True and False Confessions

The Efficacy of Torture and Brutal Interrogations

Central to the debate on the use of "enhanced" interrogation techniques is the question of whether those techniques are effective in gaining intelligence. If the techniques are the only way to get actionable intelligence that prevents terrorist attacks, their use presents a moral dilemma for some. On the other hand, if brutality does not produce useful intelligence — that is, it is not better at getting information than other methods — the debate is moot. This chapter focuses on the effectiveness of the CIA's enhanced interrogation technique program. There are far fewer people who defend brutal interrogations by the military. Most of the military's mistreatment of captives was not authorized in detail at high levels, and some was entirely unauthorized. Many military captives were either foot soldiers or were entirely innocent, and had no valuable intelligence to reveal. Many of the perpetrators of abuse in the military were young interrogators with limited training and experience, or were not interrogators at all.

The officials who authorized the CIA's interrogation program have consistently maintained that it produced useful intelligence, led to the capture of terrorist suspects, disrupted terrorist attacks, and saved American lives. Vice President Dick Cheney, in a 2009 speech, stated that the enhanced interrogation of captives "prevented the violent death of thousands, if not hundreds of thousands, of innocent people." President George W. Bush similarly stated in his memoirs that "[t]he CIA interrogation program saved lives," and "helped break up plots to attack military and diplomatic facilities abroad, Heathrow Airport and Canary Wharf in London, and multiple targets in the United States." John Brennan, President Obama's recent nominee for CIA director, said, of the CIA's program in a televised interview in 2007, "[t]here [has] been a lot of information that has come out from these interrogation procedures. ... It has saved lives." However, during his February 2013 confirmation hearing before the Senate Select Committee on Intelligence, Brennan said his initial review of the intelligence committee's report "call[ed] into question a lot of the information that I was provided earlier on."

The purported efficacy of the techniques was essential to their authorization as legal by the Justice Department's Office of Legal Counsel during the second Bush administration. It analyzed the Fifth Amendment's bar on executive-branch behavior that would "shock the conscience"; such behavior, the Justice Department reasoned, was clearly illegal. That memo, written by Assistant Attorney General Steven Bradbury, acknowledged "use of coercive interrogation techniques in other contexts — in different settings, for other purposes, or absent the CIA's safeguards — might be thought to 'shock the conscience.' "However, the memo assured, because these techniques were effective and were "limited to further a vital

government interest and designed to avoid unnecessary or serious harm, we conclude that it cannot be said to be constitutionally arbitrary."

Others, including experienced interrogators and those with personal knowledge of the CIA program, are extremely skeptical of these claims. For example, President Obama's former National Director of Intelligence Admiral Dennis Blair is reported to have told colleagues in a private memo, "High value information came from interrogations in which those methods were used and provided a deeper understanding of the al Qa'ida organization that was attacking this country." Blair amended his remarks in a written statement several days later and said:

The information gained from these techniques was valuable in some instances, but there is no way of knowing whether the same information could have been obtained through other means. ... The bottom line is these techniques have hurt our image around the world, the damage they have done to our interests far outweighed whatever benefit they gave us and they are not essential to our national security.

Others who have seen the intelligence remain unimpressed. Critics with top secret security clearances who have seen the intelligence and remain skeptical include Robert Mueller, the director of the FBI.² In 2009 President Obama asked Michael Hayden, then the CIA director, to give a classified briefing on the program to three intelligence experts: Chuck Hagel, former Republican senator from Nebraska and, now, newly confirmed as secretary of defense; Jeffrey Smith, former general counsel to the CIA; and David Boren, a retired Democratic senator from Oklahoma.³ Despite Hayden's efforts, the three men left the briefing very unconvinced.⁴

It is extremely difficult to evaluate the claims about efficacy given the amount of information about the CIA program that remains classified. Given their central role in Al Qaeda, it is certainly plausible that high-value detainees like Khalid Sheikh Mohammed gave up some useful intelligence after their brutal treatment.

Assertions of Useful Information Obtained Through Coercion

The Death of Osama bin Laden

After Osama bin Laden was killed by U.S. forces in May 2011, defenders of the CIA program were quick to claim that enhanced interrogation was essential to the operation. Their claim has seeped into and been reinforced in popular culture. Most recently, in late 2012, the Kathryn Bigelow-directed Hollywood film, *Zero Dark Thirty*, portrayed enhanced interrogation as having led to valuable intelligence leading to bin Laden's capture.

The CIA located bin Laden through his most trusted courier, a man known within Al Qaeda by the *nom de guerre* Abu Ahmed al-Kuwaiti (or Sheikh Abu Ahmed) and to neighbors in Pakistan as Arshad Khan. According to journalist Peter Bergen, his real name was Ibrahim Saeed Ahmed.⁵ The courier was fluent in both Pashto and Arabic, and was a trusted aide of Khalid Sheikh Mohammed and Abu Faraj al-Libi as well as bin Laden.

Days after the raid in Abbottabad, former Attorney General Michael Mukasey wrote an op-ed titled "The Waterboarding Trail to Bin Laden." The intelligence that led to the raid, Mukasey asserted,

began with a disclosure from Khalid Sheikh Mohammed (KSM), who broke like a dam under the pressure of harsh interrogation techniques that included waterboarding. He loosed a torrent of information — including eventually the nickname of a trusted courier of bin Laden.⁶

It later became apparent that this account was wrong. KSM hadn't revealed the courier's alias. According to an American official familiar with KSM's interrogation, KSM wasn't asked about al-Kuwaiti until the fall of 2003, months after his waterboarding had concluded. KSM reportedly acknowledged having known al-Kuwaiti but told his interrogators al-Kuwaiti was "retired" and of little significance. Supporters of enhanced interrogation nevertheless continued to claim that the program had led to bin Laden's death. A month after the raid, former CIA director Michael Hayden acknowledged that Mohammed had never revealed the courier's name, but wrote that "it is nearly impossible to imagine" how bin Laden could have been captured or killed without intelligence gained from the CIA program. Hayden compared those who dispute the efficacy of the techniques to "9/11 'truthers' who, lacking any evidence whatsoever, claim that 9/11 was a Bush administration plot" or "the 'birthers' who, even in the face of clear contrary evidence, take as an article of faith that President Obama was not born in the United States."

The first detainee to tell U.S. officials about al-Kuwaiti appears to have been Mohammed al Qahtani, whose military interrogation, including torture, at Guantánamo in November and December 2002 is discussed elsewhere [see Chapters 1 and 6]. According to a government intelligence assessment of al Qahtani, in 2003 al Qahtani told interrogators that he had received computer training in Pakistan from an operative named Ahmed al-Kuwaiti. Al Qahtani said al-Kuwaiti had taken him to an Internet café in Karachi to show him how to use email. 12

But according to Bergen, there was "no sense as of yet" that al-Kuwaiti was bin Laden's trusted courier, and his "was just one of many hundreds of names and aliases of Al Qaeda members and associates that interrogators were learning in 2002 and 2003" from Guantánamo and elsewhere. Some of this information was contradictory, or false. Mohamedou Ould Slahi, like al Qahtani identified as a high-value detainee and subjected to a brutal "special interrogation plan" at Guantánamo, told interrogators that Ahmed al-Kuwaiti was wounded fleeing Tora Bora and died in the arms of another Guantánamo captive. ¹⁴

More important than al Qahtani's information seems to have been the interrogation of Hassan Ghul, apprehended in Iraq on January 23, 2004.¹⁵ The Associated Press first reported on Ghul's role in identifying al-Kuwaiti, quoting an intelligence official who said that "Hassan Ghul was the linchpin." ¹⁶ Ghul had told interrogators that al-Kuwaiti was close to Abu Faraj al-Libi, but both al-Libi and KSM vehemently denied his importance.

Former CIA Deputy Director for Operations Jose Rodriguez gave a similar account in his memoir defending CIA interrogations. Rodriguez does not identify Ghul by name, but does refer to an Al Qaeda operative captured in 2004 who was delivering information between Al Qaeda and Abu Musab al-Zarqawi's network in Iraq:

We moved him to a black site and began the effort to find out what other information he might have that we could exploit. Initially, he played the role of a tough mujahideen and refused to cooperate. We then received permission to use some (but not all) of the EIT procedures on him. Before long he became compliant and started to provide some excellent information. ...

