

~~TOP SECRET~~ [REDACTED] ~~NOFORN~~APPROVED FOR
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08-Dec-2014**(U) OVERVIEW OF CIA-CONGRESS INTERACTIONS CONCERNING
THE AGENCY'S RENDITION-DETENTION-INTERROGATION PROGRAM****(U) Scope Note**

(TS/ [REDACTED] /NF) This paper provides an overview of CIA's major interactions with Congress on the rendition, detention, and interrogation (RDI) program from 2002 through 2008. It describes what CIA briefed to Congress, who it briefed, and how often it briefed during this period. It also covers, as appropriate and possible, Bush Administration support and guidance for the program. This study is not a complete history of the program; historical background is included only to provide the larger context for those interactions. It is also not a critique of the SSCI report.

(U) The Center for the Study of Intelligence primarily has reviewed Director of Central Intelligence (DCI) and Office of Congressional Affairs (OCA) records for this study. Documents from the Office of the General Counsel (OGC) were also helpful in setting the legal background for the program, and cables from the Directorate of Operations provided details about the program's implementation. However, we found gaps in the documentary record, particularly but not exclusively relating to briefings Agency officers gave to Congress in 2004 and 2005. The record of congressional briefings for the program's first two years is better, as it is for the period 2006 to 2008, but they are still only summaries of topics covered; we do not have anything approaching a verbatim record. The documentary record on CIA's interactions with senior policymakers also has gaps, as does the record of Agency responses to congressional requests for information.

(U) Summary

(TS/ [REDACTED] /NF) The Agency's RDI program had the full support of the George W. Bush administration.

(TS/ [REDACTED] /NF) Agency attorneys worked with senior Department of Justice (DoJ) lawyers to ensure that the program and specific interrogation techniques were deemed legal by the Department.

(TS/ [REDACTED] /NF) Once the EITs had passed DoJ review, the Agency's senior leadership made a good faith effort to keep the oversight committee leaders fully briefed on the program [REDACTED].
[REDACTED] While verbatim transcripts of the briefings, or even summaries of all the

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briefings, were not available, the records that do exist show that Senators Bob Graham, Richard Shelby, Pat Roberts, and Jay Rockefeller, along with Representatives Porter Goss, Nancy Pelosi, Jane Harman, and Peter Hoekstra all received detailed briefings on the EITs, the program's safeguards, and the information gained from the detainees during the program's most active years, 2002 to 2005. Roberts, Rockefeller, Goss, Harman, and Hoekstra all received more than one briefing on the program. Furthermore, the Inspector General prepared and briefed a Special Review of the program to the top four members of the oversight committees in 2004. Beginning in September 2006, when the President publicly acknowledged the existence of the program, all members of the oversight committees were briefed on all aspects of the program except for the location of the detention facilities.

(U) The Historical Context of RDI

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(U) With the passage of time, it becomes difficult to remember the panic and fear many Americans felt after the horrific terrorist attacks on 11 September 2001. As President Bush wrote in his memoir, "The psyche of the nation had been shaken. Families stocked up on gas masks and bottled water. Some fled cities for the countryside, fearing that downtown buildings could be targets. Others who worked in skyscrapers couldn't bring themselves to go back to work. Many refused to board a plane for weeks or months. It seemed almost certain that there would be another attack."²

(U) Three days after the attack, Congress, by a vote of 420 to 1 in the House and 98 to 0 in the Senate, passed a resolution giving the President authority to use "all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any further acts of international terrorism against the United States by such nations, organizations, or persons."³

(U) Abu Zubaydah: The First High Value Detainee

(U) Six months later, when the CIA captured its first high-value terrorist, Abu Zubaydah, in March 2002, the panic had subsided, but the fear persisted, and the Intelligence Community was under tremendous pressure to prevent future attacks. In the same week Abu Zubaydah was captured, the *Chicago Sun Times* published a column entitled "We're no safer now than we were Sept. 10"; the US Government issued a warning on a possible Easter attack on four Italian cities; a column in the *New York Times* warned readers

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that Usama bin Ladin aimed to "kill as many Americans as possible to drive them out of the Islamic world and weaken their society"; and the *Christian Science Monitor* questioned whether "traditional law enforcement and judicial procedures can cope with international terrorism."⁴

(U) President Bush recalled that he "could hear the excitement in [DCI] George Tenet's voice" when he reported that Abu Zubaydah had been captured in the early morning hours of 28 March 2002 in Pakistan.⁵ The President noted that he "had been hearing reports about Zubaydah for months. The Intelligence Community believed he was a trusted associate of Bin Laden and a senior recruiter and operator who had run a camp in Afghanistan where some of the 9/11 hijackers had trained. Abu Zubaydah was suspected of involvement in previous plots to destroy targets in Jordan and blow up Los Angeles International Airport. The CIA believed he was planning to attack America again."⁶

(U) DCI George Tenet wrote in his memoir that he had first briefed National Security Adviser Condoleezza Rice about Abu Zubaydah in May 2001.⁷ After 9/11, Tenet wrote, "he gained an even more prominent role in al-Qa'ida, especially once the United States killed the group's number three man, Mohammed Atef, in a November 2001 air strike in Afghanistan. Time and again...we discussed how to run Abu Zubaydah to the ground."⁸

(TS/[REDACTED]/NF) Immediately after Abu Zubaydah was captured, CTC's [REDACTED] (CTC/[REDACTED]) noted that he "has been a key player within the al-Qa'ida network for many years, and his longevity and level of importance within the network reflects his talents and abilities at leadership, organization, and commitment to the cause. Given his senior status in the al-Qa'ida organization and his key involvement in current operational planning by al-Qa'ida of possible massive terrorist attacks against US interests, we know he holds significant details that can disrupt and thwart future planned terrorist attacks."⁹

(TS/[REDACTED]/NF) The problem was how to get him to talk about those operations. CTC was clearly worried about that: "We believe Abu Zubaydah is fully equipped to handle and deal with capture and interrogation, and will greatly resist cooperating with his debriefers as we try to elicit information from him."¹⁰ When this assessment was written, on 29 March 2002, Abu Zubaydah had not yet been interrogated. He had been wounded in the capture operation, and several days passed before he was well enough to be questioned. CTC's concerns about Abu Zubaydah's ability to withstand interrogation stemmed from the capture of an al-Qa'ida manual in England in May 2000. This manual, when combined with other documents acquired over the years, suggested that "a sophisticated level of resistance training is available to high-risk Al Qaeda operatives" such as Abu Zubaydah.¹¹

(U) Renditions and Detentions

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[REDACTED] At the beginning of the Agency's RDI program, the leaders of the intelligence oversight committees were Representatives Goss and Pelosi and Senators Graham and Shelby.¹²

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[REDACTED]

[REDACTED] DCI Tenet also permitted the two most senior staff members of both committees to be briefed.¹⁴

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~~(TS/~~ [REDACTED] ~~/NF)~~ Between 9/11 and the end of February 2002, CIA rendered more than [REDACTED] suspected terrorists to third countries, primarily to [REDACTED].¹⁸ The result was not particularly satisfactory, and little actionable intelligence to thwart planned attacks was acquired. Jose Rodriguez, a senior officer in CTC at the time of Abu Zubaydah's capture and soon to become Chief of CTC in May 2002, later wrote that "We couldn't control interviews done by others, had limited ability to ask time-urgent follow-on questions, and quite significantly, could not guarantee that the prisoner's rights were being respected."¹⁹ The uncertainty associated with this process "made those of us in CTC very uncomfortable about contracting out the interrogation of our most important detainees," according to Rodriguez. "And therefore we pushed for the establishment of our own detention and interrogation facilities, the 'black sites'—facilities in a third country where detainees could be held and questioned in secrecy."²⁰

(U) DCI Tenet confirms in his memoir that the intelligence take from al-Qa'ida detainees had been disappointing up that point but that with Abu Zubaydah, "Now that we had an undoubted resource in our hands—the highest ranking al-Qa'ida official captured to date—we opened discussions within the National Security Council as to how to handle him, since holding and interrogating large numbers of al-Qa'ida operatives had never been part of our plan. But Zubaydah and a small number of other extremely highly placed terrorists potentially had information that might save thousands of lives. We wondered what we could legitimately do to get that information."²¹

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08-Dec-2014**(U) The Origin of EITs**

(TS [REDACTED] /NF) Tenet's question was not hypothetical because the interrogation of Abu Zubaydah was not going well. After his capture in Pakistan, he had been flown [REDACTED] where he underwent additional medical treatment in a [REDACTED] hospital for the wound he had suffered, before being placed in CIA's first "black site," codenamed [REDACTED]. Briefers from CTC informed HPSCI and SSCI of Abu Zubaydah's capture on 10 April, noting that it was a "significant catch" but pointing out that "it appears that Zubaydah is skilled in counter-interrogation techniques."²² Director of Congressional Affairs (D/OCA) Stanley Moskowitz sent congressional leaders and staffers, including Senators Ted Stevens and Daniel Inouye of SAC-D, Representative Jerry Lewis of HAC-D, and the staff directors and minority staff directors of both oversight committees, a memo on 30 May entitled "Interrogators Making Slow Progress With Abu Zubaydah." In it, Moskowitz wrote that "We assess that Abu Zubaydah has more critical information on threats to US interests. The interrogation team has observed Abu Zubaydah employ a variety of resistance techniques during debriefings. . . . Abu Zubaydah may be stalling for time until ongoing operations are implemented."²³

(U) The President was being kept up to date on the interrogation as well, and he was not happy with what he was hearing. "George Tenet told me interrogators believed Zubaydah had more information to reveal. If he was hiding something more, what could it be? Zubaydah was our best lead to avoid another catastrophic attack. 'We need to find out what he knows,' I directed the team. 'What are our options?'"²⁴

(TS# [REDACTED] /NF) In his memoir, Jose Rodriguez described the initial interrogation of Zubaydah as a disjointed effort, with representatives from the FBI, [REDACTED] and CTC all using different questioning methods and vying with each other to extract different kinds of information from him.²⁵ [REDACTED] of CTC [REDACTED] agreed. "I'm not going to say it was a mess out there, there was just no structured program or plan. . . ."²⁶ Several years later, [REDACTED] employed at the time of Zubaydah's capture as a contract operational psychologist with the Directorate of Science and Technology (DS&T) and a member of the CIA team sent [REDACTED] to interrogate him, told SSCI staffers that "CIA seemed to be trying to feel their way around with Abu Zubaydah" and that turf battles broke out between FBI and CIA officers. [REDACTED] said "FBI wanted to prosecute Zubaydah and was asking backward looking questions whereas CIA wanted intelligence to prevent the next attack." [REDACTED] had the impression that "neither CIA nor FBI were making much progress with Zubaydah."²⁷

(S) A large part of the problem was that CIA had had no experience with interrogations for many years. After the Vietnam War, experienced Agency interrogators largely left CIA or moved into other fields. In the 1980s, interest in interrogation developed again as a way of fostering foreign liaison relationships. The Agency developed the Human Resource Exploitation (HRE) program to train foreign liaison services on interrogation techniques.²⁸ CIA ended the HRE program in 1986 because of allegations of human rights abuses in Latin America.²⁹ At the time of Abu Zubaydah's interrogation, [REDACTED]

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(TS/[REDACTED]/NF) As C/CTC, Rodriguez recalled members of the Abu Zubaydah interrogation team in June 2002 for a progress review. "It was clear to us that we had to do something to get the information flowing from AZ again."³¹ CTC approached the DS&T's Office of Technical Service (OTS) about using [REDACTED] to design an interrogation program that would improve the chances for eliciting information from detainees. [REDACTED] had spent [REDACTED] working with the US Air Force's Survival, Evasion, Resistance, and Escape (SERE) program. In October 2001, he had entered into a contract with CIA to prepare a paper on al-Qa'ida's resistance to interrogation techniques. [REDACTED] worked with Department of Defense psychologist [REDACTED] who had [REDACTED] of experience in SERE training, to produce "Recognizing and Developing Countermeasures to Al-Qa'ida Resistance to Interrogation Techniques: A Resistance Training Perspective."³² The two psychologists collaborated again and used their SERE experience to produce a list of 11 EITs. OTS then investigated the potential long-term psychological effects of these methods by soliciting information from psychologists, academic experts in psychopathology, and Department of Defense specialists in SERE training. OGC used this information in evaluating the legality of the techniques.³³

(TS/[REDACTED]/NF) One of the original 11 techniques, mock burial, was dropped early on because its inclusion would have slowed the legal approval process. The remaining ten were described to the Department of Justice for ruling on their legality:³⁴

- *Attention Grasp.* Grasping the detainee with both hands, with one hand on each side of the collar opening, in a controlled and quick motion. In the same motion as the grasp, the detainee is drawn toward the interrogator.
- *Walling.* The detainee is pulled forward and then quickly and firmly pushed into a flexible false wall so that his shoulder blades hit the wall. His head and neck are supported with a rolled towel to prevent whiplash.
- *Facial Hold.* The interrogator places an open palm on either side of the detainee's face with the interrogator's fingertips kept well away from the detainee's eyes.
- *Facial or Insult Slap.* The interrogator's fingers are slightly spread apart, and his hand makes contact with the area between the tip of the detainee's chin and the bottom of the corresponding earlobe.
- *Cramped Confinement.* The detainee is placed in a confined space, typically a small or large box, which is usually dark. Confinement in the smaller space lasts no more than two hours and in the larger space for up to 18 hours.
- *Insects.* Placing a harmless insect in the box with the detainee.
- *Wall Standing.* The detainee stands four to five feet from a wall with his feet spread approximately shoulder width. His arms are stretched out in front of him and his fingers rest on the wall to support all of his body weight.

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- *Stress Positions.* The detainee sits on the floor with his legs extended straight out in front of him with his arms raised above his head or kneels on the floor while leaning back at a 45-degree angle.
- *Sleep Deprivation.* Not to exceed 11 days at a time.
- *Waterboard.* The detainee is bound to a bench with his feet elevated above his head. The detainee's head is immobilized, and an interrogator places a cloth over the detainee's mouth and nose while pouring water onto the cloth in a controlled manner. Airflow is restricted for 20 to 40 seconds, and the technique produces the sensation of drowning and suffocation.

