

# Exhibit G

110TH CONGRESS }  
2nd Session }

COMMITTEE PRINT {

**INQUIRY INTO THE TREATMENT  
OF DETAINEES IN U.S. CUSTODY**

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R E P O R T

OF THE  
COMMITTEE ON ARMED SERVICES  
UNITED STATES SENATE

NOVEMBER 20, 2008

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**Presidential Order Opens the Door to Considering Aggressive Techniques (U)**

(U) On February 7, 2002, President Bush signed a memorandum stating that the Third Geneva Convention did not apply to the conflict with al Qaeda and concluding that Taliban detainees were not entitled to prisoner of war status or the legal protections afforded by the Third Geneva Convention. The President's order closed off application of Common Article 3 of the Geneva Conventions, which would have afforded minimum standards for humane treatment, to al Qaeda or Taliban detainees. While the President's order stated that, as "a matter of policy, the United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions," the decision to replace well established military doctrine, i.e., legal compliance with the Geneva Conventions, with a policy subject to interpretation, impacted the treatment of detainees in U.S. custody.

(U) In December 2001, more than a month before the President signed his memorandum, the Department of Defense (DoD) General Counsel's Office had already solicited information on detainee "exploitation" from the Joint Personnel Recovery Agency (JPRA), an agency whose expertise was in training American personnel to withstand interrogation techniques considered illegal under the Geneva Conventions.

(U) JPRA is the DoD agency that oversees military Survival Evasion Resistance and Escape (SERE) training. During the resistance phase of SERE training, U.S. military personnel are exposed to physical and psychological pressures (SERE techniques) designed to simulate conditions to which they might be subject if taken prisoner by enemies that did not abide by the Geneva Conventions. As one JPRA instructor explained, SERE training is "based on illegal exploitation (under the rules listed in the 1949 Geneva Convention Relative to the Treatment of Prisoners of War) of prisoners over the last 50 years." The techniques used in SERE school, based, in part, on Chinese Communist techniques used during the Korean war to elicit false confessions, include stripping students of their clothing, placing them in stress positions, putting hoods over their heads, disrupting their sleep, treating them like animals, subjecting them to loud music and flashing lights, and exposing them to extreme temperatures. It can also include face and body slaps and until recently, for some who attended the Navy's SERE school, it included waterboarding.

(U) Typically, those who play the part of interrogators in SERE school neither are trained interrogators nor are they qualified to be. These role players are not trained to obtain reliable intelligence information from detainees. Their job is to train our personnel to resist providing reliable information to our enemies. As the Deputy Commander for the Joint Forces Command (JFCOM), JPRA's higher headquarters, put it: "the expertise of JPRA lies in training personnel how to respond and resist interrogations – not in how to conduct interrogations." Given JPRA's role and expertise, the request from the DoD General Counsel's office was unusual. In fact, the Committee is not aware of any similar request prior to December 2001. But while it may have been the first, that was not the last time that a senior government official contacted JPRA for

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**Senate Armed Services Committee Conclusions**

**Conclusion 1:** On February 7, 2002, President George W. Bush made a written determination that Common Article 3 of the Geneva Conventions, which would have afforded minimum standards for humane treatment, did not apply to al Qaeda or Taliban detainees. Following the President's determination, techniques such as waterboarding, nudity, and stress positions, used in SERE training to simulate tactics used by enemies that refuse to follow the Geneva Conventions, were authorized for use in interrogations of detainees in U.S. custody.

**Conclusion 2:** Members of the President's Cabinet and other senior officials participated in meetings inside the White House in 2002 and 2003 where specific interrogation techniques were discussed. National Security Council Principals reviewed the CIA's interrogation program during that period.

**Conclusions on SERE Training Techniques and Interrogations**

**Conclusion 3:** The use of techniques similar to those used in SERE resistance training – such as stripping students of their clothing, placing them in stress positions, putting hoods over their heads, and treating them like animals – was at odds with the commitment to humane treatment of detainees in U.S. custody. Using those techniques for interrogating detainees was also inconsistent with the goal of collecting accurate intelligence information, as the purpose of SERE resistance training is to increase the ability of U.S. personnel to resist abusive interrogations and the techniques used were based, in part, on Chinese Communist techniques used during the Korean War to elicit false confessions.