He told us that bin Ladin [sic] conducted business by using a trusted courier with whom he was in contact only sporadically. ... We pressed him on who this courier was and he said all he knew was a pseudonym: "Abu Ahmed al Kuwaiti." This was a critical bit of information about the man who would eventually lead us to Bin Laden.¹⁷

Much remains unknown about the details of Ghul's time as a CIA prisoner. Some officials familiar with the still-classified records of Ghul's interrogation argue that the case that the information Ghul provided was as a result of "enhanced interrogation techniques" (EITs) is far from proven. In May 2011 Sen. Dianne Feinstein told Reuters about a CIA detainee who "did provide useful and accurate intelligence." But she added at the time: "This was acquired before the CIA used their enhanced interrogation techniques against the detainee." Three U.S. officials told Reuters that Feinstein was referring to Ghul. In

Rodriguez acknowledged that Abu Faraj al-Libi and KSM refused to provide further information about the courier, but wrote that even their emphatic denials were valuable confirmation of his importance. Armed with Ghul's account of the courier's significance, interrogators asked KSM again about al-Kuwaiti. KSM stuck to his story that he had given months earlier. After al-Libi was captured in May 2005 and turned over to the CIA, al-Libi denied knowing al-Kuwaiti and gave a different name for bin Laden's courier, whom he called Maulawi Jan. CIA analysts would never find such a person and eventually concluded that the name was al-Libi's invention. According to Rodriguez, an even-clearer signal came when Khalid Sheikh Mohammed attempted to send another detainee a warning to "tell them nothing about the courier."

Here we have a curious instance of Rodriguez arguing that after waterboarding and sleep deprivation had rendered KSM compliant, he attempted to deceive his interrogators. But Rodriguez argued that deceptiveness proved the usefulness of the technique. It's at least as plausible that KSM would have been equally motivated to *withhold* information about bin Laden, and instruct others to do the same, without being waterboarded 183 times. Rodriguez nevertheless maintains that the techniques were necessary because "without EITs [Al Qaeda] operatives would have little incentive to tell us anything."

As discussed further below, however, there is considerable evidence of suspects giving intelligence to interrogators in the absence of coercion. Rodriguez himself has acknowledged that traditional interrogation can produce results "when you have all the time in the world," but argued that

"The bottom line is this: If we had some kind of smoking-gun intelligence from waterboarding in 2003, we would have taken out Osama bin Laden in 2003."

We didn't have that luxury. We feared and anticipated a second wave of devastating attacks on the United States. You could not see a time bomb, but we could not miss the sound of one ticking.²⁷

It was, of course, years after these interrogations that bin Laden was found. To the extent timing was a factor, many times in the years between 2003 and 2011 the trail for bin Laden went cold. Tommy Vietor, spokesman for the National Security Council, told *The New York Times*: "The bottom line is this: If we had some kind of smoking-gun intelligence from waterboarding in 2003, we would have taken out Osama bin Laden in 2003." Vietor continued, "It took years of collection and analysis from many different sources to develop the case that enabled us to identify this compound, and reach a judgment that bin Laden was likely to be living there." ²⁸ When detainees provide false information so as to avoid mistreatment or the threat of mistreatment, resources are diverted to track down false information and torture becomes counterproductive. Former FBI agent and interrogation expert Joe Navarro told Task Force staff "You spend time on bad leads. [Bad leads] eat up time." ²⁹

Senators Dianne Feinstein and Carl Levin, chairs of the committees on Intelligence and Armed Services, have bluntly stated that Hayden's, Rodriguez's and Mukasey's assertions about the role of torture in the bin Laden raid are "wrong" and uncorroborated by CIA records. According to Feinstein and Levin, based on the Intelligence Committee's staff investigation of the CIA program, the original lead information on the bin Laden courier

had no connection to CIA detainees. The CIA had significant intelligence on the courier that was collected from a variety of classified sources. While the CIA's enhanced interrogation techniques were used against KSM and al-Libbi, the pair provided false and misleading information during their time in CIA custody.³⁰

Feinstein and Levin stated that a third detainee, presumably Hassan Ghul, "did provide relevant information" about al-Kuwaiti, but "he did so the day before he was interrogated by the CIA using their coercive interrogation techniques." They also noted that "[d]etainees whom the CIA believed to have information on [bin Laden's] location provided no locational information, even after significant use of the CIA's coercive interrogation techniques."³¹

The Interrogation of Abu Zubaydah

Abu Zubaydah was the first detainee subjected to coercive interrogation by the CIA, at a "black site" in Thailand, and accounts of his interrogation are central to the dispute about the efficacy of brutal interrogations. Supporters and opponents of the CIA program — including FBI interrogators and CIA officials with firsthand knowledge — have given vastly different accounts of his interrogation and the intelligence it produced. These are differences that have legal as well as policy implications; the purported efficacy of the CIA's techniques on Abu Zubaydah and other high-value detainees was essential to their re-authorization by the Justice Department's Office of Legal Counsel (OLC) in 2005.

As we discussed in Chapter 4, the CIA sought review of its interrogation program by OLC at several points in the years after September 11. Initially, in 2002, OLC had told the CIA its proposed techniques were within the law. In 2004 OLC withdrew that advice to the CIA, and re-examined the lawfulness of the techniques that the CIA had already used. As part of OLC's review process, the CIA provided Assistant Attorney General Steven Bradbury with information on the prior effectiveness of the enhanced interrogation program. Some of the CIA's claims were clearly false. One CIA memo to OLC asserted:

Abu Zubaydah provided significant information on two operatives, Jose Padilla and Binyam Mohammed, who planned to build and detonate a "dirty bomb" in the Washington D.C. area. Zubaydah's reporting led to the arrest of Padilla on his arrival in Chicago in May 2003.³²

In fact, Padilla had been arrested in May of 2002, not May of 2003, and OLC had not signed off on the CIA program until August 2002.

Bradbury's May 30, 2005, memo relied on this and several other inaccurate or contested CIA assertions about information gained from the use of enhanced techniques on Abu Zubaydah. Among the contested assertions were:

- "The CIA used the waterboard extensively in the interrogations of KSM and Zubaydah, but did so only after it became clear that standard interrogation techniques were not working."
- "Interrogations of Zubaydah again, once enhanced techniques were employed furnished detailed information regarding al Qaeda's 'organizational structure, key operatives, and modus operandi' and identified KSM as the mastermind of the September 11 attacks. ... You have informed us that Zubaydah also 'provided significant information on two operatives, [including] Jose Padilla[,] who planned to build and detonate a dirty bomb in the Washington DC area.' "34

Based on these and similar assertions, Bradbury concluded the high-value detainee program was not "conduct that would shock the contemporary conscience," and thus would not violate the Constitution's Fifth Amendment or Article 16 of the Convention Against Torture's prohibition on cruel, inhuman or degrading treatment. Bradbury acknowledged that the "use of coercive interrogation techniques in other contexts — in different settings, for other purposes, or absent the CIA's safeguards — might be thought to 'shock the conscience.' " But he found that due to the strength of the government's interest in protecting the nation, and the

CIA's belief that coercive interrogation "has been a key reason al-Qa'ida has failed to launch a spectacular attack in the West since 11 September 2001," the program "cannot be said to be constitutionally arbitrary."

When Bradbury was later interviewed by the DOJ's Office of Professional Responsibility (OPR), he acknowledged having relied entirely on the CIA for its representations on the effectiveness of its program and did not question the information he was given. Bradbury told OPR "it's not my role, really, to do a factual investigation of that." ³⁵ Former CIA Acting General Counsel John Rizzo, a defender of the CIA's enhanced interrogation program, told Task Force staff

I trusted the people that were conducting the program, not just the people, the interrogators, but the analysts that were taking the information, vetting it, preparing it into other reports. ...

