

### **C. The Alleged Short-Chaining Incident**

Brandon and Stephenson told the OIG about an incident in which Al Qarani was short-chained for several hours following an FBI interview. Initially, the agents had used a friendly approach with Al Qarani, bringing him coffee and food and engaging in light conversation. Brandon said he confronted Al Qarani about the inconsistencies in his story, but that he was “getting nowhere” with Al Qarani, and that when Al Qarani realized Brandon would not accept his story, he began to “shut down.” Brandon said that he and Stephenson told the detainee that if he did not cooperate, they would turn him over to the military and that the military would not bring him “cheeseburgers and coffee in the morning,” as the FBI agents had done. Stephenson also stated that the agents threatened to cut their ties with Al Qarani and let the military handle him. Brandon said the purpose of this statement was to play on Al Qarani’s paranoia and dislike of the military. However, this technique did not work and Al Qarani continued to be uncooperative. Contemporaneous FBI records indicate that Brandon and Stephenson interviewed Al Qarani on August 28, September 3, September 6, and September 15, 2003, and that he became increasingly uncooperative during that period.

Brandon stated that the approach that they decided to use with Al Qarani in collaboration with the military was the “Mutt and Jeff” or “good cop/bad cop” routine. Brandon and Stephenson stated that they obtained approval for this approach from their OSC. The OSC told us he had no recollection of this discussion, but that he would have agreed with Stephenson’s request to have the military engage in a good cop/bad cop scenario with the detainee.

In preparation for an interview of Al Qarani on September 15, 2003, Brandon and Stephenson enlisted the assistance of a military interrogator, U.S. Marine Captain Wyatt.<sup>207</sup> Brandon said the plan called for Wyatt to come into the interrogation room and “do his boot camp thing” in an effort to intimidate Al Qarani, and the FBI would subsequently return and “save” the detainee.

Stephenson and Brandon began with a normal interview of Al Qarani around 8:00-9:00 a.m. on September 15, 2004. After a period of unsuccessful questioning, Brandon told Qarani that Brandon was done with him. Stephenson left the interview to watch from the observation room. Captain Wyatt entered the interview room and began yelling and screaming at Al Qarani. Brandon told the OIG that it became clear right

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<sup>207</sup> Wyatt is a pseudonym.

away that this was not going to work because Al Qarani was laughing and said "Captain, I'm really concerned for your voice and if you continue to talk like that you will not be able to talk tomorrow."

Brandon said he and Wyatt left the interview room and Wyatt said that the way to get the detainee's attention was to "short chain" him. Brandon told Wyatt he did not understand that term, and Wyatt demonstrated by ordering the guards to place a chain around the detainee's waist and then bolt the chain to the floor. The detainee could still stand up, but he would be bent over. Brandon said that when he expressed concern to Wyatt about short chaining the detainee, Wyatt responded that the procedure was common and that the detainee would receive bathroom breaks and food. Brandon said he believed that the detainee would be kept in the chained position through most of the afternoon. Brandon also said that at the time Wyatt ordered the short chaining, it did not strike Brandon as abuse.

Stephenson likewise stated that at the end of Wyatt's interrogation, Wyatt ordered the guards to place the detainee in a "stress position." She described the stress position as being shackled on the hands and feet and then chained to the floor to force him to sit on the floor or crouch without a chair. Stephenson told the OIG that she understood that the military's list of approved techniques included stress positions.

Brandon stated that after he returned to the office with Stephenson at about 10:00 a.m., he called the interrogation trailer to make certain that the detainee was "ok" and he was told that the detainee was asleep. He said that he returned at about noon to check on the detainee. He stated that the guards told him the detainee had urinated on himself. Brandon told us that he instructed the guards to return the detainee to his cell. Brandon estimated that the detainee was chained to the floor for approximately 3 hours. In Stephenson's interview, she confirmed Brandon's account of what happened after she and Brandon left the detainee.

Brandon and Stephenson both told the OIG that they reported the chaining incident to the FBI's OSC. Brandon said the OSC told him that he did not need to write an EC about the incident because Brandon told him that he did not participate in the short chaining, that there was no "force" used, and that the detainee was not injured.

We interviewed the OSC, who said that he did not recall Stephenson or Brandon telling him about the incident.

Brandon told the OIG that he later complained to Wyatt about what had happened to Al Qarani. Several days later, Wyatt explained to

Brandon that a new rotation of guards had come on duty while Al Qarani was chained and were not informed that the detainee was to receive bathroom breaks. Brandon said that when he complained to Wyatt about the treatment, Wyatt ridiculed Brandon for being “weak.”

We interviewed Al Qarani at GTMO in February 2007. He stated that he recalled an interrogation session with an FBI agent during which a military official entered the interrogation room and started to yell at him. He also described being chained to the floor in an uncomfortable hunched over position for 3 or 4 hours and urinated on himself, although he did not connect this incident with the yelling military official. Al Qarani said this was not the only time he was chained to the floor and that on another occasion the military chained him overnight for 12-16 hours.

The FD-302 that was prepared by Brandon and Stephenson for the interview of Al Qarani on September 15, 2004, makes at most an obscure reference to the incident that Brandon and Stephenson described to the OIG. It states that Al Qarani was interviewed by Brandon, Stephenson, and Wyatt, and that:

AL QARANI was questioned in regard to the truthfulness of his travels to Pakistan. When confronted with the illogical nature of the information he was providing, AL QARANI

[REDACTED]

The short chaining of Al Qarani clearly would have violated FBI policies against coercive interview techniques if the FBI agents had employed it in the United States. In this case, the decision to short chain Al Qarani was made by Marine Captain Wyatt, not by Stephenson and Brandon. However, Stephenson and Brandon acquiesced in the use of this technique. Although there was no reporting requirement in place at that time, both Brandon and Stephenson said that they later reported the incident to the OSC.<sup>208</sup>

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<sup>208</sup> We found that the FBI agents’ participation in a coordinated interrogation strategy with the military that incorporated the “Mutt and Jeff” or “good cop/ bad cop” strategy was not explicitly prohibited by FBI policy. (We note, however, that under the DOD’s April 16, 2003, memorandum, the military was not permitted to use the “Mutt and Jeff” strategy without advance notice to the Secretary of Defense and a determination of military necessity.)

According to Brandon, Wyatt stated that stress positions were a commonly used technique at GTMO. Stephenson and the OSC both told the OIG that they understand that this was an approved technique for the military. However, military documents indicate that stress positions were not approved at that time. Although “stress positions (like standing) for a maximum of four hours” was on the list of approved counter resistance interrogation techniques permitted at GTMO under the memorandum approved by Secretary Rumsfeld on December 2, 2002, that list was rescinded on January 15, 2003.<sup>209</sup> On April 16, 2003, Secretary Rumsfeld approved a new list of permissible techniques for use at GTMO that did not include “stress positions.”

This incident again illustrates the inadequacy of the guidance provided to FBI agents regarding what techniques were approved for use by the military and how the agents were to conduct themselves in joint interrogations. The FBI agents thought that this was an approved military technique; they apparently were not aware that the Secretary of Defense had rescinded his approval of stress positions 9 months before the Al Qarani incident took place. According to the *Church Report*, short chaining was a form of stress position, a technique that was removed from the pre-approved list in January 2003. Yet, the military at GTMO apparently did not consider short-shackling to be a prohibited “stress position” at least until May 2004, when the military commander at GTMO prohibited this practice. *Church Report* at 168.

Although the FBI’s May 2004 Detainee Policy had not yet been issued, the FBI agents involved in this matter told us they knew they should not engage in techniques that would be prohibited in the United States. However, it was not clear what an agent should do if another agency’s interrogator utilized such a technique without the prior agreement of the FBI agent. Moreover, there was no evidence that Brandon knew in advance that Wyatt would put Al Qarani in a stress position. Under the circumstances, we did not find that Brandon violated any FBI policy in connection with Wyatt’s conduct. However, we are troubled by the fact that Brandon and Stephenson did not recognize more quickly that Wyatt’s conduct was inappropriate for an interview in which the FBI was participating. Brandon and Stephenson should have acted more quickly to object to the conduct and attempt to stop it.

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<sup>209</sup> Moreover, we believe there is very significant doubt that short chaining a detainee to the floor would have been considered to be “like standing” within the meaning of the December 2 memorandum.

#### D. Alleged Use of the “Frequent Flyer Program” on Al Qarani

Brandon told the OIG that he arranged for the use of the “frequent flyer program” on Al Qarani, and Stephenson likewise recalled that this technique was used on the detainee.<sup>210</sup> Stephenson said that a military official at GTMO assisted in coordinating the frequent moving of a detainee from cell to cell in order to break up the detainees’ “position of comfort” with guards. She stated that she heard that detainees in the “frequent flyer program” were moved every 4 hours. The OSC at GTMO at that time confirmed that the FBI sometimes interrogated detainees who were in the “frequent flyer” program. He stated that the program was not designed to deprive the detainee of sleep, but to prevent certain detainees from becoming comfortable with their surroundings and to keep them off balance so that the detainees would not have an advantage when being interrogated. He acknowledged, however, that sleep deprivation could be a byproduct of implementing this program.

A Summary Investigative Report prepared by the military dated [REDACTED], states that Al Qarani complained to military personnel that the FBI was moving him to different cells constantly and he wanted the military interrogator to see if he could get it to stop.

Brandon and Stephenson said they participated in the “frequent flyer” program by asking the military to move Al Qarani. Stephenson acknowledged that this technique would not be permissible for FBI agents in the United States.<sup>211</sup> We did not find any explicit prohibition of this technique in FBI policy. The Legal Handbook for Special Agents identifies deprivation of sleep as a potential factor that a court might consider in evaluating the voluntariness of a defendant’s statement, although it does not indicate that disorienting a prisoner or disrupting his sleep patterns is *per se* improper.<sup>212</sup> We also note that the OSC was aware that FBI agents were involved in using this technique. Nevertheless, we are troubled by the fact that Brandon and Stephenson – and other agents, as discussed in Chapter Eight – participated in the

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<sup>210</sup> As noted in Chapter Eight, Section II.C, witnesses and documents indicated that the “frequent flyer” program was also used on other detainees at GTMO to disrupt their sleep patterns and lower their ability to resist interrogation.

<sup>211</sup> In commenting on a draft of this report, the FBI stated that Brandon “stayed within the guidelines laid out, used programs promoted to him and when things went beyond by people not within our control, reported promptly via chain of command.”

<sup>212</sup> Unlike stress positions, “sleep adjustment” was on the list of approved techniques for military interrogations at GTMO signed by the Secretary of Defense on April 16, 2003.

