

TAB B

UNITED STATES OF AMERICA )

vs. )

AHMED KHALFAN GHAILANI )

DECLARATION OF

KATHERINE STONE

NEWELL

I, KATHERINE STONE NEWELL, being first duly sworn upon oath, hereby say:

1. I am an attorney, employed in the Office of the Chief Defense Counsel, Office of Military Commissions since November, 2007. In this capacity, I serve as a subject matter resource on the subject of torture and other forms of cruel, inhuman, and degrading treatment. From October 2005 to March 2007, I was the Counterterrorism Counsel for the U.S. Program of Human Rights Watch. In both capacities, I have reviewed numerous open source documents relating to U.S. detention and interrogation operations.

2. I was graduated *cum laude* from the Washington College of Law at American University in 2000 and am licensed to practice in the State of New York. I obtained my undergraduate degree from Virginia Tech in 1990. From 1991 to 1996, I served as an officer in the U.S. Air Force (final rank, Captain).

3. I do not have an attorney-client relationship with AHMED KHALFAN GHAILANI. I affirmatively assert that information in this affidavit is not based on classified information or any information obtained from the accused or from counsel for the accused.

4. Unless otherwise noted, the following description of the Central Intelligence Agency (CIA) detention and interrogation program is based on government documents released to the public. These documents were redacted before their release, and many relevant government documents are still classified. Errors in this affidavit that are inconsistent with the information that has been publically released are the responsibility of the author; errors resulting from incomplete information are not.

5. Based on the above, on information and belief I acquired through current and previous employment, the narrative below applies to AHMED KHALFAN GHAILANI.

## A SPECIAL CIA PROGRAM FOR SENIOR AL QAEDA SUSPECTS

6. Reports that suspected al Qaeda operatives were being held abroad by the CIA in undisclosed locations began circulating in 2002.<sup>1</sup> By 2004, a number of suspected al Qaeda operatives were declared by human rights advocates to have been “disappeared” by the U.S. government.<sup>2</sup> Advocates alleged that “the most sensitive and high-profile terrorism suspects have been detained by the United States in “undisclosed locations,” presumably outside the United States, with no access to the ICRC, no notification to families, no oversight of any sort of their treatment, and in many cases no acknowledgement that they are even being held.”<sup>3</sup> AHMED KHALFAN GHAILANI was reportedly captured in Pakistan in July 2004, and was added to the list of the “disappeared” in 2005.<sup>4</sup>

7. In September of 2006, the President announced the transfer of a group of detainees to Guantanamo that had been “held and questioned outside the United States, in a separate program operated by the Central Intelligence Agency.”<sup>5</sup> This group included AHMED KHALFAN GHAILANI.<sup>6</sup> The President said this transfer would bring these detainees “into the open.” Detainees in this program had been subjected to “an alternative set of [interrogation] procedures”<sup>7</sup> in a “new interrogation program.”<sup>8</sup>

<sup>1</sup> See, for example, “Getting al Qaeda to talk,” CNN.com, September 17, 2002 available at <http://archives.cnn.com/2002/US/09/17/bergen.otscl/index.html> (last accessed Sept. 29, 2009) (discussing the detention of Ramzi bin al-Shibh); “‘Appropriate pressure’ being put on al Qaeda leader,” CNN.com, March 3, 2003 available at <http://www.cnn.com/2003/WORLD/asiapcf/south/03/02/pakistan.arrests/index.html> (last accessed Sept. 29, 2009) (stating that CIA had brought Khalid Shaikh Mohammed, who was arrested in Pakistan, to an undisclosed location outside of the United States).

<sup>2</sup> See generally Human Rights Watch, *The United States’ “Disappeared”: The CIA’s Long-Term “Ghost Detainees”* (October 2004) available at <http://www.hrw.org/legacy/backgrounder/usa/us1004/index.htm> (last accessed Sept. 29, 2009) (describing reports of high-level “ghost” detainees in prolonged incommunicado detention; the United States’ refusal to disclose the fate or whereabouts of the detainees; and allegations of mistreatment).

<sup>3</sup> *Id.*, at 8.

<sup>4</sup> Human Rights Watch, *List of “Ghost Prisoners” Possibly in CIA Custody* (30 November 2005), available at <http://www.hrw.org/en/news/2005/11/30/list-ghost-prisoners-possibly-cia-custody> (last accessed Sept. 29, 2009).

<sup>5</sup> President Discusses Creation of Military Commissions to Try Suspected Terrorists, Office of the Press Secretary, The White House, September 6, 2006, available at <http://georgewbush-whitehouse.archives.gov/news/releases/2006/09/20060906-3.html> (last accessed Sept. 29, 2009) (hereinafter “President’s Sept. 6, 2006 Statement”).

<sup>6</sup> “This group includes ... an operative involved in the bombings of our embassies in Kenya and Tanzania” ...”. *Id.* See also Office of the Director of National Intelligence, *Biographies of High Value Terrorist Detainees Transferred to the US Naval Base, at Guantanamo Bay* (September 6, 2006) available at <http://www.dni.gov/announcements/content/DetaineeBiographies.pdf> (last accessed Sept. 29, 2009) (hereinafter “ODNI Biographies of HVDs”) (listing AHMED KHALFAN GHAILANI).

<sup>7</sup> See President’s Sept. 6, 2006 Statement.

<sup>8</sup> See Office of the Director of National Intelligence, *Summary of the High Value Terrorist Detainee Program*, undated available at <http://www.defenselink.mil/pdf/thehighvaluedetaineeprogram2.pdf> (last accessed Sept. 29, 2009).

8. From some point in time after his capture, until the U.S. publicly acknowledged his detention and transferred him to Guantanamo in September 2006, AHMED KHALFAN GHAILANI was held in this CIA program in lieu of judicial proceedings where he might have challenged his detention, determined its likely duration, or secured his right to be free from abuse, even though he had been indicted before a U.S. federal court in 1998.

9. The covert CIA program referred to by the President was authorized under a classified Presidential finding which reportedly gave the CIA broad powers to kill, capture, detain and interrogate suspected al Qaeda leaders and their associates.<sup>9</sup>

10. CIA interrogators operated under assurances from the Office of Legal Counsel (OLC), Department of Justice, that domestic and international legal limits on torture and other forms of cruel, inhuman or degrading treatment either did not apply to the treatment of aliens held overseas by the CIA, or allowed interrogators to lawfully inflict high levels of pain and suffering on these detainees.<sup>10</sup> CIA officers were given permission to subject detainees to

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2009) (hereinafter "ODNI Summary of HVD Program") (ODNI discussing the capture of Abu Zubaydah in March 2002 and stating that "Over the ensuing months, the CIA designed a new interrogation program...").

<sup>9</sup> The American Civil Liberties Union (ACLU) requested through FOIA a directive signed by President Bush granting the CIA the authority to set up detention facilities outside the United States and/or outlining interrogation methods that may be used against detainees. The CIA confirmed that it had located one document responsive to this request, and described the document as "a memorandum from President Bush to the Director of the CIA." See Letter from Office of General Counsel, CIA to Melanca D. Clark, Gibbins [sic], Del Deo, Dolan, Griffinger & Vecchione, P.C., Nov. 10, 2006 (letter sent in connection with *ACLU et. al. v. DOD et. al.*, 04-Civ.-4151 (S.D.N.Y.), remanded 06-0205-cv (2nd Cir.), available at [http://www.aclu.org/images/torture/asset\\_upload\\_file825\\_27365.pdf](http://www.aclu.org/images/torture/asset_upload_file825_27365.pdf) (last accessed Sept. 29, 2009).

<sup>10</sup> OLC legal opinions specifically allowed the infliction of pain and suffering so long as it was not intended to exceed certain high limits. See generally Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant, Attorney General, Office of Legal Counsel, *Re: Application of 18 U.S.C. §§ 2340-2340A to Certain Techniques That May Be Used in the Interrogation of a High Value al Qaeda Detainee* (May 10, 2005) available at [http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc\\_05102005\\_bradbury46pg.pdf](http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc_05102005_bradbury46pg.pdf) (last accessed Sept. 29, 2009) (hereinafter "2005 OLC Techniques Memo"); Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant, Attorney General, Office of Legal Counsel, *Re: Application of 18 U.S.C. §§ 2340-2340A to the Combined Use of Certain Techniques in the Interrogation of High Value al Qaeda Detainees* (May 10, 2005) available at [http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc\\_05102005\\_bradbury\\_20pg.pdf](http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc_05102005_bradbury_20pg.pdf) (last accessed Sept. 29, 2009) (hereinafter "2005 OLC Combined Use Memo"); Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant, Attorney General, Office of Legal Counsel, *Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May Be Used in the Interrogation of High Value al Qaeda Detainees* (May 30, 2005) available at [http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc\\_05302005\\_bradbury.pdf](http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc_05302005_bradbury.pdf) (last accessed Sept. 29, 2009) (hereinafter "2005 OLC CIDT Memo"). The CIA sought several legal opinions from the Office of Legal Counsel (OLC) of the Department of Justice (DoJ) concerning the legality of detention and interrogation practices used by its officers. Not all these legal opinions have yet been released, or even publically



treatment and conditions that have been considered torture in certain circumstances under traditional domestic and international standards,<sup>11</sup> and, literally, treatment and conditions considered torture under the U.S. government's own interpretation if so ordered by the President.<sup>12</sup>

11. Each aspect of the CIA program is relevant to questions about how a detainee's treatment might have affected his concurrent and subsequent mental and physical states. Historically, the CIA has long considered the interrogation process a "continuum", noting that "everything that takes place in the continuum influences all subsequent events."<sup>13</sup> In the "new" program, the CIA considered the combination of interrogation techniques "essential to the creation of an

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acknowledged. See OLC Opinions on the CIA Detention and Interrogation Program, attached to Senator John D. Rockefeller IV, Release of Declassified Narrative Describing the Department of Justice Office of Legal Counsel's Opinions on the CIA's Detention and Interrogation Program, April 22, 2009 available at <http://intelligence.senate.gov/pdfs/olcopinion.pdf> (last accessed Sept. 29, 2009) (hereinafter "Rockefeller Letter") (citing CIA records of NSC and other high-level interagency briefings through out the course of the program). See also Memorandum for Alberto R. Gonzales, Counsel to the President, from Office of Legal Counsel, US Department of Justice, *Re: Standards of Conduct for Interrogation under 18 U.S.C. §§ 2340–2340A* (August 1, 2002) available at <http://www.usdoj.gov/olc/docs/memo-gonzales-aug2002.pdf> (last accessed Sept. 30, 2009) (stating that for an act to constitute torture, it must inflict pain "equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death."). This opinion was withdrawn in June 2004 and replaced with another OLC opinion on December 30, 2004. Memorandum for James B. Comey, Deputy, Attorney General, from Daniel Levin, Acting Assistant, Attorney General, Office of Legal Counsel, Department of Justice (December 30, 2004), available at <http://www.usdoj.gov/olc/18usc23402340a2.htm> (last accessed Sept. 30, 2009).

<sup>11</sup> As described below in para. 12.

<sup>12</sup> For a period between 2002 and 2004, OLC guidance posited that US interrogators were permitted to use even torture with Presidential authorization. Memorandum for Alberto R. Gonzales, Counsel to the President from Office of Legal Counsel, U.S. Department of Justice, *Re: Standards of Conduct for Interrogation under 18 U.S.C. §§ 2340–2340A* (August 1, 2002) ("Even if an interrogation method arguably were to violate Section 2340A, [which criminalizes "torture"] the statute would be unconstitutional if it impermissibly encroached on the President's constitutional powers to conduct a military campaign ... Any effort to apply Section 2340A in a manner that interferes with the President's direction of such core war matters as the detention and interrogation of enemy combatants thus would be unconstitutional."). This opinion was withdrawn in June 2004 and replaced with another OLC opinion on December 30, 2004, which did not reach this point. Memorandum for James B. Comey, Deputy, Attorney General, from Daniel Levin, Acting Assistant, Attorney General, Office of Legal Counsel, Department of Justice (December 30, 2004), available at <http://www.usdoj.gov/olc/18usc23402340a2.htm> (last accessed Sept. 30, 2009). It is not known if any other OLC guidance was issued on this point during the period that AHMED KHALFAN GHAILANI was held by the CIA.

