

**MILITARY COMMISSIONS TRIAL JUDICIARY  
GUANTANAMO BAY**

UNITED STATES OF AMERICA

v.

NOOR UTHMAN MUHAMMED

**STATEMENT OF  
NOOR UTHMAN MUHAMMED**

**February 17, 2011**

1. My names is Noor Uthman Muhammed. I am from Sudan. I was born in Kasala, Sudan which is on the Sudanese border with Eriteria. My family depended on its ability to raise animals and farm to survive. It was a very difficult life. In Sudanese culture, birthdays are not something that are important. I believe that I was born around 1967 but I've never marked that occasion. Living near the border was dangerous and there was often conflict between different tribes. I was taught that my family is a tribe, Mikal, within a group called the Beni Amir. We speak our own type of language, which is separate from Arabic. Life then was a daily struggle just to eat and stay safe. I don't have a strong memory of my parents because they died when I was very young. In Sudan, the tribe is your family and they took me in. We moved to Port Sudan, which was a big city compared to Kasala. I have a brother, Muhammed, who is about five years older than me. My parents' siblings also helped to raise me. I was permitted to go to school for a short time so I never learned anything beyond the basics-some math and some letters. The Quran and teachings of the Prophet Muhammed were also a part of my education from a very early age. I had to leave school in order to earn some kind of living so that I could eat. My extended family had their own children to take care of and I felt that I needed to be able to feed and clothe myself after I lost my parents. Although there should have been more opportunities in Port Sudan; there were not for a child or young man. I tried to sell things that I found or traded for in the market. I tried to do odd jobs for people like carpentry. I never had a place of my own to live; it's not like in the West-even if it is difficult you stay close to your family. I spent many years moving from house to house and sleeping on the floors in whatever house had the space for me. My brother Muhammed and my neice Awadia still live in Port Sudan. Awadia was a very young child when I left. Some of my parents' brothers and sisters are also still living in the Port Sudan area. It is painful for me to think of them there in Port Sudan. I never wanted them to worry about me or to cause them any pain.

2. As I was growing up, I spent more time in the markets near the Port. Port Sudan is a stopping point for people on their way to Mecca and Medina. I was drawn to learn more about my faith as a Muslim. Looking back, our tribe and my family were not very strict in their practice of Islam. We had little time to think about Islam; we needed to think about food. While I was in the markets, I heard people talking about the pilgrimage to Mecca and also about Islam more generally. There were religious leaders who encouraged young men like me to learn about Islam. They had cassette tapes that they would give away. My reading was not good so I would listen to these tapes to try to expand my understanding of Islam. I began listening to these tapes

in the late 1980s. The tapes explained the duties of being a Muslim; one of those duties was to be prepared to defend Islam. I also watched video tapes that helped explain Islam and some of the struggles that were going on outside Sudan. I learned that the Soviet Union was in Afghanistan fighting Muslims there. I also learned that there were many other places in the world where Muslims were faced with war. The videos and pictures showed horrible things; things that would keep me awake at night. I came to believe that the solution for stopping the murder of innocent Muslims was to train myself to help Muslims defend themselves either in their countries or in Sudan. To me, defending my religion does not mean I have to perform terrorist attacks against other people. I had heard that Afghanistan was a place for Muslims to go learn about defending our religion. So, in an effort to prepare myself and to escape my situation in Port Sudan, I accepted a loan to fund my travel to Afghanistan. There were many young men like me who left Sudan to try to learn more about Islam and to help Muslims in places where they were under attack. When I left, I could not read or write well. I did not speak English or any language outside of Arabic and my tribal dialect. I had never received any kind of military training before leaving Sudan.

3. In 1994, I arrived at the Khaldan camp in Afghanistan so that I could receive training to prepare myself. At the time, I believed that I needed to be prepared to defend my faith and only planned to use this training if it became necessary. Khaldan was about the size of one-and-a-half soccer fields. It did not have a paid staff. The camp provided basic military training. The military training was very basic training and mostly dealt with small arms. I saw hundreds of people pass through the camp. Most trainees at the camp did not stay for more than a few months. Some flew in from the Gulf Countries for shorter stays like a week at a time; so that they could say that they had been to Afghanistan and fired a weapon. Some people got more advanced training at other camps and Khaldan didn't have the money or the experts to provide more advanced training.

4. While at Khaldan, I participated in basic arms training. After my training, I stayed on at the camp and became one of the weapons trainers. There was no special selection process for trainers; if you could stay, you were asked to help by providing training. I decided to stop training people on weapons and requested that the emir, Ibn Sheikh Al-Libi give me different duties. My main responsibilities were to gather food, water, and supplies for the camp. Sometimes, I also was asked to run the camp when the camp leader was gone. The Camp belonged to Ibn Sheikh and he made the decisions about what would happen there. He fought with the mujahedeen in Afghanistan and was well-respected as a soldier. Ibn Sheikh had a council of trainers and others who could be consulted on issues related to the Camp. Although Ibn Sheikh consulted the council, he made the final decisions and did not have to follow the council's advice.

5. In 1999, the camp moved, and in 2000, the camp closed. I did not go to any other camps after Khaldan closed. I learned that the Camp closed because Ibn Sheikh Al-Libi did not agree with the philosophies of the Taliban or Al Qaeda. Khaldan was really all I knew, so my goal was to get home to see my family that I had not seen for many years. In 2001 after the invasion of Afghanistan, it was not safe to remain. I did not have a passport, since it had been taken from me when I first traveled into Afghanistan. I had no way out, so I joined with others to cross the border into Pakistan so that I could try to make my way back to Sudan. I was told that people in

Pakistan, including Abu Zubaydah, could assist me with the travel documents necessary to get back to Sudan. Returning to Sudan was my main goal.

6. In March, 2002, I was in a house near Faisalabad, Pakistan. The house was two stories, and several rooms were able to be closed off from the rest of the house. I did not participate in any training at the safe house, other than to learn some basic English to pass the time. The house was raided during the night. I was brought to a Pakistani jail with many other men that had been picked up. I did not know what the Pakistanis intended to do with us. They held us in big cages and told us that anything could happen to us. You would treat animals better than the way that we were treated. We had very little food that you could eat. There were times that we asked the guards if they could bring us plants that we saw growing in the ground to help with the hunger. I was scared that I would just disappear. Every time that we were moved we were threatened. Growing up in Sudan, I knew and heard stories of the security services picking up people off the streets for questioning. Questioning could last for days and those families feared that they would never see their relatives again. Port Sudan is not far from Egypt and the Egyptians were notorious for snatching people off the streets, holding them and torturing them for information. Every time I moved, I feared that it was going to be the last time. There were at least three moves within Pakistan. Then I was released to the Americans. Both the Pakistanis and the Americans told me that they could hand me over to the Egyptians and no one would know that I had disappeared. The fear and uncertainty this caused me was overwhelming.

7. In May-2002, I was transferred from Pakistan to Bagram Air Base, Afghanistan. We didn't know where we were being taken and I feared that it would be worse than Pakistan. During the movement to Bagram, I was hooded, shackled and chained to a group of other detainees. Upon our arrival, we were all thrown, kicked and handled roughly. At Bagram, I was interrogated daily; some days there were multiple interrogations. I was chained to my cell with my hands above my head for 12 hours per day; several days in a row. When I was chained to my cell in this way, the guards would also put a bag over my head. Some guards would show a little mercy by unchaining me and allowing me a short break to move my arms. This happened regularly. There were also times that I was shackled to the floor by both the arms and legs while I was on my knees for several hours at a time in a painful position. There were times that my cell was freezing cold and my clothes were taken away, while other times the heat in the cell was unbearable. There were periods of time when loud music was played 24 hours a day; so loud that you couldn't even think. There were several times that women were used to interrogate me or acted as guards. I found being in their presence very disturbing because in my faith such close contact with a woman is reserved for a husband and wife out of respect. Oftentimes, the female interrogators would wear clothing that you could see through or other clothing that was revealing and disrespectful. These women would come really close to me and attempt to touch me. As hard as this was, I was never humiliated more than when my clothes were taken away from me in the presence of female guards or interrogators. There were also times that female guards struck me when I had difficulty looking them in the eyes because I felt uncomfortable with them. There were many nights that we were woken up by the guards. They would yell at us to "get up" and "get against the wall." They would search us and tell us that we were getting ready to ship us off to Egypt. Other detainees would leave like this in the middle of the night and we were told by the translators that they had been taken away to Egypt. I was worried and I couldn't sleep. I kept thinking that tomorrow they are going to take me there and I was scared because I knew that their security police could make people disappear. I felt like these people at Bagram did not

consider me to be a human being and I had no dignity in their eyes. In Bagram, I lost all hope that I would ever have a chance to see my family again.