(U) Legal Background for Use of EITs

(TS/ [REDACTED]) (NF)

(TS/ [REDACTED]) (NF) Once [REDACTED] had developed their list of EITs, Rizzo and [REDACTED] CTC/Legal [REDACTED] met on 13 July with Bellinger, his deputy Bryan Cunningham, Yoo, DoJ attorney [REDACTED] Chertoff, and the FBI Director's chief of staff, Dan Levin. Rizzo and [REDACTED] briefed the group on the proposed enhanced techniques.³⁶

(TS) On 1 August, Assistant Attorney General Jay Bybee sent a memo to Rizzo reviewing the proposed EITs and concluding that the Agency could lawfully apply those methods in the interrogation of Abu Zubaydah. A cable was sent to [REDACTED] two days later summarizing the legal approval and providing specific guidance for the use of the EITs on Abu Zubaydah.³⁷

(U) In his memoir, President Bush writes that he personally reviewed and approved the enhanced techniques, although he regarded waterboarding as particularly "tough." "I knew that an interrogation program this sensitive and controversial would one day become public. When it did, we would open ourselves up to criticism that America had compromised our moral values. I would have preferred that we get the information another way. But the choice between security and values was real. Had I not authorized waterboarding on senior al Qaeda leaders, I would have had to accept a greater risk that the country would be attacked. In the wake of 9/11, that was a risk I was unwilling to take. My most solemn responsibility as president was to protect the country. I approved the use of the interrogation techniques."³⁸

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(TS/ [REDACTED] /NF) On 4 August 2002, the interrogation of Abu Zubaydah using the EITs began and concluded 26 days later. According to a summary of the types of interrogation techniques used that was prepared for DCI Goss in 2005, Abu Zubaydah was subjected to seven: facial hold, attention grasp, facial slap, stress positions, cramped confinement (small and large box), walling, and waterboarding.³⁹ CTC subsequently assessed that following the use of EITs, Abu Zubaydah developed into "our most cooperative detainee. AZ now helps us interpret sensitive al-Qa'ida communications and to identify newly captured operatives....His knowledge of al-Qa'ida lower-level facilitators, modus operandi and safehouses, which he shared with us as a result of the use of EITs, for example, played a key role in the ultimate capture of Ramzi Bin-al-Shibh."⁴⁰

(U) Initial Briefings to Congress

(TS/ [REDACTED] /NF) The interrogation of Abu Zubaydah using the EITs began while Congress was in its August 2002 recess. The first briefing in which the enhanced techniques were mentioned occurred on 7 August when C/CTC/OPS [REDACTED] and C/CTC/ [REDACTED] briefed SSCI staffer [REDACTED] on CTC operations and staffing. In response to a question from [REDACTED] on what the committee could do for CTC, "[REDACTED] observed that it took a long time to get a legal opinion on the limits on using physical force (walling, attention getting, slapping, sleep deprivation) in interrogations," according to the MFR prepared by OCA about the briefing.⁴¹

(TS/ [REDACTED] /NF) The first briefing of oversight committee members occurred on 4 September 2002, when D/CTC Jose Rodriguez [REDACTED] CTC/Legal [REDACTED] and C/CTC/UBL Reports [REDACTED] briefed HPSCI Chairman Goss, Ranking Minority Member Pelosi [REDACTED] [REDACTED]. A cable summarizing the briefing noted that the Agency officers gave an overview of the history of the interrogation, the information acquired, the resistance techniques Abu Zubaydah had employed, and the reason for deciding to use the enhanced techniques. [REDACTED] provided background on the authorities for the use of the EITs, the coordination that had taken place with the DoJ and the White House, and a description of the enhanced techniques that had been employed. The cable noted that "The HPSCI attendees were particularly interested in the quality of material that Abu Zubaydah was now providing after the use of these measures."⁴²

(TS/ [REDACTED] /NF) The SSCI leaders received the same briefing on 27 September, with DC/CTC [REDACTED] standing in for Rodriguez and joining [REDACTED] and [REDACTED] in briefing SSCI Chairman Graham, Vice Chairman Shelby [REDACTED]. As with the earlier HPSCI briefing, a cable summarizing the briefing noted that the Agency officers provided a history of the Zubaydah interrogation, an overview of the material acquired, the resistance techniques Zubaydah had employed, and the reason for deciding to use the enhanced measures. As before, [REDACTED] provided background on the authorities for using the measures as well as the coordination process with the Department of Justice and the White House, and he described the enhanced techniques that had been employed.⁴³

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(TS: [REDACTED] /NF) Following the SSCI briefing, [REDACTED] telephoned OCA on behalf of Chairman Graham and said the Senator wanted to have [REDACTED] and a former military interrogator interview CIA interrogators, visit [REDACTED] and observe an interrogation. C/CTC Rodriguez wrote in a memo to the DCI that "OCA advised that that would not be feasible; although [REDACTED] replied that the Senator would call to follow up, Graham has not done so, and CIA has heard nothing further on the matter from [REDACTED]"

(TS: [REDACTED] /NF) On 20 November 2002, D/OCA Moskowitz notified the staff directors and minority staff directors of both oversight committees, Representative Lewis of HAC-D, and Senators Inouye and Stevens of SAC-D that the Agency had taken custody of another high-value terrorist, 'Abd al-Rahim al-Nashiri, and that it was "interrogating him at a covert location."⁴⁵ Al-Nashiri, thought to have been involved in the attacks on US embassies in East Africa and on the *USS Cole*, was captured [REDACTED] and turned over to CIA on [REDACTED] November. His interrogation began on the 15th, and he was subjected to several enhanced techniques: attention grasp, facial slap, confinement in both the small and large boxes, walling, stress positions, sleep deprivation, and waterboarding. (Information about the techniques was not provided to this group of briefees.)⁴⁶

The First Problems in the RDI Program

(U) The first leak about the RDI program's existence came on 26 December 2002, when the *Washington Post* ran a story with the subtitle "'Stress and Duress Tactics' Used on Terrorism Suspects Held in Secret Overseas Facilities."⁴⁷ The article mentioned Abu Zubaydah's interrogation but gave no details about it.

(TS: [REDACTED] /NF) More troubling than the *Post* article were reports of unauthorized treatment of detainees. On 21 January 2003, Deputy Director for Operations (DDO) James Pavitt informed Agency Inspector General (IG) John Helgerson that Agency officers had used unauthorized and inappropriately intimidating treatment during al-Nashiri's interrogation. The next day, CIA General Counsel Scott Muller informed Helgerson that a detainee, Gul Rahman, had died while in captivity [REDACTED] at a covert detention facility codenamed [REDACTED] which [REDACTED] had opened in [REDACTED] 2002. Helgerson informed DCI Tenet on 23 January that "At the request and with the cooperation of the DDO and the GC, my office is now looking into these matters."⁴⁸

(TS: [REDACTED] /NF) On 24 January, Muller, Rizzo, and [REDACTED] briefed Assistant Attorney General Chertoff, his deputy Alice Fisher, Deputy Assistant Attorney General Yoo and DoJ attorney [REDACTED] on both incidents. At the meeting, Rizzo noted the Agency's intention to notify the new leadership of the oversight committees as part of a previously planned briefing on interrogation practices.⁴⁹ That briefing took place on 4 February 2003 and was meant to introduce the new SSCI Chairman and Vice Chairman, Roberts and Rockefeller, to the EITs. Moskowitz, Pavitt, [REDACTED] and Muller briefed Roberts and staffers [REDACTED] the latter of whom was to fill in the absent Rockefeller.⁵⁰

(TS: [REDACTED] /NF) Pavitt told the group about the use of the unauthorized interrogation techniques on al-Nashiri—the cocking of pistol near his blindfolded face and the operation of an electric

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drill near him (the latter reportedly caused Roberts to wince). Pavitt noted that he had asked the IG to investigate the incident. Pavitt and [REDACTED] also covered "in detail" the case of Gul Rahman, who died at the detention facility [REDACTED]. They reminded Roberts that a notification on the detainee's death was sent to the oversight committees in mid-November 2002 and said a further notification would be sent soon, given that the investigation into his death was near completion.⁵¹

(TS/ [REDACTED] NF) In the remainder of the briefing, Pavitt and [REDACTED] described "in great detail" the importance of the information Abu Zubaydah and al-Nashiri had provided, including details of current terrorist operations; the difficulty of getting that information from them; and the importance of the enhanced techniques in obtaining it. Nevertheless, the Agency officers noted that even after the use of the EITs, it seemed clear that Abu Zubaydah and al-Nashiri had not revealed everything they knew of importance. After [REDACTED] mentioned that CIA had rendered [REDACTED] terrorists and detained 19, two of whom were in a special holding place, "Senator Roberts asked where they were located, but was told the [REDACTED] that the location not be revealed. The Senator had no problem with the answer."⁵²

(TS/ [REDACTED] NF) Next, the briefers described the enhanced techniques "in considerable detail, including how the waterboard was used," and Muller walked Roberts through the legal approval process the Agency had gone through with lawyers from the DoJ [REDACTED] before employing the enhanced techniques.⁵³

(TS/ [REDACTED] NF) Finally, Pavitt and Muller told the group that videotapes had been made of Abu Zubaydah's interrogation. Muller said the tapes had been reviewed by an OGC attorney, who compared the tapes to the interrogation reports and found them to be a perfect match. Moreover, the attorney was satisfied that the interrogations were carried out in accordance with the guidelines. Muller said it was the Agency's intention to destroy the tapes as soon as the IG had completed his report. "Senator Roberts listened carefully and gave his assent," according to the memo Moskowitz prepared after the briefing. Moskowitz noted that "Throughout the briefing Senator Roberts posed no objections to what he had heard. It seemed clear that he supported the interrogation effort."⁵⁴

(TS/ [REDACTED] NF) At the briefing, [REDACTED] asked Moskowitz whether he had "taken up the line" Senator Graham's request to do his own assessment of the enhanced interrogations. Moskowitz explained that the Agency would not support reading another staffer into the program or allow any staffer to view the interrogations or visit the clandestine site where the interrogations took place. "Quickly, the Senator [Roberts] interjected that he saw no reason for the Committee to pursue such a request and could think of 'ten reasons right off why it is a terrible idea' for the Committee to do any such thing as had been proposed. Turning to [REDACTED] he asked whether they thought otherwise and they indicated that they agreed with the Senator."⁵⁵

(TS/ [REDACTED] NF) The following day, on 5 February 2003, the same group of Agency officers briefed HPSCI Chairman Goss, Ranking Minority Member Jane Harman, and staffers [REDACTED]. The same topics were covered in this briefing: al-Nashiri's interrogation, the death [REDACTED] the importance of the information Abu Zubaydah and al-Nashiri provided, the enhanced techniques, and the Abu Zubaydah videos and CIA's intention to destroy them when the IG had concluded his investigation.⁵⁶

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(TS [REDACTED] NF) According to Moskowitz's handwritten notes, [REDACTED] briefed on the following EITs: attention grasp, walling, sleep deprivation, facial hold, facial slap, abdominal slap, cramped confinement, wall standing, stress position, diapers, insects, and waterboarding.⁵⁷ After hearing the description of the EITs, Representative Harman asked, "Why these techniques?" Muller replied that they stayed within the bounds of US law, and [REDACTED] noted that a contractor who had worked on SERE training with the US military saw that they worked on US soldiers. [REDACTED] described the program as "fairly effective" but noted that CIA believed Abu Zubaydah was still holding back information. On the death of Gul Rahman, [REDACTED] described [REDACTED] for the group and noted 17 terrorists were held there. Later in the briefing, Chairman Goss said that "We try to play by the rules" while our adversaries do not. According to Moskowitz's notes, Harman then said, "Some think not harsh enuf," apparently suggesting US tactics were thought by some to be not harsh enough to deal with the threat.⁵⁸

(TS) Five days later, on 10 February, Representative Harman wrote to General Counsel Muller, copying DCI Tenet. She began her letter by taking note of the fact that "we are at a time when the balance between security and liberty must be constantly evaluated and recalibrated" to protect the country from "catastrophic terrorist attack." She also noted that Muller had assured her at the recent briefing that "the eleven techniques approved by the Attorney General have been subject to extensive review by lawyers at the Central Intelligence Agency, the Department of Justice [REDACTED] and found to be within the law."⁵⁹ Harman went on to say, however, that

what was described raises profound policy questions and I am concerned about whether these have been as rigorously examined as the legal questions. I would like to know what kind of policy review took place and what questions were examined. In particular, I would like to know whether the most senior levels of the White House have determined that these practices are consistent with the principles and policies of the United States. Have the enhanced techniques been authorized and approved by the President?⁶⁰

(TS) Muller responded on 28 February in only general terms. "While I do not think it appropriate for me to comment on issues that are a matter of policy, much less the nature and extent of Executive Branch policy deliberations, I think it would be fair to assume that policy as well as legal matters have been addressed within the Executive Branch."⁶¹ At the conclusion to her letter to Muller, Harman had asked the Agency to reconsider its plan to destroy the Abu Zubaydah interrogation tapes, writing that "the videotape would be the best proof that the written record is accurate, if such record is called into question in the future. The fact of destruction would reflect badly on the Agency." Muller did not address the tapes issue in his response.⁶²

Reaffirming the Program

(TS [REDACTED] NF) Muller's oblique reference to policy deliberations in his response to Representative Harman probably referred at least in part to a meeting he attended with the DCI on 16 January 2003. Also present at the meeting were [REDACTED]

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[REDACTED] During the meeting, Muller pointed out "that there was an arguable inconsistency between what CIA was authorized to do and what at least some in the international community might expect in light of the Administration's public statements about 'humane treatment' of detainees.... Everyone in the room evinced understanding of the issue. CIA's past and ongoing use of enhanced techniques was reaffirmed and in no way drawn into question."⁶³

(TS: [REDACTED] NF) On 18 March 2003, Muller, Rizzo, and [REDACTED] again met again with DoJ officials Chertoff, Fisher, Yoo, and [REDACTED] and [REDACTED] to review several matters related to the Agency's counterterrorist [REDACTED] program. The DoJ attorneys confirmed that the Agency's use of enhanced interrogation techniques "continues to conform fully to U.S. law."⁶⁴ On 24 March, Muller and Rizzo briefed [REDACTED] on the Agency's interrogation program, with Chertoff, Fisher, and Yoo also present.⁶⁵