<sup>13</sup> CIA, *KUBARK Counterintelligence Interrogation* (July 1963) available at <http://www.gwu.edu/%7Eensarchiv/NSAEBB/NSAEBB122/CIA%20Kubark%201-60.pdf>, <http://www.gwu.edu/%7Eensarchiv/NSAEBB/NSAEBB122/CIA%20Kubark%2061-112.pdf>, and <http://www.gwu.edu/%7Eensarchiv/NSAEBB/NSAEBB122/CIA%20Kubark%20113-128.pdf> (last accessed Sept. 30, 2009) (hereinafter "KUBARK"), at 41.

interrogation environment ....”<sup>14</sup> Conditions of confinement also had “an impact on the detainee undergoing interrogation.”<sup>15</sup>

12. The following forms of treatment are among those that experts have long considered abusive, particularly when combined, prolonged, or inflicted on a vulnerable subject. In certain circumstances, these and other forms of abuse can amount to torture or other forms of cruel, inhuman or degrading treatment:

- Blunt trauma, such as a punch, kick, slap, or falling down;
- Positional torture, using suspension, stretching limbs apart, prolonged constraint of movement, forced positioning;
- Asphyxiation, such as wet and dry methods, drowning, smothering, choking or use of chemicals;
- Conditions of detention, such as a small or overcrowded cell, solitary confinement, unhygienic conditions, no access to toilet facilities, irregular or contaminated food and water, exposure to extremes of temperature, denial of privacy and forced nakedness;
- Deprivation of normal sensory stimulation, such as sound, light, sense of time, isolation, manipulation of brightness of the cell, abuse of physiological needs, restriction of sleep, food, water, toilet facilities, bathing, motor activities, medical care, social contacts, isolation within prison, loss of contact with the outside world (victims are often kept in isolation in order to prevent bonding and mutual identification and to encourage traumatic bonding with the torturer);
- Humiliation, such as verbal abuse, performance of humiliating acts;
- Threats of death, harm to family, further torture, imprisonment, mock executions;

<sup>14</sup> Central Intelligence Agency, *Background Paper on CIA's Combined Use of Interrogation Techniques* (undated, but transmitted Dec. 30, 2004) (released August 24, 2009, redacted) available at <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc97.pdf> (last accessed Sept. 30, 2009) (hereinafter “2004 CIA Background Paper on Combined Techniques”), at 17. “Since the start of this program, interrogation techniques have been used in combination and separately ...”. *Id.*

<sup>15</sup> “Detention conditions are not interrogation techniques, but they have an impact on the detainee undergoing interrogation.” *2004 CIA Background Paper on Combined Techniques*, at 4.

- Psychological techniques to break down the individual, including forced betrayals, accentuating feelings of helplessness, exposure to ambiguous situations or contradictory messages;
- Violation of taboos; or
- Forcing the victim to witness torture or atrocities being inflicted on others.<sup>16, 17</sup>

Unless otherwise noted, CIA interrogators were explicitly authorized to use the forms of treatment that are described in the sections below.

#### AHMED KHALFAN GHAILANI AND THE CIA PROGRAM

13. CIA detainees such as AHMED KHALFAN GHAILANI were affected by, inter alia, prolonged indefinite detention; the conditions under which they were held in CIA facilities; and their treatment in interrogation.

14. As a subject of the "high-value detainee" program, AHMED KHALFAN GHAILANI was held in long-term indefinite detention in secret locations for approximately two years before his transfer to Guantanamo. During this time, the United States refused to disclose his whereabouts, and refused to allow him access to his family, lawyers or the International Committee of the Red Cross. Concerns associated with indefinite detention are described below (paragraphs 20 through 21).

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<sup>16</sup> Forms of abuse excerpted from Office of the UN High Commissioner for Human Rights, Professional Training Series No. 8/Rev.1, *Istanbul Protocol: Manual on Effective Investigation and Documentation of Torture and Ill Treatment* (2004) HR/P/PT/8/Rev.1, available at <http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf> (last accessed Sept. 30, 2009) (hereinafter "The Istanbul Protocol"), at 29. The Istanbul Protocol contains international guidelines on the assessment of individuals who allege torture and ill treatment, the investigation of cases of alleged torture, and on reporting the findings of such investigations to the judiciary and any other bodies. The Istanbul Protocol became a United Nations official document in 1999 and is published by the Office of the UN High Commissioner for Human Rights in its Professional Training Series.

<sup>17</sup> It is important to note:

[This] list of torture methods is given to show some of the categories of possible abuse. It is not meant to be used by investigators as a checklist or as a model for listing torture methods in a report. A method-listing approach may be counter-productive, as the entire clinical picture produced by torture is much more than the simple sum of lesions produced by methods on a list. Indeed, experience has shown that when confronted with such a "package deal" approach to torture, perpetrators often focus on one of the methods and argue about whether that particular method is a form of torture.

*Id.* This is the approach followed in the OLC memos. See generally, above, at footnote 10.



15. While open source documents do not conclusively establish the conditions under which the CIA held AHMED KHALFAN GHAILANI, they describe the pattern of practice for conditions of confinement at CIA covert facilities contemporaneous with his detention. Absent information to the contrary, it is reasonable to assume AHMED KHALFAN GHAILANI experienced these general conditions, to some degree, for some or all of his two-year detention in CIA facilities. Specific concerns associated with conditions of confinement are described below (paragraphs 22 through 33).

16. According to CIA documents released to the public, detainees in the program were questioned with a "neutral approach" if they willingly provided important information, but the standard of participation was "set very high."<sup>18</sup> Otherwise, detainees were interrogated with the new procedures.<sup>19</sup> An unknown number of detainees were subjected to "standard interrogation techniques." The CIA reported that 28 of 94 detainees in the program were subjected to "enhanced interrogation techniques,"<sup>20</sup> which were considered more intense measures.<sup>21</sup>

17. AHMED KHALFAN GHAILANI reportedly possessed the type of information that the CIA considered very valuable, namely identities of individuals who may have been recruited by al-Qa'ida for Western operations.<sup>22</sup> Open source documents do not conclusively state AHMED KHALFAN GHAILANI was subjected to harsh interrogation in the CIA program. The CIA may have interrogated AHMED KHALFAN GHAILANI with the "alternative" procedures mentioned by the President.

<sup>18</sup> 2004 CIA Background Paper on Combined Techniques, at 3.

<sup>19</sup> *Id.*

<sup>20</sup> 2005 OLC CIDT Memo, at 5.

<sup>21</sup> OMS guidelines listed measures in "ascending degree of intensity." See Office of Medical Services (OMS), Central Intelligence Agency, *Draft OMS Guidelines on Medical and Psychological Support to Detainee Rendition, Interrogation, and Detention* (Sept. 4, 2003) (released 24 August 2004, redacted), Appendix F of 2004 CIA IG Special Review (hereinafter "September 2003 OMS Guidelines") (listing "standard" then "enhanced") at 1, and Office of Medical Services (OMS), Central Intelligence Agency, *OMS Guidelines on Medical and Psychological Support to Detainee Rendition, Interrogation, and Detention* (December 2004) (redacted, released 24 August 2004) (hereinafter "December 2004 OMS Guidelines"), available at <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc101.pdf> (last accessed Oct. 1, 2009) (listing almost same techniques in same order without designating "standard" and "enhanced") at 8.

<sup>22</sup> Compare ODNI Summary of HYD Program (ODNI discussing this information among "lead information that has aided the U.S. and its allies in capturing al-Qa'ida operatives ...") with ODNI Biographies of HVDs.

An al-Qa'ida document forger and travel facilitator, Ahmed Khalfan Ghailani ... rose in stature after 11 September 2001 to become one of al-Qa'ida's top forgers. Although Ghailani was not directly involved in operational planning, he worked for the now deceased Hamza Rabi'a – then al-Qa'ida's chief of external operations—and forged or altered passports for many al-Qa'ida members.

*Id.*



18. If the CIA interrogated AHMED KHALFAN GHAILANI with the "alternative" procedures mentioned by the President, it is possible he was subjected to nearly the full range of the CIA's methods. During the detention of AHMED KHALFAN GHAILANI each authorized interrogation technique described herein was approved for use on detainees singly and in combination with other forms of treatment, unless otherwise noted.<sup>23</sup> While open source documents do not conclusively demonstrate what the CIA did to AHMED KHALFAN GHAILANI in interrogation, they describe the pattern of practice for interrogation of detainees such as AHMED KHALFAN GHAILANI held in the CIA program at certain times. Specific concerns associated with interrogation are described below (paragraphs 34 through 75).

19. AHMED KHALFAN GHAILANI may also have been subjected to unapproved forms of treatment, witnessed other detainees subjected to various forms of approved or unapproved

<sup>23</sup> See, e.g., George J. Tenet, Director of Central Intelligence, Guidelines on Interrogations Conducted Pursuant to the [redacted] [redacted] (Jan. 28, 2003) (released August 24, 2009, redacted), available at <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc12.pdf> (last accessed Oct. 1, 2009) (hereinafter "2003 DCI Interrogation Guidelines") (listing "permissible interrogation techniques", which included "standard" and "enhanced" techniques, and other techniques as approved by CIA headquarters); 2005 OLC Techniques Memo (discussing "enhanced" techniques). See also Letter from Jack L. Goldsmith III, Assistant, Attorney General, Office of Legal Counsel, to Scott W. Muller, General Counsel, Central Intelligence Agency, (July 7, 2004) available at <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc48.pdf> (last accessed Sept. 30, 2009) (approving nine "enhanced interrogation techniques" (EITs), and interrogation techniques that were approved for DoD by Secretary of Defense in his April 15, 2003 memorandum, for use in interrogation of "a certain high-value detainee"); Letter from John D. Ashcroft, Attorney General, to John E. McLaughlin, Acting Director of Central Intelligence (July 22, 2004) (approving use of nine EITs, other than waterboard, for use in interrogation of detainee, name redacted) available at <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc64.pdf> (last accessed Sept. 30, 2009); Letter from Daniel B. Levin, Acting Assistant, Attorney General, Office of Legal Counsel, to John A. Rizzo, Acting General Counsel, Central Intelligence Agency (August 6, 2004) available at <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc74.pdf> (last accessed Sept. 30, 2009) (approving use of waterboard in interrogation of detainee, name redacted); Letter from Daniel B. Levin, Acting Assistant, Attorney General, Office of Legal Counsel, to John A. Rizzo, Acting General Counsel, Central Intelligence Agency (August 26, 2004) available at <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc85.pdf> (last accessed Sept. 30, 2009) (approving use of four particular techniques in "ongoing" interrogation of detainee, name redacted); Letter from Daniel B. Levin, Acting Assistant, Attorney General, Office of Legal Counsel, to John A. Rizzo, Acting General Counsel, Central Intelligence Agency (Sept. 6, 2004) available at <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc88.pdf> (last accessed Sept. 30, 2009) (approving use of twelve techniques in interrogation of detainee, name redacted); Letter from Daniel B. Levin, Acting Assistant, Attorney General, Office of Legal Counsel, to John A. Rizzo, Acting General Counsel, Central Intelligence Agency (Sept. 20, 2004) available at <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc79.pdf> (last accessed Sept. 30, 2009) (approving use of twelve particular techniques in interrogation of detainee, name redacted). These documents were released in ongoing FOIA litigation and do not represent all the instances in which OLC approved the CIA's use of interrogation techniques during the detention of AHMED KHALFAN GHAILANI.

treatment, or was otherwise led to believe he might be subjected to various forms of approved or unapproved treatment.

#### INDEFINITE DETENTION

20. Under international law, enforced disappearances are considered among the most serious violations of the fundamental rights of human beings.<sup>24</sup> “Disappeared” detainees are removed from the protection of the law, and thereby placed in a situation of complete defenselessness. Detainees in the high-value detainee (HVD) program were unable to use the protection of the law to secure their fundamental human rights, including the right to due process and the right to be free from torture or other forms of cruel, inhuman or degrading treatment.

