

Exhibit #1



January 13, 2015

SENT VIA E-MAIL (OGC EFOIA@BOP.GOV) and U.S. MAIL:

Freedom of Information Act/Privacy Act Section
Office of General Counsel, Room 841
Federal Bureau of Prisons
320 First Street, N.W.
Washington, DC 20534

AMERICAN CIVIL
LIBERTIES UNION FOUNDATION

PLEASE RESPOND TO
NATIONAL PRISON PROJECT
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WASHINGTON, DC 20005-2112
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DAVID C. FATHI
DIRECTOR
ATTORNEY AT LAW*

*NOT ADMITTED IN DC;
PRACTICE LIMITED TO
FEDERAL COURTS

**Re: FOIA Request Related to BOP Inspection of CIA Detention
Site COBALT**

Dear Freedom of Information Officer:

This letter constitutes a request (Request) pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (FOIA). The Request is submitted on behalf of the American Civil Liberties Union (ACLU). The ACLU is also requesting a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k).

THE REQUESTOR

The ACLU is a nationwide, nonprofit, nonpartisan organization dedicated to protecting human rights and civil rights in the U.S. It is the largest civil liberties organization in the country, with offices in 50 states and over 500,000 members. The ACLU is specifically dedicated to holding the U.S. government accountable to universal human rights principles in addition to rights guaranteed by the U.S. Constitution.

Though the ACLU has been involved in prison reform since its founding, in 1972 the organization consolidated various prisoners' rights efforts around the United States into the National Prison Project (NPP). The NPP promotes a fair and effective criminal justice system in which incarceration is used only as a last resort, and its purpose is to prepare prisoners for release and a productive, law-abiding life at the earliest possible time. Through litigation, advocacy, and public education, the NPP works to ensure that conditions of confinement are consistent with health, safety, and human dignity, and that prisoners retain all rights of free persons that are not inconsistent with incarceration. The NPP's current docket includes class action civil rights suits on behalf of prisoners in thirteen states and the U.S. Virgin Islands.

RECORDS REQUESTED

As used herein, the term "DETENTION SITE COBALT" means the detention facility identified by the codename COBALT in the executive summary of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency's Detention and Interrogation Program (relevant excerpts from which are attached as Exhibit A¹), regardless of whether BOP records refer to the facility by the codename COBALT or by some other name(s). For convenience of reference, this facility was located in Afghanistan, and news reports indicate that it was also named the "Salt Pit."

As used herein, the term "COMMUNICATIONS" means any transmittal of information from one person or entity to another by any means, including letters, correspondence, notes, memoranda, records, reports, papers, facsimiles, electronic mail (whether to, from, copied or blind copied), electronic mail generated from a hand held personal device including a Blackberry or iPhone, instant messaging, electronic mail generated from business or personal email accounts, internet relay chat, news group, group or collaboration servers, electronic bulletin boards, electronic discussion boards, dictation tapes, video recordings, audio recordings, digital recordings, memoranda, telegrams, teletypes and telexes, teleconference, collaboration servers (including share point servers), web-based or software virtual meetings including Web-X and any other meeting software and share point servers, and oral contact such as face-to-face discussions or meetings, telephone conversations, and voice mail messages.

As used herein, the term "DOCUMENTS" has the same scope used in Rule 34(a)(1) of the Federal Rules of Civil Procedure and shall encompass every writing or record of every type and description and every tangible thing that is or has been in the possession, custody, or control of the Federal Bureau of Prisons ("BOP") and its employees, to which they have access, or of which they have knowledge, including, but not limited to, newspaper articles, magazine articles, news articles, correspondence, letters, contracts, files, electronic mail, memoranda, stenographic notes, handwritten notes, drafts, studies, publications, books, pamphlets, catalogs, purchase orders, receipts, advertisements, direct mail solicitations, point-of-sale and point-of-purchase materials, notebooks, diaries, models, devices, pictures, photographs, films, audiotapes, videotapes, computer records, voice recordings, maps, reports, surveys, minutes, data compilations, and statistical compilations, regardless of whether a particular DOCUMENT is privileged or confidential, and regardless of the form of storage (including, but not limited to, paper, microfiche, magnetic tape, magnetic disk (hard disk or floppy disk), CD-ROM, DVD, optical disk, or electronic storage device).

¹ The complete executive summary is available online at <http://www.intelligence.senate.gov/study2014/executive-summary.pdf>.

The ACLU requests the following:

1. Any and all COMMUNICATIONS relating to DETENTION SITE COBALT, between the Federal Bureau of Prisons ("BOP") and any other Federal agency or agencies, from January 1, 2002 to January 1, 2005.
2. Any and all COMMUNICATIONS relating to DETENTION SITE COBALT, between BOP personnel, from January 1, 2002 to January 1, 2005.
3. Any and all DOCUMENTS identifying BOP personnel who visited DETENTION SITE COBALT on or about November 2002. For convenience of reference, these activities are described on page 60 of Exhibit A.
4. Any and all DOCUMENTS relating to any and all visits, meetings, inspections, assessments, recommendations, or training conducted by BOP personnel relating to DETENTION SITE COBALT on or about November 2002. For convenience of reference, these activities are described on page 60 of Exhibit A.
5. Any and all DOCUMENTS relating to any and all briefings or meetings between BOP and Central Intelligence ("CIA") personnel relating to DETENTION SITE COBALT on or about December 2002. For convenience of reference, these activities are described on page 60 of Exhibit A.
6. Any and all DOCUMENTS relating to the death of a detainee at DETENTION SITE COBALT on or about November 2002. For convenience of reference, this death is described as occurring "at the end of the Federal Bureau of Prisons visit to the CIA detention site" in Footnote 297 of Exhibit A, and the circumstances of the death are described on pages 54-55 and 59-60 of Exhibit A.

FEE WAIVER

The ACLU requests a total waiver of document search, review, and duplication fees on the grounds that disclosure of the requested records is in the public interest and because disclosure "is likely to contribute significantly to the public understanding of the activities or operations of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). *See also* 6 C.F.R. § 5.11(k).²

² In the alternative, the ACLU requests a limitation on fees pursuant to 6 C.F.R. § 5.11(d).

The detention and treatment of CIA detainees at DETENTION SITE COBALT has been the subject of considerable public controversy, especially in the wake of the publication of the executive summary of the Senate Select Committee on Intelligence report that described the CIA's program of detention and torture. Abuses that took place at DETENTION SITE COBALT have been cited in numerous editorials condemning the CIA's torture regime. See, e.g., Editorial, *The Senate Report on the C.I.A.'s Torture and Lies*, N.Y. TIMES, Dec. 9, 2014 (citing detainee death due to suspected hypothermia at COBALT); Editorial, *The horrors in America's 'dungeon' should never have happened*, WASHINGTON POST, Dec. 9, 2014 (describing conditions in COBALT and quoting official who described it as a "dungeon"); Editorial, *Not in our name*, MIAMI HERALD, Dec. 9, 2014 (noting death from hypothermia at COBALT); Editorial, *A truly black day for the 'civilised' West*, THE DAILY MAIL, Dec. 9, 2014 (citing detainee death from hypothermia at COBALT). Some news publications have written full-length articles devoted to describing what happened at DETENTION SITE COBALT. See, e.g., Richard A. Serrano, *At CIA's 'Salt Pit' prison, torture reigned with little oversight*, L.A. TIMES, Dec. 9, 2014, <http://www.latimes.com/world/afghanistan-pakistan/la-fg-torture-salt-pit-20141210-story.html> (describing conditions at COBALT and death of Gul Rahman); Tim Mak, *Inside the CIA's Sadistic Dungeon*, THE DAILY BEAST, Dec. 9, 2014, <http://www.thedailybeast.com/articles/2014/12/09/inside-a-cia-dungeon.html> (describing conditions inside COBALT). The revelations about COBALT have sparked controversy inside Afghanistan, where COBALT was located. See Hamid Shalizi, *Afghan leader says CIA torture in country 'shocking'*, REUTERS, Dec. 10, 2014, <http://www.reuters.com/article/2014/12/11/us-usa-cia-torture-ghani-idUSKBN0JO1LO20141211> (reporting that following the report's release, Afghan President Ashraf Ghani vowed to investigate CIA abuse at COBALT). And events at COBALT are frequently identified as being among the most horrifying and important revelations from the torture report. See, e.g., Tim Dickinson, *10 Truly Terrible Things the CIA Did in Our Names, Because Freedom*, ROLLING STONE, Dec. 9, 2014, <http://www.rollingstone.com/politics/news/10-truly-terrible-things-the-cia-did-in-our-names-because-freedom-20141209> (describing the conditions at COBALT and its very existence as two of the ten most "despicable things the Central Intelligence Agency perpetrated in our names in the aftermath of 9/11"); Jeremy Diamond, *Top Takeaways from the CIA torture report*, CNN.COM, Dec. 9, 2014, <http://www.cnn.com/2014/12/09/politics/top-takeaways-cia-torture-report/> (describing the detainee death at COBALT and mismanagement at COBALT as two of the eight "biggest conclusions and revelations" of the torture report); Amy Davidson, *The Torture Report: Inhumane Scenes from the C.I.A.'s Prisons*, THE NEW YORKER, Dec. 9, 2014, <http://www.newyorker.com/news/amy-davidson/inhumane-scenes-cia-prisons> (referencing COBALT as part of a pattern in the CIA's "playgrounds of

impunity”). Illuminating the role that BOP played in evaluating and approving the conditions of confinement at DETENTION SITE COBALT is an important part of this public discussion; by approving conditions of confinement at DETENTION SITE COBALT as “not in humane” in late 2002, BOP failed to do what it could to prevent the CIA’s subsequent abuses. The requested records will contribute substantially to the public’s understanding of the BOP’s role in this matter of great public concern.

In addition, disclosure is not in the ACLU’s commercial interest. Any information disclosed by the ACLU as a result of this FOIA request will be available to the public at no cost. See 6 C.F.R. § 5.11(k)(1)(ii); 6 C.F.R. § 5.11(k)(3). The ACLU publishes newsletters, news briefings, right-to-know handbooks, and other materials that are disseminated to the public. These materials are widely available to everyone, including tax-exempt organizations, not-for-profit groups, law students and faculty, for no cost or for a nominal fee through its public education department. The ACLU also disseminates information through its heavily subscribed website, <http://www.aclu.org>. The website addresses civil liberties issues in depth, provides features on civil liberties issues in the news, and contains hundreds of documents that relate to the issues addressed by the ACLU. The website also specifically includes features on information obtained through the FOIA. See, e.g., <http://www.aclu.org/torturefoia>; <http://www.aclu.org/spyfiles>; <http://www.aclu.org/patriotfoia/index.html>; <http://www.aclu.org/exclusion>; <http://www.aclu.org/safefree/nationalsecurityletters/32088res20071014.html>.