(TS: [REDACTED] NF) On 29 July 2003, DCI Tenet and General Counsel Muller met with [REDACTED] [REDACTED] the Attorney General [REDACTED] and the Acting Assistant Attorney General to review the interrogation program. Muller provided an overview of the program, including the specific enhanced techniques and program safeguards, and noted that to date, 24 high-value detainees had been interrogated at CIA-controlled sites, and that 13 of them had been subjected to EITs. He provided a summary of the major threat information obtained through the interrogations and a list of the terrorists who had been interrogated, identifying those who had been waterboarded: Abu Zubaydah, al-Nashiri, and Khalid Shaykh Muhammad (KSM).⁶⁶

(TS: [REDACTED] NF) Muller's slide deck identified the enhanced techniques as follows:

- Slap (open-handed)
- Facial hold
- Attention grasp
- Abdominal slap (back-handed)
- Sleep deprivation over 72 hours
- Walling
- Stress positions
 - Kneeling
 - Forehead on Wall
- Cramped confinement (boxes)
- Waterboard (up to 40 seconds)

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(TS/ [REDACTED] NF) The slide deck also identified the use of the following “non-enhanced measures:”

- Sleep deprivation up to 72 hours
- Modified diet
- Loud noise/music under 79 decibels
- Constant light, constant dark
- Water dousing

(TS/ [REDACTED] NF) According to Muller’s memo about the meeting, “The Attorney General forcefully reiterated the view of the Department of Justice that the techniques being employed by CIA were and remain lawful and do not violate either the anti-torture statute or US obligations under the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment.” At the conclusion of the meeting, “The DCI stated that it was important for CIA to know that it was executing Administration policy and not merely acting lawfully. [REDACTED]

[REDACTED]⁶⁷

(U//FOUO) [REDACTED]

(U//FOUO) On 4 September, Muller, accompanied by Pavitt and Moskowitz, gave the same briefing to HPSCI Chairman Goss and ranking member Harman, along with staffers [REDACTED]. That afternoon, they gave the briefing to SSCI Chairman Roberts and Vice Chairman Rockefeller, along with unnamed staffers. Muller specifically noted that he used the same briefing slides with SSCI and HPSCI as he did with Powell and Rumsfeld. According to Muller, “None of the members expressed any reservations or objections to the Program.”⁷⁰

(U) [REDACTED]

(TS/ [REDACTED] NF) In April 2002, [REDACTED] had proposed the creation of a detention facility [REDACTED] to provide secure handling of terrorist detainees until Station personnel could determine the best disposition of the detainees. “The Station viewed the proposed facility as a way to maximize its efforts to exploit priority targets for intelligence and imminent threat information.”⁷¹ The first detainee arrived in [REDACTED] 2002.

(TS/ [REDACTED] NF) It was at [REDACTED] that Gul Rahman died on [REDACTED] November 2002. The previous afternoon, he had thrown his food, water, and defecation bucket at his [REDACTED] guards; and the site manager had authorized him to be “short-chained,” which forced him to sit, naked from the waist down, on a concrete floor. The ambient temperature fell to 31 degrees that night, and Gul Rahman died

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of hypothermia.⁷² The site manager at the time was a [REDACTED] operations officer.⁷³ As noted elsewhere in this study, the incident was briefed to the leadership of both oversight committees in February 2003.

(TS [REDACTED] NF) The interrogation process at [REDACTED] improved significantly after Gul Rahman's death. CTC's Rendition and Detention Group (CTC/RDG) assumed responsibility for the management and maintenance of all Agency detainee interrogation facilities, including [REDACTED] on 3 December 2002. An assessment team visited [REDACTED] that same month and prepared a list of recommendations that regularized the interrogation process under Headquarters guidelines.⁷⁴

(TS [REDACTED] NF) In [REDACTED] 2003, SSCI senior staffer [REDACTED] and SSCI General Counsel Richard Douglas visited [REDACTED] and asked for a tour of [REDACTED]. The Chief of Station agreed, although he was somewhat taken aback by the request as he had been led to believe by Headquarters that only the SSCI chairman and vice chairman were aware of [REDACTED].⁷⁵ The staffers toured the in-processing room, remote video-monitoring facility, interrogation rooms, and holding cells. A Station interrogator, who was a [REDACTED] explained that detainees were rewarded for increased levels of cooperation and that Headquarters approved all interrogations in advance. He told the staffers that Headquarters also provided specific approval and guidance when enhanced measures were to be employed and that at least [REDACTED] CIA officers, including both a medical professional and a psychologist, would be present at all interrogations. Any of the [REDACTED] could stop an interrogation at any time. Finally, the interrogator noted that the primary technique used at [REDACTED] was sleep deprivation, which achieved "most, if not all desired results."⁷⁶

(TS [REDACTED] NF) Upon departing, the SSCI staffers compared the [REDACTED] facility with both the US military detention facility at Bagram [REDACTED] and the CIA-military facility at Guantanamo Bay. Both remarked that [REDACTED] "was a markedly cleaner, healthier, more humane and better administered facility."⁷⁷

(U) Sea Change in Perceptions of RDI

(U) The Abu Ghraib scandal broke on 28 April 2004 when *60 Minutes* broadcast a segment showing disturbing images of prisoner abuse in the US military-run prison in Iraq. Overnight, the background against which actions in the fight against terrorism were judged shifted from the devastation of the 9/11 attacks to the images of Abu Ghraib. The Agency soon felt the impact of the change.

(U) A *New York Times* article on 6 May 2004 said Agency officials had briefed the SSCI the previous day on the "prisoner abuse issue." Senator Roberts, still the chairman, said to reporters, "So far there appears to be no evidence of intelligence personnel that directed any of the abuses, but the investigation does continue."⁷⁸ The same article revealed that the DoJ was examining the involvement of Agency employees and contractors in the deaths of three detainees, including one that occurred at Abu Ghraib.⁷⁹

[REDACTED]

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(TS) [REDACTED]

(U) Later in May, newspaper articles appeared quoting FBI officials as saying CIA's interrogation techniques were too severe and "perhaps unethical," and a series of press reports in June suggested that the Bush Administration had created a legal foundation for the mistreatment of prisoners by inappropriately restricting the definition of torture in DoJ memoranda on interrogation tactics.⁸² A *Washington Post* story on 8 June called one of the key DoJ memos that underpinned the Agency's authority to use enhanced techniques "justification for the use of torture."⁸³

(TS) The resulting furor in the media and among members of the Senate Judiciary Committee, in particular, caused the Administration to announce on 22 June that the DoJ would review and rewrite some of the sections in the legal opinions about interrogation practices.⁸⁴ The legal uncertainty had caused the Agency to suspend its interrogation program earlier in the month until the legal situation was clarified.⁸⁵

(TS) [REDACTED]

[REDACTED] DCI Chief of Staff John Moseman urged caution because of the waterboard's effectiveness with "at least one high value detainee."⁸⁶

(TS) [REDACTED] (NF) During the stand down, in response to the IG's review of the program (discussed below), the Agency studied its standard and enhanced interrogation techniques and decided to recharacterize three of its standard techniques—dietary manipulation, nudity, and water dousing—as enhanced techniques. It then sought DoJ legal review and approval of all 13 techniques. In May 2005, DoJ provided new legal opinions that none of the 13 techniques violated the federal torture statute and that none would constitute cruel, inhuman, or degrading treatment as defined by the US reservation to the Convention Against Torture.⁸⁷

(TS) [REDACTED] (NF) The 2004 stand down marked the peak of the RDI program. Although the Agency received positive legal guidance to proceed, only five terrorist suspects were interrogated using EITs following the stand down.⁸⁸

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(U) The Inspector General's Special Review

(TS [REDACTED] NF) In January 2003, IG John Helgerson had initiated a review of Agency counterterrorism detention and interrogation activities after being informed of the death of Gul Rahman and the use of unauthorized interrogation techniques against al-Nashiri. The review was completed in May 2004 and, at the initiative of D/OCA Moskowitz, was briefed to the leadership of the HPSCI on 13 July and the SSCI two days later. (Helgerson had already briefed SSCI Chairman Roberts and Vice Chairman Rockefeller on 20 November 2003 on the results of his investigation into the al-Nashiri matter).⁸⁹ Helgerson was accompanied to the 13 July HPSCI briefing by Pavitt, Muller, OGC attorney [REDACTED] and CTC officer [REDACTED] while the HPSCI was represented by Chairman Goss, Representative Harman, and staffers [REDACTED].⁹⁰

(TS [REDACTED] NF) Helgerson began by noting that much had gone right with the debriefing and interrogation program, despite the fact that it had been created quickly. He mentioned that there had been considerable substantive success, with thousands of intelligence reports written as a result of the interrogations and other terrorists and terrorist cells run to ground. Helgerson also stated that the interrogations were legal, including the use of the enhanced techniques. He said that for the most part detainees at [REDACTED] and [REDACTED] the holding and interrogation facility [REDACTED] that replaced [REDACTED] had been well handled and that the detention and interrogation techniques used [REDACTED] [REDACTED] were not inhuman. He noted that no detainees who had been subjected to EITs had died.⁹¹

(TS [REDACTED] NF) On the negative side of the ledger, the IG said that the DoJ memo from 1 August 2002, which provided the legal foundation for the interrogations, had not addressed Article 16 of the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. This article required signatory states to prevent in any territory subject to their jurisdiction acts of cruel, inhuman, and degrading punishment not amounting to torture, and he raised the question of whether CIA's use of the enhanced techniques violated US obligations under the provision.⁹²

(TS [REDACTED] NF) Helgerson stated that three detainees had been waterboarded, and he believed that the technique had been used excessively on one prisoner, going beyond what had been agreed to with the DoJ. This was KSM, who received 183 applications over two weeks in 15 sessions.⁹³

(TS [REDACTED] NF) The IG also noted that the DCI had issued guidelines on conducting interrogations only in January 2003, seven months after they began, and addressing only those detained pursuant [REDACTED]. Helgerson said that guidance in cables sent to the field evolved over time and did not reach everybody who was involved in interrogating detainees.⁹⁴

(TS [REDACTED] NF) The IG concluded by stating that CIA needed a comprehensive document for interrogation personnel to consult that would cover both [REDACTED] and other debriefings, that the Agency needed to review the enhanced techniques to determine if they were effective and still necessary, and that there should be an updated and written DoJ opinion that reflected the actual practices of the enhanced techniques and the Article 16 issue.⁹⁵

(TS [REDACTED] NF) The representatives posed several questions to the briefers. Goss asked how many of the intelligence reports created from the detainee debriefings were "strategic" and

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how many were "tactical." (The briefers were not sure.) Harman asked when the Agency began using the enhanced techniques (with the Abu Zubaydah interrogation) and why the DCI's guidance on interrogations was issued so late (Pavitt explained that the "fury of activity" after 9/11 was to blame). Goss asked if the Agency's stand down on RDI activities included Guantanamo (no). Harman stated that the [REDACTED] did not specify interrogations and only authorized capture and detention and asked whether the Agency had questioned detainees before [REDACTED] had been issued (yes, but no enhanced techniques had been used before Abu Zubaydah; standing guidance with respect to [REDACTED] period stated that only questioning was permissible).⁹⁶

~~(TS~~ [REDACTED] ~~NF)~~ Helgerson briefed SSCI leaders on the Special Review two days later, on 15 July. Other Agency attendees included Moskowitz, Pavitt, Muller, [REDACTED] and Philip Mudd from CTC. From the Senate side, Chairman Roberts, Vice Chairman Rockefeller, and staffers Johnson and [REDACTED] attended.⁹⁷ Moskowitz's handwritten notes indicate that Roberts asked why the use of EITs had been suspended. Muller said the Agency was waiting on the DoJ to issue new legal guidance. Rockefeller said that "we [CIA] need to avoid risk aversion" because of the impending change in legal guidance. An unidentified person from the SSCI side suggested it would be better to brief more members than just the chairman and vice chairman, allow congressional visits to the detention sites, and permit interviews of the interrogators. Pavitt said he could accept briefing more members, but that site visits were not feasible. Roberts opposed broadening access to the program for fear of leaks but said he would like to expand knowledge of the program to his chief counsel and one other staffer who had expertise in interrogation.

~~(TS~~ [REDACTED] ~~NF)~~ The next day, Helgerson summarized his thoughts about the two briefings to his staff.⁹⁸ He wrote, "Obviously, no member had read the report with great care, although all had seen staff summaries and some, especially Roberts and Harman, tended to leaf through the document and find issues that were of interest as we talked." He noted that the HPSCI session went on for more than two hours and included "in depth discussion of the practical, political, legal, and moral issues involved. Very little partisanship, except on the issue of whether to open the compartment up to all members—Harman advocates this; Goss is opposed." The IG noted that most of the discussion with the SSCI members focused on the legal ambiguity in the DoJ's position, the Agency's stand down on interrogation activity, and the implications of each. Roberts appeared to Helgerson to be particularly interested in whether some detainees were subjected to certain techniques on the basis of faulty analysis. "Overall, the discussion at the SSCI was more concentrated on getting the facts straight and less philosophical than with HPSCI, in part because the Senators had only about an hour to devote to this."

~~(TS~~ [REDACTED] ~~NF)~~ In early March 2005, Helgerson followed up with separate briefings for Roberts and Rockefeller on the cases and projects pending in his office that were related to detention and interrogation issues. He spent an hour with Roberts and two hours with Rockefeller, noting that "The SSCI had previously been informed of all our cases and reviews, but I think it is safe to say the leadership had never really paid all that close attention until lately."⁹⁹

(U) Almost a year later, on 9 May 2005, Rockefeller wrote DCI Goss requesting information and documents pertaining to the Special Review. D/OCA Joe Wippl responded on the 23rd that the materials would be made available at CIA only and that no copying or verbatim notes would be allowed.