21. In keeping with the detention and interrogation program described below, detainees in the “high-value” program were not likely to have been told the expected duration of their detention. Indefinite detention can have serious long-term mental and physical effects, and the potential health consequences for detainees who have been held in prolonged indefinite detention are well-known:

Medical knowledge and experience clearly demonstrate that indefinite detention without charge or trial results in harmful mental health consequences including severe depression and anxiety. This is above and beyond the inherent and already quite substantial stressors of incarceration. In particular, the pervasive uncertainty of prolonged detention results in profound feelings of despair, hopelessness, anger and frustration. Vegetative symptoms, sleep difficulties, suicidal thoughts are common. Profound depression and vegetative symptoms result from realizing nothing that

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<sup>24</sup> “Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field.” Declaration on the Protection of All Persons from Enforced Disappearance adopted by the General Assembly of the United Nations in its resolution 47/13.3 of 18 December 1992, *available at* [http://www.unhchr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/A.RES.47.133.En?Opendocument](http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/A.RES.47.133.En?Opendocument) (last accessed Sept. 30, 2009). “[T]he forced disappearance of persons is an affront to the conscience of the Hemisphere and a grave and abominable offense against the inherent dignity of the human being ...” Organization of American States, *Inter-American Convention on Forced Disappearance of Persons*, adopted for signature June 9, 1994, entered into force March 28, 1996, *available at* <http://www.oas.org/juridico/english/treaties/a-60.html> (last accessed Sept. 30, 2009). Pursuant to the Rome Statute of the International Criminal Court, the widespread or systematic practice of “disappearances” can constitute a crime against humanity. Rome Statute of the International Criminal Court, entered into force July 1, 2002, *available at* [http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome\\_Statute\\_English.pdf](http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome_Statute_English.pdf) (last accessed Sept. 30, 2009), at Art. 7.

individuals do matters and that there is no way to end, foreshorten or even know the duration of their suffering.<sup>25</sup>

## TREATMENT THROUGHOUT THE PERIOD OF DETENTION

22. The CIA employed forms of treatment associated with concerns such as safety, security or hygiene at the CIA's covert detention facilities. These conditions of confinement may have changed with CIA policy or practice, or may have persisted throughout a detainee's entire confinement. They were contemporaneous with interrogation and the effects of indefinite detention, and included the following (paragraphs 23 through 33).

23. *Standard conditions in a "covert" facility.* The CIA secretly held some or all HVDs in covert, overseas facilities, where conditions of confinement were not required to, and apparently did not, conform to "to U.S. prison or other standards."<sup>26</sup> The CIA utilized special security measures inside the facilities, as described by OLC in 2006:

The five conditions you have asked us to consider [blindfolding, isolation, white noise, constant illumination, shackling] are standard in the covert overseas facilities that the CIA uses to detain individuals [redacted]  
[redacted] [redacted] You have advised us that those conditions are used to address the unique and significant security concerns associated with holding

<sup>25</sup> Letter to Senator, from Allen S. Keller, M.D., Associate Professor of Medicine, NYU School of Medicine, Director, Bellevue/NYU Program for Survivors of Torture, Director, NYU School of Medicine Center for Health and Human Rights, Douglas A. Johnson Executive Director, The Center for Victims of Torture, John. C. Bradshaw, J.D., Washington Director, Physicians for Human Rights (July 14, 2009), *available at* [http://www.survivorsoftorture.org/files/Indefinite\\_Detention\\_Medical\\_Consequences\\_Letter.pdf](http://www.survivorsoftorture.org/files/Indefinite_Detention_Medical_Consequences_Letter.pdf) (last accessed Sept. 30, 2009)

<sup>26</sup> The CIA Inspector General (IG) noted this fact in 2004; it is not clear if the IG considered "other standards" to include those for pre-trial detention for persons charged with a crime or for prisoners of war. Central Intelligence Agency, Inspector General, *Special Review: Counterterrorism Detention and Interrogation Activities (September 2001 – October 2003)* (2003-7123-IG) (May 7, 2004) (released August 24, 2009, redacted) *available at* [http://luxmedia.vo.llnwd.net/o10/clients/aclu/IG\\_Report.pdf](http://luxmedia.vo.llnwd.net/o10/clients/aclu/IG_Report.pdf) (last accessed Sept. 30, 2009) (hereinafter "2004 CIA IG Special Review"), at para. 59, *citing* George J. Tenet, Director of Central Intelligence, Guidelines on Confinement Conditions for CIA Detainees (Jan. 28, 2003) (released August 24, 2009, redacted) *available at* <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc11.pdf> (last accessed Sept. 30, 2009) (hereinafter "2003 DCI Confinement Guidelines"). 2003 DCI Confinement Guidelines appear to have been applicable during the entire period of AHMED KHALFAN GHAILANI's detention by the CIA. *See Updated Guidelines on Confinement Conditions for CIA Detainees*, attachment B to Memorandum for Director of Central Intelligence Agency, from Chief, [redacted], CIA Counterterrorism Center, *Re: Updated Guidelines on Confinement Conditions for CIA Detainees* (Oct. 27, 2006) (released Aug. 24, 2009, all four pages redacted) *available at* pp. 15-18 (DOC 28) of <http://ccrjustice.org/files/August%202024.%202009%20CIA%20Doc%20Release.%20Docs%2021%20-%20274.pdf> (last accessed Sept. 30, 2009). If other guidance required such conformity, it is not evident from the public record.



extremely dangerous terrorist-detainees in the kinds of covert facilities used by the CIA. The facilities in which the CIA houses these high-value detainees were not built as ordinary prisons, much less as high-security detention centers for violent and sophisticated terrorists. In order to keep their location secret [redacted]

[redacted] Those limitations, in turn, require that special security measures be used inside the facilities to make up for the buildings' architectural shortcomings. It is in this unique context that the CIA has imposed the conditions of confinement described herein.<sup>27</sup>

Because "special security measures" implies more restriction, not less, it is reasonable to assume these the standard conditions of confinement employed within these facilities were more restrictive than would be found in a U.S. high-security detention center.<sup>28</sup>

24. *Open questions about medical care for detainees over years of detention.* In November 2002, personnel from the CIA's Office of Medical Services (OMS) provided medical care for detainees.<sup>29</sup> By January 2003, agency-level guidance required medical personnel to provide at least "basic levels" of medical care.<sup>30</sup> By April of 2003, and probably earlier, OMS personnel

<sup>27</sup> Letter to John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Acting Assistant, Attorney General, Office of Legal Counsel, Department of Justice (August 31, 2006) (released Aug. 24, 2009 with redactions) available at <http://www.aclu.org/torturefoia/released/082409/olc/08312006%20Letter%20to%20Rizzo%20from%20OLC.pdf> (last accessed Sept. 30, 2009), at 2-3.

<sup>28</sup> The author has not compared CIA documents describing these standards with guidelines for U.S. prisons. See generally *Standard Conditions of CIA Detention* (undated), enclosure with Letter to Steve Bradbury, Acting Assistant, Attorney General, Office of Legal Counsel, Department of Justice, from John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency (19 December 2005) (released Aug. 24, 2009 with redactions) available at pp. 99-103 (DOC 93) of <http://ccrjustice.org/files/August%2024,%202009%20CIA%20Doc%20Release,%20Docs%2021%20-%20274.pdf> (last accessed Sept. 30, 2009) (hereinafter "Pre-December 2005 Standard Conditions of CIA Detention"); *Standard Conditions of CIA Detention*, attachment A to Memorandum for DCI, from Chief, [redacted] CIA Counterterrorism Center, Re: *Updated Guidelines on Confinement Conditions for CIA Detainees*, October 27, 2006, (released Aug. 24, 2009 with redactions) available at pp. 11-14 (DOC 28) of <http://ccrjustice.org/files/August%2024,%202009%20CIA%20Doc%20Release,%20Docs%2021%20-%20274.pdf> (last accessed Sept. 30, 2009) (hereinafter "Pre-October 2006 Standard Conditions of CIA Detention").

<sup>29</sup> 2004 CIA IG Special Review, at para. 7.

<sup>30</sup> 2003 DCI Confinement Guidelines, at 1. However, the CIA IG noted this in conjunction with the observation that 2003 DCI Confinement Guidelines did not require that conditions of confinement, at the detention facilities conform to U.S. prison and other standards, suggesting that minimum standards for health care in the CIA facilities were lower than in U.S. prisons. See 2004 CIA IG Special Review, at para. 59, citing 2003 DCI Confinement Guidelines, at 1. Text describing these "basic levels" are redacted from public versions of the 2004 CIA IG Special Review and the 2003 DCI Confinement Guidelines. *Id.* Text describing medical treatment appears



took on additional roles: they established guidance for use of interrogation techniques;<sup>31</sup> medically evaluated detainees' ability to withstand use of interrogation techniques;<sup>32</sup> "monitored" detainees' medical condition during interrogation, particularly during use of techniques with the highest medical risk;<sup>33</sup> calibrated the amount of pain and suffering experienced by detainees during interrogation relevant to "acceptable" levels;<sup>34</sup> provided treatment for detainees suitable to allow interrogations to continue;<sup>35</sup> and used medical information about detainees to inform interrogations.<sup>36</sup> In some cases, medical officers collected information about detainees' responses to certain interrogation techniques in a manner that has been likened to non-consensual human experimentation.<sup>37</sup> OMS medical

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to be redacted from public versions of OMS guidelines. See generally *September 2003 OMS Guidelines* and *December 2004 OMS Guidelines*.

<sup>31</sup> 2004 CIA IG Special Review, at para. 262 (noting OMS first issued formal medical guidelines in April 2003).

<sup>32</sup> 2003 DCI Interrogation Guidelines, at 2. "The use of each Enhanced Technique is subject to specific temporal, physical, and related conditions, including a competent evaluation of the medical and psychological state of the detainee." *Id.* See also 2005 OLC Combined Use Memo, at 4, citing 2004 CIA Background Paper on Combined Techniques, at 2-3 ("...and he is given medical and psychological interviews to assess his condition and to make sure there are no contraindications to the use of any particular interrogation techniques.").

<sup>33</sup> See, e.g., 2005 OLC Techniques Memo, at 5 ("Medical and psychological personnel on scene throughout (and, as detailed below, physically present or otherwise observing during the application of many techniques, including all techniques involving physical contact with detainees)..."). The CIA IG noted "the fact that precautions have been taken to provide on-site medical oversight in the use of all EITs is evidence that their use poses risks." 2004 CIA IG Special Review, at para. 220.

<sup>34</sup> "More generally, medical personnel watch for signs of physical distress or mental harm so significant as possibly to amount to the "severe physical or mental pain or suffering" that is prohibited by sections 2340-2340A." 2005 OLC Techniques Memo, at 6.

<sup>35</sup> For example, OMS personnel monitored detainees shackled in a standing position for sleep deprivation for indications of edema or other contraindications, and could require interrogators to end sleep deprivation, or reshackle the detainee in a sitting or horizontal position for continued sleep deprivation. 2005 OLC Techniques Memo, at 11, citing *December 2004 OMS Guidelines*, at 14-16. "Upon completion of water dousing session(s), the detainee is moved to another room, monitored as needed by a medical officer to guard against hypothermia, and steps are taken to ensure the detainee is capable of generating necessary body heat and maintain normal body temperature." Letter from Scott W. Muller, General Counsel, Central Intelligence Agency, to Jack L. Goldsmith III, Assistant, Attorney General, Office of Legal Counsel, at 1, 2 (March 2, 2004) (released Aug. 24, 2009 with redactions) available at <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc22.pdf> (last visited Sept. 30, 2009) (hereinafter "2004 CIA Additional Techniques Letter"), at 3.

<sup>36</sup> For example, "[redacted] feigned memory problems (which CIA psychologists ruled out through intelligence and memory tests)...". 2005 OLC CIDT Memo, at 8.

<sup>37</sup> "Monitoring of interrogation techniques by medical professionals to determine their effectiveness uses detainees as human subjects without their consent, and thus also approaches unlawful experimentation." Physicians for Human Rights, *Aiding Torture: Health Professionals' Ethics and Human Rights Violations Revealed in the May 2004 CIA Inspector General's Report* (August 2009) available at <http://physiciansforhumanrights.org/library/documents/reports/aiding-torture.pdf> (last accessed Sept. 30, 2009), at 4. Physicians for Human Rights was particularly concerned about OMS guidelines that noted OMS' "limited knowledge" about subjects' reactions to the waterboard, then instructed CIA medical personnel that "every application of the waterboard be thoroughly documented." *Id.*, citing *December 2004 OMS Guidelines*, at 18, 20.

officers shared the interrogators' specific goal of 'dislocat[ing] [each detainee's] expectations regarding the treatment he believes he will receive....'" <sup>38</sup>

25. Aside from questions about possible wrongdoing on the part of the medical officers,<sup>39</sup> there are serious questions about how CIA medical officers' "dual role" may have affected their relationships with detainees, and how this, in turn, may have compromised detainees' medical care.<sup>40</sup> The questions are particularly important given that harsh interrogations would likely have made the detainee's need for care even more acute, and lack of appropriate medical care following abuse can be considered a continuation of that abuse. The "dual role" also raises questions about medical officers' ability to properly evaluate the effect of interrogation techniques on detainees. As a safeguard against pain and suffering that exceeded levels deemed appropriate by CIA and OLC, OMS medical personnel were required to evaluate how much pain and suffering a detainee might experience before he was interrogated,<sup>41</sup> and how much he

<sup>38</sup> *December 2004 OMS Guidelines*, at 9, quote not cited.

