

CERTIFICATE OF SERVICE

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2 I hereby certify that on April 21, 2005, I electronically filed the foregoing with the
3 Clerk of the Court using the CM/ECF system which will send notification of such filing to the
4 following: John McKay, United States Attorney for the Western District of Washington; Mark
5 N. Bartlett, First Assistant United States Attorney, and Michael Lang, Assistant United States
6 Attorney; and I hereby certify that I have mailed by United States Postal Service the document
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April 4, 2005

United States v. Ahmed Ressam

Report of Stuart Grassian, M.D.

My name is Stuart Grassian, M.D. I am a Board-certified psychiatrist, and am subspecialty-certified in Forensic Psychiatry. I have had extensive experience in evaluating the psychological effects of stringent conditions of imprisonment; my background and general opinions regarding this subject are included in an attached document, titled "Psychiatric Effects of Solitary Confinement".

I was initially consulted in the above-captioned matter in October 2003, by Tom Hillier and Mike Filipovic of the Seattle Office of the Federal Public Defenders. They briefly explained the circumstances of Mr. Ressam's arrest in 1999, and his conviction in April 2001. They further explained that for approximately two and a half years after his conviction, Mr. Ressam had cooperated with the United States government, providing significant information during hundreds of hours of interviews with representatives of the U.S. government and other countries, and testimony in one U.S. trial and a German trial, but that over the months prior to consulting me, his cooperation had become tenuous. They explained that Mr. Ressam had been housed in solitary confinement at FDC SeaTac ever since his arrest in December 1999, with the exception of the brief periods of his trial in Los Angeles and debriefings and testimony presented in New York. They were concerned that over these years, his demeanor and state of mind seemed to have deteriorated. They were not clear in what manner his conditions of confinement might have contributed to the present predicament, and whether there might be a way to get the cooperation back on a smoother course for both Mr. Ressam's sake and for the government.

In November 2003, I traveled to Seattle for three days, during which, in an attempt to understand Mr. Ressam's state of mind and its change over these years, I had extensive discussions and interviews with Mr. Ressam and with his defense team. At the conclusion of these meetings, I came to believe that it was possible to understand much of the dynamics underlying this change, and that his conditions of confinement played a very significant role in explaining that change. As a result, I suggested that the Public Defender and myself have a joint meeting with the United States Attorney's Office and with behavioral science experts from the Federal Bureau of Investigation. This meeting was held in New York City in February 2004, and a decision was reached there that Mr. Ressam be removed from the stringent conditions of confinement in which he had been housed in 1999, and placed in a prison environment which would afford him much more environmental, social and occupational stimulation.

Several months later, in June 2004, this transfer was effected, and in October 2004, after he had been housed in a much less restrictive environment for several months, I reinterviewed him for two days. His presentation was quite strikingly different from his presentation the prior November, while he had been housed in segregation. He appeared to be much less tense, more relaxed, and his thinking was strikingly clearer. He was able to explain his internal struggle with his desire to bring to a halt the oppressive, endless hours of repetitive questioning, and he described his embarrassment over his inability to remember multiple details which he was told he had previously endorsed. He felt trapped - that there was no way to put an end to this oppression other than by simply refusing to answer any more questions, and refusing to go forward with further testimony. Yet at the same time he realized that he had made a solemn promise to cooperate, and that his refusal to continue to testify and speak with the government could likely have serious adverse consequences in regard to his sentence and his custody status.

As we explored this dilemma, it became clear that a major concern for him was the integrity of what he might say in testimony. He was being told by the government that he had endorsed a great many factual statements, some of which he had no current recollection of, and he was not certain whether he had ever said precisely what he was purported to have said. Moreover, a number of statements he was purported to have said were general statements - conclusory opinions - and he was fairly certain that he had never intended to make such conclusory statements; indeed, his experience - especially in Afghanistan - was that trainees such as himself were given only the concrete, specific information which they needed, and were clearly not encouraged to inquire about more general issues, such as the organizational relationship and responsibilities of various individuals whom he met.

Thus, he explained that although he had actually been prepared to endorse those statements which he knew to be accurate, he felt that he was being pressured to endorse a great number of factual statements which might or might not be accurate, and he was being pushed to endorse conclusory statements of which he had no direct knowledge. He felt he was being pressured to undermine his own integrity - the clarity he needed to have in order to endorse various statements.

These two days of interviews thus clarified greatly the conflict he was experiencing, and also presented a path for unblocking the logjam. He needed to be able to speak with integrity - to explain to the government and in testimony what he really currently knew to be the case, and to try to explain why he was confused and uncertain as to the accuracy of other statements which he apparently, or purportedly, had stated in the past.

