

C06238947

Approved for Release: 2014/09/11 C06238947

**DCI Talking Points: CIA Detainee Issues**  
**2 July 2004**

1.4(c)

**Principals Meeting: Detainee Issues**

As mentioned in the pre-election threat portion, our takedown of [ ] a key al-Qa'ida facilitator. We have followed [ ] for some time. He has only grudgingly admitted his identity now after repeatedly being pressed, but he still claims he is only a poor rug merchant confused with a terrorist. 1.4(c)

- Our officers with access to [ ] report that he is employing counter-interrogation techniques, including feigning illness, claiming an inability to comprehend questions, having difficulty recalling details, and denying established facts. 1.4(c)

1.4(c)

- [ ] briefly lost his composure, but still refused to cooperate—when a fellow detainee who is a nephew of Khalid Shaykh Muhammad, positively identified [ ] and said he was a member of al-Qa'ida. 1.4(c)

1.4(c)

As with other similar cases, [ ] have indicated that they would hand over [ ] to us on at least a temporary basis. 1.4(c)

1.4(c)

- Under other circumstances, earlier in this war, we would have immediately asked [ ] to give [ ] to us, and we would have rendered him to another site.

1.4(c)

- We are not rendering detainees now because we do not want to hold them without being able to use some of our most effective tools for extracting intelligence from them.

It has been some time since we discussed our program in detail. Before we go on, let me discuss the types of enhanced techniques we have used in the past.

- You should note that we do not use all of these techniques in all circumstances. Our interrogators and psychologists design debriefing packages; enhanced techniques are only a part of these packages, and we employ them only when we find that the detainee refuses to provide information.
- In addition, these techniques are used in a graduated fashion. The waterboard technique, for example, has been used in only three significant cases: Abu Zubaydah; KSM; and Nashiri. It was used in these cases because these were the hardest individuals we had to work with.
- I have a handout for you that lays out in detail exactly what techniques we employ.

0140001

C06238947

Approved for Release: 2014/09/11 C06238947

Our experience has repeatedly shown how important these techniques are to leading detainees to reveal information. In the case of KSM, for example, he initially refused to cooperate.

- Only after we initiated use of enhanced measures did he reveal actionable information. His information resulted in the discovery of operatives in the United States, including a truck driver (Faris) now serving time for his support to al-Qa'ida; an operative who was tasked with investigating how to blow up gas stations (Khan); and a mechanism for al-Qa'ida to smuggle explosives into the United States (Paracha).

Abu Zubaydah was similarly uncooperative prior to the initiation of enhanced interrogation techniques. He treated his debriefers with contempt in the early stages of debriefing.

- After the use of interrogation measures, he grew over time into perhaps our most cooperative detainee, passing information on individuals such as Jose Padilla and Ramzi bin al-Shibh that led to their capture.

1.4(c)

This will not be the last time in these coming weeks and months that we have this issue to deal with. [redacted] some of the key players in this plot who are operating out of the tribal areas. These are the individuals whom our sources say are actually integral to the plot's direction.

1.4(c)

- Senior al-Qa'ida planners, such as Abu Faraj al-Libi, Abd al-Hadi al-Iraqi, and Abu Layth al-Libi, continue to operate out of the tribal areas, and our information suggests that [redacted] disruption operations are not yet forcing them to stop plotting.

1.4(c)

- We expect to [redacted] for the purposes of locating and capturing individuals such as those I just mentioned.

I request the Principals review and provide direction, as a matter of law and policy, on the use of the full range of previously-approved counterterrorist techniques against [redacted]. To make a fully informed decision, the Principals should be apprised of the following issues:

1.4(c)

- That it continues to be the Attorney General's opinion that CIA's use of its current identified interrogation techniques do not violate US law prohibiting torture (i.e. the Torture Statute);
- That it continues to be the Attorney General's opinion that these interrogation techniques do not violate any other US laws or treaty obligations including Article 16 of the Convention Against Torture which prohibits cruel, inhuman, or degrading treatment or punishment short of torture;

0140002

Go To: Overview — Pages 1, 2, 3  
Chronology — Pages 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11

C06238947

Approved for Release: 2014/09/11 C06238947

- **Whether the AG's opinions are based solely fact that aliens overseas have no rights under Article 16 and the US Constitution or whether he is prepared to state that these interrogation techniques do not violate the substantive standards of conduct enunciated by courts under the Fifth, Eighth, and Fourteenth Amendments to the US Constitution. (These same standards are applied by the US under Article 16 of the Convention Against Torture.) [This later point is particularly important to the CIA officers who participate in the interrogation program. These officers may decline to participate further if the Attorney General refuses to provide them this legal advice.]**

