

Seton Hall University School of Law  
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# HOW AMERICA TORTURES

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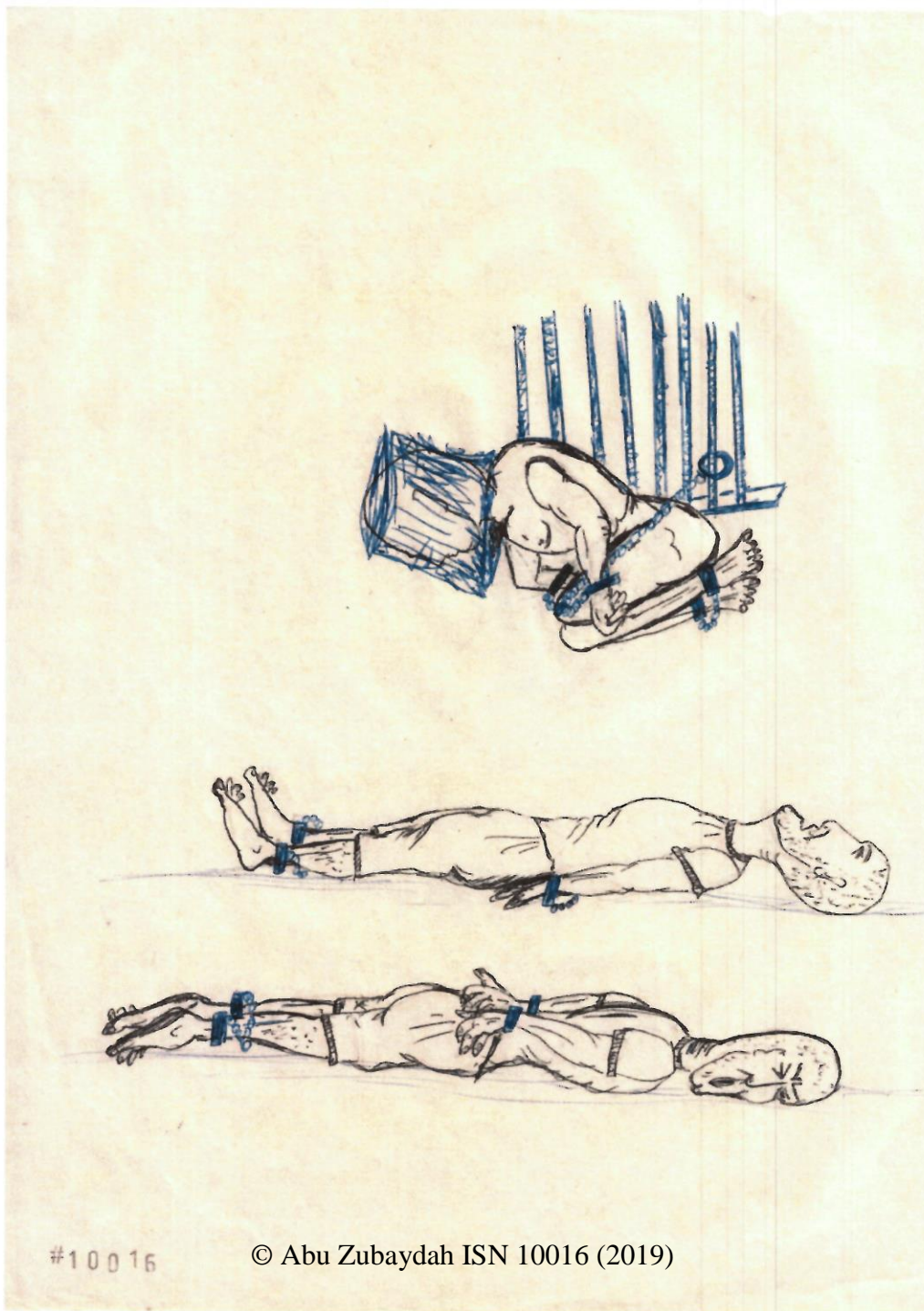


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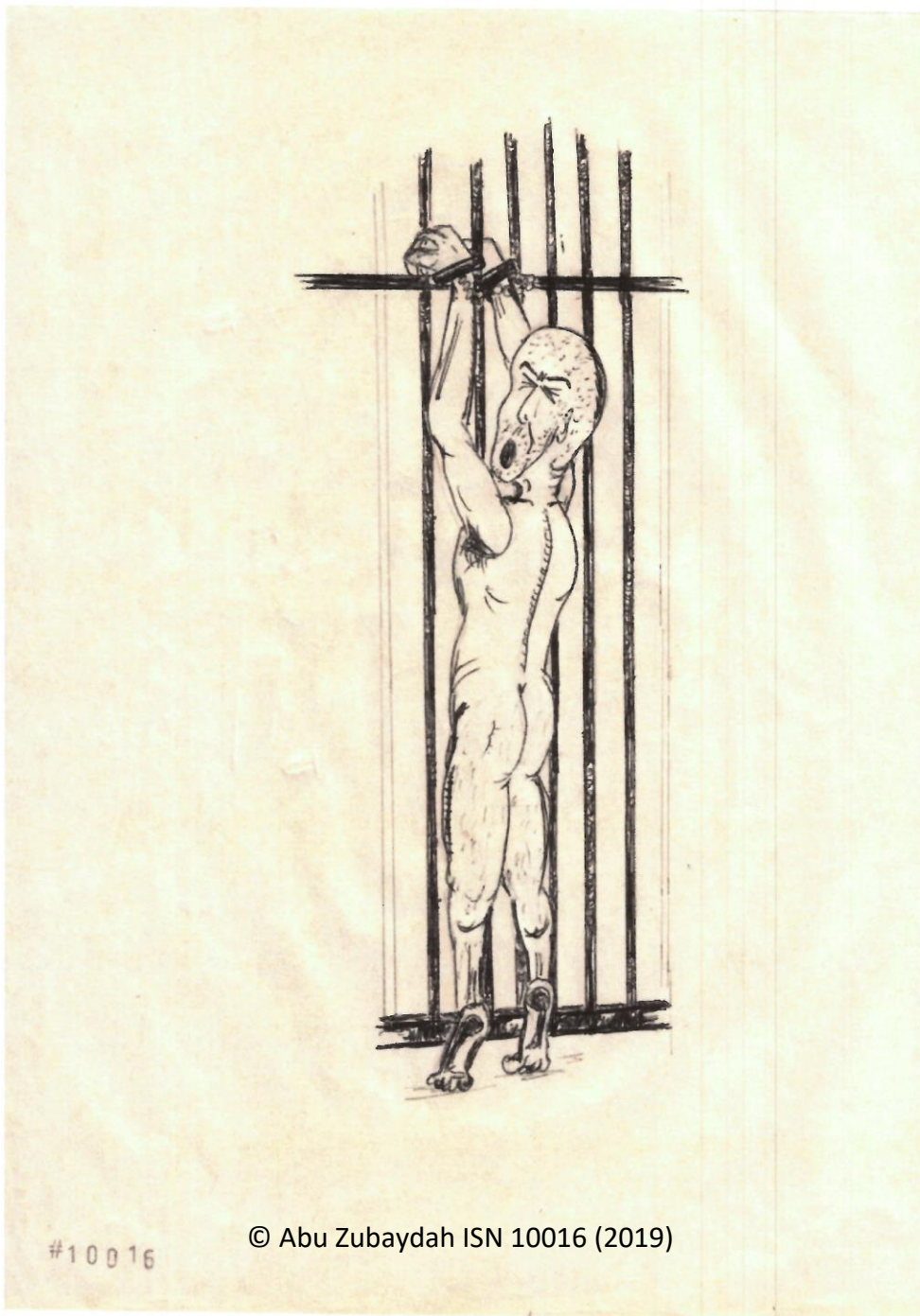
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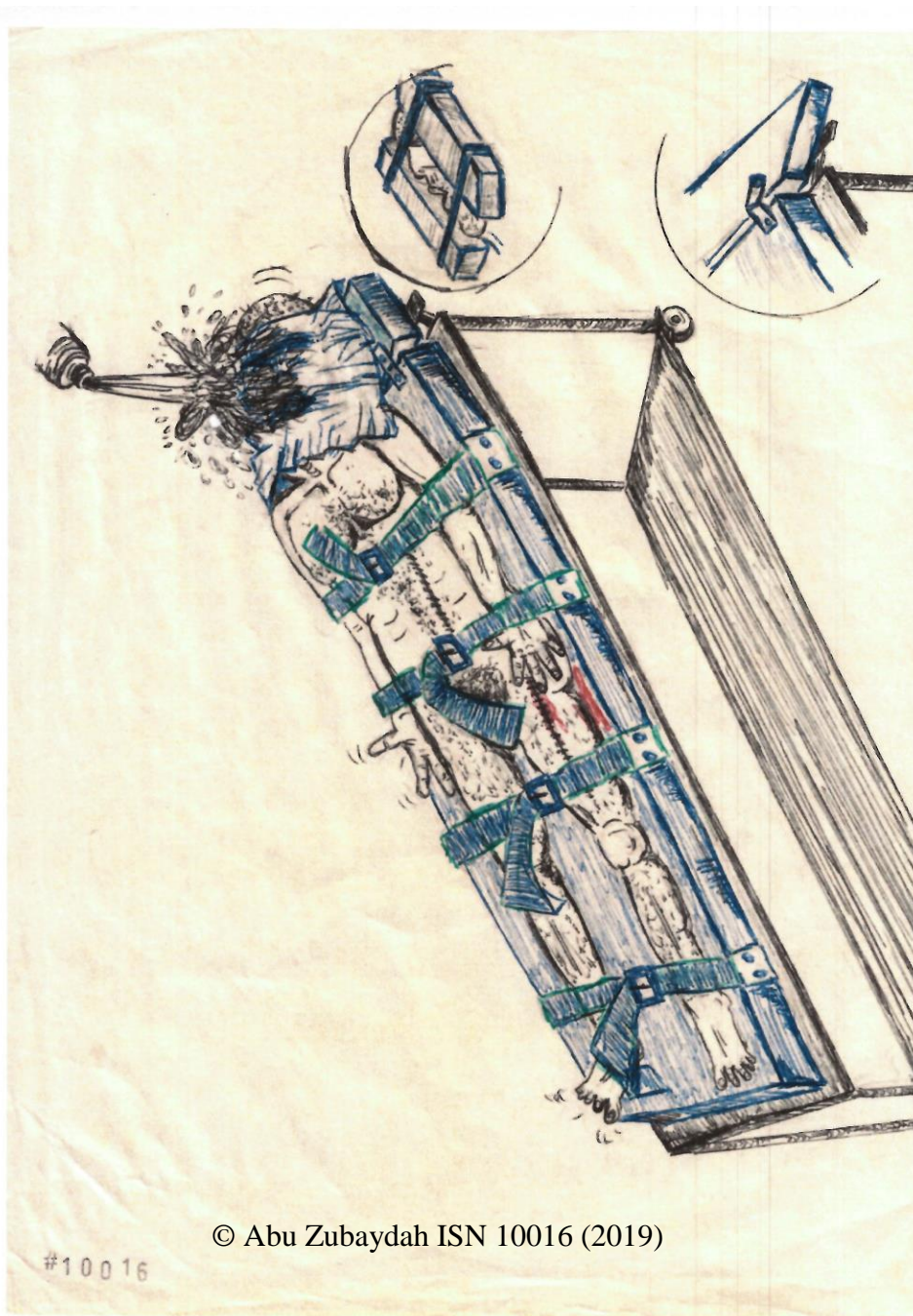
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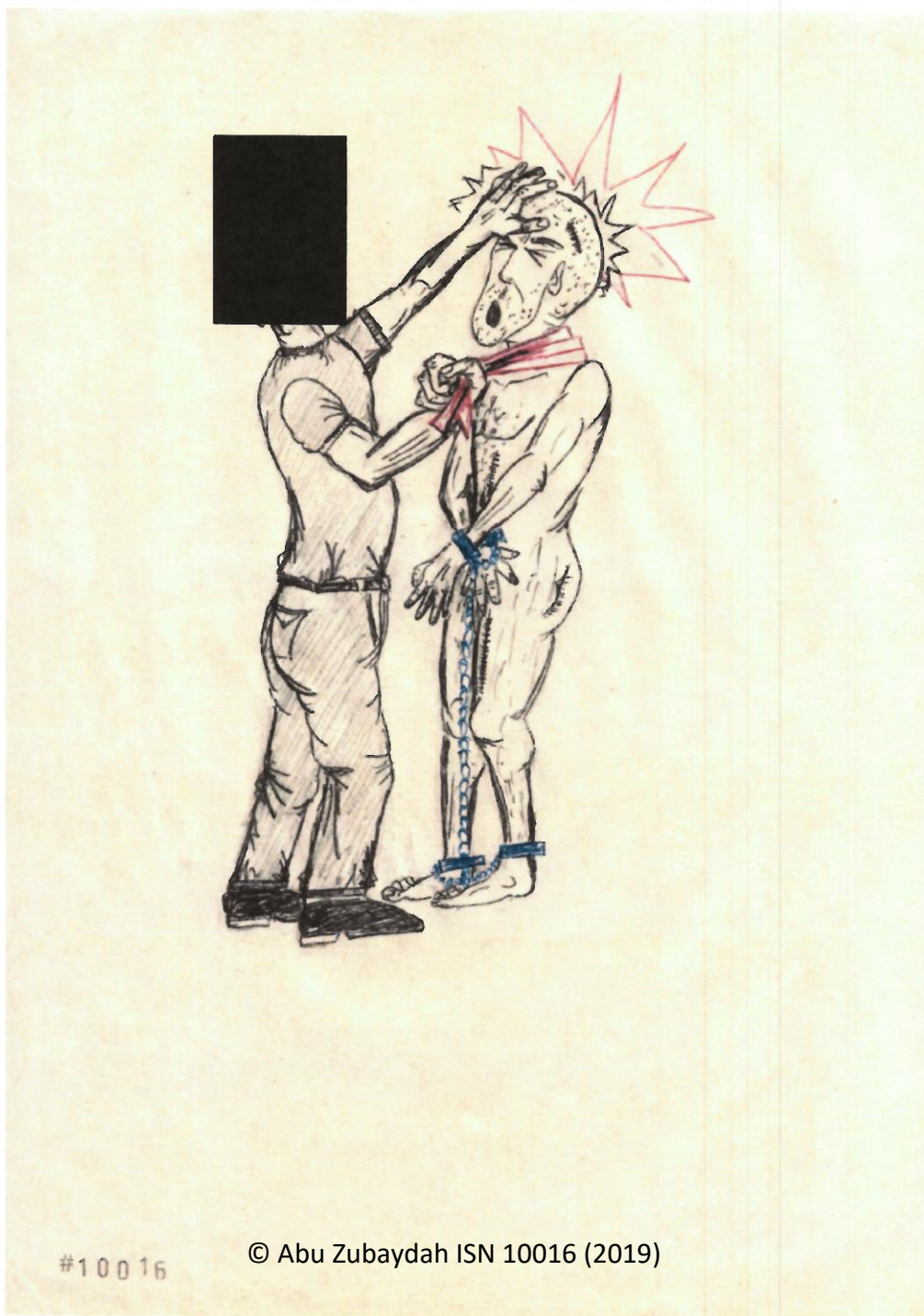


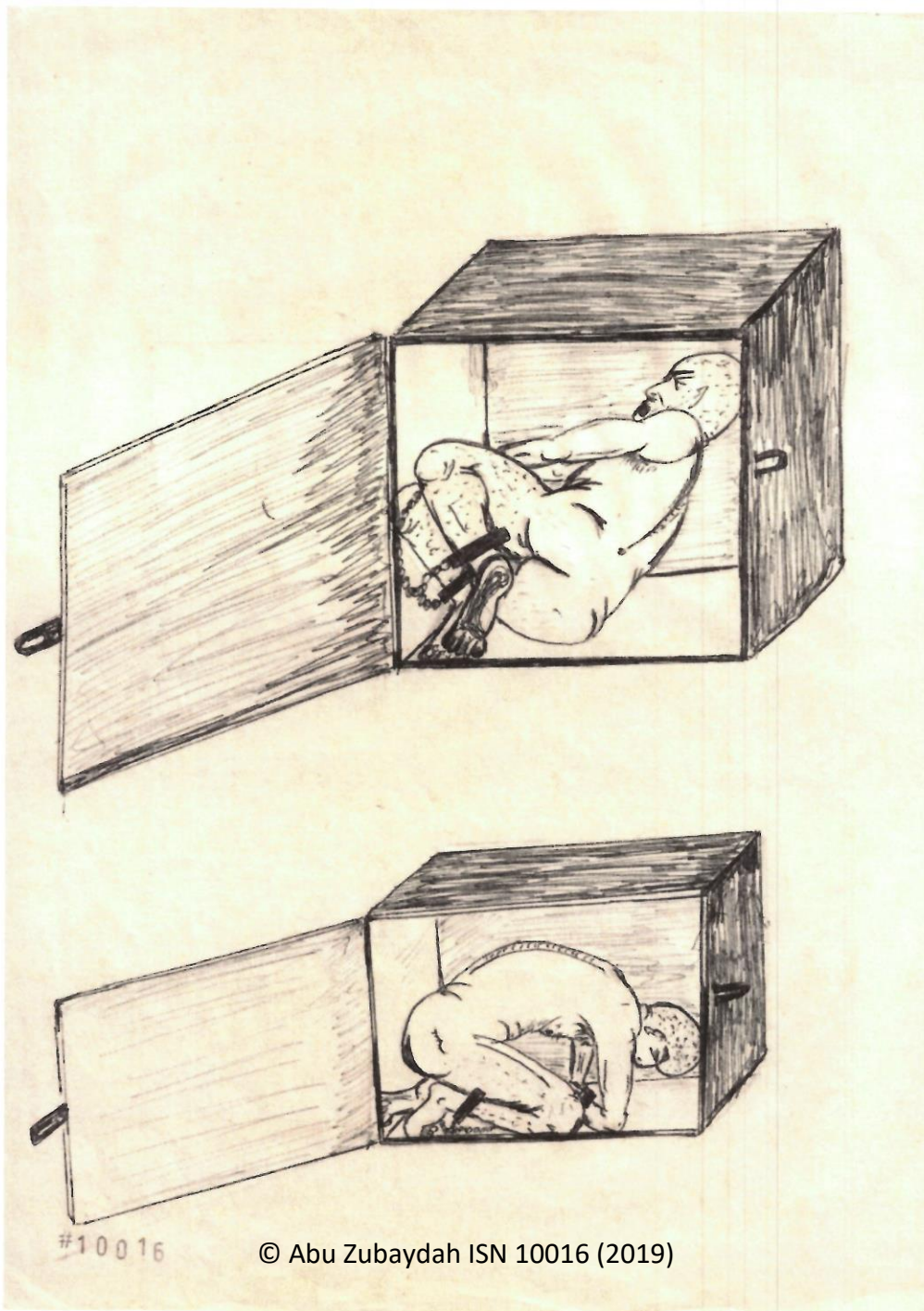




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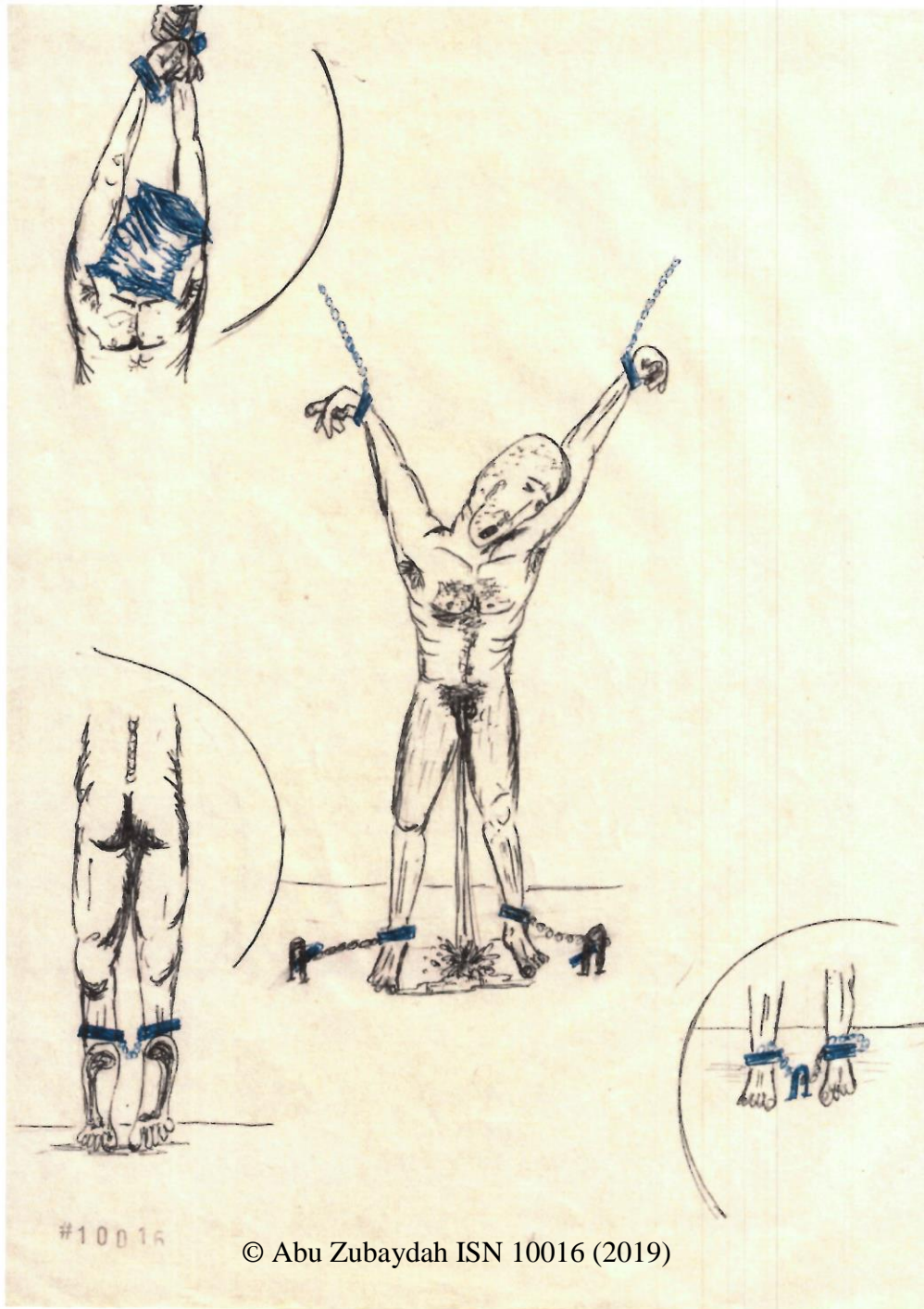




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**Disclosure:**

Professor Denbeaux is co-counsel for several Guantanamo Detainees, including Abu Zubaydah 10016.



## 1. INTRODUCTION

Americans may find it difficult to acknowledge that top officials in the West Wing of the White House and the Office of Legal Counsel of the Department of Justice orchestrated and poorly oversaw a horrific torture program that was responsible for the detention and interrogation of countless detainees. Sixteen years ago, the White House and the Department of Justice created a torture program and, through a series of legal memoranda, attempted to immunize Central Intelligence Agency (CIA) agents from criminal liability. The language was formal, legalistic, antiseptic, and euphemistic. That, combined with vague definitions of the techniques, disguised the extent of abuse the memos were approving and/or permitting. For many years, virtually no attention has been paid to the specific details of the techniques that were used in America's name and too little investigation has gone into the specific uses that the CIA made of these techniques.

This report presents the specific details of what the torture memos permitted and most importantly, how the techniques were implemented and applied.

This report is based on information from many of those who were tortured under the program, including Zayn al-Abidin Muhammad Husayn (Abu Zubaydah), as well as many CIA cables, the Senate Select Committee on Intelligence Report, and numerous other government documents.

The torture memos described the ten techniques that were designed and approved to torture one person, Abu Zubaydah. All ten techniques were used upon him and, while he has not been allowed to speak, some of his descriptions of those experiences were declassified. They have not been previously examined. The descriptions by Abu Zubaydah of some of the torture techniques is attached as an appendix. The text incorporates parts of his description and when it is included in the text it is always bolded.

As compelling as the verbal descriptions of the techniques are, this report publishes the first visual representation of how the torture techniques were performed. The graphic representations are the original works of the man for whom the torture was designed, Abu Zubaydah. Because they have never been published before and because of their historical importance, all eight graphics are presented in full at the beginning of this report. The same graphics are also included in the text where they most appropriately belong.

In addition, the CIA's cables from the beginning of Abu Zubaydah's torture have also become available and this report allows the reader to see the application of the techniques not only as defined, but as applied, and not only from the CIA's perspective but also from the perspective of the tortured. This report integrates Abu Zubaydah's descriptions from the earliest days of his torture with the CIA cables that described those days from the CIA's perspective.

The report will first address persistent conditions which were employed broadly against detainees, followed by an in depth look at each approved torture technique. Finally, the report will address several techniques not specifically approved, but which played a key role in advancing the program. Overall, this report will illustrate how the following factors led to the gross abuse of the torture program: (1) the lack of clarity and purposeful ambiguity in defining what was allowed and

what was not allowed during interrogations; (2) the failure by the government to account for the use of persistent techniques and unapproved techniques alongside those that were approved; and (3) the negligence and intentional disregard of the consequences of such a torture program.

## 2. BACKGROUND

When terrorists flew planes into three different targets in the United States on September 11, 2001, it quickly became clear that only massive intelligence failures could account for the fact that no government agencies had become aware of the plot in time to stop it.<sup>1</sup> It ran contrary to American expectations of our intelligence agencies that neither the FBI, which had a warrant for the arrest of Osama bin Laden dating back to 1998,<sup>2</sup> nor the CIA, which had a specific station dedicated to tracking the same man,<sup>3</sup> had realized that his organization was planning the most devastating and spectacular attack on U.S. civilians in modern history.<sup>4</sup> The failure was as humiliating as it was surprising and intelligence agencies struggled to recover from their error. In time, a narrative began to surface of CIA agents hesitant to share information with the FBI and State Department out of fear that the latter would thwart the collection of further intelligence.<sup>5</sup>

As President Bush and his administration publicly went to war with the Taliban in Afghanistan, a separate, covert plan of action was taking place. On September 17, President Bush released a Memorandum of Notification (MON) authorizing the CIA to “undertake operations designed to capture and detain persons who pose a continuing, serious threat of violence or death to U.S. persons and interests or who are planning terrorist activities.”<sup>6</sup> Even before the MON was issued, however, the CIA began making plans for where to open secret offshore detention

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<sup>1</sup> See, e.g., *Why did U.S. Intelligence Fail on September 11<sup>th</sup>?*, PBS FRONTLINE, (Oct. 2001), <https://www.pbs.org/wgbh/pages/frontline/shows/terrorism/fail/>; James Risen, *A Nation Challenged: The Intelligence Agency*, NY Times (Nov. 4, 2001) (“critics have called [the 9/11 attacks] an intelligence failure on the scale of Pearl Harbor.”), <https://www.nytimes.com/2001/11/04/us/nation-challenged-intelligence-agency-secret-cia-site-new-york-was-destroyed.html>; James Risen and David Johnson, *A Day of Terror: Intelligence Agencies*, NY Times (Sept. 12, 2001) (a senator refers to the event as an “intelligence failure”), <https://www.nytimes.com/2001/09/12/us/day-terror-intelligence-agencies-officials-say-they-saw-no-signs-increased.html>.

<sup>2</sup> *Osama Bin Laden Part 01 of 03*, The Vault, FBI, <https://vault.fbi.gov/osama-bin-laden/Osama%20Bin%20Laden%20Part%2001%20of%2003/view> (last accessed Mar. 9, 2019).

<sup>3</sup> The CIA established ALEC Station, dedicated to tracking Osama bin Laden, in 1996. Mark Mazzetti, *C.I.A. Closes Unit Focused on Capture of bin Laden*, (July 4, 2006), <https://www.nytimes.com/2006/07/04/washington/04intel.html>.

<sup>4</sup> Seymore M. Hersh, *What Went Wrong*, New Yorker (Oct. 8, 2001) (neither agency saw the attack coming), <https://www.newyorker.com/magazine/2001/10/08/what-went-wrong>; Meredith Worthen, *Remembering 9/11, 17 Years Later* (Sept. 5, 2018) (“It was the deadliest terrorist act in U.S. history and the most devastating foreign attack on American soil since the attack on Pearl Harbor.”), <https://www.biography.com/news/911-anniversary-facts>

<sup>5</sup> See, e.g., Lawrence Wright, *The Agent*, NEW YORKER (Jul. 10, 2006), <https://www.newyorker.com/magazine/2006/07/10/the-agent>.

<sup>6</sup> *Counterterrorism Detention and Interrogation Activities (September 2001-October 2003)*, Office of the Inspector General, CENTRAL INTELLIGENCE AGENCY (May 7, 2004), <https://www.cia.gov/library/readingroom/docs/0005856717.pdf>.



facilities.<sup>7</sup> It was against this backdrop that the United States began detainee interrogations at Guantanamo Bay, Cuba in January of 2002.<sup>8</sup> According to Secretary of Defense Donald Rumsfeld, the facility was meant to hold the “extremely dangerous” prisoners of what had by that time become known as the War on Terror.<sup>9</sup> In practice, the facility held mostly low-level individuals whose ties to al-Qaeda or the Taliban were unclear.<sup>10</sup>

The capture of Abu Zubaydah, widely publicized in the press as a major victory against al-Qaeda,<sup>11</sup> began the complicated process of determining the best means of exploiting him as an intelligence source.<sup>12</sup> Because he was badly wounded during capture, the FBI began building a relationship with him while he was still in the hospital with agents sitting by his bed and holding his hand while he struggled to survive.<sup>13</sup> While the FBI obtained positive results from this approach,<sup>14</sup> confirming the identity of 9/11 planner Khalid Shaikh Mohammad (KSM) and learning other valuable intelligence,<sup>15</sup> the CIA was not convinced that Abu Zubaydah was being as cooperative as he could be.<sup>16</sup> After a short battle over the appropriateness of the CIA’s interrogation techniques, the FBI surrendered control of the detainee to the CIA.<sup>17</sup>

Although the CIA fought hard for exclusive access to Abu Zubaydah and had begun researching legal defenses to prosecution for torture as early as November 2001,<sup>18</sup> the agency had no established method for conducting coercive interrogations.<sup>19</sup> It was perhaps for this reason that

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<sup>7</sup> S. REP. NO. 113-288, Executive Summary, at 11 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>8</sup> John Furlow & Randall Schmidt, *Investigation into FBI Allegations of Detainee Abuse at Guantanamo Bay, Cuba Detention Facility*, 4 (Apr. 1, 2005), [http://humanrights.ucdavis.edu/resources/library/documents-and-reports/schmidt\\_furlow\\_report.pdf](http://humanrights.ucdavis.edu/resources/library/documents-and-reports/schmidt_furlow_report.pdf).

<sup>9</sup> DoD News Briefing - Secretary Rumsfeld and Gen. Pace, Jan. 22, 2002, <http://archive.defense.gov/transcripts/transcript.aspx?transcriptid=2254>.

