

THE TRESPASSERS

Mariam Ghani answers some frequently asked questions

How long is the video?

The full video is an hour and 45 minutes. Sometimes it is shown in an hour-long version.

That's pretty long. Are you expecting us to watch the whole thing?

Not unless you really, really want to. The video does have a beginning, middle and end, but it also has six sections of lengths varying from 8 to 40 minutes, each of which has a different story arc with its own beginning, middle and end, while also carrying certain threads through the whole piece. So you can watch some of it and take something away, revisit it later and take something different away, stay a bit longer and take several things away, and so on. Also, the video is normally shown with an installation, an archive of the original documents from which the video was made. In that configuration, you can walk into the neighboring room and browse the archive at your own pace, while still listening to the soundtrack.

How are the video, the sound and the documents related to each other?

The documents you see onscreen in the video are excerpted from many different documents organized inside a series of binders and reports, eleven of which form the core *Trespassers* archive that is almost always exhibited alongside the video. In the soundtrack, you hear two different, simultaneous voiceover translations of the documents visible onscreen; the voiceovers follow the magnifying glass as it “reads” the documents. The video and sound present a more-or-less linear narrative built up from small fragments of the much larger, non-linear narrative that you can sample in your own way in the archive.

Are we meant to touch / browse / read the documents in the archive?

Yes.

Is there a quick way to find out what is in a given binder / in the archive as a whole?

Yes. In the same binder as this FAQ, you will find an index of the archive, which lists the contents of each binder and report folder with notes on the authors, contents and cross-references.

Is there a quick way to find out which point in the video timeline we've walked into, and understand how its larger narrative unfolds?

Yes. In this binder you will find transcripts (in English only, unfortunately) of all of the text “read” by the magnifying glass in the video, in sequence order, and divided by section. You will also find source notes that identify the source documents used in each section.

Which languages are we hearing in the soundtrack?

Arabic and Dari (an Afghan dialect of Farsi), with a sprinkling of Pashtu.

Why those languages?

Because the documents engage, among other things, with the question of the role played by translators in detention and interrogation operations in the “Global War on Terror” (GWOT) as it played out in Afghanistan, Iraq, Guantanamo and black sites across the world. The translation in question was enacted largely through English, Arabic, Dari and Pashtu.

Why is the Arabic translation (usually) so much longer than the Dari translation?

The short answer to that question is that the Arabic translation appears to be much, much more precise. The long answer has to do with some of the conditions I set up for translation – for example, some of the translation was done in the manner of simultaneous interpretation, while other sections were prepared beforehand from an audio recording in English, and others from a written transcript – and also touches on the larger context of the project (e.g. translation by diasporic versus native speakers) and on other questions about the nature of translation, particularly in situations like the ones being discussed in these documents (e.g. how important the words omitted by a translation that prioritizes speed over precision may or may not be).

Who are the Dari/Pashtu translators?

When I decided to expand the narrative of the video to include documents from outside Afghanistan – which I did to frame the events in Afghanistan within their broader context – I also decided to expand the pool of translators from which I would recruit. So the translators have different degrees of distance from the material. One might be Afghan, temporarily in the US; one might be Afghan-American, with a family member currently embedded in the military; one might be a former military translator; one might be a professional translator, broadcaster or actor, performing the translation without any relationship to the texts beyond a willingness to extend empathy to the original speakers. Some translators wanted to remain anonymous and some are credited. Some translations are performed for the soundtrack by someone other than the person who performed the translation of the text for the project.

Who is the Arabic translator?

The Arabic translator is an Iraqi who previously worked as a professional translator and broadcaster in Iraq and now has political asylum in the US.

Where did you find the documents?

All of the primary source documents (government reports, memos, emails etc.) have been officially declassified and are freely available online. Many of them can be downloaded from the archive built up by the ACLU from FOIA (Freedom of Information Act) releases. All of the secondary documents (NGO reports, media reports, legal briefs and analysis, etc.) are also available online. The *Trespassers* archive is related to and partially replicated from the archive of Index of the Disappeared, my ongoing collaboration with Chitra Ganesh. The Index archive covers detention, deportation, rendition and redaction. A number of new archive binders were produced for this exhibition, focused on the particular themes of *The Trespassers*. In the installation shown at the Sharjah Biennial 10, eighteen additional binders and three reports were loaned from the larger Index archive to provide context for the specialized *Trespassers* archive.

Why is this project called *The Trespassers*?

Geographic or spatial trespass – i.e. going where you should not go, crossing a border you should not cross, invading a space better left alone or being caught out in a place where you do not belong – plays a large part in the narratives traced through both video and archive. The territorial struggles of war are, in one sense, arguments over boundaries and trespasses. Trespass as sin or betrayal – i.e. “forgive us our trespasses, as we forgive those who trespass against us” – also resonates with the project. Afghans who cry traitor to Afghan-Americans returning to Afghanistan as “embedded” military linguists are naming those translators as trespassers in both senses.

Why did the project change from the format you described for the SBX catalogue and/or in earlier interviews?

There were three major changes. First, including the documents alongside the video in an adjoining archive. This was a response to the particular architecture of the installation site at SB10, which was ideally suited for this kind of presentation. Second, producing multiple voiceovers instead of one voiceover and subtitles. In that case, I realized that text on top of text is visually a bit overwhelming, while sound can function as a translation for the archive as well as the video. Third, expanding the pool of translators; this was partially conceptual and partially necessary. If you look at the *Saleh v. Titan* binder, you’ll see what I discovered in January, when I started digging around to find out why the recruiters stopped calling me back. That is, Titan (the corporation that is the parent company for most recruiters) had won a lawsuit – related to the participation of Titan translators in abuses at Abu Ghraib - in the DC District Court, but then it was appealed to the Supreme Court, which during my production window was in the midst of deciding whether to hear the case. (Ultimately, the Court denied the petition.) So at that time, Titan really didn’t want any of their translators talking to me (or so I deduced when none of them would talk to me). As you can imagine I found this very frustrating, but also a perfect reflection of the general refusal to discuss the subject of military translation in the diasporic communities most intimately entangled with and affected by it.

THE TRESPASSERS

Source Notes

Speculations

Pascal quotation inspired by NYRB review of *The Road to Guantanamo*
Q&As based on (not transcripts of) conversations with former detainees, soldiers and translators in various media reports.

The Battle Lab

Senate Armed Services Committee (SASC) Report (2009)
Major General Mike Dunleavy, former Guantanamo (GTMO) commander, interview for internal Army investigation of abuse at GTMO
Minutes from the 10/2/02 GTMO Counter-Resistance Strategy Meeting
Department of Defense (DoD) memo authorizing extended interrogation techniques at GTMO (12/02)
Department of Justice Office of the Inspector General Review (DoJ OIG Review) of FBI Involvement in Interrogations in Guantanamo, Afghanistan and Iraq (2008)
FBI emails about Mohamed Al-Qahtani, aka prisoner #63 (2002)
FBI responses to detainee abuse survey (2003-4)

Death in Bagram

Wahid, Rahman et al v. Gates (Bagram habeas corpus challenge)
2003 detention/transfer criteria used by US forces in Afghanistan
Jacoby Report (2004) on detention operations in Afghanistan
Church Report (2005)
Army criminal investigation task force (CITF) investigation of 2002 deaths at Bagram

The Winds of War

SASC Report

Meanwhile, in [(b)(2)]*

*(b)(2) means "censored/withheld for reasons of national security, according to paragraph (b)(2) of the Freedom of Information Act"
CIA Inspector General (IG) Report (2004)
CIA Office of Medical Services (OMS) interrogation guidelines (2002)
CIA Enhanced Interrogation Technique (EIT) "bullet points" revised by John Yoo of the DoJ
Office of Legal Counsel (OLC) (2002)
DoJ OIG report

The Translators

GTMO Combined Joint Task Force Standard Operating Procedure (SOP)
Saleh et al v. Titan, CACI et al (contractor liability lawsuit)
CITF investigation of Bagram deaths

Complicity

Q&A based on (not transcript of) interviews with former translators.

NYT interviews with former Bagram detainees (2007)

Army Regulation (AR) 15-6 investigation of Abu Ghraib abuse

DOJ OIG Review

SASC Report

WP (Dana Priest) report on the death of Gul Rahman at the CIA secret prison codenamed "Salt Pit" in Northern Afghanistan

Mohamed Ahmad Farang Bashmilah testimony, Bashmilah et al v. Jeppesen Dataplan (rendition flight contractor lawsuit)

Human Rights First report on Afghan trials for former GTMO and Bagram detainees

CREDITS

Camera, editing: Mariam Ghani

Research assistant: Lyric Hunter

Production assistants: Koby Rogers Hall, Erin Ellen Kelly

Additional sound editing: Uгла Hauksdottir

Translation: Mujib Mashal, Zakarya Sherzad, Nour al-Khal, Sayed Mirri, et al.

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Chitra Ganesh talks to Mariam Ghani about *The Trespassers*

NYC, November 2010, for *Plot for A Biennial* (Sharjah: SAF, 2011).

