS sheets refer to documents unreleased by the DOD, including information from the Armed Forces Medical Examiner.⁴⁴² A few refer to documents from the Federal Bureau of Investigation, which the military does not have the authority to release.⁴⁴³

F. No Disciplinary Action Recommended Despite SOP Violations

“...[D]isciplinary action is not warranted in this case.”⁴⁴⁴

- Admiral Harris

Six weeks after the incident, Admiral Harris appointed an independent Investigating Officer to conduct an additional investigation to determine whether any guards violated SOPs before, during, and after the detainee deaths.⁴⁴⁵ As a result, Admiral Harris determined that no disciplinary action would be or should be instituted against the guards who were responsible for the detainees during the hours before they were discovered dead.⁴⁴⁶ Admiral Harris did concede, however, that several SOP violations occurred that night.⁴⁴⁷

It took three months to complete the investigation.⁴⁴⁸ The report was finally released a year and a half later on or about April 28, 2009.⁴⁴⁹

⁴⁴¹ For example, one DPIS sheet on page refers the reader to “Page(s) 478-727 Enclosures (A)-(B)” and states “Referred to SOUTHCOM” under the “Comments” lines on the page. However, the SOUTHCOM document does not contain any pages with those handwritten page numbers. Because there are so many fully redacted pages in the document, it is possible that these pages have been redacted.

⁴⁴² See DPIS in NCIS for 190-219, 736-769, 771-792, 795-829, 1105-1107, 1110-1112, 1114-1118, 1386-1391.

⁴⁴³ See DPIS in NCIS for 17-24, 72-158, 1132-33, 1135-36, 1154-68, and 1171-1200.

⁴⁴⁴ SJA at 5.

⁴⁴⁵ SJA at 1.

⁴⁴⁶ SJA at 2.

⁴⁴⁷ SJA at 1-3.

⁴⁴⁸ See SJA at 1–3. The investigation was completed on September 6, 2006. It began on July 20, 2006.

⁴⁴⁹ See The Office of the Secretary of Defense and Joint Staff Reading Room, <http://www.dod.mil/pubs/foi/recent.html>.

CONCLUSION

On June 10, 2006, three men died under questionable circumstances. The investigation into their deaths resulted in more questions than answers. It is unclear how such a reputable investigative service produced such an incompetent investigation. The Center for Policy and Research is unable to resolve whether the facts led to the investigation or the investigation led to the facts. What is clear is that the true circumstances surrounding the detainees' deaths cannot be discerned from the investigative file or the statement of findings. Without a proper investigation, it is impossible to determine the circumstances of three detainees' deaths.