<sup>10</sup> Denbeaux, Mark and Denbeaux, Joshua W. and Gregorek, John Walter, Report on Guantanamo Detainees: A Profile of 517 Detainees Through Analysis of Department of Defense Data (February 2006). Seton Hall Public Law Research Paper No. 46, Available at SSRN: <https://ssrn.com/abstract=885659>.

<sup>11</sup> See, e.g., *Terrorist Captured: Al-Qaeda Leader Abu Zubaydah*, PBS NEWS (Apr. 2, 2002), <https://www.pbs.org/newshour/show/terrorist-captured-al-qaeda-leader-abu-zubaydah>.

<sup>12</sup> See *Counterterrorism Detention and Interrogation Activities (September 2001-October 2003)*, Office of the Inspector General, CENTRAL INTELLIGENCE AGENCY at 12-23 (May 7, 2004), <https://www.cia.gov/library/readingroom/docs/0005856717.pdf>.

<sup>13</sup> *We Left Our Most Important Prisoners to Amateurs*, SPIEGEL ONLINE (Jan. 23, 2015), <http://www.spiegel.de/international/world/former-fbi-official-ali-soufan-condemns-guantanamo-torture-a-1014475.html>.

<sup>14</sup> *We Left Our Most Important Prisoners to Amateurs*, SPIEGEL ONLINE (Jan. 23, 2015), <http://www.spiegel.de/international/world/former-fbi-official-ali-soufan-condemns-guantanamo-torture-a-1014475.html>.

<sup>15</sup> S. REP. NO. 113-288, Executive Summary, at 25 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>16</sup> *Id.* at 28.

<sup>17</sup> *Id.* at 18.

<sup>18</sup> *Id.* at 19.

<sup>19</sup> *Id.* at 28-31.

a member of the CIA's legal department suggested<sup>20</sup> employing a contractor from a branch of the military that engaged in practices somewhat adjacent to interrogation: the Joint Personnel Recovery Agency (JPRA).<sup>21</sup>

The contractor, James Mitchell, had many years of experience working in JPRA's Survival, Evasion, Resistance and Escape (SERE) school.<sup>22</sup> SERE is a program used by several branches of the United States military to prepare soldiers for extreme conditions they may encounter in the field.<sup>23</sup> Mitchell's position had been to facilitate the aspect of the SERE program that mimics captivity and interrogation.<sup>24</sup> This part of the SERE program was meant to expose soldiers to the conditions that they could expect to encounter from a harsh regime not limited by the Geneva Conventions.<sup>25</sup> Instructors like Mitchell were charged with creating a realistic, but ultimately simulated environment of torture.<sup>26</sup> Manuals explained the delicate nature of conducting a role-play of this kind and the extreme inherent risk of sending soldiers into a state of "learned helplessness" that would be useless for the program's aims.<sup>27</sup> Because of these risks, the program included many safeguards against permanent physical and psychological harm.<sup>28</sup> Soldiers were able to talk through their experiences with trained psychologists and to receive immediate treatment for any trauma-related effects they may experience.<sup>29</sup>

Despite the delicate nature of the SERE program, the interrogation methods that Mitchell developed that were said to be based on SERE techniques lacked the specificity and safeguards that kept participants from being harmed.<sup>30</sup> Through meetings and memos throughout 2002, Mitchell and his colleague Bruce Jessen, who shared with him a similar background in simulated interrogations,<sup>31</sup> proposed a list of techniques to the highest-ranking members of the executive branch to determine whether or not they could be used on Abu Zubaydah.<sup>32</sup>

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<sup>20</sup> S. REP. NO. 113-288, Executive Summary, at 26 (2014) (it was the legal department of the Counterterrorism Center at the CIA that suggested James Mitchell for the position), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>21</sup> *Id.* at 35.

<sup>22</sup> *Id.* at 21.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> PRE-ACADEMIC LABORATORY OPERATING INSTRUCTIONS 11 (2002), <https://assets.documentcloud.org/documents/338917/pre-academic-laboratory-preal-operating.pdf>.

<sup>27</sup> *Id.* at 4.

<sup>28</sup> *Inquiry into the Treatment of Detainees in U.S. Custody*, Committee on Armed Services 30 (Nov. 30, 2008), [https://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final\\_April-22-2009.pdf](https://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final_April-22-2009.pdf).

<sup>29</sup> *Id.*

<sup>30</sup> Compare PRE-ACADEMIC LABORATORY OPERATING INSTRUCTIONS (2002), <https://assets.documentcloud.org/documents/338917/pre-academic-laboratory-preal-operating.pdf> with Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, *Re: Interrogation of al Qaeda Operative* (Aug. 1, 2002), <https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>.

<sup>31</sup> S. REP. NO. 113-288 at 21 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>32</sup> *Id.* at 32.



In August of 2002, the Office of Legal Counsel (OLC) issued two classified legal memoranda officially deeming the “enhanced interrogation techniques” (EITs) to be legal when used on Abu Zubaydah.<sup>33</sup> The first memo, which outlined the allowable techniques and the legal rationale for allowing their use on Abu Zubaydah, relied heavily on the alleged safety of the EITs, as demonstrated by the years of safe use in the SERE program.<sup>34</sup> The memo also discussed the legal significance of intelligence indicating that Abu Zubaydah was withholding time-sensitive threat information.<sup>35</sup> The Chief of Psychology Services at the Air Force SERE school later told a Senate committee that he had never intended to suggest that SERE techniques would be safe when used on detainees.<sup>36</sup> He emphasized that there were many differences between how the techniques would impact individuals in the SERE context as opposed to those held in indefinite captivity.<sup>37</sup>

When the CIA obtained approval to use the proposed techniques on Abu Zubaydah, he had already been held at the first CIA Black Site for months.<sup>38</sup> The CIA Black Sites were the end product of the September 17 MON issued by President Bush:<sup>39</sup> secret locations in foreign countries where detainees could be held and interrogated outside the reach of the Red Cross and other bodies that monitor the treatment of prisoners of war.<sup>40</sup> The first of these sites, later called Detention Site Green,<sup>41</sup> and now known to be located in Thailand,<sup>42</sup> utilized a number of techniques to keep detainees at a baseline level of discomfort, in addition to the other official EITs. Abu Zubaydah

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<sup>33</sup> See Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, *Re: Interrogation of al Qaeda Operative* (Aug. 1, 2002), <https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>; *Re: Standards of Conduct for Interrogation under 18 U.S.C. §§ 2340–2340A*, Memorandum from Jay S. Bybee, Assistant Attorney General, to Alberto R. Gonzales, Counsel to the President 1 (Aug. 1, 2002), <https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>.

<sup>34</sup> Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, *Re: Interrogation of al Qaeda Operative* 4-6 (Aug. 1, 2002), <https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>.

<sup>35</sup> Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, *Re: Interrogation of al Qaeda Operative* 1 (Aug. 1, 2002) (“Our advice is based on the following facts, which you have provided us. . . . If these facts were to change, this advice would not necessarily apply. . . . The interrogation team is certain that [Abu Zubaydah] has additional information that he refuses to divulge . . . regarding plans to conduct attacks within the United States or against our interests overseas.”), <https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>.

<sup>36</sup> *Inquiry into the Treatment of Detainees in U.S. Custody*, Committee on Armed Services 30 (Nov. 30, 2008), [https://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final\\_April-22-2009.pdf](https://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final_April-22-2009.pdf).

<sup>37</sup> *Id.* at 30-1.

<sup>38</sup> Abu Zubaydah had returned to Detention Site Green after his stay in the hospital in April of 2002. S. REP. NO. 113-288, Executive Summary at 30 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>39</sup> See *Counterterrorism Detention and Interrogation Activities (September 2001-October 2003)*, Office of the Inspector General, CENTRAL INTELLIGENCE AGENCY at 11-12 (May 7, 2004), <https://www.cia.gov/library/readingroom/docs/0005856717.pdf>.

<sup>40</sup> Larry Siems, *Inside the CIA’s Secret Black Site Torture Room*, The Guardian (last visited Mar. 5, 2019), <https://www.theguardian.com/us-news/ng-interactive/2017/oct/09/cia-torture-black-site-enhanced-interrogation>.

<sup>41</sup> See S. REP. NO. 113-288, Executive Summary, at 23 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>42</sup> See, e.g., Daniel DeFraia, *Scenes from a Black Site*, PROPUBLICA (May 7, 2018), <https://www.propublica.org/article/haspel-nashiri-cia-black-site-interrogation-documents>.

was kept naked and sleep deprived in a room that was brightly lit exclusively by artificial light.<sup>43</sup> Loud noise or music was pumped into the room most of the day and guards often used arm and leg shackles to keep him from moving.<sup>44</sup> In the forty-seven days leading up to the “enhanced” phase of his interrogation, Abu Zubaydah was deprived of human contact almost entirely, without even being questioned.<sup>45</sup> It was during this period that the interrogation team determined that he was uncooperative and that the “enhanced” techniques would be necessary.<sup>46</sup>

Once the “enhanced” phase of his interrogation began, the baseline deprivations of the Black Site were accompanied by a whole program of new procedures. For seventeen days, Mitchell and Jessen, the same contractors who had designed the program, subjected Abu Zubaydah to a constantly-rotating barrage of techniques to break his “resistance,” including confinement in a small box, shackling in stress positions for hours at a time, and waterboarding several times per day.<sup>47</sup> Other personnel at Detention Site Green were “profoundly affected” by what they saw in the interrogation sessions, sometimes “to the point of tears and choking up.”<sup>48</sup> By August 10, 2002 six days into the most aggressive phase of Abu Zubaydah’s interrogation, the interrogators had determined that he had become “compliant” and that he was likely not withholding any threat information.<sup>49</sup> According to one of the CIA contractors/interrogators, they were not authorized to ask any questions other than those about threats to the United States, leaving them to continue asking the same question and receiving the same answer over and over again.<sup>50</sup> According to the then-Chief of the Counterterrorism Center (CTC) at the CIA, Jose Rodriguez, intelligence analysts were certain that Abu Zubaydah possessed threat information, and this disagreement between analysts and interrogators led the CTC to continue the aggressive interrogations.<sup>51</sup>

The “aggressive phase” of Abu Zubaydah’s interrogation at Detention Site Green ended on August 23, 2002.<sup>52</sup> Although the interrogation team had uncovered no threat information, which had been the rationale for the EITs in the torture memos, the lack of new intelligence did not concern the interrogators.<sup>53</sup> A cable from Detention Site Green from one of the CIA contractors/interrogators stated that the purpose of the aggressive phase was “to reach a stage where we have broken any will or ability of the subject to resist or deny providing us information” and “to bring the subject to the point that we confidently assess that he does not/not possess undisclosed threat information.”<sup>54</sup>

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<sup>43</sup> S. REP. NO. 113-288, Executive Summary, at 28 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>44</sup> *Id.* at 29.

<sup>45</sup> *Id.* at 30-1.

<sup>46</sup> *Id.* at 31.

<sup>47</sup> *Id.* at 42.

<sup>48</sup> *Id.* at 44.

<sup>49</sup> S. REP. NO. 113-288, Executive Summary, at 42 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>50</sup> *Id.* at 41 n.188.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 42.

<sup>53</sup> *Id.* at 46.

<sup>54</sup> *Id.*

After Abu Zubaydah's initial round of interrogations, the plan used by the contractors became a sort of blueprint for the interrogations of other "High-Value Detainees" (HVDs).<sup>55</sup> The DoJ approved the use of EITs on a man named Ridha al-Najjar the day after the EIT phase of Abu Zubaydah's interrogation began.<sup>56</sup> The program used on him became the standard treatment for detainees at Detention Site Cobalt.<sup>57</sup> Just three months later, in November 2002, a detainee named Gul Rahman died of hypothermia after experiencing the EITs at that site.<sup>58</sup> Around the same time period, the Department of Defense (DoD) began ramping up its interrogation efforts. After a meeting with legal counsel from the CIA, the Staff Judge Advocate from Guantanamo Bay, LTC Diane Beaver, prepared a memorandum on the legality of proposed techniques inspired by the SERE program.<sup>59</sup> Despite significant pushback from the FBI, several branches of the military, and many suggestions that the DoJ review the techniques, Secretary of Defense Donald Rumsfeld approved the use of the coercive techniques at Guantanamo Bay, bringing procedures there largely into conformity with the CIA program.<sup>60</sup>

Though much of the information about the torture program approved by the United States government remains classified as of 2019, we know much more today than we ever have known. Through leaks, requests under the Freedom of Information Act (FOIA), voluntary disclosures, and litigation, today there are enough government documents that have been made public to reconstruct an at least a limited picture of what the torture program looked like. This report makes liberal use of such documents, relying on them as the primary source of information on the EITs and how they were meant to be applied. We rely in particular on two memoranda known colloquially as the "Torture Memos"<sup>61</sup> and a 2004 memorandum from the CIA to the DoJ, called the *Background Paper*, detailing how the different EITs are usually applied together as a program.<sup>62</sup>

For information about how detainees experienced the techniques, we rely primarily on the collected notes of Abu Zubaydah, which we refer to as "Abu Zubaydah Notes" and are attached. These writings have been collected by Abu Zubaydah's lawyers from their personal discussions with him and his own writings from inside Guantanamo Bay. These notes have been reviewed by Abu Zubaydah for accuracy and by the United States government to ensure that they contain no

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<sup>55</sup> S. REP. NO. 113-288, Executive Summary, at 46 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>56</sup> *Id.* at 52-53.

<sup>57</sup> *Id.* at 54.

<sup>58</sup> *Id.*

<sup>59</sup> *Inquiry into the Treatment of Detainees in U.S. Custody*, Committee on Armed Services 63 (Nov. 30, 2008), [https://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final\\_April-22-2009.pdf](https://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final_April-22-2009.pdf).

<sup>60</sup> *Id.* at 96.

<sup>61</sup> Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, *Re: Interrogation of al Qaeda Operative* (Aug. 1, 2002) <https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>; Memorandum from Jay S. Bybee, Assistant Attorney General, to Alberto R. Gonzales, Counsel to the President, *Re: Standards of Conduct for Interrogation under 18 U.S.C. §§ 2340-2340A* (Aug. 1, 2002) <https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>.

<sup>62</sup> Memorandum for Dan Levin, DoJ Command Center, Department of Justice, from Central Intelligence Agency, *Background Paper on CIA's Combined Use of Interrogation Techniques* 4 (Dec. 30, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001126.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001126.pdf).

classified material. All quotes from these notes are bolded for ease of understanding. Quotes and descriptions of the experiences of other detainees are derived from a mix of government and other types of documents. For both background information and detainee experiences, this paper makes frequent use of the 2014 report by the Senate Select Committee on Intelligence on the CIA's Detention and Interrogation Program (SSCI Report or "the Report"),<sup>63</sup> the most comprehensive report in existence on the CIA's detention and interrogation activities. We also use the report by the International Committee of the Red Cross that the organization generated after the HVDs of the CIA program were transferred to Guantanamo Bay in 2006 and the ICRC was able to interview them for the first time (ICRC Report).<sup>64</sup> Occasionally, this report also makes use of detainee quotes from news sources.

### 3. CAPTURE AND RENDITION

Capture and Rendition are not torture techniques but were the first phases of the CIA's detention and interrogation process taking place prior to the detainee's initial interrogation experience. The CIA describes this process as creating "significant apprehension in the HVD because of the enormity and suddenness of the change in environment, the uncertainty about what will happen next, and the potential dread an HVD might have of U.S. custody."<sup>65</sup> Perhaps because this phase of the program was separate from the larger intelligence-gathering function, a legal memorandum providing advice based on the combined techniques described in the *Background Paper* specifically notes that no legal guidance was sought on the Capture and Rendition phase.<sup>66</sup> Nonetheless, this aspect of the process made a profound impact on detainees and set the stage for the next phases of the interrogation.

#### A. Capture

The *Background Paper* describes capture as "contribut[ing] to the physical and psychological condition of the HVD prior to the start of interrogation" and notes that there may be "capture shock" for some detainees.<sup>67</sup> According to the *Human Resource Exploitation Training Manual*, authored by the CIA in 1983,<sup>68</sup> the circumstances surrounding the arrest should "achieve

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<sup>63</sup> S. REP. NO. 113-288 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>64</sup> INT'L COMM. OF THE RED CROSS, ICRC REPORT ON THE TREATMENT OF FOURTEEN "HIGH VALUE DETAINEES" IN CIA CUSTODY (2007), <http://www.nybooks.com/media/doc/2010/04/22/icrc-report.pdf>.

<sup>65</sup> Memorandum for Dan Levin, DoJ Command Center, Department of Justice, from Central Intelligence Agency, *Background Paper on CIA's Combined Use of Interrogation Techniques 2* (Dec. 30, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001126.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001126.pdf).

<sup>66</sup> *Id.* at 3.

<sup>67</sup> *Id.*

<sup>68</sup> S. REP. NO. 113-288, Executive Summary, at 19 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.



surprise and the maximum amount of mental discomfort.”<sup>69</sup> This includes capturing the suspect when he least expects it, such as in the early hours of the morning.<sup>70</sup> The manual instructs that “the arresting party should only use sufficient force to effect the arrest. No violence! If they break the subject’s jaw, he will not be able to answer questions during the ‘questioning.’”<sup>71</sup>

However, these guidelines were not always followed. In practice, capture for detainees could mean sustaining serious wounds necessitating emergency medical treatment. In the case of Abu Zubaydah, who was captured in a joint United States and Pakistani raid in March 2002, sustained several bullet wounds in the thigh, groin, and abdomen.<sup>72</sup> The CIA took note of these injuries, including a “large wound in his leg” as they put it, and agents assessed that the medical care they had provided had “saved his life.”<sup>73</sup>

## B. Rendition

The moment the subject is apprehended, he is to be isolated and deprived of sight and sound through the use of blindfolds, earmuffs, and hoods.<sup>74</sup> The detainee is also shackled to the plane, either to a seat or “laid down and strapped to the floor of the plane like cargo”, as the procedure is characterized in the SSCI Report.<sup>75</sup> Detainees are not permitted to use the airplane lavatories, so they are forced to wear diapers during the flight.<sup>76</sup> The detainee’s rendition to the black site includes performing a medical examination prior to the flight, and then putting the detainee in a state of sensory deprivation before shackling them to a plane:

During the flight, the detainee is securely shackled and is deprived of sight and sound through the use of blindfolds, earmuffs, and hoods. . . . There is no interaction with the HVD during this rendition movement except for periodic, discreet [sic] assessments by the on-board medical officer.<sup>77</sup>

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<sup>69</sup> *Human Resource Exploitation Training Manual - 1983*, CIA at F-1 (1983), <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB122/index.htm#hre>.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> S.REP. NO. 113-299, Executive Summary, at 22 (2014).

<sup>73</sup> “CIA Interrogation Techniques: Abu Zubaydah” at \*2,

[https://www.thetorturedatabase.org/files/foia\\_subsite/60.pdf](https://www.thetorturedatabase.org/files/foia_subsite/60.pdf). Despite the severity of his injuries, an April 2002 cable refers to having kept Abu Zubaydah in CIA custody for one month at that point, with the interrogations occupying 12 days of that month. CIA Cable, *Eyes Only – Abu Zubaydah: Establishing the Information Collection Priorities* (Apr. 2002), [https://www.thetorturedatabase.org/files/foia\\_subsite/95o.pdf](https://www.thetorturedatabase.org/files/foia_subsite/95o.pdf).

<sup>74</sup> *Human Resource Exploitation Training Manual - 1983*, CIA at F-6 (1983), <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB122/index.htm#hre>.

<sup>75</sup> S. REP. NO. 113-288, Executive Summary, at 64 n.317 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>76</sup> *Id.*

<sup>77</sup> Memorandum for Dan Levin, DoJ Command Center, Department of Justice, from Central Intelligence Agency, *Background Paper on CIA’s Combined Use of Interrogation Techniques* 3 (Dec. 30, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001126.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001126.pdf).

Abu Zubaydah describes this procedure as extremely painful and difficult to endure. One of these accounts highlights a particularly long rendition between two detention sites during which he was shackled to a chair:

**[I]t was clear to me I was boarding a plane. They brought me inside, sat me down and tightly chained me to a seat in a way that would prevent me from moving at all, I was not even able to move a little forward to relieve my back when needed. One hour went by when I felt that dire need to move a little forward, but to no vain. Long hours elapsed during which I slept and woke up but did not hear the wheels of the plane hitting the ground . . . . I was in such an indescribable state of pain. I could hear somebody moaning and also hear somebody vomiting. It seemed to me it was one of the brothers who got tired from the chains and the long restrained position. Or maybe he needed to use the restroom and, as in my case, he was definitely suffering from refusing to use the diaper.<sup>78</sup>**

**As soon as I heard the plan landing I became optimistic, for I thought that here we have arrived and we can use the restroom (finally). Yet I was wrong, for as soon as we landed . . . we were chained to the floor in a position that was even worse than the sitting position. A long time elapsed . . . . I started counting the time, haven't the [redacted] they mentioned gone by yet? But I had the feeling they already went by on the [redacted] plane. One more time, I could hear sounds coming from the brothers, not only one but more than one brother; one was moaning, another one vomiting and another one screaming: my back, my back!<sup>79</sup>**

After a flight in which Abu Zubaydah was shackled in this position, he reported experiencing back pain for a full week following the rendition.<sup>80</sup> He also describes experiencing bouts of constipation and severe bladder pain as a result of going through frequent renditions.<sup>81</sup> When detainees were not shackled to chairs, they were sometimes shackled in a position on the floor of the plane with their hands behind their backs.<sup>82</sup> The ICRC Report notes that this specific position caused “severe pain and discomfort” for detainees.<sup>83</sup> Abu Zubaydah gives the following account of this position and how he coped with the pain:

**They kept me in that place with my hands tied up behind my back which prevented me from sleeping on my back and they prohibited me from sleeping on my stomach and the large headphones prevented me from lying my head down on neither sides. Therefore I couldn't sleep for even one single instant.**

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<sup>78</sup> Abu Zubaydah Notes at 23.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.* at 24.

<sup>81</sup> *Id.* at 18.

<sup>82</sup> INT'L COMM. OF THE RED CROSS, ICRC REPORT ON THE TREATMENT OF FOURTEEN “HIGH VALUE DETAINEES” IN CIA CUSTODY at 6 (2007), <http://www.nybooks.com/media/doc/2010/04/22/icrc-report.pdf>.

<sup>83</sup> *Id.*

**In order for me to break the pain I started concentrating on the voices I could barely hear.**<sup>84</sup>

Once the detainee arrives at the black site, he is subjected to administrative procedures and medical assessment.<sup>85</sup> The detainee is interviewed by a psychologist to assess his mental state.<sup>86</sup> A Medical Officer interviews the detainee and assesses the detainee's physical condition as well.<sup>87</sup> Additionally, the detainee has their head and face shaved and then is photographed naked in order to document their physical condition.<sup>88</sup> These exams often included anal cavity searches.

#### 4. PERSISTENT CONDITIONING TECHNIQUES

The persistent conditioning techniques—Nudity, Dietary Manipulation, and Sleep Deprivation—were used to reduce detainees to a “baseline, dependent state” where the detainee understands that he has no control over basic human needs.<sup>89</sup> The baseline state is said to create a mindset in which the detainee “learns to perceive and value his personal welfare, comfort, and immediate needs more than the information he is protecting.”<sup>90</sup> These conditions require little to no physical contact between detainee and interrogator.<sup>91</sup> The techniques also “do not generally bring immediate results; rather, it is the cumulative effect of these techniques, used over time and in combination with other interrogation techniques. . . which achieve interrogation objectives.”<sup>92</sup>

By their very nature, these techniques required maintenance of the detainee's living conditions, rather than the performance of a particular activity at a specific time. Because these techniques sometimes required around-the-clock attention, they were easy tasks to outsource to prison guards. Although the DoD did not officially condone this practice, it was nonetheless documented between 2002 and 2004.<sup>93</sup> Official investigations of Abu Ghraib, a facility that held both CIA and military prisoners, found that the guards and CIA agents alike were confused about the boundaries of permissible conduct for the guards and tasked guards with keeping detainees

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<sup>84</sup> *Abu Zubaydah Notes* at 14.

<sup>85</sup> Memorandum for Dan Levin, DoJ Command Center, Department of Justice, from Central Intelligence Agency, *Background Paper on CIA's Combined Use of Interrogation Techniques 2* (Dec. 30, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001126.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001126.pdf).

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.* at 4.

<sup>90</sup> *Id.*

<sup>91</sup> Memorandum for Dan Levin, DoJ Command Center, Department of Justice, from Central Intelligence Agency, *Background Paper on CIA's Combined Use of Interrogation Techniques 5* (Dec. 30, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001126.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001126.pdf).

<sup>92</sup> *Id.*

<sup>93</sup> *See, e.g.,* Maj. Gen. Antonio Taguba, Article 15-6 Investigation of the 800th Military Police Brigade 18-19 (2004), <https://fas.org/irp/agency/dod/taguba.pdf>.

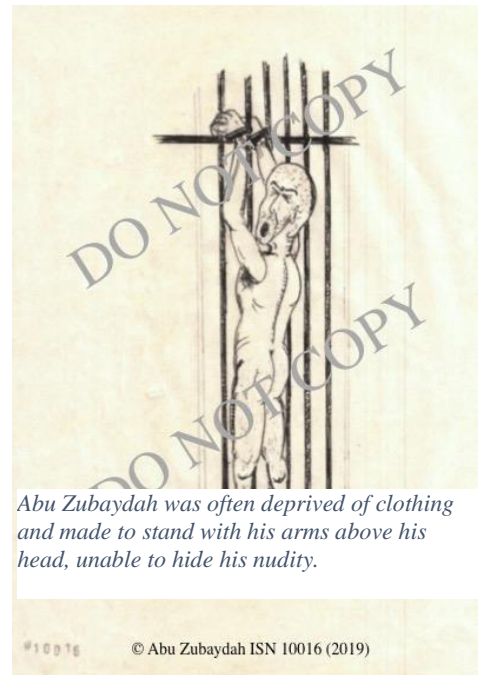
pliable for interrogators.<sup>94</sup> Thus, while the EITs were intended to be used by interrogators in a controlled setting in general, when applied to the context of the global war on terror and the Iraq War, the persistent conditioning techniques functioned more as baseline deprivations in a detainee's living conditions, enforced by the people charged with the care and protection of the detainees.

### A. Nudity

The use of nudity was never approved by the Department of Justice, either in the Torture Memos or elsewhere.<sup>95</sup> Despite this, nudity was utilized from the start of the program.<sup>96</sup> The CIA "routinely subjected detainees to nudity," either fully or partially, and often with the detainees' arms shackled above their heads.<sup>97</sup> Other than the legal limitations on torture in general, the CIA never noted a particular extent to which nudity could be used.<sup>98</sup>

Nudity was officially approved for use in June 2004.<sup>99</sup> By 2005, it was under review and by October 2006, it was officially dropped as an approved form of torture.<sup>100</sup> However, from 2002 through 2004, nudity was nonetheless utilized on a regular basis.<sup>101</sup> While nudity could be used as a standard condition for detainees, it could also be provided and removed as an incentive for cooperation. Abu Zubaydah describes this practice in emotional terms:

**They came back later and gave me very light clothes that looked more like underwear- short large pants, and a sleeveless shirt that had no buttons, a "tee shirt". I said to myself "Praise God, I am finally able to cover my genitals." The interrogators showed up and started a very long and harsh interrogation session during which they**



<sup>94</sup> See Maj. Gen. Antonio Taguba, Article 15-6 Investigation of the 800th Military Police Brigade at 18-19 (2004), <https://fas.org/irp/agency/dod/taguba.pdf>; Maj. Gen. George Fay, *AR 15-6 Investigation of 205th Military Intelligence Brigade's Activities in Abu Ghraib Detention Facility and 205th Military Intelligence Brigade* at 8-10 (2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/fay\\_jones\\_kern\\_report.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/fay_jones_kern_report.pdf).

<sup>95</sup> S.REP. NO. 113-299, Findings & Conclusions, at 12 (2014).

<sup>96</sup> CIA, Chronology of CIA High Value Detainee Interrogation Technique, 2 (2002). [https://www.thetorturedatabase.org/files/foia\\_subsite/8\\_0.pdf](https://www.thetorturedatabase.org/files/foia_subsite/8_0.pdf).

<sup>97</sup> S.REP. NO. 113-299, Executive Summary, at 82 (2014).

<sup>98</sup> *Id.* at 63.

<sup>99</sup> CIA, Chronology of CIA High Value Detainee Interrogation Technique, 2 (2002). [https://www.thetorturedatabase.org/files/foia\\_subsite/8\\_0.pdf](https://www.thetorturedatabase.org/files/foia_subsite/8_0.pdf).

<sup>100</sup> *Id.* at 3.

<sup>101</sup> *Id.*



**screamed at my face and said to me: “The good treatment is not going to work with you. We gave you clothes.” They then left. The guards then came in and stood me up on my feet in a way where I could no longer sit down nor bend over and my hands were held high and I could bring them down. They covered my head with a fabric hood. A man came and started screaming loudly and shoving me violently and started violently and quickly cutting my clothes. I felt at that moment he was cutting my skin.**<sup>102</sup>

According to the SSCI Report, nudity was also combined with cold temperatures and cold showers.<sup>103</sup> The CIA implemented temperature control techniques with nudity as a form of counter-resistance.<sup>104</sup> This technique typically involved keeping a detainee naked and subjecting him to cold temperatures in confinement, cold showers, or dousing him repeatedly with cold water with the purpose of lowering the detainee’s resistance.<sup>105</sup> In addition, detainees were kept nude to “renew ‘capture shock’ and to incentivize good behavior.”<sup>106</sup> The CIA employed this technique to aid in exposure to cold weather and water.<sup>107</sup>

When combined with the use of cold showers and cold temperatures, nudity could be deadly. As noted earlier, detainee Gul Rahman died from hypothermia because he was stripped of his clothing and shackled in a painful position that required him to sit naked on a bare concrete floor.<sup>108</sup> The CIA ordered that Rahman’s clothing (a single sweatshirt with no garments from the waist down), be removed when he had been judged to be uncooperative during an earlier interrogation.<sup>109</sup>

Prior to any discussion with interrogators or any assessment of his level of cooperation, Ramzi Bin al Shibh was shackled nude with his arms hanging overhead in a cold room.<sup>110</sup> The initial interrogation plan for Bin al Shibh was to subject him to sensory dislocation by “keeping him ‘unclothed and subjected to uncomfortably cool temperatures,’ and shackling him ‘hand and foot with arms outstretched over his head.’”<sup>111</sup> Only after the interrogators determined that his “initial resistance level has been diminished by the conditions” would the questioning and interrogation phase begin.<sup>112</sup>

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<sup>102</sup> *Abu Zubaydah Notes* at 6,

<sup>103</sup> S.REP. NO. 113-299, Executive Summary, at 63 (2014).

<sup>104</sup> Memorandum from General Counsel William Hayes on the Department of Defense Action, 12-14 (2002).

<sup>105</sup> S.REP. NO. 113-299, Findings & Conclusions, at 82 (2014).

