

EXHIBIT

A

Response to Defendants' "Chart of Inaccuracies"

Statement in Summary Report	Purported Inaccuracy	Actual Fact
<p>"Neither psychologist had experience as an interrogator, nor did either have specialized knowledge of al-Qa'ida, a background in terrorism, or any relevant regional, cultural, or linguistic expertise. SWIGERT had reviewed research on 'learned helplessness,' in which individuals might become passive and depressed in response to adverse or uncontrollable events." Exec. Summ. at 21</p>	<p>Mitchell's resume indicates from 1996-2001 as the Chief Psychologist at Pope AFB, he "developed and conducted psychological screening for high-risk units, including counterterrorist and WMD special mission applications". US Bates 1885. He also had experience with hostage negotiations and seven years of experience at SERE. US 001884-90.</p> <p>Mitchell's memo detailing his qualifications indicates he had extensive experience assessing resistance from interrogation. For instance, he spent 1400 hours directly providing and directing psychological monitoring of emotional volatile resistance to interrogation laboratory exercise when using enhanced measures. US Bates 001616-18.</p> <p>Jessen taught many interrogation exploitation and resistance courses for the Government from 1992-2000. US Bates 001904.</p>	<p>Defendants identify no inaccuracy: neither had any experience serving as an actual interrogator. They themselves have admitted that Abu Zubaydah's interrogation was the first that either of them had conducted. ECF Nos. 205-3 (Mitchell Dep.) at 48:16-18; 205-4 (Jessen Dep.) at 116:3-8. Defendants also specifically admitted that "[w]e are not experts in Arab culture or the organizational structure of Al Qaeda." ECF No. 176-23 at U.S. Bates 001149. None of the documents Defendants cite are to the contrary.</p>
<p>"[Mitchell] theorized that inducing such a state [of learned helplessness] could encourage a detainee to cooperate and provide information." Exec. Summ. at 21</p>	<p>Mitchell did not emphasize learned helplessness over any other mental state, but rather explained how mental states impact obtaining information, one such state being learned helplessness:</p> <p>"Interrogation and exploitation are primarily about producing a mental state that facilitates obtaining desired intelligence information. That mental state will be different for each person depending on circumstances,</p>	<p>The document Defendants cite does not contradict the Senate Report's factual finding. As Defendants concede, a memorandum authored by Defendant Mitchell describing his qualifications includes his explicit statement that "[e]nhanced measures" can be used to "produce[] a mental state that facilitates obtaining desired intelligence information." ECF No. 195-5 at US Bates 001618. He further explicitly states: "Sometimes the</p>

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	<p>abilities, past experiences and temperament. Enhanced measures are used only in service of producing the appropriate mental state. Sometime the appropriate mental state is fear, sometime it's learned helplessness, sometime it's compliancy, sometimes it's an affinity for the exploiter, sometimes it's a sense of false hope, etc. The appropriate mental state varies. Being able to read the person being exploited and craft the desired mental state is critical to the success of the mission. Being able to recognize when enhanced measures are going too far, reduces the risk of producing prolonged and profound mental harm. Being a psychologist has taught me about mental states[.] Advanced study and experience has taught me about the mental states relevant to interrogaiton and exploitation[.] Observing trained and untrained people try to use resistance techniques to protect intelligence information has taught me [sic] recognize when sophisticated resistance techniques are being used." US Bates 001618 (emphasis added).</p>	<p>appropriate mental state is fear, sometime it's learned helplessness . . ." <i>Id.</i> (emphasis added).</p>
<p>"However, as is described in greater detail in the full Committee Study, this assessment significantly overstated Abu Zubaydah's role in al-Qa'ida and the information he was likely to possess." Exec. Summ. at 21.</p>	<p>Jose Rodriguez testified at length about the importance of the capture and interrogation of Abu Zubaydah, stating that he had a "special interest" in making sure Zubaydah's interrogation got off the ground properly. Rodriguez Dep. at 150:7-10. Furthermore, Zubaydah provided critical information regarding Khalid Sheik Mohammed, the mastermind behind the 9/11</p>	<p>Mr. Rodriguez's testimony does not contradict the cited finding of the Senate Report, as other sources confirm. The CIA's own Inspector General confirms that the CIA's "shortage of accurate and verifiable information" about Abu Zubaydah led to his being waterboarded unnecessarily. ECF No. 176-25 at U.S. Bates 001423.</p>