In further pursuit of this course of action, Mr. Ressam was called to testify before a grand jury in New York in early 2005. Mr. Ressam testified twice before the Grand Jury, and apparently was able to endorse some of the statements he had

previously made.¹ For others, he apparently stated that he could no longer recall the information which he was told he had provided the government several years previously, during the course of his multiple debriefings, affidavits, and testimony. Before he testified, Mr. Ressay explained to his attorneys that he was prepared to testify that even where he had no current recollection regarding prior statements, he had always attempted to be truthful and accurate to the best of his knowledge at the time he made those statements. He also explained that he was reluctant to provide general opinions in his testimony, but was willing to provide specific factual information which could lead him – or anyone else, for that matter – to reach such general conclusions or opinions.

Mr. Ressay's attorneys have requested that I provide this statement to describe in more detail my understanding of the process which led to this result.

1. Introduction:

The task I was assigned - that of understanding the motivations, feelings and thoughts which underlay Mr. Ressay's difficulties - was clearly a formidable one. First of all, it clearly is easier to understand someone's motivations when those motivations are the product of a rational, self-serving calculus of means and ends, and the very heart of Mr Ressay's history - the crime of which he had been convicted - clearly demonstrated that he was not an individual whose motivations could be understood within that framework. His crime clearly could not be understood as the product of some self-serving calculus, but rather reflected an unusual - albeit horribly misguided - level of moral conviction, a level of moral certainty which had made him willing even to risk sacrificing himself for something in which he believed.

When motivation cannot be understood as the product of a self-serving calculus the task of understanding it is profoundly difficult. In psychiatry generally, there are two basic dimensions of analysis - emotional experience ("symptoms") is the first, and behavior is the second. In the history of psychiatry, our understanding of the relationship between these two dimensions has had an interesting evolution. Freud and traditional psychoanalysis did not concern itself much with behavior; rather, the belief was that once one brought to light and resolved the underlying emotional experience, behavior would change. It was a brilliant idea, but unfortunately, has generally proven to be disastrously wrong. Alcoholics do not stop drinking just because they gain insight into their underlying feelings; sadists do not stop acting cruelly; passive people do not become responsible and proactive in their behavior; phobics don't suddenly become able to ride an elevator or take an airplane. It is far more complicated than that.

How did this reality affect the task before me in the present case? I am an expert in the psychological effects of stringent conditions of confinement - that is, in how

¹ Because the defense attorneys have not been provided with a transcript of that testimony, these facts are based on Mr. Ressay's report of what transpired in the Grand Jury.

such conditions might affect the inner emotional experience of someone such as Mr. Ressam. I had confidence in my ability to elucidate this. But doing so by itself could not explain Mr. Ressam's behavior - his decisions. The relationship between emotional experience and behavior is far more complicated than that.

One central aspect of that complexity is that an individual does not act just based upon what he experiences right here and now, but also based upon an internal sense of self - of who he is, a sense of his own identity.

Freud was also naive in his understanding of this latter concept. He believed that the sense of self - the psychological identity - is basically formed and fixed by the time a child is about four or five years old. It is really much more complicated than that. Indeed, people often have multiple, conflicting, senses of self, and life circumstances can cause a person to embrace one of these more fully, or to abandon another. Thus, the impact of life circumstances and emotional experience on behavior can only be understood if one understands the matrix of an individual's inner predispositions - the conflicting images of the self which may be embraced or discarded in the face of life circumstance.

What, for Mr. Ressam, was that matrix? What sense of identity did he embrace in deciding to attend the training camps in Afghanistan and then deciding to go forward and perform a bombing at an airport in the United States?; In choosing to cooperate?; In deciding for a time not to cooperate? Whatever that underlying matrix might be, it had already produced major decisions and behaviors, some of which were quite puzzling to his defense team:

The first of these was his decision, firmly and confidently made, to face trial on the underlying charges rather than to follow his attorneys' strong recommendation that he accept the offered pretrial plea bargain of 25 years imprisonment – a plea bargain which would not have any requirement of cooperation with the government. His attorneys could not fully understand what had motivated Mr. Ressam to make such a poor decision, and to pursue it with such confidence. Yet it was clear that despite the overwhelming evidence against him, he had somehow believed that he would not be found guilty. In the end, he was emotionally shocked - devastated - when he was actually convicted by a jury; so stunned and shocked that he became very depressed and seemed almost to have become emotionally unhinged.

Then, within a week of his conviction, a second thing happened which was also unanticipated and had puzzled the defense team. Mr. Ressam agreed to cooperate with the government and shared for the first time with his defense team the details of his history and his knowledge. Within a month of the jury verdict he embarked on the path of spending innumerable hours with government agents providing detailed and valuable information. The fact itself was not terribly remarkable; after all, it might represent simply the result of a cold-blooded calculus of what was now in his best interest. But there was something remarkable about

it; he did not just start cooperating, but he seemed to be doing so with a vibrant spirit, even seemingly enthusiastically - something which both his defense team and his chief FBI interviewer noted, but did not fully understand.

2. Mr. Ressam's History Before His Involvement in Muslim Extremism

Thus, before I could understand the impact of his five years of confinement on his decision-making, I had to understand something of Ahmed Ressam's inner experience of self. Perhaps that inner experience is shared in part by others who join these types of violent fundamentalist movements; I do not know, but suspect it may be so.

