

EXHIBIT 3



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THE DIRECTOR
CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

27 June 2013

MEMORANDUM FOR: The Honorable Dianne Feinstein
The Honorable Saxby Chambliss

SUBJECT: (S) CIA Comments on the Senate Select
Committee on Intelligence Report on the
Rendition, Detention, and Interrogation Program

Chambliss Feinstein,
1. ~~(S)~~ I appreciate the opportunity for the Central Intelligence Agency to comment on the Senate Select Committee on Intelligence's Study of the Agency's long-terminated Rendition, Detention, and Interrogation Program (hereafter referred to as the "Study"). As I noted during my confirmation hearing and in subsequent discussions with you and with Committee members, the lengthy Study deserved careful review by the Agency in light of the significance and sensitivity of the subject matter and, of particular concern, the serious charges made in the Study about the Agency's performance and record.

2. ~~(S)~~ As you know, one of the President's first acts in office more than four years ago was to sign Executive Order 13491, which brought to an end the program that is the subject of the Committee's work. In particular, the President directed that the CIA no longer operate detention facilities and banned the use of all interrogation techniques not in the Army Field Manual. Thus, before getting into the substance of the CIA's review of the Study, I want to reaffirm what I said during my confirmation hearing: I agree with the President's decision, and, while I am the Director of the CIA, this program will not under any circumstances be reinitiated. I personally remain firm in my belief that enhanced interrogation techniques are not an appropriate method to obtain intelligence and that their use impairs our ability to continue to play a leadership role in the world.

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- d) (U) CIA resisted internal and external oversight, and it misrepresented the program to Congress, the Executive Branch, and the media.

A. (U) CIA was unprepared to conduct an RDI effort and inadequately developed and monitored its initial activities.

8. (U//~~FOUO~~) We fully agree that CIA was unprepared to initiate an RDI effort. CIA did not have a cadre of trained interrogators, particularly with adequate foreign language skills. CIA had little experience handling, moving, and interrogating detainees and no core competency in detention facility management. Moreover, the Agency faced this challenge at a time when it was overwhelmed by the other aspects of its worldwide response to the threat of more mass casualty attacks.

- (S//~~OC/NF~~) At the same time that CIA encountered the need to hold and interrogate terrorists, it also was focused on redirecting substantial resources to the Counterterrorism Center (CTC), undertaking high-risk operations in [REDACTED] trying to find Usama Bin Ladin, and enlisting the aid of liaison partners across the globe in the fight against al-Qa'ida.

9. (U//~~FOUO~~) We also agree with the *Study* that "CIA did not adequately develop and monitor its initial detention and interrogation activities." In agreeing with this statement, however, we draw particular attention to the word "initial." One of the main flaws of the *Study* is that, especially in its Summary and Conclusions, it tars CIA's entire RDI effort with the mistakes of the first few months, before that effort was consolidated and regulated under a single program management office.

10. (U//~~FOUO~~) While we take issue with the way the *Study* conflates distinct chapters in the history of the program, we acknowledge that there were serious shortcomings in the first such chapter. Perhaps the single biggest mistake in carrying out the RDI effort was CIA's failure to immediately respond to the extraordinary and high-risk requirements of conducting RDI activities by establishing a dedicated, centrally managed office tasked with quickly promulgating operational guidelines for RDI activities. Such an office should have been properly resourced and empowered to take control of those activities worldwide and monitor them on a day-to-day basis. This happened, but not fast enough.

- (TS//~~OC/NF~~) As a result, although the confinement conditions and treatment of high profile detainees like Abu Zubaydah were closely scrutinized at all levels of management from the outset, the same cannot be said for the first few of months of CIA's handling of lower-profile detainees in [REDACTED]

11. (S//~~OC/NF~~) It was during those months that grim conditions and inadequate monitoring of detainees were allowed to exist at [REDACTED] culminating in the death of Gul Rahman in November 2002, two months after the first detainee arrived there. During

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this time there were several instances of unauthorized, improvised techniques, including mock executions and "hard takedowns" at [REDACTED]

12. ~~(TS//OC/NF)~~ Contrary to the *Study*'s assertion that the confinement conditions during the early days of [REDACTED] were not "previously known," they were exhaustively reviewed by the Office of the Inspector General (OIG) and described in detail in its 2004 *Special Review*, as well as in its separate April 2005 *Report of Investigation: Death of a Detainee* [REDACTED]. These reports were shared with the Chairman and Vice Chairman of the oversight committees.