Chitra Ganesh: Let's begin by elaborating how this project came about, and highlighting the conceptual links between it, your previous projects, and our collaboration, as well as our current research on US military prisons.

Mariam Ghani: In many ways my SBX commission *The Trespassers* (HD video installation, 2010-11) integrates our ongoing collaboration, the post-9/11 archive Index of the Disappeared, with my individual practice, as they both involve research on Afghanistan, war and translation.

The premise of this project is to track down some of the Afghan-Americans who were recruited to work as translators for the US military in Afghanistan. I'm hiring these people to perform live translations (while I record sound) of some public-domain documents related to US military prisons in Afghanistan, which are drawn from information we've been collecting for the Index. What is interesting is that in almost all the interrogation transcripts I've found, the translators and their acts of translation are invisible. I know they were present, but their presence was unrecorded, and its implications avoided. They became the ghosts in the room. My question was whether those invisible translators could ever serve as witnesses to what happens in those rooms, or whether the act of translation necessarily precludes the possibility of witnessing.

CG: What other questions drive your work on Afghanistan, and why did you decide to focus on translation in this particular project?

MG: In some of the first work I made in and about Afghanistan, like the "ask a question" section of *Kabul: Reconstructions* (live 2003, online 2003-04), I made myself available to answer people's questions about Kabul, giving them access to alternative sources of information about events in Afghanistan through my own connections in the diaspora.

This work also uses diasporic networks to find alternate perspectives on the conflict, on the relationship between the US military and the Afghan population, and on the Afghan-American translators who are put in the very uneasy position of being mediators, traitors and trespassers all at once. It's an interesting variation on the notion of the native informant and the translator as native informant, because these translators are not natives, but were asked to stand in for the 'native' via the act of translation. That brings me to one of the odd facts that I discovered during my research, which is that many of the translators who were recruited from Fremont (one of the three largest Afghan-American communities in the US) were initially recruited to play a different role for the US military. These Afghan-Americans from Fremont acted as stand-ins for native villagers in the mock Afghan village set up in the Nevada desert to train battalions before their deployment to Afghanistan. Some of the ones who played "Afghans" in this mock village bought into its fiction of polite military engagements, just as the soldiers did, and subsequently agreed to travel to Afghanistan and work as translators.

CG: Their trajectory and the slippage from one kind of 'native' role to another are fascinating. One of the things I enjoy most about your practice, and about our

collaboration, is the level of layered complexity that you uncover in the process of realizing your projects. The idea of opening alternate channels of information also relates to how the Index seeks to uncover and centralize information that exceeds conventional modes of analysis – those fragments that are usually considered unquantifiable or were deemed irrelevant, but are actually critical to narratives of post-9/11 militarization.

MG: What interests me most, when considering how translation functions in combat or interrogation situations, is precisely this question of what escapes translation. As anyone who engages in everyday translation knows, there's always a process of interpretation, editing and even censorship involved, especially in simultaneous translation. As a translator, you always choose what to leave in and what to leave out.

CG: These processes are deeply embedded because translators often have to make choices in a split-second, with no time to reconsider. It taps into a lot of our pre-conditioning and our own ideas about information.

MG: I became fascinated with what happens when the decisions that translators make – those almost unconscious choices of editing and interpretation – have extraordinary weight and consequence, as they would while translating during an interrogation or a siege.

At a certain point during my research, I came across the companies hired by the military to recruit translators, and decided to use the same recruiters for my project. One of the first questions the recruiters asked was “Do you want someone who actually translates correctly, or do you just want a translator who was there?” It became immediately clear that many of the translators who worked for the US military in Afghanistan didn't really know the languages they were translating, not in depth.

CG: What is the role of time in your work?

MG: There are several temporalities operating within this project. First is the time that translators spend in Afghanistan, which is very much like a soldier's tour of duty, and is a very delimited, charged kind of time. Second is the long span of time through which we've followed these stories. And third is the specific duration of simultaneous translation. That time will be represented in the project as a video of a magnifying glass passing over the original documents, highlighting not only the specific words being translated, but also the passages that were already redacted in the original or omitted by the translator. The video presented in Sharjah will have an additional layer of Arabic subtitles prepared specifically by a translator who worked for the US military either in the UAE or Iraq.

Chitra Ganesh is a Brooklyn-based visual artist. She has been collaborating with Mariam Ghani on Index of the Disappeared since 2004.

The Trespassers
Transcripts

Speculations

*All human evil comes from a single cause:
man's inability to sit quietly in a room.*
(Pascal)

Q: So, how did you end up in Afghanistan?

A: Well, we went to Pakistan for my friend's wedding, like ...

Q: OK ...

A: And then we thought we might as well cross the border and see what was going on over there, y'know?

Q: And what happened next?

Q: So, how did you end up in Afghanistan?

A: Well, I joined up right after 9/11, you know ...

Q: Right ...

A: And the next thing I knew, we were deploying to Bagram.

Q: And what happened next?

Q: So, how did you end up in Afghanistan?

A: Well, we'd been talking about going back ever since I was a kid ...

Q: Naturally ...

A: And when I got a chance to go, it didn't seem to matter so much how I went, you see.

Q: And the money?

A: Right. That played a part as well.

Q: So was it everything you hoped it would be?

A: I don't know how to answer that question.

Q: Why not?

A: I don't remember what I was looking for.

The Battle Lab

Major General Dunlavey and later Major General Miller referred to GTMO as a "Battle Lab" meaning that interrogations and other procedures there were to some degree experimental, and their lessons would benefit DOD in other places. While this was logical in terms of learning lessons, I personally objected to the implied philosophy that interrogators should experiment with untested methods, particularly those in which they were not trained.

Frankly, the 1992 version of Field Manual 34-52 had a problem with it. It was 18 years old and it was how things were done for POWs. We had world-class prisoners, not Enemy Prisoners of War (EPWs) or POWs. When we got them they had already been detained for five months and had their stories already down.

We had not fought a real war since Vietnam. Except for DHS, our interrogators were virtually inexperienced. It was an on the job training situation at GTMO.

Joint Task Force 170 had authorizations for a psychiatrist, a psychologist and a psychiatric technician on its duty roster, but no one had been deployed to fill those positions. Nobody really knew what we were supposed to do for the unit, but at least the duty roster had its positions filled.

The Secretary of Defense said he wanted a product and he wanted intelligence now. He told me what he wanted, not how to do it.

This is my opinion. Even though they were giving information and some of it was useful, while we were there a large part of the time we were focused on trying to establish a link between Al Qaeda and Iraq and we were not being successful in establishing that link. The more frustrated people got in not being able to establish the link, there was more and more pressure to resort to measures that might produce immediate results.

Harsh techniques used on our service members have worked and will work on some, what about those?

Force is risky, and may be ineffective due to the detainees' frame of reference. They are used to seeing much more barbaric treatment.

Agreed.

Psychological stressors are extremely effective (for example sleep deprivation, withholding food, isolation, loss of time)

We can't do sleep deprivation

Yes, we can - with approval.

* Disrupting the normal camp operations is vital. We need to create an environment of "controlled chaos."

Lieutenant Colonel Beaver: We may need to curb the harsher operations while ICRC is around. It is better not to expose them to any controversial techniques. We must have the support of the DOD.

Becker: We have had many reports from Bagram about sleep deprivation being used.

LTC Beaver: True, but officially it is not happening. It is not being reported officially. The ICRC is a serious concern. They will be in and out, scrutinizing our operations, unless they

are displeased and decide to protest and leave. This would draw a lot of negative attention. Fredman: The DOJ has provided much guidance on this issue. The CIA is not held to the same rules as the military. In the past when the ICRC has made a big deal about certain detainees, the DOD has "moved" them away from the attention of the ICRC. Upon questioning from the ICRC about their whereabouts, the DOD's response has repeatedly been that the detainee merited no status under the Geneva Convention. The CIA has employed aggressive techniques on less than a handful of suspects since 9/11. Under the Torture Convention, torture has been prohibited by international law, but the language of the statutes is written vaguely. Severe mental and physical pain is prohibited. The mental part is explained as poorly as the physical. Severe physical pain described as anything causing permanent damage to major organs or body parts. Mental torture described as anything leading to permanent, profound damage to the senses or personality. It is basically subject to perception. If the detainee dies you're doing it wrong. So far, the techniques we have addressed have not proven to produce these types of results, which in a way challenges what the BSCT paper says about not being able to prove whether these techniques will lead to permanent damage. True, but officially it is not happening. It is not being reported officially. The ICRC is a serious concern. They will be in and out, scrutinizing our operations, unless they are displeased and decide to protest and leave. This would draw a lot of negative attention.

LTC Beaver: We will need documentation to protect us

Fredman: Yes, if someone dies while aggressive techniques are being used, regardless of cause of death, the backlash of attention would be extremely detrimental. Everything must be approved and documented.

Fredman: The Torture Convention prohibits torture and cruel, inhumane and degrading treatment. The US did not sign up on the second part, because of the 8th amendment (cruel and unusual punishment), but we did sign the part about torture. This gives us more license to use more controversial techniques.

