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(b)(3) NatSecAct

6 December 2006

DISPOSITION MEMORANDUM

SUBJECT: ~~(S)~~ Alleged Use of Unauthorized Interrogation Techniques

CASE: (U) 2004-7717-IG

ISSUES UNDER INVESTIGATION: (b)(1)
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1. ~~(TS//NF)~~ On 18 August 2004, the Office of Inspector General (OIG) received information from the FBI that Agency officers applied an interrogation technique to Libyan Islamic Fighting Group member Abu Hazim Al-Libi in a manner considered inconsistent with Agency procedures.

[redacted] linguist, provided the information to FBI Special Agents who were interviewing [redacted] on an unrelated matter. The FBI, in turn, referred [redacted] information to OIG for action.

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3. ~~(S//NF)~~ [redacted] advised OIG that he was the interpreter when interrogator [redacted] used enhanced interrogation techniques (EITs) on detainee Abu Hazim at [redacted] [redacted] alleges that when water dousing was used on Abu Hazim, a cloth covered Abu Hazim's face, and [redacted] poured cold water directly onto Abu Hazim's face to disrupt his breathing. [redacted] said when Abu Hazim turned blue, Physician's Assistant [redacted] removed the cloth so that Abu Hazim could breathe. [redacted] said this was the first and only time he witnessed water dousing, and that [redacted] other CIA personnel were present during this water dousing session. (b)(3) CIAAct

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4. ~~(S//NF)~~ CIA operational records indicate that Headquarters personnel approved the use of water dousing at the time. However, the water dousing technique did not include the use of a cloth over the face, and pouring water on the face was not allowed. Hence, if water dousing was applied as described, it could be a violation of Title 18 U.S.C. §2340A Torture.

INVESTIGATIVE EFFORTS:

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5. ~~(TS//NF)~~ [redacted] ~~(NF)~~ OIG reviewed relevant documents. Agency policy and guidelines on the use of interrogation techniques were reviewed. The Directorate of Operations (DO) [now known as the National Clandestine Service] provided cable traffic concerning the detention and interrogation at [redacted] of Abu Hazim, a.k.a. Abu Hazum Al-Libi, Muhammad Dawud, variant Daud, Dawood, Dawud, a.k.a. Ali 'Abdullah Sharid Al-Din, a.k.a. Abu Muhammad, a.k.a. Abu Hamid. Relevant Lotus Notes concerning Abu Hazim and water dousing were received from CTC/Legal, CTC/Renditions and Detainees Group (RDG), and the Office of Medical Services (OMS). OIG reviewed Security Files and Official Personnel Folders for selected personnel who had contact with Abu Hazim during this period of time.

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6. ~~(S//NF)~~ OIG interviewed several Agency employees and contractors, including the [redacted] employees who worked with [redacted] and witnessed the interrogations of Abu Hazim by [redacted]

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[Redacted]

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7. ~~(S)~~ On 10 September 2004, OIG reported this incident as a possible violation of federal criminal law to [Redacted] Chief, Criminal Division, U.S. Attorney's Office, Eastern District of Virginia. Assistant U.S. Attorney [Redacted] was assigned to the case and has been apprised of the progress of this investigation.

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POLICY AND GUIDELINES: (b)(3) CIAAct

8. ~~(S//NF)~~ DO Handbook 50-2 [Redacted] explains the Agency's general interrogation policy:

It is CIA policy to neither participate directly in nor encourage interrogation that involves the use of force, mental or physical torture, extremely demeaning indignities, or exposure to inhumane treatment of any kind as an aid to interrogation.

[Redacted]

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9. ~~(TS//NF)~~ [Redacted] According to the Inspector General's Special Review, the capture and initial Agency interrogation of the high value detainees (HVDs) presented the Agency with a significant dilemma.¹ The Agency was under pressure to prevent additional terrorist attacks. Agency officials believed that a more robust approach was necessary to elicit threat information from senior al-Qa'ida HVDs. With the knowledge that al-Qa'ida personnel had been trained in the use of resistance techniques, another challenge was to identify interrogation techniques that Agency personnel could lawfully use to overcome the resistance.

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10. ~~(TS//NF)~~ [Redacted] The Office of General Counsel (OGC) consulted extensively with Department of Justice (DoJ) and National Security Council (NSC) legal and policy staffs in determining and documenting the legal parameters and constraints for interrogations. In August 2002, DoJ's Office of Legal Counsel

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¹ ~~(TS//NF)~~ [Redacted] Counterterrorism Detention and Interrogation Activities (September 2001 - October 2003) (2003-7123-IG), dated 7 May 2004.

