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~~SECRET/NOFORN~~**JTF-170 Proposed Counter Resistance Techniques - October 11, 2002 (U)****(U) Category I techniques**

- (U) Yelling at the detainee, but expressly excluding yelling that would cause pain or damage the detainee's hearing
- (U) The use of multiple interrogators
- (U) Deceiving the detainee by having the interrogator present a false identity. The assumption of a false identity would be intended to paint the interrogator as either a citizen of a foreign nation, or as an interrogator from a country with a reputation for harsh treatment of detainees

(U) Category II techniques

- (U) The use of stress positions (like standing), for a maximum of four hours
- (U) The use of falsified documents or reports
- (U) The use of an isolation facility for up to 30 days, with any extensions beyond the 30 days requiring approval from the JTF-170 Commander
- (U) Interrogation of the detainee in an environment other than the standard interrogation booth
- (U) Deprivation of light and auditory stimuli
- (U) The use of a hood placed over the detainee's head during transportation and questioning (the hood should not restrict breathing in any way and the detainee should be under direct observation when hooded)
- (U) The use of 20-hour interrogations
- (U) The removal of all comfort items (including religious items)
- (U) Switching the detainee's diet from hot meals to Meals, Ready-to-Eat (American military field rations)
- (U) Removal of clothing
- (U) Forced grooming (shaving of facial hair, etc.)
- (U) The use of a detainee's individual phobias (such as fear of dogs) to induce stress

(U) Category III techniques

- (U) The use of scenarios designed to convince the detainee that death or severely painful consequences are imminent for him and/or his family
- (U) Exposure to cold weather or water (with appropriate medical monitoring)
- (U) The use of a wet towel and dripping water to induce the misperception of suffocation
- (U) The use of mild, non-injurious physical contact such as grabbing, poking in the chest with the finger, and light pushing

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(U) MG Dunlavey indicated that the Category III techniques were "required for a very small percentage of the most uncooperative detainees," which he estimated to be "less than three percent" of those held at GTMO. Under the proposed policy, any of the most aggressive techniques that would "require more than light grabbing, poking or pushing" were to "be administered only by individuals specifically trained in their safe application."

(U) The JTF-170 Staff Judge Advocate, [REDACTED] wrote an extensive legal review of the interrogation and counter resistance policy proposed by MG Dunlavey. This legal review was declassified and released to the public by the Office of the Secretary of Defense on June 22, 2004. As a result of her legal review, which examined the proposed policy in light of domestic criminal law, the Uniform Code of Military Justice, treaties, customary international law, and decisions of the European Court of Human Rights, [REDACTED] recommended that Category I techniques be approved for general use. She recommended that whenever "interrogations involving Category II and III methods" were planned, however, that the interrogations "undergo a legal review prior to their commencement."

(U) The SOUTHCOM Commander, GEN Hill, forwarded JTF-170's request for approval of counter resistance techniques to the Chairman of

the Joint Chiefs of Staff on October 25, 2002. GEN Hill noted that JTF-170 had "yielded critical intelligence support for forces . . . prosecuting the War on Terrorism," but that "despite our best efforts, some detainees have tenaciously resisted our current interrogation methods." He stated that he believed "the first two categories of techniques are legal and humane," but was uncertain whether all the techniques in the third category were "legal under U.S. law, given the absence of judicial interpretation of the U.S. torture statute." GEN Hill was particularly troubled by the use of implied or expressed threats of death against the detainees or his family. He requested, therefore, that the Department of Defense and the Department of Justice review the third category of techniques. Finally, GEN Hill urged quick action on JTF-170's request for counter resistance techniques in view of the pressing need for actionable intelligence.

(U) On October 29, 2002, the Director of the Joint Staff, then-Lieutenant General John P. Abizaid, instructed the J-5 section of the Joint Staff, the Strategic Plans and Policy Directorate, to "take the lead in pulling this together quickly." On October 30, the J-5 section circulated MG Dunlavey's proposed techniques to the Joint Staff Office of Legal Counsel, J-2, J-3 and the service planners for comment, establishing a deadline of

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November 7.

(U) The Debate Surrounding the Request for
Counter Resistance Techniques

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[REDACTED]

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[REDACTED]

(S/NF) [REDACTED]

[REDACTED]

(S/NF) [REDACTED]

(S/NF) [REDACTED]

(S/NF) [REDACTED]

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had revolted against the four hijackers before they could maneuver the plane into either the White House or the U.S. Capitol. In August 2001, Kahtani had been refused entry by a suspicious immigration inspector at Florida's Orlando International Airport, where the 9/11 lead hijacker, Mohamed Atta, was waiting for him. Thus, Kahtani is commonly referred to as the "20th hijacker." (We note for clarification that some news reports have also referred to Zacarias Moussaoui, who was arrested in connection with the 9/11 attacks, as the "20th hijacker"; however, it is more accurate to use this description with Kahtani.)

