

IV. Overview of CIA Representations to the Media While the Program Was Classified

A. The CIA Provides Information on the Still-Classified Detention and Interrogation Program to Journalists Who then Publish Classified Information; CIA Does Not File Crimes Reports in Connection with the Stories

(TS// [REDACTED] //NF) In seeking to shape press reporting on the CIA's Detention and Interrogation Program, CIA officers and the CIA's Office of Public Affairs (OPA) provided unattributed background information on the program to journalists for books, articles, and broadcasts, including when the existence of the CIA's Detention and Interrogation Program was still classified.²²⁵⁵ When the journalists to whom the CIA had provided background information published classified information, the CIA did not, as a matter of policy, submit crimes reports. For example, as described in internal emails, the CIA's [REDACTED] never opened an investigation related to Ronald Kessler's book *The CIA at War*, despite the inclusion of classified information, because "the book contained no first time disclosures," and because "OPA provided assistance with the book."²²⁵⁶ Senior Deputy General Counsel John Rizzo wrote that the CIA made the determination because the CIA's cooperation with Kessler had been "blessed" by the CIA director.²²⁵⁷ In another example, CIA officers and the House Permanent Select Committee on Intelligence raised concerns that an article by Douglas Jehl in the *New York Times* contained significant classified information.²²⁵⁸ [REDACTED] CTC Legal wrote in an email that "part of this article was based on 'background' provided by OPA. That, essentially, negates any use in making an unauthorized disclosure [report]."²²⁵⁹

(TS// [REDACTED] //NF) Both the Kessler book and the Jehl article included inaccurate claims about the effectiveness of CIA interrogations, much of it consistent with the inaccurate information being provided by the CIA to policymakers at the time. For example, Kessler's book stated that the FBI arrest of Iyman Faris was "[b]ased on information from the CIA's

²²⁵⁵ On October 28, 2013, the CIA informed the Committee that "CIA policy is to conduct background briefings using unclassified or declassified information" (DTS #2013-3152).

²²⁵⁶ Email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED]; cc: [REDACTED]; subject: CIA at War; date: January 20, 2004, at 11:13 AM; email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED]; subject: Re: CIA at War; date: January 21, 2004, at 02:11 PM; email from: [REDACTED]; to: Scott W. Muller, John A. Rizzo, [REDACTED]; cc: [REDACTED]; subject: Re: CIA at War; date: January 21, 2004, at 02:27 PM.

²²⁵⁷ Email from: John A. Rizzo; to: [REDACTED]; cc: [REDACTED], Scott W. Muller, [REDACTED]; [REDACTED]; subject: Re: CIA at War; date: January 22, 2004, at 09:28 AM.

²²⁵⁸ "Rule Change Lets C.I.A. Freely Send Suspects Abroad to Jails," by Douglas Jehl and David Johnston, *The New York Times*, March 6, 2005; email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; [REDACTED]; subject: Question on 06 March New York Times revelations; date: April 22, 2005, at 01:38 PM; email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; [REDACTED]; subject: Re: Question on 06 March New York Times revelations; date: April 28, 2005, at 8:12:46 AM.

²²⁵⁹ Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; [REDACTED]; subject: Re: Question on 06 March New York Times revelations; date: April 28, 2005, at 8:25:23 AM.

interrogation of [KSM],” and that the arrest of Khallad bin Attash was the “result” of CIA interrogations of KSM.²²⁶⁰ The Jehl article stated that a “secret program to transfer suspected terrorists to foreign countries for interrogation has been carried out by the Central Intelligence Agency... according to current and former government officials.” The article stated that a “senior United States official” had “provid[ed] a detailed description of the program,” and quoted the official as claiming that “[t]he intelligence obtained by those rendered, detained and interrogated ha[d] disrupted terrorist operations.” The senior official added, “[i]t has saved lives in the United States and abroad, and it has resulted in the capture of other terrorists.”²²⁶¹

B. Senior CIA Officials Discuss Need to “Put Out Our Story” to Shape Public and Congressional Opinion Prior to the Full Committee Being Briefed

(TS// [REDACTED] //NF) In early April 2005, [REDACTED], chief of ALEC Station, asked CTC officers to compile information on the success of the CIA’s Detention and Interrogation Program in preparation for interviews of CIA officers by Tom Brokaw of NBC News.²²⁶² As [REDACTED] remarked in a Sametime communication with Deputy CTC Director Philip Mudd, during World War II, the Pentagon had an Office of War Information (OWI), whereas the CIA’s predecessor, the Office of Strategic Services (OSS), did not. [REDACTED] then noted that “we need an OWI, at least every now and then....”²²⁶³ According to Mudd, concerns within the CIA about defending the CIA’s Detention and Interrogation Program in the press were misplaced.²²⁶⁴

“maybe people should know we’re trying to sell their program. if they complain, they should know that we’re trying to protect our capability to continue. we’re not just out there to brag... they don’t realize that we have few options here. we either get out and sell, or we get hammered, which has implications beyond the media. congress reads it, cuts our authorities, messes

²²⁶⁰ *The CIA at War*, Ronald Kessler, St. Martin’s Press, New York, 2003. As detailed elsewhere, Iyman Faris was already under investigation and Majid Khan, who was then in foreign government custody, had discussed Faris, prior to any mention of Faris by KSM. Likewise, the capture of Khallad bin Attash in April 2003 was unrelated to the reporting from KSM or any other CIA detainee. Kessler’s book also stated that Abu Zubaydah “soon began singing to the FBI and CIA about other planned plots,” and that “intercepts and information developed months earlier after the arrest of Ramzi Binalshibh... allowed the CIA to trace [KSM].” (See Ronald Kessler, *The CIA at War*, St. Martin’s Press, New York, 2003.) As detailed elsewhere, Abu Zubaydah did not provide intelligence on al-Qa’ida “planned plots,” and KSM’s capture was unrelated to information provided by Ramzi bin Al-Shibh. Finally, Kessler’s book stated that KSM “told the CIA about a range of planned attacks – on U.S. convoys in Afghanistan, nightclubs in Dubai, targets in Turkey, and an Israeli embassy in the Middle East. Within a few months the transcripts of his interrogations were four feet high.” These statements were incongruent with CIA records.

²²⁶¹ “Rule Change Lets C.I.A. Freely Send Suspects Abroad,” by Douglas Jehl and David Johnston, *The New York Times*, March 6, 2005.

²²⁶² Email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; cc: [REDACTED], [REDACTED]; subject: FOR IMMEDIATE COORDINATION: Summary of impact of detainee program; date: April 13, 2005, at 5:21:37 PM.

²²⁶³ Sametime communication, between John P. Mudd and [REDACTED], April 13, 2005, from 19:23:50 to 19:56:05.

²²⁶⁴ As detailed in this summary, this exchange occurred the day before an anticipated Committee vote on a proposed Committee investigation of the CIA’s Detention and Interrogation Program.

up our budget. we need to make sure the impression of what we do is positive... we must be more aggressive out there. we either put out our story or we get eaten. there is no middle ground.”²²⁶⁵

(TS// ~~NOFORN~~) Mudd counseled not to “advertise” the discussions between CIA personnel and the media with the CIA “workforce,” because “they’d misread it.”²²⁶⁶ After ~~NOFORN~~ promised to keep the media outreach “real close hold,” Mudd wrote:

“most of them [CIA personnel] do not know that when the w post/ny times quotes ‘senior intel official,’ it’s us... authorized and directed by opa.”²²⁶⁷

(TS// ~~NOFORN~~) ~~NOFORN~~ sent a draft compilation of plot disruptions to ~~NOFORN~~ CTC Legal to determine whether the release of the information would pose any “legal problems.”²²⁶⁸ According to CIA attorneys, information on Issa al-Britani posed no problems because it was sourced to the 9/11 Commission. They also determined that information about Iyman Faris and Sajid Badat that was sourced to press stories posed no legal problems because Faris had already pled guilty and Badat was not being prosecuted in the United States.²²⁶⁹ On April 15, 2005, a CIA officer expressed concerns in an email to several CIA attorneys about the CIA releasing classified information to the media. There are no CIA records indicating a response to the CIA officer’s email.²²⁷⁰

(TS// ~~NOFORN~~) That day, April 15, 2005, the National Security Council Principals Committee discussed a public campaign for the CIA’s Detention and Interrogation Program. After the meeting, ALEC Station personnel informed ~~NOFORN~~ CTC Legal that scheduled interviews with NBC News of Director Porter Goss and Deputy CTC Director Philip Mudd

²²⁶⁵ Sametime communication, between John P. Mudd and ~~NOFORN~~, April 13, 2005, from 19:23:50 to 19:56:05.

²²⁶⁶ Sametime communication, between John P. Mudd and ~~NOFORN~~, April 13, 2005, from 19:23:50 to 19:56:05.

²²⁶⁷ Sametime communication, between John P. Mudd and ~~NOFORN~~, April 13, 2005, from 19:23:50 to 19:56:05.

²²⁶⁸ Email from: ~~NOFORN~~, Chief of Operations, ALEC Station; to: ~~NOFORN~~, ~~NOFORN~~, ~~NOFORN~~, [REDACTED], [REDACTED], [REDACTED], ~~NOFORN~~, [REDACTED], [REDACTED], [REDACTED], [REDACTED]; cc: ~~NOFORN~~, ~~NOFORN~~; subject: Brokaw interview: Take one; date: April 13, 2005, at 6:46:59 PM; email from: ~~NOFORN~~; to: ~~NOFORN~~, ~~NOFORN~~, [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Re: Brokaw interview: Take one; date: April 13, 2005, at 6:50:28 PM; email from: ~~NOFORN~~; to: ~~NOFORN~~, [REDACTED], [REDACTED]; cc: John A. Rizzo, ~~NOFORN~~, [REDACTED], [REDACTED]; subject: Re: Brokaw interview: Take one; date: April 13, 2005, 7:24:50 PM.

²²⁶⁹ Email from: ~~NOFORN~~; to: ~~NOFORN~~; cc: [REDACTED], ~~NOFORN~~, [REDACTED], John A. Rizzo, ~~NOFORN~~; subject: Re: Brokaw interview: Take one; date: April 14, 2005, at 9:22:32 AM.

²²⁷⁰ Email from: ~~NOFORN~~; to: ~~NOFORN~~; cc: [REDACTED], ~~NOFORN~~, [REDACTED], [REDACTED]; subject: Re: Brokaw interview: Take one; date: April 14, 2005, at 8:08:00 AM.

should not proceed so that “we don’t get a head [sic] of ourselves....”²²⁷¹ On June 24, 2005, however, *Dateline NBC* aired a program that included on-the-record quotes from Goss and Mudd, as well as quotes from “top American intelligence officials.”²²⁷² The program and *Dateline NBC*’s associated online articles included classified information about the capture and interrogation of CIA detainees and quoted “senior U.S. intelligence analysts” stating that intelligence obtained from CIA interrogations “approaches or surpasses any other intelligence on the subject of al-Qaida and the construction of the network.”²²⁷³ The *Dateline NBC* articles stated that “Al-Qaida leaders suddenly found themselves bundled onto a CIA Gulfstream V or Boeing 737 jet headed for long months of interrogation,” and indicated that Abu Zubaydah, KSM, Ramzi bin al-Shibh, and Abu Faraj al-Libi were “picked up and bundled off to interrogation centers.” The articles also stated that the capture of bin al-Shibh led to the captures of KSM and Khallad bin Attash.²²⁷⁴ This information was inaccurate.²²⁷⁵ There are no CIA records to indicate that there was any investigation or crimes report submitted in connection with the *Dateline NBC* program and its associated reporting.

C. CIA Attorneys Caution that Classified Information Provided to the Media Should Not Be Attributed to the CIA

(TS// [REDACTED] //NF) After the April 15, 2005, National Security Council Principals Committee meeting, the CIA drafted an extensive document describing the CIA’s Detention and Interrogation Program for an anticipated media campaign. CIA attorneys, discussing aspects of the campaign involving off-the-record disclosures, cautioned against attributing the information to the CIA itself. One senior attorney stated that the proposed press briefing was “minimally acceptable, but only if not attributed to a CIA official.” The CIA attorney continued: “This should be attributed to an ‘official knowledgeable’ about the program (or some similar obfuscation), but should not be attributed to a CIA or intelligence official.” Referring to CIA efforts to deny Freedom of Information Act (FOIA) requests for previously acknowledged

²²⁷¹ Email from: [REDACTED]; to: [REDACTED]; subject: Brokaw interview: Take one; date: April 15, 2005, at 1:00:59 PM. The CIA’s June 2013 Response states that “[w]ith regard to information related to covert action, authorization [to disclose information to the media] rests with the White House.” CIA records made available to the Committee, however, do not indicate White House approval for the subsequent media disclosures. In the summer of 2013, the Committee requested the CIA provide any such records should they exist. No records were identified by the CIA.

²²⁷² See “The Long War; World View of War on Terror,” *Dateline NBC*, June 24, 2005. In April 2005, Mudd stated that the program would likely be aired in June. See email from: John P. Mudd; to: [REDACTED]; subject: Re: Brokaw interview: Take one; date: April 18, 2005, at 08:31 AM.

²²⁷³ “The frightening evolution of al-Qaida; Decentralization has led to deadly staying power,” *Dateline NBC*, June 24, 2005.

²²⁷⁴ “The frightening evolution of al-Qaida; Decentralization has led to deadly staying power,” *Dateline NBC*, June 24, 2005; “Al-Qaida finds safe haven in Iran,” *Dateline NBC*, June 24, 2005. Notwithstanding this content, the CIA’s June 2013 Response states that “[a] review of the NBC broadcast, cited by the *Study*, shows that it contained no public disclosures of classified CIA information; indeed, *the RDI program was not discussed*” (emphasis in the original). In addition to the information described above included in the online articles associated with the broadcast, the broadcast itself described the role of a CIA asset in the capture of KSM and the capture of Abu Faraj al-Libi in “joint US/Pakistani actions” (“The Long War; World View of War on Terror,” *Dateline NBC*, June 24, 2005).

²²⁷⁵ As described elsewhere in this summary and in more detail in the full Committee Study, the captures of KSM and Khallad bin Attash were unrelated to the capture and interrogation of Ramzi bin al-Shibh.

information, the attorney noted that, “[o]ur Glomar figleaf is getting pretty thin.”²²⁷⁶ Another CIA attorney noted that the draft “makes the [legal] declaration I just wrote about the secrecy of the interrogation program a work of fiction...”²²⁷⁷ [REDACTED] CTC Legal urged that CIA leadership needed to “confront the inconsistency” between CIA court declarations “about how critical it is to keep this information secret” and the CIA “planning to reveal darn near the entire program.”²²⁷⁸

D. The CIA Engages with Journalists and Conveys an Inaccurate Account of the Interrogation of Abu Zubaydah

(~~TS//~~ [REDACTED] ~~//NF~~) In late 2005, the CIA decided to cooperate again with Douglas Jehl of the *New York Times*, despite his intention to publish information about the program. A CIA officer wrote about Jehl’s proposed article, which was largely about the CIA’s detention and interrogation of Abu Zubaydah, “[t]his is not necessarily an unflattering story.”²²⁷⁹ Jehl, who provided the CIA with a detailed outline of his proposed story, informed the CIA that he would emphasize that the CIA’s enhanced interrogation techniques worked, that they were approved through an inter-agency process, and that the CIA went to great lengths to ensure that the interrogation program was authorized by the White House and the Department of Justice.²²⁸⁰ CIA records indicate that the CIA decided not to dissuade Jehl from describing the CIA’s enhanced interrogation techniques because, as [REDACTED] CTC Legal [REDACTED] noted, “[t]he EITs have already been out there.”²²⁸¹ The CIA’s chief of ALEC Station, [REDACTED], who wondered whether cooperation with Jehl would be “undercutting our complaint

²²⁷⁶ Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED]; bcc: [REDACTED]; subject: Re: Interrogation Program--Going Public Draft Talking Points--Comments Due to [REDACTED] me by COB TODAY. Thanks.; date: April 20, 2005, at 5:58:47 PM.

²²⁷⁷ See email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED]; subject: Re: Interrogation Program--Going Public Draft Talking Points--Comments Due to [REDACTED] me by COB TODAY. Thanks.; date: April 21, 2005, at 07:24 AM. [REDACTED] was referring to the assault case against David Passaro. The Committee Study does not include an analysis of the accuracy of declarations to U.S. courts by senior CIA officials.

²²⁷⁸ Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Re: Interrogation Program--Going Public Draft Talking Points--Comments Due to [REDACTED] me by COB TODAY. Thanks.; date: April 25, 2005, at 11:41:07 AM.

²²⁷⁹ Email from: [REDACTED]; to: [REDACTED], John A. Rizzo, [REDACTED], [REDACTED], [REDACTED], Robert L. Grenier; subject: Doug Jehl – Comprehensive Story on the Capture of Abu Zubaydah and Conception of EITs; date: December 15, 2005, at 02:04 PM.

²²⁸⁰ Email from: [REDACTED]; to: [REDACTED], John A. Rizzo, [REDACTED], [REDACTED], [REDACTED], Robert L. Grenier; subject: Doug Jehl – Comprehensive Story on the Capture of Abu Zubaydah and Conception of EITs; date: December 15, 2005, at 02:04 PM.

²²⁸¹ Email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED], [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED]; subject: Doug Jehl - Comprehensive Story on the Capture of Abu Zubaydah and Conception of EITs; date: December 15, 2005, at 02:10 PM. Another CIA officer added “I don’t like so much talk about EIT’s, but that particular horse has long left the barn....” See email from: [REDACTED]; to: [REDACTED], [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Re: Doug Jehl - Comprehensive Story on the Capture of Abu Zubaydah and Conception of EITs; date: December 15, 2005, at 03:03 PM.

against those leakers,” nonetheless suggested informing Jehl of other examples of CIA “detainee exploitation success.”²²⁸²

(TS// [REDACTED] //NF) While the *New York Times* did not publish Jehl’s story, on September 7, 2006, the day after President Bush publicly acknowledged the program, David Johnston of the *New York Times* called the CIA’s OPA with a proposed news story about the interrogation of Abu Zubaydah. In an email with the subject line, “We Can’t Let This Go Unanswered,” the CIA’s director of public affairs in OPA, Mark Mansfield, described Johnston’s proposed narrative as “bullshit” and biased toward the FBI, adding that “we need to push back.”²²⁸³ While it is unclear if Mansfield responded to Johnston’s proposed story, Mansfield later wrote in an email that there was “[n]o need to worry.”²²⁸⁴ On September 10, 2006, the *New York Times* published an article by Johnston, entitled, “At a Secret Interrogation, Dispute Flared Over Tactics,” that described “sharply contrasting accounts” of the interrogation of Abu Zubaydah. The article cited officials “more closely allied with law enforcement,” who stated that Abu Zubaydah “cooperated with F.B.I. interviewers,” as well as officials “closely tied to intelligence agencies,” who stated that Abu Zubaydah “was lying, and things were going nowhere,” and that “[i]t was clear that he had information about an imminent attack and time was of the essence.” The article included the frequent CIA representation that, after the use of “tougher tactics,” Abu Zubaydah “soon began to provide information on key Al Qaeda operators to help us find and capture those responsible for the 9/11 attacks.”²²⁸⁵ This characterization of Abu Zubaydah’s interrogation is incongruent with CIA interrogation records.²²⁸⁶ CTC stated that the article resulted in questions to the CIA from the country [REDACTED], and assessed that “[d]isclosures of this nature could adversely [have an] impact on future joint CT operations with... [REDACTED] partners.”²²⁸⁷ There are no indications that the CIA filed a crimes report in connection with the article.²²⁸⁸

(TS// [REDACTED] //NF) In early 2007, the CIA cooperated with Ronald Kessler again on another book. According to CIA records, the purpose of the cooperation was to “push back” on Kessler’s proposed accounts of intelligence related to the attacks of September 11, 2001, and the

²²⁸² Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: Doug Jehl - Comprehensive Story on the Capture of Abu Zubaydah and Conception of EITs; date: December 15, 2005, at 8:50:36 PM.

²²⁸³ Email from: Mark Mansfield; to: [REDACTED]; cc: [REDACTED], Paul J. Gimigliano, [REDACTED]; subject: We Can’t Let This Go Unanswered; date: September 7, 2006, at 01:12 PM.

²²⁸⁴ Email from: Mark Mansfield; to: [REDACTED]; cc: [REDACTED], [REDACTED]; subject: Re: Immediate re Abu Zubaydah - Re: Fw: We Can’t Let This Go Unanswered; date: September 7, 2006, at 3:14:53 PM.

²²⁸⁵ “At a Secret Interrogation, Dispute Flared Over Tactics,” *New York Times*, David Johnston, September 10, 2006.

²²⁸⁶ See Abu Zubaydah detainee review in Volume III and sections on CIA claims related to the “Capture of Ramzi bin al-Shibh” in this summary and Volume II.

²²⁸⁷ CY 2005 & CY 2006 CTC Media Leaks; September 21, 2006. The document described “the more serious CTC media leaks that occurred in CY 2005 and 2006.”

²²⁸⁸ Senior Deputy General Counsel John Rizzo urged that his colleagues determine whether OPA cooperated with the article “[b]efore we get DOJ or FBI too cranked up on this.” See email from: John A. Rizzo; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Re: Fw: Request for Crimes Reports on NYT and Time Magazine Leaks on Interrogation Activities [REDACTED]; date: September 12, 2006, at 5:52:10 PM.

interrogation of Abu Zubaydah,²²⁸⁹ which a CIA officer noted “give undue credit to the FBI for CIA accomplishments.”²²⁹⁰ After another CIA officer drafted information for passage to Kessler,²²⁹¹ [REDACTED] CTC Legal, [REDACTED], wrote, “[o]f course being the lawyer, I would recommend not telling Kessler anything.” [REDACTED] then wrote that if, “for policy reasons,” the CIA decided to cooperate with the author, there was certain information that should not be disclosed. [REDACTED] then suggested that “if we are going to do this,” the CIA could provide information to Kessler that would “undercut the FBI agents,” who [REDACTED] stated had “leaked that they would have gotten everything anyway” from Abu Zubaydah.²²⁹²

(TS// [REDACTED] //NF) After Kessler provided a draft of his book to the CIA and met with CIA officers, the CIA’s director of public affairs, Mark Mansfield, described what he viewed as the problems in Kessler’s narrative. According to Mansfield, Kessler was “vastly overstating the FBI’s role in thwarting terrorism and, frankly, giving other USG agencies—including CIA—short shrift.” Moreover, “[t]he draft also didn’t reflect the enormously valuable intelligence the USG gleaned from CIA’s interrogation program” and “had unnamed FBI officers questioning our methods and claiming their own way of eliciting information is much more effective.” According to Mansfield, the CIA “made some headway” in its meeting with Kessler and that, as a result of the CIA’s intervention, his book would be “more balanced than it would have been.”²²⁹³

(TS// [REDACTED] //NF) Later, in an email to Mansfield, Kessler provided the “substantive changes” he had made to his draft following his meeting with CIA officials. The changes included the statement that Abu Zubaydah was subjected to “coercive interrogation techniques” after he “stopped cooperating.” Kessler’s revised text further stated that “the CIA could point to a string of successes and dozens of plots that were rolled up because of coercive interrogation techniques.” The statements in the revised text on the “successes” attributable to the CIA’s enhanced interrogation techniques were similar to CIA representations to policymakers and were incongruent with CIA records.²²⁹⁴

²²⁸⁹ Sametime communication between [REDACTED] and [REDACTED], 28/Feb/07 09:51:10 to 19:00:42.

²²⁹⁰ Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Fact Check on Ron Kessler draft; date: March 13, 2007, at 05:59 PM.

²²⁹¹ Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: Fact Check on Ron Kessler draft; date: March 14, 2007, at 6:03:45 PM.

²²⁹² Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: Fact Check on Ron Kessler draft; date: March 15, 2007, at 7:07:52 AM.

²²⁹³ Email from: Mark Mansfield; to: Michael V. Hayden, [REDACTED], Stephen R. Kappes, Michael J. Morell, [REDACTED], Jose Rodriguez, [REDACTED]; bcc: [REDACTED]; subject: Session with Author Ron Kessler; date: March 15, 2007, at 6:54:33 PM.

²²⁹⁴ Kessler’s changes repeated the representation made in the president’s September 6, 2006, speech, which was based on CIA information and vetted by the CIA, that Abu Zubaydah and Ramzi bin al-Shibh “provided information that would help in the planning and execution of the operation that captured Khalid Sheikh Mohammed.” With regard to the Second Wave plotting, Kessler stated that “[i]f it had not been for coercive interrogation techniques used on Abu Zubaydah, CIA officials suggest, the second wave of attacks might have occurred and KSM could be free and planning more attacks.” As detailed in this summary, and in greater detail in Volumes II and III, the thwarting of the Second Wave plotting and the capture of KSM were unrelated to reporting from Abu Zubaydah. Kessler’s changes also included statements about the training and expertise of CIA interrogators, the Department of

(~~TS//~~ [REDACTED] ~~//NF~~) Kessler's "substantive changes" made after his meeting with CIA officials included the statement that many members of Congress and members of the media "have made careers for themselves by belittling and undercutting the efforts of the heroic men and women who are trying to protect us." Kessler's revised text contended that, "[w]ithout winning the war being waged by the media against our own government, we are going to lose the war on terror because the tools that are needed will be taken away by a Congress swayed by a misinformed public and by other countries unwilling to cooperate with the CIA or FBI because they fear mindless exposure by the press." Finally, Kessler's changes, made after his meeting with CIA officers, included the statement that "[t]oo many Americans are intent on demonizing those who are trying to protect us."²²⁹⁵

Justice review of the CIA's interrogation techniques, and congressional oversight of the CIA's Detention and Interrogation Program. For example, Kessler wrote, "[b]efore confronting a terrorist, each interrogator was given 250 hours of specialized training." This statement is incongruent with the history of the CIA program. Email from: Ronald Kessler; to: Mark Mansfield; subject: follow-up; date: March 16, 2007, at 10:52:05.

²²⁹⁵ Email from: Ronald Kessler; to: Mark Mansfield; subject: follow-up; date: March 16, 2007, at 10:52:05.

V. Review of CIA Representations to the Department of Justice

A. August 1, 2002, OLC Memorandum Relies on Inaccurate Information Regarding Abu Zubaydah

(TS////NF) The Office of Legal Counsel (OLC) in the Department of Justice wrote several legal memoranda and letters on the legality of the CIA's Detention and Interrogation Program between 2002 and 2007. The OLC requested, and relied on, information provided by the CIA to conduct the legal analysis included in these memoranda and letters. Much of the information the CIA provided to the OLC was inaccurate in material respects.

(TS////NF) On August 1, 2002, the OLC issued a memorandum advising that the use of the CIA's enhanced interrogation techniques against Abu Zubaydah would not violate prohibitions against torture found in Section 2340A of Title 18 of the United States Code.²²⁹⁶ The techniques were: (1) attention grasp, (2) walling, (3) facial hold, (4) facial slap (insult slap), (5) cramped confinement, (6) wall standing, (7) stress positions, (8) sleep deprivation, (9) insects placed in a confinement box, and (10) the waterboard. The memorandum relied on CIA representations about Abu Zubaydah's status in al-Qa'ida, his role in al-Qa'ida plots, his expertise in interrogation resistance training, and his withholding of information on pending terrorist attacks.²²⁹⁷ The OLC memorandum included the following statement about OLC's reliance on information provided by the CIA:

“Our advice is based upon the following facts, which you have provided to us. We also understand that you do not have any facts in your possession contrary to the facts outlined here, and this opinion is limited to these facts. If these facts were to change, this advice would not necessarily apply.”²²⁹⁸

²²⁹⁶ Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay Bybee, Assistant Attorney General, Office of Legal Counsel, August 1, 2002, Interrogation of al Qaeda Operative (DTS #2009-1810, Tab 1). Also on August 1, 2002, OLC issued an unclassified, but non-public, opinion, from Deputy Assistant Attorney General John Yoo to White House Counsel Alberto Gonzales analyzing whether certain interrogation methods violate 18 U.S.C. §§ 2340-2340A.

²²⁹⁷ Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay Bybee, Assistant Attorney General, Office of Legal Counsel, August 1, 2002, Interrogation of al Qaeda Operative (DTS #2009-1810, Tab 1).

²²⁹⁸ Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay Bybee, Assistant Attorney General, Office of Legal Counsel, August 1, 2002, Interrogation of al Qaeda Operative (DTS #2009-1810, Tab 1). During a 2008 hearing of the Senate Select Committee on Intelligence, then-Acting Assistant Attorney General Steven Bradbury stressed that the OLC's opinions relied on factual representations made by the CIA. As Bradbury testified, “all of our advice addressing the CIA's specific interrogation methods has made clear that OLC's legal conclusions were contingent on a number of express conditions, limitations and safeguards adopted by the CIA and designed to ensure that the program would be administered by trained professionals with strict oversight and controls, and that none of the interrogation practices would go beyond the bounds of the law.” When asked whether information could be elicited from detainees using techniques authorized by the Army Field Manual, Bradbury responded, “I will have to defer, because on those kinds of questions in terms of the effectiveness and the information obtained I have to rely on the professional judgment of the folks involved at the agency, and General [Michael] Hayden I think has spoken to this issue before this Committee.” (See transcript of hearing of the Senate Select Committee on Intelligence, June 10, 2008 (DTS #2008-2698).) General Hayden's representations to the Committee are described elsewhere in this summary and in greater detail in Volume II.

(TS// [REDACTED] //NF) The facts provided by the CIA, and relied on by the OLC to support its legal analysis, were cited in the August 1, 2002, memorandum, and many were repeated in subsequent OLC memoranda on the CIA's enhanced interrogation techniques. Much of the information provided by the CIA to the OLC was unsupported by CIA records. Examples include:

- *Abu Zubaydah's Status in Al-Qa'ida*: The OLC memorandum repeated the CIA's representation that Abu Zubaydah was the "third or fourth man" in al-Qa'ida.²²⁹⁹ This CIA assessment was based on single-source reporting that was recanted prior to the August 1, 2002, OLC legal memorandum. This retraction was provided to several senior CIA officers, including [REDACTED] CTC Legal, to whom the information was emailed on July 10, 2002, three weeks prior to the issuance of the August 1, 2002, OLC memorandum.²³⁰⁰ The CIA later concluded that Abu Zubaydah was not a member of al-Qa'ida.²³⁰¹
- *Abu Zubaydah's Role in Al-Qa'ida Plots*: The OLC memorandum repeated the CIA's representation that Abu Zubaydah "has been involved in every major terrorist operation carried out by al Qaeda,"²³⁰² and that Abu Zubaydah "was one of the planners of the September 11 attacks."²³⁰³ CIA records do not support these claims.
- *Abu Zubaydah's Expertise in Interrogation Resistance Training*: The OLC memorandum repeated the CIA's representation that Abu Zubaydah was "well-versed" in resistance to interrogation techniques, and that "it is believed Zubaydah wrote al Qaeda's manual on resistance techniques."²³⁰⁴ A review of CIA records found no information to support these claims. To the contrary, Abu Zubaydah later stated that it was his belief that all

²²⁹⁹ Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay Bybee, Assistant Attorney General, Office of Legal Counsel, August 1, 2002, Interrogation of al Qaeda Operative (DTS #2009-1810, Tab 1).

²³⁰⁰ Email from: [REDACTED]; to: [REDACTED] with multiple cc's; subject: AZ information; date: July 10, 2002, at 1:18:52 PM. This claim was included in subsequent OLC memoranda. See Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 30, 2005, Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May be Used in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 11).

²³⁰¹ CIA Intelligence Assessment, August 16, 2006, "Countering Misconceptions About Training Camps in Afghanistan, 1990-2001."

²³⁰² Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay Bybee, Assistant Attorney General, Office of Legal Counsel, August 1, 2002, Interrogation of al Qaeda Operative (DTS #2009-1810, Tab 1). This claim was included in subsequent OLC memoranda. See Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 30, 2005, Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May be Used in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 11).

²³⁰³ Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay Bybee, Assistant Attorney General, Office of Legal Counsel, August 1, 2002, Interrogation of al Qaeda Operative (DTS #2009-1810, Tab 1).

²³⁰⁴ Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay Bybee, Assistant Attorney General, Office of Legal Counsel, August 1, 2002, Interrogation of al Qaeda Operative (DTS #2009-1810, Tab 1).

individuals provide information in detention, and that captured individuals should “expect that the organization will make adjustments to protect people and plans when someone with knowledge is captured.”²³⁰⁵

- *Abu Zubaydah’s Withholding of Information on Pending Terrorist Attacks:* The OLC memorandum repeated CIA representations stating that “the interrogation team is certain” Abu Zubaydah was withholding information related to planned attacks against the United States, either within the U.S. homeland or abroad.²³⁰⁶ CIA records do not support this claim. Abu Zubaydah’s interrogation team was not “certain” that Abu Zubaydah was withholding “critical threat information.” To the contrary, the interrogation team wrote to CIA Headquarters: “[o]ur assumption is the objective of this operation [the interrogation of Abu Zubaydah] is to achieve a high degree of confidence that [Abu Zubaydah] is not holding back actionable information concerning threats to the United States beyond that which [Abu Zubaydah] has already provided.”²³⁰⁷

B. The CIA Interprets the August 1, 2002, Memorandum to Apply to Other Detainees, Despite Language of the Memorandum; Interrogations of Abu Zubaydah and Other Detainees Diverge from the CIA’s Representations to the OLC

(TS// [REDACTED] //NF) The CIA broadly interpreted the August 1, 2002, OLC memorandum to allow for greater operational latitude. For example, the memorandum stated that the legal advice was specific to the interrogation of Abu Zubaydah and the specific CIA representations about Abu Zubaydah; however, the CIA applied its enhanced interrogation techniques to numerous other CIA detainees without seeking additional formal legal advice from the OLC. As detailed elsewhere, the other detainees subjected to the CIA’s enhanced interrogation techniques varied significantly in terms of their assessed role in terrorist activities and the information they were believed to possess. CIA records indicate that it was not until July 29, 2003, almost a year later, that the attorney general stated that the legal principles of the August 1, 2002, memorandum could be applied to other CIA detainees.²³⁰⁸

(TS// [REDACTED] //NF) The August 1, 2002, OLC memorandum also included an analysis of each of the CIA’s proposed enhanced interrogation techniques with a description of how the

²³⁰⁵ [REDACTED] 10496 (162014Z FEB 03)

²³⁰⁶ Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay Bybee, Assistant Attorney General, Office of Legal Counsel, August 1, 2002, Interrogation of al Qaeda Operative (DTS #2009-1810, Tab 1).

²³⁰⁷ [REDACTED] 73208 (231043Z JUL 02); email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED]; subject: Addendum from [DETENTION SITE GREEN], [REDACTED] 73208 (231043Z JUL 02); July 23, 2004, at 07:56:49 PM. See also email from: [REDACTED]; to: [REDACTED]; subject: Re: [SWIGERT and DUNBAR]; date: August 8, 21, 2002, at 10:21 PM.

²³⁰⁸ Letter from Assistant Attorney General Jack L. Goldsmith III to Director Tenet, June 18, 2004 (DTS #2004-2710). In an August 2003 interview with the OIG, [REDACTED] CTC Legal, [REDACTED], stated that “every detainee interrogated is different in that they are outside the opinion because the opinion was written for Zubaydah.” The context for [REDACTED]’s statement was the legality of the waterboarding of KSM. See interview of [REDACTED], by [REDACTED], [REDACTED], and [REDACTED], Office of the Inspector General, August 20, 2003.

CIA stated the techniques would be applied.²³⁰⁹ However, in the interrogations of Abu Zubaydah and subsequent CIA detainees, the CIA applied the techniques in a manner that a Department of Justice attorney concluded “was quite different from the [description] presented in 2002.”²³¹⁰ As reported by the CIA’s inspector general, the CIA used the waterboarding technique against Abu Zubaydah, and later against KSM, in a manner inconsistent with CIA representations to the OLC, as well as the OLC’s description of the technique in the August 1, 2002, memorandum. In addition, the CIA assured the OLC that it would be “unlikely” that CIA detainees subjected to sleep deprivation would experience hallucinations, and that if they did, medical personnel would intervene.²³¹¹ However, multiple CIA detainees subjected to prolonged sleep deprivation experienced hallucinations, and CIA interrogation teams did not always discontinue sleep deprivation after the detainees had experienced hallucinations.²³¹² The CIA further represented to the OLC that Abu Zubaydah’s recovery from his wound would not be impeded by the use of the CIA’s enhanced interrogation techniques.²³¹³ However, prior to the OLC memorandum, DETENTION SITE GREEN personnel stated, and CIA Headquarters had confirmed, that the interrogation process would take precedence over preventing Abu Zubaydah’s wound from becoming infected.²³¹⁴ Other CIA detainees were also subjected to the CIA’s enhanced interrogation techniques, notwithstanding concerns that the interrogation techniques could exacerbate their injuries.²³¹⁵ The CIA also repeatedly used interrogation techniques beyond those provided to the OLC for review, including water dousing, nudity, abdominal slaps, and dietary manipulation.²³¹⁶

(TS// [REDACTED] //NF) At the July 29, 2003, meeting of select National Security Council principals, Attorney General John Ashcroft expressed the view that “while appropriate caution should be exercised in the number of times the waterboard was administered, the repetitions

²³⁰⁹ Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay Bybee, Assistant Attorney General, Office of Legal Counsel, August 1, 2002, Interrogation of al Qaeda Operative (DTS #2009-1810, Tab 1).

²³¹⁰ Department of Justice Office of Professional Responsibility; Report, Investigation into the Office of Legal Counsel’s Memoranda Concerning Issues Relating to the Central Intelligence Agency’s Use of ‘Enhanced Interrogation Techniques’ on Suspected Terrorists, July 29, 2009, pp. 140-41 (DTS #2010-1058).

²³¹¹ Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay Bybee, Assistant Attorney General, Office of Legal Counsel, August 1, 2002, Interrogation of al Qaeda Operative (DTS #2009-1810, Tab 1).

²³¹² [REDACTED] 1396 [REDACTED]; [REDACTED] 1299 ([REDACTED] JAN 04); [REDACTED] 1308 ([REDACTED] JAN 04); [REDACTED] 1312 ([REDACTED] JAN 04); [REDACTED] 1530 ([REDACTED] 04)

²³¹³ Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay Bybee, Assistant Attorney General, Office of Legal Counsel, August 1, 2002, Interrogation of al Qaeda Operative (DTS #2009-1810, Tab 1).

²³¹⁴ [REDACTED] 10536 (151006Z JUL 02); ALEC [REDACTED] (182321Z JUL 02). After the use of the CIA’s enhanced interrogation techniques on Abu Zubaydah, [REDACTED] reported that “[d]uring the most aggressive portions of [Abu Zubaydah’s] interrogation, the combination of a lack of hygiene, sub-optimal nutrition, inadvertent trauma to the wound secondary to some of the stress positions utilized at that stage and the removal of formal, obvious medical care to further isolate the subject had an overall additive effect on the deterioration of the wound.” See [REDACTED] 10679 (250932Z AUG 02).

²³¹⁵ See Volume III, including detainee reviews of Abu Hazim and Abd al-Karim.