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	attacks, as well as information led to the capture of Jose Padilla. <i>Id.</i> at 152:6 – 153:9.	
<p>"Shortly thereafter, CIA Headquarters formally proposed that Abu Zubaydah be kept in an all-white room that was lit 24 hours a day, that Abu Zubaydah not be provided any amenities, that his sleep be disrupted, that loud noise be constantly fed into his cell, and that only a small number of people interact with him. CIA records indicate that these proposals were based on the idea that such conditions would lead Abu Zubaydah to develop a sense of 'learned helplessness.'" Exec. Summ. at 26.</p>	<p>The referenced cables do not indicate that a proposed strategy was sent on April 1, 2002:</p> <ul style="list-style-type: none"> • Cable 178955 is a cable that is a copy of Mitchell's Countermeasures to Al-Qa'da Resistance to Interrogation Techniques Paper. Nothing is mentioned about white-noise etc. It also does not propose an "interrogation strategy" as FN 94 states. US Bates 002006. • A cable titled "Interrogation Strategy for Abu Zubaydah" was not sent to the station until April 3, 2002. That cable indicates that on April 3, 2002, CTC meet with senior operational and security individuals to develop an interrogation strategy for AZ. US Bates 001923. • A cable titled "Interrogation Plan" was sent on April 12. US Bates 001825. • A subsequent cable was sent on April 7, 2002. It indicates that "three members of the behavioral interrogation team" viewed the site where AZ was to be held and "the team" suggested environmental modifications, as 	<p>Defendants' objection is puzzling.</p> <p>First, the SSCI Report does not state that the strategy was sent on April 1, but says that a strategy was sent "shortly thereafter." Defendants agree that the strategy was sent by April 7 (i.e. shortly thereafter). The SSCI Report does not state that it was solely Mitchell who made the proposal nor that the proposal included EITs.</p> <p>Second, Defendants specifically admitted that "Mitchell recommended that Zubaydah not be provided with any amenities, his sleep be disrupted, and that noise be fed into Zubaydah's cell." ECF No. 77 (Am. Answer) ¶ 34. They further admit that Abu Zubaydah "was stripped naked, confined and that his cell was lit by halogen lamps 24 hours/day for a period of time. They admit that Zubaydah's cell was subjected to rock music or other noise that was also present outside his cell." <i>Id.</i> ¶ 38.</p> <p>In short, Defendants admit the entirety of this statement in the SSCI Report, which is also confirmed by a CIA cable stating that "deliberate manipulation of the environment is intended to cause . . . an increased sense of learned helplessness." ECF No. 177-8 at U.S. Bates 2000.</p>

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	<p>indicated in FN 94. Nothing indicates Mitchell did this alone. No EITs were proposed, rather the following was suggested: painting the room white, installing halogen lights, white curtains, short nap carpeting on the walls, and sanding the cell bars. US Bates 001999-2000.</p>	
<p>“At the end of April 2002, the DETENTION SITE GREEN interrogation team provided CIA Headquarters with three interrogation strategies. CIA Headquarters chose the most coercive interrogation option, which was proposed and supported by CIA contractor SWIGERT”. Exec. Summ. at 30.</p>	<p>Although the citation is redacted, the cable likely referenced states: “Three options were presented: 1) continue to allow AZ to provide interesting, but non-threat related information, 2) press AZ for threat information only and employ immediate countermeasures when he resists, and 3) a combination which allows for minimum non-threat related information and possible threat information. HQS/ALEC concurred ____ for ____ to follow option 2 and press AZ for threat related information.” The next paragraph states, “As the option to press AZ for threat related information requires an increase in the pressure of the interrogations, HQS/ALEC proposes the following options for use in this pursuit. Unless otherwise indicated, this cable authorizes the use of the techniques mentioned below. . . . [the next paragraph states the confinement box].” US Bates 002015-18. It says nothing about Mitchell supporting a specific strategy. And the “most</p>	<p>Defendants do not identify an inaccuracy. They concede that they do not know which evidence is cited, speculate about which cable is “likely referenced,” and provide their own guess as to what such a cable describes.</p>