8. I was transferred from Bagram to Guantanamo Bay, Cuba on August 5, 2002. I was again hooded, shackled and chained to a group of other detainees when I was transferred to Guantanamo. The flight to Guantanamo was significantly longer than the earlier flight I had taken from Pakistan to Afghanistan. On the flight, we were shackled together and stacked side by side. We were unable to move or to use the bathroom. Again when we landed, we were thrown and kicked. During this transfer, I was hit in the back of the head with a rifle; busting my two front my teeth. The worst time that I spent in Guantanamo Bay was while I was locked in Camp 5. I was there for two years in a cell by myself. I thought that I would lose my mind. I was interrogated almost daily when I first arrived at Guantanamo Bay. Some of the interrogators and guards, especially at the beginning of stay, would do everything that they could to humiliate detainees. Like at Bagram, the temperature in my cell was made very hot or very cold for long periods of time. There was a very dark interrogation room at Guantanamo Bay that the detainees called "hell." We were threatened or forced to spend extended periods of time in this room as punishment. While sitting in the dark, extremely loud music was played or you just hear people screaming. You could spend several hours in this room. The interrogators also constantly threatened to send detainees to "Romeo" which was a very small room with no blanket or mattress; your clothing down to your underwear would also be taken from you and you could be kept there for days. There were also many days and nights that I didn't sleep at all. A guard would watch us in our cell and yell or rattle the bars to keep us awake. I was also locked up in Camp 6, where again I was locked in a cell by myself. I was moved from Camp 6 to Camp 4 in 2008. Although I was still locked up, my life was much better in Camp 4; where we could spend more time outside and I lived with a group of other men.

9. Since being locked up, my health has not been good. I have experienced pain and pressure in my eye and bleeding in my teeth. I have suffered from tingling sensations in my arms and legs. At night when I am trying to sleep, my muscles will move on their own and keep me from sleeping. There is something wrong with stomach and it often appears much bigger than it is and causes me pain. For periods of time, I was experiencing extreme pain in my back that made standing unbearable. At times, I have had very little energy. Sometimes, I asked for medical attention but I was also scared that the guards would trick me into taking medicine that would cause me to no longer know where I was or lose my mind.

10. I have already spent almost nine years in confinement under the conditions I have mentioned here as well as subject to many other awful conditions your own Government and outside investigations have confirmed. These conditions are detailed in the attached document provided by my counsel.

11. I have never been a member of the Taliban or al Qaeda. I understand that I have pled guilty to Material Support for Terrorism and Conspiracy to Commit Material Support, but I have never planned or participated in any terrorist attack. I hope to get home in the near future to see my family again before my time on this earth ends. I have done my best to be a compliant prisoner even in the face of the conditions that I have endured. I ask that you give me the opportunity to get home as soon as possible so that I can live out the rest of my days peacefully.

**Attachment J (Modified)**

## Summary of Open Source Materials

*AFGHANISTAN*

a. Noor was captured 28 March 2002 in Pakistan. He was transferred to Bagram Collection Point ("BCP"). By August of 2002, Noor had been transferred to Guantanamo Bay Naval Station, Cuba (GTMO or Guantanamo).

b. From June 2002 to April 2004 the U.S. formation that directed all Enduring Freedom operations in Afghanistan was designated Combined Joint Task Force-180 (CJTF-180), a corps-level headquarters. Prior to the arrival of CJTF-180 at Bagram, there was very little guidance on detainee operations or policy through technical channels.<sup>1</sup>

*Detention operations in Afghanistan*

c. Generally concurrent with Noor's detention by U.S. forces in Afghanistan, the 211<sup>th</sup> Military Police Company (211<sup>th</sup> MP Co) was assigned to detention operations at Kandahar (approximately February 2002 to July 2002) and Bagram (approximately July 2002 to September 2002). In August/September 2002, the 211<sup>th</sup> MP Co was relieved in place by the 377<sup>th</sup> Military Police Company (377<sup>th</sup> MP Co). Prior to deployment to relieve the 211<sup>th</sup>, the commander of 377<sup>th</sup> obtained copies of the standard operating procedures (SOP) for the 211<sup>th</sup>, rewrote portions of the SOP, and distributed copies of this revised SOP to members of 377<sup>th</sup> while they were still mobilized at Ft Dix.<sup>2</sup> Once members of the 377<sup>th</sup> MP Co arrived at Bagram, members of the 211<sup>th</sup> MP Co spent approximately two weeks training members of the 377<sup>th</sup> MP Co on local practices for detention operations.

d. During one week in December 2002, two detainees died in U.S. custody at the BCP as the result of abusive detention and interrogation practices.

The patterns of detainee abuse in the two incidents share some similarities. In both cases, for example, the [detainees] were handcuffed to fixed objects to above their heads in order to keep them awake. Additionally, interrogations in both incidents involved the use of physical violence, including kicking, beating and the use of "compliance blows" which involved striking the PUCs legs with the MP's knee. In both cases, blunt force trauma to the legs was implicated in the deaths.<sup>3</sup>

e. Following the detainee deaths, the U.S. Army Criminal Investigation Command (CID) conducted a homicide investigation. The record of this investigation includes approximately 200 interviews with military police, intelligence personnel, interpreters, detainees, camp overhead

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<sup>1</sup> See *CLAMO Legal Lessons Learned (2004)*, at 53.

<sup>2</sup> See *CID Report Habibullah and Dilawar (Oct 2004)*, at 449 (Exhibit 120). The 377<sup>th</sup> Commander apparently rewrote the SOP again while at Bagram.

<sup>3</sup> *Church Report (2005)*, at 235.

personnel, and others. The record includes copies of classified SOPs and descriptions of recordkeeping practices. Investigators looked for the “source” of abusive detention practices conducted by members of the 377<sup>th</sup> MP Co, and questioned which practices originated with the 211<sup>th</sup> MP Co, the unit with whom Noor interacted at Bagram. The final report addressed practices and leadership problems that directly led to the deaths.<sup>4</sup>

f. Following the detainee deaths, “LTG McNeill ordered a broad AR 15-6 investigation into conditions at the BCP. In February 2003, after reviewing the results of the investigation, LTG McNeill prohibited several interrogation techniques implicated in the detainees’ deaths. . . .”<sup>5</sup> The AR 15-6 charter specifically required the investigator to leave the investigation of the deaths to CID, but to investigate “tactics, techniques, and procedures (TTPs) as well as standard practices, which were dangerous, contrary to legal standard, or ill-advised.”<sup>6</sup>

g. Bagram guards and other US personnel have made sworn statements that they conducted, witnessed, or heard about the following activities:

- Use of pressure point control tactics to inflict pain on complaint detainees;<sup>7</sup>
- Use of loud music to disorient detainees;<sup>8</sup>
- Routine hooding and shackling of detainees;<sup>9</sup>
- Use of “compliance blows” on restrained detainees;
- Rough physical handling and medical exams during detainee in-processing;
- Hooding detainees during movement, transportation, and interrogations;
- Use of extended isolation;
- Corporal punishment for non-compliant detainees;
- Shackling for punishment;
- Throwing a detainee wearing three sets of shackles against wall; guard threw detainee around “like a rag doll” because he “felt like it” and that was “why he was there”;<sup>10</sup>
- Ensuring escapee from group cell was “fucked up;”<sup>11</sup>
- Shoving detainees into wall during movements;<sup>12</sup>
- Compelling detainees to perform meaningless physical tasks, like constantly cleaning;<sup>13</sup>
- Forcing detainee to pick bottle caps out of human waste;<sup>14</sup> possibly on direction of military intelligence personnel;<sup>15</sup>
- Forcing detainee to hold stress positions;<sup>16</sup>

<sup>4</sup> See *Church Report (2005)*, at 236.