²³¹⁶ As described later, the CIA sought OLC approval for these techniques on July 30, 2004, almost two years after the August 1, 2002, memorandum. See letter from [REDACTED] CTC Legal [REDACTED] to Acting Assistant Attorney General Levin, July 30, 2004 (DTS #2009-1809).

described do not contravene the principles underlying DOJ's August 2002 opinion."²³¹⁷ Records do not indicate that the attorney general opined on the manner (as opposed to the frequency) with which the waterboard was implemented, or on interrogation techniques not included in the August 2002 opinion. The differences between the CIA's enhanced interrogation techniques, as described by the CIA to the OLC in 2002, and the actual use of the techniques as described in the CIA Inspector General May 2004 Special Review, prompted concerns at the Department of Justice. On May 27, 2004, Assistant Attorney General Jack Goldsmith sent a letter to the CIA general counsel stating that the Special Review "raises the possibility that, at least in some instances and particularly early in the program, the actual practice may not have been congruent with all of these assumptions and limitations." In particular, Goldsmith's letter highlighted the statement in the Special Review that the use of the waterboard in SERE training was "so different from subsequent Agency usage as to make it almost irrelevant."²³¹⁸

C. Following Suspension of the Use of the CIA's Enhanced Interrogation Techniques, the CIA Obtains Approval from the OLC for the Interrogation of Three Individual Detainees

(~~TS//~~ [REDACTED] ~~//NF~~) The May 2004 CIA Inspector General Special Review recommended that the CIA's general counsel submit in writing a request for the Department of Justice to provide the CIA with a "formal, written legal opinion, revalidating and modifying, as appropriate, the guidance provided" in the August 1, 2002, memorandum. It also recommended that, in the absence of such a written opinion, the DCI should direct that the CIA's enhanced interrogation techniques "be implemented only within the parameters that were mutually understood by the Agency and DoJ on 1 August 2002."²³¹⁹ After receiving the Special Review, Assistant Attorney General Jack Goldsmith informed the CIA that the OLC had never formally opined on whether the CIA's enhanced interrogation techniques would meet constitutional standards.²³²⁰ On May 24, 2004, DCI Tenet, Deputy Director John McLaughlin, General Counsel Scott Muller, and others met to discuss the Department of Justice's comments, after which DCI Tenet directed that the use of the CIA's enhanced interrogation techniques, as well as the use of the CIA's "standard" techniques, be suspended.²³²¹ On June 4, 2004, DCI Tenet

²³¹⁷ Letter from Assistant Attorney General Jack L. Goldsmith, III to Director George Tenet, June 18, 2004 (DTS #2004-2710). As described above, the CIA's presentation to the NSC principals undercounted the frequency with which KSM and Abu Zubaydah were subjected to the waterboard.

²³¹⁸ Letter from Assistant Attorney General Goldsmith to CIA General Counsel Scott Muller, May 27, 2004.

²³¹⁹ CIA Office of Inspector General, Special Review – Counterterrorism Detention and Interrogation Program, (2003-7123-IG), May 2004.

²³²⁰ May 25, 2004, Talking Points for DCI Telephone Conversation with Attorney General: DOJ's Legal Opinion Re: CIA's Counterterrorist Program (CT) Interrogation. This position was confirmed in a June 10, 2004, letter (Letter from Assistant Attorney General Jack L. Goldsmith III, to Scott Muller, General Counsel, Central Intelligence Agency, June 10, 2004).

²³²¹ May 24, 2004, Memorandum for the Record from [REDACTED], [REDACTED] Legal Group, DCI Counterterrorism Center, Subject: Memorandum of Meeting with the DCI Regarding DOJ's Statement that DOJ has Rendered No Legal Opinion on Whether the CIA's Use of Enhanced Interrogation Techniques would meet Constitutional Standards; email from: [REDACTED], C/RDG; to: [REDACTED]; cc: Jose Rodriguez, [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Interim Guidance for Standard and Enhanced Interrogations; date: May 25, 2004.

issued a formal memorandum suspending the use of the techniques, pending policy and legal review.²³²²

(TS// [REDACTED] //NF) As described in this summary, on July 2, 2004, Attorney General Ashcroft and Deputy Attorney General James Comey attended a meeting of select National Security Council principals, the topic of which was the proposed CIA interrogation of Janat Gul.²³²³ According to CIA records, the attorney general stated that the use of the CIA's enhanced interrogation techniques against Gul would be consistent with U.S. law and treaty obligations, although Ashcroft made an exception for the waterboard, which he stated required further review, "primarily because of the view that the technique had been employed in a different fashion than that which DOJ initially approved."²³²⁴ On July 20, 2004, Ashcroft, along with Patrick Philbin and Daniel Levin from the Department of Justice, attended a National Security Council Principals Committee meeting at which Ashcroft stated that the use of the CIA's enhanced interrogation techniques described in the August 1, 2002, OLC memorandum, with the exception of the waterboard, would not violate U.S. statutes, the U.S. Constitution, or U.S. treaty obligations. The attorney general was then "directed" to prepare a written opinion addressing the constitutional issues, and the CIA was directed to provide further information to the Department of Justice with regard to the waterboard.²³²⁵ On July 22, 2004, Attorney General Ashcroft sent a letter to Acting DCI John McLaughlin stating that nine interrogation techniques (those addressed in the August 1, 2002, memorandum, with the exception of the waterboard) did not violate the U.S. Constitution or any statute or U.S. treaty obligations, in the context of the CIA interrogation of Janat Gul.²³²⁶

(TS// [REDACTED] //NF) On July 30, 2004, anticipating the interrogation of Janat Gul, the CIA provided the OLC for the first time a description of dietary manipulation, nudity, water dousing, the abdominal slap, standing sleep deprivation, and the use of diapers, all of which the CIA described as a "supplement" to the interrogation techniques outlined in the August 1, 2002, memorandum.²³²⁷ The CIA's descriptions of the interrogation techniques were incongruent with how the CIA had applied the techniques in practice. The CIA description of a minimum caloric intake was incongruent with the history of the program, as no minimum caloric intake existed prior to May 2004 and the March 2003 draft OMS guidelines allowed for food to be withheld for

²³²² June 4, 2004, Memorandum for Deputy Director for Operations from Director of Central Intelligence Re: Suspension of Use of Interrogation Techniques. On June 2, 2004, George Tenet informed the President that he intended to resign from his position on July 11, 2004. The White House announced the resignation on June 3, 2004.

²³²³ Janat Gul's interrogation is detailed in Volume III and more briefly in this summary.

²³²⁴ Letter from Assistant Attorney General Ashcroft to General Counsel Muller, July 7, 2004 (DTS #2009-1810, Tab 3); July 2, 2004, CIA Memorandum re Meeting with National Security Advisor Rice in the White House Situation Room, Friday 2 July Re: Interrogations and Detainee Janat Gul; July 6, 2004, Memorandum from Condoleezza Rice, Assistant to the President for National Security Affairs, to George Tenet, Director of Central Intelligence, Re: Janat Gul.

²³²⁵ July 29, 2004, Memorandum for the Record from CIA General Counsel Scott Muller Re: Principals Meeting relating to Janat Gul on 20 July 2004.

²³²⁶ The one-paragraph letter did not provide legal analysis or substantive discussion of the interrogation techniques. (See letter from Attorney General John Ashcroft to Acting DCI John McLaughlin, July 22, 2004 (DTS #2009-1810, Tab 4).)

²³²⁷ Letter from [REDACTED] CTC Legal [REDACTED] to Acting Assistant Attorney General Daniel Levin, July 30, 2004 (DTS #2009-1809).

one to two days.²³²⁸ The CIA represented to the OLC that nude detainees were “not wantonly exposed to other detainees or detention facility staff,” even though nude detainees at the CIA’s DETENTION SITE COBALT were “kept in a central area outside the interrogation room” and were “walked around” by guards as a form of humiliation.²³²⁹ The CIA’s description of water dousing made no mention of cold water immersion, which was used on CIA detainees and taught in CIA interrogator training.²³³⁰ The CIA representation describing a two-hour limit for the shackling of detainees’ hands above their heads is incongruent with records of CIA detainees whose hands were shackled above their heads for extended periods, as well as the draft March 2003 OMS guidelines permitting such shackling for up to four hours.²³³¹ The CIA further represented to the OLC that the use of diapers was “for sanitation and hygiene purposes,” whereas CIA records indicate that in some cases, a central “purpose” of diapers was “[t]o cause humiliation” and “to induce a sense of helplessness.”²³³²

(TS// [REDACTED] //NF) On August 13, 2004, CIA attorneys, medical officers, and other personnel met with Department of Justice attorneys to discuss some of the techniques for which the CIA was seeking approval, in particular sleep deprivation, water dousing, and the waterboard. When asked about the possibility that detainees subjected to standing sleep deprivation could suffer from edema, OMS doctors informed the Department of Justice attorneys that it was not a problem as the CIA would “adjust shackles or [the] method of applying the technique as necessary to prevent edema, as well as any chafing or over-tightness from the shackles.” With regard to water dousing, CIA officers represented that “water is at normal temperature; CIA makes no effort to ‘cool’ the water before applying it.” With respect to the waterboard, CIA officers indicated that “each application could not last more than 40 seconds

²³²⁸ OMS GUIDELINES ON MEDICAL AND PSYCHOLOGICAL SUPPORT TO DETAINEE RENDITION, INTERROGATION, AND DETENTION, May 17, 2004, OMS Guidelines on Medical and Psychological Support to Detainee Interrogations, First Draft, March 7, 2003. The evolution of OMS Guidelines is described in Volume III of the Committee Study.

²³²⁹ Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], April 14, 2003.

²³³⁰ Email from: [REDACTED] ([REDACTED]); to: [REDACTED]; subject: Memo; date: March 15, 2004. See detainee reviews of Abu Hudhaifa and Muhammad Umar ‘Abd al-Rahman aka Asadallah.

²³³¹ OMS Guidelines on Medical and Psychological Support to Detainee Interrogations, “First Draft,” March 7, 2003; [REDACTED] 28246 [REDACTED]; Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], April 5, 2003; Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], April 30, 2003; Memorandum for [REDACTED] from [REDACTED] [REDACTED], November [REDACTED], 2002, Subject: Legal Analysis of [REDACTED] Personnel Participating in Interrogation at the CIA Detention Facility in [REDACTED] “[DETENTION SITE COBALT]”). For example, Ridha al-Najjar was reported to have undergone “hanging,” described as “handcuffing one or both of his wrists to an overhead horizontal bar” for 22 hours each day for two consecutive days. See Memorandum for [REDACTED], November [REDACTED], 2002, Subject: Legal Analysis of [REDACTED] Personnel Participating in Interrogation at the CIA Detention Facility in [REDACTED] (aka “[DETENTION SITE COBALT]”). See also [REDACTED] 10171 (101527Z JAN 03), indicating that Abd al-Rahim al-Nashiri “remained in the standing position, with hands tied overhead, overnight.”

²³³² [REDACTED] interview of [REDACTED] [CIA OFFICER 1], December 19, 2002; CIA Interrogation Program Draft Course Materials, March 11, 2003, pg. 28; CTC/RDG Interrogation Program, December 15, 2003, pg. 10. DIRECTOR [REDACTED] (251609Z JUL 02). See also “Standard Interrogation Techniques,” attachment to email from: [REDACTED]; to: Scott W. Muller, John Rizzo, [REDACTED], [REDACTED]; subject: revised interrogation discussion; date: July 19, 2004.

(and usually only lasted about 20 seconds).²³³³ As detailed in the full Committee Study, each of these representations was incongruent with the operational history of the CIA program.

(TS// [REDACTED] //NF) On August 25, 2004, the CIA's Associate General Counsel [REDACTED] sent a letter to the OLC stating that Janat Gul, who had been rendered to CIA custody on July [REDACTED], 2004, had been subjected to the attention grasp, walling, facial hold, facial slap, wall standing, stress positions, and sleep deprivation. The letter further stated that CIA interrogators "assess Gul not to be cooperating, and to be using a sophisticated counterinterrogation strategy," and that the further use of the same enhanced interrogation techniques would be "unlikely to move Gul to cooperate absent concurrent use" of dietary manipulation, nudity, water dousing, and the abdominal slap. The letter referenced the reporting from a CIA source,²³³⁴ stating: "CIA understands that before his capture, Gul had been working to facilitate a direct meeting between the [REDACTED] CIA [REDACTED] source reporting on the pre-election threat and Abu Faraj [al-Libi] himself."²³³⁵

(TS// [REDACTED] //NF) The following day, August 26, 2004, Acting Assistant Attorney General Daniel Levin informed CIA Acting General Counsel John Rizzo that the use of the four additional interrogation techniques did not violate any U.S. statutes, the U.S. Constitution, or U.S. treaty obligations. Levin's advice relied on the CIA's representations about Gul, including that "there are no medical and psychological contraindications to the use of these techniques as you plan to employ them on Gul."²³³⁶ At the time, CIA records indicated: (1) that standing sleep deprivation had already caused significant swelling in Gul's legs; (2) that standing sleep deprivation continued despite Gul's visual and auditory hallucinations and that Gul was "not oriented to time or place";²³³⁷ (3) that CIA interrogators on-site did not believe that "escalation to enhanced pressures will increase [Gul's] ability to produce timely accurate locational and threat

²³³³ August 11, 2004, Letter from [REDACTED], Assistant General Counsel, to Dan Levin, Acting Assistant Attorney General, Office of Legal Counsel; August 27, 2004, Memorandum for the Record from [REDACTED] Re: Meeting with Department of Justice Attorneys on 13 August, 2004, Regarding Specific Interrogation Techniques, Including the Waterboard.

²³³⁴ As described in this summary, and in more detail in the Committee Study, the source later admitted to fabricating information related to the "pre-election" threat.

²³³⁵ Letter from [REDACTED], Associate General Counsel, CIA, to Dan Levin, Acting Assistant Attorney General, August 25, 2004 (DTS #2009-1809). For Gul's rendition, see [REDACTED] 1512 ([REDACTED] 04). According to an August 16, 2004, cable, a CIA interrogator did "not believe that escalation to enhanced measures will increase [Gul's] ability to produce timely accurate locational and threat information." (See [REDACTED] 1567 [REDACTED] 04.) On August 19, 2004, a cable from DETENTION SITE BLACK noted that the interrogation team "does not believe [Gul] is withholding imminent threat information." See [REDACTED] 1574 ([REDACTED] 04).

²³³⁶ Letter to John Rizzo, Acting General Counsel, CIA; from Daniel Levin, Acting Assistant Attorney General, August 26, 2004 (DTS #2009-1810, Tab 6). In May 2005, the OLC again accepted the CIA's representations that a psychological assessment found that Gul was "alert and oriented and his concentration and attention were appropriate," that Gul's "thought processes were clear and logical; there was no evidence of a thought disorder, delusions, or hallucinations," and that there "were not significant signs of depression anxiety or other mental disturbance." See memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 10, 2005, Re: Application of 18 U.S.C. Sections 2340-2340A to Certain Techniques That May be Used in the Interrogation of a High Value al Qaeda Detainee (DTS #2009-1810, Tab 9).

²³³⁷ [REDACTED] 1530 (081633Z AUG 04); [REDACTED] 1541 (101228Z AUG 04)

information”,²³³⁸ and (4) that CIA interrogators did not believe that Gul was “withholding imminent threat information.”²³³⁹

(TS////NF) Levin’s August 26, 2004, letter to Rizzo was based on the premise that “[w]e understand that [Janat] Gul is a high-value al Qaeda operative who is believed to possess information concerning an imminent terrorist threat to the United States.”²³⁴⁰ Levin’s understanding was based on the CIA’s representation that “Gul had been working to facilitate a direct meeting between the CIA source reporting on the pre-election threat and Abu Faraj [al-Libi].”²³⁴¹ This information later proved to be inaccurate. As detailed elsewhere in this summary, the threat of a terrorist attack to precede the November 2004 U.S. election was found to be based on a CIA source whose information was questioned by senior CTC officials at the time.²³⁴² The same CIA source admitted to fabricating the information after a in October 2004.²³⁴³ In November 2004, after the use of the CIA’s enhanced interrogation techniques on Janat Gul, CIA’s chief of Base at DETENTION SITE BLACK, where Janat Gul was interrogated, wrote that “describing [Gul] as ‘highest ranking’ gives him a stature which is undeserved, overblown and misleading.” The chief of Base added that “[s]tating that [Gul] had ‘long standing access to senior leaders in al-Qa’ida’ is simply wrong.”²³⁴⁴ In December 2004, CIA officers concluded that Janat Gul was “not the link to senior AQ leaders that [CIA Headquarters] said he was/is,”²³⁴⁵ and in April 2005 CIA officers wrote that “[t]here simply is no ‘smoking gun’ that we can refer to that would justify our continued holding of [Janat Gul].”²³⁴⁶

(TS////NF) By April 2005, as the OLC neared completion of a new memorandum analyzing the legality of the CIA’s enhanced interrogation techniques, the OLC sought information from the CIA on “what [the CIA] got from Janat Gul, was it valuable, [and] did it help anything....” The CIA did not immediately respond to this request, and the CIA’s Associate General Counsel noted that DOJ personnel had “taken to calling [him] daily” for additional information.²³⁴⁷ Subsequently, on April 15, 2005, the CIA informed

²³³⁸ 1567 (161730Z AUG 04)

²³³⁹ 1574 (191346Z AUG 04)

²³⁴⁰ Letter to John Rizzo, Acting General Counsel, CIA; from Daniel Levin, Acting Assistant Attorney General, August 26, 2004 (DTS #2009-1810, Tab 6).

²³⁴¹ Letter from , Associate General Counsel, CIA, to Dan Levin, Acting Assistant Attorney General, August 25, 2004 (DTS #2009-1809).

²³⁴² Email from: ; to: , , [REDACTED], , ; subject: could AQ be testing [ASSET Y] and [Source Name REDACTED]?; date: March , 2004, at 06:55 AM; email from: ; to: ; cc: , , , [REDACTED], ; subject: Re: could AQ be testing [ASSET Y] and [Source Name REDACTED]?; date: March , 2004, at 7:52:32 AM. The fabricated source reporting is described elsewhere in this summary.

²³⁴³ 1411 (04)

²³⁴⁴ Email from: [REDACTED]; to: , , , ; subject: re ALEC ; November 10, 2004.

²³⁴⁵ CIA “Comments on Detainees,” December 19, 2004, Notes from a CD from [DETENTION SITE BLACK].

²³⁴⁶ Email from: [REDACTED] (COB DETENTION SITE BLACK); to: ; cc: , , ; subject: re ; date: April 30, 2005.

²³⁴⁷ Email from: ; to: , , , , and [REDACTED]; subject: questions from OLC for Art 16 opinion; date: April 12, 2005; email from: ;

the OLC that "during most of Gul's debriefings, he has sought to minimize his knowledge of extremist activities and has provided largely non-incriminating information about his involvement in their networks."²³⁴⁸ On May 10, 2005, the OLC issued a memorandum that stated, "[y]ou informed us that the CIA believed Gul had information about al Qaeda's plans to launch an attack within the United States... [o]ur conclusions depend on these assessments." The OLC referenced [REDACTED]'s August 25, 2004, letter on Gul and the pre-election threat.²³⁴⁹ In a May 30, 2005, memorandum, the OLC referred to Janat Gul as "representative of the high value detainees on whom enhanced techniques have been, or might be used," and wrote that "the CIA believed [that Janat Gul] had actionable intelligence concerning the pre-election threat to the United States."²³⁵⁰ In the same memorandum, the OLC conveyed a new CIA representation describing the effectiveness of the CIA's enhanced interrogation techniques on Janat Gul, which stated:

"Gul has provided information that has helped the CIA with validating one of its key assets reporting on the pre-election threat."²³⁵¹

(TS// [REDACTED] //NF) There are no indications in the memorandum that the CIA informed the OLC that it had concluded that Gul had no information about the pre-election threat, which was the basis on which the OLC had approved the use of the CIA's enhanced interrogation techniques against Gul in the first place, or that CIA officers had determined that Gul was "not the man we thought he was." In September 2004, the OLC advised the CIA that the use of the CIA's enhanced interrogation techniques against Ahmed Khalfan Ghailani and Sharif al-Masri was also legal, based on the CIA representations that the two detainees were al-Qa'ida operatives involved in the "operational planning" of the pre-election plot against the United States.²³⁵² This CIA assessment was based on the same fabrications from the same CIA

to: [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]; subject: Re: questions from OLC for Art 16 opinion; date: April 14, 2005.

²³⁴⁸ April 15, 2005, fax to DOJ Command Center, for [REDACTED], Office of Legal Counsel, U.S. Department of Justice, from [REDACTED], [REDACTED] Legal Group, DCI Counterterrorist Center, re: Janat Gul.

²³⁴⁹ Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 10, 2005, Re: Application of 18 U.S.C. Sections 2340-2340A to Certain Techniques That May Be Used in the Interrogation of a High Value al Qaeda Detainee.

²³⁵⁰ Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 30, 2005, Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May be Used in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 11).

²³⁵¹ Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 30, 2005, Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May be Used in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 11), citing *Janat Gul Memo* pp. 1-2. See April 15, 2005, fax to DOJ Command Center, for [REDACTED], Office of Legal Counsel, U.S. Department of Justice, from [REDACTED], [REDACTED] Legal Group, DCI Counterterrorist Center, re: Janat Gul.

²³⁵² Letter to John A. Rizzo, Acting General Counsel, CIA; from Daniel Levin, September 6, 2004 (DTS #2009-1810, Tab 7); Letter to John A. Rizzo, Acting General Counsel, CIA; from Daniel Levin, September 20, 2004 (DTS #2009-1810, Tab 8).

source.²³⁵³ Like Janat Gul, Ghailani and al-Masri were subjected to extended sleep deprivation and experienced hallucinations.²³⁵⁴

D. May 2005 OLC Memoranda Rely on Inaccurate Representations from the CIA Regarding the Interrogation Process, the CIA's Enhanced Interrogation Techniques, and the Effectiveness of the Techniques

(TS// [REDACTED] //NF) On May 4, 2005, Acting Assistant Attorney General Steven Bradbury faxed to CIA Associate General Counsel [REDACTED] a set of questions related to the CIA's enhanced interrogation techniques, in which Bradbury referenced medical journal articles. The following day, [REDACTED] sent a letter to Bradbury stating that the CIA's responses had been composed by the CIA's Office of Medical Services (OMS). The CIA response stated that any lowering of the threshold of pain caused by sleep deprivation was "not germane" to the program, because studies had only identified differences in sensitivity to heat, cold, and pressure, and the CIA's enhanced interrogation techniques "do not involve application of heat, cold, pressure, any sharp objects (or indeed any objects at all)."²³⁵⁵ With regard to the effect of sleep deprivation on the experience of water dousing, the CIA response stated that "at the temperatures of water we have recommended for the program the likelihood of induction of pain by water dousing is very low under any circumstances, and not a phenomenon we have seen in detainees subject to this technique."²³⁵⁶ In response to Bradbury's query as to when edema or shackling would become painful as a result of standing sleep deprivation, the CIA responded, "[w]e have not observed this phenomenon in the interrogations performed to date, and have no reason to believe on theoretical grounds that edema or shackling would be more painful," provided the shackles are maintained with "appropriate slack" and "interrogators follow medical officers' recommendation to end standing sleep deprivation and use an alternate technique when the medical officer judges that edema is significant in any way." The CIA response added that the medical officers' recommendations "are always followed," and that "[d]etainees have not complained about pain from edema." Much of this information was inaccurate.²³⁵⁷

²³⁵³ [REDACTED] 1411 ([REDACTED] 04)

²³⁵⁴ [REDACTED] 3221 [REDACTED]; [REDACTED] 3242 ([REDACTED] 04)

²³⁵⁵ Letter from [REDACTED], Associate General Counsel, CIA, to Steve Bradbury, Acting Assistant Attorney General, Office of Legal Counsel, May 4, 2005. Multiple interrogation plans for CIA detainees called for "uncomfortably" cool temperatures along with sleep deprivation. See [REDACTED] 10361 [REDACTED]; [REDACTED] 1758 [REDACTED]; [REDACTED] 10654 (030904Z MAR 03).

²³⁵⁶ Letter from [REDACTED], Associate General Counsel, CIA, to Steve Bradbury, Acting Assistant Attorney General, Office of Legal Counsel, May 4, 2005. The CIA had subjected detainees to cold water baths during periods of sleep deprivation. As a CIA psychologist noted, "I heard [Abu Hudhaifa] gasp out loud several times as he was placed in the tub." (See email from: [REDACTED]; to: [REDACTED]; subject: Memo; date: March 15, 2004.) The inspector general later reported that, as a result of being bathed in ice water, Abu Hudhaifa was "shivering" and interrogators were concerned about his body temperature dropping (2005-8085-IG, at 12). See also [REDACTED] 42025 [REDACTED].

²³⁵⁷ Letter from [REDACTED], Associate General Counsel, CIA, to Steve Bradbury, Acting Assistant Attorney General, Office of Legal Counsel, May 4, 2005. Numerous detainees subjected to standing sleep deprivation suffered from edema. (See [REDACTED] 34098 [REDACTED]; [REDACTED] (12502 (011309Z AUG 03); [REDACTED] 40847 (251619Z JUN 03); [REDACTED] 1246 (171946Z AUG 03); [REDACTED] 10492 (161529Z FEB 03); [REDACTED] 10429 (101215Z FEB 03); [REDACTED] 10909 (201918Z MAR 03); [REDACTED] 42206 (191513Z JUL 03).) Detainees sometimes complained of pain and swelling

(TS// [REDACTED] //NF) Bradbury further inquired whether it was “possible to tell reliably (e.g. from outward physical signs like grimaces) whether a detainee is experiencing severe pain.” The CIA responded that “all pain is subjective, not objective,”²³⁵⁸ adding:

“Medical officers can monitor for evidence of condition or injury that most people would consider painful, and can observe the individual for outward displays and expressions associated with the experience of pain. Medical officer [sic] can and do ask the subject, after the interrogation session has concluded, if he is in pain, and have and do provide analgesics, such as Tylenol and Aleve, to detainees who report headache and other discomforts during their interrogations. We reiterate, that an interrogation session would be stopped if, in the judgment of the interrogators or medical personnel, medical attention was required.”²³⁵⁹

(TS// [REDACTED] //NF) As described elsewhere, multiple CIA detainees were subjected to the CIA’s enhanced interrogation techniques despite their medical conditions.²³⁶⁰

(TS// [REDACTED] //NF) Bradbury’s fax also inquired whether monitoring and safeguards “will effectively avoid severe physical pain or suffering for detainees,” which was a formulation of the statutory definition of torture under consideration. Despite concerns from OMS that its assessments could be used to support a legal review of the CIA’s enhanced interrogation techniques,²³⁶¹ the CIA’s response stated:

in their lower extremities. (See, for example, [REDACTED] 2615 (201528Z AUG 07); [REDACTED] 2619 (211349Z AUG 07); [REDACTED] 2620 (221303Z AUG 07); [REDACTED] 2623 (231234Z AUG 07); [REDACTED] 2629 (251637Z AUG 07); [REDACTED] 2642 (271341Z AUG 07); [REDACTED] 2643 (271856Z AUG 07).) As noted, standing sleep deprivation was not always discontinued with the onset of edema.

²³⁵⁸ Letter from [REDACTED], Associate General Counsel, CIA, to Steve Bradbury, Acting Assistant Attorney General, Office of Legal Counsel, May 4, 2005.

²³⁵⁹ Letter from [REDACTED], Associate General Counsel, CIA, to Steve Bradbury, Acting Assistant Attorney General, Office of Legal Counsel, May 4, 2005.

²³⁶⁰ See, for example, [REDACTED] 10536 (151006Z JULY 02); ALEC [REDACTED] (182321Z JUL 02); [REDACTED] 10647 (201331Z AUG 02); [REDACTED] 10618 (121448Z AUG 02); [REDACTED] 10679 (250932Z AUG 02); DIRECTOR [REDACTED] MAY 03); [REDACTED] 37754 [REDACTED]; [REDACTED] 38161 (131326Z MAY 03); DIRECTOR [REDACTED] MAY 03); DIRECTOR [REDACTED] MAY 03); [REDACTED] 34098 [REDACTED]; [REDACTED] 34294 [REDACTED]; [REDACTED] 34310 [REDACTED]. See also detainee reports and reviews in Volume III.

²³⁶¹ On April 11, 2005, after reviewing a draft OLC opinion, OMS personnel wrote a memorandum for [REDACTED] that stated, “[s]imply put, OMS is not in the business of saying what is acceptable in causing discomfort to other human beings, and will not take on that burden. . . . OMS did not review or vet these techniques prior to their introduction, but rather came into this program with the understanding of your office and DOJ that they were already determined as legal, permitted and safe. We see this current iteration [of the OLC memorandum] as a reversal of that sequence, and a relocation of those decisions to OMS. If this is the case, that OMS has now the responsibility for determining a procedure’s legality through its determination of safety, then we will need to review all procedures in that light given this new responsibility.” See email from: [REDACTED]; to [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: 8 April Draft Opinion from DOJ – OMS Concerns; date: April 11, 2005, at 10:12 AM.

“[i]t is OMS’s view that based on our limited experience and the extensive experience of the military with these techniques, the program in place has effectively avoided severe physical pain and suffering, and should continue to do so. Application of the thirteen techniques²³⁶² has not to date resulted in any severe or permanent physical injury (or any injury other than transient bruising), and we do not expect this to change.”²³⁶³

(~~TS//~~ [REDACTED] ~~//NF~~) In May 2005, Principal Deputy Assistant Attorney General Steven Bradbury signed three memoranda that relied on information provided by the CIA that was inconsistent with CIA’s operational records. On May 10, 2005, Bradbury signed two memoranda analyzing the statutory prohibition on torture with regard to the CIA’s enhanced interrogation techniques and to the use of the interrogation techniques in combination.²³⁶⁴ On May 30, 2005, Bradbury signed another memorandum examining U.S. obligations under the Convention Against Torture.²³⁶⁵ The memoranda approved 13 techniques: (1) dietary manipulation, (2) nudity, (3) attention grasp, (4) walling, (5) facial hold, (6) facial slap or insult slap, (7) abdominal slap, (8) cramped confinement, (9) wall standing, (10) stress positions, (11) water dousing, (12) sleep deprivation (more than 48 hours), and (13) the waterboard. The three memoranda relied on numerous CIA representations that, as detailed elsewhere, were incongruent with CIA records, including: (1) the CIA’s enhanced interrogation techniques would be used only when the interrogation team “considers them necessary because a detainee is withholding important, actionable intelligence or there is insufficient time to try other techniques,” (2) the use of the techniques “is discontinued if the detainee is judged to be consistently providing accurate intelligence or if he is no longer believed to have actionable intelligence,” (3) the “use of the techniques usually ends after just a few days when the detainee begins participating,” (4) the interrogation techniques “would not be used on a detainee not reasonably thought to possess important, actionable intelligence that could not be obtained otherwise,” and (5) the interrogation process begins with “an open, non-threatening approach” to discern if the CIA detainee would be cooperative.²³⁶⁶

²³⁶² The OLC was, at the time, analyzing the legality of 13 techniques, including the 10 techniques outlined in the OLC’s August 1, 2002, memorandum, and additional techniques for which the CIA sought OLC approval in 2004.

²³⁶³ Letter from [REDACTED], Associate General Counsel, CIA, to Steve Bradbury, Acting Assistant Attorney General, Office of Legal Counsel, May 4, 2005.

²³⁶⁴ Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 10, 2005, Re: Application of 18 U.S.C. Sections 2340-2340A to Certain Techniques That May be Used in the Interrogation of a High Value al Qaeda Detainee (DTS #2009-1810, Tab 9); Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 10, 2005, Re: Application of 18 U.S.C. Sections 2340-2340A to the Combined Use of Certain Techniques in the Interrogation of High Value al Qaeda Detainees (DTS #2009-1810, Tab 10).

²³⁶⁵ Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 30, 2005, Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May be Used in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 11).

²³⁶⁶ All of these assertions were inaccurate. See Volume III for examples of CIA detainees being immediately subjected to the CIA’s enhanced interrogation techniques, including [REDACTED] 34491 (051400Z MAR 03). See also Volume III for details on other interrogations in 2003, when at least six detainees that year were stripped and shackled, nude, in the standing stress position for sleep deprivation or subjected to other enhanced interrogation techniques prior to being questioned. They included Asadullah (DIRECTOR [REDACTED] ([REDACTED] FEB

(TS// [REDACTED] //NF) The OLC memoranda also relied on CIA representations regarding specific interrogation techniques that were incongruent with the operational history of the program. For example, the CIA informed the OLC that it maintained a 75 degree minimum room temperature for nude detainees as “a matter of policy,” with a minimum of 68 degrees in the case of technical problems. This information was inconsistent with CIA practice both before and after the CIA’s representations to the OLC.²³⁶⁷ The OLC relied on the CIA representation that standing sleep deprivation would be discontinued in the case of significant swelling of the lower extremities (edema), whereas in practice the technique was repeatedly not stopped when edema occurred.²³⁶⁸ The OLC also repeated CIA representations that constant light was necessary for security, even though the CIA had subjected detainees to constant darkness.²³⁶⁹ Additional CIA representations accepted by the OLC—and found to be inconsistent with CIA practice—related to: (1) the exposure of nude detainees to other detainees and detention facility staff,²³⁷⁰ (2) the use of water dousing—specifically the inaccurate representation that the technique did not involve immersion, (3) the use of shackles in standing sleep deprivation, (4) the likelihood of hallucinations during sleep deprivation, (5) the responsibility of medical personnel to intervene when standing sleep deprivation results in hallucinations, and (6) the purpose and the use of diapers on CIA detainees.²³⁷¹

(TS// [REDACTED] //NF) The OLC repeated the CIA’s representations that “the effect of the waterboard is to induce a sensation of drowning,” that “the detainee experiences this sensation even if he is aware that he is not actually drowning,” and that “as far as can be determined, [Abu

03)]; Abu Yasir al-Jaza’iri [REDACTED] 35558 ([REDACTED] MAR 03)]; Suleiman Abdullah [REDACTED] 35787 ([REDACTED] MAR 03)]; [REDACTED] 36023 ([REDACTED] APR 03)]; Abu Hudhaifa ([REDACTED] 38576 [REDACTED] MAY 03)]; Hambali [REDACTED] 1241 [REDACTED]; and Majid Khan ([REDACTED] 46471 (241242Z MAY 03), [REDACTED] 39077 (271719Z MAY 03)).

²³⁶⁷ Letter from [REDACTED] CTC Legal [REDACTED] to Acting Assistant Attorney General Levin, December 30, 2004 (DTS #2009-1809). See, for example, [REDACTED] 31118 [REDACTED]; [REDACTED] 31429 (161303Z DEC 02); [REDACTED] 10006 (070902Z DEC 02); [REDACTED] 33962 (211724Z FEB 03); [REDACTED] 34031 (231242Z FEB 03); [REDACTED] 34575 [REDACTED]; [REDACTED] 34354 [REDACTED] MAR 03); DIRECTOR [REDACTED] MAR 03). Email to: [REDACTED]; from: [REDACTED]; subject: Medical Evaluation/Update [REDACTED] (047); date: March [REDACTED], 2004. Email to: [REDACTED]; from: [REDACTED]; subject: Medical Evaluation/Update [REDACTED] (047); date: March 8, 2004. Email to: [REDACTED]; from: [REDACTED]; subject: Medical Evaluation/Update [REDACTED] (047); date: March 9, 2004. [REDACTED] 2347 (300624Z MAY 05); [REDACTED] 1797 (021612Z DEC 05).

²³⁶⁸ See, for example, [REDACTED] 10909 (201918Z MAR 03); [REDACTED] 2622 (230851Z AUG 07).

²³⁶⁹ According to a CIA cable, cells at DETENTION SITE COBALT were “blacked out at all times using curtains plus painted exterior windows. And double doors. The lights are never turned on.” (See [REDACTED] 28246 [REDACTED].) Upon finding Ramzi bin al-Shibh “cowering in the corner, shivering” when the light in his cell burned out, interrogators decided to use darkness as an interrogation technique. He was then placed in sleep deprivation “standing, shackled feet and hands, with hands over his head, naked, in total darkness.” See [REDACTED] 10521 (191750Z FEB 03); [REDACTED] 10525 (200840Z FEB 03).

²³⁷⁰ [REDACTED] interview of [REDACTED] [CIA OFFICER 1], December 19, 2002. CIA Interrogation Program Draft Course Materials, March 11, 2003, p. 28. CTC/RDG Interrogation Program, December 15, 2003. DIRECTOR [REDACTED] (251609Z JUL 02). See also “Standard Interrogation Techniques,” attachment to email from: [REDACTED]; to: Scott W. Muller, John Rizzo, [REDACTED]; subject: revised interrogation discussion; date: July 19, 2004.

²³⁷¹ Letter from [REDACTED] CTC Legal [REDACTED] to Acting Assistant Attorney General Levin, December 30, 2004 (DTS #2009-1809).

Zubaydah and KSM] did not experience physical pain or, in the professional judgment of doctors, is there any medical reason to believe they would have done so.” The OLC further accepted that physical sensations associated with waterboarding, such as choking, “end when the application ends.”²³⁷² This information is incongruent with CIA records. According to CIA records, Abu Zubaydah’s waterboarding sessions “resulted in immediate fluid intake and involuntary leg, chest and arm spasms” and “hysterical pleas.”²³⁷³ A medical officer who oversaw the interrogation of KSM stated that the waterboard technique had evolved beyond the “sensation of drowning” to what he described as a “series of near drownings.”²³⁷⁴ Physical reactions to waterboarding did not necessarily end when the application of water was discontinued, as both Abu Zubaydah and KSM vomited after being subjected to the waterboard.²³⁷⁵ Further, as previously described, during at least one waterboard session, Abu Zubaydah “became completely unresponsive, with bubbles rising through his open, full mouth.” He remained unresponsive after the waterboard was rotated upwards. Upon medical intervention, he regained consciousness and expelled “copious amounts of liquid.”²³⁷⁶ The CIA also relayed information to the OLC on the frequency with which the waterboard could be used that was incongruent with past operational practice.²³⁷⁷

(TS// [REDACTED] //NF) The May 10, 2005, memorandum analyzing the individual use of the CIA’s enhanced interrogation techniques accepted the CIA’s representations that CIA interrogators are trained for “approximately four weeks,” and that “all personnel directly engaged in the interrogation of persons detained... have been appropriately screened (from the

²³⁷² Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 10, 2005, Re: Application of 18 U.S.C. Sections 2340-2340A to Certain Techniques That May be Used in the Interrogation of a High Value al Qaeda Detainee (DTS #2009-1810, Tab 9); Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 10, 2005, Re: Application of 18 U.S.C. Sections 2340-2340A to the Combined Use of Certain Techniques in the Interrogation of High Value al Qaeda Detainees (DTS #2009-1810, Tab 10); Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 30, 2005, Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May be Used in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 11).

²³⁷³ [REDACTED] 10643 [REDACTED] AUG 02); [REDACTED] 10644 (201235Z AUG 02)

²³⁷⁴ See email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: More; date: April 10, 2003, at 5:59: 27 PM.

²³⁷⁵ [REDACTED] 10644 (201235Z AUG 02); email from: [REDACTED]; to: [REDACTED] and [REDACTED]; subject: Re: So it begins; date: August 4, 2002, at 09:45:09 AM; [REDACTED] 10803 (131929Z MAR 03).

²³⁷⁶ See Abu Zubaydah and KSM detainee reviews in Volume III, including [REDACTED] 10803 (131929Z MAR 03). See email from: [REDACTED], OMS; to: [REDACTED] and [REDACTED]; subject: Re: Departure; date: March 6, 2003, at 7:11:59 PM; email from: [REDACTED], OMS; to [REDACTED] and [REDACTED]; subject: Re: Acceptable lower ambient temperatures; date: March 7, 2003, at 8:22 PM; email from: [REDACTED], OMS; to: [REDACTED] and [REDACTED]; subject: Re: Talking Points for review and comment; date: August 13, 2004, at 10:22 AM; email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]; subject: Re: Discussion with Dan Levin- AZ; date: October 26, 2004, at 6:09 PM.

