

**The origins of aggressive interrogation techniques:
Part I of the Committee's inquiry into the treatment of detainees in U.S. custody**

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- (Tab 22) April 4, 2003 Working Group Report on Detainee Interrogations in the Global War on Terrorism: Assessment of Legal, Historical, Policy, and Operational Considerations. (Available at <http://www.defenselink.mil/news/Jun2004/d20040622doc8.pdf>)
- (Tab 23) April 16, 2003 Memorandum from Secretary of Defense Donald Rumsfeld to USSOUTHCOM Commander, Subject: Counter-Resistance Techniques in the War on Terrorism.
- (Tab 24) September 29, 2004 Memorandum from MG Soligan, Chief of Staff, JFCOM for Commander, JPRA, Subject: JPRA Mission Guidance.
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(Tab 1 – EXTRACTS) July 25, 2002 Memorandum from JPRA Chief of Staff for Office of the Secretary of Defense General Counsel, Subject: Exploitation.

1. (U) **BACKGROUND:** JPRA is the principal DoD Agency for Joint Personnel Recovery (PR) support. JPRA provides Joint PR functional expertise and assistance to the Office of the Secretary of Defense (OSD), Combatant Commands (CINCs), Chairman, Joint Chiefs of Staff (CJCS), Services, Defense Agencies, DoD Field activities and other Governmental Agencies (OGAs). JPRA is under combatant command (command authority) (COCOM) of the Commander in Chief, U.S. Joint Forces Command (USJFCOM), the DoD Executive Agent for Personnel Recovery. JPRA is designated as the DoD Office of Primary Responsibility (OPR) for DoD-wide Joint PR support matters responsible for executing SecDef directed USJFCOM Executive Agent (EA) functions. The JPRA staff works five core mission areas: Joint Combat Search and Rescue (JCSAR), Non-conventional Assisted Recovery (NAR), Code of Conduct Training (includes Survival, Evasion, Resistance, and Escape [SERE]), Operational POW/MIA Matters (includes repatriation and debriefing), and PR Research, Development, Testing and Evaluation (RDT&E) as the DoD OPR for PR in accordance with USJFCOMINST 3100.4, *Charter for the Joint Personnel Recovery Agency*, 22 Nov 00.

(U) Under the Code of Conduct Training mission area JPRA oversees Service SERE training programs and at an advanced level, provides selected SERE training to special mission units, sensitive reconnaissance operations personnel, military attaches and other designated high-risk-of-capture personnel. JPRA also is responsible for training Service SERE instructors and certifying SERE courses of instruction. Resistance training to teach DoD personnel how to maintain dignity and honor in the face of the enemy through effective use of the Code of Conduct is core to SERE training. Within that training piece JPRA has arguably developed into the DoD's experts on exploitation as predecessor organizations have been teaching advanced resistance techniques with regard to exploitation since 1961. JPRA's collateral mission as the DoD lead for repatriation and debriefing activities (having facilitated all repatriations from Operation HOMECOMING to present) under the Operational POW/MIA Affairs mission area also provides the real time lessons learned products on detention situations to ensure techniques and strategies incorporated into training courses are accurate and in step with the world geopolitical scene.

2. (U) With regard to your request for assistance on exploitation/interrogation techniques that have been effective against Americans JPRA offers the following documents:

a. (U) Attachment 1: *(U) Exploitation Processes Used Against American Prisoners And Detainees, A Historical Overview, 25 Jul 02*. This paper explains the exploitation process as an overall systematic approach on how to get detainees to cooperate.

b. (U) Attachment 2: *(S/NF) Interrogation Methods Used Against American Prisoners And Detainees, A Historical Overview of Effective Methods, 25 Jul 02*. This paper explains the interrogation techniques used within the exploitation process. Each technique is explained and has lessons learned examples that highlight the effectiveness of these techniques used against Americans. Only a few representative examples were used per technique to keep the length of the paper reasonable.

c. (U) Attachment 3: *(U) Psychological Aspects of Detention*. The goal of this lesson plan (used in JPRA courses of instruction) is to highlight for students the fact that psychological stresses are inherent in detention situations, but that they can be successfully overcome. From an exploitation perspective the goal would be to induce these in detainees. Obviously with this lesson plan and the next three provided, classification increases to SECRET NOFORN and above when using certain operational lessons learned as examples.

d. (U) Attachment 4: *(U) Exploitation -Threats and Pressures*. The goal of this lesson plan is to focus students' attention on a peacetime governmental detainer's most likely exploitation goals and the

historically effective tools used to achieve them. Reversing this, an exploiter/interrogator has a plan for exploitation of enemy detainee.

e. (U) Attachment 5: *(U) Methods of Interrogation*. The goal of this lesson plan is to ensure that students have a clear understanding of the processes and tools a professional exploiter employs in order to obtain his desired results. Stress that such an understanding is critical to successfully resisting. The applicability to the interrogator is to thoroughly understand the techniques and how to use them with the greatest effect.

f. (U) Attachment 6: *(C) Resistance to Interrogation*. The goal of this lesson plan is to emphasize to the students that time tested resistance techniques, logically combined with a planned personal resistance posture can defeat the most professional exploiter. The utility to the interrogator is what to look for and use strategies designed to defeat resistance in enemy detainees.

3. (U) The enclosed documents provide a thorough academic grounding in exploitation and were built on what has been effective against Americans in the past. The ability to exploit however, is a highly specialized skill set built on training and experience. JPRA will continue to offer exploitation assistance to those governmental organizations charged with the mission of gleaning intelligence from enemy detainees. We trust this has answered your question. If you need further information please call me at [phone number redacted].

//signed//

DANIEL J. BAUMGARTNER JR., Lt Col, USAF
Chief of Staff

(Tab 2 – EXTRACTS) July 26, 2002 Memorandum from JPRA Chief of Staff for Office of the Secretary of Defense General Counsel, Subject: Exploitation and Physical Pressures.

1. (U) The purpose of this memorandum is to answer follow-on questions resulted from the meeting between JPRA and OSD GC on 25 Jul 02.

2. (U) BACKGROUND: Under the Code of Conduct Training mission area JPRA oversees Service SERE training programs and at an advanced level, provides selected SERE training to "special" designated high-risk-of-capture personnel. Resistance training to teach DoD personnel how to maintain dignity and honor in the face of the enemy through effective use of the Code of Conduct is core to SERE training. Within that training piece JPRA has arguably developed into the DoD's experts on exploitation and as such, has developed a number of physical pressures to increase the psychological and physical stress on students to highlight inappropriate coping strategies and provide realism in a contrived captivity environment.

4. JPRA will continue to offer exploitation assistance to those governmental organizations charged with the mission of gleaning intelligence from enemy detainees. We trust this has answered your additional questions. If you need further information please call me at [phone number redacted].

//signed//

DANIEL J. BAUMGARTNER JR., Lt Col, USAF
Chief of Staff

(Tab 3 – EXTRACTS) July 25, 2002 document entitled “Physical Pressures used in Resistance Training and Against American Prisoners and Detainees.” Attached to JPRA Memorandum of July 26, 2002.

INTRODUCTION

(FOUO) Physical pressures used in resistance training are not designed to elicit compliance, to produce enduring or damaging consequences, or to render the student so incapacitated by physical or emotional duress that learning does not take place. The purpose of applying physical pressures is to project the students' focus into the resistance scenario and realistically simulate conditions associated with captivity and resistance efforts. The pressures used in training are minor in comparison to that which American prisoners have experienced in the past. The tactics are used in lieu of pressures used historically.

(FOUO) The application of physical pressures in training is necessary to produce the correct emotion and physiological projection a student requires for stress inoculation and stress resolution to be accomplished. This "Controlled Realism" must exist for the correct learning to take place. If too little physical pressure is applied, the student will fail to acquire the necessary inoculation effect and run the risk of underestimating the demands real captivity can produce. If too much physical pressure is applied, the student is made vulnerable to the effects of learned helplessness, which will render him/her less prepared for captivity than s/he was prior to training.

(FOUO) Applying physical pressures in an intense, simulated captivity role-play requires considerable skill and composure on the part of the resistance-training instructor. This is an acquired skill which demands considerable knowledge, experience, and grounding in human behavior and resistance theory. Not all resistance-training role-players are necessarily suited to perform this particular element of instruction. Careful training and monitoring of the instructor of qualified individuals are necessary to maintain the desired application of this critical education tool. The instructor who uses these physical pressures in training must:

- Remember physical pressure must be uniquely applied to each individual student depending on his/her physical size and resilience.
- Constantly monitor the student's resistance behavior and appropriately applied physical pressure in a manner that is consistent with controlled realism, but also facilitates the desired learning outcome.

(FOUO) APPROVED PHYSICAL PRESSURES USED IN JPRA RESISTANCE TRAINING INCLUDE:

1. (FOUO) **FACIAL SLAP:** Slap the subject's face midway between the chin and the bottom of the corresponding ear lobe. The arm swing follows an arc no greater than approximately 18 inches. "Pull" the force of the slap to generate the appropriate effect. Use no more than 2 slaps with any singular application--typically, the training effectiveness of slapping has become negligible after 3 to 4 applications. (Typical conditions for application: to instill fear and despair, to punish selective behavior, to instill humiliation or cause insult).

2. (FOUO) **WALLING:** 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, which eliminates a '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. (Typical conditions for application: to instill fear and despair, to punish selective behavior, to instill humiliation or cause insult).

3. (FOUO) SILENCING FACIAL HOLD: This tactic is used when the subject is talking too much or about inappropriate subjects. The interrogator attempts to physically intimidate the subject into silence by placing their hand over the subject's mouth and violating their personal space. (Typical conditions for application: to threaten or intimidate via invasion of personal space, to instill fear and apprehension without using direct physical force, to punish illogical, defiant, or repetitive responses).

4. (FOUO) FACIAL HOLD: This tactic is used when the subject fails to maintain eye contact with the interrogator. The interrogator grasps the subject's head with both hands holding the head immobile. Again, the interrogator moves into and violates the subject's personal space (Typical conditions for application: to threaten or intimidate via invasion of personal space, to instill fear and apprehension without using direct physical force, to punish illogical, defiant, or repetitive responses).

5. (FOUO) ABDOMEN SLAP: This tactic is used when the subject is illogical, defiant, arrogant and generally uncooperative. It is designed to gain the subject's attention (Typical conditions for application: to instill fear and despair, to punish selective behavior, to instill humiliation or cause insult).

6. (FOUO) FINGER PRESS: This tactic is using the forefinger to forcefully, repeatedly jab the chest of the subject. The motion should be firm but not forceful enough to cause injury. (Typical conditions for application: to instill apprehension and insult).

7. (FOUO) WATER: When using this tactic, water is poured, flicked, or tossed on the subject. The water is used as a distracter, to disturb the subject's focus on the line of interrogation. When pouring, the subject is usually on their knees and the water is poured slowly over their head. Flicking water is generally directed to the face and again used to distract the subject's attention and focus. Tossing water is more forceful and should come as a surprise. The water is usually directed to the mouth and chin area of the face and care is used to avoid the subject's eyes. (Typical conditions for application: to create a distracting pressure, to startle, to instill humiliation or cause insult).

8. (FOUO) BLOCK HOLD: The subject can be sitting, kneeling or standing with their arms extended out straight with the palms up. The interrogator puts a weighted block, 10-15 lbs., on their hands. The subject is required to keep their arms straight, told not to drop the block at risk of additional punishment (typical conditions for application: to create a distracting pressure, to demonstrate self-imposed pressure, to instill apprehension, humiliation or cause insult).

9. (FOUO) BLOCK SIT: Using a block with a pointed end that is pointed to the floor, the subject is told sit on the flat top with feet and knees together. The knees are bent 90 degrees, and the subject is not allowed to spread their legs to form a tripod. The process of trying to balance on this very unstable seat and concentrate on the interrogator's questions at the same time is very difficult (typical conditions for application: to create a distracting pressure, to demonstrate self-imposed pressure, to instill apprehension, humiliation or cause insult).

10. (FOUO) ATTENTION GRASP: In a controlled, quick motion the subject is grabbed with two hands, one on each side of the collar. In the same motion, the interrogator draws the subject into his or her own space. (Typical conditions for application: to startle, to instill fear, apprehension, and humiliation or cause insult).

11. (FOUO) STRESS POSITION: The subject is placed on their knees, told to extend their arms either straight up or straight to the front. The subject is not allowed to lean back on their heels, arch their back or relieve the pressure off the point of the knee. Note: there are any number of uncomfortable physical positions that can be used and considered in this category (typical conditions for application: to create a distracting pressure, to demonstrate self-imposed pressure, to instill apprehension, humiliation or cause insult).

(FOUO) APPROVED PHYSICAL PRESSURES USED IN OTHER SERVICE SCHOOL RESISTANCE TRAINING PROGRAMS INCLUDE:

NOTE: In addition to the tactics listed below, the individual service school programs include many of the same pressures used in JPRA training. It is important to remember that as with any physical pressure, these tactics are closely monitored, strict time limits are applied and training safety is always paramount.

1. (FOUO) SMOKE: Pipe tobacco smoke is blown into the subject's face while in a standing, sitting or kneeling position. This is used during interrogation to produce discomfort. A smoking pipe is filled with dry tobacco, the pipe is lit and the bit of the pipe has a hose attached. The interrogator blows back through the pipe bowl creating an extraordinary amount of thick, sickening smoke. Maximum duration is five minutes (typical conditions for application: to instill fear and despair, to punish selective behavior, to instill humiliation or cause insult).
2. (FOUO) WATERBOARD: Subject is interrogated while strapped to a wooden board, approximately 4'x7'. Often the subject's feet are elevated after being strapped down and having their torso stripped. Up to 1.5 gallons of water is slowly poured directly onto the subject's face from a height of 12-24 inches. In some cases, a wet cloth is placed over the subject's face. It will remain in place for a short period of time. Trained supervisory and medial staff monitors the subject's physical condition. Student may be threatened or strapped back onto the board at a later time. However, no student will have water applied a second time. This tactic instills a feeling of drowning and quickly compels cooperation (typical conditions for application: to instill fear and despair, to punish selective behavior).
3. (FOUO) SHAKING AND MANHANDLING: Subject is grasped with a rolled cloth hood or towel around their neck (provides stability to the head and neck). The subject's clothing is grasped firmly and then a side-to-side motion is used to shake the subject. Care is used to not create a whipping effect to the neck. (Typical conditions for application: to instill fear and despair, to punish selective behavior, to instill humiliation or cause insult).
4. (FOUO) GROUNDING: This tactic is using the manhandling pressure and forcefully guiding the subject to the ground, never letting go (typical conditions for application: to instill fear and despair, to punish selective behavior).
5. (FOUO) CRAMPED CONFINEMENT ("the little box"): This is administered by placing a subject into a small box in a kneeling position with legs crossed at the ankle and having him learn [sic]forward to allow the door to be closed without exerting pressure on the back. Time and temperature is closely monitored (typical conditions for application: to instill fear and despair, to punish selective behavior, to instill humiliation or cause insult).
6. (FOUO) IMMERSION IN WATER / WETTING DOWN: Wetting the subject consists of spraying with a hose, hand pressure water cans, or immersing in a shallow pool of water. Depending on wind and temperature, the subject may be either fully clothed or stripped. Immersion of the head or back of head is prohibited for safety reasons (typical conditions for application: to instill fear and despair, to punish selective behavior, instill humiliation or cause insult).

