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OGC-FO-2003-50078  
5 August 2003

MEMORANDUM FOR THE RECORD

SUBJECT: (U//~~AFUO~~) Review of Interrogation Program on  
29 July 2003

1. (S) On 29 July 2003, the DCI and CIA General Counsel attended a meeting in the office of National Security Adviser Condoleezza Rice to discuss current, past and future CIA policies and practices concerning the interrogation of certain detainees held by CIA in the wake of the 11 September 2001 attacks on the United States and in the Nation's war on terror. The meeting was an outgrowth of the DCI's 3 July 2003 memorandum to Dr. Rice requesting a reaffirmation of the CIA's policies and practices. The meeting was attended by the DCI, CIA General Counsel Scott W. Muller, the Attorney General, Acting Assistant Attorney General, Office of Legal Counsel, Patrick Philbin, Dr. Rice, White House Counsel Alberto Gonzales, Counsel to the National Security Council (NSC) John Bellinger and the Vice President.

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2. (TS) [redacted] The DCI started the meeting by stating that CIA wanted a reaffirmation of its policies and practices (1) in light of recent White House statements and the resulting media which had created the impression that certain previously authorized interrogation techniques are not used by US personnel and are no longer approved as a matter of US policy and (2) in light of the fact that the annual review of [redacted] was in process.

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3. (S) After the DCI's introduction, Mr. Muller distributed to each participant a set of briefing slides entitled CIA Interrogation Program, 29 July 2003. A copy is attached hereto as Attachment A. Mr. Muller walked through the slides with the group page by page, explaining orally the substance of what was shown on each page. Each page was reviewed with the exception of pages 16-17.

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4. (TS/ [ ] Near the outset of the discussion of "Legal Authorities" (page 2), the Attorney General forcefully reiterated the view of the Department of Justice that the techniques being employed by CIA were and remain lawful and do not violate either the anti-torture statute or US obligations under the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment. He said that he had reviewed the 25 June 2003 letter to Senator Leahy from DoD General Counsel William J. Haynes II and had reviewed with Patrick Philbin the facts relating to actual CIA interrogations in the past year. Having done so, he said that CIA practices were entirely lawful and that he agreed with the statement that had been made with respect to those policies and practices in the Haynes letter. (In the week preceding the meeting, CIA had given Philbin, Bellinger and Gonzales a full briefing on the facts contained in the slides and, in advance of the meeting, Philbin had reviewed all the pertinent facts with the Attorney General). In the course of the discussion, the Attorney General and Pat Philbin gave a lengthy explanation of the law and the applicable legal principles. Their explanation squares completely with the understanding under which CIA has been operating. See previous Memoranda for the Record by Scott W. Muller, Acting General Counsel John A. Rizzo, and/or [ ] CTC/LGL [ ] (b)(3) CIAAct and related materials. (b)(6)

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5. (TS/ [ ] There was a discussion of the 27 June 2003 *Washington Post* article reporting that the Administration had pledged not to use "stress and duress" techniques in interrogating detainees. The Vice President asked how the press could have gotten such an impression and Muller mentioned both the President's statement in February 2002 concerning "humane" treatment of detainees and the various occasions including 26 June 2003 on which the White House press office had stated that US treatment of detainees was "humane." Judge Gonzales informed the Vice President that the President's February 2002 policy is applicable only to the Armed Forces. Referring to the statements from the Deputy White House press secretary in response to questions from the *Washington Post* on the occasion of the President's 26 June 2003 proclamation on United Nations International Day in Support of Victims of Torture, Bellinger explained that the press officer had "gone off script" and had mistakenly gone back to "old" talking points. The DCI stated

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that it was important for the White House to cease stating that US Government practices were "humane" as that term is easily susceptible to misinterpretation. Bellinger undertook to insure that the White House press office ceases to make statements on the subject other than that the US is complying with its obligations under US law. (In or about March, Bellinger had made a similar commitment and reported to the undersigned and to Judge Gonzales that he had informed Press Secretary Ari Fleischer that the White House press office should not state either that the US was complying with the Geneva Conventions--which are inapplicable--or was treating all detainees "humanely.")