²³⁷⁷ Letter from [REDACTED] CTC Legal [REDACTED] to Acting Assistant Attorney General Dan Levin, August 19, 2004 (DTS# 2009-1809). The OLC, having been informed by the CIA that 40 seconds was the maximum length of a single waterboard application, noted that “you have informed us that this maximum has rarely been reached.” This is inaccurate. KSM was subjected to 40-second exposures at least 19 times.

medical, psychological and security standpoints).²³⁷⁸ The CIA representations about training and screening were incongruent with the operational history of the CIA program. CIA records indicate that CIA officers and contractors who conducted CIA interrogations in 2002 did not undergo any interrogation training. The first interrogator training course did not begin until November 12, 2002, by which time at least 25 detainees had been taken into CIA custody.²³⁷⁹ Numerous CIA interrogators and other CIA personnel associated with the program had either suspected or documented personal and professional problems that raised questions about their judgment and CIA employment. This group of officers included individuals who, among other issues, had engaged in inappropriate detainee interrogations, had workplace anger management issues, and had reportedly admitted to sexual assault.²³⁸⁰

²³⁷⁸ Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 10, 2005, Re: Application of 18 U.S.C. Sections 2340-2340A to Certain Techniques That May be Used in the Interrogation of a High Value al Qaeda Detainee (DTS #2009-1810, Tab 9). As described in this summary, when [REDACTED] CTC Legal, [REDACTED], insisted that CTC Legal vet and review the background of CIA personnel involved in the CIA's interrogations, he directly linked this review to the legality of the CIA's enhanced interrogation techniques. [REDACTED] wrote: "we will be forced to DISapprove [sic] the participation of specific personnel in the use of enhanced techniques unless we have ourselves vetted them and are satisfied with their qualifications and suitability for what are clearly unusual measures that are lawful only when practiced correctly by personnel whose records clearly demonstrate their suitability for that role." The chief of CTC, Jose Rodriguez, objected to this proposal. See email from: [REDACTED], CTC/LGL; to: [REDACTED]; cc: Jose Rodriguez, [REDACTED], [REDACTED]; subject: EYES ONLY; date: November [REDACTED], 2002, at 03:13:01 PM; email from: Jose Rodriguez; to: [REDACTED], CTC/LGL; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: EYES ONLY; date: November [REDACTED], 2002, at 04:27 PM.

²³⁷⁹ The training to conduct the CIA's enhanced interrogation techniques required only approximately 65 hours of classroom and operational instruction. December 4, 2002, Training Report, High Value Target Interrogation and Exploitation (HVTIE) Training Seminar 12-18 Nov 02, (pilot running).

²³⁸⁰ Among other abuses, [REDACTED] had engaged in "Russian Roulette" with a detainee. (See Memorandum for Chief, Staff and Operations Branch from [REDACTED], [REDACTED], April 3, 1980, Subject: [REDACTED]; [REDACTED] 1984, Memorandum for Inspector General from [REDACTED], Inspector, via Deputy Inspector General, re [REDACTED], IG- [REDACTED] 84.) [REDACTED] [CIA OFFICER 2], who threatened 'Abd al-Rahim al-Nashiri with a gun and a power drill,

[REDACTED]. He was sent home short of tour twice—once for [REDACTED] and again, a few months before interrogating al-Nashiri, for engaging in [REDACTED]

[REDACTED],
91638 [REDACTED], from [REDACTED],
[REDACTED]; 60500; DIRECTOR
; 59478; ; 59479 ;
[REDACTED], [REDACTED],
) See also Report to CIA Headquarters, [REDACTED],
[REDACTED],
, by [REDACTED],
[REDACTED],

[REDACTED]. See email from: [REDACTED]; to [REDACTED], [REDACTED], [REDACTED], and [REDACTED]; subject: [REDACTED]

(TS// [REDACTED] //NF) Finally, the OLC accepted a definition of “High Value Detainee” conveyed by the CIA²³⁸¹ that limited the use of the CIA’s enhanced interrogation techniques to “senior member[s]” of al-Qa’ida or an associated terrorist group who have “knowledge of imminent terrorist threats” or “direct involvement in planning and preparing” terrorist actions. However, at the time of the OLC opinion, the CIA had used its enhanced interrogation techniques on CIA detainees who were found neither to have knowledge of imminent threats nor to have been directly involved in planning or preparing terrorist actions. Some were not senior al-Qa’ida members,²³⁸² or even members of al-Qa’ida.²³⁸³ Others were never suspected of having information on, or a role in, terrorist plotting and were suspected only of having information on the location of UBL or other al-Qa’ida figures,²³⁸⁴ or were simply believed to have been present at a suspected al-Qa’ida guesthouse.²³⁸⁵ A year later, [REDACTED] CTC Legal wrote to Acting Assistant Attorney General Steven Bradbury suggesting a new standard that more closely reflected actual practice by allowing for the CIA detention and interrogation of detainees to be based on the belief that the detainee had information that could assist in locating senior al-Qa’ida leadership.²³⁸⁶ The OLC modified the standard in a memorandum dated July 20, 2007.²³⁸⁷ By then, the last CIA detainee, Muhammad Rahim, had already entered CIA custody.²³⁸⁸

(TS// [REDACTED] //NF) The May 30, 2005, OLC memorandum analyzing U.S. obligations under the Convention Against Torture relied heavily on CIA representations about the intelligence obtained from the program. Many of these representations were provided in a March 2, 2005, CIA memorandum known as the “Effectiveness Memo,” in which the CIA advised that the CIA program “works and the techniques are effective in producing foreign intelligence.” The “Effectiveness Memo” stated that “[w]e assess we would not have succeeded in overcoming the resistance of Khalid Shaykh Muhammad (KSM), Abu Zubaydah, and other equally resistant high-value terrorist detainees without applying, in a careful, professional and

[REDACTED], [REDACTED]

[REDACTED],

. For more information, *see* Volume III.

²³⁸¹ Fax to Acting Assistant Attorney General Levin from [REDACTED], January 4, 2005 (DTS #2009-1809).

²³⁸² *See* detainee reviews for Suleiman Abdullah and Janat Gul in Volume III for additional information.

²³⁸³ *See* detainee review for Rafiq bin Bashir bin Halul Al-Hami in Volume III for additional information.

²³⁸⁴ *See* detainee review for Ridha Ahmad al-Najjar in Volume III for additional information.

²³⁸⁵ *See* detainee reviews for Tawfiq Nasir Awad al-Bihani and Arsala Khan in Volume III for additional information.

²³⁸⁶ Letter from [REDACTED] CTC Legal [REDACTED] to Acting Assistant Attorney General Bradbury, May 23, 2006 (DTS #2009-1809).

²³⁸⁷ Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May Be Used by the CIA in the Interrogation of High Value al Qaeda Detainees (DTS #2009-1810, Tab 14).

²³⁸⁸ [REDACTED] 6439 ([REDACTED]); [REDACTED] 7516 ([REDACTED]). Muhammad Rahim entered CIA custody on July [REDACTED], 2007.

safe manner, the full range of interrogation techniques.”²³⁸⁹ The CIA “Effectiveness Memo” further stated that “[p]rior to the use of enhanced techniques against skilled resisters [sic] like KSM and Abu Zubaydah—the two most prolific intelligence producers in our control—CIA acquired little threat information or significant actionable intelligence information.” As described in this summary, the key information provided by Abu Zubaydah that the CIA attributed to the CIA’s enhanced interrogation techniques was provided prior to the use of the CIA’s enhanced interrogation techniques. KSM was subjected to CIA’s enhanced interrogation techniques within minutes of his questioning, and thus had no opportunity to divulge information prior to their use. As described elsewhere, CIA personnel concluded the waterboard was not an effective interrogation technique against KSM.²³⁹⁰

(TS// [REDACTED] //NF) Under a section entitled, “Results,” the CIA “Effectiveness Memo” represented that the “CIA’s use of DOJ-approved enhanced interrogation techniques, as part of a comprehensive interrogation approach, has enabled CIA to disrupt terrorist plots, capture additional terrorists, and collect a high volume of critical intelligence on al-Qa’ida.” It then listed 11 examples of “critical intelligence” acquired “after applying enhanced interrogation techniques”.²³⁹¹ the “Karachi Plot,” the “Heathrow Plot,” the “Second Wave,” the “Guraba Cell,” “Issa al-Hindi,” “Abu Talha al-Pakistani,” “Hambali’s Capture,” “Jafaar al-Tayyar,” the “Dirty Bomb Plot,” the “Shoe Bomber,” and intelligence obtained on “Shkai, Pakistan.” These representations of “effectiveness” were almost entirely inaccurate and mirrored other inaccurate information provided to the White House, Congress, and the CIA inspector general.²³⁹² In addition, on April 15, 2005, the CIA provided the OLC with an eight-page document entitled, “Briefing Notes on the Value of Detainee Reporting.” The CIA “Briefing Notes” document repeats many of the same CIA representations in the “Effectiveness Memo,” but added additional inaccurate information related to the capture of Iyman Faris.²³⁹³

(TS// [REDACTED] //NF) The OLC’s May 30, 2005, memorandum relied on the CIA’s inaccurate representations in the “Effectiveness Memo” and the “Briefing Notes” document in determining that the CIA’s enhanced interrogation techniques did not violate the Fifth Amendment’s prohibition on executive conduct that “shocks the conscience,” indicating that this analysis was a “highly context-specific and fact-dependent question.” The OLC also linked its

²³⁸⁹ CIA Memorandum for Steve Bradbury at the Department of Justice, dated March 2, 2005, from [REDACTED], [REDACTED] Legal Group, DCI Counterterrorist Center, subject “Effectiveness of the CIA Counterterrorist Interrogation Techniques.”

²³⁹⁰ Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, May 15, 2003; Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, October 22, 2003; [REDACTED] 11715 (201047Z MAY 03); Sametime Communication, [REDACTED] and [REDACTED], 15/Aug/06, 10:28:38 to 10:58:00; Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, April 3, 2003; Sametime Communication, [REDACTED] and [REDACTED], 02/May/05, 14:51:48 to 15:17:39; Interview of [REDACTED], by [REDACTED], [REDACTED], and [REDACTED], Office of the Inspector General, August 20, 2003.

²³⁹¹ Emphasis in the original.

²³⁹² See list of 20 CIA representations included in this summary and additional details in Volume II. Representations regarding Abu Talha al-Pakistani, which were less frequent, are also described this summary and in greater detail in Volumes II and III.

²³⁹³ April 15, 2005, 10:47AM, fax to DOJ Command Center for [REDACTED], Office of Legal Counsel, U.S. Department of Justice, from [REDACTED], [REDACTED] Legal Group, DCI Counterterrorist Center. Cover note: “[REDACTED], Answers to some of your questions,” with attachment entitled “Briefing Notes on the Value of Detainee Reporting.”

analysis of whether the use of the CIA's enhanced interrogation techniques was "constitutionally arbitrary" to the representation by the CIA that its interrogation program produced "substantial quantities of otherwise unavailable actionable intelligence."²³⁹⁴ The CIA's representations to the OLC that it obtained "otherwise unavailable actionable intelligence" from the use of the CIA's enhanced interrogation techniques were inaccurate.²³⁹⁵

(~~TS//~~ [REDACTED] ~~//NF~~) The OLC memorandum repeated specific inaccurate CIA representations, including that the waterboard was used against Abu Zubaydah and KSM "only after it became clear that standard interrogation techniques were not working"; that the information related to the "Guraba Cell" in Karachi was "otherwise unavailable actionable intelligence"; that Janat Gul was a "high value detainee"; and that information provided by Hassan Ghul regarding the al-Qa'ida presence in Shkai, Pakistan, was attributable to the CIA's enhanced interrogation techniques.²³⁹⁶ Citing CIA information, the OLC memorandum also stated that Abu Zubaydah was al-Qa'ida's "third or fourth highest ranking member" and had been involved "in every major terrorist operation carried out by al Qaeda," and that "again, once enhanced techniques were employed," Abu Zubaydah "provided significant information on two operatives... who planned to build and detonate a 'dirty bomb' in the Washington DC area." The OLC repeated additional inaccurate information from the CIA related to KSM's reporting, including representations about the "Second Wave" plotting, the Heathrow Airport plotting, and the captures of Hambali, Iyman Faris, and Sajid Badat.²³⁹⁷ The OLC relied on CIA representations that the use of the CIA's enhanced interrogation techniques against 'Abd al-Rahim al-Nashiri produced "notable results as early as the first day," despite al-Nashiri providing reporting on the same topics prior to entering CIA custody. The OLC also repeated inaccurate CIA representations about statements reportedly made by Abu Zubaydah and KSM.²³⁹⁸

²³⁹⁴ Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 30, 2005, Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May be Used in the Interrogation of High Value Al Qaeda Detainees.

²³⁹⁵ See specific CIA examples of the "Results" of using the "CIA's use of DOJ-approved enhanced interrogation techniques" in March 2, 2005, Memorandum for Steve Bradbury from [REDACTED], [REDACTED] Legal Group, DCI Counterterrorist Center, "Effectiveness of the CIA Counterterrorist Interrogation Techniques." The specific representations in the "Briefing Notes" document were similar to those in the CIA's "Effectiveness Memo" and included references to detainee reporting on Jose Padilla, Hambali, Dhiren Barot, Sajid Badat, Iyman Faris, Jaffar al-Tayyar, the Heathrow Airport plotting, and the Karachi plotting.

²³⁹⁶ For example, as detailed elsewhere in this review, Hassan Gul provided detailed information on al-Qa'ida's presence in Shkai, Pakistan, prior to the use of the CIA's enhanced interrogation techniques.

²³⁹⁷ Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 30, 2005, Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May be Used in the Interrogation of High Value Al Qaeda Detainees.

²³⁹⁸ The OLC memorandum stated that "[b]oth KSM and Zubaydah had 'expressed their belief that the general US population was 'weak,' lacked resilience, and would be unable to 'do what was necessary' to prevent the terrorists from succeeding in their goals.'" As described elsewhere in this summary, and in more detail in the full Committee Study, CIA records indicate that KSM and Abu Zubaydah did not make these statements. The memorandum also repeated CIA representations about KSM's comment, "Soon, you will know," and Abu Zubaydah's reported statements about being "permitted by Allah" to provide information. As described in this summary, these representations are not supported by CIA records.

(TS// [REDACTED] //NF) Finally, the May 30, 2005, OLC memorandum referenced the CIA Inspector General May 2004 Special Review, stating: “we understand that interrogations have led to specific, actionable intelligence as well as a general increase in the amount of intelligence regarding al Qaeda and its affiliates.”²³⁹⁹ The OLC memorandum cited pages in the Special Review that included inaccurate information provided by CIA personnel to the CIA’s OIG, including representations related to Jose Padilla and Binyam Muhammad, Hambali and the “Al-Qa’ida cell in Karachi,” the Parachas, Iyman Faris, Saleh al-Marri, Majid Khan, the Heathrow Airport plotting, and other “plots.”²⁴⁰⁰

E. After Passage of the Detainee Treatment Act, OLC Issues Opinion on CIA Conditions of Confinement, Withdraws Draft Opinion on the CIA’s Enhanced Interrogation Techniques After the U.S. Supreme Court Case of *Hamdan v. Rumsfeld*

(TS// [REDACTED] //NF) On December 19, 2005, anticipating the passage of the Detainee Treatment Act, Acting CIA General Counsel John Rizzo requested that the OLC review whether the CIA’s enhanced interrogation techniques, as well as the conditions of confinement at CIA detention facilities, would violate the Detainee Treatment Act.²⁴⁰¹ In April 2006, attorneys at OLC completed initial drafts of two legal memoranda addressing these questions.²⁴⁰² In June 2006, however, the U.S. Supreme Court case of *Hamdan v. Rumsfeld* prompted the OLC to withdraw its draft memorandum on the impact of the Detainee Treatment Act on the CIA’s enhanced interrogation techniques. As [REDACTED] CTC Legal explained, the OLC would prepare “a written opinion ‘if we want’ ... but strongly implied we shouldn’t seek it.”²⁴⁰³ As described in a July 2009 report of the Department of Justice Office of Professional Responsibility, the Administration determined that, after the *Hamdan* decision, it would need new legislation to support the continued use of the CIA’s enhanced interrogation techniques.²⁴⁰⁴

(TS// [REDACTED] //NF) Even as it withdrew its draft opinion on the CIA’s enhanced interrogation techniques, the OLC continued to analyze whether the CIA’s conditions of confinement violated the Detainee Treatment Act. To support this analysis, the CIA asserted to the OLC that loud music and white noise, constant light, and 24-hour shackling were all for

²³⁹⁹ Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 30, 2005, Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May be Used in the Interrogation of High Value Al Qaeda Detainees.

²⁴⁰⁰ Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 30, 2005, Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May be Used in the Interrogation of High Value Al Qaeda Detainees, pp. 10-11, citing IG Special Review, pp. 85-91.

²⁴⁰¹ The Detainee Treatment Act passed on December 30, 2005. Letter from Senior Deputy General Counsel John Rizzo to Acting Assistant Attorney General Bradbury, December 19, 2005 (DTS #2009-1809).

²⁴⁰² April 19, 2006, Fax from [REDACTED], [REDACTED] Legal Group, CIA Counterterrorism Center to DOJ Command Center for Steve Bradbury (DTS #2009-1809).

²⁴⁰³ Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], John Rizzo; subject: FW: Summary of *Hamdan* Decision; date: June 30, 2006, at 4:44 PM.

²⁴⁰⁴ Department of Justice Office of Professional Responsibility; Report, Investigation into the Office of Legal Counsel’s Memoranda Concerning Issues Relating to the Central Intelligence Agency’s Use of ‘Enhanced Interrogation Techniques’ on Suspected Terrorists, July 29, 2009 (DTS #2010-1058).

security purposes, that shaving was for security and hygiene purposes and was conducted only upon intake and not as a “punitive step,” that detainees were not exposed to an “extended period” of white noise, and that CIA detainees had access to a wide array of amenities.²⁴⁰⁵ This information is incongruent with CIA records. Detainees were routinely shaved, sometimes as an aid to interrogation; detainees who were “participating at an acceptable level” were permitted to grow their hair and beards.²⁴⁰⁶ The CIA had used music at decibels exceeding the representations to the OLC. The CIA had also used specific music to signal to a detainee that another interrogation was about to begin.²⁴⁰⁷ Numerous CIA detainees were subjected to the extended use of white noise.²⁴⁰⁸ The CIA further inaccurately represented that “[m]edical personnel will advise ending sleep deprivation in the event the detainee appears to be experiencing hallucinations, transient or not.”²⁴⁰⁹ In a May 18, 2006, letter, [REDACTED] CTC Legal, [REDACTED], wrote to the Department of Justice that “some of these conditions provide the additional benefit of setting a detention atmosphere conducive to continued intelligence collection from the detainee.” While the letter referred generally to “constant light in the cells, use of white noise, use of shackles, hooding, and shaving/barbering,” it described an intelligence collection purpose only for shaving, which “allows interrogators a clear view of the terrorist-detainee’s facial clues.”²⁴¹⁰

(TS// [REDACTED] //NF) On August 31, 2006, the OLC finalized two legal analyses on the conditions of confinement at CIA detention sites. The first was a memorandum that evaluated whether six detention conditions in the CIA’s detention program were consistent with the Detainee Treatment Act.²⁴¹¹ The second, provided in the form of a letter, concluded that those same six conditions did not violate the requirements of Common Article 3 of the Geneva

²⁴⁰⁵ Letter from Senior Deputy General Counsel John Rizzo to Acting Assistant Attorney General Bradbury, December 19, 2005 (DTS #2009-1809). January 25, 2006, Letter to Steve Bradbury, Acting Assistant Attorney General, Office of Legal Counsel, Department of Justice, from [REDACTED], [REDACTED] CTC Legal, CIA (DTS #1809-2009).

²⁴⁰⁶ See, for example, [REDACTED] 31369 (151028Z DEC 02); [REDACTED] 10361 [REDACTED]; HEADQUARTERS [REDACTED] (151955Z SEP 05); HEADQUARTERS [REDACTED] (212005Z JUN 05); HEADQUARTERS [REDACTED] (202036Z JUN 05).

²⁴⁰⁷ As one example, CIA records indicate that in the CIA interrogation of Ramzi bin al-Shibh, the “the Blues Brothers rendition of ‘Rawhide’ [was] played.” CIA records state that bin al-Shibh’s reaction to hearing the song was evidence of his conditioning, as bin al-Shibh “knows when he hears the music where he is going and what is going to happen.” (See [REDACTED] 10602 (262020Z FEB 03); [REDACTED] 10591 (252002Z FEB 03); [REDACTED] 1889 (091823Z MAR 03); [REDACTED] 1924 (151729Z MAR 04); [REDACTED] 10361 [REDACTED].) “Loud noise” was also used to “prevent concentrating, planning, and derailing of the exploitation/interrogation process with interrogation countermeasures (resistance).” See, for example, detainee reviews detailing the detention and interrogations of Lillie and Hambali in Volume III.

²⁴⁰⁸ See, for example, [REDACTED] 2505 (272059Z JUN 05). The amenities described by the CIA to the OLC were not available to detainees during earlier iterations of the program.

²⁴⁰⁹ April 23, 2006, Fax from [REDACTED], [REDACTED] Legal Group, CIA Counterterrorism Center to DOJ Command Center for Steve Bradbury (DTS #2009-1809).

²⁴¹⁰ May 18, 2006, Letter to Steven G. Bradbury, Acting Assistant Attorney General, Office of Legal Counsel, from [REDACTED], [REDACTED] CTC Legal, CIA, re: Request for Information on Security Measures (DTS # 2009-1809).

²⁴¹¹ Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Acting Assistant Attorney General, Office of Legal Counsel, August 31, 2006, Re: Application of the Detainee Treatment Act to Conditions of Confinement at Central Intelligence Agency Detention Facilities (DTS #2009-1810, Tab 13).

Conventions.²⁴¹² The OLC relied on the CIA's representations related to conditions of confinement for its analysis.²⁴¹³ The OLC wrote that "underlying our analysis of all these methods [conditions of confinement] is our understanding that the CIA provides regular and thorough medical and psychological care to the detainees in its custody."²⁴¹⁴ As detailed in this summary, the lack of emergency medical care for CIA detainees was a significant challenge for the CIA.²⁴¹⁵

(TS// [REDACTED] //NF) The August 31, 2006, OLC memorandum applying the terms of the Detainee Treatment Act to the conditions of confinement at CIA detention facilities stated that "over the history of the program, the CIA has detained a total of 96 individuals." This was based on a representation made by [REDACTED] CTC Legal on April 23, 2006.²⁴¹⁶ As of the date of the OLC memorandum, the CIA had detained at least 118 individuals. The OLC memorandum also stated that "we understand that, once the CIA assesses that a detainee no longer possesses significant intelligence value, the CIA seeks to move the detainee into alternative detention arrangements." CIA records indicate that detainees had remained in CIA custody long after the CIA had determined that they no longer possessed significant intelligence. Finally, the OLC memorandum repeated a number of earlier inaccurate CIA representations on the effectiveness of the program, citing both the CIA's "Effectiveness Memo" and its own May 30, 2005, memorandum. Notably, the August 31, 2006, OLC memorandum repeated the same inaccurate representation, which first appeared in an August 2002 OLC memorandum, that Abu Zubaydah was al-Qa'ida's "third or fourth highest ranking member" and had been involved "in every major terrorist operation carried out by al Qaeda." As described, CIA records as early as 2002 did not support these representations, and two weeks prior to the issuance of the August 2006 memorandum, the CIA had published an intelligence assessment stating that Abu Zubaydah had been rejected by al-Qa'ida and explaining how the CIA had come to "miscast Abu Zubaydah as a 'senior al-Qa'ida lieutenant.'"²⁴¹⁷

²⁴¹² Letter for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Acting Assistant Attorney General, Office of Legal Counsel, August 31, 2006 (DTS #2009-1810, Tab 12).

²⁴¹³ The OLC did not apply the Detainee Treatment Act or Common Article 3 to the use of shaving or other conditions of confinement in terms of their use as an interrogation technique. The OLC stated that while "the primary purpose of the conditions of confinement we consider here is to maintain the security of the CIA's detention facilities... [m]any of these conditions may also ease the obtaining of crucial intelligence information from the detainees." Nonetheless, the OLC concluded that "the security rationale alone is sufficient to justify each of the conditions of confinement in question." See memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Acting Assistant Attorney General, Office of Legal Counsel, August 31, 2006, Re: Application of the detainee Treatment Act to Conditions of Confinement at Central Intelligence Agency Detention Facilities (DTS #2009-1810, Tab 13).

²⁴¹⁴ Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Acting Assistant Attorney General, Office of Legal Counsel, August 31, 2006, Re: Application of the Detainee Treatment Act to Conditions of Confinement at Central Intelligence Agency Detention Facilities (DTS #2009-1810 Tab 13).

²⁴¹⁵ For additional detailed information, see Volume I and Volume III.

²⁴¹⁶ April 23, 2006, Fax to DOJ Command Center for Steve Bradbury, Office of Legal Counsel, from [REDACTED], [REDACTED] Legal Group, CIA Counterterrorism Center.

²⁴¹⁷ CIA Intelligence Assessment, August 16, 2006, "Countering Misconceptions About Training Camps in Afghanistan, 1990-2001." For additional details, see the Abu Zubaydah detainee review in Volume III.

F. July 2007 OLC Memorandum Relies on Inaccurate CIA Representations Regarding CIA Interrogations and the Effectiveness of the CIA's Enhanced Interrogation Techniques; CIA Misrepresents Congressional Views to the Department of Justice

(U) On July 20, 2007, the OLC issued a memorandum applying the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to the CIA's enhanced interrogation techniques. The memorandum noted that, while the *Hamdan* decision "was contrary to the President's prior determination that Common Article 3 does not apply to an armed conflict across national boundaries with an international terrorist organization such as al Qaeda," this challenge to the CIA program was resolved by the Military Commissions Act, which "left responsibility for interpreting the meaning and application of Common Article 3, except for the grave breaches defined in the amended War Crimes Act, to the President."²⁴¹⁸

(TS// [REDACTED] //NF) The OLC memorandum determined that six proposed interrogation techniques were legal: dietary manipulation, extended sleep deprivation, the facial hold, the attention grasp, the abdominal slap, and the insult (or facial) slap. The memorandum accepted the CIA's representation that, over the life of the program, the CIA had detained 98 individuals, of whom 30 had been subjected to the CIA's enhanced interrogation techniques.²⁴¹⁹ At the time of the OLC memorandum the CIA had detained at least 119 individuals, of whom at least 38 had been subjected to the CIA's enhanced interrogation techniques.²⁴²⁰ The inaccurate statistics provided by the CIA to the OLC were used to support OLC's conclusion that the program was "proportionate to the government interest involved," as required by the "shocks the conscience" test. The OLC also noted that "careful screening procedures are in place to ensure that enhanced techniques will be used only in the interrogations of agents or members of al Qaeda or its affiliates who are reasonably believed to possess critical intelligence that can be used to prevent future terrorist attacks against the United States and its interests."²⁴²¹ In practice, numerous individuals had been detained by the CIA and subjected to the CIA's enhanced interrogation

²⁴¹⁸ Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May Be Used by the CIA in the Interrogation of High Value al Qaeda Detainees (DTS #2009-1810, Tab 14).

²⁴¹⁹ Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May be Used by the CIA in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 14).

²⁴²⁰ Although all 119 known CIA detainees had entered CIA custody by July 20, 2007, Muhammad Rahim, the last detainee, had not yet been subjected to the CIA's enhanced interrogation techniques by the time of the OLC memorandum. Muhammad Rahim was rendered to CIA custody on July [REDACTED], 2007. (See [REDACTED] 6439 ([REDACTED]); [REDACTED] 7516 ([REDACTED]).) Interrogators began using the CIA's enhanced interrogation techniques on Rahim on July 21, 2007; the day after the OLC Memorandum was issued. See [REDACTED] 2467 (211341Z JUL 07).

²⁴²¹ Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May be Used by the CIA in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 14).

techniques, despite doubts and questions surrounding their knowledge of terrorist threats and the location of senior al-Qa'ida leadership. Examples include, among others: Asadullah,²⁴²² Mustafa al-Hawsawi,²⁴²³ Abu Hudhaifa,²⁴²⁴ Arsala Khan,²⁴²⁵ ABU TALHA AL-MAGREBI and ABU BAHAR AL-TURKI,²⁴²⁶ Janat Gul,²⁴²⁷ Ahmed Ghailani,²⁴²⁸ Sharif al-Masri,²⁴²⁹ and Sayyid Ibrahim.²⁴³⁰

²⁴²² Interrogators had asked CIA Headquarters for the assessments supporting the decision to subject Asadullah to the CIA's enhanced interrogation techniques, noting that "it would be of enormous help to the interrogator to know what is concrete fact and what is good analysis." (See [REDACTED] 33963 [REDACTED]; see also [REDACTED] 34098 [REDACTED]; [REDACTED] 34812 [REDACTED].) In response, ALEC Station acknowledged that "[t]o be sure, our case that Asadullah should have a good sense of bin Ladin's location is circumstantial." (See ALEC [REDACTED].) The following day, interrogators commented that "it may be that he simply does not know the [locational information on AQ leaders]." See [REDACTED] 34310 [REDACTED].

²⁴²³ Following al-Hawsawi's first interrogation session, Chief of Interrogations [REDACTED] asked CIA Headquarters for information on what al-Hawsawi actually "knows," saying: "he does not appear to the [sic] be a person that is a financial mastermind. However, we lack facts with which to confront [al-Hawsawi]. What we need at this point is substantive information vice supposition." See [REDACTED] 34757 (101742Z MAR 03).

²⁴²⁴ Although CIA records include no requests or approval cables, Abu Hudhaifa was subjected to ice water baths and 66 hours of standing sleep deprivation. He was released because the CIA discovered he was likely not the person he was believed to be. See WASHINGTON DC [REDACTED]; [REDACTED] 51303 [REDACTED].

²⁴²⁵ CIA Headquarters initially resisted approving Arsala Khan's capture because of a lack of information confirming that he was a "continuing threat." (See [REDACTED] 169986 [REDACTED]; email from: [REDACTED]; to: [REDACTED], and [REDACTED]; subject: Denial of Approval to Capture Arsala Khan; date: [REDACTED].) Despite doubts that Arsala Khan was the individual sought by the CIA, interrogators subjected him to the CIA's enhanced interrogation techniques "to make a better assessment regarding [his] willingness to start talking, or assess if our subject is, in fact the man we are looking for." See [REDACTED] 1373 [REDACTED].

²⁴²⁶ The true names of these detainees have been replaced with the capitalized pseudonyms AL-MAGREBI and AL-TURKI. At the time the two detainees were rendered to CIA custody, the CIA was aware that they were then working for a foreign partner government. (See ALEC [REDACTED] [REDACTED]; [REDACTED] 43773 [REDACTED].) They were subjected to sleep deprivation and dietary manipulation until the CIA confirmed that the detainees had been trying to contact the CIA for weeks to inform the CIA of what they believed were pending al-Qa'ida terrorist attacks. (See [REDACTED] 2227 [REDACTED]; [REDACTED] 2233 [REDACTED]; [REDACTED] 2185 [REDACTED]; HEADQUARTERS [REDACTED] [REDACTED]; [REDACTED] 2232 [REDACTED].) After the CIA had determined that AL-MAGREBI and AL-TURKI should not be in CIA custody, the two detainees were held for [REDACTED] additional months before they were released. See [REDACTED] 2025 [REDACTED].

²⁴²⁷ The case of Janat Gul is described above in the context of OLC advice in 2004 and afterwards. As Gul's interrogators noted, "Team does not believe [Gul] is withholding imminent threat information, however team will continue to press [Gul] for that during each session." See [REDACTED] 1574 ([REDACTED] 04).

²⁴²⁸ The CIA's assessment of Ghailani's knowledge of terrorist threats was speculative. As one official noted, "[a]lthough Ghailani's role in operational planning is unclear, his respected role in al-Qa'ida and presence in Shkai as recently as October 2003 may have provided him some knowledge about ongoing attack planning against the United States homeland, and the operatives involved." See email from: [REDACTED], CTC/UBLD [REDACTED] (formerly ALEC [REDACTED]); to: [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: derog information for ODDO on Talha, Ghailani, Hamza Rabi'a and Abu Faraj; date: August 10, 2004.

²⁴²⁹ As noted above, the credibility of the source implicating Sharif al-Masri, Janat Gul, and Ghailani's connections to a pre-election plot was questioned by CIA officials prior to the application of the CIA's enhanced interrogation techniques against them. The source was later determined to have fabricated the information.

²⁴³⁰ Five days after interrogators began using enhanced interrogation techniques against Sayyid Ibrahim, interrogators cabled CIA Headquarters requesting information that would "definitively link [Ibrahim] to nefarious

(TS// [REDACTED] //NF) The July 20, 2007, OLC memorandum also stated that the CIA's enhanced interrogation techniques "are not the first option for CIA interrogators confronted even with a high value detainee."²⁴³¹ As described in this summary, numerous CIA detainees were subjected to the CIA's enhanced or "standard" interrogation techniques on their first day of CIA custody,²⁴³² while other detainees provided significant information prior to the use of the CIA's enhanced interrogation techniques. The OLC memorandum also accepted the CIA representation that "[t]he CIA generally does not ask questions during the administration of the techniques to which the CIA does not already know the answers," that the CIA "asks for already known information" during the administration of the CIA's enhanced interrogation techniques, and that when CIA personnel believe a detainee will cooperate, "the CIA would discontinue use of the techniques and debrief the detainee regarding matters on which the CIA is not definitely informed." As the memorandum concluded, "[t]his approach highlights the intended psychological effects of the techniques and reduces the ability of the detainee to provide false information solely as a means to discontinue their application."²⁴³³ This description of the program was inaccurate. As described in this summary, and in more detail in the full Committee Study, CIA interrogators always questioned detainees during the application of the CIA's enhanced interrogation techniques seeking new information to which the CIA did not have answers, and numerous detainees fabricated information while being subjected to the interrogation techniques.

(TS// [REDACTED] //NF) The July 20, 2007, OLC memorandum repeated CIA representations that "many, if not all, of those 30 detainees" who had been subjected to CIA's enhanced interrogation techniques received counterinterrogation training, and that "al Qaeda operatives believe that they are morally permitted to reveal information once they have reached a certain limit of discomfort."²⁴³⁴ Neither of these representations is supported by CIA records.

activity or knowledge by [Ibrahim] of known nefarious activities of al-Qa'ida members, if this is possible." (*See* [REDACTED] 1324 [REDACTED] FEB 04.) Without receiving a response, they continued to subject Ibrahim to the CIA's enhanced interrogation techniques. CIA Headquarters, which rejected an assessment from two debriefers that Ibrahim was, "at best... a low-level facilitator," would later indicate that it was "uncertain" he would meet the requirements for U.S. military or [REDACTED] detention. *See* HEADQUARTERS [REDACTED]; HEADQUARTERS [REDACTED].

²⁴³¹ The OLC further stated that "enhanced techniques would be used only as less harsh techniques fail or as interrogators run out of time in the face of an imminent threat, so that it would be unlikely that a detainee would be subjected to more duress than is reasonably necessary to elicit the information sought." *See* Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May be Used by the CIA in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 14).

²⁴³² *See* Volume III for additional details.

²⁴³³ Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May be Used by the CIA in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 14).

²⁴³⁴ Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain

(TS// [REDACTED] //NF) The memorandum also repeated CIA representations that interrogators were “highly trained in carrying out the techniques,” and “psychologically screened to minimize the risk that an interrogator might misuse any technique.” These presumptions were central to the OLC’s determination that the limitations on interrogations contained in the Army Field Manual were not “dispositive evidence” that the CIA’s interrogation program fell outside “traditional executive behavior and contemporary practice,” an analysis required as part of the substantive due process inquiry. Specifically, the OLC distinguished U.S. military interrogations from the CIA program by stating that the CIA program “will be administered only by trained and experienced interrogators who in turn will apply the techniques only to a subset of high value detainees.”²⁴³⁵ As described in this summary, and in greater detail in the full Committee Study, the CIA’s representations to the OLC were incongruent with the history of the CIA’s Detention and Interrogation Program with regard to the training, screening, and experience of interrogators, and the detainees against whom the CIA used its enhanced interrogation techniques.

(TS// [REDACTED] //NF) The July 2007 OLC memorandum based its legal analysis related to the six interrogation techniques under consideration on CIA representations that were incongruent with the operational history of the program. In reviewing whether standing sleep deprivation was consistent with the War Crimes Act, the OLC noted that its understanding that the technique would be discontinued “should any hallucinations or significant declines in cognitive functioning be observed” was “crucial to our analysis.” The memorandum repeated CIA representations that diapers employed during standing sleep deprivation “are used solely for sanitary and health reasons and not to humiliate the detainee,” and that, more generally, “[t]he techniques are not intended to humiliate or to degrade.”²⁴³⁶ The OLC’s understanding, which, as described, was not consistent with the operational history of the CIA program, was part of its analysis related to the prohibition on “outrages upon personal dignity” under Common Article 3.

(TS// [REDACTED] //NF) As in the May 30, 2005 OLC memorandum, the July 20, 2007, OLC memorandum conducted an analysis of the “shocks the conscience” test under the Fifth Amendment of the U.S. Constitution, emphasizing the fact-specific nature of the analysis. Citing both the CIA’s March 2005 “Effectiveness Memo” and the president’s September 6, 2006, speech describing the interrogation program, the July 2007 OLC memorandum repeated the CIA assertion that the CIA’s enhanced interrogation techniques produced “otherwise unavailable intelligence.” It also repeated CIA representations related to KSM’s reporting on the “Second Wave” plotting and Abu Zubaydah’s reporting on Jose Padilla, both of which were

Techniques that May be Used by the CIA in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 14).

²⁴³⁵ Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May be Used by the CIA in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 14).

²⁴³⁶ Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May be Used by the CIA in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 14).

inaccurate.²⁴³⁷ The OLC memorandum also stated that the use of the CIA's enhanced interrogation techniques had "revealed plots to blow up the Brooklyn Bridge and to release mass biological agents in our Nation's largest cities."²⁴³⁸

(~~TS~~/ [REDACTED] /~~NF~~) Finally, the July 20, 2007, OLC memorandum asserted—based on CIA representations—that members of Congress supported the CIA interrogation program, and that, by subsequently voting for the Military Commissions Act, those members effectively endorsed an interpretation of the Act that would be consistent with the continued use of the CIA's enhanced interrogation techniques. This interpretation of congressional intent also supported the OLC's constitutional analysis, which stated that there could be "little doubt" that the Act "reflected an endorsement" from Congress that the CIA program "was consistent with contemporary practice, and therefore did not shock the conscience."²⁴³⁹ Specifically, the OLC memorandum noted that according to CIA representations, prior to the passage of the Military Commissions Act, "several Members of Congress, including the full memberships of the House and Senate Intelligence Committees and Senator McCain, were briefed by General Michael Hayden, director of the CIA, on the six techniques," and that "in those classified and private conversations, none of the Members expressed the view that the CIA interrogation program should be stopped, or that the techniques at issue were inappropriate."²⁴⁴⁰ This representation was inaccurate. For example, according to CIA records, during a briefing on September 11, 2006, Senator John McCain informed the CIA that he believed the CIA's enhanced interrogation techniques, including sleep deprivation and the waterboard, were "torture."²⁴⁴¹ On September

²⁴³⁷ Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May be Used by the CIA in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 14).