OTHER TACTICS TO INDUCE CONTROL, DEPENDENCY, COMPLIANCE, AND COOPERATION

1. (FOUO) Isolation / Solitary confinement: See JPRA Instructor Guide Module 6.0 / Lesson 6.1; para. 5.3.1
2. (FOUO) Induced Physical Weakness and Exhaustion: See JPRA Instructor Guide Module 6.0 / Lesson 6.1; para. 5.3.2
3. (FOUO) Degradation: See JPRA Instructor Guide Module 6.0 / Lesson 6.1; para. 5.3.3
4. (FOUO) Conditioning: See JPRA Instructor Guide Module 6.0 / Lesson 6.1; para. 5.3.4
5. (FOUO) Sensory Deprivation: When a subject is deprived of sensory input for an interrupted 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.
6. (FOUO) Sensory overload: This includes being continually exposed to bright, flashing lights, loud music, annoying / irritating sounds, etc. This tactic elevates the agitation level of a person and increases their emotionality, as well as enhances the effects of isolation.
7. (FOUO) Disruption of sleep and biorhythms: Sleep patterns are purposefully disrupted to make it more difficult for the subject to think clearly, concentrate, and make rational decisions.
8. (FOUO) Manipulation of diet: 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 called "give-up-itis." Recent studies suggest the removal of certain amino acids from a diet can induce heightened levels of emotional agitation.



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

24 Jul 2002

MEMORANDUM FOR JPRA

ATTENTION: LTCOL BAUMGARTNER

FROM: 336 TRSS/SGF

SUBJECT: Psychological Effects of Resistance Training

1. Psychology Services at the Air Force Survival School at Fairchild AFB, WA maintains a log of psychological interventions conducted with students during training and prepares a yearly report of these interventions for risk monitoring purposes. Additionally, periodically Psychology Services conducts research to assess student confidence in ability to adhere to the Code of Conduct. We do not, however, routinely survey students in the years after training completion to conduct any psychological assessments of students.
2. Historically, a small minority of students in USAF Resistance Training (RT) have had temporary adverse psychological reactions during training. From 1992 through 2001, 26,829 students participated in RT, with 1,156 (4.3%) of them having contact with Psychology Services during training. Out of the students Psychology Services intervened with, 1,119 (96.8%) were successfully remotivated to complete training with only 37 (3.2%) psychological pulls. Out of the entire student population, only 0.14% were psychologically pulled from training.
3. Data from the Code of Conduct confidence studies are more complex to report in this format. In general, however, student confidence in their ability to adhere to the Code of Conduct is high prior to training, is reduced as expected after the Pre-Academic RT Laboratory, recovers during RT Academics, and is sustained or improves in the Post-Academic Laboratory. This suggests that RT is building realistic confidence to adhere to the Code of Conduct, and certainly is not crushing the spirit of the students.
4. While we have not surveyed students after completion of training for long-term psychological effects of RT during my tenure as Chief of Psychology Services at the Air Force Survival School, I feel reasonably certain that USAF RT training does not cause long-term psychological harm for a couple of reasons.
 - a. First, we minimize carryover of temporary psychological effects by performing three extensive debriefings during training. Two of the debriefings are performed by Psychology Services staff trained in advanced Critical Incident Stress Management, and the other debriefing is a thorough operational debriefing. Affording students these opportunities to discuss their training experiences in open group environments mitigates the risk of turning a "dramatic" experience into a "traumatic" experience.

b. Second, in spite of the training needing to be extremely stressful in order to be effective, we have encountered very few complaints about the training we provide. In my tenure in which nearly 10,000 students have completed training, we have had no congressional complaints about RT and only one Inspector General complaint which was not due to psychological concerns. I am aware of only letter of inquiry sent to the schoolhouse inquiring about long-term effects of training after completing training over twenty years ago. Even in this one inquiry out of 50,000 or so students completing RT since then, it was impossible to attribute this person's reported symptoms to his training.

c. Thus, I have to conclude that if there are any long-term negative psychological effects of USAF RT, they are certainly minimal.

5. I was also asked to comment from a psychological perspective on the effects of using the watering board.

a. The watering board is an intense physical and psychological stressor utilized by the Navy RT programs. We do not use this pressure in USAF RT.

b. I observed the watering board being utilized approximately 10-12 times when I was conducting a Staff Assistance Visit to the Navy North Island SERE School in September of 2001. The effects of the pressure were highly predictable. Use of the watering board resulted in student capitulation and compliance 100% of the time. I do not believe the watering board posed a real and serious physical danger to the students when I observed. The Navy had highly qualified medical personnel immediately available to intervene, and their students had all been medically screened prior to training. Psychologically, however, the watering board broke the students' will to resist providing information and induced helplessness.

///signed///

JERALD F. OGRISSEG, Maj, USAF, BSC
Chief, Psychology Services

000351

(Tab 6 – EXTRACTS) September 27, 2002 USSOUTHCOM (Office of the Staff Judge Advocate) document entitled “Trip Report, DoD General Counsel Visit to GTMO.”

(U) Purpose: Provide summary of visit by DoD General Counsel (GC) and others to GTMO on 25 Sep 02.

(U) Background:

(U) On 25 Sep 02, Mr. Haynes, DOD GC; Mr. Addington, Counsel to the VP; Mr. Rizzo, CIA Acting GC; the Honorable Mr. Chertoff, DOJ, Criminal Division; and others (complete list of visitors at Tab B) visited GTMO.

(U) Stated purpose of their visit was:

- Tour facilities
- Receive briefings on Intel successes, Intel challenges, Intel techniques, Intel problems and future plans for facilities.

(U) Hurricane evacuation plan was briefed in detail.

(FOUO) Overall

- Visitors asked very few questions and made very few comments
- MG D did take Mr. Haynes and a few others aside for private conversations.
- It appeared that MG D was doing most, if not all, of the speaking at these side meetings.

(U) Recommendation: None. FYI only.

Rhodes, Barry A

From: Zolper, Peter C
Sent: Wednesday, August 27, 2003 4:02 PM
To: Fallon, Mark
Cc: Rhodes, Barry A
Subject: (U) RE: Counter Resistance Strategy Meeting Minutes

Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY

Barry

-----Original Message-----

From: Fallon, Mark
Sent: Wednesday, August 27, 2003 12:46 PM
To: Zolper, Peter C
Subject: FW: Counter Resistance Strategy Meeting Minutes

R/Mark Fallon
Deputy Commander/SAC

[REDACTED]

-----Original Message-----

From: Fallon Mark
Sent: Monday, October 28, 2002 4:52 PM
To: McCahon Sam
Cc: Mallow Britain; Thomas Blaine; Johnson Scott; Smith David
Subject: RE: Counter Resistance Strategy Meeting Minutes

Sam:

We need to ensure seniors at OGC are aware of the 170 strategies and how it might impact CITF and Commissions. This looks like the kinds of stuff Congressional hearings are made of. Quotes from LTC Beaver regarding things that are not being reported give the appearance of Impropriety. Other comments like "It is basically subject to perception. If the detainee dies you're doing it wrong" and "Any of the techniques that lie on the harshest end of the spectrum must be performed by a highly trained individual. Medical personnel should be present to treat any possible accidents." seem to stretch beyond the bounds of legal propriety. Talk of "wet towel treatment" which results in the lymphatic gland reacting as if you are suffocating, would in my opinion; shock the conscience of any legal body looking at using the results of the interrogations or possibly even the interrogators. Someone needs to be considering how history will look back at this.

R/Mark Fallon
Deputy Commander
Criminal Investigation Task Force

-----Original Message-----

From: Thomas Blaine

Sent: Thursday, October 24, 2002 7:57 PM

To: McCahon Sam; Johnson Scott; Fallon Mark

Subject: FW: Counter Resistance Strategy Meeting Minutes

Sam,

Very interesting reading on how detainees are being treated for info.

Scott, Mark,

FYI

Blaine

Counter Resistance Strategy Meeting Minutes

Persons in Attendance:

COL Cummings, LTC Phifer, CDR Bridges, LTC Beaver, MAJ Burney, MAJ Leso, Dave Becker, John Fredman, 1LT Seck, SPC Pimentel

The following notes were taken during the aforementioned meeting at 1340 on October 2, 2002. All questions and comments have been paraphrased:

BSCT Description of SERE Psych Training (MAJ Burney and MAJ Leso)

- Identify trained resisters
 - Al Qaeda Training
- Methods to overcome resistance
 - Rapport building (approach proven to yield positive results)
 - Friendly approach (approach proven to yield positive results)
 - Fear Based Approaches are unreliable, ineffective in almost all cases
- What's more effective than fear based strategies are camp-wide, environmental strategies designed to disrupt cohesion and communication among detainees.
 - Environment should foster dependence and compliance

LTC Phifer	Harsh techniques used on our service members have worked and will work on some, what about those?
MAJ Leso	Force is risky, and may be ineffective due to the detainees' frame of reference. They are used to seeing much more barbaric treatment.
Becker	Agreed

→ At this point a discussion about ISN 63 ensued, recalling how he has responded to certain types of deprivation and psychological stressors. After short discussion the BSCT continued to address the overall manipulation of the detainees' environment.

BSCT continued:

- Psychological stressors are extremely effective (ie, sleep deprivation, withholding food, isolation, loss of time)

COL Cummings We can't do sleep deprivation
LTC Beaver Yes, we can - with approval.

- Disrupting the normal camp operations is vital. We need to create an environment of "controlled chaos"

LTC Beaver We may need to curb the harsher operations while ICRC is around. It is better not to expose them to any controversial techniques. We must have the support of the DOD.

Becker We have had many reports from Bagram about sleep deprivation being used.

LTC Beaver True, but officially it is not happening. It is not being reported officially. The ICRC is a serious concern. They will be in and out, scrutinizing our operations, unless they are displeased and decide to protest and leave. This would draw a lot of negative attention.

COL Cummings The new PSYOP plan has been passed up the chain
LTC Beaver It's at J3 at SOUTHCOM.
Fredman The DOJ has provided much guidance on this issue. The CIA is not held to the same rules as the military. In the past when the ICRC has made a big deal about certain detainees, the DOD has "moved" them away from the attention of ICRC. Upon questioning from the ICRC about their whereabouts, the DOD's response has repeatedly been that the detainee merited no status under the Geneva Convention. The CIA has employed aggressive techniques on less than a handful of suspects since 9/11.

Under the Torture Convention, torture has been prohibited by international law, but the language of the statutes is written vaguely. Severe mental and physical pain is prohibited. The mental part is explained as poorly as the physical. Severe physical pain described as anything causing permanent damage to major organs or body parts. Mental torture described as anything leading to permanent, profound damage to the senses or personality. It is basically subject to perception. If the detainee dies you're doing it wrong. So far, the techniques we have addressed have not proven to produce these types of results, which in a way challenges what the BSCT paper says about not being able to prove whether these techniques will lead to permanent damage. Everything on the BSCT white paper is legal from a civilian standpoint. [Any questions of severe weather or temperature conditions should be deferred to medical staff.] Any of the techniques that lie on the harshest end of the spectrum must be performed by a highly trained individual. Medical personnel should be present to treat any possible accidents. The CIA operates without military intervention. When the CIA has wanted to use more aggressive techniques in the past, the FBI has pulled their personnel from theatre. In those rare instances, aggressive techniques have proven very helpful.

LTC Beaver We will need documentation to protect us

Fredman Yes, if someone dies while aggressive techniques are being used, regardless of cause of death, the backlash of attention would be severely detrimental. Everything must be approved and documented.

Becker LEA personnel will not participate in harsh techniques

LTC Beaver There is no legal reason why LEA personnel cannot participate in these operations

→ At this point a discussion about whether or not to video tape the aggressive sessions, or interrogations at all ensued.

Becker Videotapes are subject to too much scrutiny in court. We don't want the LEA people in aggressive sessions anyway.

LTC Beaver LEA choice not to participate in these types of interrogations is more ethical and moral as opposed to legal.

Fredman The videotaping of even totally legal techniques will look "ugly".

Becker (Agreed)

Fredman The Torture Convention prohibits torture and cruel, inhumane and degrading treatment. The US did not sign up on the second part, because of the 8th amendment (cruel and unusual punishment), but we did sign the part about torture. This gives us more license to use more controversial techniques.

LTC Beaver Does SERE employ the "wet towel" technique?

Fredman If a well-trained individual is used to perform this technique it can feel like you're drowning. The lymphatic system will react as if you're suffocating, but your body will not cease to function. It is very effective to identify phobias and use them (ie, insects, snakes, claustrophobia). The level of resistance is directly related to person's experience.

MAJ Burney Whether or not significant stress occurs lies in the eye of the beholder. The burden of proof is the big issue. It is very difficult to disprove someone else's PTSD.

Fredman These techniques need involvement from interrogators, psych, medical, legal, etc.

Becker Would we get blanket approval or would it be case by case?

Fredman The CIA makes the call internally on most of the types of techniques found in the BSCT paper, and this discussion. Significantly harsh techniques are approved through the DOJ.

LTC Phifer Who approves ours? The CG? SOUTHCOM CG?

Fredman Does the Geneva Convention apply? The CIA rallied for it not to.

LTC Phifer Can we get DOJ opinion about these topics on paper?

LTC Beaver Will it go from DOJ to DOD?

LTC Phifer Can we get to see a CIA request to use advanced aggressive techniques?

Fredman Yes, but we can't provide you with a copy. You will probably be able to look at it.

An example of a different perspective on torture is Turkey. In Turkey they say that interrogation at all, or anything you do to that results in the subject betraying his comrades is torture.

LTC Beaver In the BSCT paper it says something about "imminent threat of death", ...

Fredman The threat of death is also subject to scrutiny, and should be handled on a case by case basis. Mock executions don't work as well

as friendly approaches, like letting someone write a letter home, or providing them with an extra book.

Becker I like the part about ambient noise.

→ At this point a discussion about ways to manipulate the environment ensued, and the following ideas were offered:

- Medical visits should be scheduled randomly, rather than on a set system
- Let detainee rest just long enough to fall asleep and wake him up about every thirty minutes and tell him it's time to pray again
- More meals per day induce loss of time
- Truth serum; even though it may not actually work, it does have a placebo effect.

Meeting ended at 1450.