<sup>5</sup> *Church Report (2005)*, at 235. An “AR 15-6” is an administrative investigation ordered under Army Regulation 15-6, *Procedures for Investigating Officers and Boards of Officers*. See generally *AR 15-6 (1996)*.

<sup>6</sup> *CID Report Habibullah and Dilawar (Oct 2004)*, at 1206 (Exhibit 308).

<sup>7</sup> See, e.g., *CID Report Habibullah and Dilawar (Oct 2004)*, at 582 (Exhibit 148).

<sup>8</sup> See, e.g., *CID Report Habibullah and Dilawar (Oct 2004)*, at 1421 *et seq* (Exhibit 344) (CID interview with former interrogator 519<sup>th</sup> MI, describing loud music used during initial detainee screening).

<sup>9</sup> See, e.g., *CID Report Habibullah and Dilawar (Oct 2004)*, at 487 (Exhibit 128).

<sup>10</sup> *Id.* at 751-752 (Exhibit 190).

<sup>11</sup> *Id.* at 751 (Exhibit 190).

<sup>12</sup> See, e.g., *CID Report Habibullah and Dilawar (Oct 2004)*, at 753 (Exhibit 190).

<sup>13</sup> See, e.g., *id.* at 815 (Exhibit 205).

<sup>14</sup> See, e.g., *id.* at 815 (Exhibit 205).

<sup>15</sup> See *id.* at 824 (Exhibit 207).

- Beating mentally handicapped Afghan detainee because he screeched like character on cartoon “South Park;”<sup>17</sup>
- Picking up detainee by the neck;<sup>18</sup>
- Having growling dogs walk on bound, hooded detainees “as a big joke;”<sup>19</sup>
- Threatening detainee with a dildo;<sup>20</sup>
- Squeezing detainee’s shoulders while escorting, striking detainee in groin area;<sup>21</sup>
- Sidekicking detainee;<sup>22</sup>
- Repeatedly punching shackled detainee in the chest;<sup>23</sup>
- Isolation guard lets members of 377<sup>th</sup> 3d platoon into detainee’s cell so they can take turns striking him to hear him cry out, “Allah!;”<sup>24</sup> detainee later dies.

h. In 2002, Bagram guards believed they were authorized to, and did as a matter of practice, deliver strikes and blows to detainees who were restrained. Guards sometimes struck detainees to neutralize an immediate security threat, but also beat detainees as “punishment” for non-compliance. “Compliance blows” used on restrained detainees included the “common peroneal strike”, an extremely painful blow from the guard’s knee to the common peroneal nerve along the detainee’s upper femur. Non-compliance ranged from actively fighting or resisting guards, to talking, refusing to stand or sit, touching concertina wire, or generally disregarding any instructions given by a guard, whether the detainee understood the instruction or not. Some guards apparently struck restrained detainees as a form of amusement or revenge.<sup>25</sup> Two detainees at Bagram died in December 2002 from complications arising from repeated common peroneal strikes; medical personnel later testified victims’ legs were “pulpified,” similar to injuries from being run over by a bus, and would have required amputation.

i. In 2002, Bagram guards used forced standing to punish detainees for non-compliance. Detainees were also forced to stand for extended periods of time in order to enforce sleep deprivation at the request of military intelligence personnel (“MI personnel”). Guards forced detainees to remain standing by restraining them to fixed surfaces. For example, a guard could bring a detainee into the entry section of the general detention area (“airlock”) to stand: “If they refused to stand in the airlock, then they could be handcuffed to the airlock in a manner to keep them from sitting down.”<sup>26</sup> Policy and practice regarding whether guards could shackle a

<sup>16</sup> See, e.g., *CID Report Habibullah and Dilawar (Oct 2004)*, at 832-33 (Exhibit 209) (specific incident involving “roman chair” stress position led to guidance prohibiting its use).

<sup>17</sup> *Id.* at 842 (Exhibit 211).

<sup>18</sup> *Id.* at 890 (Exhibit 221).

<sup>19</sup> *Id.* at 886 (Exhibit 220).

<sup>20</sup> *CID Report Habibullah and Dilawar (Oct 2004)*, at 898 (Exhibit 226).

<sup>21</sup> *Id.* at 899 (Exhibit 226).

<sup>22</sup> *Id.* at 913 (Exhibit 229).

<sup>23</sup> *Id.* at 1240 (Exhibit 311).

<sup>24</sup> See, e.g., *CID Report Habibullah and Dilawar (Oct 2004)*, at 1349-1350 (Exhibit 324).

<sup>25</sup> See, e.g., *id.*, at 842 (Exhibit 211) (describing beating of mentally handicapped Afghan detainee who screeched like character on cartoon “South Park”); *id.*, at 1349-1350 (Exhibit 324) (describing isolation guard letting MPs into detainee’s cell so they could take turns striking him to hear him cry out, “Allah!;” detainee later died).

<sup>26</sup> *CID Report Habibullah and Dilawar (Oct 2004)*, at 1256 (Exhibit 312).

detainee's hands over his head versus eye or waist level varied and was sometimes inconsistent.<sup>27</sup>

j. Guards routinely hooded and shackled detainees for first days of their detention.<sup>28</sup> Guards also routinely hooded or goggled detainees during movements, for force protection, and to deny detainees knowledge of the detention facility.<sup>29</sup>

#### *Intelligence operations in Afghanistan*

k. The 202<sup>nd</sup> Military Intelligence Battalion (202<sup>nd</sup> MI Bn) of the 513th Military Intelligence Brigade established interrogation operations in Afghanistan. The 202<sup>nd</sup> MI Bn reportedly produced nearly fifteen hundred Intelligence Information Reports (IIRs) in just over seven months, in a reports database that was called "superb" by CJTF-180's first director of counter-intelligence (CI) and human intelligence (HUMINT).<sup>30</sup>

l. Generally concurrent with Noor's detention by U.S. forces at BCP, the 202<sup>nd</sup> MI Bn staffed the interrogation cell at Bagram that was responsible for conducting detainee interrogations. Two military intelligence personnel from the 519<sup>th</sup> Military Intelligence Battalion (519<sup>th</sup> MI Bn) were assigned to augment the 202<sup>nd</sup> MI Bn. In August/September of 2002, the 202<sup>nd</sup> MI Bn was replaced by the 519<sup>th</sup> MI Bn, and the two augmentees stayed on to train their unit on local practices developed by the 202<sup>nd</sup> MI Bn.

m. At Bagram, intelligence personnel who were part of the Joint Interrogation Facility (JIF) at BCP conducted initial screening and interrogation, while personnel assign to the Joint Interrogation and Debriefing Center (JIDC) conducted follow-on exploitation.<sup>31</sup> JIF and JIDC personnel at Bagram conducted their own detainee interrogations.<sup>32</sup> Personnel from the Defense Intelligence Agency (DIA) set up the JIDC at Bagram around late June /early July 2002,<sup>33</sup> and presumably maintained separate records and routinely communicated with other, off-site elements of DIA and other members of the intelligence community.

n. The government has not certified which agencies interrogated, took custody of, or interviewed Noor at Bagram.

o. Numerous other intelligence agencies interrogated detainees at Bagram. "[A] host of national level intelligence agencies participate in the interrogation process utilizing a wide array

<sup>27</sup> See, e.g., *id.*, at 1255 (Exhibit 312) (interview with SJA who said he told MPs do not shackle detainees' arms overhead, yet detainees' arms were shackled overhead).

