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*Central Intelligence Agency
Inspector General*

REPORT OF INVESTIGATION



~~(S//NF)~~ THE RENDITION AND DETENTION OF GERMAN CITIZEN KHALID AL-MASRI

(2004-7601-IG)

16 July 2007

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Inspector General*

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APPENDIX A

*CABLE, D/CTC APPROVAL FOR THE RENDITION OF KHALID AL-MASRI
TO US CUSTODY*

APPENDIX B

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REPORTED CLAIM OF A PRIOR EXPLANATION FOR

CONCURRENCE ON THE KHALID AL-MASRI RENDITION CABLE

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INVESTIGATIONS STAFF****REPORT OF INVESTIGATION****(S//NF) THE RENDITION AND DETENTION OF
GERMAN CITIZEN KHALID AL-MASRI
(2004-7601-IG)**

16 July 2007

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INTRODUCTION

(b)(1) 1. ~~(TS//NF)~~ On 17 September 2001, the President signed a
 (b)(3) NatSecAct Memorandum of Notification (MON) [redacted]

[redacted] One of the key
 weapons in the war on terror was the MON authorization for CIA to
 "undertake operations designed to capture and detain persons who pose
 a continuing, serious threat of violence or death to U.S. persons and
 interests or who are planning terrorist activities."

(b)(1) 2. ~~(S//NF)~~ In May 2004, the CIA Office of Inspector General
 (b)(3) NatSecAct (IG) received information that a naturalized German citizen of

Lebanese descent, Khalid al-Masri, had been rendered from [redacted]

(b)(1) by CIA and detained [redacted] because he was wrongfully

(b)(3) NatSecActieved to be an al-Qa'ida terrorist traveling on a false German
 passport.¹ Based on this allegation, OIG initiated an investigation into
 the circumstances surrounding al-Masri's rendition and detention. In
 late August 2004, the Inspector General (IG) reported this issue to the
 then Acting Director of Central Intelligence (DCI) as a "particularly
 serious problem" within the meaning of Section 17 of the CIA Act.

¹ ~~(S//NF)~~ In a subsequent debriefing session with CIA officers on 11 February 2004, al-Masri
 advised that his full name was Khalid 'Abd al-Razzaq al-Masri. This Report refers to him as
 al-Masri.

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PROCEDURES AND RESOURCES

3. (U//~~FOUO~~) OIG reviewed operational files, CIA cables, memorandums, e-mail messages, photographs, medical reports, and other documents and materials related to the matter under investigation. [] interviews were conducted with current and former employees of CIA, and some employees were interviewed more than once.

SUMMARY (b)(1)

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4. (S//~~NF~~) On []
detained Khalid al-Masri, a German citizen, []

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5. (S//~~NF~~) []

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[] Officers in CIA's CounterTerrorism Center (CTC) were determined to hold on to him, however, and decided almost immediately to render him into US custody.² On [] January 2004, the Agency issued a cable that provided the approval of the

² (U//~~FOUO~~) During this investigation, the name of the Counterterrorist Center was modified to the CounterTerrorism Center (CTC). The Directorate of Operations (DO) became known as the National Clandestine Service (NCS) on 12 October 2005. This Report will use the DO whenever referring to what would now be called NCS.

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(b)(1) Director of CTC to render al-Masri and cited the justification for doing
(b)(3) NatSecAct On [] January 2004, al-Masri was transferred to []
[] where he was held until the end of May 2004.

6. (S//NF) The al-Masri operation was characterized by a number of missteps from the beginning that were compounded by subsequent failures of both legal and management oversight. CIA did not have al-Masri's German passport examined by Agency experts until early March 2004, when it was found to be genuine. By (b)(1)
(b)(3) NatSecAct January 2004, before he was rendered, CIA knew that al-Masri was not [] questioned al-Masri in English, which he spoke only poorly, making the issue of his responses to (b)(1)
(b)(3) NatSecAct questions problematic. []

[] When they subsequently questioned him in [] they quickly concluded that he was not a terrorist. Most importantly, the purported connections to the al-Qa'ida operative in Sudan, which served as the underpinning for the rendition, were tenuous, circumstantial, and produced no further incriminating information. Nonetheless, the two Agency officers primarily involved in al-Masri's rendition justified their commitment to his continued detention, despite the diminishing rationale, by (b)(1)
(b)(3) NatSecAct insisting that they knew he was "bad."