LTC Beaver: Does SERE employ the "wet towel" technique?

Fredman: If a well-trained individual is used to perform [sic] this technique it can feel like you're drowning. The lymphatic system will react as if you're suffocating, but your body will not cease to function. It is very effective to identify phobias and use them (ie, insects, snakes, claustrophobia). The level of resistance is directly related to person's experience.

Major Burney: Whether or not significant stress occurs lies in the eye of the beholder. The burden of proof is the big issue. It is very difficult to disprove someone else's PTSD.

Sam – This looks like the kind of stuff Congressional hearings are made of. Quotes from LTC Beaver regarding things that are not being reported give the appearance of impropriety. Other comments like "It is basically subject to perception. If the detainee dies you're doing it wrong" and "Any of the techniques that lie on the harshest end of the spectrum must be performed by a highly trained individual. Medical personnel should be present to treat any possible accidents" seem to stretch beyond the bounds of legal propriety. Talk of "wet towel treatment" which results in the lymphatic gland reacting as if you are suffocating, would, in my opinion, shock the conscience of any legal body looking at using the results of the interrogations, or possibly even the interrogators. Someone needs to be considering how history will look back at this.

The Commander of US SOUTHCOM has forwarded a request by the Commander of Joint Task Force 170 (now JTF-GTMO) for approval of counter-resistance techniques to aid in

the interrogation of detainees at Guantanamo Bay. The request contains three categories of counter-resistance techniques, with the first category the least aggressive and the third category the most aggressive. I have discussed this with the Deputy Secretary of Defense, Doug Feith, and General Myers, and I believe all join in the recommendation that, as a matter of policy, you authorize the commander of SOUTHCOM to employ, in his discretion, only Categories I and II and the fourth technique listed in Category III (use of mild, non-injurious physical contact, such as grabbing, poking in the chest with a finger, and light pushing). Approved – however, I stand for 8-10 hours a day; why is standing limited to 4 hours? Signed Donald Rumsfeld, December 2nd, 2002

Following the Secretary's December 2nd, 2002 authorization, senior staff at GTMO began drafting a standard operating procedure (SOP) specifically for the use of SERE procedures in interrogations. The draft SOP itself stated that, "the premise behind this is that the interrogation tactics used at US military SERE schools are appropriate for use in real-world interrogations. These tactics and techniques are used at SERE school to 'break' SERE detainees. The same tactics and techniques can be used to break real detainees during interrogations."

I believe the techniques and tactics that we use in training have applicability. What I am wrestling with is the implications of using these tactics as it relates to current legal constraints, the totally different motivations of the detainees, and the lack of direction of senior leadership within the [U.S. Government] on how to uniformly treat detainees. The handling of [Designated Unlawful Combatants] is a screwed up mess and everyone is scrambling to unscrew the mess.

Pretty much everyone involved in counter-terrorism issues at the Department of Justice (DoJ), including the senior leadership of the department, was aware of concerns about the effectiveness of Department of Defense (DoD) interrogations. Nahmias said that concern about ineffectiveness generally, as well as concerns about ineffective interrogations of specific detainees, "were a repeated issue during my entire time at Justice."

Many of the interviewers were young and inexperienced and yelled and screamed at the detainees but had no knowledge of Al Qaeda. Any concerns we, as the FBI, raised were dismissed because the military needed intelligence immediately. We were also told in no uncertain terms we were not in charge and the military were running the show.

Although very enthusiastic, DHS interrogators appear to have limited experience in any kind of interview approach which emphasizes patience or being friendly over a long period of time. They appear to be highly susceptible to pressure to get quick results, and this pressure will be reflected in that they improvise plans as they go along.

The reliability of their techniques is questionable. Worse, there appears to be no one on the DHS side who seems concerned about this. They are quick to dismiss any approach that extends beyond their experience or imagination.

Their embracement [sic] of a fear-based approach is consistent with the military environment in which they operate but may not be conducive to the long-term goal of obtaining reliable intelligence.

Hello from GTMO,

As of 10/8/2002 @1800 hours, DHS will discontinue their current efforts regarding prisoner #63 [Mohamed al-Qahtani]. Besides the sleep deprivation they utilized loud music, bright lights, and "body placement discomfort," all with negative results. They asked X and I to participate in an "after action" on this phase which we will probably do. At present the plan is for DHS to initiate their Phase II on #63 sometime this weekend. The detainee is down to around 100 pounds, but is still as fervent as ever. That's it for now, more to follow.

Phase II: The military would place a government translator with al-Qahtani. The translator would act and be treated like a detainee, and he would engage al-Qahtani in conversation, and ask targeted questions to extract the sought-after information.

Phase III: The plan referred to Level III techniques, apparently a reference to the techniques listed in the October 2002 memorandum in which MG Dunleavy requested that the commander of SOUTHCOM approve 19 counter-resistance techniques not specifically listed in Field Manual 34-52. SERE and other counter-interrogation resistance training techniques would be employed.

Phase IV: Al-Qahtani would be sent off-island, either temporarily or permanently, to Jordan, Egypt or another third country to allow those countries to employ interrogation techniques that will enable them to obtain the requisite information.

After X left, he heard that #63 ended up in hospital.

I occasionally saw sleep deprivation interviews with strobe lights, and two different kinds of loud music. I asked one of the interrogators what they were doing. They said it would take approximately four days to break someone doing an interrogation, sixteen hours on with the lights and music, and four hours off.

On one occasion the air conditioning had been turned down so far and the temperature was so cold in the room that the barefooted detainee was shaking with cold. When I asked the MPs what was going on, I was told that interrogators from the day prior had ordered this treatment, and the detainee was not to be moved. On another occasion, the AC had been turned off, making the temperature in the unheated room probably well over 100 degrees. The detainee was almost unconscious on the floor with a pile of hair next to him. He had apparently been literally pulling his own hair out throughout the night.

There were two interrogators in the room with the detainee. A asked B if the detainee had been spitting at the interrogators or exhibiting belligerent behavior towards them. B replied no, then told A that the detainee's head had been duct taped because he would not stop quoting the Koran.

If you think this is tough, you should see what's happening in Afghanistan.

Death in Bagram

Pursuant to a lease agreement executed by the US and Afghan governments, Afghanistan ceded exclusive use and control of Bagram Airbase to the United States. The lease grants the United States exclusive use, exclusive control, and exclusive, peaceable, undisturbed and uninterrupted possession of all facilities and land at Bagram Airfield, without cost and without interference by the Afghan government. The lease continues in effect in perpetuity unless and until the United States determines unilaterally that it no longer requires use of the base. US civil and military personnel at Bagram are subject only to US jurisdiction. Bagram prisoners have no access to Afghan courts and cannot claim or assert protections under Afghan law.

The following is the SECDEF (Secretary of Defense) criteria for detention.

CENTCOM should, as necessary, obtain control over the following enemy combatants:

All Al Qaeda personnel;

All Taliban leaders, Afghan and non-Afghan;

Non-Afghan Taliban personnel, including named individuals as identified by the intelligence community, anyone with special skills or education, such as those known as professor or engineer, and anyone who speaks a Western language;

Any others whom screeners think may pose a threat to US interests, may have intelligence value, or may be of law enforcement interest.

Although SECDEF criteria for detention are generally known and understood, the approach to detaining personnel differs substantially across the theater. In some areas, few persons are detained unless there is a specific pre-existing justification or a threat to the force present. In other locations, cordon and search operations yield large numbers of detainees without apparent application of specific criteria. There is an inverse correlation between the length of time a unit has been in theater and the number of individuals it detains.

Inconsistent and unevenly applied standards in the detention and interrogation process increase the possibility of the abuse of detainees, especially forward in the battle area. Ironically, that same weakness in standards degrades the intelligence collection process with negative effects growing the further a detainee moves through the system.

On December 4th, 2002, a PUC (Person Under Control) died at the Bagram Collection Point (BCP). Six days later, on December 10th, a second PUC died at the BCP. The patterns of detainee abuse in these two incidents share some similarities.

Habibullah was very stubborn and gave smart responses. Once they asked him if he wanted to spend the rest of his life in cuffs. His response was "yes, don't they look good on me?" He was very sick, clearing his throat and coughing up phlegm constantly. He was a pretty young man.

X wanted to put him in the safety position of kneeling for the interrogations. But Habibullah could not kneel. He told me about the pain in his legs and ultimately, he sat on the floor because his right leg would not bend at the knee. His right foot was swollen up too. He limped into the interrogation room. After about 90 to 120 minutes, we got nothing out of him, and the interview was going nowhere. X called for the MPs and they came in, put him back on his feet, and took him back to his cell. The MPs were so big and strong, I

really couldn't tell if he was walking or being carried. There was one MP on each side and they moved him quickly. They took him back to isolation. Because of his position that was where he was being kept.

Q: What did Habibullah tell you happened to his leg?