[Redacted]
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(OLC) provided the Agency a legal opinion in which it determined that 10 specific EITs identified for use by CIA with Abu Zubaydah would not violate the torture prohibition.² The only technique involving water that had been reviewed by OLC was the use of the waterboard.³

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11. ~~(TS//NF)~~ On 28 January 2003, DCI

George Tenet signed "Guidelines on Interrogations Conducted Pursuant to the Presidential Memorandum of Notification of 17 September 2001." The DCI Guidelines were sent to Station in cable (b)(3) CIAAct on 31 January 2003, and therefore, were the guidelines in effect when Abu Hazim was rendered to on April 2003. That document approved the use by trained interrogators of the EITs that OLC had opined on in August 2002.⁴ However, the DCI Guidelines did not limit interrogators to only

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⁴ ~~(TS//NF)~~ The EITs are the attention grasp, walling, the facial hold (insult hold), the abdominal slap, cramped confinement, wall standing, stress positions, sleep deprivation beyond 72 hours, the use of diapers for prolonged periods, the use of harmless insects, the water board, and such other techniques as may be specifically approved. The use of each EIT is subject to specific temporal, physical, and related conditions, including a competent evaluation of the medical and psychological state of the detainee.

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those techniques.⁵ The DCI Interrogation Guidelines stated that if any other technique is to be introduced, it must be reviewed and approved by Headquarters pursuant to the guidelines below.

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12. ~~(TS//NF)~~ [redacted] The DCI Interrogation Guidelines define "Permissible Interrogation Techniques" and specify, "Unless otherwise approved by Headquarters, CIA officers and other personnel acting on behalf of CIA may use only Permissible Interrogation Techniques. Permissible Interrogation Techniques consist of both (a) standard techniques and (b) EITs." Use of EITs require advance approval from Headquarters, as do standard techniques whenever feasible. The field must document the use of both standard techniques and EITs.

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13. ~~(TS//NF)~~ [redacted] The DCI Interrogation Guidelines required prior approval in writing (e.g., by written memorandum or in cable traffic) from the Director CTC, with the concurrence of the Chief, CTC Legal Group, for the use of any EIT(s). In each interrogation session in which an EIT is employed, a contemporaneous record shall be created setting forth the nature and duration of each such technique employed, the identities of those present, and a citation to the required Headquarters approval cable. This information, in the form of a cable, shall be provided to Headquarters.

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14. ~~(TS//NF)~~ [redacted] The DCI Interrogation Guidelines define "standard interrogation techniques" as techniques that do not incorporate significant physical or psychological pressure. These techniques include, but are not limited to, all lawful forms of questioning employed by US law enforcement and military interrogation personnel. Whenever feasible, advance approval is required for the use of standard techniques by an interrogation team. In all instances, their use shall be documented in cable traffic.

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⁵ ~~(TS//NF)~~ [redacted] According to [redacted] the DCI Interrogation Guidelines were meant to eliminate freelancing, not to eliminate the introduction of other techniques. Consideration was given for additional techniques as long as they were reviewed and approved by Headquarters.

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[Redacted]

15. ~~(TS/ [Redacted] NF)~~ The DCI Interrogation Guidelines define EITs as "techniques that do incorporate physical or psychological pressure beyond Standard Techniques." Headquarters must approve the use of each specific EIT in advance. EITs may be employed only by trained and certified interrogators for use with a specific detainee and with appropriate medical and psychological monitoring of the process.⁶

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16. ~~(TS/ [Redacted] NF)~~ Relevant to this investigation, in particular, is the technique of water dousing. Water dousing involves laying a detainee down on a plastic sheet or towel. Water is poured on the detainee from a container while the interrogator questions the detainee. A session can last from 10 minutes (a single application) to an hour (multiple applications). Water is applied so as to not enter the nose or mouth. Interrogators are not allowed to cover the detainee's face with a cloth.⁷

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17. ~~(TS/ [Redacted] NF)~~ The January 2003 DCI Interrogation Guidelines do not include water dousing as a standard or enhanced technique. However, cables between [Redacted] and Headquarters indicate that water dousing was used at [Redacted] since early 2003. It appears that water dousing was introduced at [Redacted] when [Redacted] submitted [Redacted]

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cable [Redacted] on [Redacted] March 2003, requesting approval to use water dousing as an additional EIT for Khalid Shayk Mohammed (KSM). On the same date, [Redacted] cable [Redacted] was sent to [Redacted] approving the use of water dousing with certain conditions. The cable specified that KSM could not be placed naked on bare cement floor, but he had to be placed on a sheet or towel. OMS advised that placing KSM on bare cement could cause his body heat to leach much faster than if he is placed on a towel or sheet. Also, the air temperature must be above 65 degrees if KSM would not be dried immediately.