7. (TS/ [] /NF) The Agency's grounds for capturing and detaining al-Masri did not meet the standard specified in the Presidential MON of 17 September 2001. According to the MON, the individual in question "must pose a continuing, serious threat of violence or death to U.S. persons and interests" or must be "planning terrorist activities." The Agency never documented or established grounds for concluding that al-Masri posed such a threat. Furthermore, the language used in the cable of justification did not meet the standard specified by the MON. The cable claimed only that al-Masri might know key information that could lead to the capture of other al-Qa'ida operatives. Virtually all of the Agency lawyers interviewed by OIG for this investigation confirmed that possessing such knowledge would not constitute sufficient grounds for rendition.

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8. (~~S~~//NF) Although [] raised concerns in early February 2004 that al-Masri should be released because there was a lack of compelling intelligence information to detain him, CTC disagreed and al-Masri remained in detention. It was not until mid-March 2004 that CTC determined the Agency did not have sufficient grounds to continue holding al-Masri. Agency officers then struggled for more than two months with the problem of how to return him to Germany. Bureaucratic differences accounted for some of this delay. Another obstacle was the desire on the part of senior Agency managers, from the [] up to the DCI, to accomplish al-Masri's repatriation without notifying or damaging relations with the German Government. In the end, al-Masri was released, and the German Government was notified at the direction of the US National Security Advisor.

9. (~~S~~//NF) As a result of Agency inaction, for over two months after the Agency had determined that there was no justification for his detention, al-Masri continued to be held. Al-Masri was not given any information about the status of his case until the week before he was returned to Germany in late May 2004. During this time, according to the report of an Agency psychologist, al-Masri appeared desperate and depressed and prone to thoughts of suicide. Al-Masri conducted at least one hunger strike during his detention and lost 50 pounds.

10. (~~S~~//NF) OIG's investigation found no evidence that al-Masri was subjected to physical abuse while in CIA custody. The investigation also found that al-Masri's rendition was conducted consistent with Agency protocols. During his confinement in CIA custody, al-Masri was isolated from contact with his family. He was held in a small cell [] with some clothing, bedding, and a bucket for his waste, and provided with adequate medical attention. Al-Masri ended his hunger strike when faced with the possibility of being force-fed.

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11. (~~S~~//~~NF~~) Al-Masri's rendition and prolonged detention logically raises questions about the system the Agency created to conduct and oversee its rendition and detention process. The lack of rigor in justifying action against an individual suspected of terrorist connections; the lack of understanding of the legal requirements of detention and rendition; the lack of guidance provided to officers making critical operational decisions with significant international implications; and the lack of management oversight suggest that a review of the Agency's rendition and detention processes should be undertaken.

12. (~~S~~//~~NF~~) This Report concludes that there was an insufficient basis to render and detain al-Masri and the Agency's prolonged detention of al-Masri was unjustified. His rendition and long detention resulted from a series of breakdowns in tradecraft, process, management, and oversight. CTC and [] failed to take responsible steps to verify al-Masri's identity. ALEC Station exaggerated the nature of the data it possessed linking al-Masri to terrorism.³ After the decision had been made to repatriate al-Masri, implementation was marked by delay and bureaucratic infighting.

