

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
:
UNITED STATES OF AMERICA, :
: 11 Cr. 897 (JFK)
- v. - :
:
MANSSOR ARBABSJAR, :
a/k/a "Mansour Arbabsiar," :
:
Defendant. :
----- X

**MEMORANDUM OF LAW OF THE UNITED STATES OF AMERICA
IN OPPOSITION TO THE DEFENDANT’S MOTION TO DISMISS OR SUPPRESS**

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PRELIMINARY STATEMENT

The Government respectfully submits this memorandum of law in opposition to the defendant's motion to dismiss indictment 11 Cr. 897 (JFK) (the "Indictment") or to suppress statements made by the defendant. Specifically, the defendant argues that: (i) the Indictment should be dismissed, or in the alternative the defendant's post-arrest statements should be suppressed, because the defendant was not presented before a judicial officer in violation of Rule 5 of the Federal Rules of Criminal Procedure; and (ii) the defendant's post-arrest statements should be suppressed because they were not voluntarily made and were made in violation of *Miranda*. In light of the defendant's affidavits in support of his motion, in which he disputes certain material factual issues and raises claims regarding his mental state during the time that he waived his rights and confessed to his crimes, the Government has consented to an evidentiary hearing. For the reasons set forth below, and as will be further developed at the hearing, the defendant's motion to suppress should be rejected in its entirety. In addition, the defendant's motion to dismiss the Indictment fails as a matter of law and should be denied.

BACKGROUND

I. The Investigation

A. May 2011: Arbabsiar's Initial Meeting with CS-1

On or about May 24, 2011, the defendant Manssor Arbabsiar traveled from Texas to Mexico and met with a Drug Enforcement Administration ("DEA") confidential source ("CS-1") in Mexico. (Compl. ¶ 16).¹ During this meeting, and all others with Arbabsiar, CS-1 posed as an associate of a drug-trafficking cartel. (*Id.* ¶ 18). During the meeting, Arbabsiar inquired as to

¹ "Compl." denotes the complaint filed on October 11, 2011 (11 MAG 2617). The facts in the "Background" section are based on the Complaint and the expected testimony of the Government's witnesses at the hearing scheduled to begin on October 22, 2012.

CS-1's knowledge of explosives. Arbabsiar explained to CS-1 that he was interested in, among other things, attacking an embassy of Saudi Arabia. CS-1 responded that he was knowledgeable with respect to C-4 explosives. (*Id.*). Arbabsiar returned to Texas and then left the United States about a week later. (*Id.* ¶ 19).

B. June and July 2011: Arbabsiar Meets Again with CS-1

On or about June 23, 2011, Arbabsiar returned to Mexico. (*Id.* ¶ 20). In late June and July, Arbabsiar met again with CS-1 in Mexico. (*Id.* ¶ 21). Over the course of a series of meetings, Arbabsiar explained to CS-1 that his associates in Iran had discussed a number of violent missions for CS-1 and CS-1's purported criminal associates to perform, including the murder of the Ambassador of Saudi Arabia to the United States (the "Ambassador"). (*Id.*).

On or about July 14, 2011, Arbabsiar met again with CS-1 in Mexico. During this meeting, CS-1 told Arbabsiar that he would need a team of at least four men to assassinate the Ambassador and that the price for conducting the assassination would be \$1.5 million. (*Id.* at ¶ 22(a)). CS-1 and Arbabsiar also discussed the method by which Arbabsiar would pay CS-1. (*Id.* ¶ 22(b)). Arbabsiar then said that he had been told that \$100,000 was available in Iran to pay CS-1 as a first installment toward the assassination of the Ambassador. (*Id.*). During the course of the same meeting, Arbabsiar stated that his cousin worked in other countries on behalf of the Iranian government and had requested that Arbabsiar find someone who could carry out the plot to kill the Ambassador. (*Id.*).

On or about July 17, 2011, Arbabsiar met again with CS-1 in Mexico. (*Id.* ¶ 23). During the meeting, after Arbabsiar identified a photograph of the Ambassador, CS-1 informed Arbabsiar that one of CS-1's associates had already traveled to Washington, D.C. to surveil the Ambassador. (*Id.* ¶ 23(a)). CS-1 asked exactly what Arbabsiar's cousin wanted him to do, and

Arbabsiar stated that his cousin wanted CS-1 to kill the Ambassador. (*Id.* ¶ 23(b)). Arbabsiar also said that it would be permissible for CS-1 to kill the Ambassador even if it resulted in bystander casualties. (*Id.*). Arbabsiar further assured CS-1 that CS-1 would be paid for his work and said that Arbabsiar's cousin had the Iranian government behind him. (*Id.* ¶ 23(c)). During the course of the meeting, Arbabsiar also explained that his cousin and an individual who worked for his cousin had paid Arbabsiar's expenses related to the assassination plot. (*Id.*). At the end of the meeting, Arbabsiar reiterated that the potential for civilian casualties should not dissuade CS-1 from killing the Ambassador. (*Id.* ¶ 23(e)). On or about July 20, 2011, Arbabsiar left Mexico. (*Id.* ¶ 24).

C. August 2011: Arbabsiar Confirms Payments to CS-1

On or about August 1, 2011, an overseas wire transfer of approximately \$49,960 was sent through Manhattan to the FBI undercover bank account (the "UC Bank Account") that CS-1 had identified to Arbabsiar. (*Id.* ¶ 26). On or about August 6, 2011, Arbabsiar spoke with CS-1 by telephone, and the conversation was recorded by CS-1. (*Id.* ¶ 27). During the conversation, Arbabsiar said that he had sent the other half of the down payment the previous day. (*Id.*). On or about August 9, 2011, another overseas wire transfer of approximately \$49,960 was sent through Manhattan to the UC Bank Account. (*Id.* ¶ 28). On or about August 11, 2011, Arbabsiar spoke with CS-1 on the telephone, and the conversation was recorded by CS-1. (*Id.* ¶ 29). During the call, Arbabsiar asked CS-1 whether he had received the second half of the down payment. (*Id.*).

D. September 2011: Arbabsiar Returns to Mexico

On or about September 20, 2011, Arbabsiar spoke with CS-1 over the telephone, and CS-1 again recorded the conversation. (*Id.* ¶ 32). During the call, CS-1 stated that he wanted

Arbabsiar and his associates to make an additional payment of half of the total payment for the assassination or for Arbabsiar to go personally to Mexico to serve as collateral for the final payment. (*Id.*). Arbabsiar ultimately agreed to travel to Mexico to guarantee payment for the Ambassador's assassination. (*Id.*).

On or about September 28, 2011, Arbabsiar flew to Mexico. (*Id.* ¶ 33). Arbabsiar was denied entry into Mexico, and then flew on to John F. Kennedy International Airport ("JFK") on September 29, 2011. During the flight to JFK, law-enforcement officials aboard the plane conducted surveillance of the defendant without alerting him to their presence. (*Id.*; Shroff Decl., Ex. A at 558).

E. Arbabsiar's Arrest and Confession

Arbabsiar exited the plane upon its arrival at JFK, and he was placed under arrest at approximately 8:40 p.m. (Shroff Decl., Ex. A at 558). From the airport, Arbabsiar was brought to a hotel room with two FBI special agents (the "Agents"). The Agents removed Arbabsiar's handcuffs and spoke with him about matters unrelated to the investigation as a way to build rapport. After Arbabsiar was given an opportunity to eat, the Agents asked Arbabsiar about his knowledge of a possible imminent threat to public safety involving a bomb near the border between the United States and Mexico. Arbabsiar denied any knowledge of such a threat.

At approximately 11:50 p.m., on September 29, 2011, after he was given an opportunity to smoke a cigarette, the defendant was advised of his *Miranda* rights, agreed to waive his rights, and signed a written waiver to that effect. The *Miranda* waiver signed by the defendant was entitled "Advice of Rights" and included language that stated that "you have the right to remain silent;" "[a]nything you now say can be used against you in court;" "[y]ou have the right to have a lawyer with you during questioning;" and "[i]f you cannot afford a lawyer, one will be

appointed for you before any questioning if you wish.” (Shroff Decl., Ex. B. at 57). The waiver form also stated that “[y]ou do not need to speak with us now just because you have spoken with us before. This is a clean slate and a fresh start.” (Shroff Decl., Ex. B. at 57). In addition, the form stated that “[i]f you decide to answer questions now without a lawyer present, you have the right to stop answering at any time.” (*Id.*).

At approximately 11:59 p.m., less than three and a half hours after his arrest at JFK Airport, the defendant was advised of his right to a presentment without undue delay. The defendant agreed to waive this right as well, and signed a written waiver to that effect. The prompt presentment waiver form was captioned, “UNITED STATES OF AMERICA – v – MANSSOR ARBABSIAR, defendant.” (Shroff Decl., Ex. B at 58). The form stated in part:

1. I was arrested today in connection with, among other things, my involvement in a conspiracy to murder the Ambassador of a Middle-Eastern country to the United States.

6. I have a right to be brought without undue delay before a United States Magistrate Judge or other judicial officer who, in accordance with the Federal Rules of Criminal Procedure, would:

- a. Formally advise me of the charges against me;
- b. Make a determination whether probable cause exists to believe that I committed a violation of federal criminal law;
- c. Appoint a lawyer to represent me if I cannot afford one or give me an opportunity to retain my own lawyer;
- d. Determine whether I should be released on bail pending indictment and/or trial of the case against me.

I understand all of these rights and I hereby choose to waive my right to a speedy initial appearance before a United States Magistrate Judge or other judicial officer. I also waive all the other rights referenced in this Waiver form. I understand that I am not required to waive the rights referred to herein merely because I may have previously done so....

I understand that I will, at a future time, be presented before a United States Magistrate Judge or other judicial officer on a Complaint and/or either an Information or Indictment charging me with a violation of federal criminal law, and that I will/may remain in custody until that time.

(*Id.* at 58-59).

The defendant subsequently waived both his *Miranda* rights and his right to a prompt presentment at the start of each successive day following his arrest, until October 10, 2011.

On October 10, 2011, after again signing his *Miranda* waiver and prompt presentment waiver forms, the defendant invoked his right to counsel, and agents ceased their interview of him. (Shroff Decl., Ex. A at 633). Because October 10th was a court holiday, Columbus Day, the defendant was presented before Magistrate Judge Michael Dolinger on October 11, 2011. (*See* Docket Entry dated 10/11/11).

ARGUMENT

The defendant knowingly and voluntarily waived both his right to a presentment without undue delay and his *Miranda* rights.

I. The Defendant Waived His Right to Prompt Presentment

The Government expects the evidence adduced at the hearing to establish that the defendant was arrested by the FBI at JFK Airport at approximately 8:40 p.m., on September 29, 2011. A little over three hours later, the defendant knowingly and voluntarily waived his right to prompt presentment. Moreover, at the start of each successive day following his arrest, for eleven days straight, the FBI presented the defendant with an opportunity to either waive his prompt presentment right or go to court. On each of those days, the defendant knowingly and voluntarily waived that right.

A. The Right to Prompt Presentment

Once a suspect has been placed under arrest, Rule 5(a) of the Federal Rules of Criminal Procedure requires that a defendant be taken “without unnecessary delay” for presentment before a federal magistrate judge. Fed. R. Crim. P. 5(a)(1)(A). At presentment, the defendant is to be advised of, among other things, the charges against him, his right to retain or request appointment of counsel, and his right not to make post-arrest statements. Fed. R. Crim. P. 5(d); *see also Corley v. United States*, 556 U.S. 303, 320 (2009).

If a defendant makes statements following his arrest, Section 3501 of Title 18 applies to any motion to suppress those statements based on an alleged delay in presentment. That section provides, in pertinent part:

(c) In any criminal prosecution by the United States . . . , a confession made or given by a person who is a defendant therein, while such person was under arrest or other detention in the custody of any law-enforcement officer or law-enforcement agency, shall not be inadmissible solely because of delay in bringing such person before a magistrate judge or other officer empowered to commit persons charged with offenses against the laws of the United States . . . if such confession is found by the trial judge to have been made voluntarily and if the weight to be given the confession is left to the jury and if such confession was made or given by such person within six hours immediately following his arrest or other detention: *Provided*, That the time limitation contained in this subsection shall not apply in any case in which the delay in bringing such person before such magistrate judge or other officer beyond such six-hour period is found by the trial judge to be reasonable considering the means of transportation and the distance to be traveled to the nearest available such magistrate judge or other officer.

(d) Nothing contained in this section shall bar the admission in evidence of any confession made or given voluntarily by any person to any other person without interrogation by anyone, or at any time at which the person who made or gave such confession was not under arrest or other detention.

18 U.S.C. § 3501 (emphasis in original).

In *Corley*, the Supreme Court addressed the interplay between Rule 5(a) and Section 3501.² *See* 556 U.S. at 321-22. Among other things, the Supreme Court concluded that Section 3501(c) was meant to provide a safe-harbor for confessions made within six hours of arrest. *See Corley*, 556 U.S. at 322. After six hours, a confession could still be admissible, but its admissibility is subject to the district court’s determination of whether the delay was unreasonable or unnecessary. *See id.* The *Corley* Court stated:

a district court with a suppression claim must find whether the defendant confessed within six hours of arrest (unless a longer delay was “reasonable considering the means of transportation and the distance to be traveled to the nearest available [magistrate judge]”). If the confession came within that period, it is admissible, subject to the other Rules of Evidence, so long as it was “made voluntarily and . . . the weight to be given [it] is left to the jury.” *Ibid.* If the confession occurred before presentment and beyond six hours, however, the court must decide whether delaying that long was unreasonable or unnecessary under the *McNabb–Mallory* cases, and if it was, the confession is to be suppressed.

Id.

B. The Right to Prompt Presentment Can be Waived

As the defendant concedes, numerous courts in this Circuit have held that a defendant can waive the right to prompt presentment. *See, e.g., United States v. Berkovich*, 932 F. Supp. 582, 588 (S.D.N.Y. 1996) (“A defendant may waive his right to be presented promptly.”); *United States v. Pena Ontiveros*, 547 F. Supp. 2d 323, 339 (S.D.N.Y. 2008) (“Of course, a defendant

² More particularly, the Court analyzed the impact of Section 3501 on the *McNabb–Mallory* rule, which “generally render[s] inadmissible confessions made during periods of detention that violat[e] the prompt presentment requirement of Rule 5(a).” *See Corley*, 556 U.S. at 309 (internal quotes omitted). The *McNabb–Mallory* rule was derived from two cases in which statements were suppressed for unnecessary delay in presentment before the enactment of Rule 5(a) (*McNabb v. United States*, 318 U.S. 332 (1943)) and after its enactment (*Mallory v. United States*, 354 U.S. 449 (1957)). *Id.* at 307-09.

may also waive his or her right to be presented promptly.”); *United States v. Cabrera*, No. 05 Cr. 1278 (NRB), 2008 WL 2803902, at *5 (S.D.N.Y. July 15, 2008) (“Delays attributable to a defendant’s cooperation with law enforcement officials, particularly when the defendant has knowingly and voluntarily waived his right to speedy presentment, have been routinely found to be reasonable by the district courts in the Second Circuit.”); *United States v. Torres*, No. 98 Cr. 183 (AGS), 2002 WL 72929, at *8 (S.D.N.Y. Jan. 17, 2002) (“A defendant may waive his right to speedy presentment before a court.”); *United States v. Garcia*, No. 09 Cr. 330 (DLI), 2011 WL 6010296, at *4 (E.D.N.Y. Nov. 30, 2011) (“An arrested person may waive his right to be brought before a magistrate judge without unnecessary delay.”); *United States v. Markoneti*, Cr. 92-0169 (JBW), 1993 WL 180355, at *2 (E.D.N.Y. May 25, 1993) (“Voluntary delays in arraignment are not unusual or undesirable where a person who is believed to be engaged in criminal activity volunteers to assist the government in catching other criminals.”).

Courts in other circuits have reached the same conclusion. *See, e.g., United States v. Gibson*, 530 F.3d 606, 613 (7th Cir. 2008) (upholding district court’s finding that multiple waivers of prompt presentment were voluntary and valid); *United States v. Annoreno*, No. 06 Cr. 33-1, 2009 WL 3518155, at *4 (N.D. Ill. Oct. 28, 2009) (“[T]he right to prompt presentment can be waived.”); *United States v. Jacques*, 784 F.Supp.2d 48, 56-58 (D. Mass 2011) (recognizing defendant’s ability to waive right to prompt presentment).

In the face of these holdings, the defendant urges this Court to find that the right to prompt presentment is not waivable. The defendant, however, has not identified a single case supporting this proposition. Furthermore, the defendant’s contention is inconsistent with the well-established proposition that constitutional and statutory rights are generally waivable. *See New York v. Hill*, 528 U.S. 110, 114 (2000) (“We have . . . in the context of a broad array of

constitutional and statutory provisions, articulated a general rule that presumes the availability of waiver, . . . and we have recognized that the ‘most basic rights of criminal defendants are . . . subject to waiver.’”) (internal citations and quotations omitted). Just as a defendant is permitted to waive his rights to remain silent and to consult with an attorney before speaking with government agents, so is he permitted to knowingly and voluntarily waive his right to be presented without delay.

The defendant’s argument that the right to prompt presentment should not be waivable is premised largely on an inapposite analogy to the limitation on *prospective* waivers of the right to a speedy *trial*. (Def. Mem. at 28-31). The defendant argues that because Rule 5 serves the public interest, a defendant should not be permitted to prospectively waive his right to prompt presentment, just as a defendant cannot prospectively waive his rights under the Speedy Trial Act. This analogy fails in at least two respects.

First, the defendant asserts that both the Speedy Trial Act and Rule 5 protect a larger public interest as well as a defendant’s individual rights. However, Rule 5 protects a public interest only to the extent that *any* statute protecting individual rights can be said to protect a larger public interest. That is to say, while individual rights – like the right to prompt presentment or the right to remain silent – of course serve to protect society as a whole, that societal interest does not generally limit an individual’s execution or waiver of that right. By contrast, the Speedy Trial Act is an outlier; it limits an individual defendant’s right to waive certain statutory rights by balancing the defendant’s desire (for a waiver) against the public’s interest. *See* 18 U.S.C. § 3161(h)(7)(A) (excluding from the computation of time within which trial must begin “[a]ny period of delay resulting from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for

the Government, if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh *the best interest of the public and the defendant* in a speedy trial.” (emphasis added)). *See also Zedner v. United States*, 547 U.S. 489, 501 (2006) (“[T]he [Speedy Trial] Act was designed not just to benefit defendants but also to serve the public interest by, among other things, reducing defendants’ opportunity to commit crimes while on pretrial release and preventing extended pretrial delay from impairing the deterrent effect of punishment.”).

But a defendant’s speedy trial rights are emphatically different than other rights – even other rights that are said to protect both the defendant and society as a whole. As the Supreme Court has emphasized, “It is *not* true that any private right that also benefits society cannot be waived.” *Hill*, 528 U.S. at 117 (emphasis in original). The Supreme Court has “articulated a general rule that presumes the availability of waiver” and has permitted the waiver of “numerous constitutional protections for criminal defendants that also serve broader social interests,” such as the right to a jury trial and the right to counsel. *Id.* at 114, 117. The “general rule” articulated in *Hill* is dispositive here; waiver in the speedy trial context is exceptional and has no bearing here.

The second problem with the defendant’s analogy to prospective waivers of speedy trial rights is that there was no *prospective* waiver in this case. The defendant’s argument rests primarily on *Zedner*. In that case, the defendant was asked on one occasion to give a “blanket, prospective” waiver of his right to speedy trial “for all time,” resulting in a delay of trial of nearly seven years. *Id.* at 492-94. The Supreme Court found that such a waiver by the defendant was insufficient, in part because it did not fall within the specific categories of permissible exclusions set forth under the Speedy Trial Act, and because of the requirement under the

Speedy Trial Act that the court balance the ends of justice against the interest of the public when considering whether to grant a continuance under the relevant provision in the Act. *Id.* at 500-01 (noting that the “public interest cannot be served . . . if defendants may opt out of the Act entirely”).

