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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

May 27, 2004

Mr. Scott Muller
General Counsel
Central Intelligence Agency
Room 7C24 Headquarters Bldg.
Washington, D.C. 20505

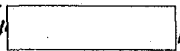
Dear Scott:

Thank you for sending us a copy of the Inspector General Report concerning the Central Intelligence Agency's program for enhanced interrogation techniques.

Information in that report has raised concerns about certain aspects of interrogations in practice. As you know, the opinion that the Office of Legal Counsel provided to John Rizzo in August 2002 addressing ten enhanced interrogation techniques depended upon a number of factual assumptions as well as limitations concerning how those techniques would be applied, and it is my understanding that this Office subsequently agreed that the same legal principles, subject to the same factual assumptions and limitations, could be applied for interrogations of persons other than the specific individual addressed in that August 2002 opinion. Our initial review of the Inspector General's Report raises the possibility that, at least in some instances and particularly early in the program, the actual practice may not have been congruent with all of these assumptions and limitations.

In particular, it appears that the application of the waterboard technique may have deviated in some respects from the descriptions in our opinion. We have not yet reviewed all the pertinent facts to determine whether such deviations are material for purposes of the advice we provided. Some facts discussed by the Report had clearly been discussed with Department of Justice personnel in 2003. Some other information, however, appears to have been generated in the course of the Inspector General's inquiry. It raises a concern, for example, that the Inspector General has suggested, among other things, that the "SERE waterboard experience is so different from the subsequent Agency usage as to make it almost irrelevant." IG Report at 22 n.26. As you know, the use of the waterboard in SERE training was a significant factor in this Office's legal analysis. I understand that the waterboard technique has not been used since March 2003. In light of

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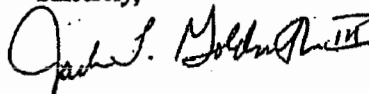
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the assertions in the Inspector General's Report, and the factual assumptions underlying our advice, we strongly recommend that any use of this technique remain suspended until we have had a more thorough opportunity to review the Report and the factual assertions in it.

We recommend that with respect to the use of the other nine techniques, you review the steps you have already taken to ensure that in actual practice any use of those techniques adheres closely to the assumptions and limitations stated in our opinion of August 2002.

Finally, the Report also includes information concerning interrogations that are not part of the enhanced interrogation techniques program. As you know, we have not provided advice on practices described in those portions of the Report.

Sincerely,



Jack L. Goldsmith III

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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)
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(S) [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 Ahmed Khalfan 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:

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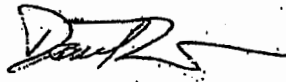
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(TS) [redacted] (NF) We express no opinion on any other uses of these techniques, nor do we address any other techniques or any conditions under which Ghailani or other detainees are held. Furthermore, this letter does not constitute the Department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

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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:

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