13. (~~TS~~// []/~~NF~~) The Report also concludes that [] advisers failed to provide adequate legal review and oversight of the al-Masri case. They failed to ensure that one of the most sensitive activities ever undertaken by CIA—the capture, detention, and rendition of individuals—was conducted in accordance with the terms of the Presidential covert action authority.⁴ Finally, the Report finds that the Agency did not inform Congress of the mistaken rendition of al-Masri until after his repatriation and after the German Government had been informed. The Agency has

³ (~~C~~) CTC's Usama Bin Ladin Station, also known as ALEC Station, was a virtual station located in the Headquarters area. Throughout this Report it will be referred to as ALEC Station.

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never informed Congress that CIA had failed to meet the standard required by the Presidential covert action authority to justify al-Masri's capture and detention.

14. (U//~~FOUO~~) This matter was referred to the Department of Justice (DoJ) for prosecutive merit. Subsequently, the US Attorney for the Eastern District of Virginia (EDVA) reported, by letter, that his office declined to pursue federal prosecution in this matter.

15. (~~S~~//~~NF~~) This Report recommends that the Associate Deputy Director of CIA (ADD/CIA) direct that those officers involved in capture, detention, and rendition operations be made aware of the legal threshold for doing so. The Report also recommends that the Director of CIA convene an Agency Accountability Board to review the performance of three individuals regarding their actions in the capture, detention, and rendition of Khalid al-Masri.

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CHRONOLOGY OF KEY EVENTS

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Khalid al-Masri, a naturalized German citizen of Lebanese descent, was
detained

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Jan 2004: [redacted] approved al-Masri's rendition to [redacted] detention facility, under CIA authorities as set forth [redacted] of the 17 September 2001 Presidential Memorandum of Notification (MON).

Jan 2004: Al-Masri was taken into CIA custody and transported from [redacted] (b)(1) [redacted] (b)(3) NatSecAct aboard an Agency aircraft.

Jan 2004: Al-Masri arrived at [redacted] and was processed into detention.

Jan 2004: [redacted] officers conducted a custodial interview of al-Masri, and he continued his claim that he was innocent of any terrorist affiliation.

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CHRONOLOGY OF KEY EVENTS (continued)

Feb 2004:

Feb 2004:

CTC officers [] de-briefed al-Masri.

Feb 2004:

ALEC Station requested that [] forward to Headquarters al-Masri's personal effects []

Feb 2004:

[] advised ALEC Station/CTC Headquarters there was a lack of compelling intelligence information to warrant al-Masri's continued detention as a terrorist. [] requested ALEC Station/CTC Headquarters concurrence to release al-Masri.

Feb 2004:

ALEC Station replied to [] reminding them that al-Masri was being detained because they "could not resolve the issue of his terrorist affiliation [] ALEC Station suggested additional areas of questioning.

Feb 2004:

[] officer and a Headquarters-based CTC officer interviewed al-Masri, but al-Masri steadfastly denied any terrorist affiliation.

Feb 2004:

[] reported to ALEC Station/CTC Headquarters that it had forwarded al-Masri's personal effects, [] as requested on [] February 2004.

Feb 2004:

Agency records confirm that CTC Headquarters received [] pouch sent by [] with al-Masri's personal effects.

Mar 2004:

A CTC officer, who had interviewed al-Masri [] located al-Masri's passport and other personal effects inside an unopened box on the desk of ALEC Station officer []

[] The officer delivered al-Masri's passport to experts of the CIA [] who promptly determined that al-Masri's German passport was genuine. (b)(1)

Mar 2004:

ALEC Station reported the results [] (b)(3) CIAAct (b)(3) NatSecAct

Mid-Mar 2004:

CIA determined that it had no basis to justify the continued detention of al-Masri. [] (b)(5)

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(b)(1) [] Apr 2004: CTC Headquarters reported to the field that there was no longer a justification to continue to detain al-Masri under MON authorities. Agency components continued to disagree about the exit strategy.
(b)(3) NatSecAct

[] May 2004: A Headquarters meeting that involved senior CIA officials and managers, including then DCI George Tenet, met to discuss the al-Masri matter. []
(b)(5)

