



Mr. Robert S. Mueller, III
Director, Federal Bureau of Investigation
935 Pennsylvania Avenue, NW Washington, DC 20535

Dear Director Mueller:

We write to express our deep concern regarding a Federal Bureau of Investigation (FBI) interrogation “primer” obtained through Freedom of Information Act litigation that promotes the use of isolation in apparent violation of FBI policy and potential violation of domestic and international law. The 2011 primer, entitled, “Cross Cultural, Rapport-Based Interrogation,” was written by an FBI Section Chief within the counterterrorism division and encourages FBI agents to request that detainees in the custody of foreign governments or the U.S. Department of Defense be placed in isolation before, and during, interrogation.ⁱ The use of isolation in interrogation is highly controversial, contrary to FBI policy, and has potentially serious negative impacts on the physical and mental wellbeing of detainees. We urge you to immediately cease using the primer and investigate how it came to be used to instruct FBI personnel on interrogation methods, make efforts to provide remedial training for any agents that have been previously provided with the primer, and make clear that FBI policy does not permit its agents to request that detainees be placed in isolation for interrogation purposes.

The 2011 FBI interrogation primer focuses on custodial interrogations overseas, including the interrogation of detainees in the custody of foreign governments or the U.S. Department of Defense.ⁱⁱ The 2011 primer recommends that FBI agents ask the detaining authority to isolate a detainee “several days before you begin interrogation” as well as during the “multi-session, multi-day [interrogation] process.” It cites the desire to prolong the detainee’s fear—as well as protecting the safety of other detainees and preventing collusion—as central reasons for FBI agents to request a detainee’s isolation. The primer also repeatedly cites and encourages FBI interrogators to read the CIA’s 1963 KUBARK manual, a manual long disavowed and disparaged for its promotion of severe prisoner abuse, including through the use of isolation, which the KUBARK manual itself explicitly recognizes is a “coercive technique” with profound psychological effects, such as hallucinations and delusions.ⁱⁱⁱ The primer also strongly endorses the use of the “Reid Technique,” which the Supreme Court long ago criticized in *Miranda v. Arizona* as a coercive practice that produces false confessions.^{iv}

By recommending that FBI agents ask the U.S. military to isolate detainees in its custody, the FBI primer appears to be encouraging the application of Appendix M of the Army’s interrogation manual—a controversial, restricted appendix that

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allows detainee isolation only in certain circumstances not involving prisoners of war.^v The FBI primer states that in a Department of Defense facility “a formal request from the FBI must be made to isolate the detainee” and that this request “must be approved by the first O-6 in the chain of command.”^{vi} Appendix M of the military’s interrogation manual (which requires O-7 level approval) permits the use of isolation—as well as the placement of goggles, blindfolds, and earmuffs on the detainee—to “foster a feeling of futility.” Experienced interrogators and human rights groups, however, have called for Appendix M to be revoked, questioning the technique’s effectiveness and highlighting the risk that its use will lead to serious human rights abuses.^{vii}

The FBI primer’s claim that requests for detainee isolation may be justified to protect the safety of other detainees or to prevent collusion appears specious. Short term segregation may be necessary in exceptional circumstances to protect a particular detainee’s safety or the safety of other detainees, but such a security decision would appear to be best made by those running the detention facility, not by an FBI interrogator. Additionally, to prevent alleged collaborators from colluding before or during an interrogation, the detaining authorities can hold them in separate cells; there is no need to isolate them from a detention facility’s entire population. The primer’s remaining justification for requesting detainee isolation—to prolong the detainee’s fear—indicates that the purpose is to coerce the detainee into making a statement during FBI interrogation.

The use of isolation for interrogation purposes appears to violate FBI policy prohibiting coercive interrogation. The FBI’s Legal Handbook for Special Agents explicitly recognizes isolation for interrogation purposes as a form of coercion.^{viii} Moreover, during the last administration, when FBI agents appeared confused about whether or how isolation could be used for interrogation purposes, senior FBI officials clarified that it was impermissible. According to the Department of Justice Inspector General’s 2009 Report on the *FBI’s Involvement in and Observations of Detainee Interrogations in Guantanamo Bay, Afghanistan, and Iraq*, several FBI agents suggested that isolation was an appropriate technique at Guantanamo. The Inspector General report indicates that the FBI legal advisor to the Criminal Investigative Task Force told FBI law enforcement agents in Guantanamo that they were not permitted to recommend that a detainee be placed in isolation and that they should avoid even being consulted on such decisions because to do so would violate FBI policy.^{ix} FBI General Counsel Valerie Caproni also stated: “Consistent with the FBI’s long history of success in custodial interrogations, FBI policy is to employ the same non-coercive, rapport-based interview techniques when interviewing detainees encountered in military zones that we employ in every aspect of our mission, whether in the United States or abroad.” These statements and the Special Agent Handbook policy against isolation in interrogation are consistent with U.S. Supreme Court precedent identifying the use of isolation as an indicator of coercive interrogation.^x