Zedner is readily distinguishable. As an initial matter, unlike the Speedy Trial Act, Rule 5 contains no provisions that would be inconsistent with a defendant’s waiver of its requirements. In addition, in this case the defendant was advised of his prompt presentment right on each of the twelve days he was in custody, and he waived that right every day before any questioning started. Although the defendant argues that the absence of an end date in the prompt presentment waiver forms suggests that the defendant was being asked to prospectively waive his right to presentment without undue delay, this argument is meritless. Unlike in *Zedner*, the defendant was not asked on one occasion to waive his right to presentment for all time. Rather, the defendant was presented with the waiver form *every* day he was held in the custody of agents. As a result, the effect of each waiver was that it was a waiver for the day on which it was signed. Moreover, the waiver form did not include language indicating that the defendant was indefinitely waiving his right to prompt presentment. To the contrary, it explicitly stated that the defendant had “a right to be brought *without undue delay* before a United States Magistrate Judge or other judicial officer.” (Shroff Decl., Ex. B at 58) (emphasis added).³

³ The defendant also argues that unlike the right to remain silent or to have an attorney, the potential benefits of a prompt presentment are not likely to be apparent to the average defendant, absent consultation with an attorney. (*See* Def. Mem. at 30). This argument should be swiftly rejected. Among other things, the waiver form presented to Arbabsiar spelled out for him in black and white the rights associated with presentment – including being advised by a judge of the charges, having a lawyer appointed, and potentially being released on bail. (Shroff Decl., Ex. B at 58-59). Moreover, those rights are no more complex than the rights waived in the context of, for example, *Miranda*.

C. The Defendant Knowingly and Voluntarily Waived His Right to Prompt Presentment

The Government anticipates presenting evidence during the upcoming hearing that will establish that the defendant knowingly and voluntarily waived his right to prompt presentment on each day, from September 29, 2011 to October 10, 2011. Accordingly, all of the defendant's post-arrest statements are admissible against him.

1. The Defendant's Prompt Presentment Right Was Triggered When He Was Arrested at JFK Airport on September 29, 2011

As an initial matter, the defendant was first placed in custody on federal charges when he was arrested by the FBI at JFK Airport, at approximately 8:40 p.m., on September 29, 2011. Thus, the defendant's arrest by the FBI is the proper starting point from which to calculate the amount of time that elapsed before the defendant waived his right to prompt presentment at 11:59 p.m. that night. The defendant, on the other hand, argues that his right to presentment without undue delay was triggered shortly after he arrived in Mexico, on September 28, 2011, when he was held by Mexican immigration authorities who refused to allow him to enter their country. (*See* Def. Mem. at 24-25). This is not the law.

In *United States v. Alvarez-Sanchez*, 511 U.S. 350 (U.S. 1994), the Supreme Court held that the plain language of Section 3501(c) makes clear that the statute comes into play "only when there is some 'delay' in presentment" and that "there can be no 'delay' in bringing a person before a federal magistrate until, at a minimum, there is some obligation to bring the person before such a judicial officer in the first place." *Id.* at 357, 358. The Court further found that "[u]ntil a person is arrested or detained for a federal crime, there is no duty, obligation, or reason to bring him before a judicial officer 'empowered to commit persons charged with offenses against the laws of the United States,' and therefore, no 'delay' under § 3501(c) can occur." *Id.*;

see also *United States v. Fullwood*, 86 F.3d 27, 31 (2d Cir. 1996) (finding that Section 3501(c) is “implicated only when a defendant is arrested or detained for a federal crime and, thus, is in federal detention at the time the challenged statement is made”). As the Second Circuit emphasized in *Fullwood*, determining the nature of the charge underlying the arrest is the relevant inquiry for Section 3501(c):

The touchstone of determining the applicability of 3501(c), therefore, is the governmental source of the charge underlying the arrest, not the law enforcement agency involved.

Fullwood, 86 F.3d at 31. See also *United States v. Frank*, 8 F. Supp. 2d 284, 298 (S.D.N.Y. 1998) (“Section 3501 applies . . . only to prisoners arrested for *federal* crimes by any law enforcement agency, state or federal.” (emphasis in original)).

As a corollary, even when there is a foreign arrest, the arrest does not necessarily trigger the prompt presentment duty under Section 3501 when the arrest is not on a federal charge. The two leading cases addressing the applicability of Rule 5 and Section 3501 to overseas detentions involved actual *arrests* by foreign law enforcement followed by lengthy overseas interrogations about events that were later the basis for U.S. criminal charges. In neither case did the court find that the prompt presentment clock was initiated when the defendants were overseas. In *United States v. Bin Laden*, 132 F. Supp. 2d 198 (S.D.N.Y. 2001), the defendants sought to suppress post-arrest statements for claimed violations of Rule 5(a) relating to their detention in Kenya in connection with their alleged involvement in the 1998 embassy bombing in Nairobi. Both defendants were initially arrested in Pakistan before being transported to Kenya where they were questioned by Kenyan and U.S. law enforcement agents for over two weeks. At the end of the two-week period, each defendant was transported to the United States and brought before a magistrate judge. *Id.* at 204-206.

Judge Sand denied the defendants' motions. He first found that when a defendant is held overseas, the reality of relationships between sovereign nations – which carries “inherent and important” differences from the relationships between U.S. federal and state law enforcement agencies – makes it unreasonable to require prompt presentment to a U.S. judicial officer. *See id.* at 208. Thus, Judge Sand concluded that, “[i]f the Kenyans were holding [the defendants] on Kenyan charges, then the Americans could not reasonably be expected to arrange presentment before a United States magistrate.” *Id.* That is to say, the reality of relations with foreign sovereigns makes it impossible to burden U.S. law enforcement with having to race against the clock to present a defendant who is detained overseas by foreign officials to a U.S. judge.

Second, Judge Sand determined that the defendants failed to establish, under the “working arrangement” rule, that the U.S. agents had colluded with the Kenyan officials to improperly circumvent the U.S. presentment requirements. *See id.* at 209. To establish an improper “working relationship,” a defendant has the burden of establishing that the Government made deliberate use of foreign custody to postpone its presentment requirements. *Id.* There, even though the defendant was questioned by both Kenyan and U.S. officials for two weeks, Judge Sand held that the defendants could not establish that the U.S. had collaborated with the Kenyans to deliberately avoid the defendants' prompt presentment rights. *Id.* at 211.

Similarly, in *United States v. Abu Ali*, 528 F.3d 210 (4th Cir. 2008), the Fourth Circuit rejected the defendant's argument that his arrest in Saudi Arabia by Saudi law enforcement triggered the “prompt presentment guarantee.” *See id.* at 226. The defendant, an American citizen, was arrested in Saudi Arabia in connection with a Saudi investigation of al Qaeda suicide bombings in Riyadh that killed 34 people, including nine Americans. *See id.* at 221-224. Although American officials were notified of Abu Ali's arrest, they were only permitted to be

present for the interrogations and to submit questions to the Saudis to ask the defendant. *See id.* at 225. The Fourth Circuit stated that “any prompt presentment guarantee applies only to actions undertaken by domestic authorities,” such that the Saudi arrest did not implicate either the Fourth Amendment or Section 3501. *Id.* at 226 (citing *Alvarez-Sanchez*, 511 U.S. at 359-60). Turning to the “working arrangement” question, the *Abu Ali* court also affirmed the district court’s finding that the U.S. authorities had not colluded with Saudi authorities to have the Saudis hold the defendant so that the U.S. authorities could “evade their constitutional duties.” *Id.* at 226-27.

Simply put, the Mexican authorities’ stop and expulsion of Arbabsiar could not reasonably have triggered an obligation on the part of U.S. authorities to promptly present the defendant when he was in Mexico. The defendant’s stop in Mexico, as he himself alleges, was made by Mexican immigration authorities who declined to let him enter Mexico. (*See* Arbabsiar Decl. ¶ 3). A Mexican immigration authority’s determination of the defendant’s ability to enter Mexico is not a U.S. charge. Moreover, Arbabsiar has made no allegation – nor is there any evidence – that U.S. law enforcement authorities engaged in any conduct while Arbabsiar was in Mexico aimed at postponing his presentment before a U.S. magistrate judge. In addition, no law enforcement officials – Mexican or American – participated in questioning of the defendant regarding his U.S. charges while he was in Mexico. (*See* Def. Decl. ¶¶ 3-4). In both *Abu Ali* and *Bin Laden*, not only did the defendants’ incriminating statements result from extensive overseas interrogations, but the U.S. authorities either took part in the questioning (*Bin Laden*) or were made aware of it and were present for parts of it (*Abu Ali*). In both *Abu Ali* and *Bin Laden*, Section 3501 was not triggered despite the fact that the defendants had been arrested and interrogated about matters relevant to the charges later brought against them in American courts. In the face of that authority, it cannot be argued that the defendant’s short stay in Mexico, during

which he was not arrested on any U.S. charge and not interrogated at all, triggered an obligation to present him promptly to a U.S. judicial officer.

In support of his claim that the prompt presentment clock started when Mexican immigration authorities detained him in a Mexican airport and prevented him from entering Mexico, the defendant cites to two cases in which district courts found that something less than a formal arrest amounted to a detention under Section 3501(c). (*See* Def. Mem. at 24-25). These cases provide no support for the defendant's argument because neither stands for the proposition that action by foreign officials abroad can trigger the Rule 5 duty to promptly present a defendant to an American judicial officer. The cases simply set forth case-specific facts in which a defendant, *confronted by questioning by United States law enforcement officials in the United States*, could be deemed to be detained despite the absence of a formal arrest.

For example, in *United States v. Ramirez*, 696 F. Supp. 2d 246 (E.D.N.Y. 2010), the defendant was determined to have been detained for purposes of the prompt presentment clock after he arrived at JFK Airport where he was held by U.S. immigration officials. *See Ramirez*, 696 F. Supp. 2d at 261. A United States Customs and Border Patrol ("CBP") officer performed a secondary immigration inspection on the defendant and determined that the defendant's fingerprints matched a 2005 immigration violation. *Id.* at 248-50. The officer informed the defendant of his finding and the defendant admitted to the earlier immigration violation. *Id.* at 250. The defendant was held overnight in CBP custody for further criminal investigation before being interviewed more than six hours after his initial detention. *Id.* The district court concluded that the defendant was in custody such that the defendant's right to prompt presentment was triggered, *i.e.*, he was detained under Section 3501, when it was determined that the defendant

was the person involved in the 2005 immigration violation because the defendant was not free to leave CBP custody, and he was going to be charged with a U.S. crime. *Id.* at 261.

The defendant here, unlike the defendant in *Rodriguez*, was stopped at a Mexican airport by Mexican immigration authorities who prevented him from entering Mexico, not by American immigration authorities at an American airport. (*See* Arbabsiar Decl. ¶ 3). Moreover, unlike the defendant in *Ramirez*, the defendant does not allege that his time in detention in Mexico was used to further investigate his U.S. charges. The defendant makes no claim that he was questioned by the Mexicans about any possible U.S. federal charges. (*See* Arbabsiar Decl. at ¶ 3). Rather, the defendant contends that the Mexican immigration authorities “held” him for mere hours before putting him on a plane routed through New York. (*Id.* at ¶¶ 3-4). In all, unlike the defendant in *Rodriguez* who was held overnight so he could be interrogated, the defendant’s time in Mexico was nothing more than a stopover, not a means to interrogate him without bringing him before a U.S. judge.

Gonzalez v. United States, No. S1 08 Cr. 684 (SAS), 2011 WL 5994791 (S.D.N.Y. Nov. 30, 2011) – which also involved questioning of a defendant by U.S. authorities – is similarly inapplicable. In that case, the district court held that the defendant was “constructively arrested” for purposes of Rule 5(a) and the six-hour prompt presentment clock when he was interrogated by U.S. authorities while in prison. *See* 2011 WL 5994791 at *8. *Gonzalez* stands for the proposition that a formal arrest is not required to trigger a defendant’s right to prompt presentment. It has no other application here and is otherwise not instructive. The defendant was not – nor does he allege that he was – incarcerated or questioned by anyone – much less by U.S. officials – about his U.S. criminal conduct when in Mexico.

The defendant also argues that the presence of the U.S. law enforcement agents on the defendant's flight from Mexico to the United States triggered the defendant's right to presentment without undue delay. (*See* Def. Mem. at 25). Again, this argument has no legal support. The agents did not make their presence known to Arbabsiar, nor does Arbabsiar claim that he knew that they were there. Further, there are no allegations that the agents on the plane restrained Arbabsiar in any way, questioned Arbabsiar, or otherwise used the transit time on the plane to investigate the charges or delay Arbabsiar's presentment before a U.S. judicial officer.

In light of the foregoing, because the evidence at the hearing will show that the defendant knowingly and voluntarily waived his prompt presentment right within six hours of his arrest at JFK Airport, the defendant's argument that his post-arrest statements should be suppressed because of a Rule 5 violation should be denied.

2. The Defendant's Waiver of His Prompt Presentment Right Was Knowing and Voluntary

The defendant advances a litany of arguments in support of his claim that his multiple written waivers of the right to prompt presentment were not voluntary or knowing. For instance, the defendant asserts, among other things, that "English is his second language" and "he did not have his reading glasses with him," "he did not read the documents," "agents never read the documents to him," and "agents required [the defendant] to sign these documents before he could have any conversation with them." (Def. Mem. at 32). The Government anticipates that it will prove at a hearing that the defendant understood his prompt presentment right and waived the right knowingly and voluntarily within six hours of his arrest at JFK Airport, and each day forward until his presentment before Magistrate Judge Dolinger on October 11, 2011. As set forth in the submission by Dr. Gregory B. Saathoff, the Government anticipates proving that the defendant does not suffer from bipolar disorder and was not experiencing manic episodes while

he was being questioned by agents. (See Attachment A, Forensic Psychiatric Evaluation of Dr. Gregory B. Saathoff).⁴ The Government expects that law enforcement officials who were present for the defendant's waivers of prompt presentment will provide testimony that is consistent with Dr. Saathoff's expert opinion regarding the defendant's mental state, as well as evidence of the defendant's voluntary and knowing waivers.

3. There Was No Delay in Presenting the Defendant

The defendant argues that the delay in presenting the defendant was unreasonable and unnecessary. (Def. Mem. at 40-41). Because the defendant knowingly and voluntarily waived his right to prompt presentment from September 29, 2011 to October 10, 2011, whether the delay in presentment was "reasonable" pursuant to Section 3501 is irrelevant. See, e.g., *Berkovich*, 932 F. Supp. at 588 ("Here, the Court declines to suppress statements made . . . because the Government has proved by a preponderance of the evidence that the defendant knowingly and voluntarily waived his right to a prompt presentment."). That said, in any event the delay in presenting the defendant was plainly reasonable. See *Cabrera*, 2008 WL 2803902, at *5 ("Delays attributable to a defendant's cooperation with law enforcement officials, particularly when the defendant has knowingly and voluntarily waived his right to speedy presentment, have been routinely found to be reasonable by the district courts in the Second Circuit.").

The defendant argues that the delay in his presentment was unreasonable because the delay's sole purpose was to interrogate the defendant. (See Def. Mem. at 40-41). The cases cited by the defendant in support of his argument are inapplicable because they involve circumstances where, as here, the defendant waived his right to prompt presentment. See *Corley*,

⁴ The Government also expects to establish at the hearing that the conclusion of the defendant's neuropsychological expert, Dr. Joel Morgan, that the defendant suffers from bipolar disorder is without support. The Government also expects that a neuroradiologist will testify that Arbabsiar's MRI results from June 13, 2012 do not reveal brain abnormalities.

556 U.S. at 311 (addressing delay in presentment where no waiver obtained from defendant); *United States v. Perez*, 733 F.2d 1026, 1028 (2d Cir. 1984) (same). Setting aside the fact that the evidence at the hearing will show that the defendant validly waived his right to prompt presentment, as the defendant acknowledges, agents questioned Arbabsiar about possible co-defendants and also arranged for Arbabsiar to place recorded phone calls to a co-conspirator, which have been deemed reasonable causes for delay in presentment. *See Pena Ontiveros*, 547 F. Supp. 2d at 339 (“Delays attributable to routine processing, transportation, overnight lodging, and a defendant’s cooperation with authorities have all been found by courts in the Second Circuit to be reasonable or ‘excludable’ under § 3501(c) or its predecessor, the *McNabb–Mallory* rule.” (emphasis added)). Accordingly, statements made by the defendant more than six hours after he was taken into custody at JFK should not be suppressed. *Corley*, 556 U.S. at 322.

4. Dismissal of the Indictment is Not Appropriate

The defendant argues that dismissal of the Indictment is the appropriate remedy for a violation of the defendant’s right to prompt presentment. (Def. Mem. at 41-42). Even assuming *arguendo* that the defendant’s right to presentment without undue delay was violated, dismissal of the Indictment would not be an appropriate remedy. As the defendant is forced to concede, courts in this District have held that the remedy for a violation of Rule 5(a) is suppression of statements. *See, e.g., United States v. DiGregorio*, 795 F. Supp. 630, 634 (S.D.N.Y. 1992) (denying defendant’s motion to dismiss the indictment on grounds of a Rule 5(a) violation and holding that the remedy for a Rule 5(a) violation is “suppression of any prejudicial statements made during the period of pre-arraignment delay”); *United States v. Perez-Torribio*, 987 F. Supp. 245, 247 (S.D.N.Y. 1997) (“Unnecessary delay violations of Rule 5(a) warrant suppression of evidence.”). The sole case cited by the defendant in support of his argument is

United States v. Osunde, 638 F. Supp. 171 (N.D. Cal. 1986), which has appropriately been criticized by other courts within the Ninth Circuit for its “sparse reasoning,” *United States v. Cuenca-Vega*, No. Cr.10-00419 (SI), 2012 WL 1067393, at *3 (N.D. Cal. Mar. 28, 2012) (quoting *United States v. Savchenko*, 201 F.R.D. 503, 507 (S.D. Cal. May 18, 2001), is easily distinguishable, as it also involved a Speedy Trial Act violation which required dismissal of the indictment.

II. The Defendant Knowingly and Voluntarily Waived His *Miranda* Rights

The defendant also argues that he did not knowingly and voluntarily waive his *Miranda* rights. In support of his assertion, the defendant first argues that he was never read his *Miranda* rights. (Def. Mem. at 44). The defendant next argues that he could not have knowingly waived his *Miranda* rights given a multitude of factors, including his claimed mental illness and his mental state during the time when he was detained by agents. (*Id.* at 44-45). The Government submits that it will introduce evidence at the hearing that will establish that the defendant was advised of his *Miranda* rights each and every day he was detained. Moreover, as set forth in the accompanying report of Dr. Saathoff, and as will be demonstrated during the hearing, the defendant was capable of waiving his *Miranda* rights and knowingly and voluntarily did so each day he was questioned.

A. Applicable Law

When a confession is obtained by interrogation of a defendant who is in custody, the Government must demonstrate that the defendant was informed of, and validly waived, his Fifth Amendment rights under *Miranda v. Arizona*, 384 U.S. 436 (1966). To prove a valid waiver of *Miranda* rights, the Government must show, by a preponderance of the evidence, that the defendant relinquished his rights voluntarily and that the defendant had a full awareness of the

right being waived and the consequences of waiving that right. *See Colorado v. Connelly*, 479 U.S. 157, 167-69 (1986); *United States v. Jaswal*, 47 F.3d 539, 542 (2d Cir. 1995). Where the totality of the circumstances reveals an uncoerced choice and the requisite level of comprehension, a court may conclude that *Miranda* rights have been waived. *See Moran v. Burbine*, 475 U.S. 412, 421 (1986). Factors that courts should consider when evaluating the totality of the circumstances include: (1) the conduct of the law enforcement officers, (2) the conditions of the interrogation, and (3) the background of the accused. *United States v. Valdez*, 16 F.3d 1324, 1329 (2d Cir. 1994) (citing *United States v. Anderson*, 929 F.2d 96, 99 (2d Cir.1991)). These circumstances are relevant, however, only as they pertain to the critical issue of whether the defendant's will was "overborne" by the conduct of law enforcement officers such that his statements cannot be deemed to be "the product of a rational intellect and a free will." *Lynumn v. Illinois*, 372 U.S. 528, 534 (1963) (citations omitted).