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TAB 8



DEPARTMENT OF DEFENSE
JOINT TASK FORCE 170
GUANTANAMO BAY, CUBA
APO AE 09860



JTF 170-C3

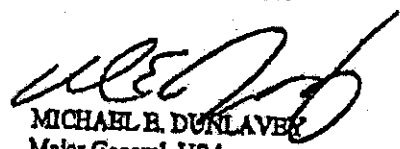
11 October 2002

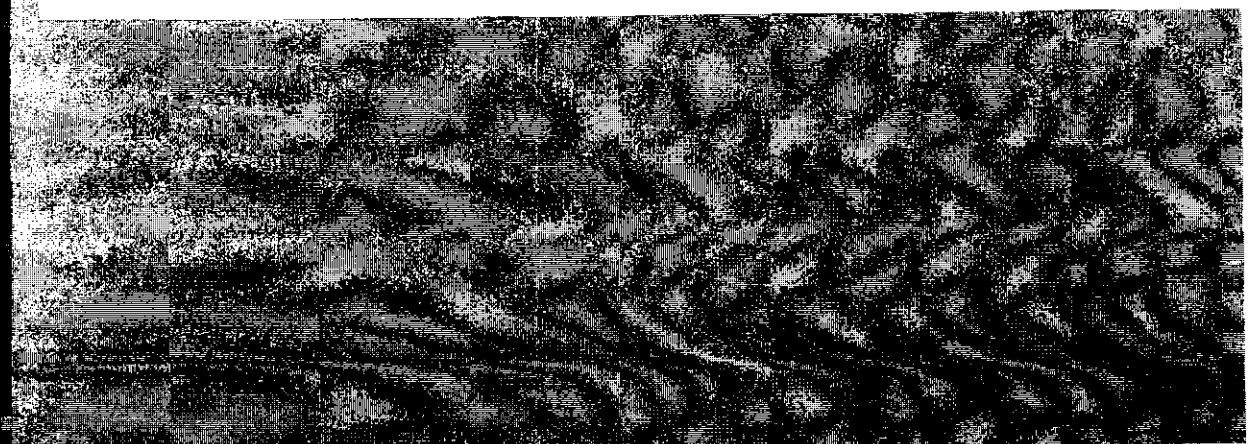
MEMORANDUM FOR Commander, United States Southern Command, 3511 NW 91st Avenue, Miami, Florida 33172-1217

SUBJECT: Counter-Resistance Strategies

1. Request that you approve the interrogation techniques delineated in the enclosed Counter-Resistance Strategies memorandum. I have reviewed this memorandum and the legal review provided to me by the JTF-170 Staff Judge Advocate and concur with the legal analysis provided.
2. I am fully aware of the techniques currently employed to gain valuable intelligence in support of the Global War on Terrorism. Although these techniques have resulted in significant exploitable intelligence, the same methods have become less effective over time. I believe the methods and techniques delineated in the accompanying J-2 memorandum will enhance our efforts to extract additional information. Based on the analysis provided by the JTF-170 SJA, I have concluded that these techniques do not violate U.S. or international laws.
3. My point of contact for this issue is LTC Jerold Phifer at DSN 660-3476.

- 2 Encls
1. JTF 170-J2 Memo,
11 Oct 02
 2. JTF 170-SJA Memo,
11 Oct 02


MICHAEL E. DUNLAVER
Major General, USA
Commanding





DEPARTMENT OF DEFENSE
JOINT TASK FORCE 470
GUANTANAMO BAY, CUBA
APO AE 09860



JTF 170-SIA

11 October 2002

MEMORANDUM FOR Commander, Joint Task Force 170

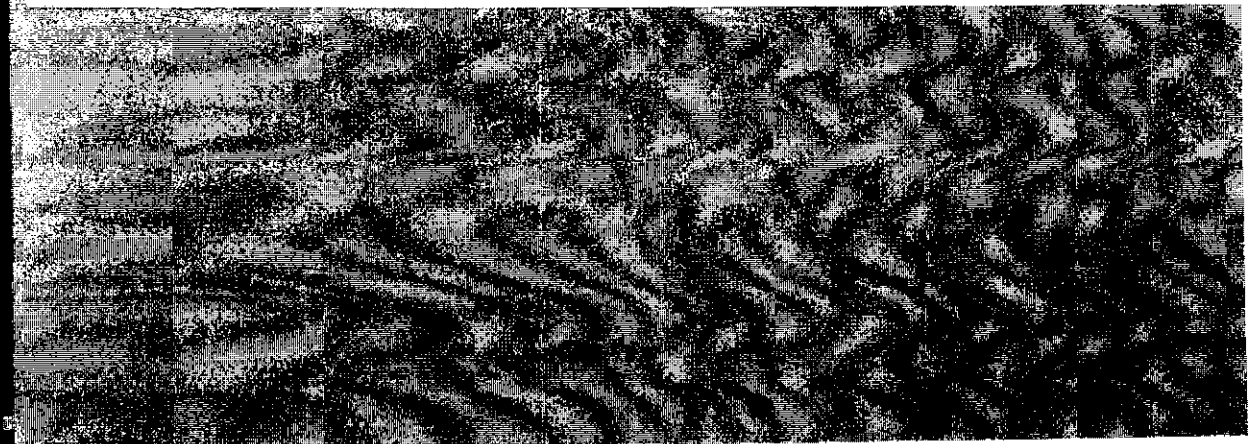
SUBJ: Legal Review of Aggressive Interrogation Techniques

1. I have reviewed the memorandum on Counter-Resistance Strategies, dated 11 Oct 02, and agree that the proposed strategies do not violate applicable federal law. Attached is a more detailed legal analysis that addresses the proposal.
2. I recommend that interrogators be properly trained in the use of the approved methods of interrogation, and that interrogations involving category II and III methods undergo a legal review prior to their commencement.
3. This matter is forwarded to you for your recommendation and action.

2 Encls

1. JTF 170-J2 Memo,
11 Oct 02
2. JTF 170-SIA Memo,
11 Oct 02

Diane E. Beaver
 DIANE E. BEAVER
 LTC, USA
 Staff Judge Advocate



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DEPARTMENT OF DEFENSE
JOINT TASK FORCE 170
QUANTANAMO BAY, CUBA
APO AE 09380



JTF-J2

11 October 2002

MEMORANDUM FOR Commander, Joint Task Force 170

SUBJECT: Request for Approval of Counter-Resistance Strategies

1. ~~STATE~~ **PROBLEM:** The current guidelines for interrogation procedures at GTMO limit the ability of interrogators to counter advanced resistance.

2. ~~STATE~~ Request approval for use of the following interrogation plan.

a. **Category I techniques.** During the initial category of interrogation the detainee should be provided a chair and the environment should be generally comfortable. The format of the interrogation is the direct approach. The use of rewards like cookies or cigarettes may be helpful. If the detainee is determined by the interrogator to be uncooperative, the interrogator may use the following techniques.

(1) Yelling at the detainee (not directly in his ear or to the level that it would cause physical pain or hearing problems)

(2) Techniques of deception:

(a) Multiple-interrogator techniques.

(b) Interrogator identity. The interviewer may identify himself as a citizen of a foreign nation or as an interrogator from a country with a reputation for harsh treatment of detainees.

b. **Category II techniques.** With the permission of the OIC, Interrogation Section, the interrogator may use the following techniques.

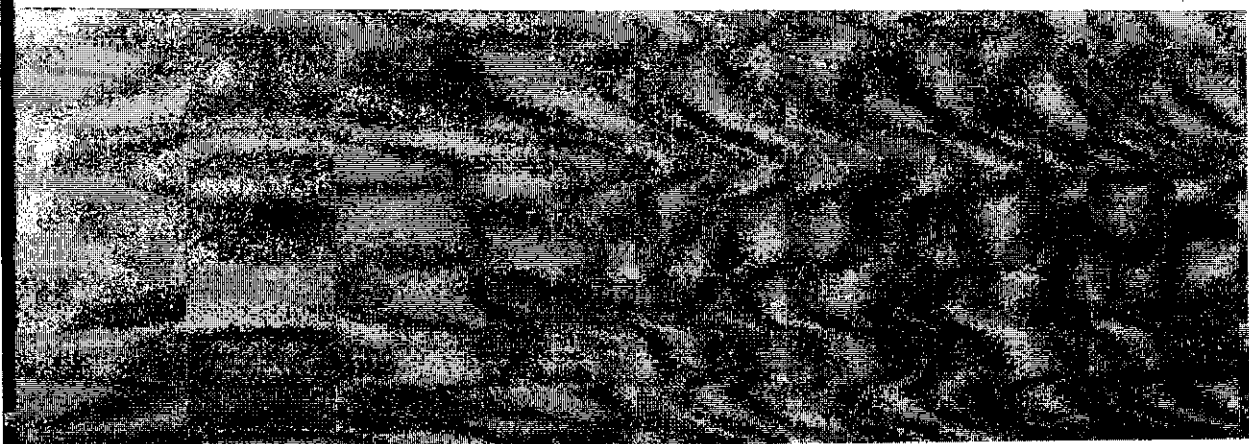
(1) The use of stress-positions (like standing), for a maximum of four hours.

(2) The use of falsified-documents or reports.

(3) Use of the isolation-facility for up to 30 days. Request must be made to through the OIC, Interrogation Section, to the Director, Joint Interrogation Group (JIG). Extensions beyond the initial 30 days must be approved by the Commanding General. For selected

Declassify Under the Authority of Executive Order 12958
By Executive Secretary, Office of the Secretary of Defense
By William F. Marion, CAPT, USN
June 21, 2004

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JTF 170-J2

SUBJECT: Request for Approval of Counter-Resistance Strategies

detainees, the OIC, Interrogation Section, will approve all contacts with the detainee, to include medical visits of a non-emergent nature.

(4) Interrogating the detainee in an environment other than the standard interrogation booth:

(5) Deprivation of light and auditory stimuli:

(6) The detainee may also have a hood placed over his head during transportation and questioning. The hood should not restrict breathing in any way and the detainee should be under direct observation when hooded.

(7) The use of 28-hour interrogations:

(8) Removal of all comfort items (including religious items):

(9) Switching the detainee from hot rations to MREs.

(10) Removal of clothing.

(11) Forced grooming (shaving of facial hair etc..)

(12) Using detainees individual phobias (such as fear of dogs) to induce stress.

c. Category III techniques. Techniques in this category may be used only by submitting a request through the Director, JIG, for approval by the Commanding General with appropriate legal review and information to Commander, USSOUTHCOM. These techniques are required for a very small percentage of the most uncooperative detainees (less than 3%). The following techniques and other aversive techniques, such as those used in U.S. military interrogation resistance training or by other U.S. government agencies, may be utilized in a carefully coordinated manner to help interrogate exceptionally resistant detainees. Any of these techniques that require more than light grabbing, poking, or pushing, will be administered only by individuals specifically trained in their safe application.

(1) The use of scenarios designed to convince the detainee that death or severely painful consequences are imminent for him and/or his family.

(2) Exposure to cold weather or water (with appropriate medical monitoring).

(3) Use of a wet towel and dripping water to induce the misperception of suffocation.

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JTF 170-J2

SUBJECT: Request for Approval of Counter-Resistance Strategies

(4) Use of mild, non-injurious physical contact such as grabbing, poking in the chest with the finger, and light pushing.

3. (U) The POC for this memorandum is the undersigned at 23476.

J. M. Phipper
JERALD Phipper
LTC, USA
Director, J2

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~~SECRETNOFORN~~DEPARTMENT OF DEFENSE
JOINT TASK FORCE 170
GUANTANAMO BAY, CUBA
APO AE 09860

JTF 170-SJA

11 October 2002

MEMORANDUM FOR Commander, Joint Task Force 170

SUBJECT: Legal Brief on Proposed Counter-Resistance Strategies

1. ~~(S)~~ ^UISSUE: To ensure the security of the United States and its Allies, more aggressive interrogation techniques than the ones presently used, such as the methods proposed in the attached recommendation, may be required in order to obtain information from detainees that are resisting. Interrogation efforts and are suspected of having significant information essential to national security. This legal brief references the recommendations outlined in the JTF-170-J2 memorandum, dated 11 October 2002.

2. ~~(S)~~ ^UFACTS: The detainees currently held at Guantanamo Bay, Cuba (GTMO), are not protected by the Geneva Conventions (GC). Nonetheless, DoD interrogators trained to apply the Geneva Conventions have been using commonly approved methods of interrogation such as rapport building through the direct approach, rewards, the multiple interrogator approach, and the use of deception. However, because detainees have been able to communicate among themselves and debrief each other about their respective interrogations, their interrogation resistance strategies have become more sophisticated. Compounding this problem is the fact that there is no established clear policy for interrogation limits and operations at GTMO, and many interrogators have felt in the past that they could not do anything that could be considered "controversial." In accordance with President Bush's 7 February 2002 directive, the detainees are not Enemy Prisoners of War (EPW). They must be treated humanely and, subject to military necessity, in accordance with the principles of GC.

3. ~~(S)~~ ^UDISCUSSION: The Office of the Secretary of Defense (OSD) has not adopted specific guidelines regarding interrogation techniques for detainee operations at GTMO. While the procedures outlined in Army FM 34-52 Intelligence Interrogation (28 September 1992), are utilized, they are constrained by, and conform to the GC and applicable international law, and therefore are not binding. Since the detainees are not EPWs, the Geneva Conventions limitations that ordinarily would govern captured enemy personnel interrogations are not binding on U.S. personnel conducting detainee interrogations at GTMO. Consequently, in the absence of specific binding guidance, and in accordance with the President's directive to treat the detainees humanely, we must look to applicable international and domestic law in order to determine the legality of the more aggressive interrogation techniques recommended in the J2 proposal.

a. (U) International Law: Although no international body of law directly applies, the more notable international treaties and relevant law are listed below.

Declassify Under the Authority of Executive Order 13526
By Executive Secretary, Office of the Secretary of Defense
By William P. Marriot, CAPT, USN
June 21, 2004

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JTF170-SJA

SUBJECT: Legal Brief on Proposed Counter-Resistance Strategies

(1) (U) In November of 1994, the United States ratified The Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment. However, the United States took a reservation to Article 16, which defined cruel, inhumane and degrading treatment or punishment, by instead deferring to the current standard articulated in the 8th Amendment to the United States Constitution. Therefore, the United States is only prohibited from committing those acts that would otherwise be prohibited under the United States Constitutional Amendment against cruel and unusual punishment. The United States ratified the treaty with the understanding that the convention would not be self-executing, that is, that it would not create a private cause of action in U.S. Courts. This convention is the principal U.N. treaty regarding torture and other cruel, inhumane, or degrading treatment.

(2) (U) The International Covenant on Civil and Political Rights (ICCPR), ratified by the United States in 1992, prohibits inhumane treatment in Article 7, and arbitrary arrest and detention in Article 9. The United States ratified it on the condition that it would not be self-executing, and it took a reservation to Article 7 that we would only be bound to the extent that the United States Constitution prohibits cruel and unusual punishment.

(3) (U) The American Convention on Human Rights forbids inhumane treatment, arbitrary imprisonment, and requires the state to promptly inform detainees of the charges against them, to review their pretrial confinement, and to conduct a trial within a reasonable time. The United States signed the convention on 1 June 1977, but never ratified it.

(4) (U) The Rome Statute established the International Criminal Court and criminalized inhumane treatment, unlawful deportation, and imprisonment. The United States not only failed to ratify the Rome Statute, but also later withdrew from it.