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Rockefeller responded on 8 September protesting the restrictions and stating that they interfered with the committee's ability to carry out its oversight duties.¹⁰⁰

(U) Problems on the Hill

(U) The *Washington Post* reported that Rockefeller sent a letter to Roberts in early February 2005 requesting that the committee review the presidential and legal authorities used by the Agency to carry out interrogations and renditions, and to review case studies of interrogation methods for their legality and effectiveness. Representative Harman requested that a similar study be undertaken by HPSCI.¹⁰¹ Roberts responded publicly in March: "The Senate intelligence committee, along with the House intelligence committee, is well aware of what the CIA is doing overseas in defense of our nation and they are not torturing any detainee."¹⁰²

(U) In April 2005, Rockefeller took the Senate floor to say that the detention and interrogation of suspected terrorists must be conducted "within the bounds of our laws and our own moral framework. Congress has largely ignored the issue. More disturbingly, the Senate Intelligence Committee...is sitting on the sidelines and effectively abdicating its oversight responsibility to media investigative reporters." Chairman Roberts responded from the floor that his committee had conducted "aggressive oversight of all aspects of the war on terrorism." He said an investigation would be unnecessary and "damaging to ongoing operations," and he concluded by stating that some had "almost a pathological obsession with calling into question the actions" of the intelligence community.¹⁰³

(TS) News reports indicated that Senate Majority Leader Bill Frist and Minority Leader Harry Reid planned to intervene to smooth over the growing dispute in the SSCI.¹⁰⁴ Probably to better inform himself about the substance Roberts and Rockefeller were arguing over, Frist and staffer [REDACTED] received a briefing from CTC officers [REDACTED] and [REDACTED] and CTC/Legal attorney [REDACTED] on 4 April. [REDACTED] the Agency officers did not brief Frist on interrogation techniques or the location of the detention sites, which neither the Senator nor his staffer asked about. Frist was, however, briefed on the operational, analytical, and legal aspects of the RDI program. [REDACTED] described the legal justification for the program and said that the detainees were not treated in accordance with the Geneva Conventions because they did not apply and contained requirements that were not consistent with [REDACTED] intelligence exploitation. At the conclusion of the briefing, Frist informed the team that he did not support Rockefeller's proposed detention probe.¹⁰⁵

(TS) [REDACTED] (NF) In this heated atmosphere, Agency officers prepared an extensive and detailed briefing for Roberts and Rockefeller in early 2005. (Although the briefing is dated February 2005, it apparently was not delivered until March 2005, probably on the 7th. Text in the briefing suggests it was also given to the chairman and ranking minority member of HPSCI, probably at roughly the same time.) The briefing, clearly marked as having been given to both senators, provided a background review beginning with [REDACTED] continuing through the legal justifications, the Abu Zubaydah case, and ending with a discussion of past problems. Internal controls and safeguards were

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described, such as the “least coercive measure” principle that required interrogators to begin with the least coercive techniques to transition detainees to normal debriefings.¹⁰⁶

(TS/ [REDACTED] /NF) Renditions both before and after 9/11 were summarized, with the briefing mentioning that the Agency held 29 detainees in its overseas detention facilities at that time. The whole rendition procedure was covered, including the use of diapers and blindfolds or hoods with captured suspects as they were being transported to the holding facility. The rendition approval process was covered, and the senators were informed that the DCI had the authority to approve renditions if he determined that the terrorist suspect posed a serious and continuing threat of violence to US persons or interests—Principals Committee approval was not required. Interrogation results were covered extensively, and the briefing material emphasized that “We believe that detainee reporting has been a key reason why al-Qa’ida has failed to launch a spectacular mass casualty attack in the West since 11 September 2001.” The EITs again were described comprehensively, including the three standard techniques the Agency had recently redefined as enhanced techniques: dietary manipulation, nudity, and water dousing. There is no record of questions or comments from the senators.¹⁰⁷

(TS/ [REDACTED] /NF) Senator Rockefeller may not have been able to win enough support to start an investigation, but the pressure on the Bush Administration regarding the treatment of detainees continued unabated throughout 2005 from both the media and some members of Congress. In November, the *Washington Post* published an editorial entitled, “Central Torture Agency?”¹⁰⁸ In the Senate, momentum was building to introduce legislation that would limit the Administration’s ability to evade application of the Geneva Conventions to the incarceration and interrogation of detainees. Several powerful Republican senators, foremost among them John McCain, supported the effort. As the Senate moved toward adopting legislation that would undercut the legal basis of the interrogation practices used in the RDI program, the Administration apparently tried to head it off by broadening access to information about the program, evidently hoping that would dampen the criticism and weaken support for new legislation. In October, the EITs were briefed to McCain, Senators Stevens and Thad Cochran from SAC-D, and in November to Frist and House Armed Service Committee Chairman Duncan Hunter.¹⁰⁹

(TS/ [REDACTED] /NF) McCain was not swayed by his briefing, however, and he offered an amendment to the 2006 Defense Appropriations Act that undercut the RDI program’s legal standing. On 8 November, HPSCI Chairman Hoekstra requested a briefing that covered the full and complete description of the 13 interrogation techniques authorized for use in the program. This was not Hoekstra’s first briefing on the techniques—he had received one in January—but on this occasion he used the opportunity to ask about the potential impact of the McCain amendment. [REDACTED] CTC/Legal [REDACTED] advised Hoekstra that passage of the amendment would put Agency officers in a precarious legal position. “He was advised that in our view that risk was unacceptable and we would cease use of the techniques.”¹¹⁰

(TS/ [REDACTED] /NF) When the McCain amendment passed, DCIA Goss notified Congress that “On 23 December 2005, the Director of the Central Intelligence Agency suspended further use of any of the Central Intelligence Agency’s interrogation techniques pending an evaluation of whether the recently-enacted McCain Amendment to the Department of Defense Appropriation Act, 2006, changes the legal or policy underpinnings for the techniques, or the risk versus gain balance.”¹¹¹

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08-Dec-2014**Trying to Keep the Program Viable—While Searching for an Endgame**

(TS// [REDACTED] NF) As the new year began, CIA seniors were trying to build support in Congress for the continuation of the RDI program in the near term while working with the Bush Administration to develop an exit strategy for the long term. Thus, DCIA Goss met with the entire membership of the SSCI on 15 March 2006 to update the Committee members on the status of the program.¹¹²

(TS// [REDACTED] NF) Goss began by telling the Committee that it could be proud of the “professional manner in which the program has been managed, the care that is taken to ensure that CIA is strictly within the law, and the treatment of the detainees.” He stressed that the program has provided “one of the best streams of intel available on the AQ network,” before noting that he had suspended the use of EITs until a Department of Justice review of the implications of the McCain Amendment could be completed. Goss said that once the DoJ review had been completed, CIA would seek new authority from the administration to continue. The Director emphasized that, “CIA cannot go forward by ourselves. We need DoJ approval. We need administration concurrence. We need the support of our oversight committees.”¹¹³

(TS// [REDACTED] NF) Goss said it was important to know whether the McCain Amendment was meant to show congressional disapproval of CIA’s use of EITs. “I don’t think so,” Goss said, “but we need Congressional support for the program.” He noted that the Agency was continuing to debrief detainees but that no interrogations were occurring. He also noted that the Agency was not bringing any new terrorist suspects into the RDI program. As a result, “We could be missing important intelligence,” and he said that he would recommend that the RDI program be approved and restarted, although he noted that, because of the knowledge of al-Qa’ida the Agency had already gained, the threshold for placing new detainees into the program would be very high and therefore fewer would be brought into the program than in the past. He mentioned that because of a leak, we had lost significant detention space because our allies had subsequently asked the Agency to close its facilities. The Director concluded his opening remarks by saying that, due to NSC restrictions and our commitment to the Agency’s foreign partners, CIA will still not be allowed to discuss site locations with the Congress.¹¹⁴

(TS// [REDACTED] NF) Committee members asked questions on a number of issues and made wide-ranging statements, but none of them were openly hostile toward the program. It was Vice-Chairman Rockefeller who perhaps most directly addressed Director Goss’s concerns. The Senator stated his belief that the Agency, as a guiding policy, should brief the full SSCI membership, vice only the Chairman and Vice-Chairman, on controversial topics so that the entire committee is informed on issues where its support is needed, such as on the detainee issue. Rockefeller said that the Agency, by not briefing the entire Committee, had left a vacuum that others had filled with the passage of legislation. Finally, he noted the need for the Agency to develop an “end-game” strategy.¹¹⁵

(TS// [REDACTED] NF) In fact, Agency seniors had been trying to work out an endgame strategy with the Administration since late 2004. Agency leaders reasoned that

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- CIA has neither the mission nor resources to run covert prisons for long-term detention.
- Once high-value detainees (HVDs) are fully exploited for intelligence, CIA should not be the USG action element for continued detention.
- CIA's [REDACTED] partners who host detention facilities recognize that the USG has no HVD disposition plan.
- The USG's failure to develop an HVD endgame strategy is adversely affecting the risk tolerance of CIA's [REDACTED] partners, and the loss of partners will cause the collapse of the program.
- Establishment of an HVD disposition plan and detention facility to hold them would greatly reduce the scrutiny and strain on CIA's RDI program.
- Doctors and psychologists who support the detention program advise that continuing long-term isolated confinement of HVDs will cause their psychological and medical states to deteriorate, increasing the risk that detainees will become depressed, ill, or less productive as intelligence sources.¹¹⁶

(TS/ [REDACTED] /NF) By October 2005, Agency leaders had become seriously concerned by the lack of an agreed-upon endgame. They had learned that the *Washington Post* was about to publish an article [REDACTED]

[REDACTED]¹¹⁷ Talking points prepared for the DCIA to be used at a Principals' Committee meeting on 28 October said in part, "The Central Intelligence Agency currently holds 27 detainees taken off the battlefield on the War on Terror. Over a year ago, CIA sought [REDACTED] decision to resolve the situation. However, at that time, [REDACTED] given the complexity of the variables and potential implications. Given a confluence of circumstances—anticipated publication of a *Washington Post* (or any media outlet) article [REDACTED]

[REDACTED]—resolution of an end-game strategy is no longer theoretical but is upon us **now**" (emphasis in original).¹¹⁸

(TS/ [REDACTED] /NF) When new DCIA Hayden, who took over from Goss on 30 May 2006, met with SSCI Chairman Roberts on 7 June, he similarly expressed his strong desire "to get CIA out of the business of being 'the nation's jailer.'" He sought Roberts' advice on how to share details of a proposed modified program of EIT use with other senators who were interested in the EITs, and he agreed that it might be wise to brief the entire membership of the SSCI on the RDI program's history—except for specific locations of detainees.¹¹⁹

(TS/ [REDACTED] /NF) Hayden expressed the same views on developing an endgame to HPSCI leaders Hoekstra and Harman when he met with them the next day. As with Senator Roberts, he asked for Chairman Hoekstra's views on how to brief HPSCI on EITs: just the Chairman and Ranking Member or the entire committee. Representative Harman asked if the new EITs would be consistent with the McCain Amendment, and the Director assured her that they would, noting that DoJ continues to state that the entire program was and will continue to be lawful.¹²⁰

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The Supreme Court Intervenes

(U) On 29 June 2006, the Supreme Court decided in the case of *Hamdan v. Rumsfeld* that Common Article 3 of the Geneva Convention applied to the conflict with al-Qa'ida, contrary to the position previously held by the Administration. Common Article 3 requires that detainees "shall in all circumstances be treated humanely," and prohibits "outrages upon personal dignity, in particular, humiliating and degrading treatment" and "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture." President Bush wrote in his memoir that, as a result of the Supreme Court decision, "CIA lawyers worried that intelligence personnel who questioned terrorists could suddenly face legal jeopardy." The decision thus reinforced the uncertainty introduced by the McCain Amendment on this score.¹²¹

(TS/ [REDACTED] NF) In a briefing to Senators Roberts and Rockefeller on 11 July, Director Hayden discussed the implications of the Supreme Court's ruling and of the McCain Amendment. He told the Senators that 26 detainees were currently in CIA custody but that he had just signed paperwork to render four of these to their home countries: [REDACTED] Senator Rockefeller asked whether these renditions were being done with "a wink" toward their human rights, but the Director replied that the US government had received assurances from the countries of origin that they would not release these detainees nor violate their human rights.¹²²

(TS/ [REDACTED] NF) Director Hayden went on to say that no EITs had been utilized since 23 December 2005 and no new detainees had entered the program since that time. He said the Agency was contemplating resuming an EIT program using only techniques 1 through 7, which, he estimated, would allow it to capture "80-90 percent of the intelligence of value." "Techniques 1 through 7" became shorthand in briefings on the Hill for the following EITs: sleep deprivation, dietary manipulation, nudity, facial grasp, facial slap, abdominal slap, and attention grasp. The Director argued that there must be broad agreement within Congress that some sort of enhanced interrogation program is needed. Senator Rockefeller replied that "removing EITs 8-13 might ease pressure here in Congress and internationally," but General Hayden worried that "international pressure, especially [REDACTED] would be quite high if any CIA program were made public, arguing that human rights groups and others would assume the entire program was about waterboarding." EITs 8 through 13 came to be the shorthand used to discuss the harsher EITs: walling, water dousing, wall standing, stress positions, cramped confinement, and waterboarding.¹²³

(TS/ [REDACTED] NF) Finally, DCIA Hayden depicted his desired endgame for the program by saying he would "return the empties"—those detainees who no longer have intelligence value—to their home countries, encourage DOJ to indict others in US courts or in military tribunals, and send the remaining detainees to Guantanamo Bay if they are too dangerous to be released from US custody or are of continuing intelligence value.¹²⁴

(U) From President Bush's perspective, however, the Supreme Court's decision made it all but impossible to maintain the secrecy of the CIA's program. "The Supreme Court decision made clear it was time to

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seek legislation codifying the military tribunal system and CIA interrogation program. I took the issue to the people with a series of speeches and statements.” The most dramatic of these came on 6 September 2006, when he publicly disclosed the existence of the CIA’s detention and interrogation program and announced that KSM and thirteen other al-Qa’ida detainees would be transferred from CIA custody to Guantanamo Bay under DoD custody.¹²⁵