I trusted, I knew the people who were doing this, I trusted their integrity, their judgment. When they conclude that the information they were getting is reliable and actionable, I agreed to accept it.³⁶

Rizzo also told Task Force staff the controversy on the effectiveness of the techniques "has gotten very long legs" and he now supports declassifying as much information as possible about the CIA program in light of the Obama administration's decision to declassify the Bush administration's OLC memoranda on the subject.³⁷

According to Ali Soufan, one of the FBI agents who first interrogated Abu Zubaydah at the black site in Thailand, the OLC memo and the CIA representations on which it relied were riddled with falsehoods. In an interview with Task Force staff, Soufan said that Abu Zubaydah "identified KSM as a mastermind" of September 11 before even the [CIA personnel and contractors] arrived" at the black site. 38 Jose Rodriguez acknowledged in his memoirs that Abu Zubaydah named KSM as "Mukhtar," the mastermind of September 11 "long before he was subjected to enhanced interrogation techniques." 39

Abu Zubaydah's revelation about Jose Padilla came later. Soufan said it occurred after CIA contractors had begun using nudity and sleep deprivation on Abu Zubaydah, but long before waterboarding and the full range of enhanced techniques were approved. As Soufan noted, the actual date of Padilla's arrest appears to confirm this; Padilla was arrested in May 2002, and waterboarding was not approved until August 2002.

Jose Rodriguez suggests in his book that depriving Abu Zubaydah of sleep contributed to his identification of Jose Padilla. Soufan wrote in his memoir that the opposite was true. Abu Zubaydah stopped talking when CIA contractors began to use nudity and sleep deprivation. He said that Abu Zubaydah's refusal to talk was the only reason the CIA had authorized Soufan and his partner to interrogate Abu Zubaydah again. Soufan said in an interview that the information Abu Zubaydah revealed during the early period of his interrogation was not restricted to KSM's alias and Padilla: "[I]t's not only Padilla, it's basically everything. Everything that we know about Abu Zubaydah came from when we arrested him until May."

Many details of Soufan's account of the Abu Zubaydah interrogation were redacted from his book on national security grounds by the CIA's Publication Review Board — including, it seems,

every instance where Soufan used the pronouns "I" or "we," and most of the descriptions of intelligence that Abu Zubaydah revealed to the FBI. Soufan told Task Force staff that he believed these redactions were unjustified by the need to protect national security: "They are declassifying documents that were found in bin Laden's house, for heaven's sake, you want to tell me that my notes on Abu Zubaydah's interrogation now are so classified?" He noted that most of the operatives named are either "dead or in Gitmo," and other information discussed was similarly dated. He said that if his notes showed that

I waterboarded the guy and he gave me the information, then it won't be off-limits. Then they would probably put me on every TV station. ... [I]f I said I waterboarded him, they would be like absolutely, put it in, it's unredacted, you can do whatever you want with it. 42

Rodriguez's book does contain some unredacted anecdotes about Soufan's interrogation of Abu Zubaydah, as well as detailed assertions about the application of enhanced interrogation techniques to individual detainees, the techniques' effects on detainees and their reactions to them, and detainees' conditions of confinement. Rodriguez's book also includes a number of purported quotations from Abu Zubaydah, Khalid Sheikh Mohammed, other CIA detainees, and their interrogators at the black sites, though their precise sourcing is unclear. Rodriguez wrote that Abu Zubaydah later told CIA interrogators that

he respected all of our team ... except for a Muslim FBI agent, who had offended him early on. The agent, it turned out, had tried to debate Islamic theory with AZ [Abu Zubaydah], who thought the agent had insufficient grounding in the facts. ...

At one point the Bureau guys decided to try to "recruit" AZ. In a meeting with the terrorist, the Arab-American agent told AZ, "Don't pay attention to those CIA people ... you work with me," and he gave him a candy bar. AZ was offended that the agent would think that he could be bought for a Snickers bar. The FBI man tried to use his Arab heritage as an opening to get AZ to talk, but it turned out to be counterproductive. "You are the worst kind of Arab," AZ told him, "you are a traitor!"

Soufan said all of this was inaccurate. He said that while he had successfully interrogated other Al Qaeda operatives by discussing Islam with them, he did not do that with Abu Zubaydah because Abu Zubaydah seemed less religiously motivated than many other detainees. At times, Soufan said, "I felt that [I was] talking to a Che Guevara, from what I read about Che, rather than talking to an Islamic extremist." He received long lectures from Abu Zubaydah about "how corporations are actually running the world, running America." Regarding the claim about the candy bar, Soufan pointed out that when he first interrogated Abu Zubaydah he couldn't have offered him a candy bar, "the guy was almost dying. We had a special diet planned for him, we couldn't even give him water, for heaven's sake, we used to put ice on his lips." ⁴³

Rodriguez's book said that the most valuable intelligence from Abu Zubaydah came after he was waterboarded, but is vague about the details of what was disclosed. The most specific example given is the assertion that Abu Zubaydah's interrogation led to the capture of Ramzi bin al Shibh in Karachi on September 11, 2002. President George W. Bush made the same

claim in his 2006 speech acknowledging the CIA black sites, as does George Tenet in his memoirs. (The Tenet and Rodriguez memoirs share the same co-author credit, Bill Harlow, the former CIA spokesman.) They do not specify precisely what information Abu Zubaydah disclosed about bin al Shibh, however, and other sources have given different accounts of what led to the 2002 raid.

Ramzi bin al Shibh and Khalid Sheikh Mohammed gave a 48-hour interview to an Al Jazeera journalist, Yosri Fouda, in April 2002, in which they admitted their role in the September 11 attacks. According to Ron Suskind, Fouda's supervisors at Al Jazeera relayed the details of the encounter, including the approximate location in Karachi where the interview occurred, to the emir of Qatar in mid-June. The emir in turn told George Tenet. Ali Soufan, in his book, said that additional information came from the FBI's interrogation of a detainee named Ahmed al-Darbi at Bagram Air Field. He did not rule out the possibility that Abu Zubaydah had contributed some helpful intelligence, noting that Abu Zubaydah "gave us a lot of information based on phone numbers that we had" from detainees' "pocket litter," but he was extremely skeptical of the claim that Abu Zubaydah was the main source. In general, Soufan said, "it's a combination of information" that leads to a successful operation, not a "Hollywood type" scenario based on a single dramatic revelation.

The immediate catalyst for the bin al Shibh raid seems to have been a raid the day before on a different safe house run by Ahmed Ghulam Rabbani. According to a U.S. intelligence assessment of Rabbani at Guantánamo, Rabbani's driver cooperated and "provided information on other safe houses, which led on the following day" to the arrests of bin al Shibh, Hassan bin Attash, and other Al Qaeda members (as well as Rabbani's brother). Neither bin Attash's, bin al Shibh's, nor the Rabbanis' Guantánamo assessments mention Abu Zubaydah providing intelligence that contributed to their capture, but that does not prove his information played no role.

Some of the best evidence of exactly what happened during Abu Zubaydah's interrogation has been destroyed, on Jose Rodriguez's orders. The CIA made 92 videotapes of Abu Zubaydah's interrogation, including his waterboarding sessions. The tapes were reportedly quite graphic. John Rizzo told the BBC that a colleague who viewed them in Thailand said Abu Zubaydah "was reacting visibly in a very disturbing way" to waterboarding, which made the tapes "hard to watch." The BBC reported that they showed Abu Zubaydah "vomiting and screaming." ⁴⁴

Rodriguez was investigated for ordering the destruction of the videotapes, but after the statute of limitations expired the Department of Justice announced that it would not charge him with any crimes. As is generally the case, DOJ did not explain its reasons for declining prosecution. Rodriguez claimed to have been unaware the tapes should have been preserved at the time he ordered their destruction, a claim John Rizzo disputed in his interview with Task Force staff. "[W]e would talk about [destroying the tapes] at least once a week because he would keep raising it. ... I tried to play straight with him and at the last minute he goes around my back and does it anyway." ⁴⁵ In his memoirs, Rodriguez argues that several CIA officials had reviewed the videotapes and concluded that they did not contain any information that was not memorialized in the daily cables from the black sites, and by ordering their destruction, "I was not depriving anyone of information about what was done or what was said. I was just getting rid of some ugly visuals that could put the lives of my people at risk." Rodriguez wrote that his primary motivation was the fear — accentuated by the Abu Ghraib

scandal — that if an image from the tapes leaked, terrorists "would use the photo to track down Agency officers and exact revenge on them or their families." In a press interview after the release of his book, he said:

You really doubt that those tapes would not be out in the open now, that they would not be on YouTube? ... They would be out there, they would have been leaked, or somebody would have ordered their release.⁴⁶

But the videotapes were far more closely held than the Abu Ghraib photographs, which low-ranking soldiers stored on their own cameras and used as computer screensavers. Only one copy of the tapes existed, at the CIA field location in Thailand. Many CIA documents describing the same events, which have not been destroyed and were distributed more widely than the videos, remain secret.