Mid-May 2004: Shortly after the [] May 2004 meeting of senior CIA officials, DCI Tenet reportedly informed then Deputy Secretary of State Richard Armitage and then National Security Advisor Condoleezza Rice of the al-Masri situation. Both indicated that al-Masri should be repatriated quickly, and the German Government should be briefed.
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[] May 2004: ALEC Station sent a five-page cable to the field reporting that CTC completed [] research on al-Masri but did not find any information linking him or his customers with known terrorist individuals or organizations.
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[] May 2004: A follow-up meeting of senior Agency officers held on [] May 2004 decided the optimal date to start al-Masri's release operation was [] May 2004, and that the situation would be briefed to appropriate National Security Council officials. Headquarters advised the field and instructed [] it could inform al-Masri to help mitigate his frustration and anger.

(b)(1) [] May 2004: Al-Masri was released and clandestinely returned to Germany []
(b)(3) NatSecAct

[] May 2004: The US Ambassador to Germany and [] informed German Interior Minister Otto Schily of the al-Masri situation.

2 June 2004: CIA sent a Congressional Notification to the Congressional Intelligence Committees advising about al-Masri's detention.

6 Dec 2005: Al-Masri filed a civil lawsuit in US District Court against former DCI Tenet, and the owners of three aviation companies.

12 May 2006: A US District Court judge dismissed al-Masri's lawsuit citing national security grounds.

24 July 2006: Al-Masri filed an appellate brief of the US District Court's ruling with the US Fourth Circuit Court of Appeals in Richmond, Virginia.

2 Mar 2007: A panel of the US Fourth Circuit Court of Appeals affirmed the dismissal of al-Masri's lawsuit by the US District Court.

30 May 2007: Al-Masri petitioned the US Supreme Court to review his case.

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FINDINGS

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DETAIN KHALID AL-MASRI

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FURTHER EFFORTS TO IDENTIFY AL-MASRI

40. (~~S~~//NF) During early January 2004, Headquarters and several CIA field stations participated in additional efforts to determine who al-Masri was and the nature of the threat he posed.

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42. ~~(S//NF)~~ Responses to the requests for information came
back to Headquarters rapidly.

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(b)(7)(c)*RENDITION OF AL-MASRI**ALEC STATION PLANS TO RENDER AL-MASRI*

50. (S//NF) In an e-mail of [] January 2004, ALEC Station [] indicated that ALEC Station personnel planned to meet with officers from CTC's Renditions and Detainee Group (RDG) to discuss how to take custody of al-Masri [] (b)(3) NatSecAct

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51. (S/ [] On [] January 2004, in a cable originated by [] to [] ALEC Station outlined three possible outcomes regarding al-Masri. The first was that, if al-Masri were identifiable with [] (b)(1) If he was not [] but was nonetheless (b)(3) NatSecAct

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(b)(1) [redacted]
 (b)(3) NatSecAct [redacted] Finally, if al-Masri was not identifiable with
 [redacted] but nevertheless appeared
 to have links to al-Qa'ida [redacted] and his
 demeanor during recent debriefings"), he could "be deemed a force
 protection threat." In that case, he could be turned over to the US
 military and could be questioned further by the Agency. On [redacted] January
 2004, [redacted] suggested to Headquarters that al-Masri [redacted]
 transferred to the US military [redacted]

(b)(1)
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(b)(1) 52. (~~TS~~ // ~~NF~~) By [redacted] January 2004, however, ALEC Station had
 (b)(3) NatSecAct decided it did not want to transfer al-Masri to the US military.
 Explaining its reasons in a cable to [redacted] ALEC Station
 argued that the military would have to brief its chain-of-command,
 which might expose the involvement of [redacted] Such a
 move could complicate matters if it was decided to transfer al-Masri
 [redacted] or move him to an undisclosed location because the
 US military would register al-Masri and notify the Red Cross of his
 detention. ALEC Station added that, until al-Masri's identity was
 established and "his role within al-Qa'ida identified/confirmed," the
 US military would have no grounds on which to detain him and "he
 could be a free man within hours"17