Ahmed Ressam's life has not been an easy one. It has been filled with failures, disappointments, and a pervasive sense of injustice - of never having had a fair chance to view himself with dignity and self-respect. He was born and raised in a small town in Algeria, in fairly impoverished circumstances, and [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] As a young man, he felt it was his duty to help the family financially, but there were few opportunities for him; he was not accepted into the university, or into the police force, and jobs were virtually non-existent. It seemed that there was no fairness, no justice, in their lives. They were given no fair chance. [REDACTED]

[REDACTED]

My inability to do anything about my family's problems - to earn some money - made me feel angry, worthless, depressed."

He was unable to find any work, and had to settle with working with his father in his father's cafe. But there was no money there, and no hope: "Before I left Algeria, I was working with my father in his cafe. [REDACTED]

[REDACTED] Ahmed, too, was ultimately forced to seek his fortune outside his native country; he emigrated to Corsica when he was 24 years old to find work. But it seemed that no place welcomed an Algerian Arab; immigrant Arabs were looked down upon by the Italians and French who inhabited the island. He was treated with contempt: "Sometimes they even kick you out of a cafe, and if you are walking by the street, they drive close to you and give you the finger."

His experience in Corsica was another bitter disappointment. Work came only sporadically, and the wages were low. He earned barely enough to keep himself going, and was able to send back very little money to his family, a fact which demoralized and humiliated him. He was sad, depressed. After one and a half years in Corsica, he was arrested for being an illegal alien, deported and jailed in France for three weeks, and then deported to Morocco, which likewise rejected him as an unwanted alien. Eventually, he ended up in Montreal, where again he was jailed for ten days on immigration charges.

He applied for asylum in Canada, and he was not immediately deported. But opportunities for work were difficult to find there, too, and the possibility of deportation was a continuing threat. He was able to send very little money home, and once again he found himself despairing of ever achieving anything in his life. He was trapped, and demoralized. For a while he fell into dissolute habits - drinking, nightclubs, and petty crime as a means of getting money - thus abandoning any sense of his own self-respect.

3. Jihad Extremists, Mr. Ressam's Arrest, Conviction, and Decision to Cooperate.

Thus, the extremists found him when he was at an emotional nadir - hopeless, demoralized, and living without self-respect or dignity. Their deep religious conviction and philosophy was very seductive, and the training camps in Afghanistan gave him a sense of purpose and dignity. Mr. Ressam embraced the extremist jihad perspective because it corresponded so well with his own life history. "You cannot accept oppression. You have to live life with dignity and self-

respect. I felt that it was the right path, a duty that I liked, a purpose. I was enthusiastic for it.”

As I understand it, then, the extremists offered Mr. Ressam a new possibility - an experience of himself as valuable, worthy, competent - a man with purpose and ideals. It offered the possibility of escaping another, more degraded sense of self - as someone despised, helpless, oppressed, without hope or dignity. It may well be that many of the recruits into this movement have been attracted for similar reasons.

I believe that in order to understand Mr. Ressam’s behavior and decisions since he returned from Afghanistan and Pakistan to Canada, one must understand this dialectic - his desperate need to hold onto a sense of moral dignity, and avoid plunging back into the older, rejected self-image as someone degraded and despised.

The tension between these self-images helps to explain many of the important decisions which he made since arriving back in Canada. Indeed, the self-respect which extreme fundamentalists had provided was almost immediately threatened when he came back to Canada with the intent of carrying out a terrorist operation. Four compatriots were supposed to join him and together comprise a team of five. None of the other four managed to get back into Canada. He was entirely alone. And he was not well; he had contracted malaria while in Afghanistan and he was still very weak and wracked by fevers. He struggled inside himself, the situation threatening to plunge him back into the old, rejected, despised sense of self: “felt abandoned, anger, fear, worry, feelings of failure. Confused, what should I do? How can I go on alone? I had many thoughts to give up. I was totally exhausted, the malaria. But then I heard a voice in me telling me I had to do this. It was a very strong urge inside me. I must fulfill it. Some sort of oath inside me, that I had to do this. I had almost a prophetic vision of succeeding and going to Algeria [to work for reform in his native land].”

There was, in short, a struggle inside him to reject the despised self, and a desperate need to continue to envision a new identity as a man of dignity and value. He acted upon that need - that vision - and the result was catastrophic for him. He was caught and arrested, once again a despised failure.