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⁶ ~~(TS/ [Redacted] NF)~~ Before EITs are administered, a detainee must receive a detailed psychological assessment and physical exam. Daily physical and psychological evaluations are continued throughout the period of EIT use.

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~~(TS/ [Redacted] NF)~~ Based upon [Redacted] interviews of interrogators who administered water dousing and witnesses to water dousing, this was the policy in effect when water dousing was used at [Redacted] even though it is not documented as policy until [Redacted] January 2004.

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18. ~~(TS/~~ [redacted] ~~NF)~~ Although [redacted] cable and several other cables requesting and authorizing

interrogation techniques refer to water dousing as an EIT, interrogators and CTC/Legal advisors say that water dousing was a standard technique when it was applied to Abu Hazim in April 2003.

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It was not until [redacted] cable [redacted] dated 21 June 2003, that the application of water dousing was classified as a standard technique in writing.⁸ In a briefing by Director Tenet and General Counsel Scott Muller to the NSC Principals on 29 July 2003, water dousing was described as a standard technique. The 4 September 2003 draft OMS Guidelines also identified water dousing as a standard technique.⁹

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20. ~~(TS/~~ [redacted] ~~NF)~~ OIG agents interviewed [redacted] times, during which he described the water dousing of Abu Hazim in a matter that is not procedurally authorized by this

[redacted] (b)(3) CIAAct [redacted]

⁸ ~~(S//NF)~~ [redacted] states: "In a correction of the record, Headquarters notes that under a controlled environment and standard procedures for dousing, the application of dousing does not constitute an enhanced measure, but does require detailed and timely notification of its use in the interrogation reports, as required for other standard techniques."

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⁹ ~~(S//NF)~~ The full title of these guidelines is the "Draft OMS Guidelines on Medical and Psychological Support to Detainee Interrogations."

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24. ~~(TS//NF)~~ [redacted] ~~(NF)~~ The review of cables indicate that [redacted] was the primary interrogator for Abu Hazim and Abd al-Karim prior to [redacted] taking that responsibility. The initial cable sent by [redacted] on [redacted] April 2003, requesting EITs for Abu Hazim, stated that Abu Hazim would be water doused. In paragraph 11, [redacted] requested guidance concerning water dousing:

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11 ~~(S//NF)~~ [redacted] dated [redacted] April 2003. [redacted] used similar language when requesting authorization to use water dousing with Abd al-Karim.

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26. ~~(S//NF)~~ When [Redacted] departed [Redacted] on [Redacted] April 2003, [Redacted] sent a cable to CTC/RDG requesting authorization to replace [Redacted] and use EITs on Abu Hazim. CTC/RDG responded the same day with the authorization for [Redacted] to use EITs, including water dousing.

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27. ~~(S//NF)~~ [Redacted] cables indicate that Abu Hazim was interrogated and water doused on [Redacted] April 2003, [Redacted] April 2003, and [Redacted] April 2003. The cables indicate that [Redacted] participated in and witnessed the three water dousing sessions, as well as the water dousing of al-Karim on [Redacted] April 2003, for a total of four occasions. The same cables indicate that the other participants in the water dousing sessions were [Redacted]

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The [Redacted] guards provided security and assistance, with the exception of [Redacted] April 2003, when [Redacted] officers were available and provided security.

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28. ~~(S//NF)~~ [Redacted] dated [Redacted] April 2003, describes the interrogation of Abu Hazim on [Redacted] April 2003. The cable states, in part, that approved enhanced techniques, facial grab, facial slap, belly slap, and water dousing were used. Abu Hazim was doused with water in a room preheated to 74 degrees. Due to the rapidly warming temperatures in [Redacted] well water had reportedly risen to a comfortably cool temperature, and as a result, the water dousing did not have the psychological shocking impact it does in colder months.

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12-~~(S)~~ [Redacted] dated [Redacted] April 2003, paragraph 5.