A: He never said. He complained it hurt, but did not say why or how. We all thought he was exaggerating his cough because it would conveniently get worse when we asked serious questions. But he was sick. He was coughing up nasty stuff and spitting it into the cup.

Q: When detainees were sick or injured and told this to you, what were the responsibilities of interrogators, once you translated these complaints?

A: If they were happy with the detainee's answers, they would say OK, I'll see what I can do for you. If they didn't like the answers they got, or did not like the detainee's behavior, they would do nothing and just ignore their complaints.

Q: Did X tell the MPs about Habibullah's medical complaints, his legs and his cough?

A: I don't remember.

The interpreter told me that this product, resembling snuff, called *niswa*, when discontinued caused the kind of reaction we were seeing – coughing, phlegm. I felt like I was getting an insider's perspective on a cultural thing and that was why it never alarmed me that he had any type of serious medical condition.

Sergeant X and Specialist Y went back in with me to try to get Habibullah to eat. One of us took his hood off and X was holding the fruit up in front of him and he had no reaction. His eyes were almost completely open, he was kind of staring off. His head was tilted, so that he was looking in my direction, and I took it as a taunt. One of the other NCOs put an apple in his hand. He wouldn't even hold onto it. Finally, I looked at X and Y and made the comment, out of frustration, that "This guy's a fuckin' idiot." When I turned back toward him, spit hit me right in the chest. I looked down and I was in shock. I honestly thought he spit, but I'm not sure if he spit at me. I was pissed. Later, X told me that I kned him, but I honestly don't recall doing it. I just snapped. I was so angry and I literally saw red. Y grabbed him by the shirt, pulled him forward and yelled at him. I remember backing away from him and I said something like "Don't ever spit on me again." I then delivered a common pronial strike with my knee, maybe a couple of times. I guess I hit him pretty hard with my right knee in his right thigh. X's eyes were wide and he and Y were both shocked. I am known as the calmest and easiest of the guards. The other guys often kidded me about being too easy on the detainees. They thought I was soft, maybe even weak. I probably hit him harder than I should have. A few minutes, maybe ten minutes later, the sergeant of the guard, Staff Sergeant (SSG) Z, came in with an apple and an orange. He wanted to discuss the incident with me and try to get the detainee to eat. I told him we were trying to get the detainee to eat and he spit on me, but I didn't tell him about my common pronial strikes. He told me, "We have to get him to eat." We tried to get Habibullah's attention from the door, while waiting for a third person, by banging on the door. I had a gut feeling that something was wrong with him medically, but I told SSG Z that he was probably faking. We got no response from him. He was slumped forward, pretty much dead weight. We took his hood off and undid the chains from the ceiling and eased him to the ground. We talked about what to do and nudged at his foot with our boots, me and SSG Z, checking for a response. I reached down and felt for a pulse and I got nothing. X ran around the corner to the medical room and got a blood pressure cuff and the stethoscope. A couple of times I

thought maybe I felt a weak pulse but there was nothing. SSG Z said, "Don't even joke with me." We sent for the medic and Z sent for the stethoscope and BP cuff at around the same time. The medic refused to get out of bed. We sent the runner back a second time and the medic said, "If he's unconscious it's beyond me. You'd better call the hospital." By now it's been probably 30 minute since we first walked in the cell and he had no pulse.

Q: The blood pressure readings you cited in earlier statements, where did they come from?

A: The first one I thought I heard. Looking back now, I was in denial that the detainee was dead. I probably heard my own heart racing.

Q: Do you know anyone who delivered blows to Habibullah besides the knee blows you gave him?

A: Yes. After the deployment was pretty much over, when everyone else went home, I went with a small group of soldiers, Specialist (SPC) A, SPC B, SPC C and myself, to Qatar. We were supposed to be putting our equipment and vehicles on the boat to come home. One night we were sitting around playing cards, and it came up again, the death. I walked away. I just can't talk about it. But A made the comment, "It was really weird, because when you relieved me that day, we had a lot of problems with him and had to adjust his cuffs a bunch, I must have given him (the detainee, Habibullah) at least 50 common pronial strikes that day, and he deserved every one of them."

Q: Have you heard people around the unit refer to you as the "Knee of Death"?

A: Yes, they refer to me by so many things associated with the death, "Grim Reaper" among them. Our commander has asked us to come up with a new company motto. Ours is "Tigers is the Tower." A lot of people want us to use "Death by Knee." Pretty much everyone who thinks the deaths were a joke. I must have heard it from fifty guys in the unit.

Q: After the first death, did the practice of delivering common peronial strikes change?

A: They told us we had to log it. They did not ask that it be discontinued.

I had no contact that I can recall with the other detainee that died, the one CID has told me was named Ullah and was designated PUC 412. I did have contact with detainee Dilawar, PUC 421, on at least two occasions when I served as the interpreter for his interrogation by military intelligence personnel. The lead interrogator was Specialist X, and at least once he was accompanied by Sergeant Y. I recall this session specifically because of what Y did to Dilawar. At the beginning of this session, X was going slow, and Y was always very aggressive. He always wanted to lead. Dilawar was in trouble with Y quickly. Y had a rule that the detainee had to look at him, not me. He gave him three chances, and then he grabbed him by the shirtfront and pulled him toward him, across the table, slamming his chest into the tablefront. This caused Dilawar to stand up. It only happened once, during this session, because Dilawar was very weak and compliant, but very quiet. With other detainees, Y did this repeatedly. When Dilawar first came into the interview, he said he was too weak and was unable to talk. He also said that his wife had died. Initially, none of us believed Dilawar's wife had died. We all thought it was a clever attempt to avoid interrogation. Dilawar complained that his hands and feet were numb, and he kept asking for water. I observed uncontrollable shaking, bouncing of his legs while he was seated. I believe he also said he was "beaten up" but we didn't pursue that. Y went and got a small water bottle. I observed him poke a hole in the bottle near the bottom. He gave the bottle to DILAWAR. DILAWAR could not open the bottle top, he was too weak. While DILAWAR tried to open the bottle, water was draining out of the hole in the bottom and onto DILAWAR's clothing. Y changed tactics. He turned the bottle over, so the hole was at

the top, and squeezed water into DILAWAR's mouth. He pressed the bottom of the bottle against DILAWAR's lips. This effectively gagged DILAWAR by forcing a large volume of water into his mouth and nose rapidly. Water spilled out of his mouth, down the front of his clothes and he spit it back out. Y squeezed the bottle repeatedly, saying "Come on, drink. Drink! You were asking for water." When he removed the water, Dilawar was finally able to breathe and he spit the water out. Y yelled "What are you spitting at me?" DILAWAR told me he was not spitting at Y, it was not intentional, he could not breathe. I told this to Y. At this point DILAWAR was standing up and Y told DILAWAR to get on his knees and DILAWAR said he could not. He said he was "too weak." He would be happy to, but he couldn't, he was too weak. Y then told the Military Police (MP) to put DILAWAR on his knees, which the MP did by kneeling DILAWAR either in the back or the back of the leg. They summoned two MPs to return him to his cell. DILAWAR left under his own power, on his feet, but he was limping. I think Military Intelligence (MI) asked the MPs to keep him standing, not all the time.

Q: Did anyone relay the information about DILAWAR's leg and hand numbness to medical authorities?

A: No.

I served as the interpreter on one occasion, that I recall, during a session with PUC 421 (whom I have been told by CID was named Dilawar.) DILAWAR was a suspect in a rocket attack on Americans. He denied this completely. He was a skinny guy, about 5'7" and weighed about 110-115 lbs. He was a pretty small guy. He was also a young guy, maybe in his late 20s. About 10 minutes into the interview, X had me instruct him to get on his knees. To effect this, he had to get himself out of the chair with his feet and hands cuffed and kneel in front of the chair. She had me tell him to raise his cuffed hands over his head and then there. DILAWAR's arms got tired and he'd drop them so X (who was standing behind him) would pull his hands back up from behind or would hit his hands as he dropped them forward to get them back in the air. DILAWAR complained that he could not hold his hands up and that he couldn't do it anymore. This went on for five to ten minutes. X berated him for being weak and questioned him about being a man, which was very insulting because of his heritage and she was trying to goad him into a reaction. He did not get angry, he simply kept complaining about the discomfort. This is the strongest reaction an Afghan man would have to pain, they do not cry and would especially not do this in front of a woman. After that, maybe twenty minutes into the interview, told me to instruct DILAWAR over to the wall. She then told me to have DILAWAR sit along the wall, but not on the floor. The position was like sitting along the wall with no chair under you. Dilawar also told me this hurt him and he could not do it. Several times he moved, so X and Y picked him up and shoved him back into the wall. This happened multiple times. During this time, he continued to tell me that his legs hurt and that he could not do this. X and Y grabbed him by his shirt (front), dragged him to his feet and shoved him back against the wall, sliding him back into seated position. DILAWAR slid down the wall and onto the floor and Y picked him up and repeated this for about another ten minutes. Once Y shoved him hard into the wall and X warned him "Be careful" and "not hit him too hard". She mentioned he was small and not to be so rough, that it wasn't allowed. This went on for ten or fifteen minutes. He was so tired he couldn't get up. She'd tell him not to talk, but DILAWAR was not that type of guy. He kept complaining and she was yelling at him in English. He didn't understand English and she spoke no Pashtun. At that point, I wasn't doing much, they weren't using me. DILAWAR was trying to talk with me, asking for help.