Mr. Ressam seemed to his defense attorneys to be a lost soul, despairing and rudderless. Initially, he was almost entirely accepting of their advice and guidance, lost and dependent. But his emotional pain was palpable. He had sacrificed his life for a cause, and now his doubts began bubbling to the surface. Was violence against innocent people a means to produce any meaningful change? Was it his moral place to make war against the United States, instead of combating the corruption and evil he had witnessed in his own country? He confronted his growing realization that he had sacrificed everything for a purpose in which he no

longer believed, and was filled with utter despair and shame, desperately in need of some means by which he could again reclaim some sense of self-esteem. His defense attorneys puzzled over why he had finally chosen to disregard their advice and proceed to trial rather than accepting the plea bargain which the government had offered. But from the perspective of his emotional struggle, that choice becomes clear. He simply could not bear to experience himself again as a despised failure. He had to believe he was still worthy. One night he had a dream in which he escaped from the darkness of the Los Angeles Airport into the light. He woke shaken and moved by the dream; he embraced it fully as a vision of himself - as a noble prophesy that he would go free. He interpreted the dream as prophesizing his destiny - that he would go free and be able to return to Algeria, where he would fight to correct the injustice he had experienced there.

And so he went to trial, and once again the results of his decision were catastrophic and shattering. [REDACTED]

Those who were with Mr. Ressam in the immediate aftermath of his conviction feared for his mental stability. As his presentence probationary report stated, after his conviction, and before being returned from Los Angeles to SeaTac, the U.S. Marshal Service referred Mr. Ressam for evaluation after becoming concerned that he might pose a risk of self-harm, and the resulting evaluation reflected serious depression: "The evaluation reflects the defendant appeared severely depressed: his affect was blunted, his mood depressed, his speech constricted and labored. In addition, he appeared to reflect on questions asked of him concerning suicide." This concern continued after his return to SeaTac: "Upon the defendant's return to FDC SeaTac on April 13, 2001, he was again evaluated. It had been reported the defendant began chanting and rocking on the plane ride home and in the van to FDC SeaTac." Within days of his return to SeaTac, the staff at SeaTac became so alarmed that they phoned Jo Ann Oliver, one of Mr. Ressam's attorneys, urgently requesting that she visit Mr. Ressam immediately. They feared for his emotional stability and safety. As Attorney Oliver recalls: "He was in an extreme emotional state - crying, not eating, begging to talk to me, and often talking to himself. They were very alarmed."

His decision to cooperate with the government thus cannot be seen as simply the product of a rational calculation of what actions would serve him best. He was desperate to find some moral compass, some means of reestablishing a sense of personal worth and value. The government seemed to offer him all that. The information which he could provide was valuable; it might save innocent lives - not only of non-believers, but also Muslim lives which would be sacrificed in the inevitable retaliation against terrorist acts. Fred Humphries, the FBI case agent who conducted much of the initial debriefings treated him with respect; he had valuable information, and he had acquired a great deal of technical expertise

during his training in Afghanistan. He felt valued, and valuable, once again. This is why he seemed so enthusiastic when he began cooperating.

4. The Deterioration in Ressam's Emotional State and Cooperation.

In my opinion, there are two dynamics, two forces, which combined to produce this result. The first of these involves the direct effects of solitary confinement, and the second involves his increasing sense of hopelessness, despair, and humiliation over the past several years.

4.1 The Effects of Solitary Confinement.

Prior to his June 2004 transfer, Mr. Ressam had been housed in conditions of solitary confinement during the entire course of his incarceration since his arrest in 1999 - approximately four and half years of continuous solitary confinement, albeit interrupted from time to time by his trial in 2001, and by multiple periods of time during which he spent long days out of his cell, undergoing interrogation by officials of the United States and other countries, as well as trips to New York to testify and be debriefed.

My opinions regarding the psychiatric and neuropsychological effects of solitary confinement are described in some detail in my "Statement". I provide here an overview:

It has long been known that severe restriction of environmental and social stimulation has a profoundly deleterious effect on mental functioning; this issue has, for example, been a major concern for many groups of patients including, for example, patients in intensive care units, spinal patients immobilized by the need for prolonged traction, and patients with impairment of their sensory apparatus (such as eye-patched or hearing impaired patients). The issue has also been a very significant concern in military situations and in exploration - polar and submarine expeditions, and in preparations for space travel.

In regard to solitary confinement, the United States was actually the world leader in introducing prolonged incarceration - and solitary confinement - as a means of dealing with criminal behavior; the "penitentiary system" began in the United States in the early 19th century, a product of a spirit of great social optimism about the possibility of rehabilitation of individuals with socially deviant behavior. This system, originally embodied as the "Philadelphia System", involved almost an exclusive reliance upon solitary confinement as a means of incarceration, and also became the predominant mode of incarceration - both for post conviction and also for pretrial detainees - in the several European prison systems which emulated the American model.

The results were catastrophic. The incidence of mental disturbances among prisoners so detained, and the severity of such disturbances, was so great that the system fell into disfavor and was ultimately abandoned. During this process, a

major body of clinical literature developed which documented the psychiatric disturbances created by such stringent conditions of confinement. The paradigmatic disturbance was an agitated confusional state which, in more severe cases, had the characteristics of a florid delirium, characterized by severe confusional, paranoid and hallucinatory features, and also by intense agitation and random, impulsive violence - often self-directed.

