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CIA Request for Guidance Regarding Interrogation of

[redacted]

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[redacted]

2004

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0140007

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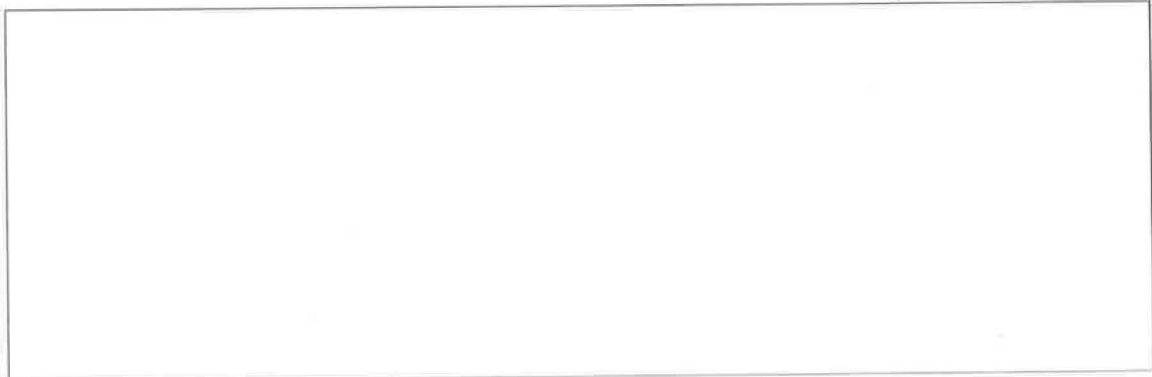


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Importance of [redacted]

- Assessed by [redacted] source on pre-election plot to be involved in or have information on the plot

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- One of the most senior radical Islamic facilitators in Pakistan; ties to AQ, IMU, Taliban and Zarqawi

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Importance of [redacted] (con't)

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- Captured [redacted] in [redacted]
- [redacted] debriefings not working
- His information is perishable, the threat is imminent, and he is available for rendition and interrogation now

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Interrogation Techniques That Could be Used with [redacted]

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- Facial Slap (open-handed)
- Facial Hold
- Attention Grasp
- Sleep Deprivation
- Walling
- Stress positions
- Cramped confinement
- [Waterboard]
- These techniques would be used only after nonphysical interrogation techniques were used and determined to be inadequate. The nonphysical phase could include diapering for up to 72 hours, isolation, white noise or loud music, continuous light or darkness and restricted diet.

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Past Experience

- Interrogations have saved American lives
- Of the over 50 CIA detainees
 - 27 would not cooperate until they were interrogated
 - 16 of those would not cooperate until they were interrogated with enhanced techniques
- Use of these techniques against other key detainees have yielded significant threat information
- The detainees who have provided the most information are KSM and Abu Zubaydah, both of whom were interrogated with the aid of such techniques [, including the waterboard.]

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Why are We Here?

- Our people on the front line need clear, consistent, and reliable guidance
- Transparency
- Consistency with USG policy statements
- Withdrawal of DOJ's 1 August 2002 opinion to White House Counsel
- Impact of Hamdi and Rasul decisions

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Transparency

- Briefing of Principals to ensure renewed understanding of and Policy Support for Interrogation Program
- Briefings of Intelligence Oversight Committees to obtain renewed Political Support for the Interrogation Program

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Consistency

- President's 7 February 2002 Memorandum
 - “our values as a nation ... call for us to treat detainees humanely”
- DOD GC's June 2003 Letter to Senator Leahy
 - US policy to “treat all detainees and conduct all interrogations, wherever they may occur, in a manner consistent” with the US Constitution.
- Durbin Amendment to FY05 NDAA
 - “no person *in the custody or under the physical control of the United States* shall be subject to ... cruel, inhuman, or degrading treatment...” (emphasis added)

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Relevant Considerations

- Are CIA's use of interrogation techniques consistent with expressions of current and developing US Policy
 - President's 7 February 2002 memorandum
 - DoD GC Letter to Sen. Leahy of 25 June 2003
 - Durbin Amendment to the FY 2005 NDAA
- Will CIA's use of the interrogation techniques be found lawful
 - Torture Statute
 - Other US laws and treaty obligations, including the Convention Against Torture and its Article 16
 - If the Constitutional minimums applied (5th, 8th, 14th Amendments)
 - Impact of recent Supreme Court decisions on rights of detainees

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What Needs to be Done

- NSC Principals approval, including DOJ:
 - reaffirming that CIA's use of specifically identified interrogation techniques do not violate US law prohibiting torture (i.e. the Torture Statute);
 - reaffirming that CIA's interrogation techniques do not violate other US laws because the techniques were being used only against foreign nationals outside US jurisdiction;
 - Opining on whether any of CIA's specifically identified interrogation techniques violate the standards of conduct enunciated by courts under the Fifth, Eighth, and Fourteenth Amendments to the US Constitution. (These same standards are applied by the US under Article 16 of the Convention Against Torture ("the CAT"), and the Administration has so stated on a number of occasions.
- Congressional briefings

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