(b)(1) CIA'S AUTHORITY TO CAPTURE AND DETAIN
 (b)(3) NatSecAct

53. (~~TS~~ / [redacted] / ~~NF~~) Since 17 September 2001, CIA
 efforts in the US global war on terrorism have been operating under
 authorities of a Presidential MON. The MON, signed by President
 George W. Bush on 17 September 2001, authorized the DCI, acting

(b)(1)
 (b)(3) CIAAct
 (b)(3) NatSecAct

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 (b)(3) NatSecAct

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through the CIA, to undertake various activities against international terrorists and terrorist entities. According to (b)(1) of the MON: (b)(3) NatSecAct

The DCI acting through the CIA may undertake operations designed to capture and detain persons who pose a continuing, serious threat of violence or death to U.S. persons and interests or who are planning terrorist activities.

(b)(1)
(b)(3) NatSecAct

Agency officers carry out these clandestine activities, known as rendition operations. The MON is the legal authority for CTC's capture, rendition, detention, and interrogation program.

CTC'S JUSTIFICATION FOR RENDERING AL-MASRI

(b)(1)
(b)(3) NatSecAct

54. ~~(S//NF)~~ ALEC Station provided both authorization and justification for the rendition and detention of al-Masri on January 2004, in a cable ALEC "D/CTC Approval for the Rendition of Khalid al-Masri to US Custody." In pertinent part, the cable reports:

Since his detention

(b)(1)
(b)(3) NatSecAct

We believe al-Masri knows key information that could assist in the capture of other al-Qa'ida operatives that pose a serious threat of violence or death to U.S. persons and interests and who may be planning terrorist activities. [Emphasis added.] [See Appendix A for full text of cable.]

(b)(1)
(b)(3) NatSecAct

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(b)(3) NatSecAct

55. (TS/ [] The cable specified that D/CTC had authorized the rendition of al-Masri into CIA custody for onward transfer to

(b)(1) Al-Masri was to be detained at []

(b)(3) NatSecAct

[] according to ALEC Station:

We will continue efforts to verify his true identity and continue debriefing him re his links to known al-Qa'ida operatives and obtaining from al-Masri his knowledge regarding future planned attacks.

(b)(1)

(b)(3) NatSecAct

THE STANDARD REQUIRED BY THE MON

56. (TS/ [] /NF) The attorneys in CTC were conversant on the legal authorities and standards connected with the 17 September 2001 MON. They routinely briefed new personnel into the security compartment and provided guidance orally, in e-mails, and in cables. One particular cable, originated by a CTC attorney and sent broadly to CTC elements and to [] in April 2003 was entitled, "Guidance on Scope of Capture and Detention Authorities." This cable provided a review of the scope of the authority and the standards applicable to such operations. It specified that CIA:

Was authorized to undertake capture/detain operations only against those individuals whose actions pose a continuing, serious threat of violence or death to US persons and interests or who are planning terrorist activities. As a result, there must be an articulable basis on which to conclude that the actions of a specific person whom we propose to capture and/or detain pose a "continuing serious threat" of violence or death to US persons or interests or that the person is planning a terrorist activity.

(b)(1)

(b)(3) NatSecAct

57. (TS/ [] /NF) The cable provided examples of situations that met the MON authority, and then noted:

The nature of our capture and detain authorities under the CT Memorandum of Notification is unprecedented, but even so, the

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(b)(3) NatSecAct ^{(b)(3)} NOFORN//MRCIA LOAN COPY
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authority is not without limits. For example, we are not permitted to detain someone merely upon a suspicion that he or she has valuable information about terrorists or planned acts of terrorism; rather, we must be able to make the intelligence case that he or she in fact does have such information and is deliberately withholding it from the U.S. Government.