A confession is "involuntary" within the meaning of the Fifth Amendment if it is obtained by "'techniques and methods offensive to due process' or under circumstances in which the suspect clearly had no opportunity to exercise 'a free and unconstrained will.'" *Oregon v. Elstad*, 470 U.S. 298, 304 (1985) (quoting *Haynes v. Washington*, 373 U.S. 503, 515 (1963)). Hence, a confession can be voluntary even when the defendant is seriously ill or has a diminished mental state, if it is made in the absence of police coercion. *See Connelly*, 479 U.S. at 167-69 (noting that "mental condition is surely relevant to an individual's susceptibility to police coercion," but holding that "coercive police activity is a necessary predicate to the finding that a confession is not 'voluntary'"); *United States v. Salameh*, 152 F.3d 88, 117 (2d Cir. 1998) ("A diminished mental state is only relevant to the voluntariness inquiry if it made mental or

physical coercion by the police more effective.’”) (quoting *United States v. Chrismon*, 965 F.2d 1465, 1469 (7th Cir. 1992)).

B. Discussion

The Government anticipates that the evidence at the hearing will establish that the defendant: (i) was advised of his *Miranda* rights daily; (ii) indicated that he understood his rights; (iii) was capable of making an informed decision as to whether to waive his rights; and (iv) waived his rights each day until he requested an attorney on October 10, 2011.

CONCLUSION

For the reasons set forth above, the Government respectfully submits that the defendant's motion to dismiss the Indictment fails as a matter of law and should be denied. In addition, the Government respectfully submits that based on the foregoing and the anticipated testimony at the suppression hearing, the defense motion to suppress should be denied.

Dated: New York, New York

October 3, 2012

Respectfully submitted,

PREET BHARARA

United States Attorney for the
Southern District of New York

By: _____/s/_____

Edward Y. Kim

Glen A. Kopp

Stephen J. Ritchin

Assistant United States Attorneys

AFFIRMATION OF SERVICE

EDWARD Y. KIM, pursuant to Title 28, United States Code, Section 1746, hereby declares under the penalty of perjury:

That I am an Assistant United States Attorney in the Office of the United States Attorney for the Southern District of New York. That, on October 3, 2012, I caused copies of the Government's Memorandum of Law to be delivered by ECF and electronic mail to:

Sabrina Shroff, Esq.
Sabrina_Shroff@fd.org

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: New York, New York
October 3, 2012

_____/s/_____
Edward Y. Kim
Assistant United States Attorney
(212) 637-2401

Gregory B. Saathoff M.D.

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FORENSIC PSYCHIATRIC EVALUATION

October 3, 2012

Re: United States v. Manssor Arbabsiar, 11 Cr. 897 (JFK)

INTRODUCTION

Manssor Arbabsiar's defense team asserts that he suffers from undiagnosed and untreated bipolar disorder and that his condition resulted in manic episodes that significantly impaired his mood, thought and judgment during a period that the FBI questioned him from the time of his arrest at JFK International Airport on September 29 until October 10, 2011. The statements that he made and the documents that he signed during this period included a confession of his criminal responsibility for crimes including conspiring to murder a foreign official as well as conspiracy to engage in terrorism and use of a weapon of mass destruction.

I was asked by the United States Attorney's Office for the Southern District of New York to provide a psychiatric evaluation of Mr. Arbabsiar to determine whether he suffers from any mental illness that would have precluded his ability to knowingly sign waivers that allowed for questioning by the FBI without the presence of an attorney and to delay his appearance in court. On August 3, 4, 11, 12 and September 5 and 26, 2012, I conducted six psychiatric assessments of Mr. Arbabsiar totaling approximately 32 hours at the Metropolitan Correctional Center (MCC) in New York City. My evaluation and report is based on examination of the following: interviews of Mr. Arbabsiar; interviews of medical, mental health and security personnel at the MCC; recordings and transcripts of Mr. Arbabsiar's post-arrest telephone calls to Iran; interviews of FBI agents and a research psychologist who were present during the post-arrest questioning; and a review of documents listed in Appendix I.

SUMMARY OF FORENSIC PSYCHIATRIC OPINION

Based upon my evaluation, it is my professional judgment that Mr. Arbabsiar does not suffer from bipolar disorder or any other mental illness that would have precluded him from knowingly consenting to FBI questioning following his arrest without the presence of an attorney and to delay his appearance in court. As a result of my interviews with Mr. Arbabsiar, my interviews of those noted above, and comprehensive review of documents in addition to those reviewed by the defense expert, it is my further judgment that examples of manic and depressive episodes provided by the defense were instead behaviors that can be understood within their context. Consistent observation of Mr. Arbabsiar's behavior from the time of his flight from Mexico City in late September of 2011 through the current date provide comprehensive and independent evidence of his continued stability and lack of cyclic mood disorder.

Bipolar I disorder is a serious mood disorder with a lifetime prevalence of 1% of the population, similar to the figure for schizophrenia. "The cost of bipolar I disorder to patients, their families, and society is significant," and most people with bipolar disorder "come to the attention of a physician and receive treatment." In individuals who suffer from bipolar disorder, manic episodes accompanied by psychosis are psychiatric emergencies. Although manic episodes generally have a rapid onset of hours or days, they

may evolve over a few weeks. If untreated, symptoms of mania can be expected to continue for about three months (Kaplan & Sadock, 2003). According to DSM-IV-TR, during the period of mood disturbance, three or more of the following symptoms have persisted (four if the mood is only irritable) to a significant degree: 1. Inflated self-esteem or grandiosity; 2. Decreased need for sleep; 3. More talkative than usual or pressure to keep talking; 4. Flight of ideas or subjective experience that thoughts are racing; 5. Distractibility; 6. Increase in goal-directed activity; 7. Excessive involvement in pleasurable activities that have a high potential for painful consequences. Manic episodes are characterized by at least one week of elevated, expansive, or irritable mood. Furthermore, these episodes are “sufficiently severe to cause marked impairment in occupational functioning or in usual social activities or relationships with others, or to necessitate hospitalization to prevent harm to self or others, or there are psychotic features” (DSM-IV-TR, p. 362).

Depressive episodes that occur in bipolar disorder represent the converse, in that for a period of two weeks or more, symptoms may include depressed mood, loss of interest or pleasure, appetite and weight change, changes in sleep, behavioral agitation or retardation, fatigue or loss of energy, feelings of worthlessness, decreased concentration or indecisiveness and recurrent thoughts of death. These symptoms are severe enough to cause significant distress or impairment in social, occupational or other important areas of functioning and are not attributable to a medical condition (DSM-IV-TR, p 356).

Just as in any medical diagnosis, an assessment of a major mental illness such as bipolar disorder benefits from multiple, independent, and objective sources of information. While the patient interview is a central starting point, it serves as only one information source. That interview is completely dependent on statements and behavior witnessed by the interviewer. In order to insure the validity of an assessment, the best evaluations include multiple, objective information sources. These sources are in the form of truly objective information that can limit the amount of distortion and bias that can be caused by only one or a few sources of information. When illuminated by a number of objective perspectives, the evaluator is best able to provide an accurate assessment of the true clinical condition. A forensic evaluation of a detained individual poses similar challenges. Review of contemporaneous documents and interviews by relevant investigative, security and medical personnel are necessary to achieve an accurate picture of an individual's condition and will be referenced accordingly.

Dr. Michael First described symptoms in support of his assertion that Mr. Arbabsiar suffers from bipolar disorder and opined that episodes of mania impaired his ability to competently consent to questioning by the FBI following his arrest. After my review of relevant interviews and materials as well as those cited by Dr. First, I do not find clinical justification for his diagnosis for reasons that include the following:

1. According to Mr. Arbabsiar and all records available to me, he has never received a clinical diagnosis of bipolar disorder or any mood disorder and has never obtained or required treatment for it. In the year following his arrest, he has not demonstrated any symptoms leading to a diagnosis of bipolar disorder or mood disorder. Numerous opportunities for psychiatric referral exist at the MCC for inmates who experience symptoms of mental illness. It has been my experience that high security inmates at MCC receive a great deal of diagnostic and clinical attention in the form of frequent observation and interpersonal engagement from the medical and mental health staff. Mr. Arbabsiar concurred with this assessment in his statements to me. Regular observation by correctional officers, medical staff, mental health staff and administrative representatives of MCC occurs on a daily and even hourly basis. In my review of mental health and other MCC records as well as my interviews with correctional officers, mental health and medical providers covering the entire period of his detention at MCC, there has never been evidence of symptoms resulting in a diagnosis of bipolar disorder or any mood disorder. In addition, Mr. Arbabsiar has never been assessed to be delusional, grandiose or paranoid. Instead, Mr. Arbabsiar has been assessed and treated for a mild anxiety disorder and in his own judgment has responded well to treatment for anxiety disorder with medication that is not indicated for treatment of bipolar disorder.

2. The example cited by Dr. First as a manic episode does not bear up under scrutiny. According to Mr. Arbabsiar's recollection of the event when interviewed by me on August 3, 2012, the example highlighted by Dr. First as a "noteworthy" manic episode instead demonstrates Mr. Arbabsiar's ability to relate with others in an appropriate and relationally sophisticated way, responding normally when faced with an opportunity rarely afforded to any airline passenger. In justification of the diagnosis of bipolar disorder, Dr. First provided in his written declaration what he determined to be an example of mania provided by Mr. Arbabsiar's sister, in which Mr. Arbabsiar reportedly "decided to treat the stewardesses, pilot, and passengers seated around him to expensive bottles of perfume from the duty-free cart because he wanted to make everyone feel good." Notably, the sister was not a witness to the event, as she was not present on the flight. In my August 3 and September 26, 2012 interviews with Mr. Arbabsiar, he described this experience in some detail, which is at variance with the sister's report.

Around 2004, while on a Lufthansa flight from Europe to Iran, Mr. Arbabsiar spoke with the flight attendant and suggested that he would like to buy her some cologne from the duty-free catalogue. "She was beautiful, and I told her I would do something for her." When she declined, Mr. Arbabsiar stated that he would also like to do something for the pilot and express his gratitude for their dedication in maintaining a safe flight during the increased flight security following September 11, 2001. He purchased duty-free cologne costing approximately \$30 each for only the flight attendant and the pilot, who then both expressed their appreciation for what the pilot termed "the nice gesture." In fact the pilot, with 25 years of flight experience, personally escorted Mr. Arbabsiar from his economy seating to the cockpit, where he was allowed to sit in the co-pilot's seat for approximately five minutes as the pilot described and showed Mr. Arbabsiar the controls for operating the plane. Mr. Arbabsiar then returned to his seat and following his arrival in Iran, he visited his mother. In the heightened security of post-9/11 air travel, had Mr. Arbabsiar been experiencing a true manic episode on the plane as Dr. First suggested, appropriate measures would have been taken by both the flight crew and passengers to control his behavior. The fact that Mr. Arbabsiar was personally escorted into the cockpit by an experienced Lufthansa pilot and received a special tour at the controls in the co-pilot's seat before returning voluntarily to his seat without incident is completely inconsistent with Dr. First's diagnosis of mania, a condition manifesting such marked behavioral impairment that involuntary psychiatric hospitalization is often required.

3. According to travel records and information obtained during my interviews with Mr. Arbabsiar, the example of a depressive episode cited by Dr. First demonstrates instead Mr. Arbabsiar's commitment to his family in his decision to defer treatment for his debilitating dental pain in order to secure funds to support his household. Dr. First's description of the period lasting "for roughly one year" around 2010, quotes from an interview with Mr. Arbabsiar's wife as she recalled his time with her in Austin. She reported that he was "severely depressed, isolating himself in his bedroom and rarely getting out of bed except to pace around his bedroom and chain smoke."

In my interviews with Mr. Arbabsiar and in reviewing documents that were not cited by Dr. First at the time of his declaration, Mr. Arbabsiar acknowledged that this was in fact a period of significant international activity. In addition to attaining his United States citizenship, during early 2010 he spent most of his time apart from his wife living mostly in Corpus Christi or travelling overseas. In 2010, he flew to Iran on four separate occasions in order to secure and bring back rental money from his Iranian property holdings. He estimated that during these trips he brought back up to \$8,000-\$9,000 on each trip. He told me that, while at home in Austin in 2010, he planted fruit trees that are now producing fruit. He did report that dental pain in late 2010 was complicated by a painful infection and swelling of his gums and jaw, which limited his ability to eat solid foods. Mr. Arbabsiar stated to me on August 4, 2012 that before his financial reversal in 2008, he was accustomed to taking others out to restaurants and clubs. By late 2010 he chose to stay at home instead of going out to eat, both because he was suffering from severe dental pain and also because he was not able to afford to go to restaurants without someone else paying for him. Mr. Arbabsiar told me, "I sat at home because I am a proud man." Regarding this period of late

2010 and the first two months of 2011 before he again travelled to Iran, he stated to me that he was seen and treated multiple times for hypertension and other health problems, but was never diagnosed, treated or referred for assessment of depression symptoms.

4. Citing the FBI agents' documentation of their post-arrest questioning, Dr. First described Mr. Arbabsiar to have made delusional statements that revealed grandiosity and paranoia. In addition to reviewing those documents, I interviewed the agents about their behavioral observations from that period. I also interviewed and reviewed material from the research psychologist who documented his behaviors throughout post-arrest questioning. It is beneficial to view Mr. Arbabsiar's statements and behaviors within the context of actual post-arrest questioning. For example, Mr. Arbabsiar's references to being on the "team" and President Obama's level of interest in the case arose from the FBI agents who conducted the post-arrest questioning. Mr. Arbabsiar's references to the "team" and President Obama were both in direct response to the terms and concepts introduced and used repeatedly by the FBI agents themselves to denote their shared interest in working together to ascertain the truth as well as to the high-profile nature of the case.

True mania will often manifest in excessive use of the telephone (Kaplan & Sadock, 2003) and because of that, current suggested guidelines for treatment of mania state that due to the propensity for "reckless behavior" during a manic episode, "steps should be taken to limit access to ...telephones or cellular phones" (American Psychiatric Association, 2010). In fact, Mr. Arbabsiar's ability to successfully and appropriately engage his Iranian contact during three phone conversations, using prearranged code words at times, on three separate days demonstrates an absence of mania in that he demonstrated the ability to interact appropriately in a novel situation. To conduct three separate phone calls and converse in code without arousing the suspicion of his Iranian contact required a significant amount of emotional and cognitive control. Had he been experiencing the manic and psychotic symptoms described by Dr. First ("delusional thinking", "paranoia", "grandiosity", "euphoria", "distractibility", and "manic speech in which he...would talk nonstop, sometimes for hours on end, without regard for other's wishes to communicate"), it is extremely unlikely that he would be able to complete these telephone calls within three minutes. Furthermore, Mr. Arbabsiar's refusal to grant the FBI's request to make a fourth call demonstrates his ability to exercise free will.

5. In addition to a diagnosis of bipolar disorder, Dr. First opined that Mr. Arbabsiar suffers from cognitive impairment citing history received from the family as well as brain MRI results and psychological testing. The MRI showed mild "parenchymal volume loss, otherwise unremarkable..." In my review of Mr. Arbabsiar's college transcripts as well as my interviews with Mr. Arbabsiar, I did not find him to be cognitively impaired. His recall of business and family matters was quite detailed. Specifically, he was able to recall business deals relating to his automotive business as well as property deals and holdings that he has maintained in Iran and used as a second source of income during the last four years. MCC physicians and psychologists who have assessed and monitored him throughout the last year have not diagnosed him to have cognitive impairment.

MATERIALS REVIEWED OR RELIED UPON

For this report, the sources of information relied upon are listed in Appendix I.

QUALIFICATIONS

I currently hold joint appointments at the University of Virginia's School of Medicine as Associate Professor of Research in the Departments of Public Health Sciences and Emergency Medicine. In my role with the University, I serve as an elected member of the University's General Faculty Council and also serve as the Executive Director of the Critical Incident Analysis Group (CIAG). As an officer in the Medical Corps of the United States Army Reserve, I was deployed as a military psychiatrist overseas during the first Gulf War, where I assessed American soldiers with psychiatric symptoms. Since 1991, I have provided prisoner psychiatric care and teaching/training for medical students and residents of the University of Virginia's School of Medicine. I have provided this teaching and training in medium and maximum-security prisons for inmates who suffer from major mental illness. I have given presentations at national and international meetings regarding psychiatric issues including prison psychiatry and the psychiatric effects of trauma.

Since 1996 I have served as the Conflict Resolution Specialist for the Critical Incident Response Group (CIRG) of the Federal Bureau of Investigation. In this role, I have provided regular consultation to the CIRG's Crisis Negotiation Unit, the National Center for the Analysis of Violent Crime, and the Behavioral Analysis Unit that specifically deals with terrorism-related crimes. I teach the psychopathology lectures for senior profilers who have been appointed to the Behavioral Analysis Units. These topics include bipolar disorder, depression and thought disorders. I am the author and editor of books relating to psychopharmacology and forensic toxicology and have published articles and chapters relating to a range of psychiatric issues including psychopathology, insider threat, and national security.

At the request of the U.S. Senate Committee on Homeland Security and Governmental Affairs in 2006, I provided public testimony regarding the issue of radicalization within American prisons. In addition, I provided subsequent testimony in 2008 to the U.S. Commission on Civil Rights regarding religious freedom and radicalization within U.S. prisons.

I have been qualified as an expert witness in federal court in cases involving espionage and terrorism and have been retained at various times by the government, defense, and the Court. In 2000, I testified in the espionage related case of U.S. v. Jean-Philippe Wispelaere in the Eastern District of Virginia. I have also assessed Omar Ahmed Abu Ali for competency to stand trial and testified in the Eastern District of Virginia in September of 2005. In 2008-2009, I assessed Dr. Aafia Siddiqui for competency to stand trial and testified in the Southern District of New York in 2009. At the request of Federal Judge Lewis Kaplan in the Southern District of New York, in June of 2010 I evaluated former Guantanamo detainee Ahmed Khalfan Ghailani for his competency to stand trial for his role in the 1998 bombings of two U.S. embassies in Africa. The resulting competency assessment was stipulated and accepted by government and defense attorneys without need for testimony.

In 2009, pursuant to Court Order, Federal Chief Judge Royce C. Lamberth authorized me to form and chair the Expert Behavioral Analysis Panel¹. We reviewed the psychiatric records and investigative file on Dr. Bruce E. Ivins, who was held solely responsible for mailing the anthrax letters in September and October of 2001 that resulted in the deaths of five Americans. Members of panel included senior academic professionals with training in law, toxicology, medicine and systems-issues. Our report was submitted under seal to Judge Lamberth in August of 2010 and released by the Court in redacted form in March of 2011.

[Complete curriculum vitae attached to this report as Appendix II]

¹ Included medical school faculty from Duke University, Harvard University, Johns Hopkins University, Uniformed Services University of Health Sciences, University of North Carolina, University of Rochester, the University of Virginia and senior officials of the American National Red Cross.

Mental Status Exam

During my approximately 32 hours of interviews on August 3, 4, 11, 12, and September 5 and 26, 2012 at MCC, with Mr. Arbabsiar, all were conducted in a small partitioned (Plexiglas and screen divider) non-contact room with each space being approximately 5' by 5' in area. I began each interview by introducing myself. At the outset of the first interview I described my role as a psychiatric expert retained by the government and that my report would be provided to the government attorneys, his attorney, and the judge. Mr. Arbabsiar expressed full understanding of this and said that his attorney informed him about my visits. In each subsequent visit, I reminded him of my role and at times he initiated the topic with an acknowledgement of my role as the government-retained expert, re-stating his attorney's comments about my role. During the first visit, without prompting, he named the expert witness, Dr. First, who had been retained by the defense. In my September 26, 2012 interview with him, he stated, "I think that you and Dr. First are the same in the way that you ask questions and talk to me. You are both nice, but my attorney reminds me that you are working for the other side. I said, that is fine, I am honest with him, I am honest with the other doctor. I am not going to act like I am crazy, I am not crazy." He also stated that he understood that his medical care and mental health care received at MCC were separate from these evaluations and that my role was not to provide a clinical assessment for him or his doctors.