(S/NF) Kahtani

(U) The Interrogation Plan for Mohamed al Kahtani

(U) As discussion of JTF-170's request progressed, intelligence gathered from a variety of sources indicated that an al Qaeda operation against targets in the United States was likely or even imminent. Intelligence also indicated that Mohamed al Kahtani, a Saudi citizen and al Qaeda operative held at GTMO, possessed information that could facilitate United States action against that threat. As the 9/11 Commission Report observed, Kahtani was the operative who likely would have rounded out the team that hijacked United Airlines Flight 93, which crashed into an empty field in Shanksville, PA after the passengers

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[REDACTED]

[REDACTED] (b)(5)

• (S/NF) [REDACTED]

In an action memorandum dated November 27, 2002, Mr. Haynes recommended to the Secretary of Defense that he approve for use all of the Category I and II techniques, but only the last of the Category III techniques, authorizing mild, non-injurious physical contact such as grabbing, poking in the chest with a finger, and light pushing. This recommendation therefore excluded the most aggressive Category III techniques - use of scenarios designed to convince the detainees that death or severely painful consequences are imminent for him and/or his family, exposure to cold weather or water, and the use of a wet towel and dripping water to induce the misperception of suffocation - that had particularly concerned both GEN Hill and representatives on the Joint Staff. Mr. Haynes noted in his forwarding memorandum that "[w]hile all Category III techniques may be legally available, we believe that, as a matter of policy, a blanket approval of Category III techniques is not warranted at this time." This reflected Mr. Haynes' view that "[o]ur Armed Forces are trained to a standard of interrogation that reflects a tradition of restraint."

• (S/NF) [REDACTED]
• (S/NF) [REDACTED]
• (S/NF) [REDACTED]

• (S/NF) [REDACTED]

• (S/NF) [REDACTED]

(U) Secretary of Defense Approval of a Limited Number of Counter Resistance Techniques

(U) [REDACTED]

(U) The Secretary of Defense accepted this recommendation on December 2, 2002 by noting his approval on Mr. Haynes' November 27, 2002 memorandum. Below his signature, the Secretary questioned why standing (which was listed as an

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example under Category II stress positions) would be limited to 4 hours when he "stand[s] for 8-10 hours a day." This memorandum, with the Secretary's approval, was declassified and released to the public on June 22, 2004. For ease of reference, the counter resistance techniques approved by the Secretary on December 2, 2002 are listed in the figure below.

December 2, 2002 Approved Counter Resistance Interrogation Techniques (U)**(U) Category I:**

1. (U) Yelling
2. (U) Use of multiple interrogators
3. (U) Deceiving the detainee by having the interrogator present a false identity

(U) Category II:

4. (U) Stress positions (like standing), for a maximum of four hours
5. (U) The use of falsified documents or reports
6. (U) Isolation for up to 30 days, with any extensions beyond the 30 days requiring approval from the JTF-GTMO Commander
7. (U) Interrogation of the detainee in an environment other than the standard interrogation booth
8. (U) Deprivation of light and auditory stimuli
9. (U) The use of a hood placed over the detainee's head during transportation and questioning
10. (U) The use of 20-hour interrogations
11. (U) The removal of all comfort items (including religious items)
12. (U) Switching the detainee's diet from hot meals to Meals, Ready-to-Eat (American military field rations)
13. (U) Removal of clothing
14. (U) Forced grooming (shaving of facial hair, etc.)
15. (U) The use of a detainee's individual phobias (such as fear of dogs) to induce stress

(U) Category III:

16. (U) The use of mild, non-injurious physical contact such as grabbing, poking in the chest with the finger, and light pushing

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(U) We note for clarification purposes that the Independent Panel apparently was under the impression that the above techniques could only be employed with advance notice to the Secretary and his personal approval, which the Panel believed was "given in only two cases." The December 2, 2002 memorandum, however, approved these techniques for general use and did not require that the Secretary receive advance notice or grant specific approval before the techniques could be employed. Nevertheless, as a practical matter, the Independent Panel was correct that the use of Category II and III techniques was largely limited to Kahtani and one other high-value detainee, as discussed later in this section.

(U) Rescission of the Counter Resistance Techniques

(U) Shortly after the December 2, 2002 approval of these counter resistance techniques, reservations expressed by the General Council of the Department of the Navy, Alberto J. Mora, led the Secretary of Defense on January 15, 2003 to rescind his approval of all Category II techniques and the one Category III technique (mild, non-injurious physical contact), leaving only Category I techniques in effect.

(U) Concerns Raised by the General Counsel of the Department of the Navy

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[REDACTED]

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In response, the Secretary on January 12, 2003 orally rescinded his December 2, 2002 memorandum, and then issued a January 15, 2003 memorandum to the SOUTHCOM Commander, GEN Hill, officially rescinding his approval of the Category II and one Category III techniques described above. As a practical matter, this decision limited the approved techniques at GTMO to the Category I techniques (yelling, the use of multiple interrogators, and deceiving the detainee by having the interrogator present a false identity) in addition to the techniques and guidance found in FM 34-52.

(U) The Secretary did allow, however, that if the SOUTHCOM Commander determined that "particular techniques in either of the two categories are warranted in an individual case, you should forward that request to me," and that such a request "should include a thorough justification for the employment of those techniques and a detailed plan for the use of such techniques." The Secretary also reiterated the underlying imperative, established by the President, that "[i]n all

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interrogations, you should continue the humane treatment of detainees, regardless of the type of interrogation technique employed." Finally, the Secretary advised GEN Hill that he had set in motion "a study to be completed within 15 days," committing himself to "provide further guidance." This January 15, 2003 memorandum, originally classified as secret, not releasable to foreign nationals, was declassified and released to the public on June 22, 2004.

(U) Effect of the Secretary's Rescission on the Interrogation of Kahtani

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