

**DCI Talking Points: CIA Detainee Issues
2 July 2004**

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Principals Meeting: Detainee Issues

As mentioned in the pre-election threat portion, our takedown of [] a key al-Qa'ida facilitator. We have followed [] for some time. He has only grudgingly admitted his identity now after repeatedly being pressed, but he still claims he is only a poor rug merchant confused with a terrorist. 1.4(c)

- Our officers with access to [] report that he is employing counter-interrogation techniques, including feigning illness, claiming an inability to comprehend questions, having difficulty recalling details, and denying established facts. 1.4(c)

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- [] briefly lost his composure, but still refused to cooperate—when a fellow detainee who is a nephew of Khalid Shaykh Muhammad, positively identified [] and said he was a member of al-Qa'ida. 1.4(c)

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As with other similar cases, [] have indicated that they would hand over [] to us on at least a temporary basis. 1.4(c)

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- Under other circumstances, earlier in this war, we would have immediately asked [] to give [] to us, and we would have rendered him to another site.

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- We are not rendering detainees now because we do not want to hold them without being able to use some of our most effective tools for extracting intelligence from them.

It has been some time since we discussed our program in detail. Before we go on, let me discuss the types of enhanced techniques we have used in the past.

- You should note that we do not use all of these techniques in all circumstances. Our interrogators and psychologists design debriefing packages; enhanced techniques are only a part of these packages, and we employ them only when we find that the detainee refuses to provide information.
- In addition, these techniques are used in a graduated fashion. The waterboard technique, for example, has been used in only three significant cases: Abu Zubaydah; KSM; and Nashiri. It was used in these cases because these were the hardest individuals we had to work with.
- I have a handout for you that lays out in detail exactly what techniques we employ.

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Our experience has repeatedly shown how important these techniques are to leading detainees to reveal information. In the case of KSM, for example, he initially refused to cooperate.

- Only after we initiated use of enhanced measures did he reveal actionable information. His information resulted in the discovery of operatives in the United States, including a truck driver (Faris) now serving time for his support to al-Qa'ida; an operative who was tasked with investigating how to blow up gas stations (Khan); and a mechanism for al-Qa'ida to smuggle explosives into the United States (Paracha).

Abu Zubaydah was similarly uncooperative prior to the initiation of enhanced interrogation techniques. He treated his debriefers with contempt in the early stages of debriefing.

- After the use of interrogation measures, he grew over time into perhaps our most cooperative detainee, passing information on individuals such as Jose Padilla and Ramzi bin al-Shibh that led to their capture.

1.4(c) This will not be the last time in these coming weeks and months that we have this issue to deal with. [redacted] some of the key players in this plot who are operating out of the tribal areas. These are the individuals whom our sources say are actually integral to the plot's direction.

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- Senior al-Qa'ida planners, such as Abu Faraj al-Libi, Abd al-Hadi al-Iraqi, and Abu Layth al-Libi, continue to operate out of the tribal areas, and our information suggests that [redacted] disruption operations are not yet forcing them to stop plotting.

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- We expect to [redacted] for the purposes of locating and capturing individuals such as those I just mentioned.

I request the Principals review and provide direction, as a matter of law and policy, on the use of the full range of previously-approved counterterrorist techniques against [redacted] To make a fully informed decision, the Principals should be apprised of the following issues:

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- That it continues to be the Attorney General's opinion that CIA's use of its current identified interrogation techniques do not violate US law prohibiting torture (i.e. the Torture Statute);
- That it continues to be the Attorney General's opinion that these interrogation techniques do not violate any other US laws or treaty obligations including Article 16 of the Convention Against Torture which prohibits cruel, inhuman, or degrading treatment or punishment short of torture;

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- **Whether the AG's opinions are based solely fact that aliens overseas have no rights under Article 16 and the US Constitution or whether he is prepared to state that these interrogation techniques do not violate the substantive standards of conduct enunciated by courts under the Fifth, Eighth, and Fourteenth Amendments to the US Constitution.** (These same standards are applied by the US under Article 16 of the Convention Against Torture.) [This later point is particularly important to the CIA officers who participate in the interrogation program. These officers may decline to participate further if the Attorney General refuses to provide them this legal advice.]

Once the Attorney General provides his legal conclusions, request the Principals to determine whether the Agency should continue to use its current interrogation techniques. If the Attorney General declines to address the third point, you should ask the Principals to assume CIA's interrogation methods, while not amounting to torture, would be found by the Attorney General to violate the substantive standards of the Constitution and, given that assumption, do they want CIA to use those techniques to interrogate

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