<sup>106</sup> David Rosen, *Sexual Torture*, (May 15, 2009), <https://www.counterpunch.org/2009/05/15/sexual-torture>.

<sup>107</sup> Category I- During initial category of interrogation the detainee should be provided a chair and the environment should be generally comfortable. The format of the interrogation is the direct approach. Category II- Must be used with the permission of the OIC. Category III- Need approval from Direct (and other commanding bodies), to be used for a very small percentage of the most uncooperative detainees. Memorandum from General Counsel William Hayes on the Department of Defense Action, 12-14 (2002).

<sup>108</sup> S.REP. NO. 113-299, Executive Summary, at 84 (2014).

<sup>109</sup> *Id.* at 54.

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *Id.* at 77.

## B. Dietary Manipulation

The 2003 Guidelines for standard interrogation techniques provided for a “reduced caloric intake (so long as the amount is calculated to maintain the general health of the detainee).”<sup>113</sup> The guidelines also required medical and psychological personnel to be present to monitor dietary manipulations.<sup>114</sup> These personnel were required to suspend the technique if physical or mental injury was occurring.<sup>115</sup> According to the government, the medical personnel also ensured that the detainee’s “intake of fluids and nutrition are adequate.”<sup>116</sup>

Given that there were no bright-line definitions for an adequate diet or a diet that would maintain the general health of the detainee, it is easy to see how interrogators could push the limits of these guidelines. So long as the detainee was given *some* form of sustenance periodically, the diet would fit the vague category of “reduced caloric intake.” Moreover, although the guidelines emphasize maintaining the health of the detainee, the method’s inclusion in the plan to bring the detainee to a dependent state implies that dietary manipulation was intended to be unpleasant.

The CIA description of a minimum calorie intake was incongruent with the history of the program, as no minimum calorie intake existed prior to May 2004 and the March 2003 draft OMS guidelines allowed for food to be withheld for one two days.<sup>117</sup>

In addition, the necessity of a liquid diet for successful waterboarding implies that the health of the detainee was not the motivation for the diet of Ensure and water.

As we discussed in Techniques, you have informed us that an individual undergoing the waterboard is always placed on a liquid diet before he may be subjected to the waterboard in order to avoid the aspiration of food. The individual is kept on the fluid diet throughout the period the waterboard is used.<sup>118</sup>

**Indeed that was the first time and the first day that I felt I was going to die from drowning . . . All I know or remember is that I started vomiting water but also rice and string beans.**<sup>119</sup>

The SSCI report also noted a discrepancy in the government’s stated purpose for forcing a liquid diet:

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<sup>113</sup> CIA, DCI Guidelines For the Conduct of Interrogations 2 (January 31, 2003), [https://www.thetorturedatabase.org/files/foia\\_subsite/cia\\_22\\_29.1.pdf](https://www.thetorturedatabase.org/files/foia_subsite/cia_22_29.1.pdf).

<sup>114</sup> *Id.*

<sup>115</sup> Letter from Dan Levin, Former Acting Assistant Attorney General, to John Rizzo, Former Acting General Counsel, CIA 2 (Aug. 26, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001102.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001102.pdf)

<sup>116</sup> *Id.*

<sup>117</sup> S.REP. NO. 113-299, Findings & Conclusions, at 414-15,(2014), <https://www.aclu.org/files/assets/SSCIStudyCIAsDetentionInterrogationProgramES.pdf>.

<sup>118</sup> Memorandum from John A. Rizzo, Senior Deputy General Counsel, CIA, 9 (May 10, 2005) ([https://www.thetorturedatabase.org/files/foia\\_subsite/20.pdf](https://www.thetorturedatabase.org/files/foia_subsite/20.pdf))

<sup>119</sup> *Abu Zubaydah Notes* at 10.

Government: “And, in the section [of the ICRC report] on medical care, the report omits key contextual facts. For example, Abu Zubaydah's statement that he was given only Ensure and water for two to three weeks fails to mention the fact that he was on a liquid diet [was] quite appropriate because he was recovering from abdominal surgery at the time”<sup>120</sup>

Actualty: “This testimony is inaccurate. CIA records detail how Abu Zubaydah was fed solid food shortly after being discharged from the hospital in April 2002. In August 2002, as part of the CIA's enhanced interrogation techniques, Abu Zubaydah was placed on a liquid diet of Ensure and water as both an interrogation technique, and as a means of limiting vomiting during waterboarding. In planning for the interrogation of subsequent detainees, the CIA determined that it would use a "liquid diet." At least 30 CIA detainees were fed only a liquid diet of Ensure and water for interrogation purposes.”<sup>121</sup>

According to Abu Zubaydah's recollections, in the beginning of his imprisonment, there were days where he was given absolutely no food or water.<sup>122</sup> When he was given sustenance during periods of interrogation, it was Ensure or water.<sup>123</sup> He often vomited after drinking the Ensure.<sup>124</sup> As a result, he was hungry most of the time. Abu Zubaydah notes that interrogators started giving him small solid meals every day once it became clear that he was starving.<sup>125</sup> Within the guidelines, interrogators could also present bland and unappetizing food. Abu Zubaydah recalls that his meals consisted of plain, unseasoned white rice which “tasted like cotton.”<sup>126</sup> He ate the bland rice regardless just to help with the hunger pains.<sup>127</sup>

The most pervasive consequence of the dietary manipulation for Abu Zubaydah and other's is a prolonged and nagging hunger that leads to stomach pains and persistent headaches. For Abu Zubaydah in particular, the liquid diet led to recurring bouts of vomiting which were persistent and painful.<sup>128</sup> Many studies have shown that persistent hunger or starvation have other consequences:

Although hunger is normally a feeling associated with the stomach, hunger also directly affects the brain in several ways. Due to the lack of essential nutrients, vitamins, protein and minerals, severe and continuous hunger can inhibit the brain

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<sup>120</sup> S.REP. NO. 113-299, Executive Summary, at 493 (2014).

<sup>121</sup> *Id.*

<sup>122</sup> *Abu Zubaydah Notes* at 6.

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> *Id.* at 7.

from developing cognitively, socially and emotionally, all of which affect an individual's ability to read, concentrate, memorize and even speak.<sup>129</sup>

Excessive vomiting, especially over a prolonged period of time, leads to excess loss of water and electrolytes from the body. Electrolytes such as sodium, potassium, calcium, magnesium, bicarbonates and chloride ions are essential for normal bodily functions. As water is lost during vomiting, the delicate balance of electrolytes is also altered, which can lead to severe complications.<sup>130</sup>

### C. Sleep Deprivation

The CIA's stated purpose for sleep deprivation is to "reduce the individual's ability to think on his feet and, through the discomfort associated with lack of sleep, to motivate him to cooperate."<sup>131</sup> Although the CIA did not prescribe guidelines for how to keep a detainee awake, Assistant Attorney General Jay Bybee was orally informed that Abu Zubaydah would not be kept awake for more than 11 days.<sup>132</sup> Based on the accounts of various detainees, sleep deprivation varied from 7 days of continued wakefulness to intermittent sleep deprivation for up to three months.<sup>133</sup> In order to be kept awake, detainees were often doused with cold water, shackled in stress positions, forced to listen to loud music, exposed to bright flashing lights, and kept cold and hungry, in addition to many other methods. Throughout 2003, the interrogators used the "frequent flyer program," where "detainees were subjected to cell moves every few hours to disrupt sleep patterns and lower the ability to resist interrogation."<sup>134</sup>

**I was deprived from sleep for a long period of time; I don't even know for how long; maybe two or three weeks or even more and it felt like an eternity to the point that I found myself falling asleep despite the water being thrown at me by the guard who found himself with no choice but to strongly and constantly shake me in order to keep me awake. So I couldn't even sleep for a short**

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<sup>129</sup> Meghan Orner, *The Effects of Hunger*, Borgen Project (last visited November 17, 2018), <https://borgenproject.org/effects-hunger>.

<sup>130</sup> Ananya Mandal, *Vomiting Complications*, News Medical, August 23, 2018, <https://www.news-medical.net/health/Vomiting-Complications.aspx>.

<sup>131</sup> Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, *Re: Interrogation of al Qaeda Operative*, 3 (Aug. 1, 2002) <https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>.

<sup>132</sup> *Id.*

<sup>133</sup> International Committee of the Red Cross, Report on the Treatment of Fourteen "High-Value Detainees" in CIA Custody, 15 (Feb. 2007) (<http://assets.nybooks.com/media/doc/2010/04/22/icrc-report.pdf>).

<sup>134</sup> John Furlow & Randall Schmidt, *Investigation into FBI Allegations of Detainee Abuse at Guantanamo Bay, Cuba Detention Facility*, 10-1 (Apr. 1, 2005), [http://humanrights.ucdavis.edu/resources/library/documents-and-reports/schmidt\\_furlow\\_report.pdf](http://humanrights.ucdavis.edu/resources/library/documents-and-reports/schmidt_furlow_report.pdf).



**second. Then I got used to the shaking just as I got used to the water being thrown at me, so I was able to sleep for a second.**<sup>135</sup>

**They started coming inside the cell and standing me up on my feet for few instants and then putting me on a chair to prevent me from sleeping. I even found myself during interrogation sessions falling asleep maybe for two or three seconds and they did their best to prevent me from adding more seconds by pouring water on me to wake me. Sometime I wouldn't wake up, so they would force me to walk on my wounded leg and I would fall and then they would take me back to the chair and resume their continuous interrogation.**<sup>136</sup>

In the original proposed EITs, “standard” sleep deprivation meant up to seventy-two hours awake, which did not require approval. “Enhanced” sleep deprivation meant anything more than seventy-two hours.<sup>137</sup> In December 2003, this distinction was reduced from seventy-two hours to forty-eight hours.<sup>138</sup> This type of time constraint allowed the interrogators to stay within the guidelines, yet use them to their advantage. In one case, a detainee kept awake for seventy hours was allowed four hours of sleep so the interrogator did not reach the “enhanced” sleep deprivation threshold of seventy-two hours which required approval.<sup>139</sup> Then, the detainee was forced to stay awake in a standing position for twenty-three hours and in a seated position for the following twenty hours. The detainee only had one leg.<sup>140</sup> Much later, in July 2007, sleep deprivation was limited to no more than 180 hours (7.5 days) in a thirty-day period.<sup>141</sup>

When the CIA asked Assistant Attorney General Jay Bybee for his “views on whether certain proposed conduct would violate the prohibition against torture,” the CIA provided facts and the results of their research.<sup>142</sup> The CIA admitted that sleep deprivation can induce hallucinations; however, “those who experience such psychotic symptoms have almost always had such episodes prior to the sleep deprivation.”<sup>143</sup>

**[T]hey started allowing me to sleep a very little after I started ‘hallucinating’ and my words and behavior became all confused.**<sup>144</sup>

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<sup>135</sup> *Abu Zubaydah Notes* at 3.

<sup>136</sup> *Id.*

<sup>137</sup> Chronology of CIA High Value Detainee Interrogation Technique, 6 (Dec. 20 2016).  
[https://www.thetorturedatabase.org/files/foia\\_subsite/8\\_0.pdf](https://www.thetorturedatabase.org/files/foia_subsite/8_0.pdf)

<sup>138</sup> *Id.*

<sup>139</sup> S.REP. NO. 113-299, Executive Summary, at 117 (2014),  
<https://www.intelligence.senate.gov/sites/default/files/publications/CRPT-113srpt288.pdf>.

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, *Re: Interrogation of al Qaeda Operative*, 1 (Aug. 1, 2002) (<https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>).

<sup>143</sup> *Id.* at 6.

<sup>144</sup> *Abu Zubaydah Notes* at 3.

The CIA also reported that “the studies of lengthy sleep deprivation showed no psychosis, loosening of thoughts, flattening of emotions, delusions, or paranoid ideas.”<sup>145</sup> These are highly specific symptoms to report *not* happening. The CIA also referenced a case where after eleven days of sleep deprivation, no psychosis or permanent brain damage occurred.<sup>146</sup>

**Then the doctor came in and examined me and then he started making signals to them without saying anything as if he was trying to tell them: ‘he needs to sleep, otherwise he would go crazy.’ . . . They chained me and let me fall asleep . . . I slept interruptedly. . . They then brought me back to the chair for more interrogation and said ‘You are gonna have to pay for falling asleep.’ And indeed they made me pay for it.**<sup>147</sup>



*To keep him from falling asleep, interrogators cycled Abu Zubaydah through different positions, including shackling him to a chair with a hole and bucket for his urine and feces.*

The Senate Select Committee on Intelligence found that the “interrogations of CIA detainees were brutal and far worse than the CIA represented to policymakers and others.”<sup>148</sup> At least five detainees experienced “disturbing” hallucinations during prolonged sleep deprivation (e.g., one detainee was “visibly shaken” by his hallucination of dogs mauling and killing his sons and family).<sup>149</sup> In at least two of those cases, the CIA continued the sleep deprivation.<sup>150</sup>

Perhaps the reason the CIA’s research into the effects of sleep deprivation was trifling was because experiments testing the effects of being awake for more than 72 hours are rare. In 1984, a researcher kept ten puppies awake for 96 to 120 hours.<sup>151</sup> The study ended because all of the puppies died.<sup>152</sup> Another attempt to study the effects on dogs ended with all of the dogs

dying after 9 to 17 days awake.<sup>153</sup> Experiments using rats have also had the same results, with all dying after 11 to 32 days.<sup>154</sup>

<sup>145</sup> Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, *Re: Interrogation of al Qaeda Operative*, 6 (Aug. 1, 2002) (<https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>).

<sup>146</sup> *Id.*

<sup>147</sup> *Abu Zubaydah Notes* at 4.

<sup>148</sup> S.REP. NO. 113-299, Executive Summary, at 3 (2014).

<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

<sup>151</sup> M. Bentivoglio & G. Grassi-Zucconi, *The pioneering experimental studies on sleep deprivation*, 20 SLEEP 570–576 (1997).

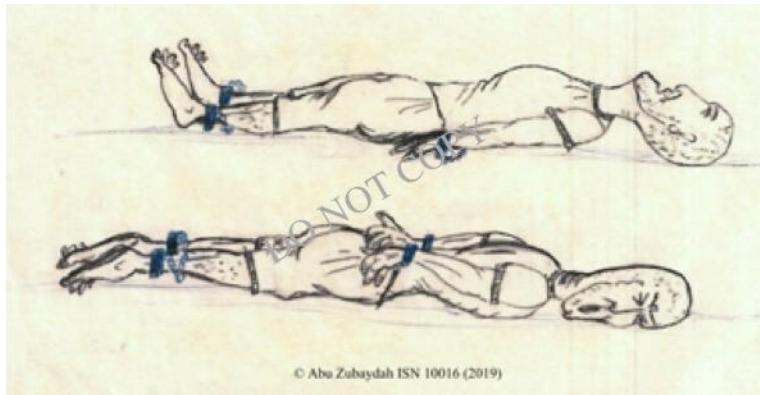
<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

<sup>154</sup> Everson CA al et, SLEEP DEPRIVATION IN THE RAT: III. TOTAL SLEEP DEPRIVATION. - PUBMED - NCBI, <https://www.ncbi.nlm.nih.gov/pubmed/2928622> (last visited Nov 26, 2018).

**Honestly, what happened here is that half of what was happening to me was the result of a breakdown and the other half was the result of letting myself go. When they would pour cold water on me to wake me I would find myself waking up as a normal reaction yet I would refuse to open my eyes and not because I wanted to challenge them but I was just hoping I could let myself go into this state of sleepiness that took control over me. I just wanted to sleep for one more beautiful second before they realized I was sleeping.**<sup>155</sup>

The longest documented period without sleep is attributed to Randy Gardner, a high school student from California who wanted to break the Guinness World Record for a science fair project.<sup>156</sup> He



*Countless methods of sleep deprivation could be invented, including "horizontal sleep deprivation," where the detainee is laying down but too uncomfortable to sleep.*

was awake for 264.4 hours (eleven days, twenty-four minutes).<sup>157</sup>

By the eleventh day of Gardner's wakefulness, he had an expressionless appearance, his speech was slurred and monotonous, and he had to be encouraged to get him to respond at all.<sup>158</sup> He also experienced memory lapses, difficulty concentrating, and difficulty naming common objects unless he was touching them.<sup>159</sup>

Throughout his wakefulness, he experienced paranoia, delusions, hallucinations, and disassociation.<sup>160</sup>

There are many common symptoms that were not mentioned in the brief report documenting Gardner's experiment.<sup>161</sup> After one night, people experience mood changes, such as aggression, anger, hostility, apathy, anxiety, and depression.<sup>162</sup> Sleep deprivation also causes a decreased threshold for pain.<sup>163</sup>

<sup>155</sup> Abu Zubaydah Notes at 4

<sup>156</sup> John J. Ross, *Neurological Findings After Prolonged Sleep Deprivation*, 12 ARCH NEUROL 399–403 (1965), <https://jamanetwork.com/journals/jamaneurology/fullarticle/565718>.

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

<sup>161</sup> *Id.*

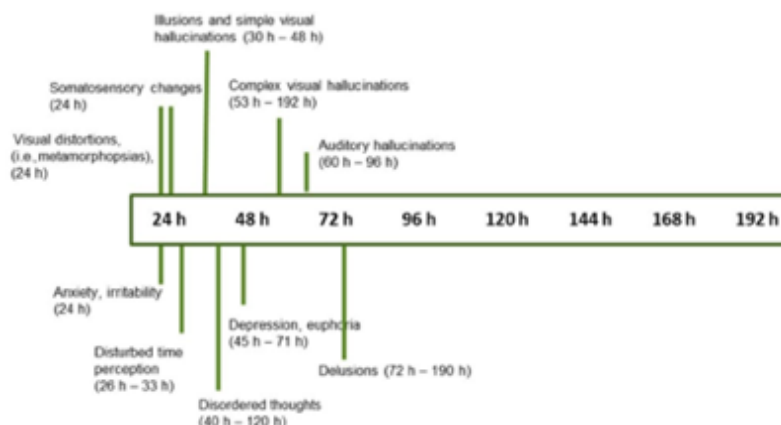
<sup>162</sup> Flavie Waters et al., *Severe Sleep Deprivation Causes Hallucinations and a Gradual Progression Toward Psychosis With Increasing Time Awake*, 9 FRONT. PSYCHIATRY (2018), <https://www.frontiersin.org/articles/10.3389/fpsy.2018.00303/full>.

<sup>163</sup> The effects of total sleep deprivation, selective sleep interruption and sleep recovery on pain tolerance thresholds in healthy subjects (2001). <https://onlinelibrary.wiley.com/doi/abs/10.1046/j.1365-2869.2001.00240.x>

**Well, how could I sleep with all the nightmares and the pain that became so impossible for me to know its sources.<sup>164</sup>**

Despite what the CIA reported, hallucinations after a period of sleep deprivation have been reported in individuals with no history of mental illness.<sup>165</sup> Disordered thoughts and delusions gradually but consistently increase in frequency over time, until the fifth day (sometimes called the “turning point”), characterized by a sudden deterioration of participants’ mental health and the demonstration of acute psychotic symptoms with persistent hallucinations, delusions, and aggressions.”<sup>166</sup> After only forty-three hours without sleep, subjects experience greater suggestibility when interrogated.<sup>167</sup> A period of normal sleep served to resolve psychotic symptoms in many, although not all, cases.<sup>168</sup>

The final effects to appear were psychotic symptoms such as thought disorder, and delusions. After [five] days, a clinical picture resembling that of acute psychosis or toxic delirium appeared. The finding that sleep deprivation can apparently produce symptoms of acute psychosis in healthy individuals adds to the evidence linking sleep and psychosis. In support, various studies show that prolonged sleep loss is both a precursor and precipitant to psychosis.<sup>169</sup>



*Progression of symptom onset as a function of wakefulness duration, with time range at which symptoms were first reported.<sup>170</sup>*

<sup>164</sup> Abu Zubaydah Notes at 12

<sup>165</sup> Flavie Waters et al., *Severe Sleep Deprivation Causes Hallucinations and a Gradual Progression Toward Psychosis With Increasing Time Awake*, 9 FRONT. PSYCHIATRY (2018), <https://www.frontiersin.org/articles/10.3389/fpsyt.2018.00303/full>.

<sup>166</sup> *Id.* at 7-9.

<sup>167</sup> Mark Blagrove, *Effects of length of sleep deprivation on interrogative suggestibility*, 2 JOURNAL OF EXPERIMENTAL PSYCHOLOGY: APPLIED 48-59 (1996).

<sup>168</sup> *Id.*

<sup>169</sup> Flavie Waters et al., *Severe Sleep Deprivation Causes Hallucinations and a Gradual Progression Toward Psychosis With Increasing Time Awake*, 9 FRONT. PSYCHIATRY (2018), <https://www.frontiersin.org/articles/10.3389/fpsyt.2018.00303/full> (last visited Nov 13, 2018).

<sup>170</sup> *Id.*



#### D. Loud Music Interrogation

The government's torture program outlines loud music interrogation in the following manner: HVD will be exposed to white noise/loud sounds (not to exceed seventy-nine decibels.)<sup>171</sup> "These conditions provide operational security: white noise/loud sounds mask staff member conversations and deny the HVD any auditory clues about his surroundings and deter/disrupt potential efforts to communicate with other detainees."<sup>172</sup>

Based on the government's instructions, loud music interrogation appears relatively benign, restricted only to white noise/loud sounds, with a decibel limit, and for the purpose of maintaining security.<sup>173</sup> However, the statements of several Guantanamo detainees evidence a much more sinister form of loud music interrogation, enhanced and developed to torture detainees.<sup>174</sup> These detainees present harrowing stories of being driven to madness, sleeplessness, and terrible pain by the relentless use of loud music as a form of torture.<sup>175</sup> For some detainees, the most maddening part of the loud music torture was the repetitiveness and volume of the music.<sup>176</sup>

Moazzam Begg said, "[o]nce they even played the Bee Gees' *Saturday Night Fever* soundtrack all night long. 'Hardly,' I thought, 'enough to break anyone I knew.' . . . 'We'll talk. We'll all talk,' I said in half jest when they played it, 'just turn that crap off please!'" But as the torture began to stretch on, it became unbearable:

It was terrible, there was no light at all, it was so tight, so hot, sitting in there. You can't see or do anything, nothing to see, nobody to talk to, nothing to do but bang the walls. And then to have the music blasting . . . I met several people who'd been

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<sup>171</sup> Memorandum for Dan Levin, DoJ Command Center, Department of Justice, from Central Intelligence Agency, *Background Paper on CIA's Combined Use of Interrogation Techniques* 4 (Dec. 30, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001126.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001126.pdf).

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> Tom Barnes, *11 Popular Songs the CIA Used to Torture Prisoners in the War on Terror* (Apr 22, 2014), <https://mic.com/articles/87851/11-popular-songs-the-cia-used-to-torture-prisoners-in-the-war-on-terror#.btovNQN9C> (last visited Nov 12, 2018)

<sup>175</sup> *Id.*

<sup>176</sup> See Binyam Mohamed's and Moazzam Begg's accounts and see also the following: Ruhai Ahmed (referring to "Take Your Best Shot" by Dope), said, "I can bear being beaten up, it's not a problem. Once you accept that you're going to go into the interrogation room and be beaten up, it's fine. You can prepare yourself mentally. But when you're being psychologically tortured, you can't. It makes you feel like you are going mad. You lose the plot, and it's very scary to think you might go crazy because of all the music, because the loud noise and because after a while you don't hear the lyrics at all, all you hear is heavy banging." Tom Barnes, *11 Popular Songs the CIA Used to Torture Prisoners in the War on Terror* (Apr 22, 2014), <https://mic.com/articles/87851/11-popular-songs-the-cia-used-to-torture-prisoners-in-the-war-on-terror#.btovNQN9C> (last visited Nov 12, 2018)

in there . . . [who were] ready to tell the Americans anything they wanted, whether it was true or not.<sup>177</sup>

By Begg's own account, the effect of the loud music torture was so unyieldingly horrific that anyone would say anything just to make it stop. This calls into question the efficacy of the loud music interrogation program as well as the reliability of the results obtained therefrom. If detainees are telling Americans what they wanted, then surely what the detainees told the Americans must be taken, at the very least, with skepticism. Detainees' admissions were largely done to simply make the music stop.

Guards played "Zikrayati (My Memories)" by Mohamed al Qahtani with the apparent goal of exploiting Muslim cultural taboos and guilt involved with enjoying music on certain holy days.<sup>178</sup> Specifically, guards played this song for al Qahtani during the first day of Ramadan, causing him to cry out "that it was a violation of Islam law to listen to Arab music" during Ramadan."<sup>179</sup>

Like many other forms of interrogation used in Guantanamo, the loud music interrogation was employed in conjunction with other forms of torture. The musical torture used against al Qahtani, coupled with the sexually charged actions of the female soldiers,<sup>180</sup> such as female military personnel going shirtless during interrogations,<sup>181</sup> giving forced lap dances,<sup>182</sup> and rubbing red liquids on the detainees which they identified as menstrual blood,<sup>183</sup> the sexually explicit lyrics of the Christina Aguilera song,<sup>184</sup> and the playing of music during Ramadan<sup>185</sup> was also part of the interrogators' apparent goal of demeaning al Qahtani as a Muslim, by forcing him into situations where he would be in violation of Islamic law.<sup>186</sup>

Another example of the torture techniques working in tandem is the sleep deprivation caused by the loud music interrogation.<sup>187</sup> Several detainees, including Haj Ali, recount how the music was excruciatingly loud and would go for "a day and a night," which in turn could be a form of sleep deprivation.<sup>188</sup> The music would be so loud as to make it impossible for the detainees to fall asleep.<sup>189</sup> Finally, as for Abu Zubaydah, the following was reported:

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<sup>177</sup> Tom Barnes, *11 Popular Songs the CIA Used to Torture Prisoners in the War on Terror* (Apr 22, 2014), <https://mic.com/articles/87851/11-popular-songs-the-cia-used-to-torture-prisoners-in-the-war-on-terror#.btovNQN9C> (last visited Nov 12, 2018)

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> *Id.*

<sup>181</sup> *Id.*

<sup>182</sup> *Id.*

<sup>183</sup> Tom Barnes, *11 Popular Songs the CIA Used to Torture Prisoners in the War on Terror* (Apr 22, 2014), <https://mic.com/articles/87851/11-popular-songs-the-cia-used-to-torture-prisoners-in-the-war-on-terror#.btovNQN9C> (last visited Nov 12, 2018)

<sup>184</sup> *Id.*

<sup>185</sup> *Id.*

<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> Begg, referring to "The Beautiful People" by Marilyn Manson, stated, "Sometimes it would stop at 3 a.m. or so, but your ability to sleep was already disturbed. You lose the ability to have a routine sleep. ... The other thing that

While Abu Zubaydah was still hospitalized, recovering from his injuries sustained in the raid, the CIA proposed changing the methods used for his interrogation from the FBI's rapport-building techniques to keeping him in an all-white room, lit [twenty-four] hours per day, without amenities, disrupting his sleep, constantly playing loud noise, and only permitting a small number of people to interact with him.<sup>190</sup>

In April 2002, Abu Zubaydah was transferred to a cell that was 'white with no natural lighting or windows, but with four halogen lights pointed into the cell.' Constant noise was played.<sup>191</sup>

The noise is described as "constant," which ties into the accounts of the other detainees as mentioned above. The noise becomes aggressively intrusive and terribly painful. This is partially why the Barney theme was the most overused, playing the song constantly turned it into a weapon of torture. Abu Zubaydah describes this feeling extensively:

**[A]fter one day, I became confident that [the music] was not a good sign but rather a sign of a disaster approaching. As soon as the very loud music started and as soon as the very disturbing singing started along with the loud noise, I started feeling pain in my ears. I started realizing the difference between the device that was, despite its loud and disturbing noise, it was monotonous: Boum! Boum! Boum! Boum! Boum! All the time, and this one with the music that was a collection of tunes for every second: boum, then zen, then zzzzz, then wezzzz, and those lyrics that had one tune. I felt my brain was going up and down and left and right. The singing consisted of one single song that would end with one loud long screaming. The song would last 5 to 10 minutes and was played again and again non stop to the point that on the first day I became afraid to reach the moment when the song would end, for the end sounded like a screaming. I started trying to distract my mind in order to avoid feeling the end of the song coming and I finally found myself screaming along with it. As soon as the song would end with this long screaming, I would scream myself.**<sup>192</sup>

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they did was play the music at various times ... the random aspect of when it would start or end was frustrating, makes you tired, agitated, upset, on top of all the other situations of not knowing when you're going to be released, interrogated, or moved to those cells. Many people suffered from various kinds of anxiety attacks. People hyperventilated, losing control of their senses, hitting their bottle of water against the cell, against other people, trying to scrape their hands against the concertina wire, sometimes breaking down and crying."

Tom Barnes, *11 Popular Songs the CIA Used to Torture Prisoners in the War on Terror* (Apr 22, 2014), <https://mic.com/articles/87851/11-popular-songs-the-cia-used-to-torture-prisoners-in-the-war-on-terror#.btovNQ9C> (last visited Nov 12, 2018).

<sup>190</sup> S.REP. NO. 113-299, Executive Summary, at 26 (2014).

<sup>191</sup> *Id.* at 28.

<sup>192</sup> *Abu Zubaydah Notes* at 4. Note here the similarities to how the music torture affected Zayn and how it affected the other detainees. There are common themes of the music becoming unbearable very quickly, of the detainees exposed to the music either losing their minds or being on the verge of losing their minds. For Zayn, as for the other detainees who were tortured through music, the experience was harrowing.

In sum, loud music is a vicious form of torturing detainees which drove many to madness or sleeplessness while forcing others to violate the strict tenets of their faith. Above all, detainees went against themselves to say anything, true or not, simply to stop loud music interrogation.<sup>193</sup>

## 5. PHYSICAL CONTACT TECHNIQUES

The techniques that use physical contact<sup>194</sup>—the Insult Slap, Abdominal Slap, Facial Hold, and Attention Grasp—are used to shock detainees and to contribute to an atmosphere in which the detainee is acutely aware that he has no control over what happens to him.<sup>195</sup> The techniques are “not used simultaneously but are often used interchangeably during an individual interrogation session.”<sup>196</sup> The CIA categorized them as “Corrective Techniques” because they were meant to “correct” a detainee who is not participating in the session as the interrogator would like him to, or who has fallen asleep.

Breaking the pattern established in the other techniques of using open and vague language to permit a wide range of permutations, the physical contact techniques are described much more narrowly and stay truer to the techniques’ origins in the SERE program. The major departure, however, was that the CIA used these techniques many times and in quick succession.

Whether or not permission to use physical contact on detainees opened the door to beatings and other forms of prisoner abuse is debatable. Reports by FBI agents and detainees corroborate that interrogators and guards sometimes crossed the line between the permissible physical contact outlined below and prohibited physical contact that would constitute abuse or assault.<sup>197</sup> The following descriptions only refer to legal and official EITs described in the original memo.

