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From: Schwartz, Jonathan B (SBU)
Sent: Thursday, May 13, 2004 10:30 AM
To: Dennis, Michael J (SBU); Gorove, Katherine M (SBU); Legal-L-PM (SBU); Legal-L-NESA
Subject: RE: U.S.: Systemic Abuse of Afghan Prisoners

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The New York Times

May 13, 2004

Harsh C.I.A. Methods Cited in Top Qaeda Interr

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: FRANK E SCHMELZER
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ACLU-KD13842 p.1

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DOS-000984

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By JAMES RISEN, DAVID JOHNSTON and NEIL A. LEWIS

W ASHINGTON, May 12 - The Central Intelligence Agency has used co methods against a select group of high-level leaders and operatives of produced growing concerns inside the agency about abuses, according to current counterterrorism officials.

At least one agency employee has been disciplined for threatening a detainee while questioning, they said.

In the case of Khalid Shaikh Mohammed, a high-level detainee who is believed attacks of Sept. 11, 2001, C.I.A. interrogators used graduated levels of force, including known as "water boarding," in which a prisoner is strapped down, forcibly pushed to believe he might drown.

These techniques were authorized by a set of secret rules for the interrogation of prisoners, none known to be housed in Iraq, that were endorsed by the Justice Department. The rules were among the first adopted by the Bush administration after the September handling detainees and may have helped establish a new understanding through which officials would have greater freedom to deal harshly with detainees.

Defenders of the operation said the methods stopped short of torture, did not violate torture statutes, and were necessary to fight a war against a nebulous enemy whose intentions could only be gleaned by extracting information from often uncooperative detainees. Interrogators were trying to find out whether there might be another attack planned by the United States.

The methods employed by the C.I.A. are so severe that senior officials of the Federal Bureau of Investigation have directed its agents to stay out of many of the interviews of detainees, the counterterrorism officials said. The F.B.I. officials have advised the bureau's director, Robert S. Mueller III, that the interrogation techniques, which would be prohibited in criminal cases, should not be used by their agents in future criminal cases, the counterterrorism officials said.

After the attacks of Sept. 11, President Bush signed a series of directives authorizing the C.I.A. to conduct a covert war against Osama bin Laden's Qaeda network. The directive authorized the agency to kill or capture Qaeda leaders, but it is not clear whether the White House approved the interrogations.

The White House and the C.I.A. declined to comment on the matter.

The C.I.A. detention program for Qaeda leaders is the most secretive component of the agency's detention and interrogation program put into place by the United States government since the start of the war in Afghanistan that includes the detention facilities run by the military at the prison at Guantánamo Bay, Cuba.

There is now concern at the agency that the Congressional and criminal inquiries into the treatment of detainees in Pentagon-run prisons and other detention centers in Iraq and Afghanistan may expose the C.I.A.'s handling of the Qaeda detainees. That, in turn, could expose agency officials to the same kind of public exposure as the military now faces because of the Iraq

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So far, the agency has refused to grant any independent observer or human rights group access to the high-level detainees, who have been held in strict secrecy. Their whereabouts are known only to officials, secrets that one official said he had been told that Mr. Bush had informed the C.I.A. to know where they were.

The authorized tactics are primarily those methods used in the training of American soldiers to prepare them for the possibility of being captured and taken prisoner. They include simulated interrogation techniques such as simulate torture, but officials say they are supposed to stop short of serious injury.

Counterterrorism officials say detainees have also been sent to third countries, without telling them where they are held. They might be executed, or tricked into believing they were being sent to prison. They have been hooded, roughed up, soaked with water and deprived of food, light and medical care.

Many authorities contend that torture and coercive treatment is as likely to produce unreliable information as reliable information that is helpful.

Concerns are mounting among C.I.A. officers about the potential consequence: people involved in this have been concerned for quite a while that eventually the president, or the mood in the country would change, and they would be held accountable. An intelligence source said. "Now that's happening faster than anybody expected."

The C.I.A.'s inspector general has begun an investigation into the deaths of three detainees held by the C.I.A. in Iraq and Afghanistan. The Justice Department is also examining the deaths.

The secret detention system houses a group of 12 to 20 prisoners, government officials say. Some are held directly under American control, others ostensibly under the supervision of foreign governments.

The C.I.A. high-level interrogation program seemed to show early results with Abu Zubaida in April 2002. Mr. Zubaida was a close associate of Mr. bin Laden's at the time of the 9/11 attacks, in which young men were brought from other countries to training camps in Pakistan.

Under such intensive questioning, Mr. Zubaida provided useful information identifying him as a low-level Qaeda convert who was arrested in May 2002 in connection with an attempt to bomb the U.S. embassy in Nairobi. Mr. Zubaida also helped identify Mr. Mohammed as a crucial figure in the plot, counterterrorism officials said.

A few other detainees have been identified by the Bush administration, like Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing, and Walid Ba'Attash, who helped plan the East Africa embassy bombings. They were captured during the Navy destroyer Cole in October 2000.