<sup>39</sup> The duties of CIA medical officers in the program echo widely-condemned practices:

"Participation in torture" includes evaluating an individual's capacity to withstand ill-treatment; being present, at, supervising or inflicting maltreatment; resuscitating individuals for the purposes of further maltreatment or providing medical treatment immediately before, during or after torture on the instructions of those likely to be responsible for it; providing professional knowledge or individuals' personal health information to torturers; intentionally neglecting evidence and falsifying reports, such as autopsy reports and death certificates.

<sup>40</sup> *The Istanbul Protocol*, para. 52.

Regarding interrogations, [all but one U.S. professional medical organization] have stated it is a violation for a health professional to participate in interrogations in any way, including medical monitoring of the subject. The basis for this is that a dual role as health professional-interrogator undermines the health professional's role as healer, and thereby erodes trust in the health professionals and their profession.

Statement by Allen S. Keller, M.D. Associate Professor of Medicine, New York University School of Medicine Director, Bellevue/NYU Program for Survivors of Torture Member, Advisory Council, Physicians for Human Rights, before the Senate Select Committee on Intelligence, Hearing on U.S. Interrogation Policy and Executive Order 13440 (September 25, 2007), available at <http://intelligence.senate.gov/pdfs/110849.pdf>.

[T]echnique-specific advanced approval is required for all "enhanced" measures and is conditional on on-site medical and psychological personnel confirming from direct detainee examination that the enhanced technique(s) is not expected to produce "severe physical or mental pain or suffering." As a practical matter, the detainee's physical condition must be such that these interventions will not have lasting effect, and his psychological state strong enough that no severe psychological harm will result (footnote omitted).

*December 2004 OMS Guidelines*, at 9.

did experience while interrogated.<sup>42</sup> OMS personnel treating detainees afterwards were essentially left to determine whether these earlier evaluations were accurate. OLC hinged its opinions about the legality of the interrogation techniques on the application of these “safeguards.”<sup>43</sup>

26. *Isolation as a detention condition.* The CIA used isolation as a condition of confinement and an interrogation technique.<sup>44</sup> The CIA kept detainees “isolated from the outside world and from one another”, in “solitary confinement in which they are unable to see or talk with other detainees.”<sup>45</sup> The CIA took steps to provide detainees with physical exercise and intellectual stimulation, but their only human contact appeared to have been with their captors or interrogators.<sup>46</sup> Because detainees were held in covert facilities where “special security measures [were] used inside the facilities to make up for the buildings’ architectural shortcomings,” isolation may have been more pronounced than in typical U.S. prison situations.<sup>47</sup> CIA interrogators likely would have been aware that isolation and solitary confinement can be used as a tactic to “induce control, dependency, compliance and cooperation.”<sup>48</sup> Isolation prevents detainees from bonding with equals and mutually identifying

<sup>42</sup> See, e.g., 2005 OLC Techniques Memo, at 5 (“Medical and psychological personnel on scene throughout (and, as detailed below, physically present or otherwise observing during the application of many techniques, including all techniques involving physical contact with detainees)...”).

<sup>43</sup> See, generally, above, at footnote 10.

<sup>44</sup> See 2003 DCI Interrogation Guidelines, at 1; September 2003 OMS Guidelines, at 1; December 2004 OMS Guidelines, at 8. In 2006, OLC assessed “isolation” as a condition of confinement, but noted it also served “other purposes.” Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Acting Assistant, Attorney General, Office of Legal Counsel, Department of Justice, *Re: Application of Detainee Treatment Act to Conditions of Confinement, at Central Intelligence Agency Detention Facilities* (August 31, 2006) (released Aug. 24, 2009 with redactions) available at <http://www.usdoj.gov/olc/docs/memo-rizzo2006.pdf> (last accessed Sept. 30, 2009) (hereinafter “2006 OLC DTA Memo”) (discussion of “other purposes” for using isolation redacted in public version of document), at 13, 16 *et seq.*

<sup>45</sup> Letter to John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Acting Assistant, Attorney General, Office of Legal Counsel, Department of Justice (Aug. 31, 2006) (released Aug. 24, 2009 with redactions) available at <http://www.usdoj.gov/olc/docs/letter-rizzo2006.pdf> (last accessed Sept. 30, 2009) (hereinafter “2006 OLC Conditions Letter”), at 7, 9. See also 2006 OLC DTA Memo, at 4-5.

<sup>46</sup> *Id.* Portions of these memos describing the parameters of detainees’ “limited” human contact are redacted in public versions, but unredacted portions rule out other detainees or “the outside world.” *Id.* See also *Pre-December 2005 Standard Conditions of CIA Detention*, at 1, 2 (text referring to “isolation” is redacted).

<sup>47</sup> Letter to John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Acting Assistant, Attorney General, Office of Legal Counsel, Department of Justice (August 31, 2006) (released Aug. 24, 2009 with redactions) available at <http://www.aclu.org/torturefoia/released/082409/olc/08312006%20Letter%20to%20Rizzo%20from%20OLC.pdf> (last accessed Sept. 30, 2009), at 2-3. Discussion above, para. 23.

<sup>48</sup> Extracts of July 25, 2002 Memorandum from Joint Personnel Recovery Agency, Chief of Staff, for Office of the Secretary of Defense General Counsel, *Subject: Exploitation*, at Tab 3 of documents accompanying *The Origins of Aggressive Interrogation Techniques: Part I of the Committee's inquiry into the treatment of detainees into U.S. custody*, United States Senate Committee on Armed Services (June 17, 2008) (hereinafter “JPRA



with other abused detainees, and encourages traumatic bonding with the people responsible for their abusive treatment (captors and interrogators).<sup>49</sup>

27. *Constant surveillance.* “[E]ach detention cell has full-time closed-circuit video monitoring...”.<sup>50</sup> A detainee may have gone years without any privacy.

28. *Shackling as a recurring condition.* Shackling was used to “enhance security in all aspects of detainee management and movements.”<sup>51</sup> Because detainees were held in covert facilities where “special security measures [were] used inside the facilities to make up for the buildings’ architectural shortcomings,” shackling may have been more extensively used than in typical U.S. prison situations.<sup>52</sup> Shackling was also incidental to other forms of treatment, such as sleep deprivation and forced grooming.<sup>53</sup>

29. *Loud music or white noise as detention condition.* White noise was used in the walkways of the detention facilities to prevent detainees from being able to communicate with each other or identify other detainees, at levels loud enough to be heard in detainees’ cells.<sup>54</sup> Measurements taken by the CIA in one facility indicated a standard level of ambient noise in the cells similar to that of a “normal conversation.”<sup>55</sup> Noise may have also interfered with detainees’ ability to

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Description of Physical Pressures”), available at <http://levin.senate.gov/newsroom/supporting/2008/Documents.SASC.061708.pdf> (last accessed Sept. 30, 2009). This document, initially prepared by the Joint Personnel Recovery Agency (JPRA), describes the effects of certain forms of treatment on “resistant” human subjects. JPRA administers and oversees training for U.S. military personnel on how to resist coercive interrogation (aka, SERE training, from the acronym for “survival, evasion, resistance, and escape”). The CIA contracted former JPRA personnel to develop post-9/11 interrogation approaches for the high-value detainee program by “reverse-engineering” procedures used in SERE. See generally Memorandum for John A. Rizzo, Acting General Counsel of the Central Intelligence Agency, from Jay S. Bybee, Assistant, Attorney General, Office of Legal Counsel, *Re: Interrogation of al Qaeda Operative* (August 1, 2002) (hereinafter “2002 OLC Abu Zubaydah Memo”) available at <http://www.usdoj.gov/olc/docs/memo-bybee2002.pdf> (last accessed Sept. 30, 2009), at 1 *et seq.*; 2005 OLC Techniques Memo, at FN 33.

<sup>49</sup> *The Istanbul Protocol*, at 29.

<sup>50</sup> 2005 OLC Techniques Memo, at 7. See also *id.*, at 11 (“You have assured us [OLC] that detainees are constantly monitored by closed-circuit television...”).

<sup>51</sup> *Pre-December 2005 Standard Conditions of CIA Detention*, at 3.

<sup>52</sup> Letter to John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Acting Assistant, Attorney General, Office of Legal Counsel, Department of Justice (August 31, 2006) (released Aug. 24, 2009 with redactions) available at <http://www.aclu.org/torturefoia/released/082409/olc/08312006%20Letter%20to%20Rizzo%20from%20OLC.pdf> (last accessed Sept. 30, 2009), at 2-3. Discussion above, para. 23.

<sup>53</sup> 2006 OLC DTA Memo, at 4 (detainee shackled to chair during forced grooming). Shackling during sleep deprivation is discussed below, para. 50, 52.

<sup>54</sup> See, e.g., 2006 OLC DTA Memo, at 5.

<sup>55</sup> *Id.*



sleep, at least initially.<sup>56</sup> The CIA noted that the use of “white noise/loud sounds” as a detention condition had “an impact on the detainee undergoing interrogation.”<sup>57</sup> Because detainees were held in covert facilities where “special security measures [were] used inside the facilities to make up for the buildings’ architectural shortcomings,” this practice may have been more intrusive than similar measures in typical U.S. prison situations.<sup>58</sup> Before the CIA asked OLC to assess whether standard conditions of confinement in CIA’s covert facilities violated the Fifth Amendment, the use of loud music or white noise was considered standard.<sup>59</sup> OLC did not include an assessment of loud music as then used by the CIA in its legal analysis,<sup>60</sup> and CIA soon thereafter dropped “loud music” from its list of standard conditions of CIA detention.<sup>61</sup> It is not clear whether loud music or white noise were used continuously or intermittently over the extent of a detainee’s confinement. If the former, a detainee could have literally gone for years without ever experiencing the respite of silence. Loud music and white noise were also used in interrogations.

30. *Constant light as as detention condition.* The CIA used constant or continuous light as an interrogation technique and a condition of confinement.<sup>62</sup> The CIA noted that the use of constant light as a detention condition had “an impact on the detainee undergoing interrogation.”<sup>63</sup> Because detainees were held in covert facilities where “special security measures [were] used inside the facilities to make up for the buildings’ architectural shortcomings,” lighting conditions may have been more intrusive than in typical U.S. prison situations.<sup>64</sup> CIA interrogators likely would have been aware that sensory overload, which

<sup>56</sup> OLC noted in 2006 that the CIA had observed that standard levels of noise and light did not appear to affect detainees’ ability to sleep. 2006 OLC DTA Memo, at 19, 21.

<sup>57</sup> 2004 CIA Background Paper on Combined Techniques, at 4.

<sup>58</sup> Letter to John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Acting Assistant, Attorney General, Office of Legal Counsel, Department of Justice (August 31, 2006) (released Aug. 24, 2009 with redactions) available at

<http://www.aclu.org/torturefoia/released/082409/olc/08312006%20Letter%20to%20Rizzo%20from%20OLC.pdf> (last accessed Sept. 30, 2009), at 2-3. Discussion above, para. 23.

<sup>59</sup> Pre-December 2005 Standard Conditions of CIA Detention, at 1, 2.

<sup>60</sup> See generally 2006 OLC Conditions Letter, 2006 OLC DTA Memo. OLC noted that there were “other purposes” for using white noise. 2006 OLC DTA Memo, at 13 (discussion of “other purposes” for using white noise redacted in public version of document).

<sup>61</sup> See Pre-October 2006 Standard Conditions of CIA Detention.

<sup>62</sup> See 2004 CIA IG Special Review, at para. 89, fn. 43 (listing “continual use of light or darkness in a cell” as a standard interrogation technique approved as early as November 2002); September 2003 OMS Guidelines, at 1 (listing “continuous light or darkness” among “standard” interrogation techniques); December 2004 OMS Guidelines, at 8 (listing “continuous light or darkness” among “sanctioned interrogation techniques”); Pre-December 2005 Standard Conditions of CIA Detention, at 1 (listing “constant light” as standard condition of detention); Pre-October 2006 Standard Conditions of CIA Detention, at 1 (listing “constant light” as standard condition of detention).

<sup>63</sup> 2004 CIA Background Paper on Combined Techniques, at 4.

<sup>64</sup> Letter to John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Acting Assistant, Attorney General, Office of Legal Counsel, Department of Justice (August 31, 2006) (released

"includes being constantly exposed to bright, flashing lights, loud music annoying / irritating sounds, etc." can be used as a tactic to "induce control, dependency, compliance and cooperation."<sup>65</sup> Such sensory overload would have "elevate[d] the agitation level of a person and increase[d] their emotionality, as well as enhance[d] the effects of isolation."<sup>66</sup> Constant light may have also interfered with detainees' ability to sleep, at least initially.<sup>67</sup> A detainee could have literally gone for years without ever experiencing the respite of darkness.