(5) (U) The United Nations' Universal Declaration of Human Rights, prohibits inhumane or degrading punishment, arbitrary arrest, detention, or exile. Although international declarations may provide evidence of customary international law (which is considered binding on all nations even without a treaty), they are not enforceable by themselves.

(6) (U) There is some European case law stemming from the European Court of Human Rights on the issue of torture. The Court ruled on allegations of torture and other forms of inhumane treatment by the British in the Northern Ireland conflict. The British authorities developed practices of interrogation such as forcing detainees to stand for long hours, placing black hoods over their heads, holding the detainees prior to interrogation in a room with continuing loud noise, and depriving them of sleep, food, and water. The European Court concluded that these acts did not rise to the level of torture as defined in the Convention Against Torture, because torture was defined as an aggravated form of cruel, inhuman, or degrading treatment or punishment. However, the Court did find that these techniques constituted cruel, inhumane, and degrading treatment. Nonetheless, and as previously mentioned, not only is the United States not a part of the European Human Rights Court, but as previously stated, it only ratified the definition of cruel, inhuman, and degrading treatment consistent with the U.S. Constitution. See also *Mehinovic v. Yuckovic*, 198 F. Supp. 2d 1322 (N.D. Geor. 2002); *Committee Against Torture v. Israel*, Supreme Court of Israel, 6 Sep 99, 7 BHRC 31; *Ireland v. UK* (1978), 2 EHRR 25.

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b. (U) Domestic Law: Although the detainee interrogations are not occurring in the continental United States, U.S. personnel conducting said interrogations are still bound by applicable Federal Law, specifically, the Eighth Amendment of the United States Constitution, 18 U.S.C. § 2340, and for military interrogators, the Uniform Code of Military Justice (UCMJ).

(4) (U) The Eighth Amendment of the United States Constitution provides that excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. There is a lack of Eighth Amendment case law relating in the context of interrogations, as most of the Eighth Amendment litigation in federal court involves either the death penalty, or 42 U.S.C. § 1983 actions from inmates based on prison conditions. The Eighth Amendment applies as to whether or not torture or inhumane treatment has occurred under the federal torture statute.¹

(a) (U) A principal case in the confinement context that is instructive regarding Eighth Amendment analysis (which is relevant because the United States adopted the Convention Against Torture, Cruel, Inhumane and Degrading Treatment, it did so deferring to the Eighth Amendment of the United States Constitution) and conditions of confinement if a U.S. court were to examine the issue is *Hudson v. McMillian*, 503 U.S. 1 (1992). The issue in *Hudson* stemmed from a 42 U.S.C. § 1983 action alleging that a prison inmate suffered minor bruises, facial swelling, loosened teeth, and a cracked dental plate resulting from a beating by prison guards while he was cuffed and shackled. In this case the Court held that there was no governmental interest in beating an inmate in such a manner. The Court further ruled that the use of excessive physical force against a prisoner might constitute cruel and unusual punishment, even though the inmate does not suffer serious injury.

(b) (U) In *Hudson*, the Court relied on *Whitley v. Albert*, 475 U.S. 312 (1986), as the seminal case that establishes whether a constitutional violation has occurred. The Court stated that the extent of the injury suffered by an inmate is only one of the factors to be considered, but that there is no significant injury requirement in order to establish an Eighth Amendment violation, and that the absence of serious injury is relevant to, but does not end, the Eighth Amendment inquiry. The Court based its decision on the "...settled rule that the unnecessary and wanton infliction of pain ... constitutes cruel and unusual punishment forbidden by the Eighth Amendment." *Whitley* at 319, quoting *Isaiah v. Wright*, 430 U.S. 651, 670 (1977). The *Hudson* Court then held that in the excessive force or conditions of confinement context, the Eighth Amendment violation test delineated by the Supreme Court in *Hudson* is that when prison officials maliciously and sadistically use force to cause harm, contemporary standards of decency are always violated, whether or not significant injury is evident. The extent of injury suffered by an inmate is one factor that may suggest whether the use of force could plausibly have been thought necessary in a particular situation, but the question of whether the measure taken inflicted unnecessary and wanton pain and suffering, ultimately turns on whether force was applied in a good faith effort to maintain or restore discipline, or maliciously and sadistically for the very (emphasis added) purpose of causing harm. If so, the Eighth Amendment claim will prevail.

¹ Notwithstanding the argument that U.S. personnel are bound by the Constitution, the detainees confined at GTMO have no jurisdictional standing to bring a section 1983 action alleging an Eighth Amendment violation in U.S. Federal Court.

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SUBJECT: Legal Brief on Proposed Counter-Resistance Strategies

(c) (U) At the District Court level, the typical conditions-of-confinement claims involve a disturbance of the inmate's physical comfort, such as sleep deprivation or loud noise. The Eighth Circuit ruled in *Singh v. Holcomb*, 1992 U.S. App. LEXIS 24790, that an allegation by an inmate that he was constantly deprived of sleep which resulted in emotional distress, loss of memory, headaches, and poor concentration, did not show either the extreme deprivation level, or the officials' culpable state of mind required to fulfill the objective component of an Eighth Amendment conditions-of-confinement claim.

(d) (U) In another sleep deprivation case alleging an Eighth Amendment violation, the Eighth Circuit established a totality of the circumstances test, and stated that if a particular condition of detention is reasonably related to a legitimate governmental objective, it does not, without more, amount to punishment. In *Ferguson v. Cape Girardeau County*, 88 F.3d 647 (8th Cir. 1996), the complainant was confined to a 5-1/2 by 5-1/2 foot cell without a toilet or sink, and was forced to sleep on a mat on the floor under bright lights that were on twenty-four hours a day. His Eighth Amendment claim was not successful because he was able to sleep at some point, and because he was kept under those conditions due to a concern for his health, as well as the perceived danger that he presented. This totality of the circumstances test has also been adopted by the Ninth Circuit. In *Green v. CSO Street*, 1995 U.S. App. LEXIS 14451, the Court held that threats of bodily injury are insufficient to state a claim under the Eighth Amendment, and that sleep deprivation did not rise to a constitutional violation where the prisoner failed to present evidence that he either lost sleep or was otherwise harmed.

(e) (U) Ultimately, an Eighth Amendment analysis is based primarily on whether the government had a good faith legitimate governmental interest, and did not act maliciously and sadistically for the very purpose of causing harm.

(2) (U) The torture statute (18 U.S.C. § 2340) is the United States' codification of the signed and ratified provisions of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and pursuant to subsection 2340B, does not create any substantive or procedural rights enforceable by law by any party in any civil proceeding.

(a) (U) The statute provides that "whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life."

(b) (U) Torture is defined as "an act committed by a person acting under color of law *specifically intended* (emphasis added) to inflict severe physical or mental pain or suffering (other than pain or suffering incident to lawful sanctions) upon another person within his custody or physical control." The statute defines "severe mental pain or suffering" as "the *prolonged mental harm caused by or resulting* (emphasis added) from the intentional infliction or threatened infliction of severe physical pain or suffering; or the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses of the personality; or the threat of imminent death; or the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality."

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(c) (U) Case law in the context of the federal torture statute and interrogations is also lacking, as the majority of the case law involving torture relates to either the illegality of brutal tactics used by the police to obtain confessions (in which the Court simply states that these confessions will be deemed as involuntary for the purposes of admissibility and due process, but does not actually address torture or the Eighth Amendment), or the Alien Tort Claim Act, in which federal courts have defined that certain uses of force (such as kidnapping, beating and raping of a man with the consent or acquiescence of a public official. See *Ortiz v. Grunale*, 236 F.Supp. 162 (D. Mass. 1995)) constituted torture. However, no case law on point within the context of 18 USC 2340.

(3) (U) Finally, U.S. military personnel are subject to the Uniform Code of Military Justice. The punitive articles that could potentially be violated depending on the circumstances and results of an interrogation are: Article 93 (cruelty and maltreatment), Article 118 (murder), Article 119 (manslaughter), Article 124 (maiming), Article 128 (assault), Article 134 (communicating a threat, and negligent homicide), and the inchoate offenses of attempt (Article 80), conspiracy (Article 81), accessory after the fact (Article 78), and solicitation (Article 82). Article 128 is the article most likely to be violated because a simple assault can be consummated by an unlawful demonstration of violence which creates in the mind of another a reasonable apprehension of receiving immediate bodily harm, and a specific intent to actually inflict bodily harm is not required.

4. ~~ANALYSIS~~ ANALYSIS: The counter-resistance techniques proposed in the JTF-170-J2 memorandum are lawful because they do not violate the Eighth Amendment to the United States Constitution or the federal torture statute as explained below. An international law analysis is not required for the current proposal because the Geneva Conventions do not apply to these detainees since they are not IIPWs.

(a) ~~ANALYSIS~~ Based on the Supreme Court framework utilized to assess whether a public official has violated the Eighth Amendment, so long as the force used could plausibly have been thought necessary in a particular situation to achieve a legitimate governmental objective, and it was applied in a good faith effort and not maliciously or sadistically for the very purpose of causing harm, the proposed techniques are likely to pass constitutional muster. The federal torture statute will not be violated so long as any of the proposed strategies are not specifically intended to cause severe physical pain or suffering or prolonged mental harm. Assuming that severe physical pain is not inflicted, absent any evidence that any of these strategies will in fact cause prolonged and long lasting mental harm, the proposed methods will not violate the statute.

(b) ~~ANALYSIS~~ Regarding the Uniform Code of Military Justice, the proposal to grab, poke in the chest, push lightly, and place a wet towel or hood over the detainee's head would constitute a per se violation of Article 128 (Assault). Threatening a detainee with death may also constitute a violation of Article 128, or also Article 134 (communicating a threat). It would be advisable to have permission or immunity in advance from the convening authority, for military members utilizing these methods.

(c) ~~ANALYSIS~~ Specifically, with regard to Category I techniques, the use of mild and fear related approaches such as yelling at the detainee is not illegal because in order to communicate a threat, there must also exist an intent to injure. Yelling at the detainee is legal so long as the yelling is not done with the intent to cause severe physical damage or prolonged mental harm. Techniques of deception such as multiple interrogator techniques, and deception regarding interrogator identity are all permissible methods of interrogation, since there is no legal requirement to be truthful while conducting an interrogation.

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SUBJECT: Legal Brief on Proposed Counter-Resistance Strategies

(d) ~~(S//NF)~~ With regard to Category II methods, the use of stress positions such as the proposed standing for four hours, the use of isolation for up to thirty days, and interrogating the detainee in an environment other than the standard interrogation booth are all legally permissible so long as no severe physical pain is inflicted and prolonged mental harm intended, and because there is a legitimate governmental objective in obtaining the information necessary that the high value detainees on which these methods would be utilized possess, for the protection of the national security of the United States, its citizens, and allies. Furthermore, these methods would not be utilized for the "very malicious and sadistic purpose of causing harm," and absent medical evidence to the contrary, there is no evidence that prolonged mental harm would result from the use of these strategies. The use of falsified documents is legally permissible because interrogators may use deception to achieve their purpose.

(e) ~~(S//NF)~~ The deprivation of light and auditory stimuli, the placement of a hood over the detainee's head during transportation and questioning, and the use of 20 hour interrogations are all legally permissible so long as there is an important governmental objective, and it is not done for the purpose of causing harm or with the intent to cause prolonged mental suffering. There is no legal requirement that detainees must receive four hours of sleep per night, but if a U.S. Court ever had to rule on this procedure, in order to pass Eighth Amendment scrutiny, and as a cautionary measure, they should receive some amount of sleep so that no severe physical or mental harm will result. Removal of comfort items is permissible because there is no legal requirement to provide comfort items. The requirement is to provide adequate food, water, shelter, and medical care. The issue of removing published religious items or materials would be relevant if these were United States citizens with a First Amendment right. Such is not the case with the detainees. Forced grooming and removal of clothing are not illegal, so long as it is not done to punish or cause harm, as there is a legitimate governmental objective to obtain information, maintain health standards in the camp and protect both the detainees and the guards. There is no illegality in removing hot meals because there is no specific requirement to provide hot meals, only adequate food. The use of the detainee's phobias is equally permissible.

(f) ~~(S//NF)~~ With respect to the Category III advanced counter-resistance strategies, the use of scenarios designed to convince the detainee that death or severely painful consequences are imminent is not illegal for the same aforementioned reasons that there is a compelling governmental interest and it is not done intentionally to cause prolonged harm. However, caution should be utilized with this technique because the torture statute specifically mentions making death threats as an example of inflicting mental pain and suffering. Exposure to cold weather or water is permissible with appropriate medical monitoring. The use of a wet towel to induce the misperception of suffocation would also be permissible if not done with the specific intent to cause prolonged mental harm, and absent medical evidence that it would. Caution should be exercised with this method, as foreign courts have already advised about the potential mental harm that this method may cause. The use of physical contact with the detainee, such as pushing and poking will technically constitute an assault under Article 128, UCMJ.

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NO. 075 P. 13

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JTF170-SJA

SUBJECT: Legal Brief on Proposed Counter-Resistance Strategies

4
5. ~~CON~~ RECOMMENDATION: I recommend that the proposed methods of interrogation be approved, and that the interrogators be properly trained in the use of the approved methods of interrogation. Since the law requires examination of all facts under a totality of circumstances test, I further recommend that all proposed interrogations involving category II and III methods must undergo a legal, medical, behavioral science, and intelligence review prior to their commencement.

6. (U) POC: Captain Michael Borders, x3596.

DIANE E. BEAVER
LTC, USA
Staff Judge Advocate

~~SECRET//NOFORN~~

7

UNCLASSIFIED

AUG. 1.1999 1:09PM

UNCLASSIFIED

NO. 224 P. 2



NO. 170
ATTACHMENT

SECRET//NOFORN
DEPARTMENT OF DEFENSE
UNITED STATES SOUTHERN COMMAND
OFFICE OF THE COMMANDER
3411 NW 81ST AVENUE
MIAMI, FL 33173-4217

SCCDR

25 October 2002

MEMORANDUM FOR Chairman of the Joint Chiefs of Staff, Washington, DC 20318-9999

SUBJECT: Counter-Resistance Techniques

1. The activities of Joint Task Force 170 have yielded critical intelligence support for forces in combat, combatant commanders, and other intelligence/law enforcement entities prosecuting the War on Terrorism. However, despite our best efforts, some detainees have tenaciously resisted our current interrogation methods. Our respective staffs, the Office of the Secretary of Defense, and Joint Task Force 170 have been trying to identify counter-resistant techniques that we can lawfully employ.

2. I am forwarding Joint Task Force 170's proposed counter-resistance techniques. I believe the first two categories of techniques are legal and humane. I am uncertain whether all the techniques in the third category are legal under US law, given the absence of judicial interpretation of the US torture statute. I am particularly troubled by the use of implied or expressed threats of death of the detainee or his family. However, I desire to have as many options as possible at my disposal and therefore request that Department of Defense and Department of Justice lawyers review the third category of techniques.