The ACLU also publishes an electronic newsletter, which is distributed to subscribers by e-mail.³ Depending on the results of this Request, the ACLU will likely disseminate the information obtained to the public through these kinds of publications in these kinds of channels.

Thus, a fee waiver would fulfill Congress’s legislative intent in amending FOIA. See *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers for noncommercial requestors.’”) (citation omitted); *Citizens for Responsibility and Ethics in Washington v. U.S. Dept. of Educ.*, 593 F. Supp. 2d 261, 268 (D.D.C. 2009) (“[FOIA’s] purpose . . . is to remove the roadblocks and technicalities which have been used by . . . agencies to deny waivers.”) (internal quotation marks and citation omitted).

³ In addition to the national ACLU offices, there are 53 ACLU affiliate and national chapter offices located throughout the United States and Puerto Rico. These offices further disseminate ACLU material to local residents, schools, and organizations through a variety of means, including their own websites, publications, and newsletters. The ACLU also makes archived material available at the American Civil Liberties Union Archives at Princeton University Library. Additionally, ACLU publications are often disseminated to relevant groups across the country, which then further distribute them to their members or to other parties.

On account of these factors, the ACLU has not been charged fees associated with responding to FOIA requests on numerous occasions.⁴

In any event, as discussed *supra*, the ACLU qualifies as a “representative of the news media” and the records are not sought for commercial use. Accordingly, should fees be assessed for the processing of this Request, such fees should be “limited to reasonable standard charges for document duplication.” 5 U.S.C. § 552(a)(4)(A)(ii)(II). *See also* 6 C.F.R. § 5.11(d).

The ACLU is therefore entitled to a total waiver of fees associated with this request and should, in no event, be required to pay more than reasonable standard charges for document duplication alone.

* * *

Thank you for your consideration of this request. If this request is denied in whole or part, the ACLU asks that you justify all deletions by reference to specific exemptions of the FOIA. We expect you to release all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information, or to deny a waiver of fees. We look forward to your reply to the records request within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(I).

⁴ The following are recent examples of requests for which agencies did not charge the ACLU fees associated with responding to a FOIA request: (1) In March 2012, the Department of Justice Criminal Division granted a fee waiver to the ACLU for a FOIA request seeking records about the government’s access to the contents of individuals’ private electronic communications. (2) In June 2011, the National Security Division of the Department of Justice granted a fee waiver to the ACLU with respect to a request for documents relating to the interpretation and implementation of a section of the PATRIOT Act. (3) In November 2010, the Federal Emergency Management Agency (FEMA) granted a fee waiver to the ACLU for a FOIA request seeking documents concerning the FEMA-funded rebuilding of Orleans Parish Prison following Hurricane Katrina. (4) In October 2010, the Department of the Navy granted a fee waiver to the ACLU with respect to a request for documents regarding the deaths of detainees in U.S. custody. (5) In January 2010, U.S. Immigration and Customs Enforcement (ICE) granted a fee waiver to the ACLU for a FOIA request seeking documents concerning the deaths of detainees in ICE custody. (6) In January 2009, the CIA granted a fee waiver with respect to the same request. (7) In March 2009, the State Department granted a fee waiver to the ACLU with regard to a FOIA request submitted in December 2008. The Department of Justice granted a fee waiver to the ACLU with regard to the same FOIA request. (8) In November 2006, the Department of Health and Human Services granted a fee waiver to the ACLU with regard to a FOIA request submitted in November of 2006.

Thank you for your prompt attention to this matter. We eagerly await your response, and thank you for your assistance. Please furnish all responsive records to:

Carl Takei
Staff Attorney
ACLU National Prison Project
915 15th St. NW, 7th Floor
Washington, DC 20005

* * *

Sincerely,

A handwritten signature in black ink, appearing to read 'Carl Takei', with a long horizontal stroke extending to the right.

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EXHIBIT A

Excerpts from the Senate Select Committee on Intelligence
Committee Study of the Central Intelligence Agency's
Detention and Interrogation Program

Senate Select Committee on Intelligence

Committee Study of the CIA's Detention and Interrogation Program

Executive Summary

Approved December 13, 2012

Updated for Release April 3, 2014

Declassification Revisions December 3, 2014

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specific requests for additional information on the CIA's Detention and Interrogation Program. Internal CIA emails include discussion of how the CIA could "get... off the hook on the cheap" regarding Chairman Graham's requests for additional information.²³⁴ In the end, CIA officials simply did not respond to Graham's requests prior to his departure from the Committee in January 2003.

C. Interrogation in Country [REDACTED] and the January 2003 Guidelines

1. The CIA Establishes DETENTION SITE COBALT, Places Inexperienced First-Tour Officer in Charge

(TS// [REDACTED] //NF) Plans for a specialized CIA detention facility in Country [REDACTED] began in April 2002, with the intention that it would be "totally under [REDACTED] /Station Control."²³⁵ On June 6, 2002, CIA Headquarters approved more than \$200,000 for the construction of the facility, identified in this summary as "DETENTION SITE COBALT."²³⁶ In a 2003 interview with the CIA Office of Inspector General, Associate Deputy Director for Operations [REDACTED] described his views of this facility and "stated that [DETENTION SITE COBALT] was opened because there needed to be a detention site in [Country [REDACTED]] for those detainees enroute [REDACTED] to [DETENTION SITE GREEN]. It was not a place for the use of EITs."²³⁷

(TS// [REDACTED] //NF) DETENTION SITE COBALT, constructed with CIA funding, opened in Country [REDACTED] in September 2002.²³⁸ According to CIA records, the windows at DETENTION SITE COBALT were blacked out and detainees were kept in total darkness. The [REDACTED] guards monitored detainees using headlamps and loud music was played constantly in the facility. While in their cells, detainees were shackled to the wall and given buckets for human waste. Four of the twenty cells at the facility included a bar across the top of the cell.²³⁹ Later reports describe detainees being shackled to the bar with their hands above their heads, forcing them to stand, and therefore not allowing the detainees to sleep.²⁴⁰

²³⁴ Email from: Stanley Moskowitz; to: John H. Moseman; cc: Scott Muller and James Pavitt; subject: [attached document] Re: Graham request on interrogations; date: December 9, 2002, at 05:46:11 PM.

²³⁵ By June 2002 the CIA had taken custody of five detainees who were captured outside of Country [REDACTED] and placed these CIA detainees in Country [REDACTED] detention facilities. The detainees were held at the Country [REDACTED] facilities at the request of the CIA and the CIA had unlimited access to them. See [REDACTED] 21147 [REDACTED]

²³⁶ DIRECTOR [REDACTED] (062212Z JUN 02)

²³⁷ Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], September 9, 2003.

²³⁸ For additional information on DETENTION SITE COBALT, see Volume I and Volume III. The specific date has been generalized at the request of the CIA.

²³⁹ [REDACTED] 28246 [REDACTED]

²⁴⁰ For additional information on DETENTION SITE COBALT, see Volume I and Volume III, and among other documents: [REDACTED] 31118 [REDACTED]; DIRECTOR [REDACTED]; email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Meeting with SO & Federal Bureau of Prisons; date: December 4, 2002; email from: [REDACTED]; to: [REDACTED]; subject: Meeting with SO & Federal Bureau of Prisons; date: December 5, 2002; Special Review, Counterterrorism Detention and Interrogation Activities (September 2001 - October 2003) (2003-7123-IG), May 7, 2004; Memorandum for Deputy Director of Operations, from [REDACTED], January 28, 2003, Subject:

(TS// [REDACTED] //NF) The CIA officer in charge of DETENTION SITE COBALT, [REDACTED] [CIA OFFICER 1], was a junior officer on his first overseas assignment with no previous experience or training in handling prisoners or conducting interrogations. [REDACTED] [CIA OFFICER 1] was the DETENTION SITE COBALT manager during the period in which a CIA detainee died and numerous CIA detainees were subjected to unapproved coercive interrogation techniques.²⁴¹ A review of CIA records found that prior to [REDACTED] [CIA OFFICER 1's] deployment and assignment as the CIA's DETENTION SITE COBALT manager, other CIA officers recommended [REDACTED] [CIA OFFICER 1] not have continued access to classified information due to a "lack of honesty, judgment, and maturity."²⁴² According to records, "the chief of CTC told [REDACTED] [CIA OFFICER 1] that he would not want [him] in his overseas station."²⁴³ A supervising officer assessed that [REDACTED] [CIA OFFICER 1]:

"has issues with judgment and maturity, [and his] potential behavior in the field is also worrisome. [The officer] further advised that [REDACTED] [CIA OFFICER 1] was only put into processing for an overseas position so that someone would evaluate all of the evidence of this situation all together. [The officer further noted that [REDACTED] [CIA OFFICER 1] might not listen to his chief of station when in the field."²⁴⁴

2. CIA Records Lack Information on CIA Detainees and Details of Interrogations in Country [REDACTED]

(TS// [REDACTED] //NF) Detainees held in Country [REDACTED] were detained under the authority of the MON; however, CIA officers conducted no written assessment of whether these detainees

Death Investigation – Gul RAHMAN; and CIA Inspector General, Report of Investigation, Death of a Detainee [REDACTED] (2003-7402-IG), April 27, 2005. One senior interrogator, [REDACTED], told the CIA OIG that "literally, a detainee could go for days or weeks without anyone looking at him," and that his team found one detainee who, "as far as we could determine, had been chained to the wall in a standing position for 17 days." According to the CIA interrogator, some of the CIA detainees at DETENTION SITE COBALT "literally looked like a dog that had been kenneled." When the doors to their cells were opened, "they covered." (See Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], April 30, 2003.) The chief of interrogations, [REDACTED], told the CIA OIG that "[DETENTION SITE COBALT] is good for interrogations because it is the closest thing he has seen to a dungeon, facilitating the displacement of detainee expectations." (See Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], April 7, 2003.) An analyst who conducted interrogations at DETENTION SITE COBALT told the CIA OIG that "[DETENTION SITE COBALT] is an EIT." (See Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], May 8, 2003.)

²⁴¹ See April 27, 2005, CIA Inspector General, Report of Investigation: Death of a Detainee [REDACTED], April 7, 2005, Memorandum for John Helgerson, Inspector General, from Robert Grenier, Subject: Comments on Draft Report of Investigation: Death of a Detainee [REDACTED] (2003-7402-IG).