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(b)(3) CIAAct
(b)(3) NatSecAct
(b)(5)
(b)(6)
(b)(7)(c)

(b)(1)
(b)(3) NatSecAct

(b)(1)
(b)(3) NatSecAct

59. (TS/ ^{(b)(1)} /NF) The cable of ^{(b)(1)} January 2004 postulated that al-Masri knew "key information that could assist in the capture of other al-Qa'ida operatives that pose a serious threat of violence or death to US persons and interests and who may be planning terrorist activities." The language required by the MON, however, is that the individual himself poses a serious threat. Thus, the language used in the justification cable did not meet the standard required by the MON.

60. (S) The release of the ^{(b)(1)} January justification cable required the coordination and approval of numerous CIA officers. The cable was originated by ^{(b)(1)} in ALEC Station; authorized by ^{(b)(1)} of CTC/LGL; coordinated with a series of officers in CTC's RDG and the DO's ^{(b)(1)} Divisions; and released by ^{(b)(1)} Deputy Chief of ALEC Station, and ^{(b)(1)} acting for

(b)(1) 28
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(b)(1)
 (b)(3) CIAAct
 (b)(3) NatSecAct
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 (b)(7)(c)

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D/CTC, [redacted] Those primarily responsible for the operational and legal content of the cable were the ALEC Station officers and the lawyers in CTC/LGL respectively.

CIA'S DETENTION OF AL-MASRI AND TRANSFER (b)(1)
 (b)(3) NatSecAct [redacted]

(b)(1)
 (b)(3) NatSecAct 61. (S//NF) One Agency lawyer recognized and addressed, on a timely basis, the weakness of the justification used to render al-Masri. On [redacted] January 2004, an attorney for [redacted] sent an e-mail to CTC attorneys [redacted]

(b)(3) CIAAct
 (b)(6)
 (b)(7)(c)

(b)(1)
 (b)(3) CIAAct
 (b)(3) NatSecAct
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 (b)(7)(c)

OIG found no evidence of a response.

(b)(1)
 (b)(3) NatSecAct 62. (S//NF) Once the Director of CTC provided authorization for rendering al-Masri, CTC/RDG officers began planning the mechanics of the operation. On [redacted] January 2004, RDG sent a cable to [redacted] seeking concurrence for their plan to use a Headquarters-based renditions team to transport al-Masri to [redacted] ALEC, [redacted] Stations concurred. On [redacted] January 2004, a CIA renditions team arrived via Agency-operated aircraft [redacted] to transport al-Masri [redacted] As part of the transfer of al-Masri into CIA custody, an Agency physician's assistant examined al-Masri before his flight; his notes indicated that, "Patient appears healthy with no obvious signs of illness." The examination

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 (b)(3) NatSecAct

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included a rectal exam. Upon arrival [] on [] January 2004, al-Masri was transferred [] where he once again was provided a physical examination by a physician's assistant.¹⁹

63. ~~(S//NF)~~ CTC/RDG was responsible for managing the logistics of al-Masri's rendition. []

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(b)(3) CIAAct
(b)(3) NatSecAct
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(b)(1)
(b)(3) NatSecAct

(b)(1)
(b)(3) NatSecAct 64. ~~(S//NF)~~ According to a [] cable, upon arrival [] January 2004, al-Masri was photographed, provided a "thorough" physical examination by an Agency physician's assistant, and placed in a cell. [] reported that al-Masri was provided "adequate clothing, bedding, water, and a waste bucket." Al-Masri would be detained in this facility for four months.

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

(b)(1)
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DO NOT COPY*EFFORTS TO DETERMINE AL-MASRI'S CONNECTIONS*

66. (S) During late January and February 2004, CIA continued its efforts to determine al-Masri's identity and possible connections to errorists or terrorist groups. On [] January 2004, CTC Headquarters officers and an Office of Medical Services (OMS) psychologist conducted debriefings of al-Masri, using an Arabic interpreter. [] reported on [] January 2004, that al-Masri continued to insist that he was innocent of any terrorist affiliation. He denied his passport was fraudulent and suggested that the German Government be asked to verify it. Al-Masri claimed that [] had fabricated stories about him.