He was a 57 year-old balding male who appeared his stated age. Mr. Arbabsiar's grooming and hygiene appeared to be good. He did not report any physical discomfort during the interview sessions. Dressed in an orange jumpsuit, he had a stocky build, was shaved, mustachioed, and balding. He had a prominent scar on his left cheek, as well as scars on his left bicep area and chest. On my sixth visit, on September 26, 2012, he wore a trimmed white beard, joking that although he looks like a sheik, he is the kind that "does not pray." He spoke with an Iranian (Farsi) accent. Throughout each of the six interviews, he sat comfortably. He was spontaneous in speech and gestured from time to time. His speech was non-pressured with normal prosody, range of volume and tone. Due to his accent and because of the Plexiglas partition, on rare occasions I asked him to repeat himself. He described his mood as "good" and "fine." On different occasions, his mood ranged from 5 to 8 on a scale of 1-10, with 10 being the best one can feel in confinement. Affect was full. He joked appropriately at times, becoming momentarily tearful on three or four occasions when speaking of his family. His judgment appeared to be intact. He was oriented to day, month, and year, as well as the name of this facility. During the first interview he made a point to say that, "I know that I can call my son on Tuesday, and that is the seventh." He recalled three of three words in five minutes, named the presidents in reverse chronological order from Obama to Ford, and subtracted serial 7's all the way to the number 2. He reported sleeping well, and his appetite and weight were stable. His thoughts were logical and linear, though at times circumstantial. (He would at times digress by relating a prior experience to illustrate a point.) Mr. Arbabsiar denied auditory and visual hallucinations or perceptual disturbances during the interviews. During the first interview only he did state that sometimes his ears make a noise like a "ssssss" sound, but he stated that he never hears voices and at no time did he appear to respond to internal stimuli. He said that sometimes he talks to himself although this is because he is often by himself in a single cell. He was adamant that he is not mentally ill, and in my September 26, 2012 interview he stated; "I am not going to act like I am crazy, I am not crazy. I don't want to harm nobody – I am not Dracula or somebody like that." He repeatedly denied suicidality or thoughts to harm others.

During my interview on August 11, 2012, after explaining to him that I would first like to review some written material, I sat across from him and quietly reviewed notes from the previous interview. For the next twenty minutes, while I reviewed my notes, he also sat quietly. He did not attempt to speak to me and there was no abnormal motor activity such as standing, pacing, or gesturing. He did not try to interrupt and seemed comfortable. No apparent distress was noted, and there was no observable anxiety or irritability. He did not seem restless.

Mr. Arbabsiar's short and long-term memory appeared to be intact within the limits of my interview. Upon seeing Mr. Arbabsiar during each subsequent interview, he always recognized me immediately. One demonstration of his memory occurred when I questioned Mr. Arbabsiar about a charge in October 2004 for driving with an expired license, which we discussed the day prior. He immediately replied, "Doctor, I told you about this yesterday. Don't you remember? I told you that one time my license was expired, and I didn't realize that it was expired and they brought me to jail." During my interview on August 11, 2012, Mr. Arbabsiar provided a timeline of significant events from his birth on March 15, 1955 to present.

PERSONAL HISTORY OF DEFENDANT

Family History

In his interviews with me on August 4 and August 11, 2012, Manssor Arbabsiar provided the following information. He was born on March 15, 1955 in the city of Kermanshah, Iran. The oldest of three children, he has one sister and one brother who were born in 1960 and 1965 respectively. His brother, Mehran, is a math teacher in a middle school in Iran. Mehran is married and has two children. His sister, Manegh, is a retired school principal in Tehran and taught part time in a college. She and her husband also have two adult children living in Iran.

Mr. Arbabsiar's father was also from Kermanshah and was born in 1927. His father grew up in a wealthy family, but according to Mr. Arbabsiar, "he lost all of the money" after the early deaths of both of his parents. As a result, he began working for the Iranian government at age 22. "Although he had only a 6th grade education, he was an intelligent man." Arbabsiar stated, "He was nice to us, nice to me. I came from a very good family." He died in February 2011, and Mr. Arbabsiar was able to join his family in Iran following the funeral.

Mr. Arbabsiar described his mother as "not as smart. She is a housewife." His mother's family was large and Mr. Arbabsiar was closer to her family. During our September 26, 2012 interview, Mr. Arbabsiar stated that his widowed mother still lives in the house in Kermanshah that he purchased for his parents.

Mr. Arbabsiar related that when he was two years old, his family moved to the Kurdish area, Sanadesh, because of his father's role with UNICEF in treating malaria. He lived with and worked for his mother's brother during the summer of 1970.

His first wife, an Iranian woman, married him in approximately 1975. After they moved from Iran to Texas in order for him to attend college in 1977, he stated that they argued, and she moved back to Iran. In 1980 he married his second wife, a Texan who was "Catholic and Spanish." Although he described the marriage as very good, he stated that "she felt that I wasn't paying enough attention to her," and they divorced.

His third wife, and the mother of his son, was born in Monterrey, Mexico, but she has reportedly lived in the United States since the age of six months. They have been together "24 or 25 years" and married after the birth of their son, who now has a son of his own with his girlfriend.

Educational History

Mr. Arbabsiar reported to me that he received his elementary and secondary education in Iran, graduating from high school in 1973. He related that he was a “mediocre” student although was not required to repeat any classes. Following two years of service in the Iranian Army, and time spent in Iran selling auto parts, he obtained a student visa for education in the United States stating, “I was the first in the family to do this.” After moving to the United States, he attended classes in Dallas prior to enrolling in college classes in the city of Corsicana, Texas. He reported to me that two years later he then transferred to Texas A&M University in Kingsville. Ultimately, he transferred to Southern University in Baton Rouge, Louisiana where he earned a B.S. in Mechanical Engineering Technology in August of 1984.

In his August 3, 2012 interview with me, Mr. Arbabsiar remarked that Southern University was located in Baton Rouge, Louisiana, about 45 minutes from New Orleans. He stated that he was easily distracted from his studies, “I went to Bourbon Street- and would go to the clubs, the parties. I was young. I wasn’t very good in school. I tried to pass. I wasn’t very good. I got my degree, somehow-a 2.2 average. But I was not an academic. I was a party boy.” He reported to me on August 11, 2012 that he also was required to work in order to earn money during this period. While going to school, he often worked either part-time or full time in restaurants and/or selling cars.

Employment History

In his August 11, 2012 interview with me, Mr. Arbabsiar related that his formal work history began in 1970 at the age of 15 when he worked for his uncle who ran the regional highway department in Iran. Following his graduation from high school, he served in the army for a two-year commitment. He earned the rank of sergeant, and he stated that he was responsible for teaching in an underprivileged mountainous area of Iran. Following that commitment, he worked for the Caterpillar Corporation in southern Iran as a salesman for construction equipment parts.

During his time as a college student in the United States, he often worked part-time and full time at restaurants and in selling cars. Following his graduation, he focused more on auto sales and by 1987 began selling cars in Corpus Christi, Texas. He related to me that he started Johnney’s Auto Sales, named after his infant son, around 1992 and within five years was doing well enough that he began investing in Iranian businesses and real estate.

In addition to his ownership of Johnney’s Auto Sales, he also started another business in a shopping center that he named Gyros and Kabob. He owned this business from 2001 until 2003 and in his August 3, 2012 interview with me, he reported that he sold it in 2003 for a profit. He stated that the timing of the sale was fortuitous for him because the shopping center soon lost an anchor department store, which would have decreased the value of the business.

He further stated that from 2002 until 2010 he worked with a friend named Steve in a business called Import Auto. Mr. Arbabsiar reported to me: “This was Steve’s business, but he let me use it. I would give him some money on the side.” He related that he would sell cars both domestically and internationally. His international sales were to Saudi Arabia, approximately 10-20 American cars per month. Mr. Arbabsiar stated that there was a market for these high mileage cars among Indians and Pakistanis who lived in Saudi Arabia. In addition to Import Auto, Mr. Arbabsiar noted that he made money in real estate. “I didn’t have a business, but would get money on the side. I didn’t have a real estate agent’s license. You don’t have to be a real estate dealer to make money on buying houses. I have owned a number of houses and rented them.” “I bought two or three car lots, and four or five houses- two nice condominiums. I would rent those and would bring in good money- it was ok. There was a lot of cash flow. A lot of the money that I got was cash.”

Mr. Arbabsiar stated to me on August 3, 2012, that as the economy got worse in the US, he worked longer hours. The economic downturn was compounded by his son's arrest for drug possession and the need to pay for an attorney. He described himself as a hard worker who generally worked approximately 80 hours per week. Although Mr. Arbabsiar stated that he generally worked seven days a week, he said that business ownership was worth the extra effort. "When you have your own business, you have your own life. I wasn't doing bad."

Mr. Arbabsiar expressed pride in his role as a salesman. On September 5, 2012, he stated to me: "But I was a good salesman. I make a mistake about once every thousand cars. I knew my business, loved my business. It was my life. Since I was a baby, I loved cars. My father had a '54 Chevy. He was a Chevy lover, and loved American cars."

Mr. Arbabsiar reported to me that during the period when he was doing well in the United States during the 1990's, he invested heavily in Iran. This became important to him beginning with the US recession in 2008 when his investments provided him with the resources to maintain income for his family in Austin.

"Back when I was making money in the US. I would send 100K to Iran." "I invested a lot of money twenty years ago, and now I could come back. I have a house for a half million, other houses that are also worth a lot of money. I rent those houses, and I don't have to pay any taxes on those. This is a very good deal. So yes, doctor, inflation is high but you can get 22% interest on your money, so this is good. So yes, there was money there, five or six thousand dollars a month. I would stay with my mom. My mother would compliment me and tell me, "You are a rich man." I wasn't a rich man, but was not a poor man. I made good decisions years ago investing in Iran, and when business was bad in the US, I could get money in Iran. This was all legal, doctor, and it wasn't like I was robbing a bank. Years ago I invested 9K and the land is worth 20K. A long time ago, things were very cheap and so I was smart to invest...I was a hard working person and I invested in a smart way. It is not enough to work hard. You also have to invest. I may be a little bit loco, but I am a good businessman. I want to make money and enjoy my life." (September 5, 2012)

In addition to his investments in Iran that allowed him to bring money back into the US during 2010, he stated that he would also bring back goods for his family. In his August 11, 2012 interview with me, he recalled, "I would go there and bring back Persian rugs. I wanted to sell them but my wife liked them and kept them." On September 5, 2012 he recalled: "I also would bring back shoes, good Italian ones, for my son. In Iran, they would make good shoes with soft leather. In America, shoes that are \$1800 would be only about \$500. In Germany the same shoes would be like 900 Euros. I bought some good leather tennis shoes in Iran for my son. They would only cost \$140. I would also get a lot of gold for my wife – 22 carat gold."

Military History

As noted above, Mr. Arbabsiar joined the Army in 1973 and served for a period of two years. He attained the rank of sergeant. During this time he taught first and second grade at a small school in an isolated mountainous village.

Social History

As the oldest son in an intact family in Iran, Mr. Arbabsiar stated in our August 3, 2012 interview that he had pleasant memories of his childhood. His mother's side of the family was large and those family connections were quite strong. One of his first cousins on his mother's side is the Iranian official who allegedly recruited him for the crimes that he is now alleged to have committed. Arbabsiar stated that he is Muslim, but does not consider himself to be exceedingly religious. He stated that his mother's family is religious, but his father was not.

Mr. Arbabsiar was respectful of his parents, but strongly identified with an uncle, whom he recalled was very successful. Arbabsiar described his uncle as a wealthy man who "ran the highway department," "drove a fancy car," and "had all the women he wanted." He recalled his uncle having procured a driver for him "who took me to meet girls. It was great." Mr. Arbabsiar stated that his first sexual experience occurred during that summer. In his interview with me, he recalled his uncle and his influence:

My uncle was a chief engineer for the government. He had suits and ties. He looked like a movie star. He didn't have any children. He married my aunt – my father's sister. I was very close to him. They had no kids. They had a maid. They had a driver. He had a lot of people working under him. They gave him a big office, a nice house. That was a good time in my life. He had a '64 Chevy pickup. They had a bunch of American things – caterpillar, Chevy pickup. Sometimes he would stop and pick up some women. I loved my uncle. He would come into my house and party...He didn't talk to the little guys. He would have big parties with whiskey. He would have his driver take me where I needed to go. (August 12, 2012)

In his August 4, 2012 interview with me, Mr. Arbabsiar spoke about the role of substance use since his teenage years.

I started smoking since I was in high school – 9th grade...I took my first drink in Iran, in 9th grade, and drank wine in Iran. I used to go to shops and would get a beer and a sandwich. We had a beer joint in Iran and had a whiskey bar. My friend was a year older than me and his father was a general. I really enjoyed alcohol; my father was a drinker as well. I would have 3-4 beers every night... Sometimes I would smoke a joint, but never used cocaine or other drugs. My mom would have a heart attack. I never even would smoke around my mother because of the respect that I had for her. I wasn't a junkie.

Following two years in the Iranian Army and work for Caterpillar Corporation, he married an Iranian woman and entered the United States around 1977 on a student visa. He enrolled in college and divorced his wife soon after that, and she returned home to Iran.

Notably, in 1980 he required a three-week hospitalization after he suffered a traumatic stabbing that left a prominent scar on his left cheek, prompting him to grow a beard in order to hide the scar. He reported that this experience caused him to re-evaluate his life and gain purpose. Shortly after his recuperation during that summer, he met his second wife and married her and stated that they lived quite happily for five years until she left him for infidelity.

Throughout his interviews with me, Mr. Arbabsiar was quite open about his history of promiscuity that dates back to his teenage years when he frequented brothels and worked for his uncle who would procure women for him. In his August 3, 2012 interview with me, he described his marriages as being "open" in that he would bring women into the home while he was married.

You have to have principles. If you have a wife, you need to respect her. I was honest with my wife that I would be with other girls and she knew that...I was a good guy, but I cheated on her. I had lots of girlfriends. When I was younger girls would come by the house. It was an open marriage – she knew that I had a lot of girls. I think that she is faithful to me...I would spend money in nightclubs. I would spend money on girls sometimes, and go to nightclubs every other night.

In a later interview with Mr. Arbabsiar, he described a lifestyle that combined his love of cars and his relationships with women. Moreover he stated that these relationships with women were a source of conflict with his future wife:

I have had a lot of opportunity – I have had other women who wanted to marry me – I have had so many girls. So many that you couldn't count them. I never had one girl more than once – I learned that women like you for your expensive cars. I was professional. That was my weakness. That was my fucking weakness. I feel bad about this. I didn't hide anything. I have been caught by my wife sleeping naked with another woman in my own house. The woman left and then my wife got the shotgun. This was before my son was born and before we were married. In Corpus Christi, there are so many girls. I was drinking, I had a Porsche 911, I had a Mercedes. Women love a nice car. I had a blast for 20 years. I would spend a lot of money on women, year after year, and that was just my lifestyle. I also had steady girlfriends, and I gave them cars. I paid for the apartment of another girl. (September 26, 2012)

In his August 11, 2012 interview with me, Mr. Arbabsiar stated that the Mexican woman that he contacted to help identify someone to carry out the assassination attempt on the Saudi Ambassador had a younger sister with whom he had a sexual relationship in 1992, while he was married to his third wife.

During his interviews with me, Mr. Arbabsiar identified himself as a successful businessman in a Corpus Christi who was effective in dealing with people. On August 11, 2012, he related the following:

Corpus Christi was a competitive place. It is a city of 400,000 and there were probably about 140 car dealers there. I was one of the more successful car dealers. I wasn't a genius, but I did a good job. I used my knowledge for my business. I am a good salesman – one of the better ones in the area. I didn't like management as much. Sometimes I would sell cars to friends and not make a profit. I would get what I put into it, though. Sometimes cars will have a \$5,000 or \$10,000 markup. I know about that, and was happy to have a smaller markup. It was cash and carry – I dealt quite a bit in cash. They called me Jack, and knew me as Jack. I had a lot of friends. I knew what topics not to talk about – like politics and religion. When you talk about those kinds of things, people can get in disagreements.

In his descriptions of himself, both in recalling his investments in Iran that have significantly appreciated and in his description of himself as a businessman, he describes himself as being someone who wanted value for his money. In our August 3, 2012 interview, he stated that he never made foolish purchases or investments, but once bought a boat for approximately \$3,000-\$4,000. When buying tickets for his international travel, he generally flew economy and occasionally business class, but never first class. In his August 3 interview with me, he demonstrated his attitude about personal finance using the example of vehicle ownership:

I was in a car business, with a lot of cash flow. I had a nice Mercedes that I bought for myself-I got a good price on it, though. Never buy new because the value just goes down when you drive it away. Let the other guy buy it new, and then buy from him. You got a good car but you don't pay the high price. I lived a good life but didn't spend when I didn't have to. I never bought new cars – I would buy them second hand. Anything that I bought for myself, I bought it with the idea that I would be willing to sell it.

Mr. Arbabsiar described himself as a successful car salesman who worked hard and whose life involved entertaining clients and colleagues. Accustomed to hosting dinners for others, he stated to me that it was difficult for him to adjust to financial challenges following the recession of 2008. In his interviews with me in August and September of 2012, he demonstrated an understanding and memory for business details including purchases and financial obligations. In his August 4, 2012 interview, he recalled a 2009 trip to Iran where he obtained hair transplant surgery in Iran because it was less expensive than in the U.S. With decreasing revenues in the U.S., he made four separate trips to Iran in 2010 in order to bring back funds from his Iranian investment properties. By late 2010, following the death of his business partner in July, he had moved from Corpus Christi to Austin in order to live at home with his wife. In our September 26 interview, he recalled: "After Steve died, my life changed a lot. Up until that point I was spending some time in Austin and some time in Corpus. But after he died, I didn't want to do the car business [in Corpus Christi] any more. After that, I had problems with mouth pain." Following the move to Austin, he began experiencing medical and dental problems. In his August 4, 2012 interview with me, he described this difficult financial time period in the following way:

I sat at home because I am a proud man. I won't go and borrow money from someone else. I spent time at home because otherwise people would be expecting me to be living life like I lived when I had money. I would tell people that I was busy. I wasn't the kind of guy to accept money from other people. You see, when I had my business, we would go out every day. But without money, she would cook for me.

Also, this was a time that I had a lot of health problems and had to see doctors and dentists. My blood pressure was too high and I wasn't feeling very well. I saw the doctor at least twice, and maybe three or four times...

But here is the terrible thing about that time-this is the worst thing. I had a tooth problem. It was infected and insurance wasn't going to cover the cost of taking out my teeth and getting implants. He said that it would cost me 24K to have the teeth all removed and then to have implants. I didn't have that kind of money. So I had that problem for 2-3 months, I was going crazy. It hurt me so much to eat because my teeth were in such pain. The longer the time went, the more the infection spread to my other teeth. I had terrible trouble sleeping at night. Sometimes I couldn't breathe because I was in so much pain. I was so sick, that my jaw was swollen. I am stupid – maybe I should have paid out of my own pocket, and as time went by, my mouth pain got worse and worse.

My brother sent me money and they took out my infected teeth and it was a big deal – they had to break my teeth before taking them out. It was more important to spend money on my son's school. My wife was making me soup and I have just been eating soft food for the last three years. I will eat cake and soup. I eat rice, but don't like it because even then I can't chew too well. The total charge was 3K (my insurance paid 2k and I paid 1k) for pulling my teeth. (August 4, 2012)

In my August 10, 2012 interviews with the FBI agents who questioned Mr. Arbabsiar they recalled his focus on his son's welfare and future. In our interviews of August 3 and 4, 2012, Mr. Arbabsiar stated that he was at times exasperated and disappointed with his son's spending habits, the need to purchase another car after he wrecked the first, and the financial toll of his son's legal difficulties. Nevertheless, he also expressed confidence and optimism in his son's success and was clear about his interest in passing his inheritance to his son, whom now has a child named after Mr. Arbabsiar.

As a businessman, I started investing money in Iran about 20 years ago. I was thinking about my son. It was initially very cheap. My family encouraged me to invest money in Iran. So I started buying property in Iran. My son is well off because of the property that I bought. It is not big, big money, but it is decent. My son has pride and said "I don't need your money" but when I die, who is going to get it, the dog or the cat. Because I am in Iran, my property will all go to my son.

It was smart to invest money in Iran and not in the U.S. Here, you have to pay taxes. This country is not as good to make investments. I did this all for my son.

I don't want to be too specific about my property in Iran because it is meant for my son. This U.S. government will try to put a stop on it. One way or another, I will find a way to make money. I won't steal from you; I won't take your laptop. If I am dying, and starving, I won't steal even one dollar. If I die, I die like a proud man. I know that the little guy is happy with just a little money, but I am willing to work hard for more money. I have always felt "I will find a way." (August 12, 2012)

Mr. Arbabsiar's devotion to his son included financial support for attorneys following his son's arrest while still in high school:

I have felt pressed to provide for him. If you had a kid, you would understand. I was under pressure to support him. My wife doesn't make too much money, so the pressure has really been on me. We got an apartment for him, and he didn't have a scholarship so we had to pay for his education too. We sold some property to provide for him...