²⁴² [REDACTED] Subject: [REDACTED] [CIA OFFICER 1]. [REDACTED]

²⁴³ [REDACTED] [CIA OFFICER 1]

²⁴⁴ [REDACTED] [CIA OFFICER 1]

“pose[d] a continuing, serious threat of violence or death to U.S. persons and interests or... [we]re planning terrorist activities.” The CIA maintained such poor records of its detainees in Country [REDACTED] during this period that the CIA remains unable to determine the number and identity of the individuals it detained. The full details of the CIA interrogations there remain largely unknown, as DETENTION SITE COBALT was later found to have not reported multiple uses of sleep deprivation, required standing, loud music, sensory deprivation, extended isolation, reduced quantity and quality of food, nudity, and “rough treatment” of CIA detainees.²⁴⁵

3. *CIA Headquarters Recommends That Untrained Interrogators in Country [REDACTED] Use the CIA's Enhanced Interrogation Techniques on Ridha al-Najjar*

(TS// [REDACTED] //NF) Ridha al-Najjar was the first CIA detainee to be held at DETENTION SITE COBALT. Al-Najjar, along with Hassan Muhammad Abu Bakr and a number of other individuals, was arrested in Karachi, Pakistan, after raids conducted [REDACTED] by [REDACTED] Pakistan [REDACTED] in late May 2002.²⁴⁶ Al-Najjar was identified by the CIA as a former bodyguard for Usama bin Laden,²⁴⁷ and was rendered with Abu Bakr to CIA custody at a Country [REDACTED] detention facility on June [REDACTED], 2002.²⁴⁸ Ridha al-Najjar was transferred to DETENTION SITE COBALT on September [REDACTED], 2002.²⁴⁹

(TS// [REDACTED] //NF) While the CIA was describing to the Department of Justice why it needed to use the CIA's enhanced interrogation techniques against Abu Zubaydah, a parallel internal discussion at the CIA was taking place regarding Ridha al-Najjar. An ALEC Station cable from a CTC officer stated that, on June 27, 2002:

“ALEC/HQS held a strategy session regarding the interrogation of high priority [REDACTED] detainee Ridha Ahmed al-Najjar in [Country [REDACTED]]. The goal of the session was to review the progress of the interrogation to date and to devise a general plan as to how best to proceed once the new [Country [REDACTED] [REDACTED]] detention/debriefing facility [i.e., DETENTION SITE COBALT] is completed.”²⁵⁰

(TS// [REDACTED] //NF) The meeting participants included individuals who were also involved in discussions related to Abu Zubaydah's interrogation, including deputy chief of ALEC Station, [REDACTED], [REDACTED] CTC Legal [REDACTED], and the chief of

²⁴⁵ The full Committee Study includes a CIA photograph of a waterboard at DETENTION SITE COBALT. While there are no records of the CIA using the waterboard at COBALT, the waterboard device in the photograph is surrounded by buckets, with a bottle of unknown pink solution (filled two thirds of the way to the top) and a watering can resting on the wooden beams of the waterboard. In meetings between the Committee Staff and the CIA in the summer of 2013, the CIA was unable to explain the details of the photograph, to include the buckets, solution, and watering can, as well as the waterboard's presence at COBALT.

²⁴⁶ [REDACTED] 11357 [REDACTED]; [REDACTED] 11443 [REDACTED]

²⁴⁷ [REDACTED] 178155 [REDACTED]

²⁴⁸ [REDACTED] 11542 [REDACTED]

²⁴⁹ [REDACTED] 27054 [REDACTED]

²⁵⁰ ALEC [REDACTED] (162135Z JUL 02). Although the plans at the time were for DETENTION SITE COBALT to be owned and operated by the Country [REDACTED] government, the detention site was controlled and overseen by the CIA and its officers from the day it became operational in September 2002.

(TS// [REDACTED] //NF) On August 5, 2002, the day after Abu Zubaydah's interrogation using the CIA's enhanced interrogation techniques at DETENTION SITE GREEN began, CIA Headquarters authorized the proposed interrogation plan for al-Najjar, to include the use of loud music (at less than the level that would cause physical harm such as permanent hearing loss), worse food (as long as it was nutritionally adequate for sustenance), sleep deprivation, and hooding.²⁶⁰

(TS// [REDACTED] //NF) More than a month later, on September 21, 2002, CIA interrogators described al-Najjar as "clearly a broken man" and "on the verge of complete breakdown" as result of the isolation.²⁶¹ The cable added that al-Najjar was willing to do whatever the CIA officer asked.²⁶²

(TS// [REDACTED] //NF) In October 2002, officers from the U.S. military conducted a short debriefing of al-Najjar at DETENTION SITE COBALT and subsequently expressed an interest in a more thorough debriefing.²⁶³ On November [REDACTED], 2002, a U.S. military legal advisor visited DETENTION SITE COBALT and described it as a "CIA detention facility," noting that "while CIA is the only user of the facility they contend it is a [Country [REDACTED]] facility."²⁶⁴ The U.S. military officer also noted that the junior CIA officer designated as warden of the facility "has little to no experience with interrogating or handling prisoners." With respect to al-Najjar specifically, the legal advisor indicated that the CIA's interrogation plan included "isolation in total darkness; lowering the quality of his food; keeping him at an uncomfortable temperature (cold); [playing music] 24 hours a day; and keeping him shackled and hooded." In addition, al-Najjar was described as having been left hanging—which involved handcuffing one or both wrists to an overhead bar which would not allow him to lower his arms—for 22 hours each day for two consecutive days, in order to "'break' his resistance." It was also noted al-Najjar was wearing a diaper and had no access to toilet facilities.²⁶⁵

(TS// [REDACTED] //NF) The U.S. military legal advisor concluded that, because of al-Najjar's treatment, and the concealment of the facility from the ICRC, military participation in al-Najjar's interrogation would involve risks for the U.S. military [REDACTED]. The legal advisor recommended briefing the CIA's detention and interrogation activities to U.S. [REDACTED]

[REDACTED], [REDACTED]; subject: ABU ZUBAYDAH - SENSITIVE ADDENDUM TO DCI DAILY 1630 OPS UPDATE - 26 JULY; date: July 26, 2002.

²⁶⁰ DIRECTOR [REDACTED] (052309Z AUG 02). The OLC opinion that reviewed and approved the use of CIA's enhanced interrogation techniques, signed on August 1, 2002, was specific to Abu Zubaydah. The Office of Legal Counsel did not produce legal opinions for al-Najjar or other detainees held by or for the CIA until August 2004.

²⁶¹ [REDACTED] 27297 (210713Z SEP 02)

²⁶² [REDACTED] 27297 (210713Z SEP 02)

²⁶³ November [REDACTED], 2002, Memorandum for [REDACTED]

Subject: Legal Analysis of [REDACTED] Personnel Participating in Interrogation at the CIA Detention Facility in [REDACTED] (aka "[DETENTION SITE COBALT]").

²⁶⁴ November [REDACTED], 2002, Memorandum for [REDACTED]

Subject: Legal Analysis of [REDACTED] Personnel Participating in Interrogation at the CIA Detention Facility in [REDACTED] (aka "[DETENTION SITE COBALT]").

²⁶⁵ November [REDACTED], 2002, Memorandum for [REDACTED]

Subject: Legal Analysis of [REDACTED] Personnel Participating in Interrogation at the CIA Detention Facility in [REDACTED] (aka "[DETENTION SITE COBALT]").

[REDACTED] [combatant command] to alert the command of the risks prior to the U.S. military being involved in any aspect of the interrogation of al-Najjar.²⁶⁶ According to the CIA inspector general, the detention and interrogation of Ridha al-Najjar “became the model” for handling other CIA detainees at DETENTION SITE COBALT.²⁶⁷ The CIA disseminated one intelligence report from its detention and interrogation of Ridha al-Najjar.²⁶⁸

4. *Death of Gul Rahman Leads CIA Headquarters to Learn of Unreported Coercive Interrogation Techniques at DETENTION SITE COBALT; CIA Inspector General Review Reveals Lack of Oversight of the Detention Site*

(TS// [REDACTED] //NF) In November 2002, ALEC Station officers requested that CIA contract interrogator Hammond DUNBAR, one of the two primary interrogators of Abu Zubaydah in August 2002, travel to DETENTION SITE COBALT to assess a detainee for the possible use of the CIA’s enhanced interrogation techniques.²⁶⁹ While DUNBAR was present at DETENTION SITE COBALT, he assisted [REDACTED] [CIA OFFICER 1] in the interrogations of Gul Rahman, a suspected Islamic extremist. As reported to CIA Headquarters, this interrogation included “48 hours of sleep deprivation, auditory overload, total darkness, isolation, a cold shower, and rough treatment.” CIA Headquarters did not approve these interrogation techniques in advance. Upon receipt of these cables, however, officers at CIA Headquarters responded that they were “motivated to extract any and all operational information on al-Qa’ida and Hezbi Islami from Gul Rahman” and suggested that “enhanced measures” might be needed to gain Gul Rahman’s compliance. CIA Headquarters also requested that a psychological assessment of Rahman be completed.²⁷⁰ Prior to DUNBAR’s departure from the detention site on November [REDACTED], 2002, [a few days before the death of Gul Rahman] DUNBAR proposed the use of the CIA’s enhanced interrogation techniques on other detainees and offered suggestions to [REDACTED] [CIA OFFICER 1], the site manager, on the use of such techniques.²⁷¹

(TS// [REDACTED] //NF) On November [REDACTED], 2002, [REDACTED] [CIA OFFICER 1] ordered that Gul Rahman be shackled to the wall of his cell in a position that required the detainee to rest on the bare concrete floor. Rahman was wearing only a sweatshirt, as [REDACTED] [CIA OFFICER 1] had ordered that Rahman’s clothing be removed when he had been judged to be uncooperative during an earlier interrogation. The next day, the guards found Gul Rahman’s dead body. An internal CIA review and autopsy assessed that Rahman likely died from hypothermia—in part

²⁶⁶ November [REDACTED], 2002, Memorandum for [REDACTED], Subject: Legal Analysis of [REDACTED] Personnel Participating in Interrogation at the CIA Detention Facility in [REDACTED] (aka “[DETENTION SITE COBALT]”).

²⁶⁷ According to the IG report, “in late July or early August 2002, a senior operations officer on TDY to [REDACTED] interrogated a particularly obstinate detainee [Ridha al-Najjar] at [REDACTED] detention facility that was used before [COBALT] was opened. The officer drafted a cable that proposed techniques that, ultimately, became the model for [COBALT].” See April 27, 2005, report by the CIA Inspector General, Death of a Detainee [REDACTED] (2003-7402-IG). See also Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], April 30, 2003; Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], April 2, 2003.

²⁶⁸ See Volume II and Volume III for additional information.