²⁴³⁸ This is a reference to the CIA's representation that KSM, "as a result of EITs," provided critical and unique reporting on Iyman Faris and Majid Khan. As described briefly in this summary, and in greater detail in the full Committee Study, Iyman Faris was already under investigation, and Majid Khan was already in custody, before KSM mentioned them. Khan himself revealed a discussion about poisoning reservoirs prior to his rendition to CIA custody. (See ALEC [REDACTED] (210015Z MAR 03).) When Faris, who was likewise not in CIA custody, discussed a plot against the Brooklyn Bridge, the former chief of CTC's Bin Ladin Unit described it as "half-baked," and "more of a nuisance [sic] than a threat." See WHDC [REDACTED] (242226Z MAR 03) and email from: [REDACTED]; to: [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; subject: attacks in conus; date: March 25, 2003, at 6:19:18 AM).

²⁴³⁹ Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May be Used by the CIA in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 14).

²⁴⁴⁰ Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May be Used by the CIA in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 14).

²⁴⁴¹ Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Briefing for Senator John S. McCain (R-AZ); date: September 11, 2006, at 5:51 PM ("[Senator McCain] asked if I thought 'sleep deprivation' was torture. I responded that I did not and he then added that he had talked with a Marine Colonel friend of his and the Colonel had indicated

27, 2006, Senator Dianne Feinstein, a member of the Senate Select Committee on Intelligence, wrote a letter to CIA Director Hayden stating that she was “unable to understand why the CIA needs to maintain this program.”²⁴⁴² On September 6, 2006, when the CIA provided its first and only briefing to the full Committee on the CIA program prior to the vote on the Military Commissions Act, Committee staff access was limited to the two Committee staff directors.²⁴⁴³ In May 2007, shortly after the CIA allowed additional Committee staff to be briefed on the program, other members of the Committee prepared and provided letters to Director Hayden. On May 1, 2007, Senator Russ Feingold wrote that “I cannot support the program on moral, legal or national security grounds.”²⁴⁴⁴ On May 11, 2007, Senators Chuck Hagel, Dianne Feinstein, and Ron Wyden wrote a letter expressing their long-standing concerns with the program and their “deep discomfort with the use of EITs.”²⁴⁴⁵

it was and he believed his friend.”). In another exchange, the officer who briefed Senator McCain was asked about the Senator’s position. CIA officer [REDACTED]: “so, is the senator on board?...” CIA officer [REDACTED]: “not totally.” [REDACTED]: “if he’s moved in our direction at all, you are a miracle worker... was it painful?” [REDACTED]: “Very much so.” [REDACTED]: “is the issue the EITs still?” [REDACTED]: “Yep.” (See Sametime communication between [REDACTED] and [REDACTED], 11/Sep/06, 15:47:27 to 18:43:29.) The OLC specifically cited statements from Senator McCain that the Military Commissions Act “will allow the CIA to continue interrogating prisoners within the boundaries established in the bill.” Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May be Used by the CIA in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 14). The OLC did not mention that McCain had specifically objected to the use of sleep deprivation.

²⁴⁴² Letter from Senator Dianne Feinstein to Director Hayden, September 27, 2006 (DTS #2006-3717).

²⁴⁴³ Transcript of hearing of the Senate Select Committee on Intelligence, September 6, 2006 (DTS #2007-1336).

²⁴⁴⁴ Letter from Senator Russ Feingold to Director Hayden, May 1, 2007 (DTS #2007-1858).

²⁴⁴⁵ Letter from Senators Chuck Hagel, Dianne Feinstein and Ron Wyden, May 11, 2007 (DTS #2007-2102).

VI. Review of CIA Representations to the Congress

A. After Memorandum of Notification, the CIA Disavows Torture and Assures the Committee Will Be Notified of Every Individual Detained by the CIA

(~~TS~~ [REDACTED] ~~//NF~~) Following the September 11, 2001, terrorist attacks and the signing of the September 17, 2001, Memorandum of Notification (MON), the Senate Select Committee on Intelligence (“the Committee”) held a series of hearings and briefings on CIA covert actions, including the new authority to detain terrorists. At a November 13, 2001, briefing for Committee staff, [REDACTED] CTC Legal, [REDACTED], described the CIA’s new detention authorities as “terrifying” and expressed the CIA’s intent to “find a cadre of people who know how to run prisons, because we don’t.”²⁴⁴⁶ Deputy Director of Operations (DDO) James Pavitt assured the Committee that it would be informed of each individual who entered CIA custody. Pavitt disavowed the use of torture against detainees while stating that the boundaries on the use of interrogation techniques were uncertain—specifically in the case of having to identify the location of a hidden nuclear weapon.²⁴⁴⁷

(~~TS~~ [REDACTED] ~~//NF~~) In meetings with the CIA in February 2002, the month before the capture and detention of Abu Zubaydah, Committee staff expressed concern about the lack of any legal review of the CIA’s new detention authorities. [REDACTED] noted that the discussion with Committee staff was “the only peer review” the CIA lawyers had engaged in with regard to the MON authorities, and that the discussion helped refine the CIA’s understanding of what MON-authorized activity was in fact legally permissible and appropriate.²⁴⁴⁸

B. The CIA Notifies Committee of the Detention of Abu Zubaydah, but Makes No Reference to Coercive Interrogation Techniques; the CIA Briefs Chairman and Vice Chairman After the Use of the CIA’s Enhanced Interrogation Techniques; the CIA Discusses Strategy to Avoid the Chairman’s Request for More Information

(~~TS~~ [REDACTED] ~~//NF~~) On April 18, 2002, the CIA informed the Committee that it “has no current plans to develop a detention facility.”²⁴⁴⁹ At the time of this representation, the CIA had already established a CIA detention site in Country [REDACTED] and detained Abu Zubaydah there. On April 24, 2002, the CIA notified the Committee about the capture of Abu Zubaydah with the understanding that the location of Abu Zubaydah’s detention was among the “red lines” not to be divulged to the Committee.²⁴⁵⁰ The notification and subsequent information provided to the

²⁴⁴⁶ Transcript of Senate Select Committee on Intelligence staff briefing, November 13, 2001 (DTS #2002-0629).

²⁴⁴⁷ “We’re not going to engage in torture. But, that said, how do I deal with somebody I know may know right now that there is a nuclear weapon somewhere in the United States that is going to be detonated tomorrow, and I’ve got the guy who I know built it and hid it? I don’t know the answer to that.” (See transcript of Senate Select Committee on Intelligence MON briefing, November 7, 2001 (DTS #2002-0611); see also transcript of Senate Select Committee on Intelligence staff briefing, December 11, 2001 (DTS #2002-0615).

²⁴⁴⁸ Email from: [REDACTED], SSCI Staff; to: [REDACTED] Cleared SSCI staff; subject: Meeting yesterday with CIA lawyers on [REDACTED]; date: February 26, 2002 (DTS #2002-0925).

²⁴⁴⁹ CIA responses to Questions for the Record (hearing, March 6, 2002), April 18, 2002 (DTS #2002-1800).

²⁴⁵⁰ Email from: [REDACTED]; to: [REDACTED]; subject: Issues for SSCI and HPSCI biweekly update on CT; date: April 9, 2002; Transcript of “Update on War on Terrorism,” April 24, 2002 (DTS #2002-1993). Committee notifications of the capture of ‘Abd al-Rahim al-Nashiri likewise omitted reference to his location and the use of the

Committee included representations that Abu Zubaydah was a “member of Bin Ladin’s inner circle” and a “key al-Qa’ida lieutenant.”²⁴⁵¹ These representations were inaccurate. Briefings to the Committee in the spring of 2002 emphasized the expertise of FBI and CIA interrogators engaged in the Abu Zubaydah interrogations and provided no indication that coercive techniques were being used or considered, or that there was significant disagreement between the CIA and the FBI on proposed interrogation approaches.²⁴⁵² In early August 2002, after the Department of Justice determined that the use of the CIA’s enhanced interrogation techniques on Abu Zubaydah would be legal, the CIA considered briefing the Committee on the CIA’s interrogation techniques, but did not.²⁴⁵³

(TS// [REDACTED] //NF) In early September 2002, the CIA briefed the House Permanent Select Committee on Intelligence (HPSCI) leadership about the CIA’s enhanced interrogation techniques. Two days after, the CIA’s [REDACTED] CTC Legal, [REDACTED], excised from a draft memorandum memorializing the briefing indications that the HPSCI leadership questioned the legality of the program by deleting the sentence: “HPSCI attendees also questioned the legality of these techniques if other countries would use them.”²⁴⁵⁴ After [REDACTED] blind-copied Jose Rodriguez on the email in which he transmitted the changes to the memorandum, Rodriguez responded to [REDACTED]’s email with: “short and sweet.”²⁴⁵⁵ The first briefing for Senate Select Committee on Intelligence Chairman Bob Graham and Vice Chairman Richard Shelby—and their staff directors—occurred on September 27, 2002, nearly two months after the CIA first began subjecting Abu Zubaydah to the CIA’s enhanced interrogation techniques. The only record of the briefing is a one-paragraph CIA memorandum stating that the briefing occurred.²⁴⁵⁶ The Committee does not have its own records of this briefing.

(TS// [REDACTED] //NF) Shortly thereafter, in late 2002, Chairman Graham sought to expand Committee oversight of the CIA’s Detention and Interrogation Program, including by having Committee staff visit CIA interrogation sites and interview CIA interrogators.²⁴⁵⁷ The CIA rejected this request. An internal CIA email from [REDACTED] CTC Legal [REDACTED]

CIA’s enhanced interrogation techniques. (See Congressional Notification, November 20, 2002 (DTS #2002-4910).) On November [REDACTED], 2002, the CIA notified the Committee of the death of Gul Rahman at a “detention facility in [Country [REDACTED]] operated by the [Country [REDACTED]] government] and funded by CIA.” This description, as well as subsequent representations to the Committee, understated the role of the CIA in managing DETENTION SITE COBALT. See Congressional Notification, November [REDACTED], 2002 (DTS #2002-5015); Responses to [REDACTED] Counterterrorism Questions for the Record, Question 3 (DTS #2002-5059).

²⁴⁵¹ Congressional Notification, April 15, 2002 (DTS #2002-1710); CIA responses to Questions for the Record (hearing, March 6, 2002), April 18, 2002 (DTS #2002-1800).

²⁴⁵² Transcript of “Update on War on Terrorism,” April 24, 2002 (DTS #2002-1993).

²⁴⁵³ Email from: John Moseman; to: Stanley Moskowitz, et al.; subject: Abu Zubaydah Interrogation; date: August 3, 2002, at 11:34:13 AM.

²⁴⁵⁴ Email from: [REDACTED]; to: [REDACTED]; bcc: Jose Rodriguez; subject: Re: immediate coord; date: September 6, 2002. See also ALEC [REDACTED] (101607Z SEP 02).

²⁴⁵⁵ Email from: Jose Rodriguez; to: [REDACTED]; subject: Re: immediate coord; date: September 6, 2002, at 2:52 PM.

²⁴⁵⁶ DIRECTOR [REDACTED] (252018Z OCT02)

²⁴⁵⁷ Email from: Stanley Moskowitz; to: John Moseman, Scott Muller, James Pavitt; subject: Graham request for oversight into interrogation; date: December 4, 2002, at 05:58:06 PM; Stanley Moskowitz, Memorandum for the Record, February 4, 2003, “Subject: Sensitive Notification.” See also email from: Scott W. Muller; to: John A. Rizzo; cc: [REDACTED]; date: December 19, 2002.

indicated that the full Committee would not be told about “the nature and scope of the interrogation process,” and that even the chairman and vice chairman would not be told in which country or “region” the CIA had established its detention facilities.²⁴⁵⁸ Other emails describe efforts by the CIA to identify a “strategy” for limiting the CIA’s responses to Chairman Graham’s requests for more information on the CIA’s Detention and Interrogation Program, specifically seeking a way to “get off the hook on the cheap.”²⁴⁵⁹ The CIA eventually chose to delay its next update for the Committee leadership on the CIA’s program until after Graham had left the Committee.²⁴⁶⁰ At the same time, the CIA rejected a request for the Committee staff to be “read-in” and provided with a briefing on the CIA program.²⁴⁶¹

C. No Detailed Records Exist of CIA Briefings of Committee Leadership; the CIA Declines to Answer Questions from Committee Members or Provide Requested Materials

(TS// [REDACTED] //NF) On February 4, 2003, the CIA briefed the new chairman, Senator Pat Roberts, and the two staff directors. Vice Chairman John D. Rockefeller IV was not present. The only record of the briefing, a two-page CIA memorandum, states that CIA officers:

“described in great detail the importance of the information provided by [Abu Zubayda[h] and [‘Abd al-Rahim al-] Nashiri, both of whom had information of on-going terrorist operations, information that might well have saved American lives, the difficulty of getting that information from them, and the importance of the enhanced techniques in getting that information.”²⁴⁶²

As described in this summary, and in greater detail in the full Committee Study, Abu Zubaydah and al-Nashiri did not provide actionable intelligence on ongoing plotting, and provided significant reporting prior to the use of the CIA’s enhanced interrogation techniques. The CIA declined to provide information pursuant to a request from Chairman Roberts on the location of the CIA’s detention site. Finally, the CIA memorandum states that Chairman Roberts “gave his assent” to the destruction of interrogation videotapes; however, this account in the CIA

²⁴⁵⁸ Email from: [REDACTED]; to: [REDACTED] and [REDACTED]; subject: Sensitive Matters for the SSCI Quarterly CA Briefing; date: November 19, 2002. This email included the text of the CIA cables documenting the September 4, 2002, briefing to HPSCI leadership. See ALEC [REDACTED] (101607Z SEP 02), and the September 27, 2002, briefing to SSCI leadership, DIRECTOR [REDACTED] (252018Z OCT02).

²⁴⁵⁹ Email from: Stanley Moskowitz; to: John Moseman, Scott Mueller, James Pavitt; subject: Graham request for oversight into interrogation; date: December 4, 2002, at 05:58:06 PM; email from: Stanley Moskowitz; to: John H. Moseman; cc: Scott Muller and James Pavitt; subject: [attached document] Re: Graham request on interrogations; date: December 9, 2002, at 05:46:11 PM.

²⁴⁶⁰ Memorandum of December 26, 2002; FOR: Director of Central Intelligence; FROM: Scott W. Muller, General Counsel; SUBJECT: Disposition of Videotapes.

²⁴⁶¹ Memorandum to: Stanley Moskowitz; from: Steven A. Cash; subject: Briefing: Interrogation and Debriefing of individuals in custody related to counterterrorism operations, January 2, 2003 (DTS #2003-0266); Lotus Notes dated January 2 – January 3, between OCA, ODDO, CTC personnel; email correspondences between [REDACTED], [REDACTED]; subject: “SSCI’s Request for Staff Briefing on Terrorism Interrogation/Debriefing Techniques.”

²⁴⁶² Moskowitz Memorandum for the Record, February 4, 2003, “Subject: Sensitive Notification.”

memorandum was later disputed by Chairman Roberts.²⁴⁶³ The Committee has no independent record of this briefing.

(TS// [REDACTED] //NF) Throughout 2003, the CIA refused to answer questions from Committee members and staff about the CIA interrogations of KSM and other CIA detainees.²⁴⁶⁴ The CIA produced talking points for a September 4, 2003, briefing on the CIA interrogation program exclusively for Committee leadership; however, there are no contemporaneous records of the briefing taking place. The CIA talking points include information about the use of the CIA's enhanced interrogation techniques, their effectiveness, and various abuses that occurred in the program.²⁴⁶⁵ Many of the CIA representations in the talking points were inaccurate.²⁴⁶⁶ The CIA continued to withhold from the Committee, including its leadership, any information on the location of the CIA's detention facilities. On more than one occasion the CIA directed CIA personnel at Guantanamo Bay, Cuba, not to brief a visiting Committee member about the CIA detention facility there, including during a July 2005 visit by Chairman Roberts.²⁴⁶⁷

(TS// [REDACTED] //NF) In 2004, the Committee conducted two hearings on the CIA's role in interrogating U.S. military detainees at Abu Ghraib prison in Iraq. CIA witnesses stressed that the CIA was more limited in its interrogation authorities than the Department of Defense, but declined to respond to Committee questions about the interrogation of KSM or press reports on CIA detention facilities.²⁴⁶⁸ During the first briefing, on May 12, 2004, Committee members requested Department of Justice memoranda addressing the legality of CIA interrogations.

²⁴⁶³ Moskowitz Memorandum for the Record, February 4, 2003, "Subject: Sensitive Notification." For information on Senator Roberts's objections, see "Destroying C.I.A. Tapes Wasn't Opposed, Memos Say," by Scott Shane, *The New York Times*, dated February 22, 2010.

²⁴⁶⁴ Transcript of CIA briefing for the Senate Select Committee on Intelligence, March 5, 2003 (DTS #2003-1156); Transcript of "Intelligence Update," April 30, 2003 (DTS #2003-2174); Transcript of Senate Select Committee on Intelligence briefing, September 3, 2003 (DTS #2004-0288); email from: [REDACTED]; to: [REDACTED]; subject: Re: EYES ONLY Re: Question Regarding Interrogations from SSCI Member Briefing on KSM Capture; date: March 17, 2003.

²⁴⁶⁵ CIA Interrogation Program: DDO Talking Points, 04 September 2003.

²⁴⁶⁶ For example, the talking points included inaccurate data on the waterboarding of Abu Zubaydah and KSM; stated that two unauthorized techniques were used with a detainee, whereas 'Abd al-Rahim al-Nashiri was subjected to numerous unauthorized techniques; and inaccurately stated that the offending officers were removed from the site. The talking points also stated that the use of the CIA's enhanced interrogation techniques "has produced significant results," and that the "[i]nformation acquired has saved countless lives...." See CIA Interrogation Program: DDO Talking Points, 04 September 2003.

²⁴⁶⁷ Because the Committee was not informed of the CIA detention site at Guantanamo Bay, Cuba, no member of the Committee was aware that the U.S. Supreme Court decision to grant certiorari in the case of *Rasul v. Bush*, which related to the *habeas corpus* rights of detainees at Guantanamo Bay, resulted in the transfer of CIA detainees from the CIA detention facility at Guantanamo Bay to other CIA detention facilities. See HEADQUARTERS [REDACTED] [REDACTED], subject "RESTRICTED ACCESS TO [DETENTION SITE COBALT] AND [DETENTION SITE ORANGE]"; email from: [REDACTED]; to: [REDACTED]; cc: Jose Rodriguez, [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: guidance to [REDACTED] gitmo; date: May 14, 2004; forwarding final cable: HEADQUARTERS [REDACTED] (141502Z MAY 04), subject "Possible Brief to US Senator"; email from: Stanley Moskowitz; to: [REDACTED]; cc: [REDACTED]; subject: Re: guidance to [REDACTED] gitmo; date: May 14, 2004; CIA responses to Questions for the Record, March 13, 2008 (DTS #2008-1310); "CODEL Roberts to Miami/Guantanamo, 7-8 July 2005," dated 5 July, [REDACTED] 902860.

²⁴⁶⁸ Transcript of hearing, May 12, 2004 (DTS #2004-2332); Transcript of hearing, September 13, 2004 (DTS #2005-0750).

Despite repeated subsequent requests, limited access to the memoranda was not granted until four years later, in June 2008, by which time the CIA was no longer detaining individuals.²⁴⁶⁹

(~~TS~~ [REDACTED] //NF) While the CIA continued to brief the Committee leadership on aspects of the CIA's Detention and Interrogation Program, there are no transcripts of these briefings. One briefing, on July 15, 2004, discussed the detention of Janat Gul.²⁴⁷⁰ An email from [REDACTED] CTC Legal stated that the "only reason" the chairman and vice chairman were informed of the detention of Janat Gul was that the notification could serve as "the vehicle for briefing the committees on our need for renewed legal and policy support" for the CIA's Detention and Interrogation Program.²⁴⁷¹ At the July 2004 briefing, the minority staff director requested full Committee briefings and expanded Committee oversight, including visits to CIA detention sites and interviews with interrogators—efforts that had been sought by former Chairman Graham years earlier. This request was denied.²⁴⁷²

D. Vice Chairman Rockefeller Seeks Committee Investigation

(~~TS~~ [REDACTED] //NF) On February 3, 2005, Vice Chairman Rockefeller began a formal effort to conduct a comprehensive Committee investigation of the CIA's detention, interrogation and rendition activities, including a review of the legality and effectiveness of CIA interrogations.²⁴⁷³ On March 3, 2005, a CIA official wrote that Vice Chairman Rockefeller was "convinced that we're hiding stuff from him" and that the CIA had planned a detailed briefing to "shut Rockefeller up."²⁴⁷⁴ The only Committee records of this briefing, which took place on March 7, 2005, are handwritten notes written by Vice Chairman Rockefeller and the minority staff director.²⁴⁷⁵ Shortly after this briefing, the vice chairman reiterated his call for a broad Committee investigation of the CIA's Detention and Interrogation Program, which he and the ranking member of the HPSCI, Jane Harman, described in a letter to Vice President Cheney.²⁴⁷⁶ There is no Committee record of a response to the letter.

²⁴⁶⁹ Transcript of Senate Select Committee on Intelligence hearing, May 12, 2004 (DTS #2004-2332). Muhammad Rahim, the CIA's last detainee, was transferred to U.S. military custody on March 13, 2008. See [REDACTED] 3445 [REDACTED]; [REDACTED] 9754 [REDACTED]; [REDACTED] 8405 [REDACTED]; [REDACTED] 8408 [REDACTED].

²⁴⁷⁰ Handwritten notes of SSCI Minority Staff Director Andrew Johnson (DTS #2009-2077); CIA notes (DTS #2009-2024, pp. 92-95); CIA notes (DTS #2009-2024, pp. 110-121).

²⁴⁷¹ Email from: [REDACTED]; to: [REDACTED]; subject: Re: Priority: congressional notification on Janat Gul; date: July 29, 2004.

²⁴⁷² Handwritten notes of SSCI Minority Staff Director Andrew Johnson (DTS #2009-2077); CIA notes (DTS #2009-2024, pp. 92-95); CIA notes (DTS #2009-2024, pp. 110-121).

²⁴⁷³ February 3, 2005, letter from Senator Rockefeller to Senator Roberts on "the Committee's upcoming agenda," (letter incorrectly dated February 3, 2004).

²⁴⁷⁴ Sametime message discussion between [REDACTED] and [REDACTED], March 3, 2005.

²⁴⁷⁵ The notes indicate that CIA briefers provided inaccurate information. For example, the notes indicate that "[w]e screen carefully all people who might have contact with detainees" (emphasis in the Vice Chairman's notes) and that "positive incentives" are used prior to "coercive measures." In a reference to the waterboard, the notes state, the detainee "thinks he's drowning, even though they are breathing." See handwritten notes of then-Committee Minority Staff Director Andrew Johnson (DTS #2009-2077, Image 1) and handwritten notes of Senator Rockefeller.

²⁴⁷⁶ Letter to Senator Roberts from minority SSCI members, March 10, 2005 (DTS #2005-1126); Letter to Vice President Cheney from Vice Chairman Rockefeller and Representative Harman, March 11, 2005; Letter from Senator Rockefeller, March 11, 2005.

(TS// [REDACTED] //NF) On April 13, 2005, the day before an anticipated Committee vote on the vice chairman's proposed investigation of the CIA program, the chief of ALEC Station, [REDACTED], and the deputy chief of CTC, Philip Mudd, discussed a press strategy to shape public and congressional views of the program. As previously detailed, Mudd wrote:

"we either get out and sell, or we get hammered, which has implications beyond the media. congress reads it, cuts our authorities, messes up our budget. we need to make sure the impression of what we do is positive."²⁴⁷⁷

(TS// [REDACTED] //NF) The next day, CIA Inspector General John Helgerson briefed several members of the Committee on limited aspects of the CIA's Detention and Interrogation Program. According to Helgerson, Chairman Roberts' "motive was to have a presentation that made clear that CIA IG is looking at all appropriate detention and interrogation issues, as (he told me privately beforehand) the Committee will be voting today on whether to launch their own inquiry." Helgerson added that "Roberts said 'I know how that vote is going to come out, but I want the minority to go away knowing this is in good hands.'"²⁴⁷⁸ The proposed investigation was not approved by the Committee. The Committee nonetheless subsequently approved legislation requiring CIA reports on renditions and plans for the disposition of high-value CIA detainees, as well as requesting expanded Committee staff access to the program beyond the Committee staff directors.²⁴⁷⁹ In addition, Vice Chairman Rockefeller requested full Committee access to over 100 documents related to the May 2004 Inspector General Special Review.²⁴⁸⁰ On January 5, 2006, after multiple rounds of negotiations with the CIA for the documents, the chief of staff to Director of National Intelligence John Negroponte wrote a letter rejecting the request. The letter had been prepared by the former [REDACTED] CTC Legal, [REDACTED], who was by then serving as a CIA detailee in the Office of the Director of National Intelligence.²⁴⁸¹

²⁴⁷⁷ Sametime communication, between John P. Mudd and [REDACTED], April 13, 2005, from 19:23:50 to 19:56:05.

²⁴⁷⁸ See email from: CIA Inspector General John Helgerson; to: [REDACTED]; subject: this afternoon's briefing; date: April 13, 2005. There is no Committee transcript of the briefing. CIA records state that the briefing covered "updates on the half dozen key abuse cases," ghost detainees, and renditions. The notes do not reference the CIA's enhanced interrogation techniques. In response to a question from Vice Chairman Rockefeller, Helgerson explained that the CIA was "preparing a comprehensive briefing" on detention and interrogation activities for the Committee.

²⁴⁷⁹ Compartmented Classified Annex to Report No. S. 109-142, Intelligence Authorization Act for Fiscal Year 2006, as Reported by the Select Committee on Intelligence (DTS #2005-4028).

²⁴⁸⁰ See Letter from John A. Rizzo to John Rockefeller, August 16, 2005 (DTS #2005-3522). The DNI, pursuant to the advice of former [REDACTED] CTC Legal, [REDACTED], supported the CIA's proposed limitations on Committee access to the documents (email from: [REDACTED]; to: Michael Leiter; cc: David Shedd, [REDACTED] and others; subject: Review of Documents Requested by Senator Rockefeller; date: December 16, 2005; Letter from David Shedd to Andy Johnson, January 5, 2006 (DTS #2006-0373)).

²⁴⁸¹ Letter from David Shedd to Andy Johnson, January 5, 2006 (DTS #2006-0373); email from: [REDACTED]; to: Michael Leiter; cc: David Shedd, [REDACTED] and others; subject: Review of Documents Requested by Senator Rockefeller; date: December 16, 2005.

E. In Response to Detainee Treatment Act, the CIA Briefs Senators Not on the Committee; Proposal from Senator Levin for an Independent Commission Prompts Renewed Calls Within the CIA to Destroy Interrogation Videotapes

(TS// [REDACTED] //NF) In October and November 2005, after the Senate passed its version of the Detainee Treatment Act, the CIA, directed by the Office of the Vice President, briefed specific Republican senators, who were not on the Select Committee on Intelligence, on the CIA's Detention and Interrogation Program. (The full membership of the Committee had not yet been briefed on the CIA interrogation program.)²⁴⁸² The briefings, which were intended to influence conference negotiations,²⁴⁸³ were provided to Senator McCain,²⁴⁸⁴ Senators Ted Stevens and Thad Cochran, the chairmen of the Appropriations Committee and Defense Appropriations Subcommittee;²⁴⁸⁵ Majority Leader Bill Frist,²⁴⁸⁶ and Senator John Cornyn (CIA records state that Cornyn was not briefed on the CIA's specific interrogation techniques).²⁴⁸⁷ Meanwhile, a proposal from Senator Carl Levin to establish an independent commission to investigate U.S. detention policies and allegations of detainee abuse resulted in concern at the CIA that such a commission would lead to the discovery of videotapes documenting CIA interrogations. That concern prompted renewed interest at the CIA to destroy the videotapes.²⁴⁸⁸

²⁴⁸² According to an email from John Rizzo, the subject of one such meeting was "how the current version of McCain potentially undercuts our legal position." (See email from: John A. Rizzo; to: [REDACTED], [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: IMMEDIATE HEADS UP: VP Meeting with Appropriations Committee Leadership Tomorrow re McCain Amendment; date: October 17, 2005, at 10:49:39 AM; email from: John Rizzo; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Re: IMMEDIATE: Re: Sen. Frist req for briefing on impact of McCain Amendment; date: October 31, 2005, at 10:53:16 AM.

²⁴⁸³ Email from: John A. Rizzo; to: [REDACTED], [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: IMMEDIATE HEADS UP: VP Meeting with Appropriations Committee Leadership Tomorrow re McCain Amendment; date: October 17, 2005, at 10:49:39 AM.

²⁴⁸⁴ Email from: John Rizzo; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Re: IMMEDIATE: Re: Sen. Frist req for briefing on impact of McCain Amendment; date: October 31, 2005, at 10:53:16 AM; [REDACTED] Talking Points for OVP Sponsored Meeting with Sen McCain; Impact of McCain Amendment on Legal Basis for CTC's HVD Detention and Interrogation Program, 20 October 2005.

²⁴⁸⁵ Email from: John Rizzo; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Re: IMMEDIATE: Re: Sen. Frist req for briefing on impact of McCain Amendment; date: October 31, 2005, at 10:53:16 AM.

²⁴⁸⁶ Email from: John Rizzo; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Re: IMMEDIATE: Re: Sen. Frist req for briefing on impact of McCain Amendment; date: October 31, 2005, at 10:53:16 AM; email from: John A. Rizzo; to: David R. Shedd; cc: [REDACTED]; subject: Re: BRIEF READOUT: 31 OCT FRIST BRIEFING; date: November 1, 2005, at 2:53:40 PM.

²⁴⁸⁷ Email from: John A. Rizzo; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Re: Senator Cornyn; date: November 30, 2005, at 12:50:11 PM.

²⁴⁸⁸ On October 31, 2005, John Rizzo wrote an email stating that "Sen. Levin's legislative proposal for a 9/11-type outside Commission to be established on detainees seems to be gaining some traction, which obviously would serve

Senator Levin's amendment to establish the commission failed on November 8, 2005.²⁴⁸⁹ The CIA destroyed the CIA interrogation videotapes the following day.²⁴⁹⁰

F. CIA Director Goss Seeks Committee Support for the Program After the Detainee Treatment Act; CIA Declines to Answer Questions for the Record

(TS// [REDACTED] //NF) In March 2006, three months after passage of the Detainee Treatment Act, the CIA provided a briefing for five Committee staffers that included limited information on the interrogation process, as well as the effectiveness of the CIA interrogation program.²⁴⁹¹ The briefings did not include information on the CIA's enhanced interrogation techniques or the location of CIA detention sites.²⁴⁹² A week later, on March 15, 2006, CIA Director Porter Goss briefed the full Committee on CIA detention matters, but did not provide the locations of the CIA's detention facilities, or a list or briefing on the CIA's enhanced

to surface the tapes' existence." Rizzo then added that "I think I need to be the skunk at the party again and see if the Director is willing to let us try one more time to get the right people downtown on board with the notion of our [sic] destroying the tapes." [REDACTED], a senior CIA attorney who had viewed the videotapes, responded, "You are correct. The sooner we resolve this the better." [REDACTED] CTC Legal, [REDACTED], also agreed that "[a]pproaching the DCIA is a good idea," adding, "[c]ommissions tend to make very broad document production demands, which might call for these videotapes that should have been destroyed in the normal course of business 2 years ago." See email from: John A. Rizzo; to: [REDACTED]; [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Re: principals want PR plan to publicly roll the CTC program in some fashion; date: October 31, 2005, at 10:37 AM; email from: [REDACTED]; to John A. Rizzo; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Re: principals want PR plan to publicly roll the CTC program in some fashion; date: October 31, 2005, at 12:32 PM; email from: [REDACTED]; to: John A. Rizzo; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Re: principals want PR plan to publicly roll the CTC program in some fashion; date: October 31, 2005, at 11:45 AM. See also interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, June 17, 2003.

²⁴⁸⁹ See Senate Roll Call Vote #00309, November 8, 2005, 5:37pm, on Amendment #2430.

²⁴⁹⁰ [REDACTED] 27089 (090627Z NOV 05)

²⁴⁹¹ A review of the Committee record of this briefing indicates much of the information provided by the CIA was inaccurate. For example, according to the Committee's Memorandum for the Record, CIA briefers stated "the plan divorces questioning from coercive measures." CIA records indicate, however, that questioning and the use of the CIA's enhanced interrogation techniques were combined in practice. According to Committee records, CIA officials stated that Khalid al-Masri had and maintained connections to al-Qa'ida, and that he was released "when the CIA reached a point in debriefings that required [foreign government] assistance," which was not forthcoming. The CIA Inspector General would later determine that when CIA officers questioned al-Masri, "they quickly concluded that he was not a terrorist," and that there was "insufficient basis to render and detain al-Masri." CIA officers referenced the captures of Hambali, Sajid Badat, Jose Padilla, and Iyman Faris, as well as the disruption of the West Coast/Second Wave plotting, the Heathrow Airport plotting, and the Karachi plotting. As detailed in this summary, the CIA consistently provided inaccurate representations regarding the plotting and the capture of the referenced individuals. CIA briefers also compared the program to U.S. military custody, stating that "the CIA can bring far more resources – debriefers, analysts, psychologists, etc. – per detainee than is possible at large scale facilities such as Guantanamo Bay, Cuba." As described, the chief of Base at DETENTION SITE BLACK complained of "problem, underperforming" and "totally inexperienced" debriefers almost a year prior to this briefing. As further described, an inspector general audit completed three months after the briefing described the lack of debriefers at CIA detention facilities as "an ongoing problem." (Senate Select Committee on Intelligence, Memorandum for the Record, "CIA Briefing on Detention Program," March 8, 2006 (DTS #2006-1182).)

²⁴⁹² Senate Select Committee on Intelligence, Memorandum for the Record, "CIA Briefing on Detention Program," March 8, 2006 (DTS #2006-1182).

interrogation techniques.²⁴⁹³ At this hearing Director Goss explained to the Committee that “we cannot do it by ourselves,” and that “[w]e need to have the support of our oversight committee.”²⁴⁹⁴ Goss then described challenges to the CIA’s Detention and Interrogation Program as a result of the Detainee Treatment Act, as well as strained relations with countries hosting CIA detention sites after significant press revelations.²⁴⁹⁵ Director Goss described the program as follows:

“This program has brought us incredible information. It’s a program that could continue to bring us incredible information. It’s a program that could continue to operate in a very professional way. It’s a program that I think if you saw how it’s operated you would agree that you would be proud that it’s done right and well, with proper safeguards.”²⁴⁹⁶

(~~TS~~ [REDACTED] //NF) Contrasting the CIA program to the abuse of prisoners in U.S. military detention at the Abu Ghraib prison in Iraq, Director Goss stated that the CIA program:

“is a professionally-operated program that we operate uniquely.... We are not talking military, and I’m not talking about anything that a contractor might have done... in a prison somewhere or beat somebody or hit somebody with a stick or something. That’s not what this is about.”²⁴⁹⁷

(~~TS~~ [REDACTED] //NF) Addressing CIA interrogations, Director Goss testified that “we only bring in certain selected people that we think can give us intelligence information, and we treat them in certain specific ways” such that “they basically become psychologically disadvantaged to their interrogator.” Explaining that the key to a successful interrogation was “getting a better psychological profile and knowing what makes someone tick,” Director Goss stated, “just the simplest thing will work, a family photograph or something.” Goss then represented that the CIA’s interrogation program is “not a brutality. It’s more of an art or a science that is refined.”²⁴⁹⁸

²⁴⁹³ By the time of the briefing, press disclosures had resulted in widespread public discussion about some of the CIA’s reported enhanced interrogation techniques, including the waterboard. Goss was thus asked by a member of the Committee whether the CIA had undertaken a “technique by technique” analysis of the effectiveness of the program. Goss responded that the problem with such an analysis is that the techniques were used “in combination.” Asked by the member for a comparison of “waterboarding versus sleep deprivation,” Goss responded that “waterboarding is not used in conjunction with anything else.” As detailed elsewhere, this testimony was inaccurate. Goss then referred to sleep deprivation, dietary manipulation, and “environment control” as “alleged techniques.” See transcript of Senate Select Committee on Intelligence briefing, March 15, 2006 (DTS #2006-1308).

²⁴⁹⁴ Director Goss stated: “I’ve had to seriously consider whether passage of the McCain amendment was a congressional disapproval of the CIA use of EITs. I don’t think it was, and I don’t think that was the message you sent me. But I have to at least get that assurance, that that’s not what you were saying to me.” See transcript of Senate Select Committee on Intelligence briefing, March 15, 2006 (DTS #2006-1308).

²⁴⁹⁵ Transcript of Senate Select Committee on Intelligence briefing, March 15, 2006 (DTS #2006-1308).

²⁴⁹⁶ Transcript of Senate Select Committee on Intelligence briefing, March 15, 2006 (DTS #2006-1308).

²⁴⁹⁷ Transcript of Senate Select Committee on Intelligence briefing, March 15, 2006 (DTS #2006-1308).

²⁴⁹⁸ Transcript of Senate Select Committee on Intelligence briefing, March 15, 2006 (DTS #2006-1308).

(TS// [REDACTED] //NF) After the hearing, the Committee submitted official Questions for the Record related to the history, legality, and the effectiveness of the CIA's Detention and Interrogation Program. The CIA did not respond.²⁴⁹⁹

(TS// [REDACTED] //NF) In May 2006, the Committee approved legislation requiring the CIA to provide reports on the CIA's detention facilities (including their locations), the CIA's interrogation techniques, the impact of the Detainee Treatment Act on the CIA program, CIA renditions, and the CIA's plans for the disposition of its detainees. The legislation also called for full Committee access to the CIA May 2004 Inspector General Special Review, as well as expanded member and Committee staff access to information on the CIA's Detention and Interrogation Program.²⁵⁰⁰ In July 2006, the new CIA director, General Michael Hayden, provided a briefing for the chairman and vice chairman in which he described the Detainee Treatment Act as a "safehaven" that potentially permitted the CIA to use its enhanced interrogation techniques.²⁵⁰¹

G. Full Committee First Briefed on the CIA's Interrogation Program Hours Before It Is Publicly Acknowledged on September 6, 2006

(TS// [REDACTED] //NF) On September 6, 2006, President Bush publicly acknowledged the CIA program and the transfer of 14 CIA detainees to U.S. military custody at Guantanamo Bay, Cuba. Hours prior to the announcement, CIA Director Hayden provided the first briefing on the CIA's "enhanced interrogation" program for all members of the Committee, although the CIA limited staff attendance to the Committee's two staff directors.²⁵⁰² Due to the impending public acknowledgment of the program, the briefing was abbreviated. At the briefing, the CIA's enhanced interrogation techniques were listed, but not described. Director Hayden stated that the techniques were developed at the Department of Defense SERE school and were "used against American service personnel during their training." He testified that "once [a detainee] gets into the situation of sustained cooperation," debriefings are "not significantly different than what you and I are doing right now." Hayden sought "legislative assistance" in interpreting Common Article 3, stated that he had not asked for an opinion from the Department of Justice, and represented that he had been informed informally that seven interrogation techniques "are viewed by the Department of Justice to be consistent with the requirements of the Detainee Treatment Act."²⁵⁰³ Director Hayden declined to identify the locations of the CIA's detention facilities to the members and stated that he personally had recommended not expanding

²⁴⁹⁹ Letter from Vice Chairman Rockefeller to Director Goss, containing Questions for the Record, May 10, 2006 (DTS #2006-1949); Letter from Chairman Roberts to Director Goss, May 4, 2006 (DTS #2006-1876).