13. ~~(S//OC/NF)~~ We believe this period represents a failure at all levels of management. CIA simply did not devote the kind of attention to managing the risk of this new challenge that it should have at the outset. However, in contrast to the impression left by the *Study*, the confusion over responsibility, lack of guidance, and excessively harsh conditions that detainees experienced in the early days of [REDACTED] did not characterize more than a few months of our RDI effort. Unfortunately, it took Rahman's death in CIA custody to focus management's attention.

- ~~(S//OC/NF)~~ In response to the problems on which Rahman's death shone a light, CIA centralized the management of and accountability for all detention facilities in a single program office, which endeavored to address the shortcomings at [REDACTED] as well as isolated problems elsewhere.
- ~~(S//OC/NF)~~ That office also developed standards and guidelines for operating all CIA-controlled detention and interrogation facilities and monitored adherence to those guidelines. The *Study* makes much of the fact that CIA did not issue such guidance until January 2003. It fails to note that this was only four months after [REDACTED] accepted its first detainee.

14. ~~(TS//OC/NF)~~ We are not suggesting CIA solved all its problems in early 2003. Resource constraints dogged the RDI program throughout its existence, especially in [REDACTED] and especially after the invasion of Iraq increased the competition for language-capable personnel. Although conditions at [REDACTED] improved after early 2003, CIA never did—as we believe it should have—put the facility under [REDACTED] the dedicated full-time management of a more senior CIA officer, as was standard practice at other Agency detention sites. CIA also was unable to fully bring the facility up to the standard of our other detention facilities by the time it was closed in [REDACTED]

- ~~(TS//OC/NF)~~ There were substantial practical and cover constraints on the Agency's ability to accomplish this in [REDACTED] that it eventually overcame by replacing [REDACTED] with a much better facility. We believe, however, CIA could have done more in the interim between Rahman's death and the closure of [REDACTED]

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26. (~~S//OC/NF~~) With regard to the first argument, although considerable attention was paid to cases of wrongdoing, we acknowledge that, particularly in the cases cited in the *Study*, the narrow scope of the Agency's accountability efforts yielded outcomes that are, in retrospect, unsatisfying in view of the serious nature of the events. Most notably, we believe that CIA leaders erred in not holding anyone formally accountable for the actions and failure of management related to the death of Gul Rahman at [REDACTED] in 2002.

27. (~~S//OC/NF~~) In that case, we can appreciate the reasoning underlying CIA management's decision to overturn an accountability board recommendation that would have imposed sanctions on the least experienced officer involved. The most junior in the chain of command should not have to bear the full weight of accountability when larger, systemic problems exist and when they are thrust into difficult warzone situations by their supervisors and given a risky and difficult task with little preparation or guidance. Still, it is hard to accept that a CIA officer does not bear at least some responsibility for his or her actions, even under trying circumstances.

- (~~S//OC/NF~~) Moreover, deciding to minimize the punishment for a junior officer should not have been the end of the matter. CIA had an affirmative obligation to look more deeply into the leadership decisions that helped shape the environment in which the junior officer was required to operate, to examine what could have been done better, and to determine what responsibility, if any, should be fixed at a more senior level.

28. (~~TS// [REDACTED] NF~~) The Agency did better in that regard in the case of the improper capture and rendition of Khalid al-Masri, when it went on to hold those who offered flawed legal advice accountable. But in neither the [REDACTED] nor the al-Masri case—nor in the other cases for which the Agency conducted accountability exercises—were those with broader responsibility for the program held accountable for any management shortcomings that contributed to the outcome.

29. (~~U//FOUO~~) Although we do not believe it would be practical or productive to revisit any RDI-related case so long after the events unfolded, we do believe that, looking forward, the Agency should ensure that leaders who run accountability exercises do not limit their sights to the perpetrators of the specific failure or misconduct, but look more broadly at management responsibility and more consistently at any systemic issues. At a minimum, no board should cite a broader issue as a mitigating factor in its accountability decision on an individual without addressing that issue head on, provided it remains practical to do so.

30. (~~U//FOUO~~) Having said that, we believe the *Study* is too dismissive in general of the accountability measures taken when officers deviated from policy, regulations, or the law in their conduct of the program. As detailed in our responses to Conclusions 4 and 16, misconduct was reported to the IG, investigated, and if the allegations were substantiated, subjected to accountability review.