²⁶⁹ ALEC [REDACTED]

²⁷⁰ ALEC [REDACTED]

²⁷¹ [REDACTED]

29963

from having been forced to sit on the bare concrete floor without pants.²⁷² [REDACTED] [CIA OFFICER 1's] initial cable to CIA Headquarters on Rahman's death included a number of misstatements and omissions that were not discovered until internal investigations into Rahman's death.²⁷³

(TS// [REDACTED] //NF) The death of Gul Rahman resulted in increased attention to CIA detention and interrogation activities in Country [REDACTED] by CIA Headquarters. The CTC formally designated the CTC's Renditions Group²⁷⁴ as the responsible entity for the management and maintenance of all CIA interrogation facilities, including DETENTION SITE COBALT, in early December 2002.²⁷⁵ Despite this change, many of the same individuals within the CIA—including DUNBAR, officers at DETENTION SITE COBALT, and officers within ALEC Station who had recommended the use of the CIA's enhanced interrogation techniques against Gul Rahman—remained key figures in the CIA interrogation program and received no reprimand or sanction for Rahman's death. Instead, in March 2003, just four months after the death of Gul Rahman, the CIA Station in Country [REDACTED] recommended that [REDACTED] [CIA OFFICER 1] receive a "cash award" of \$2,500 for his "consistently superior work."²⁷⁶ [REDACTED] [CIA OFFICER 1] remained in his position as manager of the detention site until July 2003 and continued to be involved in the interrogations of other CIA detainees. He was formally certified as a CIA interrogator in April 2003 after the practical portion of his training requirement was waived because of his past experience with interrogations at DETENTION SITE COBALT.²⁷⁷

²⁷² Memorandum for Deputy Director of Operations, from [REDACTED] January 28, 2003, Subject: Death Investigation – Gul RAHMAN. Other contributing factors were identified as dehydration, lack of food, and immobility due to "short chaining."

²⁷³ [REDACTED] 30211 [REDACTED]. See Volume I and III for additional details.

²⁷⁴ As noted, the Renditions Group was also known during the program as the "Renditions and Interrogations Group," as well as the "Rendition, Detention, and Interrogation Group," and by the initials, "RDI" and "RDG."

²⁷⁵ DIRECTOR [REDACTED] (032336Z DEC 02)

²⁷⁶ [REDACTED] 34909 [REDACTED]

²⁷⁷ DIRECTOR [REDACTED]. In late 2005, the CIA convened an Accountability Board to review the actions of CIA personnel in Gul Rahman's death. The board recommended that the executive director "impose a 10 day suspension without pay" on [REDACTED] [CIA OFFICER 1], and noted that this action would "strike the appropriate balance between: 1) the fact that [REDACTED] [CIA OFFICER 1] was the only individual who made decisions that led directly, albeit unintentionally, to Rahman's death, and 2) the significant weight the Board attached to the mitigating factors at play in this incident." (See Memorandum for Executive Director from [REDACTED], Deputy Director for Science and Technology, re: Report and Recommendations of the Special Accountability Board Regarding the Death of Afghan Detainee Gul Rahman.) On February 10, 2006, however, the CIA Executive Director K.B. Foggo notified [REDACTED] [CIA OFFICER 1] that he intended to take no disciplinary action against him. In his memo describing that decision, the executive director stated: "While not condoning your actions, it is imperative, in my view, that they... be judged within the operational context that existed at the time of Rahman's detention. Cable traffic reviewed by the board shows conclusively that Headquarters generally was aware of, and posed no objections to, the confinement conditions and interrogation techniques being imposed on Rahman as late as [REDACTED] November. On that date, Headquarters notified [the CIA Station in COUNTRY [REDACTED]]... that it was 'motivated to extract any and all operational information' from Rahman, that it rated achieving Rahman's cooperation to be of 'great importance' and that it acknowledged that Rahman 'may need to be subjected to enhanced interrogation measures to induce him to comply.'" (See February 10, 2006, Memorandum for [REDACTED] [CIA OFFICER 1], CounterTerrorist Center, National Clandestine Service, from Executive Director, re: "Accountability Decision.") With regard to the death of Gul Rahman, the CIA's June 2013 Response states: "Most egregiously, we believe that CIA leaders erred in not holding anyone formally accountable for the actions and failure of management related to the death of Gul Rahman at [COBALT] in 2002. We understand the reasoning underlying CIA management's decision to overturn an accountability board recommendation that would have imposed sanctions on the least

(TS// [REDACTED]//NF) Later investigations of DETENTION SITE COBALT conducted by the CIA inspector general and the deputy director of operations following the death of Gul Rahman found that the use of the CIA's enhanced interrogation techniques—and other coercive interrogation techniques—was more widespread than was reported in contemporaneous CIA cables. Specifically, the interrogation techniques that went unreported in CIA cables included standing sleep deprivation in which a detainee's arms were shackled above his head, nudity, dietary manipulation, exposure to cold temperatures, cold showers, "rough takedowns," and, in at least two instances, the use of mock executions.²⁷⁸

(TS// [REDACTED]//NF) On November 18, 2002, staff from the CIA's Office of Inspector General contacted [REDACTED] CTC Legal, [REDACTED], to indicate their interest in being briefed by CTC on the detention facility in Country [REDACTED]. At their meeting with the DDO and the chief of CTC on November [REDACTED], 2002, the OIG staff explained that, while in that country on a separate matter, the staff had overheard a conversation that included references to "war crimes" and "torture" at a CIA detention facility and were therefore seeking to follow-up on this information. According to notes from the meeting, the DDO described the "most recent event concerning Gul Rahman"—his death, which occurred on November [REDACTED], 2002.²⁷⁹

experienced officer involved. The most junior in the chain of command should not have to bear the full weight of accountability when larger, systemic problems exist and when they are thrust into difficult battlefield situations by their supervisors and given a risky and difficult task and little preparation or guidance. Still, it is hard to accept that a CIA officer does not bear at least some responsibility for his or her actions, even under trying circumstances."²⁷⁸ Special Review, Counterterrorism Detention and Interrogation Activities (September 2001 - October 2003) (2003-7123-IG), May 7, 2004; Memorandum for Deputy Director of Operations, from [REDACTED], January 28, 2003, Subject: Death Investigation - Gul RAHMAN; CIA Inspector General, Report of Investigation, Death of a Detainee [REDACTED] (2003-7402-IG), April 27, 2005. Inspector General records of the interview of a senior CIA debriefer indicated that, "[d]uring the two weeks of interrogation training, she heard stories of [COBALT] detainees being 'hung for days on end,' not being fed, mock assassinations, and at least one case of a detainee being repeatedly choked." The senior debriefer also informed the Office of Inspector General that, "[s]he heard that while at [COBALT] [REDACTED], aka 'CIA OFFICER 2'" had hung detainees up for long periods with their toes barely touching the ground." (See interview report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], April 5, 2003.) DUNBAR described a "rough takedown" following the death of Gul Rahman at COBALT. "According to [DUNBAR], there were approximately five CIA officers on the renditions team. Each one had a role during the takedown and it was thoroughly planned and rehearsed. They opened the door of Rahman's cell and rushed in screaming and yelling for him to 'get down.' They dragged him outside, cut off his clothes and secured him with Mylar tape. They covered his head with a hood and ran him up and down a long corridor adjacent to his cell. They slapped him and punched him several times. [DUNBAR] stated that although it was obvious they were not trying to hit him as hard as they could, a couple of times the punches were forceful. As they ran him along the corridor, a couple of times he fell and they dragged him through the dirt (the floor outside of the cells is dirt). Rahman did acquire a number of abrasions on his face, legs, and hands, but nothing that required medical attention. (This may account for the abrasions found on Rahman's body after his death. Rahman had a number of surface abrasions on his shoulders, pelvis, arms, legs, and face.) At this point, Rahman was returned to his cell and secured. [DUNBAR] stated that [REDACTED] [CIA OFFICER 1] [the CIA officer in charge of DETENTION SITE COBALT] may have spoken to Rahman for a few moments, but he did not know what [REDACTED] [CIA OFFICER 1] said. [DUNBAR] stated that after something like this is done, interrogators should speak to the prisoner to 'give them something to think about.'" (See Memorandum for Deputy Director of Operations, from [REDACTED], January 28, 2003, Subject: Death Investigation - Gul RAHMAN, pp. 21-22.)²⁷⁹ See Notes of November [REDACTED], 2002, meeting D/IG [REDACTED].

(TS// [REDACTED] //NF) In January 2003, CIA Inspector General John Helgerson began a formal review of the death of Gul Rahman and began a separate review of the entire CIA Detention and Interrogation Program. The resulting Special Review of Counterterrorism Detention and Interrogation Activities ("Special Review") found that there were no guidelines for the use of the CIA's enhanced interrogation techniques at DETENTION SITE COBALT prior to December 2002, and that interrogators, some with little or no training, were "left to their own devices in working with detainees."²⁸⁰

(TS// [REDACTED] //NF) The Inspector General's Special Review also revealed the lack of oversight of DETENTION SITE COBALT by CIA leadership. DCI Tenet stated that he was "not very familiar" with DETENTION SITE COBALT and "what the CIA is doing with medium value targets."²⁸¹ Associate Deputy Director of Operations [REDACTED] stated that he was unaware that the CIA's enhanced interrogation techniques were being used there.²⁸² In August 2003, CIA General Counsel Scott Muller relayed that he was under the impression that DETENTION SITE COBALT was only a holding facility and that he had "no idea who is responsible for [COBALT]."²⁸³ Senior Deputy General Counsel John Rizzo informed the OIG that he knew little about DETENTION SITE COBALT and that his focus was on DETENTION SITE GREEN and DETENTION SITE BLUE.²⁸⁴ CTC Chief of Operations [REDACTED] stated that he had much less knowledge of operations at DETENTION SITE COBALT, and that the CIA's GREEN and BLUE detention sites were much more important to him.²⁸⁵ Finally, Chief of CTC Jose Rodriguez stated that he did not focus on DETENTION SITE COBALT because he had "other higher priorities."²⁸⁶

5. *The CIA Begins Training New Interrogators; Interrogation Techniques Not Reviewed by the Department of Justice Included in the Training Syllabus*

²⁸⁰ See Office of Inspector General Special Review of Counterterrorism Detention and Interrogation Activities (September 2001-October 2003), May 7, 2004, p. 52. According to an OIG interview with an analyst who conducted interrogations at DETENTION SITE COBALT, "indicative of the lack of interrogators was the fact that [REDACTED] [CIA OFFICER 1] enlisted a [REDACTED] case officer friend... to conduct interrogations at [DETENTION SITE COBALT] after he completed his [REDACTED] business in [REDACTED]." (See Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], May 8, 2003.) Inspector General records of an interview with a senior CIA debriefer indicate that the debriefer, "heard prior to taking the [interrogator] training that people at [COBALT] had debriefed detainees on their own, sometimes going out to the site at night." (See Interview Report, 2003-7123-IG, Review of Interrogations for Counterterrorism Purposes, [REDACTED], April 5, 2003.) As described elsewhere, DCI Tenet issued formal interrogation guidelines for the program on January 28, 2003. (See Guidelines on Interrogations Conducted Pursuant to the Presidential Memorandum of Notification of 17 September 2001, signed by George Tenet, Director of Central Intelligence, January 28, 2003.)