<sup>28</sup> See, e.g., *CID Report Habibullah and Dilawar (Oct 2004)*, at 487 (Exhibit 128).

<sup>29</sup> See *CJTF-180 Interrogation Techniques (24 January 2003)*, at 3, 7.

<sup>30</sup> Ron Stallings, Michael Foley, *CI and HUMINT operations in support of OEF (Oct-Dec, 2003) available at <http://www.militaryphotos.net/forums/showthread.php?28026-CI-and-HUMINT-operations-in-support-of-OEF>.*

<sup>31</sup> See generally *DAIG Report (21 July 2004)*, at 32 (Interrogation facilities in OEF identified themselves as JIFs and JIDCs, and their organization and command relationships were structured accordingly); *AFM 3-31 (2001)*, at A-11 (describing roles of JIF and JIDC).

<sup>32</sup> See, e.g., *id.*, at 1212 (Exhibit 309) (CID interview with former CJTF-180 J-2X).

<sup>33</sup> See *CID Report Habibullah and Dilawar (Oct 2004)*, at 1212 (Exhibit 309).

of tactics, techniques and procedures.”<sup>34</sup> In addition to conventional military forces, Other Than Conventional (OTC) military forces and other government intelligence agencies (OGA), conducted detainee operations and/or interrogations in Afghanistan. Military Special Mission Units (SMUs) serving in Afghanistan conducted their own interrogations under separate guidance,<sup>35</sup> and passed detainees to conventional forces. At one point, SMU Afghanistan requested a dedicated interrogation facility co-located at Bagram Collection Point.<sup>36</sup> OGA interrogated detainees held by military forces, and conducted detention operations.<sup>37</sup>

p. Members of OTC military forces and OGAs would “show up” and demand access to detainees in military custody at BCP.<sup>38</sup> JTF-180 subsequently established coordination practices, and, in order to ensure outside agencies did not physically abuse detainees, a rule that no outside organization could conduct an interview/interrogation of a detainee without a JTF-180 interrogator present.<sup>39</sup>

q. OTC military forces and OGAs presumably maintained separate records and routinely communicated with other, off-site elements of the intelligence community. The government has neither provided such records to the defense, nor certified OTC military forces and OGAs, did not interrogate, take custody of, or interview Noor at any point in US or foreign custody.

r. In late 2002, CJTF-180 ordered an administrative investigation (AR 15-6) of two A/519<sup>th</sup> interrogators who physically abused detainees. A male and a female military intelligence agent reportedly assaulted the detainee they were interrogating: stepped on his legs, pushed him against the wall, kneed him, grabbed his ears.<sup>40</sup> The AR 15-6 report discussed a number of interrogation techniques, including sleep deprivation.<sup>41</sup> As a result of the AR 15-6 investigation, two A/519<sup>th</sup> interrogators were denied access to detainees.<sup>42</sup> It appears as though the chain of command did not act to initiate internal MI procedures required when MI personnel are suspected of misconduct.

s. Following the detainee deaths in December 2002, members of the 519<sup>th</sup> MI Bn were placed under investigation. While the investigation was ongoing, 519<sup>th</sup> MI Bn was transferred to Abu Ghraib, Iraq. The 519<sup>th</sup> MI Bn conducted detainee interrogations at Abu Ghraib during a

<sup>34</sup> *CJTF-180 Interrogation Techniques (24 January 2003)*, at 10.

<sup>35</sup> See *SASC Detainee Report (November 20, 2008)*, at 153 (describing Jan 2003 SMU TF Afghanistan SOP that included use of isolation, multiple interrogators, stress positions, and sleep deprivation); *id.*, at 158 (SMU TF Iraq adopted SMU TF Afghanistan SOP “verbatim”); *id.*, at 159 (redacted in original)

<sup>36</sup> See *SASC Detainee Report (November 20, 2008)* at 151, citing [redacted in original] Interrogations Operations Decision Briefing (undated) (describing request for SMU interrogation facility for high value detainees co-located at the Bagram Collection Point).

<sup>37</sup> *DoJ OIG FBI & Detainee Interrogations (rev 2009)*, at 19.

<sup>38</sup> *CID Report Habibullah and Dilawar (Oct 2004)*, at 1305 (Exhibit 318).

<sup>39</sup> See *id.* at 1305, 1306 (Exhibit 318).

<sup>40</sup> See *CID Report Habibullah and Dilawar (Oct 2004)*, at 1340 (Exhibit 322) (CID interviewing CJTF-180 legal advisor).

<sup>41</sup> See *CID Report Habibullah and Dilawar (Oct 2004)*, at 1236 (Exhibit 311) (interview of former deputy SJA for CJTF-180).

<sup>42</sup> See *id.*, at 1236 (Exhibit 311).

period of now-infamous detainee abuse. A subsequent investigation determined approaches and practices used at Abu Ghraib “clearly” came from documents and personnel in Afghanistan and Guantanamo, to the point where an intelligence SOP for Abu Ghraib created by the same 519th commander “was remarkably similar” to the Bagram SOP.<sup>43</sup>

t. Bagram intelligence operations personnel have made sworn statements that they conducted, witnessed, or heard about the following activities associated with interrogation:

- Use of stress positions;<sup>44</sup>
- Sleep deprivation;<sup>45</sup>
- Beating and other forms of physical assault;<sup>46</sup>
- Sexual assault and other forms of sexual humiliation;<sup>47</sup>
- Taking pants off detainee;<sup>48</sup>
- Interrogator displayed penis to detainee;<sup>49</sup>
- Detainee held while interrogator simulated sexual acts;<sup>50</sup>
- Female interrogator kicked detainee in buttocks to force him back into kneeling stress position;<sup>51</sup>
- “The screaming technique;”<sup>52</sup>
- Forced physical training;<sup>53</sup>
- Detainee forced to roll across floor and kiss interrogator’s boots;<sup>54</sup>
- Detainee forced to sweep the floor;<sup>55</sup>
- Threat that other interrogator with bad reputation would come;<sup>56</sup>
- Interrogator pulls on detainee’s shackle chain, rubs hands in detainees’ hair;<sup>57</sup>
- Interrogator grabs detainee’s beard to turn his head;<sup>58</sup>
- Interrogator lies on detainee on floor, steps between detainee’s legs near his crotch.<sup>59</sup>

<sup>43</sup> *Fay Report (2004)*, at 29.

<sup>44</sup> *See, e.g., CID Report Habibullah and Dilawar (Oct 2004)* at 1052 (Exhibit 263); 1440 (Exhibit 344); 1094 (Exhibit 278); 409 (Exhibit 109).

<sup>45</sup> *See, e.g., id.*, at 410-411 (Exhibit 109).

<sup>46</sup> *See, e.g., id.* at 1261 (Exhibit 312); 1435, 1438 (Exhibit 344); 1435, 1437, 1440 (Exhibit 344) (describing dragging detainee by shirt and pinning him to wall).

<sup>47</sup> *See, e.g., CID Report Habibullah and Dilawar (Oct 2004)*, at 1051 (Exhibit 263) (describing taking pants off detainee); 1261 (Exhibit 312); 1438 (Exhibit 344)

<sup>48</sup> *See, e.g., id.*, at 1051 (Exhibit 263); 1261 (Exhibit 312).

<sup>49</sup> *Id.* at 1435, 1438 (Exhibit 344).