“frequent flyer” program despite the fact that at least some of them told us they believed it would not be available in the United States.

#### **E. Allegations by Al Qarani Regarding “Clint”**

During an interview with the OIG on February 28, 2007, Al Qarani made several additional allegations regarding mistreatment by an FBI agent who Al Qarani said called himself “Clint” or “Clean” and who had interviewed Al Qarani at GTMO many times over the course of approximately 1 month in 2003. Al Qarani said that Clint always worked with a particular interpreter Al Qarani identified by name. Al Qarani described Clint as a white, tall, blonde, American male without facial hair, 36 – 37 years of age, who wore civilian clothes with military boots. Al Qarani said that Clint asked him about Afghanistan, that Clint became angry and showed his “worse face” when Al Qarani was unable to answer his questions, and that Clint ordered the guards to move Al Qarani from cell to cell every 2 hours or less, 24 hours per day.

Al Qarani stated that Clint sometimes made him stand during interviews, and told guards to hit him, throw him down, and throw cold water on him. Al Qarani said that on one occasion Clint ordered Al Qarani to be locked on the floor with chains over his back for 3-4 hours, which caused Al Qarani to urinate on himself. He said Clint sometimes used the “N-word” with Al Qarani. Al Qarani stated that once during the period he was being interrogated by Clint, the military short-chained him for 12-16 hours overnight and subjected him to loud music and colored lights. He stated that Clint left GTMO a few days after that incident.

Al Qarani also stated that at one time he had an ingrown toe nail that was removed without anesthesia. The corpsman told Al Qarani that he could not give Al Qarani a painkiller unless Clint approved it. Clint told Al Qarani to talk about his “brothers” (other detainees) if he wanted the painkiller.

Al Qarani stated that he described his experiences with Clint to a female FBI agent some time in 2003. He also said that he told this female agent that he had been beaten in Kandahar but she showed him a photograph from Kandahar and said he “looked fine” in it.

Some aspects of Al Qarani’s story suggest that Clint might have been FBI agent Brandon, who interviewed Al Qarani approximately seven times during August and September 2003 and who, as discussed above, reported the incident in which Al Qarani was short chained for several hours and wet himself. Al Qarani’s physical description of Clint was generally consistent with Brandon’s appearance. In addition, Al Qarani told us that Clint also interrogated Fahd Al-Sharif (#215), and we found

that Brandon had interviewed Al-Sharif in August 2003. Brandon also admitted arranging for Al Qarani to be put in the "frequent flyer" program.

Brandon denied using the name "Clint" or "Clean" at GTMO and said he never heard of anyone using such a name. He also denied engaging in the conduct that Al Qarani attributed to Clint, other than using the "frequent flyer" program. Several other facts also indicate that Brandon was not "Clint." For example, Al Qarani stated that Clint withheld painkillers from him when he was treated for an ingrown toe nail. Available records indicate that the nail on one of Al Qarani's big toes was removed in March 2003 due to an infection. However, Brandon was not deployed to GTMO until August 2003, so he could not have been involved in withholding painkillers from Qarani at the time of this procedure.

In addition, Al Qarani stated that Clint always used the same Egyptian interpreter, "Abbas." FBI records indicate that Brandon used at least five different interpreters during interviews of Al Qarani, none of whom were identified by the name Al Qarani provided. Brandon told the OIG he did not recall any interpreter named Abbas.

Al Qarani also reported that a female FBI agent showed him a photograph of himself to contradict his claim that he was beaten in Kandahar. FBI records indicate that in April 2003, a female agent from the Naval Criminal Investigative Service confronted Al Qarani with a photograph of him in Afghanistan and that Al Qarani subsequently admitted that he had lied about the beatings. Al Qarani told us that at the time of this incident, he told the female agent about his experiences with Clint. However, this incident occurred several months before Brandon arrived at GTMO, further indicating that Brandon was not Clint. FBI records produced to the OIG indicate that prior to April 2003, there were only three FBI agents who had interviewed Al Qarani, and each of them had only met with him once.

Al Qarani also described a different FBI agent who he said was smaller than Clint who we believe was likely Brandon. Al Qarani told us about two FBI agents, one male and one female, who interviewed him. Al Qarani described the female as being an Asian with black hair, medium complexion, thin, and approximately 30 years old. Al Qarani said that he does not recall the male talking, but that he was white with short hair, medium build, about 30 years of age. He said that the agents showed him pictures and they did not promise him anything. Al Qarani said they did not yell and they did not instruct the military to do anything to him. FBI documents indicate that SAs Brandon and Stephenson showed five photographs to Al Qarani on August 28, 2003. In addition, Al

Qarani's description of the female agent was consistent with Stephenson's appearance. If Brandon and Stephenson were the team of agents that Al Qarani was describing, then Brandon was not Clint, because Al Qarani told us the male agent was smaller than Clint. Although other teams of male and female agents interviewed Al Qarani at various times, there is no record that any such team brought photographs for him to identify.

Thus, the evidence does not support that Al Qarani's allegations, if true, relate to an FBI employee. It is possible that Clint was employed by a different agency or that Al Qarani's account was false, exaggerated, or an erroneous conflation of events that related to different interrogators who were not from the FBI. Based on the available evidence we could not conclude that any FBI agent was responsible for the conduct that Al Qarani described.

#### **F. Allegations by Al Qarani Regarding "Daoud"**

During his OIG interview, Al Qarani also made allegations about an African American FBI agent named "Daoud" or "David." Al Qarani said that Daoud was large, wore glasses, and had a small beard but no mustache. Al Qarani said that after 2 to 3 weeks, Daoud started doing the same things Clint did, such as ordering Al Qarani to be short-chained and to be moved frequently from cell to cell. Al Qarani said that he was interviewed multiple times by Daoud over a several-month period, and that Daoud was always by himself. Al Qarani said that Daoud put him in isolation at one point. Al Qarani said that on August 8, 2005, Daoud hit Detainee #174 with a chair or refrigerator.<sup>213</sup>

Al Qarani said that Daoud took him to a room that was completely dark and placed him in a chair. When the lights were turned on, he could see that the walls were covered with pornography. Al Qarani said he was introduced to a woman that spoke Arabic and wore a bikini. He was told that if he cooperated, she would sleep with him. Al Qarani said that he did nothing and after an hour he was taken back to his cell. Al Qarani said that he was interviewed by Daoud shortly before he was

[REDACTED]

[REDACTED]

maintained by the military revealed no record that any FBI personnel

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<sup>213</sup> Al Qarani used the detainee's number rather than a name during the interview. Detainee #174 is identified in DOD records as Hisham Bin Ali Bin Amor Sliti.



interrogated Al Qarani during 2005, including the months immediately prior to his being [REDACTED]. We found no evidence that any FBI interrogator deployed to GTMO fit the description that Al Qarani gave for Daoud. In addition, FBI personnel at GTMO stated that they reviewed military records relating to Detainee #174 and found that he was only interviewed once by the FBI in [REDACTED], with no record of abuse allegations. Neither of the FBI interviewers were African-Americans. We concluded that if Daoud existed he was likely employed by a different agency or that Al Qarani's account was false, exaggerated, or an erroneous description of events that related to an interrogator who was not from the FBI. Based on the available evidence we could not conclude that any FBI agent was responsible for the conduct that Al Qarani attributed to Daoud.

## **VI. Alleged Mistreatment of Mohammad A. A. Al Harbi**

An FBI agent who served at GTMO in late 2002 wrote an FD-302 report dated November 6, 2002, which described an allegation by detainee Muhammad A. A. Al Harbi (#333) that he was beaten by FBI agents in Afghanistan. According to the report, Al Harbi alleged:

After [Al Harbi's] arrest, he was taken by airplane to Bagram, Afghanistan. While on the airplane, he was struck in the mouth by a member of the Federal Bureau of Investigation (FBI). When he arrived in Bagram, he was beaten by two members of the FBI (one of them being the same as the person who struck him on the airplane). He suffered multiple injuries to his mouth, eye and back as a result of these beatings. He characterized the treatment in Bagram as bad and everyone who participated in these actions were Americans.

The two FBI employees who allegedly beat him were further described as white males; both 40 to 50 years of age.

Al Harbi's allegations were also recounted in a memorandum from the FBI to the Department of Justice entitled "Re: Repatriation Issues," dated January 20, 2004.

In October 2004, in connection with releasing the FBI memorandum along with many other documents in response to a FOIA request from the ACLU, FBI General Counsel Valerie Caproni sought information about whether any investigation of Al Harbi's allegations was ever conducted. According to Caproni, the MLDU Unit Chief told her that no investigation was done.

We interviewed the agent who originally reported Al Harbi's allegations. He stated that the detainee did not make clear the basis for his statement that the agents who beat him were FBI. The agent told us that he believed something bad did happen to the detainee, but the agent did not believe that the FBI was involved.

The OIG interviewed Al Harbi in GTMO on April 26, 2005, with the assistance of a translator. He told the OIG that he had no complaints about his treatment by the FBI, either at GTMO or in Bagram. When the OIG pressed him regarding his complaint about being struck on the mouth and beaten by members of the FBI, he said that he did not think that the individuals who arrested him were FBI agents, but rather he thought that they were either military or possibly CIA.

Al Harbi did not have an explanation for why his earlier account identified the perpetrators as FBI agents. He said that all of his contacts with the FBI have been positive. We also did not find any basis for concluding that Al Harbi was ever mistreated by the FBI.

## **VII. Abuse Allegations Involving Abu Zubaydah**

In this Section we address allegations that FBI Special Agent Gibson participated in the use of abusive interrogation techniques on detainee Abu Zubaydah and other detainees, and that Gibson disclosed classified information to persons unauthorized to receive it.<sup>214</sup> Gibson served as a Supervisor in the FBI's Counterterrorism Division and later as an FBI Legal Attaché. In these capacities he made numerous overseas trips on counterterrorism missions.

The allegations against Gibson were originally raised in an anonymous letter to the FBI which stated, among other things, that Gibson "spoke in detail of the mission leading up to the arrest and interrogation of Abu Zubaydah" and "spoke openly and with much enthusiasm about the torturing of captured al-Qaeda terrorists, undisclosed locations and the brutal interrogation techniques by both CIA and FBI which Agent [Gibson] was involved."

### **A. The FBI Investigation of the Allegations against FBI Special Agent Gibson**

The FBI forwarded the anonymous letter to the OIG, and we initially referred the matter back to the FBI for investigation on

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<sup>214</sup> Gibson is a pseudonym.