X was telling him "Don't look at him, he can't help you, he's with us, he won't help you." I translated this and I explained that they were doing this because he was being uncooperative. They stood him up and at one point X stepped on his bare foot with her boot and grabbed him by his beard and pulled him towards her. At one point, DILAWAR was on his knees, his hands were cuffed and raised in front of his chest and grabbed him by his beard and pulled him tightly towards chest. Once X kicked DILAWAR in the groin (private areas) with her right foot. She was standing some distance from him and she stepped back and kicked him. His hands were cuffed, he was standing and she must not have made full contact. He did groan and grab himself, but he did not fall down. In my experience a full contact blow or kick in that area causes you to fall down or to your knees.

Q: At what point was the interview over?

A: About ten minutes after it started, they didn't ask any more questions. About the first ten minutes (I think) they were actually questioning him, after that it was pushing, shoving, kicking and shouting at him. There was no interrogation going on. They weren't questioning him. They were roughing him up. Y went to get the MPs and when they came in, they picked him up from the floor and put the hood back on him and dragged him out of the door back to his cell. X told them to put him in a standing position with his hands overhead until the next shift came on.

Q: Did X understand any Pashtun?

A: I'm sure she knew a little, but not enough to be helpful.

Q: Could she tell that DILAWAR was complaining about pain and tiredness?

A: I told her what DILAWAR was saying. Some things don't need words, the tone of voice and body language tell you that a person is in pain or can't comply anymore. I think they knew what effect their actions were having on him.

Q: When you were hired was the subject of what was acceptable for interrogators to do with detainees discussed?

A: No, we were supposed to support the American Army in Operation Enduring Freedom and do as they asked us to.

From the beginning, they were asking if they were allowed to put the detainees into safety positions, or utilize sleep deprivation. I can tell you that up until the deaths of the two detainees, we never got a clear-cut answer from the Staff Judge Advocate as to what could or could not be done. Our guidance was "Just don't violate the Geneva Convention. Look at these Powerpoint slides."

Q: How often were safety positions or stress positions used during interrogations?

A: Often, I would say daily. I would say that not by every interrogator on a daily basis, but at least one of us used them each day.

Q: Do you know if Y was referred to as the "King of Torture"?

A: Yes, the two incidents that I saw would lead me to think that he was doing things to the detainees that he was not supposed to be doing. Staff Sergeant W knew about it, and even referred to Y as the "King of Torture."

What most people don't realize is that there was very little in the form of structure and rules for dealing with this type of detainee. There was the Geneva Convention for Enemy Prisoners of War, but nothing for terrorists. It was an interesting balancing act. We sometimes developed a rapport with detainees and Staff Sergeant W would sit us down

and remind us these were evil people, and talk about 9/11, and how they weren't our friends and could not be trusted.

Q: Did any of the other MPs appear to dislike the detainees?

A: I would say the entire unit. When we arrived we were still thinking about September 11th. We didn't know if the detainees were innocent or guilty. We did know when the detainees who came into the facility were "top dogs" or not. We knew the second detainee was a "top dog" because of the briefings provided by Sergeant First Class X.

At that point, most of us were convinced that the detainee was innocent. I believe my questioning plan for the interrogation may have been about the environment in Khost itself, and not about the rocket attack.

Q: In your earlier statement, you indicated that you talked with Dilawar, PUC 421, when he was placed in standing restraint, the day before his death. What did you observe and what communication did you have with him or his guards?

A: DILAWAR was on sleep deprivation. The MPs were ordered by SSG W and/or CPT V not to let him sleep and he was chained in a standing position in an isolation cell as part of that. The MI leadership had to approve and direct sleep deprivation. I heard he had been there all night by the time I talked with him, at midday the next day. All day long, the MPs used different interpreters to tell him "only one more hour." If I had known he was standing all that time, I would have protested. When I spoke with him, he barely had the energy to talk. I told him "Look, please if you want to be able to sit down and be released from shackles, you just need to be quiet for one more hour". He told me that if he was in shackles another hour he would die. I told him nothing bad would happen to him if he did as he was asked and he agreed to. Of course at the time, I had no idea he had been restrained and kept awake all that time. The next day I heard he had died. He kept telling me he needed to see a doctor and he needed a shot. I told the MP (whom I can't recall or identify) that he was asking for a doctor. The MP walked over to DILAWAR, took DILAWAR's hand and pressed down on the detainee's nailbed. He then looked back at me and pronounced the detainee's vital signs were fine and that he was just trying to get out of the restraints.

Q: Why was DILAWAR in standing restraint?

A: Sleep deprivation.

If a detainee spilled his guts during the initial interview, he could go straight to general population. But 99% of the time, they went on to sleep deprivation. This was to disorient them and make them more susceptible to interrogations. MI decided how much sleep a detainee got, and it depended on the detainee's level of cooperation. The decision to direct a course of sleep deprivation was reached collectively by the interrogators. Then the head MI guy, SSG W, would tell the MPs to keep the detainee awake. Sleep deprivation was an MI decision. The MPs just did what they were told by MI. I think W would tell the MP Sergeant of the Guard and then the MPs would be responsible for keeping the MPs awake.

Q: How were the MPs supposed to keep the detainee awake?

A: Sometimes loud music, banging on cells, and sometimes they would chain them to the ceiling standing up. I have heard that after six days with no sleep, anyone will talk. It was considered the best tactic, but that was how the other detainee died.

Q: How many times at the most did you strike Dilawar, PUC 421, and under what circumstances?

A: Somewhere in the area of 37 times, less than 40 for sure. There was one time, which I did not remember before, where I told Dilawar "That's it," implying I was fed up with him, and I said I was going to give him 15 common peronial strikes in each leg. Then I delivered the blows. When I recounted the story later, that is the way I told it. I told people that I had to switch knees because my leg got tired. I'm not absolutely certain that I delivered 30 strikes at that time. That was the number I said but it may have been a few more or less than that. There were also another 5 to 7 times I struck him, with knee strikes, during times when he was being non-compliant.

Q: Where did the 30 knee strikes occur?

A: Dllawar was restrained in the isolation cell, on the top floor, in the first cell on the left. I can't recall the number of the cell.

Q: How was Dilawar restrained at the time you delivered the 30 blows?

A: He was chained to the ceiling. His hands were either together over his head or out to his side. He was wearing a set of short handcuffs and there was a long leg iron connecting him to the Hesco wire ceiling. I can't recall the configuration of his restraints, only that he was restrained in one of the two ways I have described. His legs would have been shackled together with a set of leg irons at the ankles. His feet would have been touching the floor.

Q: How was Dilawar being non-compliant? What behavior was Dilawar engaged in that provoked such a response from you?

A: Not putting his hood back on, mule-kicking the door, pulling his hood off.

Q: Did your knee become sore from delivering blows to Dilawar?

A: No, not really, but when I told the story I remember exaggerating and saying I hit him so much and so hard that my knee got sore. I don't know if I actually kneed him 30 times.

Q: Why can't you clearly recall the circumstances of the times you delivered blows to Habibullah and Dilawar?

A: They were not the only PUCs I delivered blows to. I did it to a lot of other PUCs who did not die. It happened a lot. It was standard practice to pop someone who did not comply. These two guys died, but I probably kneed 20 or more PUCs total, and I just can't differentiate between the rest of the PUCs and the ones that died. Each time I entered a cell, other guys were with me, but who was with me for each specific incident, I just don't know, there were too many.

Q: Did you know that striking a PUC who was restrained and no threat to you was wrong?

A: Yes.

Q: If you knew it was wrong, why did you do it?

A: It was morally wrong, but it was SOP (standard operating practice). Really it wasn't a written down SOP, but it was standard practice and it was what was routinely done. So I just went along with what everyone else was doing.

Q: Did anyone in leadership deliver, or know about the practice of delivering, common peronial knee strikes?

A: Yes. All of them knew.

I cannot recall exactly who, but they showed us additional techniques which they said were used by police agencies for people who would not comply with what they were told, or were resistant. One of these techniques was the common peronial strike. That is when

you use your knee and strike the outside thigh of an individual. The blow is designed to strike a nerve in the leg, which causes the leg to collapse, giving you the opportunity to subdue the individual. I knew when the instruction was given that it was not what I was taught at MP school in 1993. The use of the strikes was not ordered by anyone within the company, but was provided so that we would have more options if our formal training did not work for some reason. One of my team members, Specialist A, was employed as a civilian police officer. He told me that he would not use the peronial strike, as it would "tear up" the legs of the individual you struck.

Q: How did the detainee react to the common peronial strike?