6. (TS) There was a brief discussion of the recent letter to Dr. Rice from Senator Arlen Specter. The Attorney General strongly advised that the statements in the 25 June 2003 letter to Senator Leahy be reaffirmed. Addressing the purported misinterpretation of US policy reported in the *Washington Post* and CIA's concern that merely reaffirming the Leahy letter (in light of the other statements made on 26 June and the reporting) could be read as acknowledgement of the erroneous view of Administration policy reflected in that reporting, the Attorney General proposed that the response to Senator Specter emphasize that the statements in the Haynes response to the Leahy letter were responses to specific legal questions and had been carefully and narrowly crafted. There was agreement that this approach, properly implemented, was appropriate.

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7. (TS) [redacted] In connection with the "Safeguards" discussion in the briefing slides (pages 6-7), Mr. Bellinger explained that CIA's intent and good faith were important elements of the legal analysis and that the safeguards were intended to reflect that good faith in spirit and reality. Mr. Philbin explained at this point that, under the Eighth Amendment, it was critical to look at the purpose of the acts. He said that certain Human Rights groups were citing Eighth Amendment cases (including Department of Justice briefs) and claiming that "stress and duress" techniques violated the Eighth Amendment per se. He explained that those cases, including one involving the shackling of a prisoner, were inapplicable

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because, among other things, they involved "wanton and malicious" punishment whereas the interrogations at issue were undertaken for very different and legitimate purposes.

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8. (TS, [REDACTED]) Dr. Rice asked about the entry (page 7) "Infractions remedied (two incidents, no harm)." She asked if there had not been a death in connection with the interrogation program. Mr. Muller stated that there had been two deaths--both reported to the Inspector General, the Criminal Division and Congress--but that neither had involved the Interrogation Program (i.e., authorized interrogation personnel engaged in or authorized to engage in interrogations as part of the Interrogation Program or detainees who were the authorized subject of enhanced techniques).

9. (S) Mr. Muller explained that the senior leadership of the Intelligence Committees had been briefed. The Vice President asked if this included the new leadership and Mr. Muller stated that it did. Mr. Muller also stated that CIA intended to do another briefing after the recess.

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10. (TS, [REDACTED]) In connection with page 8 ("Interrogation Methods"), Mr. Muller stated that the technique most likely to raise concerns was the waterboard. Dr. Rice asked for a description of the procedure which Mr. Muller gave, noting that the Attorney General opinion authorized administrations of up to 40 seconds.

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11. (TS, [REDACTED]) Mr. Muller summarized the material on pages 9-12 of the briefing slides, stating that they showed that the detainees subject to the use of Enhanced Techniques of one kind or another had produced significant intelligence information that had, in the view of CIA professionals, saved lives.

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12. (TS, [REDACTED]) Mr. Muller reviewed page 13 of the slides, noting in particular that three individuals had been the subject of the waterboard. The Vice President asked about the relationship between the column entitled "Sessions" and the column entitled "WB." Mr. Muller explained. Dr. Rice commented specifically on the number of times that KSM had been waterboarded (119). Mr. Muller stated his understanding that a number of the uses had been for less than the permitted

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40 seconds. Patrick Philbin stated that the Attorney General opinion authorized repetitions of the procedure and the Attorney General stated that he was fully aware of the facts and that CIA was "well within" the scope of the opinion and authority given to CIA by that opinion. The Vice President commented on the value of what KSM had provided and noted that KSM had obviously been a "tough customer".

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13. (TS [redacted] The DCI stated that it was important for CIA to know that it was executing Administration policy and not merely acting lawfully. The Vice President stated, and Dr. Rice and the Attorney General agreed, that this was the case. Muller stated that this left the issue of how to deal with the annual [redacted] review process. There was a brief discussion of that process in which John Bellinger stated, in response to a question from the Vice President, that there was no requirement for a full meeting of the NSC Principals. (Judge Gonzales stated that he was certain that DoD General Counsel Haynes [and, by implication, the Secretary of Defense] was clearly aware of the substance of CIA's program based on, among other things, the DoD review of similar techniques and numerous discussions. Mr. Muller and Mr. Bellinger agreed. At an earlier meeting on this subject, Judge Gonzales had stated that, when the techniques were first authorized, Dr. Rice had discussed them with the Secretary of Defense.) After discussion, the Vice President, Dr. Rice and the Attorney General agreed (with the DCI's concurrence) that it was not necessary or advisable to have a full Principals Committee Acting to review and reaffirm the Program. Instead, as part of the [redacted] process some combination of Dr. Rice, the Vice President and/or Judge Gonzales would inform the President that the CIA was conducting interrogations [redacted] using techniques that could be controversial but that the Attorney General had reviewed and approved them as lawful under US law.