²⁵⁰⁰ Classified Annex to Report No. S. 109-259, the Intelligence Authorization Act for Fiscal Year 2007 (DTS #2006-2208). Compartmented annex (DTS #2006-2209).

²⁵⁰¹ Hayden stated that *Hamdan v. Rumsfeld* had effectively prohibited the use of the CIA's enhanced interrogation techniques. He then described an "action" that would define Common Article 3 according to the Detainee Treatment Act, which was in turn "anchored" in the Convention Against Torture to "which the Senate express[ed] reservation." As described, two months later, the President sought Congressional approval of the Military Commissions Act. Based on handwritten notes by the Committee minority staff director.

²⁵⁰² Transcript of Senate Select Committee on Intelligence briefing, September 6, 2006 (DTS #2007-1336).

²⁵⁰³ As described above, the CIA had sought the Department of Justice's opinion on the application of the Detainee Treatment Act to the CIA's enhanced interrogation techniques. The draft memorandum was withdrawn after the U.S. Supreme Court case in *Hamdan v. Rumsfeld*.

Committee staff access beyond the two staff directors already briefed on the CIA's Detention and Interrogation Program.²⁵⁰⁴

(TS// [REDACTED] //NF) There were no other Committee briefings or hearings on the CIA's Detention and Interrogation Program prior to the Senate's September 28, 2006, vote on the Military Commissions Act. As described, the Department of Justice later concluded that the CIA's enhanced interrogation techniques were consistent with the Military Commissions Act in part because, according to the CIA, "none of the Members [briefed on the CIA program] expressed the view that the CIA interrogation program should be stopped, or that the techniques at issue were inappropriate."²⁵⁰⁵ However, prior to the vote, Senator McCain—who had been briefed on the CIA program—told CIA officials that he could not support the program and that sleep deprivation, one of the interrogation techniques still included in the program, as well as waterboarding, were torture.²⁵⁰⁶ Members of the Committee also expressed their views in classified letters to the CIA. Senator Dianne Feinstein informed the CIA that Hayden's testimony on the CIA program was "extraordinarily problematic" and that she was "unable to understand why the CIA needs to maintain this program."²⁵⁰⁷ In May 2007, shortly after additional Committee staff gained access to the program, Senator Russ Feingold expressed his opposition to the program, while Senators Feinstein, Ron Wyden, and Chuck Hagel described their concerns about the CIA program and their "deep discomfort" with the use of the CIA's enhanced interrogation techniques.²⁵⁰⁸

(TS// [REDACTED] //NF) On November 16, 2006, CIA Director Hayden briefed the Committee.²⁵⁰⁹ The briefing included inaccurate information, including on the CIA's use of dietary manipulation and nudity, as well as the effects of sleep deprivation.²⁵¹⁰ Before speaking

²⁵⁰⁴ Transcript of Senate Select Committee on Intelligence briefing, September 6, 2006 (DTS #2007-1336). The transcript includes the following exchange: Senator Feingold: "...you make it tougher on me and the members of the Committee by the decision to not allow staff access to a briefing like this. Was it your recommendation to deny staff access to this hearing?" CIA Director Hayden: "It was."

²⁵⁰⁵ Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May be Used by the CIA in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 14).

²⁵⁰⁶ Email from: [REDACTED]; to [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Briefing for Senator John S. McCain (R-AZ); date: September 11, 2006, at 5:51 PM.

²⁵⁰⁷ Letter from Senator Feinstein to Director Hayden, September 27, 2006 (DTS #2006-3717).

²⁵⁰⁸ Letter from Senator Feingold to Director Hayden, May 1, 2007 (DTS #2007-1858); Letter from Senators Feinstein, Wyden and Hagel to Director Hayden, May 11, 2007 (DTS #2007-2102).

²⁵⁰⁹ As in the September 6, 2006, briefing, only two staff members were permitted to attend.

²⁵¹⁰ Director Hayden testified that detainees were never provided fewer than 1,000 calories a day. This is inaccurate. There were no calorie requirements until May 2004, and draft OMS guidelines from March 2003 indicated that "[b]rief periods in which food is withheld (1-2 days), as an adjunct to interrogations are acceptable." (See OMS GUIDELINES ON MEDICAL AND PSYCHOLOGICAL SUPPORT TO DETAINEE RENDITION, INTERROGATION, AND DETENTION, May 17, 2004; OMS Guidelines on Medical and Psychological Support to Detainee Interrogations, First Draft, March 7, 2003.) Director Hayden testified that detainees were "not paraded [nude] in front of anyone," whereas a CIA interrogator told the inspector general that nude detainees were "kept in a center area outside the interrogation room," and were "'walked around' by guards." (See Interview Report, [REDACTED])

about the CIA's enhanced interrogation techniques, however, Director Hayden asked to brief the Committee on the recent capture of the CIA's newest detainee, Abdul Hadi al-Iraqi, who was not subjected to the CIA's enhanced interrogation techniques. Vice Chairman Rockefeller and two other members of the Committee expressed frustration at the briefing that Director Hayden's description of Hadi al-Iraqi's capture was preventing what was expected to be an in-depth discussion of the CIA's enhanced interrogation techniques.²⁵¹¹

(TS// [REDACTED] //NF) On February 14, 2007, during a hearing on CIA renditions, Director Hayden provided inaccurate information to the Committee, to include inaccurate information on the number of detainees held by the CIA. [REDACTED], the deputy chief of the [REDACTED] Department in CTC and the previous deputy chief of ALEC Station, provided examples of information obtained from the CIA Detention and Interrogation Program.²⁵¹² After providing the examples, [REDACTED] closed her testimony with the statement that "[t]here's no question, in my mind, that having that detainee information has saved hundreds, conservatively speaking, of American lives."²⁵¹³

(TS// [REDACTED] //NF) On March 15, 2007, in a speech to a gathering of ambassadors to the United States from the countries of the European Union, Director Hayden stated that congressional support for the CIA's Detention and Interrogation Program assured the continuity of the program:

"I mentioned earlier that it would be unwise to assume that there will be a dramatic change in the American approach to the war on terror in 2009. CIA got the legislation it needed to continue this program in the Military Commissions Act passed by our Congress last fall. And let me remind you that every member of our intelligence committees, House and Senate, Republican and Democrat, is now fully briefed on the detention and interrogation program. This is not CIA's program. This is not the President's program. This is America's program."²⁵¹⁴

[REDACTED], April 14, 2003.) [REDACTED] testified that standing sleep deprivation is discontinued when swelling or "any abnormality" appears. This was inaccurate. For example, KSM's standing sleep deprivation continued, notwithstanding pedal edema and abrasions on his ankles, shins and wrists, as well as the back of his head. (See [REDACTED] 10916 (210845Z MAR 03); [REDACTED] 10909 (201918Z MAR 03).) Director Hayden testified that "mental conditions that would be of normal concern do not present themselves until a person has experienced more than 100 hours of sleep deprivation," however at least three detainees experienced hallucinations after being subjected to fewer than 96 hours of sleep deprivation. See [REDACTED] 1393 (201006Z OCT 03); [REDACTED] 48122 [REDACTED]; [REDACTED] 1299 ([REDACTED] JAN 04); [REDACTED] 1312 ([REDACTED] JAN 04); [REDACTED] 1530 ([REDACTED] 04); [REDACTED] 3221 [REDACTED]; [REDACTED] 3241 ([REDACTED] 04).

²⁵¹¹ Transcript of Senate Select Committee on Intelligence hearing, November 16, 2006 (DTS #2007-1422).

²⁵¹² This testimony included inaccurate information. For example, [REDACTED] testified that KSM "identified sleeper cells inside the U.S., [and] the information allowed the FBI to identify that and take action." She further testified that KSM "identified the second wave of attacks against the U.S. that were planned after 9/11," that Abu Zubaydah "really pointed us towards [KSM] and how to find him," and that Abu Zubaydah "led us to Ramzi bin al-Shibh." See transcript of Senate Select Committee on Intelligence hearing, February 14, 2007 (DTS #2007-1337). Additional information on the testimony is included in the full Committee Study.

²⁵¹³ Transcript of Senate Select Committee on Intelligence hearing, February 14, 2007 (DTS #2007-1337).

²⁵¹⁴ DIRECTOR [REDACTED] (152227Z MAR 07)

H. The CIA Provides Additional Information to the Full Committee and Staff, Much of It Inaccurate; Intelligence Authorization Act Passes Limiting CIA Interrogations to Techniques Authorized by the Army Field Manual

(~~TS//~~ [REDACTED] ~~//NF~~) On April 12, 2007, CIA Director Hayden testified at a lengthy hearing that was attended by all but one committee member, and for the first time, the CIA allowed most of the Committee's staff to attend. The members stated that the Committee was still seeking access to CIA documents and information on the CIA's Detention and Interrogation Program, including Department of Justice memoranda and the location of the CIA's detention facilities.²⁵¹⁵ Director Hayden's Statement for the Record included extensive inaccurate information with regard to Abu Zubaydah, CIA interrogators, abuses identified by the ICRC, and the effectiveness of the CIA's enhanced interrogation techniques.²⁵¹⁶ Director Hayden's Statement for the Record also listed five examples of captures and four examples of plots "thwarted" purportedly resulting from information acquired from CIA detainees, all of which included significant inaccurate information.²⁵¹⁷ Director Hayden's Statement for the Record further included the following representation with regard to the effects of legislation that would limit interrogations to techniques authorized by the Army Field Manual:

"The CIA program has proven to be effective... should our techniques be limited to the [Army] field manual, we are left with very little offense and are relegated to rely primarily on defense. Without the approval of EITs... we have severely restricted our attempts to obtain timely information from HVDs who possess information that will help us save lives and disrupt operations. Limiting our interrogation tools to those detailed in the [Army] field manual

²⁵¹⁵ Senate Select Committee on Intelligence, Transcript of hearing, April 12, 2007 (DTS #2007-3158).

²⁵¹⁶ For example, the Statement for the Record claimed that Abu Zubaydah was "an up-and-coming lieutenant of Usama Bin Ladin (UBL) who had intimate knowledge of al-Qa'ida's current operations, personnel and plans." It also stated that "[a]fter the use of these techniques, Abu Zubaydah became one of our most important sources of intelligence on al-Qa'ida, and he himself has stated that he would not have been responsive or told us all he did had he not gone through these techniques." The Statement claimed that CIA interrogators were "carefully chosen and screened for demonstrated professional judgment and maturity," and that "they must complete more than 250 hours of specialized training before they are allowed to come face-to-face with a terrorist." Claims made in the Statement refuting the abuses identified by the ICRC were repeated by Director Hayden during the hearing, and are described in an appendix to this summary. The Statement for the Record also included inaccurate information about past congressional oversight, claiming that "[a]s CIA's efforts to implement [new interrogation] authorities got underway in 2002, the majority and minority leaders of the Senate, the speaker and the minority leader of the House, and the chairs and ranking members of the intelligence committees were fully briefed on the interrogation program." See Witness Statement for the Senate Select Committee on Intelligence from CIA Director Hayden, for April 12, 2007, hearing (DTS #2007-1563).

²⁵¹⁷ The Statement for the Record included claims of effectiveness similar to those made in other contexts by the CIA, related to the captures of Hambali (on which Director Hayden elaborated during the hearing), Issa al-Hindi ("KSM also provided the first lead to an operative known as 'Issa al-Hindi'"), Sajid Badat ("[I]leads provided by KSM in November 2003 led directly to the arrest of [Badat]"), Jose Padilla ("Abu Zubaydah provided information leading to the identification of alleged al-Qa'ida operative Jose Padilla"), and Lyman Faris ("[s]oon after his arrest, KSM described an Ohio-based truck driver whom the FBI identified as Lyman Faris, already under suspicion for his contacts with al-Qa'ida operative Majid Khan"). The statement also described the "thwarting" and "disrupting" of the "West Coast Airliner Plot" (aka, the Second Wave plotting), the "Heathrow Airport plot," the "Karachi plots," and "Plots in the Saudi Peninsula." See Witness Statement for the Senate Select Committee on Intelligence from CIA Director Hayden, for April 12, 2007, hearing (DTS #2007-1563).

will increase the probability that a determined, resilient HVD will be able to withhold critical, time-sensitive, actionable intelligence that could prevent an imminent, catastrophic attack.”²⁵¹⁸

(TS// [REDACTED] //NF) At the April 12, 2007, hearing, Director Hayden verbally provided extensive inaccurate information on, among other topics: (1) the interrogation of Abu Zubaydah, (2) the application of Department of Defense survival school practices to the program, (3) detainees’ counterinterrogation training, (4) the backgrounds of CIA interrogators, (5) the role of other members of the interrogation teams, (6) the number of CIA detainees and their intelligence production, (7) the role of CIA detainee reporting in the captures of terrorist suspects, (8) the interrogation process, (9) the use of detainee reporting, (10) the purported relationship between Islam and the need to use the CIA’s enhanced interrogation techniques, (11) threats against detainees’ families, (12) the punching and kicking of detainees, (13) detainee hygiene, (14) denial of medical care, (15) dietary manipulation, (16) the use of waterboarding and its effectiveness, and (17) the injury and death of detainees. In addition, the chief of CTC’s [REDACTED] Department provided inaccurate information on the CIA’s use of stress positions, while Acting General Counsel John Rizzo provided inaccurate information on the legal reasons for establishing CIA detention facilities overseas.²⁵¹⁹ A detailed comparison of Director Hayden’s testimony and information in CIA records related to the program is included in an appendix to this summary.

(TS// [REDACTED] //NF) In responses to official Committee Questions for the Record, the CIA provided inaccurate information related to detainees transferred from U.S. military to CIA custody.²⁵²⁰ The Committee also requested a timeline connecting intelligence reporting obtained from CIA detainees to the use of the CIA’s enhanced interrogation techniques. The CIA declined to provide such a timeline, writing that “[t]he value of each intelligence report stands alone, whether it is collected before, during, immediately after or significantly after the use of [the CIA’s enhanced interrogation techniques].”²⁵²¹

²⁵¹⁸ Witness Statement for the Senate Select Committee on Intelligence from CIA Director Hayden, for April 12, 2007, hearing (DTS #2007-1563).

²⁵¹⁹ Senate Select Committee on Intelligence, Transcript of hearing, April 12, 2007 (DTS #2007-3158).

²⁵²⁰ The Committee had asked for specifics related to the assertion in Director Hayden’s written statement that the CIA program was effective in gaining intelligence after detainees successfully resisted interrogation under U.S. military detention. The CIA’s response referenced only one detainee, Abu Ja’far al-Iraqi, stating that he was “unwilling to become fully cooperative given the limitations of the U.S. military’s interrogation and detention regulations.” The CIA’s response to Committee questions then asserted that “[i]t was not until Abu Jaf’ar was subjected to EITS that he provided detailed information [about] his personal meetings with Abu Mus’ab al-Zarqawi and Zarqawi’s advisors,” and that “[i]n addition, Abu Jaf’ar provided information on al-Qa’ida in Iraq (AQI) finances, travel, and associated facilitation activities.” The provided information was inaccurate. CIA records indicate that, while still in U.S. military custody, Abu Ja’far described multiple meetings with al-Zarqawi, other members of al-Qa’ida in Iraq, and individuals who were to serve as al-Zarqawi’s connection to senior al-Qa’ida leadership. Abu Ja’far also provided insights into al-Zarqawi’s beliefs and plans. See [REDACTED] 32732 ([REDACTED] OCT 05); [REDACTED] 32707 ([REDACTED] OCT 05); [REDACTED] 32726 ([REDACTED] OCT 05); [REDACTED] 32810 ([REDACTED] OCT 05); [REDACTED] 32944 ([REDACTED] OCT 05).

²⁵²¹ CIA Response to Senate Select Committee on Intelligence Questions for the Record, June 18, 2007 (DTS #2007-2564).

(TS// [REDACTED] //NF) In May 2007, the Committee voted to approve the Fiscal Year 2008 Intelligence Authorization bill, which required reporting on CIA compliance with the Detainee Treatment Act and Military Commissions Act. In September 2007, John Rizzo withdrew his nomination to be CIA general counsel amid Committee concerns related to his role in the CIA's Detention and Interrogation Program. On August 2, 2007, the Committee conducted a hearing that addressed the interrogation of Muhammad Rahim, who would be the CIA's last detainee, as well as the president's new Executive Order, which interpreted the Geneva Conventions in a manner to allow the CIA to use its enhanced interrogation techniques against Muhammad Rahim. At that hearing, the CIA's director of CTC, [REDACTED], provided inaccurate information to the Committee on several issues, including how the CIA conducts interrogations.²⁵²² Members again requested access to the Department of Justice memoranda related to the CIA program, but were denied this access.²⁵²³

(TS// [REDACTED] //NF) On December 5, 2007, the conference committee considering the Fiscal Year 2008 Intelligence Authorization bill voted to restrict the CIA's interrogation techniques to those authorized by the Army Field Manual. Opponents of the provision referenced Director Hayden's testimony on the effectiveness of the CIA's enhanced interrogation techniques in acquiring critical information.²⁵²⁴ On December 6, 2007, the *New York Times* revealed that the CIA had destroyed videotapes of CIA interrogations in 2005.²⁵²⁵ The CIA claimed that the Committee had been told about the destruction of the videotapes at a hearing in November 2006.²⁵²⁶ A review of the Committee's transcript of its November 16, 2006, hearing found that the CIA's claim of notification was inaccurate. In fact, CIA witnesses testified at the hearing that the CIA did not videotape interrogations, while making no mention of past videotaping or the destruction of videotapes.²⁵²⁷

²⁵²² For example, the director of CTC, [REDACTED], testified that detainees "are given ample opportunity to provide the information without the use of EITs" (Senate Select Committee on Intelligence, Transcript of hearing, August 2, 2007 (DTS #2007-3641)). As detailed in this Study, numerous detainees were subjected to the CIA's enhanced interrogation techniques immediately upon being questioned.

²⁵²³ Senate Select Committee on Intelligence, Transcript of hearing, August 2, 2007 (DTS #2007-3641).

²⁵²⁴ Transcript, Committee of Conference on the Intelligence Authorization Act for Fiscal Year 2008, December 5, 2007 (DTS #2009-1279).

²⁵²⁵ "C.I.A. Destroyed Tapes of Interrogations," *The New York Times*, December 6, 2007 (published in the December 7, 2007, edition of the newspaper).

²⁵²⁶ Press Release, entitled, "Chairman Rockefeller Says Intel Committee Has Begun Investigation Into CIA Detainee Tapes; Senator Expresses Concern that CIA Continues to Withhold Key Information," Office of Senator Rockefeller, December 7, 2007.

²⁵²⁷ Transcript of Senate Select Committee on Intelligence hearing, November 16, 2006 (DTS #2007-1422). The CIA's June 2013 Response states only that "[w]e acknowledge that DCIA did not volunteer past information on CIA's process of videotaping the interrogation sessions or of the destruction of the tapes...." The Committee review found that in testimony to the Committee in November 2006, CIA witnesses responded to questions about videotaping in terms of current practice, while avoiding any reference to past practice. This was similar to what was conveyed in June 2003, to David Addington of the Office of the Vice President, by CIA General Counsel Scott Muller. In June 2003, the CIA's General Counsel Scott Muller traveled to Guantanamo Bay, Cuba, with White House Counsel Alberto Gonzales, the Vice President's counsel David Addington, Department of Defense General Counsel Jim Haynes, Patrick Philbin from the Department of Justice, and NSC Legal Advisor John Bellinger. According to CIA records, during the trip, White House officials asked CIA General Counsel Muller about the CIA Inspector General's concerns regarding the waterboard technique and whether the CIA videotaped interrogations, as David Addington had heard tapes existed of the CIA's interrogations of Abu Zubaydah. In an email to CIA colleagues providing details on the trip, Muller wrote: "(David Addington, by the way, asked me if were [sic]

(TS// [REDACTED] //NF) At the CIA briefing to the Committee on December 11, 2007, Director Hayden testified about: (1) the information provided to the White House regarding the videotapes, (2) what the tapes revealed, (3) what was not on the tapes, (4) the reasons for their destruction, (5) the legal basis for the use of the waterboard, and (6) the effectiveness of the CIA's waterboard interrogation technique. Much of this testimony was inaccurate or incomplete. Director Hayden also testified that what was on the destroyed videotapes was documented in CIA cables, and that the cables were "a more than adequate representation of the tapes." Director Hayden committed the CIA to providing the Committee with access to the cables.²⁵²⁸

(TS// [REDACTED] //NF) On February 5, 2008, after the House of Representatives passed the conference report limiting CIA interrogations to techniques authorized by the Army Field Manual, Director Hayden testified in an open Committee hearing against the provision. Director Hayden also stated, inaccurately, that over the life of the CIA program, the CIA had detained fewer than 100 people.²⁵²⁹ On February 13, 2008, the Senate passed the conference report.²⁵³⁰

I. President Vetoes Legislation Based on Effectiveness Claims Provided by the CIA; CIA Declines to Answer Committee Questions for the Record About the CIA Interrogation Program

(TS// [REDACTED] //NF) On March 8, 2008, President Bush vetoed the Intelligence Authorization bill. President Bush explained his decision to veto the bill in a radio broadcast that repeated CIA representations that the CIA interrogation program produced "critical intelligence" that prevented specific terrorist plots. As described in this summary, and in greater detail in Volume II, the statement reflected inaccurate information provided by the CIA to the president and other policymakers in CIA briefings.²⁵³¹ Three days later, the House of Representatives

taping interrogations and said he had heard that there were tapes of the Zubaydah interrogations. I told him that tapes were not being made)." See email from: Scott Muller; to: John Rizzo, [REDACTED], and [REDACTED]; subject: Report from Gitmo trip (Not proofread as usual); date: June [REDACTED], 2003, at 5:47 PM.

²⁵²⁸ Senate Select Committee on Intelligence, Transcript of hearing, December 11, 2007 (DTS #2007-4904). In the spring of 2008, after the Committee agreed on a bipartisan basis to continue investigating the destruction of the interrogation tapes, Chairman Rockefeller and Vice Chairman Bond pressed the CIA to provide the operational cables promised by Director Hayden. See April 21, 2008, letter from Chairman Rockefeller and Vice Chairman Bond, to Director Hayden (DTS #2008-1798). See also May 8, 2008, letter from Chairman Rockefeller and Vice Chairman Bond, to Director Hayden (DTS #2008-2030).

²⁵²⁹ Senate Select Committee on Intelligence, Transcript of hearing, February 5, 2008 (DTS #2008-1140).

²⁵³⁰ U.S. Senate vote to adopt the conference report on February 13, 2008, 4:31 PM. H.R. 2082 (Intelligence Authorization Act for Fiscal Year 2008).

²⁵³¹ The President's veto message to the House of Representatives stated that "[t]he CIA's ability to conduct a separate and specialized interrogation program for terrorists who possess the most critical information in the war on terror has helped the United States prevent a number of attacks, including plots to fly passenger airplanes into the Library Tower in Los Angeles and into Heathrow Airport or buildings in downtown London" (Message to the House of Representatives, President George W. Bush, March 8, 2008). The president also explained his veto in his weekly radio address, in which he referenced the "Library Tower," also known as the "Second Wave" plot, and the Heathrow Airport plot, while representing that the CIA program "helped us stop a plot to strike a U.S. Marine camp in Djibouti, a planned attack on the U.S. consulate in Karachi..." (See President's Radio Address, President George W. Bush, March 8, 2008). As detailed, CIA representations regarding the role of the CIA's enhanced interrogation techniques with regard to the Second Wave, Heathrow Airport, Djibouti, and Karachi plots were inaccurate.

failed to override the veto.²⁵³² On May 22, 2008, the CIA informed the Committee that the vetoed legislation “has had no impact on CIA policies concerning the use of EITs.”²⁵³³ As noted, CIA Director Goss had previously testified to the Committee that “we cannot do it by ourselves,” and that “[w]e need to have the support of our oversight committee.”²⁵³⁴ As further noted, the OLC’s 2007 memorandum applying the Military Commissions Act to the CIA’s enhanced interrogation techniques relied on the CIA’s representation that “none of the Members expressed the view that the CIA interrogation program should be stopped, or that the techniques at issue were inappropriate.”²⁵³⁵

(~~TS~~ [REDACTED] ~~//NF~~) In June 2008, the CIA provided information to the Committee in response to a reporting requirement in the Fiscal Year 2008 Intelligence Authorization Act. The CIA response stated that all of the CIA’s interrogation techniques “were evaluated under the applicable U.S. law during the time of their use and were found by the Department of Justice to comply with those legal requirements.” This was inaccurate. Diapers, nudity, dietary manipulation, and water dousing were used extensively by the CIA prior to any Department of Justice review. As detailed in the full Committee Study, the response included additional information that was incongruent with the history of the program.²⁵³⁶

(~~TS~~ [REDACTED] ~~//NF~~) On June 10, 2008, the Committee held a hearing on the Department of Justice memoranda relating to the CIA’s Detention and Interrogation Program, to which the Committee had recently been provided limited access.²⁵³⁷ At the hearing, [REDACTED] CTC Legal provided inaccurate information on several topics, including the use of sleep

²⁵³² U.S. House of Representatives Roll Call Vote 117 of the 110th Congress, Second Session, March 11, 2008, 7:01 PM.

²⁵³³ CIA Responses to Questions for the Record from the 6 March 2008 SSCI Covert Action Hearing, May 22, 2008 (DTS #2008-2234).

²⁵³⁴ Transcript of Senate Select Committee on Intelligence briefing, March 15, 2006 (DTS #2006-1308).

²⁵³⁵ Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May be Used by the CIA in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 14).

²⁵³⁶ The CIA response stated that during sleep deprivation, the detainee is “typically... handcuffed in front of his body,” and “will not be permitted to hang from [the handcuffs],” despite the practice of detainees being subjected to the technique with their hands above their heads, and reports of detainees hanging from their wrists at DETENTION SITE COBALT. The response stated that “adult diapers and shorts [are] for sanitary purposes,” and that “caloric intake will always be at least 1,000 kcal/day,” although CIA records indicate that the purpose of the diapers in several cases was humiliation and there were no caloric requirements until May 2004. The response stated that “[n]o sexual abuse or threats of sexual abuse are permitted,” despite an insinuation that a family member of a detainee would be sexually abused. The response stated that “[t]he detainee may not be intentionally exposed to detention facility staff,” even though detainees at DETENTION SITE COBALT were walked around nude by guards. The response stated that during water dousing, water “cannot enter the detainee’s nose, mouth, or eyes,” but did not acknowledge detainees being immersed in water. Finally, the CIA response described limitations on the use of the waterboard that were exceeded in the case of KSM. (See Response to Congressionally Directed Actions cited in the Compartmented Annex to Report 110-75, June 16, 2008 (DTS #2008-2663).) This response was provided notwithstanding the presidential veto of this legislation on March 8, 2008.

²⁵³⁷ The Committee had been provided four copies of the memoranda for a limited time. See Senate Select Committee on Intelligence, Transcript of hearing, June 10, 2008 (DTS #2008-2698).

deprivation and its effects.²⁵³⁸ Acting Assistant Attorney General Steven Bradbury also testified, noting that the Department of Justice deferred to the CIA with regard to the effectiveness of the CIA interrogation program.²⁵³⁹ The Committee then submitted official Questions for the Record on the CIA's enhanced interrogation techniques and on the effectiveness of the program, including how the CIA assessed the effectiveness of its interrogation techniques for purposes of representations to the Department of Justice.²⁵⁴⁰ The CIA prepared responses that included an acknowledgment that [REDACTED] CTC Legal, [REDACTED], had provided inaccurate information with regard to the "effectiveness" of the CIA's enhanced interrogation techniques.²⁵⁴¹ The prepared responses were never provided to the Committee. Instead, on October 17, 2008, the CIA informed the Committee that it would not respond to the Committee's Questions for the Record and that instead, the CIA was "available to provide additional briefings on this issue to Members as necessary."²⁵⁴² In separate letters to Director Hayden, Chairman Rockefeller and Senator Feinstein referred to this refusal to respond to official Committee questions as "unprecedented and... simply unacceptable,"²⁵⁴³ and "appalling."²⁵⁴⁴

²⁵³⁸ [REDACTED] CTC Legal repeated the representation that during sleep deprivation, detainees' hands were shackled "about chin to chest level," and stated that "[i]f there is any indication, such as the legs begin to swell, or things of that nature, that may terminate the sleep deprivation." [REDACTED] CTC Legal also stated, inaccurately, that "we cannot begin to implement any of the measures, absent first attempting to get information from the individual in an up front and non-coercive way." He added, also inaccurately, that "if the individual cooperates and begins to talk to you, you never go into the interrogation program."

²⁵³⁹ Senate Select Committee on Intelligence, Senate Select Committee on Intelligence, Transcript of hearing, June 10, 2008 (DTS #2008-2698).

²⁵⁴⁰ Questions for the Record submitted to CIA Director Michael Hayden, September 8, 2008, with a request for a response by October 10, 2008 (DTS #2008-3522).

²⁵⁴¹ See CIA document prepared in response to "Questions for the Record" submitted by the Senate Select Committee on Intelligence on September 8, 2008. The Committee had inquired why information provided by Abu Zubaydah about Jose Padilla was included in the CIA's "Effectiveness Memo" for the Department of Justice, given that Abu Zubaydah provided the information to FBI Special Agents prior to being subjected to the CIA's enhanced interrogation techniques. The CIA response, prepared but never sent to the Committee, stated that the CTC attorney who prepared the CIA "Effectiveness Memo," [REDACTED], "simply inadvertently reported this wrong." The unsent CIA response added that "Abu Zubaydah provided information on Jose Padilla while being interrogated by the FBI," and cited a specific CIA cable, [REDACTED] 10991. In contrast to the CIA's unsent response to Committee questions in 2008, the CIA's June 2013 Response states: "[t]he Study also claims Abu Zubaydah had already provided [Jose Padilla's] 'Dirty Bomb' plot information to FBI interrogators prior to undergoing CIA interrogation, but this is based on an undocumented FBI internal communication and an FBI officer's recollection to the Senate Judiciary Committee seven years later." The CIA's June 2013 Response also represents that "[w]hile we have considerable information from FBI debriefings of Abu Zubaydah, we have no record that FBI debriefers acquired information about such an al-Qa'ida threat." As detailed in this summary, this is inaccurate. The CIA's June 2013 Response further states that "CIA correctly represented Abu Zubaydah's description of Jose Padilla as an example of information provided after an individual had been subjected to enhanced interrogation techniques." The CIA's unsent response to Committee questions in 2008 acknowledged that "[d]uring the initial timeframe Abu Zubaydah (AZ) was waterboarded the interrogation team believed that AZ was compliant and was not withholding actionable threat information," but ALEC Station "had additional information they felt linked AZ with more planned attacks," and that "[a]s a result, the interrogation team was instructed to continue with the waterboarding based on ALEC Station's belief." Finally, the unsent responses acknowledged that notwithstanding CIA representations to the Department of Justice regarding amenities available to CIA detainees, "[t]he amenities of today evolved over the first year and a half of the program," and that Abu Zubaydah was not initially provided those amenities.

²⁵⁴² CIA Letter to Chairman John D. Rockefeller, IV, October 17, 2008 (DTS #2008-4131).

²⁵⁴³ Letter from Chairman John D. Rockefeller, IV to CIA Director Michael Hayden, October 29, 2008 (DTS #2008-4217).

²⁵⁴⁴ Letter from Senator Feinstein to CIA Director Michael Hayden, October 30, 2008 (DTS #2008-4235).

VII. CIA Destruction of Interrogation Videotapes Leads to Committee Investigation; Committee Votes 14-1 for Expansive Terms of Reference to Study the CIA's Detention and Interrogation Program

(~~TS//~~ [REDACTED] ~~//NF~~) The Committee's scrutiny of the CIA's Detention and Interrogation Program continued through the remainder of 2008 and into the 111th Congress, in 2009. On February 11, 2009, the Committee held a business meeting at which Committee staff presented a memorandum on the content of the CIA operational cables detailing the interrogations of Abu Zubaydah and 'Abd al-Rahim al-Nashiri in 2002.²⁵⁴⁵ CIA Director Hayden had allowed a small number of Committee staff to review the cables at CIA Headquarters, and as noted, had testified that the cables provided "a more than adequate representation" of what was on the destroyed CIA interrogation videotapes.²⁵⁴⁶ The chairman stated that the Committee staff memorandum represented "the most comprehensive statement on the treatment of these two detainees, from the conditions of their detention and the nature of their interrogations to the intelligence produced and the thoughts of CIA officers and contractors in the field and Headquarters."²⁵⁴⁷ After the staff presentation, the vice chairman expressed his support for an expanded Committee investigation, stating, "we need to compare what was briefed to us by the Agency with what we find out, and we need to determine whether it was within the guidelines of the OLC, the MON, and the guidelines published by the Agency."²⁵⁴⁸ Other members of the Committee added their support for an expanded investigation, with one member stating, "these are extraordinarily serious matters and we ought to get to the bottom of it... to look at how it came to be that these techniques were used, what the legal underpinnings of these techniques were all about, and finally what these techniques meant in terms of effectiveness."²⁵⁴⁹

(~~TS//~~ [REDACTED] ~~//NF~~) The Committee held two subsequent business meetings to consider and debate the terms of the Committee's proposed expanded review of the CIA's Detention and Interrogation Program. The first, on February 24, 2009, began with bipartisan support for a draft Terms of Reference.²⁵⁵⁰ The Committee met again on March 5, 2009, to consider a revised Terms of Reference, which was approved by a vote of 14-1.²⁵⁵¹

(~~TS//~~ [REDACTED] ~~//NF~~) On December 13, 2012, after a review of more than six million pages of records, the Committee approved a 6,300-page Study of the CIA's Detention and

²⁵⁴⁵ See Committee business meeting records and transcript from February 11, 2009 (DTS #2009-1420).

²⁵⁴⁶ Senate Select Committee on Intelligence, Transcript of hearing, December 11, 2007 (DTS #2007-4904). In the spring of 2008, after the Committee agreed on a bipartisan basis to continue investigating the destruction of the interrogation tapes, Chairman Rockefeller and Vice Chairman Bond pressed the CIA to provide the operational cables promised by Director Hayden. See letter from Chairman Rockefeller and Vice Chairman Bond, to Director Hayden, April 21, 2008 (DTS #2008-1798); letter from Chairman Rockefeller and Vice Chairman Bond, to Director Hayden, May 8, 2008 (DTS #2008-2030).

²⁵⁴⁷ Senate Select Committee on Intelligence, Transcript, business meeting, February 11, 2009 (DTS #2009-1420)

²⁵⁴⁸ Senate Select Committee on Intelligence, Transcript, business meeting, February 11, 2009 (DTS #2009-1420)

²⁵⁴⁹ Senator Ron Wyden (D-OR). Senate Select Committee on Intelligence, Transcript, business meeting, February 11, 2009 (DTS #2009-1420).

²⁵⁵⁰ Transcript, business meeting, February 24, 2009 (DTS #2009-1913)

²⁵⁵¹ Transcript, business meeting, March 5, 2009 (DTS #2009-1916)

Interrogation Program.²⁵⁵² On April 3, 2014, by a bipartisan vote of 11-3, the Committee agreed to send the revised findings and conclusions, and an updated Executive Summary of the Committee Study to the president for declassification and public release.

²⁵⁵² After the receipt of the CIA's June 27, 2013, Response to the Committee Study of the CIA's Detention and Interrogation Program, and subsequent meetings between the CIA and the Committee in the summer of 2013, the full Committee Study was updated. The final Committee Study of the CIA's Detention and Interrogation Program exceeds 6,700 pages and includes approximately 38,000 footnotes.

VIII. Appendix 1: Terms of Reference

Terms of Reference
Senate Select Committee on Intelligence Study of the
Central Intelligence Agency's Detention and Interrogation Program

Adopted March 5, 2009

The Senate Select Committee on Intelligence's study of the Central Intelligence Agency's (CIA) detention and interrogation program consists of these terms of reference:

- A review of how the CIA created, operated, and maintained its detention and interrogation program, including a review of the locations of the facilities and any arrangements and agreements made by the CIA or other Intelligence Community officials with foreign entities in connection with the program.
- A review of Intelligence Community documents and records, including CIA operational cables, relating to the detention and interrogation of CIA detainees.
- A review of the CIA's assessments that particular detainees possessed relevant information and how the assessments were made.
- An evaluation of the information acquired from the detainees including the periods during which enhanced interrogation techniques (EITs) were administered.
- An evaluation of whether information provided to the Committee by the Intelligence Community adequately and accurately described the CIA's detention and interrogation program as it was carried out in practice, including conditions of detention, such as personal hygiene and medical needs, and their effect on the EITs as applied.
- An evaluation of the information provided by the CIA to the Department of Justice Office of Legal Counsel (OLC), including whether it accurately and adequately described:
 - a. the implementation, effectiveness and expected effects of EITs;
 - b. the value of information obtained through the use of EITs; and
 - c. the threat environment at the time the EITs were being used or contemplated for use on CIA detainees.
- An evaluation of whether the CIA's detention and interrogation program complied with:
 - a. the authorizations in any relevant Presidential Findings and Memoranda of Notification;
 - b. all relevant policy and legal guidance provided by the CIA; and
 - c. the opinions issued by the OLC in relation to the use of EITs.
- A review of the information provided by the CIA or other Intelligence Community officials involved in the program about the CIA detention and interrogation program, including the location of facilities and approved interrogation techniques, to U.S. officials with national security responsibilities.

The Committee will use those tools of oversight necessary to complete a thorough review including, but not limited to, document reviews and requests, interviews, testimony at closed and open hearings, as appropriate, and preparation of findings and recommendations.

IX. Appendix 2: CIA Detainees from 2002 – 2008

#	CIA Detainees	Date of Custody	Days in CIA Custody
1	Abu Zubaydah	██████████ 2002	1,59
2	Zakariya	██████████ 2002	36
3	Jamal Eldin Boudraa	██████████ 2002	62
4	Abbar al-Hawari, aka Abu Sufiyan	██████████ 2002	36
5	Hassan Muhammad Abu Bakr Qa'id	██████████ 2002	51
6	Ridha Ahmad Najar, aka Najjar	██████████ 2002	69
7	Ayub Marshid Ali Salih	██████████ 2002	4
8	Bashir Nasir Ali al-Marwalah	██████████ 2002	4
9	Ha'il Aziz Ahmad al-Mithali	██████████ 2002	4
10	Hassan bin Attash	██████████ 2002	59
11	Musab Umar Ali al-Mudwani	██████████ 2002	4
12	Said Saleh Said, aka Said Salih Said	██████████ 2002	4
13	Shawqi Awad	██████████ 2002	4
14	Umar Faruq, aka Abu al-Faruq al-Kuwaiti	██████████ 2002	41
15	Abd al-Salam al-Hilah	██████████ 2002	59
16	<i>Karim, aka Asat Sar Jan</i>	██████████ 2002	6
17	<i>Akbar Zakaria, aka Zakaria Zeineddin</i>	██████████ 2002	5
18	<i>Rafiq bin Bashir bin Halul al-Hami</i>	██████████ 2002	5
19	<i>Tawfiq Nasir Awad al Bihani</i>	██████████ 2002	5
20	Lutfi al-Arabi al-Gharisi	██████████ 2002	38
21	<i>Dr. Hikmat Nafi Shaukat</i>	██████████ 2002	7
22	<i>Yaqub al-Baluchi aka Abu Talha</i>	██████████ 2002	8
23	Abd al-Rahim Ghulam Rabbani	██████████ 2002	54
24	Gul Rahman	██████████ 2002	1
25	Ghulam Rabbani aka Abu Badr	██████████ 2002	54
26	Abd al-Rahim al-Nashiri	██████████ 2002	1,37
27	<i>Haji Ghalgi</i>	██████████ 2002	18
28	<i>Nazar Ali</i>	██████████ 2002	3
29	<i>Juna Gul</i>	██████████ 2002	8
30	<i>Wafiq bin Ali aka Abdullah</i>	██████████ 2002	8
31	<i>Adel</i>	██████████ 2002	6
32	<i>Qari Mohib Ur Rehman</i>	██████████ 2002	6
33	<i>Shah Wali Khan</i>	██████████ 2002	2
34	<i>Hayatullah Haqqani</i>	██████████ 2002	8
35	Bisher al-Rawi	██████████ 2002	1
36	Jamil el-Banna, aka Abu Anas	██████████ 2002	1

TS ██████████ NF

KEY

Bold Text: Detainees in bold text were subjected to the CIA's enhanced interrogation techniques.