²⁸¹ Interview of George Tenet, by [REDACTED], [REDACTED], Office of the Inspector General, memorandum dated, September 8, 2003.

²⁸² Interview of [REDACTED], Office of the Inspector General, September 9, 2003.

²⁸³ Interview of Scott Muller, by [REDACTED], [REDACTED], and [REDACTED], Office of the Inspector General, August 20, 2003.

²⁸⁴ Interview of John Rizzo, by [REDACTED], [REDACTED] and [REDACTED], Office of the Inspector General, August 14, 2003.

²⁸⁵ Interview of [REDACTED], Office of the Inspector General, February 11, 2003.

²⁸⁶ Interview of Jose Rodriguez, by [REDACTED] and [REDACTED], Office of the Inspector General, August 12, 2003.

(TS// [REDACTED] //NF) The CIA's CTC Renditions Group began preparing for the first CIA interrogator training course in August 2002—during the period in which Abu Zubaydah was being interrogated using the CIA's enhanced interrogation techniques at DETENTION SITE GREEN. [REDACTED], the CIA's chief of interrogations,²⁸⁷ and [REDACTED], the CIA officer with OTS who had spent [REDACTED] years as a SERE Instructor with JPRA, led the interrogation training. The first interrogation training, conducted with the assistance of JPRA personnel, occurred from November 12, 2002, to November 18, 2002.²⁸⁸ The class included eight students who were seeking to become CIA interrogators and three students seeking to support the CIA interrogation process.²⁸⁹ The CIA training program involved 65 hours of instruction and training on the CIA's enhanced interrogation techniques, including at least two interrogation techniques whose legality had not been evaluated by the Department of Justice: the "abdominal slap" and the "finger press." Although a number of personnel at CIA Headquarters reviewed the training materials, there are no CIA records of any CIA officer raising objections to the techniques being included in the syllabus.²⁹⁰

6. *Despite Recommendation from CIA Attorneys, the CIA Fails to Adequately Screen Potential Interrogators in 2002 and 2003*

(TS// [REDACTED] //NF) On November [REDACTED], 2002, after the completion of the first formal training class, [REDACTED] CTC Legal, [REDACTED], asked CTC attorney [REDACTED] to "[m]ake it known that from now on, CTC/LGL must vet all personnel who are enrolled in, observing or teaching – or otherwise associated with – the class."²⁹¹ [REDACTED] added:

"Moreover, we will be forced to DISapprove [sic] the participation of specific personnel in the use of enhanced techniques unless we have ourselves vetted

²⁸⁷ December 4, 2002, Training Report, High Value Target Interrogation and Exploitation (HVTIE) Training Seminar 12-18 Nov 02 (pilot running) at 4. See also email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED]; subject: Formation of a High Value Target Interrogation team (describing initial training plan and requirements); date: August 30, 2002, at 8:30 AM.

²⁸⁸ December 4, 2002, Training Report, High Value Target Interrogation and Exploitation (HVTIE) Training Seminar 12-18 Nov 02 (pilot running).

²⁸⁹ December 4, 2002, Training Report, High Value Target Interrogation and Exploitation (HVTIE) Training Seminar 12-18 Nov 02 (pilot running), at 15.

²⁹⁰ See, for example, email from: [REDACTED]; to: [REDACTED], [REDACTED]; subject: HVT training; date: October 10, 2002; email from: [REDACTED]; to: [REDACTED]; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: HVT training; date: October 10, 2002; November 1, 2002, Memorandum for: Director, DCI Counterterrorist Center, from [REDACTED], Chief, Renditions Group, CTC, re: Request for use of Military Trainers in Support of Agency Interrogation Course, REFERENCE: Memo for D/CTC from C/RG/CTC, dtd 26 Aug 02, Same Subject.

²⁹¹ Email from: [REDACTED], CTC/LGL; to: [REDACTED]; cc: Jose Rodriguez, [REDACTED], [REDACTED], [REDACTED]; subject: EYES ONLY; date: November [REDACTED], 2002, at 03:13:01 PM. As described above, Gul Rahman likely froze to death at DETENTION SITE COBALT sometime in the morning of November [REDACTED], 2002. [REDACTED]'s email, however, appears to have been drafted before the guards had found Gul Rahman's body and before that death was reported to CIA Headquarters. See [REDACTED] 30211 [REDACTED], describing the guards observing Gul Rahman alive in the morning of November [REDACTED], 2002. Gul Rahman's death appeared in cable traffic at least [REDACTED] after [REDACTED]'s email. No records could be identified to provide the impetus for [REDACTED]'s email.

them and are satisfied with their qualifications and suitability for what are clearly unusual measures that are lawful only when practiced correctly by personnel whose records clearly demonstrate their suitability for that role. The vetting process will not be that dissimilar from the checks that are provided by the OIG, OS, etc. in certain cases before individuals are promoted or receive awards, and the selection and training of aggressive interrogators certainly warrants a similar vetting process."²⁹²

(TS// [REDACTED] //NF) The chief of CTC, Jose Rodriguez, objected to this approach, stating:

"I do not think that CTC/LGL should or would want to get into the business of vetting participants, observers, instructors or others that are involved in this program. It is simply not your job. Your job is to tell all what are the acceptable legal standards for conducting interrogations per the authorities obtained from Justice and agreed upon by the White House."²⁹³

(TS// [REDACTED] //NF) Contrary to statements later made by CIA Director Michael Hayden and other CIA officials that "[a]ll those involved in the questioning of detainees are carefully chosen and screened for demonstrated professional judgment and maturity,"²⁹⁴ CIA records suggest that the vetting sought by [REDACTED] did not take place. The Committee reviewed CIA records related to several CIA officers and contractors involved in the CIA's Detention and Interrogation Program, most of whom conducted interrogations. The Committee identified a number of personnel whose backgrounds include notable derogatory information calling into question their eligibility for employment, their access to classified information, and their participation in CIA interrogation activities. In nearly all cases, the derogatory information was known to the CIA prior to the assignment of the CIA officers to the Detention and Interrogation Program. This group of officers included individuals who, among other issues, had engaged in inappropriate detainee interrogations, had workplace anger management issues, and had reportedly admitted to sexual assault.²⁹⁵

7. Bureau of Prisons "WOW'ed" by Level of Deprivation at CIA's COBALT Detention Site

(TS// [REDACTED] //NF) In December 2002, the CIA's Renditions Group sent a team of recently trained interrogators to DETENTION SITE COBALT to engage in interrogations. The interrogation plans proposed by that team for at least three detainees at DETENTION SITE

²⁹² Email from: [REDACTED], CTC/LGL; to: [REDACTED]; cc: Jose Rodriguez, [REDACTED], [REDACTED]; subject: EYES ONLY; date: November [REDACTED], 2002, at 03:13:01 PM.

²⁹³ Email from: Jose Rodriguez; to: [REDACTED], CTC/LGL; cc: [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: EYES ONLY; date: November [REDACTED], 2002, at 04:27 PM.

²⁹⁴ Transcript of hearing, April 12, 2007 (DTS #2007-1563).

²⁹⁵ The information [REDACTED] is described at length in the Committee Study in Volume III.

COBALT included the use of interrupted sleep, loud music, and reduction in food quality and quantity. Less than a month after the death of Gul Rahman from suspected hypothermia, the plans also called for detainees' clothes to be removed in a facility that was described to be 45 degrees Fahrenheit. CIA Headquarters approved the proposals for these detainees, whom the CIA described as "Medium Value."²⁹⁶

(TS// [REDACTED] //NF) Prior to this, in November 2002, a delegation of several officers from the Federal Bureau of Prisons conducted an assessment of DETENTION SITE COBALT. Following the November [REDACTED], 2002, through November [REDACTED], 2002, visit,²⁹⁷ CIA officers in Country [REDACTED] remarked that the Federal Bureau of Prisons assessments, along with recommendations and training, had "made a noticeable improvement on how the day to day operations at the facility are performed," and made the detention site a "more secure and safer working environment for [REDACTED] officers."²⁹⁸

(TS// [REDACTED] //NF) On December 4, 2002, officers at CIA Headquarters met with individuals from the Federal Bureau of Prisons to learn more about their inspection of DETENTION SITE COBALT and their training of [REDACTED] security staff.²⁹⁹ During that meeting, the Federal Bureau of Prisons personnel described DETENTION SITE COBALT and stated that there was "absolutely no talking inside the facility," that the guards do not interact with the prisoners, and that "[e]verything is done in silence and [in] the dark."³⁰⁰ According to a CIA officer, the Federal Bureau of Prisons staff also commented that "they were 'WOW'ed" at first by the facility, because:

"They have never been in a facility where individuals are so sensory deprived, i.e., constant white noise, no talking, everyone in the dark, with the guards wearing a light on their head when they collected and escorted a detainee to an interrogation cell, detainees constantly being shackled to the wall or floor, and the starkness of each cell (concrete and bars). There is nothing like this in the Federal Bureau of Prisons. They then explained that they understood the mission and it was their collective assessment that in spite of all this sensory deprivation, the detainees were not being treated in humanely [sic]. They explained that the facility was sanitary, there was medical care and the guard force and our staff did not mistreat the detainee[s]."³⁰¹

(TS// [REDACTED] //NF) By the end of December 2002, the CIA Renditions Group that had visited DETENTION SITE COBALT had concluded that the detention facility's initial "baseline conditions" involved so much deprivation that any further deprivation would have limited impact

²⁹⁶ [REDACTED] 31118 [REDACTED]; DIRECTOR [REDACTED]

²⁹⁷ CIA detainee Gul Rahman died at DETENTION SITE COBALT at the end of the Federal Bureau of Prisons visit to the CIA detention site.

²⁹⁸ [REDACTED] 30589 (271626Z NOV 02)

²⁹⁹ Email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Meeting with SO & Federal Bureau of Prisons; date: December 4, 2002.

³⁰⁰ Email from: [REDACTED]; to: [REDACTED], [REDACTED], [REDACTED], [REDACTED]; subject: Meeting with SO & Federal Bureau of Prisons; date: December 4, 2002.