<sup>50</sup> *CID Report Habibullah and Dilawar (Oct 2004)*, at 1438 (Exhibit 344).

<sup>51</sup> *See id.* at 1435, 1438 (Exhibit 344).

<sup>52</sup> *Id.* at 1051 (Exhibit 263). *See also id.*, at 1118 (Exhibit 284).

<sup>53</sup> *See, e.g., id.* at 1052 (Exhibit 263).

<sup>54</sup> *CID Report Habibullah and Dilawar (Oct 2004)*, at 1094 (Exhibit 278).

<sup>55</sup> *See, e.g., d.* at 1097-1098 (Exhibit 278).

<sup>56</sup> *Id.* at 1395 (Exhibit 334); *id.*, at 1439 (Exhibit 344).

<sup>57</sup> *CID Report Habibullah and Dilawar (Oct 2004)*, at 1395 (Exhibit 334).

<sup>58</sup> *Id.* at 1434 (Exhibit 344).

<sup>59</sup> *Id.* at 1434-1435, 1437 (Exhibit 344).

u. FBI personnel surveyed by the Department of Justice Office of the Inspector General affirmed they observed or heard about the following forms of rough or aggressive detainee treatment in Afghanistan:<sup>60</sup>

- Depriving a detainee of food or water;
- Depriving a detainee of clothing;
- Depriving a detainee of sleep, or interrupting sleep by frequent cell relocation or by other methods;
- Beating a detainee;
- Threatening action to cause physical pain, injury, disfigurement, or death;
- Treatment or action causing significant physical pain or injury, or causing disfigurement or death;
- Placing a detainee on a hot surface or burning a detainee;
- Using shackles or other restraints in a prolonged manner;
- Requiring a detainee to maintain, or restraining a detainee in, a stressful or painful position;
- Forcing a detainee to perform demanding physical exercise;
- Hooding or blindfolding a detainee other than during transportation;
- Subjecting a detainee to extremely cold or hot room temperatures for extended periods;
- Subjecting a detainee to loud music;
- Subjecting a detainee to bright flashing lights or darkness;
- Isolating a detainee for an extended period of time;
- Using duct tape to restrain, gag or punish a detainee;
- Using rapid response teams and/ or forced cell extractions;
- Using a military working dog on or near a detainee other than during detainee transportation;
- Threatening to use military working dogs on or near a detainee;
- Disrespectful statements, handling, or actions involving the Koran;
- Shaving a detainee's facial or other hair to embarrass or humiliate a detainee;
- Touching a detainee or acting toward a detainee in a sexual manner;
- Holding detainee(s) who were not officially acknowledged or registered as such by the agency detaining the person;
- Sending a detainee to another country for a more aggressive interrogation;
- Threatening to send a detainee to another country for detention or more aggressive interrogation;
- Threatening to take action against a detainee's family;
- Other treatment or action causing severe emotional or psychological trauma to a detainee.<sup>61</sup>

v. At Bagram in 2002, intelligence personnel sometimes placed detainees in stress positions during interrogation.<sup>62</sup> A stress position may be an abnormal human position, such as suspension

<sup>60</sup> DoJ OIG FBI & Detainee Interrogations (rev 2009), at 213-215.

<sup>61</sup> DoJ OIG FBI & Detainee Interrogations (rev 2009), at 213-215. "FBI agents were only present at a small percentage of detainee interrogations in the military zones, most of which were conducted by personnel from other agencies." *Id.* at 171.

or inversion, or a normal human position, such as sitting, standing or lying, that a subject is forced to hold for an abnormal period of time or with an impediment to the position, such as an injury. Stress positions may be bound or unbound, and restraints can inflict pain or injury if misapplied or otherwise manipulated.

w. Military personnel sometimes referred to stress positions as “safety positions.”<sup>63</sup> A “safety position” was an awkward physical position from which a detainee could not easily physically hurt other people or himself, meant to be used for the safety of US personnel and as a substitute for shackling a detainee to a fixed object.<sup>64</sup> Even though “safety positions” were supposed to be used to protect US personnel, they were routinely “used to facilitate cooperation, instead of a true protective measure.”<sup>65</sup> “Safety positions” should be evaluated as stress positions, even if not called so by guards or interrogators.

x. Stress positions reportedly used at Bagram in 2002 included, *inter alia*, forcing a detainee to:

- lean against a wall with his weight supported only by his arms or head;<sup>66</sup>
- sit with only the wall for support in a “roman chair,” “invisible chair,” or “dream seat” position;
- kneel with his arms raised overhead<sup>67</sup> or hands locked behind his head;<sup>68</sup>
- sit on the floor with no chair;<sup>69</sup>
- stand with a chair next to him, not allowed to sit down on it;<sup>70</sup> and
- lie on his back with hands and feet in the air.<sup>71</sup>

y. Some interrogators reportedly tested their own stamina in the positions to establish limits for their use,<sup>72</sup> or set case by case limits based on their subjective perception of whether the detainee made enough effort to hold the position, i.e., “attempted to do the task” or “just quit”.<sup>73</sup> These practices suggest lack of supervision and an environment where abuse was more likely to

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<sup>62</sup> See generally *CID Report Habibullah and Dilawar (Oct 2004)*, at 1430-1434 (Exhibit 344).

<sup>63</sup> *CID Report Habibullah and Dilawar (Oct 2004)*, at 1394 (Exhibit 334).

<sup>64</sup> See, e.g., *CID Report Habibullah and Dilawar (Oct 2004)*, at 1235 (Exhibit 311).

<sup>65</sup> *Id.*, at 1237 (Exhibit 311) (describing findings of AR 15-6 conducted after detainees’ deaths); *id.*, at 409 (Exhibit 109) (describing “safety position” as tool of interrogators); *id.*, at 1398 (Exhibit 334) (“not used for safety”). *But see id.*, at 1264 (Exhibit 312) (AR 15-6 said safety positions were only used for security, even though they had also been used on occasion solely to cause detainee discomfort in interrogation).

<sup>66</sup> *CID Report Habibullah and Dilawar (Oct 2004)*, at 336 (Exhibit 85) (describing detainee forced to lean on wall with weight supported by arms or head.)

<sup>67</sup> See, e.g., *id.* at 409 (Exhibit 109) (describing “safety position” as tool of interrogators).

<sup>68</sup> See, e.g., *id.* at 1422 (Exhibit 344).

<sup>69</sup> See, e.g., *id.* at 1422 (Exhibit 344).

<sup>70</sup> See *CID Report Habibullah and Dilawar (Oct 2004)*, at 1422 (Exhibit 344).

<sup>71</sup> See *id.* at 1422 (Exhibit 344).

<sup>72</sup> See, e.g., *id.*, at 1422 (Exhibit 344).

<sup>73</sup> *Id.* at 1423 (Exhibit 344). Note the interrogator who admitted to doing this appears to have been farther along the “nice” end of the personality spectrum. *Id.*, at 1424.

occur. CIA interrogators used stress positions.<sup>74</sup> U.S. personnel sometimes struck detainees who fell out of stress positions.<sup>75</sup>

z. Military intelligence personnel subjected detainees to sleep deprivation for interrogation purposes. Sleep deprivation may have been common as early as April 2002.<sup>76</sup> OTC military used sleep deprivation.<sup>77</sup> CIA interrogators also used sleep deprivation.<sup>78</sup>

The MP's would be authorized to keep the detainees awake based on the direction of MI. During the execution of the mission, the MP's would employ various techniques to keep someone awake. That would include yelling at the individual, [sic] keeping the lights on; forced standing; and ultimately to enforce the forced standing, handcuffing the individual to something to keep them from sitting down.<sup>79</sup>

aa. Sleep deprivation was meant to place detainees "in a vulnerable state-of-mind, causing confusion and disorientation..."<sup>80</sup> If Noor did not comply with instructions to stand or do some other activity that served as an "interruption or periodic awakening" for sleep adjustment, or if he physically resisted or acted out during sleep adjustment, then he may have been struck to compel compliance or as punishment.

bb. Interrogators at forward locations and at BCP routinely used isolation and considered it among the most effective interrogation techniques.<sup>81</sup> OTC military also used isolation.<sup>82</sup> CIA interrogators used isolation.<sup>83</sup>

cc. Interrogators at forward locations and at BCP routinely used hoods and considered their use among the most effective interrogation techniques.<sup>84</sup> Hooding could interfere with a detainee's

<sup>74</sup> See generally *CIA OIG Special Review (May 7, 2004)* (describing role of CIA in interrogating terrorism suspects held by the CIA and by military forces).