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<sup>193</sup> See also John Oliver, *Guantánamo: Last Week Tonight with John Oliver (HBO)*, YouTube (Oct 9, 2016), <https://www.youtube.com/watch?v=KEbFtMgGhPY&t=3s>; John Oliver, *Torture: Last Week Tonight with John Oliver (HBO)*, YouTube (June 14, 2015) [https://www.youtube.com/watch?v=zmeF2rzsZSU\\_](https://www.youtube.com/watch?v=zmeF2rzsZSU_).

<sup>194</sup> Although other techniques use physical contact with the detainee during an interrogation, such as walling a detainee or shackling him into a stress position, these are categorized under the separate umbrella of “Coercive Techniques,” which covers a more extreme set of techniques.

<sup>195</sup> Memorandum for Dan Levin, DoJ Command Center, Department of Justice, from Central Intelligence Agency, *Background Paper on CIA’s Combined Use of Interrogation Techniques* 4-5 (Dec. 30, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001126.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001126.pdf).

<sup>196</sup> *Id.* at 5.

<sup>197</sup> See, e.g., INT’L COMM. OF THE RED CROSS, ICRC REPORT ON THE TREATMENT OF FOURTEEN “HIGH VALUE DETAINEES” IN CIA CUSTODY 13 (2007) (“Nine of the fourteen [HVDs] alleged that they had been subjected to daily beatings during the initial period, involving repeated slapping, punching and, less often, kicking, to the body and face . . .”), <http://www.nybooks.com/media/doc/2010/04/22/icrc-report.pdf>; S. REP. NO. 113-288, Executive Summary, at 56 n.278 (2014) (a CIA contractor describes the “rough takedown,” a procedure wherein guards cut off a detainee’s clothing with scissors, run him up and down hallways, and slap and punch him repeatedly), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>; *A Review of the FBI’s Involvement in and Observations of Detainee Interrogations in Guantanamo Bay, Afghanistan, and Iraq*, Office of the Inspector General, U.S. DEP’T. OF JUSTICE 174 (May 2008) (there were substantiated allegations of assault at Guantanamo Bay), <https://oig.justice.gov/special/s0805/final.pdf>.

## A. Insult Slap

The insult slap, also known as the facial slap, entails slapping the detainee “directly between the tip of the chin and the bottom of the corresponding earlobe.”<sup>198</sup> Used as a method to “achieve shock” rather than “inflict pain,” the insult slap is supposed to come from no more than twelve inches away from the detainee’s face.<sup>199</sup> Additionally, the insult slap is limited on paper to no more than two slaps per application because its effectiveness becomes negligible after this point.

The insult slap often fails to follow the parameters which created the torture method in the first place, progressing into more of a beating than simply an insult slap:

**When he realized that I had completely collapsed he started talking breathlessly. He was cussing, threatening. With the help of the hand that was not holding the towel he was slapping my face. I tried more than once to defend myself of to avoid the slapping. I felt so humiliated despite the large amount of humiliation I had already been through**<sup>200</sup>

The idea behind the insult slap was to “disabuse [the detainee] of the notion that he wouldn't be physically hit.”<sup>201</sup> By doing so, interrogators may be able to instill enough fear or pain into the detainee that they become conditioned to think they will be painfully abused if they were to not comply with interrogations.

## B. Abdominal Slap

The abdominal slap has a similar application and purpose as the insult slap.<sup>202</sup> The abdominal slap was created “to instill fear and despair, to punish selective behavior, and to instill humiliation or cause insult.”<sup>203</sup> With their “fingers held tightly together and fully extended,” the interrogator slaps the detainee’s abdomen anywhere above the navel and below the sternum, from

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<sup>198</sup> PRE-ACADEMIC LABORATORY OPERATING INSTRUCTIONS 18 (2002), <https://assets.documentcloud.org/documents/338917/pre-academic-laboratory-preal-operating.pdf>.

<sup>199</sup> Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, *Re: Interrogation of al Qaeda Operative* (Aug. 1, 2002) (<https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>).

<sup>200</sup> *Abu Zubaydah Notes* at 30.

<sup>201</sup> JOHN RIZZO, COMPANY MAN: THIRTY YEARS OF CONTROVERSY AND CRISIS IN THE CIA 184 (2014).

<sup>202</sup> Memorandum for Dan Levin, DoJ Command Center, Department of Justice, from Central Intelligence Agency, *Background Paper on CIA’s Combined Use of Interrogation Techniques* 6 (Dec. 30, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001126.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001126.pdf).

<sup>203</sup> PRE-ACADEMIC LABORATORY OPERATING INSTRUCTIONS 19 (2002), <https://assets.documentcloud.org/documents/338917/pre-academic-laboratory-preal-operating.pdf>.



about one foot away.<sup>204</sup> The CIA guidelines specifically prohibit the use of a fist by the interrogator.<sup>205</sup>

Although the abdominal slap is one of the enhanced torture techniques outlined, the CIA nonetheless administered this technique before these techniques were outlined and without the approval of the Justice Department.<sup>206</sup> The abdominal slap provides the variation necessary to keep a high level of unpredictability in the interrogation process. This technique will be used sparingly and periodically throughout the interrogation process when the interrogator wants to immediately correct the detainee's behavior and the interrogator can continually assess its effectiveness. Due to the physical dynamics of the various techniques, the abdominal slap can be used in combination with water dousing, stress positions, and wall standing, among other techniques.

### C. Facial Hold

The facial hold is a method in which the interrogator puts at least one hand, but usually both, firmly on both sides of a detainee's face from behind. The interrogator is supposed to keep their hands on the detainee's face and hold it in order to prevent the detainee's head from moving at all.<sup>207</sup> This technique is used primarily to "correct the detainee in a way that demonstrates the interrogator's control over the [detainee]."<sup>208</sup> This method is also described as having a "mild effect" and useful in any moment when the interrogator must disrupt or correct a detainee's behavior.<sup>209</sup>

There are no procedural limits to the facial hold. An interrogator could simply hold the detainees head or could instead apply a significant amount of pressure and tightly squeeze the detainee's head. The tighter the hold, the more effective and painful of a torture method this becomes. Instead of being used as a standalone torture method, the facial hold is often employed as a supplemental technique and combined with other torture methods at the same time, amplifying the experience:

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<sup>204</sup> *Id.*

<sup>205</sup> *Id.*

<sup>206</sup> Associated Press, *The CIA Techniques Described in The Senate Torture Report*, CBS NEWS (Dec. 9, 2014), <https://www.cbsnews.com/news/the-cia-techniques-described-in-the-senate-torture-report/>

<sup>207</sup> Operational Psychologist, *Description of Physical Pressures* at 2 (July 9, 2002)

<sup>208</sup> Memorandum for Dan Levin, DoJ Command Center, Department of Justice, from Central Intelligence Agency, *Background Paper on CIA's Combined Use of Interrogation Techniques* 6 (Dec. 30, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001126.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001126.pdf).

<sup>209</sup> CHRONOLOGY OF CIA HIGH-VALUE DETAINEE INTERROGATION TECHNIQUE 1. This source is a timeline released for the *Salim v. Mitchell* case, labeled "ACLU-RDI 6703." "[https://www.thetorturedatabase.org/document/cia-memo-enhanced-interrogation-techniques?search\\_url=search/apachesolr\\_search&search\\_args=filters=sm\\_cck\\_field\\_techniques:111](https://www.thetorturedatabase.org/document/cia-memo-enhanced-interrogation-techniques?search_url=search/apachesolr_search&search_args=filters=sm_cck_field_techniques:111)"

Because of the physical, dynamics of the various techniques, the facial hold can be used in combination with water dousing, stress positions, and wall standing. Other combinations are possible but may not be practical.<sup>210</sup>

Since the interrogator holds the detainee's face from behind, the detainee's field of vision is limited and his head is immobilized. When combined with other forms of torture, this method can easily be used to increase the effectiveness of other torture methods. For example, a facial hold may torture a detainee indirectly by causing them to hear sounds without seeing them, thus producing extreme anxiety in some instances. The facial hold in some respects can act as a facilitator as well, such as with sleep deprivation by creating pain or fear so to prevent the detainee from sleeping.

#### D. Attention Grasp

The attention grasp is described as grabbing the suspect with both hands—one hand on each side of the collar opening—and pulling the detainee towards the interrogator in one quick motion.<sup>211</sup> Alone, the attention grasp may seem harmless and “involve no physical pain,”<sup>212</sup> but in conjunction with other enhanced interrogation techniques, this intimidating technique can bring a detainee closer to the “baseline” status that the CIA seeks in order to bring the detainee to the maximum level of deprivation. This technique is also used together with various of the conditioning techniques, such as nudity, sleep deprivation and dietary manipulation.<sup>213</sup> With very few limitations to its administration and the CIA's definition claiming it may be used multiple times in one interrogation and in conjunction with other techniques, the attention grasp in its application can be quite violent:

**I was deprived of sleep for a long period of time; I don't even know for how long: maybe two or three weeks or even more and it felt like an eternity to the point that I found myself falling asleep despite the water being thrown at me by the guard who found himself with no choice but to strongly and constantly shake me in order to keep me awake. So I couldn't even sleep for a short second. Then I got used to the shaking just as I got used to the water being thrown at me, so I was able to sleep for a second. So they started coming inside**

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<sup>210</sup> Memorandum for Dan Levin, DoJ Command Center, Department of Justice, from Central Intelligence Agency, *Background Paper on CIA's Combined Use of Interrogation Techniques* 6 (Dec. 30, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001126.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001126.pdf).

<sup>211</sup> Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, *Re: Interrogation of al Qaeda Operative*, 2 (Aug. 1, 2002) <https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>.

<sup>212</sup> *Id.* at 6

<sup>213</sup> *Id.* at 5.

**the cell and standing me up on my feet for few instants and then putting me on a chair to prevent me from sleeping.**<sup>214</sup>

The attention grasp may also play a role as a psychological torture technique. Intimidation is used to scare detainees into submission, such as when dogs are used to frighten detainees.<sup>215</sup> The attention grasp can be used multiple times in a single interrogation session and may be used simultaneously with water dousing, stress positions, or other techniques that are possible but may not be practical.<sup>216</sup> Psychological torture is said to be just as harmful as physical torture.<sup>217</sup> These techniques were designed to break down prisoners to get information without leaving a physical mark on them. Researchers conducted a survey on the use of physical torture as opposed to psychological torture, and the “researchers collected medical assessments of whether the torture survivors showed signs of PTSD. . . .”<sup>218</sup> They found no difference in the prevalence of this disorder between the two groups.<sup>219</sup>

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<sup>214</sup> *Abu Zubaydah Notes* at 13.

<sup>215</sup> Roxane Khamisi, *Psychological torture ‘as bad as physical torture,’* NEW SCIENTIST (March 5, 2007), [https://www.law.berkeley.edu/files/IHRLC/Guantanamo\\_and\\_Its\\_Aftermath.pdf](https://www.law.berkeley.edu/files/IHRLC/Guantanamo_and_Its_Aftermath.pdf), at 3.

<sup>216</sup> Memorandum for Dan Levin, DoJ Command Center, Department of Justice, from Central Intelligence Agency, *Background Paper on CIA’s Combined Use of Interrogation Techniques* 6 (Dec. 30, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001126.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001126.pdf).

<sup>217</sup> Roxanne Khamisi, *Psychological Torture ‘as Bad as Physical Torture,’* NewScientist (Mar. 5, 2007), <https://www.newscientist.com/article/dn11313-psychological-torture-as-bad-as-physical-torture>.

<sup>218</sup> *Id.*

<sup>219</sup> *Id.*

## 6. COERCIVE TECHNIQUES

Coercive Techniques—Walling, Water Dousing, Stress Positions, Wall Standing, and Cramped Confinement—are techniques meant to cause more “physical and psychological stress” than the “Corrective Techniques,” and are considered more effective for that reason.<sup>220</sup> Although the legal guidance from the OLC recommended avoiding causing detainees extreme physical or psychological pain, the “Coercive Techniques” often ran a high risk of doing just that, especially when used together. Unlike waterboarding, the coercive techniques did not require a higher level of approval, which meant that almost any CIA detainee was subject to these techniques.

The CIA *Background Paper* discusses combining the coercive techniques with the Persistent Conditioning Techniques, as well as combining different Coercive Techniques, such as Water Dousing and Stress Positions.<sup>221</sup> In practice, interrogators often did exactly this, combining techniques or using one technique to facilitate another. Stress positions, such as shackling in the standing position, for instance, served the dual function of keeping a detainee sleep-deprived and making him easier to douse with water.<sup>222</sup> The *Background Paper* also gives the example of threatening a detainee with walling if he fails to hold a stress position.<sup>223</sup>

### A. Walling

The SSCI report, unclassified on December 9, 2014, defines walling as “slamming detainees against a wall.”<sup>224</sup> A memo provided by the CIA in 2005 further describes this:

[Walling] involves the use of a flexible, false wall . . . the interrogator pulls the individual forward and then quickly and firmly pushes the individual into the wall. It is the individual's shoulder blades that hit the wall. During this motion, the head and neck are supported with a rolled hood or towel.<sup>225</sup>

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<sup>220</sup> Memorandum for Dan Levin, DoJ Command Center, Department of Justice, from Central Intelligence Agency, *Background Paper on CIA's Combined Use of Interrogation Techniques* 7 (Dec. 30, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001126.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001126.pdf).

<sup>221</sup> *Id.*

<sup>222</sup> See Stress Positions section

<sup>223</sup> Memorandum for Dan Levin, DoJ Command Center, Department of Justice, from Central Intelligence Agency, *Background Paper on CIA's Combined Use of Interrogation Techniques* 14 (Dec. 30, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001126.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001126.pdf).

<sup>224</sup> S.REP. NO. 113-299, Findings & Conclusions, at 3 (2014).

<sup>225</sup> Siobhan Gorman and Evan Perez, *CIA Memos Released; Immunity for Harsh Tactics*, WALL ST. J. (Apr. 17, 2009, 12:01 AM), <https://www.wsj.com/articles/SB123990682923525977>.

The Report notes that walling was often used in succession with other enhanced interrogation techniques such as “slaps,” sleep deprivation, and nudity.<sup>226</sup> The CIA categorizes walling as a “Coercive Technique” and states the following about its use and efficacy:

Walling is one of the most effective interrogation techniques because it wears down the HVD physically, heightens uncertainty in the detainee about what the interrogator may do to him, and creates a sense of dread when the HVD knows he is about to be walled again . . . An HVD may be walled one time (one impact with the wall) to make a point or twenty to thirty times consecutively when the interrogator requires a more significant response to a question. During an interrogation session that is designed to be intense, an HVD will be walled multiple times in the session. Because of the physical dynamics of walling, it is impractical to use it simultaneously with other corrective or coercive techniques.<sup>227</sup>

The CIA’s definition of walling is extremely vague and lacks guidelines. There is no evidence of the CIA limiting the force or repetition boundaries when walling. This provides interrogation agents with endless discretion and ample opportunity to abuse their powers. Different agents may use different amounts of force when slamming a detainee against a wall, thus garnering different results. An agent may repeatedly slam a detainee up against the walling wall as much or as little as he would like, and with as much force as he is capable of exerting. Although walling is defined as slamming a detainee against a wall, Abu Zubaydah’s account shows that walling consisted of a wider range of physical abuse. The lack of guidelines for carrying out walling led to severe abuses, including slamming detainees’ heads directly into concrete walls and delivering blows with “back breaking” intensity.<sup>228</sup>

In a March 28, 2007 email, a redacted source wrote that Abu Zubaydah claims:

[A] collar was used to slam him against a concrete wall. While we do not have a record that this occurred, one interrogator at the site at the time confirmed that this did indeed happen. For the record, a plywood ‘wall’ was immediately constructed at the site after the walling on the concrete wall.<sup>229</sup>

Although the CIA defines walling as “slamming a detainee against a wall,” the reality is much grimmer. Detainees are forcefully dragged across the room by a collar, naked and hooded, and assaulted into a hard wall at the will of the interrogator.

The CIA used walling, combined with other enhanced interrogation techniques, on Abu Zubaydah in “varying combinations, [twenty-four] hours a day” for seventeen straight days, through August 20, 2002.<sup>230</sup> The CIA used walling, in conjunction with other enhanced

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<sup>226</sup> S.REP. NO. 113-299, Findings & Conclusions, at 3 (2014).

<sup>227</sup> Memorandum for Dan Levin, DoJ Command Center, Department of Justice, from Central Intelligence Agency, *Background Paper on CIA’s Combined Use of Interrogation Techniques* 8 (Dec. 30, 2004), [https://www.thetorturedatabase.org/files/foia\\_subsite/pdfs/DOJOLC001126.pdf](https://www.thetorturedatabase.org/files/foia_subsite/pdfs/DOJOLC001126.pdf).

<sup>228</sup> *Abu Zubaydah Notes* at 8.

<sup>229</sup> S. REP. NO. 113-299, Executive Summary, at 43 n. 183 (2014).

<sup>230</sup> *Id.* at 42 n. 190.



interrogation techniques, on numerous detainees after Abu Zubaydah as well. Abu Zubaydah recounts falling to the floor each time he was banged against the wall and being intermittently dragged across the floor by the towel supporting his neck.<sup>231</sup>

**I was taken out of my cell and one of the interrogators wrapped a towel around my neck, they then used it to swing me around and smash me repeatedly against the hard walls of the room. I was also repeatedly slapped in the face.**

**As I was still shackled, the pushing and pulling around meant that the shackles pulled painfully on my ankles.<sup>232</sup>**

When describing another walling session, Abu Zubaydah writes:

**He was twisting a thick towel which was wrapped with plastic tape so it could be given the shape of a noose. He wrapped it around my neck and brutally dragged me. I fell on the floor with the bucket [of my own excrement], with all its contents that fell on me. The guards did not intervene. It was he who dragged me on the floor with that noose towel. He brutally dragged me towards the wall. I suddenly realized there was a wooden wall covering most of the original wall. Before he uttered any word he started brutally banging me against the wooden wall. I suddenly felt the same pain I felt when I was being banged against the cement wall. However, when I thought about it later, I believe that they didn't want to leave any trace of beating and banging on my body**

**. . . Given the intensity of the banging that was strongly hitting my head I fell down on the floor with each banging. I felt for few instants that I was unable to see anything, let alone the short chains that prevented me from standing tall. And every time I felt he would drag me with the towel which caused bleeding on my neck.<sup>233</sup>**



*In Abu Zubaydah's illustration, an interrogator appears to push his head, not his shoulders, into the wall.*

<sup>231</sup> Abu Zubaydah Notes at 9.

<sup>232</sup> *Id.*

<sup>233</sup> Abu Zubaydah Notes at 9.

Detainee Suleiman Abdullah Salim said walling caused excruciating pain in his arms, back, and waist.<sup>234</sup> An anonymous detainee alleged that:

In Kabul, the treatment got worse. I was punched and slapped in the face and on the back to the extent that I was bleeding. While having a rope round my neck and being tied to a pillar my head was banked against the pillar repeatedly.<sup>235</sup>

Walling may sound safe and controlled on paper, but a lack of direction creates the potential for agents to get carried away to the point of injury. Abu Hazim and Abd al-Karim, two detainees who had broken feet, were both subjected to walling, “[w]ithout approval from CIA headquarters” and contrary to CIA cables which “stated that the interrogators would ‘forego cramped confinement, stress positions, walling, and vertical shackling (due to [the detainees’] injury).”<sup>236</sup> Walling was also used on Khalid Sheikh Mohammad, Ramzi bin al-Shibh, and Janat Gul.<sup>237</sup>

Based on various detainees’ description of walling, there is great potential for back and brain injury, including concussion and Chronic Traumatic Encephalopathy (CTE), a brain condition associated with repeated blows to the head. Some recognized symptoms of CTE include, but are not limited to, cognitive impairment, impulsive behavior, short-term memory loss, and emotional instability.<sup>238</sup> If detainees were concussed or suffering from CTE while being interrogated after walling, it creates serious doubts about the probative value of information retrieved while using this enhanced interrogation method.

## B. Water Dousing

Water dousing was not explicitly approved as an official interrogation technique until June 2004,<sup>239</sup> but was approved on a case-by-case basis starting as early as 2003.<sup>240</sup> According to a 2004 report by the CIA’s Office of the Inspector General (OIG), the technique was generally performed in the following way:

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<sup>234</sup> Lindsey Maizland, *The CIA’s Torture Program, as Explained by the Psychologists Who Designed It*, VOX (Jun. 31, 2017, 3:30 PM), <https://www.vox.com/world/2017/6/21/15845896/cia-torture-program-psychologists-testimony-jessen-mitchell>.

<sup>235</sup> INT’L COMM. OF THE RED CROSS, ICRC REPORT ON THE TREATMENT OF FOURTEEN “HIGH VALUE DETAINEES” IN CIA CUSTODY 21-23 (2007).

<sup>236</sup> Human Rights First, Walling, Senate Report CIA Torture <https://www.humanrightsfirst.org/senate-report-cia-torture/walling> (last visited Feb. 18, 2019).

<sup>237</sup> *Id.*

<sup>238</sup> Chronic Traumatic Encephalopathy, Psychiatry Neuroimaging Laboratory, <http://pnl.bwh.harvard.edu/education/what-is/chronic-traumatic-encephalopathy/> (2014).

<sup>239</sup> *Chronology of CIA High-Value Detainee Interrogation Technique* at 2 available at [https://www.thetorturedatabase.org/files/foia\\_subsite/8\\_0.pdf](https://www.thetorturedatabase.org/files/foia_subsite/8_0.pdf)

<sup>240</sup> OFFICE OF THE INSPECTOR GENERAL, CENTRAL INTELLIGENCE AGENCY, COUNTERTERRORISM DETENTION AND INTERROGATION ACTIVITIES (SEPTEMBER 2001-OCTOBER 2003) 76 (2004), <https://www.cia.gov/library/readingroom/docs/0005856717.pdf>.

Dousing involves laying a detainee down on a plastic sheet and pouring water over him for 10 to 15 minutes. . . . [T]he room was maintained at 70 degrees or more; the guards used water that was at room temperature while the interrogator questioned the detainee.<sup>241</sup>

This description stands in sharp distinction to the one given in the SSCI, which describes two main techniques that were employed at a detention site Cobalt, now thought to be the site near Kabul, Afghanistan:

[D]etainees were often held down, naked, on a tarp on the floor, with the tarp pulled up around them to form a makeshift tub, while cold or refrigerated water was poured on them. Others were hosed down repeatedly while they were shackled naked, in the standing sleep deprivation position. These same detainees were subsequently placed in rooms with temperatures ranging from 59 to 80 degrees Fahrenheit.<sup>242</sup>

A 2007 report by the Red Cross about the CIA's treatment of the HVDs prior to their transfer to Guantanamo Bay is consistent with the Senate Report's description. It notes that seven of the fourteen HVDs were subjected to this technique and describes the tarp method as "an immersion bath with just the head exposed,"<sup>243</sup> which differs from the OIG account in that the latter never mentions immersion. The Red Cross report also indicates that the time limitations may have been more flexible than outlined by the OIG, with one detainee describing fifteen to thirty minutes of continuous water dousing with the tarp method:

I was made to lie on a plastic sheet, which was then raised at the edges. Cold water was then poured on me using a kettle or hose for between fifteen and thirty minutes. I was still blindfolded.<sup>244</sup>

While these two procedures formed the general outlines of how most water dousing sessions were carried out, infinite variations and combinations were possible, and many were used. The detainee quoted above noted that his interrogators informed him that there was a woman watching, presumably to further humiliate him while nude.<sup>245</sup> The SSCI Report indicates that this was a common practice even when not specifically approved.<sup>246</sup> The CIA also confirmed using icy water to douse a detainee named Abu Hudhaifa,<sup>247</sup> and Majid Khan reported that the same treatment was

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<sup>241</sup> *Id.*

<sup>242</sup> S. REP. NO. 113-288, Executive Summary, at 105 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>243</sup> INT'L COMM. OF THE RED CROSS, ICRC REPORT ON THE TREATMENT OF FOURTEEN "HIGH VALUE DETAINEES" IN CIA CUSTODY 15 (2007), <http://www.nybooks.com/media/doc/2010/04/22/icrc-report.pdf>.

<sup>244</sup> *Id.* at 16.

<sup>245</sup> *Id.*

<sup>246</sup> S. REP. NO. 113-288, Executive Summary, at 103 n.599 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>247</sup> *Id.* at 104 n.610.

used on him.<sup>248</sup> According to the Report, CIA records also confirm that Abu Ja'far al-Iraqi was subjected to dousing for eighteen minutes with water that was forty-four degrees Fahrenheit.<sup>249</sup>

Water dousing was also used in a manner approximating or even “indistinguishable” from waterboarding.<sup>250</sup> One detainee, Mustafa al-Hawsawi, was subjected to water dousing while on the waterboard, even though waterboarding was not explicitly approved for use on him.<sup>251</sup> An interrogator later described the procedure as “[p]utting him in a head down attitude and pouring water around his chest and face[.]”<sup>252</sup> This may or may not be the same detainee who the Red Cross describes as having been “strapped to a tilting bed [while] cold water was poured over his body while he was threatened with ‘water boarding’[. . .]”<sup>253</sup>

The CIA used an even more extreme version of this technique on Abu Hazim, who reportedly became unable to breathe. A CIA linguist’s description was summarized as follows:

[W]hen water dousing was used on Abu Hazim, a cloth covered Abu Hazim’s face, and [CIA OFFICER 1] poured cold water directly on Hazim’s face to disrupt his breathing. [The linguist] said that when Abu Hazim turned blue, Physician’s Assistant removed the cloth so that Abu Hazim could breathe.<sup>254</sup>

At least one other detainee reported similar treatment to an outside body.<sup>255</sup> In September of 2003, the CIA’s Office of Medical Services released its first medical guidance on the use of this interrogation techniques.<sup>256</sup> Despite acknowledging the use of water dousing as a technique, the guidelines included no specifications for how to ensure the safety of detainees during the procedure.<sup>257</sup> A version of these guidelines from 2004 finally included information on water dousing, providing limits on temperature and duration based on “2/3 of the time at which hypothermia is likely to develop in healthy individuals submerged in water, wearing light clothing.”<sup>258</sup> Nevertheless, these limitations were absent when the torture program was first administered.

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<sup>248</sup> *Id.*

<sup>249</sup> *Id.* at 149 n.901.

<sup>250</sup> *Id.* at 106.

<sup>251</sup> *Id.* The CIA could not confirm that the waterboard was actually used in this instance, but did confirm that he was subjected to water dousing while in the prone position. *Id.*

<sup>252</sup> S. REP. NO. 113-288, Executive Summary, at 106 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>253</sup> INT’L COMM. OF THE RED CROSS, ICRC REPORT ON THE TREATMENT OF FOURTEEN “HIGH VALUE DETAINEES” IN CIA CUSTODY 15 (2007), <http://www.nybooks.com/media/doc/2010/04/22/icrc-report.pdf>.

<sup>254</sup> S. REP. NO. 113-288 (2014), at 107, <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>. This account was also not corroborated to the Senate Committee. *Id.* at 108

<sup>255</sup> *Id.* at 107 n.623.

<sup>256</sup> See *Counterterrorism Detention and Interrogation Activities (September 2001-October 2003)* at 31, Office of the Inspector General, CENTRAL INTELLIGENCE AGENCY (May 7, 2004) available at <https://www.cia.gov/library/readingroom/docs/0005856717.pdf>.

<sup>257</sup> See *id.* at Appendix F.

<sup>258</sup> OMS Guidelines on Medical and Psychological Support to Detainee Rendition, Interrogation, and Detention at 13, December 2004 available at <https://www.cia.gov/library/readingroom/docs/0006541536.pdf>

### C. Stress Positions

Unlike some of the other techniques that were approved only with certain specifications, stress positions were largely undefined.<sup>259</sup> In a memorandum summarizing a July 8, 2002 meeting between White House staff and representatives for the architects of the Enhanced Interrogation program, the only description of stress positions is the following:

A variety of stress positions are possible. They focus on producing mild physical discomfort from prolonged muscle use, rather than pain associated with contortions or twisting of the body. The two discussed were (1) the subject sitting on the floor with legs extended straight out in front of him with his arms raised above his head; and (2) having the subject kneel on the floor and lean back at a 45 degree angle.<sup>260</sup>

This definition was used as the basis for approving the use of stress positions in the August 1, 2002 memorandum from the Department of Justice's OLC declaring the legality of the Enhanced Interrogation Techniques.<sup>261</sup>

Interrogators had wide latitude to (1) interpret the two described techniques however they chose to; (2) use positions other than the two explicitly outlined; and (3) use stress positions for any time period they chose. While the memorandum is careful to note that the techniques are approved only as described,<sup>262</sup> the description of the technique as approved contains open-ended language referencing the two described stress positions as ones that "may" be used or that are "likely to be used."<sup>263</sup> Because of this vague wording, the stress positions approved could include any position for any length of time, so long as it does not cause pain "equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death."<sup>264</sup>

In practice, the lack of clarity around the boundaries of permitted stress positions resulted in modifications to the approved positions that created far more physical pressure on the detainees than what was reflected in their original descriptions. A report by the CIA's OIG described the use of a stress position on Abd al-Rahim al-Nashiri:

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<sup>259</sup> See Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, *Re: Interrogation of al Qaeda Operative* (Aug. 1, 2002), <https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>.

<sup>260</sup> "Description of Physical Procedures" memorandum (July 9, 2002) available at <https://www.cia.gov/library/readingroom/docs/0006552083.pdf>

<sup>261</sup> Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, *Re: Interrogation of al Qaeda Operative* (Aug. 1, 2002) <https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>.

<sup>262</sup> *Id.* at 1 ("Our advice is based on the following facts, which you have provided to us. . . . If these facts were to change, this advice would not necessarily apply").

<sup>263</sup> *Id.* at 3.

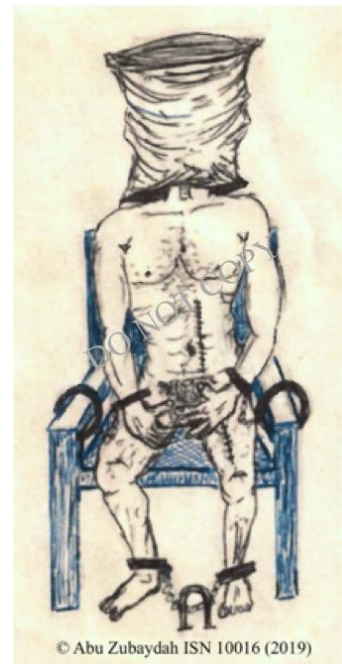
<sup>264</sup> *Re: Standards of Conduct for Interrogation under 18 U.S.C. §§ 2340–2340A*, Memorandum from Jay S. Bybee, Assistant Attorney General, to Alberto R. Gonzales, Counsel to the President 1 (Aug. 1, 2002) <https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>.