The psychiatric harm caused by solitary confinement became exceedingly apparent. Indeed, by 1890, in In re Medley, 10 S.Ct. 384, the United States Supreme Court explicitly recognized the massive psychiatric harm caused by solitary confinement: "This matter of solitary confinement is not ... a mere unimportant regulation as to the safe-keeping of the prisoner [E]xperience [with the penitentiary system of solitary confinement] demonstrated that there were serious objections to it. A considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others still, committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community." 10 S.Ct. at 386.

The consequences of the Supreme Court's holding were quite dramatic for Mr. Medley. Mr. Medley had been convicted of having murdered his wife. Under the Colorado statute in force at the time of the murder, he would have been executed after about one additional month of incarceration in the county jail. But in the interim between Mr. Medley's crime and his trial, the Colorado legislature had passed a new statute which called for the convicted murderer to be, instead, incarcerated in solitary confinement in the State Prison during the month prior to his execution. Unhappily, simultaneously with the passage of the new law, the legislature rescinded the older law, without allowing for a bridging clause which would have allowed for Mr. Medley's sentencing under the older statute.

Mr. Medley appealed his sentencing under the new statute, arguing that punishment under this new law was so substantially more burdensome than punishment under the old law, as to render its application to him *ex post facto*. The Supreme Court agreed with him, even though it simultaneously recognized that if Mr. Medley was not sentenced under the new law, he could not be sentenced at all. Despite this, the Court held that this additional punishment of one month of solitary confinement was simply too egregious to ignore; the Court declared Mr. Medley a free man, and ordered his release from prison.

Dramatic concerns about the profound psychiatric effects of solitary confinement have continued into the twentieth century, both in the medical literature, and in the news. The alarm raised about the "brainwashing" of political prisoners of the Soviet Union and of Communist China - and especially of American prisoners of war during the Korean War - gave rise to a major body of medical and scientific

literature concerning the effects of sensory deprivation and social isolation, including a substantial body of experimental research.

This literature, as well as my own observations, has demonstrated that, deprived of a sufficient level of environmental and social stimulation, individuals will soon become incapable of maintaining an adequate state of alertness and attention to the environment. Indeed, even a few days of solitary confinement will predictably shift the electroencephalogram (EEG) pattern towards an abnormal pattern characteristic of stupor and delirium.

This fact is, indeed, not surprising. Most individuals have at one time or another experienced, at least briefly, the effects of intense monotony and inadequate environmental stimulation. After even a relatively brief period of time in such a situation, an individual is likely to descend into a mental torpor - a "fog" - in which alertness, attention and concentration all become impaired. In such a state, after a time, the individual becomes increasingly incapable of processing external stimuli, and often becomes "hyperresponsive" to such stimulation; for example, a sudden noise or the flashing of a light jars the individual from his stupor, and becomes intensely unpleasant. Over time, the very absence of stimulation causes whatever stimulation is available to become noxious and irritating; individuals in such a stupor tend to avoid any stimulation, and progressively to withdraw into themselves and their own mental fog.

An adequate state of responsiveness to the environment requires both the ability to achieve and maintain an attentional set - to focus attention - and the ability to shift attention. The impairment of alertness and concentration in solitary confinement leads to two related abnormalities

The inability to focus, to achieve and maintain attention, is experienced as a kind of dissociative stupor - a mental "fog" in which the individual cannot focus attention, cannot, for example, grasp or recall when he attempts to read or to think.

The inability to shift attention results in a kind of "tunnel vision" in which the individual's attention becomes stuck - almost always on something intensely unpleasant - and in which he cannot stop thinking about that matter; instead, he becomes obsessively fixated upon it. These obsessional preoccupations are especially troubling. Individuals in solitary easily become preoccupied with some thought, some perceived slight or irritation, some sound or smell coming from a neighboring cell, or - perhaps most commonly, by some bodily sensation - tortured by it, unable to stop dwelling on it. I have examined countless individuals in solitary confinement who have become obsessively preoccupied with some minor, almost imperceptible bodily sensation, a sensation which grows over time into a worry, and finally into an all-consuming, life-threatening illness.

In solitary confinement, ordinary stimuli become intensely unpleasant, and small irritations become maddening. Individuals in such confinement brood upon normally unimportant stimuli, and minor irritations become the focus of increasing agitation and paranoia.

Individuals experiencing such environmental restriction find it difficult to maintain a normal pattern of daytime alertness and nighttime sleep. They often find themselves during the day incapable of resisting their bed - incapable of resisting the paralyzing effect of their stupor - and yet incapable at night of any restful sleep. The lack of meaningful activity is far compounded by the effect of continual exposure to artificial light, and diminished opportunity to experience natural daylight. And the individual's difficulty in maintaining a normal day-night sleep cycle is often far worsened by the constant intrusions on nighttime dark and quiet - steel doors slamming shut, flashlights shining in their face, and so forth.

