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Memorandum for the Record

KEY: C/2004-00730

EVENT: MEMBER BRIEFING DATE: 07/13/2004 TIME: 14:15 STATUS: COMPLETED
PLACE: H-405 CAPITOL
FOR: HPSCI
SUBJECT: INTERROGATIONS

ATTENDEES:

ASSOCIATION	NAME	ROLE
DCI//OCA	MOSKOWITZ, STAN	SUPPORT
DDO	PAVITT, JAMES (JIM)	BRIEFER
		SUPPORT
GC	MULLER, SCOTT	BRIEFER
HPSCI	GOSS, PORTER [R-FL]	CHAIRMAN
HPSCI	HARMAN, JANE [D-CA]	REP
HPSCI		STAFF
HPSCI/STAFF		STAFF
IG	HELGERSON, JOHN	BRIEFER
		SUPPORT

Executive Summary:

Summary Text:

(S) This briefing was at the request of D/OCA. There were three purposes. One was for the IG to present his recent report on interrogations and to answer questions. The second was for an update on the status of the interrogation process. The third purpose was to allow the General Counsel to inform them of the legal and policy issues that had recently arisen and give an appreciation of where all that stood.

(TS) D/OCA began the meeting by outlining the three purposes of the meeting. The IG then briefed his report. He said that at first much went right with the debriefing and interrogation program, although the program was put together quickly. (He briefed from the paper attached.) He said that there was considerable substantive success; thousands of reports had been written; interrogations had led to the exposure and defeat of terrorist cells and terrorists. Chairman Goss asked how many of the reports were "strategic" and how many were "tactical". The IG indicated he was not sure. Ms. Harman asked when did we begin using "enhanced techniques." The DDO responded that it began with Abu Zabayda. The IG indicated that the interrogations were legal, including the use of enhanced techniques. The General Counsel said that the effort was working effectively under the DOJ 1 August 2002 memo which was the legal foundation for the debriefings and interrogations. The IG indicated that the 1 August memo did not address Article 16 of the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. AThe article 16that required signatory Sstates to prevent in any territory subject to their jurisdiction acts of cruel, inhuman and degrading treatment or punishment not amounting to torture. The question was whether CIA's use of the enhanced techniques would transgress U.S. obligations under Article 16. The IG indicated he was also bothered in that the DOJ 1 August document did not address interrogations as we carried them out. He said that for the

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most part [redacted] detainees were well handled, except for the event in November 2003 in which a CIA officer brandished a handgun in front of a detainee. He indicated that was the event previously reported to the Chairman and Ranking Democratic Member. The DOJ, the IG indicated, took no action on that case. It was also true that none of the detainees who had died had been subjected to the enhanced techniques.

The IG indicated that all deaths were communicated to the two committees- [redacted] The [redacted] death in Afghanistan [redacted] in which David Passaro, a CIA contractor, was involved. Passaro was recently indicted on four counts of assault. He allegedly beat a person who subsequently died. It took a period of time for DOJ to move to the indictment because people who needed to be interviewed were scattered. The IG said the common link in these cases is that the Agency officers lacked timely guidance, training, experience and judgment.

(TS [redacted]) The IG then turned to the waterboard issue. He said that three people had been interrogated with the waterboard. On one, the IG felt it had been used excessively, beyond what the IG thought was the agreement with DOJ. Khalid Sheikh Mohammed (KSM) got 183 applications [redacted] The IG indicated the guidance in cables sent to the field evolved over time and that the guidance did not get to everybody who was involved in debriefing interrogations. In January 2003, the DCI issued guidance, seven months after the first debriefings began, and addressed only those detained [redacted] Harman asked if we were talking about the [redacted] She asked why the DCI guidance was late. The IG indicated that guidance had gone out earlier, but the real guidance was in January of 2003. The DDO explained that after 9/11 "we were thrown into a fury of activity." There was lots of confusion over interrogations, the enhanced program, and what was fully authorized. A [redacted] for instance, no one was authorized to do interrogations. This was also true at [redacted] He indicated that every instance of wrongdoing was promptly reported and investigated by the IG. He said there was no instance of the IG being kept in the dark.

[redacted] reaction to the Attorney General's seeming withdrawal of an earlier opinion that enhanced interrogations did not "shock the conscience" and that the techniques, therefore, were constitutional.