Al-Nashiri was required to kneel on the floor and lean back. On at least one occasion, an Agency officer reportedly pushed Al-Nashiri backward while he was in this stress position. On another occasion, [redacted] said he had to intercede after [redacted] expressed concern that Al-Nashiri's arms might be dislocated from his shoulders. [Redacted] explained that, at the time, the interrogators were attempting to put Al-Nashiri in a standing stress position. Al-Nashiri was reportedly lifted off the floor by his arms while his arms were bound behind his back with a belt.<sup>265</sup>

Without obvious limitations on what they could do, interrogators invented new forms of seated stress positions. Abu Zubaydah describes the use of a “metal rod shirt” while seated:

**Restrained to the chair . . . dressing the prisoner with a metal rod shirt so he would have to keep the same position with his belly up and his back straight, sitting in this position for a long period of time. And he cannot bend forward at all. (this method is used in particular during hunger strike and when he is being forced tube fed) and that for hours.**<sup>266</sup>



*Abu Zubaydah illustrates himself shackled to a chair and hooded.*

Abu Zubaydah also describes being shackled to a plastic patio chair during interrogations that were often painful:

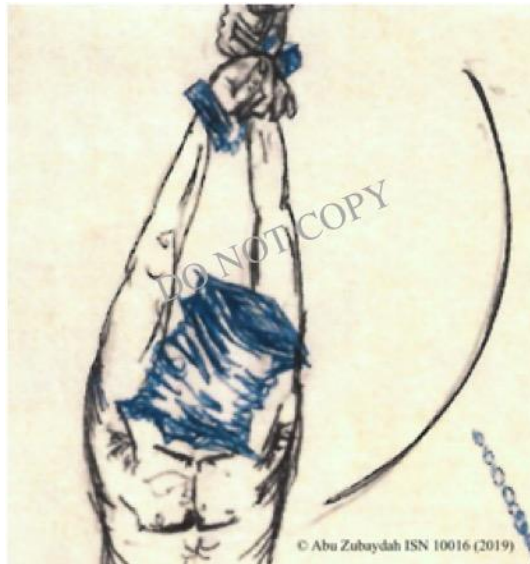
**Following the period I was chained to the bed, they took me down and sat me on a plastic chair totally naked and they chained me very tight. First, I was very happy on the first day, for I was now in a different position. However at the end of the next day I started feeling the pain again and it was from one muscle stiffness to another muscle and joints stiffness.**<sup>267</sup>

<sup>265</sup> OFFICE OF INSPECTOR GENERAL, CENTRAL INTELLIGENCE AGENCY, COUNTERTERRORISM DETENTION AND INTERROGATION ACTIVITIES (SEPTEMBER 2001-OCTOBER 2003) 44 (2004), <https://www.cia.gov/library/readingroom/docs/0005856717.pdf>.

<sup>266</sup> *Abu Zubaydah Notes* at 29.

<sup>267</sup> *Abu Zubaydah Notes* at 3.

The vague guidelines around stress positions also left room for a position called the “standing stress position,”<sup>268</sup> which has some similarities to the seated stress position described in the memo. In this position, the detainee is standing and shackled by the wrists to a point above his head.<sup>269</sup>



*Detainees were often shackled with their hands above their heads for long periods of time.*

This seemingly small modification to the technique as originally outlined had significant consequences for the detainees, especially when used for long periods of time. In 2007, the ICRC was able to speak with the fourteen HVDs sent to Guantanamo after their CIA interrogations. Walid bin Attash, who has only one leg, gave the following account of the standing stress position:

I was kept in a standing position, feet flat on the floor, but with my arms above my head and fixed with handcuffs and a chain to a metal bar running across the width of the cell. . . . After some time of being held in this position my stump began to hurt so I removed my artificial leg to relieve the pain. Of course my one good leg began to ache and soon started to give way so that I was left hanging with all my weight

on my wrists. I shouted for help but at first nobody came. Finally, after about one hour a guard came and my artificial leg was given back to me and I was again placed in the standing position with my hands above my head. After that the interrogators sometimes deliberately removed my artificial leg in order to add stress to the position. For the first two weeks I was held in this position apart from two or three times when I was allowed to lie down, but I cannot remember for how long.<sup>270</sup>

The 2007 ICRC report describes the consequences of this position for detainees and how interrogators combined it with water dousing:

In four cases the water was allegedly thrown or poured onto the detainee with buckets or a hose-pipe while held in the standing stress position with their arms shackled above their head for prolonged periods. Several thought that this was in

<sup>268</sup> See, e.g. S. REP. NO. 113-288, Executive Summary, at 69 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>269</sup> *Id.* at 69.

<sup>270</sup> INT'L COMM. OF THE RED CROSS, ICRC REPORT ON THE TREATMENT OF FOURTEEN “HIGH VALUE DETAINEES” IN CIA CUSTODY 31-32 (2007), <http://www.nybooks.com/media/doc/2010/04/22/icrc-report.pdf>.

order to clean away the feces which had run down their legs when they defecated while being held in the prolonged stress standing position.<sup>271</sup>

In an interview with Human Rights Watch, one detainee, Majid Mokhtar Sasy al-Maghrebi, who believes he was kept at a CIA facility in Afghanistan, describes how this technique was combined with cold temperatures, sleep deprivation, and the use of diapers:

I was there for [fifteen] days, hanging from my arms, another chain from the ground. They put a diaper on me but it overflowed so there was every type of stool everywhere, the temperature was freezing.<sup>272</sup>



*Detainees in the standing stress position were sometimes given diapers and sometimes left nude to urinate and defecate in place.*

Maghrebi eventually became delusional during this period, believing that his family was with him in his cell.<sup>273</sup> Abu Zubaydah refers to this technique as “torture by hanging,”<sup>274</sup> and gives a firsthand account of what the ICRC describes in its report, clarifying that the position was used in conjunction with nudity, temperature manipulation, and cold-water dousing:

**The prisoner is restrained in this position naked for long days. He is directly exposed to cold water (beside the cold of the air condition) all the time as poured on him . . . and he is strongly beaten up while in this position. He does his bathroom needs (number [one] number [two]) while in this position until it dries up on his body.**<sup>275</sup>

The standing stress position was employed frequently, whether intended as a stress position or as sleep deprivation. One detainee was left in this position for twenty-two hours a day, for two days straight.<sup>276</sup> Another was left shackled in Detention Site Cobalt<sup>277</sup> in the standing position for seventeen days straight.<sup>278</sup> Another man, Abu Ja’far al-Iraqi, had so much swelling in his legs as a result of forced standing that medical personnel

<sup>271</sup> INT’L COMM. OF THE RED CROSS, ICRC REPORT ON THE TREATMENT OF FOURTEEN “HIGH VALUE DETAINEES” IN CIA CUSTODY 15 (2007), <http://www.nybooks.com/media/doc/2010/04/22/icrc-report.pdf>.

<sup>272</sup> Laura Pitter, *Delivered Into Enemy Hands: US-Led Abuse and Rendition of Opponents to Gaddafi’s Libya*, HUMAN RIGHTS WATCH, text accompanying note 221 (2012), <https://www.hrw.org/report/2012/09/05/delivered-enemy-hands/us-led-abuse-and-rendition-opponents-gaddafis-libya>.

<sup>273</sup> *Id.*

<sup>274</sup> Abu Zubaydah Notes at 30.

<sup>275</sup> *Id.* In some sections of his unclassified writings, Abu Zubaydah uses the third person to discuss his experiences, as is seen here.

<sup>276</sup> S. REP. NO. 113-288, Executive Summary, at 498 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>277</sup> Detention Site Cobalt has been reported by newspapers as a site in Kabul, Afghanistan, often called the Salt Pit.

<sup>278</sup> S. REP. NO. 113-288, Executive Summary, at 50 n.240 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

stepped in to provide him blood thinners and spiraled bandages. After the swelling subsided, the jailors subjected him to the same procedure again.<sup>279</sup>

The standing stress position was not the only painful position interrogators employed for purposes ostensibly secondary to interrogation. A report on the death of Gul Rahman describes the “short-chain” method as a substitute for hog-tying, chosen because hog-tying has “resulted in a number of deaths in the U.S.”<sup>280</sup> The method involved shackling the detainee’s hands and feet separately, and then connecting the two with a short chain before shackling the detainee’s feet to the wall or floor of his cell.<sup>281</sup> The FBI reported seeing this method used on many detainees at Guantanamo, often for very long periods. One agent reported seeing this technique used on a detainee for fifteen hours.<sup>282</sup> Interrogators used this technique in combination with extreme temperatures and dietary restriction. A summary of one agent’s account was particularly disturbing:



*One version of the short chain method of shackling is depicted here, though several methods are documented.*

On a couple of occasions, I entered interview rooms to find a detainee chained hand and foot in a fetal position on the floor, with no chair, food, or water. Most times they had urinated or defacated [sic] on themselves, and had been left there for [eighteen, twenty-four] hours or more. On one occasion, the air conditioning had been turned down so far and the temperature was so cold in the room, that the barefooted detainee was shaking with cold. When I asked the MP’s what was going on, I was told that interrogators from the day prior had ordered this treatment, and the detainee was not to be moved.<sup>283</sup>

Interrogators would also use this position with temperature manipulation in the other direction, so that the room was stifling hot. The same FBI agent reports witnessing this practice, combined with loud music:

On another occasion, the A/C had been turned off, making the temperature in the unventilated room probably well over 100 degrees. The detainee was almost

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<sup>279</sup> *Id.* at 149, n.901.

<sup>280</sup> Memorandum for Deputy Director for Operations, Central Intelligence Agency on Death Investigation – Gul Rahman 14 (Jan. 28, 2003), <https://www.cia.gov/library/readingroom/docs/0006555318.pdf>.

<sup>281</sup> *Id.*

<sup>282</sup> OFFICE OF THE INSPECTOR GENERAL, DEP’T OF JUSTICE, A REVIEW OF THE FBI’S INVOLVEMENT IN AND OBSERVATIONS OF DETAINEE INTERROGATIONS IN GUANTANAMO BAY, AFGHANISTAN, AND IRAQ, 180 (2004), <https://oig.justice.gov/special/s0805/final.pdf>.

<sup>283</sup> Email to Valerie E. Caproni, FBI, Subject: FW GTMO (Aug. 2, 2004), <https://www.aclu.org/files/projects/foiasearch/pdf/DOJFBI002345.pdf>.

unconscious on the floor, with a pile of hair next to him. He had apparently been literally pulling his own hair out throughout the night. On another occasion, not only was the temperature unbearably hot, but extremely loud rap music was being played in the room . . . .<sup>284</sup>

This method of shackling, which caused Gul Rahman's body to remain in constant contact with the cold concrete floor of his cell and left him unable to warm himself through movement, was cited as a major contributor to his development of hypothermia and death.<sup>285</sup>

While the short chain method was extremely difficult to endure and uncomfortable for detainees, some versions of it nonetheless afforded those subjected to it to an option between holding an uncomfortable squatting position and rolling over into a fetal position on the floor. Using additional restraints, however, interrogators and guards could remove this option, leaving the detainee stuck in a squatting or partially-squatting position:

[D]uring the summer of 2002, [REDACTED] walked into a camp Delta observation room and noticed a detainee in an interview room[...]handcuffed with cuffs chained to his waist. [REDACTED] advised the chains were adjusted to force the detainee to stand in a 'baseball catcher' position.<sup>286</sup>

In addition to the immediate effects that stress positions and shackling caused for those subjected to them, these techniques also had major secondary effects on detainees, both because of pre-existing medical conditions and because of the long-term impacts of the techniques themselves. Abu Zubaydah sustained serious injuries during capture that required immediate and extensive medical care to keep him alive.<sup>287</sup>

Although government officials claimed that they waited until he had healed to begin his interrogations, the SSCI Report found that officials instead chose specifically to prioritize his

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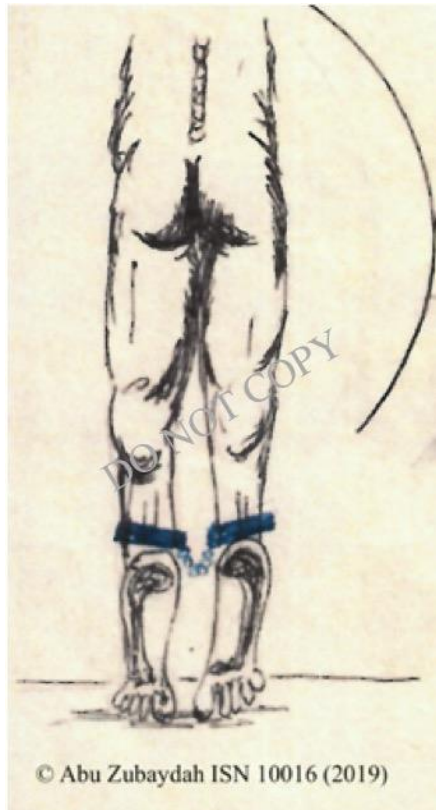
<sup>284</sup> *Id.*

<sup>285</sup> Memorandum for Deputy Director for Operations, Central Intelligence Agency on Death Investigation – Gul Rahman 32 (Jan. 28, 2003), <https://www.cia.gov/library/readingroom/docs/0006555318.pdf>.

<sup>286</sup> Author redacted, FEDERAL BUREAU OF INVESTIGATION, *GTMO Counterterrorism Division (CTD) Inspection Special Inquiry*, Positive Response Number 6, Responses 62 (9/15/04), available at <https://vault.fbi.gov/Guantanamo%20/Guantanamo%20Part%201%20of%201>

<sup>287</sup> Scott Shane, *Inside a 9/11 Mastermind's Interrogation*, NEW YORK TIMES, June 22, 2008, <https://www.nytimes.com/2008/06/22/washington/22ksm.html?pagewanted=all>.





*Abu Zubaydah's illustrations often depict him shackled with his hands so high that he stands on his toes.*

interrogation over the treatment of his wounds.<sup>288</sup> Consequently, the stress positions, including prolonged standing, aggravated his wounds.<sup>289</sup> Due to the pain of standing on his injured leg, Abu Zubaydah describes one instance in which he had to stand for hours on his non-injured leg while in a standing stress position.<sup>290</sup> Because of the incredible pain of standing on just one leg for such a long time, he occasionally took the pressure off by standing on the injured one for brief moments.<sup>291</sup> The wound began bleeding and Abu Zubaydah eventually passed out from the pain.<sup>292</sup> Other men with injuries in their lower bodies, such as two who each had a broken foot, were also subjected to standing stress positions despite specific orders from doctors that they were not able to handle it.<sup>293</sup> Khalid Shaikh Mohammad (KSM) sustained pedal edema from extended standing,<sup>294</sup> as did numerous other detainees.<sup>295</sup> However, detainees were sometimes left standing despite this medical complication.<sup>296</sup>

About a year after Abu Zubaydah's first experiences with enhanced interrogation, the CIA created guidelines for medical personnel in interrogations.<sup>297</sup> These guidelines, which describe shackling and stress positions together, advise against the use of the technique Abu Zubaydah calls "torture by hanging." The guidelines suggest that shackling in the standing position may be used only up to seventy-two hours as long as the hands are *not* elevated above the head.<sup>298</sup> The same document limits the time that detainees may be shackled with hands above the head to two hours and clarifies that detainees should not be made to put their weight on their upper extremities.<sup>299</sup> However, these guidelines

<sup>288</sup> S. REP. NO. 113-288 (2014), at 412, <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>289</sup> See, e.g., *Abu Zubaydah Notes* at 11 (describing a period of time during which he was kept tied up in the standing position until he felt his "legs, especially the wounded one, were just about to explode from the pressure.")

<sup>290</sup> *Abu Zubaydah Notes* at 7.

<sup>291</sup> *Id.*

<sup>292</sup> *Id.* The plastic patio chair discussed above also produced pain as a result of Zubaydah's injuries, requiring him to adjust all of his weight to his non-wounded thigh. *Abu Zubaydah Notes* at 3.

<sup>293</sup> S. REP. NO. 113-288, Executive Summary, at 101 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>294</sup> *Id.* at 99.

<sup>295</sup> S. REP. NO. 113-288, Executive Summary, at 419 n.2357 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>296</sup> *Id.* at 422.

<sup>297</sup> OFFICE OF INSPECTOR GENERAL, CENTRAL INTELLIGENCE AGENCY, COUNTERTERRORISM DETENTION AND INTERROGATION ACTIVITIES (SEPTEMBER 2001-OCTOBER 2003) Appendix F at 6 (2004), <https://www.cia.gov/library/readingroom/docs/0005856717.pdf>.

<sup>298</sup> *Id.*

<sup>299</sup> *Id.*

merely suggest when medical personnel ought to offer guidance, and do not constitute hard limits as to what interrogators could do, leaving the door open to continue the apparently improvident techniques at the discretion of supervisors.

Despite the new guidelines being drafted and disseminated in March of 2003,<sup>300</sup> instructing interrogators to avoid forcing the detainee to put weight on his upper extremities,<sup>301</sup> the CIA subjected a detainee to exactly that procedure in November of 2003. During an interrogation at Abu Ghraib, CIA agents instructed military police (MPs) to position prisoner Manadel Al-Jamadi with his hands cuffed behind his back and affixed to a point on the wall behind and above him.<sup>302</sup> Reports of different parties suggest Al-Jamadi was “hanging” in that position,<sup>303</sup> with his hands elevated and bearing some of his weight.<sup>304</sup> Al-Jamadi, who was hooded at the time, eventually slumped over and became unresponsive, at which point one of the MPs present recounts that CIA interrogators declared the detainee uncooperative and requested that the MPs chain the detainee’s handcuffs at a higher point on the wall.<sup>305</sup> Other accounts make no mention of this repositioning.<sup>306</sup> At some point during this procedure, the MPs realized Al-Jamadi was dead. When they removed his hood, blood poured out of the detainee’s mouth. His autopsy later determined the manner of death to have been homicide, caused by a combination of blunt force trauma and asphyxia.

As with some of the other enhanced interrogation techniques, the stress positions were said to have been derived from methods employed in the training of U.S. military personnel in the SERE program. Notably, however, the method as described in the publicly available manual for SERE instructors was far more restrictive even than the revised 2003 EIT guidance:

*STRESS POSITION: Place the student on his/her knees, arms fully extended over the head or held in front in the same position as used in the Block Hold.*<sup>307</sup>

While the above definition describes only one, or possibly two positions, the definition used by the OLC when assessing the legality of the technique described positions that were “possible,” leaving open the potential to employ new ones. Despite the fact that manuals had already been written which defined a stress position known not to cause lasting damage to detainees, the OLC

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<sup>300</sup> S. REP. NO. 113-288, Executive Summary, at 84 (2014), <https://www.congress.gov/113/crpt/srpt288/CRPT-113srpt288.pdf>.

<sup>301</sup> OFFICE OF INSPECTOR GENERAL, CENTRAL INTELLIGENCE AGENCY, COUNTERTERRORISM DETENTION AND INTERROGATION ACTIVITIES (SEPTEMBER 2001-OCTOBER 2003) Appendix F at 7 (2004) (“The detainee should never be required to bear weight on the upper extremities”), <https://www.cia.gov/library/readingroom/docs/0005856717.pdf>.

<sup>302</sup> Command Responsibility, A Human Rights First Report, (2013) at 1, [https://www.thetorturedatabase.org/files/foia\\_subsite/3.\\_profile\\_homicide\\_manadel\\_al-jamadi--c05950958.pdf](https://www.thetorturedatabase.org/files/foia_subsite/3._profile_homicide_manadel_al-jamadi--c05950958.pdf)

<sup>303</sup> *The Death of an Iraqi Prisoner*, NPR (Oct. 27, 2005) (“Mr. Diaz: . . . ‘And he was pretty much like hanging . . .’”), <https://www.npr.org/templates/transcript/transcript.php?storyId=4977986>.

<sup>304</sup> *Id.*

<sup>305</sup> *Id.*

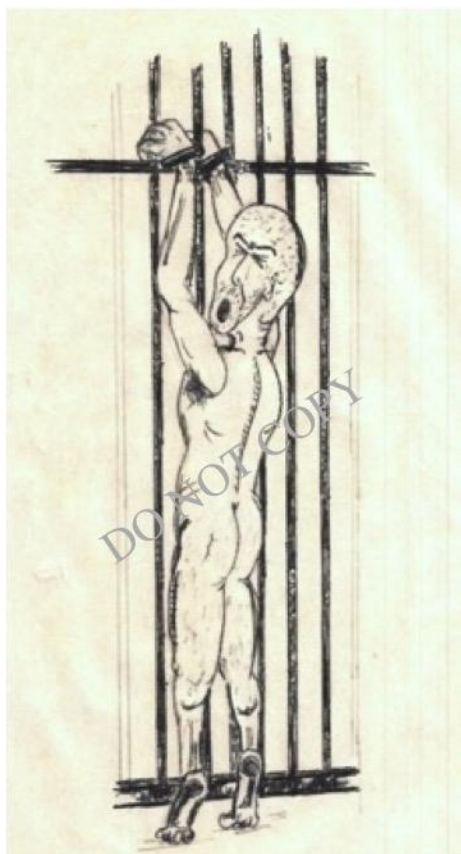
<sup>306</sup> *Id.*

<sup>307</sup> PRE-ACADEMIC LABORATORY OPERATING INSTRUCTIONS 20 (2002), <https://assets.documentcloud.org/documents/338917/pre-academic-laboratory-preal-operating.pdf>.

and the CIA instead used a vaguely-worded version of the technique that bore little resemblance in practice to its alleged origins.

#### D. Wall Standing

Wall standing was originally approved as a method in which detainees are forced to stand four-to-five-feet from a wall, spread their legs and lean forward, placing only their fingertips against the wall.<sup>308</sup> This position would put all the weight of the detainee on their fingertips and



*Although wall standing does not include shackles in its original definition, the practice approved did not specifically proscribe their use.*

toes, where the detainee would be forced to stay indefinitely.<sup>309</sup> By itself and in conjunction with other methods of enhanced interrogation, wall standing could be used to induce extreme pain, sleep deprivation, and mental anguish when used to extremes:

**I don't recall how long I stayed in the standing position, but I know that I passed out while [illegible], for I remember waking up my body and my head were both [illegible] to the floor. My hands were tight to the upper bars. I felt they became paralyzed or severed. They were blue or green. The chains had left some traces of blood. I said to myself that it might be God that is helping me by making me numbed otherwise I would have felt an intolerable pain.**<sup>310</sup>

In fact, the FBI report states that “any physical pressure applied to extremes can cause severe mental pain or suffering...the use of stress positions can have the same outcome,” and “[t]he safety of any technique lies primarily in how it is applied and monitored.”<sup>311</sup> However, monitoring of this technique was virtually nonexistent as “inaccurate information about the effectiveness of [such] techniques was provided to the [Senate Intelligence] Committee” by the CIA.<sup>312</sup> One interrogator even had his

<sup>308</sup> Memorandum for John Rizzo, Acting General Counsel, Central Intelligence Agency, from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, *Re: Interrogation of al Qaeda Operative* (Aug. 1, 2002). <https://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-bybee2002.pdf>

<sup>309</sup> *Id.*

<sup>310</sup> *Abu Zubaydah Notes* at 22.

<sup>311</sup> United States Senate, *Report of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency's Detention and Interrogation Program*, 36 (Dec. 9, 2014).

<https://www.intelligence.senate.gov/sites/default/files/publications/CRPT-113srpt288.pdf>

<sup>312</sup> *Id.* at 149 n.904.

certification removed by the CIA “for placing a broom handle behind the knees of a detainee while that detainee was in a stress position.”<sup>313</sup>

Wall standing has developed into a more physical form of torture than some others, but its value comes from the fact that it serves a dual purpose. This technique is not only physically painful, but also helps when used as a sleep deprivation technique and part of a greater scheme of torture to keep detainees feeling helpless, in pain, and without sleep.

Wall standing is similar to “horizontal sleep deprivation.”<sup>314</sup> A prisoner who could no longer stand upright would be reconfigured to lay on the floor with their hands manacled together, arms placed in an outstretched position either above the head or extended to their sides of the body, and anchored on the floor in “such a manner that the arms cannot be bent or used for balance or comfort.”<sup>315</sup> This technique would be used to allow the “lower limbs to recover from the effects of standing sleep deprivation.”<sup>316</sup>

The key to realizing the true effect of wall standing on detainees requires understanding the way the CIA would cycle through the techniques. Interrogators would keep a detainee in a standing stress position until they could no longer use their legs, only then to place them in a horizontal position to continue torture until they could finally place the detainee back in the standing position.

#### E. Cramped Confinement

Cramped confinement is a torture technique where a detainee is forcibly placed in a dark and confined space for a prolonged period of time.<sup>317</sup> Cramped confinement is usually done with either a large or small box; confinement in a large box can last up to eighteen hours, while in a small box it can last no more than two hours.<sup>318</sup> One of the main effects of cramped confinement is the pain experienced from the detainee trying to keep their body distorted just enough to fit within the box without constant excruciating pain:

**The very strong pain made me scream unconsciously. The contractions in my muscles and nerves were increasing with every hour, every minute and every second that were passing by, especially in the wounds I already had in my belly and thigh, let alone the pain in my head that was predominantly stronger than**

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<sup>313</sup> *Id.* at 117

<sup>314</sup> *Id.*

<sup>315</sup> *Id.*

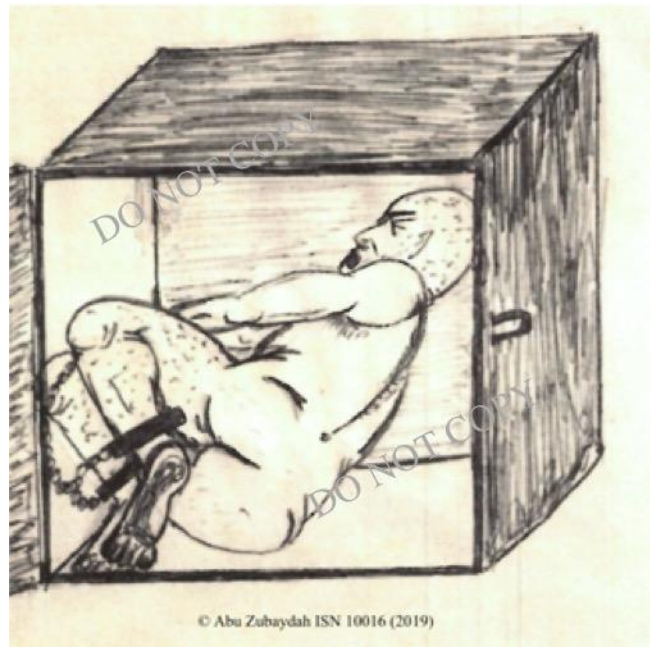
<sup>316</sup> *Id.*

<sup>317</sup> OFFICE OF INSPECTOR GENERAL, CENTRAL INTELLIGENCE AGENCY, COUNTERTERRORISM DETENTION AND INTERROGATION ACTIVITIES (SEPTEMBER 2001-OCTOBER 2003), 15 (May 4, 2004), <https://www.cia.gov/library/readingroom/docs/0005856717.pdf>.

<sup>318</sup> *Id.*

**any other pain in my body. As to my back it was playing solo the guitar of pain but with no chords, for I couldn't feel any chords, or nerves or even bones.**<sup>319</sup>

The darkness involved in cramped confinement serves an additional purpose by desensitizing those inside. Detainees have no way of knowing how long they have been in the box, what time it is, what is going on around them, etc. After cramped confinement was approved as a standalone torture technique, the CIA approved for expansion on the technique by adding insects to the dark box as another way to scare the detainee locked inside.<sup>320</sup> Although only “harmless” insects were approved, this distinction would be relatively meaningless since the detainee would not be able to recognize what kind of insect is inside of the box with them until the box is opened and the detainee can finally see. Furthermore, it is also important to note that as a standalone technique, cramped confinement is very much useless for the CIA in terms of information gathering. While sitting in the box, the detainee is not usually being interrogated, thus the CIA is not learning anything “new” by confining the detainee to a box. Instead, it is utilized more as a method of punishment to desensitize and instill fear into the detainee.



*The small box used in cramped confinement hardly allowed detainees any freedom to move, even to avoid contact with their own excrement.*

#### F. Waterboarding

Waterboarding is a torture technique which simulates drowning. In this technique, the detainee is strapped to a board which is lowered on a slight angle so the detainee's head is closer to the ground than the rest of their body.<sup>321</sup> The detainee has a towel placed on top their face and water is then poured on top.<sup>322</sup> Due to the water constantly seeping through the towel, air flow is

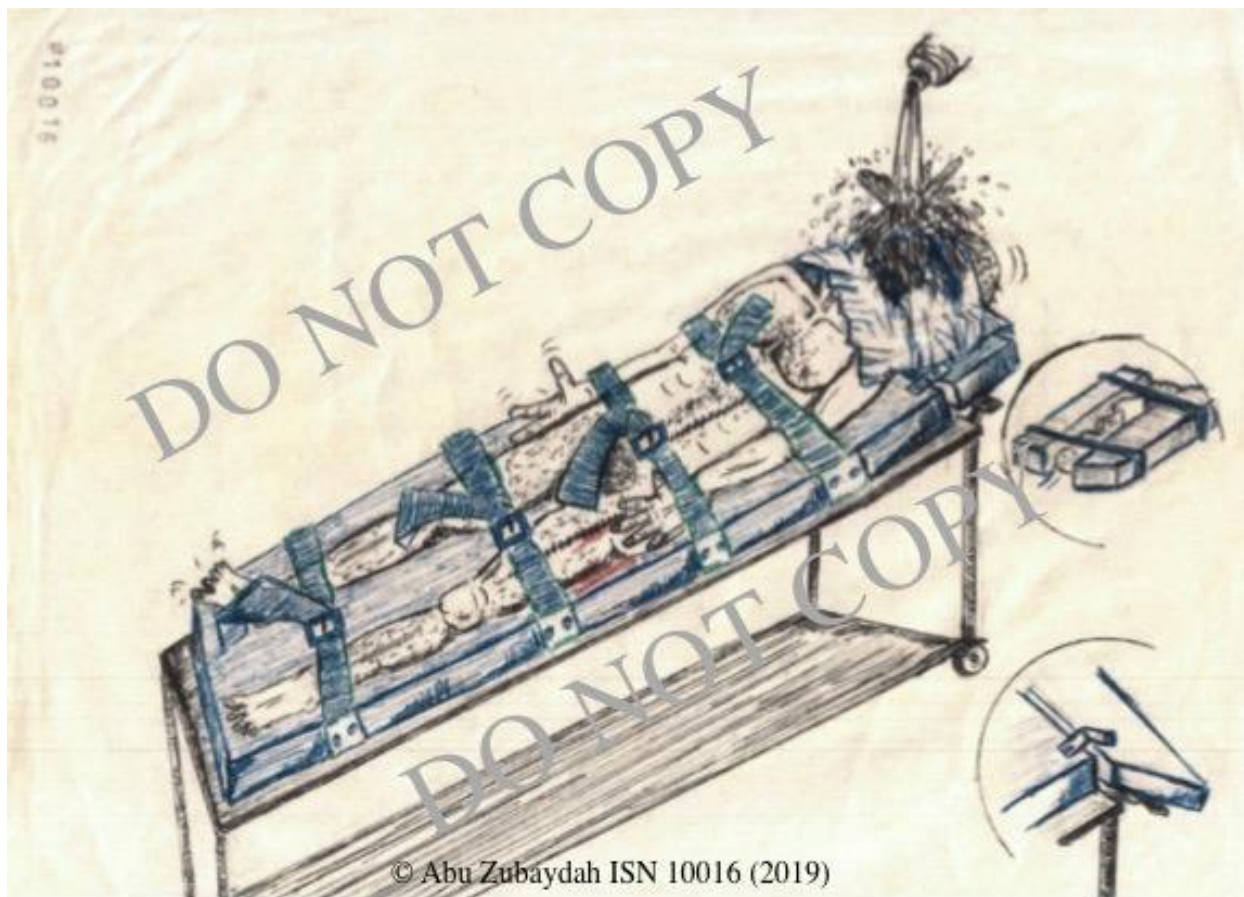
<sup>319</sup> Abu Zubaydah Notes at 9

<sup>320</sup> OFFICE OF INSPECTOR GENERAL, CENTRAL INTELLIGENCE AGENCY, COUNTERTERRORISM DETENTION AND INTERROGATION ACTIVITIES (SEPTEMBER 2001-OCTOBER 2003), D0127 (May 4, 2004), <https://www.cia.gov/library/readingroom/docs/0005856717.pdf>.