Soufan said that during the portion of Abu Zubaydah's interrogation that he witnessed, the interrogators who were present during coercive techniques wore ski masks designed to obscure their identity.⁴⁷ In the declassified CIA documents regarding the decision to destroy the tapes, the danger to individual interrogators is not discussed. In one email sent to CIA Executive Director Dusty Foggo, a colleague concurs in Rodriguez's view that

the heat from [destroying] it is nothing compared to what it would be if the tapes ever got into public domain — he said that out of context, they would make us look terrible; it would be "devastating" to us.⁴⁸

There is other evidence of Abu Zubaydah's interrogation, however. Soufan said he took detailed notes, and the Senate Intelligence Committee has access to them. They also have access to CIA cables and other contemporaneous documents regarding Abu Zubaydah's interrogation. Without primary sources, and with eyewitnesses (including Abu Zubaydah himself) forbidden from disclosing the details of the interrogation, it is not possible to resolve fully the differences between Soufan's and Rodriguez's accounts.

Despite public controversy about the effectiveness of the CIA techniques against Abu Zubaydah and others, in a July 2007 memo by Steven Bradbury the effectiveness of the CIA's EIT program was again front and center in OLC's analysis of its legality.

For example, we understand that enhanced interrogation techniques proved particularly crucial in the interrogations of Khalid Shaykh Muhammad and Abu Zubaydah. Before the CIA used enhanced interrogations on Khalid Shaykh Muhammad, he resisted giving any information about future attacks, simply warning, "soon, you will know." As the President informed the Nation in his September 6th address, once enhanced techniques were employed, Muhammad provided information revealing the "Second Wave," a plot to crash a hijacked airliner into the Library Tower in Los Angeles — the tallest building on the West Coast. Information obtained from Muhammad led to the capture of many of the al Qaeda operatives planning the attack. Interrogations of Zubaydah — again, once enhanced techniques were employed — revealed two al Qaeda operatives already in the United States and planning to destroy a high rise apartment building and to detonate a radiological bomb in Washington, D.C. The techniques have revealed plots to blow up the Brooklyn Bridge and to

release mass biological agents in our Nation's largest cities.⁴⁹

Bradbury is not the only individual who relied upon the intelligence community's representations as to the effectiveness of the program. President Bush, Michael Mukasey, Michael Hayden, John Yoo and others derived the information they had on the efficacy of the techniques from briefings, intelligence reports and other second-hand sources. Ali Soufan observed to our staff:

[M]ost of the people who actually fight tooth and nail for EITs are people who were appointed after the EIT program [had] been shelved. Mukasey, he was appointed as the Attorney General after the EIT program was shelved. Hayden, after the EIT program was shelved, not before. ...

It's so highly classified that they probably cannot even read it in their own offices, you know, they have to take them to a SCIF inside a SCIF inside a SCIF.⁵⁰ And then you read into a document, ["]Wow, yes, we saved hundreds of thousands of lives.⁵¹ But where? Give me the hundreds of thousands of lives.⁵¹

Former CIA General Counsel John Rizzo said that he thought some additional details about the CIA program could be disclosed without harm to national security: "The argument originally was don't declassify any of it. ... And now that this much has been opened up, yeah. ... I'd be for declassifying as much as possible."

The Library Tower Plot

Opponents of a complete ban on torture have often cited a hypothetical "ticking bomb" scenario, in which a captured terrorist has information needed to prevent an imminent nuclear attack on an American city, which he will only reveal through torture.

Supreme Court Justice Antonin Scalia has cited the TV show "24," whose protagonist Jack Bauer frequently tortured suspects to defuse ticking bombs, as an example of why an absolute ban on torture is unrealistic. "Jack Bauer saved Los Angeles. ... He saved hundreds of thousands of lives," Justice Scalia said at a conference in Ottawa. "Are you going to convict Jack Bauer?"

The most often cited example of a "ticking time bomb" allegedly averted by the CIA high-value detainee program is a plot to crash planes into the highest skyscraper in Los Angeles, the 73-story Library Tower. Marc Thiessen, a former Bush speechwriter and frequent defender of the CIA program, has written in reference to the Library Tower plot that "without enhanced interrogations, there could be a hole in the ground in Los Angeles to match the one in New York." Deroy Murdock wrote in the *National Review* that America "should be proud of waterboarding," because without it "the Pacific Coast's highest skyscraper might have become a smoldering pile of steel beams." The 2005 and 2007 Bradbury memos also repeatedly cite KSM's revelation of "a plot to crash a hijacked airliner into the Library Tower in Los Angeles" as an example of enhanced interrogations keeping the country safe.

President Bush first detailed the plot in a February 2006 speech, before the CIA detention and interrogation program was officially acknowledged:

[In October 2001, Khalid Shaykh Muhammad — the mastermind of the

September the 11th attacks — had already set in motion a plan to have terrorist operatives hijack an airplane using shoe bombs to breach the cockpit door, and fly the plane into the tallest building on the West Coast. We believe the intended target was [the Library]⁵⁵ Tower in Los Angeles, California.

Rather than use Arab hijackers as he had on September the 11th, Khalid Shaykh Muhammad sought out young men from Southeast Asia — whom he believed would not arouse as much suspicion. To help carry out this plan, he tapped a terrorist named Hambali, one of the leaders of an al Qaeda affiliated group in Southeast Asia called "J-I." JI terrorists were responsible for a series of deadly attacks in Southeast Asia, and members of the group had trained with al Qaeda. Hambali recruited several key operatives who had been training in Afghanistan. Once the operatives were recruited, they met with Osama bin Laden, and then began preparations for the West Coast attack. ⁵⁶

In this speech, Bush did not give extensive details about how the plot was disrupted, but gave most of the credit to U.S. allies in Southeast Asia. He stated that the plan

was derailed in early 2002 when a Southeast Asian nation arrested a key al Qaeda operative. ... This critical intelligence helped other allies capture the ringleaders and other known operatives who had been recruited for this plot. The West Coast plot had been thwarted.⁵⁷

Similarly, Frances Fragos Townsend, Homeland Security adviser to President Bush, stated at a news conference in February 2006 that "[t]he cell leader was arrested in February of 2002, and ... at that point, the other members of the cell believed that the West Coast plot [had] been canceled, was not going forward." ⁵⁸ Later on, though, Bush and other officials would repeatedly credit the CIA's interrogation program with derailing the plot. In 2007, he stated that the CIA program "has produced critical intelligence that has helped us stop a number of attacks — including ... a plot to hijack a passenger plane and fly it into Library Tower in Los Angeles, California." ⁵⁹ In his memoirs, Bush stated that Khalid Sheikh Mohammed had

provided information that led to the capture of Hambali, the chief of al Qaeda's most dangerous affiliate in Southeast Asia and the architect of the Bali terrorist attack that killed 202 people. He provided further details that led agent's to Hambali's brother, who had been grooming operatives to carry out another attack on the United States, possibly a West Coast version of 9/11 in which terrorists flew a hijacked plane into the Library Tower in Los Angeles. 60

According to The Associated Press, the original pilot for the Library Tower plot, a Malaysian citizen named Zaini Zakaria, pulled out after seeing images from the September 11 attack. He cut off contact with the members of the cell before his arrest in December 2002. Zakaria reportedly told Malaysian security forces that he realized he "didn't want that kind of jihad" and was not prepared to martyr himself.⁶¹

The cell leader, Masran bin Arshad, was arrested in February 2002 and was interrogated by Malaysian security forces. According to reports of U.S. intelligence assessments, Arshad revealed in 2002 that Khalid Sheikh Mohammed had selected him and three other Malaysians

to help plan an attack on "the tallest building in California." Arshad named the other members of his cell as Mohammad Farik Amin (aka Zubair), Bashir bin Lep (aka Lillie), and Nik Abd-al Rahman bin Mustapha (aka Afifi). Arshad said that his cell was to provide support, while another group would be directly responsible for piloting the plane into the building. He told interrogators that the plan was put on hold after "shoe bomber" Richard Reid's arrest exposed their potential methodology for hijacking. Other sources — including Zubair and bin Lep, who were eventually interrogated in CIA custody — said that it was bin Arshad's arrest that derailed the plot.