³⁰¹ Email from: [REDACTED]; to: [REDACTED]; subject: Meeting with SO & Federal Bureau of Prisons; date: December 5, 2002.

on the interrogations. The team thus recommended that "experts and authorities other than the individuals who crafted the process" review the interrogation process and conditions, and that a legal review be conducted.³⁰² CIA Headquarters does not appear to have taken action on these recommendations.

8. *The CIA Places CIA Detainees in Country [REDACTED] Facilities Because They Did Not Meet the MON Standard for Detention*

(TS// [REDACTED] //NF) In the spring of 2003, the CIA continued to hold detainees at facilities in Country [REDACTED] who were known not to meet the MON standard for detention. CIA officer [REDACTED] [CIA OFFICER 1] described the arrangement he had with Country [REDACTED] officers in an email, writing:

" [REDACTED] . They also happen to have 3 or 4 rooms where they can lock up people discretely [sic]. I give them a few hundred bucks a month and they use the rooms for whoever I bring over - no questions asked. It is very useful for housing guys that shouldn't be in [DETENTION SITE COBALT] for one reason or another but still need to be kept isolated and held in secret detention."³⁰³

(TS// [REDACTED] //NF) CIA cables indicate that CIA officers transferred at least four detainees to these Country [REDACTED] facilities because they did not meet the standard for CIA detention under the MON.³⁰⁴

(TS// [REDACTED] //NF) In total, four CIA detention facilities were established in Country [REDACTED]. CIA records indicate that DETENTION SITE COBALT held a total of 64 detainees during the period of its operation between September 2002 and [REDACTED] 2004, while DETENTION SITE GRAY held eight detainees between [REDACTED] 2003 and [REDACTED] 2003. The CIA later established two other CIA facilities in Country [REDACTED]: DETENTION SITE ORANGE, which held 34 detainees between [REDACTED] 2004 and [REDACTED] 2006; and DETENTION SITE BROWN, which held 12 detainees between [REDACTED] 2006 and 2008.³⁰⁵

³⁰² CIA document entitled Renditions Group Interrogation Team (RGIT), Baseline assessment for MVT, Detainee/Prisoner management, December 30, 2002. The CIA does not appear to have taken action on this recommendation.

³⁰³ Email from: [REDACTED] [CIA OFFICER 1]; to: [REDACTED]; subject: Thanks and Query re: List of [REDACTED] DETAINEES; date: March 14, 2003.

³⁰⁴ The cables did not explain any legal basis for detaining individuals who did not meet the detention requirements of the September 17, 2001, MON. HEADQUARTERS [REDACTED] ([REDACTED]); [REDACTED] 36682 ([REDACTED]); [REDACTED] 38836 ([REDACTED]); HEADQUARTERS [REDACTED]; [REDACTED] 41204 ([REDACTED]); ALEC [REDACTED] ([REDACTED]).

³⁰⁵ See Volume III for additional information.

Exhibit #2



U.S. Department of Justice
Federal Bureau of Prisons

Freedom of Information/Privacy Act

Central Office

January 15, 2015

Carl Takei
ACLU National Prison Project
915 15th St. NW, 7th Floor
Washington DC, DC 20005

Dear Mr. Takei:

The Federal Bureau of Prisons is in receipt of your Freedom of Information Act/Privacy Act (FOIA) request. Your request has been assigned a number and forwarded to the processing office noted below. Please make a note of the request number and processing office as you will need to include it in any correspondence or inquiry regarding your request.

FOIA/PA Request Number: 2015-02312

Processing Office: CO

Request Summary: 1.) Any and all Communications relating to Detention Site Cobalt between BOP and other agencies from 1-1-02 to 1-1-05; 2.) Any and all Communications relating to detention site cobalt between BOP personnel; 3.) any and all documents pertaining to BOP personnel visiting Cobalt; 4.) All Documents visits, meetings, inspections, assessments, recommendations, or training by BOP personnel relating to cobalt on or about 11-2-02; 5.) any and all documents relating to meetings between BOP and CIA personnel relating to cobalt on 12-2002; and 6.) all documents relating to the death of a detainee at cobalt on or about Nov. 2002

Due to the large number of requests received by the Bureau of Prisons for disclosure of records pursuant to the Freedom of Information and Privacy Acts, and due to the limited resources available to process such requests, the Bureau of Prisons has adopted a first-in/first-out practice of processing all incoming requests. Your request has been placed in chronological order based on the date of receipt and will be handled as expeditiously as possible when it is assigned for processing. While most requests can be processed within 20 working days, exceptions may exist.

We have examined your request and have determined that the following unusual circumstances apply to your request:



U.S. Department of Justice
Federal Bureau of Prisons

Freedom of Information/Privacy Act

Central Office

2015-02312

- the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
- the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request;
- the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

As a result, the amount of time necessary to respond to your request will increase by an estimated thirty days. Once responsive documents have been collected, we will process your request in the order that it was received.

You may modify your request by limiting the scope of the request so that it may be processed within the statutory time frame.

Unless you indicated otherwise, by submission of your request, you have agreed to pay fees up to \$25.00, as stated in 28 C.F.R. 16.3(c). Please note that pursuant to 28 C.F.R. 16.11, we are required to charge fees for time spent searching for or duplicating responsive documents. If we anticipate that your fees will be in excess of \$25.00 or the amount you indicated you are willing to pay, we will notify you of the estimated amount. At that time, you will have the option of modifying your requests to reduce fees.

If you have questions regarding the status of your request, you may contact the Bureau of Prisons FOIA Service Center at 202-514-6655. You can also check the status of your request on line at <http://www.bop.gov/PublicInfo/execute/foia>.

Exhibit #3



U.S. Department of Justice
Federal Bureau of Prisons

Freedom of Information/Privacy Act

Central Office

April 22, 2015

Carl Takei
Staff Attorney
ACLU National Prison Project
915 15th St., NW
7th Floor
Washington DC, 20005

Request Number: 2015-02312

Dear Mr. Takei:

This is in response to the above referenced Freedom of Information Act (FOIA) request. Specifically, you seek copies of 1.) Any and all Communications relating to Detention Site Cobalt between BOP and other agencies from 1-1-02 to 1-1-05; 2.) Any and all Communications relating to Detention Site Cobalt, between BOP personnel, from 1-1-02 to 1-1-05; 3.) any and all documents pertaining to BOP personnel visiting Cobalt on or about November 2002; 4.) All Documents relating to any visits, meetings, inspections, assessments, recommendations, or training by BOP personnel relating to Detention Site Cobalt on or about 11-2-02; 5.) any and all documents relating to meetings between BOP and CIA personnel relating to Cobalt on 12-2002; and 6.) all documents relating to the death of a detainee at Detention Site Cobalt on or about November 2002.

Bureau of Prisons staff conducted a search through multiple divisions for responsive records to your request. A search was conducted, utilizing but not limited to, search parameters you provided in your request, by the Correctional Programs Division (CPD), Administrative Division (ADM), Office of the General Counsel (OGC), and Information, Policy, Public Affairs Division (IPPA) and no records were found. There are no other locations where this type of record would be stored that would likely lead to the discovery of the record with a reasonable amount of effort.

If you consider my response to be a denial of this request, pursuant to Title 28 Code of Federal Regulations, Section 16.9 or 16.45, you may appeal the adequacy of the search to the Office of Information Policy. This written appeal must be received by the Office of Information Policy (OIP) within 60 days from the date of this letter. Both the appeal letter

U.S. Department of Justice

Federal Bureau of Prisons

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and face of the envelope should be marked "Freedom of Information Act Appeal," and should be addressed to the Office of Information Policy, U.S. Department of Justice, 1425 New York Ave., Suite 11050, Washington, D.C. 20530-0001. To avoid delays, you should include a copy of this response letter with your appeal.

Sincerely,



Alex White, for
Ronald Rodgers
Senior Counsel
FOIA/PA Section

Exhibit #4



JTB FOIA
BOP

FOIA APPEAL

June 11, 2015

SENT VIA HAND DELIVERY

Office of Information Policy
U.S. Department of Justice
1425 New York Ave., Suite 11050
Washington, DC 20530-0001

RECEIVED

JUN 11 2015

Office of Information Policy

RE: FOIA Appeal of 2015-02312

To Whom It May Concern:

AMERICAN CIVIL
LIBERTIES UNION FOUNDATION

PLEASE RESPOND TO:
NATIONAL PRISON PROJECT
915 15TH STREET, NW
7TH FLOOR
WASHINGTON, DC 20005-2112
T/202.393.4930
F/202.393.4931
WWW.ACLU.ORG

I write to appeal the Bureau of Prisons ("BOP") April 22, 2015 response (hereinafter "RESPONSE") to FOIA Request 2015-02312, on the following grounds: (1) BOP conducted an inadequate search, and (2) if BOP found records but falsely stated to the ACLU that no records exist, it violated FOIA by withholding responsive documents without justification and without invoking an exemption, the *Glomar* response doctrine, or 5 U.S.C. § 552(c).

The FOIA request (hereinafter "REQUEST") was received by BOP on January 13, 2015. On January 15, 2015, BOP responded and stated that additional time was needed to respond on three bases, including "the need for consultation . . . with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interests therein." On April 22, 2015, BOP issued the denial that is appealed herein.

The REQUEST seeks various BOP records related to DETENTION SITE COBALT, a Central Intelligence Agency ("CIA") detention facility that, according to the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency's Detention and Interrogation Program, was inspected and assessed by BOP personnel on or about November 2002, and was the subject of at least one meeting between BOP and CIA personnel on or about December 2002. The REQUEST defines DETENTION SITE COBALT as follows:

As used herein, the term "DETENTION SITE COBALT" means the detention facility identified by the codename COBALT in the executive summary of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency's Detention and Interrogation Program (relevant excerpts from which are attached as Exhibit A), regardless of whether BOP records refer to the facility by the codename COBALT or by some other name(s). For convenience of reference, this facility was located in Afghanistan, and news reports indicate that it was also named the "Salt Pit."

The RESPONSE stated that no responsive records were found. It did not assert any exemptions. It did not provide a *Glomar* response, *see Phillippi v. CIA*, 546 F.2d 1009 (D.C. Cir. 1976), nor did it provide notice that BOP may invoke 5 U.S.C. § 552(c). Accordingly, I am appealing the RESPONSE on the grounds set forth herein.