<sup>321</sup> Christopher Hitchens & Gasper Tringale, *Believe Me, It's Torture*, VANITY FAIR: HIVE (Aug. 2008), <https://www.vanityfair.com/news/2008/08/hitchens200808>.

<sup>322</sup> *Id.*





heavily restricted for the CIA approved period of twenty to forty seconds of pouring.<sup>323</sup> Since the detainee is on a slight angle downwards, gravity ensures that the water cannot make its way down into the detainee's airways. The towel also prevents the detainee from seeing and makes breathing more difficult.

The straps keep the detainee immobile. This, in combination with the detainee's difficulty to breathe, causes the detainee to feel "perceptions of suffocation and incident panic" with continuously flowing water in their mouth.<sup>324</sup>

**They kept pouring water and concentrating on my nose and my mouth until I really felt I was drowning and my chest was just about to explode from the lack of oxygen.**<sup>325</sup>

**[T]hat was the first time and the first day that I felt I was going to die from drowning.**<sup>326</sup>

<sup>323</sup> Memorandum from Jay S. Bybee, Assistant Att'y Gen., to John Rizzo, Acting Gen. Counsel of the Cent. Intelligence Agency, Interrogation of al Qaeda Operative, at 4 (Aug. 1, 2002), available at <http://www.fas.org/irp/agency/doj/olc/zubaydah.pdf>

<sup>324</sup> *Id.*

<sup>325</sup> *Abu Zubaydah Notes* at 10

<sup>326</sup> *Id.*

In fact, “CIA officers who subjected themselves to the water boarding technique lasted an average of fourteen seconds before caving in.”<sup>327</sup> The CIA approved waterboarding to last for 20-40 seconds and continue for a maximum of twenty minutes per session before breaks are needed.<sup>328</sup> Yet, there still lacked limitations on the frequency of waterboarding. The CIA claims that Abu Zubaydah was waterboarded constantly for just over two-and-a-half hours, which was completely permissible assuming breaks were actually given:

At 1820 hours, the water board technique was applied for the first time... Subject’s last session on the water board was between 2050 and 2053 hours.<sup>329</sup>

Although waterboarding is only supposed to simulate drowning, the technique is often still very dangerous because pushing the limits of this technique may cause harmful physical side-effects, such as random body spasms:

Water was applied . . . resulting in immediate fluid intake and involuntary body (leg, chest and arm) spasms. Subject was immediately elevated and his airway was cleared.<sup>330</sup>

It is important to emphasize that while there are limits to how long each waterboarding session can last between breaks, limits to the frequency with which a detainee could be waterboarded in one day, week, month, etc. are nonexistent. In fact, Abu Zubaydah was waterboarded eighty-three times in one month.<sup>331</sup>

**They stopped me from doing what I was doing and only a few minutes went by before they put back the black cloth over my head again.**<sup>332</sup>

The CIA fails to establish an angle for waterboarding, allowing the interrogators to change the degree of the detainee in order to make it a more or less painful torture method. Further, if a detainee attempts to move their body or head to combat some of the rushing water, interrogators are allowed to focus the water towards the detainee’s nose and mouth, completely preventing them from breathing:

**[E]very time they were deflating the cushion that was holding my head a little bit and so I would feel my head lowered a little bit which made it every time more difficult for me to bear water flowing inside of me.**<sup>333</sup>

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<sup>327</sup> Brian Ross & Richard Esposito, *CIA's Harsh Interrogation Techniques Described*, ABC NEWS, <https://abcnews.go.com/Blotter/Investigation/story?id=1322866> (last visited Nov 13, 2018).

<sup>328</sup> CIA, DESCRIPTION OF PHYSICAL PROCEDURE MEMORANDUM (July 9, 2002), <https://www.cia.gov/library/readingroom/docs/0006552083.pdf>.

<sup>329</sup> Dec. of Ann E. Querns in Support of Defendants' Response in Further Support of Third and Fourth Motions to Compel. Ex. 110, *Mitchell v. USA*, No. 2:16-mc-00036-JLQ, ECF No. 77-11.

<sup>330</sup> CIA, Eyes Only - Team Assessment of Current Status of The Aggressive Interrogation Strategy of Abu Zubaydah, 41 (Aug. 10, 2002), [https://static01.nyt.com/packages/pdf/us/20170620\\_interrogations/cia-cables.pdf](https://static01.nyt.com/packages/pdf/us/20170620_interrogations/cia-cables.pdf).

<sup>331</sup> Scott Shane, *Waterboarding Used 266 Times on 2 Suspects*, NY TIMES (Apr. 19, 2009), <https://www.nytimes.com/2009/04/20/world/20detain.html>.

<sup>332</sup> *Abu Zubaydah Notes* at 10.

<sup>333</sup> *Id.*



Waterboarding is one of the most aggressive standalone torture techniques used by the CIA. Its administration is so feared by some that it is said to mentally break some detainees before they are ever tortured.<sup>334</sup>

## 7. UNAPPROVED TECHNIQUES

The torture program as created by the Department of Justice and the White House in August of 2002 contained the ten torture techniques described previously. However, the torture program evolved beyond the ten approved techniques to include numerous techniques or acts that were never approved, but still performed. Such unapproved techniques include the use of drugs, sexual assaults, rectal hydration and feeding, and threats.

### A. Drugs

Mefloquine is an antimalarial drug which is known to cause severe neuropsychological effects such as anxiety, paranoia, hallucinations, aggression, psychotic behavior, mood changes, depression, memory impairment, convulsions, loss of coordination (ataxia), suicidal ideation, and possibly suicide, particularly in patients with a history of mental illness.<sup>335</sup> Mefloquine was first developed by the United States military and is a quinolone, a drug family the CIA experimented with under a project called MKULTRA where they studied psychotropic drugs for behavioral modification for use as a weapon and interrogation tool.<sup>336</sup> In 1993, Senator Dianne Feinstein asked the Pentagon to look into alternatives to mefloquine after noting as many as twenty-five percent of persons who have taken mefloquine reporting severe side effects.<sup>337</sup>

Under standard intake procedures, the United States Military administered high doses of mefloquine “immediately upon [a detainee’s] arrival at Guantanamo, prior to laboratory testing for malaria and irrespective of symptoms of disease.”<sup>338</sup> The CDC further warns “people with

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<sup>334</sup> Cia, Eyes Only - Team Assessment of Current Status of The Aggressive Interrogation Strategy of Abu Zubaydah, 41 (Aug. 10, 2002), [https://static01.nyt.com/packages/pdf/us/20170620\\_interrogations/cia-cables.pdf](https://static01.nyt.com/packages/pdf/us/20170620_interrogations/cia-cables.pdf).

<sup>335</sup> Mark Denbeaux, *Drug Abuse: An Exploration of the Government’s use of Mefloquine at Guantanamo*, Seton Hall Center for Policy and Research, (Dec. 2, 2010) <https://law.shu.edu/ProgramsCenters/PublicIntGovServ/policyresearch/upload/drug-abuse-exploration-government-use-mefloquine-gunatanamo.pdf>.

<sup>336</sup> Project MKULTRA, The CIA’s Program of Research in Behavioral Modification: Joint Hearing Before the Select Committee on Intelligence and the Subcommittee on Health and Scientific Research 95th Cong. 193–96 (1977).

<sup>337</sup> Kelly Kennedy, Army Scales Back Use of Anti-malaria Drug, ARMY TIMES (Mar. 24, 2009), <http://www.armytimes.com/news/2009/03/armylariam032209w>.

<sup>338</sup> Remington L. Nevin, Mass Administration of the Antimalarial Drug Mefloquine to Guantanamo Detainees: A Critical Analysis, *Tropical Medicine and Int’l Health*, (1281-1282, 2012). <https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1365-3156.2012.03063.x>

psychiatric conditions including active depression, a recent history of depression, generalized anxiety disorder, psychosis, schizophrenia, and other major psychiatric disorders should not take mefloquine.”<sup>339</sup> A normal dose of mefloquine is 250mg per week,<sup>340</sup> however upon arrival, detainees will receive mefloquine treatment doses of 1250mg along with 400mg of Albendazole, a tapeworm drug, before laboratory testing for malaria and tapeworm.<sup>341</sup> The drug was administered irrespective of the presence of symptoms and without regard to the detainee’s a history of mental illness or a family history of mental illness which would greatly contribute to adverse side effects.<sup>342</sup>

It has been suggested by both the Department of Preventive Medicine, Bayne-Jones Army Community Hospital in their study of mass administration of mefloquine to Guantanamo detainees and the Seton Hall Center for Policy and Research’s Drug Abuse report that there may have been a dark incentive behind the use of mefloquine: “The military intended for the drug’s adverse side effects, either as part of enhanced interrogation techniques, experimentation in behavioral modification, or torture for some other purpose.”<sup>343</sup>

## B. Sexual Abuse

Sexual abuse encompasses anything from forced nakedness and sexual molestation to coerced performance of sexual acts, electric shocks to genitalia, and different forms of rape. It is a tactic to humiliate the victim. Since its use was not described in any CIA official memo, the limits to its use were vague, which allowed torturers to do whatever they want. Interrogators would even sometimes become angry with the detainees for wanting to be clothed in front of women:

**It took minutes before I realized that I was completely naked in front of a woman. For moral and religious reasons, I rushed and covered my genitals with my hands with expressions of anger on my face. The guy... said to me:**

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<sup>339</sup> *Id.*

<sup>340</sup> CDC, MEDICINES FOR THE PREVENTION OF MALARIA WHILE TRAVELING MEFLOQUINE, <https://www.cdc.gov/malaria/resources/pdf/fsp/drugs/mefloquine.pdf>

<sup>341</sup> DETAINEE HOSPITAL GUANTANAMO BAY, CUBA, IN PROCESSING MEDICAL EVALUATION, (Sep 24, 2003) [http://humanrights.dss.ucdavis.edu/projects/the-guantanamo-testimonials-project/testimonies/testimonies-of-standard-operating-procedures/medical\\_sop\\_37.pdf](http://humanrights.dss.ucdavis.edu/projects/the-guantanamo-testimonials-project/testimonies/testimonies-of-standard-operating-procedures/medical_sop_37.pdf)

<sup>342</sup> Mark Denbeaux, *Drug Abuse: An Exploration of the Government’s use of Mefloquine at Guantanamo*, Seton Hall Center for Policy and Research, 3 (Dec. 2, 2010) <https://law.shu.edu/ProgramsCenters/PublicIntGovServ/policyresearch/upload/drug-abuse-exploration-government-use-mefloquine-gunatanamo.pdf>.

<sup>343</sup> Remington L. Nevin, Mass Administration of the Antimalarial Drug Mefloquine to Guantanamo Detainees: A Critical Analysis, *Tropical Medicine and Int’l Health*, 1283-1284 (2012) <https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1365-3156.2012.03063.x>; See also Mark Denbeaux, *Drug Abuse: An Exploration of the Government’s use of Mefloquine at Guantanamo*, Seton Hall Center for Policy and Research, 6 (Dec. 2, 2010) <https://law.shu.edu/ProgramsCenters/PublicIntGovServ/policyresearch/upload/drug-abuse-exploration-government-use-mefloquine-gunatanamo.pdf>.

**‘don't start getting angry again otherwise we'll start again from zero. Understood?’<sup>344</sup>**

An FBI report from 2004 documents numerous sexual abuses of detainees by women personnel. Many detainees were kept nude while interrogated by women officers, which in the context of Islamic culture, is a greater shame for the detainee. The Furlow report by DOD notes “that female military interrogators performed acts designed to take advantage of their gender in relation to Muslim males.”<sup>345</sup> According to the report, a female interrogator told a detainee that red ink which was on her hand was menstrual blood and immediately proceeded to wipe the ink on the detainee’s body.<sup>346</sup>

According to the former ICE Deputy, the interrogator left the interrogation room and was crying outside the booth. She developed a plan to psychologically get back at him. She touched the detainee on his shoulder, showed him the red ink on her hand and said; by the way, I am menstruating. The detainee threw himself on the floor and started banging his head.<sup>347</sup>

### C. Rectal Feeding

The CIA subjected at least five detainees to “rectal rehydration” or rectal feeding without documented medical necessity.<sup>348</sup> The CIA describe technique’s process in the torture report:

If you place [the rectal tube] and open up the IV tubing, the flow will self regulate, sloshing up the large intestines.”....Referencing the experience of the medical officer who subjected KSM to rectal rehydration, the officer wrote that, “[w]hat I infer is that you get a tube up as far as you can, then open the IV wide. No need to squeeze the bag - let the work.”<sup>349</sup>

According to interrogation cables, when Al-Nashiri attempted to hunger strike, the CIA force fed him rectally.<sup>350</sup> KSM was subjected to “rectal rehydration” without a determination of medical need.<sup>351</sup> The Chief of interrogations later admitted this technique was employed to gain “total control over the detainee.”<sup>352</sup> “Majid Khan's ‘lunch tray,’ consisting of hummus, pasta with sauce,

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<sup>344</sup> *Abu Zubaydah Notes* at 12.

<sup>345</sup> John Furlow & Randall Schmidt, *Investigation into FBI Allegations of Detainee Abuse at Guantanamo Bay, Cuba Detention Facility*, 8 (Apr. 1, 2005), [http://humanrights.ucdavis.edu/resources/library/documents-and-reports/schmidt\\_furlow\\_report.pdf](http://humanrights.ucdavis.edu/resources/library/documents-and-reports/schmidt_furlow_report.pdf).

<sup>346</sup> *Id.*

<sup>347</sup> *Id.*

<sup>348</sup> United States Senate, *Report of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program*, 4 (Dec. 9, 2014).

<sup>349</sup> *Id.* at 100.

<sup>350</sup> *Id.* at 73.

<sup>351</sup> *Id.* at 82.

<sup>352</sup> *Id.*

nuts, and raisins was "pureed" and rectally infused."<sup>353</sup> He was "very hostile" to rectal feeding and removed the rectal tube as soon as he was allowed to do so.<sup>354</sup>

Marwan al-Jabbur was subjected to what was originally referred to in a cable as an 'enema,' but was later acknowledged to be rectal rehydration.<sup>355</sup>

Abu Zubaydah received "rectal fluid resuscitation" for "partially refusing liquids."<sup>356</sup> Bin al-Shibh, bin Attash, and Adnan al-Libi, were also threatened with rectal rehydration.<sup>357</sup> The SSCI Report notes, the "CIA's June 2013 Response does not address the use of rectal feeding with CIA detainees, but defends the use of rectal rehydration as a "well acknowledged medical technique."<sup>358</sup>

#### D. Threats

Interrogators were widely known to make threats of violence and murder on detainees' families. The thought here was that if they could induce enough fear into the detainees that their families would be hurt, then the detainees will be more likely to confess—regardless of whether it is a false confession. Many interrogators were advised that threats are permissible so long as they are "conditional."<sup>359</sup>

During another incident [the same Headquarters debriefer, according to al [who was present, threatened Al-Nashiri by saying that if he did not talk, "We could get your mother in here," and, "We can bring your family in here." The debriefer reportedly wanted-Al-Nashiri to infer, for psychological reasons, that the debriefer might be [redacted] intelligence officer based on his Arabic dialect, and that Al-Nashiri was in custody because it was widely believed in Middle East circles that [redacted] interrogation technique involves sexually abusing female relatives in front of the detainee.<sup>360</sup>

According to an agent who dealt with Khalid Shaikh Mohammad (KSM), one interrogator threatened that "we're going to kill your children"<sup>361</sup> if anything else happened in the United States.

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<sup>353</sup> United States Senate, *Report of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency's Detention and Interrogation Program*, 115 (Dec. 9, 2014).

<sup>354</sup> *Id.* at 488.

<sup>355</sup> *Id.*

<sup>356</sup> *Id.* at 100.

<sup>357</sup> *Id.* at 489.

<sup>358</sup> *Id.* at 100

<sup>359</sup> CIA, Special Review, "Counterterrorism Detention and Interrogation Activities (September 2001 – October 2003)" (2003-7123-IG) (May 7, 2004).

<sup>360</sup> *Id.* at 47-8.

<sup>361</sup> *Id.* at 48.

Abu Zubaydah was threatened with sexual assault of his female relatives. In a similar vein, interrogators would perform mock executions to instill fear into the detainee:

The debriefer who employed the handgun and power drill on Al-Nashiri lid vided that those actions...Between September and October 2002, the Site Manager offered to fire a handgun outside the interrogation room while the debriefer was interviewing a detainee who was thought to be withholding information. The Site Manager staged the incident, which included screaming and yelling outside the cell by other CIA officers and; guards. When the guards moved the detainee from the interrogation room, they passed a guard who was dressed as a hooded detainee, lying motionless on the ground, and made to appear as if he had been shot to death.<sup>362</sup>

## 8. CONCLUSION

Four years later one of Abu Zubaydah's torturers met with Abu Zubaydah and conceded that the techniques used were unwarranted:

**In 2006, one of my former torturers . . . came to visit me in my cell. He said that he was sorry for what they had done to me, that they had been acting without rules, giving me no rights, trying to get information from me in anyway they could, and that he realized I did not know anything about what they were asking me. He then began to cry. He was ashamed and tried to hide this from me. He left to wipe his eyes and then returned . . . .**

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<sup>362</sup> *Id.* at 75.

## APPENDICES

### A. APPENDIX I: Abu Zubaydah's Notes

Tracking # 712

UNCLASSIFIED

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It seems to me I'm getting sleepy from those dizzying thoughts and memories of the moments that occurred after my injury, and shortly before and that lasted until they moved me to the hospital [...] and then they moved me here and I found myself chained to this steel bed in this white room.

However, as soon as I started letting myself fall asleep, a small amount of water was thrown at my face which made me startle, for it was cold and it took me by surprise. I looked around but there was nobody, nothing, except for the three walls that reflected the light as if they were lights, or sources of lights, themselves; or as if they were a large bulb. I tried to look behind my head and what I expected to be a fourth wall was nothing but metal bars that were very close to each other. At the end of panel of bars there was a metal door mostly made of metal bars as well. "So I am in a prison and not in a hospital."

I closed my eyes trying to avoid the heavy light that to my realization was coming from various large light sources just like the one you see in stadiums and all of sudden water was thrown again at my face. I swiftly looked in that direction and I suddenly saw a black object carrying a water tank and standing outside behind the bars. If my hands were free I would have rubbed my eyes, yet the only way I could rub them was by closing them and pressuring them. Then water was thrown at me again. I said "Hey, what is wrong with you?" That black object that turned out to be nothing but a man all dressed in black. Even his face, his nose and his mouth were all covered. As to his eyes he had covered them with what looked like diving goggles and yet these too were black. Without saying anything he made a gesture as if he was telling me not to sleep nor close my eyes. I tried to talk to him but he didn't respond. He probably couldn't hear me, for the noise was so strident. It was continuously filling the room with loudness. I put back my head in its previous position and each time I closed my eyes from tiredness and sleepiness; or as soon as I would close my eyes, the guard in black cloths would throw water at me.

This situation lasted for long hours. I couldn't even count them. The headache was breaking my head. The pain in my muscles was making my back stiff and was tearing apart my thighs. Suddenly, the noise stopped and I believe it was originally coming from a special kind of device made to generate noise. There was a moment of silence and then I heard the door open. Yet before I could even turn my head towards the door, the guard covered my head with a hood made of black fabric. I was unable to see anything after that until it was removed a short while later. At that moment I realized that the person that removed it was [...]. He was inside the cell along with a large number of guards in black cloths. All I could see was the heavy light. They had their eyes wide open. They brought a chair for [...]. He sat on it and said to me: "haven't I told that things were going to change? And that they were going to change to the worse as long as you are insisting on refusing to cooperate?" I don't know what I said to him. All I know or I recall is that I was shivering from the cold which made him unable to understand what I was saying. He gave instructions to the guards who brought a large towel and he then covered my chest with it so he could understand what I was saying. At the same time I covered my genitals and I wrapped myself as much as the chains allowed me to do so. He went on and said: "Even your friends that were captured along with you and that you were continuously asking about them while at the hospital, their condition and the treatment they will receive will depend on you." He talked with an extremely calm tone and he wrote down every word I said. I don't recall what I first said to him but I was thinking about what he said concerning the brothers that were captured along with me. "Are they going to abuse them because of me?"

I said: "I am not aware of that."

They said: "don't go there \the English sentence is written phonetically in Arabic\" That is a sentence they repeated to me a thousand times since they started interrogating me until they stopped the torture.

After the first encounter I had with [...] in that location, I will call it "[...] prison" to distinguish it from other prisons or locations I will later be taken too, that lasted for many hours he pulled the towel from my chest and went away. The loud noise was back in the cell even before the guards left and closed the door behind them. I started shivering again and the guard resumed throwing water at my face as soon as I would close my eyes, not even to sleep, even if I did it as a reaction to the cold, the hunger or the pain. As to sleeping, I was categorically prohibited from doing so not even for an instant.

I don't how much time went by before the door opened again. However the noise was so loud inside the cell I was almost unable to hear anything else inside the cell except when it was like a sharp noise, such as a door opening or the heavy banging of the metal. At any rate, [...] and [...] came in and sat on two chairs close to each other. They were holding their notepads and their pens and they started another round of interrogations that was longer and harsher than the previous one. When they realized that I was so heavily shivering from the cold and reached a point where I was no longer able to talk they covered my chest with the towel and started questioning me

I laughed and said: "First of all, I am not from Al Qaeda."

- Don't go there \written phonetically in English\

They even returned after many weeks with my telephone book to prove to me that I was a liar and that I had my ways to getting in touch with [...]. When they brought the phone book I laughed again. During that time, I had reached a certain level of psychological, nervous and physical exhaustion to the point that, if it were not for God's protection, I could have officially declared myself psychotic.

What happened that day, the first day, after many hours, was that when both [...] and [...] left they took along with them the towel and they extensively reduced the temperature in the room, or at least that was the feeling I got. They left me alone for an hour, or for many hours, and then [...] came back and this is how they were taking turns on me with the no sleep, no food, no drinking and totally naked. I didn't move from my metal bed not even for one instant to use to toilet, which I didn't really feel the need for it and didn't even think about it but it was just a way for me to relieve the pain in my back and thighs muscles after spending a long time in the same position. I was totally chained to the bed for 3 days or maybe 4 or more. I didn't leave it except once when they slightly adjusted my position when I became unable to talk from the pain in my back and the stiffness in my wounded thigh. However few instants following this adjustment in my position I was feeling the pain again.



Following the period I was chained to the bed, they took me down and sat me on a plastic chair totally naked and they chained me very tight. First, I was very happy on the first day, for I was now in a different position. However at the end of the next day I started feeling the pain again and it was from one muscle stiffness to another muscle and joints stiffness. However, the truth is that I was able to concentrate my weight on one side of my buttocks and then after few minutes, I was able to move the weight on the other side of the buttocks and the same thing with my back. As to the thighs, I put all my weight all the time on the non wounded thigh. Obviously, I didn't start doing this immediately on the first day when I was put on that chair for a very, very long time; yet with time I learned how to adapt a little. However, despite my attempts, it was a very difficult experience despite the fact that they were giving me water to drink, "Ensure", the heavy nutrient liquid that usually provoked vomiting. I was moving from one chair to another one that had an round whole that would allow me to go but in front of all the guards. As to urinating I would do it on the first chair in a special can. However the chains were so tight to the chair to the point that many times I found myself urinating all over myself and on the bandages that were still wrapped around my left wounded thigh.

Sometimes they would leave me for many days on the other chair I used for going. They would also take me back to the metal bed after they fully covered my face and would chain me and then I believe a nurse would unwrap the bandage and pour some medicinal substance and then put the bandage back quickly. Everything would happen so quickly while I was hoping this procedure would last longer even for few more minutes so that I could sleep during that short time despite the pain and the burning caused by that medicinal substance that was being poured on the wound, for as soon as I would be taken back to the chair, they wouldn't allow me to sleep not even for one second. And I wouldn't be able to shut my eyes, for the lights were so strong.

I was deprived from sleep for a long period of time; I don't even know for how long: maybe two or three weeks or even more and it felt like an eternity to the point that I found myself falling asleep despite the water being thrown at me by the guard who found himself with no choice but to strongly and constantly shake me in order to keep me awake. So I couldn't even sleep for a short second. Then I got used to the shaking just as I got used to the water being thrown at me, so I was able to sleep for a second. So they started coming inside the cell and standing me up on my feet for few instants and then putting me on a chair to prevent me from sleeping. I even found myself during interrogation sessions falling asleep maybe for two or three seconds and they did their best to prevent me from adding more seconds by pouring water on me to wake me. Sometime I wouldn't wake up, so they would force me to walk on my wounded leg and I would fall and then they would take me back to the chair and resume their continuous interrogation.

I don't know how long I was chained to the chair. It felt like one and a half months but I can't be positive about the amount of time. During that time they started allowing me to sleep a very little after I started "hallucinating" and my words and behavior became all confused.

Honestly, what happened here is that half of what was happening to me was the result of a breakdown and the other half was the result of letting myself go. When they would pour cold water on me to wake me I would find myself waking up as a normal reaction yet I would refuse to open my eyes and not because I wanted to challenge them but I was just hoping I could let myself go into this state of sleepiness that took control over me. I just wanted to sleep for one more beautiful second before they realized I was sleeping. And this is how I would sleep for one second and then wake up for another second, and then I would sleep again and then I would wake up again. They stood me up. I slept again. They walked me around the cell. I slept while they were dragging me. Then the doctor came and gave me the injection and I woke up from the pain. He examined me and then he started making signals to them without saying anything as if he was trying to tell them: "he needs to sleep, otherwise he would go crazy." They were making signals to him or talking to him as if they were telling him that he shouldn't be talking in front of me. They took off with him and then came back and took me back to the chair. There was a guard with me in the cell that was shaking me. After few hours they lied me down on the metal bed. They chained me and let me fall asleep but didn't make it clear to me that that was their decision. I fell asleep and was expecting them to wake me at any moment. I thought it was probably a mistake from their part, or maybe it was this or that... At that point I slept interruptedly. They then brought me back to the chair for more interrogation. [...] made a comment by saying: "You are gonna have to pay for falling asleep." And indeed they made me pay for it with longer hours of interrogation accompanied with the cussing and the humiliation by calling names all the "women" in my family. Yet following this incident they let me fall asleep on the chair for a short time. My chained hands were hanging. I laid my chest on my thigh and slept. My hanging arms became like a cushion for my head. Sometimes the pain would wake me up, other times I would wake up from the cold but most of the time I would wake up because I was hungry.

After some time, what happened was that they replaced the noise device with loud "music and singing." Don't smile, but what happened to me was that despite my horrible condition I smiled as soon as this happened. I said to myself: "Maybe this is a good sign." Yet few instants went by before I started having doubts about how I felt. Yet after one day, I became confident that that was not a good sign but rather a sign of a disaster approaching. As soon as the very loud music started and as soon as the very disturbing singing started along with the loud noise, I started feeling pain in my ears. I started realizing the difference between that device that was, despite its loud and disturbing noise - it was monotonous: Boum! Boum! Boum! Boum! Boum! All the time, and this one with that music that was a collection of tunes for every second: boum, then zen, then zzzz, then wezzzz, and those lyrics that had one tune. I felt my brain was going up and down, left and right. The singing consisted of one single song that would end with one loud long screaming. The song would last 5 to 10 minutes and was played again and again non stop to the point that on the first day I became afraid to reach the moment when the song would end, for the end sounded like a screaming. I started trying to distract my mind in order to avoid feeling the end of the song coming and I finally found myself screaming along with it. As soon as the song would end with this long screaming, I would scream myself. I would do it unconsciously like some one collapsing. I wanted to plug my ears with my fingers, yet I couldn't do so, for my hands were tied.

That situation followed the period of sleep deprivation and it lasted for days after which I started hallucinating when they were mixing both the noise device and the repeated loud singing together that prevented me from sleeping. Then it was the noise device alone without the singing. However this time it had a higher intensity or maybe it was just the feeling I got because I became more sensitive or maybe it was its impact on me that became stronger or maybe it was my impact on it. "What is the difference?" I was asking myself without being able to find an answer.

The interrogations were long and they were taking turns on me. As soon as two interrogators were done with me after harsh hours of interrogations, two others would come to replace them, sometimes immediately after and other times a short time would go by before they showed up. That was the time when they allowed me to sleep and I was so afraid they wouldn't allow me to do so. I had normal dreams and then would find myself waking up and talking to myself for a long time and not a couple of words but rather long sentences and then to finally realize that I was in a different world than the world of dreams. Other times I would have nightmares and would wake up screaming or cussing or trying to kick something or hit something; or I would wake up screaming that spontaneous scream I would scream at the end of that horrific song. Once I woke up while the interrogators were inside the room and I was walking flanked by the guards; that means that the guards had come in first without me feeling their presence. They set the chairs for the interrogators, they removed the fabric hood that they had started covering my head with once the interrogators left the room. Then, the interrogators came in and tried to talk to me. I didn't respond. They tried to wake me but I didn't react. The guards started shaking me. Then, they untied my chains *\could be handcuffs, I'm not sure for the two words are the same in Arabic\* from the chair. Then, they replaced them with other chains and then they started walking me around the cell just like they had done it in the past when they were preventing me from sleeping. That was the time when I was awake and unawake; when I would sleep and wake up. However, this time I was not conscious of anything whatsoever except of the fact that I was walking on my feet. They took me back to the chair and the interrogator said to me: "Did the [ . . . ] cover the guys with the blanket? I didn't understand how he was able to know about my dream but he thought that I was faking to avoid talking to him. Yet the truth is that I was dreaming even that last time while I was walking. I was dreaming of the guys that were captured along with me. They were shivering from the cold. So I said to one of the guys and his name was "[ . . . ]": "[...], did you cover them?" *\that was in his dream\*. So the interrogator started making fun of me about that. Once, one of them said to me: "The more you cooperate with us, the more we will cover them more than [ . . . ] would. And the more you refuse to cooperate with us or you try to play games with your responses the more we will keep them naked and cold."



With time [ . . . ] they took me down from the chair and tied me up directly to the cell's bars where I could move just a little bit, just enough to let me fall asleep on the very cold floor but I would have to bend and couldn't spread all my body.