Khalid Sheikh Mohammed was arrested well after bin Arshad had been detained and revealed his co-conspirators' names and the plan to drive airplanes into the tallest building on the West Coast. Zubair and bin Lep, however, were arrested some months after KSM. Defenders of the CIA program have argued that the plot was not truly derailed until after they and their associates were arrested, and they were taken into custody as a result of Mohammed's interrogation.

"... [i]t was only after 9/11 that the CIA began detaining and interrogating terrorism suspects. At that time, the CIA had literally no detention and interrogation experience."

More specifically, according to Jose Rodriguez and to CIA documents, Khalid Sheikh Mohammed admitted to his interrogators that he had asked a detainee named Majid Khan to deliver \$50,000 to Riduan Isamuddin. Isamuddin, better known as Hambali, was the head of the Southeast Asian terror group Jemaah Islamiyah, the group responsible for the 2002 Bali bombings. Bin Lep, bin Arshad, Afifi and Zubair were also Jemaah Islamiyah operatives.

Majid Khan, a former resident of Baltimore, was captured at approximately the same time as KSM. He confirmed that he had couriered the money to Hambali. Khan said he had passed it on through a Malaysian named Zubair, and gave CIA interrogators Zubair's phone number. This was extremely helpful for intercepting Jemaah Islamiyah's communications as well as tracking Zubair, who was detained in June 2003. According to the CIA, Zubair led the CIA to bin Lep and Hambali, who were captured in Thailand in August of 2003. The date on which Khan revealed Zubair's phone number, and the interrogation methods used on him beforehand, are not publicly known. Khan later alleged that he was tortured in CIA custody. He told the International Committee of the Red Cross (ICRC) that he had been shackled naked in a standing position three consecutive days at a prison in Afghanistan. Most other details of his treatment remain classified.

The CIA and its former officials allege that Khalid Sheikh Mohammed next named Hambali's brother, Rusman "Gun Gun" Gunawan, as a potential successor for the leadership of Jemaah Islamiyah. Gunawan was taken into custody and interrogated at a black site, and provided information about a group of Jemaah Islamiyah members in Karachi, known as the "Ghuraba cell." According to CIA documents,

Hambali admitted that some members of the cell were eventually to be groomed for U.S. operations — at the behest of KSM — possibly as part of KSM's plot to fly hijacked planes into the tallest building on the U.S. west coast.⁶³

The CIA inspector general's 2004 report similarly stated that Hambali "provided information that led to the arrest of previously unknown members of an Al Qa'ida cell in Karachi. They were designated as pilots for an aircraft attacks inside the United States." Later, the

report stated that detainees had revealed a plan to "hijack and fly an airplane into the tallest building in California in a west coast version of the World Trade Center attack." However, the report did not find evidence that the West Coast attack or the others discussed in the report were imminent. ⁶⁵

FBI agent Ali Soufan's account of the Jemaah Islamiyah arrests was largely redacted by the CIA's publications review board, but the unredacted portions differ from the CIA's version in three major respects. First, Soufan noted that Southeast Asian intelligence services were doing their own investigation into Jemaah Islamiyah, and these were crucial in breaking up Hambali's network. Second, he argued that CIA officials had exaggerated the threat from the Ghuraba cell, all of whom were sent back to their own countries instead of being charged or interrogated by the United States. Third, he noted that the interrogation of various detainees about the money KSM provided to Jemaah Islamiyah did not prevent that money from being used in a successful suicide bombing in Jakarta in August 2003.

Soufan wrote that the CIA's version of Hambali's arrest was "[t]o put it charitably ... a loose interpretation of what happened." He said that Indonesian authorities were doing their own investigation of Jemaah Islamiyah after the Bali nightclub bombings, and "by July 2003, more than eighty-three suspects were under arrest, and Hambali was on the run." Soufan also said that the CIA had tried to "boost the importance of Gun Gun and the al-Ghuraba cell:"

Many of the students were trained in both religious studies and military and terrorist skills, and were being groomed to be the next generation of JI leaders. A few had traveled to Afghanistan for guerilla training and had met with Bin Laden in Kandahar. As it turned out, the cell had not yet committed any attacks and weren't plotting anything; they were training and studying. In November the eighteen students were repatriated to their home countries. 66

Soufan did not believe that the Ghuraba cell was involved in any attempt on the Library Tower, despite the CIA's assertion that they would have "possibly," or "eventually" participated in U.S. operations:

This "eventually" and "possibly" was the best analysts could conclude, despite 183 sessions of waterboarding. ... The reality is that the al-Ghuraba cell wasn't involved, which is why the U.S. didn't request the arrest of its members and they were sent to their home countries.⁶⁷

Soufan said in an interview with Task Force staff that he thought the redactions were unjustified. The redacted information did not come from any information accessed through his FBI work or security clearance, but from his and a research assistant's efforts to learn as much possible about the plot from open sources and conversations with Southeast Asian law enforcement.

Press reports confirm that the Ghuraba students were sent home rather than taken into custody by the United States. Many of them were released after their return. Others were held for several years, but none was ever charged in connection with any plot against the United States. ⁶⁸

According to Ken Conboy, a security consultant in Indonesia who has written several books about Jemaah Islamiyah and the Indonesian intelligence service, after 2001 Khalid Sheikh Mohammed

had lobbied unsuccessfully to have Ghuraba members deployed in suicide operations:

Thinking aloud, he fancifully contemplated using them in more airplane plots, possibly in the United States.

Hambali, who was in Karachi by that time, had other ideas. He had come to see al-Ghuraba as a sleeper cell of future Jemaah Islamiyah leaders, not cannon fodder to be wasted in some act of desperation by KSM. Fending off the advances by al-Qaeda, he successfully argued that they would not be operationally ready for at least another two years.⁶⁹

Conboy wrote that before 2001, in addition to weekly lectures at a safe house in Karachi, Ghuraba members began receiving training at Al Qaeda camps in Afghanistan "during their university breaks." Some of them met Osama bin Laden. When September 11 occurred, four members of the cell were in Kandahar. Rather than join the jihad in Afghanistan, though, they quickly returned to Karachi and they stayed there throughout 2002.

According to Conboy, the Ghuraba cell members did have an active plot when they were detained, but it did not involve crashing planes into skyscrapers. Rather, there was a plan to kidnap a Western oil executive in Karachi as revenge for Hambali's capture. One attempt on September 8, 2003, had failed when the kidnappers got "a collective case of cold feet" and slept through the target's arrival at the airport, but it was only the group's arrest that ensured that no kidnapping occurred.

Thus, the available public record, limited as it is, simply does not support a claim that waterboarding prevented the Library Tower from being reduced to rubble. This is not to diminish the importance of the capture of Zubair, bin Lep, Hambali and their associates (though exactly what role CIA "enhanced interrogations" played in their capture remains ambiguous). Jemaah Islamiyah was a dangerous group, responsible for hundreds of civilian deaths — but it was most dangerous in Southeast Asia. If there were a ticking bomb that could have been defused by intelligence from Zubair, Khalid Sheikh Mohammed, and Majid Khan, it would have been in Jakarta, not Los Angeles. On August 5, 2003, a suicide bomber detonated a truck bomb outside of the lobby of the Jakarta Marriott Hotel, killing 11 people and wounding at least 81.

In February 2012, Majid Khan pleaded guilty to conspiracy and murder in violation of the laws of war in a military commission this year, in return for a reduced sentence in the future if he cooperated in providing testimony against other detainees in the CIA program. (Khan's sentencing was postponed to ensure his cooperation at trial). One of the charges centered around the \$50,000 that Majid Khan had arranged to be transferred from KSM to Hambali through Zubair. According to Khan's indictment, the money was used to finance the Marriott bombing.