<sup>75</sup> See *CJTF-180 Interrogation Techniques (24 January 2003)*, at 6 ("mild physical contact" "used to enforce safety positions during intense interrogation designed to elicit emotional response."). See, e.g., *CID Report Habibullah and Dilawar (Oct 2004)*, at 1435, 1438 (Exhibit 344) ("SGT [redacted in original] said she kicked a detainee in the butt because he would not stop sitting on his heels during an interrogation").

<sup>76</sup> See *CID Report Habibullah and Dilawar (Oct 2004)*, at 1273 (Exhibit 313).

<sup>77</sup> See *SASC Detainee Report (November 20, 2008)*, at 153 (describing Jan 2003 SMU TF Afghanistan SOP that included use of isolation, multiple interrogators, stress positions, and sleep deprivation).

<sup>78</sup> See generally *CIA OIG Special Review (May 7, 2004)* (describing role of CIA in interrogating terrorism suspects held by the CIA and by military forces).

<sup>79</sup> See *CID Report Habibullah and Dilawar (Oct 2004)*, at 1252-1253 (Exhibit 312) (legal advisor for BCP from late Nov 2002 – June 2003). Note detainees were sometimes cuffed with hands overhead. *Id.*, at 1255 (Exhibit 312).

<sup>80</sup> *Id.*, at 3.

<sup>81</sup> See *CJTF-180 Interrogation Techniques (24 January 2003)*, at 2-3, 6-7, 8.

<sup>82</sup> See *SASC Detainee Report (November 20, 2008)*, at 153 (describing Jan 2003 SMU TF Afghanistan SOP that included use of isolation, multiple interrogators, stress positions, and sleep deprivation).

<sup>83</sup> See generally *CIA OIG Special Review (May 7, 2004)* (describing role of CIA in interrogating terrorism suspects held by the CIA and by military forces).

<sup>84</sup> See *CJTF-180 Interrogation Techniques (24 January 2003)*, at 3; *id.*, at 7 ("use of hood during interrogation" among effective interrogation techniques used by CJTF-180 interrogators at BCP, but changes "currently underway" to substitute blacked-out goggles for hoods).

breathing, particularly if he was excited or hyperventilating.<sup>85</sup> “[W]hen used in conjunction with isolation, the hood disoriented the [detainee] and distorted his sense of place and time.”<sup>86</sup> CIA interrogators used hooding and other forms of deprivation of light.<sup>87</sup>

dd. Interrogators at Bagram considered deprivation of light and sound among the most effective interrogation techniques.<sup>88</sup> “It was effective in quickly breaking individuals that have immediate force protection information... This technique erodes a [detainee’s] mental willingness to resist. When used with sleep deprivation, this techniques extends the disorientation period rendering the [detainee] more susceptible [to] other techniques.”<sup>89</sup>

ee. Interrogators at forward locations routinely used female interrogators or guards specifically to induce “shame/humiliation”, “evoke[] deep feelings of shame,” “reduce... feelings of pride.”<sup>90</sup> BCP also used female interrogators and guards.

ff. Military Intelligence personnel reportedly asked MPs to implement interrogation strategies outside the interrogation booth, ranging from a general “softening up” to specific forms of abuse. These included but were not limited to:

- restrained or unrestrained sleep deprivation;<sup>91</sup>
- forced physical training (aka “smoking sessions”);<sup>92</sup>
- humiliating activities;<sup>93</sup>
- “extra chores;”<sup>94</sup> and
- enforced silence.<sup>95</sup>

<sup>85</sup> See, e.g., *CID Report Habibullah and Dilawar (Oct 2004)*, at 1256 (Exhibit 312) (after detainee deaths, legal advisor for BCP learned that chaining a detainee’s hands over his head, combined with the hood, could cause breathing problems potentially exacerbated by the detainee getting excited and hyperventilating).

<sup>86</sup> *CJTF-180 Interrogation Techniques (24 January 2003)*, at 7.

<sup>87</sup> See generally *CIA OIG Special Review (May 7, 2004)* (describing role of CIA in interrogating terrorism suspects held by the CIA and by military forces).

<sup>88</sup> See *CJTF-180 Interrogation Techniques (24 January 2003)*, at 8 (deprivation of light and sound in living areas used “in the past” at Bagram, not “currently used” circa January 2003; used again later. See also *Church Report (2005) (S)*, at 224-225.

<sup>89</sup> *CJTF-180 Interrogation Techniques (24 January 2003)*, at 7, 9.

<sup>90</sup> *CJTF-180 Interrogation Techniques (24 January 2003)*, at 3. See *id.*, at 4

<sup>91</sup> See, e.g., *CID Report Habibullah and Dilawar (Oct 2004)*, at 433 (Exhibit 117) (MPs chained detainees in standing position; forced them to perform “extra chores”; enforced isolation with MP checking every 15 minutes; etc.); *id.*, at 832-33 (Exhibit 209) (MI instructed MPs to enforce stress positions, such as having detainees put their hands in the air, chaining detainees to the cages in kneeling or standing position “whichever was most uncomfortable”, forcing detainees to sit in “roman” chair”, i.e. squatting against the wall as if seated but with no chair; etc.).

<sup>92</sup> *Id.* at 736 (Exhibit 187) (guards told by MI to “PT” a couple of detainees for 24 hours); *id.*, at 1398 (Exhibit 334) (knew of 2-3 ‘smoking sessions’ conducted between Sept 2002 – Jan 2003).

<sup>93</sup> E.g., guards allegedly forced detainee to pick bottle caps out of human waste, possibly at MI request. See *CID Report Habibullah and Dilawar (Oct 2004)*, at 815 (Exhibit 205); *id.*, at 824 (Exhibit 207).

<sup>94</sup> E.g., *id.* at 832-33 (Exhibit 209) (MI told MPs to give detainees extra chores such as picking up water bottles, scrubbing floors with tooth brushes, pulling the “shit buckets”, etc.); *id.*, at 1420 (Exhibit 344) (detainees given extra duties such as taking out the trash, separating meals for detainees, etc.).

<sup>95</sup> *Id.* at 1258 (Exhibit 312) (the “no talking” rule was devised by MI and enforced by MP).