November 25, 2003. The FBI Inspection Division conducted an investigation of the allegations in the anonymous letter. The FBI determined that the anonymous letter was written by Landis, a civilian acquaintance of Gibson, on the basis of statements Gibson made in Landis's presence, as well as information provided to Landis by Morehead, Gibson's ex-fiancé.<sup>215</sup>

The FBI's investigative file indicates that the scope of the FBI's investigation was limited to FBI interviews of Gibson, Morehead, and Landis, and a polygraph examination of Gibson. Gibson's interview was memorialized in a signed sworn statement. The interviews of Landis and Morehead were summarized by the investigating agents in FD-302 reports. The polygraph examination was memorialized in a written examiner's report. There is no indication in the file that the Inspection Division made any effort to determine whether the information that Morehead attributed to Gibson was accurate or, if so, was classified or sensitive.

**B. FBI Interviews of Landis and Morehead**

[REDACTED]

According to an FBI Inspection Division report, Landis told investigators that:

[REDACTED]

Gibson's ex-fiancé, Morehead, told FBI investigators that in late 2002 or early 2003 Gibson told her about the arrest and interrogation of a terrorist. According to the FBI investigator who interviewed Morehead in April 2004, Morehead stated:

[REDACTED]

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<sup>215</sup> Landis and Morehead are pseudonyms.

[REDACTED] to be flown to [one of two particular countries] for medical treatment and to be interviewed. [REDACTED]

Morehead provided more details regarding this matter in an FBI interview in August 2004:

[REDACTED]

\* \* \*

[REDACTED]

[REDACTED]

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<sup>216</sup> The agent that Morehead referred to here is a particular agent who has been identified elsewhere in this report in Chapters Four and Five and later in this chapter. We therefore substituted the same pseudonym for this agent that we have used elsewhere in this report.

Morehead also provided FBI investigators with several detailed stories that she said Gibson told her about his other activities overseas, including his involvement in an operation involving a [REDACTED]. She also asserted Gibson kept unauthorized classified information on his personal laptop and pocket PC and leaked confidential information to a television reporter.

In addition, Morehead asserted that Gibson had inappropriately provided information to a member of the press, had used his FBI position to assist family members with law enforcement problems, and had utilized a former informant to provide free limousine service to Morehead and her friends.

### **C. Gibson's Statement to the FBI**

Gibson submitted a 13-page signed sworn statement to FBI investigators in which he denied many of Morehead's allegations. However, he admitted using his personal laptop computer for processing classified information at times when FBI equipment was not available. Gibson's statement also responded to the allegations regarding his contacts with the media, but he did not address the interrogation techniques that he or other agents of the FBI and CIA utilized on suspected terrorists overseas. He stated that he was not aware of having conversations with Morehead during which he disclosed sensitive or classified information. He stated that he never discussed sensitive locations with Morehead but that she may have inferred where he had been from gifts he brought her from overseas. However, he did not address the issue of how Morehead came to know that Gibson and Thomas [REDACTED], which in fact was true.

### **D. Gibson's Polygraph Examinations**

Gibson was polygraphed on September 30, 2004, as part of the FBI's investigation. The focus of the polygraph was to determine whether Gibson had been truthful about two issues: whether he disclosed FBI information to a specific reporter, and whether he paid for services rendered by a limousine driver who had previously been his source.

One of the questions posed to Gibson during the examination was "have you ever purposely discussed classified information with family or friends?" Gibson answered "no." The examiner's report did not address this response. It stated that his responses to questions about media contacts were "not indicative of deception." The report stated that

Gibson's responses regarding compensating the limousine driver were "inconclusive."

Gibson had also been polygraphed a year earlier in connection with an FBI promotion. The polygraph report for that earlier test indicated that Gibson's negative response to the question "have you provided classified information to anyone from a non-U.S. Intelligence Service" was not indicative of deception.

#### **E. Findings by the FBI Office of Professional Responsibility**

The FBI communicated information regarding the Gibson matter to the Public Integrity Section of the DOJ Criminal Division, which reviewed the file and declined to pursue the matter criminally on September 12, 2005.

The FBI Inspection Division also submitted its investigative report to the FBI Office of Professional Responsibility (OPR) for adjudication. FBI OPR issued a final adjudication of the allegations against Gibson on October 18, 2005. OPR emphasized the "tumultuous five-year relationship" between Morehead and Gibson, which had ended when Morehead believed Gibson was romantically involved with other women, and OPR opined that there was insufficient information to substantiate several allegations against Gibson. OPR found only that Gibson committed a security violation by placing classified or sensitive information on a personal computer, and recommended that Gibson receive a letter of censure.

With respect to the issue of disclosure of classified information, OPR stated: "The investigation was unable to determine whether the information alleged to have been improperly disclosed was in fact classified or sensitive information because [of] the vague descriptions provided by [Morehead and Landis] as to what privileged information was alleged to have disclosed."

The OPR report also did not address the issue of whether Gibson or other FBI agents participated in using "brutal interrogation techniques" overseas as alleged in the anonymous letter.

#### **F. FBI Special Agent Gibson's OIG Interview**

Gibson told the OIG that he was involved in the investigation that led to locating Zubaydah in Pakistan. Gibson said he traveled with Thomas and CIA personnel to an undisclosed location in April 2002 to assist in the interrogation of Zubaydah. Gibson said he was instructed by his supervisor, Charles Frahm (then Acting Deputy Assistant Director for the section that became the Counterterrorism Division), not to follow

standard FBI procedures in that he should not give Zubaydah any Miranda warnings and that he should not prepare any interview summaries, which would instead be prepared by the CIA. According to Gibson, Frahm instructed him that the CIA would be in charge of the interrogation and that Gibson was to assist the CIA in any way he could.

Gibson said that he and Thomas initially took the lead in interviewing Zubaydah at the CIA facility because the CIA interrogators were not at the scene. Gibson said Zubaydah was seriously wounded when he arrived. Gibson said he used conventional FBI relationship-building techniques with Zubaydah and succeeded in getting Zubaydah to admit his identity and to identify a photograph of Khalid Sheik Muhammad as the mastermind of the September 11 attacks.

After a few days, CIA personnel assumed control over the interviews, but they asked Gibson and Thomas to observe and assist. Gibson told us that he continued to work with the CIA for several weeks into June 2002. Gibson continued to conduct interviews of Zubaydah after the CIA assumed control. When asked about the interrogation techniques used on Zubaydah during this period, Gibson minimized the harshness of what the CIA was doing. When pressed, however, Gibson admitted that during the period he was working with the CIA, the CIA

[REDACTED]

[REDACTED]. Gibson stated that the CIA personnel assured him that the procedures being used on Zubaydah had been approved "at the highest levels" and that Gibson would not get in any trouble. Gibson stated that he kept Frahm, his FBI supervisor, informed of his activities with the CIA by means of telephone calls.

When told about Morehead's statements, Gibson asserted that he never disclosed any classified information to Morehead. He described Morehead as being motivated by revenge after a bad breakup. Gibson said that Morehead may have overheard conversations between Gibson and Thomas regarding press coverage of Zubaydah's capture. He also said he sometimes told Morehead general things about difficult experiences he had had overseas, so she could understand his emotional condition. He speculated that Morehead could have inferred that Gibson was involved with Zubaydah from press reports and the timing of Gibson's travel.

### **G. OIG Interviews of FBI Special Agent Thomas and Acting Deputy Assistant Director Frahm**

As detailed in Chapter Four, Thomas told the OIG that he traveled to an undisclosed CIA location in April 2002 to interview a high value detainee who other witnesses confirmed was Zubaydah. He said that after the CIA agents assumed control of the detainee, they [REDACTED]

[REDACTED]. Thomas said he considered the [REDACTED] to be "borderline torture." All of these activities occurred during the period that Gibson was assisting with the CIA.<sup>217</sup> Thomas stated that he and Gibson were ultimately instructed by FBI Headquarters to withdraw from the undisclosed location, and that he left some time before Gibson did.

Frahm, Gibson's supervisor, told the OIG that Gibson and Thomas were sent [REDACTED] to participate in the joint effort to interrogate Zubaydah. He said he spoke to Gibson several times by telephone, and that Gibson told him that he and Thomas had sat with Zubaydah for hours, prayed with him, and cleaned him up. Frahm said that Gibson told him that Zubaydah was [REDACTED] and that he (Frahm) told Gibson that Gibson and Thomas should not be involved in interrogations using such techniques.

### **H. OIG Analysis**

We first reviewed the issue of whether Gibson participated in using unauthorized interrogation techniques on Zubaydah, which was not addressed in the OPR Report. In 2007, we sought to interview Zubaydah after he was transferred to GTMO, [REDACTED].<sup>218</sup>

We concluded that during the spring of 2002 Gibson participated in interviews in which interrogation techniques that would not be available to an FBI agent in the United States were used on Zubaydah. Specifically, Gibson admitted that during the time he was assisting the CIA in interrogating Zubaydah at the undisclosed CIA facility, the CIA [REDACTED]

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<sup>217</sup> Thomas had left the FBI by the time we interviewed him in August 2005. At the time of Thomas' interview, the OIG had not yet interviewed Gibson and we did not ask Thomas about conversations he might have had with Gibson which Morehead could have overheard.

<sup>218</sup> See footnote 4 above.



[REDACTED]. As noted above, Thomas' and Frahm's descriptions of the techniques used on Zubaydah were consistent with Gibson's account.

This interrogation of an extremely high profile detainee took place very soon after the September 11 attacks, and before the FBI had determined whether its traditional policies regarding interviews would apply to overseas interrogations of terrorism suspects. Indeed, as detailed in Chapter Four, it was the Zubaydah incident that sparked the deliberations within the FBI that led to the decision that FBI agents should not participate in interrogations using non-FBI techniques. At the time of Gibson's participation in the Zubaydah interrogation, he had received no guidance regarding his participation in interrogations in which the CIA was using non-FBI approved techniques on detainees in CIA custody. Rather, he was told that the CIA was in charge of the interrogations and that normal FBI procedures such as giving Miranda warnings and writing FD-302 interview summaries should not be followed.

The FBI's formal policy addressing participation in joint interrogations with other agencies in overseas locations was not issued until 2 years later, in May 2004. Gibson's supervisor, Frahm, told Gibson to assist the CIA in any way he could. We concluded that under these circumstances, there was insufficient basis to conclude that Gibson's cooperation with the CIA while the CIA was using non-FBI techniques on Zubaydah violated clear FBI policy.

