

IREDALE and YOO, APC

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May 2, 2012

Wendy H. Goggin, Esq.
Chief Counsel
Drug Enforcement Administration
8701 Morrisette Drive
Springfield, VA 22152

RE: Daniel Chong
Federal Tort Claims Act Claim Pursuant to 28 U.S.C. 2675

Dear Ms. Goggin:

I am writing you on behalf of Daniel Chong, d.o.b. 6/17/1988, to make a claim for compensation for the actions of the agents of the Narcotics Task Force (NTF) and the Drug Enforcement Administration (DEA), who held Daniel in a holding cell with no food or water for the period between April 21, 2012 and April 25, 2012. As a result, Daniel suffered dehydration, muscle deterioration, hallucinations, kidney failure, extremely high levels of sodium. He nearly died as a result. He was hospitalized for five days, the first three days in the Intensive Care Unit.

The actions of the officers give rise to the following causes of actions among others: intentional infliction of emotional distress, negligence, negligent infliction of emotional distress, and a *Bivens* cause of action for violation of Daniel Chong's rights under the Fourth and the Fifth Amendments for excessive force, unreasonable detention and unlawful seizure of his person. The actions and the failure to act of the supervisory personnel, in failing to properly screen, hire, train and supervise give rise to, but are not limited to the following causes of action: negligence, negligent infliction of emotional distress, violation of statutory duty, and a *Bivens* violation based on the foregoing. The deprivation of food and water for four and one half days while the person is handcuffed the entire time constitutes torture under both international and domestic law.

The Detainee Treatment Act of 2005, in effect at the time of these events, provides in relevant part as follows:

“(a) In General. No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(d) Cruel, Inhuman, or Degrading Treatment or Punishment Defined. In this section, the term “cruel, inhuman, or degrading treatment or punishment” means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth,

and Fourteenth Amendments to the Constitution of the United States, as defended in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.” (42 U.S.C. § 2000 dd.)

The Military Commissions Act of 2006 provides in relevant part as follows:

“(c) ADDITIONAL PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.

(1) In General. No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(2) Cruel, Inhuman, or Degrading Treatment or Punishment Defined. – In this subsection, the term “cruel, inhuman, or degrading treatment or punishment” means cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

(3) Compliance. – The President shall take action to ensure compliance with this subsection, including through the establishment of administrative rules and procedures.”

The United States is a signatory to the Convention Against Torture. That international convention provides in relevant part as follows:

“PART I
Article 1

1. For the purposes of this Convention, the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has

committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses

are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as result of an act of torture, his dependants shall be entitled to compensation.

The claim for damages is for pain and suffering, present and future, future medical and psychiatric treatment, and loss of future earnings. 28 U.S.C. § 2675(b) states "Action under this section shall not be instituted for any sum in excess of the amount of the claim presented to the federal agency, except where the increased amount is based upon newly discovered evidence not reasonably discoverable at the time of presenting the claim to the federal agency, or upon allegation and proof of intervening facts, relating to the amount of the claim." The amount of damages in this case is up to twenty million dollars.

We request that all agencies preserve all evidence including but not limited any video recording of the events of the incident and written reports and/or statements and notes of interviews. We have been retained to represent Daniel Chong. Our address is 105 West F Street, 4th Floor, San Diego, CA 92101. Please send any future correspondence to our office.


We ask that you act expeditiously on this claim so as to permit us to file suit in U.S. District Court for the District of Southern California as soon as possible.

Sincerely,


JULIA YOO

I have retained Iredale and Yoo, APC to represent me. They are authorized to act on my behalf regarding any issues involved in this claim.

Dated: 5/2/12


Daniel Chong