**Conclusion 4:** The use of techniques in interrogations derived from SERE resistance training created a serious risk of physical and psychological harm to detainees. The SERE schools employ strict controls to reduce the risk of physical and psychological harm to students during training. Those controls include medical and psychological screening for students, interventions by trained psychologists during training, and code words to ensure that students can stop the application of a technique at any time should the need arise. Those same controls are not present in real world interrogations.

**Conclusions on Senior Official Consideration of SERE Techniques for Interrogations**

**Conclusion 5:** In July 2002, the Office of the Secretary of Defense General Counsel solicited information from the Joint Personnel Recovery Agency (JPRA) on SERE techniques for use during interrogations. That solicitation, prompted by requests from Department of Defense General Counsel William J. Haynes II, reflected the view that abusive tactics similar to those used by our enemies should be considered for use against detainees in U.S. custody.

**Conclusion 6:** The Central Intelligence Agency's (CIA) interrogation program included at least one SERE training technique, waterboarding. Senior Administration lawyers, including Alberto

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conclusions [in his memo] to the SERE school training population.”<sup>220</sup> Among those differences Dr. Ogrisseg identified were (1) the extensive physical and psychological pre-screening processes for SERE school students that are not feasible for detainees, (2) the variance in injuries between a SERE school student who enters training and a detainee who arrives at an interrogation facility after capture, (3) the limited risk of SERE instructors mistreating their own personnel, especially with extensive oversight mechanisms in place, compared to the risk of interrogators mistreating non-country personnel, (4) the voluntary nature of SERE training, which can be terminated by a student at any time, compared to the involuntary nature of being a detainee, (6) the limited duration of SERE training, which has a known starting and ending point, compared to the often lengthy, and unknown, period of detention for a detainee, and (7) the underlying goals of SERE school (to help students learn from and benefit from their training) and the mechanisms in place to ensure that students reach those goals compared to the goal of interrogation (to elicit information).

(U) In addition, Dr. Ogrisseg also stated that, since writing his memo in July 2002, he had reviewed studies about the effects of near death experiences, and that he had become concerned about the use of waterboarding even as a training tool.<sup>221</sup> The U.S. Navy SERE school abandoned its use of the waterboard in November 2007.

(U) Lt Col Baumgartner testified to the Committee that, subsequent to sending his two memos and their attachments – including the list of SERE techniques – to the General Counsel’s office, another government agency asked for the same information. Lt Col Baumgartner said that he provided that information to the OGA.<sup>222</sup>

█ In his interview with the Committee, Lt Col Baumgartner said that █ personnel had contacted him requesting a copy of the same information that had been sent to the DoD General Counsel. Lt Col Baumgartner recalled speaking to an attorney and a psychologist at █ about the request and sending the information to the █.<sup>223</sup>

#### *E. The Department of Justice Changes the Rules (U)*

(U) On August 1, 2002, less than a week after JPRAs sent the DoD General Counsel’s Office its memoranda and attachments, the Department of Justice issued two legal opinions signed by then-Assistant Attorney General for the Office of Legal Counsel (OLC) Jay Bybee.

(U) Before drafting the August 1, 2002 opinions, Deputy Assistant Attorney General for the OLC John Yoo had met with Counsel to the President Alberto Gonzales and Counsel to the Vice-President David Addington to discuss the subjects that he intended to address.<sup>224</sup> Then-

<sup>220</sup> Dr. Ogrisseg also explained that “[w]hile long-term psychological harm can occur from relatively brief distressing experiences, the likelihood of psychological harm is generally increased by more lengthy and uncertain detentions.” Responses of Dr. Jerald Ogrisseg to Questions for the Record (July 28, 2008).

<sup>221</sup> Committee staff interview of Jerald Ogrisseg (June 26, 2007).

<sup>222</sup> SASC Hearing (June 17, 2008).

<sup>223</sup> Committee staff interview of Lt Col Daniel Baumgartner (August 8, 2007).

<sup>224</sup> According to Mr. Addington, he met “regularly” with a group of lawyers that included DoD General Counsel Jim Haynes, White House Counsel Alberto Gonzales, and the CIA General Counsel John Rizzo. This group that met