31. *Impaired quality or quantity of sleep throughout detention.* Standard detention conditions may have affected the quality or quantity of detainees' sleep throughout the detention period, although the CIA observed over time that standard levels of noise and light did not appear to affect detainees' ability to sleep.<sup>68</sup> CIA interrogators likely would have been aware that "disruption of sleep and biorhythms", in which "sleep patterns are purposefully disrupted", "make it more difficult for the subject to think clearly, concentrate, and make rational decisions."<sup>69</sup> The CIA used sleep deprivation during periods of active interrogation, as described below.

32. *Intermittent hooding or blindfolding.* CIA used hooding or blindfolding as an interrogation technique and a security measure.<sup>70</sup> Hooding or blindfolding was used as a special security measure when a detainee was moved into or around the facility.<sup>71</sup> Because detainees were held in covert facilities where "special security measures [were] used inside the facilities to make up for the buildings' architectural shortcomings," this special security measure may have been more extensively used than similar measures in typical U.S. prison situations.<sup>72</sup>

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Aug. 24, 2009 with redactions) available at <http://www.aclu.org/torturefoia/released/082409/olc/08312006%20Letter%20to%20Rizzo%20from%20OLC.pdf> (last accessed Sept. 30, 2009), at 2-3. Discussion above, para. 23.

<sup>65</sup> *JPR A Description of Physical Pressures.*

<sup>66</sup> *Id.*

<sup>67</sup> OLC noted in 2006 that the CIA had observed that standard levels of noise and light did not appear to affect detainees' ability to sleep. *2006 OLC DTA Memo*, at 19, 21.

<sup>68</sup> *2006 OLC DTA Memo*, at 19, 21.

<sup>69</sup> *JPR A Description of Physical Pressures.*

<sup>70</sup> *September 2003 OMS Guidelines*, at 1 (listing "hooding" among "standard" interrogation techniques); *December 2004 OMS Guidelines*, at 8 (listing "hooding" among "sanctioned interrogation techniques"); *Pre-December 2005 Standard Conditions of CIA Detention*, at 1 (listing "hooding" as standard condition of detention); *Pre-October 2006 Standard Conditions of CIA Detention*, at 1 (text that corresponds to information on "hooding" in *Pre-December 2005 Standard Conditions of CIA Detention* is redacted). In 2006, OLC assessed "blindfolding" as a condition of confinement. *2006 OLC Conditions Letter*, at 7 (noting practice of blindfolding is properly characterized as a "special security measure"); *2006 OLC DTA Memo*, at 4.

<sup>71</sup> See *Pre-December 2005 Standard Conditions of CIA Detention*, at 1 (listing hooding among conditions of detention required by CIA security); *2006 OLC Conditions Letter*, at 7; *2006 OLC DTA Memo*, at 4.

<sup>72</sup> Letter to John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Acting Assistant, Attorney General, Office of Legal Counsel, Department of Justice (August 31, 2006) (released Aug. 24, 2009 with redactions) available at

33. *Intermittent forced grooming.* CIA used forced grooming (shaving) as an interrogation technique as well as a security measure.<sup>73</sup> Detainees were shaved (head and face) upon arrival at the detention facility, then allowed to groom as requested throughout detention.<sup>74</sup> OLC noted that even when described as a condition of confinement, the initial act of shackling a detainee to a chair and forcibly shaving his head and face, in combination with other factors, "is more like an interrogation technique than a condition of confinement."<sup>75</sup> Detainees could also be groomed at any point during their detention for the purposes of "hygiene and safety",<sup>76</sup> presumably with or without their consent. It is not clear from open sources how this forced grooming may have resembled the initial shaving, or whether interrogators scheduled or exploited forced grooming.

#### AN INTERROGATION APPROACH THAT RELIED UPON THE CALIBRATED INFLICTION OF PAIN AND SUFFERING

34. The CIA employed interrogation techniques that depended upon the deliberate infliction of mental and physical pain and suffering. The CIA believed its "new" interrogation approach was effective because recalcitrant detainees would rather surrender to interrogators' demands than continue interrogation.<sup>77</sup> Interrogators were not barred from causing pain or suffering, only from causing *too much* pain or suffering. Doctors were not required to "do no harm", but

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<http://www.aclu.org/torturefoia/released/082409/olc/08312006%20Letter%20to%20Rizzo%20from%20OLC.pdf> (last accessed Sept. 30, 2009), at 2-3. Discussion above, para. 23.

<sup>73</sup> See *September 2003 OMS Guidelines*, at 1 (listing shaving among "standard" interrogation techniques); *December 2004 OMS Guidelines*, at 8 (listing shaving among "sanctioned interrogation techniques"); *Pre-December 2005 Standard Conditions of CIA Detention*, at 1 (listing shaving among conditions of detention required by CIA security); *2006 OLC Conditions Letter*, at 12 (citing shaving for the purposes of hygiene and security); *2006 OLC DTA Memo*, at 4, FN 3 (citing shaving for the purposes of hygiene and security, but also comparing the initial shaving to interrogation techniques).

<sup>74</sup> *Id.*

<sup>75</sup> *2006 OLC DTA Memo*, at 4, FN 3 (citing shaving for the purposes of hygiene and security, but also comparing the initial shaving to interrogation techniques). The other factors are redacted from this text.

<sup>76</sup> *Id.*

<sup>77</sup> See generally *2004 CIA Background Paper on Combined Techniques*. "The interrogators ... explain the HVD's situation to him, tell him that the interrogators will do what it takes to get important information, and that he can improve his conditions immediately by participating [sic] with the interrogators." *Id.*, at 10. "[I]nterrogators will remind the HVD that he is responsible for this treatment and can stop it, at any time by cooperating with the interrogators. *Id.*, at 15.

Establishing this baseline state is important to demonstrate to the HVD that he has no control over basic human needs. The baseline state also creates in the detainee a mindset in which he learns to perceive and value his personal welfare, comfort, and immediate needs more than the information he is protecting.

*Id.*, at 5.



to calibrate the harm to acceptable levels. When the Director of the CIA discussed the value of these interrogation techniques with the IG, he described the subjects as “detainees who had otherwise believed they were safe from any harm in the hands of Americans.”<sup>78</sup>

35. The CIA’s approach emphasized the psychological effects of interrogation procedures over the physical. According to the CIA, interrogation procedures implemented in the CIA’s special interrogation program for “high-value detainees” involved forms of treatment designed specifically to “psychologically ‘dislocate’ the subject, maximize his feeling of vulnerability and helplessness, and reduce or eliminate his will to resist our efforts to obtain critical intelligence.”<sup>79</sup> As noted by CIA guidance issued to medical officers supporting the program, “In all instances, the general goal of these [interrogation] techniques is a psychological impact, and not some physical effect, with a specific goal of ‘dislocat[ing] his expectations regarding the treatment he believes he will receive...’”<sup>80</sup>

36. This interrogation approach was rooted in the belief that:

Effective interrogation is based on the concept of using both *physical and psychological pressures in a comprehensive, systematic, and cumulative manner* to influence HVD behavior, to overcome a detainee’s resistance posture. The goal of interrogation is to *create a state of learned helplessness and dependence* conducive to the collection of intelligence in a predictable, reliable, and *sustainable* manner. (emphasis added.)<sup>81</sup>

37. “Learned helplessness” can be described as “a laboratory model of depression in which exposure to a series of unforeseen adverse situations gives rise to a sense of helplessness or an inability to cope with or devise ways to escape such situations, even when escape is possible.”<sup>82</sup>

38. After capture, HVDs were subjected to a “rendition and reception process” that “generally create[d] significant apprehension in the [“high-value detainee”] because of the enormity and suddenness of the change in environment, the uncertainty about what will happen next, and the

<sup>78</sup> 2004 CIA IG Special Review, at para. 218.

<sup>79</sup> December 2004 OMS Guidelines, at 8.

<sup>80</sup> *Id.* at 9, quote not cited.

<sup>81</sup> 2004 CIA Background Paper on Combined Techniques, at 1. Compare *id.* with *The Istanbul Protocol*, at 45 (“One of the central aims of torture is to reduce an individual to a position of extreme helplessness and distress that can lead to a deterioration of cognitive, emotional and behavioural functions.”).

<sup>82</sup> The American Heritage Stedman’s Medical Dictionary. Houghton Mifflin Company (Sept. 22, 2009) available at [http://dictionary.reference.com/browse/learned helplessness](http://dictionary.reference.com/browse/learned%20helplessness) (last accessed Oct. 1, 2009).



potential dread a detainee might have of US custody.”<sup>83</sup> This initial process set the tone for the HVD detention experience.

39. Before initiating interrogation, CIA officers screened each HVD to determine his “resistance posture”, using available intelligence to assess the detainee’s knowledgability and set interrogators’ expectations.<sup>84</sup>

Interrogators use the Initial Interview to assess the initial resistance posture of the HVD and to determine – in a relatively benign environment – if the HVD intends to willingly participate with CIA interrogators. The standard on participation is set very high during the Initial Interview. The HVD would have to willingly provide information on actionable threats and location information on High-Value Targets at large – not lower level information – for interrogators to continue with the neutral approach.<sup>85</sup>

40. A detainee who was legitimately forthcoming may nevertheless have been subjected to harsh treatment if CIA officers erroneously believed he knew more than he revealed. In 2004, the CIA OIG noted that agency officers had reported that:

[R]eliance on analytical assessments that were unsupported by credible intelligence may have resulted in the application of EITs [enhanced interrogation techniques] without justification. Some participants in the Program, particularly field interrogators, judge that CTC assessments to the effect that detainees are withholding information are not always supported by an objective evaluation of available information and the evaluation of the interrogators but are too heavily based, instead, on presumptions of what the individual might or should know.<sup>86</sup>

41. Detainees were medically and psychologically assessed by medical professionals prior to interrogation. CIA personnel examined detainees for possible “contraindications” to the use of specific interrogation techniques that would lead the detainee, in their judgment, to experience more pain and suffering than was considered acceptable for interrogation subjects in the CIA program.<sup>87</sup> Medical professionals also created psychological profiles on each subject.

42. Once a detainee was deemed “resistant” and assessed by medical and mental health professionals, the interrogation process began. By 2004, the CIA was using an interrogation process that typically lasted several weeks.

<sup>83</sup> 2004 CIA Background Paper on Combined Techniques, at 2.

<sup>84</sup> *Id.*, at 3.

<sup>85</sup> *Id.*, at 3.

<sup>86</sup> 2004 CIA IG Special Review, at para. 104. Open sources do not indicate whether the IG recommended or the CIA took corrective action.

<sup>87</sup> See, e.g., 2005 OLC Techniques Memo, at 16.

On average, the actual use of interrogation techniques [redacted] can vary upwards to fifteen days based on the resilience of the HVD. [redacted] If the interrogation team anticipates the potential need to use interrogation techniques beyond the 30-day approval period, it will submit a new interrogation plan to HQS for evaluation and approval.<sup>88</sup>

During this time, interrogations were typically intense for the first days or weeks.<sup>89</sup> Within the first two or three sessions of a “prototypical” interrogation, interrogators would have used most techniques multiple times on detainees deemed fit for such treatment.<sup>90</sup> As the detainee transitioned to compliance, CIA officers would have applied interrogation techniques less frequently, in order to “improve” the “interrogation environment” “in accordance with the HVD’s demonstrated consistent participation with the interrogators.”<sup>91</sup> CIA officers could “reinstate” intense interrogation for a detainee previously assessed as “compliant.”<sup>92</sup>

43. During the detention of AHMED KHALFAN GHAILANI each authorized interrogation technique described herein was approved for use on detainees singly and in combination with other forms of treatment, unless otherwise noted.<sup>93</sup>

<sup>88</sup> 2004 CIA Background Paper on Combined Techniques, at 16-17. Citing this material, OLC said, “enhanced interrogation techniques are generally not used for more than seven days,” probably relying on the text redacted in the public version. 2005 OLC CIDT Memo, at 8. On at least one occasion, in 2004, the CIA interrogators requested and received approval for “ongoing” interrogation of detainee. Letter from Daniel B. Levin, Acting Assistant, Attorney General, Office of Legal Counsel, to John a Rizzo, Acting General Counsel, Central Intelligence Agency (August 26, 2004) (approving use of four particular techniques in “ongoing” interrogation of detainee, name redacted) available at <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc85.pdf> (last accessed Oct. 1, 2009).