We also reviewed the question of whether the FBI adequately investigated Morehead's allegation that Gibson disclosed classified or sensitive information to her. The FBI OPR report stated it was "unable to determine whether the information alleged to have been improperly disclosed was in fact classified or sensitive information because [of] the vague descriptions provided by [Morehead and Landis]." However, we found that the information Morehead attributed to Gibson was remarkably detailed, specific, and accurate. It corresponded very closely with the descriptions that we received from other sources regarding accurate facts of the capture and initial interrogation of Zubaydah, described in Chapter Four.<sup>219</sup>

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<sup>219</sup> We recognize that Morehead told OPR that she didn't think the detainee at issue was Zubaydah. However, as detailed below, her description of Gibson's participation in the interview closely matches what other witnesses told us about Zubaydah's detention and interrogation in several respects. We concluded that even if Gibson did not tell Morehead the correct name of the detainee, this does not resolve the  
(Cont'd.)

For example, Morehead knew that Gibson traveled with Thomas and CIA personnel to a location in [a particular country or a particular city in another country] to interview a notorious terrorist. In fact, Gibson traveled to the country containing the city that Morehead identified to interview Zubaydah. Morehead stated that the terrorist was missing an eye. Gibson told us that Zubaydah had an infected eye, sometimes wore a patch, and eventually got a glass eye. Morehead knew that [REDACTED] was utilized with the prisoner, a fact that was confirmed by Thomas. Several witnesses, including Thomas, told us that Gibson and Thomas traveled to an undisclosed CIA location, tended to Zubaydah's wounds, and began to obtain useful information from Zubaydah. They also stated that the CIA intervened and began using interview techniques on Zubaydah that Thomas described as "borderline torture." The interrogation methods that Morehead said were used on the detainee – [REDACTED] – were among the techniques Thomas said were used on Zubaydah. Morehead also identified Thomas as the agent who accompanied Gibson, which also was true.

We recognize that the fact that Zubaydah had been captured by the United States was not a secret. On April 2, 2002, the White House and the Pentagon confirmed that Zubaydah had been captured and was receiving medical treatment for gunshot wounds. However, the CIA has treated the details of Zubaydah's detention, including the location of the CIA facilities at which he was detained and the interrogation methods used on him, as Top Secret/SCI information. It is also likely that the FBI would consider the identity of the agents who interviewed Zubaydah as sensitive if not classified information. Indeed, as discussed below, the FBI disciplined another agent for revealing only that she was a "foreign counterintelligence agent." The information that Morehead was able to provide about Gibson's activities was much more significant and detailed, but the FBI made no apparent attempt to determine if this information was accurate.

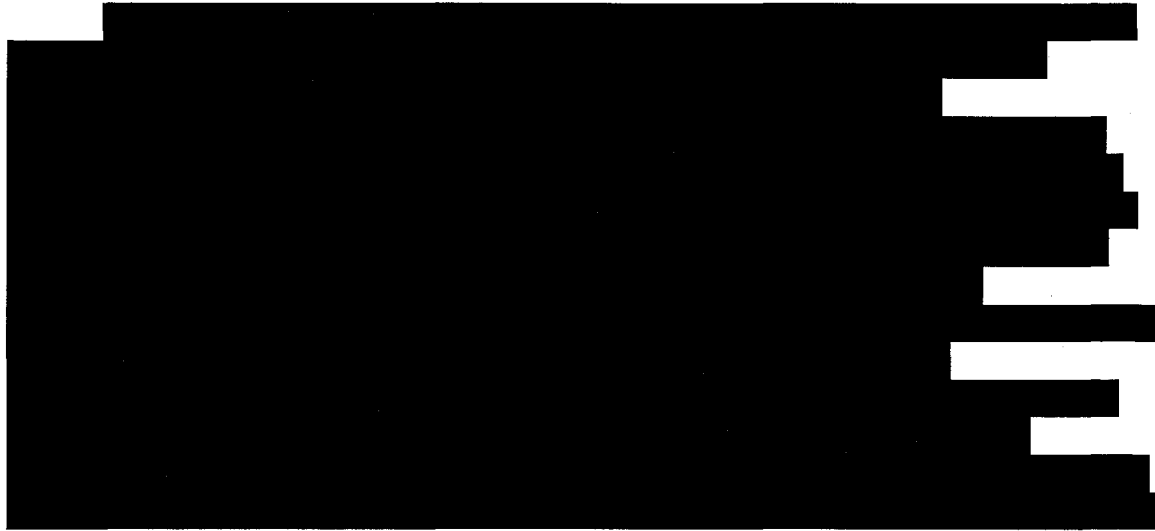
OPR suggested that Morehead was motivated by her animus toward Gibson stemming from the termination of their "tumultuous relationship," which may have been true. However, Morehead's hostility does not explain how she came to possess such strikingly accurate information regarding the interrogation of Zubaydah.

Gibson suggested that Morehead may have reconstructed details about the Zubaydah matter from media accounts and telephone conversations about such reports between Gibson and Thomas. He

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issue of whether the other information Morehead received was accurate and sensitive or classified.

stated Morehead may have inferred that Gibson was involved in the Zubaydah matter from the timing of his overseas travel.



Gibson's suggestion that Morehead constructed these accurate details from conversations between Gibson and Thomas that she overheard does not resolve the matter. Even if true, this would suggest that Gibson improperly conducted telephone conversations about classified matters in the presence of Morehead.

Moreover, there is no indication in the investigative file for this matter that the Inspection Division or OPR made any attempt to determine whether the account of Gibson's trip with Thomas that Morehead provided was accurate and if so, whether the information was classified or sensitive.

We also found it inexplicable that the FBI did not make the issue of Gibson's alleged disclosures to Morehead a major focus of its polygraph examination of Gibson in 2004.

We also note that the FBI's indifference to allegations of Gibson's disclosure of his participation in the Zubaydah matter stands in stark contrast to the FBI's treatment of another agent accused of mishandling sensitive information. This agent had concerns about the efficacy of FBI operations in GTMO, where the agent had previously been deployed. In April 2003 the agent addressed these concerns in a letter to FBI Director Mueller. The agent attempted to arrange for the delivery of a letter to the Director by a private citizen who was a mutual acquaintance. In the letter the agent identified herself as an "FCI" (Foreign Counter Intelligence) agent and described (but did not name) detainees she had interviewed at GTMO. OPR ruled in that case that the letter contained sensitive or classified information and that the agent had improperly

disclosed the information to an unauthorized person by giving the letter to a private citizen for delivery to the Director. The agent received a 5-day suspension without pay for this disclosure and for the offense of circumventing the normal channels of communicating with the Director.

The information disclosed by this agent was considerably less specific or sensitive than the information Morehead allegedly received from Gibson about his involvement with a CIA detainee. For example, the agent was criticized for revealing that the agent was assigned to an FCI squad. Morehead somehow obtained far more sensitive information: that Gibson had been assigned to work with Thomas and the CIA on the interrogation of a high value detainee at a secret location, using specific interrogation techniques that the government clearly considers to be secret. Yet, OPR found that this information was too "vague" to be considered sensitive or classified. Again, we found no indication of any effort by the Inspection Division to determine whether the information was accurate or classified.

The issue of whether Gibson disclosed classified information to Morehead was adjudicated by OPR in 2005. We believe that too much time has passed for investigators to determine whether Morehead could have derived her information from non-classified conversations or publicly available sources. Also, much of the information that Morehead described to FBI investigators was subsequently reported in the media, which attributed the information to several unidentified law enforcement and intelligence officials. It would be unfair for the FBI to reopen the investigation of Gibson without initiating an investigation of the sources of the information in the reports.<sup>220</sup> However, the FBI should take note of the inadequate and incomplete investigation it conducted with respect to this matter and take steps to ensure that future investigations of allegations that agents disclosed confidential or classified information are conducted more thoroughly and evenhandedly.<sup>221</sup>

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<sup>220</sup> The New York Times identified the sources of the information in the article as officials who were not present at the interrogation but rather were briefed on the events as they occurred or later. This description, if accurate, would exclude Gibson as the source because he personally witnessed these events.

<sup>221</sup> In commenting on a draft of this report, the FBI stated that the adequacy of the FBI's investigation of the allegation was further supported by the fact that Gibson passed a polygraph examination in connection with a promotion in September 2003, and by the DOJ Public Integrity Section's declination to prosecute Gibson. We disagree. The 2003 polygraph was not a factor in the OPR's adjudication of this issue and does not shed light on the adequacy of the FBI's investigation in 2004-2005. It took place before Morehead made her allegations to the FBI and did not include specific questions about conversations between Gibson and Morehead. Similarly, the decision by the DOJ Criminal Division not to prosecute Gibson does not establish the adequacy of the FBI's

(Cont'd.)

## VIII. Allegations of Abuse at the [REDACTED]

In this Section we address allegations relating to FBI conduct during the spring and summer of 2004 at [REDACTED]

Most of the allegations that we investigated were made by an FBI agent, Ryan, who served in Iraq [REDACTED] and who was assigned to the facility for several weeks in [REDACTED]. From [REDACTED], another FBI agent, Adair, was the officer in charge of the [REDACTED].<sup>222</sup> However, Adair was acting in his capacity as an active duty officer [REDACTED]. From [REDACTED], approximately seven FBI agents were sent by the FBI to the facility to assist the military in conducting interrogations of detainees held at [REDACTED].

As described in detail later in this Section, Ryan reported to military superiors and to the FBI Inspection Division that after he left the facility a military interrogator told him that detainees at the facility were confined in “inhumane conditions” and were subjected to abusive interrogation techniques, including food, water, and sleep deprivation and “water interrogation.” Ryan brought the issue to the attention of the FBI Inspection Division because Adair was an FBI agent, although, as discussed below, Adair was acting in his capacity as an officer in the Army at the time of the incidents. The OIG investigated Ryan’s allegations and also examined reports from other agents regarding practices by other FBI employees at the facility that might violate FBI policy, including the use of in-cell restraints, blindfolding, and threats in connection with detainee interrogations.

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internal investigation, but rather reflects DOJ’s determination on the basis of the FBI information that there was insufficient evidence to prosecute. Neither the 2003 polygraph nor the Criminal Division declination decision address the central deficiencies in the FBI’s investigation: the failure to recognize that the information Morehead provided was highly detailed, specific, and accurate; the failure to determine whether the information was sensitive or classified; and the failure to address how Morehead got the information except from Gibson.

<sup>222</sup> Ryan and Adair are pseudonyms.