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(U) Conclusion 1: The CIA was unprepared as it initiated a program of indefinite, clandestine detention using coercive interrogation techniques. The CIA did not adequately develop and monitor its initial detention and interrogation activities.

(U) We fully agree with Conclusion 1 of *The Senate Select Committee on Intelligence's Study of the Central Intelligence Agency's Detention and Interrogation Program* (hereafter referred to as the *Study*), as the conclusion is broadly summarized above. We have a different perspective, however, on some of the points made in the *Study's* supporting discussion for Conclusion 1.

~~(S//OC/NF)~~ CIA was indeed unprepared to initiate a rendition, detention, and interrogation (RDI) program. In response to 9/11, with the expectation that more mass casualty attacks were in the offing, CIA quickly redirected substantial resources to counterterrorism, undertook high risk operations ~~_____~~ and enlisted the aid of liaison partners across the globe in the fight against al-Qa'ida.

~~(TS//NF)~~ Prior to 2001, CIA had only limited experience rendering detainees ~~_____~~ and a 1998 Memorandum of Notification (MoN) limited the Agency's authorities to detain individuals ~~_____~~. Following the 9/11 attacks and the President's subsequent approval of the 2001 MoN, CIA was granted unprecedented, broad authority to render individuals who "pose continuing or serious threats of violence or death to U.S. persons or interests or who are planning terrorist attacks"

- ~~(TS//NF)~~ Almost immediately, discussions with the National Security Council (NSC) began that covered the legal and policy parameters for how al-Qa'ida and Taliban prisoners would be managed and treated by DoD and CIA. Abu Zubaydah's 28 March 2002 capture provided the impetus to draw upon those discussions and formally structure a program to render, unilaterally detain and interrogate al-Qa'ida leaders.
- ~~(TS//NF)~~ Simultaneously, in 2001 and 2002, CIA engaged in a variety of planning efforts to develop locations and guidelines for how it would execute detention authorities and explored options with contract psychologists for interrogating al-Qa'ida members.
- (U//FOUO) CIA faced the need to stand up a program to house and interrogate al-Qa'ida leaders and operatives ~~_____~~ with no cadre of trained and experienced interrogators, little experience handling and moving prisoners, and no core competency in prison management. The Agency had too few analysts and linguists with the expertise required to support an RDI program.

~~(S//OC/NF)~~ We also agree with the broad conclusion that "The CIA did not adequately develop and monitor its initial detention and interrogation activities." In agreeing with this statement, however, we draw particular attention to the word "initial." As we discuss further in response to other conclusions, one of the main flaws of the *Study* is that it tars the Agency's entire RDI effort with the mistakes of the first few months. We are not minimizing the early consequences of CIA's failure to adequately manage its *initial* RDI activities, consequences that include the initial conditions and treatment of detainees at ~~_____~~ that culminated in the death of Gul Rahman in November 2002, two months after the first detainee arrived there. But the *Study* as

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a whole leads the reader to believe that the management shortcomings that marked those initial months persisted throughout the program, which is historically inaccurate.

(S//OC/NF) As noted in the *Study*, CIA sought to fill the vacuum in its RDI capabilities in part by turning to others inside and outside the government for expertise and manpower, and in part by leveraging liaison assistance. As we discuss in our response to Conclusion 15, what CIA failed to do at the outset was to immediately respond to the extraordinary and high-risk requirements of conducting RDI activities by establishing and giving adequate management attention and resources to a dedicated, centrally managed program office tasked with quickly promulgating operational guidelines for RDI activities, taking control of those activities worldwide, and monitoring those activities on a day-to-day basis.

- (S//OC/NF) As a result, although the confinement conditions and treatment of high profile detainees like Abu Zubaydah were closely scrutinized at all levels of management from the outset, the same cannot be said for the first couple of months of CIA's handling of lower-profile detainees in [REDACTED]. It was during those months that grim confinement conditions and inadequate monitoring of detainees were allowed to exist at [REDACTED].
- While we do not minimize the gravity of the mistakes made early in the program, none of the *Study's* key observations relating to this period are new, but rather have been chronicled by multiple internal and external investigations.

(TS/ [REDACTED] NF) Following the death of Gul Rahman, CIA centralized the management of and accountability for all detention facilities in a single program office, which endeavored to address the shortcomings at [REDACTED] as well as isolated problems elsewhere. That office also developed standards and guidelines for operating all CIA-controlled detention and interrogation facilities and monitored adherence to those guidelines.