I had to spend 7 or 8 thousand dollars. We had property that was leased to the USDA and we had to sell it because I had to pay costs for the attorney, court costs, etc. they put him on probation for two years. His probation is not finished. That is why I was pushing him to go to college. (He became tearful when speaking of son's being in jail for one day, and the need to post bond for him.) He was young and had friends who got him in trouble. We were living in a high-class family. He was a good boy, my son, but got in trouble... (August 3, 2012)

In addition to the stress of his son's legal and financial difficulties, Mr. Arbabsiar related to me that the sudden death of a close business friend, Steve, in the summer of 2010 and his father's death in February of 2011 were significant losses for him. He travelled to Iran again following his father's death. In my August 3, 2012 interview with him, he recalled that period of time: "He [Steve] was my best friend – we did business together. Then we sent his body to Iran. After that, I lost my dad. After that happened to my friend, my partner, and with the money pressures on me, it was very hard, very difficult." In my interview of September 26, 2012, he said: "My life was going bad – I had lost my friend and my dad – my cousin, he took advantage of me. I hate to say that, and I trusted him – my whole family, they should help me. I wanted to do a good business, an export business. You just don't expect that your family will put you in a bad position. Sure, I made a big mistake."

According to Mr. Arbabsiar, in the six-month period from March 2011 through September of 2011, Mr. Arbabsiar travelled frequently between Iran, Europe, Mexico and the United States. In late September 2011, he was refused entry into Mexico and was flown to New York where he was arrested and questioned by the FBI.

Following his arrest and detention at MCC, Mr. Arbabsiar has had a fairly typical adjustment compared to others who are detained on the high-security unit. On September 6, 2012, the chief psychologist at MCC, Dr. Elissa Miller described Mr. Arbabsiar's adjustment in the following way:

I think that his behavior is typical for someone in a high profile case who is in an isolated situation. Whenever I stop by, he gets out of his bed to talk to me. I provided him with books. So I like to order books for inmates up here. He has always been a gentleman, very polite. He just seems worried. At times, the rumination will increase if the attorney hasn't been here in a while. As anyone else, he would like to go back to his normal life and doesn't know when that will happen. I think that he has some narcissistic traits, although I wouldn't say that he is classic.

On August 3, 2012, Mr. Arbabsiar described his daily life at MCC in the following way:

My sister sent me magazines from Iran. My wife sent me 4-5 magazines with cars and trucks, and also about new technology. Every day I get a New York Post.

I listen to the radio – I like to listen to [talk radio] station[s] 110 and 770... I also listen to 820, which is BBC. Sometimes they have a new program about other countries. I listen to music sometimes – I usually listen to 80's style music. My favorite group is the Bee Gees. I liked disco, and Diana Ross. I like new music, I don't know who is singing it but it sounds good. I like ABBA. I like that singer from Canada, who is famous. I have a bunch of CD's from her.

News is almost always bad. One time I was listening – they talked about my case – 99.5 is a black channel. One of them, they were talking about my case. They didn't say bad things about me. They said that they didn't find anything bad about me....

There is a place down the hall where I can go for recreation, but I usually don't go because there is nothing to do there. It is just a room with windows.

In a July 2012 note in the MCC mental health record by the chief psychologist, Dr. Miller reflected Mr. Arbabsiar's strong interest in reading and keeping up with current affairs: "He stated he is just disappointed that he has not been getting his newspapers which "is the food for my brain" on a regular basis. Inmate Arbabsiar is currently psychologically stable." On August 12, 2012, he used humor in response to my question about his purchases in the prison commissary, reflecting on the experience of living in the prison setting of MCC.

I will get a cake, some chips (nachos), mince pie, sweet candies, and sweet chocolates. I spend \$20 or \$30 dollars a week. I have \$300 or \$400 dollars in my account. I am cheap. I am living on \$80 a month. I put it in the positive. I tell people I am living in lower Manhattan... on only \$80 a month!

Mr. Arbabsiar told me that at some point, possibly during the trial, he looks forward to a visit from family members.

Pre-Arrest Medical History

Mr. Arbabsiar received stab wounds in a 1980 assault that required three weeks of hospitalization and left him with scars, including a significant left facial scar. In addition, Mr. Arbabsiar reports a history of hypertension, and gastro-esophageal reflux disease.

Post-Arrest Medical History

According to medical documentation, Mr. Arbabsiar received a medical examination on October 6, 2011 during the period of his post-arrest FBI questioning. He was assessed to have some upper respiratory tract congestion and was treated symptomatically. According to my review of the MCC medical records and my September 5, 2012 interview with the chief MCC physician, Dr. Bussanich, Mr. Arbabsiar tested positive for tuberculosis on arrival, but no active disease has been found. He is being treated for hypertension and esophageal reflux disease. Dr. Bussanich indicated, "From a medical perspective, his nicotine withdrawal contributed to his heightened state of anxiety.... He went through a lot initially when he came [to MCC]. He was concerned about possible tuberculosis. He presented with hypertension initially [which] has been well controlled. He is on a low dose of a diuretic and an ACE inhibitor."

In my September 5, 2012 interview with Dr. Bussanich, he addressed the question of Mr. Arbabsiar's anxiety and was clear that there was no evidence of mania. He described his approach to patients under his care who exhibit mania:

I have seen hypomania and mania quite a number of times within the jail and prison setting, but never in Arbabsiar. I would certainly know it if I saw it. People with mania can be a big concern because they can also be psychotic during these periods. When I have any indication that mood is abnormal or elevated, any mania or hypomania would be referred to the psychiatrist here. Any emergent care would require transfer to Bellevue Hospital, and we have done that in those cases.

In my August 3, 2012 interview with him, Mr. Arbabsiar reported to me that his initial period in the jail was difficult. He complained that he was "freezing" due to an insufficient number of blankets and suffered from nicotine withdraw having went from four packs of cigarettes per day to none. As someone who had been addicted to nicotine, had a high caffeine intake and was anxious about being placed in a high security jail environment, Mr. Arbabsiar reported some insomnia. Because of anxiety-related insomnia's potential to exacerbate hypertension, Dr. Bussanich attempted to treat the insomnia by placing Mr. Arbabsiar on a low-dose of the sedating antidepressant, doxepin. In my September 5, 2012 interview with the MCC chief psychologist, Dr. Miller, she stated, "He had been drinking a lot of coffee and wasn't sleeping. We told him to cut that down. He decreased his coffee and is doing a lot better." Because of oversatiation and concerns that it could cause an increased heart rate, the doxepin was ultimately discontinued and with the decrease in caffeine intake, he has noted a resolution of his insomnia.

Substance Use History

As noted above, Mr. Arbabsiar first began use of alcohol and tobacco as a teenager in Iran. He described himself to me as a social drinker. He reported no history of alcohol or drug-related arrests, and did not report that he has ever been referred for alcohol rehabilitation. By the time of his arrest, he stated that he was smoking four packs of cigarettes per day. In addition to alcohol and tobacco use, he reported to me on August 3 and September 5 that he also has a long history of marijuana use. In his interviews with me, he described his drinking habits in the context of his social environment:

I liked Jack Daniels. They called me Jack because I drank a lot of jack and coke. I would drink three or four. The bartenders all knew me; I would give them \$25 or \$30 tips. They were generous in the amounts that they gave me and my girlfriends. You know how it goes, when you give the bartender a big tip; he will put more whiskey in the glass. I know how the system works – if you pay more up front with a tip, you actually save money. I would joke and have a good time. I didn't have enemies. I was a social drinker – when I would go out I would drink. I didn't drink at home that often. (August 4, 2012)

When I traveled to Europe, I would stay in Amsterdam. I could smoke marijuana legally. I just asked for a cigarette for 5 euro, and asked for medium strength. (September 5, 2012)

Legal History

When questioned about his legal history, he reported to me on August 11, 2012, that as a 9th grader in Iran he was warned by police after throwing a tomato at a Kurdish man driving by in a vehicle. He denied any arrest history while a civilian or in the military when in Iran. With regard to his legal history in the United States, I reviewed relevant official documents. His statements to me were consistent with the official records that I reviewed. Mr. Arbabsiar's stated to me on August 4, 2012 that he had only minor difficulties with the law while in the United States and that it was important for him to maintain a good reputation as a businessman in the community:

I never had one hot check in my life. I never had a DWI. I never did a crazy thing. I respected the law. I never would take a chance and drink and drive. When I did drink, I would never drive. I lived in a small town. My reputation was really important.

A 1987 assault charge brought by his divorced wife was dismissed, according to Mr. Arbabsiar. A 2004 charge for driving with a suspended license was due to a ticket that he stated he did not know had been issued. Unbeknownst to him, the penalty on the unpaid ticket grew over time, resulting in a suspension of his license and brief arrest. A 2001 theft charge related to a check that he had written to purchase a business, and then stopped after learning that the seller had misrepresented the profits. On August 4, 2012, he related the following, which was consistent with the record that the charge was dismissed:

I had bought a grocery store for my friend – it was a small grocery store. He was asking for 30K and I gave him half of the money. I told him that I would give him the rest in 45 days. I was told that the take in would be 800 to 1200 dollars a day but we found that the daily sales were much less. When we took it over, it was only selling 200 or 300 dollars a day. I talked to my attorney and told him that this was a bad deal and that they had misrepresented their sales. What am I supposed to do? The attorney advised me to put a stop on the check, so I did that. The guy who wanted to sell to me got angry and tried to make it a court case. The judge agreed with me and dismissed the case because it was clear that the profits had been misrepresented.

Pre-Arrest Mental Health History

None, according to review of medical records, mental health records, and interviews with Mr. Arbabsiar.

Post-Arrest Mental Health History

Mr. Arbabsiar has been housed on a high security unit at MCC since his arrival at the institution. He denied having any psychological issues and during his first encounter with mental health professionals, he stated that he was “not interested in any psychology services.” On November 10, 2011, the psychologist reported, “No acute psychological symptoms were admitted.” As time progressed, he demonstrated more anxiety and Mr. Arbabsiar related it in part to nicotine withdrawal. In our August 11, 2012 interview, he recalled: “When I arrived at MCC – it was in October. They wouldn’t give me a cigarette...I really went through withdrawal. I would feel it – and had a rough time over the first few months. That was very bad, because I had become a chain smoker.” Because he was a four pack per day cigarette smoker, the MCC chief physician assessed him to have experienced severe nicotine withdrawal in the days and weeks after arrival. He was treated for anxiety with the anti-anxiety medication buspirone and for insomnia received a low dose of the antidepressant doxepin for its sedating side effects. According to the MCC medical records, Dr. McLean diagnosed Mr. Arbabsiar with generalized anxiety disorder on January 12, 2012. Mr. Arbabsiar was noted to have resolution of his symptoms on buspirone.

In addition to medical and mental health assessments, opportunities for comprehensive and regular observation are provided for all who are housed in Mr. Arbabsiar’s high security unit, in addition to weekly assessments by the chief psychologist.

According to my review of the records and interviews with Dr. Bussanich and Dr. Miller, the greatest period of anxiety occurred during the holiday season from December 2, 2011-January 10, 2012. During this period, mental health providers conducted two suicide risk assessments as a result of concerns expressed by Arbabsiar and correctional staff. Both evaluations stated that Arbabsiar expressed passive suicidal ideation; however, they believed that his overall suicide risk was low.

As a case in point, on December 2, 2011, a case manager reported that Mr. Arbabsiar stated that, “he felt very depressed and feels like dying.” Arbabsiar told the psychologist, “Sometimes I get the depression, it’s normal yes,” and “Sometimes I wanna go to sleep and tell God to take me in a nice way.” In contrast to his subjective statements, the psychologist observed and documented that Arbabsiar “displayed a euthymic [normal] demeanor” and that he was “friendly and pleasant” with correctional staff.

The psychologist recorded a number of protective factors including, supportive family; interests in current activities (case, reading, exercising); concern for family members (wife, son, newborn grandson); sufficient cognitive flexibility; and future orientation. For these reasons, the psychologist concluded that Arbabsiar’s overall suicide risk was low. In addition she reported that there was an absence of significant mental illness.

The second suicide risk assessment was conducted on January 4, 2012. Lieutenant Cruz referred Arbabsiar to mental health for difficulty sleeping. Arbabsiar is reported to have stated that at night he “prays to God to make him die.” At the conclusion of the interview, Arbabsiar stated that he “does have some hope” and said “he prays to God to give him hope.” He appreciated contact with others. He was appreciative of seeing psychology and also stated that when he saw Lieutenant Cruz he “feels better.” The mental health file indicated that following a move to recreation, “his mood was neutral with a full range of appropriate affect and smiling...His overall current level of judgment and impulse control appears adequate.”

Suicide risk assessments were conducted on December 2, 2011 and January 4, 2012. The assessments determined that his current overall risk for suicide was low, but that he presented with the following factors suggesting an increased suicide risk at the time: (a) passive suicidal ideation, (b) sleep disturbance, (c) feelings of hopelessness as a result of his legal situation not life, and (d) family history of suicide. In

my September 6, 2012 interview with her, Chief Psychologist Miller stated that MCC takes suicide very seriously, and therefore will always err on the side of caution. In respect to her impression of the suicide risk posed by Arbabsiar, she stated:

“If we feel that there is even a borderline case, we will put them on for 24 hours. We consistently felt that his protective factors outweighed any risk factors. The fact that we didn’t place him on psychological observation or suicide watch demonstrates how comfortable we have always felt about his level of stability...we really err on the side of caution. Single cell inmates are at higher risk so the fact that he wasn’t put on either psychological observation or suicide watch shows that he really has been quite stable throughout his time here.”

Interviews with both the chief of psychology, chief of medicine, Mr. Arbabsiar, as well as review of the MCC medical and mental health records indicate that Mr. Arbabsiar’s anxiety has been effectively controlled with buspirone. He has not demonstrated symptoms requiring treatment for bipolar disorder or depression, and has not been prescribed medication appropriate for bipolar disorder, such as mood stabilizers. From the standpoint of security staff, he has also been stable. Mr. Arbabsiar has not been charged with any disciplinary infractions, and according to Lieutenant Madison, he has interacted with correctional staff in a controlled, cooperative and appropriate manner.

According to the mental health notes, Mr. Arbabsiar’s attorney recently contacted the institution on September 21, 2012 with a referral that he had been “appearing upset during a recent meeting.” He was assessed by the MCC mental health department. Although he related frustrations about his legal situation, he was noted to be upbeat and future oriented, smiling broadly as he spoke about his one-year-old grandson. No evidence of bipolar or other mood disorder was noted. He stated that he continues to benefit from his medication for his anxiety disorder.

Family History of Mental Illness

Mr. Arbabsiar stated to an MCC psychologist that a number of distant cousins on his father’s side were diagnosed with mental illness, but he was unaware of the details. He reported to me on August 3, 2012 and it is recorded in the January 4, 2012 MCC medical record that two cousins on his mother’s side who were brothers were addicted to drugs and both of them reportedly committed suicide in Iran.

Review of the Period of September and October 2011

In order to achieve the most objective review of the period of September and October 2011, it is important to review contemporaneous documentation and to conduct interviews of those who witnessed Mr. Arbabsiar’s behaviors and heard his statements. My interviews with Mr. Arbabsiar were extremely helpful. I spoke separately with the two main FBI agents who questioned him post-arrest as well as four FBI agents who were responsible for monitoring him through the period from approximately October 1 until October 11. In addition, I spoke with the research psychologist who closely monitored and documented Mr. Arbabsiar’s behaviors.

In both my August 3 and September 26, 2012 interviews with him, Mr. Arbabsiar recalled the flight from Mexico to New York City after being detained by the Mexican government. Describing the flight to New York, Mr. Arbabsiar stated:

The flight was about five hours – I didn't eat anything. They put me in the back row. I didn't talk to anyone. I didn't watch the movie. There was no one behind me. I didn't want to cause any trouble. I was thinking, "I will be going to jail." I didn't cry – actually I was kind of prepared that this kind of thing would happen. My brother had told me not to go. I could have gotten away in Mexico, get in a fight, get taken to jail or try to bribe someone in Mexico but I decided to go with the flow. (August 3, 2012)

So then after that I got on the plane from Mexico, and although they didn't tell me, I knew that it was taking me to the U.S. So I was quiet, they put me in the back of the plane. I was just quiet. They had FBI or marshals on the plane – on either side of me. I realized – "I am finished. They know what the hell is going on." I wasn't 100 percent sure that Junior was in on this. I am not stupid doctor – I didn't pay for a ticket but they put me on a plane. Why would they do that except because they wanted to take me into custody? I just decided to go with the flow. Of course I knew. I am not retarded – maybe retired but not retarded. (September 26, 2012)

Following his arrival at JFK International Airport on the evening of September 29, 2011, he recalled that he was taken to a hotel where the FBI questioned him until he refused to again call his contact in Iran and invoked his right to an attorney. He was brought before a U.S. Federal Magistrate on October 11, 2011.

Mr. Arbabsiar stated to me that although he shook hands with the FBI agents, he was also aware that he would likely be prosecuted for his crimes and serve time in jail. These concerns were further confirmed when he made his first call to Iran on October 4, 2012. "When I called Iran, they [FBI] showed me that I had a case number. When I wasn't making a call they told me that they had a case number for me and that made me feel that I was going to jail for sure." Of the FBI agents he stated, "We joked around. I was saying that, 'I am going to a federal jail.'"

In his interviews with me, Mr. Arbabsiar related that his is a significant case because it involves the countries of Iran, Saudi Arabia and the United States. He affirmed that his cousin is a high-ranking official who holds the rank of General. Because the crime he is charged with involves the planned assassination of a Saudi official, he felt that it would have the attention of top U.S. leadership, including President Obama. In my interview with FBI Special Agent (SA) # 1, he affirmed that one of the agents told Mr. Arbabsiar that FBI SA # 1 knew the president. This impressed Mr. Arbabsiar, who would then ask the agent about the president's involvement following the case. Another FBI agent who questioned him, FBI SA # 2, stated to me that, "we portrayed [the other agent] as the president's right hand man. That impressed him. He wants to be important."

Mr. Arbabsiar made references to World War III (WWIII) that were sarcastic in nature, according to FBI SA# 1. Exasperated with his Iranian handlers and their directives to him to avoid sending emails, Mr. Arbabsiar would say, "If I start WWIII, I start WWIII." In fact, Mr. Arbabsiar indicated to the agents that he believed that the Iranian handlers were overcautious and was confident that even if sending incriminating emails from his address was wrong: "One mistake will not start WWIII."

In my August 10, 2012 interviews with FBI agents, conducted separately, both FBI agents noted that Mr. Arbabsiar's ability to speak English was very good. FBI SA # 2 noted that Mr. Arbabsiar "would attempt to plea bargain with us," further stating that "In the one hundred interrogations that I have done, he [Arbabsiar] was no different than any of the other guys in the way that he acted when confronted that he was in trouble."

In my September 26, 2012 interview with Mr. Arbabsiar, he recalled his openness regarding his responsibility and interest in being considered for lenient treatment:

I said to the FBI “yes, I made a mistake. I am not looking for forgiveness.” For example, if you go to a store and admit that you stole something, you can say ‘I made a mistake but I am willing to work in your store for free to make up for that.’ That was my attitude. I know about making deals – I have done that all my life in the car business. We all make mistakes – some are big and some are little. Some mistakes you can’t forgive. Like, if I killed someone, you couldn’t forgive that. But I know that this is a big mistake so I felt, yes, ok, put me in jail. Just not for too long.

In that same September 26, 2012 interview, Mr. Arbabsiar likened his situation to resolving a conflict by making a deal. He also provided his perspective regarding the similarities of negotiating deals whether individual-to-individual or country-to-country:

I have spent my life making deals. Government makes deals too. If America wants to make a deal with me, they can do it. Governments will swap. Now if I killed someone, then put my ass in jail, is what I say. But nothing happened, so I think that there is a chance to make a deal that works for both of us. Even if I want to kill you and I pull the trigger, but the gun jams, well, we can make a deal. Hell, if you want information, I will give you information. If you want addresses, I will give you addresses.