Hambali and bin Lep were only captured after the Marriott bombing, and Khan has said he did not know any of the details of the operation or the Jemaah Islamiyah personnel involved. But according to Khan's indictment and Zubair's Guantánamo intelligence assessment, Zubair participated in the funds transfer and relayed a message from Hambali to Dr. bin Hussein Azahari, one of the lead co-conspirators in the Marriott bombing.⁷⁰ Ali Soufan argues plausibly that Khalid Sheikh Mohammed, as Al Qaeda's military commander, must have also known

about the cell in Jakarta, as well as those responsible for train bombings in Madrid in 2004 and London in 2005.

It is impossible to be certain whether other interrogation methods would have stopped these attacks. But it is equally impossible to be certain that the information that captives revealed after being tortured could not have been obtained by any other means.

The Danger of False Confessions

At the same time the CIA was adapting SERE techniques (Survival, Evasion, Resistance and Escape) for its interrogation program, the first season of the wildly popular TV show "24" was wrapping up on television. The first season's finale aired May 21, 2002. The show was familiar to many at Guantánamo in 2002. "We saw it on cable," Lieutenant Colonel Diane Beaver recalled. "People had already seen the first series. It was hugely popular. ... [Jack Bauer] gave people lots of ideas." ⁷¹ Retired FBI interrogator Joe Navarro told Task Force staff

Keep in mind there are 17,000 different police departments across the country so there's quite some variance, but the average law enforcement officer in the United States in their career receives between eight and fifteen hours of [suspect] interview training. What fills in the rest? People use words and techniques from popular culture and what's trendy."⁷²

The SERE techniques that the CIA adapted for its interrogation program had their origins in Communist techniques used to extract false confessions. As former Air Force interrogator Steven Kleinman testified to the Senate Armed Services Committee:

Many of the methods used in SERE training are based on what was once known as the Communist Interrogation Model, a system designed to physically and psychologically debilitate a detainee as a means of gaining compliance. ... [T]hat model's primary objective was to compel a prisoner to generate propaganda, not intelligence.⁷³

After serving as an interrogator and intelligence officer in the Air Force, Kleinman worked as the director of intelligence for the Joint Personnel Recovery Agency's SERE program at Fairchild Air Force Base near Spokane, Wash. From his work with SERE, he knew James Mitchell and Bruce Jessen, the contract psychologists who later designed the CIA program. (Mitchell and Jessen declined the Task Force's interview request through their counsel).

Kleinman said that Mitchell and Jessen were not the only people associated with SERE who "couldn't wait" to apply the techniques to the enemy. "I had the conversation with so many people," he said. In his experience, SERE instructors tended to "see themselves as interrogators" because, although they were not interrogators, they were "really good at portraying an interrogator." One career SERE professional told Kleinman "One day after people are tired of getting attacked they won't care how we got the information." ⁷⁵

Bryce Lefever, a SERE psychologist who has defended Mitchell and Jessen, told Dr. Gregg Bloche that "[w]e all knew from experience that these techniques, these SERE training techniques, were pretty effective not only at training but ... at exposing vulnerabilities in our

own students." Lefever said that SERE trainees were given specific "secrets" to keep from "interrogators" in the training exercise, and routinely failed: "It was kind of an astonishing thing. ... You could have truly brave American patriots, even in a training setting, talking rather freely about stuff they shouldn't have been talking about." ⁷⁶ Former CIA Acting General Counsel John Rizzo told Task Force staff he "distinctly recalled [CIA officers from the Counterterrorism Center] tell me that they had some data to indicate that these techniques worked and produced reliable intelligence," though he didn't believe that efficacy data was related to the SERE program. ⁷⁷

Kleinman confirmed that SERE students often reveal information they are supposed to withhold, and so the SERE techniques *feel* like they are effective to both trainees and trainers. But, in Kleinman's words, "training and the real world are not the same thing." SERE instructors have no experience and receive no training in how to ensure that prisoners are telling the truth, instead of what they think interrogators want to hear. Instructors are not trained to avoid leading questions, which telegraph to a detainee the answer an interrogator wants. SERE instructors often know in advance the information they are trying to solicit and they have the option of calling a soldier's unit to verify the information he reveals — something that is obviously impossible in a real interrogation. Kleinman said that some SERE instructors likely believe they can tell based on behavioral cues whether someone is telling the truth, but scientific studies show that behavioral indicators of deception are faint and unreliable. In the controlled environment of SERE, there is also no need to worry about coercion undermining a source's ability to accurately recall information — but this is a major concern in a real interrogation.

According to Bloche, the architects of the CIA program understood that inducing compliance was not enough if they wanted accurate intelligence, and that it was also important to "shape compliance" by rewarding truthful answers and punishing falsehood.⁷⁹ But how, exactly, they attempted to distinguish truthful and false information remains ambiguous. Bloche stated in an interview with Task Force staff that it is impossible to scientifically evaluate the efficacy of SERE techniques on captives. Even if the relevant evidence were not classified, the sample size is too small, and "to have the scientific answer, one would have to have the result of a randomized study." Conducting such a study on prisoners would be "unimaginable," because medical and psychological ethics forbid such brutal experiments on captives.⁸⁰

It is unclear whether the architects of the CIA's interrogation program accounted for, or were even aware of, what experienced interrogators saw as a central flaw in using torture. Torture disorients intelligence subjects and can affect memory. Stress, pain and a lack of sleep affect a subject's ability to accurately recall and relate experiences and facts. Experienced interrogators weren't the only ones aware of these efficacy limitations. According to Dr. Stephen Xenakis, a retired Army Brigadier General and psychiatrist "In the case of sleep deprivation, the evidence is clear psychological disorientation kicks in by 72 hours and by 96 [hours] there can be serious psychiatric episodes." ⁸¹ As discussed further in the Medical and Consequences chapters (Chapters 6 and 8) of this report, abuse of detainees, at least in some instances, resulted in psychosis and eliminated any hope that useful intelligence could be gained from the subject. The belief that learned helplessness would compel detainees to disclose information was simply wrong, according to Xenakis:

Tactics that are intended to diminish consciousness and affect alertness may induce mood states like depression but are not helpful to elicit more information. ... Being in a helpless state is not the same as being in a state of mind where you are going to disclose information. People don't, when they've given up all hope, suddenly decide to [disclose information].⁸²

Prior medical studies had shown when mental or physical capacity had been reduced, so too had memory been reduced. Sleep deprivation of physicians led to disorientation and reduced awareness amongst the subjects in the study. Studies from the 1950s and 1960s that used hallucinogenic drugs to study memory produced false memories. As Xenakis explained to Task Force staff:

There is no professional literature that links the two. ... I've not been able to find any study of any kind that if you induce the circumstances [of the CIA EIT program] that you get information that you wouldn't get otherwise and when I look at the active ingredients of those techniques there is, respectively, research that shows you will not get good information.⁸³

Jose Rodriguez wrote that whatever a detainee revealed, the CIA "would not accept it on blind faith but checked it out in many different ways," "checked and double-checked," and "double-checked the information six ways from Sunday":

The people who were asking the questions, and the people who were analyzing the answers, were among the leading experts on al-Qa'ida in the world. Often they knew the answers to questions before they were asked. ... As we got more and more al-Qa'ida leaders in custody, we were able to play one off against the other. We would ask a question, get a response, and then say, "Oh really? That's not what KSM said, he said X." We would ask factual questions, such as "Where did you travel to in 1999?" When the detainee said, "Nowhere," we would say, "No, actually you went to Tanganyika and stayed at the Hill Top Hotel." They quickly learned not to mislead us. Still, we never assumed that what a detainee was telling us was true. But after you caught them in a few lies, and the specter of renewed EITs (which they didn't know we were very unlikely to return to) arose in their minds, they generally gave you something close enough to the truth.⁸⁴

According to the CIA inspector general, though, these safeguards were not foolproof. Particularly at the start of the program,

The Agency lacked adequate linguists or subject matter experts and had very little hard knowledge of what particular Al-Qa'ida leaders — who later became detainees — knew. This lack of information led analysts to speculate about what a detainee "should know," vice information the analyst could objectively demonstrate the detainee did know [six lines redacted]

[W]hen a detainee did not respond to a question posed to him, the assumption at Headquarters was that the detainee was holding back and knew more; consequently, Headquarters recommended resumption of EITs.⁸⁵

Soufan said that he saw this play out during the interrogation of Abu Zubaydah: "Abu Zubaydah is not an al-Qaeda member. We knew that at the time, but the moment we arrested Abu Zubaydah, the President was saying he's the number three guy in al-Qaeda." ⁸⁶ According to Soufan, this contradicted both the intelligence about Abu Zubaydah from the investigation of the

millennium plot, and documents captured with Abu Zubaydah. But CIA analysts "convinced themselves he's number three" and that "[i]f he's not admitting he's number three, then he's not cooperating. Well, 83 sessions [of waterboarding] and he admitted he's number three."