- (TS/ [REDACTED] NF) As discussed in our responses to Conclusions 15 and 19, we acknowledge that resource constraints dogged the program throughout its existence, especially in [REDACTED] and especially after the invasion of Iraq increased the competition for language-capable personnel. We also acknowledge that, although conditions at [REDACTED] improved, the Agency did not—as we believe it should have—put the facility under [REDACTED] the full-time management of a more senior CIA officer, as was standard practice elsewhere. The Agency was also unable to fully bring the facility up to the standard of our other detention facilities by the time it was closed in [REDACTED].
- (S//OC/NF) Nonetheless, IG reviews show that the program office substantially improved the oversight and management of the RDI program as a whole, including in [REDACTED] from early 2003 onward. This was not a panacea—other mistakes were made, investigated, and corrected along the way—but the program was much better developed and managed after the initial months of RDI activities.

(U//FOUO) With regard to some of the other claims in the *Study's* discussion of Conclusion 1:

- (TS/ [REDACTED] NF) The *Study* implies that CIA's transfer of Abu Zubaydah to Country [REDACTED] was conducted without adequately consulting appropriate officials in the US

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(U) Conclusion 4: The CIA avoided effective oversight of its detention and interrogation activities by the CIA's Office of Inspector General. The CIA resisted efforts by the Inspector General to examine aspects of the CIA detention and interrogation program, and provided significant inaccurate information to the Office of Inspector General during the drafting of the Inspector General's Special Review of the program. The inaccurate information was included in the final May 2004 Special Review. In 2005, CIA Director Porter Goss directed the Inspector General not to initiate any new reviews of the program until it had completed the reviews already underway. In 2007, CIA Director Michael Hayden conducted an unprecedented review of the CIA's Office of Inspector General, largely in response to its inquiries into the CIA detention and interrogation program.

(U) We do not agree with the *Study's* assessment that it avoided effective oversight of its detention and interrogation activities by its Office of Inspector General (OIG). CIA engagement's with the OIG over the years was robust and the Agency did not block institutional or individual cooperation. Throughout the period, the OIG affirmed in its Semiannual Reports that it found full and direct access to all Agency information relevant to the performance of its duties. Had circumstances been otherwise, the IG would have been obligated to make that fact known to Congress. As further evidence of this access, the OIG produced a wealth of assessments, which were made available not only to CIA senior leadership but also to Congressional overseers from 2003, when the first OIG RDI-related review began, to 2012 when the last OIG RDI-related investigation was concluded. We acknowledge that two DCIA's did engage with the OIG with respect to its efforts on the RDI program, but, in both cases, this reflected an effort to find an appropriate balance between OIG's mission and those of other CIA components.

(S//OC/NF) OIG oversight included counterterrorism audit, inspection, and numerous investigations that resulted in both positive and negative findings on the conduct of the RDI program.

- (U//FOUO) The comprehensive Special Review, "*Counterterrorism Detention and Interrogation Activities (September 2001-October 2003)*," was published in May 2004.
- (S//OC/NF) The OIG conducted nearly 60 investigations on RDI-related matters. In over 50, OIG found the initial allegations to be unsubstantiated or otherwise did not make findings calling for accountability review. Of the remaining cases, one resulted in a felony conviction, one resulted in termination of a contractor and revocation of his security clearances, and six led to Agency accountability reviews.

(U//FOUO) The *Study* is correct in noting that the OIG's work resulted in some tension within CIA. However, on balance we concluded that, although CIA officers may not have been comfortable engaging with the IG on RDI-related matters, when they did so they nevertheless generally provided accurate information on the operation and effectiveness of the program.

- (S//OC/NF) Some CIA officers clearly did perceive a lack of objectivity on the part of some OIG officers who were evaluating the program. In a memorandum for the record dated 25 August 2005, a CTC officer stated that an OIG officer opined that Gul Rahman had been "killed" and that the OIG officer "appeared to have presumed ill intent" with regard to the role of CIA officers. [REDACTED]

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involved in the death of detainee Gul Rahman at [REDACTED]. Delegating management of the [REDACTED] facility and detainee affairs in [REDACTED] to a first tour officer was not a prudent managerial decision given the risks inherent in the program. The Agency could have and should have brought in a more experienced officer to assume these responsibilities. The death of Rahman, under conditions that could have been remediated by Agency officers, is a lasting mark on the Agency's record.

