

EXHIBIT 1

**UNITED STATES DEPARTMENT OF JUSTICE
NATIONAL SECURITY DIVISION**



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TO: Larry Lustberg
Phone: 973-596-4500
Fax: 973-639-6285

FROM: Joanna Baltes
Phone: 202-307-6326
Fax: 202-307-0224

DATE: September 11, 2009

SUBJECT: U.S. v. Al-Marri 09-CR 10030

NUMBER OF PAGES (INCLUDING COVER): 7

MESSAGE: Larry,

I am faxing these first and will follow up with a FED EX with bates stamped copies.



U.S. Department of Justice

National Security Division

Counterterrorism Section

Washington, D.C. 20530

September 11, 2009

Via Fax 973-639-6285

Lawrence S. Lustberg, Esq.
Gibbons P.C.
One Gateway Center
Newark, NJ 07102-5310

Re: *United States v. Al-Marri*, No.09CR 10030

Larry,

Please find attached additional summaries regarding the DIA interrogations of your client. The attached documents are summaries of classified documents that have been approved by the Court as satisfying the government's discovery obligations. Although they are unclassified, they are provided in this case for official use only and therefore are marked accordingly.

Please do not hesitate to contact me if you have any questions about the government's position on your request for discovery.

Very truly yours
REDACTED *J* **REDACTED**

Joanna Baltes
Trial Attorney

cc: David Risley, Esq.
Andrew J. Savage III, Esq.
L. Lee Smith, Esq.
Mark A. Berman, Esq.

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On 11 March 2004, in response to Al-Marri's continuous chanting in Arabic, the lead interrogator wrapped duct tape over Al-Marri's mouth on three occasions. The tape did not appear to stick well to Al-Marri's skin, beard, or hair. The taping proved ineffective in stopping the chanting and Al-Marri remained taped, initially for about a minute, then 5 minutes, and later 15 minutes. On the last occasion, cotton or cloth was used with 4 to 5 layers of duct tape, but not inserted in his mouth. Al-Marri had no difficulty breathing and did not appear to gag, except for a brief moment at the end when he was removing the duct tape from covering his mouth. During this session, other physical contact between the interrogators and Al-Marri included patting Al-Marri's face with both hands, turning Al-Marri's face to look at pictures of his family on the wall, pressing two fingers up under Al-Marri's chin, placing hands on his shoulders, rubbing his shoulders, and sitting on his lap. The interrogators acted in this manner in an effort to get him to stop chanting and listen to what they were saying. Al-Marri nevertheless continued to chant from the Koran. On several occasions, in response to chanting by Al-Marri, the interrogators yelled loudly close to Al-Marri's face. On a few occasions, Al-Marri smiled as he responded, with comments like, "I don't care", "Thank you", or just laughter. During this interrogation session, Al-Marri was seated in a chair. His wrists and ankles were shackled.

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