MPs sometimes subjected detainees to these and similar forms of treatment as punishment for detention operations infractions, independent from intelligence gathering efforts.

gg. On January 24, 2003, CJTF-180 Deputy Staff Judge Advocate (SJA) LTC Robert Cotell produced a memorandum describing “current and past” interrogation techniques used by CJTF-180 interrogators, distinguishing between those on the battlefield and at BCP.<sup>96</sup> LTC Cotell identified interrogation techniques used by CJTF-180, including:

- up to 96 hours of isolation;
- the use of female interrogators to create “discomfort” and gain more information;
- sleep adjustment, defined as “four hours of sleep every 24 hours, not necessarily consecutive;”
- use of individual fears;
- removal of comfort items;
- use of safety positions;
- isolation;
- deprivation of light and sound in living areas;
- the use of a hood during interrogation; and
- mild physical contact.<sup>97</sup>

hh. LTC Cotell’s January 24, 2003 memo also recommended use of five additional techniques, including:

- “deprivation of clothing” to put detainees in a “shameful, uncomfortable situation;”
- “food deprivation;”
- “sensory overload--loud music or temperature regulation;”
- “controlled fear through the use of muzzled, trained, military working dogs;” and
- “use of light and noise deprivation.”<sup>98</sup>

ii. The January 24, 2003 memo was drafted in consultation with interrogators at BCP, and conventional and non-conventional military task forces.<sup>99</sup> In 2004, the BCP legal advisor provided computer files to CID agents investigating the December 2002 deaths of two detainees at Bagram; working documents compiled in January 2003 as this document was produced are reportedly among those files.<sup>100</sup>

jj. CJTF-180 did not receive any response to its January 24, 2003 memorandum from either CENTCOM or the Joint Staff, and interpreted this silence to mean that the techniques then in use

<sup>96</sup> *CJTF-180 Interrogation Techniques (24 January 2003)*.

<sup>97</sup> *SASC Detainee Report (November 20, 2008)* at 155, citing Memorandum from CJTF- 180-OPS LAW for CENTCOM SJA, *CJTF 180 Interrogation Techniques (January 24, 2003)*. “The Church Report called the distinction between stress positions and safety positions at the Bagram Collection Point ‘largely academic.’” *Id.* at FN 1200, citing *Church Report (2005)* at 200.

<sup>98</sup> *Id.*, at 155, citing Memorandum from CJTF- 180-OPS LAW for CENTCOM SJA, *CJTF 180 Interrogation Techniques (January 24, 2003)*.

<sup>99</sup> See *CJTF-180 Interrogation Techniques (24 January 2003)*, at 1.

<sup>100</sup> *CID Report Habibullah and Dilawar (Oct 2004)*, at 1265 (Exhibit 312).

were unobjectionable to higher headquarters and therefore could be considered approved policy.<sup>101</sup>

*Law enforcement operations in Afghanistan*

kk. Detainees at BCP were at all times the subject of practice and policy concerning detention operations. Detainees at BCP undergoing a course of law enforcement interviews or interrogations were also sometimes subject to a simultaneous course of military intelligence or OGA interrogations. "The military had custody and control over the detainees throughout Afghanistan, and FBI agents were required to arrange access to the detainees through military police and military intelligence personnel."<sup>102</sup>

ll. According to the DOJ OIG:

DOJ witnesses told us that from the outset, there was an operating viewpoint dictated at a very high level that this was a military situation and the military approach should prevail, in part because the military controlled the detainees and locations... Several witnesses told us that the dispute over the best approach was exacerbated by the fact that the DOD interrogators were often inexperienced and not particularly well trained about al-Qaeda.<sup>103</sup>

mm. According to the DOJ OIG:

[I]n May 2004 an FBI supervisor stationed in Afghanistan sent a series of e-mails to senior Counterterrorism Division officials in FBI Headquarters stating that although the military had temporarily restricted the use of aggressive interrogation techniques such as stress positions, dogs, and sleep deprivation, military interrogators were likely to resume such methods soon. The FBI supervisor stated that even if the FBI was not present during such interrogations, FBI agents would inherently be participating in the process because they would be interviewing detainees who had either recently been subjected to such techniques by the military or who would be subjected to them after the FBI interviews were completed.<sup>104</sup>

nn. FBI agents told the DOJ OIG that "they either observed or heard that military or CIA personnel had falsely represented themselves as FBI agents in Afghanistan. One OIG survey respondent stated that he observed the impersonation of FBI personnel by others, and five agents reported that they heard about such conduct from others."<sup>105</sup>

*GUANTANAMO*

oo. By August of 2002, Noor had been transferred to GTMO.

<sup>101</sup> *Church Report (2005)*, at 7. See also *id.*, at 201.

<sup>102</sup> *DoJ OIG FBI & Detainee Interrogations (rev 2009)*, at 21.

<sup>103</sup> *Id.*, at 64-65.

<sup>104</sup> *Id.*, at xv.

<sup>105</sup> *Id.*, at 228.

pp. In August 2002, responsibility for detention operations and intelligence operations at GTMO was split between two units: Joint Task Force 160 (JTF-160) administered the detention camp, and Joint Task Force 170 (JTF-170) conducted intelligence operations, including interrogations. A series of assessments and evaluations conducted at GTMO in 2002 concluded that the intelligence-gathering mission would be enhanced by careful coordination with the detention operations mission.

qq. In November 2002, the Pentagon reorganized the camp structure and merged the administrative and interrogation task forces as JTF-GTMO under the command of MG Geoffrey Miller. MG Miller's goal was to functionally integrate military intelligence with military police detention operations.

rr. MG Miller purposefully engineered detention operations as an "enabler" for intelligence-gathering.

Simply stated, the most significant aspect of the ... organization [of JTF-GTMO] is that it places both intelligence and detention operations under the command of a single entity, designated Joint Task Force GTMO (JTF-GTMO), whereas the original organization had separate chains of command for intelligence and detention operations. This new structure has permitted greater cooperation among the military intelligence (MI) units that are responsible for interrogation and the military police (MP) units that are responsible for detention. In essence, this organization recognizes the primacy of the human intelligence collection mission at GTMO in support of the Global War on Terror, by ensuring a unity of effort between MI and MP units. This unity of effort between MI and MP units has been the subject of recent controversy, in light of MP participation in many of the abuses perpetrated at Abu Ghraib prison in Iraq....<sup>106</sup>

In his September 2003 report on intelligence operations in Iraq, MG Miller, then-Commander of JTF-GTMO, stated that detention operations 'must act as an enabler for interrogations,' by helping to 'set conditions for successful interrogations.' Furthermore, he argued it is 'essential that the guard force be actively engaged in setting the conditions for successful exploitation of the internees,' and that '[j]oint strategic interrogation operations are hampered by a lack of active control of the internees within the detention environment.'<sup>107</sup>

#### *Detention operations at GTMO*

ss. Detention operations came to serve a key role in the intelligence-gathering process at GTMO. The frequency and manner in which MPs conducted operations such as cell moves, control of comfort items, transfer to and from the interrogation booth, Immediate Reaction Forces and Forced Cell Extractions (IRFs/FCEs), use of military working dogs, and strip searches affected detainees physically and mentally, establishing conditions for subsequent interrogations. Military police personnel themselves implemented interrogation techniques meant

<sup>106</sup> Church Report (2005), at 103-4.

<sup>107</sup> *Id.*, at 148.

to be employed outside the interrogation room, such as environmental and dietary manipulation, provision of incentives for cooperation, and sleep deprivation.<sup>108</sup>

tt. By early October 2002, there was “increasing pressure to get ‘tougher’ with detainee interrogations.” If the interrogation policy memo did not contain coercive techniques, then it “wasn’t going to go very far....”<sup>109</sup>

uu. On 11 Oct 2002, JTF-GTMO J-2 requested approval for and described three categories of counter-resistance techniques:

- Category I: yelling, deception, multiple interrogators, false flag;
- Category II: stress positions, false documents, isolation, “change of scene”, sensory deprivation, hooding, 20-hour interrogations (sleep deprivation), removal of comfort items, dietary restrictions, removal of clothing, forced grooming, exploitation of phobias;
- Category III: imminent death scenario, cold, water to induce feeling of suffocation, physical contact; “and other aversive techniques, such as those used in U.S. military interrogation resistance training or by other U.S. government agencies...”<sup>110</sup>

vv. On 2 Dec 2002, the SECDEF authorized the Commander of USSOUTHCOM to employ, at his discretion, categories I and II techniques, and one category III technique.<sup>111</sup> The request and the approval process levied requirements for authorization and documentation of use of these techniques. The Government has failed to provide records relating to use of these techniques on Noor, or to certify these techniques were not used on Noor.

ww. On 15 Jan 2003, SECDEF rescinded his December 2002 approval.<sup>112</sup> However, SECDEF stipulated that if USSOUTHCOM determined that “particular techniques in either of these categories [II or III] are warranted in an individual case, [the commander] should forward that request to [SECDEF]. Such a request should include a thorough justification for the employment of those techniques and a detailed plan for use of such techniques.”<sup>113</sup> The Government has failed to provide records relating to use of these techniques on Noor, or to certify these techniques were not used on Noor.