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	coercive" method was number two above, not EITs.	
<p>"The coercive interrogation option—which included sensory deprivation—was again opposed by the FBI special agents as the detention site. The interrogation proposal was to engage in 'only a single minded, consistent totally focused questioning of current threat information.'" Exec. Summ. at 30.</p>	<p>Referenced document fails to indicate FBI was opposed to the interrogation technique. Instead, it states "the most effective way to obtain critical threat information will be to only address the critical threat info in the interrogation sessions."</p>	<p>As other sources confirm, it is undisputed that FBI agents opposed the CIA's interrogation proposal. Defendants themselves cite the Justice Department Office of Professional Responsibility report, which describes the FBI's opposition to Defendants' methods, including the FBI assessment that the methods were "borderline torture." See ECF No. 176-11 at U.S. Bates 000640.</p>
<p>"In early June 2002, the CIA interrogation team recommended that Abu Zubaydah spend several weeks in isolation while the interrogation team members departed the facility 'as a means of keeping [Abu Zubaydah] off-balance and to allow the team needed time off for a break and to attend to personal matters _____,' as well as to discuss 'the endgame' of Abu Zubaydah _____ with officers from CIA Headquarters." Exec. Summ. at 30.</p>	<p>Cable indicates that it was not Dr. Mitchell or Jessen that proposed isolation: "In discussing the future of the AZ interrogations, a variety of plans have been presented to date, _____ we should avoid the introduction of new interrogators into the scenario with AZ, therefore, _____ proposed isolation option: in executing this option, AZ will be placed in pseudo-isolation for a period of three weeks, with limited/limited visits from medical and security personnel to handle daily responsibilities". US Bates 001641-47. The goal of isolation was to induce doubt and uncertainty within AZ concerning his disposition. US Bates 001811-12.</p>	<p>Defendants invent a statement to oppose rather than address the actual language of the SSCI Report. The SSCI report makes no claim that it was Defendant Mitchell or Defendant Jessen that proposed isolation. Instead, the Report accurately states that "the CIA interrogation team recommended [it]." Exec. Summ. at 30.</p>
<p>"The CIA would later represent publicly—as well as in classified settings—that during the use of 'established US Government interrogation techniques,' Abu Zubaydah 'stopped all</p>	<p>The Report does not cite to documents that show the CIA's assertion is not supported. On the contrary, the Report references a speech given by the President and a classified</p>	<p>Defendants do not identify any inaccuracy. The Senate Report states that no contemporaneous CIA records support the CIA's assertion that Abu Zubaydah "stopped all cooperation." That</p>