There are, of course, substantial differences in the effects of solitary confinement upon different individuals. Those most severely affected - often individuals with evidence of subtle neurological or attention deficit disorder, or with some other vulnerability - suffer from states of florid psychotic delirium, marked by severe hallucinatory confusion, disorientation, and even incoherence, and by intense agitation and paranoia; these psychotic disturbances often have a dissociative character, and individuals so affected often do not recall events which occurred during the course of the confusional psychosis. Other individuals - generally, individuals with more stable personalities and greater ability to modulate their emotional expression and behavior, and individuals with stronger cognitive functioning - are less severely affected. However, all of these individuals will still experience a degree of stupor, difficulties with thinking and concentration, obsessional thinking, agitation, irritability and difficulty tolerating external stimuli (especially noxious stimuli). Anxiety, panic attacks, and depression are exceedingly common complications.

Mr. Ressaym certainly has not suffered the most severe psychiatric effects of his lengthy period of incarceration in solitary. He has had no episodes of overt delirium, of confusional psychosis, nor of behavioral dyscontrol. In some regards, he did not experience the most harshly stringent conditions of isolation. His cell had a window allowing him some view of the outside world. He was permitted occasional phone contact with his family, and his frequent legal visits broke the utter monotony of solitary confinement. Moreover, the SeaTac staff with whom he interacted treated him decently.

Yet in other ways - especially in regard to the fact that he could neither understand nor speak English - his confinement was especially onerous. And inevitably, he suffered a great deal. He began suffering severe anxiety and panic attacks; during my first meeting with him, while he was still incarcerated in FDC-SeaTac, he described: "I get headaches. I feel tight. Like the walls are coming in. Shortness of breath. Panic - it can last minutes, hours." He also described

increasing depression, difficulty sleeping, and impaired concentration and thinking: "It's increasing; I used to be able to read 3-4 hours/day; now I can only read about one hour/day. I lost my appetite to do anything. I walk back and forth, look at the pictures in a magazine, talk to myself. It's torture to go through that everyday. I sleep a lot." He also described increasing difficulties with obsessional anxiety and obsessional thoughts: "Sometimes I sit and think for a long time. I think of the past and of the whole problem that led to this - over and over, and I can't get it out of my mind."

As noted before, the oppressive effect of Mr. Ressam's incarceration in solitary was exacerbated by his inability to understand or communicate in English - a situation which left him utterly isolated while in his cell. He was provided with limited reading material at various times during his solitary confinement, no television, and he has received no social visits at all during the entire period of his incarceration. The only access he had to the outside world from his cell was a radio, but since he could not understand what was being said, it was of little benefit to him.

In addition to the social isolation and utter monotony of his environment, Mr. Ressam's experience in solitary was exacerbated by the oppressive and noxious nature of the environment. Many of the inmates incarcerated in his housing unit were mentally ill, and the days and nights were often punctuated by yelling, screaming, and by inmates throwing and smearing their own feces. Moreover, leaving his cell for most purposes required that he be strip searched, a procedure which - especially given the modesty which he learned as part of his culture - he experienced as extremely humiliating and degrading.

4.2 The Impact of the Repeated Interrogations.

The neuropsychological impairment associated with solitary confinement - the difficulties with alertness, concentration, thinking and memory - is, of course, of particular consequence when the prisoner is required to exercise substantial cognitive effort and attention in dealing with his legal situation. This problem is most often presented in cases where pretrial detainees are held in such conditions, and their neuropsychological impairment compromises their cognitive and emotional ability to assist counsel in their own defense. It also at times is of great concern in the course of post-conviction appeals in capital cases; the psychological effects of stringent conditions of incarceration have often been cited as a major factor in the phenomenon of "volunteering" - that is, post-conviction inmates wanting to dismiss their attorneys and drop their appeals, thus basically "volunteering" for the death penalty. At times, the effects of solitary confinement have been of such gravity as to raise questions about the inmate's mental capacity to make such a grave decision.

For Mr. Ressam, the cognitive challenge which he faced during his four and a half years of incarceration in solitary was basically that of responding to repeated interrogations and debriefings. This task became increasingly difficult for him, both

emotionally and cognitively. The interrogations were lengthy, arduous, and repetitive, and over time Mr. Ressam found it increasingly difficult to be clear in his own mind about events which had happened years ago; it was especially difficult because he needed to distinguish between what he was told by his interrogators that he had said previously, what he actually recalled that he had said, and what had actually happened in the past. The past, and his past statements, and what he was being told were his past statements, all began blurring together into a hopeless muddle.

This difficulty with the repeated retelling of past events - this problem with memory and increasing memory distortion as the "real" past becomes confused with what the individual last stated as his best memory of the past - is a well-known phenomenon. The problem is that each time the individual attempts to recall a past event, his memory for what actually happened in the past becomes contaminated with his memory of what he recalls having said about that event during a previous interview. Moreover, this situation is inevitably exacerbated by the interviewer then reminding the person of what his notes indicate that the individual said during that prior interview. This is, of course, an especial problem, if the context is one which will cause the individual to feel pressured to recall these past events and statements as they are being described to him.