<sup>89</sup> See generally 2004 CIA Background Paper on Combined Techniques (describing the “prototypical” interrogation and a “day-to-day look”, at the process). The CIA reportedly did not waterboard any detainees after February 2003, although CIA requested and was granted approval to waterboard, at least one more detainee, in 2004. See Letter from Daniel B. Levin, Acting Assistant, Attorney General, Office of Legal Counsel, to John a Rizzo, Acting General Counsel, Central Intelligence Agency (August 6, 2004), (approving use of waterboard in interrogation of detainee, name redacted) available at <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc74.pdf> (last accessed Oct. 1, 2009). The CIA discovered through the course of the program that some detainees found that being placed in an “awkward box” for “cramped confinement” was actually “a safehaven [sic] offering a respite” from interrogation, and limited its use accordingly. December 2004 OMS Guidelines, at 16.

<sup>90</sup> *Id.*

<sup>91</sup> 2004 CIA Background Paper on Combined Techniques, at 16, 18.

<sup>92</sup> See, e.g., 2004 CIA IG Special Review, at para. 91-92, 224. The CIA IG describes how ‘Abd Al-Rahim Al-Nashiri was interrogated with “enhanced interrogation techniques”, assessed as “compliant”, then reassessed as “withholding” and subject to additional “enhanced interrogation techniques.” *Id.*

<sup>93</sup> See above, footnote 2.

44. *Unknown forms of authorized treatment.* Documents that the CIA has released to the public indicate that the CIA planned to use techniques other than those listed herein. However, these documents leave unclear what those techniques actually entailed. For example, by 2004, CIA had adopted an additional technique that it considered comparable to “the attention grasp”, “walling” and the “facial slap”, but it is not clear from open sources what this technique was.<sup>94</sup> Agency-level interrogation guidelines from 2003 approved “all lawful forms of questioning employed by U.S. law enforcement and military interrogation personnel” and “moderate psychological pressure”, but it is not clear what behavior this entailed.<sup>95</sup> The same Agency-level interrogation guidelines from 2003 demonstrate that interrogators were allowed to use other than standard and enhanced techniques, if approved by Headquarters, and that “Standard Techniques” other than those listed were allowed.<sup>96</sup>

45. *Open questions about unauthorized treatment, including threats.* In 2004, the CIA OIG determined CIA personnel in the HVD program and elsewhere had used unauthorized interrogation techniques.<sup>97</sup> If a similar inquiry was made for the period during which AHMED KHALFAN GHAILANI was held by the CIA, the results are not public, leaving open the question of whether he or other detainees were subjected to unauthorized treatment. The Attorney General has authorized a preliminary inquiry into unauthorized interrogation techniques.

46. CIA interrogators set out to psychologically “dislocate” each subject’s expectations regarding the treatment he believed he would receive, and to “maximize his feeling of vulnerability and helplessness.”<sup>98</sup> Detainees were specifically told that interrogators would “do what it takes to get important information.”<sup>99</sup> The CIA’s interrogation approach, rooted in the inducement of helplessness and dependency, essentially depended on threats – the detainee’s belief that at any time, interrogators could purposely or accidentally cause him pain or suffering.

<sup>94</sup> See 2004 CIA Additional Techniques Letter, at 1, 2.

<sup>95</sup> 2003 DCI Interrogation Guidelines, at 1. The phrase “moderate psychological pressure” was redacted from the public version of the 2003 DCI Interrogation Guidelines, but not from other sources repeating its text. See 2004 CIA IG Special Review, at para. 63 (repeating list from 2003 DCI Interrogation Guidelines and including “moderate psychological pressure”); “CIA Business Plan Discussing Rendition, Detention, Interrogation Program” (March 2, 2003) (released Aug. 24, 2009 with redactions) available at [http://www.aclu.org/torturefoia/released/082409/cia\\_ig/oig29.pdf](http://www.aclu.org/torturefoia/released/082409/cia_ig/oig29.pdf) (last visited Oct. 1, 2009), at 17.

<sup>96</sup> 2003 DCI Interrogation Guidelines, at 1 (“Among”).

<sup>97</sup> See generally 2004 CIA IG Special Review.

<sup>98</sup> December 2004 OMS Guidelines, at 8.

<sup>99</sup> 2004 CIA Background Paper on Combined Techniques, at 10. Because the statement might be construed as a threat of harm, OLC suggested in 2005 that CIA reconsider whether “a different statement might be adequate to convey to the detainee the seriousness of his situation.” 2005 OLC Combined Use Memo, at 19.



47. *Conditioning techniques.* At the outset of a “prototypical” interrogation process, the CIA would have initiated a series of conditioning techniques to “reduce” the detainee to a “baseline, dependant state.”<sup>100</sup> The CIA believed that, “Establishing this baseline state is important to demonstrate to the [“high-value detainee”] that he has no control over basic human needs.”<sup>101</sup> The CIA relied on “the cumulative effect of these techniques, used over time and in combination with other interrogation techniques and intelligence exploitation methods.”<sup>102</sup> While the detainee may not have felt strong effects of conditioning techniques “early in the interrogation”, their impact would have increased over time,<sup>103</sup> and their effects would have constituted a backdrop for other treatment. Detainees would have been concurrently subjected to other interrogation techniques during the interrogation process,<sup>104</sup> and subjected to conditions of detention that would have continued after interrogation had ended.

48. Conditioning techniques included but were not limited to nudity, sleep deprivation, and dietary manipulation.<sup>105</sup> Conditioning techniques were meant to be applied throughout and between periods of active questioning, and may have been used for hours, days, or even weeks.<sup>106</sup> Other forms of treatment that were or may have been used contemporaneously and with similar effect include shackling, diapering, cold environment, loud music or white noise, and hooding or blindfolding, and may also have included continuous darkness.<sup>107</sup>

49. *Stripping and nudity incidental to interrogation.* CIA used stripping and nudity as interrogation techniques.<sup>108</sup> Detainees were stripped of their clothing and kept nude as part of the effort to bring them to a “baseline, dependant state.”<sup>109</sup> The act of stripping was a deliberate part of the interrogation, and typically performed while the detainee was hooded and presumably in a state of heightened uncertainty.<sup>110</sup> “This technique is used to cause psychological discomfort, particularly if a detainee, for cultural or other reasons, is especially modest.”<sup>111</sup> CIA interrogators likely would have been aware that degradation can be used as a

<sup>100</sup> 2004 CIA Background Paper on Combined Techniques, at 4.

<sup>101</sup> *Id.*, at 4.

<sup>102</sup> *Id.*, at 5.

<sup>103</sup> *Id.*

<sup>104</sup> 2004 CIA Background Paper on Combined Techniques, at 5, 7 (conditioning techniques used with corrective and coercive techniques).

<sup>105</sup> *Id.*, at 5.

<sup>106</sup> *Id.*, at 11.

<sup>107</sup> As discussed below, para. 52, 53, 55, 56, 59, 61.

<sup>108</sup> September 2003 OMS Guidelines, at 1 (listing “stripping” among “standard” interrogation techniques); December 2004 OMS Guidelines, at 8 (listing “stripping” among “sanctioned interrogation techniques”); 2004 CIA Background Paper on Combined Techniques, at 5 (“The HVD’s clothes are taken and he remains nude until the interrogators provide clothes to him.”).

<sup>109</sup> 2004 CIA Background Paper on Combined Techniques, at 4-5.

<sup>110</sup> *Id.*, at 9-10.

<sup>111</sup> 2005 OLC Techniques Memo, at 7.



tactic to “induce control, dependency, compliance and cooperation.”<sup>112</sup> Interrogators could provide articles of clothing as reward for compliance.<sup>113</sup>

50. *Sleep deprivation as an interrogation technique.* As early as November 2002, sleep deprivation up to 72 hours was considered a standard interrogation technique.<sup>114</sup> By 2004, sleep deprivation for 48 hours was “standard”, and longer periods were “enhanced.”<sup>115</sup> The primary purpose of this technique was to “weaken the subject and wear down his resistance.”<sup>116</sup>

The primary method of sleep deprivation involves the use of shackling to keep the detainee awake. In this method, the detainee is standing and is handcuffed, and the handcuffs are attached by length of chain to the ceiling. The detainee’s hands are shackled in front of his body, so that the detainee has approximately a two- to three-foot diameter of movement. The detainee’s feet are shackled to a bolt in the floor. ... The detainee’s hands are generally between the level of his heart and his chin ... should the detainee begin to fall asleep, he will lose his balance and awaken, either because of the sensation of losing his balance or of the restraining tension of the shackles. ... In lieu of standing sleep deprivation, a detainee may instead be seated on and shackled to a small stool. The stool supports the detainee’s weight, but is too small to permit the subject to balance himself sufficiently to be able to go to sleep. On rare occasions, a detainee may also be restrained in a horizontal position when necessary to enable recovery from edema without interrupting the course of sleep deprivation (citations omitted).<sup>117</sup>

The detainee may be diapered, or nude and diapered. “If the detainee is clothed, he wears an adult diaper under his pants. Detainees subject to sleep deprivation who are also subject to nudity as a separate interrogation technique will at times be nude and wearing a diaper.”<sup>118</sup> The CIA recognized that extended sleep deprivation may be associated with reduced tolerance for some forms of pain.<sup>119</sup>

<sup>112</sup> *JPRA Description of Physical Pressures.*

<sup>113</sup> *2004 CIA Background Paper on Combined Techniques*, at 5.

<sup>114</sup> *2004 CIA IG Special Review*, at fn. 43.

<sup>115</sup> The CIA reduced the limit for sleep deprivation as a standard technique to 48 hours in late December 2003. *Id.*, at fn. 34.

<sup>116</sup> *2005 OLC Techniques Memo*, at 11.

<sup>117</sup> *Id.*, at 11.

<sup>118</sup> *Id.*, at 12.

<sup>119</sup> *2005 OLC Combined Use Memo*, at 13.

51. By 2004, the CIA had established limit of 180 hours (7.5 days) for continuous sleep deprivation, after which a detainee was to be allowed eight hours of uninterrupted sleep.<sup>120</sup> OLC noted in 2005 that, "Under CIA's guidelines, sleep deprivation could be resumed after a period of eight hours of uninterrupted sleep, but only if OMS personnel specifically determined that there are no medical or psychological contraindications based on the detainee's condition at that time."<sup>121</sup> OLC reported that by 2005, more than a dozen detainees had been deprived of sleep for more than 48 hours per session; three detainees had been deprived of sleep for more than 96 hours per session; and the longest period of time for which any detainee has been deprived of sleep in one session by the CIA was 180 hours.<sup>122</sup> More than 25 detainees were subjected to some form of sleep deprivation.<sup>123</sup> OLC declined to evaluate further use of sleep deprivation following 180 hours with an 8-hour recovery period, and did not address any information it may have received from the CIA on repeated use of sleep deprivation.<sup>124</sup>

52. *Shackling incidental to interrogation.* Shackling was used to control detainees throughout their detention, such as for forced grooming, and was an interrogation technique.<sup>125</sup> Shackling was also a form of treatment incidental to other techniques, as it was sometimes used to immobilize a detainee for water dousing,<sup>126</sup> and to keep him awake during sleep deprivation, either in vertical, sitting or horizontal positions.<sup>127</sup>

53. *Diapering as an interrogation technique.* Detainees subject to sleep deprivation were sometimes placed in diapers under clothing or while nude.<sup>128</sup> In 2003, The CIA appears to have considered diapering an interrogation technique in its own right, in addition to treatment incidental to sleep deprivation.<sup>129</sup> By 2005, diapering appears to have been coterminous with sleep deprivation.<sup>130</sup> In 2005, CIA asserted to OLC that "diapers are used solely for sanitary and health reasons and not in order to humiliate the detainee", but also that diapers were

<sup>120</sup> 2005 OLC Techniques Memo, at 12. See also December 2004 OMS Guidelines, at 15-16 (limiting sleep deprivation to 180 hours; most information redacted).

<sup>121</sup> 2005 OLC Techniques Memo, at 12.

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*, at 37.

<sup>124</sup> See 2005 OLC Techniques Memo, at 35-36.

<sup>125</sup> See September 2003 OMS Guidelines, at 1 (listing "shackling in upright sitting or horizontal position" among "standard" interrogation techniques); December 2004 OMS Guidelines, at 8 (listing shackling among "sanctioned interrogation techniques").

<sup>126</sup> 2004 CIA Additional Techniques Letter, at 3. "The detainee, dressed or undressed, is restrained by shackles and/or interrogators in a standing, sitting or supine position on the floor, bench, or similar level surface...." *Id.*

<sup>127</sup> Discussed above, para. 50, 51.

<sup>128</sup> 2005 OLC Techniques Memo, at 12.