I. BOP's Search Was Inadequate

In response to a FOIA request, BOP must make "a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested." *Oglesby v. U.S. Dep't of Army*, 920 F.2d 57, 68 (D.C. Cir. 1990). The RESPONSE claims that no responsive records were found after searching the files of the Correctional Programs Division (CPD), Administrative Division (ADM), Office of the General Counsel (OGC), and the Information, Policy, Public Affairs Division (IPPA). The argument in this section assumes the RESPONSE was truthful.¹

A. The Search Did Not Cover a Sufficient Number of BOP Components

The search described by BOP did not cover a sufficient number of BOP components. The search did not include the files of the Director or Deputy Director, both of whose files could reasonably be expected to contain responsive records, given the national significance and interagency nature of the DETENTION SITE COBALT inspection and meetings. The search also did not include the files of the National Institute of Corrections (NIC), which provides training, technical assistance, information services, and policy/program development assistance to other correctional agencies, and which could reasonably be expected to have been consulted about or involved in discussions related to DETENTION SITE COBALT.

B. It is Simply Not Plausible that a Good-Faith Search Effort Would Have Failed to Find Any Responsive Records

Given the nature of the request, the asserted failure of BOP's search to identify *any* responsive records is prima facie evidence that the search was not a good faith effort and/or did not use methods which can be reasonably expected to produce the information requested.

It is simply not plausible that no responsive records exist. DETENTION SITE COBALT, also known as the "Salt Pit" (and possibly by other codenames unknown to the ACLU at this time²), was a CIA detention facility constructed in Afghanistan in 2002. The declassified Executive Summary of the Senate Select Committee on Intelligence's Study of the Central Intelligence Agency's Detention and Interrogation Program ("SSCI Report"³) states that "in November 2002, a delegation of several officers from the Federal Bureau of Prisons conducted an assessment of DETENTION SITE COBALT." SSCI Report at 60. This assessment involved a multi-day inspection

¹ However, if BOP did find some responsive records but falsely stated that it found none, the ACLU nevertheless objects to the adequacy of the search.

² Because BOP documents may refer to DETENTION SITE COBALT by a different codename(s), the REQUEST was careful to define DETENTION SITE COBALT as "the detention facility identified by the codename COBALT in the [SSCI Report] . . . , regardless of whether BOP records refer to the facility by the codename COBALT or by some other name(s)."

³ Relevant excerpts of the SSCI Report were attached to the REQUEST as Exhibit A.

of DETENTION SITE COBALT. *Id.* BOP personnel then provided “recommendations and training” to CIA personnel. *Id.* The SSCI Report further states that on December 4, 2002, “officers at CIA Headquarters met with individuals from the Federal Bureau of Prisons to learn more about their inspection of DETENTION SITE COBALT and their training of [redacted] security staff.” *Id.* CIA records cited in the SSCI Report, including a series of emails with the subject line “Meeting with SO & Federal Bureau of Prisons” describe what BOP officials said to CIA officials during this meeting. *Id.* at 60 nn. 299-301.

In other words, BOP personnel traveled to a foreign country where the U.S. military was actively fighting a war, conducted an assessment that included a multi-day inspection of a CIA detention facility in that country, provided recommendations and training to CIA personnel based on that assessment, and subsequently met with CIA personnel at CIA Headquarters to further discuss this inspection and the training of security staff. It is implausible that federal employees would travel to a war zone, inspect detention facilities, and meet with officials from other agencies without generating some kind of paper trail. At the very least, this process involved internal planning by the BOP, interagency communications with the CIA, travel authorizations, travel arrangements, briefings and debriefings, inspection notes, assessment documents, and training documents. All such documents would be responsive to the REQUEST.

If BOP truly conducted “a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested,” *see Oglesby*, 920 F.2d at 68, then it would have been able to identify at least some responsive records.

II. If BOP Actually Found Records and Seeks to Avoid Confirming or Denying that Fact, it May Not Make a False Statement to the ACLU and Must Instead Use Alternatives Consistent with FOIA.

It is possible that BOP searched for and found responsive records, but seeks to avoid confirming or denying the existence of such documents. If so, BOP may not make a false representation to the ACLU that records do not exist, but must use alternatives that are consistent with FOIA, and that permit judicial review of BOP’s claim. BOP has two such alternatives: (i) it may assert a *Glomar* response in which it “neither confirms nor denies” that responsive records exist, or (ii) if it determines that the ACLU is seeking information excluded from FOIA under 5 U.S.C. § 552(c), BOP should provide notice to the ACLU.⁴ The argument in this section assumes BOP seeks to avoid confirming or denying the existence of records and that it misrepresented the non-existence of records to the ACLU. It addresses the alternatives available to BOP and explains why one or the other must be invoked in order for BOP to comply with FOIA, and further explains why, if invoked, neither alternative is applicable.

⁴ An appropriate 5 U.S.C. § 552(c) notice would read in sum and substance: “BOP interprets all or part of your request as a request for records which, if they exist, would not be subject to the disclosure requirements of FOIA pursuant to section 552(c), and we therefore will not process that portion of your request.”

law enforcement records or information . . . could reasonably be expected to interfere with enforcement proceedings"). In this case, the requested records were not compiled for law enforcement purposes; they were compiled to assist the CIA's non-law-enforcement program of detention and interrogation for purported intelligence-gathering purposes. Even if they were at some point compiled for law enforcement purposes, disclosure of these records cannot reasonably be expected to interfere with any extant law enforcement proceedings.

- Section 552(c)(2) does not apply because the REQUEST does not seek records maintained under an informant's name or personal identifier.
- Section 552(c)(3) does not apply because the REQUEST seeks records maintained solely by BOP, not the Federal Bureau of Investigation.

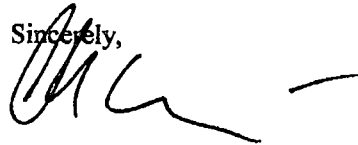
Accordingly, BOP lacked any basis for invoking section 552(c) and must produce responsive documents.

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION

III. Conclusion

For the foregoing reasons, the appeal should be granted. Thank you for your attention to this appeal. I look forward to receiving your response.

Sincerely,



Carl Takei
Staff Attorney

Exhibit #5



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

July 15, 2015

Mr. Carl Takei
ACLU National Prison Project
915 15th Street, NW
7th Floor
Washington, DC 20005
ctakei@aclu.org

Re: Request No. 2015-02312

Dear Mr. Takei:

This is to advise you that your administrative appeal from the action of the Federal Bureau of Prisons was received by this Office on June 11, 2015.

The Office of Information Policy has the responsibility of adjudicating such appeals. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number **AP-2015-04543**. Please mention this number in any future correspondence to this Office regarding this matter. Please note that if you provide an e-mail address or another electronic means of communication with your request or appeal, this Office may respond to your appeal electronically even if you submitted your appeal to this Office via regular U.S. Mail.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal, you may contact me at the number above. If you have submitted your appeal through this Office's online electronic appeal portal, you may also obtain an update on the status of your appeal by logging into your portal account.

Sincerely,

A handwritten signature in black ink, appearing to read "Priscilla Jones".

Priscilla Jones
Supervisory Administrative Specialist

Exhibit #6



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

Mr. Carl Takei
ACLU National Prison Project
915 15th Street
7th Floor
Washington, DC 20005
ctakei@aclu.org

Re: Appeal No. AP-2015-04543
Request No. 2015-02312
MWH:RRK

VIA: E-Mail

Dear Mr. Takei:

You appealed from the action of the Federal Bureau of Prisons (BOP) on your Freedom of Information Act request for access to records concerning a visit by BOP officials to a "Detention Site Cobalt" in November 2002.

After carefully considering your appeal, I am affirming BOP's action on your request. BOP informed you that it could locate no responsive records subject to the FOIA in its files. I have determined that BOP's action was correct and that it conducted an adequate, reasonable search for such records. BOP searched multiple divisions of its Central Office, including the Correctional Programs Division, Administrative Division, Office of the General Counsel, and information, Policy, Public Affairs Division.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of BOP in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road,

College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

9/10/2015

X 

Matthew Hurd, Senior Attorney, for
Sean O'Neill, Chief, Administrative Appeals Staff
Signed by: Hurd, Matthew (OIP)

Exhibit #7



U.S. Department of Justice

Federal Bureau of Prisons

Washington, DC 20534
August 26, 2016

Carl Takei
Staff Attorney
ACLU National Prison Project
915 15th Street, N.W.
7th Floor
Washington, D.C. 20005

FOIA Request number 2015-02312

Dear Mr. Takei:

This is a supplemental response to the above referenced Freedom of Information Act ("FOIA") request that you submitted on January 13, 2015 and in which you requested the following: (1) Any and all communications relating to Detention Site Cobalt between the Bureau of Prisons ("BOP") and any other Federal agency or agencies from January 1, 2002 to January 1, 2005; (2) Any and all communications relating to Detention Site Cobalt between BOP personnel from January 1, 2002 to January 1, 2005; (3) Any and all documents identifying BOP personnel who visited Detention Site Cobalt on or about November 2002; (4) Any and all documents relating to any and all visits, meetings, inspections, assessments, recommendations, or training conducted by BOP personnel relating to Detention Site Cobalt on or about November 2002; (5) Any and all documents relating to any and all briefings or meeting between BOP and Central Intelligence personnel relating to Detention Site Cobalt on or about December 2002; and (6) Any and all documents relating to the death of a detainee at Detention Site Cobalt on or about November 2002.

BOP staff conducted a second search during June and July 2016, utilizing search parameters articulated in FOIA Request 2015-02312, including, but not limited to, "CIA" and "Afghanistan," for records responsive to your request in the following components of BOP: the Intelligence and Counter Terrorism Branch, Correctional Programs Division; the National Institute of Corrections; the Correctional Programs Division; the Finance Section of the Administrative Division; the Information, Policy and Public Affairs Division, including the

Office of Security Technology of that Division; and the Office of the BOP Director.

Accordingly, we are hereby releasing 11 pages of records. Out of an abundance of caution, some pages are included that may not be strictly responsive. Ten pages contain redactions of information protected by exemptions b(1) and b(3) of the FOIA, including information that is classified in context, and by exemption b(6) of the FOIA, which permits the redaction of information that would constitute a clearly unwarranted invasion of the personal privacy of third parties. Some exemptions are applied at the request of another agency. Finally, two pages of records in the form of e-mail communications have been withheld in their entirety as a result of the application of the aforementioned exemptions b(1) and b(3) of the FOIA.

As this matter is already in litigation, I have opted not to include in this correspondence the normal administrative appeal rights that are typically contained in similar correspondence. Having said that, I would respectfully invite you to contact litigation counsel if you have any concerns or questions regarding the matters released or referred to in this missive.