3. As part of any review of Joint Task Force 170's proposed strategy, I welcome any suggested interrogation methods that others may propose. I believe we should provide our interrogators with as many legally permissible tools as possible.

4. Although I am cognizant of the important policy ramifications of some of these proposed techniques, I firmly believe that we must quickly provide Joint Task Force 170 counter-resistance techniques to maximize the value of our intelligence collection mission.

Encls


James T. Hill
General, US Army
Commander

- 1. JTF 170 CDR Memo
dtd 11 October, 2002
- 2. JTF 170 SJA Memo
dtd 11 October, 2002
- 3. JTF 170 J-2 Memo
dtd 11 October, 2002

Declassify Under the Authority of Executive Order 12958
By Executive Secretary, Office of the Secretary of Defense
By William F. Morrison, CAPT, USN
June 21, 2004

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[REDACTED]

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS, UNITED STATES AIR FORCE
WASHINGTON DC

TAB 10

AFPM 4523-02
4 Nov 02

MEMORANDUM FOR UN AND MULTILATERAL AFFAIRS DIVISION (J-5), JOINT
STAFF (Attn: CDR Lippold)

SUBJECT: (U) Counter-Resistance Techniques

1. (U) The Air Force concurs with the need to conduct an in-depth legal and policy assessment, as recommended by CDRUSSOUTHCOM, prior to implementation of the proposed counter-resistance interrogation techniques. As such, we offer the following critical comments on the proposed techniques:

(U) **AF-1. CRITICAL.** General Comment. The Air Force has serious concerns regarding the legality of many of the proposed techniques, particularly those under Category III. Some of these techniques could be construed as "torture," as that crime is defined by 18 U.S.C. 2340. That statute, for example, defines "torture" to include "the threat of imminent death," or "the threat that another person will imminently be subjected to death, severe physical pain or suffering..." One of the proposed techniques, under Category III, is "the use of scenarios designed to convince the detainee that death or severely painful consequences are imminent for him and/or his family." The torture statute also prohibits the intentional infliction, or threatened infliction, of severe physical pain or suffering, as well the administration or application, or threatened administration or application, of "procedures calculated to disrupt profoundly the senses or the personality." The extent to which the proposed techniques may violate this statute requires thorough and careful analysis.


(U) **AF-2. CRITICAL.** General Comment. Implementation of these techniques could preclude the ability to prosecute the individuals interrogated. Successful prosecutions in military commissions or subsequent use of detainee statements in Federal prosecutions will require that the evidence obtained be admissible. Although the President's military order establishes a fairly low evidentiary threshold of probative value to a reasonable person, many of the techniques described in the memo will place a burden on the prosecution's ability to convince commission members that the evidence meets even that low standard. The Level III techniques will almost certainly result in any statements obtained being declared as coerced and involuntary, and therefore inadmissible. Such a finding may also potentially exclude any evidence derived from the coerced statement. Admissibility of evidence obtained using the Level I and II techniques will be fact specific, but the same concerns remain. Additionally, the techniques described may be subject to challenge as failing to meet the requirements outlined in the military order to

[REDACTED]

treat detainees humanely and to provide them with adequate food, water, shelter and medical treatment.¹ Defense counsel will undoubtedly argue that any evidence derived by the prosecution must be excluded because the Government did not abide by its own rules. Application of the interrogation methods may also have an adverse impact on the DoJ's ability to use the detainees in support of on-going and future prosecutions, a stated objective of the SECDEF. Any statements obtained under these circumstances will be inherently suspect and of questionable value in a prosecution using established rules of criminal procedure that prohibit such conduct on the part of law enforcement agents.

AF-3. CRITICAL. General Comment. Implementation of the proposed techniques would require a change in Presidential policy. On 7 Feb 02 President Bush determined that the detainees "will be provided many POW privileges as a matter of policy."² Included among those privileges are "clothing and shoes," "three meals a day that meet Muslim dietary laws," "soap and toilet articles," and "the opportunity to worship." A number of the Category II techniques would appear to deprive detainees of these privileges. In addition, the President declared that "[t]he detainees will not be subjected to physical or mental abuse or cruel treatment," and that the detainees would be able to "raise concerns about their conditions" during private visits with representatives of the ICRC. Obviously implementation of the techniques under consideration by SOUTHCOM would require a modification of, or exception to, the President's policy regarding treatment of detainees. Consequently, NSC-level review and Presidential-level approval will be required prior to implementing the proposed techniques.

2. (U) Air Force POC is [REDACTED]


 DONALD E. RICHBURG, Colonel, USAF
 USAF Planner, Joint/NSC Matters

cc:
 USA
 USN
 USMC

¹ Presidential Order of 13 November 2001, found at <http://www.whitehouse.gov/news/releases/2001/11/20011113-27.html>.

² White House Fact Sheet, 7 February 2002, found at <http://www.whitehouse.gov/releases/2002/02/20020207-13.html>.

[REDACTED]

CLASSIFICATION:		AF PLANNER JOINT ACTION BRIEF SHEET			
UNCLASSIFIED		JCS ACTION # SJS 02-06697		JCS SUSPENSE: 4 Nov 02	
		ACTION OFFICER: Mr. Thomas Randall, GS-15		OFC SYM: AF/JAI	TEL: [REDACTED]
SUBJECT: ● Counter-Resistance Techniques (U)					
1. (U) ISSUE: To provide initial Air Force legal assessment of proposal by CDRSOUTHCOM to implement counter-resistance interrogation techniques proposed by Commander, JTF-170					
2. (U) DISCUSSION:					
<ul style="list-style-type: none"> Category III techniques may constitute criminal conduct under 18 U.S.C. 2340, which prohibits "torture" by person acting under the color of law upon another person within his or her custody or physical control. <ul style="list-style-type: none"> Torture is defined to include threats of imminent death or severe physical pain or suffering. The statute applies outside the United States. Use of these techniques may preclude any later prosecution of detainees interrogated. The President's Military Order Number 1, 13 Nov 01, on Military Commissions states that those detained by the order shall be treated humanely and allowed the free exercise of religion consistent with the requirements of such confinement. White House Fact Sheet issued 7 Feb 02 states the President has determined that the Geneva Convention applies to the Talibon but not to the al-Qaida detainees. <ul style="list-style-type: none"> The Fact Sheet states that even though the detainees are not entitled to POW privileges, they will be provided many POW privileges as a matter of policy. Further, it states that the detainees will not be subjected to physical or mental abuse or cruel treatment, and the International Committee of the Red Cross will continue to be able to visit the detainees privately during which times the detainees will be permitted to raise concerns about their conditions. Further legal and policy analysis, and high-level review and approval are necessary prior to implementation. 					
3. ● AIR STAFF VIEWS: Air Staff concurs with critical comment. (U)					
4. (U) OTHER VIEWS: Army: Unknown, suspense not until 4 Nov. Navy and Marine Corps: Concur with critical comments raising serious concerns with legality of proposed techniques.					
5. (U) RECOMMENDATION: Submit Air Staff views					
JOINT READER: AF/JAI Maj Duffin	PLANNER <i>RER</i> <i>4 Nov 02</i>	GREEN DESK: <i>DGB (4)</i>	OK AS ANNOTATED CIRCULATE	VOTED TO: <i>RECORDING</i> DATE: 4 Nov 02 TIME: 0854 BY: <i>ARB</i>	
WITHOUT ATTACHMENT THIS PAGE CLASSIFIED: [REDACTED]					
CLASSIFICATION: UNCLASSIFIED	CLASSIFIED BY: LTG G.W. Casey Dg-5		SAF/GCI Mr. Bridge Concur	AFLSA Mr. Russell Concur	

UNCLASSIFIED

~~SECRET//NOFORN~~
DEPARTMENT OF DEFENSE
CRIMINAL INVESTIGATION TASK FORCE
6010 6th Street
FORT BELVOIR, VA 22060-5506



REPLY TO
ATTENTION OF:

CITF

4 November 2002

MEMORANDUM THRU

Division Chief, Plans, Policy and Integration, DoD CITF, Bldg. 714, Fort Belvoir,
Virginia 22060-5506

FOR COMMANDER, CITF

SUBJECT: Assessment of JTF-170 Counter-Resistance Strategies and the Potential
Impact on CITF Mission and Personnel.

1. Pursuant to your directive I have reviewed the following documents in order to
provide an assessment of potential impacts on the CITF mission:

- DOD JTF 170 Memorandum from LTC Beaver, dated 11 October 2002,
SUBJECT: Legal Review of Aggressive Interrogation Techniques, with attached Legal
Brief of the same date.
- DOD JTF 170 Memorandum from LTC Jerald Phifer, dated 11 October 2002,
SUBJECT: Request for Approval of Counter-Resistance Strategies
- DOD JTF 170 Memorandum from MG Michael E. Dunlavey dated 11 October 2002,
SUBJECT: Counter-Resistance Strategies
- USSOCOM Memorandum from General James T. Hill, dated 25 October 2002,
SUBJECT: Counter-Resistance Techniques

2. The following represents my assessment of the adverse impacts on the CITF mission
if certain counter-resistant techniques are used at GTMO:

a. Liability. CITF personnel who are aware of the use or abuse of certain
techniques may be exposed to liability under the UCMJ for failing to intercede or report
incidents, if an inquiry later determines the conduct to be in violation of either the Eighth
Amendment to the U.S. Constitution, the Uniform Code of Military Justice or
18 U.S.C. §2340.

(1) The legal memorandum cited above opines that certain treatment,
although not amounting to torture, has been determined to constitute cruel and unusual,
or inhumane treatment or punishment insofar as it is defined in the Convention Against
Torture. ("CAT"). Although the United States has not ratified the entire CAT, it has

*Removed UNCLASSIFIED to FAR at
Source Documents Declassified
BY OSD 2004*

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ratified the definition of cruel, inhuman, and degrading treatment insofar as the Eighth Amendment to the U.S. Constitution defines it. Therefore, any conduct that would constitute cruel and unusual punishment would be prohibited by the Constitution and would be illegal.

(2) The suggested Tier III and certain Tier II techniques may subject service members to punitive articles of the UCMJ. The following are the most likely provisions to be violated if service members participated in the described techniques: Article 93 (Cruelty and Maltreatment), Article 124 (Maiming), Article 128 (assault) and Article 134 (Communicating a Threat). Should the detainee die in the process or as a result of the techniques, then Article 118 (Murder) and Article 134 (Negligent Homicide) could apply. CITF members who are aware of or participate in the conduct could be held responsible under the inchoate offenses of Article 80 (Attempt), Article 81 (Conspiracy) or Article 82 (Accessory After the Fact).

prob. value to reasonable person

b. Evidentiary Issues. Under Military Commission Order Number 1, if the Presiding Officer determines that the information is probative to a reasonable person, then it will be admitted. This would apply to confessions as well as statements about other defendants. The voluntary nature of any statement, however, will affect the weight accorded that evidence. Consequently, any information derived from the aggressive techniques, although admissible, will be of diminished value during any subsequent proceedings. The taint concerning the diminished weight accorded the statements would apply not only to the detainee making the statements, but also against those individuals about whom the detainee has provided incriminating information.

Additionally, the adverse impact may have consequences on all Commission actions. The al Qaeda training manual instructs members to assert that they have been tortured. The assertion is designed to mitigate the value of any incriminating statements the al Qaeda member may have made during the course of the interrogation. One detainee subjected to these techniques could taint the voluntary nature of all other confessions and information derived from detainees not subjected to the aggressive techniques.

3. Recommendations: Both the utility and legality of applying certain techniques identified in the memorandum listed above are, in my opinion, questionable. Any policy decision to use the Tier III techniques, or any technique inconsistent with the analysis herein, will be contrary to my recommendation. Nonetheless, if the application of the requested measures is approved, I recommend the following actions to mitigate the adverse impact on the CITF:

a. The aggressive techniques should not occur at GTMO where both CITF and the intelligence community are conducting interviews and interrogations. By not using these techniques in a co-located setting, other detainees not subjected to these techniques are less likely to be under the impression that they will be subjected to similar treatment if they do not provide the answers the government is seeking. It is unlikely that a detainee who has been exposed to Tier III techniques will distinguish between CITF and

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Intelligence Interrogators. His impression will be that he will be punished for any responses that differ from what the interrogator determines to be acceptable.

b. A decision should be made prior to applying the aggressive procedures that the detainee subject to the treatment would not be considered for referral to the Military Commission. This will reduce the risk that the more aggressive techniques used against a few detainees would be revealed resulting in assumption that these techniques had been used on all the detainees.

c. CJTF personnel should not participate in the aggressive techniques, either in their administration, observation or designation of who will be subjected to the strategies. A firm nonporous wall should be erected between CJTF personnel and those planning and engaging in the aggressive techniques. This measure will help preserve the integrity of our investigations, any Commission case and will insulate CJTF personnel from potential administrative or criminal liability.

4. Conclusion. While some of the techniques identified in Tier I and II pose no threat to either the integrity of the investigation or to subsequent liability of the CJTF personnel, i.e. using a ruse, raising one's voice, for the most part they are inconsistent with well-established law enforcement techniques. Any of the Tier III techniques could expose persons involved to administrative and criminal liability as well as negatively impact on subsequent Military Commission proceedings.

In legal analysis conducted by the SJA for JTF-170, there are two common themes running throughout the document justifying the use of the procedures, 1) There is no civil liability that will flow to the U.S. Government by using the asserted techniques, and 2) because the purpose of inflicting pain and treating detainees in a degrading manner is not in and of itself to cause pain or harm but to elicit information, it does not conflict with the well established authority under the U.S. Constitution.

There is no Constitutional case law related to the infliction of pain on prisoners, other than that related to causing pain for pain's sake, because it is not the prison official's objective to elicit information from those in their custody. Conversely, our objective is specifically to elicit information from the detainees. The intended use of Tier III techniques, if detected, will establish new case law in this area, much to the detriment of the U.S. foreign and domestic interests. I cannot advocate any action, interrogation or otherwise, that is predicated upon the principal that all is well if the ends justify the means and others are not aware of how we conduct our business.

4 Encls

SAM W. MCCAHERN
MAJ, JA
Chief Legal Advisor

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HEADQUARTER, DEPARTMENT OF THE ARMY
Assistant Deputy Chief of Staff for Operations and Plans
(Joint Affairs)

ARMY PLANNER DAMO-ZC
Memorandum No.

MEMORANDUM FOR LEGAL COUNSEL TO CHAIRMAN, JOINT CHIEFS OF
STAFF

SUBJECT: ~~(S//NF)~~ SJS 02-06697

1. ~~(S//NF)~~ Army has reviewed the request of the Commander, United States Southern Command, for further legal review by the Department of Defense and the Department of Justice of the proposal to employ Counter-Resistance Techniques in the intelligence interrogation of enemy combatants detained at Guantanamo Bay Naval Station.
2. ~~(S//NF)~~ As set forth in the enclosed memoranda, Army interposes significant legal, policy and practical concerns regarding most of the Category II and all of the Category III techniques proposed.
3. ~~(S//NF)~~ Army concurs in the recommendation for a comprehensive legal review of this proposal in its entirety by the Department of Defense and the Department of Justice.