And the problem of precise listening and retelling - the problem of nuance and subtle connotation - was enormously magnified for Mr. Ressam by the fact that his alertness, concentration and memory were all severely impaired by his conditions of incarceration. He was subjected to repeated interrogations, sometimes lasting up to seven hours/day, often for days at a time, and often these interrogations were repeated by different examiners, each going over the same material time and again.

Moreover, these problems were inevitably intensified by the difficulties inherent in the process of translation. Every question had to be translated. Every response had to be translated back. Subtle but important differences in interpretation were inevitable.

The process became exhausting even for his attorneys, his translator, and for the FBI agents participating or simply attending these interrogations. For Mr. Ressam, they became an increasingly unbearable burden: "They were asking many questions on many subjects, and I was unable to bear that pressure. At the beginning, I was treated with respect, ... [but] it went on for years with many people and I got very exhausted. Over time, I couldn't answer the questions. My mind would get too filled and saturated, and I cannot think. I was psychologically tired, my mind cannot absorb everything. It affects what I can remember. As the questions progress, I get anxious - I can't breathe, panic. Every time I go to these interviews, I feel my chest gets tighter and tighter and I have no room left in it to breathe. And when I became confused or uncertain, they would get angry at me and aggressive. Over time, it seemed like they were getting angrier. I lost my

ability to think, my concentration, my memory - I couldn't focus. I could understand things in small components, but I can't put it together, and if [the questioning] goes on too long, I lose [the picture] and have to start from the beginning."

Mr. Ressam's attorneys were aware that his ability to participate in the interrogations would rapidly diminish during the course of the day, as his attention and focus would flag and he would become foggy and exhausted. Indeed, on several occasions his defense team, advised the interrogators that as the day progressed, Mr. Ressam was becoming so confused and fatigued that his ability to answer questions was deteriorating, and it would be advisable to stop the interrogations for the day.

As I stated earlier, at first Mr. Ressam not just cooperated, but did so with evident enthusiasm. For a man for whom dignity and self-respect were so important, the process of interrogation was transformed from an opportunity to gain dignity - to possibly save innocent lives - and became a seemingly endless process of degradation: "Every time I think about it, I get upset - the way they treated me, the questioning. They abuse and use people, and manipulate. They knew I was tired and weak, and they kept asking me questions - never stopped. Someone came from the New York office. I was open and sharing information and he kept saying, 'what else, what else'. Or they would take what I say and push it to something they want me to say. Some of the interviews went on for three days, 6-7 hours/day or more. I would start to speak and they would bombard me and confuse me, ... and I would feel exhausted. They kept firing questions; they had no appreciation of how exhausted I am, and I'd get more upset."

Jo Ann Oliver, one of his attorneys, recalled how much his capacity would deteriorate during the course of the day: "In the beginning of the morning, he would listen, answer, but as time went by, he'd get more agitated: 'You asked me that question already - why are you repeating it?'" In fact, as Ms. Oliver explained, the interrogation process eventually terminated, not because Mr. Ressam refused to continue with it, but because his attorneys felt that they were becoming useless and counterproductive, as Mr. Ressam's difficulty responding to the questioning was increasingly being met with frustration, anger, and mistrust: "I kept being asked the same thing over and over, and I wasn't sure if my statements were correct at their origin. Hours and hours of interrogation - wouldn't you become confused? And I didn't know anymore what was true and not true, and then I was very tired psychologically. And when I said I don't remember, they didn't like it. It got to the point where it made no difference; it was hopeless. It got a life of its own."

Ms. Oliver explained: "It became clear to his attorneys that if this present state continued, the prosecution would say he was lying, which is the worst thing that can happen. So ultimately, it was his attorneys who made the decision to temporarily stop the process, and when we said this, his response was - "Yes, I can't go on..." Mr. Ressam affirmed this account: "I talk of what I remember, and

I don't talk about what I don't remember. It was not really a failure of cooperation. It was mental exhaustion and confusion. They keep hounding me to repeat things which I don't remember or I don't think I ever said. I was willing to go on, but I wasn't going to say things I don't remember or never said." This took place in the summer of 2003. It should be noted by this point in time Mr. Ressam had been questioned on at least 65 different occasions, by six different foreign governments and various representatives of the U.S. government. Apparently by this time, there was nothing new to provide. It had been over three years since Mr. Ressam's arrest and all of the intelligence value of his information had already been gathered. Mr. Ressam's attorneys explained that the government's interests in further debriefings at that point in time was to secure Mr. Ressam's testimony in two upcoming trials and to occasionally show him a photograph to determine if he recognized a particular individual. Thus, as the debriefings wore on, they became more and more repetitive.

Thus, Mr. Ressam's cooperation with the government - a process which had begun with a sense of optimism and a feeling of being treated with dignity - gradually deteriorated into an oppressive, unbearable ordeal, in which Mr. Ressam felt increasingly confused, panicky, and increasingly humiliated. This deterioration was, moreover, accelerated by his increasing conviction that he was being abused and manipulated by the government, treated as a puppet or a fool, rather than as someone worthy of respect.