(TS [REDACTED] NF) September 6 was a busy day for the DCIA, as he briefed Senate leaders Frist and Reid, Representative Harman, the full SSCI, and the full HPSCI on the RDI program, including the use of EITs. Director Hayden provided a detailed accounting of the 96 detainees over the life of the program for Senators Frist and Reid, including the number who received EITs and by name those to whom the most coercive EITs were employed. The Director described the program’s success at length— noting in particular that the IC had received 1,000 intelligence reports alone from KSM’s debriefings— but said that CIA currently held no detainees and would not take new terrorists into the program until Congress passed necessary legislation. General Hayden named all EITs and provided a description of most of them, prompting Senator Reid to ask if waterboarding would be included in a future program. The DCIA said it would not, noting that it had been used on only three detainees and was last done more than three years ago. Senator Frist asked if the program was permanently terminated, to which the DCIA said it was the Agency’s intent, Congress willing, to continue to capture and debrief high value terrorists. General Hayden said that the Agency had identified approximately 18 individuals that it would like to put in the program if they could be caught but that CIA would not resume the program without first consulting the Congress.¹²⁶

(TS [REDACTED] NF) Director Hayden provided the same briefing to Representative Harman. Harman said she had been told that Abu Zubaydah was “brain damaged,” of no intelligence value and a “frivolous” character, to which the DCIA responded, “absolutely untrue.” CTC officer [REDACTED] then provided examples of the intelligence acquired from Zubaydah. Like Senator Reid, Congresswoman Harman asked if waterboarding would be included in a future program, to which General Hayden gave the same response: no.¹²⁷

(TS [REDACTED] NF) The Director then provided essentially the same briefing to both the full SSCI and the full HPSCI. Director of Congressional Affairs Chris Walker, in his memo summarizing the meeting, wrote that the general tone of the SSCI briefing was positive but that most members had just returned from a month-long recess and were not up to date on detainee matters. The meeting lasted only 60 minutes, and after the DCIA had finished his briefing, each Senator had only two minutes in which to ask questions. On this occasion, General Hayden mentioned that 8,000 intelligence reports had been disseminated from the program, especially through the use of EITs, and that many of the techniques employed in the RDI program are used against students in the USAF survival school. The DCIA stated that in a future program, there would be only seven EITs, and that waterboarding would not be one of them. He affirmed that CIA would not resume the program without consulting Congress and would inform the oversight committees when a terrorist was brought into the program, when any EITs were employed, and when anyone was released from the program.¹²⁸

(TS [REDACTED] NF) As with the SSCI, HPSCI members had just returned from recess and were not up to date on detainee affairs. Walker notes that the general tone of the HPSCI briefing was also

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positive, with only Representatives Eshoo and Tierney expressing significant opposition to the program. General Hayden went into great detail on waterboarding and water dousing in response to questions. As before, he said CIA would not resume the program without first consulting the Congress.¹²⁹

(TS [REDACTED] NF) The next day, September 7, the Director met with Senator McCain and offered him an extensive briefing on the program by CTC, which took place on the 11th. At its conclusion, the Senator said he was certain of the Agency's professionalism, high standards, and the internal and external oversight of the program, but that he could not in good conscience support its efforts in this regard.¹³⁰

Hoping for A New Lease on Life, While Questions about Videotaping Interrogations Arise

(TS [REDACTED] NF) In October 2006, the Congress passed the Military Commissions Act, and the Administration began drafting an Executive Order which eventually became Executive Order 13440 of July 20, 2007. The combination of these measures was viewed by Agency leaders as sufficient legal protection for the resumption of the program. Thus, when DCIA Hayden met with the full SSCI on 16 November 2006, he told the members that, after the President signed the Executive Order, which he expected, incorrectly as it turned out, would be in two weeks, he would ask DoJ to determine if the EO and CIA's proposed use of EITs 1-7 are legal, and that he fully expected DoJ to confirm their legality. He handed each of the members a one-page document describing each of the proposed 7 EITs and told them that walling, water dousing, wall standing, stress positions, cramped confinement, and waterboarding would not be used in the future. He reminded the members that of the 96 detainees, only 30 had been given EITs, and only 3 had been waterboarded. He said the Director must approve the use of EITs in advance and that CIA will employ the least coercive EITs first, if at all, noting that generally four days of EITs are enough to gain cooperation. Senator Hatch asked if the Agency should not get a DoJ opinion on all 13 EITs, and Senator Rockefeller said that he, too, thought the Agency should get a DoJ opinion on all 13. "What if the White House asks CIA to employ additional EITs?" he asked.¹³¹

(TS [REDACTED] NF) Senator Feinstein asked a number of questions and made several comments during the session. "There is a limit needed on the amount of sleep deprivation," to which the Director said that the previous program provided up to 180 hours of sleep deprivation (KSM went 180 hours) but that CIA is now proposing a limit of 96 as a result of the wording of the Military Commissions Act. Anything further will require DCIA permission. Senator Feinstein then asked if detainees are fed during sleep deprivation, and General Hayden said they receive 1,000 calories a day of Ensure. Next, she asked if the EITs are ranked in any particular order and how the Agency guards against abuse. The DCIA responded that the individual interrogation teams decide the best course of action and then their proposal is sent to the DCIA for approval. CTC officer [REDACTED] added that no one person alone can administer EITs, so there are checks and balances. The Senator asked about nudity and whether the Agency ever had personnel of the opposite sex present, saying that the Agency should not have women officers with male detainees, and the Director replied that some of CIA's best interrogators were females but that he would take the Senator's question and consider it further.¹³²

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(S/NF) Close to the end of the session, Senator Bond asked, "Are these interrogations videotaped?" [REDACTED] responded, "No, sir, they are not videotaped today. They are monitored on closed circuit television." After further dialogue between DCIA Hayden and Senator Bond, in which the DCIA sought to affirm that the interrogation techniques did not violate the law, Senator Rockefeller interjected, "I accept that, but I'm still nervous. Just as an observation. I think videotaping is useful. . . . I'm just saying in general, both for the protection of the CIA people, for knowing exactly what was said and with what nuance, etc., it seems to me it would be very useful. I can't understand why you wouldn't tape." [REDACTED] responded, "Sir, I believe if we did tape the interrogation it would have a dampening effect on the interrogators and how we are attempting to obtain the information. By that I mean that I think that we would always be thinking that there is some reason you would not go to the limit, well within the law and well within the boundaries." Rockefeller was not convinced after further dialogue and ended the discussion by saying, "I don't know why you wouldn't want to do it."¹³³

(TS/[REDACTED]NF) Director Hayden used a portion of the session to inform the Committee of the capture of a new HVD, Abd al-Hadi al-Iraqi. The DCIA said al-Iraqi was cooperating with his Agency interrogators and that they saw no reason to use EITs with him at the moment. He then took the opportunity to describe the conditions of confinement that are applied to all detainees, including shaved head and beard, continuous lights, goggles during transit, closed circuit TV monitoring, white noise in the cell, and shackles during movement, noting that the Department of Justice had determined that these conditions individually and when taken together are consistent with the Geneva Convention.¹³⁴

(TS/[REDACTED]NF) Later that same day, during a briefing for the HPSCI, members from both parties asked why CIA was not videotaping the interrogations. Specific questions were asked by Representatives Hoekstra, Holt, and Issa. Chairman Hoekstra asked if the interrogation of CIA's latest HVD, Abdul Hadi al-Iraqi, would be videotaped, to which the DCIA responded, "They are being monitored by the closed-circuit TV, and there is always someone else watching what is going on." Hoekstra said that if closed-circuit TV is used, there should be videotapes, but the Director responded, "no." Representative Holt then asked if CIA might consider videotaping in the future, to which General Hayden responded that he would consider the issue further and return to the HPSCI with additional information about videotaping detainees.¹³⁵ When the Director briefed new HPSCI Chairman Silvestre Reyes on 19 December, Reyes also asked if the interrogations were videotaped, to which Hayden responded "no," but he added that he had "asked for an opinion within CIA but that he 'hadn't circled back yet."¹³⁶

(TS/[REDACTED]NF) Ironically, the videotapes that had been made of Abu Zubaydah's interrogation had been destroyed almost exactly one year earlier, on 9 November 2005, at the order of D/NCS Jose Rodriguez. (Al-Nashiri's interrogation had also been taped, but the tape was reused each day after it had been reviewed for note taking purposes.) Although Agency briefers had informed the leadership of the oversight committees of the tapes' existence and the Agency's intention to destroy them in February 2003, resistance to their destruction within the Agency, in the White House, and from the DNI had led to temporizing on the issue. When Rodriguez finally ordered their destruction, his move took both Acting General Counsel John Rizzo and DCIA Goss by surprise. When he was told of their destruction, Goss stated his intention to inform congressional leaders, but there is no record that he

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actually did so, and he had no clear memory of having done so when queried by DCIA Hayden about it in December 2007.¹³⁷

(TS/ [REDACTED] /NF) Agency leaders began setting the record straight about the tapes the following spring. During a 14 March 2007 HPSCI hearing on renditions, Congressman Issa asked about videotaping, to which DCIA Hayden responded, "We have videotaped and the tapes no longer exist—and this is 4½, 5 years ago—the first two detainees. And it was done not for the reasons you are describing, but to have a record of what was said by the detainees so we got all the intelligence. It was found that it wasn't of any use. We just didn't need it, and so we just stopped doing it."¹³⁸

(TS/ [REDACTED] /NF) Congressman Holt then commented that videotaping has turned out to be beneficial to US local law enforcement, and Representative Issa followed up again as to why he believed videotaping would be beneficial to CIA. Director Hayden responded: "Congressman, I take it, made a note. I will once again readdress it. I will tell you that when we have talked about it at home before, the issue has been security and the potential danger to the interrogator or his family if this ever leaked and was made available, put on the Web, great danger that that would entail, one. Secondly, even if we do these techniques precisely as they are described, it is not going to look pretty. And if that were ever leaked or made public and put on jihadist Web sites, it would be another propaganda tool. I am not saying that is a conclusive argument, just saying that is where the discussion was currently. Let me take it back and do what you have asked, and I will get back to you directly."¹³⁹ CTC responded to Congressman Holt on 19 March with a paper entitled, "Why CIA Does Not Videotape Interrogation Sessions." In it, CTC noted that, "CIA only videotaped the interrogations of two detainees during the history of the program—Abu Zubaydah, the first detainee in the program, and al-Nashiri, the second detainee in the program. The tapes proved not to be useful for intelligence purposes and thus the practice was not continued and the tapes were destroyed."¹⁴⁰ Director Hayden repeated the same message almost verbatim for Representative Issa in a letter dated 19 April.¹⁴¹

(TS/ [REDACTED] /NF) Surprisingly, the question of videotaping appears not to have come up at either of the SSCI hearings held in early 2007, on February 14 and April 12. Thus, the first opportunity to clarify the record fell to CTC attorney [REDACTED] who briefed a total of 15 SSCI staffers into [REDACTED] on 16 March and 9 April. He discussed with them the existence of, and the destruction of, the Abu Zubaydah videotapes.¹⁴² The next recorded mention of videotaping in a SSCI session came on 14 November 2007, when the key contractors involved in the RDI program, [REDACTED] were called to brief the SSCI staff on the program. Staff director [REDACTED] asked them about the decision to videotape the sessions. The contractors responded that the videotaping was initiated due to concerns about the English skills of Abu Zubaydah and al-Nashiri. CIA officers did not want to miss any information and the videos would enable a review of the sessions. [REDACTED] said they believed it was stopped because the tapes were not being used.¹⁴³

Opposition Grows in the SSCI

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(TS/ [REDACTED] NF) On 14 February 2007, Director Hayden gave SSCI members a comprehensive briefing on renditions from 1987 to 2007. OCA's report on the session said that, "Overall, the hearing was well received by members both for the amount of written information provided by CIA and the candor in which CIA witnesses discussed the program." The Committee submitted a number of questions for the record, most having to do with CIA's knowledge of the treatment of detainees who had been rendered to third countries, but unfortunately, the OCA memo does not contain the specific questions or comments of individual members. It says only that "Chairman Rockefeller and Vice Chairman Bond's opening statements acknowledged the importance of rendition as a tool to gather intelligence in the War on Terror. Both, however, expressed concerns regarding specific aspects—both real and perceived—of the program."¹⁴⁴

(U) By the time the next meeting with the SSCI was held, on 12 April, the atmosphere in the Committee had begun to change, as more members began to express skepticism about the RDI program. This was also true of the HPSCI. In the interim, KSM had appeared before a military tribunal in the detention camp at Guantanamo Bay, where "he presented a written statement alleging mistreatment during his captivity prior to arriving at Guantanamo," according to two members of the Senate Armed Services Committee who witnessed the proceedings, Carl Levin and Lindsey Graham. "Allegations of prisoner mistreatment must be taken seriously and properly investigated," said the Senators.¹⁴⁶

(U) Subsequent media coverage, in the United States and abroad, focused further attention on KSM's treatment during the period he was held in Agency detention. The London *Daily Telegraph* wrote that it hardly mattered whether he was guilty since "the world will condemn the procedures by which the verdicts were reached," while the *Frankfurter Allgemeine Zeitung* wrote that "the Bush administration has nobody but itself to blame for the fact that the actions and motives of the perpetrator are now playing second fiddle to the practices used by the Americans in fighting terrorism."¹⁴⁷

(U) At home, the *Washington Post* published a column by Anne Applebaum entitled "Tortured Credibility" in which she claimed the "international indifference" to KSM's confession to having planned the 9/11 attacks "surely comes from the widespread, indeed practically universal, assumption that

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Mohammed was tortured....” She went on to say, “Even if we were to give the administration the benefit of the doubt, which hardly anyone will, the circumstances of Mohammed’s detention have been unacceptable by American standards. Even if he was not tortured, he was held in secret, extralegal and completely unregulated conditions...certainly under nothing resembling what we in the United States normally consider the rule of law.... The mystery surrounding his interrogation—when it was carried out, how and by whom—renders any confession he makes completely null, either in a court of law or in the court of international public opinion.”¹⁴⁸

(U) Similarly, the editorial board of the *New York Times* wrote that “The omissions from the record of Mr. Mohammed’s hearing were chilling. The United States government deleted his claims to have been tortured during years of illegal detention at camps run by the Central Intelligence Agency. Government officials who are opposed to the administration’s lawless policy on prisoners have said in numerous news reports that Mr. Mohammed was indeed tortured, including through waterboarding, which simulates drowning and violates every civilized standard of behavior toward a prisoner, even one as awful as this one.... The Bush administration has so badly subverted American norms of justice in handling these cases that they would not stand up to scrutiny in a real court of law. It is a clear case of justice denied.”¹⁴⁹