- Encls
1. CTF Legal Opinion
 2. OTJAG e-mail

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REMARKED UNCLASSIFIED 20 FEB 08
SOURCE DOCUMENTS DECLASSIFIED
39 00 204

DAJA-10

MEMORANDUM FOR THE OFFICE OF THE ARMY GENERAL COUNSEL

SUBJECT: Review – Proposed Counter-Resistance Techniques

1. I have reviewed the proposed request for approval of counter resistance strategies. I concur in the proposed Category I techniques, but have significant concerns (legal, policy, and practical) regarding most of the Category II and all of the Category III techniques.

2. My legal concerns are summarized as follows:

a. The President directed in Military Order 1 (13 Nov 01) that detainees would be treated "humanely." In a White House Memo, dated 7 Feb 02, he reaffirmed this order and stated further that they will be treated "to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva."

b. In addition to comporting with the President's order, any techniques employed must be consistent with Federal law, to include the UCMJ. As noted in LTC Beaver's legal review, the U.S. has enacted a Federal torture statute (18 U.S.C. 2340, *et seq.*). This statute defines torture as an act "intended to inflict severe physical or mental pain or suffering ... upon another person within his custody or physical control." Severe physical pain or suffering is further defined as "the prolonged mental harm caused by or resulting from ... the intentional infliction or threatened infliction of severe physical pain or suffering; ... threat of imminent death; or the threat that another person will imminently be subjected to death, severe physical pain or suffering."

c. In my opinion, the listed Category III techniques violate the President's order, and various UCMJ articles. In addition, techniques 1 (use of scenarios designed to convince the detainee of death or severely painful consequences are imminent for him and/or his family), and 3 (use of a wet towel and dripping water to induce the misperception of suffocation) appear to be clear violations of the Federal torture statute.

d. Regarding the Category II techniques, numbers 2 (prolonged use of stress positions), 5 (deprivation of light and auditory stimuli, and 12 (using individual phobias to induce stress), in my opinion, crosses the line of "humane" treatment, would likely be considered maltreatment under Article 93 of the UCMJ, and may violate the Federal torture statute if it results in severe physical pain or suffering. Techniques 10 (removal of clothing) and 11 (forced grooming) are certainly permissible for health reasons, but are problematic (may be considered inhumane) if done only for interrogation purposes. To properly assess these and the other techniques listed Category II, we would need a more detailed plan of exactly how these techniques are going to be used.

3. From a policy standpoint, employing many of the suggested techniques would create a PA nightmare. The War on Terror is expected to last many years and ultimate success requires strong domestic and international support. Whatever interrogation techniques we adopt will eventually become public knowledge. If we mistreat detainees, we will quickly lose the morale high ground and public support will erode. The techniques noted above will not read well in either the New York Times or the Cairo Times. Additionally, many of the techniques arguably violate the torture and inhumane treatment provisions of the ICC. While we may not be subject to the ICC, failure to adhere to these provisions severely undercuts our stated position that we follow international law and principles and will police our own.

4. Finally, the plan does not adequately lay out how these techniques will result in our forces gaining any useful information.

5. In view of the foregoing, I believe the proposed plan is legally insufficient, and that a more thorough legal, policy and practical analysis should be conducted before any of the Category II and III techniques are adopted.

John Ley

ME134

TAB 13



[REDACTED]

DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2008 NAVY PENTAGON
WASHINGTON, D.C. 20330-2008

IN REPLY REFER TO
N3/N5L
NPM 466-02
4 Nov 02

MEMORANDUM FOR THE DIRECTOR FOR STRATEGIC PLANS AND
POLICY DIRECTORATE (J-5), JOINT STAFF

Subj: NAVY PLANNER'S MEMO WRT COUNTER-RESISTANCE TECHNIQUES
(SJS 02-06697) (S/NF)

1. (U) The Navy staff has review subject tasker and concurs with the following substantive comment:

SUBSTANTIVE COMMENT:

(S/NF) Navy staff concurs with developing a range of advance counter-resistance techniques to apply to foreign detainees. Navy staff recommends, however that more detailed interagency legal and policy review be conducted on proposed techniques. Such policy review should address the possibility, if not the likelihood, that techniques will be inadvertently disclosed though the visits to the detainees in Cuba by the International Committee of the Red Cross or foreign government delegations, which could lead to international scrutiny. Navy staff also recommends that the classification level of counter-resistance techniques be increased to the Top Secret level.

2. (U) OPNAV point of contact is [REDACTED]

A handwritten signature in black ink, appearing to read "D. D. Thompson".

D. D. THOMPSON
Captain, U.S. Navy
Special Assistant to the CNO
for JCS Matters

Enc 5
A-1250
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TAB 14

JA
NORM 083-03
4 Nov 02

MEMORANDUM FOR THE DIRECTOR, J-3, THE JOINT STAFF

Subj: COUNTER-RESISTANCE TECHNIQUES (CR)

1. (U) We have reviewed the subject documents, and have the following comments.

(CR/CF) CRITICAL:

a. NO-2. (CR/CF) CRITICAL. We concur with the general proposition of developing a more robust interrogation plan. We are concerned, however, with the techniques proposed in the subject documents, especially the Category III techniques. We disagree with the position that the proposed plan is legally sufficient. Any new techniques proposed should not be implemented without a more thorough legal and policy review.

(1) ISSUE: (CR/CF) It is the policy of the US Government to treat all Qaeda and Taliban detainees humanely. This policy was stressed in the President's Military Order No. 1, dated 13 Nov 01. Under Section 3 (Detention Authority of the Secretary of Defense), the President directed that the detainees "shall be treated humanely." Moreover, in a White House Memorandum, dated 7 Feb 02, the President reaffirmed the order previously issued by the Secretary of Defense to the United States Armed Forces requiring that the detainees be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva." A White House Fact Sheet, issued in conjunction with the 7 Feb 02 Memorandum, explains the meaning of humane treatment by stating that the detainees will not be subjected to physical or mental abuse or cruel treatment. While the principles of Geneva may be "violated" because of military necessity, humane treatment is not subject to waiver.

(CR/CF) In addition, several of the Category II and III techniques arguably violate federal law, and would expose our service members to possible prosecution. (See 18 U.S.C. 2389 et seq). This federal statute states that "[w]hoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 30 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life." The statute defines torture as "an act committed by a person acting under color of law specifically intended to inflict severe physical or mental pain or suffering - upon another person within his custody or physical control." The statute defines "severe physical or mental pain or suffering" as "the prolonged mental harm caused by or resulting from - the intentional infliction or threatened infliction of severe physical pain or suffering; - threat of imminent death; or the threat that another person will imminently be subjected to death, severe physical pain or suffering." Clearly, the "use of scenarios designed to convince the detainees that death or severely painful consequences are imminent for him and/or his family" would be a violation of the federal torture statute. To argue otherwise is disingenuous. There also would be exposure to criminal prosecution under the UCMJ. We are unaware of any authority that would allow a governing authority to give "permission or immunity in advance" to commit a criminal violation.

(CR/CF) Moreover, the International Criminal Court (ICC) purports to have jurisdiction over "war crimes." (See Article 8, Rome Statute of the International Criminal Court). The Rome Statute defines "war crimes" as, "grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons - protected under the provisions of the relevant Geneva Convention: - Torture or inhuman treatment . . ." The Rome Statute defines "torture" to mean "the

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intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions." While President Bush has stated that the Geneva Conventions do not apply to al Qaeda, he did state, "that the provisions of Geneva will apply to our present conflict with the Taliban." (See President's Memorandum, dated 7 Feb 02). Regardless, there are many in the international community, and domestically, that dispute the President's determination of the inapplicability of the Geneva Conventions to al Qaeda. The ICC could very well determine that it does in fact apply to both al Qaeda and the Taliban, and therefore seek jurisdiction to try our service members involved in "torture" of the detainees. Notwithstanding the applicability of the Geneva Conventions, customary international law prohibits the mistreatment of prisoners.

(S/W) It also is clear that any statements, and evidence derived from those statements, will be inadmissible in federal court. While the procedures for the military tribunals have now been finalized, it is doubtful that statements elicited through coercive means will be admissible, not to mention the reliability of such statements will be called into question.

b. NS-2. (S/W) We also are concerned over the self-imposed approval process for escalating to the employment of category II or III techniques.

(1) (S/W) Prolonged periods in an interrogation, that are not part of the interrogation strategy, will certainly diminish the interrogator's effectiveness in eliciting information. undue delay in gaining approval for employment of a particular interrogation technique during the course of an interrogation, could significantly undermine any momentum already achieved by the interrogator. Rather, any approval process adopted must be sufficiently responsive to operate effectively during the course of the interrogation process, and not cause interruption. Clear guidance in the form of well-defined limits, afford the interrogator a sense of non-reversibility that obviates the need to pause for "policy clarification."

a. NS-3. (S/W) (S/W) Regarding the use of the isolation facility (described as a category II technique), segregating the detainees, individually or by resistance levels, maintains the shock of capture (SOC) and enhances the ability to gather intelligence. Once detainees have been allowed to communicate with one another, SOC is diminished. Isolation is an effective means to SOC almost indefinitely (if conducted properly). In fact, depending on the level of isolation, SOC can be maintained without the need for other questionable techniques.

s. HQMC point of contact is [REDACTED]

H. A. SUTZGIER
Colonel, U. S. Marine Corps Reserve
Marine Corps Service Planner

001226

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- C.
- PD.



GENERAL COUNSEL

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1800 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1800

2002 DEC -2 AM 11: 03

ACTION MEMO

November 27, 2002 (1:00 PM)

OFFICE OF THE
SECRETARY OF DEFENSE

DEPSEC _____

FOR: SECRETARY OF DEFENSE

FROM: William J. Haynes II, General Counsel *[Signature]*

SUBJECT: Counter-Resistance Techniques

- The Commander of USSOUTHCOM has forwarded a request by the Commander of Joint Task Force 170 (now JTF GTMO) for approval of counter-resistance techniques to aid in the interrogation of detainees at Guantanamo Bay (Tab A).
- The request contains three categories of counter-resistance techniques, with the first category the least aggressive and the third category the most aggressive (Tab B).
- I have discussed this with the Deputy, Doug Faith and General Myers. I believe that all join in my recommendation that, as a matter of policy, you authorize the Commander of USSOUTHCOM to employ, in his discretion, only Categories I and II and the fourth technique listed in Category III ("Use of mild, non-injurious physical contact such as grabbing, poking in the chest with the finger, and light pushing").
- While all Category III techniques may be legally available, we believe that, as a matter of policy, a blanket approval of Category III techniques is not warranted at this time. Our Armed Forces are trained to a standard of interrogation that reflects a tradition of restraint.

RECOMMENDATION: That SECDEF approve the USSOUTHCOM Commander's use of those counter-resistance techniques listed in Categories I and II and the fourth technique listed in Category III during the interrogation of detainees at Guantanamo Bay.

SECDEF DECISION

Approved *[Signature]* Disapproved _____ Other _____

Attachments
As stated

cc: CJCS, USD(P)

*However, I stand for 8-10 hours
A day. Why is stand, limited to 4 hours?*

D.A. DEC 02 2002

03/21/2007 12:20 20792:2438

ADMIN

PAGE 02

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JTF GTMO SERE SOP
18 DECEMBER 2002

Will reference to SERE will be removed as per Lt Col Moss

Exercise management techniques

Management
JTF GTMO "SERE" INTERROGATION STANDARD OPERATING PROCEDURE

Subj: GUIDELINES FOR EMPLOYING "SERE" TECHNIQUES DURING DETAINEE INTERROGATIONS
Management

Ref: (a) FASO DETACHMENT BRUNSWICK INSTRUCTION 3305.3D

1. Purpose. This SOP document promulgates procedures to be followed by JTF-GTMO personnel engaged in interrogation operations on detained persons. The premise behind this is that the interrogation tactics used at U.S. military SERE schools are appropriate for use in real-world interrogations. These tactics and techniques are used at SERE school to "break" SERE detainees. The same tactics and techniques cannot be used to break real detainees during interrogation operations.

The basis for this document is the SOP used at the U.S. Navy SERE (Survival, Evasion, Resistance and Escape) school in Brunswick, Maine and is defined by reference (a).

Note that all tactics are strictly non-lethal.

STRICT COMPLIANCE WITH THE GUIDELINES LINED OUT IN THIS DOCUMENT IS MANDATORY!

2. Training. All interrogators will undergo training by certified SERE instructors prior to being approved for use of any of the techniques described in this document. Training will be developed and maintained in full by the Interdiction Control Element (ICE) chief.

Scope. Applicable to designated military and civilian interrogators assigned to Joint Task Force - Guantanamo Bay, Cuba.

Approved: LT COL TED K. MOSS
ICE CHIEF

Approved: COL MICHAEL BARRERS
JTF COMMANDER

Approved: MG GIFFREY MILLER
COMMANDING GENERAL JTF GTMO

CONFIDENTIAL
TWO

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Dean
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(Tab 16 Extract) JTF GTMO "SERE" Interrogation Standard Operating Procedure," dated 18 December 2002.

3. Degradation Tactics

- a. Shoulder Slap
- b. Insult Slap
- c. Stomach Slap
- d. Stripping

4. Physical Debilitation Tactics

a. Stress Positions

- 1. Head Rest Index Finger Position
- 2. Kneeling Position
- 3. Worship-the-Gods
- 4. Sitting Position
- 5. Standing position

3. Demonstrate Omnipotence Tactics

- a. Manhandling
- b. Walling



DEPARTMENT OF DEFENSE
CRIMINAL INVESTIGATION TASK FORCE (DEPLOYED)
QUANTANAMO BAY, CUBA

REFLECTS
ATTENTION OF

CITF-G/SAC

17 Dec 02

230
(143)

MEMORANDUM FOR JTF-GTMO/J2

SUBJECT: JTF GTMO "SERE" INTERROGATION SOP DTD 10 DEC 02

1. On 14 December 02, prior the "Decision Making" brief with the CG, you provided me a copy of JTF GTMO SERE INTERROGATION SOP dated 10 Dec 02 and asked me to review it and provide you my opinion. Consistent with our "stand clear" policy, I cannot offer you any specific input or advice as you requested. However, I do want to reiterate CITF-G's general position on this matter. As outlined in our memorandum for JTF GTMO dated 15 Nov 02, CITF-G objects to these aggressive interrogation techniques. While the subject SOP clearly does not apply to LEA (CITF and FBI) interrogators (applicable only to military and civilian interrogators assigned to JTF-GTMO), LEA in conjunction with the FBI's Behavioral Analysis Unit want to provide you the following general observations on why employing "SERE" tactics and techniques are not effective methods, with very limited potential benefit.

2. General Observations: Both the military and LEA share the identical mission of obtaining intelligence in order to prevent future attacks on Americans. However, LEA has the additional responsibility of seeking reliable information/evidence from detainees to be used in subsequent legal proceedings.