<sup>129</sup> 2003 DCI Interrogation Guidelines, at 1 (listing "use of diapers for limited periods (generally not to exceed 72 hours, [REDACTED])" (redacted) among "Standard Techniques"). Shackling, which was incidental to sleep deprivation, was not listed here, but appears in later lists of techniques. See September 2003 OMS Guidelines, at 1; December 2004 OMS Guidelines, at 8.

<sup>130</sup> 2005 OLC Techniques Memo, at 12.

necessary because "releasing a detainee from shackles would present a security problem and would interfere with the effectiveness of the technique."<sup>131</sup>

54. *Dietary manipulation as an interrogation technique.* Detainees were put on a reduced-calorie and/or liquid diet as part of their conditioning.<sup>132</sup> The CIA believed dietary manipulation made other techniques, like sleep deprivation, more "effective."<sup>133</sup> Detainees who were to be subjected to waterboarding were placed on a liquid diet to reduce the chance they might aspirate their vomit.<sup>134</sup> CIA interrogators likely would have been aware that dietary manipulation can be used as a tactic to "induce control, dependency, compliance and cooperation."<sup>135</sup>

55. *Cold environment incidental to interrogation.* OMS Guidelines from 2003 and 2004 specifically identify an "uncomfortably cool environment" as a standard interrogation measure.<sup>136</sup> "Detainees can safely be placed in uncomfortably cool environments for varying lengths of time, ranging from hours to days."<sup>137</sup>

56. *Loud music/sounds or white noise as an interrogation technique.* The CIA approved exposing detainees to loud music/sounds and white noise during portions of the interrogation

<sup>131</sup> 2005 OLC CIDT Memo, at 13.

<sup>132</sup> 2003 DCI Interrogation Guidelines, at 1 (listing "reduced caloric intake" among "Standard Techniques"); September 2003 OMS Guidelines, at 1 (listing "Restricted diet, including reduced caloric intake" among "standard" interrogation techniques); December 2004 OMS Guidelines, at 8 (listing "Dietary manipulation" among "sanctioned interrogation techniques").

<sup>133</sup> 2005 OLC Techniques Memo, at 7, citing Letter from [redacted] [redacted] Associate General Counsel, CIA, to Daniel Levin, Acting Assistant, Attorney General, Office of Legal Counsel (Aug. 25, 2004).

<sup>134</sup> "[A]n individual is always placed on a fluid diet before he may be subjected to the waterboard in order to avoid aspiration of regurgitated food." Untitled communicated dated 22 April 2005, attachment to Fax, from [redacted], Office of General Counsel, Central Intelligence Agency, to Steve Bradbury & [redacted], Office of Legal Counsel, Department of Justice (April 22, 2005) (released Aug. 24, 2009 with redactions) available at <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc107.pdf> (last accessed Oct. 1, 2009).

<sup>135</sup> JPRA Description of Physical Pressures.

Purposeful manipulation of diet, nutrients, and vitamins can have a negative impact on the subject's general health and emotional state. Medical personnel in the POW camps in North Korea believe that a B vitamin compound was responsible, in large part, to the phenomena [sic] called "give-it-up-itis." Recent studies suggest the removal of certain amino acids from a diet can induce heightened levels of emotional agitation.

*Id.*

<sup>136</sup> September 2003 OMS Guidelines, at 1 (listing "Uncomfortably cool environment" among "standard" interrogation techniques); December 2004 OMS Guidelines, at 8, 10-11, 28.

<sup>137</sup> *Id.*, at 10.



process as well as through standard detention conditions,<sup>138</sup> and noted that the use of loud music/sounds or white noise as a detention condition had “an impact on the detainee undergoing interrogation” and “may be a factor in interrogations.”<sup>139</sup>

57. Open government sources from 2004 indicate the CIA used white noise during sleep deprivation to keep detainees awake.<sup>140</sup> For a “prototypical” interrogation, the CIA may have conducted sleep deprivation sessions lasting into the 70 to 120 hour range, not to exceed 180 hours without a period of uninterrupted sleep.<sup>141</sup> CIA interrogators likely would have been aware that sensory overload, which “includes being constantly exposed to bright, flashing lights, loud music annoying / irritating sounds, etc.” can be used as a tactic to “induce control, dependency, compliance and cooperation.”<sup>142</sup> Such sensory overload was likely to “elevate the agitation level of a person and increase their emotionality, as well as enhance the effects of isolation.”<sup>143</sup>

58. The CIA placed limitations on the use of loud music and white noise that were calibrated to levels that might cause permanent hearing loss, not to levels that might cause psychological effects over an extended period of time.<sup>144</sup> By 2004, white noise as a condition of confinement was not to exceed 79 dB,<sup>145</sup> or slightly less than a garbage disposal (at 80 dB),<sup>146</sup> within a range OMS considered “loud.”<sup>147</sup> Medical personnel were told:

As a practical guide, there is no permanent hearing risk for continuous, 24-hours-a-day exposure to sound at 82 dB or lower; at 84 dB for up to 18 hours a day; 90 dB for up to 8 hours a day, 95 dB for up to 4 hours, and 100 dB for 2 hours.<sup>148</sup>

<sup>138</sup> See 2004 CIA IG Special Review, at para. 89, fn. 43 (listing loud music and white noise as standard interrogation techniques as early as November 2002); 2003 DCI Interrogation Guidelines, at 1 (listing “loud music or white noise” among “Standard Techniques”); September 2003 OMS Guidelines, at 1 (listing “white noise or loud music” among “standard” interrogation techniques); December 2004 OMS Guidelines, at 8 (listing “white noise or loud music” among “sanctioned interrogation techniques”). In 2006, OLC assessed “white noise” as a condition of confinement, but noted it also served “other purposes.” 2006 OLC DTA Memo, at 13.

<sup>139</sup> 2004 CIA Background Paper on Combined Techniques, at 4.

<sup>140</sup> *Id.*, at 10-11, 13. This source does not address use of loud music.

<sup>141</sup> *Id.*, at 15.

<sup>142</sup> JPRA Description of Physical Pressures.

<sup>143</sup> *Id.*

<sup>144</sup> December 2004 OMS Guidelines, at 13. Portions of this document relating to use of sound were redacted from the public copy. *Id.*

<sup>145</sup> 2004 CIA Background Paper on Combined Techniques, at 4; Pre-December 2005 Standard Conditions of CIA Detention, at 2.

<sup>146</sup> A comparison used by the CIA. See Pre-December 2005 Standard Conditions of CIA Detention, at 2.

<sup>147</sup> 2006 OLC DTA Memo, at 5.

<sup>148</sup> December 2004 OMS Guidelines, at 13.

These limits were equivalent to 24-hour-a-day exposure to sound louder than a garbage disposal (at 80 dB); 18 hour-a-day exposure to sound louder than a garbage disposal and less than a propeller aircraft (at 88 dB); 8 hours of exposure to a shouted conversation or a motorcycle at 25 feet (at 90 dB); 4 hours on a subway car at 35 mph (95 dB); and 2 hours exposure to sound louder than a power mower (at 96 dB) and less than a chain saw (at 110 dB).<sup>149</sup>

59. *Hooding or blindfolding to instill fear or uncertainty or for prolonged periods.* The CIA considered hooding or blindfolding an interrogation technique and a condition of confinement.<sup>150</sup> Open source government documents describe situations in which hooding or blindfolding likely contributed to the detainees' fear and uncertainty during interrogation. In a "prototypical" "session one" of interrogation, detainees were first stripped naked, shackled, and put in a "walling collar" while hooded; only then was the hood removed.<sup>151</sup> In addition, CIA interrogators likely would have been aware that:

When a subject is deprived of sensory input for an interrupted [sic] period, for approximately 6-8 hours, it is not uncommon for them [sic] to experience visual, auditory and/or tactile hallucinations. If deprived of input, the brain will make it up. This tactic is used in conjunction with other methods to promote dislocation of expectations and induce emotions.<sup>152</sup>

60. By 2006, blindfolding appears to have been authorized only when "allowing [detainees] to see could permit them to gain information – such as their location, the layout of the facility [redacted] – that could compromise the security of the facility"<sup>153</sup> and "not during formal interrogation."<sup>154</sup> When OLC determined this use was consistent with humane treatment, OLC did not consider the possible effects of this action on detainees who had previously been hooded or blindfolded during interrogation.

61. *Prolonged continuous darkness as an interrogation technique.* During some or all of the period of the detention of AHMED KHALFAN GHAILANI, "continuous darkness" was an

<sup>149</sup> Comparisons used by the CIA. See *Pre-December 2005 Standard Conditions of CIA Detention*, at 2.

<sup>150</sup> *September 2003 OMS Guidelines*, at 1 (listing "hooding" among "standard" interrogation techniques); *December 2004 OMS Guidelines*, at 8 (listing "hooding" among "sanctioned interrogation techniques"); *Pre-December 2005 Standard Conditions of CIA Detention*, at 1 (listing "hooding" as standard condition of detention); *Pre-October 2006 Standard Conditions of CIA Detention*, at 1 (text that corresponds to information on "hooding" in *Pre-December 2005 Standard Conditions of CIA Detention* is redacted).

<sup>151</sup> *2004 CIA Background Paper on Combined Techniques*, at 9-10.

<sup>152</sup> *JPRA Description of Physical Pressures*.

<sup>153</sup> *2006 OLC Conditions Letter*, at 7.

<sup>154</sup> *2006 OLC DTA Memo*, at 4.

approved CIA interrogation technique.<sup>155</sup> Later open source documents do not refer to continuous darkness as an interrogation technique, and its use may have been discontinued at some point in the program. A detainee placed in “cramped confinement” may also have been subjected to “continuous darkness”, as the confined space was “usually dark.”<sup>156</sup>

62. CIA interrogators likely would have been aware that:

When a subject is deprived of sensory input for an interrupted [sic] period, for approximately 6-8 hours, it is not uncommon for them to experience visual, auditory and/or tactile hallucinations. If deprived of input, the brain will make it up. This tactic is used in conjunction with other methods to promote dislocation of expectations and induce emotions.<sup>157</sup>

63. *Corrective techniques.* During periods of active questioning, detainees were subjected to corrective techniques, used principally to “correct, startle, or to achieve [sic] another enabling objective”,<sup>158</sup> and “dislodge expectations that the detainee will not be touched.”<sup>159</sup> Corrective techniques included but were not limited to a variety of slaps and grabs. They were often used interchangeably during an interrogation session to “provide[] the variation necessary to keep a high level of unpredictability in the interrogation process.”<sup>160</sup> The detainee was likely to already be nude, in sleep deprivation, and subject to dietary manipulation when corrective techniques were first used on him.<sup>161</sup> In a “prototypical” interrogation, corrective techniques were used in various combinations with conditioning and coercive interrogation techniques.<sup>162</sup>

64. CIA interrogators would have understood that, in addition to causing physical pain, various slaps can effectively “instill fear and despair, [] punish selective behavior, [and] instill humiliation or cause insult.”<sup>163</sup> Grabbing a detainee’s face in a facial hold would have been a way “to threaten or intimidate via invasion of personal space, to instill fear and apprehension

<sup>155</sup> See 2004 CIA IG Special Review, at para. 89, fn. 43 (listing “continual use of light or darkness in a cell” as a standard interrogation technique approved as early as November 2002); September 2003 OMS Guidelines, at 1 (listing “continuous light or darkness” among “standard” interrogation techniques); December 2004 OMS Guidelines, at 8 (listing “continuous light or darkness” among “sanctioned interrogation techniques”).

<sup>156</sup> 2005 OLC Techniques Memo, at 9.

<sup>157</sup> JPRA Description of Physical Pressures.

<sup>158</sup> 2004 CIA Background Paper on Combined Techniques, at 5.

<sup>159</sup> 2005 OLC Techniques Memo, at 9.

<sup>160</sup> 2004 CIA Background Paper on Combined Techniques, at 5.

<sup>161</sup> 2004 CIA Background Paper on Combined Techniques, at 5.

<sup>162</sup> CIA materials describing how techniques were combined in a “prototypical” interrogation provide an example of a combination of “conditioning techniques”, wall standing, water dousing, and abdominal slap. 2004 CIA Background Paper on Combined Techniques, at 9-17. These materials also say the CIA used the threat of walling to keep detainees in stress positions. *Id.* at 14.

<sup>163</sup> JPRA Description of Physical Pressures.



without using direct physical force, to punish illogical, defiant or repetitive responses.”<sup>164</sup> An attention grasp would have been a way “to startle, to instill fear, apprehension, and humiliation or cause insult.”<sup>165</sup>

65. *Coercive techniques.* Coercive techniques were meant to “place the detainee in more physical and psychological stress.”<sup>166</sup> Coercive techniques typically included but were not limited to water dousing, stress positions, wall standing (a form of stress position), walling, and cramped confinement.<sup>167</sup> Detainees could also be subjected to the waterboard.