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ADDENDUM (5 August 2003)

(S) In a telephone conversation on 4 August, Mr. Bellinger informed Mr. Muller that Dr. Rice was now of the view that the Secretary of State and the Secretary of Defense should be briefed prior to  A specific plan will be proposed in the next few days (b)(1) (b)(3) NatSecAct



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DCI/OGC/SWMuller: [redacted] (4 August 2003)

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Distribution:

Orig - GC Signer

- 1 - DCI
- 1 - DDCI
- 1 - EXDIR
- 1 - DDO
- 1 - D/OCA
- 1 - SDGC
- 1 - [redacted]
- 1 - CTC/LGL

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# CIA INTERROGATION PROGRAM

29 July 2003

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## OBJECTIVES

- To brief pursuant to the annual (b)(1) (b)(3) NatSecAct review.
- To provide facts about the interrogation program, in light of recent erroneous press coverage and other inquiries.
- To affirm that the program is consistent with U.S. policy.

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## OVERVIEW

- Certain "enhanced" techniques are employed in the interrogations of a limited number of detainees.
- The techniques are drawn from methods used in DOD interrogation resistance training at the Survival, Evasion, Resistance, and Escape ("SERE") schools.
- The techniques have been approved by the Attorney General and fully disclosed to the SSCI and HPSCI leadership.
- The use of the techniques has produced significant results.

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## LEGAL AUTHORITIES

### *Properly conducted and authorized interrogations:*

- Do not violate the federal anti-torture statute, 18 U.S.C. 2340-2340A
- Do not violate the **Constitution**. They do not “shock the conscience” under the **5<sup>th</sup> and 14<sup>th</sup> Amendments**. The **8<sup>th</sup> Amendment** prohibition on cruel and unusual “punishment” is inapplicable.
- Do not constitute “cruel, inhumane and degrading treatment or punishment” under the **Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment** because, under U.S. law, those terms are limited to U.S. constitutional requirements.

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# PROGRAM BRIEFINGS TO POLICY MAKERS

- Executive Branch (White House, NSC, DOJ)
  - Spring and Summer 2002
  - Winter, Spring and Summer 2003
- Congress (Chair and Ranking Minority Members – HPSCI and SSCI)
  - Summer and Fall 2002 - HPSCI chairman Goss and Ranking minority member Pelosi; SSCI chairman Graham and Ranking minority member Shelby
  - Winter 2003 – HPSCI chairman Goss and Ranking minority member Harman; SSCI chairman Roberts and a representative of Ranking minority member Rockefeller

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# SAFEGUARDS

- Psychological screening of interrogators.
- Interrogator training and "certification."
- Written guidelines and signed understandings of compliance.
- Headquarters approvals required.
  - Limited number of approvals (13 detainees).
  - Limited duration of approvals (60 days).
  - Approvals are detainee-specific, technique-specific, and interrogator-specific.
- Medical officer is present at all times.
- Psychologist is present at all times.

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## SAFEGUARDS (continued)

- Team approach: multiple "eyes on" each detainee.
- Remote CCTV monitoring.
- Required daily reporting by cable.
- Chief of Base and Headquarters oversight.
- Ongoing legal review.
- Infractions remedied (two incidents, no harm).
- Inspector General review (January-April 2003).

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# INTERROGATION METHODS

## Non-Enhanced Measures

- Sleep deprivation up to 72 hours
- Modified diet
- Loud noise/music under 79 decibels
- Constant light, constant dark
- Water dousing

## Enhanced Measures

- Slap (open-handed)
- Facial hold
- Attention grasp
- Abdominal slap (back-handed)
- Sleep deprivation over 72 hours
- Walling
- Stress positions
  - Kneeling
  - Forehead on wall
- Cramped confinement (boxes)
- Waterboard (up to 40 seconds)

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## RESULTS: MAJOR THREAT INFO

- **KSM: Al-Qa'ida Chief of Operations**

- Attack plans against US Capitol, other US landmarks
- Attacks against Chicago, New York, Los Angeles; against towers, subways, trains, reservoirs, Hebrew centers, Nuclear power plants.
- Identification of Iyman Faris, Majid Khan Family, Saifullah Paracha.
- Heathrow and Canary Wharf Plot
- Africa-based plotters and their plans
- SE Asia structure, JI and targets
- Saudi-based attacks vs. Israel