4. The SERE methods were designed for use in a battlefield environment as a means of collecting tactical intelligence (e.g., to uncover enemy plans, determine enemy strength, movement, weapon capabilities and logistical support, etc.) However, there is no evidence to support that captured combatant techniques work effectively in the interrogation of detainees in a non-combat environment such as GTMO. LEA believes that these techniques discourage, rather than encourage, detainee cooperation.

5. LEA agents are responsible for investigating a wide variety of criminal and counterintelligence matters around the world. Accordingly, they are highly trained and experienced in eliciting information from reluctant subjects of diverse cultural and socio-economic backgrounds. LEA agents only use rapport-based methods that not only yield results,

but also are legally sound. LEA agents are neither trained nor authorized to use coercive interrogation techniques under any circumstances.

7. Utilizing rapport-based methods, LEA have realized numerous successes during several major terrorism investigations including the bombings of embassies in East Africa, the bombing of the USS Cole and the 1993 World Trade Center bombing. Like most of the GTMO detainees, the perpetrators of these terrorist acts were motivated by a distorted religious doctrine and reinforced by a group/cultural dynamic.

8. LEA does not believe that coercive interrogation techniques are effective. However, on those rare occasions when these techniques have yielded results, the reliability of the information gathered has proven to be highly questionable. Detainees who are coerced into making admissions often develop strong feelings of anger and resentment toward their interrogators. Instead of creating an environment conducive to fostering continued cooperation, the interrogation process ends up fueling hostility and strengthening a detainee's will to resist.

9. A recovered Al Qaeda training manual instructs its members to expect Americans to use coercive interrogation tactics, even torture, to elicit information. The manual draws attention to these techniques and characterizes them as further proof of the evil and unjust acts which Americans commit against Muslims. Thus, the use of coercive techniques only serves to reinforce these erroneous perceptions. In essence, we end up proving ourselves worthy of the detainees' righteous resolve and inspiring continued resistance. By contrast, the use of a rapport-based approach represents the first step in disrupting a detainee's belief system. Intelligence officers, law enforcement personnel and diplomats have long recognized the value of this tact.

10. An advantage of a rapport-based model is that it allows interrogators to capitalize on a collective knowledge acquired about the unique mindset of those drawn to radical fundamentalism. It allows interviewers the opportunity to tailor specific approaches based on a careful review of a detainee's particular circumstances, rather than relying on haphazard, prescriptive approaches.

11. Rapport-based approaches work best after a detainee's motivations are understood and incorporated into a specific plan designed to exploit his psychological needs and vulnerabilities.

12. A rapport-based model avoids the potential for detainee abuse by practitioners. This point cannot be overstated. Both research and experience demonstrate that when coercive techniques are used in closed environments, there is a real potential for mistreatment to occur. This holds true even for highly trained and disciplined interrogators for whom the line between permissive behavior and abuse can easily become blurred. This phenomenon is often so subtle that it can escape the attention of interrogators as well as their leaders tasked with oversight responsibilities.

13. LEA have previously addressed these issues in both private discussions and in written communications with command personnel on many occasions. LEA has formally voiced its collective view that coercive SERE tactics are not only unsuitable in GTMO (where both LEA and the intelligence community are conducting interrogations), but more importantly they are

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(3093)

ineffective. Additionally, there are serious concerns about the legal implications of these techniques.

14. Despite the advice of LEA behavioral experts who have consistently advocated the use of a rapport-based approach, there appears to be a tendency to revert to a short-sighted, coercive model of interrogation. LEA recognizes that everyone involved in interrogation efforts at GTMO is under intense pressure to succeed in eliciting information from the detainees. However, LEA believes that an expectation to produce immediate results should not distract us from employing sound methodological tools to accomplish our ultimate objective - preventing and disrupting future acts of terrorism.

TIMOTHY JAMES

~~SP-6~~

*Special Agent in Charge
Criminal Investigation Task Force
Guantanamo*

Copy:
JTF-GTMO/SJA
FBI SSA

1320

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15 Jan 2003

From: John P. Rankin, SERE Training Specialist
Christopher Ross, SERE Coordinator
To: Officer in Charge, FASOTRAGRULANT Det Brunswick
Via: SERE Department Head

Subj: AFTER ACTION REPORT JOINT TASK FORCE GUANTANAMO BAY
(JTF-GTMO) TRAINING EVOLUTION

Encl: (1) Draft ICE SOP
(2) Coercive Management Worksheet
(3) Physical and Psychological Pressures paper
(4) Al Queda Training Manual

1. **Background:** Dates of report are 29 Dec 02 - 4 Jan 03. Mr. Ross and I were directed to proceed to Guantanamo Bay, Cuba at the request of LtCol Moss, Commander of the Interrogation Control Element (ICE), JTF-GTMO. Our initial impression concerning the reason for the trip was to provide ICE personnel with the theory and application of the physical pressures utilized during our training evolutions.

2. We arrived 30 Dec 02 and were met by SFC Sessions, ICE Operations Chief, at the Ferry Landing, Windward Side - GTMO. He transported us to the security building wherein we received our access badges. Immediately following we proceeded to the ICE command center located in Camp Delta, the primary detention facility. Here we met with LtCol Moss (USA) and Capt Weis (USMC), the ICE Operations Officer. After a thorough in-brief, it was confirmed that a high-level directive had initiated our subsequent trip for the purpose of providing "physical pressures" training. LtCol Moss also provided us with a draft ICE SOP for utilization of physical pressures, enclosure (1). A tentative training plan was drafted.

3. On the morning of 31 Dec 02, Mr. Ross and I initiated training with an in-depth class on Biderman's Principles, enclosure (2) and the theory and practical application of selected physical pressures, IAW our "Blue Book", to approximately 24 ICE personnel. This training was conducted in one of the newly constructed interrogation facilities located at Camp Delta. During this training it was stressed that the physical pressures are only part of the overall conditioning process designed to establish and maintain an effective captive

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Subj: AFTER ACTION REPORT ON OPERATION VALLIANT RETURN

management program, as described in enclosure (3). Later in the day Mr. Ross and I were taken on a tour of one of the inactive "blocks" and the Maximum Security Unit (MSU) located in Camp Delta.

4. On morning of 2 Jan 03, Mr. Ross and I presented classes to ICE personnel covering interrogation fundamentals and resistance to interrogation. Resistance was specifically requested since it was evident that some of the higher priority detainees had received some kind of resistance training, as evidenced by the Al Qaeda Training Manual, enclosure (4). Theory is that ICE personnel would be able to more readily recognize if the detainee was applying resistance techniques and then counter or report their efforts. During the afternoon, we presented an abbreviated theoretical physical pressures and peacetime guidance (governmental and hostage) to Marine JTF-GTMO personnel and two JTF-GTMO Staff Judge Advocate (SJA) officials.

5. During the evening Mr. Ross and I were taken to another detention site and allowed to observe operations being conducted. (Recommendations included in enclosure (3))

6. On 3 Jan 03, Mr. Ross and I met with Major General Miller, JTF-GTMO Commander, at the ICE command center. During the meeting the high-level directive was sighted which outlined specific guidance regarding current and proposed ICE operations in dealing with detainees. Major General Miller clearly expressed his guidance as to the application of physical pressures. He gratefully accepted our advice as to how operations and management of detainees could be improved and thanked us for our efforts. Later that afternoon we were taken into the active blocks and observed some interviews of detainees. We later received an out-brief by LtCol Moss and Capt Weis wherein Capt Weis was provided enclosure (3).

7. Issues and Recommendations:

Issue: Security clearance information

Discussion: Due to short notice of trip, no POC was provided or obtained to pass security clearance information to facilitate issuance of badges. I was in one of the clearance systems and my information was available. Mr. Ross' was not. Mr. Hill was called and immediately responded by faxing information to the Special Security Office (SSO), GTMO.

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Subj: AFTER ACTION REPORT ON OPERATION VALIANT RETURN

Recommendation: Participants and sponsors send clearance information or POCs expeditiously to avoid delays. SSO, GTMO POC is [REDACTED]

Mr. Hill investigate reason why my clearance information was available through one of the systems/database and Mr. Ross' was not.

Issue: Rental car availability

Discussion: We were authorized a rental car, however, orders did not specify which agency. Most rental agencies located in Jacksonville, FL airport do not afford the convenience of drop off sites. Since we were only transiting from the airport to NAS Jacksonville, a drop off capability was needed to avoid the \$50.00 cab fare.

Recommendation: Future trips of this nature should utilize Enterprise Rental since they have a satellite office located in the military terminal. Enterprise has also waived the drop fee for personnel on orders. A reservation request form and business card has been provided to the Resource Department. *Resource*

8. A debrief of the trip was provided to available SKRR personnel. A make-up brief is available upon request for those that missed it.

9. Conclusion: It is unknown at this time whether another request for support will made. Recommend that future trainers, if requested, be thoroughly prepared to discuss and explain Biderman's Principles and captive management techniques.

J. Rankin
John F. Rankin

Maybe a good idea to plan/coord a return trip to see how things are progressing.

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Coercive Management Techniques

Chart 10. Sideman's Chart of Coercion		
General Method	Effects (Purposes)	Variants
1. Isolation.	Deprives victim of all social support of his ability to resist. Develops and intensifies mood with self. Makes victim dependent upon interrogator.	Complete solitary confinement. Complete isolation. Semi-isolation. Group isolation.
2. Demolition of Egoism.	Flies attention upon immediate predicament. Forces introspection. Eliminates stimuli competing with those controlled by captor. Frustrates all action not consistent with compliance.	Physical isolation. Darkness or bright light. Narrow environment. Restricted movement. Monotonous food.
3. Induced debilitation and exhaustion	Weakens mental and physical ability to resist.	Semi-starvation. Exposure. Exploitation of wounds. Induced illness. Sleep deprivation. Prolonged constraints. Prolonged interrogation. Forced writing. Over-exertion.
4. Threats.	Cultivates anxiety and despair.	Threats of death. Threats of non return. Threats of endless interrogation and isolation. Threats against family. Vague threats. Sudden changes of treatment.
5. Occasional indulgences.	Provides positive motivation for compliance. Hinders adjustment to deprivation.	Occasional favors. Fluctuations of interrogator's attitudes. Promises. Rewards for partial compliance. Sanitizing.
6. Demonstrating 'Omnipotence' and 'Omniscience'.	Suggests futility of resistance.	Confrontation. Pretending cooperation taken for granted. Demonstrating complete control over victim's fate.
7. Degradation.	Makes cost of resistance more daunting to self-esteem than capitulation. Reduces prisoner to 'animal level' concerns.	Personal hygiene prevented. Filthy infected surrounds. Demerol punishments. Insults and taunts. Denial of privacy.
8. Imposing Trivial Demands.	Develops habits of compliance.	Forced writing. Enforcement of minute rules.

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MEMORANDUM

01/03/03

From: John F. Rankin, SERE Training Specialist, FASOTRAGRULANT Det.
Brunswick ME.
To: Captain Weis, ICE, JTF-GTMO
Subj: PHYSICAL AND PSYCHOLOGICAL PRESSURES DURING INTERROGATIONS
Ref: (a) Coercive Management Techniques Chart

1. The use of physical and psychological pressures during interrogations, if deemed appropriate, are tools that can be applied in order to establish and reinforce the principles contained in reference (a). These principles must be supported by an interrogation or collection system that facilitates complete control of actions prior to, during and after interrogations.
2. These principles and associated pressures allow the interrogation system to establish and maintain control of the exploitation process of HUMINT sources under the authority of the ICE.
3. The management techniques are most effective if used in concert with each other since they are all mutually supporting and build upon the effects of others. They are all designed to elicit compliance from HUMINT sources by setting up the "captive environment." This is ideally accomplished by establishing control, instilling dependencies for basic existence, rewards and punishments, gaining compliance and in the end cooperation. A distinction must be drawn in that compliance is not always a willful or voluntary act. Conversely, if someone freely cooperates without inducement or the aforementioned pressures, the cycle has for the most part been completed.
4. The application of physical pressures is only a part of the overall captive management process. They are initially used to shock and intimidate by setting the stage and establishing control. There must be a statement made by demonstrating there are rewards and punishments for compliant and combative or resistive behavior.
5. Implementation of an effective program that supports these principles is dependant on a comprehensive training plan and supervisory controls that prevent abuse and stresses safety and oversight.


John F. Rankin

Enclosure (3)

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TAB 20

~~SECRET~~

SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000



JAN 15 2003

MEMORANDUM FOR THE GENERAL COUNSEL OF THE DEPARTMENT
OF DEFENSE

SUBJECT: Detainee Interrogations (U)

(U) Establish a working group within the Department of Defense to assess the legal, policy, and operational issues relating to the interrogations of detainees held by the U.S. Armed Forces in the war on terrorism.

(U) The working group should consist of experts from your Office, the Office of the Under Secretary of Defense for Policy, the Military Departments, and the Joint Staff. The working group should address and make recommendations as warranted on the following issues:

- (S) Legal considerations raised by interrogation of detainees held by U.S. Armed Forces.
- (S) Policy considerations with respect to the choice of interrogation techniques, including:
 - (S) contribution to intelligence collection
 - (S) effect on treatment of captured US military personnel
 - (S) effect on detainee prosecutions
 - (S) historical role of US armed forces in conducting interrogations
- (S) Recommendations for employment of particular interrogation techniques by DoD interrogators.

(U) You should report your assessment and recommendations to me within 15 days.

A handwritten signature in black ink, appearing to read "D. H. Feld".

Classified by: Secretary Rumsfeld
Reason: 1.5(c)
Declassify on: 10 years

UNCLASSIFIED

Declassify Under the Authority of Executive Order 12958
By Executive Secretary, Office of the Secretary of Defense
By William P. Marrion, CAPT, USN
June 21, 2004

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SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000



MEMORANDUM FOR COMMANDER USSOUTHCOM

JAN 15 2003

SUBJECT: Counter-Resistance Techniques (U)

(S) My December 2, 2002, approval of the use of all Category II techniques and one Category III technique during interrogations at Guantanamo is hereby rescinded. Should you determine that particular techniques in either of these categories are warranted in an individual case, you should forward that request to me. Such a request should include a thorough justification for the employment of those techniques and a detailed plan for the use of such techniques.

(U) In all interrogations, you should continue the humane treatment of detainees, regardless of the type of interrogation technique employed.

(U) Attached is a memo to the General Counsel setting in motion a study to be completed within 15 days. After my review, I will provide further guidance.

Classified by: Secretary Rumsfeld
Reason: 1.5(c)
Declassify on: 10 years

UNCLASSIFIED

Declassify Under the Authority of Executive Order 12958
By Executive Secretary, Office of the Secretary of Defense
By William F. Marriott, CAPT, USN
June 21, 2004

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UNCLASSIFIED
~~SECRET~~
THE SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

APR 16 2003

MEMORANDUM FOR THE COMMANDER, US SOUTHERN COMMAND

SUBJECT: Counter-Resistance Techniques in the War on Terrorism (S)

^(U)
~~(S/AF)~~ I have considered the report of the Working Group that I directed be established on January 15, 2003.

