

Exhibit R



U.S. Department of Justice

Office of Legal Counsel

~~TOP SECRET~~ [REDACTED]

~~NOFORN/MR~~

Office of the Assistant Attorney General

Washington, D.C. 20530

August 6, 2004

John A. Rizzo, Esq.
Acting General Counsel
Central Intelligence Agency
Washington, D.C. 20505

Dear John:

~~(TS [REDACTED] NF)~~ This letter will confirm our advice that, although it is a close and difficult question, the use of the waterboard technique in the contemplated interrogation of [REDACTED] outside territory subject to United States jurisdiction would not violate any United States statute, including 18 U.S.C. § 2340A, nor would it violate the United States Constitution or any treaty obligation of the United States. We will supply, at a later date, an opinion that explains the basis for this conclusion. Our advice is based on, and limited by, the following conditions:

1. The use of the technique will conform to the description attached to your letter to me of August 2, 2004 ("Rizzo Letter").
2. A physician and psychologist will approve the use of the technique before each session, will be present throughout the session, and will have authority to stop the use of the technique at any time.
3. There is no material change in the medical and psychological facts and assessments set out in the attachment to your August 2 letter, including that there are no medical or psychological contraindications to the use of the technique as you plan to employ it on [REDACTED].
4. The technique will be used in no more than two sessions, of two hours each, per day. On each day, the total time of the applications of the technique will not exceed 20 minutes. The period over which the technique is used will not extend longer than 30 days, and the technique will not be used on more than 15 days in this period. These limits are consistent with the Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, *Re: Interrogation of al Qaeda Operative* (Aug. 1, 2002), and with the previous uses of the technique, as they have been described to us. As we understand the facts, the detainees previously subjected to the technique "are in good physiological and

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psychological health," see Rizzo Letter at 2, and they have not described the technique as physically painful. This understanding of the facts is material to our conclusion that the technique, as limited in accordance with this letter, would not violate any statute of the United States.

~~(TS/ [REDACTED] /NF)~~ We express no opinion on any other uses of the technique, nor do we address any techniques other than the waterboard or any conditions under which [REDACTED] or other detainees are held. Furthermore, this letter does not constitute the Department of Justice's policy approval for use of the technique in this or any other case.

Sincerely,



Daniel B. Levin
Acting Assistant Attorney General

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U.S. Department of Justice

Office of Legal Counsel

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Office of the Assistant Attorney General

Washington, D.C. 20530

August 26, 2004

John A. Rizzo, Esq.
Acting General Counsel
Central Intelligence Agency
Washington, D.C. 20505

Dear John:

(~~TS~~ [REDACTED] ~~NF~~) You have asked our advice regarding whether the use of four particular interrogation techniques (dietary manipulation, nudity, water dousing, and abdominal slaps) in the ongoing interrogation of [REDACTED] would violate any United States statute (including 18 U.S.C. § 2340A), the United States Constitution, or any treaty obligation of the United States. We understand that [REDACTED] a high-value al Qaeda operative who is believed to possess information concerning an imminent terrorist threat to the United States. This letter confirms our advice that the use of these techniques [REDACTED] outside territory subject to United States jurisdiction would not violate any of these provisions. We will supply, at a later date, an opinion that explains the basis for this conclusion. Our advice is based on, and limited by, the following conditions:

1. The use of these techniques will conform to: (i) the representations made in [REDACTED] [REDACTED] letters to me of July 30, 2004 (and attachment) and August 25, 2004; and (ii) the representations made by CIA officials, including representatives of the Office of Medical Services, during our August 13, 2004 meeting. Based on that meeting, we understand that ambient air temperature is the most important determinate for hypothermia in water dousing. Additionally, we were informed that the Agency has based the safety margins set forth in its water dousing procedures on experience with actual extended submersion in water of comparable temperature. Thus, although water as cold as 41 degrees may be used for short periods of time, in view of these factors and the comparatively small amount of water used, especially compared to submersion, we were advised that the dousing technique as it will be employed poses virtually no risk of hypothermia or any other serious medical condition. We were further advised that the dousing technique is designed to get the detainee's attention and it is not intended to cause, and does not cause, any appreciable pain.

2. There is no material change in the medical and psychological facts and assessments for

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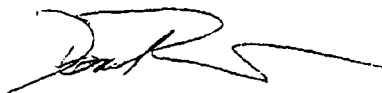
[REDACTED] in the attachment to your August 2 letter, and in [REDACTED] August 25, 2004, letter, including that there are no medical or psychological contraindications to the use of these techniques as you plan to employ them on [REDACTED]

3. Medical officers will be present to observe [REDACTED] whenever water dousing and/or abdominal slaps are used and will closely monitor him while he is subject to dietary manipulation (in addition to the normal monitoring of him throughout his detention) to ensure that he does not sustain any physical or mental harm. This includes making sure that [REDACTED] can sustain a normal body temperature after dousing and that his intake of fluids and nutrition are adequate.