A: He screamed out "Allah, Allah, Allah," and my first reaction was that he was crying out to his God. Everybody heard him cry out and thought it was funny. X and Y were there when this happened and they thought it was funny too. It became a kind of running joke, and people kept showing up to give this detainee a common peronial strike just to hear him scream out "Allah." I know A, B, and the majority of first platoon came by and gave him a common peronial strike just to hear him cry out, because it was funny. When shift change came about, second platoon heard about it, and things went downhill from there. I am pretty sure nearly all of second platoon did it too. And I know third platoon did it too. On the next day, X, Y and I went to the detainee's cell because he was making some noise. I opened up the cell, and X and Y went into the cell, and each gave him one common peronial strike and he cried out "Allah, Allah" again. I stood by the cell when it happened. We then left.

Q: How many strikes do you believe the detainee received in all?

A: I don't even know. It went on over a 24 hour period, and I should think it was over 100 strikes.

Q: Are you saying that every platoon in your company gave common peronial strikes to this detainee to hear him scream out "Allah"?

A: Yes.

Q: Was the second detainee that died always restrained when the common peronial strikes were given?

A: Yes.

Q: How do you know the second detainee that died was struck for fun and not because of some type of bad behavior?

A: Because everyone was talking about wanting to hear him cry out "Allah, Allah, Allah."

Q: Who else would know about the strikes besides you?

A: Everyone in the unit knew about it.

Q: Are you sure Sergeant First Class (SFC) Z knew about the strikes?

A: He was aware of what was going on and nipped it in the bud. That's when he gave us the order to stop giving peronial strikes to anybody.

Q: What exactly did you tell SFC Z about what was going on?

A: I think I told SFC Z that the detainee (that later died)'s leg was looking bad. His pants would fall down sometimes when he was in standing restraints. The first time that I saw him I noticed he had a bruise on one of his thighs. Over time I noticed it was getting bigger and he was beginning to put his weight on one leg. I assumed Z already knew about the bruise getting bigger from the common peronial strikes, because he seemed to know everything about what was going on in there. I don't recall what I told him about people giving the detainees common peronial strikes.

Q: Did you tell anyone else about the bruising?

A: I told a field medic, I have no idea who he was, about the bruising when he came by for his once-a-day medical check. He checked it out and said it was okay.

We used to hear him yelling and screaming. Then one day I heard the MPs talking on the radio, and they said this man's number, 421, had died. A couple days later I asked an MP (G-6) what happened and he told me a detainee died. He said he had a heart attack. After this event, all the hitting, things started to change. The food was better, no hanging from chains, the punishment was not as severe. If we were caught talking, they made us stand up with our hands in the air.

Q: Do you think the death of either of those detainees was deliberate?

A: I think that someone was irresponsible. I don't think that anyone meant to kill them, just that their tactics were overused. I think that the PUCs were not cared for enough and that both the MPs and medical staff did not observe their medical conditions well enough.

Q: How do you feel about the deaths of the two detainees?

A: I am not surprised at all. I think the culture, the nation, the company, the Army breed the mentality that allowed it to happen.

The Winds of War

On January 24th, 2003, 9 days after Secretary Rumsfeld rescinded authority for the techniques at GTMO, the Staff Judge Advocate for Combined Joint Task Force 180 (CJTF-180), Central Command's conventional forces in Afghanistan, produced an interrogation techniques memo. While that memo remains classified, unclassified portions of a report by Major General George Fay stated that the memo "recommended removal of clothing - a technique that had been in the Secretary's December 2 authorization" and discussed "exploiting the Arab fear of dogs" another technique approved by the Secretary on December 2, 2002.

From Afghanistan, the techniques made their way to Iraq. According to the Department of Defense (DoD) Inspector General (IG), at the beginning of the Iraq war, special mission unit forces in Iraq "used a January 2003 Standard Operating Procedure (SOP) which had been developed for operations in Afghanistan."

Captain (CPT) Wood stated that interrogators had used sleep deprivation and stress positions in Afghanistan and that she "perceived the Iraq experience to be evolving into the same operational environment as Afghanistan. She said that she used her "best judgment and concluded [the techniques] would be effective tools for interrogations at [Abu Ghraib]." She also said that she later put together a request for additional interrogation options because "the winds of war were changing" and there was "mounting pressure from higher for 'actionable intelligence' from interrogation operations." CPT Wood said that she did not want to repeat her experience in Afghanistan, where interrogators lacked written guidance. "A lot of the interrogators and analysts also served in Guantanamo Bay and Afghanistan where some other techniques were approved for use ... I understood the Afghanistan rules were a little different because the detainees were not classified as EPWs. It was, 'use techniques in the spirit of the Geneva Convention,' not, 'you will apply the Geneva Convention.' In order to use those similar techniques from GTMO and Afghanistan in Iraq, we sought approval from the higher command."

In his report of his investigation into Abu Ghraib, Major General George Fay said that interrogation techniques developed for GTMO became "confused" and were implemented at Abu Ghraib. For example, Major General Fay said that removal of clothing, while not included in CJTF-7's SOP, was "imported" to Abu Ghraib, could be "traced through Afghanistan and GTMO," and contributed to an environment at Abu Ghraib that appeared "to condone depravity and degradation rather than humane treatment of detainees."

On July 26, 2003, CPT Wood submitted a proposed interrogation policy to her chain of command. The proposed policy was based on the interrogation policy in use at the Special Mission Unit (SMU-TF) facility in Iraq. CPT Wood said that she and her staff simply "cleaned up some of the grammar, changed the heading and signature block, and sent it up" to CJTF-7 as a proposed policy for the 519th MI Brigade. Mirroring the SMU-TF policies, CPT Wood's proposed policy included sleep management, "varying comfort positions" (sitting, standing, kneeling, prone), presence of military working dogs, 20-hour interrogations, isolation, and yelling, loud music, and light control. The proposed policy stated that "EPWs that refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind." The prohibition against threats,

insults and exposure to unpleasant or disadvantageous treatment, however, was limited to EPWs and CPT Wood stated that, to her knowledge, there were no EPWs held at Abu Ghraib.

CPT Ponce added:

...The gloves are coming off gentleman regarding these detainees. Colonel Boltz has made it clear that we want these individuals broken. Casualties are mounting and we need to start gathering info to help protect our fellow soldiers from any further attacks.

Today's enemy, particularly those in [Southwest Asia], understand force, not psychological mind games or incentives. I would propose a baseline interrogation technique that at a minimum allows for physical contact resembling that used by SERE schools (This allows open-handed facial slaps from a distance of no more than about two feet and back-handed blows to the midsection from a distance of about 18 inches. Again, this is open-handed.) ...Other techniques would include close confinement quarters, sleep deprivation, white noise, and a litany of harsher fear-up approaches. . . fear of dogs and snakes appear to work nicely. I firmly agree that the gloves need to come off.

Major Nathan Hoepner, the Operations Officer (S-3) of the 501st MI Battalion, took issue with the language in Captain Ponce's email, stating in an email of his own:

As for "the gloves need to come off..." we need to take a deep breath and remember who we are. Those gloves are most definitely NOT based on Cold War or WWII enemies - they are based on clearly established standards of international law to which we are signatories and in part the originators. Those in turn derive from practices commonly accepted as morally correct, the so-called "usages of war." It comes down to standards of right and wrong - something we cannot just put aside when we find it inconvenient, any more than we can declare that we will "take no prisoners" and therefore shoot those who surrender to us simply because we find prisoners inconvenient. "The casualties are mounting..." we have taken casualties in every war we have ever fought - that is part of the very nature of war. We also inflict casualties, generally more than we take. That in no way justifies letting go of our standards. We have NEVER considered our enemies justified in doing such things to us. Casualties are part of war - if you cannot take casualties then you cannot engage in war. Period. BOTTOM LINE: We are American soldiers, heirs of a long tradition of staying on the high ground. We need to stay there.

Meanwhile, in [b(2)]

The capture of senior Al Qa'ida operative Abu Zubaydah on 27 March 2002 presented the Agency with the opportunity to obtain actionable intelligence on future threats to the United States from the most senior Al-Qai'da member in US custody at that time. This accelerated CIA's development of an interrogation program.

Several months earlier, in late 2001, CIA had tasked an independent contractor psychologist, who had experience in the US Air Force's Survival, Evasion, Resistance and Escape (SERE) training program, to research and write a paper on Al-Qa'ida's resistance to interrogation techniques. This psychologist collaborated with a Department of Defense (DoD) psychologist who had [redacted] SERE experience in the US Air Force and DoD to produce the paper, "Recognizing and Developing Countermeasures to Al-Qa'ida Resistance to Interrogation Techniques: A Resistance Training Perspective." Subsequently, the two psychologists developed a list of new and more aggressive EITs [extended interrogation techniques] that they recommended for use in interrogations.