The FBI agents interviewed on August 10, 2012 stated that regular breaks were given during the period of the post-arrest questioning. Although at times Mr. Arbabsiar smoked inside the room, he often was escorted outside and on at least one occasion took a walk with agents around the military base. He never required handcuffs. According to all of the FBI agents, his behavior never signaled an interest in possible escape.

He was noted to have a fairly consistent pattern of sleeping at night and being up and awake during the day with occasional naps. FBI SA Flores monitored him for 12-hour shifts at night, and FBI SA Behm monitored him during the daytime. They recalled the following respectively:

He would get up at night to smoke or to use the restroom. I wouldn’t say that he got eight hours of continuous sleep. He told me that it was normal for him to get up at times at night. He would snore when he was sleeping. (FBI SA Flores, September 25, 2012 interview)

They would bring in some DVD’s and [he would] watch them. He would watch for a while and then would fall asleep. He got plenty of sleep – I never saw him to be sleep deprived. From what the guys would tell me, they said that he would sleep during the night. He would usually sleep for an hour or two during the day as well. (SA Behm, September 26, 2012 interview)

FBI SA# 1 noted that Mr. Arbabsiar was very observant of the environment around him, and noticed and commented upon an FBI command bus that was parked in a distant parking lot. His vision appeared to be quite good and he would draw various things such as a map, when providing information to the agents.

On occasion, he was noted to be emotional, although this happened only rarely and was generally in the context of expressing his fears about how jail would separate him from his family, particularly his son and grandson. FBI SA # 2 recalled that Mr. Arbabsiar cried when speaking about his son and grandson. “He cried like I would cry if I wouldn’t see my kids again.”

When not being questioned, Mr. Arbabsiar was noted to relax, watch videos, read, smoke or eat his meals. Mr. Arbabsiar at times requested to eat meals with the FBI agents and on occasion they did join him in eating meals. During these break periods, in addition to occasional napping, FBI SA Behm recalled:

He would hang out in his room and read – he would read the newspaper or magazines. When I got there, there were newspapers and magazines that had been left in there. I didn't notice any problems with his vision. He had glasses, but never would complain about not being able to see. (September 26, 2012)

One FBI agent who served as a guard on the night of October 1 and the morning of October 2 found Mr. Arbabsiar to be sleeping when he first encountered Arbabsiar. FBI SA Shalabi recalled in a September 7, 2012 interview that after having observed Mr. Arbabsiar sleeping soundly, Mr. Arbabsiar awakened at 3 am and expressed concerns about jail. "The first thing out of his mouth was "What is jail like in the United States? How harsh are the conditions? What should I expect?" After going into the bathroom, Mr. Arbabsiar came back out into the living area, and FBI SA Shalabi recalled Mr. Arbabsiar's statements and behavior:

"You know what I did?" And I said "no". Then on his own accord, without me asking, (I decided to keep my mouth shut) he told me he was in big trouble. Had gotten involved in big politics. Wife had a lot of financial demands. Son's pregnant girlfriend added more to the stress. So he told me that he decided to go to Iran to solicit more help for [his] family... He said that his cousin was a "big general", [who] was "senior" with decision-making powers. [He was] Approached by cousin to then give money to kill the Saudi Ambassador. As he was telling me this, he reflected back on the whole situation. As he told me the story, [as] he said that, he looked upset and [said that he] had been used by his cousin. Then he went back to smoking, tossed and turned, and then fell asleep.

FBI SA Shalabi described this brief ten-minute period when Mr. Arbabsiar had chain-smoked several cigarettes and washed his shirt in the bathroom sink using the term "erratic" as defined by "deviating from what is ordinary or standard." In that FBI SA Shalabi knew nothing about the case or its significance, the behavior seemed unusual to him. About this brief period of wakefulness, Shalabi went on to say:

"This was clearly abnormal behavior, but not crazy. He was in no way crazy. [He] made sense, spoke calmly, low in tone. [He] shared feelings about his cousin, wife, son – making excuses for what he did. Trying to garner sympathy from me by making an excuse for what he was trying to do. When we left at 7 am, he was still asleep. [He] never cried, screamed, yelled. He exhibited typical criminal behavior of people who were caught and guilty.

FBI SA Damon Flores and FBI SA Brent Collins watched Mr. Arbabsiar during the evening and early morning hours. In an October 2, 2012 interview, Collins recalled that, "Nothing stood out to me as abnormal under the circumstances. He would never laugh inappropriately. [He] never made light of his own legal situation. He never said anything outlandish. He seemed to connect more with Damon, who is a little bit more outgoing than I am and little more talkative. I never saw him interrupt anybody. Except for smoking, he really seemed to have good manners." FBI SA Damon Flores stated to me on September 25, 2012 that Mr. Arbabsiar spoke with him at times but spent most of the evenings either sitting quietly watching television or sleeping. FBI SA Flores described Mr. Arbabsiar as inquisitive after learning about Mr. Flores having lived and worked in Southern Texas. From the time of FBI SA Flores' arrival on October 2 for eight consecutive 12-hour evening and early morning shifts until his departure on October 11, FBI SA Flores noted no bizarre or unusual behaviors.

He wanted to know about my Bureau career, what kind of work I had done in south Texas. He asked about my family, he was family oriented. He talked about his family, and especially his son and grandson. They seemed to be important to him. He seemed more interested in talking to me because I was from Texas. But whenever he started to talk about his crime, I would cut that off. I wasn't there to talk to him about his crime and I made it clear that I wasn't interested.

Some days, he seemed to be thinking about things. There were times that I would be reading a book. He seemed to appreciate conversation, but most of the time he didn't talk. He would be in his bedroom some of the time and I would be in the living area.

Perhaps the most detailed and comprehensive view of that period can be found in the documented observations of psychologist Dr. Susan Brandon, who was present during all of the post-arrest questioning of Mr. Arbabsiar. Dr. Brandon related to me the following when I interviewed her on September 21, 2012:

Generally, he answered questions. There were direct questions and direct answers – that was the bulk of the exchange. Whenever the interrogation team and Mr. Arbabsiar would speak about common shared values, these seemed to be methods to develop rapport. Mr. Arbabsiar would have good social skills, and would use the same tactics with the negotiators.

I didn't perceive any language problems. His English is very good. At times, the lead interrogator would speak to Mr. Arbabsiar in Farsi. I didn't know what they were saying. I think that it was part of the social influence tactics. He used Farsi at least once and perhaps a couple times per day. It wasn't long, just a brief exchange.

I haven't seen many interrogations. The dynamic of social exchange I *have* seen in other instances, and that is very common.

In looking at the exchanges, I don't recall anything unusual. Nothing that I recall was very strange.

There was one point where Mr. Arbabsiar was in tears. I only remember that happening once. There were several periods of positive hugs and backslapping...they spoke about being a team, and those exchanges were positive.

I felt that the lead interrogator was very personable, as was Mr. Arbabsiar. There weren't long periods of silence. It was fairly rapid, normal exchange. There were a lot of periods when they were asking detailed questions about places, family members and times. They engaged in direct questions and answers that were faster than normal conversation. It wasn't extraordinary and I was able to keep up with it.

There were times when they were asking him questions that he didn't want to answer. Sometimes they would become more conversational, sometimes they would try more rapport-based discussions, and they would then take a break.

At the beginning of the day, they would usually go in the room, and ask him how he was, how he slept, and did he eat breakfast. Before too many minutes went by, there would be the signing of the documents. The amount of discussion about the signing would vary – sometimes there was more time spent discussing, and sometime there was less time spent. Basically, they said that this is what you are doing to help us, and this is what we are doing to help you, and this (“talking to us”) is what you are doing to help us.

They didn't come in in the morning and say, "sign this" and then start talking. They would talk with him, get him to eat his food, and then get talking. The questioning never started until 15 or 20 minutes later. It was established as a pattern of how to they started the day.

The relationship would vary within the day. The relationship between Mr. Arbabsiar and the two interrogators became closer, and they would speak about being on the same team. Later, when they had the discussion about Mr. Arbabsiar going to court, you would think that they were friends.

Mr. Arbabsiar asked questions about what would happen. He would ask "are you coming to see me in prison?" It was not a happy exchange, somewhat sober, but it was fairly friendly.

Throughout the time, Mr. Arbabsiar would use the same tactics on them. The interrogators would say, "You want to help America" and at some point Mr. Arbabsiar would say, "I am an American and I want to help America." They all used praise and flattery, self-disclosure, and other influence tactics. He had good social skills and these came out. I think that I remember that he was a car salesman. He had a good ability to engage people. I tried to count the number of times that he used flattery and the interrogator used flattery.

He never spoke about having difficulty reading or having any cognitive difficulties during the sessions. He seemed to be a normally intelligent person. I didn't notice any problems with memory. He was able to recall what he had eaten the night before. He would recall videos that he had watched. There was a lot of conversation about food-which changed from day to day.

I never saw any period where he seemed out of touch with reality. With regard to the issue of team, this is something that I have seen with other interrogations. They encourage people to think that talking will help them. That is certainly what was done here. At various points, he would point out that nobody had been killed. Sometimes he seemed to think that he might go to jail for life, and sometimes he felt that he might not go to jail for life. He expressed concern about going to jail, and expressed an understanding that he had done something wrong and that he would be spending some time in jail.

The fact that he focused on [was] the fact that the attack hadn't happened and nobody died, that this would impress the justice system and that by being cooperative, that would serve him.

The most unusual event described during the period of September 29 through October 10th occurred on October 1 when Mr. Arbabsiar spoke with the FBI agents at around the time he took a shower, wearing only a towel/boxer shorts. Dr. Brandon's written record of that period indicates that he sat in the same seat as before, visible to the video monitor, and continued with the interview in a similar way that allowed for her ability to document the content and process of the interview. When I asked Dr. Brandon about her perceptions of this behavior and the context that it occurred in, she said the following:

The only strange thing that he did was when he came out with a towel around his waist. This was unusual. My sense of this was that it was deliberate on his part and in my view was a bit of a power play.

FBI SA # 1 agreed that it was unusual, but described it as an attempt by Mr. Arbabsiar to challenge the team:

Every morning we got into a routine – we brought him coffee and muffins. One morning he had a towel or boxers – he started talking, [and] then said, “Let’s sit down.” It was me, [another agent] and him in boxers or towel. He was very eager to sell himself to us – it was not from a baseline of being confused. He was manipulating us.

ANALYSIS AND DISCUSSION

In his July 13, 2012 declaration, Dr. First and the defense have asserted that Mr. Arbabsiar suffers from bipolar disorder “and was likely cycling in and out of manic episodes during the period of September 29, 2011.” It is his contention that decisions that Mr. Arbabsiar made during FBI questioning were influenced by episodes of mania. According to Dr. First, this raises serious questions as to whether decisions made by him during this period were made rationally, with a full understanding of the consequences. Dr. First has cited his interviews with family members in the U.S. and Iran that report longstanding, yet undiagnosed and untreated psychiatric symptoms relating to mania and depression.

Based upon my evaluation, it is my professional judgment that Mr. Arbabsiar does not suffer from bipolar disorder or any other mental illness that would have precluded him from knowingly consenting to FBI questioning following his arrest. As a result of my interviews with Mr. Arbabsiar, MCC medical, mental health and security personnel, five FBI agents who questioned him and/or monitored him, a research psychologist who documented his behaviors during the post-arrest questioning and a comprehensive review of documents in addition to those cited by the defense expert, it is my further judgment that examples of manic and depressive episodes provided by the defense were instead behaviors and statements that can be fully understood with the benefit of more factual information and within the context of his experience and environment at the time.

Defendant Has Never Been Clinically Diagnosed or Treated for Bipolar Disorder or Mania

Mr. Arbabsiar reports no psychiatric history prior to his arrest or in the weeks following his detention at MCC. Although he has sought and received medical care in the United States and in Iran for numerous conditions that include acid reflux, hypertension and hair loss, he has never sought or been referred for treatment for psychiatric symptoms until December of 2011. According to Mr. Arbabsiar, prior to his September 2011 arrest, neither he nor his family in the U.S. or Iran identified any symptoms (including elevated, expansive mood, irritability, rapid speech, inappropriate trust of others, insomnia, severe depression) that resulted in medical or psychiatric evaluation.

Notably, Mr. Arbabsiar has been held at MCC for approximately one year. Staffed continuously by trained medical, mental health and security personnel, MCC is an accredited facility whose medical and mental health staff are trained to identify symptoms, make diagnoses and treat mental illness. Inmates who are housed on the high-security wing are closely monitored. Had Mr. Arbabsiar been suffering from a manic episode at the time of his post-arrest FBI questioning, it would be expected that he would continue to have serious mood symptoms upon arrival at MCC, because the normal course of an untreated manic episode would be expected to last about three months (Kaplan & Sadock, 2003). Instead, after he invoked his right to an attorney and was charged in federal court, he arrived at MCC in stable condition and according to MCC records, he stated that he was “not interested in any psychology services.” One month later, on November 10, 2011, he continued to demonstrate stability and also denied having any symptoms. The psychologist reported, “No acute psychological symptoms were admitted.” In the absence of any medication treatment for mania or bipolar disorder, the fact that Mr. Arbabsiar declined psychology services and that the mental health and security staff did not observe any behavioral manifestations of psychiatric illness during this period is inconsistent with a description of mania with psychotic features in the days leading up to his detention at MCC.

In his September 6, 2012 interview, MCC chief physician Dr. Bussanich stated:

I have seen hypomania and mania quite a number of times within the jail and prison setting, but never in Arbabsiar. I would certainly know it if I saw it. People with mania can be a big concern because they can also be psychotic during these periods. When I have any indication that mood is abnormal or elevated, any mania or hypomania would be referred to the psychiatrist here. Any emergent care would require transfer to Bellevue Hospital, and we have done that in those cases.

The MCC chief psychologist, in her September 6, 2012 interview provided her perspective:

He has been dysphoric, but that is the normal human experience. Considering how much he has been in isolation, that is normal. I think that he is down about his situation. Never in the course of his time here has he exhibited a manic episode. Sometimes he ruminates over his legal situation. Although he may be a bit of a braggart, I don't see any grandiosity. No racing thoughts. No tangentiality. I wouldn't say that he has had increased energy. I did see a bit of agitation when he was initially anxious. No levels of irritability or euphoria in any way. I attributed the agitation to anxiety. I never saw any manic episodes or depression. I think that his behavior is typical for someone in a high profile case who is in an isolated situation.

Although a diagnosis of bipolar disorder itself would not necessarily interfere with one's ability to waive one's rights, it should be noted that Mr. Arbabsiar has never been clinically diagnosed or received treatment for bipolar disorder or any mood disorder. Had he suffered from true bipolar disorder, the first-line treatment approach would require a mood-stabilizing medication. Instead, he has been diagnosed with Generalized Anxiety Disorder and has responded well to non-mood stabilizing medications (buspirone, doxepin) that would not be indicated for treatment of bipolar disorder. In fact, buspirone has been reported to trigger manic episodes (Price, 1989) and therefore could have been quite destabilizing for Mr. Arbabsiar had he carried a true diagnosis of bipolar disorder.

Example of Mania provided by the Defense is Inconsistent with A True Manic Episode

In his July 13, 2012 declaration, Dr. First exhibits "one noteworthy example" provided by Mr. Arbabsiar's sister of a manic episode involving an international plane flight in which Mr. Arbabsiar "decided to treat the stewardesses, pilot, and passengers seated around him to expensive bottles of perfume from the duty-free cart because he wanted to make everyone feel good." In fact, Mr. Arbabsiar's sister was not present on this flight. Mr. Arbabsiar's recollection is at significant variance with the statement of his sister.

According to his recollection in multiple interviews with me while on a Lufthansa flight from Europe to Iran "about 7-8 years ago", Mr. Arbabsiar spoke with the flight attendant and suggested that he would like to buy her some cologne from the duty-free catalogue costing approximately \$30. In my review of flight records, Mr. Arbabsiar was a passenger on an international flight from Europe in 2003. "She was beautiful, and I told her I would do something for her." When she declined, Mr. Arbabsiar stated that he would also like to do something for the pilot and express his gratitude for their dedication in maintaining a safe flight during the increased flight security following September 11, 2001. He purchased duty-free cologne for only the flight attendant and the pilot, who then both expressed their appreciation for what the pilot termed "the nice gesture." In his August 3, 2012 interview with me, he recalled that,

He took me to the cockpit during the flight and showed me all around. He put me in the co-pilot's seat for maybe five minutes. It was at night – I couldn't see the ground. I said man, I appreciate this and he said he was glad to show me. He said thank you, and told me that the plane worked automatically – it was an airbus. He said that he appreciated the nice gesture – he had been a pilot for 25 years. He knew that I was a good guy. That is a good memory that I will always have. He

was a German. Nothing else happened on that flight. It was just like another day. I was by myself, and was on the way to go see my mother.

Rather than an example of a manic episode, Dr. First's example instead appears to demonstrate Mr. Arbabsiar's ability to function appropriately in a situation afforded to few airline passengers. In the heightened security of post-9/11 air travel, had Mr. Arbabsiar been experiencing a manic episode on the plane as Dr. First suggested, appropriate measures would have been taken by both the flight crew and passengers to control his behavior. The fact the Mr. Arbabsiar was personally escorted into the cockpit by an experienced Lufthansa pilot and received a special tour at the controls in the co-pilot's seat before returning voluntarily to his seat without incident is completely inconsistent with Dr. First's diagnosis of mania, a condition manifesting such marked behavioral impairment that involuntary psychiatric hospitalization is often required.

Manic episodes cause such marked impairment in functioning and procedures exist within airlines to deal with passengers who experience such symptoms. Mania is a psychiatric emergency, and is one of the most common in-flight disturbances that requiring admission to psychiatric hospitals. (Wiesmann, 2001). I have provided inpatient treatment for international airline passengers who were so impaired by mania that they were involuntarily committed to my inpatient psychiatric ward in the U.S. rather than to even be placed on a flight back to their home country. As noted above, untreated manic episodes generally last on the order of three months.

Based upon the statements of Mr. Arbabsiar in our interviews, his interest in being able to operate businesses in the community have governed his behavior. Rather than the hypersexuality of manic episodes, his infidelity and promiscuity are longstanding, consistent and date back to age 15 when he was working for his uncle. His alcohol and marijuana use has never resulted in reckless behavior that resulted in charges. In fact, his interview statements on August 4, 2012 attesting to the fact that he a) "never had one hot check", b) "never had a DWI", c) "I lived in a small town. My reputation was really important" all reflect a longstanding ability to maintain control of his behavior in the community – something that a person with bipolar disorder cannot do without adequate medication treatment.

Example of Depressive Episode Provided by the Defense is Inconsistent with the Facts

In his declaration, Dr. First provides an "example of a depressive episode typical of an individual with bipolar disorder." For this example, he relies on Ms. Arbabsiar's wife's report that "for roughly one year around approximately 2010, Mr. Arbabsiar was severely depressed, isolating himself in his bedroom and rarely getting out of bed except to pace around his bedroom and chain smoke."

In fact, 2010 was a year of significant international activity for Mr. Arbabsiar with more international air travel for him than was recorded for any other year in the previous decade. He took four separate flights to Iran during 2010 and also attained his U.S. citizenship and passport. In his interviews with me, he reported that he would bring back money from Iranian investments as well as Iranian goods for his wife and son. Living in both Austin and Corpus Christi during that year, it was only late in the year and following his friend's death in July that he finally moved to Austin to live with his wife where he engaged in activities including landscaping around the home and planting fruit trees. He reported to me that he did spend time in bed, but that this was due to a serious dental infection that would have required expensive surgery that he decided to defer until he could travel to Iran. In addition to increased hypertension, the dental condition was so debilitating that his jaw was swollen and he was forced to eat soup. During this period he was being treated by U.S. physicians, who never diagnosed or referred him for treatment of depression. In his interviews with me, he was very clear that while he did feel subjectively depressed during this period, his symptoms including isolation were attributable to his medical condition and his reluctance to host friends at restaurants and clubs due to diminished finances. Following his father's

death in February of 2011, he made arrangements to fly again to Iran. In the six-month period from March 2011 through September of 2011, Mr. Arbabsiar travelled frequently between Iran, Europe, Mexico and the United States prior to his arrest in New York.