[redacted] The Chairman asked whether [redacted] had stood down in their activities. The IG said no. Rep. Harman noted that the [redacted] did not specify interrogations and only authorized capture and detention. She asked whether we had questioned detainees before the [redacted] The GC said yes, but no enhanced techniques had been used before Abu Zabayda and there was [redacted] Abu Zabayda and enhanced techniques which started in August 2002. In August 2002 there was a lengthy unclassified opinion by DOJ generally discussing interrogations. In a separate and classified opinion addressed to John Rizzo, OGC, DOJ concluded the ten specific CIA techniques, which included the waterboard, were legal for use with Abu Zabayda. [redacted]

[redacted]

(S) The GC laid out the legal analysis. The Attorney General had consistently advised the NSC Principals that the CIA techniques did not violate US statutes, met all obligations under the treaties, including Article 16 of the Torture Convention, and would not violate U.S. constitution standards were those standards to apply to aliens overseas. But the AG's willingness to stand behind these prior statements changed after DoJ'sthe lengthy unclassified legal memo on interrogations leaked and after the Abu Ghurayrabib scandal. CIA is now seeking to have DoJ reaffirm its prior written opinion that CIA's techniques doid not violate the torture statute, and to issue a new written opinion on Article 16 of the Convention Against Torture and U.S. constitutional standards. At the same time, CIA is seeking renewed policy approval from the NSC Principals to continue using the enhanced interrogation techniques.

[redacted]

[redacted] IVIOSKOWITZ
Director of Congressional Affa[redacted]s

Distribution:
1 - DAC (Official OCA Record)
1 - GC
1 - D/OCA

Follow-up Action Items:

Additional Information:

C05431975

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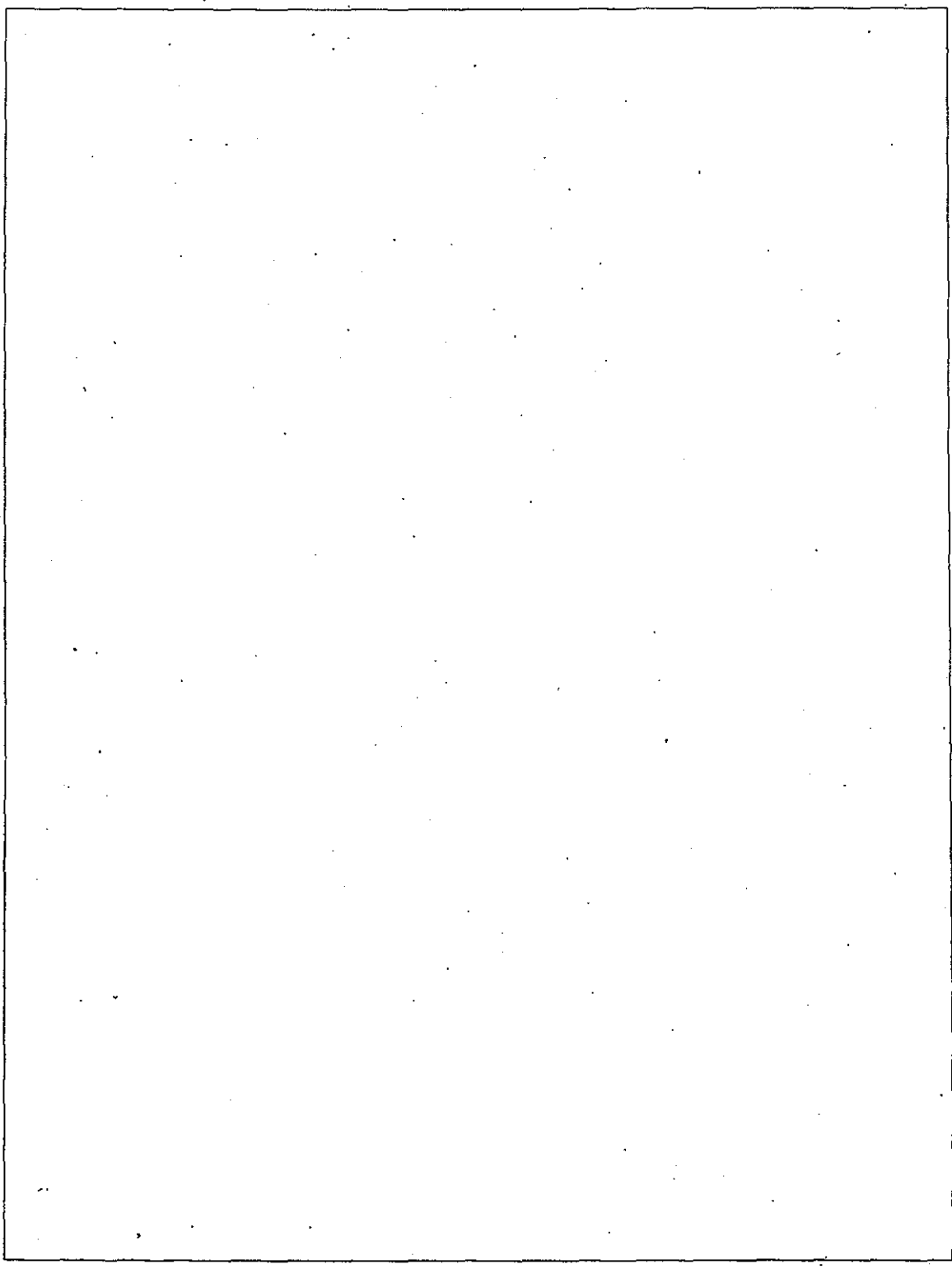