(S//OC/NF) While we acknowledge these shortcomings, the *Study* fails to take note of significant improvements implemented at [REDACTED] following Rahman's death, as well as the far more stringent standards governing interrogations and safety applied at later detention sites. Headquarters established CTC's Renditions and Detentions Group CTC/RDG as the responsible entity for all CIA detention and interrogation sites in December 2002, removing any latent institutional confusion. CTC/RDG sent its first team to [REDACTED] to debrief and interrogate detainees that same month, and the team immediately established procedures for requesting approval for enhanced techniques. These procedures were further institutionalized following promulgation of the DCI's Detention and Interrogation Guidelines in January 2003. With the exception of water dousing and the use of a wooden dowel behind the knees of a detainee employed by the lead HVT interrogator (who was removed from the program as a consequence of employing the latter in July 2003), these adjustments eliminated the use of improvised techniques, which were criticized extensively in the 2004 IG's *Special Review* and in its investigation report on Gul Rahman's death, as they are in the *Study*.

- (TS//NF) There were inherent limitations on Agency efforts to upgrade [REDACTED]. Its location [REDACTED] made it difficult to implement facilities upgrades to bring it more in line with sites like [REDACTED]. The program continued to face challenges in identifying sufficient, qualified staff—particularly language-qualified personnel—as requirements imposed by Agency involvement in Iraq increased. However, the first Quarterly Review of Confinement Conditions mandated by the 31 January 03 DCIA Guidelines on the Conditions of Confinement, produced in April 2003, cited significant improvements at [REDACTED] including space heaters, sanitation and hygiene enhancements, as well as better nutrition for the detainee population.

(S//OC/NF) Indeed, from January 2003 through 2005 the program as a whole continuously improved. Certification of officers involved in interrogations continued; procedures and confinement conditions continued to be refined and upgraded. This is reflected in the CIA IG's 2005 audit of the program, which concluded that the overall program for operating detention and interrogation facilities was effective and that standards, guidelines, and recordkeeping were generally sufficient. As occasional errors occurred over the remaining life of the program, they were reviewed by supervisors and IG investigations, and sometimes resulted in accountability boards or, in appropriate cases, referrals to the Department of Justice.

(TS//NF) In [REDACTED] was eventually closed in accord with planning begun in [REDACTED] and necessitated by the site's inherent limitations with respect to operational security. [REDACTED] CIA decided that the risks of operating [REDACTED] outweighed the benefits of having a place to intern detainees who could no longer be housed in [REDACTED].

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2012. These reviews assessed the performance of 30 individuals (staff officers and contractors), and 16 were deemed accountable and sanctioned.¹⁰

(S//OC/NF) Although considerable attention was paid to cases of wrongdoing, we acknowledge that, particularly in the cases cited in the *Study's* Conclusion, the narrow scope of CIA's accountability efforts yielded outcomes that are, in retrospect, unsatisfying in view of the serious nature of the events. Most egregiously, we believe that CIA leaders erred in not holding anyone formally accountable for the actions and failure of management related to the death of **Gul Rahman** at [REDACTED] in 2002. We understand the reasoning underlying CIA management's decision to overturn an accountability board recommendation that would have imposed sanctions on the least experienced officer involved. The most junior in the chain of command should not have to bear the full weight of accountability when larger, systemic problems exist and when they are thrust into difficult battlefield situations by their supervisors and given a risky and difficult task and little preparation or guidance. Still, it is hard to accept that a CIA officer does not bear at least some responsibility for his or her actions, even under trying circumstances.

- (S//OC/NF) Moreover, deciding to minimize the punishment for a junior officer should not have been the end of the matter. CIA had an affirmative obligation to look more deeply into the leadership decisions that helped shape the environment in which the junior officer was required to operate, to examine what could have been done better, and to determine what responsibility, if any, should be fixed at a more senior level.

(TS// [REDACTED] NF) In the case of **Khalid al-Masri**, our view of the accountability exercise is more mixed. As discussed in our response to Conclusion 18, the Agency applied the wrong interpretation of the MoN standard and plainly took too long to remediate its mistake. In that instance, an accountability review was undertaken and then-DCIA Hayden took significant steps to improve Agency practices in the wake of the error, directing that the Acting General Counsel review the legal guidance provided to CTC regarding renditions. The Director further called for a zero-based review of the operations officers and managers who were required to make analytic targeting judgments to determine the appropriate level of formal analytic training these officers needed to be effective in discharging their duties. That review was done, and it resulted in improved training for officers engaged in targeting work.