**A. Background**

**1. The Facility**

[REDACTED]

[REDACTED]

**2. FBI Special Agent Adair**

Prior to joining the FBI, Adair served in the military for over 9 years. Adair remained on Inactive Ready Reserve status and in [REDACTED] he was recalled to active duty [REDACTED]

[REDACTED] in February 2004 where he served as a liaison officer and assisted with developing detainee interrogation strategies. In [REDACTED], Adair was assigned to be the "J2X" (human intelligence) officer for the Unit when the prior J2X retired.

Adair told the OIG that as the J2X, he was the officer in charge of collecting human intelligence, which included supervising the entire

[REDACTED]. A Sergeant Major was also assigned to the facility. Either Adair or the Sergeant Major was usually physically present at the facility. Ryan told the OIG that the Sergeant Major “appeared to be in actual control of the facility.” However, Adair stated that he, and not the Sergeant Major, was in charge of the [REDACTED].

Adair told the OIG that when the news accounts appeared about the conduct of military personnel at Abu Ghraib in the spring of 2004, his military supervisor told him that he should “not let anything happen” at [REDACTED] because of the importance of the actionable intelligence gained from the facility. Adair said he responded to his supervisor that he would let the U.S. Constitution be his guide. Adair told the OIG that all interrogation techniques used at the facility had been approved by [REDACTED].

Adair said that there was a shortage of experienced interrogators at the facility, and there had been an “informal” decision to have FBI agents assist in the interrogations. As a result of his suggestion, a team of FBI agents was sent to the [REDACTED] in May 2004 to assist with the interrogations.

Adair left the military and returned to the United States in the middle of July 2004.

### **3. The Team of FBI Agents**

Prior to May 2004, primarily military intelligence officers and Defense Intelligence Agency (DIA) interrogators conducted detainee interrogations at [REDACTED]. Beginning in early May 2004, a team of approximately five FBI agents, including a Team Leader, was deployed to the facility to assist the military in conducting interrogations of the detainees for the purpose of obtaining intelligence concerning threats to coalition forces and to obtain information that had a U.S. nexus to terrorism. About a week later, two additional FBI agents joined the five at the facility. The entire team of FBI agents returned to the United States in July 2004 after a 60-day deployment.

The Team Leader said that his team was the first group of FBI agents to be [REDACTED]. Several of these agents told us that they received some instruction for their assignment, either prior to their deployment to the facility or after they arrived. According to the FBI Team Leader, the Deputy OSC for Iraq gave instructions that the FBI agents should conduct the same type of interviews as in the United States and should not to take part in or even stay and observe interrogations where the military was employing any

“harsh-up” techniques, such as [REDACTED]. The Team Leader stated that he relayed these instructions to the agents, and several agents told us that they received instructions to conduct themselves as they would in the United States.

Three of the agents told us that they understood that if they saw conduct by the military that was inconsistent with FBI policies, they should not participate and should report the incident through the FBI chain of command. Several agents also told us that after they arrived in Iraq, they received written guidance from FBI Headquarters, which we concluded was likely the FBI’s May 2004 Detainee Policy described in Chapter Six.

However, three other agents told us that the team did not receive training on military interrogation. They said that they did not know what techniques were and were not authorized by the military and other agencies.

At the [REDACTED], the FBI agents were split into two 12-hour shifts for conducting interviews of detainees. The agents said that twice a day the agents, the military interrogators, and the Sergeant Major met between shift changes to discuss the interrogations. At these meetings, they would discuss general issues involving interrogations and also specific detainees. Adair was also in attendance at the briefings whenever he was present at [REDACTED].

Initially, the agents were teamed up with military interrogators, but after a short period of time they generally worked with other FBI agents. According to the FBI, this change was implemented to be consistent with an FBI rule requiring that all interviews be conducted by two agents. One of the agents stated that the reason for this change was that FBI interviewers had a different purpose than military interviewers. The focus of the military interviews was for force protection, while the FBI agents were looking for information with a U.S. nexus. The agents did not write FD-302 summaries for each interview, but rather summarized their interviews in the form of ECs that were submitted weekly.

#### **4. FBI Special Agent Ryan**

Ryan has worked for the FBI since 1999. He has also been a U.S. Marine Corps reserve officer since 1996. Ryan told the OIG that when the Iraq war began he sought to be deployed with the Marine Corps. He received orders from the Defense Intelligence Agency (DIA) in April 2004 to deploy to Iraq, and arrived in Baghdad on May 1, 2004. He was assigned to lead a team of human intelligence personnel to support [REDACTED].



[REDACTED], including interrogation of detainees.

Ryan was in Iraq from May 1 to the beginning of June, 2004. Of that time he spent approximately 2 weeks at [REDACTED] and approximately 2 weeks at [REDACTED]. Ryan said that during his time at [REDACTED] he experienced friction with the Sergeant Major over who was in control of the DIA interrogators. Ryan complained to his military superior in the United States, and in mid-May he was directed to leave the facility and move to [REDACTED] to monitor DIA officers. He stayed in that area for 2 weeks and returned to [REDACTED] [REDACTED] briefly. Shortly thereafter, he took a flight back to the United States.

When Ryan returned to the United States, he complained to his superiors at DIA about problems at the facility, including that the military command at the facility had treated him poorly and that the environment at the facility was abusive towards detainees. He also eventually complained to FBI OPR about his view of Adair's operation of the facility.

Adair told us that at one point he was informed that Ryan was missing from the facility and that no one knew where he was. Adair later learned that Ryan had returned and was staying at a nearby airport hanger waiting to catch the next flight to the United States because he knew he was in trouble and that people were looking for him. Adair said that Ryan had "split from the program."

## **B. Allegations by Ryan**

When Ryan returned to the United States, he reported his concerns about the treatment of detainees at [REDACTED] [REDACTED] to his military superiors and to the FBI Inspection Division. He also signed an affidavit for FBI OPR describing these concerns. Ryan also provided information about these concerns in an interview with the OIG.

Ryan reported that shortly before he left the [REDACTED] [REDACTED] in mid-May 2004, he overheard a facility military guard who was observing approximately six [REDACTED] detainees awaiting release from the facility. Ryan said the guard made a comment to the effect of, [REDACTED] Ryan said he reported the statement to the guard's supervisor, and that within 48 hours the Sergeant Major banned Ryan from the facility.

[REDACTED]

Ryan stated in his OPR affidavit that after he left the [REDACTED] in mid-May 2004 to go elsewhere in Iraq, he had a conversation with an unnamed military interrogator. According to Ryan, the military interrogator told him that some of the detainees at the facility were confined in “inhumane conditions” without proper medical treatment and without adequate hygiene opportunities. Ryan also stated that the military interrogator told him that techniques such as food, water, and sleep deprivation were used by military interrogators to extract information from the detainees. In addition, the military interrogator reported that detainees would be stripped naked and subjected to “water interrogation.”

Ryan told the OIG he did not personally observe these conditions or the abuse described to him by the military interrogator. He alleged that as the Officer in Charge at [REDACTED], Adair should have known about the conditions and the abuse and should have taken steps to correct them.

Ryan also stated that he learned when he returned to Baghdad in late May or early June 2004 that someone at the [REDACTED] had posted his photograph in the main building of the facility. We obtained a copy of the poster, which had printed in large letters “Wanted for Questioning” above Ryan’s picture and stated that “if seen detain and escort [sic] to the [task force] commander or the [task force] J-2” (i.e., Adair).

Ryan stated that he did not know who had made the poster, but that he viewed it as threatening and as retaliation for his reporting the comments by the guard about shooting detainees in the back. He said that after returning to the United States, he called the FBI Team Leader who had been at the facility with the FBI agents, and the Team Leader denied that the FBI agents made the poster. In our interview with the Team Leader, he said that someone in the military hung up the poster in the briefing room after a briefing where Ryan’s absence was noted.

### **C. Prior Investigations**

After Ryan returned to the United States, his allegations of abuse were referred to the DIA OIG, which conducted an interview of Ryan. The

DIA OIG concluded that no investigation by the DIA OIG was warranted because Adair was not a DIA employee, and referred the allegations to the DOD OIG. We did not find any indication that the DOD OIG ever addressed the allegations against Adair.

Documents provided by the military indicate that a DIA civilian debriefer who was assigned to [REDACTED] in April 2004 also made allegations to the DOD regarding detainee abuse at the facility, [REDACTED]. [REDACTED] had been approved by the J2 of the Task Force (who was Adair).

Other DIA employees assigned to the facility reported to DIA or DOD investigators that detainees arriving [REDACTED] had bruises and burn marks indicating they had been abused, and that some detainees were held at the facility for weeks at a time at the whim of interrogators despite a general rule that detainees should be transferred or released within 4 days. One DIA employee reported that when the Task Force was notified that an IG investigation had been initiated, the Sergeant Major and the Officer in Charge (Adair) became very upset and the Sergeant Major made threatening statements against the DIA employee believed to have initiated the complaints. [REDACTED].

Due to these events and other concerns regarding the relationship between the Task Force and the DIA personnel, the DIA directed its personnel serving at [REDACTED] to leave the facility and to return to Camp Slayer in late June 2004. A memorandum from [REDACTED] to the Director of the DIA dated July 6, 2004, stated that an investigation of detainee abuse was underway and that it had revealed [REDACTED].

However, we are not aware of any report or findings by the DOD OIG, the Task Force, or any other military component regarding the alleged incidents of detainee abuse at [REDACTED] during Adair's tenure at that facility. As noted above, Ryan also reported his concerns to the FBI Inspection Division in August 2004. The Inspection Division initiated an investigation of the allegations against Adair, who by that time also had returned to the FBI as a Special Agent. On September 1, 2004, the Inspection Division conducted an interview of Ryan and obtained a 7-page affidavit from him setting forth his

allegations. The Inspection Division did not interview Adair or conduct any further investigation before closing the matter as “unsubstantiated” in September 2004. An FBI Inspection Division official later characterized Ryan’s allegations as “rumor and innuendo.” However, the Inspection Division referred the matter to the OIG on October 20, 2004, by providing Ryan’s affidavit to the OIG.

#### **D. OIG Investigation**

The OIG interviewed Ryan, Adair, and the team of seven FBI agents who were deployed to the facility to conduct interrogations of detainees. We also reviewed the survey responses of the FBI interrogation team and the electronic communications summarizing detainee interviews that were prepared during the period. We obtained documentation from the DOD OIG regarding complaints made by Defense HUMINT Service interrogators regarding conditions at the [REDACTED].