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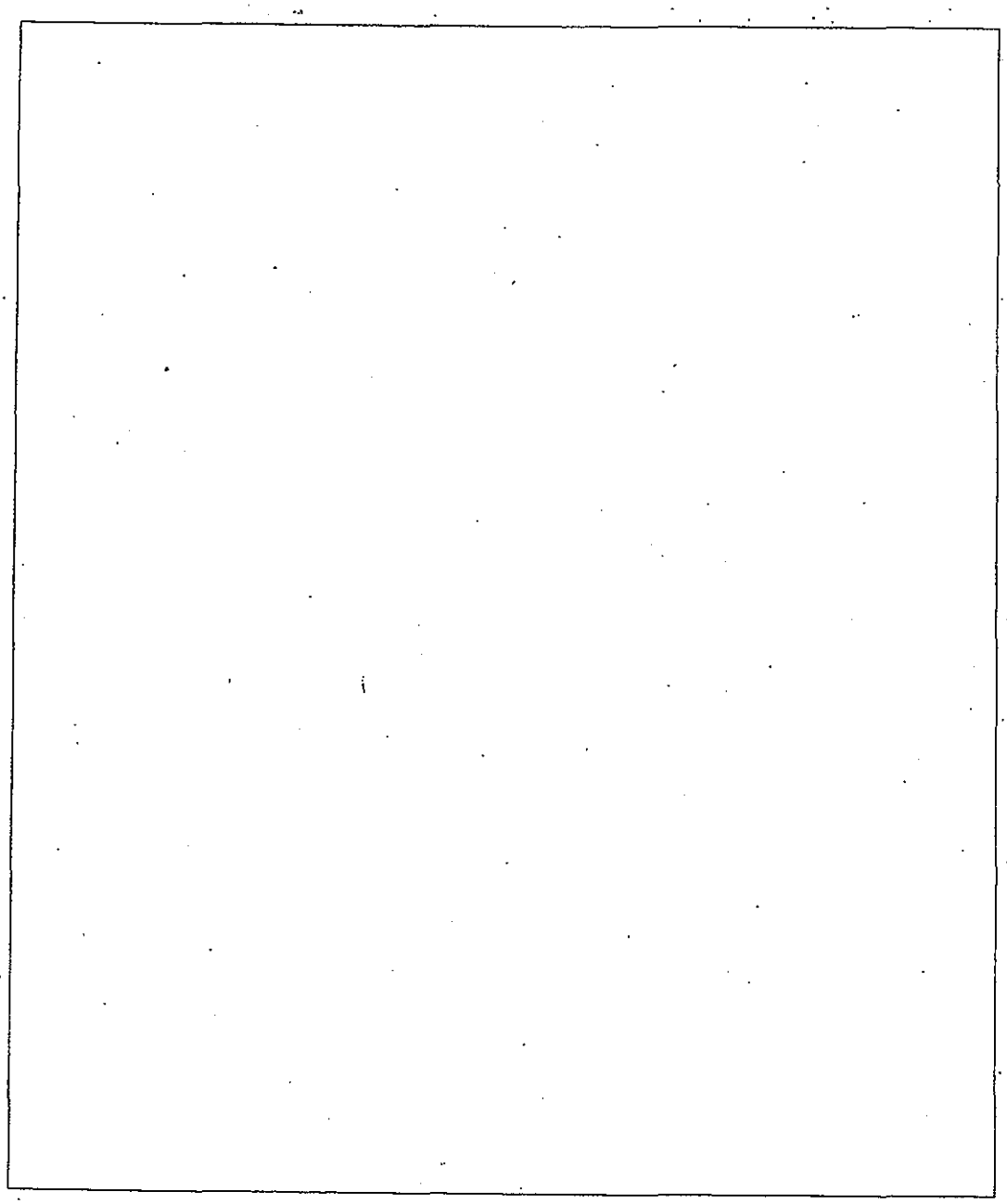

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