Italics Text: Detainees in italics have not been previously acknowledged by the CIA to the SSCI.

#: Detainee number on main detainee spreadsheet; based on date of CIA custody. Number is based on a designation made by the Committee, not the CIA.

Note on Redaction: The last digit of days in CIA custody is redacted.

SOURCE INFORMATION

CIA Fax to SSCI Committee Staff, entitled, "15 June Request for Excel Spreadsheet," June 17, 2009. DTS #2009-2529.

CIA detainee charts provided to the Committee on April 27, 2007. Document in Committee Records entitled, "Briefing Charts provided to committee members from CIA Director Michael Hayden at the closed Hearing on April 12, 2007, concerning EITs used with CIA detainees, and a list of techniques." DTS #2007-1594.

CIA operational cables and other records produced for the Committee's Study of the CIA's Detention and Interrogation Program.

#	CIA Detainees	Date of Custody	Days in CIA Custody	
37	Ghairat Bahir	██████████ 2002	51	<p>TS ██████████ NF</p> <p>KEY</p> <p>Bold Text: Detainees in bold text were subjected to the CIA's enhanced interrogation techniques.</p> <p><i>Italics Text:</i> Detainees in italics have not been previously acknowledged by the CIA to the SSCI.</p> <p>#: Detainee number on main detainee spreadsheet; based on date of CIA custody. Number is based on a designation made by the SSCI, not the CIA.</p> <p>SOURCE INFORMATION</p> <p>CIA Fax to SSCI Committee Staff, entitled, "15 June Request for Excel Spreadsheet," June 17, 2009. DTS #2009-2529.</p> <p>CIA detainee charts provided to the Committee on April 27, 2007. Document in Committee Records entitled, "Briefing Charts provided to committee members from CIA Director Michael Hayden at the closed Hearing on April 12, 2007, concerning EITs used with CIA detainees, and a list of techniques." DTS #2007-1594.</p> <p>CIA operational cables and other records produced for the Committee's Study of the CIA's Detention and Interrogation Program.</p>
38	Pacha Wazir	██████████ 2002	33	
39	Muhammad Ameen al-Bakri	██████████ 2003	49	
40	Abdullah Midhat Mursi	██████████ 2003	11	
41	Ramzi bin al-Shibh	██████████ 2003	128	
42	Ibn Shaykh al-Libi	██████████ 2003	114	
43	Muhammad Umar 'Abd al-Rahman, aka Asadallah	██████████ 2003	15	
44	<i>Abu Khalid</i>	██████████ 2003	2	
45	Khalid Shaykh Mohammad	██████████ 2003	126	
46	Mustafa Ahmad al-Hawsawi	██████████ 2003	126	
47	Abu Yasir al-Jaza'iri	██████████ 2003	124	
48	Suleiman Abdullah	██████████ 2003	43	
49	Hamid Aich	██████████ 2003	4	
50	Sayed Habib	██████████ 2003	49	
51	Abu Hazim, aka Abu Hazim al-Libi	██████████ 2003	72	
52	Al-Shara'iya, aka Abd al-Karim	██████████ 2003	48	
53	Muhammad Khan (son of Suhbat)	██████████ 2003	38	
54	<i>Ibrahim Haqqani</i>	██████████ 2003	1	
55	Ammar al-Baluchi	██████████ 2003	118	
56	Khallad bin Attash	██████████ 2003	118	
57	Laid Ben Dohman Saidi, aka Abu Hudhaifa	██████████ 2003	46	
58	Majid Khan	██████████ 2003	118	
59	Mohammad Dinshah	██████████ 2003	26	
60	Muhammad Jafar Jamal al-Qahtani	██████████ 2003	34	
61	Abu Nasim al-Tunisi	██████████ 2003	32	
62	Mohd Farik bin Amin, aka Abu Zubair	██████████ 2003	115	
63	Zarnein	██████████ 2003	19	
64	Hiwa Abdul Rahman Rashul	██████████ 2003	11	
65	Adel Abu Redwan Ben Hamfili	██████████ 2003	30	
66	Shaistah Habibullah Khan	██████████ 2003	21	
67	Samr Hilmi Abdul Latif al-Barq	██████████ 2003	8	
68	Ali Jan	██████████, 2003	34	
69	Muhammad Khan (son of Amir)	██████████ 2003	1	
70	Modin Nik Muhammad	██████████ 2003	20	
71	Abdullah Ashami	██████████ 2003	27	
72	Bashir bin Lap, aka Lillie	██████████ 2003	110	
73	Riduan bin Isomuddin, aka Hambali	██████████ 2003	128	

#	CIA Detainees	Date of Custody	Days in CIA Custody
74	Sanad 'Ali Yislam al-Kazimi	██████████ 2003	26
75	Salah Nasir' Salim Ali, aka Muhsin	██████████ 2003	59
76	Abd Qudra Allah Mala Azrat al-Hadi	██████████ 2003	8
77	Bismullah	██████████ 2003	1
78	Sa'id Allam	██████████ 2003	8
79	Sa'ida Gul	██████████ 2003	8
80	Shah Khan Wali	██████████ 2003	8
81	Yahya, aka Rugollah	██████████ 2003	8
82	Zakariya 'abd al-Rauf	██████████ 2003	8
83	Zamarai Nur Muhammad Juma Khan	██████████ 2003	8
84	<i>Abdullah Salim al-Qahtani</i>	██████████ 2003	3
85	<i>Awwad Sabhan al-Shammari</i>	██████████ 2003	3
86	Noor Jalal	██████████ 2003	23
87	Majid Bin Muhammad Bin Sulayman Khayil, aka Arsala Khan	██████████ 2003	5
88	<i>Aso Hawleri</i>	██████████ 2003	2
89	Mohd al-Shomaila	██████████ 2003	54
90	Ali Saeed Awadh	██████████ 2003	17
91	Adnan al-Libi	██████████ 2003	23
92	Muhammad Abdullah Saleh	██████████ 2004	48
93	Riyadh the Facilitator	██████████ 2004	12
94	Abu Abdallah al-Zulaytini	██████████ 2004	21
95	Binyam Ahmed Mohamed	██████████ 2004	11
96	Firas al-Yemeni	██████████ 2004	95
98	Khalid 'Abd al-Razzaq al-Masri	██████████ 2004	12
97	Hassan Ghul	██████████ 2004	94
99	Muhammad Qurban Sayyid Ibrahim	██████████ 2004	26
100	Saud Memon	██████████ 2004	74
101	<i>Gul Rahman (2)</i>	██████████ 2004	3
102	Hassan Ahmed Guleed	██████████ 2004	90
103	Abu 'Abdallah	██████████ 2004	87
104	ABU BAHAR AL-TURKI	[REDACTED] 2004	Approximately 13
105	ABU TALHA AL-MAGREBI	[REDACTED] 2004	Approximately 13
106	Abd al-Bari al-Filistini	██████████ 2004	77
107	Ayyub al-Libi	██████████ 2004	30
108	Marwan al-Jabbur	██████████ 2004	77
109	Qattal al-Uzbeki	██████████ 2004	80

TS ██████████ NF

KEY

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#: Detainee number on main detainee spreadsheet; based on date of CIA custody. Number is based on a designation made by the SSCL, not the CIA.

SOURCE INFORMATION

CIA Fax to SSCL Committee Staff, entitled, "15 June Request for Excel Spreadsheet," June 17, 2009. DTS #2009-2529.

CIA detainee charts provided to the Committee on April 27, 2007. Document in Committee Records entitled, "Briefing Charts provided to committee members from CIA Director Michael Hayden at the closed Hearing on April 12, 2007, concerning EITs used with CIA detainees, and a list of techniques." DTS #2007-1594.

CIA operational cables and other records produced for the Committee's Study of the CIA's Detention and Interrogation Program.

#	<i>CIA Detainees</i>	<i>Date of Custody</i>	<i>Days in CIA Custody</i>	
110	Janat Gul	[REDACTED] 2004	92	TS [REDACTED] NF KEY Bold Text: Detainees in bold text were subjected to the CIA's enhanced interrogation techniques. <i>Italics Text:</i> Detainees in italics have not been previously acknowledged by the CIA to the SSCL. # : Detainee number on main detainee spreadsheet; based on date of CIA custody. Number is based on a designation made by the SSCL, not the CIA.
111	Ahmed Khalfan Ghailani	[REDACTED] 2004	73	
112	Sharif al-Masri	[REDACTED] 2004	81	
113	Abdi Rashid Samatar	[REDACTED] 2004	65	
114	Abu Faraj al-Libi	[REDACTED] 2005	46	
115	Abu Munthir al-Magrebi	[REDACTED] 2005	46	
116	Ibrahim Jan	[REDACTED]	31	
117	Abu Ja'far al-Iraqi	[REDACTED] 2005	28	
118	Abd al-Hadi al-Iraqi	[REDACTED] 2006	17	
119	Muhammad Rahim	[REDACTED] 2007	24	

Sources: CIA Fax to SSCI Committee Staff, entitled, "15 June Request for Excel Spreadsheet," June 17, 2009 (DTS #2009-2529); CIA detainee charts provided to the Committee on April 27, 2007; document in Committee records entitled, "Briefing Charts provided to committee Members from CIA Director Michael Hayden at the closed Hearing on April 12, 2007, concerning EITs used with CIA detainees, and a list of techniques" (DTS #2007-1594, hearing transcript at DTS# 2007-3158); and CIA operational cables and other records produced for the Committee's Study of the CIA's Detention and Interrogation Program.

** Gul Rahman, listed as detainee 24, was the subject of a notification to the Senate Select Committee on Intelligence following his death at DETENTION SITE COBALT; however, he has not appeared on lists of CIA detainees provided to Committee.

X. Appendix 3: Example of Inaccurate CIA Testimony to the Committee- April 12, 2007

*Testimony of Michael V. Hayden, Director, Central Intelligence Agency
to the Senate Select Committee on Intelligence, April 12, 2007²⁵⁵³*

CIA Testimony	Sampling of Information in CIA Records
<i>The Interrogation of Abu Zubaydah</i>	
<p>DIRECTOR HAYDEN: "Now in June, after about four months of interrogation, Abu Zubaydah reached a point where he refused to cooperate and he shut down. He would not talk at all to the FBI interrogators and although he was still talking to CIA interrogators <i>no significant progress was being made in learning anything of intelligence value.</i> He was, to our eye, employing classic resistance to interrogation techniques and employing them quite effectively. And it was clear to us that we were unlikely to be able to overcome those techniques without some significant intervention."</p>	<p>Abu Zubaydah was rendered to CIA custody on March [REDACTED], 2002. The CIA representation that Abu Zubaydah stopped cooperating with debriefers who were using traditional interrogation techniques is not supported by CIA records. In early June 2002, Abu Zubaydah's interrogators recommended that Abu Zubaydah spend several weeks in isolation from interrogation while the interrogation team members traveled [REDACTED] "as a means of keeping [Abu Zubaydah] off-balance and to allow the team needed time off for a break and to attend to personal matters [REDACTED], [REDACTED]" as well as to discuss "the endgame" for Abu Zubaydah [REDACTED] with officers from CIA Headquarters. As a result, Abu Zubaydah spent much of June 2002 and all of July 2002, 47 days in total, in isolation. When CIA officers next interrogated Abu Zubaydah, they immediately used the CIA's enhanced interrogation techniques, including the waterboard.</p> <p>Prior to the 47 day isolation period, Abu Zubaydah provided information on al-Qa'ida activities, plans, capabilities, and relationships, in addition to information</p>

²⁵⁵³ Transcript at DTS #2007-3158. The CIA's June 2013 Response states: "We disagree with the *Study's* conclusion that the Agency actively impeded Congressional oversight of the CIA Detention and Interrogation Program. ...As discussed in our response to Conclusion 9, we also disagree with the assessment that the information CIA provided on the effectiveness of the program was largely inaccurate. Finally, we have reviewed DCIA Hayden's testimony before SSCI on 12 April, 2007 and do not find, as the *Study* claims, that he misrepresented virtually all aspects of the program, although a few aspects were in error....The testimony contained some inaccuracies, and the Agency should have done better in preparing the Director, particularly concerning events that occurred prior to his tenure. However, there is no evidence that there was any intent on the part of the Agency or Director Hayden to misrepresent material facts." The CIA's June 2013 Response states that the CIA has "identified a number of broad lessons learned" and includes eight recommendations. The CIA's only recommendation related to Congress was: "Recommendation 8: Improve recordkeeping for interactions with Congress. Direct the Director of the Office of Congressional Affairs (OCA) and the Chief Information Officer to develop a concrete plan to improve recordkeeping on CIA's interactions with Congress. OCA's records going forward should reflect each interaction with Congress and the content of that interaction. OCA should work with the oversight committees to develop better access to transcripts of CIA testimony and briefings. This plan should be completed within 90 days of the arrival of a new Director of OCA."

	<p>on its leadership structure, including personalities, decision-making processes, training, and tactics. Abu Zubaydah provided this type of information prior to, during, and after the utilization of the CIA's enhanced interrogation techniques.²⁵⁵⁴</p> <p>Abu Zubaydah's inability to provide information on the next attack in the United States and operatives in the United States was the basis for CIA representations that Abu Zubaydah was "uncooperative," and for the CIA's determination that Abu Zubaydah required the use of the CIA's enhanced interrogation techniques to become "compliant" and reveal the information the CIA believed he was withholding. At no point during or after the use of the CIA's enhanced interrogation techniques did Abu Zubaydah provide the information sought.²⁵⁵⁵</p>
<p>DIRECTOR HAYDEN: "This really began in the spring of 2002 with the capture of Abu Zubaydah. At that time we deployed a psychologist who had been under contract to CIA [Dr. SWIGERT], to provide real-time recommendations to help us overcome what seemed to be Abu Zubaydah's very strong resistance to interrogation... We also made arrangements for [Dr. DUNBAR]. [Dr. DUNBAR] was the [redacted] psychologist for the Department of Defense's SERE program, DOD's Survival, Escape, Recovery and Evasion program, the program of training we put our troops, particularly our airmen, through so that they can withstand a hostile environment."</p>	<p>The CIA testimony that SWIGERT was deployed to "overcome what seemed to be Abu Zubaydah's very strong resistance to interrogation" is not supported by internal CIA records. Rather, CIA records indicate that CIA CTC officers anticipated Abu Zubaydah would resist providing information and contracted with SWIGERT prior to any meaningful assessment of Abu Zubaydah and his level of cooperation.</p> <ul style="list-style-type: none"> On April 1, 2002, at a meeting on the interrogation of Abu Zubaydah, [redacted] CTC Legal [redacted] recommended that SWIGERT—who was working under contract in the CIA's OTS—be brought in to "provide real-time recommendations to overcome Abu Zubaydah's resistance to interrogation." (Abu Zubaydah had been in CIA custody for [redacted].) That evening, SWIGERT, and the CIA OTS officer who had recommended SWIGERT to [redacted], prepared a cable with suggestions for the interrogation of Abu Zubaydah. SWIGERT had monitored the U.S. Air Force's Survival, Evasion, Resistance, and Escape (SERE) training. SWIGERT, who had never conducted an actual interrogation, encouraged the CIA

²⁵⁵⁴ See intelligence reporting charts in Abu Zubaydah detainee review in Volume III, as well as a CIA paper entitled, "Abu Zubaydah," dated March 2005. Similar information was included in, "Abu Zubaydah Bio," a CIA document "Prepared on 9 August 2006."

²⁵⁵⁵ See Abu Zubaydah detainee review in Volume III.

to focus on developing "learned helplessness" in CIA detainees.²⁵⁵⁶

- Following the suggestion of [REDACTED] CTC Legal, CTC contracted with SWIGERT to assist in the interrogation of Abu Zubaydah.
- As described in the Abu Zubaydah detainee review in Volume III, almost immediately after Abu Zubaydah's transfer to CIA custody on March [REDACTED], 2002, Abu Zubaydah's medical condition deteriorated and Abu Zubaydah was transferred to the intensive care unit of a [REDACTED] hospital in Country [REDACTED]. During this time, FBI personnel continued to collect significant intelligence from Abu Zubaydah. According to an FBI report, during the period when Abu Zubaydah was still "connected to the intubator" at the hospital and unable to speak, he "indicated that he was willing to answer questions of the interviewers via writing in Arabic." While in the intensive care unit of the hospital, Abu Zubaydah first discussed "Mukhtar" (KSM) and identified a photograph of KSM.
- When Abu Zubaydah was discharged from the [REDACTED] hospital and returned to the CIA's DETENTION SITE GREEN on April 15, 2002, he was kept naked, sleep deprived, and in a cell with bright lights with white noise or loud music playing. The FBI personnel objected to the coercive aspects of Abu Zubaydah's interrogation at this time, as they believed they were making substantial progress building rapport with Abu Zubaydah and developing intelligence without these measures. (During their questioning of Abu Zubaydah, the FBI officers provided a towel for Abu Zubaydah to cover himself and continued to use rapport building techniques with the detainee.²⁵⁵⁷)

²⁵⁵⁶ See Volume I, including [REDACTED] 178955 (012236Z APR 02); April 1, 2002 email from [REDACTED] to [REDACTED], re: Please coord on cable attached; and email from [REDACTED] to [REDACTED], cc: [REDACTED], April 1, 2002, re: POC for [SWIGERT]—consultant who drafted Al-Qa'ida resistance to interrogation backgrounder (noting that CTC/LGL would contact SWIGERT).

²⁵⁵⁷ See Abu Zubaydah detainee review in Volume III.

<p>DIRECTOR HAYDEN: “We wanted [SWIGERT’s and DUNBAR’s] ideas about what approaches might be useful to get information from people like Abu Zubaydah and <i>other uncooperative al-Qa’ida detainees that we judged were withholding time-sensitive, perishable intelligence</i>. Keep in mind, as a backdrop for all of this, this wasn’t interrogating a snuffly that’s picked up on the battlefield. The <i>requirement to be in the CIA detention program is knowledge of [an] attack against the United States or its interests or knowledge about the location of Usama bin Ladin or Ayman al-Zawahiri</i>.”</p>	<p>The representation that the “requirement to be in the CIA detention program is knowledge of [an] attack against the United States or its interests or knowledge about the location of Usama bin Ladin or Ayman al-Zawahiri” is inconsistent with how the CIA’s Detention and Interrogation Program operated from its inception.²⁵⁵⁸ As detailed elsewhere, numerous individuals had been detained and subjected to the CIA’s enhanced interrogation techniques, despite doubts and questions surrounding their knowledge of terrorist threats and the location of senior al-Qa’ida leadership.</p>
<p>DIRECTOR HAYDEN: “We began in 2002, in the spring of 2002. We had one very high value detainee, Abu Zubaydah. <i>We knew he knew a lot. He would not talk. We were going nowhere with him</i>. The decision was made, we’ve got to do something. We’ve got to have an intervention here. What is it we can do?”</p>	<p>The representation that Abu Zubaydah “would not talk” is incongruent with CIA interrogation records. The CIA representation that the CIA “knew [Abu Zubaydah] knew a lot” reflected an inaccurate assessment of Abu Zubaydah from 2002, prior to his capture, and did not represent the CIA’s assessment of Abu Zubaydah as of the April 2007 testimony.</p> <ul style="list-style-type: none"> • Prior to Abu Zubaydah’s capture, the CIA had intelligence stating that Abu Zubaydah was the “third or fourth” highest ranking al-Qa’ida leader. This information was based on single-source reporting that was retracted in July 2002—prior to Abu Zubaydah being subjected to the CIA’s enhanced interrogation techniques. Other intelligence in CIA databases indicated that Abu Zubaydah was not a senior member of al-Qa’ida, but assisted al-Qa’ida members in acquiring false passports and other travel documents. Still other reporting indicated that, while Abu Zubaydah served as an administrator at terrorist training camps, he was not the central figure at these camps.

²⁵⁵⁸ See Volume I for additional details.

- After Abu Zubaydah was subjected to the CIA's enhanced interrogation techniques in August 2002, the chief of Base at DETENTION SITE GREEN wrote: "I do not believe that AZ was as wired with al-Qa'ida as we believed him to be prior to his capture."²⁵⁵⁹
- In August 2006, the CIA published an assessment that concluded that "misconceptions" about Afghanistan training camps with which Abu Zubaydah was associated had resulted in reporting that "miscast Abu Zubaydah as a 'senior al-Qa'ida lieutenant.'" The assessment concluded that "al-Qa'ida rejected Abu Zubaydah's request in 1993 to join the group."²⁵⁶⁰

CIA representations that interrogators "were going nowhere with [Abu Zubaydah]" prior to the use of the CIA's enhanced interrogation techniques are also incongruent with CIA records.

- Prior the use of the CIA's enhanced interrogation techniques, Abu Zubaydah provided information on al-Qa'ida activities, plans, capabilities, relationships, leadership structure, personalities, decision-making processes, training, and tactics. Abu Zubaydah provided this type of information prior to, during, and after the utilization of the CIA's enhanced interrogation techniques.
- A quantitative review of Abu Zubaydah's disseminated intelligence reporting indicates that more intelligence reports were disseminated from Abu Zubaydah's first two months of interrogation—prior to the use of the CIA's enhanced interrogation techniques—than were derived during the two-month period during and after the use of the CIA's enhanced interrogation techniques.²⁵⁶¹

²⁵⁵⁹ Email from: [REDACTED] (outgoing Chief of Base at DETENTION SITE GREEN): to: [REDACTED] subject: "Assessment to Date" of AZ; date: 10/06/2002, at 05:36:46 AM.

²⁵⁶⁰ CIA Intelligence Assessment, August 16, 2006, "Countering Misconceptions About Training Camps in Afghanistan, 1990-2001."

²⁵⁶¹ See Abu Zubaydah detainee review in Volume III, including monthly intelligence reporting charts.

<i>CIA's Enhanced Interrogation Techniques and the SERE School</i>	
<p>DIRECTOR HAYDEN: "After lengthy discussion, [Dr. SWIGERT] suggested that we might use the interrogation approaches that had been, for years, safely used at the DOD survival school -- in other words, the interrogation techniques that we were training our airmen to resist. Those techniques have been used for about 50 years, with no significant injuries."</p> <p>VICE CHAIRMAN BOND: "And the techniques you are using are boiled down, is it true, from the SERE school?"</p> <p>DIRECTOR HAYDEN: "All of them are techniques that have been used in the SERE school, that's right, Senator."</p>	<p>The CIA consistently represented that the CIA's enhanced interrogation techniques were the same as the techniques used in the U.S. Department of Defense SERE school. However, CIA interrogation records indicate there were significant differences in how the techniques were used against CIA detainees. For example, a letter from the assistant attorney general to the CIA general counsel highlighted the statement in the Inspector General Special Review that the use of the waterboard in SERE training was "so different from subsequent Agency usage as to make it almost irrelevant."²⁵⁶² Prior to the use of the CIA's enhanced interrogation techniques against Abu Zubaydah, the chief of Base at the detention site identified differences between how the SERE techniques were applied in training, and how they would be applied to Abu Zubaydah:</p> <p>"while the techniques described in Headquarters meetings and below are administered to student volunteers in the U.S. in a harmless way, with no measurable impact on the psyche of the volunteer, we do not believe we can assure the same here for a man forced through these processes and who will be made to believe this is the future course of the remainder of his life... personnel will make every effort possible to insure [sic] that subject is not permanently physically or mental harmed but we should not say at the outset of this process that there is no risk."²⁵⁶³</p>
<i>Department of Justice Approval</i>	
<p>DIRECTOR HAYDEN: "This list of recommended techniques then went to the Department of Justice for their opinion regarding whether or not the</p>	<p>As described in this summary, the August 1, 2002, Department of Justice OLC memorandum relied on inaccurate information provided by the CIA concerning Abu Zubaydah's position in al-Qa'ida and the interrogation team's assessment of whether Abu Zubaydah</p>

²⁵⁶² Letter from Assistant Attorney General Goldsmith to CIA General Counsel Scott Muller, May 27, 2004. For more information on the SERE program, see the Senate Armed Services Committee Inquiry into the Treatment of Detainees in U.S. Custody, December 2008. See also statement of Senator Carl Levin relating to the inquiry, December 11, 2008: "In SERE school, our troops who are at risk of capture are exposed in a controlled environment with great protections and caution -- to techniques adapted from abusive tactics used against American soldiers by enemies such as the Communist Chinese during the Korean War. SERE training techniques include stress positions, forced nudity, use of fear, sleep deprivation and, until recently, the Navy SERE school used the waterboard. These techniques were designed to give our students a taste of what they might be subjected to if captured by a ruthless, lawless enemy so that they would be better prepared to resist. The techniques were never intended to be used against detainees in U.S. custody."

²⁵⁶³ [REDACTED] 73208 (231043Z JUL 02)

<p>techniques were lawful. DOJ returned a legal opinion that the 13 techniques were lawful, didn't constitute torture, and hence could be employed for CIA interrogations."²⁵⁶⁴</p>	<p>was withholding information about planned terrorist attacks.</p> <p>The OLC memorandum, which stated that it was based on CIA-provided facts and would not apply if facts were to change, was also specific to Abu Zubaydah. The CIA nonetheless used the OLC memorandum as the legal basis for applying its enhanced interrogation techniques against other CIA detainees."²⁵⁶⁵</p>
<i>Resistance Training</i>	
<p>VICE CHAIRMAN BOND: "How far down the line [does al-Qa'ida] train [its] operatives for interrogation resistance?"</p> <p>DIRECTOR HAYDEN: "I'm getting a nod from the experts,²⁵⁶⁶ Senator, that it's rather broadly-based."</p> <p>VICE CHAIRMAN BOND: "So even if you captured the al-Qa'ida facilitator, probably the army field manual stuff are things that he's already been trained on and he knows that he doesn't have to talk."</p> <p>DIRECTOR HAYDEN: "We would expect that, yes, Senator."</p>	<p>A review of CIA records on this topic identified no records to indicate that al-Qa'ida had conducted "broadly-based" interrogation resistance training. The CIA repeatedly represented that Abu Zubaydah "wrote al Qaeda's manual on resistance techniques."²⁵⁶⁷ This representation is also not supported by CIA records. When asked about interrogation resistance training, Abu Zubaydah stated:</p> <p style="padding-left: 40px;">"... both Khaldan camp and Faruq [terrorist training] camp at least periodically included instruction in how to manage captivity. He explained that in one instance, Khaldan had an Egyptian who had collected and studied information from a variety of sources (including manuals and people who had been in 'different armies'). This Egyptian 'talked to the brothers about being strong' and 'not talking.' Abu Zubaydah's response to this</p>

²⁵⁶⁴ The August 1, 2002, OLC memorandum addressed 10 interrogation techniques. The May 10, 2005, OLC memorandum addressed 13 techniques.

²⁵⁶⁵ "Our advice is based upon the following facts, which you have provided to us. We also understand that you do not have any facts in your possession contrary to the facts outlined here, and this opinion is limited to these facts. If these facts were to change, this advice would not necessarily apply." (See Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay Bybee, Assistant Attorney General, Office of Legal Counsel, August 1, 2002, Interrogation of al Qaeda Operative (DTS #2009-1810, Tab 1).) CIA records indicate that it was not until July 29, 2003, that the Attorney General stated that the legal principles of the August 1, 2002, memorandum could be applied to other CIA detainees. (See June 18, 2004, letter from Assistant Attorney General Jack L. Goldsmith III to Director Tenet (DTS #2004-2710).) In a subsequent interview with the OIG, however, [REDACTED] CTC Legal, [REDACTED], stated that "every detainee interrogated is different in that they are outside the opinion because the opinion was written for Zubaydah." The context for [REDACTED]'s statement was the legality of the waterboarding of KSM. See Interview of [REDACTED], by [REDACTED], [REDACTED], and [REDACTED], Office of the Inspector General, August 20, 2003.

²⁵⁶⁶ Other CIA attendees at the hearing included John Rizzo, [REDACTED] and [REDACTED]. [REDACTED], former [REDACTED] CTC Legal, attended for the ODNI.

²⁵⁶⁷ Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay Bybee, Assistant Attorney General, Office of Legal Counsel, August 1, 2002, Interrogation of al Qaeda Operative (DTS #2009-1810, Tab 1).

	<p>was to take him aside—out of the view of the brothers—and explain to him that it was more important to have a ‘super plan--not expect a superman.’”²⁵⁶⁸</p> <p>Abu Zubaydah explained that he informed trainees at the training camp that “‘no brother’ should be expected to hold out for an extended time,” and that captured individuals will provide information in detention. For that reason, the captured individuals, he explained, should “expect that the organization will make adjustments to protect people and plans when someone with knowledge is captured.”²⁵⁶⁹</p>
<i>CIA Interrogators, U.S. Military Interrogators, and the Army Field Manual</i>	
<p>DIRECTOR HAYDEN: “All those involved in the questioning of detainees have been <i>carefully chosen and carefully screened</i>.”²⁵⁷⁰ The average age of our officers interrogating detainees is 43. Once they are selected, they must complete more than 250 hours of specialized training for this program before they are allowed to come face-to-face with a</p>	<p>This CIA testimony is incongruent with internal CIA records and the operational history of the program.</p> <ul style="list-style-type: none"> On November [REDACTED], 2002, after the completion of the first formal interrogation training class, [REDACTED] CTC Legal, [REDACTED], asked CTC attorney [REDACTED] to “[m]ake it known that from now on, CTC/LGL must vet all personnel who are enrolled in, observing or teaching – or otherwise associated with – the class.”²⁵⁷² The chief of CTC, Jose Rodriguez, objected to this approach, stating: “I do not think that CTC/LGL should or would want to get

²⁵⁶⁸ [REDACTED] 10496 (162014Z FEB 03). On July 25, 2002, a CIA Headquarters cable stated that Abu Zubaydah was the “author of a seminal al-Qa’ida manual on resistance to interrogation techniques.” (See DIRECTOR [REDACTED] (251609Z JUL 02)). As a result of an ACLU lawsuit, in April 2010, the CIA released a document stating that Abu Zubaydah was the “author of a seminal al-Qa’ida manual on resistance to interrogation techniques.” (See ACLU release entitled, “CIA Interrogation of AZ Released 04-15-10.”) No CIA records could be identified to support this CIA assessment.

²⁵⁶⁹ [REDACTED] 10496 (162014Z FEB 03)

²⁵⁷⁰ The CIA’s June 2013 Response states that “[w]e concede that prior to promulgation of DCI guidance on interrogation in January 2003 and the establishment of interrogator training courses in November of the same year, not every CIA employee who debriefed detainees had been thoroughly screened or had received formal training. After that time, however – the period with which DCIA Hayden, who came to the Agency in 2005, was most familiar – the statement is accurate.” CIA records indicate that the first interrogator training course was established in November 2002. General Hayden became the CIA Director on May 30, 2006. After this time two CIA detainees entered CIA custody, one of whom was subjected to the CIA’s enhanced interrogation techniques.

²⁵⁷² Email from: [REDACTED], [REDACTED]/CTC/LGL; to: [REDACTED]; cc: Jose Rodriguez, [REDACTED], [REDACTED], [REDACTED]; subject: EYES ONLY; date: November [REDACTED], 2002, at 03:13:01 PM. As described above, Gul Rahman likely froze to death at DETENTION SITE COBALT sometime in the morning of November [REDACTED], 2002. [REDACTED]’s email, however, appears to have been drafted before the guards had found Gul Rahman’s body and before that death was reported to CIA Headquarters. See [REDACTED] 30211 [REDACTED], describing the guards observing Gul Rahman alive in the morning of November [REDACTED], 2002. Gul Rahman’s death appeared in cable traffic at least [REDACTED] after [REDACTED]’s email. No records could be identified to provide the impetus for [REDACTED]’s email.

terrorist. And we require additional field work under the direct supervision of an experienced officer before a new interrogator can direct an interrogation.”

DIRECTOR HAYDEN: “The Army field manual was also written to guide the conduct of a much larger, much younger force that trains primarily to detain large numbers of enemy prisoners of war. That’s not what the CIA program is.”

DIRECTOR HAYDEN: “[The Army Field Manual has] got to be done by hundreds and hundreds of teenagers in battlefield tactical situations.”

SENATOR JOHN WARNER: “Without the benefit of a tenth of the training of your professionals.”

DIRECTOR HAYDEN: “Exactly.”²⁵⁷¹

into the business of vetting participants, observers, instructors or others that are involved in this program. It is simply not your job. Your job is to tell all what are the acceptable legal standards for conducting interrogations per the authorities obtained from Justice and agreed upon by the White House.”²⁵⁷³ Contrary to CIA Director Hayden’s comments and Statement for the Record that “[a]ll those involved in the questioning of detainees are carefully chosen and screened for demonstrated professional judgment and maturity,” CIA records suggest that the vetting sought by [REDACTED] did not take place. The Committee reviewed CIA records related to several CIA officers and contractors involved in the CIA’s Detention and Interrogation Program, most of whom conducted interrogations. The Committee identified a number of personnel whose backgrounds include notable derogatory information calling into question their eligibility for employment, their access to classified information, and their participation in CIA interrogation activities. In nearly all cases, the derogatory information was known to the CIA prior to the assignment of the CIA officers to the Detention and Interrogation Program. This group of officers included individuals who, among other issues, had engaged in inappropriate detainee interrogations, had workplace anger management issues, and had reportedly admitted to sexual assault.²⁵⁷⁴

- Director Hayden’s testimony on the required hours of training for CIA interrogators is inconsistent with the early operational history of the program. Records indicate that CIA officers and contractors who conducted CIA interrogations in 2002 did not undergo any interrogation training. The first interrogator training course, held in November 2002, required approximately 65 hours of classroom and operational

²⁵⁷¹ In addition, [REDACTED], Former Chief, [REDACTED], CTC, testified: “First off, we have thirteen interrogators and, of that thirteen, eleven are contract employees of ours, and they’ve all been through the screening process, they’ve all been through our vetting process, and they are certainly more than qualified. They are probably some of the most mature and professional people you will have in this business.”

²⁵⁷³ Email from: Jose Rodriguez; to: [REDACTED], [REDACTED], CTC/LGL; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: EYES ONLY; date: November [REDACTED], 2002, at 04:27 PM.

²⁵⁷⁴ For additional detailed information, see Volume III.

	<p>instruction.²⁵⁷⁵ The initial training was designed and conducted by [REDACTED], who had been sanctioned for using abusive interrogation techniques in the 1980s, and [REDACTED], who had never been trained in, or conducted interrogations. In April 2003, [REDACTED] [CIA OFFICER I] was certified as an interrogator after only a week of classroom training.²⁵⁷⁶ In 2003, interrogator certification required only two weeks of classroom training (a maximum of 80 hours) and 20 additional hours of operational training and/or actual interrogations.²⁵⁷⁷</p>
Other Members of the Interrogation Team	
<p>DIRECTOR HAYDEN: "All interrogation sessions in which one of these lawful procedures is authorized for use has to be <i>observed by nonparticipants</i> to ensure the procedures are applied appropriately and safely. <i>Any observer can call 'knock it off' at any time.</i> They are authorized to terminate an interrogation immediately should they believe anything unauthorized is occurring."</p> <p>SENATOR SNOWE: "So you also mentioned that there are non-participants who are observing the interrogation process. Who are these non-participants?"</p>	<p>This testimony is incongruent with CIA records, for example:</p> <ul style="list-style-type: none"> • During the interrogation of Abu Zubaydah, CIA personnel at DETENTION SITE GREEN objected to the continued use of the CIA's enhanced interrogation techniques against Abu Zubaydah, stating that it was "highly unlikely" Abu Zubaydah possessed the threat information CIA Headquarters was seeking.²⁵⁷⁸ When the interrogation team made this assessment, they stated that the pressures being applied to Abu Zubaydah approached "the legal limit."²⁵⁷⁹ CIA Headquarters directed the interrogation team to continue to use the CIA's enhanced interrogation techniques and instructed the team to refrain from using "speculative language as to the legality of given activities" in CIA cables.²⁵⁸⁰

²⁵⁷⁵ December 4, 2002 Training Report, High Value Target Interrogation and Exploitation (HVTIE) Training Seminar 12-18 Nov 02, (pilot running).

²⁵⁷⁶ DIRECTOR [REDACTED] [REDACTED] APR 03)

²⁵⁷⁷ Interrogator Selection, Training, Qualification, and Certification Process; approximately January 29-February 4, 2003.

²⁵⁷⁸ See [REDACTED] 10604 (091624Z AUG 02) and [REDACTED] 10607 (100335Z AUG 02). In an email, the former SERE psychologists on contract with the CIA, who largely devised the CIA enhanced interrogation techniques, wrote that Abu Zubaydah stated he was "ready to talk" the first day after they used the CIA's techniques. Speaking specifically of the waterboard technique, they wrote, "As for our buddy; he capitulated the first time. We chose to expose him over and over until we had a high degree of confidence he wouldn't hold back. He said he was ready to talk during the first exposure." See email from: [REDACTED]; subject: "Re: [SWIGERT and DUNBAR]"; date: August 21, 2002, at 10:21 PM.

²⁵⁷⁹ [REDACTED] 10607 (100335Z AUG 02)

²⁵⁸⁰ Email from: Jose Rodriguez; to: [REDACTED]; subject: "[DETENTION SITE GREEN]," with attachment of an earlier email from: [REDACTED]; to: [REDACTED]; date: August 12, 2002. See also the section on Abu Zubaydah's interrogation in this summary and the Abu Zubaydah detainee review in Volume III.

DIRECTOR HAYDEN: "They could be other interrogators, medical personnel, chief of base, debriefers, analysts."

SENATOR SNOWE: "Do they ever raise concerns during this process, during these interrogations?"

DIRECTOR HAYDEN: "Everybody watching has – every individual has an absolute right to stop the procedure just by saying 'stop.'"

SENATOR SNOWE: "Did it happen? It's never happened?"

DIRECTOR HAYDEN: "No, we're not aware. I'm sorry. John [Rizzo] and [REDACTED] point out it's just not the ability to stop it; it is an obligation to stop it if they believe something is happening that is unauthorized."

