

EXHIBIT 5



This copy is for your personal, noncommercial use only. You can order presentation-ready copies for distribution to your colleagues, clients or customers [here](#) or use the "Reprints" tool that appears next to any article. Visit www.nytreprints.com for samples and additional information. [Order a reprint of this article now.](#)

April 18, 2009

Divisions Arose on Rough Tactics for Qaeda Figure

By [SCOTT SHANE](#)

WASHINGTON — The first use of [waterboarding](#) and other rough treatment against a prisoner from [Al Qaeda](#) was ordered by senior [Central Intelligence Agency](#) officials despite the belief of interrogators that the prisoner had already told them all he knew, according to former intelligence officials and a footnote in a newly released legal memorandum.

The escalation to especially brutal [interrogation](#) tactics against the prisoner, [Abu Zubaydah](#), including confining him in boxes and slamming him against the wall, was ordered by officials at C.I.A. headquarters based on a highly inflated assessment of his importance, interviews and a review of newly released documents show.

Abu Zubaydah had provided much valuable information under less severe treatment, and the harsher handling produced no breakthroughs, according to one former intelligence official with direct knowledge of the case. Instead, watching his torment caused great distress to his captors, the official said.

Even for those who believed that brutal treatment could produce results, the official said, “seeing these depths of human misery and degradation has a traumatic effect.”

C.I.A. officers adopted these techniques only after the Justice Department had given its official approval on Aug. 1, 2002, in one of four formerly secret legal memos on interrogation that were released Thursday.

A footnote to another of the memos described a rift between line officers questioning Abu Zubaydah at a secret C.I.A. prison in Thailand and their bosses at headquarters, and asserted that the brutal treatment may have been “unnecessary.”

Quoting a 2004 report on the interrogation program by the C.I.A. inspector general, the footnote says that “although the on-scene interrogation team judged Zubaydah to be compliant, elements within C.I.A. headquarters still believed he was withholding information.”

The debate over the significance of Abu Zubaydah’s role in Al Qaeda and of what he told interrogators dates back almost to his capture, and has been described by [Ron Suskind](#) in his 2006 [book](#), “The One Percent Doctrine,” [a 2006 article in The New York Times](#) and a March 29 [article in The Washington Post](#) asserting that his disclosures foiled no plots. (His real name is Zein al-Abideen Mohamed Hussein.)

But interviews with current and former government officials who have direct or indirect knowledge of the Abu Zubaydah interrogation suggest that the United States began the waterboarding, labeled as illegal

torture by top Obama administration officials, based on a profound misunderstanding of its captive.

In March 2002, when [Abu Zubaydah was captured in Pakistan](#) after a gunfight with Pakistani security officers backed by [F.B.I.](#) and C.I.A. officers, Bush administration officials portrayed him as a [Qaeda leader](#). That judgment was reflected in the Aug. 1, 2002, legal opinion signed by Jay S. Bybee, then head of the Justice Department's Office of Legal Counsel.

The memo summarizes the C.I.A.'s judgment that Abu Zubaydah, then 31, had risen rapidly to "third or fourth man in Al Qaeda" and had served as "senior lieutenant" to [Osama bin Laden](#). It said he had "managed a network of training camps" and had been "involved in every major terrorist operation carried out by Al Qaeda."

The memo reported the C.I.A.'s portrayal of "a highly self-directed individual who prizes his independence," a deceptive narcissist, healthy and tough, who agency officers believed was the most senior terrorist caught since the attacks of Sept. 11, 2001.

His interrogation, according to multiple accounts, began in Pakistan and continued at the secret C.I.A. site in Thailand, with a traditional, rapport-building approach led by two F.B.I. agents, who even helped care for him as his gunshot wounds healed.

Abu Zubaydah gave up perhaps his single most valuable piece of information early, naming [Khalid Shaikh Mohammed](#), whom he knew as Mukhtar, as the main organizer of the 9/11 plot.

A [C.I.A. interrogation](#) team that arrived a week or two later, which included former military psychologists, did not change the approach to questioning, but began to keep him awake night and day with blasting rock music, have his clothes removed and keep his cell cold.

The legal basis for this treatment is uncertain, but lawyers at C.I.A. headquarters were in constant touch with interrogators, as well as with Mr. Bybee's subordinate in the Office of Legal Counsel, [John C. Yoo](#), who was drafting memos on the legal limits of interrogation.

Through the summer of 2002, Abu Zubaydah continued to provide valuable information. Interrogators began to surmise that he was not a leader, but rather a helpful training camp personnel clerk who would arrange false documents and travel for jihadists, including Qaeda members.

He knew enough to give interrogators "a road map of Al Qaeda operatives," an agency officer said. He also repeated talk he had heard about possible plots or targets in the United States, though when F.B.I. agents followed up, most of it turned out to be idle discussion or preliminary brainstorming.

At the time, former C.I.A. officials say, his tips were extremely useful, helping to track several other important terrorists, including Mr. Mohammed.

But senior agency officials, still persuaded, as they had told President [George W. Bush](#) and his staff, that he was an important Qaeda leader, insisted that he must know more.

"You get a ton of information, but headquarters says, 'There must be more,'" recalled one intelligence officer

who was involved in the case. As described in the footnote to the memo, the use of repeated waterboarding against Abu Zubaydah was ordered “at the direction of C.I.A. headquarters,” and officials were dispatched from headquarters “to watch the last waterboard session.”

The memo, written in 2005 and signed by Steven G. Bradbury, who worked in the Office of Legal Counsel, concluded that the waterboarding was justified even if the prisoner turned out not to know as much as officials had thought.

And he did not, according to the former intelligence officer involved in the Abu Zubaydah case. “He pleaded for his life,” the official said. “But he gave up no new information. He had no more information to give.”

Abu Zubaydah’s own account, given in 2006 to the International Committee of the Red Cross, corroborates that what he called “the real torturing,” including waterboarding, began only “about two and a half or three months” after he arrived at the secret site, according to the group’s 2007 report.

Since 2002, the C.I.A. has downgraded its assessment of Abu Zubaydah’s significance, while continuing to call his revelations important.

In an interview, an intelligence officer said that the current view was that Abu Zubaydah was “an important terrorist facilitator” who disclosed “essential raw material for successful counterterrorist action.”

His interrogation “made it possible for the United States to chip away at Al Qaeda, link by link, disrupting its operations and saving lives,” the intelligence officer said.

[Copyright 2009 The New York Times Company](#)

[Privacy Policy](#) | [Search](#) | [Corrections](#) | [RSS](#) | [First Look](#) | [Help](#) | [Contact Us](#) | [Work for Us](#) | [Site Map](#)