Standard measures (i.e. without physical or substantial psychological pressure)

Shaving

Stripping

Diapering (generally for periods not greater than 72 hours)

Hooding

Isolation

White noise or loud music (at a decibel level that will not damage hearing)

Continuous light or darkness

Uncomfortably cool environment

Restricted diet, including reduced caloric intake (sufficient to maintain general health)

Shackling in upright, sitting or horizontal position

Water Dousing

Sleep deprivation (up to 72 hours)

Enhanced Interrogation Techniques

- The *attention grasp* consists of grasping the detainee with both hands, with one hand on each side of the collar opening, in a controlled and quick motion. In the same motion as the grasp, the detainee is drawn towards the interrogator.
- During the *walling* technique, the detainee is pulled forward and then quickly and firmly pushed into a flexible false wall so that his shoulder blades hit the wall. His head and shoulders are supported with a rolled towel to prevent whiplash.
- The *facial hold* is used to hold the detainee's head immobile. The interrogator places an open palm on either side of the detainee's face and the interrogator's fingertips are kept well away from the detainee's eyes.
- In the *facial or insult slap*, the fingers are slightly spread apart. The interrogator's hand makes contact with the area between the tip of the detainee's chin and the bottom of the corresponding earlobe.
- In *cramped confinement*, the detainee is placed in a confined space, typically a small or large box, which is usually dark. Confinement in the smaller space lasts no more than two hours and in the larger space it can last up to 18 hours.
- *Insects* placed in a confinement box involve placing a harmless insect in the box

- with the detainee.
- During *wall standing*, the detainee may stand about 4 to 5 feet from a wall with his feet spread approximately to his shoulder width. His arms are stretched out in front of him and his fingers rest on the wall to support all of his body weight. The detainee is not allowed to reposition his hands or feet.
 - The application of *stress positions* may include having the detainee sit on the floor with his legs extended straight out in front of him with his arms raised above his head or kneeling on the floor while leaning back at a 45 degree angle.
 - *Sleep deprivation* will not exceed 11 days at a time.
 - The application of the *waterboard* technique involves binding the detainee to a bench with his feet elevated above his head. The detainee's head is immobilized and an interrogator places a cloth over the detainee's mouth and nose while pouring water onto the cloth in a controlled manner. Airflow is restricted for 20 to 40 seconds and the technique produces the sensation of drowning and suffocation.

One of the psychologists/interrogators acknowledged that the Agency's use of the technique differed from that used in SERE training and explained that the Agency's technique is different because it is "for real" and is more poignant and convincing.

Thomas described for the OIG the techniques that he saw the CIA interrogators use on Zubaydah after they took control of the interrogation. [redacted] Thomas said he raised objections to these techniques to the CIA and told the CIA it was "borderline torture." He stated that Zubaydah was responding to the FBI's rapport-based approach before the CIA assumed control over the interrogation, but became uncooperative after being subjected to the CIA's techniques.

As a result, D'Amuro did not think the techniques would be effective in obtaining accurate information. He said what the detainees did not expect was to be treated as human beings. He said the FBI had successfully obtained information through cooperation without the use of "aggressive techniques. D'Amuro said that when an interrogator knows the subject matter, vets the information, and catches an interviewee when he lies, the interrogator can eventually get him to tell the truth. In contrast, if "aggressive" techniques are used long enough, detainees will start saying things they think the interrogator want to hear just to get them to stop.

The Agency lacked adequate linguists or subject matter experts and had little hard knowledge of what particular Al-Qa'ida leaders – who later became detainees – knew. This lack of knowledge led analysts to speculate about what a detainee "should know," vice [sic] information the analyst could objectively demonstrate the detainee did know. [paragraph redacted] When a detainee did not respond to a question posed to him, the assumption at Headquarters was that the detainee was holding back and knew more; consequently, Headquarters recommended resumption of EITs.

EITs require advance approval from Headquarters, as do standard techniques whenever feasible. The field must document the use of both standard techniques and EITs.

In December 2002, [redacted] cable reported that a detainee was left in a cold room, shackled and naked, until he demonstrated cooperation. When asked in February 2003, if

cold was used as an interrogation technique, ___ responded, "not per se." He explained that physical and environmental discomfort was used to encourage the detainees to improve their environment. ___ observed that cold is hard to define. He asked rhetorically, "How cold is cold? How cold is life threatening?"

One officer expressed concern that one day, Agency officers will wind up on some "wanted list" to appear before the World Court for war crimes stemming from activities [redacted]. Another said, "Ten years from now we're going to be sorry we're doing this ... [but] it has to be done."

No decisions on any "endgame" for Agency detainees have been made. Senior Agency officials see this as a policy issue for the US government rather than a CIA issue. Even with CIA initiatives to address the issue with policymakers, some detainees who cannot be prosecuted will likely remain in CIA custody indefinitely.

The Translators

Linguist: Works within a _____. Translates ____ questions and detainees' answers in an accurate and timely manner.

The Army turned to Titan in 2003 to provide linguists to perform translation in exactly the same fashion as military linguists, whose positions they were filling due to the critical shortage. Before the linguists deployed to Iraq, Titan provided a brief orientation, instructing them that, upon assignment to a military unit, they would "fall within th[e] chain of command." Titan further told the linguists that they should raise any problems first with military supervisors and then "work your way up the chain of command." Titan sent its linguists to Fort Benning, Georgia, for a week of military pre-deployment training, which served many of the same purposes as military basic training (or "boot camp"). Upon arriving in Iraq, Titan linguists were assigned to military units by Major John Scott Harris, an Army officer who served as linguist manager for the Coalition Joint Task Force, overseeing the assignment of both military and Titan linguists. The linguists were fully integrated in their units and were required to accompany their units on their missions, including combat missions. Starting in 2003, Titan linguists were assigned to the Abu Ghraib prison.

As each linguist arrived, Chief Warrant Officer Rumminger conducted interrogation indoctrination training, in which he provided instruction as to what was authorized by the Interrogation Rules of Engagement ("IROE") and what was prohibited. At the end of training, each linguist was required to sign two documents: a memorandum of understanding with the unit, and the IROE. In the memorandum of understanding, the linguist agreed to follow military rules and directives while attached to the unit and not to discuss the unit's mission with others; the memorandum of understanding specifically provided that, in the event of a disagreement between the linguist and an interrogator, the interrogation should stop, and the two parties should report immediately to the officer in charge.

After completing training, the Titan linguists were given work assignments by Chief Warrant Officer Rumminger (or by non-commissioned officers ("NCOs") with responsibility for particular interrogation teams). Titan management had no role in the day-to-day supervision, direction or control of its linguists. Titan linguists, like military linguists, were required to reflect, as precisely as possible, the words and manner of the interrogator. There was no difference in how Titan and military linguists were used. Noncompliance with military orders was likely to result in removal from the unit or from the contract.

Titan linguists were also required to report any violation of the law of war to the military "in the first instance" because it was an "operational issue"; in the event that they encountered difficulties, they could turn to their site managers, who would help them to take the issue up the military chain of command.

Q: Did you have an impression regarding what weight was given to the statements of interpreters relative to their allegations of assaults by MI interrogators in interviews?

A: We reviewed it as credible. I put great weight behind it. He had no reason to make it up.

Q: Did the interpreters working with MI ever speak about concerns they had related to interrogation techniques or tactics?

A: They never spoke to the interrogators. They had been instructed to speak directly to Staff Sergeant W if they had any concerns. I don't recall if that ever happened or not. It probably did. We saw interpreters come and work with us for short periods of time and I would guess they did not get along with someone, or did not like something that was being done, so they left.

I felt strongly enough that after this session I went to the MI supervisor, Staff Sergeant W, and told him about it. He told me it was wrong and he would talk to them. But I remember seeing W passing the interrogation room and he saw what was going on. My impression was that W knew and tolerated what they were doing. He told me that they had to be tougher at Bagram than in GTMO. It was his way of justifying the interrogation tactics.

I don't remember the date, but A told me Sergeant X had kicked BT-421 in the genitals during an interrogation. I immediately had X brought to the BCP to talk to her about the allegation. She told me she had not kicked BT-421 in the genitals, but had spread his legs apart with her foot.

Q: Did she ever strike him in his genital area?

A: No.

Q: Was she ever in a position to strike him in his genital area?

A: Yes, when he was on his knees, she would place her foot in between his knees.

Q: Did you ever see her strike him in the groin area while in this position?

A: No.

Q: Is it possible she could have?

A: Yes, but I never saw her.

Q: Could someone else have seen her strike him?

A: If she did, A might have seen her.

Q: Does A seem reliable and truthful to you?

A: No.

Q: Why not?

A: Because he leaves a lot out of what is said when he gets the answer for us.

Q: How do you know that?

A: Because whenever the person says something about the Taliban, he leaves that out of the answer.

Q: How many times have you worked with A?

A: About 4 or 5 times.

Q: How many of those times were with BT-421?

A: Just once.

Q: Do you think A would lie about someone striking BT-421?

A: I don't think he'd have a reason to. He was angry about the stress positions we would use, like putting him on his knees.

Q: What disputes arose between interrogators and interpreters that caused Staff Sergeant W to institute a two-man concept for conducting the interrogations of detained personnel?

A: That was not the only reason he did it. I'm not sure what specifically triggered it. But I

do recall that some interpreters were uncomfortable with yelling, cursing and some of the comments they were expected to translate. The interpreters were disturbed by some of the treatment of their people.