- During the KSM interrogation sessions, the CIA chief of Base directed that the medical officer at the detention site not directly contact CIA Headquarters via the CIA's classified internal email system, to avoid establishing "grounds for further legal action." Instead, the chief of Base stated that any information on KSM's interrogations would be first reviewed by the chief of Base before being released to CIA Headquarters.²⁵⁸¹ Prior to KSM's third waterboard session of March 13, 2003, the on-site medical officer raised concerns that the session would exceed the limits of draft OMS guidelines for the waterboard.²⁵⁸² The waterboard session was conducted after an approval email from a CTC attorney at CIA Headquarters.²⁵⁸³ The medical officer would later write that "[t]hings are slowly evolving form [sic] [medical officers] being viewed as the institutional conscience and the limiting factor to the ones who are dedicated to maximizing the benefit in a safe manner and keeping everyone's butt out of trouble."²⁵⁸⁴
- As was the case with several other CIA detainees, 'Abd al-Rahim al-Nashiri was repeatedly subjected to the CIA's enhanced interrogation techniques at the direction of CIA Headquarters, despite opposition from CIA interrogators.²⁵⁸⁵
- The CIA Inspector General Special Review states that CIA "psychologists objected to the use of on-site

²⁵⁸¹ Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: MEDICAL SITREP 3/10; date: March 11, 2003, at 8:10:39 AM.

²⁵⁸² Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], Jose Rodriguez; subject: re: Eyes Only – Legal and Political Quand[ry]; date: March 13, 2003, at 11:28:06 AM.

²⁵⁸³ Email from: [REDACTED]; to: [REDACTED]; cc: Jose Rodriguez, [REDACTED], [REDACTED]; subject: EYES ONLY – Use of Water Board; date: March 13, 2003, at 08:28 AM.

²⁵⁸⁴ Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: State cable; date: March 13, 2003, at 1:43:17 PM. The previous day, the medical officer had written that "I am going the extra mile to try to handle this in a non confrontational manner." See email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: MEDICAL SITREP 3/10; date: March 12, 2003, at 5:17:07 AM.

²⁵⁸⁵ See, for example, the report of investigation of the Inspector General: "By mid-2002, Headquarters and [DETENTION SITE BLUE] were at odds regarding [DETENTION SITE BLUE]'s assessment on Al-Nashiri and how to proceed with his interrogation or debriefing. On several occasions throughout December 2002, [DETENTION SITE BLUE] reported via cables and secure telephone calls that Al-Nashiri was not actively resisting and was responding to questions directly. Headquarters disagreed with [DETENTION SITE BLUE]'s assessment because Headquarters analysts thought Al-Nashiri was withholding imminent threat information." See Report of Investigation, Office of the Inspector General, Unauthorized Interrogation Techniques at [DETENTION SITE BLUE] (2003-7123-IG), 29 October 2003, p. 18 (DTS #2003-4897).

	<p>psychologists as interrogators and raised conflict of interest and ethical concerns.” According to the Special Review, this was “based on a concern that the on-site psychologists who were administering the [CIA’s enhanced interrogation techniques] participated in the evaluations, assessing the effectiveness and impact of the [CIA’s enhanced interrogation techniques] on the detainees.”²⁵⁸⁶ In January 2003, CIA Headquarters required that at least one other psychologist be present who was not physically participating in the administration of the CIA’s enhanced interrogation techniques. According to [REDACTED] OMS, however, the problem still existed because “psychologist/interrogators continue to perform both functions.”²⁵⁸⁷</p>
<p>SENATOR SNOWE: “Did any CIA personnel express reservations about being engaged in the interrogation or these techniques that were used?” DIRECTOR HAYDEN: “I’m not aware of any. These guys are more experienced. No.”</p>	<p>This statement is incongruent with CIA records. For example, from August 4, 2002, through August 23, 2002, the CIA subjected Abu Zubaydah to its enhanced interrogation techniques on a near 24-hour-per-day basis. The non-stop use of the CIA’s enhanced interrogation techniques was disturbing to CIA personnel at DETENTION SITE GREEN. These CIA personnel objected to the continued use of the CIA’s enhanced interrogation techniques against Abu Zubaydah, but were instructed by CIA Headquarters to continue using the techniques. The interrogation using the CIA’s enhanced techniques continued more than two weeks after CIA personnel on site questioned the legality “of escalating or even maintaining the pressure” on Abu Zubaydah. CIA records include the following reactions of CIA personnel expressing “reservations about being engaged in the interrogations” and the use of the techniques:</p> <ul style="list-style-type: none"> • August 5, 2002: “want to caution [medical officer] that this is almost certainly not a place he’s ever been before in his medical career... It is visually and psychologically very uncomfortable.”²⁵⁸⁸

²⁵⁸⁶ Special Review, Office of the Inspector General, Counterterrorism Detention and Interrogation Activities (September 2001 – October 2003) (2003-7123-IG), 7 May 2004, p. 35 (DTS #2004-2710).

²⁵⁸⁷ Special Review, Office of the Inspector General, Counterterrorism Detention and Interrogation Activities (September 2001 – October 2003) (2003-7123-IG), 7 May 2004, p. 40 (DTS #2004-2710).

²⁵⁸⁸ Email from: [REDACTED]; to: [REDACTED], [REDACTED]; subject: Re: Monday; date: August 5, 2002, at 05:35AM.

- August 8, 2002: “Today’s first session... had a profound effect on all staff members present... it seems the collective opinion that we should not go much further... everyone seems strong for now but if the group has to continue... we cannot guarantee how much longer.”²⁵⁸⁹
- August 8, 2002: “Several on the team profoundly affected... some to the point of tears and choking up.”²⁵⁹⁰
- August 9, 2002: “two, perhaps three [personnel] likely to elect transfer” away from the detention site if the decision is made to continue with the enhanced interrogation techniques.²⁵⁹¹
- August 11, 2002: Viewing the pressures on Abu Zubaydah on video “has produced strong feelings of futility (and legality) of escalating or even maintaining the pressure.” With respect to viewing the interrogation tapes, “prepare for something not seen previously.”²⁵⁹²

The chief of CTC, Jose Rodriguez—via email—instructed the CIA interrogation team to not use “speculative language as to the legality of given activities” in CIA cable traffic.²⁵⁹³ Shortly thereafter, circa December 2002, the CIA general counsel had a “real concern” about the lack of details in cables of what was taking place at CIA detention sites, noting that “cable traffic reporting was becoming thinner,” and that “the agency cannot monitor the situation if it is not documented in cable traffic.”²⁵⁹⁴ The CIA’s chief of interrogations—who provided training to CIA interrogators—expressed his view that there was

²⁵⁸⁹ Email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED]; subject: Update; date: August 8, 2002, at 06:50 AM.

²⁵⁹⁰ Email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED]; subject: Update; date: August 8, 2002, at 06:50 AM.

²⁵⁹¹ Email from: [REDACTED]; to: [REDACTED], [REDACTED]; subject: Re: 9 August Update; date: August 9, 2002, at 10:44 PM.

²⁵⁹² Email from: [REDACTED]; to: [REDACTED], [REDACTED]; subject: Greetings; date: August 11, 2002, at 09:45AM.

²⁵⁹³ Email from: Jose Rodriguez; to: [REDACTED]; subject: [DETENTION SITE GREEN]; date: August 12, 2002.

²⁵⁹⁴ Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, Scott W. Muller, September 5, 2003.

	"excess information" in the Abu Zubaydah interrogation cables. ²⁵⁹⁵
<i>Reporting Abuses</i>	
<p>DIRECTOR HAYDEN: "Any deviations from approved procedures and practices that are seen are to be immediately reported and immediate corrective action taken, including referring to the CIA Office of Inspector General and to the Department of Justice, as appropriate."</p>	<p>This testimony is not supported by CIA records, for example:</p> <ul style="list-style-type: none"> • Multiple individuals involved in the interrogation of CIA detainee 'Abd al-Rahim al-Nashiri failed to report inappropriate activity. With regard to the unauthorized use of a handgun and power drill to threaten al-Nashiri, one CIA interrogator stated he did not report the incidents because he believed they fell below the reporting threshold for the CIA's enhanced interrogation techniques, while noting he did not receive guidance on reporting requirements. The chief of Base stated he did not report the incidents because he assumed the interrogator had CIA Headquarters' approval and because two senior CIA officials had instructed him to scale back on reporting from the detention site to CIA Headquarters. The inappropriate activity was discovered during a chance exchange between recently arrived CIA Headquarters officials and security officers.²⁵⁹⁶ • There were significant quantitative and qualitative differences between the waterboarding of KSM, as applied, and the description of the technique provided to the Department of Justice. Neither CIA interrogators nor CIA attorneys reported these deviations to the inspector general or the Department of Justice at the time. • Additionally, CIA records indicate that at least 17 detainees were subjected to CIA enhanced interrogation techniques for which they were not approved.²⁵⁹⁷
<i>Detainee Statistics</i>	

²⁵⁹⁵ Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], April 7, 2003.

²⁵⁹⁶ Report of Investigation, Office of the Inspector General, Unauthorized Interrogation Techniques at [DETENTION SITE BLUE] (2003-7123-IG), 29 October 2003, p. 24 (DTS #2003-4897).

²⁵⁹⁷ See Volume III for details.

<p>DIRECTOR HAYDEN: "What you have there is a matrix. On the lefthand side of the matrix are the names of the 30 individuals in the CIA program who have had any EITs used against them. Mr. Chairman and Vice Chairman and Members, you've heard me say this before. In the history of the program, we've had 97 detainees. Thirty of the detainees have had EITs used against them."</p>	<p>This testimony is inaccurate. At the time of this testimony, there had been least 118 CIA detainees. CIA records indicate at least 38 of the detainees had been subjected to the CIA's enhanced interrogation techniques.²⁵⁹⁸</p>
<p><i>Legal Basis for CIA Detention and Interrogation</i></p>	
<p>DIRECTOR HAYDEN: "The Army field manual is designed for the folks at Guantanamo to interrogate a rifleman that was in the employ of Gulbuddin Hekmatyar. That guy never gets into our program. The ticket into</p>	<p>This testimony is incongruent with CIA detention and interrogation records. For example, numerous individuals had been detained and subjected to the CIA's enhanced interrogation techniques, despite doubts and questions surrounding their knowledge of terrorist threats and the location of senior al-Qa'ida leadership. They include Asadullah,²⁵⁹⁹ Mustafa al-Hawsawi,²⁶⁰⁰ Abu Hudhaifa,²⁶⁰¹</p>

²⁵⁹⁸ See Volume III for details. As discussed in this summary and in greater detail in the full Committee Study, on January 5, 2009, a CIA officer informed Director Hayden that additional CIA detainees beyond the 98 CIA detainees previously briefed to Congress had been identified. A CIA chart indicated there were "13 New Finds," additional individuals who had been detained by the CIA, and that the new true number of CIA detainees was now at least 112. After the briefing with Director Hayden, the CIA officer sent a record of this interaction via email only to himself, which stated: "I briefed the additional CIA detainees that could be included in RDI numbers. DCIA instructed me to keep the detainee number at 98 -- pick whatever date i needed to make that happen but the number is 98." (See email from: [REDACTED]; to [REDACTED]; subject: Meeting with DCIA; date: January 5, 2009, at 10:50 PM.) Shortly thereafter, the final draft of prepared remarks by Director Hayden to President-elect Obama's national security team state: "There have been 98 detainees in the history of the CIA program."

²⁵⁹⁹ Interrogators had asked CIA Headquarters for the assessments supporting the decision to subject Asadullah to the CIA's enhanced interrogation techniques, noting that "it would be of enormous help to the interrogator to know what is concrete fact and what is good analysis." (See [REDACTED] 33963 [REDACTED] 34098 [REDACTED]; [REDACTED] 34812 [REDACTED].) In response, ALEC Station acknowledged that "[t]o be sure, our case that Asadullah should have a good sense of bin Ladin's location is circumstantial." (See ALEC [REDACTED].) The following day, interrogators commented that "it may be that he simply does not know the [locational information on AQ leaders]." See [REDACTED] 34310 [REDACTED].

²⁶⁰⁰ Following al-Hawsawi's first interrogation session, Chief of Interrogations [REDACTED] asked CIA Headquarters for information on what al-Hawsawi actually "knows," saying "he does not appear to the [sic] be a person that is a financial mastermind. However, we lack facts with which to confront [al-Hawsawi]. What we need at this point is substantive information vice supposition." See [REDACTED] 34757 (101742Z MAR 03).

²⁶⁰¹ Although CIA records include no requests or approval cables for the use of the CIA's enhanced interrogation techniques, Abu Hudhaifa was subjected to ice water baths and 66 hours of standing sleep deprivation. He was released because the CIA discovered he was likely not the person he was believed to be. See WASHINGTON DC [REDACTED]; [REDACTED] 51303 [REDACTED].

this program is knowledge of threat to the homeland or the interests of the United States or knowledge of location of 1 or 2.”

Arsala Khan,²⁶⁰² ABU TALHA AL-MAGREBI²⁶⁰³ and ABU BAHAR AL-TURKI,²⁶⁰⁴ Janat Gul,²⁶⁰⁵ Ahmed Ghailani,²⁶⁰⁶ Sharif al-Masri,²⁶⁰⁷ and Sayyid Ibrahim.²⁶⁰⁸

The CIA represented to the OLC that the CIA would only use its enhanced interrogation techniques against detainees who had knowledge of imminent threats or direct involvement in planning and preparing of terrorist actions. Not until July 20, 2007, more than three months after this testimony, did the OLC approve the use of the CIA's enhanced interrogation techniques against detainees based

²⁶⁰² CIA Headquarters initially resisted approving Arsala Khan's capture because of a lack of information confirming that he was a "continuing threat." (See [REDACTED] 169986 [REDACTED]; email from: [REDACTED]; to: [REDACTED], and [REDACTED]; subject: Denial of Approval to Capture Arsala Khan; date: [REDACTED].) Despite doubts that Arsala Khan was the individual sought by the CIA, interrogators subjected him to the CIA's enhanced interrogation techniques "to make a better assessment regarding [his] willingness to start talking, or assess if our subject is, in fact the man we are looking for." See [REDACTED] 1373 [REDACTED].

²⁶⁰³ Authorization to use the CIA's enhanced interrogation techniques against ABU TALHA AL-MAGREBI was sought in order to "identify inconsistencies in [ABU BAHAR AL-TURKI's] story." See [REDACTED] 2186 [REDACTED].

²⁶⁰⁴ The true names of these detainees have been replaced with the capitalized pseudonyms AL-MAGREBI and AL-TURKI. At the time the two detainees were rendered to CIA custody, the CIA was aware that they were then working for a foreign partner government. They were subjected to sleep deprivation and dietary manipulation until the CIA confirmed that the detainees had been trying to contact the CIA for weeks to inform the CIA of what they believed were pending al-Qa'ida terrorist attacks. After the CIA had determined that AL-MAGREBI and AL-TURKI should not be in CIA custody, the two detainees were held for [REDACTED] additional months before they were released.

²⁶⁰⁵ Janat Gul's CIA interrogators wrote: "Team does not believe [Gul] is withholding imminent threat information, however team will continue to press [Gul] for that during each session." (See [REDACTED] 1574 ([REDACTED] 04).) The interrogation of Janat Gul is described in this summary and detailed in Volume III.

²⁶⁰⁶ The CIA's assessment of Ghailani's knowledge of terrorist threats was speculative. As one CIA official noted, "[a]lthough Ghailani's role in operational planning is unclear, his respected role in al-Qa'ida and presence in Shkai as recently as October 2003 may have provided him some knowledge about ongoing attack planning against the United States homeland, and the operatives involved." See email from: [REDACTED], CTC/UBLD [REDACTED] (formerly ALEC [REDACTED]); to: [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: derog information for ODDO on Talha, Ghailani, Hamza Rabi'a and Abu Faraj; date: August 10, 2004.

²⁶⁰⁷ As noted above, the credibility of the source implicating Sharif al-Masri, Janat Gul, and Ghailani's connection to a pre-election plot was questioned by CIA officials prior to the application of the CIA's enhanced interrogation techniques against the detainees. The source was later determined to have fabricated the information.

²⁶⁰⁸ Five days after interrogators began using the CIA's enhanced interrogation techniques against Sayyid Ibrahim, interrogators cabled CIA Headquarters requesting information that would "definitively link [Ibrahim] to nefarious activity or knowledge by [Ibrahim] of known nefarious activities of al-Qa'ida members, if this is possible." (See [REDACTED] 1324 [REDACTED] FEB 04.) Without receiving a response, they continued using the CIA's enhanced interrogation techniques against Ibrahim. CIA Headquarters, which rejected an assessment from two CIA debriefers that Ibrahim was, "at best... a low-level facilitator," would later indicate that it was "uncertain" he would meet the requirements for U.S. military or foreign government detention. (See HEADQUARTERS [REDACTED] [REDACTED]; HEADQUARTERS [REDACTED] [REDACTED].) Other detainees, Abd al-Karim and Abu Hazim, were subjected to the CIA's enhanced interrogation techniques "in an attempt to more rapidly assess [their] knowledge of pending attacks, operational planning, and whereabouts of UBL." See [REDACTED] 36843 [REDACTED] [REDACTED] 36908 [REDACTED].

	on their suspected knowledge of the locations of UBL or Ayman al-Zawahiri. ²⁶⁰⁹ Prior to July 20, 2007, in the case of at least six CIA detainees, the use of the CIA's enhanced interrogation techniques was nonetheless predicated on the assessment that the detainees possessed "locational information" on senior HVTs, to include UBL or Ayman al-Zawahiri. ²⁶¹⁰
<i>Intelligence Reporting from Overall Detainee Population</i>	
DIRECTOR HAYDEN: "Since we began this in the summer of 2002, the 97 detainees have helped us by their testimony create 8,000 intelligence reports." SENATOR SNOWE: "Of the 8,000 intelligence reports that were provided, as you said, by 30 of the detainees -" DIRECTOR HAYDEN: "By all 97, ma'am." ²⁶¹¹	CIA representations suggesting that every CIA detainee provided intelligence reporting are not supported by CIA records. A detailed reporting chart is provided in Volume II. CIA reporting records indicate that 34 percent of all CIA detainees produced no intelligence reports, and nearly 70 percent produced fewer than 15 intelligence reports. Of the 39 detainees who were, according to CIA records, subjected to the CIA's enhanced interrogation techniques, nearly 20 percent produced no intelligence reports, while 40 percent produced fewer than 15 intelligence reports.

²⁶⁰⁹ The OLC defined a High-Value Detainee as "a detainee who, until time of capture, we have reason to believe: (1) is a senior member of al-Qai'da or an al-Qai'da associated terrorist group (Jemaah Islamiyyah, Egyptian [sic] Islamic Jihad, al-Zarqawi Group, etc.); (2) has knowledge of imminent terrorist threats against the USA, its military forces, its citizens and organizations, or its allies; or that has/had direct involvement in planning and preparing terrorist actions against the USA or its allies, or assisting the al-Qai'da leadership in planning and preparing such terrorist actions; and (3) if released, constitutes a clear and continuing threat to the USA or its allies" (Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 10, 2005, Re: Application of 18 U.S.C. Sections 2340-2340A to Certain Techniques That May Be Used in the Interrogation of a High Value al Qaeda Detainee (DTS #2009-1810, Tab 9); Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, May 30, 2005, Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May be Used in the Interrogation of High Value Al Qaeda Detainees (DTS #2009-1810, Tab 11)). Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, July 20, 2007, Re: Application of the War Crimes Act, the Detainee Treatment Act, and Common Article 3 of the Geneva Conventions to Certain Techniques that May Be Used by the CIA in the Interrogation of High Value al Qaeda Detainees (DTS #2009-1810, Tab 14) ("The CIA informs us that it currently views possession of information regarding the location of Osama bin Laden or Ayman al-Zawahiri as warranting application of enhanced techniques, if other conditions are met.")

²⁶¹⁰ Ridha Ahmad al-Najjar ([REDACTED] 11542 [REDACTED]; ALEC [REDACTED]; Ghairat Bahir [REDACTED] 31118 [REDACTED]; 'Umar 'Abd al-Rahman aka Asadullah (CIA [REDACTED] 40471 [REDACTED]; [REDACTED] 10673 [REDACTED]; DIRECTOR [REDACTED] 10673 [REDACTED]; [REDACTED] 10732 [REDACTED]; Adnan al-Libi [REDACTED] 1478 [REDACTED]; [REDACTED] 1758 [REDACTED]; Majid Bin Muhammad Bin Sulayman Khayil aka Arsala Khan [REDACTED] 1370 [REDACTED]; Sayyid Ibrahim ([REDACTED] 1294 [REDACTED).

²⁶¹¹ Similar representations had been made by Director Hayden on September 6, 2006. Senator Bayh: "I was impressed by your statement about how effective the [CIA's enhanced interrogation] techniques have been in eliciting important information to the country, at one point up to 50 percent of our information about al-Qa'ida. I think you said 9000 different intelligence reports?" Director Hayden: "Over 8000, sir." Senator Bayh: "And yet

<i>CIA Detainee Reporting and Captures of Terrorists</i>	
<p>DIRECTOR HAYDEN: “Detainee reporting has played a role in nearly every capture of key al-Qa’ida members and associates since 2002.”</p>	<p>The CIA consistently represented that the interrogation of CIA detainees using the CIA’s enhanced interrogation techniques resulted in critical and otherwise unavailable intelligence that led to the capture of specific terrorists, to include, among others: KSM, Majid Khan, Ramzi bin al-Shibh, Iyman Faris, Saleh al-Marri, Ammar al-Baluchi, Khallad bin Attash, Sajid Badat, and Dhiren Barot.²⁶¹² These representations were inaccurate.</p>
<i>The CIA’s Detention and Interrogation Program Led to the Capture of Hambali and the Karachi “Cell”</i>	
<p>DIRECTOR HAYDEN: “March 2003, KSM gives us information about an al-Qa’ida operative, Majid Khan... KSM was aware that Majid had been recently captured. KSM, <i>possibly believing that Khan was talking</i>, admitted to having tasked Majid with delivering \$50,000 to some of Hambali’s operatives in December 2002... So now we go to [Majid] Khan and we tell him, hey, your uncle just told us about the money. <i>He acknowledged that he delivered the money to an operative named Zubair. He provided Zubair’s physical description and phone number. Based on that [redacted] captured Zubair in June.</i>”</p>	<p>The chronology provided in this testimony, which is consistent with other CIA representations, is inaccurate. Prior to KSM’s capture, in early January 2003, coverage of a known al-Qa’ida email account uncovered communications between the account and a former Baltimore, Maryland, resident, Majid Khan. The communications indicated that Majid Khan traveled to Bangkok for terrorist support activities and was in contact there with a “Zubair.”²⁶¹³ By this time, the CIA had significant intelligence indicating that a “Zubair” played a central supporting role in Jemaah Islamiyah (JI), was affiliated with al-Qa’ida figures like KSM, had expertise in [redacted] in Southeast Asia, and was suspected of playing a role in Hambali’s October 12, 2002, Bali bombings.²⁶¹⁴ On March 6, 2003, the day after Majid Khan was captured (the capture was unrelated to CIA detainee reporting), and while being questioned by foreign government interrogators using rapport-building techniques, Majid Khan described how he traveled to Bangkok and provided \$50,000 USD to Zubair at the behest of al-Qa’ida.²⁶¹⁵ Majid Khan’s physical description</p>

this has come from, I guess, only thirty individuals.” Director Hayden: “No, sir, 96, all 96” (Senate Select Committee on Intelligence, Briefing by the Director, Central Intelligence Agency, on the Central Intelligence Agency Detention, Interrogation and Rendition Program, September 6, 2006 (DTS #2007-1336)).

²⁶¹² See, for example, [redacted], Memorandum for the Record; subject: Meeting with Deputy Chief, Counterterrorist Center ALEC Station; date: 17 July 2003; Memorandum for: Inspector General; from: James Pavitt, Deputy Director for Operations; subject: re (S) Comments to Draft IG Special Review, “Counterterrorism Detention and Interrogation Program” (2003-7123-IG); date: February 27, 2004; attachment: February 24, 2004, Memorandum re Successes of CIA’s Counterterrorism Detention and Interrogation Activities; CIA briefing slides entitled, “CIA Interrogation Program,” dated July 29, 2003, presented to senior White House officials; Hearing of the Senate Select Committee on Intelligence, February 14, 2007 (DTS #2007-1337). For additional details, see Volume II.

²⁶¹³ ALEC [redacted] (170117Z JAN 03)

²⁶¹⁴ See intelligence chronology in Volume II.

²⁶¹⁵ A cable describing the foreign government interrogation of Majid Khan stated, “[a foreign government officer] talked quietly to [Majid Khan] alone for about ten minutes before the interview began and was able to establish an

	<p>of Zubair matched previous intelligence reporting already collected on Zubair.²⁶¹⁶</p> <p>When confronted with this information, KSM confirmed the reporting, but denied knowing Zubair.²⁶¹⁷</p> <p>By May 2003, the CIA learned that a source the CIA had been developing, [REDACTED], received a call from a phone number associated with Zubair. When the source was contacted by the CIA, he described a Malaysian man [REDACTED].²⁶¹⁸ [REDACTED] later, the source alerted the CIA that Zubair would be [REDACTED]. Acting on this information, Thai authorities, [REDACTED], captured Zubair on June 8, 2003.</p>
<p>DIRECTOR HAYDEN: “Zubair enters the program. During debriefing, Zubair reveals he worked directly for Hambali. He provides information on [REDACTED] Hambali and a company [REDACTED].”</p>	<p>This testimony is incongruent with CIA records. Prior to entering the CIA’s Detention and Interrogation Program, while still in foreign government custody, Zubair was questioned about his efforts to obtain fraudulent [REDACTED] documents, as well as his phone contact with [REDACTED] [Business Q] [REDACTED].²⁶¹⁹ Zubair admitted to seeking illegal [REDACTED] documents on behalf of Hambali, as well as using [REDACTED] [Business Q] [REDACTED].²⁶²⁰ CIA detention records do not state what immediate investigative steps the CIA or Thai authorities took with regard to [REDACTED] [Business Q], although signals intelligence had indicated that Zubair had been in frequent contact with the company.²⁶²¹</p> <p>After being rendered to CIA custody, Zubair was immediately subjected to the CIA’s enhanced</p>

excellent level of rapport.” (See [REDACTED] 13678 (070724Z MAR 03).) Records indicate that this information was also disseminated in FBI channels. See ALEC [REDACTED].

²⁶¹⁶ See intelligence chronology in Volume II.

²⁶¹⁷ [REDACTED] 13678 (070724Z MAR 03), disseminated as [REDACTED]; [REDACTED] 10865 (171648Z MAR 03), disseminated as [REDACTED]; [REDACTED] 10866 (171832Z MAR 03). Prior to Majid Khan’s reporting in foreign government custody, the CIA was aware from sources outside of the CIA detainee program that KSM had used couriers to transfer money to Hambali. Even while being questioned about such transfers, however, KSM made no mention of Majid Khan. See DIRECTOR [REDACTED] (251938Z SEP 02); ALEC [REDACTED] (072345Z MAR 03);

[REDACTED] 10755 (111455Z MAR 03), disseminated as [REDACTED]; [REDACTED] 84783 [REDACTED]; [REDACTED] 84837 [REDACTED]; [REDACTED] 84854 [REDACTED]; [REDACTED] 84876 [REDACTED]; [REDACTED] 87617 [REDACTED]; [REDACTED] 84908 [REDACTED]; [REDACTED] 84908 [REDACTED]; [REDACTED] 84908 [REDACTED].

	<p>interrogation techniques.²⁶²² After days of being questioned about other matters, Zubair was asked about his efforts to obtain [REDACTED] documents for Hambali, at which point he again acknowledged using [REDACTED] [Business Q] [REDACTED].²⁶²³ When Thai authorities approached "a contact" at [REDACTED] [Business Q], they were provided [REDACTED].²⁶²⁴</p>
<p>DIRECTOR HAYDEN: "Working with [an entity of a foreign government], we used that information to capture another Hambali lieutenant, a fellow named Lillie -- who is also on your list [of CIA detainees] -- who provided the location of Hambali. And that location information led us to his capture."</p>	<p>In an operation that included surveillance of [REDACTED] [Business Q], Hambali associate Amer was arrested on August 11, 2003.²⁶²⁵ Amer was immediately cooperative and assisted in the arrest of Lillie hours later at approximately 6:00 PM.²⁶²⁶ During his arrest, Lillie was found to have a key fob in his possession imprinted with an address of an apartment building in Ayutthaya, Thailand. In response to questioning, "within minutes of capture," Lillie admitted that the address on the key fob was the address where Hambali was located. Less than four hours later, Hambali was captured at the address found on the key fob.²⁶²⁷</p> <p>According to the chief of the CTC's Southeast Asia Branch:</p> <p>"[The CIA] stumbled onto Hambali. We stumbled onto the [source]... picking up the phone and calling his case officer to say there's [REDACTED]. ...we really stumbled over it. It wasn't police work, it</p>

²⁶²² [REDACTED] 40568 [REDACTED]
²⁶²³ [REDACTED] 84876 [REDACTED]; [REDACTED] 84908 [REDACTED]; [REDACTED]
40915 [REDACTED]; [REDACTED] 41017 [REDACTED]
[REDACTED]
[REDACTED] In response to this information, [REDACTED] wrote, "Wow..this is just great... you guys are soooo closing in on Hmabali [sic]." See email from: [REDACTED]; to: [REDACTED], and others; subject: "wohoo---hilite for EA team pls....aliases for Hambali"; date: June [REDACTED], 2003, at 9:51:30 AM.
²⁶²⁴ [REDACTED] 86449 [REDACTED]
²⁶²⁵ [REDACTED] 87409 [REDACTED]; [REDACTED] 87617 [REDACTED]
²⁶²⁶ [REDACTED] 87414 [REDACTED]; [REDACTED] 87617 [REDACTED]
[REDACTED]
²⁶²⁷ Lillie provide this information immediately and prior to entering CIA custody. See [REDACTED] 9515 [REDACTED]; [REDACTED] 87617 [REDACTED]; [REDACTED] 87414 [REDACTED]; [REDACTED]; "Hambali Capture."

	wasn't good targeting, it was we stumbled over it and it yielded up Hambali." ²⁶²⁸
<i>KSM, Hambali, and the Karachi "Cell" (the al-Ghuraba Group)</i>	
<p>DIRECTOR HAYDEN: "Bringing this story full circle, 'Abdul al-Hadi then identifies a cell of JI operatives whom Hambali had sent to Karachi for another al-Qa'ida operation. We take this information from Abdul Hadi to his brother, Hambali. Hambali then admits that he was grooming members of the cell for a U.S. operation, at the guidance of KSM -- remember, this is where this started -- and we're almost certain these were the guys trying to implement KSM's plot to fly hijacked planes into the tallest buildings on the west coast of the United States."</p>	<p>CIA Director Hayden's reference to "the guys trying to implement KSM's plot to fly hijacked planes into the tallest buildings on the west coast of the United States," is a reference to the al-Ghuraba student group and KSM's "Second Wave" plotting detailed in this summary and in greater detail in Volume II.²⁶²⁹</p> <p>A review of CIA records found that contrary to CIA representations, Hambali's brother, 'Abdul al-Hadi, aka Gunawan, who was in foreign government custody, did not identify a "cell of JI operatives whom Hambali had sent to Karachi for another al-Qa'ida operation." He identified "a group of Malaysian and Indonesian students in Karachi" who were witting of his affiliation with Jemaah Islamiyah.²⁶³⁰ CIA officers on site recalled other intelligence reporting indicating that KSM planned to use Malaysians in the "next wave of attacks," connected it to Gunawan's statements about Malaysian students, and reported that Gunawan had just identified "a group of 16 individuals, most all of whom are Malaysians."²⁶³¹ Records indicate that it was this initial analysis that led the CIA to consider the group a KSM "cell" for the "next wave of attacks."</p> <p>While Hambali was being subjected to the CIA's enhanced interrogation techniques, he was confronted about KSM's efforts to find pilots, as well as information on the al-Ghuraba group—which the CIA assessed was a KSM "cell." Hambali told his CIA interrogators "that some of the members of [the al-Ghuraba group] were destined to work for al-Qa'ida if everything had gone</p>

²⁶²⁸ CIA Oral History Program Documenting Hambali capture, interview of [REDACTED], interviewed by [REDACTED], on November 28, 2005.

²⁶²⁹ [REDACTED] 45915 (141431Z SEP 03). See also February 27, 2004, Memorandum for CIA Inspector General from James L. Pavitt, CIA Deputy Director for Operations, entitled "Comments to Draft IG Special Review, "Counterterrorism Detention and Interrogation Program," which contains a February 24, 2004, attachment entitled, "Successes of CIA's Counterterrorism Detention and Interrogation Activities"; CIA Intelligence Product entitled, "Jemaah Islamiya: Counterterrorism Scrutiny Limiting Extremist Agenda in Pakistan," dated April 18, 2008; KSM and Hambali reporting from October 2003 in Volumes II and III.

²⁶³⁰ [REDACTED] 15359 [REDACTED]

²⁶³¹ [REDACTED] 15359 [REDACTED]

according to plan,” and that “KSM told him to provide as many pilots as he could.”²⁶³²

Months later, on November 30, 2003, after three weeks of being questioned by a debriefer “almost entirely in Bahasa Indonesia,” Hambali admitted to fabricating information during the period he was being subjected to the CIA’s enhanced interrogation techniques. According to Hambali, he fabricated these claims “in an attempt to reduce the pressure on himself” and “to give an account that was consistent with what [Hambali] assessed the questioners wanted to hear.”²⁶³³ A November 30, 2003, cable noted that CIA personnel “assesse[d] [Hambali]’s admission of previous fabrication to be credible.” Hambali then consistently described “the al-Ghuraba organization” as a “development camp for potential future JI operatives and leadership, vice a JI cell or an orchestrated attempt by JI to initiate JI operations outside of Southeast Asia.” This description was consistent and corroborative of other intelligence reporting.²⁶³⁴

A wide body of intelligence reporting indicates that, contrary to CIA representations, the al-Ghuraba group was not “tasked” with, or witting, of any aspect of the “Second Wave” plotting.²⁶³⁵

While KSM’s reporting varied, KSM stated “he did not yet view the group as an operational pool from which to draft operatives.”²⁶³⁶ An October 27, 2006, CIA cable stated that “all of the members of the JI al-Ghuraba cell have been released,”²⁶³⁷ while an April 18, 2008, CIA intelligence report referencing the al-Ghuraba group

²⁶³² See the intelligence chronology in Volume II, including [REDACTED] 45953 (151241Z SEP 03) [REDACTED] 1323 (161749Z SEP 03).

²⁶³³ [REDACTED] 1142 (301055Z NOV 03)

²⁶³⁴ See intelligence chronology in Volume II. Although NSA signals intelligence was not provided for this Study, an April 2008 CIA intelligence report on the Jemaah Islamiya noted that the al-Ghuraba group “consisted of the sons of JI leaders, many of whom completed basic militant training in Afghanistan and Pakistan while enrolled at Islamic universities in Karachi,” and that this assessment was based on “signals intelligence and other reporting.” See CIA Intelligence Product entitled, “Jemaah Islamiya: Counterterrorism Scrutiny Limiting Extremist Agenda in Pakistan,” dated April 18, 2008.

²⁶³⁵ See intelligence chronology in Volume II.

²⁶³⁶ [REDACTED] 10223 (221317Z OCT 03); [REDACTED]

²⁶³⁷ WASHINGTON DC [REDACTED] (272113Z OCT 06)

	makes no reference to the group serving as potential operatives for KSM's "Second Wave" plotting. ²⁶³⁸
<i>The Interrogation Process</i>	
<p>DIRECTOR HAYDEN: "As before, with these seven [enhanced interrogation techniques] we use the least coercive measures to create cooperation at a predictable, reliable, sustainable level. They are used to create a state of cooperation. Once the state of cooperation is created, we simply productively debrief the detainee. On average, we get to that state of cooperation in a period measured by about one to two weeks."</p> <p>"When we're asking him questions during that period of increased stress, when we're being more rather than less coercive, <i>we are generally asking him questions for which we know the answers.</i> Otherwise, how do we know we have moved him from a spirit of defiance into a spirit of cooperation? And only after we have moved him into this second stage do we then begin to ask him things we really think he knows but we don't."</p>	<p>This testimony is incongruent with CIA records. As is detailed throughout the Committee Study, CIA detainees were frequently subjected to the CIA's enhanced interrogation techniques immediately after being rendered to CIA custody.²⁶³⁹ CIA interrogators asked open-ended questions of CIA detainees, to which the CIA did not know the answers, while subjecting detainees to the CIA's enhanced interrogation techniques. This approach began with Abu Zubaydah, whose interrogation focused on him being told to provide "the one thing you don't want me to know,"²⁶⁴⁰ and remained a central feature of the program. Numerous CIA detainees were determined never to have reached a "state of cooperation." Several detainees, when subjected to the CIA's enhanced interrogation techniques, transitioned to normal debriefing, and were then subjected to one or more additional periods of being subjected to the techniques.²⁶⁴¹</p>

²⁶³⁸ CIA Intelligence Product entitled, "Jemaah Islamiya: Counterterrorism Scrutiny Limiting Extremist Agenda in Pakistan," dated April 18, 2008.

²⁶³⁹ Numerous detainees were stripped and shackled, nude, in the standing stress position for sleep deprivation or subjected to other enhanced interrogation techniques prior to being questioned by an interrogator. *See for example* KSM [REDACTED] 34491 (051400Z MAR 03); Asadullah (DIRECTOR [REDACTED] ([REDACTED] FEB 03)); Abu Yasir al-Jaza'iri [REDACTED] 35558 ([REDACTED] MAR 03)); Suleiman Abdullah ([REDACTED] 35787 ([REDACTED] MAR 03); [REDACTED] 36023 ([REDACTED] APR 03)); Abu Hudhaifa [REDACTED] 38576 ([REDACTED] MAY 03)); Hambali [REDACTED] 1241 [REDACTED]; and Majid Khan ([REDACTED] 46471 (241242Z MAY 03); [REDACTED] 39077 (271719Z MAY 03).

²⁶⁴⁰ [REDACTED] 10016 (120509Z APR 02); [REDACTED] 10594 (061558Z AUG 02)

²⁶⁴¹ *See* detainee reviews in Volume III for additional information.

detainees. It's built on the particular psychological profile of the people we have and expect to get -- al-Qa'ida operatives. Perceiving themselves true believers in a religious war, detainees believe they are morally bound to resist until Allah has sent them a burden too great for them to withstand. At that point -- and that point varies by detainee -- their cooperation in their own heart and soul becomes blameless and they enter into this cooperative relationship with our debriefers."

DIRECTOR HAYDEN:

"Number one, we use the enhanced interrogation techniques at the beginning of this process, and it varies how long it takes, but I gave you a week or two as the normal window in which we actually helped this religious zealot to get over his own personality and put himself in a spirit of cooperation."

VICE CHAIRMAN BOND:

"Once you get past that time period, once you have convinced them that Allah gives them the green light, that's when you get the 8,000 intelligence reports."

The CIA has referred only to Abu Zubaydah in the context of this representation. As detailed, Abu Zubaydah referenced religion in the context of his cooperation prior to being subjected to the CIA's enhanced interrogation techniques. On May 14, 2002, more than two months before Abu Zubaydah began his August 2002 enhanced interrogation period, Abu Zubaydah told interrogators that "if he possessed any more information on future threats, then he would provide this information to us to help himself, claiming that 'the sharia' gives him permission to do so in his current situation."²⁶⁴⁹ Abu Zubaydah also made a similar statement to his interrogators approximately a week later—again, prior to the use of the CIA's enhanced interrogation techniques—stating that he had "prayed his 'Istikharah' (seeking God's guidance) and was now willing to tell what he really knew," and "that he had received guidance from God" to cooperate to "prevent his captured brothers from having a difficult time."²⁶⁵⁰

Further, Abu Zubaydah maintained that he always intended to provide information and never believed he could withhold information from interrogators.²⁶⁵¹ In February 2003, he told a CIA psychologist that he believed every captured "brother" would talk in detention, and that these "brothers should be able to expect that the organization will make adjustments to protect people and plans when someone with knowledge is captured."²⁶⁵² Abu Zubaydah stated he conveyed this perspective to trainees at a terrorist training camp.²⁶⁵³

underestimating Al-Qa'ida. The detainees were happy to be arrested by the U.S. because they got a big show trial. When they were turned over to [foreign governments], they were treated badly so they talked. Allah apparently allows you to talk if you feel threatened. The [CIA] detainees never counted on being detained by us outside the U.S. and being subjected to methods they never dreamed of." See [REDACTED], Memorandum for the Record; subject: Meeting with Deputy Chief, Counterterrorist Center ALEC Station; date: 17 July 2003.