- (S//OC/NF) Nonetheless, we concede that it is difficult in hindsight to understand how the Agency could make such a mistake, take too long to correct it, determine that a flawed legal interpretation contributed, and in the end only hold accountable three CTC attorneys, two of whom received only an oral admonition.

¹⁰ In the RDI-related reviews, some of the officers assessed as accountable received disciplinary actions including one and two year prohibitions on promotion or any form of monetary recognition. Disciplinary actions at the level of Letters of Reprimand or above are permanently maintained in the security files of the disciplined officers. Other officers received oral admonitions and letters of warning; these individuals were those with a lesser degree of involvement in the matters under review. Some of the officers assessed as accountable were either not recommended for disciplinary action or recommended for lesser disciplinary actions, due to mitigating factors that included whether these officers had been provided appropriate guidance from CIA Headquarters; had sought, but not received, adequate guidance; or were not found to have acted with malice.

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could be reversed with relatively short periods of rest or sleep. A review of the cases cited in the *Study* indicates that short periods of sleep effectively addressed the hallucinations and that the detainees were conscious of the fact that they had hallucinated.

~~(S//OC/NF)~~ **Water Dousing:** The *Study* asserts that CIA Headquarters provided no guidance on the use of water dousing until 2004. This is incorrect. In fact, CIA Headquarters provided guidance via cable traffic on water dousing as early as March 2003 and the technique was also part of OMS' draft guidelines dated September 2003. It was considered the most coercive of the standard techniques in use until early 2004, when allegations made by Mustafa al-Hawsawi were reported to OIG and investigated. At that time, given the risk that the technique could be misused, it was added to the list of enhanced techniques.

- ~~(S//OC/NF)~~ While it is reasonable to question the propriety of employing water dousing with cold water at the [REDACTED] facility at which Gul Rahman died, likely due to hypothermia, it is important to note that the technique was employed after the first few months at [REDACTED] in rooms heated to a minimum of 65 degrees in order to prevent possible harm.

~~(S//OC/NF)~~ **Rectal Rehydration:** The *Study* alleges that that CIA used rectal rehydration techniques for reasons other than medical necessity. The record clearly shows that CIA medical personnel on scene during enhanced technique interrogations carefully monitored detainees' hydration and food intake to ensure HVD's were physically fit and also to ensure they did not harm themselves. Dehydration was relatively easy to assess and was considered a very serious condition. Medical personnel who administered rectal rehydration did not do so as an interrogation technique or as a means to degrade a detainee but, instead, utilized the well-acknowledged medical technique to address pressing health issues. A single flippant, inappropriate comment by one CIA officer concerning the technique, quoted in *the Study*, is not evidence to the contrary.

- ~~(S//OC/NF)~~ The technique was deemed safer than using IV needles with noncompliant detainees and was considered more efficient than a naso-gastric tube.
- ~~(S//OC/NF)~~ With respect to Majid Khan, in contrast to the *Study's* account, our records indicate Khan removed his naso-gastric tube, which posed the risk of injury and other complications. Given this dangerous behavior, rectal rehydration was considered the most appropriate means of addressing the potential harm Khan might inflict on himself.

~~(S//OC/NF)~~ **Waterboard.** We acknowledge that the Agency's use of the waterboard—particularly as it was applied to KSM, who was adept at resisting the technique—deviated from representations originally made by CIA to OLC in 2002. CIA recognized this and, in 2003, sought to reaffirm the OLC guidance. As detailed in our response to Conclusions 12, the result was that DOJ reviewed the issue and affirmed that the deviations did “not contravene the principles” of the original OLC opinion.

- ~~(S//OC/NF)~~ Without commenting on the wisdom or propriety of the waterboard or any other technique, and while acknowledging that the accounts of waterboarding contained in the *Study* certainly depict the application of a harsh interrogation regimen, we believe it important the record be clear: CIA utilized the waterboard on only three detainees. The last waterboarding session occurred in March 2003.