Mr. Ressam's distrust of the government had actually begun just a few months after his conviction, and shortly after he had begun cooperating with the government. His attorneys described discussions they had with the prosecutors regarding Mr. Ressam's sentence. His attorneys had discussed with the government what Mr. Ressam could expect in return for his cooperation. The defense had advocated for a sentence in the range of 10 to 15 years since the government had previously offered 25 years without the valuable cooperation provided by Mr. Ressam. The Seattle U.S. Attorney stated he would never agree to a sentence of less than the 10 year mandatory minimum, and suggested a sentence in the range of 20 to 25 years was more appropriate because the intelligence value of the cooperation was not a legal basis for a reduction, and that Mr. Ressam's anticipated testimony against Mokhtar Haouari was against an individual who was less culpable than Mr. Ressam. The defense team was optimistic that it could achieve a sentence in the neighborhood of 15 years imprisonment, once the government understood the intelligence value of Mr. Ressam's information.

His attorneys explained, however, that in late June, 2001, on the eve of Mokhtar Haouari's trial, the day before Mr. Ressam was to get on a plane to travel to New York, his attorneys were presented with a take it or leave it document and Mr. Ressam was forced to accept an agreement that would have the government recommending a minimum of 27 years of incarceration, and binding the defense to

asking for no less than 27 years - such a long period of incarceration that Mr. Ressay saw no future for himself if such a sentence was imposed.

The government told Mr. Ressay that if he did not sign, they would not use him as a witness in the New York trial, and they would then have no legal basis for filing a 5K1.1 motion because the value of his intelligence information did not involve the arrest and prosecution of another individual. His attorneys explained that they decided to recommend that Mr. Ressay sign the agreement, and they told him they would revisit this issue at a future date.

During my interview with him, Mr. Ressay became visibly distressed when he described the interrogations, and his feeling that he was betrayed by the government: "I don't like remembering these things. I get upset. I feel regretful that I made a mistake in cooperating with [the government]. It gives me a feeling of being weak and abused and used because I was weak. In the beginning, I trusted their word, and later their word meant nothing to me. They abused me and their promises were false - lies. First it was 15 years, and then things changed - 27 years. They changed their mind. At first they say that the information I give them is good, then they ... turn around and say it's no good and say 27 years, and my help is no good. They don't respect anything."

Despite his feeling of betrayal, Mr. Ressay cooperated with the government during most of the period since his conviction. Even after being forced to sign the document stating the government would not recommend a sentence of less than 27 years, Mr. Ressay testified in the Haouari trial (July 2001) and in the German trial (December 2002), and participated in dozens of additional debriefings. Indeed, it was ultimately his attorneys, and not Mr. Ressay himself, who ultimately felt it imperative to shut down the process in the summer of 2003. This shutting down brought Mr. Ressay great relief from his psychological torment: "I don't have to expect anything from them now. ... After the Haouari testimony, the interrogations continued - a lot. An average of about one full day a week. In the beginning, I thought I'd be interrogated, and then it would end. Then I find out this is endless. It was a difficult period of time, difficult to make a decision. But every time I moved away from them, I felt stronger. No hope, all my life in solitary, but at least I could stop this heartache. ... The only way to have peace is to give up hope. ... There was no longer the pressure. I was free with my soul, the freedom of a human dignity is the most important thing."

5. My Belief That He Would Not be a Danger to our Community When Released.

In summary, Mr. Ressay's history provides strong evidence that he will not be a danger to our community. First of all, he became a terrorist not because he was a psychopath motivated by greed or personal gain, nor because of some sadistic blood lust. He is an individual with a moral core - a wish to be good to his family,

to find a noble and worthy purpose in his life. His life was difficult - a series of dead ends which left him rudderless and without any guiding moral compass. Thus, he was vulnerable to the religious and political fervor of Jihad extremism. But the killing of innocents was never something he could readily embrace.

Even before his conviction, he lost his belief in the efficacy or nobility of random violence, and he has searched ever since to find some moral compass with which he can live with some internal dignity - some sense of personal integrity. The turmoil he has felt about the precision of his words and recollections is, indeed, in large measure a reflection of that struggle to find personal dignity, some inner sense of integrity.

From my interviews with him, I have been impressed with his determination to be clear, to be truthful, and to seek peace. I, an American Jew, have sat with him and with our translator - a Palestinian Christian - for hours, and have watched him struggle to be precise, to be clear in his thoughts. I have also witnessed his gratitude for my help, and shared with him the final handshake and salutation - almost identical in Arabic and Hebrew - of "Salaam Alechem" - "Peace Unto You" - "Shalom Alechem".

A few months ago, in one of his meetings with his attorneys, he wondered if the government might be willing to let him live in the United States after his release from prison. I do not know whether that is a realistic wish, but it is clear to me that it was a wish to live in peace.



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