FBI agents should not be asking foreign governments or other agencies to engage in conduct that FBI agents are prohibited from engaging in, especially when the conduct—like the use of isolation—raises serious human rights concerns and could result in violations of international and domestic law, including Common Article 3 of the Geneva Conventions and the Detainee Treatment Act. U.S. government documents and international reports confirm that isolation was a key component to many of the abusive interrogations that took place in Guantanamo, Afghanistan, and in secret CIA black sites after 9/11; in some cases, it led detainees to exhibit

behavior consistent with extreme psychological trauma.^{xi} Scientific studies demonstrate that even short-term isolation can have profound negative psychological impact, including severe anxiety, hallucinations and an inability to concentrate.^{xii} Recognition of the harmful impact of isolation on the physical and mental wellbeing of prisoners has recently led both the U.S. Senate^{xiii} and the United Nations^{xiv} to more carefully scrutinize the use of solitary confinement.

For these reasons we urge you to cease using the FBI primer, investigate how it came to be used in FBI trainings, provide remedial training for any agents who received the primer, and make clear that FBI policy does not permit its agents to request that detainees be placed in isolation for interrogation purposes.

Please contact Devon Chaffee at dchaffee@dcaclu.org or 202-675-2331 with any questions.

Sincerely,



Laura W. Murphy
Director



Devon Chaffee
Legislative Counsel

ⁱ Cultural Rapport-Based Interrogation (Version 5), Feb. 23, 2011 at 8 (see attached), obtained through Freedom of Information Act litigation brought by the American Civil Liberties Union of Northern California, the Asian Law Caucus and San Francisco Bay Guardian.

ⁱⁱ According to the primer, an earlier version of the document was published in 2010. *See Id.* at 1.

ⁱⁱⁱ KUBARK Counterintelligence and Interrogation, July 1963 available at <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB27/01-01.htm>.

^{iv} 384 U.S. 436 (1966).

^v U.S. Department of the Army, Field Manual 2-22.3 Human Intelligence Collector Operations, at par. 5-75 (Sept. 6, 2006) at M-1.

^{vi} *Supra* FN i at 8.

^{vii} David Danzig, *Changes Needed to Army Field Manual on Interrogation, Former Interrogators and Intelligence Officials Say*, Nov. 16, 2010 at <http://www.humanrightsfirst.org/2010/11/16/changes-needed-to-army-field-manual-on-interrogation-former-interrogators-and-intelligence-officials-say/>; Press Release, *PHR and Six Advocacy Organizations Call for Elimination of Dangerous Section of Army Field Manual*, Dec. 1, 2012 at <http://physiciansforhumanrights.org/press/press-releases/news-2010-12-01.html>.

^{viii} Legal Handbook for FBI Special Agents, (Aug. 8, 2003) at p. 90, available at <http://vault.fbi.gov/Legal%20Handbook%20for%20FBI%20Special%20Agents>.

^{ix} Office of the Inspector General, *A Review of the FBI's Involvement in and Observations of Detainee Interrogations in Guantanamo Bay, Afghanistan, and Iraq*, Oct. 2009 at 185.

^x *Halely v. State of Ohio*, 332 U.S. 596 (1948) (noting the “inevitable disquietude and fears police interrogations naturally engender in individuals questioned while held incommunicado.”).

^{xi} Letter from T.J. Harrington, Deputy Assistant Director FBI Counterterrorism Division, to Major General Donald J. Ryder, DOA Criminal Investigation Command, Re: Suspected Mistreatment of detainees, Document #: DOJFBI0014-DOJFBI001916; Date of Record: 2004-07-14, available at <http://www.aclu.org/projects/foia-search/pdf/DOJFBI001914.pdf>; International Committee of the Red Cross, *Report on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons by the Geneva Conventions in Iraq During Arrest, Internment, and Interrogation* 12, 2004 at para. 25.

^{xii} *See i.e.* Physicians for Human Rights and Human Rights First, *Leave No Marks: Enhanced Interrogation Techniques and the Risk of Criminality*, 2007 at 31; *Educating Information: Interrogation: Science and Art*; Intelligence Science Board. Washington, DC: National Defense Intelligence College Press, 2006 at 138.

^{xiii} Valerie E. Caproni, statement before the Senate Committee on the Judiciary, Washington, DC, June 10, 2008 available at <http://www.fbi.gov/news/testimony/coercive-interrogation-techniques-do-they-work-are-they-reliable-and-what-did-the-fbi-know-about-them>.

^{xiv} Juan Mendez, Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, U.N. Doc. A/66/268, Aug. 5, 2011. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/445/70/PDF/N1144570.pdf?OpenElement>; “Reassessing Solitary Confinement: The Human Rights, Fiscal and Public Safety Consequences,” Hearing before the Senate Judiciary Committee Subcommittee on the Constitution, Civil Rights and Human Rights, June 19, 2012.