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<p>cooperation' in June 2002, requiring the development of the CIA's enhanced interrogation technique." CIA records do not support this assertion. Exec. Summ. at 31</p>	<p>briefing by CIA Director Hayden where Zabaydah's refusal to cooperate is documented.</p>	<p>there are no documents to cite is precisely the point—the Report states that no documents exist.</p> <p>Defendants have not identified any <i>contemporaneous</i> document that does support the CIA's later claim that Abu Zubaydah "stopped all cooperation." Instead Defendants point to years-later efforts at justification, like President Bush's 2006 speech, in which the CIA <i>itself</i> admits that it "mischaracterized on several occasions, including in prominent representations such as President Bush's 2006 speech, the impact on specific terrorist plotting of information acquired from a set of CIA interrogations." ECF No. 195-13 at 13.</p>
<p>Like SWIGERT, DUNBAR had never participated in a real-world interrogation. His interrogation experience was limited to the paper he authored with SWIGERT and his work with U.S. Air Force personnel at the SERE school. Exec. Summ. at 32.</p>	<p>Dr. Jessen's resume indicates that in his role the Director of Operations at JPRA Special Survival Training Program from 1989- 2002, he "observed and monitored 100s of interrogations ensuring appropriate application of interrogation approaches and techniques, enhanced measures, and operational/psychological stability of interrogators". It also lists eight courses that he taught from 1992- 2000 regarding interrogation. US Bates 001901-07</p> <p>The CIA's June 2013 Response states that the Committee Study was 'incorrect... in asserting that the contractors selected had no relevant experience.' The Response notes SWIGERT and DUNBAR's experience at the Department of Defense SERE school, and SWIGERT's</p>	<p>That Defendants participated in simulated, play-acted interrogations does not contradict what they themselves have admitted: Abu Zubaydah's interrogation was the first real-world interrogation that either of them had conducted. ECF Nos. 205-3 (Mitchell Dep.) at 48:16-18; 205-4 (Jessen Dep.) at 116:3-8.</p>

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	<p>'academic research' and 'research papers' on 'such topics as resistance training, captivity familiarization, and learned helplessness - all of which were relevant to the development of the program.' It explains: 'Drs. [SWIGERT] and [DUNBAR] had the closest proximate expertise CIA sought at the beginning of the program, specifically in the area of non-standard means of interrogation. Experts on traditional interrogation methods did not meet this requirement. Non-standard interrogation methodologies were not an area of expertise of CIA officers or of the US Government generally. We believe their expertise was so unique that we would have been derelict had we not sought them out when it became clear that CIA would be heading into the uncharted territory of the program' (italics and emphasis in original). As noted above, the CIA did not seek out SWIGERT and DUNBAR after a decision was made to use coercive interrogation techniques; rather, SWIGERT and DUNBAR played a role in convincing the CIA to adopt such a policy." CIA Comments at p. 49.</p>	
<p>"Despite the initial view expressed by Yoo that the use of the proposed CIA interrogation techniques would be lawful, on July 17, 2002, National Security Advisor Condoleezza Rice requested a delay in the approval of the interrogation techniques for Abu Zubaydah's interrogation until the attorney general issues an opinion." Exec.</p>	<p>An August 3, 2002 cable states, "Additionally, the DCI discussed these proposal with the National Security Advisor on 17 July 2002, and has advised us that we may proceed." US Bates 001761.</p>	<p>Defendants themselves admit that "On July 17, 2002 . . . Condoleezza Rice had approved use of the EITs upon Zubaydah pending DOJ approval of the techniques." ECF No. 170 at ¶ 152 (emphasis added). Again, Defendants have failed to identify an actual inaccuracy or factual dispute.</p>