Once the Attorney General provides his legal conclusions, request the Principals to determine whether the Agency should continue to use its current interrogation techniques. If the Attorney General declines to address the third point, you should ask the Principals to assume CIA's interrogation methods, while not amounting to torture, would be found by the Attorney General to violate the substantive standards of the Constitution and, given that assumption, do they want CIA to use those techniques to interrogate

1.4(c)

0140003

Go To: Overview — Pages 1, 2, 3  
Chronology — Pages 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11

C06238947

Approved for Release: 2014/09/11 C06238947



~~TOP SECRET~~ [redacted] ~~NF//MR1~~

1.4(c)



# CIA Request for Guidance Regarding Interrogation of

[redacted]

1.4(c)

[redacted]

2004

1.4(c)

0140007

~~TOP SECRET~~ [redacted] ~~NF//MR1~~

1.4(c)

Approved for Release: 2014/09/11 C06238947

Go To: Overview — Pages 1, 2, 3  
Chronology — Pages 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11

C06238947

Approved for Release: 2014/09/11 C06238947

1.4(c)



~~TOP SECRET~~ [redacted] ~~NF/MR1~~

1.4(c)

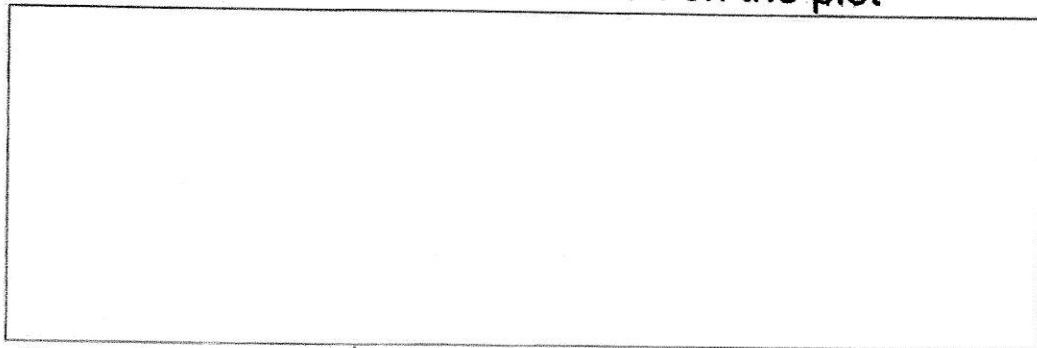


## Importance of [redacted]

- Assessed by [redacted] source on pre-election plot to be involved in or have information on the plot

EO 13526 1.4(c)<25Yrs

1.4(c)



- One of the most senior radical Islamic facilitators in Pakistan; ties to AQ, IMU, Taliban and Zarqawi

01:0005

~~TOP SECRET~~ [redacted] ~~NF/MR1~~

1.4(c)

Approved for Release: 2014/09/11 C06238947

Go To: Overview — Pages 1, 2, 3  
Chronology — Pages 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11

C06238947

Approved for Release: 2014/09/11 C06238947



~~TOP SECRET~~ [redacted] ~~NF/MR1~~

1.4(c)



1.4(c)

## Importance of [redacted] (con't)

1.4(c)

- Captured [redacted] in [redacted]
- [redacted] debriefings not working
- His information is perishable, the threat is imminent, and he is available for rendition and interrogation now

1.4(c)

1.4(c)

01-0006  
01A0007

1.4(c)

~~TOP SECRET~~ [redacted] ~~NF/MR1~~

Approved for Release: 2014/09/11 C06238947

Go To: Overview — Pages 1, 2, 3  
Chronology — Pages 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11

C06238947

Approved for Release: 2014/09/11 C06238947



~~TOP SECRET~~ [redacted] ~~INF/MR1~~

1.4(c)



## Interrogation Techniques That Could be Used with [redacted]

1.4(c)

- Facial Slap (open-handed)
- Facial Hold
- Attention Grasp
- Sleep Deprivation
- Walling
- Stress positions
- Cramped confinement
- [Waterboard]
- These techniques would be used only after nonphysical interrogation techniques were used and determined to be inadequate. The nonphysical phase could include diapering for up to 72 hours, isolation, white noise or loud music, continuous light or darkness and restricted diet.

0143007

~~TOP SECRET~~ [redacted] ~~INF/MR1~~

1.4(c)

Approved for Release: 2014/09/11 C06238947

Go To: Overview — Pages 1, 2, 3  
Chronology — Pages 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11

C06238947

Approved for Release: 2014/09/11 C06238947

1.4(c)



~~TOP SECRET~~ [ ] ~~NF//MR1~~



## Past Experience

- Interrogations have saved American lives
- Of the over 50 CIA detainees
  - 27 would not cooperate until they were interrogated
  - 16 of those would not cooperate until they were interrogated with enhanced techniques
- Use of these techniques against other key detainees have yielded significant threat information
- The detainees who have provided the most information are KSM and Abu Zubaydah, both of whom were interrogated with the aid of such techniques [, including the waterboard.]