4. We understand the statements in [REDACTED] August 25, 2004, letter that the measures are "designed ... to weaken [REDACTED] physical ability and mental desire to resist interrogation over the long run" (Letter at 3), and that "water dousing sessions, in conjunction with sleep deprivation, facilitates in weakening a detainee's ability and motivation to resist interrogations" (Letter at 4), to be consistent with the prior representations we have received - i.e., these techniques are not physically painful and are not intended to, or expected to, cause any physical or psychological harm. Rather, they are intended to reduce [REDACTED] desire to continue to engage in the counter-interrogation techniques he has been utilizing to date. Indeed, you consider these four techniques to be "more subtle" than some of the interrogation measures used to date (Letter at 3.)

~~(TS [REDACTED] NF)~~ We express no opinion on any other uses of these techniques, nor do we address any techniques other than these four or any conditions under which [REDACTED] or other detainees are held. Furthermore, this letter does not constitute the Department of Justice's policy approval for use of the techniques in this or any other case.

Sincerely,



Daniel Levin
Acting Assistant Attorney General

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(b)(1)
(b)(3) NatSecAct

U.S. Department of Justice
Office of Legal Counsel

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Office of the Assistant Attorney General

Washington, D.C. 20530

September 6, 2004

John A. Rizzo, Esq.
Acting General Counsel
Central Intelligence Agency
Washington, D.C. 20505

Dear John: (b)(1)
(b)(3) NatSecAct

(TS) (NF) You have asked our advice regarding whether the use of twelve particular interrogation techniques (attention grasp, walling, facial hold, facial slap (insult slap), cramped confinement, wall standing, stress positions, sleep deprivation, dietary manipulation, nudity, water dousing, and abdominal slap) in the interrogation of Ahmed Khalifan Ghailani would violate any United States statute (including 18 U.S.C. § 2340A), the United States Constitution, or any treaty obligation of the United States. We understand that Ghailani is an al-Qa'ida operative who "is believed to be involved in the operational planning of an al-Qa'ida attack or attacks to take place in the United States prior to the November elections." September 5, 2004 letter from [redacted] to Dan Levin. This letter confirms our advice that the use of these techniques on Ghailani outside territory subject to United States jurisdiction would not violate any of these provisions. We will supply, at a later date, an opinion that explains the basis for this conclusion. Our advice is based on, and limited by, the following conditions:

(b)(3) CIAAct

1. The use of these techniques will conform to all representations previously made to us, including those listed in my August 26, 2004 letter to you.
2. The medical and psychological facts and assessments for Ghailani indicate that there are no medical or psychological contraindications to the use of any of these techniques as you plan to employ them.
3. Medical officers will be present to observe Ghailani whenever any enhanced techniques are applied and will closely monitor him while he is subject to sleep deprivation or dietary manipulation, in addition to the normal monitoring of him throughout his detention, to ensure that he does not sustain any physical or mental harm.

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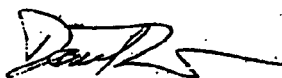
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(TS) [redacted] (NF) We express no opinion on any other uses of these techniques, nor do we address any other techniques or any conditions under which Ghailani or other detainees are held. Furthermore, this letter does not constitute the Department of Justice's policy approval for use of the techniques in this or any other case.

Sincerely,



Daniel Levin
Acting Assistant Attorney General

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(b)(3) NatSecAct



U.S. Department of Justice

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Office of the Assistant Attorney General

Washington, D.C. 20530

September 20, 2004

John A. Rizzo, Esq.
Acting General Counsel
Central Intelligence Agency
Washington, D.C. 20505

(b)(1)
(b)(3) NatSecAct

Dear John:

(TS [redacted] NF) You have asked our advice regarding whether the use of twelve particular interrogation techniques (attention grasp, walling, facial hold, facial slap (insult slap), cramped confinement, wall standing, stress positions, sleep deprivation, dietary manipulation, nudity, water dousing, and abdominal slap) in the interrogation of Sharif al-Masri would violate any United States statute (including 18 U.S.C. § 2340A), the United States Constitution, or any treaty obligation of the United States. We understand that al-Masri is an al-Qa'ida operative who "is believed to be involved in the operational planning of an al-Qa'ida attack or attacks to take place in the United States prior to the November 2004 elections." September 19, 2004 letter from [redacted] to Dan Levin. This letter confirms our advice that the use of these techniques on al-Masri outside territory subject to United States jurisdiction would not violate any of these provisions. We will supply, at a later date, an opinion that explains the basis for this conclusion. Our advice is based on, and limited by, the following conditions:

(b)(3) CIAAct

1. The use of these techniques will conform to all representations previously made to us, including those listed in my August 26, 2004 letter to you.
2. The medical and psychological facts and assessments for al-Masri indicate that there are no medical or psychological contraindications to the use of any of these techniques as you plan to employ them.
3. Medical officers will be present to observe al-Masri whenever any enhanced techniques are applied and will closely monitor him while he is subject to sleep deprivation or dietary manipulation, in addition to the normal monitoring of him throughout his detention, to ensure that he does not sustain any physical or mental harm.

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(TS [redacted] /NF) We express no opinion on any other uses of these techniques, nor do we address any other techniques or any conditions under which al-Masri or other detainees are held. Furthermore, this letter does not constitute the Department of Justice's policy approval for use of the techniques in this or any other case.

Sincerely,



Daniel Levin
Acting Assistant Attorney General

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(b)(3) NatSecAct

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