- **NASHIRI: USS Cole Bomber**

- US Navy Ships in Straits of Hormuz, US Embassy, Sana
- Residential Compounds in Saudi Arabia
- Attacks in Gulf Region using SAM and Aircraft

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# RESULTS: MAJOR THREAT INFO (continued)

- **BIN AL-SHIBH: 9/11 Facilitator**
  - Attacks against Nuclear Power Plants, Hebrew Centers
  - Identified Hawsawi
- **BIN ATTASH: KSM Deputy**
  - Attack against U.S. Consulate in Karachi
  - Karachi airport attack plans
- **ABU ZUBAYDAH: Senior Al-Qa'ida Lt**
  - Identification of Padilla, Richard Reid
  - Attacks on banks, subways, petroleum and aircraft industries
  - Info on AQ using toys as concealments for weapons, explosives

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## HIGH VALUE DETAINEES (HVD)

- 24 HVDs interrogated at CIA controlled Sites:
  - 13 interrogated using enhanced measures
- Detainees produced 1500 disseminated Intel reports:  
Circa 50% of all HUMINT CT reporting on Al-Qa'ida  
Terrorist plans and intentions

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# RESULTS: ADDITIONAL OPERATIONAL LEADS

- Financial Support / (b)(1) (b)(3) NatSecAct

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- Photo Identifications of Active Terrorists and Detained Suicide Operatives

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# SUMMARY OF INTERROGATIONS

Total

| SUBJECT                | SESSIONS                             | DATES                  | WB   |                            |
|------------------------|--------------------------------------|------------------------|------|----------------------------|
| ABU ZUBAYDAH           | 42<br><br>(b)(1)<br>(b)(3) NatSecAct | 4-23 AUG 02            | 42   | (b)(1)<br>(b)(3) NatSecAct |
| AL-NASHIRI             | 24                                   | NOV 02 to<br>9 JAN 03  | 2    |                            |
| KHALID SHAYKH MUHAMMAD | 18<br><br>(b)(1)<br>(b)(3) NatSecAct | 4-24 MAR 03            | 1/19 |                            |
| RAMZI BIN AL-SHIBH     | 13                                   | 8 FEB 03 -<br>7 MAR 03 | 0    |                            |
| MUSTAFA HAWSAWI        | 11                                   | 20 APR to<br>17 MAY 03 | 0    | (b)(1)<br>(b)(3) NatSecAct |

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# SUMMARY OF INTERROGATIONS (continued)

| SUBJECT                           | SESSIONS | DATES        | WB |  |
|-----------------------------------|----------|--------------|----|--|
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| AMMAR AL-BALUCHI                  | 5        | 18-20 MAY 03 | 0  |  |
| BIN ATTASH<br>AKA KHALLAD         | 3        | 17-19 MAY 03 | 0  |  |
| MOHD FARIK BIN AMIN<br>AKA ZUBAIR | 7        | 23-25 JUN 03 | 0  |  |

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# REAFFIRMATION OF CIA'S INTERROGATION PROGRAM

- Pro

- Termination of this program will result in loss of life, possibly extensive.
- Major threats were countered and attacks averted.
- 50% of intelligence reports issued this year were derived from the interrogation of these HVDs.