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(TS//OC/NF) We agree with aspects of the *Study's* assertion that, in two instances, CIA used enhanced techniques which could have exacerbated injuries sustained by detainees during capture. As acknowledged in our response to Conclusion 20, techniques (walling and cramped confinement) that had not been previously approved by Headquarters were applied to two Libyan detainees who had foot injuries. In the cases involving those detainees, Abu Hazim and 'abd al-Karim, Headquarters ultimately approved the techniques the following month as components of revised interrogation plans. Agency officers erred by proceeding without Headquarters approval—and even after obtaining approvals, it strikes us as unwise to have placed Hazim in a position that necessitated weight-bearing on his one healthy leg.

- (S//OC/NF) That said, a review of the relevant cable traffic indicates that CIA medical personnel were on scene and worked with the interrogators and support personnel in a sustained effort directed at preventing these pre-existing injuries from worsening.

(S//OC/NF) Finally, as discussed in several other responses to conclusions, we agree with the *Study's* assessment that confinement conditions at [REDACTED] were harsher than at other facilities and were deficient in significant respects for a few months prior to the death of Gul Rahman in late 2002. After his death, CIA took steps to consolidate responsibility for the facility at Headquarters and moved quickly to improve conditions. Although conditions at the facility remained sub-optimal throughout its existence, significant improvements at the site prompted two SSCI staff members who visited the facility in late 2003 to compare it favorably with military facilities at Bagram and Guantanamo Bay. In fact, one remarked that [REDACTED] was “a markedly cleaner, healthier, more humane and better administered facility.” [REDACTED] was decommissioned in 2004 in favor of a newer facility which incorporated many of the lessons learned from managing the program in [REDACTED] as well as from RDI program facilities in other countries.

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(S//OC/NF) Conclusion 20: CIA personnel frequently used interrogation techniques that had not been reviewed by the Department of Justice or approved by CIA Headquarters. The CIA regularly subjected CIA detainees to nudity, abdominal slaps, dietary manipulation, and cold water dousing, prior to seeking advice from the Department of Justice on the legality of the techniques. At least 16 detainees were subjected to the CIA's enhanced interrogation techniques without authorization from CIA Headquarters. In at least eight detainee interrogations, CIA officers participated in the use of the CIA's enhanced interrogation techniques without the approval of CIA Headquarters.

(S//OC/NF) We agree that there were instances in which CIA used inappropriate and unapproved interrogation techniques, particularly at the program's outset. Overall, however, we believe that the *Study* overstates the number of instances of unauthorized use of enhanced techniques as well as the number of non-certified individuals whom it alleges wrongfully participated in interrogations. The *Study* also overlooks the fact that, subsequent to CIA's efforts to organize and consolidate its detention and interrogation efforts into one Headquarters-managed program, the Agency worked to ensure that allegations of wrongdoing were reported to management, the Office of Inspector General, and/or the Department of Justice (DOJ), as appropriate.

- (U//FOUO) Moreover, while it would have been prudent to seek guidance from OLC on the complete range of techniques prior to their use, we disagree with any implication that, absent prior OLC review, the use of the "unapproved" techniques was unlawful or otherwise violated policy.

(S//OC/NF) The *Study's* assertion that 16 detainees were subjected to enhanced techniques without authorization from CIA Headquarters seems founded on a misunderstanding of the facts. The *Study* arrives at this number largely by conflating *standard* interrogation techniques that did not require prior approval with *enhanced* interrogation techniques that did. Some of this confusion is understandable, as over time, the term "standard" techniques was eliminated and some techniques which were initially classified as "standard" eventually were reclassified as "enhanced."

(TS/[REDACTED]NF) The *Study* correctly identifies seven instances in which detainees were subjected to individual techniques which were not approved in advance and included in their interrogation plans. In several of these, however, Headquarters had approved interrogation plans for the detainees utilizing other enhanced techniques. For instance, our review of contemporaneous cable traffic indicates that, at [REDACTED] Libyans Abu Hazim and 'abd al-Karim appear to have been subjected to walling without prior approval. Muhammad Umar 'Abd al-Rahman, also known as "Asadallah," and 'abd al-Karim appear to have been subjected to cramped confinement without prior Headquarters approval. [REDACTED] detainee Ramzi bin al-Shibh appears to have been subjected to the use of the facial hold technique without prior approval. In these cases, other previously approved enhanced techniques were also used.

- (TS/[REDACTED]NF) In the cases involving Abu Hazim and 'abd al-Karim, Headquarters approved the techniques the following month as components of revised interrogation plans. In the case of Ramzi bin al-Shibh, a cable exchange 18 days after he was subjected to the facial hold indicated Headquarters support for the use of the technique so long as necessary medical personnel were on scene.

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