The floor, to start with, was so cold and I couldn't lie down completely even if the chains would allow me to do so but the chains were too short. All I wanted was to put my back, or my shoulder on the floor even if the floor was freezing and very filthy. That was my wish for a long time when I was tied up to the chair. Nevertheless, they wouldn't let me fall asleep except for a very short time. They then started giving meals once a day after they fed me for a very long time. Ensure that tore my stomach apart from hunger or from vomiting that was caused by that "Ensure." So it didn't really help me the way it was supposed to help and therefore they had no choice but to providing me with small quantities of food. The food was no more than white dry "rice" that had absolutely no flavor and no salt whatsoever and tasted just like cotton. Nevertheless, I ate all of it just to relieve the pain in my stomach and I did it with my very filthy hands that had become totally black from the built up of dirt. In addition to that, they kept shaving my head and my face with an electrical razor and they did it in such a quick and violent manner that made my hair get into my nose and my mouth which made me cough and sneeze every time they shaved me. I begged them to inform me about prayer times so that I could pray, yet they refused to do so and made fun of me. I said to them: "Do whatever you wish but don't make fun of religious matters like prayer time, even my beard and covering my genitals as well. These are considered religious matters and they had no right to make fun of them." They would laugh and say: "You have no rights whatsoever and we are entitled to do to you whatever we please so that we can get information from you." One of them said to me: "Praise you God you are not in one of your Arab countries where they would have sodomized you in order to extract information from you. And beware that if we want to do the same to you we will; so be careful."

One day a female nurse, or doctor, came in while I was vomiting on the floor but the guards had put me on a chair to which they chained me before she came in; so I couldn't cover my genitals in an appropriate manner. She said: "Why are you naked?" I said: "Ask them." She said: "I'll see what I can do." And then she left. She had come to examine my knee that was continuously causing me very serious pain. Even though I never complained yet they noticed it themselves. She could have examined me while in the metal bed when they change the bandage every day. She didn't examine anything. She just said: "How is the pain going?" I described it to her. She said: "It could be the cartilage," and left.

They came back later and gave me very light cloths that looked more like underwear – short large pants and a sleeveless shirt that had no buttons, a "tee shirt." I said to myself: "Praise God, I am finally able to cover my genitals." The interrogators showed up and started a very long and harsh interrogation session during which they screamed at my face and said to me: "The good treatment is not going to work with you. We gave you cloths." They then left. The guards then came in and stood me up on my feet in a way where I could no longer sit down nor bend over and my hands were held high and I could not bring them down. They covered my head with a fabric hood. A man came and started screaming loudly and shoving me violently and started violently and quickly cutting my cloths. I felt at that moment he was cutting my skin. He then left me alone. I felt that the worse was coming; he was going to beat me up and whip me; but he left.

Long hours went by while I was standing in that position and I wished at that moment he would beat me up or whip me but then let me lie down on the floor or sit on a chair. Standing for long hours on one foot is very hard. As for the other one, touching it would be enough to cause pain let alone standing on it. Nevertheless I would stand on it for short instants just to relieve the other non wounded foot. I felt the wound was heavily bleeding. I don't recall how long I stayed in the standing position but I know that I passed out while *illegible*, for I remember waking up my body and my head were both *illegible* to the floor. My hands were tight to the upper bars. I felt they became paralyzed or severed. They were blue or green. The chains had left some traces of blood. I said to myself that it might be God that is helping me by making me numbed otherwise I would have felt an intolerable pain.

The guards came in, for they noticed the color of my hands so they rushed inside and brought me down to the chair. The interrogators then came and the interrogation vertigo resumed – the cold, the hunger, the little sleep and the intense vomiting which I didn't know whether it was caused by the cold, the "Ensure" or the noise – they later told me that they were expecting *could mean they assumed* that all of them have caused the intense vomiting; add to this the migraines, the pain caused by the wound and the humiliation as well. Here we go again and after some time, they resumed their cloths "game." One of them [...] after he described to me the condition of the brothers that were captured along with me and after he was able to obtain my responses for all the questions he asked me, he told me that day that he was going to improve my condition in return for my cooperation. I said to him: "What about the brothers?" He said: "Their condition is not as bad as yours. We know you are the chief *or boss* and they are just followers; yet your conduct will have an impact on their condition. He then left and the guards came with the same type of cloths that I was able to enjoy for solely one day. The other interrogators showed up and asked me many questions about my knowledge of some operations. When I didn't provide them with any information, for I didn't know anything, they gave orders to the guards to tie me up again in the standing position; they cut my cloths one more time and left me hung for hours or days, I don't know anymore but I woke up like when you wake up after you were asleep *???* or after you pass out. At that moment I was unable to control my urination.

They came back later and kept my feet chained without tying them up to the bars, I had also my hands chained. They then threw a towel to my face and I immediately used it to cover my genitals and they then left. They didn't show up at all for one month or more and I didn't see anybody except once. They brought the metal bed after they covered my face and they tied me up to the bed and the nurses changed the bandage, left a plate of rice and went away. I started cleaning the rice from the hair that was filling the place – that was my hair that they had left all over my body and on the floor after they shaved me like you shave a sheep and not a human being.

I spent one month in that vertigo of noise and thoughts. I didn't know where I was nor *illegible* and with time I almost didn't know who I was.

Traching # 713

UNCLASSIFIED  
~~Secret Noform~~

I am kindly asking the translator to forgive me for this letter or for the attached story, for unfortunately many parts were stricken let alone the bad handwriting and misspelling. Writing has become nowadays very difficult for me due to the neurological ailment that is affecting my memory.

Thank you and with all my appreciation.



IN THE NAME OF GOD THE BENEFICENT THE MOST MERCIFUL  
Praise God and prayers and peace upon all the prophets.

One month or little over a month went by during which no one came to interrogate me or interview me, except for the guards that came once a day. They would restrain me to the medical metal bed and the physician (or the corman) would quickly change the gauze around my wounded thigh. They would then leave a dish of food that consisted of white dry rice with a very little amount of string beans along with a can of water. They would leave me totally naked except for a towel that they threw on my genitals. I was freezing from the intense cold. My nerves were just about to break from the extreme constant noise that was coming from an unseen device.

Following that month, the guards came one day and did what they previously did every day. They left afterward. As soon as I finished eating my food which, out of hunger, I did very quickly, the guards came back again which surprised me, for they had never done it in the past. They ordered me to put my hands between the metal cell's bars so that they could tie them up. I followed their orders. Yet they told me to enter them in the upper part where the bar was horizontal. By chaining me in this position I wouldn't be able to lower my hands as I would be able to do if I were tied up to the vertical bars and thus I would be in the hanging position. I knew they were up for some evil trouble, for they usually don't do that, or didn't do it in the past except when they would leave me hung in this position for long hours or when they tore my cloths. But that time I was naked with no cloths on to tear. What happened was after they chained me in the previously described position they opened the cell's door and came inside, (they had covered my face with a black cloth bag before they came inside). They brutally and quickly pulled the towel that was covering my genitals. They unchained my hands from the bars and chained them with shorts chains to the chains that were around my legs which kept me in a bowing position at all times. They brutally dragged me to the cement wall. Then, they removed the hood. I saw a man wearing black cloths, but he was also wearing a military jacket. His face was uncovered. He had no mask nor big glasses, like the other guards usually had. [...] Maybe he wanted to scare me with his look. There was anger in his face. He spoke with an angry tone and was yelling words that I did not understand at all. And before I made any attempt to understand what he was saying or respond to him he started brutally banging my head and my back against the wall. He talked a little more and then started again brutally banging me. I felt my back was breaking due to the intensity of the banging. He started slapping my face again and again, meanwhile he was yelling. He then pointed to a large black wooden box that looked like a wooden casket. He said: "from now on this is going to be your home". At this point, the guards lifted up the box that was lying horizontally on the floor and set it in a vertical position. They fixed it to the metal bars.

The guy [...] dragged me and brutally shoved me inside the box along with a toilet bucket, a can of water and a can of (Ensure). He was still yelling and cussing: "we will give you another chance, but a short one, for you to give it some thinking on whether you are going to talk or not". He violently closed the door. I heard the sound of the lock. I found myself in total darkness. The only spot I could sit in was on top of the bucket, for the place was very tight. I couldn't sit down in length or in width. I believe if I were able to raise my hand I would have barely touched the ceiling of this vertical casket box. Yet they made the chains so tight and so short that I could barely move my hands to take care of my bathroom needs or drink some water. Short hours went by after which I could hear the noise of carpentry work activities being performed outside. I had no clue of what was happening until I heard the click of a lock. Some light came in. At first, I couldn't see anything, yet I felt something was being wrapped around my neck. I suddenly saw another man [...]. He was twisting a thick towel which was wrapped with a plastic tape so it could be given the shape of a noose. He wrapped it around my neck and brutally dragged me. I fell on the floor along with the bucket, with all its content that fell on me. The guards did not intervene. It was he who dragged me on the floor with that noose towel. He brutally dragged me towards the wall. I suddenly realized there was a wooden wall covering most of the original wall. Before he uttered any word he started brutally banging me against that wooden wall. I suddenly felt the same pain I felt when I was being banged against the cement wall. However, when I thought about it later, I believe they didn't want to leave any trace of beating and banging on my body, for the first one is green and then it immediately turns blue. He kept banging me against the wall. Given the intensity of the banging that was strongly hitting my head I fell down on the floor with each banging. I felt for few instants that I was unable to see anything, let alone the short chains that prevented me from standing tall. And every time I fell he would drag me with the towel which caused bleeding in my neck. When he realized that I had completely collapsed he started talking breathlessly. He was cussing, threatening. With the help of the hand that was not holding the towel he was slapping my face. I tried more than once to defend myself or to avoid the slapping. I felt so humiliated despite the large amount of humiliation I had already been through. Yet it is an involuntary reaction to protect yourself when you get beaten but I was falling on the floor every time I was trying to protect myself. While he was beating me on my face and banging my back he said, while increasing the intensity of beating: "I see you don't cover your face to avoid the beating. You think you have pride. I will show you now what pride is about". He started banging my head against the wall with both his hands. The banging was so strong that I felt at some point that my skull was in pieces, or that the artificial bone in my open head was falling apart. I don't know how to describe that feeling. The feeling was abnormal. I had this abnormal feeling in my skull. It lasted for ever and that guy [...] was not getting tired from beating me. He then dragged me to another very tiny squared box. With the help of the guards he shoved me inside the box.

It was so painful. As soon as they locked me up inside the box I tried my best to sit up, but in vain, for the box was too short. I tried to take a curled position but to no vain, for it was too tight. It was a serious problem. I spent long countless hours inside. I felt I was going to explode from bending my legs and my back and from being unable to spread them not even for short instants. The very strong pain made me scream unconsciously. The contractions in my muscles and nerves were increasing with every hour, every minute and every second that were passing by, especially in the wounds I already had in my belly and thigh, let alone the pain in my head that was predominantly stronger than any other pain in my body. As to my back it was playing solo the guitar of pain but with no chords, for I couldn't feel any chords, or nerves or even bones. The tone of the music was dissonant. Suddenly the door opened and a sudden light came inside. I didn't hear or feel them come nor heard them turn the lock.



When they pulled me outside it took me a long time before I was able to stand on my feet. They were shoving me thinking that I was deliberately refusing to stand up. They didn't give me any opportunity to do so. They restrained me to a metal bed that had many belts in every direction. I was totally restrained to the point that I was unable to make any movement whatsoever. They restrained me in a lying down position. Obviously, even the wounded thigh was strongly restrained under the gauze. I felt the wounds were opening, although it is a one long open wound that goes all along the left thigh and all you can see is a large piece of red flesh. After they restrained my body, they restrained my head as well with the help of strong plastic cushions on the sides, which made it impossible for me to move it, not even for one centimeter to the left or one centimeter to the right, and obviously neither upward nor downward. At any rate, I didn't understand the reason for this very strong restraint and found them suddenly putting a black cloth over my head and covered it completely. I suddenly felt water being poured. It shocked me because it was very cold. But the water didn't stop. So the idea was not to torture me with very cold water in a very cold environment. They could have done that all over my body which would have made me startle and shiver. Yet the water that was being continuously poured and flowed over my face was indeed aimed at giving me the feeling of drowning resulting from a feeling of suffocation. And this is exactly what happened. They kept pouring water and concentrating on my nose and my mouth until I really felt I was drowning and my chest was just about to explode from the lack of oxygen. Indeed that was the first time and the first day that I felt I was going to die from drowning. Yet I didn't know what happened. All I know or remember is that I started vomiting water but also rice and string beans.

They set the bed in a vertical position while I was restrained to it. They removed the hood. And as soon as I emptied my stomach from the water and the food they brought back the bed to the normal horizontal position. I was coughing a lot and I was trying to get some breath. I was breathing with difficulties and I was barely inhaling little carbon dioxide. They stopped me from doing what I was doing and only few minutes went by before they put back the black cloth over my head again. I tried to speak or yell with my head covered: "I don't know anything" but I suddenly felt the water flowing again. To make a long story short, they performed the same operation three times on that day (the first day). And every time they were deflating the cushion that was holding my head a little bit and so I would feel my head lowered a little bit which made it every time more difficult for me to bear water flowing inside of me. On the third time, they lowered it more and more, (I'm not sure if every time they were increasing the duration of the drowning procedure. It is difficult to say, but that was my feeling.) The suffering was more intense every time they interrupted the operation for few minutes to allow me to breathe or vomit and then they would resume again. After the third time on that day (the first day), they kept the hood with all the water on my head and started asking me questions that I was answering with difficulties due to the troubles I had breathing and to the fact that I didn't know what they were asking me about.

Then, they removed me from the bed and dragged me to the long box; they shoved me inside and locked the door up. I don't know exactly how much time has elapsed. And I could not believe that I was breathing normally. And I didn't know how much time had elapsed with me in a fetal position inside the box. My head was lying between one corner of the box and the toilet bucket. And I don't know how much time had elapsed while I was sleeping or fainted. However, what I felt was that the time was very short. I suddenly felt a strong strike that shook the box from outside followed by several other stronger strikes. The strikes stopped. I had problems readjusting my position to try to sit on the bucket. Yet the chains were making it difficult for me to readjust, for they were too tight and too short, in addition to the fact that they were tied up to the legs. Yet, as soon as I did that, the strikes on the box resumed in the darkness of the box. They shook the box so heavily which made me fall from the bucket. The strikes continued. There were probably ten strikes. Then they stopped. Then every (1/4) quarter of an hour they would bang again ten times, maybe to make sure I am unable to sleep. Yet with the time, the fatigue, the headache and the pain it seemed to me I was able to sleep for a very short time. And I started hearing the bangs as in a dream. They would wake me, I would count them and then fall asleep again; or if I had fallen from the bucket I would readjust again my position.

The same thing that happened in the tiny box happened again. They brusquely opened the door. I didn't feel them coming or unlocking the box. A light came inside and broke the darkness of the box. My vision was blurry. And without any introduction, I was dragged to the wooden wall and was asked questions. The individual that was asking me the questions was the guy [ . . . ] He asked me: "do you have an answer?" I said no with my head. And I said: "I don't know..." but before I could finish my sentence the beating started again and my head and back were brutally banged against the wall. And they did the same arrangement they had done the first day or the previous time, (I am not sure whether a full day had elapsed or at least an entire night). They did the same thing again: the banging against the wall, the little box, the water bed, the long box. Yet this time they increased the degree of harshness and brutality and the amount of time inside the little tight box. They also increased the number of times of water drowning in bed from three to four and some times five. Yet they added new things: 1) keeping me on my feet tied up for long hours, wet with water and urine to the point where I felt my legs, especially the wounded one, were just about to explode from pressure, and my back as well. 2) They kept me lying down on the water bed for long hours. I felt again the same pain and the same feelings that drove me crazy when they used to tie me up to the metal bed the first time I was brought to this location. Yet this time, my head was tied up and restrained in one direction and the wet black cloth was entirely covering my head which added to the pain resulting from the contraction in the neck, the back, the limbs, the joints, the muscles and the nerves. Add to it the difficulties in breathing through a wet cloth. 3) They increased the amount of cold water that was being poured over my naked cold body.

What makes it worse is a period I was not aware of. They told me later that it was (5) times or (5) days. However, I felt it was more and longer. This period would end with me losing sometimes control over my urination. I clearly noticed it the first time I was tied up to the bed that was placed in a vertical position and I would vomit what I had inside my stomach after the drowning operation before they bring me back to the previous position. I noticed that I was vomiting, there were tears in my eyes, my nose was leaking and even my genital organ was involuntarily discharging. This has become a normal routine after every drowning operation and I noticed that it was fully discharging more than once while I was standing on my feet and tied up for hours.

As soon as this period was over I would start feeling a weird headache that was new to me that was followed me like my shadow; the shadow rather *illegible* sometimes, but this headache would become lighter sometimes but never disappeared. Actually it would become even stronger to the point that I felt sometimes like I wanted to hit my head against the wall. This headache is different from headaches caused by hunger or cold or low vision or lots of thinking or even by an ailment or physical weakness. These types of headaches could be sometimes very strong but this one is different and distinctively strong. Sometimes I was unable to distinguish one type of headache from another. That period was over and my hand started to shake lightly as soon as I start thinking a lot or get angry or become tense. This is very similar to the shaking I noticed years ago after I was wounded in my head (in 1992) and lost my memory. I would even say that it is the same loss of control I had over my right fingers that lasted for some time after that old head injury. The same thing started to happen to me again during that period.

At any rate, the torture continued using the same methods during the period of drowning that was not limited to water but also urine, in addition to the heavy vomiting that was breaking my head in two and tearing apart my stomach - that was already wounded-. The long closed wound that goes through my belly and appears a little under the chest and go through *illegible* seemed as if it opened internally during every episode of vomiting or after drowning or during long standings or even by just sitting down.



The humiliations, the terrorizing, the hunger, the pain, the tension, the nervousness and the sleep deprivation lasted for some time until one day they did all these things to me but with more intensity and for longer periods of time before they brought me back to the big box and they started banging on it with me inside to prevent me at least from sleeping. Before they did that they said to me: "we have two individuals that came from Washington to talk to you and they know about you more than you know about yourself, at least for now. They will ask you questions and the more truthful you will be with them the more you will be able to save yourself from worse troubles." I didn't really realize what he said. I was still lying down on the floor surrounded by the large number of guards with their black cloths. When he did not get any response from me except for another series of vomiting episodes, he gave them the order to readjust my position, made me stand on my feet and clean the floor with the same black hood they covered my head with while I was standing for long hours, just to humiliate me and disgrace me. And indeed they cleaned the floor with the black hood and then put it on my head. A short time went by and few minutes later I heard foot steps and other individuals came in. The hood was lifted and I saw two other individuals: a man and a woman in civilian cloths. It took minutes before I realized that I was completely naked in front of a woman. For moral and religious reasons I rushed and covered my genitals with my hands with expressions of anger on my face. The guy [...] said to me: "don't start getting angry again otherwise we'll start again from zero. Understood?" He said this while shoving me several times to the wall and then he put me in a standing position. At this point, the woman started reading questions from a piece of paper she was holding.

And out of embarrassment or tension she read several questions at once and her friend told her: "ask one question at a time"; which she did. I told her: "I will answer the questions while looking at this man", and I pointed towards her friend, adding: "it is not appropriate for me to look at you while I am naked". Suddenly, the guy [...] brutally shoved me several times to the wall and said: "you still have pride, right?" I tried to clarify and say that it was not a matter of pride but rather a matter of good manners regardless of the circumstances and regardless of the fact that this woman is an enemy and regardless of the fact that she is part of the team that is torturing and humiliating me in such an rude and inconsiderate manner. But my words were like putting fuel on fire and they made him immaturely angry. At any rate, after several questions were posed to me and that I had already answered a million times, even prior to the recent intense episode of torture, the two individuals left and the guards brought me back to the long box and locked the door up.

That time or that night they didn't bang on the box from outside. I believe they were using rods or batons for the banging. Thus, I slept that night for a long time though interrupted given the hard sitting position. Well, how could I sleep with all the nightmares and the pain that became so impossible for me to know its sources.

Tracking # 714

UNCLASSIFIED

~~Secret Noform~~

At any rate, let's go back to what happened during that first trip. We were transferred from that plane to a vehicle and were driven [REDACTED]. Then, I was carried up to a location where they sat me down on a seat, chained me for some time and then they removed the hood, the blindfolds and the earplugs. I found myself in a new place that I will call prison 2. In fact I realized that I was in a cage [REDACTED]

[REDACTED] They gave a light blanket to use as a mattress on the wooden floor and another lighter sheet to use as a cover blanket in this very cold temperature which made me roll myself while sitting on the chair. They then untied my handcuffs, through a slot in the cage, but kept the feet shackled. Starting from the third day they started interrogating me once or twice a day for one or two hours each time. The food was like before, rice and string beans. For the first three days they gave me tuna and potatoes, for the physician, I learned later, had insisted that I was very weak and that the wound was still open and was consuming all the energy in my body especially that the ensure was not good for me, for it was causing me to vomit; nevertheless, they kept giving it to me in each meal. The toilet consisted of a bucket except for the first two weeks where I had a real movable toilet that looked nice.

They gave me back the Quran on the third day - they had given me a Quran in the previous place (prison 1) following the torture and the visit by the man and the woman. They gave me back the pad as well, - they had given a pad to write down the new English words that would help me communicate with them, for they don't need an interpreter to communicate with me, except in rare situations. Yet I was unable to understand certain words so they would explain them to me by using other words. And when I needed to say something to them and couldn't find the right words I would explain it to them. Yet with time, I started using this pad to write my journal or everything that happened to me in details. When I asked them in the outset if there was a problem writing down what was happening to me, their response was: "no, none of the things we did to you was considered 'illegal'". I was surprised to hear that, for I have a different understanding.

I might have spent two months or so in that cage.

[...]

After I spent that period of time in the cage I was transferred to a furnished room with carpet and synthetic rugs that looked very cheap and worn.

[...]

There was a foam mattress in that room but the blanket was similar to the one I had before. There was also a chair for interrogation sessions. The food was similar to the one I had before. I spent months, maybe nine or ten months in that room. In the last two months though the food was still of the same quality yet I was given three meals instead of two. Finally, after several requests and lots of begging they informed me that I could know the time for dusk prayer when I get my breakfast, midday prayer when I get my lunch and dawn prayer – at sunset – when I get dinner. After some time they gave me a hand watch but without a band. It was of very cheap quality but it was the most important thing I had received. I was finally able to know days from nights – even though I couldn't see them. I resumed my regular praying according to the right schedule, for prayer schedule based on the time meals were served was not accurate at all. Then they told me the day of the week and the month of the year. I didn't need to know the year itself, for I already knew it. In fact they asked me first if I knew the day, the month and the year and I was able to give them the exact year and month but the day was wrong with eight days difference. They were surprised and when they asked me how I knew the exact month and year I explained to them that I counted, as much as I could, from the date I was informed about the first day of Ramadan. They gave it to me in the previous place after I begged them to do so. The previous place is the first prison that I called (prison 1) and this one is (prison 2).

After some time they informed me that they would be moving me to somewhere else and that the trip would take close to [redacted] and that the next place would be much better in all aspects than this one. And indeed, the travel day arrived. They completely shaved my beard. They had stopped shaving it like they shave sheep (that was in prison 1) so it grew along with my hair. So they shaved it and completely shaved my head as well on travel day. They tied me up the same way they did it for the previous trip. They performed cavity search as well and then they transferred by car for a [redacted] trip. They got me on the plane and chained me to the floor. One more time, I went through the same problems as during the last trip. The plane landed. They had told me before that I would stay on the plane for [redacted] totally restrained with no possibilities of going to the restroom and that I should be using diapers.

They kept me in that place with my hands tied up behind my back which prevented me from sleeping on my back and they prohibited me from sleeping on my stomach and the large headphones prevented me from lying my head down on neither sides. Therefore I couldn't sleep for even one single instant. In order for me to break the pain I started concentrating on the voices I could barely hear.



I also heard brothers screaming and moaning and it seems something happened that made the guards bring a bucket and pointed it to us by touching and saying out loud that they would give us the opportunity to take care of our bathroom needs – knowing that they were the ones the caused all of this by keeping us tightly chained without even having the possibility to scratch ourselves let alone taking care of our bathroom needs.

They brought the bucket, undid my slacks, took out my genital organ and held it and although I felt I was going to explode from controlling my urination it took me some time to start urinating and in fact it was like it was exploding from pressure. The pain was so strong I couldn't help but screaming or moaning until I was done. They then undid my slacks and sat me down on the bucket; at this point I said: "no, there is no need", although I really needed to do it, but!!! The wait was long after which they took us to the car and then the plane. They chained us again to the floor. And I started counting the hours that go very slowly when you want them to go fast and you find yourself begging the hours to go by fast. The plane stopped for a long period of time and then took off and I was destroyed and felt that was the end.

The plane took off and it was hard for me to count the number of hours. Just as hard as counting the number of seconds there are in many years. This period of time felt like a lifetime, I would rather say like several lifetimes. The plane landed but this time I didn't care much about what was going to happen. Have I already said that at the end I lost hope? Yet this was the beginning of the end and not the end itself. After the plane, they took me to a vehicle and sat me in the back seat. [...]

In all the other places, the shower was only once a week except during torture where water was only allowed for drinking regardless of how soiled your body was, whereas here in (prison 3) there is a shower and soap as well.

We were given a hand watch that could be stuck to the wall or to the metal partitions inside the cell. We were also given a calendar – both Muslim and Christian Gregorian. Few days later we were given the opportunity to exercise in a small yard surrounded with strong wire mesh with a fixed air bike. The time allowed for exercise was one full hour or ½ hour during the day and another ½ hour at night – optional. Here I saw the sun for the first time after years.

After approximately ten months they came to me one day and said: "get ready, we will be traveling in just two hours". Usually they give me notice many hours ahead of time so I would stop eating and drinking and use the toilet as much as I can. Yet this time they said it's a real emergency and we need to leave soon. And indeed they quickly went through the usual procedures and we went on one trip only and took only one plane, yet the trip was very long. The plane [...] as well. Like the other trips, it was a hard one. I would rather say it was harder than the other ones given my dire need to use the bathroom. We finally arrived to [...] (prison 4).

Exercise: after three months they provided us with a large yard for exercise. There was also a fixed bike and after a short time they brought full weight lifting equipment. The yard was exposed to the sun [...]

We spent 2005 in [...]. Then a new journey started to another location that we reached after a very hard trip that we took in the beginning of 2006.

We spent about [REDACTED] months in that new location with daily interrogation, just like before. At first the guards wore black uniforms yet after four to five months they removed them and started wearing different types of cloths. [ . . . ]

The exercise room consists of a small closed room that was totally empty for the first three months. Then they brought a fixed air bike and five months following our arrival they brought a weight lifting equipment in addition to some other free weight lifting equipments [ . . . ]

At first there was little food and the quality was very bad then it started to improve [ . . . ]

We were then transferred to another location [ . . . ] I believe we spent [REDACTED] months and then we were brought to Cuba on 9 [REDACTED] 2006.



Tracking # 715

UNCLASSIFIED  
~~Secret Noform~~

IN THE NAME OF GOD THE BENEFICIENT THE MOST MERCIFUL

[...]

I noticed during the torture with the water bed that my right hand and my right foot started shaking like they did following the first injury. And if shaking was provoked by fear, both feet and both hands would have shaken alike, or one would have shaken after the other. Yet the shaking was taking place in the hand that used to shake several years prior to the torture. This shaking would last for days where I would wake up from my sleep to find my right foot and hand shaking exactly as before.

I also realized that I started again mumbling words at times and I thought that was due to the torture with the use of freezing temperature. That is what they also thought. Yet with time I noticed that even without that freezing temperature my tongue would twist sometimes and words wouldn't get out of my mouth the way I exactly wanted them to, like in the old days (1992). And when I wrote, I noticed that I made many unforgivable spelling mistakes. This condition would sometimes increase and other times decrease.

That happened more than few times. I lost control of my urination during the torture on the water bed. Once it happened while I was standing for hours (a method of torture) and later it started to happen as a result of nervous tension, sometimes without necessarily being chained or drowned.

During the period of torture, prior to the water bed I was vomiting heavily. They told me later: "we thought it was because of the loud noises. I myself thought it was due to the cold or the "Ensure", the nutritious liquid that was at some point my only food. Yet even without the cold, the loud noises and the Ensure, the heavy vomiting was sometimes killing me and neither I nor they, or the physicians knew what was causing it. Yet with time I knew and realized that it was first for nervous reasons and second for biological reasons. In the past oil used to bother me but didn't cause me any vomiting and now I started vomiting heavily if the food contained a little oil. As to the nervous element, it is connected to the fact that noise had a real affect if it lasted and was loud. It provokes a specific type of tension and headache that I am familiar with. The vomiting was a nervous thing as well, for it happened even after I drank just water. In addition to this, the lots of thinking and the anger were quickly causing nervous tension that gave me first a strong desire to vomit that materializes if the tension and the lots of thinking last.

Since they started moving me from one place to another on very long plane trips where each trip would last between [redacted] added to the transfer from one plane to another several times [redacted] or there were long waiting hours on the floor on board of the plane or outside. These trips reached the number of 7 until I arrived to Cuba, I want to say that during these trips I was restrained and was not allowed to use the restroom even for peeing except in the diapers that I refused to use no matter how much suffering I was going through and they would force me to wear them before going on the trip and at the end of the trip they would take them back clean. However this has created major pain in my bladder but the location where one of the surgeries was performed. And

the pain would last for close to one month following each trip and following each act of urination. And then after the first trip, I started having very strong constipations that none of the medications administered to me could treat. They would last between one and two entire weeks before anything could come out during the natural human defecation process. Add to this the pain, the blood and the muffled screaming. This happened on every trip until constipation became to me a chronic ailment that none of their medications could heal and until I was able to discover by accident some natural foods that were the necessary medications to treat this condition which I believe is a nervous condition more than a physical one sometimes and the proof is that constipation became heavier and would last longer when I was more upset and my psychological condition was worsening and became milder when I calmed down or my psychological and nervous condition improved. As an example, I would be sitting on the toilet seat sometimes knowing that I didn't have any constipation at that moment but as soon as I would hear the camera moving and observing me in this very indecent exposure, despite the fact that I was covering myself well, I would start feeling some nervous contraction and solidification. What used to be easy for me was no longer easy until I was able to calm down and ignore the camera. Yet this didn't happen quickly and this method didn't work all the time. What I mean here is that it has become a nervous problem.

[...]

I tried to convince them that it was nervous vomiting due to nervousness and thinking but they were not convinced until they saw me vomiting for an entire month.

[...]

And indeed, slowly, slowly and with some attention the vomiting started to slow down and then stopped. It would only come back when there was an increase in nervousness or noises – the noises are in themselves a story or a case.

On 10/6/08, I fainted for the first time following some symptoms that I had not noticed well before these fainting episodes became more frequent. First, my headache, that killing headache, started to increase in frequency with thinking, nervousness and tension to the point where I would feel my head was going to break in two pieces. Secondly, I felt my ears were blocked as if they were filled with water or air. I felt like I was on board of a plane that is just about to take off. Thirdly, I noticed that my right hand was shaking and even my right foot shook at times or maybe all the time prior to each fainting but I only noticed the hand and also sometimes the fingers would involuntarily contract for some time. In addition to this, during the first fainting episodes my left hand would become heavy and my pulse would go faster or slower. I don't know exactly

[...]