Q: Did interrogations, and treatment of detainees generally, become harsher at any particular time?

A: Yes, if the detainee had been in custody for two weeks and not told you anything, or changed the information he was providing on a regular basis.

We had problems with judging this. Sometimes the interpreters translated answers differently, so it could appear they were lying. There was one time when the man was saying the same thing all week, but the interpreters translated it differently, so it appeared to us he was lying.

Q: Would a detained individual inform yourself or another interpreter if they had been struck or were injured?

A: Most of the detainees were shy from talking with us because we were American or we were working for the Americans. They often would not share their true feelings with us. Some would not answer questions, some would not cooperate, and others would constantly lie to us. I was told by some of the detainees that the Afghan militia had beaten them before they were released to US forces.

In my view, most of the issues termed "non-compliance" of Afghan people arose from the shock of bringing people from rural settings into an urban or city setting. This was different for them and things happened at such a quick pace, they had problems understanding and reacting. The MPs interpreted this as a behavioral issue, when in my view it was simply too much sensory input for them to process. They had never been hooded or goggled. When they were told they would have a number instead of a name, one man even cried. They were especially disturbed by the medical procedures, undressing in front of people, rectal examinations. They were resistant to many procedures because they didn't know what was happening. Many come from villages, and have never been subjected to rigid discipline. They didn't react quickly enough for the MPs. I saw many detainees beaten by the MPs. I've seen MPs beat up detainees, by kicking them with their boots in the legs and stomach for non-compliance. The problem with this is the detainee can't comply, because they have no idea what the MP is saying. They kick detainees while moving them to their cell. Then when the detainee finally gets to their cell, they lay down and pray to God for relief. They then get in trouble for talking (praying) and the MPs come in the cell and kick them some more for talking, which is against the rules.

Q: Regarding other interviews you assisted with, approximately how many interviews did you interpret for during your time at the Bagram Collection Point (BCP)?

A: At the time of the deaths, I had done just a few interviews, I pretty much was brand new. By now, I have done hundreds, sometimes I do as many as three interviews a day. My observation has been that yelling and screaming is less effective than talking rationally with people. I tried to convince some of the Alpha Company interrogators to try something besides yelling and bullying and as they changed tactics they got better results. Most of them slowly switched over.

Q: Did you observe any Alpha Company interrogators touching detainees, during interviews?

A: Yes, some provided comforting touching on the shoulder. Some would shove or shake detainees, at that time, everyone touched detainees. Now, I've been told that MI cannot touch detainees. I don't think Alpha Company knew that.

Q: Did you observe anyone exhibit violent physical or abusive conduct toward detainees?

A: Not a whole lot, a bit of shoving and shaking, but an enormous amount of verbal abuse. Of course, the detainees probably didn't understand what was being said, but there was no mistaking the tone. That comes across even if you don't speak the language. It made me terribly uncomfortable to tell those ugly things to the detainees.

Q: Were there any threats to detainees or their families – that you were asked to translate?

A: Not really, mostly they said ugly things like "who will take care of your family while you are away?" Stuff designed to make them want to go home, but no direct threats.

Q: Being an Afghani, how did it make you feel that two detainees died at BDF?

A: It was shocking. As contract interpreters, we are told to keep our opinions to ourselves. But as an individual, you have to make your own judgement about how much you are willing to accept. I did my part to inform MI supervisors about the actions of X and Y. W talked to them, then Dilawar died, and a lot of things changed, got a little better.

Complicity

Q: Did you know that the threat of imminent death constitutes torture under the Geneva Convention?

A: No sir, not at that time.

Q: Was it possible for you to refuse to translate a threat, if one was made in an interrogation or capture situation?

A: That would depend.

Q: On what exactly?

A: On who was making the threat.

The soldiers told me through an interpreter: "Shut up, don't speak, otherwise we will shoot you here. We are Americans."

Subject: AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade.
Finding: Civilian-16, Translator, Titan employee. A preponderance of evidence supports that Civilian-16 did, or failed to do, the following:

Failed to report detainee abuse.

Failed to report threats against detainees.

Finding: Civilian-17, Interpreter, Titan employee. A preponderance of evidence supports that Civilian 17 did, or failed to do, the following:

Actively participated in detainee abuse.

Failure to report detainee abuse.

Failure to stop detainee abuse.

So you know, some agents have asked what it means that a prisoner is being "abused or mistreated." We have said our intent is for them to report conduct that they know or suspect is beyond the authorization of the person doing the harsh interrogation. While the agent may not know exactly what is permitted, an agent would suspect that pulling out fingernails or sodomizing the detainee is beyond the level of authorization. On the other hand, there is no reason to report on "routine" harsh interrogation techniques that DOD has authorized their employees/contractors to use. [FBI legal counsel Caproni, 2004 email to FBI director Mueller]

Re: Interview/Interrogations

Our people will continue to conduct interview of detainees (PUCs) at secure locations only. If, during the conduct of any interview, events occur that, in the opinion of the FBI agent(s) present, exceed acceptable FBI interview practices, the agent(s) will immediately remove themselves from the scene and will report their concerns to the Afghanistan On-Scene Commander. [rough draft of OGC guidance to FBI field agents, 2004]

What does it mean to "participate" in aggressive interrogation (outside our guidelines) when you are in forward positions. What happens if the army beats the stuffing out of a detainee, gives him to the FBI, he starts talking to the FBI and then the Army wants him back. Have we just "participated" in good cop – bad cop with the Army? How long after Army does its thing do we need to wait to not be viewed as a "participant" in the harsh interrogation. [Caproni email to OGC, October 2004]

FBI is participating (or certainly will be viewed as participating) in aggressive but lawful DOD techniques where FBI agents are [working] with the military interrogators and merely as policy absent themselves from the rough stuff and come back in (minutes, hours or days later) to question the detainee. [OGC reply]

D'Amuro proposed that the FBI be permitted to interview the detainees first, before the CIA would use its "special techniques." D'Amuro said that the FBI recognized that it would have a "taint problem" if the FBI conducted its interviews after the CIA had used the more aggressive techniques. However, no agreement was reached with the CIA at that time.

From November 2004 through April 2005, the attorney drafted several proposals to address the "participation" issue. Ultimately, he proposed a "totality of the circumstances" test, suggesting that an FBI interrogation of a subject that was "distinctly apart in time from an interrogation by non-FBI personnel where methods which could be reasonably interpreted as abusive or inherently coercive were employed" could be found as having occurred in concordance with FBI policy.

According to Jack Goldsmith, Special Council in the Department of Defense (2002-2003) and Assistant Attorney General, Office of Legal Counsel (2003-2004): "never in the history of the United States had lawyers had such extraordinary influence over war policies as they did after 9/11. The lawyers weren't necessarily expert on al Qaeda, or Islamic fundamentalism, or intelligence, or international diplomacy, or even the requirements of national security. But lawyers – especially White House and Justice Department lawyers – seemed to 'own' issues that had profound national security and political and diplomatic consequences.

On 29 July 2003, the DCI and the General Counsel provided a detailed briefing to selected NSC [National Security Council] Principals on CIA's detention and interrogation efforts involving "high value detainees" to include the expanded use of EITs. According to a Memorandum for the Record prepared by the General Counsel following that meeting, the Attorney General confirmed that DoJ approved of the expanded use of various EITs, including multiple applications of the waterboard. The General Counsel said he believes everyone in attendance was aware of exactly what CIA was doing with respect to detention and interrogation, and approved of the effort.

The CIA wanted the Salt Pit to be a "host-nation facility," an Afghan prison with Afghan guards. Its designation as an Afghan facility was intended to give US personnel some insulation from actions taken by Afghan guards inside, a tactic used in secret CIA prisons in other countries, former and current CIA officials said. The CIA, however, paid the entire cost of maintaining the facility, including the electricity, food and salaries for the guards, who were all vetted by agency personnel. The CIA also decided who would be kept inside, including some "high-value targets," al-Qaeda leaders in transit to other, more secure secret CIA prisons. "We financed it, but it was an Afghan deal," one senior intelligence officer said.

During their May 2005 meeting, President Bush and President Karzai expressed a strong desire to return Afghan detainees to Afghanistan as part of the US-Afghanistan Strategic Partnership. According to the New York Times, which has a draft of the 2005 Notes,

Washington has asked Kabul to share intelligence information from the detainees, "utilize all methods appropriate and permissible under Afghan law to surveil or monitor their activities following any release," and "confiscate or deny passports and take measures to prevent each national from traveling outside Afghanistan." As part of the accord, the United States said it would finance the rebuilding of an Afghan prison block and help equip and train an Afghan guard force. Block D in Pul-i-Charkhi is that prison block.

According to defense lawyers, defendants in Block D are predominantly Pushto speakers, and there are no interpreters during trials.

One defense counsel stated that when he questions the validity of the evidence during trial, the prosecutors' standard response is: "Why would the Americans detain him then? The US has nothing against this person unless he's guilty."