

**UNITED STATES  
OF  
AMERICA**

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**D-020  
Ruling on Defense Motion for Relief from the  
Terms of Protective Order No. 001**

**21 February 2008**

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**OMAR AHMED KHADR**  
a/k/a "Akhbar Farhad"  
a/k/a "Akhbar Farnad"  
a/k/a "Ahmed Muhammed Khahi"

1. The commission has considered:

a. The defense special request for relief, Email, LCDR Kuebler, 16 January 2008, 08:45 AM, Subject: U.S. v. Khadr -- Defense Special Request for Relief from Terms of Protective Order No. 001 (with attachments), which was designated as D-020 by LTC Chappell's email, 16 January 2008, 1:12 PM, Subject: FW: U.S. v. Khadr -- Defense Special Request for Relief from Terms of Protective Order No. 001 (D020).

b. The government response of 23 January 2008.

c. The defense request for ruling in LCDR Kuebler's email, 11 February 2008, 2:43 PM, Subject: U.S. v. Khadr -- D-020 -- Request for ruling.

d. The government's response to 1c above in MAJ Groharing's email, 12 February 2008, 3:10 PM, Subject: Re: U.S. v. Khadr -- D-020 -- Request for ruling.

e. Protective Order # 001, 9 October 2007 (AE 031).

2. Defense specifically requests that the commission authorize the defense to release two documents to Mr. Khadr's Canadian counsel, so that Canadian counsel may file the documents with the Registrar of the Supreme Court of Canada in the case of Minister of Justice, et al., v. Omar Ahmed Khadr, Case No. 32147. The documents were provided to the defense by the prosecution in fulfillment of the prosecution's responsibilities under the Manual for Military Commissions and under the provisions of Protective Order # 001.

3. Each of the documents in question has the label "FOUO/LAW ENFORCEMENT SENSITIVE". Each document is headed "CRIMINAL INVESTIGATION TASK FORCE (CITF) REPORT OF INVESTIGATIVE ACTIVITY" and each document has the following statement at the bottom "THIS DOCUMENT CONTAINS NEITHER

RECOMMENDATIONS NOR CONCLUSIONS OF CITF. IT IS THE PROPERTY OF THE CITF AND IS LOANED TO YOUR AGENCY; THIS DOCUMENT IS NOT TO BE RELEASED OUTSIDE OF YOUR AGENCY."

4. Provision of discovery by the government to the defense under Rule for Military Commission 701 is designed to assist the defense in performing its statutory and regulatory obligations under the Military Commissions Act of defending the accused before the military commission. Neither the prosecution nor the commission have the authority to release documents to the defense for any purpose other than providing defense services to an accused before a military commission.

5. The documents in question were given the label "FOUO/LAW ENFORCEMENT SENSITIVE" by the Criminal Investigation Task Force. That agency is the one which must authorize the release of any documents outside the ambit of the military commissions.

6. The defense request for relief is denied.

Peter E. Brownback III  
COL, JA, USA  
Military Judge