Post-Arrest Symptoms Described by the Defense Are Not Consistent with True Mania

Following the refusal by the Mexican government to allow him to enter Mexico, Mr. Arbabsiar was flown to New York where he was arrested at JFK International Airport. By his own report in separate interviews with me, he was quiet and remained sitting during the flight. Stating that he was aware that he would be taken into custody, he determined that he would “go with the flow.”

The resulting FBI written report is cited by Dr. First, which he states is “noteworthy in that they contain factual information suggesting that Mr. Arbabsiar was experiencing pressured speech, paranoid and grandiose ideation, and was in a manic state.” From that FBI report, Dr. First provided two written excerpts from September 30, two from October 1, one from October 7 and one from October 10. Except for Mr. Arbabsiar, he does not cite any additional interviews with individuals who were in a position to question or monitor Mr. Arbabsiar during the period, nor does he cite any other documents from the period, including the physical examination conducted on October 6 and the telephone calls and transcripts from October 4, 5, and 7, 2011.

While the statements from Mr. Arbabsiar about being a member of the team, the potential for starting WWIII, and the notion that the questioning has a connection with President Obama may seem delusional on the surface. In fact they are understandable when viewed in context. As noted above, in my interviews of agents who were present at the time, it is apparent that the concept of team and agent relationship with President Obama came directly from the FBI agents who were questioning Mr. Arbabsiar. As noted above, according to FBI agents, Mr. Arbabsiar’s own references to WWIII were sarcastic in nature and reflected his frustration with Iranian handlers who were noted to be too controlling.

In my interviews with FBI agents present during the post-arrest questioning, they did not find his emotionality during the first few days to be unusual when taken into context. It may in part be due to his report to me of sleep deprivation from the time spent in Mexico and on the flight to New York. It is therefore understandable that he was sleeping when FBI SA Shalabi arrived on the evening of October 1, with only a brief awakening at around 3 am, only to fall asleep soon thereafter and remain asleep for at least approximately three and a half more hours when Shalabi departed at 7 am on October 2. This substantial period of sleep in response to sleep deprivation is normal, and opposite of what would be experienced in one who is going through a manic episode.

The first few days of questioning were particularly stressful for Mr. Arbabsiar. FBI SA # 1 stated that Mr. Arbabsiar initially admitted virtually nothing until the tapes were played. Given the situation that he was being confronted with his own alleged involvement in a serious federal crime involving multiple countries and that the U.S. government was aware of his conversations with the confidential source, the first two days would have been emotionally challenging for anyone in a similar circumstance. His behavior and emotionality during the first few days were therefore understandable when viewed in context with progress of the post-arrest questioning. What is on the surface unusual behavior during the day and night on October 1/2 (wearing a towel during the questioning, getting up in the middle of the night to smoke, pace and attempt to confess to the agent on night duty) is more understandable given the enormity of the situation and the extent of the government’s knowledge of the alleged plot. According to my interviews of the FBI agents who questioned him, and in my review of the FBI’s post-arrest report, Mr. Arbabsiar’s candor about his involvement was clearly evident only after the FBI agents had played a series of tape-recorded conversations that implicated him. His ability to withhold self-incriminating information prior to confrontation with evidence demonstrated his command of the situation and ability to

control the timing of his revelations. In that sense, according to FBI SA #2's statement in our August 10, 2012 interview, "he was no different than any of the other guys in the way that he acted when confronted that he was in trouble."

Perhaps the most compelling documentation from the period of questioning involves the actual transcripts and recordings of the telephone calls that Mr. Arbabsiar made to his Iranian handler. The American Psychiatric Association's 2010 Guidelines recommends limiting access to telephones in people who are going through a manic episode because a telephone in the hands of a manic individual is an "open microphone" for poor judgment, pressured speech, and reckless, unpredictable statements. Had he in fact been manic and delusional as Dr. First suggests, the FBI agents would have been taking enormous risks to allow him to make those international calls to his Iranian handler. In fact, these three separate calls from Mr. Arbabsiar on three separate days are a testament to his command of his mood, emotions and decision-making. None lasted more than 3 minutes. He effectively spoke in pre-arranged code words and terms. Each call was a successful dialogue rather than a manic monologue and did not appear to arouse suspicion from the Iranian handler. In an August 10, 2012 interview, Special Agent # 1 recalled that the telephone calls in Farsi were: "Short and sweet. I stood next to him and listened to what he said in Farsi. [It was] no different than a phone call that a drug dealer would make."

In demonstrating the presence of judgment and rational decision-making ability and the absence of mania, perhaps the most significant phone call was the one that he refused to make. In the same interview, FBI SA #1 recalled the process of planning the phone calls as well as Mr. Arbabsiar's decision to end the process: "Phone calls – we gave him parameters but did not script the phone calls. He didn't say a whole lot. At the end, he said "this is too much" – [and] didn't want to make the phone calls."

In my interviews with Mr. Arbabsiar, he was consistent in describing himself as someone who was successful in making deals, and who felt comfortable with negotiating. Although he was aware that the charges would be serious, he also felt that because the alleged plan had not been executed and therefore no one had been killed, he was in a position to make a deal. In his September 26, 2012 interview with me, he indicated that he decided to call a halt to the process by refusing to make another phone call to his alleged Iranian handler. If given an opportunity to do this again, he would have wanted to provide information in exchange for a "deal" but would want to have an attorney present.

If I had to do it all over again, this is what I have learned. I would have called my attorney and say you should make a deal with them and then I will give them information. I would just change the way that I would make a deal with them. When I signed the paper, I said "no court" and then signed the paper. I am just one guy – if 20 guys want to come to you, then you need to have some kind of help. I know that deals happen – if you give people information, then they will help you. They shook my hand, but when they told me that I had a case number, I knew that there I would have to do some time in jail. Finally I decided enough is enough. I am a nice guy, but everything has got a limit. And I decided that I was nice and respected them. I had never killed anybody but finally, I just couldn't make another call. I had made two calls for them. I told them you want me to make another call, but that will put my family in danger. I thought that it was enough to help them for ten days – but everything has a limit.

So if this happened again, I would say "I would like to talk to my attorney." The reason that I didn't call an attorney was that I had never been in this type of situation before. I felt that since I had not killed anybody, it wasn't as big a case as it would be if I had killed somebody. If it happened again, I would say "I am not going to tell you anything until I have an attorney. I am not going to give you free shit, this information is worth something – it is worth money.

According to the observations of FBI agents who questioned him, those agents who were there for day shift and night shift monitoring duties and the research psychologist, Mr. Arbabsiar's speech and behaviors were appropriate to the situation. Despite his tobacco addiction, he slept through most of the night. He engaged in conversation, but was also noted to spend time in his room quietly reading or watching videos. When going outside for smoke breaks or exercise, he gave no indication that he would engage in impulsive behavior such as escape. In fact, the type of environment (including questioning that was at times confrontational, television, videos, phone calls to Iran) described by agents and Mr. Arbabsiar would likely have exacerbated mania had Mr. Arbabsiar been experiencing a manic episode. According to the American Psychiatric Association Guidelines of 2010, "during the manic phase of bipolar disorder, a calm and highly structured environment is optimal. Such stimuli as television, videos, music, and even animated conversations can heighten manic thought processes and activities."

Had Mr. Arbabsiar been manic and delusional, it would have constituted a psychiatric emergency for which emergent use of medication and hospitalization would be indicated. Left untreated, a manic episode lasts approximately three months, and he therefore would have been demonstrating significant symptoms in the hours, days and weeks following his detention at MCC. In fact, he did not demonstrate any symptoms upon arrival at MCC, and expressly declined mental health services. He has remained stable and free of any symptoms leading to the diagnosis or treatment for bipolar disorder or any mood disorder. Although Dr. First referred to the likelihood of Mr. Arbabsiar "cycling in and out of manic episodes during the period of September 29, 2011 to October 10, 2011," he does not further clarify when he believes these manic cycles occurred within such a short window of time. Because the average untreated manic episode generally lasts for a period of months, it would be extremely unusual for manic cycling to occur within a matter of hours or days. In any event, during his past year of detention at MCC, medical and mental health professionals have seen no evidence of mania whatsoever.

Mr. Arbabsiar Has Never Been Diagnosed with a Cognitive Disorder

In addition to a diagnosis of bipolar disorder, Dr. First opined that Mr. Arbabsiar suffers from cognitive impairment citing history received from the family as well as brain MRI results and psychological testing. The MRI showed mild "parenchymal volume loss, otherwise unremarkable..." In my review of Mr. Arbabsiar's college transcripts as well as my interviews with Mr. Arbabsiar, I did not find him to be cognitively impaired. The fact that he was able to arrange more international travel for 2010 than for any other year in the previous decade as well as to attain his U.S. citizenship speaks to his cognitive abilities. His command of the English language during our six interviews was strong. Mental Status Examinations have not revealed any significant deficits. He is able to manage his MCC financial account balance and his orders from the commissary have demonstrated consistency. His interest in reading and following current events through listening to the talk radio programs remains very high. During our interviews, I found his recall of business and family matters was quite detailed. Specifically, he was able to recall business deals relating to his automotive business as well as property deals and holdings that he has maintained in Iran and used as a second source of income during the last four years. MCC physicians and psychologists who have assessed and monitored him throughout the last year have not diagnosed him to have cognitive impairment.

Conclusion

Within a reasonable degree of medical certainty, and based upon my 32 hours of interviews with Mr. Arbabsiar, and information gained from review of documents and interviews listed in Appendix I, I do not find evidence that Mr. Arbabsiar was experiencing a manic episode during the period of September 29 to October 10, 2011. Furthermore, I am in agreement with the clinical staff of MCC that Mr. Arbabsiar does not suffer from bipolar disorder or any mood disorder currently, and has never been manic since his arrival at the institution.

Appendix I

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Appendix II

Gregory Brian Saathoff MD

POSITIONS

Associate Professor of Research

Department of Public Health Sciences
University of Virginia School of Medicine
Appointed September 2011 - present

Associate Professor of Research

Department of Psychiatry and Neurobiological Sciences
University of Virginia School of Medicine
Appointed April, 2002-September 2011

Associate Professor of Emergency Medicine

Department of Emergency Medicine
University of Virginia School of Medicine
Appointed November, 2007

Conflict Resolution Specialist

Critical Incident Response Group
Federal Bureau of Investigation
July 1996-present

Executive Director

Critical Incident Analysis Group (CIAG)
University of Virginia
1997-present

National Security Expert Panel Member

Oak Ridge Associated Universities
2007-present

Associate Professor of Clinical Psychiatry

Department of Psychiatric Medicine-WSH Division
University of Virginia School of Medicine
Charlottesville, Virginia 22901
1987-2002

Faculty Associate

Center for the Study of Mind and Human Interaction
University of Virginia
Charlottesville, Virginia
1993-2002
Member-Kuwait Project

Member-Baltic Project (Estonia)

Center for the Study of Mind and Human Interaction
The Carter Center, Atlanta, GA
1995-1998

Member – Former Soviet Union Project – (Republic of Georgia)

Tbilisi, Georgia
1999

Chair

Committee on International Relations
Group for the Advancement of Psychiatry (GAP)
White Plains, New York
2000 - 2005

Medical Director

Kuwait PTSD Project 1994-1996
Social Development Office - Kuwait
Arab Peninsula and Gulf Studies Program

Psychiatric Consultant

Virginia Department of Corrections
Augusta Correctional Center (Maximum Security)
Craigsville, Virginia
1991-present

Psychiatric Forensic Consultant

Federal Bureau of Investigation
National Center for the Analysis of Violent Crime (NCAVC)
Operation New Hope, 1993-1995

Crisis Management Unit/Investigative Support Unit
Critical Incident Response Group
Operation Gray Sunset, Jordan, Montana, 1996

Crisis Management Unit / Investigative Support Unit
Critical Incident Response Group
HOBAS Project, Montreal, Quebec, 1996

Crisis Management Unit/Investigative Support Unit
Critical Incident Response Group
US Air Force, Profiling & Behavioral Assessment Unit, 1997

Crisis Management Unit/Investigative Support Unit
Critical Incident Response Group
10 April 1997
Republic of Texas Siege

Forensic Psychiatric Consultant

Macro Task Force – on-site consultation
Western Australia Police Service
Perth, Western Australia
3 OCT 99 – 7 OCT 99

Faculty Review Committee Member

FBI Behavioral Sciences Faculty Review Committee
University of Virginia,
Charlottesville, Virginia
December 1998 - 2000

Psychiatric Consultant

Bureau of Criminal Investigation
Department of State Police/Capitol Police
Commonwealth of Virginia
1984-1987

Assistant Clinical Professor

Department of Family Medicine
University of Virginia School of Medicine
1987-1995

Major

United States Army Reserves – Retired
Medical Corps-Psychiatry
1985-1994
Active Duty-Operation Desert Storm 1991

Psychiatric Consultant

Saudi-U.S. Universities Project
King Faisal Specialists Hospital
Riyadh, Saudi Arabia
Mar-June 1995

Research Article Reviewer

Annals of Saudi Medicine
Riyadh, Saudi Arabia
1995

Psychiatry

Interpersonal and Biological Processes
Robert Ursano MD, Editor
2007

Harvard Review of Psychiatry

Dr. Shelly Greenfield
Editor in Chief
Harvard Review of Psychiatry
2010

EDUCATION

Undergraduate Education

University of Notre Dame
Notre Dame, Indiana
Arts and Letters, Pre-Professional Studies Program
B.A. Psychology 1976-1979

Graduate Education

University of Missouri-Columbia
School of Medicine
Columbia, Missouri
M.D., 1979-1983

Post-Graduate Education

University of Virginia-Charlottesville
Residency in Behavioral Medicine & Psychiatry
Psychiatry, 1983-1987

PROFESSIONAL CERTIFICATION

Medical Board Examination

Diplomate
National Board of Medical Examiners
1984

Specialty Board Examination

Diplomate
American Board of Psychiatry and Neurology
1989

Forensic Evaluation

Institute of Law, Psychiatry and Public Policy
University of Virginia
Risk Assessment
Institute of Law, Psychiatry and Public Policy
University of Virginia

Sex Offender Evaluation and Treatment

Institute of Law, Psychiatry and Public Policy
University of Virginia

MEDICAL LICENSURE

Commonwealth of Virginia
State Board of Medicine

PROFESSIONAL ORGANIZATIONS

American Psychiatric Association
Virginia Psychiatric Association
Blue Ridge Psychiatric Society
National Alliance for the Mentally Ill
International Society of Traumatic Stress Studies
Group for the Advancement of Psychiatry
American Academy of Psychiatry and Law

AWARDS & HONORS

The Army Commendation Medal:

“in support of Operation Desert Storm”
5th General Hospital,
7th Medical Command
Bad Cannstatt, Germany
1991

Scroll of Appreciation

“in support of Operation Desert Storm,”
7th Medical Command
1991

Certificate of Recognition

Bad Cannstatt Meddac,
for exemplary service from
January 1991 to April 1991,
in support of "Operation Desert Storm"

National Defense Service Medal, 1991, Germany.

Overseas Service Ribbon, 1991, Germany.

Plaque of Recognition

"for your knowledge, insight, and devotion"
Critical Incident Response Group
Federal Bureau of Investigation - 1995

Certificate of Commendation

Louis Freeh – Director
Federal Bureau of Investigation -1999

Plaque of Recognition

For Service and Commitment to the Task Force
Western Australia Police Service
Macro Task Force
1999

Commonwealth of Virginia General Assembly *House Joint Resolution 924*

“Under the direction of Dr. Greg Saathoff, the General Assembly commend the Critical Incident Analysis Group of the University of Virginia School of Medicine”
Unanimous confirmation 22 FEB 2003

Certificate of Commendation

Robert Mueller – Director
For Exceptional Service in the Public Interest
November, 2005

Letter of Appreciation

Federal Bureau of investigation
Washington Field Office
July 12, 2006

Award for Exceptional Service in the Public Interest

Presented by CIAG co-chair, Edwin Meese III
10th Annual Meeting
Critical Incident Analysis Group
University of Virginia
April 1, 2007

Election as IIIA Fellow, James Madison University

National Academy of Sciences
May 15, 2007

EDITORIAL BOARDS

Member – Editorial Board
International Journal of Emergency Mental Health

ADVISORY POSITIONS

Advisor
PBS Documentary: America at the Crossroads
Homegrown: Islam in Prison
First Aired 26 NOV 2007

SECURITY CLEARANCES

Through FBI/DOJ with specific compartments available on authorized request

COMMITTEE / COMMISSION APPOINTMENTS AND ELECTIONS

Elected Member
General Faculty Council
University of Virginia
Elected 2011

Chair

Expert Behavioral Analysis Panel
Multidisciplinary Panel Charged with Sealed Records Analysis and Review
via court authorization of Chief Judge Royce Lamberth
September 2009 – June 2010

Member

Select Advisory Commission to the FBI's CIRG
FBI Academy, Quantico, Virginia
January 16-18, 1996, February 16-18, 1996

Member & Chairman (1997-2005)

International Relations Committee
Group for the Advancement of Psychiatry (GAP)
White Plains, New York
1997-present

Member- Western State Hospital, Staunton, Virginia

Credentials Committee, 1987-2002
Quality Assurance Committee, 1994-2002
Pharmacy and Therapeutics Committee, 1993-2002

President

Medical Staff
Western State Hospital
University of Virginia
1989-1991

Chair

Pharmacy and Therapeutics Committee
Western State Hospital
2000-2002

TEACHING ASSIGNMENTS

Lecturer and Participant

Hostage Negotiation Course
Crisis Management Unit - FBI
January 22-February 2, 1996

Course Coordinator

Psychiatry-Saudi U.S. Universities Project
King Faisal Specialists Hospital
Riyadh, Saudi Arabia
March-June, 1996

Presenter and Lecturer

Institute for Law, Psychiatry, and Public Policy
University of Virginia
1992-present

Coordinator of teaching component

Psychopharmacology Education
Univ. of Virginia - Department of Family Medicine
1987-1996

Lecturer

Virginia Department of State Police Academy
Richmond, Virginia
1986-1987

PRESENTATIONS

Paper Presentation

Psychiatric Sequelae in State Police Officers

141st Annual Meeting
American Psychiatric Association
Montreal, Quebec
9 MAY 1988

Paper Presentation

Geriatric Deinstitutionalization and Mortality

144th Annual Meeting
American Psychiatric Association
New Orleans, LA
13 MAY 1991

Paper Presentation

Limiting Regression of Borderline Inpatients

145th Annual Meeting
American Psychiatric Association
Washington, D.C.
6 MAY 1992

Lecturer

Dealing with the Borderline Personality

11th Annual Refresher Course for Family Physicians
University of Virginia
6 MAY 1993

Lecturer - Workshop

Erotomania, The Celebrity Stalker, and the Law

146th Annual Meeting
American Psychiatric Association
San Francisco, CA
24 MAY 1993

Chair - Workshop

Academic Psychiatry Behind Bars

146th Annual Meeting
American Psychiatric Association
Philadelphia, PA
24 MAY 1994

Chair - Workshop

Final Frontier? Collaboration in Prison Psychiatry

146th Annual Meeting
American Psychiatric Association
Philadelphia, PA
24 MAY 1994

Speaker-Workshop Presentation

The Management and Treatment of Stalkers

A Video Case Presentation
Institute of Law, Psychiatry, and Public Policy
Thirtieth Semi-Annual Forensic Symposium
Charlottesville, VA
10 MAY 1996

Presenter

"Role of the Conflict Resolution Specialist"

FBI Critical Incident Response Group Retreat
St. Michael's, Maryland
15 OCT 1997

Forum Coordinator

"Critical Incidents and the Constitution"

1st Annual CIAG Conference
Academical Village, University of Virginia
8-9 JAN 1998

Coordinator/Moderator

"Aum Shinrikyo and the Sarin Gas Attack"

"The Changing Face of Terrorism"

FBI Academy, Quantico, VA
26 FEB 1998

Lecturer

University of Virginia – Associates Program

Violence and Myth in America: From Culture to Cell

1 MAR 1999, Richmond, Virginia
23 MAR 1999, Norfolk, Virginia
31 MAR 1999, Falls Church, Virginia

Moderator – Presenter

The Terrorist Threat to the American Presence Abroad

2nd Annual CIAG Conference
University of Virginia, Omni Hotel
12-13 APR 1999

Moderator

Apocalyptic Millennialism and Violence Conference

Federal Bureau of Investigation
Fredericksburg, Virginia
7 JUN 1999

Presenter

Resolution Strategies in Religious Barricades

Conference on Apocalyptic Millennialism

The Case of Jerusalem in 2000

Jerusalem, Israel

20-23 JUN 1999

Moderator - Behavioral Science Panel

US Department of Justice/FBI Conference

“The School Shooter: A Threat Assessment Perspective”

Leesburg, Virginia

12-16 JUL 1999

Moderator/Panelist – Critical Incident Analysis Group

Profile of the Rabin Assassination

Critical Incident Analysis Group

North Oval Room, Rotunda, University of Virginia

28 JUL 1999

Coordinator

FBI-Religion Scholar Interface of Apocalyptic Millennialism

Roundtable Seminar – American Academy of Religion

AAR Annual Meeting – Boston, Massachusetts

20-23 NOV 1999

Moderator – Panelist

With Robert Hare, PhD, and

FBI’s National Center for the Analysis of Violent Crime

Symposium on Psychopathy

University of Virginia

19 JAN 2000

Moderator

“Protecting Symbols of American Democracy”

3rd Annual CIAG Conference

University of Virginia

10-11 APR 2000

Guest Speaker

“Public Figure Stalking”

The Washington D.C. Conference on Threat Management

12 MAY 2000

Lecturer

“Profile of a Stalker”

Summer Institute on Stalking: Virginia Dept. of Criminal Justice Services

Newport News, VA & Roanoke, VA

13 JULY 2000 and 10 AUG 2000

Panelist News Conference

The School Shooter: A Threat Assessment Perspective

Federal Bureau of Investigation
J. Edgar Hoover Building
Televised 6 SEP 2000

Moderator and Discussant

With Hussah Al-Salem Al-Sabah, Prof. Basheer Al-Rashidi, Bertram Brown

“Preserving Identity and Culture in the Face of Trauma”

“The Liberation of Kuwait: Dawning of a New World Order?”