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29. ~~(S//NF)~~ [redacted] dated [redacted] May 2003, describes the interrogation of Abd al-Karim on [redacted] April 2003. The cable states that approved enhanced techniques of walling and water dousing were used, and the participants in the interrogation session were [redacted]

[redacted] (b)(1) (b)(3) NatSecAct

30. ~~(S//NF)~~ [redacted] dated [redacted] May 2003, describes the interrogation of Abu Hazim on [redacted] April 2003. The cable states that approved enhanced techniques of walling, facial insult slap, and water dousing were used, and the participants in the interrogation session were [redacted]

Water dousing was done with an ambient temperature of 72 degrees. Following the water dousing, Abu Hazim was placed in a warm room where [redacted] used a soft conversational approach. (b)(1) (b)(3) NatSecAct

31. ~~(S//NF)~~ [redacted] dated [redacted] May 2003, describes the interrogation of Abu Hazim on [redacted] April 2003. The same participants were present, and water dousing was used in a room with the ambient temperature of 74 degrees.

32. ~~(TS//NF)~~ [redacted] (b)(1) (b)(3) NatSecAct ~~(NF)~~ OIG agents interviewed [redacted] They all claimed no recollection of a cloth covering Abu Hazim's face. [redacted]

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33. ~~(TS)~~ ~~(NF)~~ All participants said that Abu Hazim's eyes might have been covered during water dousing with a blindfold similar to a sleeping mask. said the general condition is that the detainee's eyes are covered with a blindfold or the hood is rolled up. said he could not say that the eyes were always covered.

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34. ~~(TS)~~ ~~(NF)~~ All participants said that water was not intentionally poured on the face.

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35. ~~(TS)~~ ~~(NF)~~ said that when he water doused, he walked back and forth slowly going over the entire body. He said he would pause so that the detainee would not be expecting more water. He would ask questions, and if the detainee was not truthful, he would pour again on different parts of the body. said he was careful not to pour water in the mouth. He said that was counterproductive. It is possible that water poured on the chest splashed onto the face. If it looked like a medical problem, he would have stopped. He does not recall that Abu Hazim choked, or that the physician's assistant stopped his water dousing because Abu Hazim choked on the water.

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CONCLUSIONS: (b)(1)
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38. ~~(TS//NF)~~ [Redacted] Headquarters authorized the water dousing of Abu Hazim by [Redacted] in accordance with the DCI Interrogation Guidelines. The alleged use of a cloth over Abu Hazim's face was not authorized. (b)(1)
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39. ~~(TS//NF)~~ [Redacted] alleges that a cloth covering Abu Hazim's face during water dousing collapsed when [Redacted] poured water directly onto the face causing Abu Hazim to turn blue. When Abu Hazim turned blue, [Redacted] pulled the cloth off to allow him to breathe. There were [Redacted] other Agency employees present during these water dousing sessions with Abu Hazim. None of the other [Redacted] participants in the session corroborates [Redacted] allegation. There is no evidence that a cloth was placed over Abu Hazim's face during water dousing or that his breathing was impaired. (b)(1)

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40. ~~(TS)~~ (b)(3) NatSecAct ~~(NF)~~ There were other discrepancies between what (b)(3) NatSecAct described and what the cables and other witnesses stated. There were also discrepancies between what (b)(3) NatSecAct said in his first interview and what he said in his second interview. Those discrepancies include (b)(3) NatSecAct claim that this was the first and only time he witnessed water dousing. The cables indicate he observed water dousing four times. (b)(3) NatSecAct said Abu Hazim was chained to the ground and not restrained by the guards. All available evidence indicates that the guards restrained Abu Hazim during water dousing, and restraining rings were not available in the conditioning room. In his first interview, (b)(3) NatSecAct said that (b)(3) NatSecAct removed the cloth on the face when Abu Hazim turned blue. In the second interview, (b)(3) NatSecAct claimed that he removed the cloth not (b)(3) NatSecAct. Based on these discrepancies, the veracity of (b)(3) NatSecAct allegation is questionable.

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42. ~~(U//AFO)~~ Assistant U.S. Attorney (b)(3) NatSecAct has been apprised of the progress of this investigation and has reviewed this report. In a Letter of Declination, dated 5 December 2006, he advised that they have concluded that there is insufficient evidence to warrant a criminal prosecution in this matter.

(b)(3) CIAAct
(b)(6)

Special Agent

(b)(3) CIAAct
(b)(6)

Supervisory Special Agent

~~TOP SECRET~~ ~~NOFORN//MR~~