

~~TOP SECRET~~ [REDACTED]~~NOFORN/MR~~

Office of the Assistant Attorney General

Washington, D.C. 20530

August 6, 2004

John A. Rizzo, Esq.
Acting General Counsel
Central Intelligence Agency
Washington, D.C. 20505

Dear John:

~~(TS)~~ [REDACTED] ~~(NF)~~ This letter will confirm our advice that, although it is a close and difficult question, the use of the waterboard technique in the contemplated interrogation of [REDACTED] outside territory subject to United States jurisdiction would not violate any United States statute, including 18 U.S.C. § 2340A, nor would it violate the United States Constitution or any treaty obligation of the United States. We will supply, at a later date, an opinion that explains the basis for this conclusion. Our advice is based on, and limited by, the following conditions:

1. The use of the technique will conform to the description attached to your letter to me of August 2, 2004 ("Rizzo Letter").
2. A physician and psychologist will approve the use of the technique before each session, will be present throughout the session, and will have authority to stop the use of the technique at any time.
3. There is no material change in the medical and psychological facts and assessments set out in the attachment to your August 2 letter, including that there are no medical or psychological contraindications to the use of the technique as you plan to employ it on [REDACTED]
4. The technique will be used in no more than two sessions, of two hours each, per day. On each day, the total time of the applications of the technique will not exceed 20 minutes. The period over which the technique is used will not extend longer than 30 days, and the technique will not be used on more than 15 days in this period. These limits are consistent with the Memorandum for John A. Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, *Re: Interrogation of al Qaeda Operative* (Aug. 1, 2002), and with the previous uses of the technique, as they have been described to us. As we understand the facts, the detainees previously subjected to the technique "are in good physiological and

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psychological health," *see* Rizzo Letter at 2, and they have not described the technique as physically painful. This understanding of the facts is material to our conclusion that the technique, as limited in accordance with this letter, would not violate any statute of the United States.

(TS/ [REDACTED] /NF) We express no opinion on any other uses of the technique, nor do we address any techniques other than the waterboard or any conditions under which [REDACTED] or other detainees are held. Furthermore, this letter does not constitute the Department of Justice's policy approval for use of the technique in this or any other case.

Sincerely,



Daniel B. Levin
Acting Assistant Attorney General