Commemoration of Tenth Anniversary of Gulf War Victory
Institute for Global Policy Studies
University of Virginia
23 JAN 2001

Guest Speaker - Panelist

“The Changing Role of Physicians During Times of Conflict”

University of Virginia Medical Alumni Association – 38th Annual Meeting
Norfolk, Virginia
27 JAN 2001

Moderator

**“Public Responsibility and Mass Destruction:
Facing the Threat of Bioterrorism”**

4th Annual CIAG Conference
University of Virginia
2-3 APR 2001

Lecturer

“Psychiatric Guidance for Supervisors”

FBI-BIA Symposium
FBI Academy Quantico, VA
11 SEP 2001

Lecturer

“Respecting Arab Culture: The Interview”

Critical Incident Response Group -FBI
27 SEP 2001

Discussant

Killing in the Name of God

American Academy of Psychiatry and the Law
Annual Meeting
Boston, MA
25 OCT 2001

Presenter:

“Mental Health, Law Enforcement and Media Perspectives on Debriefing”

“Debriefing Needs within the CIRG”

International Society for Traumatic Stress Studies

Annual Meeting

New Orleans, LA

7 DEC 2001

Speaker:

“Biological Weapons: Threat and Response, Bioethics and Bioterrorism”

Conference, University of Pennsylvania & University of Virginia

Departments of Biomedical Ethics, National Press Club

Washington D.C.

28 FEB 2002

Conference Coordinator and Moderator

Terrorism Intelligence and Democracy

5th Annual CIAG Conference

University of Virginia

Charlottesville, VA

9 APR 2002

Moderator:

Conference on Workplace Violence

Critical Incident Response Group

Federal Bureau of Investigation

U.S. Department of Justice

Lansdowne Resort

9-14 JUN 2002

Speaker:

The Mind of the Terrorist

Fall Meeting, Psychiatric Society of Virginia,

Boar’s Head Inn, Charlottesville

27 SEP 2002

Speaker

Community Shielding: Public Response to Bioterrorism

International Open Discussion On:

“International Terrorism and World Governance”

U.N. Interregional Crime and Justice Research Institute/Europol

Turin, Italy

7 FEB 2003

Conference Coordinator and Moderator

Communication in Crisis: Mobilizing Resources

6th Annual CIAG Conference
University of Virginia
Charlottesville, VA
31 MAR 2003

Speaker

Iraq's Mental Wellbeing
Training Symposium on Trauma

SAS Radisson Hotel
Kuwait
11-13 OCT 2003

Speaker

Understanding Symptoms of Mental Illness:
Therapeutic Approaches for Law Enforcement

Metropolitan Area Crisis Negotiators Association
The Pentagon
Arlington, Virginia
21 OCT 2003

Conference Coordinator and Moderator

Countering Suicide Terrorism:
Risks, Responsibilities and Realities

7th Annual CIAG Conference
University of Virginia
Charlottesville, VA
4-6 APR 2004

Paper presentation

Mental Illness and Vulnerability to Victimization

Dubai Police Academy
Dubai, UAE
5 MAY 2004

Conference Coordinator and Moderator

Hostage to Terrorism: Governmental and Non-Governmental Response Strategies

8th Annual CIAG Conference
University of Virginia
Charlottesville, VA
3-5 APR 2005

Panelist

New Directions in Psychiatric Aspects of Terrorism: Causes, Consequences, Responses

2005 Annual Meeting of American Psychiatric Association
Atlanta, GA
26 MAY 2005

Chairman

Terrorism and the Unknown Enemy

29th International Congress
Académie internationale de droit et de santé mentale
Sorbonne
Paris, France
7 JUL 2005

Moderator

Community Shielding and Evacuation: Two Sides of the Preparedness Coin
Catastrophe: Coping Through Improvisation
Darden School of Business
University of Virginia
17-18 OCT 2005

Keynote Speaker

Collision, Collusion or Collaboration?
Academe, Private Sector and Government-
The Critical Incident Analysis Group
Senior Course on Crisis Management and Civil Emergency Planning:
Facing new security threats and risks
Swedish National Defense College
Stockholm, Sweden
5 DEC 2005

Conference Coordinator and Moderator

9th Annual CIAG Conference
Critical Intelligence, Communication and Response: Formatting Lessons of the Recent
Terrorist Attacks to Future Threats
University of Virginia
Charlottesville, VA
2-4 APR 2006

Exercise Facilitator

Four Day Table Top Exercise and Senior Leadership Briefing
“Operation Avian Wind”
U.S. European Command
Marshall Center, Garmisch, Germany
June 2006

Testimony

Religious Radicalization Behind Bars
Testimony Before the Senate Committee on Homeland Security and Governmental Affairs
Dirksen Senate Office Building
Washington, DC
19 SEP 2006

Presenter

**Anatomy of a Medical Murder:
Case Presentation of Serial Medical Homicides of Medical Student and Physician
Michael Swango, MD**

Old Medical School Auditorium
University of Virginia School of Medicine
20 SEP 2006

Grand Rounds

Medical Students in Prison: Fifteen Years of Teaching 3rd Year UVa Students

Department of Psychiatry and Neurobehavioral Sciences
University of Virginia
Camp Heart Auditorium
10 OCT 2006

Seminar Chairman

Crisis Leadership: Securing Societies, Protecting Homelands

Center for the Study of the Presidency
U.S. Capital Building, Room HC-8
19 MAR 2007

Conference Coordinator and Moderator

Root, Stem and Branch: Home-Grown Radicals and the Limits of Terrorism

10th Annual CIAG Conference
University of Virginia
Charlottesville, VA
1-3 APR 2007

Presenter

Students in Distress, Mental Health, and Law Reform

Miller Center Forum
University of Virginia, Miller Center of Public Affairs
25 JUN 2007

Briefing

Community Shielding and the Work of CIAG

Duncan Lewis, Deputy Prime Minister, Australia
Co-Chair; Australian National Counterterrorism Committee
Perth, Western Australia
23 AUG 2007

Conference Director and Moderator

Avenues for Dialogue: Driving Discourse Toward Peaceful Goals

London
5-7 NOV 2007

Conference Director and Moderator

Avenues for Dialogue: Driving Discourse Toward Peaceful Goals

Washington, DC
13 DEC 2007

Testimony

U.S. Prisoners and Religious Rights

Testimony Before the U.S. Commission on Civil Rights
Washington, DC
8 FEB 2008

Conference Director and Moderator

Avenues for Dialogue: Driving Discourse Toward Peaceful Goals

Riyadh, Saudi Arabia
25-28 FEB 2008

Conference Director and Moderator

Cyber Incursions: Erosions of Security and Social Trust?

11th Annual CIAG Conference
University of Virginia
Charlottesville, VA
30 MAR – 1 APR 2008

Conference Director and Moderator

Suicide by Cop: Averting the Crisis

CIAG Winter Symposium
University of Virginia
Charlottesville, VA
7-9 DEC 2008

Co-Moderator

Human Factors in Marketing, Psychology, and Sociology

FEMA Region V Preparedness Summit: Developing a Culture for Preparedness
Chicago, IL
6 JAN 2009

Conference Director and Moderator

Resolving Hostage Crises: Lessons from Colombia

12th Annual CIAG Conference
University of Virginia
Charlottesville, VA
29-31 MAR 2009

Conference Director and Moderator

21st Century Piracy: Lessons off the Somali Coast

13th Annual CIAG Conference
University of Virginia
Charlottesville, VA
21-23 MAR 2010

Guest Speaker

Mainstreaming Counter-Terrorism in Police and Law Enforcement

Asia-Pacific Programme for Senior National Security Officers
Sentosa Resort and Spa
Singapore
13 APR 2010

Guest Speaker

Crisis Leadership

FEMA Office of the Chief Counsel Annual Meeting
Boar's Head Inn
Charlottesville, VA
14 MAY 2010

Conference Director and Moderator

Insider Threats

14th Annual CIAG Conference
University of Virginia
Charlottesville, VA
3-5 APR 2011

Speaker

Personnel Reliability and the Anthrax Attacks:

Report of the Expert Behavioral Analysis Panel

Federal Experts Security Advisory Panel and National Security Advisor/Staff
HHS Building, Washington DC
18 APR 2011

Conference Co-Director

Advice in Crisis Training Session

Annual Training Session
Federal Emergency Management Agency
Charlottesville, VA
10-13 MAY 2011

Presenter

Biological Threats to U.S. Interests: Sharing Information and Improving Partnerships Bio Science Conference

Classified Briefing
25 MAY 2011

Guest Speaker

"Evaluating Insider Risk: Dr. Ivins and Amerithrax"

DARPA Briefing for Government Biodefense Leadership
Arlington, VA
25 MAY 2011

Guest Speaker

"Expert Behavioral Analysis Panel Review of Bruce Ivins, Ph.D."

Human Reliability / Insider Threat Technical Exchange
Defense Threat Reduction Agency
United States Strategic Command
Fort Belvoir, VA
30 JUN 2011

Conference Director and Moderator

“Leadership and Advice in Crisis: Assessing the Impact of Communications Technology in an Age of ‘Wireless’ Governance”

Special CIAG Symposium

University of Virginia

Charlottesville, VA

14-16 SEPT 2011

Conference Director and Presenter

“The Cases of Aafia Siddiqui and Ahmed Ghaliani”

Special CIAG Symposium for FBI-Critical Incident Response Group

Charlottesville, VA

6 OCT 2011

Grand Rounds

“The Amerithrax Case”

With Ronald Schouten MD JD, Christopher Holstege MD, and David Willman

University of Virginia School of Medicine

Charlottesville, VA

21 MAR 2012

Presenter

“The Amerithrax Case and Lessons Learned”

With Ronald Schouten MD JD, Christopher Holstege MD, and David Willman

University of Virginia School of Law

Charlottesville, VA

21 MAR 2012

Conference Director and Moderator

“Federal Critical Incident Response and the CIRG”

15th Annual CIAG Conference

University of Virginia

Charlottesville, VA

25-27 MAR 2012

Presenter

Chemical Biological Medical Treatment Symposium IX: Insider Threats

With Christopher Holstege MD and Ronald Schouten MD JD

Spiez, Switzerland

7 MAY 2012

Grand Rounds

“The Amerithrax Case and Insider Threats”

Boston University School of Medicine

Cambridge, MA

24 MAY 2012

Presenter

"Insider Threats: Lessons from Amerithrax"

With Ronald Schouten MD JD
2012 Threat Management Conference
Association of Threat Assessment Professionals (ATAP)
Anaheim, CA
15 AUG 2012

PUBLICATIONS

Canterbury, R.J.; Haskins, B.; Kahn, N.; Saathoff, G.B.; Yazel, J.: **"Post-partum Psychosis Induced by Bromocriptine."** Southern Medical Journal, November, 1987. p. 1463.

Saathoff, G.B.; Buckman, J.: **"Diagnostic Results of Psychiatric Evaluations of the State Police Officers"**. Hospital and Community Psychiatry, 41:4, 1990.

Volkan, V.: **Six Steps in the Treatment of Borderline Personality Organization.** explanation of Saathoff's treatment of clinical case, Jacob Aronson Inc, London, pp. 45-46, 48, 1987.

Vieweg, W.V.R.; Godleski, L.S.; Pulliam, W.R.; Schofield, W.P.; Saathoff, G.B.; Hundley, P.L.; and Yank, G.R.: **"Development of Water Dysregulation During Arieti's Third Stage of Schizophrenia?"** Biol Psychiatry, 26: 775-780, 1989.

Saathoff, G.B.: **"Policeman's Unique Position is Stressor in Psychiatric Evaluation."** The Psychiatric Times, pp. 50-51, September, 1990.

Saathoff, Gregory B.: **"Current Psychiatric Research Instruments."** book review, Contemporary Psychology, pp. 335-336, April 1991.

Saathoff, G.B.; Cortina, J.A.; Jacobson, R.; Aldrich, C.K.: **"Mortality Among Elderly Patients Discharged from a State Hospital."** Hospital and Community Psychiatry, 3:43, pp. 280-281, March 1992.

Hubbard, J.R.; Saathoff, G.B.; Bernardo, J.J.; Barnett, B.L.: **"Recognizing Borderline Personality Disorder in the Family Practice Setting."** American Family Physician, 52:3, 908-925, 1995.

Saathoff, Gregory B.: **"In the Hall of Mirrors, One Kuwaiti's Captive Memories."** Mind and Human Interaction, 6:4, 170-178, November, 1995.

Saathoff, Gregory B.: **"Kuwait's Children, Identity in the Shadow of the Storm."** Mind and Human Interaction, 7:4, 181-191, December, 1996.

Worledge, J.; Kane, T.; Saathoff, G.; **"The Negotiator's Guide to Psychoactive Drugs"**. Crisis Management Unit, Federal Bureau of Investigation", 1997.

Saathoff, G.B.: **"Trauma and its Intergenerational Transmission in Kuwait."** Journal of Psychoanalysis of Culture and Society, volume 3, #1, Spring, 1998.

O'Toole, M.E., Saathoff, G.B., et. al., **The School Shooter, A Threat Assessment Perspective.** Federal Bureau of Investigation, U.S. Department of Justice, September, 2000.

- Saathoff, Gregory B. "**Threats to Symbols of American Democracy.**" Monograph foreword, Critical Incident Analysis Group, University of Virginia, 2001.
- Saathoff, Gregory B., "**Public Responsibility and Mass Destruction: Facing the Threat of Bioterrorism.**" monograph foreword. Critical Incident Analysis Group, University of Virginia, 2002.
- Saathoff, Gregory B., "**What is to be Done? Emerging Perspectives on Public Responses to Bioterrorism.**" monograph foreword, Critical Incident Analysis Group, University of Virginia, Bailey Press, 2002.
- Prior, S, Rowan, F, Saathoff, Gregory B. "**What is to be Done? Emerging Responses to Bioterrorism.**" Introduction, Critical Incident Analysis Group, University of Virginia, Bailey Press, 2002.
- Saathoff, G, Psychological Challenges of Bioterror; Containing Contagion, "What is to be Done?" "**Emerging Perspectives on Public Responses to Bioterrorism.**" monograph foreword, Critical Incident Analysis Group, University of Virginia, Bailey Press, 2002.
- Saathoff, G, Everly, G, "**Psychological Challenges of Bioterror: Containing Contagion.** International Journal of Emergency Mental Health, 4:4,2002,245-252.
- Prior, S, Rowan,F, Saathoff, G, "**Foundations of Shielding.** International Journal of Emergency Mental Health, 4:4, 2002, 235-238.
- Saathoff, G. B., Brasfield, K, "**The Negotiator's Guide to Psychoactive Drugs", Second Edition.** Crisis Negotiation Unit, Critical Incident Response Group, Federal Bureau of Investigation", 2003.
- Saathoff, G.B. "**Towards a New Appreciation of Surge Capacity: Surge Protection and Critical Infrastructure.**", The CIP Report, 2:6, 2003.
- Saathoff,G.B. "**Critical Incident Analysis Group and Community Shielding Concept.**" The CIP Report, 2:3, 2003.
- Saathoff, Gregory B., "**Communicating in Crisis: A Review of the National Capital Region Sniper Case.**" monograph foreword, Critical Incident Analysis Group, University of Virginia, 2006.
- Greenbaum, C.W., Veerman P., Bacon-Shnoor N. "**Protection of Children During Armed Political Conflict: A Multidisciplinary Perspective.**" Authored chapter on Kuwait. Intersentia, 2006.
- Cilluffo, F., Saathoff G.B., et.al. "**Out of the Shadows: Getting Ahead of Prisoner Radicalization.**" Critical Incident Analysis Group and Homeland Security Policy Institute, 2006.
- Saathoff, Gregory B., "**Critical Intelligence, Communication and Response: Formatting Lessons of the Recent Terrorist Attacks to Future Threats.**" Monograph foreword, Critical Incident Analysis Group, University of Virginia, 2007.
- Cilluffo, F., Saathoff G.B., et.al. "**NETworked Radicalization: A Counter-Strategy.**" Critical Incident Analysis Group and Homeland Security Policy Institute, 2007.

- Saathoff, G.B., Brasfield, K., Holstege, C., **“Crisis Guide to Psychoactive Drugs and Poisons.”** Crisis Negotiation Unit, Critical Incident Response Group, 2007
- Cilluffo, F., Saathoff G.B., et al. **“Out of the Shadows: Getting Ahead of Prisoner Radicalization.”** Critical Incident Analysis Group and Homeland Security Policy Institute, 2007.
- Holstege CP, Neer T, Saathoff GB, Furbee RB. **“Criminal Poisoning.”** Jones and Bartlett Publishers, Inc. Sudbury, Massachusetts, 2010.
- Schouten, R., Saathoff, G, Biosurety in the Post-9/11 Era, Chapter 14, in **Microbial Forensics**, Elsevier, Inc, 2010.
- Saathoff, G, **Painting by Numbers: Capturing the Pathology of Socio-Political Conflict**, Commentary on “Exposure to prolonged socio-political conflict and the risk of PTSD and Depression among Palestinians”, in *Psychiatry*, Fall, 2010.
- Saathoff, G, DeFrancisco, G, et.al, Amerithrax Case: **Expert Behavioral Analysis Panel Report**, authorized by Federal Chief Judge Royce C. Lamberth, March, 2011.
- Maniscalco, P, Christen, H, Holstege, C, Saathoff, G: **Multiple Casualty Incident Management**, Chapter 149 in *Emergency and Disaster Medicine*, Lippincott, 2011.
- Sibbald KN, Holstege CP, Furbee B, Neer T, Saathoff GB. **Homicidal poisonings in the United States: An analysis of the Federal Bureau of Investigation Uniform Crime Reports from 2000-2009.** *Clin Toxicol* (publication pending 2012)
- Saathoff, G, Schouten, R: Bioterrorism and Insider Threat, in **International Handbook of Threat Assessment**, Meloy, J.R., Hoffman, J, Oxford University Press, New York (submitted for publication in 2012)
- Stern EK, Saathoff GB. Kieserman BJ. Advice in Crisis: Leaders, Lawyers, and the Art of Disaster Management. Chapter 30 in **The McGraw-Hill 2012 Homeland Security Handbook**, Kamien DG, 2nd ed. (publication pending 2012).
- Saathoff GB, Stern EK. Crisis Leadership and Military Community Resilience. **Journal of Homeland Security and Emergency Management**. (Publication pending 2012).