Some of the prisoners have never been identified by the government. Some may be citizens of other countries, like Al Qaeda. One Middle Eastern man, who had been identified by intelligence sources as a money launderer for Mr. bin Laden, was captured in the United Arab Emirates. He traveled frequently between the UAE and Pakistan. When the U.A.E. government alerted the C.I.A., the man was arrested and subsequently disappeared into the secret CIA prison system.

In the interrogation of Mr. Mohammed, C.I.A. officials became convinced that he was cooperative about his knowledge of the whereabouts of Mr. bin Laden. Mr. Mohammed had written a letter to a family member when he was captured in Pakistan. C.I.A. officials then authorized even harsher techniques, according to officials.

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interrogation.

The C.I.A. has been operating its Qaeda detention system under a series of secret agency's and Justice Department lawyers. Those rules have provided a legal basis for interrogation techniques, including the water-boarding tactic used against Mr. [redacted]

One set of legal memorandums, the officials said, advises government officials contemplating procedures that may put them in violation of American statutes or degrading treatment or the Geneva Conventions, they will not be responsible if detainees are formally in the custody of another country.

The Geneva Conventions prohibit "violence to life and person, in particular torture" and "outrages upon personal dignity, in particular, humiliating and degrad-

Regarding American anti-torture laws, one administration figure involved in drafting memorandums said: "The criminal statutes only apply to American officials. The ones involved are the American officials."

The official said the legal opinions say restrictions on procedures would not apply if the detainees were deemed to be in the custody of a different country, even though American officials benefit from the interrogation. "It would be the responsibility of the other country depends on the level of involvement."

Like the more numerous detainees at Guantánamo Bay, the high-level Qaeda prisoners are defined as unlawful combatants, not as prisoners of war. Those prisoners have no right to civilian or military courts.

The Bush administration began the program when intelligence agencies realized that captured in Afghanistan had such a high intelligence value that they should be treated as high-level figures who had been sent to a military installation at Guantánamo Bay, which was not suitable.

There was little long-term planning. The agency initially had few interrogators available to handle the top detainees. After the Sept. 11 attacks, the agency began to search for ren countries around the world where Qaeda operatives could be kept quietly and safely.

"There was a debate after 9/11 about how to make people disappear," a former CIA official said.

The result was a series of secret agreements allowing the C.I.A. to use sites outside the United States without legal scrutiny.

So far, the Bush administration has not said what it intends to do over the long term with the high-level detainees, leaving them subject to being imprisoned indefinitely without lawyers, courts or any form of due process.

Some officials have suggested that some of the high-level detainees may be tried in military tribunals or officially turned over to other countries, but counterterrorism officials have concluded that the administration's failure to have an "endgame" for these detainees. One official said he expects the detainees to be imprisoned indefinitely at a new long-term prison being built at Guantánamo.

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

From: Lagon, Mark P

Sent: Wednesday, May 12, 2004 7:06 PM

To: Craner, Lorne W (DRL); Kozak, Michael G (DRL); IO-SHA users; DRL-MLA-DL; Legal-L-HRR (SBU); Smith, Janice A (IO); Hughes, Miriam K

Subject: FW: U.S.: Systemic Abuse of Afghan Prisoners

Lovely

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

From: Ami Evangelista [mailto:evangea@hrw.org]

Sent: Wednesday, May 12, 2004 6:12 PM

To: Ami Evangelista

Subject: U.S.: Systemic Abuse of Afghan Prisoners

For Immediate Release:

U.S.: Systemic Abuse of Afghan Prisoners

Open Files on Detainee Deaths

(London, May 13, 2004) - Mistreatment of prisoners by U.S. military and intelligence personnel in Afghanistan is a systemic problem and not limited to a few isolated cases, Human Rights Watch said today.

Human Rights Watch called on the United States to immediately release the results of past investigations into misconduct by U.S. personnel in Afghanistan, including information about two Afghan detainees who were killed in U.S. custody in December 2002 and another detainee who died in June 2003.

"Afghans have been telling us for well over a year about mistreatment in U.S. custody," said John Sifton, Afghanistan researcher for Human Rights Watch. "We warned U.S. officials repeatedly about these problems in 2003 and 2004. It's time now for the United States to publicize the results of its investigations of abuse, fully prosecute those responsible, and provide access to independent monitors."

In a March report, "Enduring Freedom": Abuses by U.S. Forces in Afghanistan, Human Rights Watch documented numerous cases of mistreatment of detainees at various detention sites in Afghanistan, including extreme sleep deprivation, exposure to freezing temperatures, and severe beatings. Detainees complained about being stripped of their clothing and photographed while naked. Some of these abusive practices during interrogation were similar to those recently reported in Iraq. Recent media reports have also documented new cases of mistreatment in Afghanistan.

The Afghan Independent Human Rights Commission (AIHRC)-an autonomous institution within the Afghan government-has also received numerous complaints about abuses by U.S. troops in 2003 and 2004 at its local offices in south and eastern Afghanistan, where U.S. military operations

occur regularly. The commission repeatedly raised concerns about abuses with U.S. officials in 2003 and 2004, as did local government representatives and officials with the United Nations Assistance Mission in Afghanistan.