In evaluating Adair’s conduct, we recognized that Adair was acting in his capacity as a military commander while he was stationed at the detention facility. In this capacity, he was expected to comply with military regulations relating to the treatment of detainees, not FBI policies. As noted in prior chapters, military policies regarding interrogation techniques were significantly different and less restrictive than policies applicable to FBI agents. As a result, Adair’s conduct should be evaluated as a military commander by reference to military standards, not FBI standards.<sup>223</sup>

Nevertheless, the FBI retains an interest in the “off-duty” conduct of its agents. The FBI’s MAOP, Section 1-21.2, provides that “a disciplinary inquiry is not restricted to activities within the critical elements and performance standards of the employee’s position and may also include on- or off-duty conduct when such conduct affects an employee’s ability to perform his or her job or adversely affects the Bureau’s ability to secure needed cooperation from members of the public.”

In evaluating Adair’s conduct as a military officer, however, we recognized that compliance with military policies is primarily within the jurisdiction of the military and not normally a subject within the purview of the DOJ OIG. The *Church Report* described in detail the extremely

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<sup>223</sup> Moreover, we are not aware that the FBI has established any policy or guidance regarding the applicability of its policies to FBI employees serving in the military forces.

complex evolution of the military policies and found that in many cases there were serious deficiencies in the communication of the contents of military policies to units in the field. *Church Report* at 276. Moreover, most of the potential witnesses to conditions and events at the [REDACTED] during Adair's tenure are not DOJ employees and therefore are not subject to the OIG's investigative authorities. Consequently, the scope of our review was primarily limited to the accounts provided by FBI employees.

We identified instances where Adair's conduct might potentially have implicated particular military policies, based on the descriptions of such policies in the *Church Report* and summarized in Chapter Three. However, we believe that the military should make the ultimate determination of whether one of its officers complied with military policy. If the military determines that Adair's conduct violated military policy, we recommend that such findings be communicated to the FBI for its assessment whether any discipline is warranted under MAOP 1-21.2.

Although Adair was acting as a military officer, the FBI agents who were deployed as a team to [REDACTED] during May through July of 2004 were at all times acting as FBI employees. These agents were subject to the more restrictive FBI policies regarding interrogation, as described in prior chapters. As discussed in the following sections, we assessed their conduct in light of FBI rather than military standards.

## **E. OIG Analysis of the Allegations**

In this subpart we present the results of the OIG's investigation into the allegations relating to misconduct at the [REDACTED].

### **1. Alleged Inhumane Physical Conditions**

Ryan stated that a military interrogator had told him that there were "inhumane conditions at the Baghdad detention facility." The military interrogator told him that detainees who were not cooperating with the interrogators were kept in [REDACTED].

The FBI agents who conducted interrogations at the [REDACTED] [REDACTED] acknowledged that the conditions for the detainees were "primitive" and uncomfortable, but the agents did not view them as inhumane and instead viewed them as appropriate to the circumstances.

One agent estimated the cells to be [REDACTED]. One agent said that the cells were clean and were swept regularly and mopped on occasion. Several agents said that the cells had sleeping mats in them. One agent said that the cells were large enough [REDACTED]

[REDACTED] According to most of the FBI agents, the plywood detainee cells were open at the top and were in buildings that were enclosed and air-conditioned, including the [REDACTED]

[REDACTED]

We believe that conditions in the [REDACTED] were likely extremely uncomfortable, particularly in the summer. However, we have no evidence that, as J2X of the Unit, Adair was involved in designing or constructing the facility, which was already in operation when Adair arrived in Iraq. We also received no evidence that Adair could control the size or temperature of the [REDACTED], or that he or others intentionally manipulated temperatures in the [REDACTED] to increase detainee discomfort. Accordingly, we did not analyze whether the conditions in the [REDACTED] violated military policies or applicable treaty obligations. We believe that this issue is not specific to Adair. [REDACTED]

## **2. Allegations Regarding Medical and Hygiene Conditions**

Ryan stated he believed that the detainees at the facility were “denied showers for periods up to one month and medical attention.” He said that although “each detainee was screened by an individual known as ‘Doc,’ there were problems with detainees receiving prescribed medication.” He did not provide any specific examples of detainees not receiving prescribed medication.

The FBI agents interviewed by the OIG said that a doctor gave all detainees a medical examination upon their arrival at the facility. One agent also recalled several incidents when the doctor interrupted an interview to check on the detainee. Another agent stated that some of the detainees had diabetes or heart conditions, and the outside of each detainee's cell would indicate whether he needed specific medication and when he was to receive it.

Agents stated that detainees were given showers regularly and were escorted to the toilets periodically and also upon request. The FBI Team Leader stated that detainees stayed at [REDACTED]

Adair described the medical screening process for new detainees in a similar fashion as the FBI agents. He stated that the surgeon and an interpreter interviewed each detainee individually to determine if there were health problems or injuries. Once the doctor cleared a detainee, the detainee was given a prison uniform consisting of medical scrubs and was assigned to an individual cell.

During a DOD investigation of conditions in the [REDACTED], one of the DIA civilian interrogators stated in his affidavit that he noticed some detainees arriving at the facility in May and June 2004 with fresh injuries such as bruises that were not recorded in the medical screening sheets. The DIA interrogator stated that all detainees were screened by the facility's medical doctor within the first hour of their arrival, but only "major medical problems" were being recorded. He said that some detainees complained to him of back pain in the area of the kidneys, but that the medical screening did not note these complaints. Another DIA debriefer stated that about 50 percent of the detainees arriving at [REDACTED] "appear to have been mistreated" before they got there.

A memorandum from [REDACTED] to the Director of the DIA dated July 6, 2004, stated that the ongoing internal investigation of detainee abuse by the [REDACTED] found that "it is not uncommon for detainees to arrive with bruises from actions during capture," and that there was an "on-going case of kidney stones in the facility, and medical opinion of recurrent kidney problems due to the water, but no abuse specific to detainees' kidneys."

We found insufficient evidence to support the conclusion that Adair was responsible for any inadequacies in medical treatment at the [REDACTED].

### 3. Alleged Deprivation of Food or Water

Ryan said that when he was in another city in Iraq, he “observed the utilization of food/water deprivation on one detainee.” He said that he “only personally observed this abuse occurring” in another city, but that the unnamed military interrogator told him that the “same thing was going on at the [REDACTED].”

[REDACTED]

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We are not aware of any military policies that permitted depriving detainees of minimally sufficient food or water, either as an interrogation technique or as a general detainee management practice.

The accounts of the FBI agents varied concerning food and water restrictions at the facility. Some agents said they were unaware of any food or water deprivation. [REDACTED]

[REDACTED]

However, neither of the two agents [REDACTED] stated that they personally participated in depriving detainees of food or water. One of these two agents said that when a detainee asked for food, the agents asked the military personnel to give the detainee an MRE. Other agents told us

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<sup>224</sup> Item “T” in the April 2003 GTMO Policy approved by the Secretary of Defense explicitly provided that the permitted tactic of “dietary manipulation” did not include the “intended deprivation of food or water.” [REDACTED]

[REDACTED]

225

[REDACTED]



that after they gave water to detainees or that whenever a detainee asked for a drink, they would give him one. Three agents said that there was water in the interrogation rooms for the detainees or that they often offered water to the detainees. One of the agents said that food and water was always available, but that he received a few complaints about the quality of the food.

Two agents also stated that none of the detainees appeared to be malnourished or dehydrated. They added that the detainees appeared well fed or gained weight at the facility. However, this observation seems inconsistent with the agents' statement that most detainees were released or transferred out of the [REDACTED].

Adair said that [REDACTED] the detainees were never deprived of food or water. He stated that if a detainee arrived at night, the detainee might have to wait until morning for the next ration cycle, but he would never be deprived of water. [REDACTED]

The limited evidence available to the OIG regarding the deprivation of food or water at [REDACTED] was conflicting. [REDACTED]

[REDACTED] Moreover, we did not find any evidence that the team of FBI agents deployed to the facility participated in depriving detainees of food or water.

We recommend that the military make its own findings regarding whether military policy was violated and whether Adair was responsible for any violation. If the military concludes that Adair was culpable, we recommend that the military communicate this finding to the FBI.

#### **4. Alleged Sleep Deprivation**

Ryan stated that in another Iraqi city "sleep deprivation techniques [REDACTED]. He said that he did not personally observe this technique employed at [REDACTED] but said that the military interrogator in Falluja told him that it was used there.

Several FBI agents deployed to [REDACTED] gave information consistent with what Ryan reported.

[REDACTED] However, both agents insisted that they were not deliberately using sleep deprivation as an interview technique.

Adair told the OIG that sleep deprivation was used at the facility as an interrogation technique while he was there. He stated that it was considered a “harsh-up technique.” [REDACTED]

[REDACTED] He said that he knew that sleep deprivation could not be used by the FBI in the United States.

[REDACTED] Initially, the military relied on Field Manual 34-52, which did not list sleep management, sleep deprivation, or extended interrogations among the 17 interrogation “approaches” that could be used in order to elicit information from detainees. *Church Report* at 33-37, 257. On September 14, 2003, the first Interrogation and Counter-Resistance Policy for the Iraq theater was issued. *Id.* at 257, 263. [REDACTED]

[REDACTED]

We note, however, that the *Church Report* found that “dissemination of approved interrogation policies [in Iraq] was ineffective, resulting in widespread lack of awareness of which techniques were currently authorized at the unit level.” *Church Report* at 276.

We recommend that the military make its own findings regarding whether military policy was violated and whether Adair was responsible for any violation. If the military concludes that he was responsible, we recommend that the military communicate this finding to the FBI.

**5. Allegations Regarding Harsh Interrogation Techniques**

[REDACTED]

[REDACTED]

Adair confirmed that one technique used by the military at the facility was to drip cold water down the detainee’s back during an interrogation to make him cold. He said that this was a “harsh-up” technique [REDACTED]. He acknowledged that it was used while he was at the facility. Adair described this practice of dripping water down a detainee’s back if he was being uncooperative as “annoying” to the detainee.

In addition, Adair said that before he arrived at the facility interrogators would “strip down” detainees, which he said was culturally

humiliating. He said that he heard that interrogators also would tell the detainee after using the “strip down” technique that [REDACTED]

Adair also described other “harsh-up” techniques used by the military, including requiring detainees to do push-ups or calisthenics or to sit in the “invisible chair” condition, blindfolding, and sleep deprivation, which we addressed above. He said that the number of times “harsh-up” techniques were used during the time he was at the facility [REDACTED].

Adair stated that although these techniques were approved by the military hierarchy, he would not have used them as an FBI agent in the United States. He also said that he did not think these techniques were as effective as the FBI’s rapport-building approach. He stated that he believed that none of the detainees were in grave danger or were physically harmed and that he had personally been through worse treatment during Army Ranger training and pledging for his college fraternity.