<sup>108</sup> See generally *Church Report (2005)* (describing the relationship between military police and military intelligence; describing MP involvement in events that happen outside the interrogation room that are done in preparation for interrogations, including the role of MP record-keeping systems, and the MP role in applying techniques employed in the cellblock that set the conditions for subsequent interrogations in the interrogation room.). *Id.*, at 146, et seq. (“MPs are very involved, however, in events that happen outside the interrogation room that are done in preparation for interrogations.”).

<sup>109</sup> *SASC Detainee Report (November 20, 2008)*, at xvii, 38.

<sup>110</sup> *JTF-170 J-2 Memo (11 Oct 2002)*.

<sup>111</sup> *SECDEF Approval (2 Dec 2002)*. The approved Category III technique was physical contact. The *Schlesinger Report (August 2004)* read the memo as requiring advance SECDEF notification for all techniques described in the memo. *Church Report (2005)*, at 118.

<sup>112</sup> *SECDEF Memorandum (15 Jan 2003)*.

<sup>113</sup> *Id.*

xx. On 16 Apr 2003, SECEP approved 24 techniques.<sup>114</sup> All of them required “appropriate specified senior approval for use with any specific detainee (after considering the foregoing and receiving legal advice)” and other “safeguards”,<sup>115</sup> and four required SECDEF notification prior to use.<sup>116</sup> In addition to techniques approved by SECDEF on 16 April 2003, SOUTHCOM could request “additional interrogation techniques for a particular detainee.”<sup>117</sup> The Commander was required to provide, via CJCS, “a written request describing the proposed technique, recommended safeguards, and the rationale for applying it with an identified detainee.”<sup>118</sup> The Government has failed to provide records relating to use of these techniques on Noor, or to certify these techniques were not used on Noor.

yy. The April 2003 GTMO Policy continued in effect for GTMO until September 2006, when the U.S. Army issued Field Manual 2-22.3.<sup>119</sup>

zz. FBI personnel surveyed by the Department of Justice Office of the Inspector General affirmed they observed or heard about the following forms of rough or aggressive detainee treatment at Guantanamo:<sup>120</sup>

- Depriving a detainee of food or water;
- Depriving a detainee of clothing;
- Depriving a detainee of sleep, or interrupting sleep by frequent cell relocation or by other methods;
- Beating a detainee;
- Using water to prevent breathing by a detainee or to create the sensation of drowning;
- Using hands, rope, or anything else to choke or strangle a detainee;
- Threatening action to cause physical pain, injury, disfigurement, or death;
- Treatment or action causing significant physical pain or injury, or causing disfigurement or death;
- Using shackles or other restraints in a prolonged manner;
- Requiring a detainee to maintain, or restraining a detainee in, a stressful or painful position;
- Intentionally delaying or denying detainee medical care;
- Hooding or blindfolding a detainee other than during transportation;
- Subjecting a detainee to extremely cold or hot room temperatures for extended periods;
- Subjecting a detainee to loud music;
- Subjecting a detainee to bright flashing lights or darkness;

<sup>114</sup> SECDEF Memorandum (16 April 2003), at Tab A. Sometimes referred to as “the A-X memo.”

<sup>115</sup> SECDEF Memorandum (16 April 2003), at Tab B. Text from this part of the SECDEF memo supports the argument that use of these techniques was closely planned and documented, and that information about treatment by detention operations as well as interrogators is relevant to the question of whether a detainee was coerced in interrogation.

<sup>116</sup> SECDEF Memorandum (16 April 2003) (incentive/removal of incentive; pride and ego down; Mutt and Jeff; and isolation).

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

<sup>118</sup> *Id.*

<sup>119</sup> AFM 2-22.3 superseded AFM 34-52.

<sup>120</sup> DoJ OIG FBI & Detainee Interrogations (rev 2009), at 172-173.

- Isolating a detainee for an extended period of time;
- Using duct tape to restrain, gag or punish a detainee;
- Using rapid response teams and/ or forced cell extractions;
- Using a military working dog on or near a detainee other than during detainee transportation;
- Threatening to use military working dogs on or near a detainee;
- Using spiders, scorpions, snakes, or other animals on or near a detainee;
- Disrespectful statements, handling, or actions involving the Koran;
- Shaving a detainee's facial or other hair to embarrass or humiliate a detainee;
- Placing a woman's clothing on a detainee;
- Touching a detainee or acting toward a detainee in a sexual manner;
- Holding detainee(s) who were not officially acknowledged or registered as such by the agency detaining the person;
- Sending a detainee to another country for a more aggressive interrogation;
- Threatening to send a detainee to another country for detention or more aggressive interrogation;
- Threatening to take action against a detainee's family;
- Other treatment or action causing severe emotional or psychological trauma to a detainee
- Other religious or sexual harassment or humiliation of a detainee;
- Other treatment of a detainee that in their opinion was unprofessional, unduly harsh or aggressive, coercive, abusive, or unlawful.<sup>121</sup>

aaa. AFM 34-52 provided doctrine for MI interrogation operations, but only addressed general interrogation approaches and techniques, and did not address "new" approaches authorized by the SECDEF. Guidance for employing interrogation techniques would have been especially important for techniques that pushed the limits or were outside of AFM 34-52. In 2008, former DoD General Counsel William Haynes testified before the Senate Armed Services Committee about the extent to which the interrogation techniques were subject to "limits" and "controls" to help keep them legal.<sup>122</sup> Former GTMO SJA Diane Beaver testified along similar lines.<sup>123</sup> In some cases, there is no doubt that techniques adopted later directly contravened SOPs adopted earlier; it is reasonable to surmise that either those SOPs were amended or superseded, or commanders allowed their interrogators to operate in direct contravention to the previously-

<sup>121</sup> *DoJ OIG FBI & Detainee Interrogations (rev 2009)*, at 172-173. "FBI agents were only present at a small percentage of detainee interrogations in the military zones, most of which were conducted by personnel from other agencies." *Id.* at 171.

<sup>122</sup> William Haynes II, Former General Counsel, DoD, Testimony before the Senate Armed Services Committee, *Origins of Aggressive Interrogation Techniques* (June 17, 2008) (Federal News Service).

[T]here were interrogation plans that were supposed to be designed for each individual detainee who was to be interrogated -- that would involve a psychological review; there had to be medical care associated with it; there had to be a legal review; there had to be substantial command monitoring. There was a step process that they were supposed to go through. There were -- they were supposed to stop if anything came up. There were -- there were all sorts of conditions. ..."

<sup>123</sup> Diane Beaver, Former SHA, GTMO, Testimony before the Senate Armed Services Committee, *Origins of Aggressive Interrogation Techniques* (June 17, 2008) (Federal News Service).

established policy.<sup>124</sup> If personnel conducting interrogations relied upon a document for guidance, it should not matter whether it was in a draft form or not.

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<sup>124</sup> JTF-170 had an interrogation SOP in place at least by August 2002, which, inter alia, prohibited at least one SERE-derived technique approved by the SECDEF in December 2002, stress positions. *SASC Detainee Report (November 20, 2008)*, at 41, citing JTF-170 J2 Interrogation Section Standard Operating Procedures (August 20, 2002) (emphasis in original) (Detainees being interrogated will “remain seated and secured to the floor. DETAINEES WILL NOT BE PLACED IN STRESS POSITIONS”).