On May 10, the AIHRC formally requested access to U.S. detention sites in Afghanistan. Human Rights Watch has also made several formal requests to visit U.S. detention sites in Afghanistan through 2003 and 2004, none of which received any response. Human Rights Watch made a request to U.S. Secretary of Defense Donald Rumsfeld on May 6, 2004 asking for access to all detention sites maintained by the United States in Iraq, Afghanistan, and other undisclosed locations.

"The United States has shown that it can't police its own prisons," Sifton said. "Human rights monitoring groups should be given access to all detention facilities in Afghanistan as well as in Iraq."

Human Rights Watch said that the United States has still not provided any adequate explanation for the three detainee deaths that took place in Afghanistan in 2002 and 2003. The first two deaths, which took place in December 2002, were specifically ruled homicides by U.S. military pathologists. (For more on all three cases, please see:
http://hrw.org/reports/2004/afghanistan0304/3.htm#_Toc64778175)

Military officials in the Army Criminal Investigative Division told Human Rights Watch in late 2003 and early 2004 that investigations into the two homicides were "ongoing." But in April, Human Rights Watch received credible information that preliminary results of a military investigation into the two deaths were in fact completed in early 2003, and that some disciplinary actions were taken against U.S. personnel, although no prosecutions were initiated. U.S. military officials have repeatedly refused to explain to Human Rights Watch the circumstances of the third detainee death, which took place in Asadabad, in eastern Afghanistan, in June 2003.

In March of this year, Human Rights Watch again called on the United States to release the results of its investigations into the three deaths. These requests were ignored.

"We've basically been stonewalled," said Sifton. "It's been well over a year since the two detainees were killed in Afghanistan, and U.S. officials are still supposedly investigating. It's time for them to tell the public what happened."

Testimonies taken by Human Rights Watch in Afghanistan show that many detainees were beaten during the initial stages of detention. Detainees who were held in Kandahar airport in early 2002 reported being stripped naked, kicked and punched, and forced to endure freezing temperatures.

U.S. officials have told journalists and Human Rights Watch that U.S. military and intelligence personnel in Afghanistan employ an interrogation system that includes the use of sleep deprivation, sensory deprivation, and forcing detainees to sit or stand in painful positions for extended periods of time.

"We know now that abuse of detainees was an established part of the interrogation process," said Sifton.

Testimony from Afghan detainees gathered by Human Rights Watch:

S.K. [name withheld], February 11, 2004, discussing how he was initially detained by U.S. forces and then transported by air from western Afghanistan to Kandahar airbase in early 2002:

[In western Afghanistan:] The Americans blindfolded us and, worst of all, they made us completely naked and made us to sit in a cold room and we were shivering and trembling because of the cold air. . . . [Describing transport to Kandahar:] I was naked and I had no clothes at all when I was moved [Upon arrival at airbase in western Afghanistan:] I was pulled out of the car and moved towards an airplane. At the airport, someone who was pretty strong held my neck under his arm and pressed it hard and meanwhile kept punching me hard on my face and one punch hit me hard on my mouth and two front teeth of my upper jaw fell out, which you can see now [interviewee is missing both teeth].

[In Kandahar:] They behaved very rude with me after the plane landed in Kandahar. It was cold and they threw us on the desert for more than an hour. Then some army men came and took us inside. Getting us inside the room there were some guards ready, and they were beating us mercilessly, without any reason. They were kicking and punching us. Mostly they were beating us on our backs. Later [they] gave me clothes to put on. They shaved our hair and our beards and mustaches. After that they took me for an interrogation and before asking any questions they started beating me. One person picked me up high over his head and threw me onto a desk and made me lie there. And then two or three other persons hit me with their knees on my back and shoulders. . . . The next day I was taken for interrogation. . . .

There was a man with us who was pretty old. . . . and he was mistreated too. He complained to me that he was beaten during interrogations. His eyes were bruised, which indicated to me that he was beaten. In short, everyone was beaten in Kandahar. It was a bad place.

M.S.M., January 3, 2004, discussing detention and transport from northern Afghanistan to Kandahar in early 2002:

[On the plane to Kandahar:] We were shackled and our eyes were covered so that we could not see anything. . . . [A]ll the handcuffed prisoners were forced to sit with their legs stretched and hands behind them and the whole body bent onto the legs all the way. [Demonstrates by kneeling and sitting on top of his calves and feet, with torso bent down over the knees.]

It was very difficult to remain in that position and if we fell to the side or moved, the armed men standing over our heads would beat us mercilessly with their army boots, kicking us in our back and kidneys. We were all beaten, without exception. . . . Our eyes were closed [blindfolded] while we were

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getting out of the helicopter at the Kandahar airbase. One man pulled me up by my arm and threw me down the stairs, and then made me to lie down on the ground with my face upward. We did not have the right to move, and if we did we were beaten. Other people were beaten. . . . When we were in Kandahar, we were not allowed to talk with each other and if we did, we were beaten and we were not allowed to sleep. For instance, if we were sleeping we were waken up or if we were covering our head with our bed cover we were beaten strongly.

For more information, please contact:

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