The FBI agents who were deployed to the facility provided little information to the OIG regarding the use of harsh or aggressive techniques at the facility. One agent said that the military interrogators wanted to use methods like forced physical training and hooding, but that these techniques had been abandoned after the Abu Ghraib prison scandal. This agent said that at the end-of-shift briefings, the topic of applying more stringent interrogation techniques with a detainee was raised only two to three times. However, he said that he did not consider the stricter techniques to be abusive and believed that they were closely monitored by the military.

Another agent reported that he heard loud music from certain interrogation rooms and that military interrogators told him they were forcing detainees to perform physical training exercises.

The FBI Team Leader told us he recalled that while he was at the facility, [REDACTED] to use “harsh-up” techniques two times, but the FBI agents did not participate. He said he did not look at the request and did not know specifically what techniques were to be used. The Team Leader added that [REDACTED]

Adair told the OIG that a lot of the harsher military techniques that had been used before he came to the [REDACTED]

Therefore, the evidence indicated that during Adair's command of the facility, interrogators used interrogation techniques that were not approved by the military. However, as noted above, the *Church Report* found that dissemination of approved interrogation policies in Iraq was ineffective. *Church Report* at 276. The report also indicated that compliance with the policies was "often incomplete, even when units were in possession of the latest guidance." *Id.* The Church investigators [REDACTED]

We recommend that the military review whether military policies were violated at the [REDACTED], and whether Adair was responsible for any such violations. We recommend that the military communicate any findings to the FBI.

## **6. Allegations Regarding Use of Restraints**

Several FBI agents told the OIG that [REDACTED]

Detainees were also handcuffed while outside of the cells for security reasons. One of the agents said that it was the interviewer's discretion whether the detainee was restrained during the interview, and that

handcuffs were generally removed as a reward for cooperating and as a sign of respect that often had a positive impact on the interview. Occasionally a detainee would complain about the handcuffs being too tight during the interviews, and the agent would ask the military personnel to loosen the cuffs.

We also received information that FBI agents participated in deciding whether detainees would be handcuffed inside their cells following an interview, as part of a system of rewards for cooperation and punishment for non-cooperation. [REDACTED]

[REDACTED]

One of the two FBI agents who described [REDACTED] [REDACTED]. The other said this happened "most of the time." The first agent said that on more than "a couple" of occasions he and his FBI partner [REDACTED] until the detainee's next interrogation. However, the other agent said that the [REDACTED] was a military tool and not an FBI creation. The first agent also told us that it would have created problems for the agents' relationship with the military to designate a detainee as cooperative, [REDACTED], if the detainee had in fact lied or been uncooperative.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

As previously explained, at all relevant times FBI policy prohibited agents from obtaining statements from detainees by the use of force, threats, physical abuse, threats of such abuse or severe physical conditions. Part 1, Section 1-4 of the MAOP specifically provides that these prohibitions are applicable to “all phases of the FBI’s work [including] foreign counterintelligence.” Accordingly, it has been the official FBI position that agents should not participate in any interrogation techniques overseas that they would not be permitted to use in the United States.

We do not take issue with using restraints for safety or security considerations. However, the restraint classification system described by several of the agents appears to have been in large part connected to the interrogation function and whether the detainee was cooperating. The OIG concluded that in the United States FBI agents would not have been permitted to require that a person in custody be restrained (handcuffed) in his cell for hours or days as punishment for failure to cooperate in an interview. We believe that such a tactic would likely be considered using physical abuse or severe physical conditions to obtain a statement, which would be in violation of FBI policy.<sup>226</sup>

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<sup>226</sup> As noted in Chapter Ten, we determined that at least one FBI agent at [REDACTED] was also involved in deciding whether a detainee would

(Cont’d.)

As detailed in prior chapters, however, before May 2004 the FBI's written policies did not clearly address whether FBI agents should participate in joint interview strategies with non-FBI personnel who were using techniques that were approved by their agencies. In approximately July 2002, the FBI Director made a determination that the FBI would not participate in detainee interrogations in which other agencies' harsher techniques were being used, but this was not reflected in written policy until the FBI issued its May 2004 Detainee Policy, which stated: "If a co-interrogator is complying with the rules of his or her agency, but is not in compliance with FBI rules, FBI personnel may not participate in the interrogation and must remove themselves from the situation." Some FBI agents deployed at the facility recalled receiving a policy statement while in Iraq, which was likely the FBI's May 2004 Detainee Policy. Although implementation of the categorization program at the detention facility did not strictly speaking involve a "co-interrogator," the FBI agents should have recognized that their participation in this program was at least problematic, and should have considered seeking guidance from FBI managers.<sup>227</sup>

The FBI's May 2004 Detainee Policy also required agents to report any instances of "abuse" by non-FBI interrogators to the FBI's On-Scene Commander. We found no evidence that the FBI agents deployed to the detention facility considered the use of in-cell restraints by the military to punish uncooperative detainees to constitute "abuse," or that the agents

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receive a blanket or mattress in his cell, based on whether he was cooperative in interviews. [REDACTED]

<sup>227</sup> As discussed in Section III.D. of Chapter Six, the FBI OGC addressed the [REDACTED] in a May 2006 Electronic Communication. The OGC concluded that [REDACTED] for more than 8 hours constituted "severe physical conditions." The OGC therefore recommended that CTD prohibit its employees from interrogating detainees who had been kept in these conditions for 8 hours or more until completion of a "cooling off" period (typically at least 12 hours) following removal of these conditions. The OGC's May 2006 EC did not address whether it would be permissible for an FBI agent to make a recommendation regarding whether a detainee should be [REDACTED] based on the detainee's level of cooperation in an interview. We believe that the OGC's analysis strongly suggests that an FBI agent would not be permitted to make such a recommendation if the [REDACTED] exceeded 8 hours. For the reasons discussed above, we believe that any involvement in using [REDACTED] as an incentive to provide information would be contrary to FBI policy, even if the [REDACTED] was less than 8 hours.



reported the use of such techniques up their own chain of command. Moreover, no useful guidance was provided to assist the agents to discern the line between acceptable aggressive techniques permitted under military policy and "abuse." In this environment, and in light of the nature of the restraints used by the military, we do not conclude that the FBI agents deployed to the detention facility violated their obligation to report "abuse."

As previously noted, we evaluated Adair's conduct as the officer in charge of the detention facility in terms of applicable military policy, because Adair was acting in his capacity as a military officer at the time.

[REDACTED]

The program also could have been considered as an example of "Incentive/Removal of Incentive," which was approved for use throughout the relevant period.

[REDACTED]

Moreover, if the program was neither a "stress position" nor an "incentive/removal of incentive," and did not fall within any of the other specific listed techniques,

[REDACTED].

Adair denied knowing that in-cell restraints were used as a punishment for non-cooperation. Yet, in light of the FBI agents' specific recollection of this program, and the DIA interrogator's affidavit, we found that such a practice took place at the detention facility. We believe that the military should assess whether the categorization procedure was consistent with applicable military interrogation policies. If it was not, we recommend that the military assess Adair's role in permitting the categorization system for applying in-cell restraints, and report the findings to the FBI.

## 7. Allegations Regarding Blindfolding/Goggles

[REDACTED]

[REDACTED]

[REDACTED]

We did not question the use of goggles or blindfolds during the transportation of detainees as a security precaution. [REDACTED]

[REDACTED]. We believe that, absent a legitimate security purpose, such a technique could be considered “duress or intimidation” and would not be permissible in the United States under FBI policy. See MAOP Part 1, 1-4(4), p. 27. Under FBI policy, the FBI agents deployed to the detention facility should not have participated in interrogations using this technique. However, we did not find any evidence that FBI agents used this technique during interrogations, except for the single, relatively minor incident described above.

We did not receive any evidence that the FBI agents reported the military’s use of blindfolding or goggles up the FBI chain of command. For the same reasons discussed in the prior section, we cannot conclude that this technique constituted “abuse” as that undefined term is used in

the FBI's May 2004 Detainee Policy, and we cannot fault the agents for declining to report it.

## **8. Alleged Threats**

One of the FBI agents told us that he and another agent sometimes used a ruse in which they would advise a detainee that if he did not cooperate, they would take him back to the United States where he would face criminal charges and spend time in a maximum security prison. A summary of a detainee interview in an EC dated May 22, 2004, referred to the use of this technique and the detainee's reaction: "It should be noted that [the detainee] was visibly upset when told that a letter would be written to his wife in order to notify her of his impending departure to the United States to face a prison sentence, a pretext utilized by the interviewing agents." This EC was sent through the Team Leader to CTD.

The same FBI agent mentioned another ruse where the agents would threaten to bring the detainee's family members to the facility and then eventually to the United States for prosecution. He said that they stopped employing this ruse when they realized that it was not working. The agent said that they discussed the use of the ruse with the other agents, including the Team Leader, and that no one expressed any objection.

Section 7 of the Legal Handbook for Special Agents (LHBSA), "Confessions and Interrogations," states in pertinent part: "It is the policy of the FBI that no attempt be made to obtain a statement by . . . threats . . ." LHBSA § 7-2.1. However, the line between permissible ruses and impermissible threats is difficult to state with precision. FBI training materials provided to the OIG do not elaborate on this distinction but refer to court decisions regarding the admissibility of confessions. These materials point out that although courts have found confessions inadmissible when extracted by threats to arrest a relative or friend, courts applying the "totality of circumstances test" have admitted confessions following threats to arrest or charge another. Consequently, we did not find a basis for concluding, under the totality of the circumstances, that the FBI agents violated FBI policy with respect to using these ruses.

## **9. Allegations that Detainee Was Subjected to Electric Shock**

[REDACTED]

[REDACTED]

This alleged incident involved solely military personnel, and did not occur at the facility while under Adair's command.

#### **10. Allegation Concerning Abuse of a Female Detainee**

Ryan told the OIG that he overheard a conversation between [REDACTED]

[REDACTED]

Ryan also said that the staff members discussed that the incident was under investigation.

Adair also told us that he recalled hearing about this incident and that it was investigated by the military, but that it allegedly occurred prior to his arrival. We found no evidence that any FBI agent was involved or alleged to be involved in the matter. Because this incident involved solely military personnel and occurred prior to the FBI agents or Adair arriving at the facility, the OIG did not investigate it. We do not know whether the DOD ever investigated this matter.