(TS [REDACTED] NF) It is perhaps not surprising, therefore, that Chairman Rockefeller opened the hearing on 12 April by saying that even if the Agency could convince the Committee that the detention program is legal and legitimate in a secret setting, the CIA will still have a “black eye” with the public. Regardless of whether or not the Agency has broken international law through the program, he went on to say, the US should still abide by international norms. Is the program worth the risk of the US’s reputation, he asked? There is no record of a direct response from DCIA Hayden, who then presented his statement on the program’s past and his expectations for its future, once again handing out a chart of EITs 1-7. Acting Assistant Attorney General for the Office of Legal Counsel Stephen Bradbury attended the session and stated that it was his preliminary opinion that the techniques were legal.¹⁵⁰

(TS [REDACTED] NF) Soon after the hearing, Senator Feingold wrote to Director Hayden to express his opposition to the program. “I am deeply troubled by the CIA’s use of ‘Enhanced Interrogation Techniques,’ including those authorized since the inception of the program and those the CIA proposes to use in the future. Simply put, I do not believe they are consistent with our values as a nation. Nor do I believe that the American people, were they to be fully informed of these techniques, would find them acceptable, regardless of the individuals to whom they are applied.”¹⁵¹

(TS [REDACTED] NF) Within days, Senators Feinstein, Wyden, and Hagel jointly wrote to the Director to express their opposition to the program’s continuation as well. “It is inevitable that details of the detention and interrogation operations will become public eventually.... We believe that the public reaction to this information, both domestically and around to [sic] the world, will be catastrophically damaging.” They went on to say that they found Bradbury’s explanation of the legality of the techniques to be “unduly confusing and evasive,” and that they “have deep discomfort with the use of EITs. We understand that the CIA has detailed procedures on how these techniques are to be used and on the oversight of these techniques. However, it is one thing to describe or demonstrate a slap or grasp in our offices or hearing room, it is another for such actions to be performed against a known terrorist in a highly secret facility according to procedures drafted thousands of miles away. There have been abuses in this

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program in the past, albeit before the current framework was put in place. There could be abuses in the future. Such abuses, to us, constitute torture in those instances."¹⁵²

The Program is Restarted—and Criticism Mounts

(TS/[REDACTED]NF) On 20 July 2007, President Bush signed Executive Order 13440, giving the Agency the legal authority to restart the RDI program. The Agency ultimately decided to use only six EITs henceforth, certified as legal by the Department of Justice: sleep deprivation, dietary manipulation, attention grasp, facial hold, facial slap, and abdominal slap.¹⁵³

(TS/[REDACTED]NF) The HPSCI met on the Executive Order four days later, and it was a contentious and difficult meeting for the Agency's briefers, C/CTC [REDACTED] and [REDACTED]. [REDACTED] OCA's summary of the session conveys the atmosphere: "This briefing...went as well as could be expected given the strong personal views of some members concerning RDI, and the fact that the topic evokes rhetorical and emotional reactions among Members." The Agency briefers "did a very good job of responding to Member questions (which were often repeated several times) and remaining focused in spite of the occasional sarcastic and hostile tenor of some of those questions."¹⁵⁴

(TS/[REDACTED]NF) Members asked about the legal underpinning of the Executive Order; implementation of guidelines; oversight and accountability; application of EITs and the approval process; whether previous, discontinued EITs were deemed unlawful; the value of the program; use of contract personnel; conformity with Geneva Convention Common Article 3; the impact of public disclosure of program details; and ICRC access to detention facilities.¹⁵⁵

(TS/[REDACTED]NF) The OCA note taker wrote that a comment by Representative Holt was illustrative of the strong views held by some members: "In your case, the Geneva Convention doesn't apply. We put our soldiers at risk and have ruined the reputation of the United States in the eyes of the world. We disappear people. We use torture and there is a risk posed to our national security. It's unfathomable. Just think where...you have taken this country. I weep."¹⁵⁶

(TS/[REDACTED]NF) The SSCI held its meeting on the new Executive Order on 2 August, and [REDACTED] and [REDACTED] again represented the Agency, while Steven Bradbury from DoJ also attended. The Committee also asked to be briefed on the recent capture of a HVD, Mohammad Rahim. Chairman Rockefeller began the session by posing several questions, including, "Should the US be comfortable with allowing other countries to use similar such tough techniques on US citizens in detention? If these techniques are lawful, why should no police use them, for example against an abductor of children? What is the approval process for the use of the techniques?"¹⁵⁷

(TS/[REDACTED]NF) In his opening statement, [REDACTED] spelled out the guidelines for the program:

- All program personnel must be screened by the Office of Medical Services Psychology Staff to ensure suitability.

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- Interrogators are required to complete 280 hours of training.
- Senior officers at the detention site and at Headquarters must monitor officers' compliance with all guidelines.
- The team concept will be used in interrogations, meaning there are number of officers involved in the planning, conduct, and monitoring of interrogations.
- Medical and psychological professionals are present to ensure the safety and health of detainees; they have the authority to terminate any session or technique if there are medical or psychological contraindications to continuation.
- Program management is required to conduct internal reviews and to keep detailed records, including on the physical and mental health of detainees.¹⁵⁸

(TS/ [REDACTED] NF) [REDACTED] then outlined the approval process for the use of EITs:

- Every detainee must be given the opportunity to answer questions in a neutral, non-threatening environment.
- Only if the detainee declines to answer, or provides false answers, may the interrogation team develop an interrogation plan that is tailored to the specific detainee.
- The plan must be reviewed by C/CTC, D/NCS, and the General Counsel.
- The DCIA must approve the use of the plan. In approving the plan's implementation, the Director must find that the detainee is believed to possess information about terrorist threats to the US or its interests, or that would assist in locating Usama bin Ladin or Ayman al-Zawahiri.¹⁵⁹

(TS/ [REDACTED] NF) Committee members asked many questions, some of them phrased skeptically, about the legal authorities and the EITs, but there apparently was not the outpouring of emotional opposition to the program that occurred in the HPSCI meeting. With regard to new HVD Mohammad Rahim, [REDACTED] said the Agency had taken custody of him on [REDACTED] July from [REDACTED]. After the Executive Order was issued and the Director had prepared the guidelines summarized above, the interrogation team proposed a plan using all six EITs, which the Director approved. Nevertheless, Rahim continued to resist cooperating, according to [REDACTED].¹⁶⁰

Destruction of Interrogation Tapes Blows Up into a Full-Fledged Storm

(U) The *New York Times* published an article on 7 December 2007 revealing that the Agency in 2005 had destroyed videotapes of interrogation sessions, which raised "questions about whether agency officials withheld information from Congress, the courts and the Sept. 11 commission about aspects of the program," according to the *Times*.¹⁶¹ The article implied that, had the tapes been made available to the

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public or to oversight bodies, they would have created an outcry against the “severe” and “harsh” interrogation methods used.

(TS) Three days before its publication, HPSCI Staff [REDACTED] and [REDACTED] [REDACTED] who had been contacted by the author of the article, spoke with OCA about it. [REDACTED] said Chairman Reyes was aware of the forthcoming article and that the Committee did not “want to see a [CIA] response which includes a ‘the committees were briefed’ statement.” They said such a statement would cause the members to say they were not briefed. [REDACTED] also said that a “no comment” response would make it difficult for the Committee. He urged the Agency to confirm the fact that the tapes existed and to say they were destroyed to because of the risk posed to Agency officers on the tapes.¹⁶²

(U) In a statement to the Agency workforce on 6 December that was also made public, Director Hayden anticipated that the forthcoming *New York Times* article would create a sensation and provided general background on the interrogation program. He said that the tapes were destroyed “only after it was determined they were no longer of intelligence value and not relevant to any internal, legislative, or judicial inquiries” and that “the leaders of our oversight committees in Congress were informed of the videos years ago and of the Agency’s intention to dispose of the material. Our oversight committees also have been told that the videos were, in fact, destroyed.” He went on to state that, “Were they ever to leak, they would permit identification of your CIA colleagues who had served in the program, exposing them and their families to retaliation from al-Qa’ida and its sympathizers.”¹⁶³

(U) The very next day, Chairman Reyes and Ranking Member Hoekstra wrote to the DCIA protesting the contents of his statement. “The implication of this statement is that Congress was fully informed as to the practice of videotaping interrogations and notified ‘years ago’ as to the destruction of the videotapes. Based upon available records and our best recollection, this simply is not true. This Committee was not informed of the decision to destroy these videotapes until earlier this year. The notification came in the form of an offhand comment you made in response to a question during a briefing on March 14, 2007. The destruction was briefly mentioned again in a letter to one Member of this Committee dated April 19, 2007. We do not consider this to be sufficient notification. Moreover, these brief mentions were certainly not contemporaneous with the decision to destroy the videotapes.”¹⁶⁴

(U) On 10 December, Congressman Hoekstra followed up with another letter to the Director: “Last Friday, Chairman Reyes and I wrote to you to urge you to publicly correct statements made to the CIA workforce and to the public that the congressional Intelligence Committees were informed that the CIA had destroyed videotapes made during detainee interrogations. It is completely unacceptable that you not only have not yet publicly corrected that statement, but that your spokesman continues to incorrectly assert to the news media that the Committees were informed. Let me reiterate this unambiguously—as Chairman of the Committee in 2005, I was never specifically informed of either the existence of these tapes or that they had been destroyed over the objections of Committee leaders who had previously been briefed with respect to the tapes.”¹⁶⁵

(TS) [REDACTED] (NF) Also on December 10, SSCI Chairman Rockefeller and Vice Chairman Bond wrote to the Director and asked him to appear the next day before the Committee. “Specifically, we wish

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to know the number of recordings made of each detainee; when these recordings were made and why; when the recordings were destroyed and why; and when both the creation and destruction of these recordings was briefed to Congress."¹⁶⁶ Chairman Rockefeller opened the session on the 11th by chastising the DCIA for presuming to say in his statement to the workforce that the tapes were not relevant to any SSCI investigations. He followed this by asking if the tapes were destroyed for reasons of legality or public opinion and said the episode was yet another reason why the entire SSCI must be briefed on sensitive CIA programs in advance.¹⁶⁷

(TS [REDACTED] NF) The Director then briefed the Committee on the history of the tapes, including why they were created, their review by OGC and the IG, and when and why they were destroyed. His talking points for the briefing included mention that OGC reviewed the Abu Zubaydah tapes and found that the cable traffic accurately described the interrogation methods employed and that these methods conformed to the applicable legal and policy standards. The talking points also noted, however, that the OIG reviewed the same tapes and found that the waterboard technique was different from the technique in the DoJ opinion approving its use. The OIG's review recommended that CIA revisit the waterboard technique with DoJ to ensure it understood how it was applied and to obtain a new legal opinion, which it did. In the question and answer period that followed, the Director noted that then Chairman Roberts, [REDACTED] and [REDACTED] attended the briefing at which Agency leaders informed them of the existence of the interrogation tapes and of their intention to destroy the tapes. Director Hayden stated that Agency records indicated that [REDACTED] committed to informing then Vice Chairman Rockefeller about the matter.¹⁶⁸

(TS [REDACTED] NF) More than 40 questions and comments were asked and made by Committee members in the 75-minute meeting. Senator Rockefeller began by saying it was his "strong desire" for the SSCI to have every email, every cable, every legal opinion, and all other material the Director referenced in his remarks. Rockefeller then asked if, during the 16 November 2006 hearing, the DCIA and [REDACTED] had known about the tapes and their destruction when they were asked about videotaping detainees. The Director replied that he had been only generally aware of them, and that in any event he and [REDACTED] had been talking about the future of the program, not its past. Senator Whitehouse asked if there were any plans to discipline those involved in the destruction of the tapes (answer: DoJ and OIG were reviewing the matter). The Senator then asked if the leaked photos from Abu Ghraib had started the effort to destroy the tapes. (No, the effort had started before.) Senator Bayh suggested that the tapes contained embarrassing information, which, even if not unlawful, could make the NCS look bad, and that's why they were destroyed.¹⁶⁹

(TS [REDACTED] NF) In response to a question from Senator Whitehouse about the difference between the written summary of the tapes and the tapes themselves, the DCIA said, "These operational cables are something that we do not normally volunteer, certainly, share with the Committee. We have already decided in this case that that would be something. And the logic goes something like this. One of the reasons that we said we could destroy the tapes was that you all hadn't asked for them. That implies if you all had asked for them we would have given them to you. The tapes don't exist. We think these are a more than adequate representation of the tapes and therefore, if you want them, we'll give you access to them."¹⁷⁰ The Committee followed up by requesting a lengthy list of documents in a letter to Director

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Hayden dated 19 December 2007. At the top of the list was "all operational cables describing the videotaped interrogation sessions."¹⁷¹

(TS [REDACTED] NF) The reception the Director received the next day, 12 December, at a HPSCI briefing was, if anything, even more contentious than the SSCI briefing had been a day earlier. The meeting lasted more than three hours and members asked questions or commented more than 100 times. Chairman Reyes opened the briefing by stating he was very troubled by the destruction of the tapes and that the Committee would conduct a full investigation. Ranking minority member Hoekstra then again complained that as Chairman of HPSCI in 2005, he had never been informed about the existence or the destruction of the tapes, and he said he was upset that the Director's statement to the workforce on 6 December implied otherwise. Several other members also took issue with the Director's statement, saying it put HPSCI members on the spot. A comment by Congressman Rogers seemed to sum up the attitude of most members: "This entire episode does not add up, too many inconsistencies, the Committee was misled, and it's impossible for HPSCI members to defend the CIA if HPSCI is not getting the truth." The Director once again had to point out that his comments about videotaping in an earlier session had been directed at the future of the program, not its past.¹⁷²

(TS [REDACTED] NF) At a follow-on hearing on 16 January 2008 to hear testimony from Acting General Counsel John Rizzo, Ranking Member Hoekstra, in his opening statement, said that the documents the Committee had reviewed to date portray CIA as out of control and not accountable to elected and appointed officials. Soon thereafter, Representative Tierney asked the Chairman to have all Agency officers in the room identify themselves by name and position. After that was done, Tierney introduced a motion to have all Agency officers except Rizzo removed from the room; it passed with bipartisan support. After the session, during which Rizzo was grilled about the destruction of the tapes, Representative Ruppertsberger said he had never seen anything like Tierney's motion before, and that he was surprised to see the two parties unite as they did to clear the room, "expressing some amazement at the bipartisan nature of the opposition to CIA."¹⁷³