Abu Zubaydah alleged during his Guantánamo combatant status review tribunal that after being tortured,

I say, "yes, I was partner of BIN LADEN. I'm his number three in al Qaida and I'm his partner of RESSAM." I say okay but leave me. So they write but they want what's after, more information about more operations, so I can't. They keep torturing me.⁸⁷

Abu Zubaydah claimed that at some later point, "they told me sorry we discover that you are not number three, not a partner even not a fighter." 88

"I never encountered a single source in all my years of interrogating, that I felt I needed to do something to or with that I would be ashamed to tell my mother I did."

The risk that a suspect would make a false confession under torture seems to have been heightened in cases where the CIA rendered a subject to foreign custody. The most notorious example of this is the case of Ibn al-Sheikh al-Libi, a Libyan jihadist who led the Khalden training camp in Afghanistan. Al-Libi's false claim about there being a link between Iraq and Al Qaeda on the development of chemical weapons has been cited as a primary source for the faulty prewar intelligence that the Bush administration repeated leading up to the war in Iraq. In an October 2002 speech in Cincinnati, President Bush stated Iraqis had trained members of Al Qaeda on the development and use of chemical and biological weapons. Al-Libi, whose real name was Ali Abdel-Aziz al-Fakheri, was captured in December 2001 and questioned at Bagram by FBI agents Russell Fincher and George Crouch and New York City detective Marty Mahon. Jack Cloonan, an FBI agent in New York, advised the interrogators by telephone.

According to Soufan and several press accounts quoting FBI sources, al-Libi was cooperating, particularly with Fincher. He reportedly provided intelligence about Zacarias Moussaoui, Richard Reid, and several active plots, including a planned attack against the U.S. embassy in Yemen that was close to execution. The CIA, however, was convinced that he was withholding even more valuable information because he denied knowledge of any imminent attacks in the United States or links between Al Qaeda and Saddam Hussein. One CIA officer reportedly told al-Libi, "[y]ou're going to Egypt," and "[b]efore you get there, I am going to find your mother and fuck her." Garrett Graff, a journalist who spoke to a number of FBI agents about al-Libi's interrogation and other counterterrorism operations, reported that Fincher and Mahon witnessed this exchange:

Fincher, eyes wide, jumped off the picnic table, slammed into the CIA operative, and shoved him out the door with a "What the fuck are you doing?" Furious about the new plan, the Bagram FBI team, including the military and other intelligence agencies present (minus, though, the CIA) wrote a rare joint memo to Washington, still classified today, attesting to al-Libi's forthright cooperation and urging the continuation of the FBI interrogation.⁹⁰

But the FBI was overruled, and al-Libi was sent to Egypt. He made a number of confessions, and provided false information about ties between Iraq and Al Qaeda that Colin Powell would later cite in his presentation to the United Nations.⁹¹ According to a Senate Intelligence Committee

report sourced to CIA cables, when al-Libi returned to U.S. custody, he reported that

[REDACTED] After his transfer to a foreign government [REDACTED], al-Libi claimed that during his initial debriefings "he lied to the [foreign government service] [REDACTED] about future operations to avoid torture." Al-Libi told the CIA that the foreign government service [REDACTED] explained to him that a "long list of methods could be used against him which were extreme" and that "he would confess because three thousand individuals had been in the chair before him and that each had confessed."

[REDACTED] "stated that the next topic was al-Qa'ida's connections with Iraq. ... This was a subject about which he knew nothing and had difficulty even coming up with a story." Al-Libi indicated that his interrogators did not like his responses and then "placed him in a small box approximately 50 cm x 50 cm." He claimed he was held in the box for approximately 17 hours. When he was let out of the box, al-Libi claims that he was given a last opportunity to "tell the truth." When al-Libi did not satisfy the interrogator, al-Libi claimed that "he was knocked over with an arm thrust across his chest and he fell on his back." Al-Libi told CIA debriefers that he then "was punched for 15 minutes."

(U) Al-Libi told debriefers that "after the beating," he was again asked about the connection with Iraq and this time he came up with a story that three al-Qa'ida members went to Iraq to learn about nuclear weapons. Al-Libi said that he used the names of real individuals associated with al-Qa'ida so that he could remember the details of his fabricated story and make it more believable to the foreign intelligence service. Al-Libi noted that "this pleased his [foreign] interrogators, who directed that al-Libi be taken back to a big room, vice the 50 square centimeter box and given food."

[REDACTED] According to al-Libi, several days after the Iraq nuclear discussion, the foreign intelligence service debriefers [REDACTED] brought up the topic of anthrax and biological weapons. Al-Libi stated that he "knew nothing about a biological program and did not even understand the term biological." Al-Libi stated that "he could not come up with a story and was then beaten in a way that left no marks." According to al-Libi, he continued "to be unable to come up with a lie about biological weapons" because he did not understand the term "biological weapons." ⁹²

The United States later sent al-Libi to Libya, where he allegedly committed suicide in prison.

Several other renditions also produced faulty intelligence. In one notorious case, the United States rendered Canadian citizen Maher Arar to Syria, partly on the strength of confessions that two other Canadians, Ahmed el-Maati and Abdullah Almalki, made under torture in Syrian intelligence's notorious Palestine branch. Arar in turn was tortured, and made a false confession. Arar was later exonerated by a Canadian government investigation. El-Maati and Almalki were also eventually sent back to Canada, where they have not been charged with terrorism.

Effective Interrogation Without Torture

Defenders of coercive interrogations often argue that, while flawed, it is the only technique that could plausibly work against fanatical terrorists. In his article "Psychologists and Interrogations: What's Torture Got to Do with It?" Kirk Hubbard, a CIA psychologist who introduced Mitchell and Jessen to the agency, mocked the idea of interrogators gaining intelligence by building rapport or outsmarting Al Qaeda members:

Are we to think the terrorist has the following thoughts: "You know, nobody has ever been as nice to me as these people — I'm going to turn my back on my God and my life's work and tell them what they want to know." Alternatively, maybe the terrorist will think "What a clever way of asking that question. Now that they put it that way, I have no choice but to tell them what they need to know to disrupt my plans." Unfortunately, it is difficult to envision scenarios where useful information will be forthcoming. ... For terrorists who do not care if they live or die and have no fear of prison, there is little or no incentive to work with interrogators.

But Hubbard was not an interrogator, nor were Mitchell and Jessen. Before September 11, the CIA generally did not conduct interrogations. Stuart Herrington, a decorated Army human intelligence officer and interrogator who gained invaluable intelligence over his 30-year career during the Vietnam, Panama, and the 1990 Gulf War, said in an interview with Task Force staff that the CIA had avoided interrogation since "they got burned" by South Vietnamese allies' use of torture during the Vietnam War. According to Herrington, CIA colleagues used to call interrogation "the I word." ⁹⁴

Retired FBI agent Joe Navarro has also written that "[i]t was only after 9/11 that the CIA began detaining and interrogating terrorism suspects. At that time, the CIA had literally no detention and interrogation experience." ⁹⁵ On September 11, 2001, Navarro was one of perhaps 20 interrogators in the United States qualified to conduct interrogations of senior Al Qaeda suspects. According to Navarro "the memo to [law enforcement and intelligence agencies] saying 'give us your best interrogators' never went out. It never went out because it doesn't exist. It was never written." According to Steven Kleinman, "the single point of failure" regarding the use of SERE techniques against detainees was that no one in a real position of authority had enough experience, in either HUMINT [human intelligence] generally or interrogation specifically, to understand that SERE techniques would not work in the real world. ⁹⁶

Ali Soufan said that some CIA officials did have useful experience and insight, but they were overridden. In his book, Soufan describes a veteran CIA polygrapher with interrogation training, "Frank," as sharing his concerns about the Abu Zubaydah interrogation. Soufan said that "it annoys the heck out of me" when people portray the disputes over coercive techniques as "FBI versus CIA," because it was CIA personnel whose objection to the program led to the critical inspector general's report and the end to the most brutal techniques.⁹⁷ Soufan said that when he was deployed overseas, he needed to depend on the other Americans with him, regardless of what agency employed them: "I worked with these people, they protected my back, I protected their back. ... [W]e don't care about any of these things, we're all Uncle Sam."