Sincerely,



Ronald L. Rodgers
Senior Counsel
Information and Remedies
Processing Branch
Office of General Counsel
Federal Bureau of Prisons

Attachments

Exhibit #8

CTS Tracking (CTS@Production BPM) - Metastorm BPM - Internet Explorer

Federal Bureau of Prisons
Business Process Management System

Search

Correspondence Tracking System BOP ID: BOP00543 LOCATION: BOP TIME: 6/8/2016 9:15:07 AM

CTS Control: Assigned To: Starting:
 BOP Control: For Signature Of: Ending:
 DOJ Control:
 White House:
 Letter From: Issue #1: Dates: Clear Fields
 On Behalf Of: Issue #2: No Dates
 Reg. No.: Issue #3: Date Due
 Last Name: Type: Date Entered
 First Name: Letter To: Date Closed
 Abstract: Search: User ID: Date of Letter
 Special Inst:

of Returned Records: 4

Click a row below to open the correspondence

CTS #	Letter Date	Response Date	Sender	Type	Issue
CTS0011259	1/10/1994	1/16/1994	Aadil Rahim Ghafoorzai Afghanistan Consulate	Foreign Country	Inmt Pardon
CTS606764	10/29/2003	11/12/2003	Debra Tomchak	DOJ	Information
CTS607785	3/5/2004	3/25/2004	Connie Patrick	Federal Gov	Information

Page 1 of 1 Add Delete Page 1 of 1 Referenced Correspondence

CTS0011259 – request for status report on previous correspondence sent to the Pardon Attorney seeking a release of an inmate to his home in Afghanistan.

CTS606764 – request from the Director of Human Resources, DOJ, for information on employees serving in the Reserves of the U.S. Armed Forces in Iraq and Afghanistan.

CTS607785 – request to provide information on FLETC graduates who died in the line of duty in CY 03.

CTS611445 - The Inspector General requests copies of any and all documents, created after September 11, 2001, relating to FBI observations of or concerns about treatment or interrogation of detainees, or any individual detainee, held in Guantanamo Bay, Cuba; Iraq; Afghanistan; or any other venue controlled by the U.S. military. Closed 6/24/05. Negative response per Correctional Programs Division.

Exhibit #9

Ronald Rodgers - Netmail Archive Status

From: BOP-IPP/Computer Network Support~
To: Central Office Staff - No UNICOR
Date: 10/13/2016 2:48 PM
Subject: Netmail Archive Status

The Netmail Archive System is now accessible. The initial process to re-associate the archived messages to individual mailboxes has completed. Please be aware that this initial re-indexing does not guarantee that 100% of the archived e-mail is yet accessible. Some items and messages may not be visible due to indexing errors. To redress this risk, we will be performing additional re-indexing of any accounts associated with active and pending litigation (e-Discovery) or investigations.

If you have searched your archive and believe that you have an email item which is critical and is required immediately to respond to an external query but it is not being displayed, please submit a help desk ticket to request that your email account be re-indexed. Please explain the reason and provide justification as to the criticality so that we can prioritize tasks accordingly. Priority has been and will be given to Executive staff and any pending litigation/investigation requests.

The Network Management Branch wants to thank you for your patience and understanding while we continue in this effort. We will continue to analyze opportunities to optimize and speed up this secondary re-indexing effort enterprise-wide.

Exhibit #10

Re: Question

From

(b) (6)

To

Charles Samuels

(b) (6)

Date

2011/03/31 18:04

Subject:

Re: Question

Charles, sometime in 2002, I went to Gitmo and (b) (1), (b) (6) to conduct training for DOD personnel. My training consisted of basic correctional techniques, correctional duties, abnormal inmate behavior etc. Mr (b) (6) assigned me this task. When I got back from Gitmo I had to do an ACA presentation on Gitmo and a article was written on it. The (b) (1), (b) (6) training was top secret and we had to sign a secrecy agreement. We were not even allowed to speak with our supervisor about what was going on. We did mention to the DOD personnel that they lack of communication between the guards and inmates may result in some unrest amongst the detainees.

>>> Charles Samuels 3/31/2011 5:07:19 PM >>>

Please answer the question below I just received. I don't recall any training being provided. The Director thinks that we've provided some form of training on suicide prevention and forced feeding. The Director also believes there were newspaper articles on the training, but is not sure.

"To what extent if at all has the Bureau or any other non-military federal agency been involved in training Gitmo-based military staff in the management of inmates and prison operations, etc.?"

Charles E. Samuels, Jr.
Assistant Director
Federal Bureau of Prisons
Correctional Programs Division
320 First Street, NW
Washington, DC 20534

Office Phone: (b) (6)

Re: Question

From (b) (6)

To (b) (6)

Date 2011/03/31 18:11

Subject: Re: Question

No

>>>(b) (6) 3/31/2011 6:09:43 PM >>>

(b) (6)

Did you provide any training on Suicide or force feeding?

>>>(b) (6) 3/31/2011 6:04:23 PM >>>

Charles, sometime in 2002, I went to Gitmo and (b) (1), (b) (6) to conduct training for DOD personnel. My training consisted of basic correctional techniques, correctional duties, abnormal inmate behavior etc. Mr (b) (6) assigned me this task. When I got back from Gitmo I had to do an ACA presentation on Gitmo and a article was written on it. The (b) (1), (b) (6) training was top secret and we had to sign a secrecy agreement. We were not even allowed to speak with our supervisor about what was going on. We did mention to the DOD personnel that they lack of communication between the guards and inmates may result in some unrest amongst the detainees.

>>> Charles Samuels 3/31/2011 5:07:19 PM >>>

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"To what extent if at all has the Bureau or any other non-military federal agency been involved in training Gitmo-based military staff in the management of inmates and prison operations, etc.?"

Charles E. Samuels, Jr.
Assistant Director
Federal Bureau of Prisons
Correctional Programs Division
320 First Street, NW
Washington, DC 20534

Office Phone: (b) (6)

Re: Question

From (b) (6)

To Charles Samuels

Date 2011/03/31 18:24

Subject: Re: Question

Charles, (b) (6) also went after I did and provided training in (b) (1), (b) .

>>> Charles Samuels 3/31/2011 5:07:19 PM >>>

Please answer the question below I just received. I don't recall any training being provided. The Director thinks that we've provided some form of training on suicide prevention and forced feeding. The Director also believes there were newspaper articles on the training, but is not sure.

"To what extent if at all has the Bureau or any other non-military federal agency been involved in training Gitmo-based military staff in the management of inmates and prison operations, etc.?"

Charles E. Samuels, Jr.
Assistant Director
Federal Bureau of Prisons
Correctional Programs Division
320 First Street, NW
Washington, DC 20534

Office Phone: (b) (6)

(b) (1), (b)

From (b)

To (b) (6)

Date 2011/07/30 08:06

Subject: (b) (1), (b)

Attachments: TEXT.htm, Mime.822

(b) (6)

Hope this finds you doing well. Congratulations on your selection as (b) (6)
I understand you have an old case involving me you would like to talk to me
about? Is it the one from (b) (1), (b) (3)? I see

(b)

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

From (b) (6)

To (b) (6)

Date 2011/07/30 12:33

Subject: (b) (1), (b) (3)

Well give me a number I can call u at

>>>(b) (6) 7/30/2011 10:51:00 AM>>>

I thought so, I read in the paper they were investigating it. I live in (b) (6) Moved here last year to be closer to my kids and grandkids. I am good, enjoying retirement. Not working, no future in it.

Keep in touch!

(b)

Sent from my iPad

On Jul 30, 2011, at 8:16, (b) (6) wrote:

> Yes it goes back to the last time we were interviewed in 2003 they want some follow up questions FBI. How r u? R u in

>

> >>> C J 7/30/2011 8:05:17 AM >>>

> (b) (6)

>

> Hope this finds you doing well. Congratulations on your selection as (b) (6) I understand you have an old case involving me you wouldlike to talk to me about? Is it the one from (b) (1), (b) ? I see

>

> (b)

>

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

From (b) (6)

To (b) (6)

Date 2011/07/30 10:51

Subject: (b) (1), (b) (3)

Attachments: Mime.822

I thought so, I read in the paper they were investigating it. I live in (b) (6) Moved here last year to be closer to my kids and grandkids. I am good, enjoying retirement. Not working, no future in it.

Keep in touch!

(b)

Sent from my iPad

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> Yes it goes back to the last time we were interviewed in 2003 they want some follow up questions FBI. How r u? R u in (b) (6)

>

> >>> C J 7/30/2011 8:05:17 AM >>>

> (b) (6)

>

> Hope this finds you doing well. Congratulations on your selection as (b) (6)
(b) (6) I understand you have an old case involving me you would like to talk to me about? Is it the one from (b) (1), (b) (3) ? I see (b) (6)

>

> (b)

>

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

From (b) (6)

To (b) (6)

Date 2011/08/08 09:14

Subject: (b) (1), (b) (3)

Attachments: Text.htm

Here it is.

>>>(b) > 7/30/2011 8:05:17 AM >>>

(b) (6)

Hope this finds you doing well. Congratulations on your selection as (b) (6)

I understand you have an old case involving me you would like to talk to me about? Is it the one from (b) (1), (b) ? I see

(b)

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

From (b) (6)

To (b) (6)

Date 2011/10/18 15:52

Subject: (b) (1), (b) (3)

Yes

>>> (b) (6) 10/18/2011 3:23:01 PM >>>

(b) (6)

Do you have to go to DC for this?

Sent from my iPad

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

From (b) (6)

To (b) (6)

Date 2011/10/18 20:30

Subject: (b) (1), (b) (3)

I tried that it did not work

>>>(b) (6) 10/18/2011 7:55:36 PM >>>

I am trying to go in December.

Sent from my iPad

On Oct 18, 2011, at 19:07, (b) (6) wrote:

> When r u going?

>

>>>(b) (6) 10/18/2011 3:23:01 PM >>>

>(b) (6)

>

> Do you have to go to DC for this?

>

> Sent from my iPad

>

> This message is intended for official use and may
> contain SENSITIVE information. If this message
> contains SENSITIVE information, it should be
> properly delivered, labeled, stored, and disposed
> of according to policy."

>

Re: Did US prison officials visit a secret CIA prison in Afghanistan?-CBS News
From: (b) (6)
To: (b) (6)
Date: 2015/06/19 15:31
Subject: Re: Did US prison officials visit a secret CIA prison in Afghanistan?-CBS News
Attachments: TEXT.htm

They just won't let it go

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: (b) (6)
Sent: Friday, June 19, 2015 2:22 PM
To: (b) (6)
Subject: Fw: Did US prison officials visit a secret CIA prison in Afghanistan?-CBS News

FYI

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: (b) (6)
Sent: Friday, June 19, 2015 12:09 PM
To: (b) (6)
Subject: Did US prison officials visit a secret CIA prison in Afghanistan? -CBS News

<http://www.cbsnews.com/news/did-us-prison-officials-visit-a-secret-cia-prison-in-afghanistan/>

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.