^(U)
~~(S/AF)~~ I approve the use of specified counter-resistance techniques, subject to the following:

(U) a. The techniques I authorize are those lettered A-X, set out at Tab A.

(U) b. These techniques must be used with all the safeguards described at Tab B.

^(U)~~(S)~~ c. Use of these techniques is limited to interrogations of unlawful combatants held at Guantanamo Bay, Cuba.

^(U)~~(S)~~ d. Prior to the use of these techniques, the Chairman of the Working Group on Detainee Interrogations in the Global War on Terrorism must brief you and your staff.

^(U)~~(S/AF)~~ I reiterate that US Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions. In addition, if you intend to use techniques B, I, O, or X, you must specifically determine that military necessity requires its use and notify me in advance.

^(U)~~(S/AF)~~ If, in your view, you require additional interrogation techniques for a particular detainee, you should provide me, via the Chairman of the Joint Chiefs of Staff, a written request describing the proposed technique, recommended safeguards, and the rationale for applying it with an identified detainee.

^(U)~~(S)~~ Nothing in this memorandum in any way restricts your existing authority to maintain good order and discipline among detainees.

Attachments:
As stated

Classified Under Authority of Executive Order 12958
Delegative Secretary, Office of the Secretary of Defense
P. Marvick, CAPT, USN
June 18, 2004

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FOREIGN NATIONALS

UNCLASSIFIED

Classified By: Secretary of
Defense
Reason: 1.5(a)
Declassify On: 2 April 2013

UNCLASSIFIED

TAB A

INTERROGATION TECHNIQUES

(u)
(S//NF) The use of techniques A - X is subject to the general safeguards as provided below as well as specific implementation guidelines to be provided by the appropriate authority. Specific implementation guidance with respect to techniques A - Q is provided in Army Field Manual 34-52. Further implementation guidance with respect to techniques R - X will need to be developed by the appropriate authority.

(u)
(S//NF) Of the techniques set forth below, the policy aspects of certain techniques should be considered to the extent those policy aspects reflect the views of other major U.S. partner nations. Where applicable, the description of the technique is annotated to include a summary of the policy issues that should be considered before application of the technique.

- (u)
A. (S//NF) Direct: Asking straightforward questions.
- (u)
B. (S//NF) Incentive/Removal of Incentive: Providing a reward or removing a privilege, above and beyond those that are required by the Geneva Convention, from detainees. [Caution: Other nations that believe that detainees are entitled to POW protections may consider that provision and retention of religious items (e.g., the Koran) are protected under international law (see, Geneva III, Article 34). Although the provisions of the Geneva Convention are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]
- (u)
C. (S//NF) Emotional Love: Playing on the love a detainee has for an individual or group.
- (u)
D. (S//NF) Emotional Hate: Playing on the hatred a detainee has for an individual or group.
- (u)
E. (S//NF) Fear Up Harsh: Significantly increasing the fear level in a detainee.
- (u)
F. (S//NF) Fear Up Mid: Moderately increasing the fear level in a detainee.
- (u)
G. (S//NF) Reduced Fear: Reducing the fear level in a detainee.
- (u)
H. (S//NF) Pride and Ego Up: Boosting the ego of a detainee.

Classified By: Secretary of Defense
Reason: 1.5(a)
Declassify On: 2 April 2013

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Tab A

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- (u)
L. (S//NF) **Pride and Ego Down:** Attacking or insulting the ego of a detainee, not beyond the limits that would apply to a POW. [Caution: Article 17 of Geneva III provides, "Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind." Other nations that believe that detainees are entitled to POW protections may consider this technique inconsistent with the provisions of Geneva. Although the provisions of Geneva are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]
- (u)
J. (S//NF) **Futility:** Involving the feeling of futility of a detainee.
- (u)
K. (S//NF) **We Know All:** Convincing the detainee that the interrogator knows the answer to questions he asks the detainee.
- (u)
L. (S//NF) **Establish Your Identity:** Convincing the detainee that the interrogator has mistaken the detainee for someone else.
- (u)
M. (S//NF) **Repetition Approach:** Continuously repeating the same question to the detainee within interrogation periods of normal duration.
- (u)
N. (S//NF) **File and Dossier:** Convincing detainee that the interrogator has a damning and inaccurate file, which must be fixed.
- (u)
O. (S//NF) **Mutt and Jeff:** A team consisting of a friendly and harsh interrogator. The harsh interrogator might employ the Pride and Ego Down technique. [Caution: Other nations that believe that POW protections apply to detainees may view this technique as inconsistent with Geneva III, Article 13 which provides that POWs must be protected against acts of intimidation. Although the provisions of Geneva are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]
- (u)
P. (S//NF) **Rapid Fire:** Questioning in rapid succession without allowing detainee to answer.
- (u)
Q. (S//NF) **Silence:** Staring at the detainee to encourage discomfort.
- (u)
R. (S//NF) **Change of Scenery Up:** Removing the detainee from the standard interrogation setting (generally to a location more pleasant, but no worse).
- (u)
S. (S//NF) **Change of Scenery Down:** Removing the detainee from the standard interrogation setting and placing him in a setting that may be less comfortable; would not constitute a substantial change in environmental quality.
- (u)
T. (S//NF) **Dietary Manipulation:** Changing the diet of a detainee; no intended deprivation of food or water; no adverse medical or cultural effect and without intent to deprive subject of food or water, e.g., hot rations to MREs.

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U. (S//NF) ^(u) Environmental Manipulation: Altering the environment to create moderate discomfort (e.g., adjusting temperature or introducing an unpleasant smell). Conditions would not be such that they would injure the detainee. Detainees would be accompanied by interrogator at all times. [Caution: Based on court cases in other countries, some nations may view application of this technique in certain circumstances to be inhumane. Consideration of these views should be given prior to use of this technique.]

V. (S//NF) ^(u) Sleep Adjustment: Adjusting the sleeping times of the detainee (e.g., reversing sleep cycles from night to day.) This technique is NOT sleep deprivation.

W. (S//NF) ^(u) False Flag: Convincing the detainee that individuals from a country other than the United States are interrogating him.

X. (S//NF) ^(u) Isolation: Isolating the detainee from other detainees while still complying with basic standards of treatment. [Caution: The use of isolation as an interrogation technique requires detailed implementation instructions, including specific guidelines regarding the length of isolation, medical and psychological review, and approval for extensions of the length of isolation by the appropriate level in the chain of command. This technique is not known to have been generally used for interrogation purposes for longer than 30 days. Those nations that believe detainees are subject to POW protections may view use of this technique as inconsistent with the requirements of Geneva III, Article 13 which provides that POWs must be protected against acts of intimidation; Article 14 which provides that POWs are entitled to respect for their person; Article 34 which prohibits coercion and Article 125 which ensures access and basic standards of treatment. Although the provisions of Geneva are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]

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Tab A

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TAB B

GENERAL SAFEGUARDS

(U)
(S//NF) Application of these interrogation techniques is subject to the following general safeguards: (i) limited to use only at strategic interrogation facilities; (ii) there is a good basis to believe that the detainee possesses critical intelligence; (iii) the detainee is medically and operationally evaluated as suitable (considering all techniques to be used in combination); (iv) interrogators are specifically trained for the technique(s); (v) a specific interrogation plan (including reasonable safeguards, limits on duration, intervals between applications, termination criteria and the presence or availability of qualified medical personnel) has been developed; (vi) there is appropriate supervision; and, (vii) there is appropriate specified senior approval for use with any specific detainee (after considering the foregoing and receiving legal advice).

(U) The purpose of all interviews and interrogations is to get the most information from a detainee with the least intrusive method, always applied in a humane and lawful manner with sufficient oversight by trained investigators or interrogators. Operating instructions must be developed based on command policies to insure uniform, careful, and safe application of any interrogations of detainees.

(U)
(S//NF) Interrogations must always be planned, deliberate actions that take into account numerous, often interlocking factors such as a detainee's current and past performance in both detention and interrogation, a detainee's emotional and physical strengths and weaknesses, an assessment of possible approaches that may work on a certain detainee in an effort to gain the trust of the detainee, strengths and weaknesses of interrogators, and augmentation by other personnel for a certain detainee based on other factors.

(U)
(S//NF) Interrogation approaches are designed to manipulate the detainee's emotions and weaknesses to gain his willing cooperation. Interrogation operations are never conducted in a vacuum; they are conducted in close cooperation with the units detaining the individuals. The policies established by the detaining units that pertain to searching, silencing, and segregating also play a role in the interrogation of a detainee. Detainee interrogation involves developing a plan tailored to an individual and approved by senior interrogators. Strict adherence to policies/standard operating procedures governing the administration of interrogation techniques and oversight is essential.

Classified By: Secretary of Defense
Reason: 1.5(a)
Declassify On: 2 April 2013

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Tab B

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(U)
(S//NF) It is important that interrogators be provided reasonable latitude to vary techniques depending on the detainee's culture, strengths, weaknesses, environment, extent of training in resistance techniques as well as the urgency of obtaining information that the detainee is known to have.

(U)
(S//NF) While techniques are considered individually within this analysis, it must be understood that in practice, techniques are usually used in combination; the cumulative effect of all techniques to be employed must be considered before any decisions are made regarding approval for particular situations. The title of a particular technique is not always fully descriptive of a particular technique. With respect to the employment of any techniques involving physical contact, stress or that could produce physical pain or harm, a detailed explanation of that technique must be provided to the decision authority prior to any decision.

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Tab B



DEPARTMENT OF DEFENSE

**COMMANDER
U.S. JOINT FORCES COMMAND
1562 MITSCHEK AVENUE SUITE 200
NORFOLK, VA 23551-2488**

TAB 24

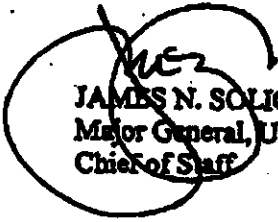
IN REPLY REFER TO:

J02
29 Sep 04

MEMORANDUM FOR COMMANDER, JOINT PERSONNEL RECOVERY AGENCY

Subject: Joint Personnel Recovery Agency Mission Guidance

1. The Joint Personnel Recovery Agency (JPRA) is the DoD Office of Primary Responsibility for DoD-wide personnel recovery matters. JPRA provides Joint Personnel Recovery functional expertise and assistance throughout DoD and other government agencies on issues related to Combat Search and Rescue; Evasion and Recovery; Operational POW/MIA Matters and Code of Conduct Training. JPRA will conduct operations in accordance with its mission as stated in USJFCOMINST 3100.4.
2. JPRA's training mission is focused on ensuring the survivability of U.S. personnel in hostile environments or captivity. The Code of Conduct training, designed to develop uniform training programs in the areas of combat survival, evasion, resistance, and escape within the Services, is of particular importance given the current operational climate. Focus must remain on training personnel in these "defensive" techniques. Recent requests from OSD and the Combatant Commands have solicited JPRA support based on knowledge and information gained through the debriefing of former U.S. POWs and detainees and their application to U.S. strategic debriefing and interrogation techniques. These requests, which can be characterized as "offensive" support, go beyond the chartered responsibilities of JPRA. These "offensive" techniques include, but are not limited to, activities designed not to increase one's resistance capabilities to interrogation techniques but rather intended to instruct personnel, for the purpose of gathering of information, on how to break down another's ability to withstand interrogation.
3. The use of resistance to interrogation knowledge for "offensive" purposes lies outside the roles and responsibilities of JPRA. Accordingly, any deviation in roles and responsibilities must be carefully scrutinized and vetted through proper legal and policy channels. JPRA personnel will not conduct any activities or make any recommendations on offensive interrogation techniques or activities without specific approval from the USJFCOM Commander, Deputy Commander, or the Chief of Staff. Deviations from the JPRA chartered mission of this nature are policy decisions that will be forwarded to the Office of the Secretary of Defense (OSD) for action. JPRA will continue to direct all requests for external support through USJFCOM and refrain from providing any support or information unless specifically directed by USJFCOM as outlined above.


JAMES N. SOLIGAN
Major General, U.S. Air Force
Chief of Staff

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MEMORANDUM FOR THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL

Subject: Investigation into Training Activities of the Joint Personnel Recovery Agency

1. The attached records show email discussions and other records relevant to activities of the Joint Personnel Recovery Agency (JPRA), including a memorandum dated 29 September 2004, signed by the Chief of Staff, U.S. Joint Forces Command (USJFCOM), to the Commander, JPRA. The question has been asked, "Why was this memo issued?" The attached email traffic provides useful information but is insufficient to answer the question, as it does not reflect verbal Command Group discussions leading to drafting the memorandum.

2. Quite simply, this memorandum was written as a proactive measure to provide clear guidance and to prevent use of JPRA outside the command's mission scope. The USJFCOM Command Group had learned that various personnel in the CENTCOM AOR and at the Joint Staff level, with incomplete understanding of JPRA's mission, were interested in JPRA's availability to assist/support in-theater interrogations. Relative to the expressed interest, the Command Group focused on the following points:

a. JPRA is primarily a school house, not an intelligence gathering activity. It focuses on training our own forces in evasion, survival, resistance and escape. Resistance training includes exposure to conditions our forces might expect to encounter.

b. JPRA does not have personnel assigned to be interrogators, and does not advocate interrogation measures to be executed by our force. Relative to interrogation capability, the expertise of JPRA lies in training personnel how to respond and resist interrogations -- not in how to conduct interrogations.

c. JPRA does assist in personnel repatriation.

3. The Command Group summarized the limits of JPRA's mission as training and defensive response to interrogation -- not offensive interrogation techniques or operations. Thus, the 29 September 2004 memorandum was not issued in response to suspected or known inappropriate JPRA activities, as no such activities were known by this headquarters to have been conducted -- but rather, simply to ensure that JPRA activities remained within the scope of that Agency's mission charter. This was accomplished by specifically directing Commander, JPRA not to engage in any activities that could be considered as in support of interrogations of people captured and detained by U.S. or coalition forces during the conduct of operations. The memorandum was not viewed as a "change of mission," but rather it was intended to ensure continued operation within the assigned charter.

4. To summarize, the view of this Headquarters now, at the time, and during the preceding year, has and had been that requests from various sources for JPRA "interrogation support" were both inconsistent with the unit's charter and might create conditions which tasked JPRA to engage in offensive operational activities outside of

JFRA's defensive mission. Therefore, to the extent that requests for JFRA support might pull that Agency outside the scope of its training mission and into the actual conduct of offensive operations, such requests were viewed as inappropriate. While there was no harm in a request, the appropriate answer was, "No." To ensure and maintain the credibility of the JFRA training expertise within the scope of its mission, the Command Group wanted to make it clear that JFRA personnel should not attempt to apply any perceived individual or unit interrogation expertise - notwithstanding a certain level of external demand for that kind of "outside the scope activity."

5. I hope that this memorandum and the attached records provide you with information adequate to answer your questions. If you require further information, please contact my point of contact for this matter, [REDACTED] the USJFCOM Inspector General.