- Con

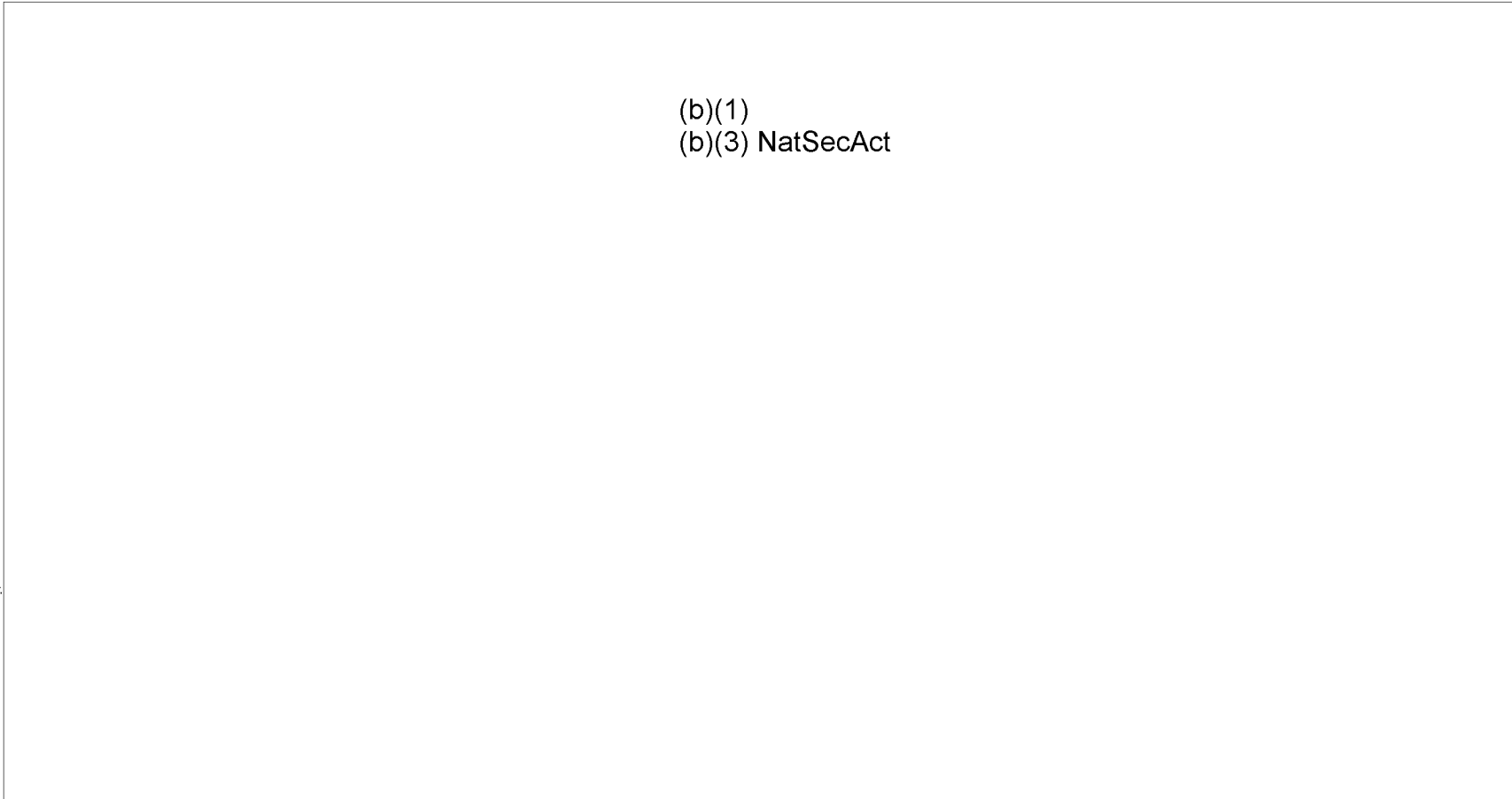
- Blowback due to public perception of “humane treatment.”
- ICRC continues to attack USG policy on detainees.
- Congressional inquiries continue.

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THEN.....????



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# Observations concerning "Enhanced Techniques" from AQ detainees Abu Zubaydah and Khallad Bin Attash

- Abu Zubaydah said that commitment to Islam could either help or hinder in obtaining information from HVDs. He said that providing information to enemies is a sin: however [redacted] Islam allows brothers to provide information without sin, if they believe that they have reached the limit of their ability to withhold it. According to Abu Zubaydah, each brother is different. Some brothers will have to endure harsh treatment, even the water board, while others will not have to be pushed that far.

- During the interrogation, Khallad said he knew he could not hold out against the interrogation, so he had no reason to try to hold back. [redacted]

(Khallad has not been subjected to the waterboard. Since the most recent use of enhanced techniques against him, his resistance to interrogation has grown stronger.)

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## ISSUES

- Public and NGO misinterpretations of Administration statements that all detainees are treated "humanely."
- Congressional inquiries.
  - Leahy letter (June 25)
  - Specter letter (June 25)
- ICRC and other NGO inquiries.

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- Do not violate the Constitution. They do not “shock the conscience” under the 5<sup>th</sup> and 14<sup>th</sup> Amendments. The 8<sup>th</sup> Amendment prohibition on cruel and unusual “punishment” is inapplicable.
- Do not constitute “cruel, inhumane and degrading treatment or punishment” under the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment because, under U.S. law, those terms are limited to U.S. constitutional requirements.

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