Sometimes I would vomit prior to fainting and the noises triggered the thinking and the nervousness that ultimately lead to the fainting.

Coffee was able to relieve the headache, even when it was caffeine free, for I believe that coffee here is caffeine free but at least it helped. It would sometimes prevent me from hitting my head against the wall which I did to spread the pain and avoid having it centralized in one location and that is the back of head close to the injury. I believe this is where the remaining shrapnel are stuck. The truth is that most of the times I was doing this unconsciously and looked like a crazy man. And the truth is that both craziness and death are better than this headache that lasted for hours prior to the any fainting episode and was stronger for more hours following the fainting.

Few days later, the second fainting took place followed by my loss of speech that lasted for hours. I realized later that I was losing my speech when they took time to wake me from my unconsciousness. Sometimes, moments would pass by before they realized, through the camera, that I was unconscious. Nevertheless it would take them additional time to respond and come over, tie up and transfer me, sometimes, to the clinic located in the same facility. They would wait for the physician or the nurse to wake me up with ammoniac. The longer I stayed out of consciousness the longer my loss of speech lasted. The second time, it ranged between few hours to days and up to one entire week after which I would start mumbling some confusing words exactly as it happened to me at the time of the old head injury in 1992. My speech would come back gradually and sometimes it would come back suddenly like when my friend greeted me with "peace be upon you" I greeted him back with "and upon you be peace". This would happen despite the fact that prior to that, before I saw this guy, I would have tried hard to speak or read out loud for short moments but to no vain. Yet as soon as he talked to me I was suddenly able to respond to him and I don't know whether this was a psychological or a nervous condition, or even both added to my physical condition

Sometimes, following an episode of fainting, I would lose my writing capabilities as well, or I would mix up things when I wrote. However this condition would usually last for hours or few days until I would reach a point where I would totally lose my writing capabilities. That time it lasted for a long period of time. It lasted for over an entire year. God Willing, I will describe this period later. That first time that I would describe as semi-long, lasted from 11/14/06 till 12/18/06 and it gradually came back to normal.

[...]

The daily fainting continued for several times a day from 3/9/07 till 4/4 until they turned off the big fan that was causing the noises, and the daily fainting stopped. Yet I had totally lost my writing capability. It started then and lasted for one entire year and two months. During that period of time they had given me back parts of my journal (photocopies) and not the original copy and only parts 1, 2 and 4 without parts 3, 5 and 6, from the parts that I had written prior to my capture and obviously they didn't give me parts 7, 8 and 9 that I wrote while at the CIA, following my capture. Yet this started to give me a strong feeling of hope in order to fight those negative thoughts and over nervousness and consequently fight that condition of frequent fainting. And indeed I succeeded, sometimes for short



periods and other times for longer ones. The fainting was taking place at least once a week and each it happened each time there were noises. After I gave strength to myself through hope, though weak or false, I was able to last for two weeks during one month

[...]

They then reduced the noise. I became aware at that point that I was by now represented by an attorney and that through him I could now obtain my personal papers from the FBI and the CIA. That has increased my strength in fighting the fainting condition and the female psychiatrist had taught me to fight the fainting by controlling my nerves. It helped sometimes, yet the noise was always failing my attempts. After 22 days free of any fainting, from 2/20/07 till 1/13/08, the noise came back along with fainting episodes.

[...]

And from the moment I came back from the hospital the noises were back even louder than before. The people in charge would tell me: "since the reason is seizure you are probably bluffing us.

The daily fainting was back from 1/24/08 till 1/30/08. I started urinating on myself every time I fainted. I started to become afraid that, or feel like I am not even able to control my feces, so I decided not to drink or eat anything to preserve my dignity. They thought I was on a hunger strike and started inflicting on me the hunger strike punishment.

[...]

And now I have been here at DoD in Cuba for one year and 10 months and now I have developed a seizure condition

Tracking # 717

UNCLASSIFIED

~~Secret NoFor~~

In the airplane, Hani was strapped into a chair so he could not move in any direction. It is painful to be shackled in this position for so long (Hani notes that when he says painful, it means really painful). After the journey, Hani had a problem with his back for 1 complete week.

There was very loud noise to block sound.

When Hani arrived at the "gym place" they removed his clothes, making him naked, and photographed him again.

[REDACTED] so door from outside to that area & then from that area into cell. In cell, toilet & shower & in center of room, eyebolts in the ceiling & floor.

In the beginning, it was a very bad time.

When Hani arrived, the "gym" was an empty room. No bicycle. Nothing. Smaller than his cell. No exercise.

The lights were on 24/7. There was a machine making noise (the same as at the torturing place) on 24/7. It was on a 20 minute cycle. And a camera.

He was not given proper food. One time, they gave only ketchup. Another time, 3 small pieces of parsnip (white carrot). One piece of square bread. Exactly nine (9) beans. Or 3 spoons of yogurt. No salt. Hani started "fasting" - from morning to night, only water & 1 piece of bread or fruit - but really it was a hunger strike - He did this for 4 months.

There was not bunk. It was a mattress on the floor. But he was allowed to sleep w/o problems.

Debriefers came for 1 hour - ever single day - two at a time. They were asking about their cases. They did this since they caught Hani until bringing him to GTMO [REDACTED]

#### Psychological impact of being at "gym place"

- Before he was taken here, Hani was in [ . . . ] This was one of the good places. Good food. Homemade food. Clean. Gym was big (20x this cell) w/ machines. [REDACTED] Big cell. Only problem was that did not have a shower in the cell.
- Then Hani was transferred & it was the minimum. First meal was only ketchup. No food at all. 9 beans for a meal. It was really bad. Small empty room for gym. Cell w/ eye bolts in the ceiling so made ready for anything that might happen.
- In the gym place it was insulting, degrading, and Hani started having nightmares. Since he became a man in body, he did not have nightmares. But since they tortured him, he began having nightmares. Of people messing w/ his sisters or his small brothers & he is wanting to help, but cannot. He wakes up in a start. No afraid, as a child but very very angry.

Hani has experienced his entire time since capture as 1 experience.

- On the one hand, there are 5 things that are change - better food, gym, etc.
- On the other hand, there are 5 things that are constant - hopelessness, etc.

Sometimes thinking about his situation is distressing enough to trigger a seizure.

Tracking # 719

UNCLASSIFIED

~~Secret Noform~~

The previous night I had a vision, a true dream but very short. That was during the banging on the box and I also had it some other time. I was immersed in my most saddened moments and I had lost hope except from God. In my dream, I saw the guy [ . . . ] who said to me just one single word while I was collapsed on the floor tied up and exhausted. He said: "it's gonna be fine" *In Arabic it is expressed in one word*, which means it will be ok, things will get better. The vision (dream) ended with them coming in, the resuming of the beating and the meeting with the two new individuals (the man and the woman) along with my recent return to the box. Indeed it was the last one.

After they took me out of the big box for the last time, they interrogated me, the same two individuals: the man and the woman with the presence of one of the two individuals that supervised the most recent torture episode. I was standing with difficulties, one of the two men hang the noose towel in a threatening way. Yet this day they did not perform any torture. After that they gradually removed the large box and the bed used for water torture, but kept the small box outside in a way that I could still see it through the bars. They gave me a foam mattress but without any blanket despite the cold temperature that had not changed. I was not given any cloths except for a towel to cover my genitals. The food was again the same as before: a dish of dry white rice with a small amount of string beans, twice a day. Slowly, slowly they gave me some very light cloths, short slacks and an orange shirt. The interrogations resumed every day for one or two hours each, once or twice a day. Obviously, I was unable to know whether it was a full day or not. It was supervised by that man and that woman for some time, maybe a month. Later on, others showed up and most of the time, especially in the outset, one of the two guys, the one [ . . . ] - I started calling him Mr. its-gonna-be-fine from the dream I had of him (the vision), and the other one [ . . . ] had to be present.

Approximately two months went by before I was moved to another cell in the same building, but it was a much smaller one. They said: "we need your cell for other people". I spent another month in the new cell, (it was the month of Ramadan. I don't know in which Christian calendar month Ramadan fell in the year 2002). They said: "we will entirely leave this location for special reasons to us and will go on a plane". They informed me that the trip might last close [REDACTED] and that they will not allow me to use the restroom and that they will provide me with a "diaper" like the one they usually use for babies.

Indeed, [REDACTED] they came in and ordered me to wear a large diaper, they chained me tight, they even put plastic earplugs in my ears and noise cancellation that looked like headphones, they also blindfolded me very tight and they tightly wrapped a strong plastic tape, it was so tight that I could barely hear. As to my vision, I couldn't see anything whatsoever and in fact I felt the pressure in my nose and my head from the very first moment. They put on me different cloths. They firmly tied me up and carried me outside where it was very hot although it was night time. They told me prior to the trip that I should use the toilet as much as I could, for I had told them that I would not wear the diaper, and that there is no way I would do it; even if they made me wear it by force or they ordered me to wear it. I would wear it but I would not use it.



They put me inside the car, lied me down and I could feel the guards' feet on both the right and the left hand sides while I was lying down between their feet. Some time elapsed, maybe [REDACTED] after which they got of the car and took me to a close location I went up three steps after which they completely stripped me of my cloths, they even removed the diaper, yet they kept the hood that was completely covering my head that was already covered with the blindfolds and the headphones which they didn't touch at all. Somebody performed a cavity search on me, in my anus than he put back on me the diaper and the cloths. They tied me up again. They took me out of that room and walked me out for a short time and then I started going up some steps and it was clear to me I was boarding a plane. They brought me inside, sat me down and tightly chained me to a seat in a way that would prevent me from moving at all, I was not even able to move a little forward to relieve my back when needed. One hour went by when I felt that dire need to move a little forward, but to no vain. Long hours elapsed during which I slept and woke up but did not hear the wheels of the plane hitting the ground, unlike before when I heard the plane taking of. I was in such an indescribable state of pain. I could hear somebody moaning and I also heard somebody vomiting. It seemed to me it was one of the brothers who got tired from the chains and the long restrained position. Or maybe he needed to use the restroom and, as in my case, he was definitely suffering from refusing to use the diaper. As soon as I heard the plan landing I became optimistic, for I thought that here we have arrived and we can use the restroom (finally). Yet I was wrong, for as soon as we landed [REDACTED] and we were chained to the floor in a position that was even worse than the sitting position. A long time elapsed before the [REDACTED] I started counting the time, haven't the [REDACTED] they mentioned gone by yet? But I had the feeling they already went by on the [REDACTED] plane. One more time, I could hear sounds coming from the brothers, not only one but more than one brother; one was moaning, another one vomiting and another one screaming: my back, my back!

Hours went by between sleeping and suffering the pain, (I hated it when I was awake), I wished I could sleep all the time and not feel the intense pain in my back, in my hip and in my neck, but I would fall asleep for short instants, let alone the pain in my bladder due to controlling my urination; let alone the pain in that other area where the pain is even stronger and more embarrassing although it is a very natural thing. It's like somebody told me later: "if I were in your shoes, if somebody holds me and does this to me, the first thing I would do is to use those diapers. It is very, very hard not to be able to go to the bathroom - of course he used a dirtier word-. Spending [REDACTED] without going to the bathroom, this is real torture and suffering". He said this to me after another trip that I will describe later, God Willing, and that lasted [REDACTED] hours, so they said. I responded to him by saying: "you ought to know that if you were my prisoner, my religion would prohibit me from keeping you naked and preventing you from using the bathroom. Indeed, it would prevent me from even slapping you in the face. I might beat you up or use other techniques to extract critical information from you, but these methods that you use! No! For you simply are a human being and no matter how much of an enemy you are, you are not an animal and even an animal, my religion does not allow me to even slap its face, let alone preventing it from going to the bathroom. He went: "still, you could have done it in the diapers". I said: "it's a matter of pride".

UNCLASSIFIED

~~Secret Noform~~

Statements made by Zayn al Avidin Muhamman Husayn on August 31, 2011 in Guantanamo Bay, Cuba. Recorded by Amanda Lynn Jacobsen

1. I am a prisoner at the U.S. Naval Base in Guantanamo Bay, Cuba. My ISN # is 10016.

2. I was taken into custody by U.S. forces on March 28, 2002 and was kept in various secret prisons around the world until I arrived in Guantanamo Bay, Cuba in September 2006.
3. While in secret U.S. custody, I was subjected to many forms of torture and inhumane and cruel and degrading treatment, including waterboarding, confinement into a tiny "dog box," sleep deprivation, confinement into a coffin-sized box, hanging by the hands, food deprivation, stress positions, shackling to a chair for weeks and weeks, exposure to temperature extremes while being kept naked, refusal to allow access to the toilet, requiring defecation and urination on myself, extremely loud and constant noise and light, slamming my head into the wall, beating my face and back and many more similar examples of horrifying treatment.
4. In my first place of captivity, I started keeping a diary in which I recorded my experiences contemporaneously with their occurrence. I am able to rely on this diary to refresh my recollection . . .
5. I also kept track of the dates throughout my confinement. On July [REDACTED] 2003, the men who were responsible for my treatment discovered how accurately I had kept track of the dates. Thereafter, they conceded to provide a calendar to me. So I am confident that the dates in my diary are accurate from that date onward.
6. On [REDACTED] February [REDACTED] 2005 at [REDACTED] the men who were responsible for my treatment told me that I would be rendered to a new location. At this time, I was imprisoned in [REDACTED] (where I had been since April [REDACTED] 2004). I knew I was in [REDACTED] for several reasons. All of the guards were [REDACTED]. Also on several occasions, [REDACTED] which were [REDACTED]. I also knew that I was close to [REDACTED]
7. My rendition from [REDACTED] began around [REDACTED] February [REDACTED] 2005. I was taken out of my cell in shackles, wearing ear muffs and blacked-out goggles. They stripped me naked, performed an anal cavity search on me, photographed me naked, and put a diaper on me, before clothing me again.
8. In the airplane, I was strapped tightly into a chair, so that I could not move my head or body in any direction. I was kept in this position, without even being able to use the toilet for approximately [REDACTED]. It was very painful to be shackled in this position for so long. After the journey, I continued to have back pain for the next week.
9. On the airplane, there was a very loud noise to block out the sound. I also had ear muffs on. At one point, however, I could hear a fellow prisoner groaning in pain.
10. We arrived at our destination [REDACTED] February [REDACTED] 2005. I was again stripped naked and photographed. I was redressed in clothing that was too small for me and fit tightly and uncomfortably.
11. At the beginning, the conditions in this prison were very bad. I was not given proper food. For example, for one meal, I was given only ketchup. For another meal, one piece of square bread. Sometimes, the meal would be exactly nine (9) beans. It was such a small amount, that I was always kept hungry. The lights were kept on 24 hours a day 7 days a week, and there was a machine which made a very loud noise in a 20 minute cycle which was on 24 hours a day 7 days a week as well. For exercise, I was taken to an empty room, which was even smaller than my cell.

12. Unlike in [ . . . ], the guards in this prison were clothed from head to toe in black, with black gloves and masks and goggles, so that I could not see their faces or look into their eyes. I was kept here – as I have been for the entirety of my imprisonment – in solitary confinement. However, on two occasions I was permitted to meet with a fellow prisoner [REDACTED] the first time for approximately 20 minutes and the second time for about 30-40 minutes. Debriefers also questioned me every single day, usually two at a time for an hour.
13. Unlike the earlier prisons in which I was held, this prison seemed very clean and brand new. My cell was approximately [REDACTED] for the guards to enter and exit through. In the cell, there was a shower, a toilet, and a mattress on the floor. There were eyebolts in the ceiling and floor which I understood were to shackle prisoners by their hands and feet. The walls were completely smooth and very clean and very new.
14. After a short while of being in this prison, I went on a hunger strike. I was on a hunger strike for approximately four (4) months, until July 3, 2005, during which time I lost forty (40) pounds.
15. By July 2005, the conditions at the prison improved. One of the improvements was that the previously empty recreational room was filled with exercise equipment, including a stationary bicycle [REDACTED] an elliptical machine [REDACTED] a weight lifting machine and free weights.
16. In early 2006, one of my former torturers [ . . . ] came to visit me in my cell. He said that he was sorry for what they had done to me, that they had been acting without rules, giving me no rights, trying to get information from me in any way they could, and that he realized I did not know anything about what they were asking me. He then began to cry. He was ashamed and tried to hide this from me. He left to wipe his eyes and then returned.
17. On March [REDACTED] 2006, I was rendered from this prison to a prison in [ . . . ]. I believe that I was in [ . . . ] for several reasons. [ . . . ]

UNCLASSIFIED

~~TOP SECRET~~

~~CONTAINS CODEWORD MATERIAL~~

*Tracking #721*

Statements made by Zayn al Abidin Muhammad Husayn on August 31, 2011 at Guantanamo Bay, Cuba. Recorded by Amanda Lynn Jacobsen

1. I am a prisoner at the U.S. Naval Base in Guantanamo Bay, Cuba. My ISN # is 10016.
2. I was taken into custody by U.S. forces in Faisalabad, Pakistan on March 28, 2002, and was kept in various secret prisons around the world until I arrived in Guantanamo Bay, Cuba in September 2006.



3. While in secret U.S. custody, I was subjected to many forms of torture and inhumane and cruel and degrading treatment, including being waterboarded, confined into a tiny "dog box," deprived of sleep, confined into a coffin-sized box, hung by the hands, deprived of food, forced into stress positions, shackled to a chair for weeks and weeks, exposed to temperature extremes while being kept naked, denied the ability to use the toilet, requiring me to defecate and urinate on myself, exposed to extremely loud and constant noise and light, slammed by my head into the wall, beaten in my face and back, and many more similar examples of horrifying treatment.
4. In my first place of captivity, I started keeping a diary in which I recorded my experiences contemporaneously with their occurrence. I am able to rely on this diary to refresh my recollection in making this declaration today.
5. I also kept track of the dates throughout my confinement. On July 2, 2003, the men who were responsible for my treatment discovered that I had been keeping track of the dates fairly accurately. I was, at that time, only thirteen days off, having thought, at the time, that the date was July 15, 2003. Thereafter, they conceded to provide a calendar to me. So I am confident that the dates in my diary are accurate from that date onward. Before then, I was a most a week or two off.
6. In December 2002, on [REDACTED] I was rendered from a prison in [REDACTED] to a prison in a new location. I believe that I had been imprisoned in [REDACTED] for several reasons. [REDACTED]  
[REDACTED]  
[REDACTED] In the hospital, I was also able to hear [REDACTED] the doctor and nurse and see that they had [REDACTED]
7. The journey from [REDACTED] began on December [REDACTED] 2002 at [REDACTED]. They forced me to take off my clothes and redress in a diaper and tracksuit. They put goggles and earmuffs on me and wrapped my head in duct tape, so tightly that I still have scarring on my face. They then put a cloth bag over my head. They carried me outside and I could feel that it was very humid. I was put on the floor of a van with [REDACTED] guards on either side of me. We drove [REDACTED]
8. When the van stopped, I was forced outside and then a couple of steps up into a kind of building. Here my clothes were cut from my body and an anal cavity search was performed on me. I was then redressed in the diaper and a new tracksuit.
9. On the aircraft, I was strapped into a chair very tightly. I could not move my back at all. It was extremely painful, and I still suffer back problems as a result. I was given medication to make me sleep. I woke up and fell back asleep many times during the flight. I felt that it was a very long trip. Before departing, when I tried to refuse the diaper, the men responsible for my treatment [REDACTED]  
[REDACTED]
10. When I got off the airplane, it was very cold. I was put in a van again and driven [REDACTED]

11. At the prison, I was kept inside a cage. [REDACTED]  
[REDACTED] It was very cold and in the cage I was given only a sheet (no mattress), a bucket to use as a toilet, and a plastic chair. Except for when I was being spoken to, extremely loud awful music with curse words was playing 24/7. The cage was inside a larger room, [REDACTED] but one wall was wood, and the room would have been larger if it had not been blocked off by [REDACTED]. On one wall of the room, [REDACTED]. To enter the room, the guards came through a door [REDACTED].
12. Two times a day, I was fed, but then only rice or beans or Ensure, so I was always hungry. The Ensure made me vomit. I woke 3-4 times every night from hunger. After April 2, 2003, I was given rice or beans three times per day, but still it was so little. Some days I tried to collect the food from the day, so that at least one time I would feel full, but it was never enough food for that to happen.
13. The guards in the prison were dressed fully in black with black gloves and masks and goggles, so that I could not see their faces or look into their eyes. I was kept in solitary confinement. I never saw the sun. I had no access to fresh air and no place to exercise. Debriefers also questioned me every single day, usually two at a time for an hour.
14. I know that there were other prisoners at this prison because sometimes I heard them being tortured. One time I remember specifically was March [REDACTED] 2003. On this time, I heard the sound of a drill and someone screaming.
15. I was moved from the cage to another room in the same building on February [REDACTED] 2003. Here, I had a mattress on the floor and a small plastic table, in addition to the sheet and plastic chair and bucket for a toilet. The lights were, as always, on 24/7 and the extremely loud and awful music played on and on. I had a constant headache.
16. I saw a particular foreign writing in this place on various items over the time, but I could not recognize the words.

UNCLASSIFIED

~~TOP SECRET~~  
~~CONTAINS CODEWORD MATERIAL~~

17. On September [REDACTED] 2003, I was told that in [REDACTED] I would be rendered to a new prison. In preparation, they had shaved off all of my hair and beard. I was told that the journey would be at least [REDACTED] that the [REDACTED] flight would be [REDACTED] hours [REDACTED] and then another flight.

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18. On the day of travel, I was again stripped naked and an anal cavity search was performed on me and I was placed in a diaper and my eyes and ears were blocked.



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19. On both the first and second aircrafts, I was strapped down on the ground on my back extremely tightly and could not move. It was extremely painful for me. Also, every time I was rendered, no matter how long the journey, I refused to use the diaper, so this was also extremely painful.

UNCLASSIFIED

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~~CONTAINS CODEWORD MATERIAL~~

20. On September 2003, I arrived to a prison in [...]. I did not realize at this time that it was [...], but I realized when [...]. Again, I was stripped naked and an anal cavity search was performed. I was also photographed naked.

Tracking # 724

UNCLASSIFIED

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Man standing on a board

The prisoner is this way with his hands tied behind his back and then they start beating him hard particularly on his face and the rest of his body and if he is unable to stay stand in this position (keeping balance is difficult) he could break his legs

UNCLASSIFIED

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FB

Man standing naked with arms and legs spread and shackled

Torture by hanging

- Add to this the cold, the cold water and the beating and taking care of your needs (number 1 and number 2) in this position. And they control the restraints and also illegible until the prisoner feels he is going to break, in addition to keeping in this position for days where he keeps urinating and dumping and stepping on his feces.

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~~CONTAINS CODEWORD MATERIAL~~

FB

With a hood or a bag made of fabric that covers completely the head

- Torture by on the chair for long days, naked, cold, starving (except from ensure), deprived of sleep 1) even going to the bathroom takes place on the same chair in a bucket that is fixed to the bottom of the chair. The bottom of the chair has a hole of the size of the bucket and sometimes going to the bathroom \illegible\ long sitting on the chair.

toilet bucket  
diapers to go to the bathroom

Restrained to the chair \illegible\ dressing the prisoner with a metal rods shirt so he would have to keep the same position with his belly up and his back straight, sitting in this position for a long period of time. And he can not bend forward at all. (this method is used in particular during hunger strike and when he is being forced tube fed) and that for hours.

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FB

a twisted towel that is tightly wrapped the neck

Torturing is practiced through strong banging against the wall or against a wooden board. It doesn't leave any marks on the head or the back where the beating is concentrating. The prisoner is moved around through the twisted towel around his neck. The prisoner has his hands chained and the chains are tied to his chained feet. The chain is short and thus the prisoner is bending over all the time. And if he raises his hands to protect himself he has nno choice but pull up his feet and consequently falls immediately.

UNCLASSIFIED

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FB

Torture by hanging  
\the prisoner is standing naked with his hands and feet chained to bars\

Tied to the cell bars for days. Naked. Concentrated low temperature

FB

~~TOP SECRET~~  
~~CONTAINS CODEWORD MATERIAL~~

\men squatting inside a box\

incarceration inside caskets or closed and tight wooden boxes for long hours where he would do his bathroom needs ( number 1) and he has his muscles stiff.

\men sitting in a box\

For long days He would take care of his bathroom needs through an open bucket that is also used all the time for sitting regardless of how filled with human feces. And due to the small space the bucket would fill up and over and he has his muscles stiff.

\men sitting in a box\

For long days He would take care of his bathroom needs through an open bucket that is also used all the time for sitting regardless of how filled with human feces. And due to the small space the bucket would fill up and overboard and fill the place with feces.

man lying down in a box

Stay in this position for long days and would do his bathroom needs number 1 and number 2 while in this position. It is hard for him to move, even he wants to avoid urine or feces that come close to his face (and his mouth) and any movement would cause the urine to move as well.

UNCLASSIFIED

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~~CONTAINS CODEWORD MATERIAL~~

Torture by hanging

\man standing naked with a fan\

this is very cold water

this is (

this is urine

The prisoner is restrained in this position naked for long days. He is directly exposed to cold water (beside the cold of the air condition) all the time and very cold water is poured on him between \illegible\ and he is strongly beaten up while in this position. He does his bathroom needs (number 1 and number 2) while in thie position until it dries up on his body.

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~~CONTAINS CODEWORD MATERIAL~~

## B. APPENDIX II

### SUPREME COURT OF ISRAEL

#### Decided in 1999

In 1999, the Supreme Court of Israel was faced with deciding the legality of various enhanced interrogation techniques employed by the General Security Service (“GSS”, known in Hebrew as “Shin Bet” or “Shabak”). The GSS is responsible for investigating individuals suspected of committing crimes against Israel’s security.<sup>363</sup> The Court issued the following assessments of the GSS’s interrogation methods:<sup>364</sup>

1. **Shaking:** a “clearly” prohibited method of interrogation as it harms the suspect’s body, violates the suspect’s dignity, and surpasses that which is necessary<sup>365</sup>

2. **Compelling the suspect to crouch on the tips of his toes for five-minute periods:** a prohibited practice which does not serve any purpose inherent to an investigation;<sup>366</sup> it is degrading and infringes on an individual’s human dignity<sup>367</sup>

3. **“Shabach” method (cuffing):** includes the cuffing of the suspect,<sup>368</sup> seating the suspect on a low chair,<sup>369</sup> covering the suspect’s head with a sack,<sup>370</sup> and playing loud music in the area;<sup>371</sup> the cuffing of the suspect, for the purpose of preserving the investigators’ safety, is included in the general power to investigate;<sup>372</sup> this is so, provided the suspect is cuffed for the purpose of the investigators’ safety, and it is within the investigators’ authority to cuff the suspect;<sup>373</sup> however, the cuffing associated with the “Shabach” position is unlike routine cuffing, because the suspect is put into a “distorted and unnatural position,”<sup>374</sup> and neither such cuffing nor the use of especially small handcuffs can be justified as being for the safety of the investigators;<sup>375</sup> cuffing that causes pain is prohibited and there are other ways of preventing the suspect from escaping without causing pain and suffering<sup>376</sup>

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<sup>363</sup> HCJ 5100/94 Public Committee Against Torture v. Israel (1999) (Isr.)  
*Id.*

<sup>365</sup> *Id.*

<sup>366</sup> *Id.*

<sup>367</sup> *Id.*

<sup>368</sup> *Id.*

<sup>369</sup> HCJ 5100/94 Public Committee Against Torture v. Israel (1999) (Isr.)

<sup>370</sup> *Id.*

<sup>371</sup> *Id.*

<sup>372</sup> *Id.*

<sup>373</sup> *Id.*

<sup>374</sup> *Id.*

<sup>375</sup> HCJ 5100/94 Public Committee Against Torture v. Israel (1999) (Isr.)

<sup>376</sup> *Id.*

4. **“Shabach” method (seating):** while seating is inherent in investigation,<sup>377</sup> this is not the case when the chair upon which the suspect is seated is very low,<sup>378</sup> tilted forward facing the ground,<sup>379</sup> and when the suspect is in this position for hours;<sup>380</sup> this type of seating is not authorized by the general power to interrogate,<sup>381</sup> this type of seating infringes on the suspect’s dignity, bodily integrity, and basic rights in an excessive manner and is not found to be included within the general power to conduct interrogations.<sup>382</sup>

5. **“Shabach” method (covering suspect’s head with a sack):** This harms the suspect and suspect’s dignity;<sup>383</sup> degrades suspect;<sup>384</sup> causes suspect to lose sense of time and place and suffocates suspect;<sup>385</sup> this is not included in general authority to investigate<sup>386</sup>

6. **“Shabach” method (loud music):** being exposed to very loud music for a long period of time causes the suspect suffering and is thus prohibited.<sup>387</sup>

This Court added that the “Shabach” method gives rise to pain and suffering and is not authorized by the powers of interrogation.<sup>388</sup> This method is unacceptable.<sup>389</sup>

This Court concluded that, according to the existing state of the law, neither the government nor the heads of security services have the authority to establish directives regarding physical interrogation methods, beyond the general rules which can be inferred from the concept of an interrogation itself.<sup>390</sup> Likewise, the individual GSS investigator does not have the authority to employ physical means that infringe a suspect’s liberty during the interrogation, unless these means are inherent to interrogations and are both fair and reasonable.<sup>391</sup> While holding the aforementioned interrogation techniques to be forbidden under Israeli Law, this Court added that the “necessity defense” does not bestow authority on the GSS to interrogate by physical means, but may serve as a legal defense after the fact, against criminal liability, either promulgated by the Attorney-General or according to the discretion of the court.<sup>392</sup>

Finally, this Court ended its opinion by recognizing the harsh reality of Israel’s need to defend itself against numerous and dangerous security threats.<sup>393</sup> This decision removed several

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<sup>377</sup> *Id.*

<sup>378</sup> *Id.*

<sup>379</sup> HCJ 5100/94 Public Committee Against Torture v. Israel (1999) (Isr.)

<sup>380</sup> *Id.*

<sup>381</sup> HCJ 5100/94 Public Committee Against Torture v. Israel (1999) (Isr.)

<sup>382</sup> *Id.*

<sup>383</sup> *Id.*

<sup>384</sup> *Id.*

<sup>385</sup> *Id.*

<sup>386</sup> *Id.*

<sup>387</sup> HCJ 5100/94 Public Committee Against Torture v. Israel (1999) (Isr.)

<sup>388</sup> *Id.*

<sup>389</sup> *Id.*

<sup>390</sup> *Id.*

<sup>391</sup> *Id.*

<sup>392</sup> *Id.*

<sup>393</sup> HCJ 5100/94 Public Committee Against Torture v. Israel (1999) (Isr.)



interrogation techniques from the GSS's reach.<sup>394</sup> The GSS does not have the authority to shake a suspect, hold the suspect in the "Shabach" position, force the suspect into a "frog crouch" position and deprive the suspect of sleep in a manner beyond that which is inherently required by interrogations.<sup>395</sup>

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<sup>394</sup> *Id.*

<sup>395</sup> *Id.*