Soufan, Kleinman, Navarro and Herrington all rejected the view that Islamic extremists will

not reveal useful information without brutality. "The Hanoi Hilton teaches us that if you brutalize prisoners you harden them in their resolve [against] you." Herrington told Task Force staff in an interview that, despite his own personal feelings of revulsion about many of the detainees he interrogated,

[detainees] are human, they're very human. And if you don't acknowledge that right up front, that this is another human being, and your job is going to be to cultivate a relationship with him, man to man, captor to prisoner ... you don't have any business being there. Period.⁹⁹

Moreover, Herrington pointed out, traditional interrogation techniques have worked on members of Al Qaeda and other extremist groups. "I never encountered a single source in all my years of interrogating, that I felt I needed to do something to or with that I would be ashamed to tell my mother I did." ¹⁰⁰ Similarly Navarro has said:

[A]s an interrogator, I need only three things, (1) a quiet room (2) I need to know what the rules are for where the interrogation is taking place because I don't intend to get into trouble and (3) I need time to build a rapport with the subject and become his only friend. If you give me those three things I'll get [the information]. I don't need to be rough. I get Christmas cards every year from guys I've sent to prison for life." ¹⁰¹

Besides his assertions about al-Libi and Abu Zubaydah, Soufan's memoirs describe useful FBI interrogations of a number of Al Qaeda figures. These included Abu Jandal, a former bin Laden bodyguard who identified a number of the September 11 hijackers as Al Qaeda members the week after the attacks; Mohammed al-Owhali, one of the men who participated in the 1998 bombing of the U.S. embassy in Nairobi; L'Houssaine Kherchtou, who was a key witness in the embassy bombing trials and later enrolled in the witness protection program; Jamal al-Badawi, who was involved in the USS Cole bombing; Fahd al-Quso, a Yemeni Al Qaeda member assigned to videotape the USS Cole attack; Ali al-Bahlul, an Al Qaeda propagandist detained in Guantánamo Bay; bin Laden's driver and bodyguard Salim Hamdan; and Ibrahim al-Qosi, another Guantánamo detainee.

In June 2008, 15 senior interrogators, interviewers and intelligence officials from the U.S. military, the FBI and the CIA — amongst them Kleinman, Herrington, Navarro and Cloonan — all met, developed and released principles upon which they agreed. All agreed that the most effective way to obtain timely, credible intelligence from suspected terrorists and others who threaten the United States was to use noncoercive, traditional, rapport-based interviewing approaches with detainees. ¹⁰² Moreover they found the use of torture and other inhumane and abusive treatment resulted in false and misleading intelligence, loss of critical intelligence, was unlawful, ineffective, counterproductive, and caused serious damage to the reputation and standing of the United States. ¹⁰³

As the debate on interrogation continues, the Obama administration has, if not changed, at least restructured the way it approaches the interrogation of high-value detainees. On January 22, 2009, President Obama issued Executive Order 13491, which required agents and employees of the United States to disregard the legal advice provided by the Bush administration's Justice Department and to interrogate in accordance with the Army Field

Manual. There are concerns amongst interrogation experts about revisions from 2006 that remain in the Army's Field Manual on Interrogation today. There exists in the manual, since 2006, the practice of an interrogation technique called "separation" which, in its current incarnation, human rights groups have argued, could inflict real, significant, physical and mental anguish on a detainee. Under Appendix M, with the permission of a combatant commander, a detainee could arguably be interrogated for 40 consecutive hours with four-hour rest periods book-ended. Moreover, while Appendix M explicitly prohibits sensory deprivation, it explicitly permits the use of goggles, blindfolds and earmuffs if the use of such items is deemed "expedient." Furthermore, Appendix M also takes off the table an invaluable interrogation approach — noncoercive separation — and puts it out of reach in situations where it could be employed humanely and effectively. Stuart Herrington gained invaluable military intelligence in the nation's conflicts in Vietnam, Panama and the first Gulf War. On the changes to the military's rules for interrogation, Herrington was frank with Task Force staff:

The truth of the matter is there are some rules of the road now that they put out there as a reaction to what happened [in the public aftermath of the reporting of torture by U.S. forces] that the two projects that I have described in such detail [in Panama and the first Gulf War], I couldn't do them today. 104

The January 2009 executive order also created a task force, the Special Task Force on Interrogations and Transfer Policies, which was to be chaired by the attorney general and whose membership included the director of national intelligence, the secretary of defense, the secretary of state, the secretary of homeland security, the director of the CIA, and the chairman of the Joint Chiefs of Staff. On August 24, 2009 the Special Task Force recommended that the Obama administration establish a specialized interrogation group that would bring together officials from law enforcement, the military and the U.S. intelligence community on the conduct of interrogations. The High-Value Detainee Interrogation Group (HIG) was to channel the experience from these different branches of the government, develop a set of best interrogation practices, and disseminate them for training purposes. HIG was at the center of controversy in its first year of existence.

On December 25, 2009 Al Qaeda operative Umar Farouk Abdulmutallab, the "underwear bomber," attempted to detonate a bomb aboard a commercial aircraft bound for the United States. Abdulmutallab's plan failed and he was interrogated by the FBI in Detroit. Not only did HIG fail to participate in his interrogation, National Intelligence Director Dennis Blair admitted HIG was not even operational yet, four months after its creation. Controversially, FBI agents had briefly questioned Abdulmutallab and, it was reported, he had provided intelligence before he was read *Miranda* rights. Once he was read *Miranda* rights, Abdulmutallab asked for a lawyer and stopped talking. The White House was reportedly furious when it found out the HIG had not been officially formed in time to question Abdulmutallab despite a direct order from the president to do so in the fall of 2009.¹⁰⁵

By the spring of 2010, HIG was operational and was involved in the interrogation of the man accused of the failed Times Square bombing plot. In May 2011, HIG was reported to be run by the FBI and headed by an FBI employee with two deputies — one from the CIA and one from the Defense Department.¹⁰⁶ The unit has three regional teams staffed by linguists, terrorism analysts and professional interrogators. The teams' duties include everything from questioning suspects to researching the best ways to get the most information from suspects. HIG's research

committee, a multidisciplinary committee, includes Mark Fallon, Matthew Waxman, David Danzig (from Human Rights First), law professors, forensic anthropologists, and others. The organization is soliciting, and has ongoing, a number of research projects related to evidence-based approaches to obtaining accurate and reliable intelligence.



The question of whether brutal interrogations are effective doesn't address the legal and moral considerations, which, for many, override any concern as to whether such practices are effective. In an internationally famous 1999 ruling, the Israeli Supreme Court unanimously found physically coercive tactics used by Israeli interrogators — including sleep deprivation, stress positions, and sensory deprivation — impermissible, irrespective of whether they were effective. In its ruling, written by the court's president, Aharon Barak, the court noted 121 people had been killed and 707 injured in bomb attacks within Israel in the previous 2.5 years. ¹⁰⁷ The Israeli court referenced, in its decision, a European court's earlier determination that British interrogators had been guilty of using physically coercive tactics when questioning detainees suspected of terrorist activities in Northern Ireland. The Israeli court held:

The rules pertaining to investigations are important to a democratic state. They reflect its character. An illegal investigation harms the suspect's human dignity. It equally harms society's fabric. ...

This decision opened with a description of the difficult reality in which Israel finds herself. We conclude this judgment by revisiting that harsh reality. We are aware that this decision does [not] make it easier to deal with that reality. This is the destiny of a democracy — it does not see all means as acceptable, and the ways of its enemies are not always open before it. A democracy must sometimes fight with one hand tied behind its back. Even so, a democracy has the upper hand. The rule of law and the liberty of an individual constitute important components in its understanding of security. At the end of the day, they strengthen its spirit and this strength allows it to overcome its difficulties. ¹⁰⁸