

1 August 2014

Note to Readers of *The Central Intelligence Agency's Response to the Senate Select Committee on Intelligence's Study of the CIA's Detention and Interrogation Program*

In June 2013, CIA provided to the Senate Select Committee on Intelligence (SSCI) a response to its draft *Study of the Central Intelligence Agency's Detention and Interrogation Program*. The Committee asked for CIA's comments to inform the planned revision of its draft *Study*, and our written response served as the basis for a robust dialogue between the Agency and the SSCI. As a consequence of a decision to declassify certain aspects of the program and in compliance with a request under the *Freedom of Information Act*, CIA's full written 2013 response now is being released.

The Agency's response was submitted in four parts:

- CIA Director Brennan's cover memo
- A summary of CIA's comments with recommended corrective actions (Tab A)
- Comments on each of the draft *Study's* 20 conclusions (Tab B)
- Comments on each of the draft *Study's* 20 examples of CIA representations of the value of intelligence acquired from detainees (Tab C)

Some of the comments in this document were amended during our oral dialogue with Committee Staff or have been overtaken by subsequent changes to the draft *Study*. Notwithstanding the Committee's revisions, we believe that the main points in our response remain relevant to the final version of the *Study*.

Below are corrections to errors in our response that surfaced since it was submitted.

Errata

Tab A, p. 10, tic 3; and Tab B, p. 44, para 4: We should not have included in our count of 29 Inspector General investigations of misconduct those cases involving detainees in Iraq or actions that occurred during renditions or transfers of detainees because those cases fall outside the scope of the Committee's *Study*. The two specific examples described in Tab B, p. 44, para 4 were among this subset of cases that are outside the *Study's* scope. Our records indicate the number of investigations that are within the scope of the *Study* is 13.

Tab B, p. 11, para 2, tic 2: Ambassadors were made aware of detention sites when they were operational but we cannot verify from our records that the Secretary and Deputy Secretary of State were made aware of every site from the onset of operations at each site.

Tab B, p. 19, para 1: Our response correctly noted that the effort by the Counterterrorism Center (CTC) to definitively establish the number of detainees held over the course of the program remained incomplete by the time a CTC officer briefed Director Hayden on that effort. However, we incorrectly characterized the status of CTC's count at that time. CTC's count was at least 112 (not "as high as 112"), even without the inclusion of detainees who were no longer in CIA's custody prior to consolidation of the program in December 2002. Including those earlier detainees would have added to CTC's count.

Tab B, p. 37, para 1, tic 2, sentence 2: Interrogation training began in November 2002, not November 2003.

Tab B, pp. 57-58 (also referenced on page 47, first partial para): In addressing the *Study's* allegation of inadequate accountability for 16 alleged cases in which enhanced techniques were used without prior Headquarters approval, the explanation we provided for the miscount was inaccurate or incomplete in some respects. Based on further research, we offer the following refined and amended explanations for the 16 cases:

- In four cases, no techniques categorized at the time as “enhanced” were used.
- In five cases, enhanced techniques were used without Headquarters approval before the January 2003 guidance requiring such approval. All of these techniques had been assessed by the Department of Justice’s Office of Legal Counsel to be lawful.
- In four cases, the need for accountability was mitigated because an interrogation plan had been approved and the specific techniques used beyond those listed in the plan did not exceed its overall scope and were subsequently approved by Headquarters.
- In three cases, unapproved techniques were used and the officers involved were referred to the Inspector General.

This breakdown confirms our overall contention that the draft *Study* overstated both the number of detainees on whom enhanced techniques were used without prior authorization and the extent to which accountability fell short when such authorization was not obtained.

Tab C, p. 5, last para: We acknowledge that there was at least one instance after 2007 of a CIA officer validating an earlier document that referenced the “dirty bomb” aspect of Padilla’s plotting.

Tab C, p. 9, first full tic, last sentence: “Students’ interest” should have been written “student’s interest” because we know of only one student in the group who had an interest in aviation.

Tab C, p. 15, bolded summary, last sentence: We should not have said the fragmentary information was “unavailable to CIA.” FBI information on a second shoe bomber does appear in a January 2002 briefing item prepared for CIA’s daily counterterrorism update. We do not know how the item’s author learned this information and it does not appear to have been entered into record traffic that would have been readily available to analysts. Instead, the record shows clearly that information from Khalid Shaykh Muhammad (KSM) was central to CIA’s effort to identify the second shoe bomber.

Tab C, p. 17, third tic: Rather than “the individual managing the plot,” we should have written “the individual who was in a position to advance the plot.” This terrorist had raised Canary Wharf as a potential target and was tasked by KSM to conduct surveillance of Heathrow Airport’s security, but the plot was shelved after KSM’s arrest.

Tab C, p. 19, bolded summary, first sentence: Instead of “KSM provided information on an al-Qa’ida operative named Zubair...,” we should have written that “KSM provided information that led us to understand the significance of a Jemaah Islamiya operative named Zubair.” We acknowledge that in various representations, including President Bush’s 2006 speech, CIA introduced a sequencing error regarding Majid Khan’s arrest/debriefings, and KSM’s arrest/debriefings. We repeated that error here and on page 26 of Tab C (see next erratum). However, despite that error, our description of the impact of the information acquired from KSM in the Hambali case remains accurate. It was the combination of information from both terrorists that caused us to focus on Zubair as an inroad to Hambali.

Tab C, p. 26, italicized tic (also referenced in Tab B, p. 22, first tic, last sentence; and Tab C, p. 2, para 5, first tic, last sentence): In our review of this case, we correctly acknowledged that CIA allowed a mistaken claim that KSM played a role in Majid Khan's capture to appear in the Inspector General's 2004 *Special Review*, and we correctly wrote that this claim was a one-time error. However, our effort to provide an example of a more accurate "typical representation" of the relationship between KSM's information and Khan ran afoul of the sequencing error noted in the previous erratum. Although information from KSM was used to elicit further details from Khan, by then Khan already had provided the information that, together with what we learned from KSM, enabled us to advance our search for Hambali.

Tab C, p. 32, last sentence: We incorrectly stated that KSM's information preceded Majid Khan's information. We stand by our overall conclusion regarding the value of KSM's information.

Tab C, p. 34, last tic: We should have written "our" instead of "the early" because this error was not confined to some of CIA's early representations.