(C) Once this round of hearings on the destruction of tapes had been completed, a lull in briefings ensued as the oversight committees turned their focus on the acquisition and exploitation of documents in support of the investigations they had launched into the tapes affair. Director Hayden briefly mentioned the RDI program in his public Annual Threat Assessment testimony before the SSCI on 4 February 2008. In it, he said that "in the life of the CIA detention program we've detained fewer than a hundred people. Of the people detained, fewer than a third have had any of what we call the enhanced interrogation techniques used against them. Let me make it very clear and to state so officially in front of this Committee that waterboarding has been used on only three detainees. It was used on Khalid Sheikh Mohammed, it was used on Abu Zubaydah, and it was used on Nashiri. The CIA has not used waterboarding for almost five years. We used it against these three high-value detainees because of the circumstances of the time. Very critical to those circumstances was the belief that additional catastrophic attacks against the home were imminent. In addition to that, my Agency and our Community writ large had limited knowledge about al-Qa'ida and its workings."¹⁷⁴

(TS [REDACTED] NF) OCA records indicate that there were no further briefings or hearings on the program until the SSCI met on 10 June 2008 to hear testimony on the DoJ opinions legalizing the RDI

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effort. [REDACTED] CTC Legal [REDACTED] attended for the Agency and Steven Bradbury for DoJ. Senators Rockefeller, Feinstein, Feingold, Nelson, Wyden, Snowe, and Whitehouse all made comments that were highly critical of the program and the OLC opinions that supported it. Senator Rockefeller began the session by saying that he was upset that congressional intent in opposing CIA's interrogation program was not factored into OLC opinions on the program. Even though Congress did not enact into law any prohibitions against the program, he said congressional intent was clearly opposed. He asked, "Is it irrelevant that majorities in both houses of Congress oppose CIA techniques?"¹⁷⁵

(TS [REDACTED] NF) Members turned to [REDACTED] for factual information about the interrogation techniques and CIA's interactions with OLC. Senator Rockefeller asked [REDACTED] to describe sleep deprivation techniques, noting that the public would be revolted by the techniques. [REDACTED] explained the techniques and discussed the limits on the duration of the deprivation and procedures for asking permission to extend the period of deprivation. Senator Bond asked [REDACTED] if any detainees had suffered lasting effects from the EITs, and [REDACTED] replied that none had. Senator Snowe asked how it was determined to use techniques outside of those allowed in the Army Field Manual, and [REDACTED] responded that CIA first uses non-coercive techniques to elicit information and that out of a total of 98 detainees only 30 have undergone enhanced interrogation techniques. Senator Rockefeller asked if the Agency had ever had an independent analysis done of its interrogation techniques, to which [REDACTED] replied that the sensitivity of the program prevented the use of an outside organization to do such an analysis. Senator Feingold asked [REDACTED] for a copy of the psychological assessment of HVD Rahim, and Senator Feinstein asked about the credentials of the psychologists involved in the interrogations. [REDACTED] said he would take those questions back to Headquarters.¹⁷⁶

Tension over Access to Documents Mounts

(TS [REDACTED] NF) It was not long before the oversight committees began to express disappointment with the Agency's responsiveness to their document requests on the destruction of the tapes. On 5 February 2008, HPSCI staffers [REDACTED] and [REDACTED] visited Headquarters to view a summary of operations cables describing the interrogations of Abu Zubaydah and al-Nashiri. The OCA summary of the visit, prepared by [REDACTED] reflects the growing unhappiness: "[REDACTED] indicated to me right off that he was insulted that we believed the document would be sufficient or 'anywhere near sufficient' to answer HPSCI concerns and that we had wasted his and [REDACTED] time by forcing them to come out to our building to read two pages. He also challenged the premise that the sensitivity of the information dictated it could not be sent to committee spaces.... He then highlighted that HPSCI's requests for information were over 60 days old and accused me personally and the CIA of slow-rolling the HPSCI's investigation and withholding relevant documents from the committee." In particular [REDACTED] stated HPSCI should be allowed to see any document that would cast light on potential motives for the destruction of the tapes, such as the operational cables describing the interrogations.¹⁷⁷

(TS [REDACTED] NF) Similarly, SSCI staffers focused on the operations cables, access to which they believed Director Hayden had promised the Committee. On a 6 February 2008 visit to Headquarters, SSCI staff member [REDACTED] pushed for access to the cables and the raw intelligence from

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[REDACTED] claiming they were central to the SSCI's investigation because the Committee would be unable to assess the appropriateness of their destruction without knowing what was on the tapes. Like [REDACTED] rejected any summary of the cables as inadequate for the Committee's needs.¹⁷⁸

(TS/ [REDACTED] /NF) Senators Rockefeller and Bond wrote to Director Hayden in April to complain about the Agency's lack of responsiveness. "Although we have received some documents from the CIA, there are a number of documents that we still have not received. In particular, although we requested the daily operational cables describing the videotaped interrogation sessions in our letter of December 14, 2007, [sic] those have not yet been provided. Instead, Agency personnel have expressed reluctance to provide these operational cables to the Committee." The Senators reminded the Director of the commitment he made to provide those cables in his briefing to the Committee on 11 December 2007. The Senators then went on to complain that "Many of the documents that were provided to the Committee redact information relevant to understanding what was portrayed on the tapes, who was involved in the deliberation about the tapes, the purpose of videotaping and destroying the tapes, and the impact of the destruction of the tapes."¹⁷⁹

(U) Chairman Rockefeller wrote again to Director Hayden on 29 October 2008 to strongly criticize the Agency for its lack of responsiveness to questions for record from the 10 June hearing on OLC opinions and to earlier questions posed by the Committee. The letter is worth quoting at length because it exemplifies the strains that had developed between the Agency and the oversight committees by the end of 2008:

(U) On September 8, 2008, the Committee sent you questions for the record from that June 10, 2008 hearing, incorporating questions submitted by five Committee members. The September 8th letter also requested CIA documents that formed the factual basis for OLC's legal opinions. Those documents had previously been requested in May 2007, in questions submitted to the CIA after an April 12, 2007 hearing on the interrogation program. The documents were again requested in a June 5, 2008 letter from the Committee.... Despite numerous verbal requests from Committee staff, these documents still have not been provided to the Committee.

On October 21, 2008, the Committee received a letter from the CIA's Director of the Office of Congressional Affairs, dated October 17, 2008, in response to the Committee's September 8, 2008 letter. Rather than responding to the questions that the Committee had submitted for response or providing any of the documents requested, the Office of Congressional Affairs essentially refused to provide the information requested by the Committee.

The letter stated that the CIA had kept the Committee informed about the detention and interrogation program from its inception, that you had personally appeared before the Committee to brief the program, and that the CIA had already provided documents on the program....

The CIA's refusal to respond to hearing questions for the record is unprecedented and is simply unacceptable. The CIA's year and a half delay in providing the documents requested by the Committee in May 2007 shows blatant disregard for congressional oversight of the CIA's detention and interrogation program....

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Moreover, the suggestion included in the letter by your Director of the Office of Congressional Affairs that this program has been briefed to the Committee's satisfaction throughout the program's history is inconsistent with the facts. The CIA witness was unable to provide details about the program on a number of issues at the June 10, 2008 hearing, and five Members of the Committee had additional questions that were not answered at the hearing. Despite multiple requests from the Committee, you have not personally appeared to testify at a Committee hearing concerning the operation of the CIA's interrogation and detention [program] since April 12, 2007. Furthermore, the Committee through the staff has repeatedly sought access to a variety of information and documents—including CIA's assessments of the efficacy of the interrogation techniques used in the program—without success. Finally, despite the significant interest of the full Committee in having access to all aspects of the program, the full Committee was not briefed on the interrogation components of the program until September 6, 2006, more than four years after the program's inception and the same day that the Administration chose to publicly disclose the existence of CIA's interrogation and detention program.

The Committee has an important role in overseeing the activities of the CIA, most of which are kept out of the public view and cannot be subject to full debate: As you have pointed out, this oversight role is also critical to public trust in the CIA. When CIA is not responsive to the Committee's requests for information or refuses to provide complete information, such actions undermine congressional, and ultimately public, trust in the CIA's activities.¹⁸⁰

(U) That same day, 29 October 2008, Chairman Rockefeller and Vice Chairman Bond wrote to Director Hayden to remind him of another request for documentation that had gone unanswered. "Although the Senate Select Committee on Intelligence has repeatedly requested documents concerning consultation and discussion about CIA's detention and interrogation program, the CIA has never provided the Committee with written policy approval from the White House or the National Security Council for the CIA's program."¹⁸¹

(U) The following day, Senator Feinstein also sent a short, but pointed, letter of complaint to the DCIA. "On September 18, 2008, I wrote to you with a number of specific questions about the CIA detention and interrogation program. I want you to know that I found the October 17, 2008 reply, from Christopher J. Walker to me, appalling. I will certainly have more to say about this next year."¹⁸² Feinstein's letter of 18 September had contained a lengthy list of questions about what steps were taken to hold individuals accountable for abuses in the program.¹⁸³

(S//NF) OCA's response sought to assure the Senator that all of the cases she cited in her letter had been or were being investigated by the OIG, but it gave no specific responses to her questions. Instead, it used language that was very similar to that which had annoyed Senator Rockefeller in his lengthy letter to the Director on 29 October, quoted above: "As you know, CIA has kept the Senate Select Committee on Intelligence (SSCI) informed about the RDI program from its inception, first through briefings to the leadership and staff directors and later the full committee and almost all staff. The DCIA has personally appeared before the Committee regarding the program multiple times, and Committee Members and staff have been briefed by CIA counterterrorism experts, Office of General Counsel attorneys, Office of Inspector General personnel who have investigated the program, and contractors involved in the program. CIA has responded to numerous written requests for information from SSCI on this topic. Over the

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course of the past six years, CIA has provided 16 written notifications and responded in writing to more than 100 written questions from the SSCI regarding the details and legality of each interrogation technique authorized in the CIA program."¹⁸⁴

(U) OCA records indicate that there were no additional hearings with the oversight committees on RDI in 2008.

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End Notes

¹ "CIA Rendition and Detainee Program," 14 March 2007, (~~TS~~ [REDACTED] ~~NF~~ [REDACTED]), DCI Job 10M01815R, box 9, folder 260. Rendition is defined as the involuntary transport of a person from one country to another outside of an extradition or immigration removal/deportation process.

² George W. Bush, *Decision Point* (New York: Crown Publishers, 2010), p. 139.

³ *Ibid.*, p. 154.

⁴ Andrew Greeley, "We're no safe now than we were Sept. 10," *Chicago Sun Times*, 22 March 2002; Melinda Henneberger, "U.S. Issues Warning on Possible Easter Attack for 4 Italian Cities," *New York Times*, 28 March 2002; p. A7; Thomas Friedman, "No Mere Terrorist," *New York Times*, 24 March 2002; Peter Ford, "Legal war on terror lacks weapons," *Christian Science Monitor*, 27 March 2002, p. 8.

⁵ Bush, p. 168.

⁶ *Ibid.*

⁷ George Tenet with Bill Harlow, *At the Center of the Storm: My Years at the CIA* (New York: HarperCollins, 2007), p. 145.

⁸ *Ibid.*, p. 240

⁹ "Getting Abu Zubaydah to Talk," 29 March 2002, 1630 Hours (~~TS~~ [REDACTED] ~~NF~~ [REDACTED]), History Staff Job 09-02619R, box 1, folder 4.

¹⁰ *Ibid.*

¹¹ [REDACTED] "Recognizing and Developing Countermeasures to Al Qaeda Resistance to Interrogation Techniques: A Resistance Training Perspective," undated (~~TS~~ [REDACTED] ~~NF~~ [REDACTED]), CIA Automatic Declassification and Release Environment (CADRE) doc. no. C05330588.

¹² Lotus Note from [REDACTED] OGC, "Gang of 8 (15) Notification Guidelines," 16 October, 2001 (~~TS~~ [REDACTED] ~~NF~~ [REDACTED]); memo from [REDACTED] to DCI Tenet, "Expanding Congressional Notification of [REDACTED]" 1 November 2001 (~~TS~~ [REDACTED] ~~NF~~ [REDACTED]), OCA files.

¹³ D/CIA Briefing for House Appropriations Committee, 8 November 2005 (~~TS~~ [REDACTED] ~~NF~~ [REDACTED]), DCI Job 09M00111R, box 4, folder 97.

¹⁴ Note from [REDACTED] to [REDACTED] and [REDACTED] "Sensitive Matters for the SSCI Quarterly [REDACTED] Briefing," 19 November 2002, History Staff files.

¹⁵ Memorandum for the Record from [REDACTED] C/CTC [REDACTED] [REDACTED] Meeting on Detainees," 6 April 2006 (~~TS~~ [REDACTED] ~~NF~~ [REDACTED]), History Staff files.

¹⁶ OCA Memorandum for the Record C/2003-00086, 4 February 2003 (~~TS~~ [REDACTED] ~~NF~~ [REDACTED]), OCA files.

¹⁷ CSI Interview with [REDACTED] 13 October 2006 (~~TS~~ [REDACTED] ~~NF~~ [REDACTED]), History Staff files.

¹⁸ Stanley Moskowitz, "CIA-led Terrorist Renditions Since 11 September 2001," background paper sent to various members of Congress and congressional staffers, 11 March 2002 (~~TS~~ [REDACTED] ~~NF~~ [REDACTED]).

¹⁹ Jose A. Rodriguez, Jr. with Bill Harlow, *Hard Measures: How Aggressive CIA Actions After 9/11 Saved Lives* (New York: Threshold Editions, 2012), p. 53.

²⁰ *Ibid.*

²¹ Tenet, p. 241.

²² OCA Memoranda for the Record C/2002-00469 and C/2002-00468, both dated 10 April 2002, OCA files. The CTC briefers were [REDACTED] and Philip Mudd.

²³ Memo from Stanley Moskowitz, "Interrogators Making Slow Progress with Abu Zubaydah," 30 May 2002, OCA files.

²⁴ Bush, p. 168.

²⁵ Rodriguez, p. 57.

²⁶ [REDACTED] interview.