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Summ. at 34.		
<p>"As former psychologists for the United States Air Force, SWIGERT and DUNBAR had no direct experience with the waterboard, as it was not used in Air Force SERE training." Exec. Summ. at 36.</p>	<p>SERE school has employed the waterboard for decades. Moreover, Drs. Mitchell and Jessen had years of personal experience administering the waterboard. OIG Report, US Bates 001352.</p>	<p>The document Defendants cite says nothing about Defendants' personal experience in administering the waterboard prior to using it on Abu Zubaydah, nor does it contradict the accurate statement in the Senate Report that the Air Force SERE program did not use the waterboard.</p>
<p>"As is described in this summary, and in more detail in the full Committee Study, the interrogation team later deemed the use of the CIA's enhanced interrogation techniques a success, not because it resulted in critical threat information, but because it provided further evidence that Abu Zubaydah had not been withholding the aforementioned information from the interrogators." Exec. Summ. at 37.</p>	<p>The cited cable says nothing about the interrogation techniques being a success, but simply states that they are not confident AZ is not withholding any information. It states: "The aggressive interrogation began the morning of 4 August 2002. To date the phase has continued for 17 days. During this time psychological and physical pressures have been applied to induce complete helplessness, compliance and cooperation from the subject. Our goal was to reach the stage where we have broken any will or ability of subject to resist or deny providing us information (intelligence) to which he had access. We additionally sought to bring subject to the point that he confidently assess that he does not/not possess undisclosed threat information, or intelligence that could prevent a terrorist event." US Bates 002020.</p>	<p>Multiple sources, including Defendants' own admissions confirm the accuracy of the SSCI Report's finding: First, Defendant Mitchell himself explained, in an email cited in the SSCI Report, that Defendants used their methods on Abu Zubaydah to acquire "confidence" that Abu Zubaydah was not withholding information: "As for our buddy, he capitulated the frist [sic] time. We chose to expose him over and over until we had a high degree of confidence he wouldn't hold back. He said we [sic] was ready to talk during the first exposure." ECF No. 182-27 at U.S. Bates 002581. Defendant Mitchell characterized the interrogation as "successful." ECF No. 205-3 (Mitchell Dep.) at 283:5-13. Another CIA document confirms that "A psychologist/interrogator later said that waterboard use had established that AZ had no further information on imminent threats—a creative but circular justification." See Exhibit B to the Declaration of Lawrence S. Lustberg, Esq. at U.S. Bates 001219</p>
<p>"A cable states Abu Zubaydah</p>	<p>This cable does not state the box</p>	<p>Defendants' objection is</p>

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'was unhooded and the large confinement box was carried into the interrogation room and paced [sic] on the floor so as to appear as a coffin.'" Exec. Summ. at 41.	was meant to appear like a coffin: "The IC SERE psychologist removed subject's hood, performed an attention grab and had subject watch while the large confinement box was brought into the cell and laid on the floor." US Bates 001756	puzzling: A CIA cable that Defendants subpoenaed and received contains the exact language quoted by the SSCI Report: "At the start of the first session the subject was unhooded and the large box was carried into the interrogation room and paced [sic] on the floor so as to appear as a coffin. " ECF No. 177-11 at U.S. Bates 002020 (emphasis added).
"At approximately 6:20 PM, Abu Zubaydah was waterboarded for the first time. Over a two-and-a half-hour period, Abu Zubaydah coughed, vomited, and had 'involuntary spasms of the torso and extremities' during waterboarding." Exec. Summ. at 41.	The cable cited to is heavily redacted and the quoted language does not appear in the parts that are unredacted.	Defendants do not identify any inaccuracy, but merely note that the cable they possess is redacted. Of course, the Senate Committee had access to the unredacted cables.
"The use of CIA's enhanced interrogation techniques—including 'walling, attention grasps, slapping, facial hold, stress positions, cramped confinement, white noise and sleep deprivation'—continued in 'varying combinations, 24 hours a day' for 17 straight days, through August 20, 2002." Exec. Summ. at 42.	The cable cited to is heavily redacted and the quoted language does not appear in the parts that are unredacted.	Defendants do not identify any inaccuracy, but merely note that the cable they possess is redacted. Of course, the Senate Committee had access to the unredacted cables.
"When Abu Zubaydah was left alone during this period, he was placed in a stress position, left on the waterboard with a cloth over his face, or locked in one of two confinement boxes. According to the cables, Abu Zubaydah was also subjected to the waterboard '2-4 times a day...with multiple iterations of the watering cycle during each application.'" Exec. Summ. at 42.	The cable cited to is heavily redacted and the quoted language does not appear in the parts that are unredacted.	Defendants do not identify any inaccuracy, but merely note that the cable they possess is redacted. Of course, the Senate Committee had access to the unredacted cables.
"As late as June 2003, SWIGERT and DUNBAR, operating outside	Email indicates that Dr. Mitchell and Dr. Jessen were en route to	Defendants' objection does not make sense. That Defendants

