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(b)(3) NatSecAct

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26 May 2005

MEMORANDUM FOR: Director, Central Intelligence Agency

FROM: John L. Helgerson  
Inspector GeneralSUBJECT: (S) Recommendation for Additional Approach to  
Department of Justice Concerning Legal  
Guidance on Interrogation Techniques(b)(1)  
(b)(3) NatSecActREFERENCE: (TS/ [ ] Two Memoranda for the Acting  
General Counsel, fm Office of Legal  
Counsel, Department of Justice, dtd 10 May  
2005, SUBJECTS: Application of 18 U.S.C.  
2340-2340A to Certain Techniques That May  
Be Used in the Interrogation of a High  
Value al Qaeda Detainee, and Application  
of 18 U.S.C. 2340-2340A to the Combined  
Use of Certain Techniques in the  
Interrogation of High Value al Qaeda  
Detainees

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1. (S/ [ ] As you are aware, the Acting General  
Counsel recently received two long-awaited opinions from the  
Department of Justice, referenced above, that provide  
critical legal guidance for the conduct of some of the  
Agency's most sensitive intelligence activities.

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of certain interrogation techniques in the manner and to the  
extent described by the Agency does not violate a specific  
U.S. statute that implements the U.N. Convention Against  
Torture and Other Cruel, Inhuman and Degrading Treatment.  
However, the opinions are carefully circumscribed and  
limited to that federal criminal statute prohibiting torture  
and to the particular circumstances of interrogation as  
defined by the Agency. The Department specifically does not(b)(3) CIAAct  
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(b)(3) NatSecAct [redacted]

SUBJECT: (S) Recommendation for Additional Approach to  
Department of Justice Concerning Legal  
Guidance on Interrogation Techniques

address the issue of the possible application of Article 16 of the Convention Against Torture to the interrogation techniques utilized by the Agency. The Department also notes that it was not asked to opine on the legality of the conditions of detention per se and does not do so. The Department, finally, restricts its opinion to the outer limits of the "prototypical interrogation" lasting no more than 30 days and including many other particular limits on the circumstances and duration of using individual techniques, e.g., no more than 180 hours of continuous sleep deprivation. Thus it does not rule on the lawfulness of interrogations (if any) that extend beyond 30 days or use of techniques in excess of the times defined in the opinions.

3. (TS) [redacted]

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4. (TS) [redacted] By way of background, Article 16 of the Torture Convention provides that each state party to the Convention "shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to acts of torture as defined in Article 16." In light of the findings of the Office of Inspector General (OIG) over the past three years, I believe a strong case can be made that the Agency's authorized interrogation techniques are the kinds of actions that Article 16 undertakes to prevent. By any common understanding of the term, for example, use of the waterboard may well be "cruel." Extended detention with no clothing would be considered "degrading" in most cultures, particularly Muslim. [redacted]

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2

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(b)(3) NatSecAct [redacted]

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(b)(3) NatSecAct

SUBJECT: (S) Recommendation for Additional Approach to  
Department of Justice Concerning Legal  
Guidance on Interrogation Techniques

(b)(5)

(b)(1)  
(b)(3) NatSecAct

5. (TS) [redacted] The conditions of detention likewise  
need to be included in the examination of compliance with  
Article 16. .OIG's Investigations Staff has found a number  
of instances of detainee treatment which arguably violate  
the prohibition on cruel, inhuman, and/or degrading  
treatment.

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6. (TS) [redacted]

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(b)(3) NatSecAct  
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3

~~TOP SECRET~~ (b)(1) ~~NOFORN~~ / MR  
(b)(3) NatSecAct

~~TOP SECRET~~ / (b)(1) ~~NOFORN~~ / MR  
(b)(3) NatSecAct

SUBJECT: (S) Recommendation for Additional Approach to  
Department of Justice Concerning Legal  
Guidance on Interrogation Techniques

(b)(5)

7. (S) For the reasons stated above, therefore, I  
urge you to seek further legal guidance from the Department  
of Justice on the application of Article 16 to interrogation  
techniques and to the conditions of detention apart from  
interrogation techniques. I strongly urge you to restrict,  
in writing, the current use of interrogation techniques to  
the specific terms and conditions found to be lawful in the  
two Department opinions of 10 May.

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J. L. Helgeson

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5

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