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The Director of Central Intelligence

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Washington, D.C. 20505

4 June 2004

MEMORANDUM FOR: The National Security Advisor

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SUBJECT: ~~(TS)~~ [redacted] Review of CIA Interrogation Program

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1. ~~(TS)~~ [redacted] Action Requested. This memorandum requests that at the earliest opportunity the National Security Council Principals and the Attorney General in particular affirm, on behalf of the Administration, its continuing legal and policy support for the Central Intelligence Agency (CIA) to employ, pursuant to [redacted]

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[redacted] "stress and duress" interrogation techniques as part of its interrogation program of High Value Detainees (HVD).

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2. ~~(TS)~~ [redacted] To date, as reflected in contemporaneous documentation, CIA has relied in good faith on the understanding that the Department of Justice had concluded that properly authorized and conducted interrogations utilizing the techniques authorized for Abu Zubaydah could be applied to others consistent with the "shock the conscience" standards of the Fifth Amendment to the Constitution. In the past week however, we have been informed by the Department of Justice that it has not completed its legal analysis of that issue and that all it is prepared to say at this point is that the requirements of the Constitution do not apply to aliens overseas. This position raises serious questions about the appropriateness of utilizing the Attorney General approved interrogation techniques in future cases. In addition, it raises serious questions about the continued validity of the Administration's previous public statements including, in particular, the 25 June 2003 statement made on behalf of the Administration by Department of Defense General Counsel William J. Haynes III to Senator Patrick Leahy to the effect that it is "United States policy to treat all detainees and conduct all interrogations, wherever they may

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occur, in a manner consistent with [the US] commitment" to "prevent the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States." (Emphasis added).

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3. ~~(TS)~~ [REDACTED] Background. As you know, beginning in September 2002 the Justice Department authorized CIA in its discretion, to employ on selected HVDs what have been termed "stress and duress" techniques, including sleep deprivation, stress positions, and physical contact such as facial and abdominal slaps and the waterboard, which, for the purposes of brevity, this memo will hereafter refer to as the "Program." In carrying out the Program, CIA has reserved use of these and other such similar techniques to elicit ongoing threat information from the most hardcore, senior terrorist figures that have been captured--men such as Khalid Sheik Muhammad, Abu Zubaydeh, and Hambali. From the outset, the policy to employ these techniques against terrorist HVD has been reviewed and endorsed by senior Administration policymakers; in August 2002, the Vice President, the Counsel to the President, the Attorney General and you were briefed and approved CIA going forward with the Program, and in meetings convened in July and September of last year the members of the Principals Committee were briefed on the Program by the Agency and endorsed its continuation. In addition, key members of Congress have been briefed from the beginning--CIA informed the leadership of the Congressional Intelligence Committees of the existence and nature of the Program when it commenced in late 2002, in early 2003 when members of the leadership changed, and again in September 2003.

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4. ~~(TS)~~ [REDACTED] Reason for Seeking Principals' Review. I continue to believe that we can maintain the secrecy and compartmentation of our program. That said, it is obvious that the recent public revelations of mistreatment of Iraqi detainees at Abu Gharab prison have generated intense scrutiny in the Congress and the media about the legal and policy standards the Administration has followed with respect to detainees it has held in Iraq growing out of the war and its aftermath. Perhaps inevitably, this focus is now expanding beyond detainees in Iraq to those detainees being held by the US elsewhere as part of its continuing worldwide counterterrorist efforts. In Congress, the intelligence committees have signaled their intention to review all existing Administration policies and practices in its

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treatment of detainees worldwide; indeed, Senator Leahy sent a letter to me some months ago seeking Administration clarification on this very issue that has to be responded to, and more such letters are sure to come now. Moreover, as you are well aware, in the wake of the Abu Gharaib revelations, the International Committee of the Red Cross (ICRC) is pressing for an Administration response to two letters it sent earlier this year asking specific and pointed questions about the treatment accorded particular detainees to whom the ICRC has not been granted access--including KSM and other HVDS who remain in CIA custody and who have been interrogated under the Program. At the same time, [redacted]

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[redacted] the media (beginning with [redacted] has

begun to [redacted] report on the Administration's interrogation practices outside of the Iraq arena, to include [redacted] aspects of the Program.

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5. ~~(TS)~~ [redacted] Finally, I am concerned because in recent days the Office of Legal Counsel (OLC) of the Department of Justice has equivocated on one of the bedrock legal principles we understood to have been established up to now-- that the Program is not at odds with the Administration's policy, stated in a letter to Senator Leahy last year as well as in White House public statements, that it is US policy to "treat all detainees and conduct all interrogations, wherever they may occur, in a manner consistent with the US Constitution. If the OLC is now willing only to say that the Constitution does not apply to aliens overseas, then I believe the Principals need to know that, especially since that was a key part of the Program briefing the Principals were given last year.

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6. ~~(TS)~~ [redacted] Given all of this increased scrutiny now upon us in the wake of the recent revelations about treatment of prisoners in Iraq and all of the questions the Administration is being asked, I strongly believe that the Administration needs to now review its previous legal and policy positions with respect to detainees to assure that we all speak in a united and unambiguous voice about the continued wisdom and efficacy of those positions in light of the current controversy. I believe just as strongly that I have an obligation to all of the CIA officers involved in the ongoing war against terrorism

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--including those giving their unstinting efforts towards locating, capturing, and interrogating terrorist leaders--to ensure that the activities that they are conducting continue to have the full legal and policy backing of their leaders in government. For all of these reasons, I respectfully request a Principals Meeting at the earliest opportunity to review and reaffirm the Program in all of its aspects.


George J. Tenet

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