Interrogators will often use one technique to support another. As an example, interrogators would tell an HVD in a stress position that he (HVD) is going back to the walling wall (for walling) if he fails to hold the stress position until told otherwise by the [interrogator]. This places additional stress on the HVD who typically will try to hold the stress position for as long as possible to avoid the walling wall. [REDACTED]

[REDACTED] [redacted] interrogators will remind the HVD that he is responsible for the treatment and can stop it at any time by cooperating with the interrogators.<sup>168</sup>

66. *Water dousing, pouring, flicking or tossing,* in conjunction with cold. The CIA doused detainees with cold water and left them wet for some period of time.

Water dousing is intended to weaken the detainee’s overall resistance posture and persuade him to cooperate with interrogators by removing his sense of predictability and control. The detainee, dressed or undressed, is restrained by shackles and/or interrogators in a standing, sitting or supine position on the floor, bench, or similar level surface. Potable water is poured on the detainee from a container or garden hose connected to a water source... A session can last from 10 minutes (a single application) to an hour (multiple applications). ... Upon completion of the water dousing session(s), the detainee is moved to another room, monitored as needed by a medical officer to guard against hypothermia, and steps are taken to ensure the detainee is capable of generating necessary body heat and maintain normal body functions.<sup>169</sup>

The CIA’s medical guidance included limitations on water dousing that were relative to time and temperature,<sup>170</sup> and instructions for “cessation upon evidence of hypothermia.”<sup>171</sup>

<sup>164</sup> JPRA *Description of Physical Pressures*.

<sup>165</sup> *Id.*

<sup>166</sup> 2004 CIA *Background Paper on Combined Techniques*, at 7.

<sup>167</sup> *Id.*

<sup>168</sup> *Id.*, at 14-15.

<sup>169</sup> 2004 CIA *Additional Techniques Letter*, at 3.

<sup>170</sup> December 2004 OMS *Guidelines*, at 12.

67. The CIA found that "the use of water with detainees has proven to be a very effective part of some detainee interrogations."<sup>172</sup>

Water [pouring, flicking, or tossing] is intended to create a distracting effect, to startle, humiliate, and cause insult. Water PFT [pouring, flicking, tossing] is intended to wear down the detainee physically and psychologically.... Water PFT may be used as a stand-alone interrogation technique or in conjunction with other techniques in an approved interrogation plan such a sleep deprivation....<sup>173</sup>

68. *Stress positions.* Stress positions were:

[D]esigned to produce the physical discomfort associated with temporary muscle fatigue. The three stress positions [were] (1) sitting on the floor with legs extended straight out in front and arms raised above the head, (2) kneeling on the floor while leaning back at a 45 degree angle, and (3) leaning against the wall generally about three feet away from the detainee's feet, with only the detainee's head touching the wall, while his wrists are handcuffed in front of him or behind his back ...<sup>174</sup>

The CIA would have known that stress positions can be used to "create a distracting pressure, to demonstrate self-imposed pressure, to instill apprehension, humiliation or [sic] cause insult."<sup>175</sup>

69. Historically, the CIA had studied stress positions as used by the Soviet KGB during interrogations:

Another [form of pressure] which is widely used is that of *requiring the prisoner to stand throughout the interrogation session or to maintain some other physical position which becomes painful.* This, like of features of the KGB procedure, is a form of physical torture, in spite of the fact that the prisoners and KGB officers alike do not

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<sup>171</sup> December 2004 OMS Guidelines, at 29. See also 2005 OLC Techniques Memo, at 10 (referring to time/temperature limits relative to hypothermia). The public version of the OMS Guidelines are heavily redacted, are unclear on the exact limits for medical personnel, and make reference to "CTC guidelines" on water dousing that are not available publicly. *Id.*, at 12.

<sup>172</sup> 2004 CIA Additional Techniques Letter, at 2.

<sup>173</sup> *Id.*, at 3.

<sup>174</sup> 2005 OLC Techniques Memo, at 9. See also December 2004 OMS Guidelines, at 8.

<sup>175</sup> JPRA Description of Physical Pressures.

ordinarily perceive it as such. Any fixed position which is maintained over a long period of time ultimately produces excruciating pain. (emphasis in original)<sup>176</sup>

70. The CIA's limits on stress positions were based on the belief that a detainee would 'fall out' of the position from muscle fatigue before he experienced severe levels of pain or suffering, and did not assess the psychological conflicts associated with self-imposed stress positions.<sup>177</sup> However, the CIA's historical material described such psychological conflicts thus:

[i]n addition to the physiological effects, this type of torture creates a psychological conflict. When the prisoner is required to stand in one position, there is often engendered within him an initial determination to "stick it out". [sic] This internal act of resistance provides a feeling of moral superiority, at first. As time passes and the pain mounts, the individual becomes aware that, to some degree, it is his own original determination to resist that is causing the continuance of pain. There develops a conflict within the individual between his moral determination and his desire to collapse and discontinue the pain. It is this extra internal conflict, in addition to the conflict over whether or not to give in to the demands made of him, that tends to make this method of torture so effective in the breakdown of the individual.<sup>178</sup>

71. *Wall standing.*

The individual stands about four or five feet from a wall, with his feet spread at approximately to shoulder width. He arms are stretched out in front of him, with his fingers resting on the wall and supporting his body weight. The individual is not permitted to move or reposition his hands or feet.<sup>179</sup>

Like other stress positions, the CIA considered the limit to be the point of collapse, in that the detainee's own physical inability to remain standing would make the technique "self-limiting."<sup>180</sup>

<sup>176</sup> *Communist Control Techniques: An Analysis of the Methods Used by Communists State Police in the Arrest, Interrogation, and Indoctrination of Persons Regarded as "Enemies of the State"* (2 April 1956) available at [http://www.american torture.com/documents/cold\\_war/01.pdf](http://www.american torture.com/documents/cold_war/01.pdf) (last accessed Oct. 1, 2009) (hereinafter "1957 Communist Control Techniques"), at 37-38. The CIA commissioned this report in the 1950s to describe techniques used by the Soviet KGB during interrogations.

<sup>177</sup> "Stress positions ... are usually self-limiting in that temporary muscle fatigue usually leads to the HVD being unable to maintain the stress position after a period of time." *2004 CIA Background Paper on Combined Techniques*, at 8.

<sup>178</sup> *1957 Communist Control Techniques*, at 37-38.

<sup>179</sup> *2005 OLC Techniques Memo*, at 9.

<sup>180</sup> *2004 CIA Background Paper on Combined Techniques*, at 8.



72. *Walling*. ‘Walling’ was the act of forcefully pushing a subject into a wall, not to purposefully injure him, but to cause shock and instill apprehension. As in SERE training, the CIA’s walling technique involved the use of a flexible wall and a neck support (collar) to reduce the risk of physical injury.<sup>181</sup>

This technique involves the use of a flexible, false wall. The individual is placed with his heels touching the flexible wall. The interrogator pulls the individual forward and then quickly and firmly pushes the individual into the wall. It is the individual’s shoulder blades that hit the wall. During this motion, the head and neck supported with a rolled hood or towel that provides a C-collar effect to help prevent whiplash. To reduce further the risk of injury, the individual is allowed to rebound from the flexible wall. You have informed us that the false wall is also constructed to create a loud noise when the individual hits it in order to increase the shock or surprise of the technique. We understand that walling may be used when the detainee is uncooperative or unresponsive to questions from interrogators.<sup>182</sup>

“Walling ... wears down the HVD physically, heightens uncertainty in the detainee about what the interrogator may do to him, and creates a sense of dread when the HVD knows he is about to be walled again.”<sup>183</sup> “An HVD may be walled one time (one impact with the wall to make a point) or twenty to thirty times consecutively when the interrogator requires a more significant response to a question.”<sup>184</sup> “During an interrogation session that is designed to be intense, an HVD will be walled multiple times in the session.”<sup>185</sup>

73. While the CIA considered it “impractical” to simultaneously slap or grab a detainee during the physical act of walling him,<sup>186</sup> and simultaneously walling a detainee who was also undergoing stress positions and cramped confinement would presumably mean relieving the other positions (i.e., give him a break from the stress position or remove him from the box), walling could be physically combined with conditioning treatments such as nudity, sleep

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With a hood, towel or similar aide, roll or fold the hood the long way, place it around the subject’s neck. Grasp each side firmly and roll your fist inwardly till a relatively flat surface is created by the first joint of your fingers or the back of your hand. Quickly and firmly push, numerous times, the student into the wall in a manner, [sic] which eliminates the ‘whip lash’ effect of the head – push with your arms only. Do not use ‘leg force’ to push the student – ensure the wall you are using will accommodate the student without injury and adjust your ‘push’ accordingly.....

*JPRA Description of Physical Pressures.*

<sup>182</sup> 2005 OLC Techniques Memo, at 8.

<sup>183</sup> 2004 CIA Background Paper on Combined Techniques, at 7.

<sup>184</sup> *Id.*

<sup>185</sup> *Id.*

<sup>186</sup> *Id.*

deprivation, diapering, cold environment, loud music or white noise, and hooding or blindfolding.<sup>187</sup> Walling was the type of coercive technique that could impact detainees far beyond the temporal and physical span of its use; walling was an immediate physical event, but it also created the basis for an implicit or explicit threat. The CIA used the threat of walling to induce detainees to hold stress positions past the point of nominal muscle fatigue, and thereby experience the additional psychological effects of self-imposed suffering.<sup>188</sup>

74. *Cramped confinement.* As early as August 2002, cramped confinement was an approved interrogation technique.<sup>189</sup> "This technique involves placing the individual in the confined space, the dimensions of which restrict the individual's movement. The confined space is usually dark. The duration of confinement varies based upon the size of the container."<sup>190</sup> By 2005, confinement in a space in which a detainee could only sit was limited to 2 hours; confinement in a space in which a detainee could also stand was limited to 8 hours at a time for no more than 18 hours a day.<sup>191</sup> Cramped confinement "accelerate[s] the physical and psychological stresses of captivity."<sup>192</sup> The CIA would have been aware that cramped confinement would have been an effective way to "instill fear and despair, to punish selective behavior, to instill humiliation or cause insult."<sup>193</sup> The CIA discovered through the course of the program that some detainees found that being placed in cramped confinement was actually "a safehaven [sic] offering a respite" from interrogation, and limited its use accordingly.<sup>194</sup>

<sup>187</sup> *Id.*

<sup>188</sup> 2004 CIA Background Paper on Combined Techniques, at 14-15.

<sup>189</sup> 2002 OLC Abu Zubaydah Memo, at 2-3. See also, e.g., 2003 DCI Interrogation Guidelines, at 1 (listing "cramped confinement" among "Enhanced Techniques"); September 2003 OMS Guidelines, at 1 (listing "Cramped confinement (Confinement boxes)" among "Enhanced" interrogation techniques); December 2004 OMS Guidelines, at 8 (listing "Cramped confinement (Confinement boxes)" among "sanctioned interrogation techniques").

<sup>190</sup> 2005 OLC Techniques Memo, at 9.

<sup>191</sup> *Id.*

<sup>192</sup> 2005 OLC CIDT Memo, at 15, quoting PREAL Manual.

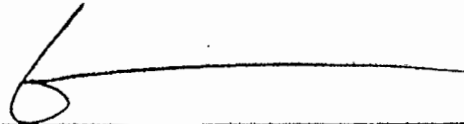
<sup>193</sup> JPRA Description of Physical Pressures.

<sup>194</sup> December 2004 OMS Guidelines, at 16.

75. *Waterboarding*. While the CIA reportedly did not use the waterboard after March 2003,<sup>195</sup> the CIA requested and obtained approval for use of the waterboard on a certain detainee in 2004.<sup>196</sup>

I have read the foregoing declaration, know the contents thereof, and declare under penalty of perjury of the laws of the United States that it is true and correct.

DATED this 2nd day of October, 2009.



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<sup>195</sup> 2005 OLC CIDT Memo, at 6.

<sup>196</sup> See Letter from Jack L. Goldsmith III, Assistant, Attorney General, Office of Legal Counsel, to Scott W. Muller, General Counsel, Central Intelligence Agency (May 27, 2004) *available at* <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc28.pdf> (last accessed Oct. 1, 2009) (acknowledging CIA had not used waterboard since March 2003); Letter from Daniel B. Levin, Acting Assistant, Attorney General, Office of Legal Counsel, to John a Rizzo, Acting General Counsel, Central Intelligence Agency (August 6, 2004), (approving use of waterboard in interrogation of detainee, name redacted) *available at* <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc74.pdf> (last accessed Oct. 1, 2009).