²⁷ OCA Memorandum for the Record C/2007-170, 15 November 2007 (~~TS~~ [REDACTED] ~~NF~~ [REDACTED]), OCA Job 10M02127R, box 1, folder 53.

²⁸ CIA Inspector General, "Special Review: Counterterrorism Detention and Interrogation Activities (September 2001-October 2003)," 7 May 2004, p. 9. (~~TS~~ [REDACTED] ~~NF~~ [REDACTED]).

²⁹ *Ibid.*, p. 10.

³⁰ [REDACTED] interview.

- ³¹ Rodriguez, p. 61.
- ³² "Special Review," p. 13.
- ³³ Ibid., p. 14.
- ³⁴ These are summarized in *ibid.*, p. 15.
- ³⁵ [REDACTED] "Selected Chronology on Detentions and Interrogations," undated (TS/[REDACTED]/NF), DCI Job 10M00239R, box 2, folder 79. See also Director 237247, 3 May 2002 (TS), DCI Job 10M00239R, box 2, folder 79.
- ³⁶ Ibid.
- ³⁷ Ibid.
- ³⁸ Bush, p. 169. Bush also writes that "There were two that I felt went too far, even if they were legal. I directed the CIA not to use them." It is possible that one of these techniques was the mock burial originally proposed by [REDACTED] but it is not clear what the other technique might have been.
- ³⁹ CTC, "Counterterrorist Detention and Interrogation Program, Tab D, Spreadsheet of Types of Interrogation Techniques Used," 1 March 2005 (TS/[REDACTED]/NF), DCI Job 10 10M00239R, box 2, folder 80.
- ⁴⁰ Unsigned Memo, "Successes of CIA's Counterterrorism Detention and Interrogation Activities," 24 February 2004 (TS/[REDACTED]/NF), DCI Job 05M00180R, box 7, folder 148.
- ⁴¹ OCA Memorandum for the Record C/2002-01000, 7 August 2002 (TS/[REDACTED]/NF), OCA Records.
- ⁴² Alec [REDACTED] (TS), DCI Job 10M00239R, box 2, folder 79.
- ⁴³ Director [REDACTED] (TS), DCI Job 10 10M00239R, box 2, folder 79.
- ⁴⁴ Memo from Director, DCI Counterterrorist Center to Director of Central Intelligence, "Disposition of Videotapes," 20 December 2002 (S), OCA Job 10M00641R, box 3, folder 45.
- ⁴⁵ Congressional Notification, "Key al-Qa'ida Operative al-Nashiri in Custody," 20 November 2002 (TS/[REDACTED]/NF), OCA files. See also "Spreadsheet of Types of Interrogation Techniques Used" cited above.
- ⁴⁶ "EITs Used With CIA Detainees," 8 January 2007 (TS/[REDACTED]/NF), OCA Job 11M00126R, box 1, folder 7.
- ⁴⁷ Dana Priest and Barton Gellman, "U.S. Decries Abuse but Defends Interrogations; 'Stress and Duress' Tactics Used on Terrorism Suspects Held in Secret Overseas Facilities," *Washington Post*, 26 December 2002, p. A1.
- ⁴⁸ Memorandum for Director of Central Intelligence from Inspector General John Helgeson, "Particularly Serious Problems," 23 January 2003 (TS//FOUO), DCI Records, Job 04K01853R, box 8, folder 129.
- ⁴⁹ [REDACTED] "Selected Chronology."
- ⁵⁰ OCA Memorandum for the Record C/2003-00086, 4 February 2003 (TS/[REDACTED]), DCI Records, Job 05M00180R, box 7, folder 146.
- ⁵¹ Ibid.
- ⁵² Ibid.
- ⁵³ Ibid.
- ⁵⁴ Ibid.
- ⁵⁵ OCA Memorandum for the Record C/2003-00086, 4 February 2003 (TS/[REDACTED]), OCA files.
- ⁵⁶ OCA Memorandum for the Record C/2003-00087, 5 February 2003 (classification not given), OCA Job 10M02127R, box 1, folder 51.
- ⁵⁷ The use of diapers was not considered an enhanced interrogation technique. [REDACTED] may have misspoken on this occasion.
- ⁵⁸ OCA Memorandum for the Record C/2003-00087, 5 February 2003 (classification not given), OCA Job 10M02127R, box 1, folder 51.
- ⁵⁹ Letter from Representative Jane Harman to General Counsel Scott Muller, 10 February 2003 (TS), CADRE doc. no. C05588631.
- ⁶⁰ Ibid.
- ⁶¹ Letter from General Counsel Scott Muller to Representative Jane Harman, 28 February 2003 (TS), CADRE doc. no. C05588631.
- ⁶² Ibid.
- ⁶³ Scott Muller, Memorandum for the Record, "'Humane' Treatment of CIA Detainees, 12 February 2003, (TS/[REDACTED]/NF), CADRE doc. no. C05615548.
- ⁶⁴ [REDACTED] "Selected Chronology."

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- ⁶⁵ Ibid.
- ⁶⁶ Scott Muller, Memorandum for the Record, "Review of the Interrogation Program on 29 July 2003," 5 August 2003 (TS [REDACTED] NF), DCI Records, Job 10M000239R, box 1, folder 29.
- ⁶⁷ Ibid.
- ⁶⁸ Ibid.
- ⁶⁹ Scott Muller, Memorandum for the Record, "The House Permanent Select Committee on Intelligence Briefing," 3 March 2004 (TS [REDACTED] NF), DCI Job 05M00180R, box 7, folder 146.
- ⁷⁰ Ibid.
- ⁷¹ "Special Review," p. 48.
- ⁷² Ibid., p. 68.
- ⁷³ Ibid., p. 55.
- ⁷⁴ Ibid., p. 53.
- ⁷⁵ [REDACTED] 51671, [REDACTED] (S).
- ⁷⁶ Ibid.
- ⁷⁷ Ibid.
- ⁷⁸ David Johnston and Neil Lewis, "U.S. Examines Role of CIA and Employees in Iraq Deaths," *New York Times*, 6 May 2004, p. A13.
- ⁷⁹ The death at Abu Ghraib was that of Manadal al-Jamaidi, a former Iraqi military officer who died while being questioned by CIA officers on 4 November 2003. A Congressional Notification about the death was issued on 28 January 2004.
- ⁸⁰ [REDACTED]
- ⁸¹ Note from [REDACTED] CTC/Legal [REDACTED] to various recipients, "Videotapes not be destroyed," 11 May 2004 (TS), CADRE doc. no. C0558863T.
- ⁸² See, for example, Laura Sullivan, "Some in FBI balked at CIA ties," *Baltimore Sun*, 25 May 2004.
- ⁸³ Dana Priest and R. Jeffrey Smith, "Memo Offered Justification for Use of Torture," *Washington Post*, 8 June 2004, p. A1.
- ⁸⁴ Dana Priest, "CIA Puts Harsh Tactics on Hold," *Washington Post*, 27 June 2004, p. A1.
- ⁸⁵ John Moseman, Memorandum for the Record, "[REDACTED] Weekly Meeting," 23 June 2004 (TS), DCI Records, Job 06K002294R, box 3, folder 5.
- ⁸⁶ Ibid.
- ⁸⁷ "Briefing for [REDACTED] CIA Renditions, Detention, and Interrogation Programs," 2 May 2006 (TS [REDACTED] NF), History Staff files.
- ⁸⁸ "EITs Used With CIA Detainees," 8 January 2007 (TS [REDACTED] NF), OCA Job 11M00126R, box 1, folder 7.
- ⁸⁹ John Helgerson, Memorandum for the Record, "IG Meeting with SSCI Chairman and Vice Chairman," 24 November 2003 (S), History Staff files.
- ⁹⁰ OCA Memorandum for the Record, C/2004-00730, 13 July 2004, (TS [REDACTED] NF), OCA Job 10M02127R, box 1, folder 70.
- ⁹¹ Ibid.
- ⁹² Ibid.
- ⁹³ Ibid.
- ⁹⁴ Ibid.
- ⁹⁵ Ibid.
- ⁹⁶ Ibid.
- ⁹⁷ Memorandum for the Record, 15 July 2004, CADRE doc. no. C05515386.
- ⁹⁸ Note from John Helgerson to DCI/OIG/Interrogations, "Discussions on the Hill," 16 July 2004 (TS [REDACTED] NF), CADRE doc. no. C05515670.
- ⁹⁹ Note from John Helgerson to Patrick Murray, "IG Briefings of SSCI & VP)," 11 March 2005 (U/A/IOU), CADRE doc. no. C05515669.
- ¹⁰⁰ Letter from Senator John D. Rockefeller IV to DCI Porter Goss, 8 September 2005 (U); letter from D/OCA Joe Wippl to Senator John D. Rockefeller, 23 May 2005, OCA files. To date, no response from Goss has been found in CIA records. (U)

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- ¹⁰¹ Dana Priest, "Democrats Seek Probes on CIA," *Washington Post*, 2 March 2005, p. A7.
- ¹⁰² David Morgan, Reuters, "Senate Intelligence Chief Denies CIA Tortured," *Boston Globe.com*, 10 March 2005.
- ¹⁰³ Dana Priest, "Senate Urged to Probe CIA Practices," *Washington Post*, 22 April 2005, p. A2.
- ¹⁰⁴ Alexander Bolton, "Frist, Reid Intervene in Intel row," *The Hill*, 10 May 2005.
- ¹⁰⁵ OCA Memorandum for the Record, 4 April 2005, C/2005-00277 (TS), CADRE doc. no. C05527221.
- ¹⁰⁶ "Congressional Committee Briefing: CIA Rendition, Detention, and Interrogation Programs," February 2005 (TS: [REDACTED] NF), DCI Job 10M00239R, box 3, folder 92.
- ¹⁰⁷ Ibid.
- ¹⁰⁸ Jeffrey H. Smith, "Central Torture Agency?," *Washington Post*, 9 November 2005, p. A31.
- ¹⁰⁹ "Fully Briefed Regarding Interrogation Techniques," CADRE doc. no. C05515386. Records about these briefings have not been located.
- ¹¹⁰ [REDACTED] Memorandum for the Record, "Briefing for HPSCI Chairman Hoekstra, 8 November 2005," (TS: [REDACTED] NF), OCA Job 10M02127R, box 1, folder 53.
- ¹¹¹ Congressional Notification, "Suspending Use of Interrogation Techniques at CIA Detention Facilities," undated (TS: [REDACTED]), DCI Job 10M00239R, box 2, folder 79.
- ¹¹² OCA Memorandum for the Record, 15 March 2006, C/2006-00286, (TS: [REDACTED] NF) OCA Job 10M02127R, box 1, folder 53.
- ¹¹³ Ibid.
- ¹¹⁴ [REDACTED]
- ¹¹⁵ Ibid.
- ¹¹⁶ [REDACTED] Talking Points, "Update on High-Value Detainee Endgame: [REDACTED] Joint Plan for Approach to [REDACTED]" 26 May 2005, (TS: [REDACTED] NF), DCIA Job 10M00239R, box 2, folder 72.
- ¹¹⁷ [REDACTED]
- ¹¹⁸ [REDACTED] "Detainee Endgame," 28 October 2005, (TS: [REDACTED] NF), DCIA Job 10M00239R, box 2, folder 81.
- ¹¹⁹ OCA Memorandum for the Record, 7 June 2006, C/2006-00627, (TS: [REDACTED] NF), CADRE doc. no. C05520876.
- ¹²⁰ OCA Memorandum for the Record, 8 June 2006, C/2006-00633, (TS: [REDACTED] NF), CADRE doc. no. C05520877.
- ¹²¹ Bush, p. 178.
- ¹²² OCA Memorandum for the Record, 11 July 2006, C/2006-00718, (TS: [REDACTED] NF), OCA Job 11M00126R, box 2, folder 130.
- ¹²³ Ibid.
- ¹²⁴ Ibid.
- ¹²⁵ Bush, p. 178.
- ¹²⁶ OCA Memorandum for the Record, 6 September 2006, C/2006-00932, (TS: [REDACTED] NF), located in History Staff files.
- ¹²⁷ OCA Memorandum for the Record, 6 September 2006, C/2006-00968, (TS: [REDACTED] NF), located in History Staff files.
- ¹²⁸ OCA Memorandum for the Record, 6 September 2006, C/2006-00910, (TS: [REDACTED] NF), located in History Staff files.
- ¹²⁹ OCA Memorandum for the Record, 6 September 2006, C/2006-00499, (TS: [REDACTED] NF), located in History Staff files.
- ¹³⁰ Note from [REDACTED] to [REDACTED] Briefing for Senator John S. McCain (R-AZ), 11 September 2006, (TS: [REDACTED] NF), OCA Job 11M00126R, box 2, folder 139.
- ¹³¹ OCA Memorandum for the Record, 16 November 2006, C/2006-01100, (TS: [REDACTED] NF), CADRE doc. no. C05520880.
- ¹³² Ibid.

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- ¹³³ Transcript excerpts, SSCI Briefing on the CIA's Interrogation and Rendition Program, 16 November 2006, (S/NF), CADRE doc. no. C05588628.
- ¹³⁴ Ibid.
- ¹³⁵ OCA Memorandum for the Record, 16 November 2006, C/2006-01198, (TS/[REDACTED]/NF), CADRE doc. no. C05520958; note from [REDACTED] OCA, to [REDACTED] C/CTC, Videotaping an Issue w/oversight as early as 2003, 3 December 2007, (TS/[REDACTED]/NF), CADRE doc. no. C05595519.
- ¹³⁶ OCA Memorandum for the Record, 19 December 2006, C/2006-01201, (TS/[REDACTED]/NF), CADRE doc. no. C05515437.
- ¹³⁷ DCIA Testimony on Destruction of Abu Zubaydah Videotapes, undated, (TS/[REDACTED]/NF), CADRE doc. no. C05588612.
- ¹³⁸ OCA Memorandum for the Record, 14 March 2007, C/2007-00290, (TS/[REDACTED]/NF), OCA Job 10M02172R, box 1, folder 57.
- ¹³⁹ Ibid.
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- ¹⁸³ Letter from Senator Feinstein to DCIA Hayden, 18 September 2008, (~~TS~~ [REDACTED] ~~/NF~~), History Staff files.
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