#### **F. OIG Conclusions Concerning Allegations at [REDACTED]**

In sum, the OIG did not substantiate that the FBI agents who served as interrogators at the facility from May to June 2004 engaged in the inappropriate conduct alleged by Ryan, including deprivation of food and sleep, and inhumane treatment. However, we found that some FBI agents knowingly participated in the categorization system for restraining detainees in the cells who were not cooperative in interrogations. We believe that this activity probably would not have been permitted in the United States under FBI policies. The FBI's May 2004 Detainee Policy, which reiterated the applicability of existing FBI interrogation policies in the military zones, was issued very near the time that this conduct took place. We also believe that these incidents demonstrate that the applicability of existing FBI policies in the military zones was not made clear to all FBI agents prior to the issuance of the May 2004 Detainee Policy.

We recommend that the military review Adair's conduct in light of the applicable military policies to determine whether he was in

compliance with those policies. If the military concludes that he was not, we recommend that the military share its findings with the FBI.

## **CHAPTER TWELVE**

### **CONCLUSIONS**

In this chapter we summarize our findings regarding the FBI's participation in, observations of, and reporting of the treatment of detainees in the military zones in Guantanamo Bay, Iraq, and Afghanistan. We also describe the disposition of reports that FBI agents made regarding concerns they had about detainee treatment. We also provide our conclusions and recommendations relating to the adequacy of the FBI's response to requests from its agents for guidance regarding these issues and the adequacy of responses from FBI Headquarters and the Department of Justice (DOJ) to reports from FBI agents regarding other agencies' interrogation practices.

#### **I. Background**

As a result of the September 11 attacks, the FBI refocused its top priority to counterterrorism and preventing terrorist attacks in the United States. As a consequence of this shift, and in recognition of the FBI's investigative expertise and familiarity with al-Qaeda, the FBI became more involved in collecting intelligence and evidence overseas, particularly in military zones in Afghanistan, at the U.S. Naval Base at Guantanamo Bay, Cuba (GTMO), and in Iraq.

Beginning in December 2001, the FBI sent a small number of agents and other employees to Afghanistan to obtain actionable intelligence for its counterterrorism efforts, primarily by interviewing detainees at various Department of Defense (DOD) and CIA facilities. In January 2002, the military began transferring "illegal enemy combatants" from Afghanistan to GTMO, and the FBI began deploying personnel to GTMO to obtain intelligence and evidence from detainees in cooperation with military interrogators. Following the invasion of Iraq in March 2003, the FBI sent agents and other employees to Iraq with the primary objective of collecting and analyzing information to help protect against terrorist threats in the United States and protecting U.S. personnel or interests overseas. FBI deployments in the military zones peaked at approximately 25 employees in Afghanistan, 30 at GTMO, and 60 in Iraq at any one time. In total, more than 200 FBI employees served in Afghanistan between late 2001 and the end of 2004 (the period covered by our survey), more than 500 employees served at GTMO during this period, and more than 260 served in Iraq.

## **II. FBI Policies Regarding Detainee Interrogations**

Prior to May 19, 2004, the FBI did not issue any formal written policies to its agents regarding FBI interviews of detainees in the military zones. Many FBI agents told us that they were instructed to comply with existing FBI policies for custodial interviews in the United States, except for providing Miranda warnings. These FBI policies, which prohibit agents from attempting to obtain statements by force, threats, or promises, reflect constitutional considerations of voluntariness as a condition of preserving the legal admissibility of statements in judicial proceedings. They also reflect the FBI's long-standing belief, based on years of experience, that rapport-based interview techniques are the most effective means of obtaining reliable information through custodial interviews.

However, existing FBI interrogation policies did not address the difficult issues confronted by FBI agents in the military zones, such as what agents should do when they observe an interrogator from another agency using techniques that are not permissible for the FBI. On May 19, 2004, shortly after the detainee abuses at Abu Ghraib prison in Iraq became public, the FBI issued a policy instructing its agents to remove themselves from any interview in which non-FBI interrogators used techniques not in compliance with FBI rules. In addition, the May 2004 Policy directed FBI employees to report any incidents of known or suspected abuse or mistreatment to their On-Scene Commanders (OSC).

## **III. Agent Observations Regarding Detainee Treatment**

Several military and commission reports have assessed the treatment of detainees by the military, but none have comprehensively addressed the FBI's role and observations regarding detainee treatment. As part of this review, the OIG surveyed more than 1,000 FBI employees who were sent to the military zones between late 2001 and the end of 2004. Our survey sought information about more than 30 separate interrogation techniques, ranging from depriving a detainee of clothing to electric shocks and beatings. (A copy of the OIG survey is attached to this report as Appendix A.) We also conducted over 230 interviews to determine what FBI employees witnessed or learned about potentially abusive treatment of detainees.

While a majority of FBI employees in each military zone reported in response to our survey that they never saw or heard about any of the specific aggressive interrogation techniques listed in our survey, a significant number of FBI agents said they had observed or heard about military interrogators using a variety of harsh interrogation techniques

on detainees. Most of these harsh techniques involved conduct or interrogation techniques that the FBI would not be permitted to use in the United States. It appears that many - but not all - of these harsh interrogation techniques were authorized under military policies in effect in the military zones. However, virtually none of the FBI employees reported that they observed detainee abuse comparable to that which occurred at Abu Ghraib prison.

**GTMO.** The most commonly reported technique used by non-FBI interrogators on detainees at GTMO was sleep deprivation or disruption. Numerous FBI agents told the OIG that they witnessed the military's use of a regimen known as the "frequent flyer program" to undermine cell block relationships among detainees and to disrupt detainees' sleep in an effort to lessen their resistance to questioning. A few FBI agents participated in this program by requesting military officials to subject particular detainees to these frequent cell relocations. Other FBI agents described observing military interrogators use bright lights, loud music, and extreme temperatures to keep detainees awake or otherwise wear down their resistance.

Prolonged short-shackling, in which a detainee's hands were shackled close to his feet to prevent him from standing or sitting comfortably, was another of the most frequently reported techniques observed by FBI agents at GTMO. This technique was sometimes used in conjunction with holding detainees in rooms where the temperature was very cold or very hot in order to break the detainees' resolve.

The DOD's *Church Report* found that the practice of short-shackling prisoners constituted a "stress position." Stress positions were prohibited at GTMO under DOD policy beginning in January 2003. FBI agents' observations confirm that prolonged short-shackling continued at GTMO for at least a year after the DOD policy prohibiting stress positions took effect.

FBI agents also observed the use of isolation at GTMO, both to prevent detainees from coordinating their responses to interrogators and, in its most extreme form, to deprive detainees of human contact as a means of reducing their resistance to interrogation. We found that in several cases FBI agents participated in interrogations of detainees who were subjected to prolonged isolation by the military.

In addition, FBI agents reported a number of other harsh or unusual interrogation techniques used by the military at GTMO. These incidents tended to be small in number but became notorious because of their nature. They included using a growling military dog to intimidate a detainee during interrogation; twisting a detainee's thumbs back; using a



female interrogator to touch or provoke a detainee in a sexual manner; wrapping a detainee's head in duct tape; exposing a detainee to pornography; and wrapping a detainee in the flag of Israel.

**Afghanistan.** FBI employees in Afghanistan conducted detainee interviews at the major military collection points in Bagram and Kandahar and at other smaller facilities. The most frequently reported techniques used by military interrogators in Afghanistan were sleep deprivation or disruption, prolonged shackling, stress positions, loud music, and isolation. Several FBI employees also told us they had heard about two detainee deaths at the military facility in Bagram, but none of the FBI employees said they had personal knowledge of these deaths, which were investigated by the DOD.

**Iraq.** We received varied reports from agents who were detailed to Iraq. For example, several FBI agents said they observed detainees deprived of clothing at Abu Ghraib prison or the [REDACTED]. Other frequently reported techniques identified by FBI agents as used by military personnel in Iraq included sleep deprivation or interruption, loud music and bright lights, isolation of detainees, and hooding or blindfolding during interrogations. FBI employees also reported the use of stress positions, prolonged shackling, and forced exercise in Iraq. In addition, several FBI agents told the OIG that they became aware of unregistered "ghost detainees" at Abu Ghraib whose presence was not reflected in official DOD records. We also heard reports from FBI agents that detainees [REDACTED].

Although several FBI agents were deployed to the Abu Ghraib prison in Iraq, they told us that they did not witness the extreme conduct that occurred at that facility in late 2003 and that was publicly reported in April 2004. The FBI agents explained that they typically worked outside of the main prison building where the abuses occurred, and they did not have access to the facility at night when much of the abuse took place.

#### **IV. The Disposition of FBI Agents' Reports Regarding Detainee Mistreatment**

In our review, we examined how FBI agents' reports about military detainee interrogation practices were handled, both by FBI managers and by senior officials in the Department of Justice.<sup>228</sup>

Our review found that the first time a major incident of possible detainee mistreatment was reported to senior managers in the FBI was in the spring of 2002 when two FBI agents were assigned to assist in the interrogation of a high value detainee, Zubaydah, at a secret CIA facility overseas. Zubaydah had been severely wounded when he was captured in Pakistan in March 2002, and the two FBI agents obtained intelligence from him while helping him recover from his injuries. Within a few days after the CIA assumed control of Zubaydah's interrogation, one of the FBI agents expressed concern to senior officials in the Counterterrorism Division (CTD) at FBI Headquarters about the techniques being by used the CIA. The techniques reported by the agent included [REDACTED]. This agent's concerns led to discussions at FBI Headquarters and with the DOJ and the CIA about the FBI's role in joint interrogations with other agencies, and ultimately resulted in a determination by FBI Director Mueller in the summer of 2002 that the FBI would not participate in joint interrogations of detainees with other agencies in which harsh or extreme techniques not allowed by the FBI would be employed.

Later in 2002, FBI agents assigned to GTMO began raising questions to FBI Headquarters regarding harsh interrogation techniques being used by the military. These concerns were focused particularly on the treatment of Muhammad Al-Qahtani, a Saudi national who had unsuccessfully attempted to enter the United States in August 2001, and who was allegedly sent to the United States to be one of the September 11, 2001, hijackers. After his capture and transfer to GTMO, Al-Qahtani resisted initial FBI attempts to interview him. In September 2002, the military assumed control over the interrogation of Al-Qahtani, although behavioral specialists from the FBI continued to observe and provide advice. The FBI agents became concerned when the military announced a plan to keep Al-Qahtani awake during continuous 20-hour interviews for an indefinite period and when they observed military interrogators use increasingly harsh and demeaning techniques, such as

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<sup>228</sup> We did not examine issues related to DOJ Office of Legal Counsel opinions concerning the legality of several interrogation techniques the CIA sought to use on certain high value detainees. While senior FBI and DOJ officials were aware of these opinions, an assessment of the validity of OLC legal opinions was beyond the scope of this review.