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<p>of the direct management of the Renditions Group, were deployed to DETENTION SITE BLUE to both interrogate and conduct psychological reviews of detainees." Exec. Summ. at 65.</p>	<p>begin a pre-Guantanamo assessment of detainees. But, the email does not indicate that Dr. Mitchell or Dr. Jessen would be interrogating anyone. US Bates 001106-08.</p>	<p>traveled to Detention Site BLUE to interrogate prisoners is undisputed. Defendants argue that a particular email does not describe their interrogation role, but the very page of the SSCI Report that Defendants cite references a CIA cable—not an email—establishing that "In June 2003," Defendants "were deployed to DETENTION SITE BLUE to interrogate KSM, as well as to assess KSM's 'psychological stability' and 'resistance posture.'" Exec. Summ. at 65 (emphasis added).</p>
<p>"OMS then informed the management of the Renditions Group that 'no professional in the field would credit [SWIGERT and DUNBAR's] later judgments as psychologists assessing the subjects of their enhanced measures.'" Exec. Summ. at 65, text in FN 323.</p>	<p>This quote is taken out of context. It involves a continued discussion of how Dr. Mitchell and Dr. Jessen do not have experience assessing detainees for long term incarceration: "Even though the ICs are very bright folks who have made an effort to forge a positive relationship with their subjects, no professional in the field would credit their later judgments as psychologists assessing the subjects of their enhanced measures. They could be right on target, but if some untoward outcome is later to be explained, their sole use in this role will be indefensible. There is just too much extraneous at play—with both AZ wanting to be friends so as not to return to the former situation, and the psychologists wanting to be friends so that bygones are bygones—to view even a correct assessment valid." US Bates 001106-08.</p> <p>This document does not discuss what the ultimate decision was</p>	<p>Defendants identify no inaccuracy in the SSCI Report's accurate quotation of OMS's assessment.</p>

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<p>"The decision to send the contract psychologists to DETENTION SITE BLUE prompted an OMS psychologist to write to OMS leadership that 'any data collected by them from detainees with whom they previously interacted as interrogators will always be suspect.'" Exec. Summ. at 66.</p>	<p>regarding their responsibilities. US Bates 001106-08.</p> <p>This email indicates that RDG assumed operational control of Jessen and Mitchell. "RDG decides when, where, and for how long they deploy [Drs. Jessen and Mitchell] and in what capacity. The ICs agree to this arrangement—indeed, they welcome it—and have pledged to do whatever they can to help us on our missions." The author then indicates that to use Drs. Jessen and Mitchell in a "strategic consulting" role with tasks that best fit their backgrounds, they have drafted a guide of what their new strategic role will be. They asked the OMS psychologist for comments on the draft proposal. Nothing indicates the proposal was written by Jessen or Mitchell. US Bates 001102-05.</p> <p>The OMS psychologist's comment is taken out of context as used in the SSCI Report. It actually states "Jim and Bruce have the skills to examine these issues systematically and come up with reasonable recommendations. Any data collected by them from detainees with whom they previously interacted as interrogators will always be suspect, however. The project would be better served if our folks did the assessments (particularly since psychiatric assessment might be useful in some cases) and Jim and Bruce focused on external data collection." US Bates 001102-05.</p>	<p>Again, Defendants identify no inaccuracy in the SSCI Report's accurate quotation. As Defendants concede, the quoted language is present in the referenced document which recommends that neither Defendant be permitted to conduct psychological assessments of prisoners on whom they previously used their methods.</p> <p>Moreover, although Defendants assert that "Nothing indicates the proposal was written by Jessen or Mitchell," there is nothing inaccurate in the quoted SSCI Report statement, which plainly does not say anything about whether "the proposal was written by Jessen or Mitchell."</p>