0120008

~~TOP SECRET~~ [ ] ~~NF//MR1~~

1.4(c)

Approved for Release: 2014/09/11 C06238947



Go To: Overview — Pages 1, 2, 3  
Chronology — Pages 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11

C06238947

Approved for Release: 2014/09/11 C06238947



~~TOP SECRET~~ [REDACTED] ~~NF/MRT~~

1.4(c)



## Why are We Here?

- Our people on the front line need clear, consistent, and reliable guidance
- Transparency
- Consistency with USG policy statements
- Withdrawal of DOJ's 1 August 2002 opinion to White House Counsel
- Impact of Hamdi and Rasul decisions

0140009

~~TOP SECRET~~ [REDACTED] ~~NF/MRT~~

1.4(c)

Approved for Release: 2014/09/11 C06238947

Go To: Overview — Pages 1, 2, 3  
Chronology — Pages 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11

C06238947

Approved for Release: 2014/09/11 C06238947



~~TOP SECRET~~ [REDACTED] ~~MR1~~

1.4(c)



## Transparency

- Briefing of Principals to ensure renewed understanding of and Policy Support for Interrogation Program
- Briefings of Intelligence Oversight Committees to obtain renewed Political Support for the Interrogation Program

0140010

~~TOP SECRET~~ [REDACTED] ~~MR1~~

1.4(c)

Approved for Release: 2014/09/11 C06238947

Go To: Overview — Pages 1, 2, 3  
Chronology — Pages 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11

C06238947

Approved for Release: 2014/09/11 C06238947



~~TOP SECRET~~ [ ] ~~NF//MR1~~

1.4(c)



## Consistency

- President's 7 February 2002 Memorandum
  - “our values as a nation ... call for us to treat detainees humanely”
- DOD GC's June 2003 Letter to Senator Leahy
  - US policy to “treat all detainees and conduct all interrogations, wherever they may occur, in a manner consistent” with the US Constitution.
- Durbin Amendment to FY05 NDAA
  - “no person *in the custody or under the physical control of the United States* shall be subject to ... cruel, inhuman, or degrading treatment....” (emphasis added)

0148311

~~TOP SECRET~~ [ ] ~~NF//MR1~~

1.4(c)

Approved for Release: 2014/09/11 C06238947

Go To: Overview — Pages 1, 2, 3  
Chronology — Pages 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11

C06238947

Approved for Release: 2014/09/11 C06238947

~~TOP SECRET~~ [ ] ~~NF/MR1~~

1.4(c)



## Relevant Considerations

- Are CIA's use of interrogation techniques consistent with expressions of current and developing US Policy
  - President's 7 February 2002 memorandum
  - DoD GC Letter to Sen. Leahy of 25 June 2003
  - Durbin Amendment to the FY 2005 NDAA
- Will CIA's use of the interrogation techniques be found lawful
  - Torture Statute
  - Other US laws and treaty obligations, including the Convention Against Torture and its Article 16
  - If the Constitutional minimums applied (5<sup>th</sup>, 8<sup>th</sup>, 14<sup>th</sup> Amendments)
  - Impact of recent Supreme Court decisions on rights of detainees

~~TOP SECRET~~ [ ] ~~NF/MR1~~

1.4(c)

0140012

Approved for Release: 2014/09/11 C06238947

Go To: Overview — Pages 1, 2, 3  
Chronology — Pages 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11

CO 6238947

Approved for Release: 2014/09/11 C06238947

1.4(c)



~~TOP SECRET~~ [REDACTED] ~~NF/MR1~~



## What Needs to be Done

- NSC Principals approval, including DOJ:
  - reaffirming that CIA's use of specifically identified interrogation techniques do not violate US law prohibiting torture (i.e. the Torture Statute);
  - reaffirming that CIA's interrogation techniques do not violate other US laws because the techniques were being used only against foreign nationals outside US jurisdiction;
  - Opining on whether any of CIA's specifically identified interrogation techniques violate the standards of conduct enunciated by courts under the Fifth, Eighth, and Fourteenth Amendments to the US Constitution. (These same standards are applied by the US under Article 16 of the Convention Against Torture ("the CAT"), and the Administration has so stated on a number of occasions.
- Congressional briefings

01:0013

~~TOP SECRET~~ [REDACTED] ~~NF/MR1~~

1.4(c)

Approved for Release: 2014/09/11 C06238947

**NATIONAL  
SECURITY  
ARCHIVE**

This document is from the holdings of:

The National Security Archive

Suite 701, Gelman Library, The George Washington University

2130 H Street, NW, Washington, D.C., 20037

Phone: 202/994-7000, Fax: 202/994-7005, [nsarchiv@gwu.edu](mailto:nsarchiv@gwu.edu)