²⁶⁴⁹ [REDACTED] 10262 (151138Z MAR 02)

²⁶⁵⁰ [REDACTED] 10262 (151138Z MAR 02)

²⁶⁵¹ [REDACTED] 10496 (162014Z FEB 03)

²⁶⁵² [REDACTED] 10496 (162014Z FEB 03)

²⁶⁵³ [REDACTED] 10496 (162014Z FEB 03)

<p>DIRECTOR HAYDEN: "That's correct, Senator, when we get the subject into this zone of cooperation. I think, as you know, in two-thirds of the instances we don't need to use any of the techniques to get the individual into the zone of cooperation."</p> <p>SENATOR NELSON: "How do you suspect that al-Qa'ida operatives are training in order to counter your techniques?"</p> <p>DIRECTOR HAYDEN: "You recall the policy on which this is based, that we're going to give him a burden that Allah says is too great for you to bear, so they can put the burden down."²⁶⁴⁶</p>	
<i>Threats Related to Sodomy, Arrest of Family</i>	
<p>DIRECTOR HAYDEN: "Many assertions [in the ICRC report] regarding physical or threatened abuse are egregious and are simply not true. On their face, they aren't even credible. Threats of acts of sodomy, the</p>	<p>This testimony is incongruent with CIA interrogation records.</p> <ul style="list-style-type: none"> As documented in the May 2004 Inspector General Special Review and other CIA records, interrogators threatened 'Abd al-Rahim al-Nashiri, KSM, and Abu Zubaydah with harm to their families.²⁶⁵⁴

²⁶⁴⁶ In addition, CIA officer ██████████ testified at the April 12, 2007, Committee hearing: "I spoke with Zubaydah. I was at one of these facilities for several months and I spent around 18 hours a day with Abu Zubaydah. At the conclusion of my time, as I was leaving the facility, he spoke with me, and he said there is something I need you to understand – to go back to the question that came earlier about walling and a collar. He looked at the plywood wall in the cell and said I want to thank you for that. I've had a lot of time to sit and reflect, and I understand why that's there. That's there so I don't get hurt. In terms of the totality of the experience, his advice was I may have been the first person, but you need to continue to do this because I need to be able to live with who I am and I will continue to be the religious believing person I am, but you had to get me to the point where I could have absolution from my god to cooperate and deal with your questions. So he thanked us for bringing him to that point, beyond which he knew his religious beliefs absolved him from cooperating with us." There are no CIA records to support this testimony.

²⁶⁵⁴ According to the Inspector General Special Review, a debriefer threatened al-Nashiri by saying "[w]e could get your mother in here," and, "[w]e can bring your family in here." In addition, one of KSM's interrogators told the inspector general that the psychologist/interrogators told KSM that, if anything happens in the United States, "[w]e're going to kill your children." (See Special Review, pp. 42-43; interview of ██████████, by ██████████, [REDACTED] and [REDACTED], Office of the Inspector General, 30 April 2003; interview of ██████████, by [REDACTED] and [REDACTED], Office of the Inspector General, 22 October 2003; ██████████ 10757 (111505Z MAR 03).) According to a CIA cable, a case officer "used [Abu Zubaydah's] 'family card' to apply more psychological pressure on [Abu Zubaydah]." The cable stated that the case officer "advised [Abu Zubaydah] that even if [Abu Zubaydah] did not care about himself...[Abu Zubaydah] should at least care about his family and keep

arrest and rape of family members, the intentional infection of HIV or any other diseases have never been and would never be authorized. There are no instances in which such threats or abuses took place.”

- Rectal exams were standard operating procedure for security purposes. A June 2002 cable noted that Abu Zubaydah was mildly “tense,” “likely an anticipatory reaction given his recent unexpected rectal exam” the previous day.²⁶⁵⁵
- At least five detainees were subjected to rectal rehydration or rectal feeding. There is at least one record of Abu Zubaydah receiving “rectal fluid resuscitation” for “partially refusing liquids.”²⁶⁵⁶ According to CIA records, Majid Khan was “very hostile” to rectal feeding and removed the rectal tube as soon as he was allowed to.²⁶⁵⁷ KSM was subjected to rectal rehydration without a determination of medical need, a procedure that KSM interrogator and chief of interrogations, [REDACTED], would later characterize as illustrative of the interrogator’s “total control over the detainee.”²⁶⁵⁸ Marwan al-Jabbur was subjected to what was originally referred to in a cable as an “enema,” but was later acknowledged to be rectal rehydration.²⁶⁵⁹ Both al-Nashiri²⁶⁶⁰ and Majid Khan were subjected to rectal feeding.²⁶⁶¹

in mind their welfare; the insinuation being [that] something might happen to them.” See [REDACTED] 10095 (220713Z APR 02)

²⁶⁵⁵ [REDACTED] 10507 [REDACTED]. CIA leadership, including CIA General Counsel Scott Muller and DDO James Pavitt, were also alerted to allegations that rectal exams were conducted with “excessive force” on two detainees at DETENTION SITE COBALT. See email from [REDACTED]; to [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED]; subject: ACTIONS from the GC Update this Morning, date: [REDACTED] 12:15 PM; Email from [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], subject: ACTIONS from the GC Update this Morning, date: [REDACTED] 1:23:31 PM; Email from [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED]; subject: Re: ACTIONS from the GC Update this Morning REQUEST FOR STATUS UPDATE; date: [REDACTED], at 10:47:32 AM. [REDACTED] 3223 [REDACTED]; HEADQUARTERS [REDACTED] [REDACTED]

²⁶⁵⁶ [REDACTED] 10070 [REDACTED]
²⁶⁵⁷ [REDACTED] 3868 (291534Z DEC 04); [REDACTED] 3868 (291534Z DEC 04). See also HEADQUARTERS [REDACTED] (302114Z NOV 04).

²⁶⁵⁸ [REDACTED] 34491 (051400Z MAR 03); Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, 27 March 2003. [REDACTED], [REDACTED] the Office of Medical Services (OMS), described the rectal rehydration of KSM as helping to “clear a person’s head” and effective in getting KSM to talk.

²⁶⁵⁹ See [REDACTED] 2563 [REDACTED]; email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Re: TASKING – Fw: [REDACTED]; date: March 30, 2007; DTS #2007-1502.

²⁶⁶⁰ As described in the context of the rectal feeding of al-Nashiri, Ensure was infused into al-Nashiri “in a forward-facing position (Trendlenberg) with head lower than torso.” See [REDACTED] 1203 (231709Z MAY 04).

²⁶⁶¹ According to CIA records, Majid Khan’s “lunch tray,” consisting of hummus, pasta with sauce, nuts, and raisins was “pureed” and rectally infused. See [REDACTED] 3240 (231839Z SEP 04).

	<ul style="list-style-type: none"> • Three detainees, Ramzi bin al-Shibh, Khallad bin Attash and Adnan al-Libi, were threatened with rectal rehydration.²⁶⁶²
<i>Punches and Kicks</i>	
<p>DIRECTOR HAYDEN: “Punches and kicks are not authorized and have never been employed.”²⁶⁶³</p>	<p>This testimony is incongruent with CIA records. Interviews conducted for two CIA internal reviews related to Gul Rahman’s death provided details on CIA interrogations at the CIA’s DETENTION SITE COBALT. In an interview report, CIA contractor DUNBAR described the “hard” or “rough” takedown used at DETENTION SITE COBALT. According to the interview report of DUNBAR, “there were approximately five CIA officers from the renditions team... they opened the door of Rahman’s cell and rushed in screaming and yelling for him to ‘get down.’ They dragged him outside, cut off his clothes and secured him with Mylar tape. They covered his head with a hood and ran him up and down a long corridor adjacent to his cell. They slapped him and punched him several times. [DUNBAR] stated that although it was obvious they were not trying to hit him as hard as they could, a couple of times the punches were forceful. As they ran him along the corridor, a couple of times he fell and they dragged him through the dirt (the floor outside of the cells is dirt). Rahman did acquire a number of abrasions on his face, legs, and hands, but nothing that required medical attention. (This may account for the abrasions found on Rahman’s body after his death. Rahman had a number of surface abrasions on his shoulders, pelvis, arms, legs, and face.)”²⁶⁶⁴</p> <p>The use of the “hard” or “rough” takedown, as used on Gul Rahman, was described by the CIA officer in charge of the CIA’s DETENTION SITE COBALT as “employed often in interrogations at [DETENTION SITE COBALT] as ‘part of the atmospherics.’”²⁶⁶⁵</p>

²⁶⁶² See Volume III for additional information.

²⁶⁶³ The CIA’s June 2013 Response states, “DCIA Hayden stated that ‘punches’ and ‘kicks’ were not authorized techniques and had never been employed and that CIA officers never threatened a detainee or his family.” The CIA’s June 2013 Response adds: “Part of that assertion was an error. The DCIA would have been better served if the Agency had framed a response for him that discussed CIA’s policy prohibiting such conduct, and how the Agency moved to address unsanctioned behavior which had occurred (including punches and kicks) and implement clear guidelines.”

²⁶⁶⁴ Memorandum for Deputy Director of Operations, from [REDACTED], January 28, 2003, Subject: Death Investigation – Gul RAHMAN, pp. 21-22.

²⁶⁶⁵ CIA Inspector General report, “Report of Investigation, Death of a Detainee [REDACTED],” (2003-7402-IG), April 27, 2005, at 38.

<i>Hygiene</i>	
<p>DIRECTOR HAYDEN: “Detainees have never been denied the means -- at a minimum, they’ve always had a bucket -- to dispose of their human waste.”</p>	<p>This testimony is incongruent with CIA records. CIA detainees, particularly those subjected to standing sleep deprivation, were routinely placed in diapers. Waste buckets were not always available. In the interrogation of Abu Hazim, a waste bucket was removed from his cell for punishment. According to a CIA cable, Abu Hazim “requested a bucket in which he could relieve himself, but was told all rewards must be earned.”²⁶⁶⁶</p>
<i>Medical Personnel and Medical Care</i>	
<p>DIRECTOR HAYDEN: “The medical section of the ICRC report concludes that the association of CIA medical officers with the interrogation program is ‘contrary to international standards of medical ethics.’ That is just wrong. The role of CIA medical officers in the detainee program is and always has been and always will be to ensure the safety and the well-being of the detainee. The placement of medical officers during the interrogation techniques represents an extra measure of caution. Our medical officers do not recommend the employment or continuation of any procedures or techniques.”</p>	<p>CIA records detail how throughout the program, CIA medical personnel cleared detainees for the use of the CIA’s enhanced interrogation techniques and played a central role in deciding whether to continue, adjust, or alter the use of the techniques against detainees. For example:</p> <ul style="list-style-type: none"> • Prior to the initiation of the CIA’s enhanced interrogation techniques against Abu Zubaydah, CIA Headquarters, with medical personnel participation, stated that the “interrogation process takes precedence over preventative medical procedures.”²⁶⁶⁷ • Abu Ja’far al-Iraqi was provided medication for swelling in his legs to allow for continued standing sleep deprivation.²⁶⁶⁸

²⁶⁶⁶ [REDACTED] 37493 [REDACTED]

²⁶⁶⁷ ALEC [REDACTED] (182321Z JUL 02). According to the CIA attorney who reviewed the videotapes of the interrogation of Abu Zubaydah, “the person he assumed was a medical officer was dressed completely in black from head to toe, and was indistinguishable from other [interrogation] team members.” See June 18, 2003, Interview Report of [REDACTED], Office of General Counsel Assistant General Counsel.

²⁶⁶⁸ Abu Ja’far al-Iraqi was subjected to nudity, dietary manipulation, insult slaps, abdominal slaps, attention grasps, facial holds, walling, stress positions, and water dousing with 44 degree Fahrenheit water for 18 minutes. He was shackled in the standing position for 54 hours as part of sleep deprivation, and experienced swelling in his lower legs requiring blood thinner and spiral ace bandages. He was moved to a sitting position, and his sleep deprivation was extended to 78 hours. After the swelling subsided, he was provided with more blood thinner and was returned to the standing position. The sleep deprivation was extended to 102 hours. After four hours of sleep, Abu Ja’far al-Iraqi was subjected to an additional 52 hours of sleep deprivation, after which CIA Headquarters informed interrogators that eight hours of sleep was the minimum. In addition to the swelling, Abu Ja’far al-Iraqi also experienced an edema on his head due to walling, abrasions on his neck, and blisters on his ankles from shackles.

See [REDACTED] 1810 ([REDACTED] DEC 05); [REDACTED] 1813 ([REDACTED] DEC 05); [REDACTED] 1819 ([REDACTED] DEC 05); [REDACTED] 1847 ([REDACTED] DEC 05); [REDACTED] 1848 ([REDACTED] DEC 05); HEADQUARTERS [REDACTED] ([REDACTED] DEC 05). See additional information on Abu Ja’far al-Iraqi in Volume III.

DIRECTOR HAYDEN: "The allegation in the report that a CIA medical officer threatened a detainee, stating that medical care was conditional on cooperation is blatantly false. Health care has always been administered based upon detainee needs. It's neither policy nor practice to link medical care to any other aspect of the detainee program."

SENATOR HATCH: "Has there been any use of any kind of drug or withholding of any kind of drug or medication?"

DIRECTOR HAYDEN: "No, absolutely not."

This testimony is incongruent with CIA records. For example, as CIA interrogators prepared for the August 2002 "enhanced interrogation" phase of Abu Zubaydah's interrogation, the CIA's DETENTION SITE GREEN noted, and CIA Headquarters confirmed, that the interrogation process would take precedence over preventing Abu Zubaydah's wounds from becoming infected.²⁶⁶⁹ DETENTION SITE GREEN personnel also stated that delaying a medical session for 72 hours after the start of the new phase of interrogation would convey to Abu Zubaydah that his level of medical care was contingent upon his cooperation.²⁶⁷⁰ On August 10, 2002, the medical officer at DETENTION SITE GREEN stated that, under the model of medical intervention that the detention site was following during the most aggressive interrogation phase, Abu Zubaydah's medical status was likely to deteriorate to an "unacceptable level" over the next two weeks.²⁶⁷¹ On August 25, 2002, the Base stated that the "combination of a lack of hygiene, sub-optimal nutrition, inadvertent trauma to the wound secondary to some of the stress techniques utilized at that stage, and the removal of formal obvious medical care to further isolate the subject had an overall additive effect on the deterioration of the wound."²⁶⁷²

Abu Zubaydah lost his left eye while in CIA custody. In October 2002, DETENTION SITE GREEN recommended that the vision in his right eye be tested, noting that "[w]e have a lot riding upon his ability to see, read and write." DETENTION SITE GREEN stressed that "this request is driven by our intelligence needs vice humanitarian concern for AZ."²⁶⁷³

CIA detainees Abu Hazim and Abd al-Karim each broke a foot while trying to escape capture and were placed in casts; Abd al-Karim's medical evaluation upon entry into CIA custody included a recommendation that he not be subjected to "extended standing for a couple of weeks,"

²⁶⁶⁹ [REDACTED] 10536 (151006Z JULY 02); ALEC [REDACTED] (182321Z JUL 02)

²⁶⁷⁰ [REDACTED] 10536 (151006Z JULY 02)

²⁶⁷¹ [REDACTED] 10607 (100335Z AUG 02)

²⁶⁷² [REDACTED] 10647 (201331Z AUG 02); [REDACTED] 10618 (121448Z AUG 02); [REDACTED] 10679 (250932Z AUG 02)

²⁶⁷³ [REDACTED] 11026 (070729Z OCT 02)

which was then extended to three months.²⁶⁷⁴ A cable describing the CIA enhanced interrogation techniques to be used on the two detainees stated that the interrogator would “forego cramped confinement, stress positions, walling, and vertical shackling (due to [the detainees’] injury).”²⁶⁷⁵ Abd al-Karim was nonetheless subjected to two 45-minute sessions of cramped confinement,²⁶⁷⁶ repeated walling, and a stress position that involved placing his “head on [the] wall, bent at waist, shuffled backwards to a safe, yet uncomfortable position.”²⁶⁷⁷ As part of sleep deprivation, he was also “walked for 15 minutes every half-hour through the night and into the morning.”²⁶⁷⁸ A few days later, a cable stated that, even given the best prognosis, Abd al-Karim would have arthritis and limitation of motion for the rest of his life.²⁶⁷⁹ Meanwhile, Abu Hazim was subjected to repeated walling.²⁶⁸⁰

Subsequently, and despite the aforementioned recommendation related to Abd al-Karim and a recommendation from a regional medical officer that Abu Hazim avoid any weight-bearing activities for five weeks,²⁶⁸¹ interrogators sought and received approval to use standing sleep deprivation on al-Karim and Abu Hazim.²⁶⁸²

Abu Hazim underwent 52 hours of standing sleep deprivation,²⁶⁸³ and Abd al-Karim underwent an unspecified period of standing sleep deprivation.²⁶⁸⁴

²⁶⁷⁴ [REDACTED] 44147 [REDACTED]; [REDACTED] 36862 (181352Z APR 03); DIRECTOR [REDACTED]; [REDACTED] 44147 [REDACTED]; DIRECTOR [REDACTED]

²⁶⁷⁵ [REDACTED] 36908 [REDACTED]; [REDACTED] 36862 (181352Z APR 03).

The interrogator requested approval to use sleep deprivation, the facial slap, attention grasp, abdominal slap and water dousing. To accommodate Abu Hazim’s and Abd al-Karim’s injuries, the cable stated that, rather than being shackled standing during sleep deprivation, the detainees would be “seated, secured to a cell wall, with intermittent disruptions of normal sleeping patterns.” For water dousing, the detainees’ injured legs would be “wrapped in plastic.” The request was approved. See DIRECTOR [REDACTED]; DIRECTOR [REDACTED]

²⁶⁷⁶ [REDACTED] 37121 (221703Z APR 03); [REDACTED] 37152 (231424Z APR 03)

²⁶⁷⁷ [REDACTED] 37508 (021305Z MAY 03); [REDACTED] 37202 (250948Z APR 03)

²⁶⁷⁸ [REDACTED] 37152 (231424Z APR 03)

²⁶⁷⁹ DIRECTOR [REDACTED]

²⁶⁸⁰ [REDACTED] 37410 (291828Z APR 03); [REDACTED] 37509 (021309Z MAY 03)

²⁶⁸¹ DIRECTOR [REDACTED] MAY 03; [REDACTED] 37754 [REDACTED]

²⁶⁸² [REDACTED] 38161 (131326Z MAY 03); DIRECTOR [REDACTED] MAY 03; DIRECTOR [REDACTED] MAY 03)

²⁶⁸³ [REDACTED] 39582 (041743Z JUN 03); [REDACTED] 39656 (060955Z JUN 03)

²⁶⁸⁴ [REDACTED] 38365 (170652Z MAY 03)

	<p>Interrogators left Asadullah, a detainee with a sprained ankle, in the standing sleep deprivation position. When Asadullah was subsequently placed in a stress position on his knees, he complained of discomfort and asked to sit. He was told he could not sit unless he answered questions truthfully.²⁶⁸⁵</p> <p>Due to a lack of adequate medical care at CIA detention sites and the unwillingness of host governments to make hospital facilities available, CIA detainees had care delayed for serious medical issues. See, for example, the detainee reviews for Janat Gul, Hassan Guleed, Mustafa al-Hawsawi, Ramzi bin al-Shibh, and Firas al-Yemeni in Volume III.</p>
<i>Dietary Manipulation</i>	
<p>DIRECTOR HAYDEN: "And, in the section [of the ICRC report] on medical care, the report omits key contextual facts. For example, Abu Zubaydah's statement that he was given only Ensure and water for two to three weeks fails to mention the fact that <i>he was on a liquid diet [was] quite appropriate because he was recovering from abdominal surgery at the time.</i>"</p>	<p>This testimony is inaccurate. CIA records detail how Abu Zubaydah was fed solid food shortly after being discharged from the hospital in April 2002.²⁶⁸⁶ In August 2002, as part of the CIA's enhanced interrogation techniques, Abu Zubaydah was placed on a liquid diet of Ensure and water as both an interrogation technique, and as a means of limiting vomiting during waterboarding.²⁶⁸⁷ In planning for the interrogation of subsequent detainees, the CIA determined that it would use a "liquid diet."²⁶⁸⁸ At least 30 CIA detainees were fed only a liquid diet of Ensure and water for interrogation purposes.²⁶⁸⁹</p>
<i>Waterboarding and Its Effectiveness</i>	
<p>SENATOR HATCH: "So this is not tipping the board and putting his head underneath the water." DIRECTOR HAYDEN: "No. It's slightly inclined, cloth,</p>	<p>This testimony is incongruent with CIA interrogation records. As described in the Study, the waterboarding of KSM involved interrogators using their hands to maintain a one-inch deep "pool" of water over KSM's nose and mouth in an effort to make it impossible for KSM to ingest all the water being poured on him.²⁶⁹⁰ According to the</p>

²⁶⁸⁵ Asadullah was also placed in a "small isolation box" for 30 minutes, without authorization and without discussion of how the technique would affect his ankle. See [REDACTED] 34098; [REDACTED] 34294; [REDACTED] 34310; [REDACTED]

²⁶⁸⁶ In May 2002, [REDACTED] stated that variety was introduced into Abu Zubaydah's diet; in addition to his daily intake of two cups of kidney beans, one cup of rice, Ensure, and juice, Abu Zubaydah was given a piece of fried chicken, Coke, and several cups of hot tea. See [REDACTED] 10327 (240624Z MAY 02).

²⁶⁸⁷ Email from: [REDACTED]; to: [REDACTED] and [REDACTED]; date: August 4, 2002, at 09:45:09AM.

²⁶⁸⁸ [REDACTED] 10961 (260650Z SEP 02)

²⁶⁸⁹ See detainee reviews in Volume III.

²⁶⁹⁰ Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: Re: Sitrep as of AM 3/15; date: March 15, 2003, at 3:52:54 AM; Interview of [REDACTED] by [REDACTED] and [REDACTED]

pouring of water under the rules I just laid out, Senator.”	attending medical officer, the technique became a “series of near drownings.” ²⁶⁹¹
<p>DIRECTOR HAYDEN: “[W]aterboarding cannot take place any more than five days out of a total of 30 days. There cannot be more than two sessions per day. A session is described as being strapped to the board. No session can last longer than two hours. In any session, there can be no more than six pourings of the water greater than ten seconds in duration. Under no circumstances can any detainee be under the pouring of the water a total of more than twelve minutes in any 24-hour period, and one pouring cannot exceed, one application cannot exceed 40 seconds.”</p>	<p>This testimony is incongruent with CIA interrogation records. For example, KSM was waterboarded on nine separate days over a two-week period. On March 13, 2003, KSM was subjected to three waterboard sessions in one day. Over March 12-13, 2003, he was subjected to five waterboard sessions in 25 hours. During that same period, he was subjected to the pouring of water for more than twelve minutes during a 24-hour period.²⁶⁹²</p> <p>In regard to the description of “pouring,” a CIA record related to Abu Zubaydah states that:</p> <p>“Each iteration of the watering cycle consisted of four broad steps: 1) demands for information interspersed with the application of the water just short of blocking his airway 2) escalation of the amount of water applied until it blocked his airway and he started to have involuntary spasms 3) raising the water-board to clear subject’s airway 4) lowering of the water-board and return to demands for information.”²⁶⁹³</p>
<p>SENATOR NELSON: “On KSM, was it waterboarding that you were able to get the information from him?” DIRECTOR HAYDEN: “Yes, sir, it was.” SENATOR NELSON: “Although it took you a long time to break him?”</p>	<p>This testimony is incongruent with CIA interrogation records. CIA personnel—including members of KSM’s interrogation team—believed that the waterboard interrogation technique was ineffective on KSM.²⁶⁹⁴ The on-site medical officer told the inspector general that, after three or four days, it became apparent that the waterboard was ineffective, and that KSM “hated it but knew he could manage.”²⁶⁹⁵ KSM interrogator [REDACTED] told the</p>

[REDACTED], Office of the Inspector General, May 15, 2003. See also interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, May 15, 2003.

²⁶⁹¹ Email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED]; subject: More; date: April 10, 2003, at 5:59: 27 PM.

²⁶⁹² [REDACTED] 10800 (131909Z MAR 03); [REDACTED] 10801 (131918Z MAR 03); [REDACTED] 10802 (131921Z MAR 03); [REDACTED] 10803 (131929Z MAR 03)

²⁶⁹³ CIA record entitled, “Aggressive Interrogation Phase Synopsis,” Abu Zubaydah, August 2002.

²⁶⁹⁴ Similarly, participants in the interrogation of Abu Zubaydah wrote that Abu Zubaydah “probably reached the point of cooperation even prior to the August institution of ‘enhanced’ measures—a development missed because of the narrow focus of the questioning. In any event there was no evidence that the waterboard produced time-perishable information which otherwise would have been unobtainable.” See CIA Summary and Reflections of [REDACTED] Medical Services on OMS participation in the RDI program, at 41.

²⁶⁹⁵ Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, May 15, 2003.

<p>DIRECTOR HAYDEN: “He had nine separate days in which waterboarding took place. He also was subject[ed] to sleep deprivation and I believe his deprivation was the longest of any detainee’s, at one stretch, and I think that may be what Senator Hatch was referring to by that 180 number. That’s the number of hours at one stretch.”</p>	<p>inspector general that KSM had “beat the system,”²⁶⁹⁶ and assessed two months after the discontinuation of the waterboard that KSM responded to “creature comforts and sense of importance” and not to “confrontational” approaches.²⁶⁹⁷ KSM debriefer and Deputy Chief of ALEC Station [REDACTED] told the inspector general that KSM “figured out a way to deal with [the waterboard].”²⁶⁹⁸ [REDACTED] CTC Legal, [REDACTED], told the inspector general that the waterboard “was of limited use on KSM.”²⁶⁹⁹ CIA records indicate that KSM was subjected to the waterboard interrogation technique at least 183 times.</p>
<i>Injuries and Deaths</i>	
<p>DIRECTOR HAYDEN: “The most serious injury that I’m aware of – and I’ll ask the experts to add any color they want, Senator – is bruising as a result of shackling.”</p>	<p>This testimony is incongruent with CIA interrogation records. CIA records indicate that CIA detainees suffered physical injuries beyond bruising from shackling, as well as psychological problems:</p> <ul style="list-style-type: none"> • During a waterboard session, Abu Zubaydah “became completely unresponsive, with bubbles rising through his open, full mouth.” He remained unresponsive after the waterboard was rotated upwards and only regained consciousness after receiving a “xyphoid thrust.”²⁷⁰⁰ • Multiple CIA detainees subjected to prolonged sleep deprivation experienced hallucinations, and CIA interrogation teams did not always discontinue sleep deprivation after the detainees had experienced hallucinations.²⁷⁰¹

²⁶⁹⁶ Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, October 22, 2003.

²⁶⁹⁷ [REDACTED] 11715 (201047Z MAY 03). In August 2006, [REDACTED] wrote in a Sametime communication that KSM and Abu Zubaydah “held back” despite the use of the CIA’s enhanced interrogation techniques, but added “I’m ostracized whenever I suggest those two did not tell us everything.” See Sametime Communication, [REDACTED] and [REDACTED], 15/Aug/06, 10:28:38 to 10:58:00.

²⁶⁹⁸ Interview of [REDACTED], by [REDACTED] and [REDACTED], Office of the Inspector General, April 3, 2003. [REDACTED] also wrote in a 2005 Sametime communication that “we broke KSM... using the Majid Khan stuff... and the emails.” See Sametime Communication, [REDACTED] and [REDACTED], 02/May/05, 14:51:48 to 15:17:39.

²⁶⁹⁹ Interview of [REDACTED], by [REDACTED], [REDACTED], and [REDACTED], Office of the Inspector General, August 20, 2003.

²⁷⁰⁰ Email from: [REDACTED], OMS; to: [REDACTED] and [REDACTED], subject: Re: Acceptable lower ambient temperatures; date: March 7, 2003; email from: [REDACTED], OMS; to: [REDACTED] and [REDACTED]; subject: Re: Talking Points for review and comment; date: August 13, 2004; email from [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]; subject: Re: Discussion with Dan Levin – AZ; date: October 26, 2004.

²⁷⁰¹ [REDACTED] 1396 [REDACTED]; [REDACTED] 1299 ([REDACTED] JAN 04); [REDACTED] 1308 ([REDACTED] JAN 04); [REDACTED] 1312 ([REDACTED] JAN 04); [REDACTED] 1530 ([REDACTED] 04)

	<ul style="list-style-type: none"> • Some detainees exhibited significant bruising and swelling unrelated to shackling. For example, a medical officer noted that, in addition to the swelling of his ankles and wrists, Ramzi bin al-Shibh had a bruise on his brow.²⁷⁰² • During the application of the CIA's enhanced interrogation techniques, KSM was described as "[t]ired and sore," with abrasions on his ankles, shins, and wrists, as well as on the back of his head.²⁷⁰³ He also suffered from pedal edema²⁷⁰⁴ resulting from extended standing.²⁷⁰⁵ • At the CIA's DETENTION SITE COBALT, CIA interrogators used "rough takedowns," described as taking a naked detainee outside of his cell, placing a hood over his head, and dragging him up and down a long corridor while slapping and punching him. Gul Rahman, after his death, was found to have surface abrasions on his shoulders, pelvis, arms, legs, and face.²⁷⁰⁶
<p>SENATOR LEVIN: "Did anybody die?"</p> <p>DIRECTOR HAYDEN: "No."</p> <p>SENATOR LEVIN: "Not one person?"</p> <p>DIRECTOR HAYDEN: "No one. The Committee is aware that there was an individual who died in CIA custody prior to the initiation of this program."</p> <p>SENATOR LEVIN: "Prior to the initiation of what?"</p> <p>DIRECTOR HAYDEN: "This program. In fact, the discipline of this program is a product of or</p>	<p>This testimony is incongruent with CIA records.</p> <ul style="list-style-type: none"> • Gul Rahman died in CIA custody at the CIA's DETENTION SITE COBALT after being rendered there on November 1, 2002. At the time, DETENTION SITE COBALT was described as a place where the CIA could detain suspected terrorists for the purposes of "intense interrogations" by CIA officers.²⁷⁰⁷ DDO James Pavitt told the inspector general that "there were some who say that [DETENTION SITE COBALT] is not a CIA facility, but that is 'bullshit.'"²⁷⁰⁸ • CIA records reveal that Gul Rahman was subjected to what the CIA chief of interrogations described as

²⁷⁰² [REDACTED] 10429 (101215Z FEB 03)

²⁷⁰³ [REDACTED] 10916 (210845Z MAR 03)

²⁷⁰⁴ Swelling of the feet.

²⁷⁰⁵ [REDACTED] 10909 (201918Z MAR 03)

²⁷⁰⁶ Memorandum for Deputy Director of Operations, from [REDACTED], January 28, 2003, Subject: Death Investigation – Gul RAHMAN, pp. 21-22. See Volume III for additional injuries resulting from CIA interrogations.

²⁷⁰⁷ ALEC [REDACTED] [REDACTED]

²⁷⁰⁸ August 21, 2003, Interview Report of James Pavitt, (pursuant to 2003-7123-IG), Deputy Director of Operations.

<p>result of the undisciplined activity that took place earlier.”</p> <p>DIRECTOR HAYDEN: “[Gul Rahman] was not part of this program, but I understand it was in CIA custody.”</p>	<p>“coercive techniques without authorization.”²⁷⁰⁹ At ALEC Station’s request, CIA contractor Hammond DUNBAR conducted an assessment of Gul Rahman to determine which CIA enhanced interrogation techniques should be used on him.²⁷¹⁰ While the CIA’s enhanced interrogation techniques were never authorized, DUNBAR interrogated Rahman, once employing the “insult slap” enhanced interrogation technique without CIA Headquarters approval.²⁷¹¹ On November █, 2002, Gul Rahman was shackled to the wall of his cell in a short chain position,²⁷¹² which required him to sit on the bare concrete.²⁷¹³ Rahman was wearing a sweatshirt, but was nude from the waist down. On November █, 2002, the guards at DETENTION SITE COBALT found Gul Rahman’s dead body.²⁷¹⁴ Although a CIA employee tried to perform CPR, Gul Rahman remained unresponsive and was declared dead.²⁷¹⁵ An autopsy report by the CIA found that the cause of Gul Rahman’s death was “undetermined,” but that the clinical impression of the medical officer who conducted the autopsy was that the cause of death was hypothermia.²⁷¹⁶</p>
<i>Stress Positions</i>	
<p>SENATOR LEVIN: [Reading a SSCI staff document, “Summary Notes of the February 14, 2007 ICRC Report”] “Prolonged stress standing position, naked, armed chained above the head [?]”</p>	<p>This testimony is inaccurate.</p> <p>There are multiple descriptions of CIA detainees being forced to stand with their arms shackled above their heads for extended periods of time at the CIA’s DETENTION SITE COBALT.²⁷¹⁷ In one example, a U.S. military legal</p>

²⁷⁰⁹ █ 29520 █; email dated November █, 2002, from CIA interrogator █ to CTC/LGL Officer █ with the subject line, “Another example of field interrogation using coercive techniques without authorization.”

²⁷¹⁰ █ 29909 █; ALEC █ █

²⁷¹¹ Report of Investigation, Death of a Detainee █ (2003-7402-IG), 27 April 2005, p. 23 (DTS #2005-1957).

²⁷¹² In the short chain position, a detainee’s hands and feet are shackled together by a short chain.

²⁷¹³ [REDACTED] 29520 █

²⁷¹⁴ January 27, 2003, Memorandum from [REDACTED], Chief, Counterintelligence Evaluation Branch, Counterespionage Group Counterintelligence Center, to Deputy Director for Operations, Subject: Death Investigation – Gul Rahman.

²⁷¹⁵ January 27, 2003, Memorandum from [REDACTED], Chief, Counterintelligence Evaluation Branch, Counterespionage Group Counterintelligence Center, to Deputy Director for Operations, Subject: Death Investigation – Gul Rahman. The circumstances surrounding Gul Rahman’s death are described in detail in both reports prepared by the Counterintelligence Center and a 2005 report prepared by the Inspector General. See April 27, 2005, CIA Inspector General, Report of Investigation, Death of a Detainee █ (DTS #2005-1957).

²⁷¹⁶ FINAL AUTOPSY FINDINGS, by [REDACTED], MD, CASE #: OMS A-01-02.

²⁷¹⁷ █ 28246 █; Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, █, April 5, 2003; Interview Report, 2003-7123-IG,

<p>DIRECTOR HAYDEN: "Not above the head. Stress positions are part of the EITs, and nakedness were part of the EITs, Senator."</p>	<p>advisor observed the technique known as "hanging," involving handcuffing one or both wrists to an overhead horizontal bar. The legal advisor noted that one detainee was apparently left hanging for 22 hours each day for two consecutive days to "break" his resistance.²⁷¹⁸</p> <p>CIA records indicate that multiple detainees were shackled with their hands above their heads at other CIA detention sites. For example, <i>see</i> detainee reviews in Volume III, to include 'Abd al-Rahim al-Nashiri,²⁷¹⁹ Hassan Ghul,²⁷²⁰ and KSM.²⁷²¹ According to CIA cables, Abu Zubaydah was handcuffed "high on the bars."²⁷²²</p> <p>Draft OMS guidelines on interrogations, noted that detainees could be shackled with their arms above their heads for "roughly two hours without great concern," and that the arms could be elevated for between two and four hours if the detainee was monitored for "excessive distress."²⁷²³</p>
<p><i>Legal Reasons for Overseas Detention</i></p>	
<p>SENATOR WHITEHOUSE: "Has there been any consideration at any point within the Agency that the purpose in locating facilities overseas is either to avoid liability under American statutes or to avoid the ability of any court to claim jurisdiction because they would not know where these took place? Is there an element of</p>	<p>Mr. Rizzo's testimony is incongruent with CIA records. After the capture of Abu Zubaydah, [REDACTED] CTC Legal, [REDACTED], prepared a PowerPoint presentation laying out the "pros" and "cons" of six detention options. The pros for detention in Country [REDACTED], where Abu Zubaydah would be rendered, included "[n]o issues of possible U.S. [court] jurisdiction." The cons for a CIA facility in the United States included "[c]an't foreclose ability of U.S. [courts] considering Habeas Corpus petition."²⁷²⁴</p>

Review of Interrogations for Counterterrorism Purposes, [REDACTED], April 30, 2003; Memorandum for [REDACTED] from [REDACTED] [REDACTED] November [REDACTED] 2002, Subject: Legal Analysis of [REDACTED] Personnel Participating in Interrogation at the CIA Detention Facility in [REDACTED] (aka "[DETENTION SITE COBALT]").

²⁷¹⁸ Memorandum for [REDACTED] from [REDACTED] [REDACTED] November [REDACTED] 2002, Subject: Legal Analysis of [REDACTED] Personnel Participating in Interrogation at the CIA Detention Facility in [REDACTED] (aka "[DETENTION SITE COBALT]").

²⁷¹⁹ Email from: [DETENTION SITE BLUE] COB [REDACTED]; to: [REDACTED]; subject: EYES ONLY - [REDACTED] ONLY -- MEMO FOR ADDO/DDO; date: January 22, 2003.

²⁷²⁰ [REDACTED] 1285 [REDACTED]

²⁷²¹ [REDACTED] 34491 (051400Z MAR 03); [REDACTED] 10654 (030904Z MAR 03); [REDACTED] 10752 (102320Z MAR 03)

²⁷²² [REDACTED] 10487 (181656Z JUN 02); [REDACTED] 10393 (020543Z JUN 02)

²⁷²³ OMS GUIDELINES ON MEDICAL AND PSYCHOLOGICAL SUPPORT TO DETAINEE INTERROGATIONS, "First Draft," March 7, 2003.

²⁷²⁴ PowerPoint presentation, Options of Incarcerating Abu Zubaydah, March 27, 2002.

<p>providing legal defense to the participants in these applications?" MR. RIZZO: "Well, certainly not the first."</p>	<p>In late 2003 and early 2004, the U.S. Supreme Court's decision to accept certiorari in the case of <i>Rasul v. Bush</i> prompted a decision by the CIA, in coordination with the Department of Justice, to transfer five CIA detainees held at Guantanamo to other CIA detention facilities.²⁷²⁵</p>
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²⁷²⁵ Email from: Scott W. Muller; to: [REDACTED], [REDACTED]; cc: [REDACTED]; subject: Detainees in Gitmo; date: January [REDACTED] 2004; email from Scott W. Muller; to: [REDACTED]; subject: DCI Meeting with Rice; date: January [REDACTED] 2004; email from: Scott Muller; to: James Pavitt, [REDACTED]; cc: George Tenet, John McLaughlin, [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: CIA Detainees at GITMO; date: February [REDACTED] 2004.