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

(b)(1)
(b)(3) NatSecAct

68. (S//NF) On [] February 2004, in a cable originated by [] ALEC Station again outlined the case for al-Masri's involvement with al-Qa'ida.

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(b)(3) NatSecAct

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(b)(3) NatSecAct

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(b)(3) NatSecAct

(b)(3) NatSecAct

(b)(3) CIAAct

(b)(6)

(b)(7)(c)

69. ~~(S)~~ [] In the same [] February 2004 cable, ALEC Station officer [] advanced a novel theory.

(b)(1)

(b)(3) NatSecAct

70. ~~(S)~~ OIG found no basis for the speculation that al-Masri

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(b)(3) NatSecAct

(b)(6)

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[] originated the

[] February 2004 cable. The [] March 2004 cable was coordinated by

(b)(1)

(b)(3) NatSecAct

[] and released by []

(b)(1)

(b)(3) NatSecAct

71. ~~(S//NF)~~ On [] February 2004, a [] officer and a CTC Headquarters officer interviewed al-Masri with the assistance of an Arabic linguist.

(b)(1)

(b)(3) NatSecAct

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(b)(3) CIAAct

(b)(3) NatSecAct

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(b)(7)(f)*CONCERNS RAISED BY* (b)(1)
(b)(3) NatSecAct (b)(3) NatSecAct(b)(1)
(b)(3) NatSecAct

79. (S/ [redacted] By early February 2004, officers in [redacted] had concluded that al-Masri was not a terrorist and that he had no information of value to provide. In an assessment sent to Headquarters on [redacted] February 2004, [redacted] requested an immediate response regarding al-Masri's continued detention. The cable indicated that, since his arrival, al-Masri had provided no intelligence, had steadfastly maintained his innocence, and had expressed complete bewilderment regarding his continued detention. It added:

(b)(1)
(b)(3) NatSecAct

Given Khalid's awareness of his detention [redacted] his knowledge of U.S. Government involvement in his detention, the conditions of his custody, his self-proclaimed German citizenship,

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and the heretofore lack of supporting evidence to justify his custody within the CIA detainee program, Station requests immediate Headquarters comments on his case. Debriefers and Station staff time spent dealing with Khalid and his case significantly detracts from Station's ability to effectively and efficiently address more pressing requirements with detainees who are clearly in a position to provide useful intelligence in combating terrorism. Appreciate in advance Headquarters immediate attention to this important issue.

(b)(1)

(b)(3) NatSecAct

80. (S/ [] On [] March 2004, buttressed with the knowledge that al-Masri's passport was genuine, [] sent a priority cable to Headquarters, again requesting that CTC and ALEC Station review the al-Masri matter. [] emphasized that it did not believe al-Masri met the threshold for continued detention, as he had no known association with al-Qa'ida or the Taliban. [] reminded Headquarters that it had raised this concern in its February 2004 cable and that it had not yet received a response.

(b)(1)

(b)(3) NatSecAct

(b)(3) NatSecAct

82. (S/ [] Headquarters responded in a cable two days later, stating that officers from ALEC Station and CTC/RDG had been "meeting weekly" with CTC attorneys "to determine [the] end dispositions" regarding the al-Masri matter. The cable reported that, "HQS is as determined as [] is to resolve the end disposition of Khalid al-Masri."

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(b)(3) NatSecAct

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83. (S) Three weeks later, on [] March 2004, [] cabled that it still had received no response to its earlier [] February and [] March 2004 cables seeking guidance with respect to what to do with al-Masri. [] requested approval to release al-Masri and requested guidance on how to do so.

(b)(3) NatSecAct

84. (S) [] The Agency's Congressional Notification of 2 June 2004 reported that, "In mid-March 2004, Headquarters determined that there was not sufficient information to warrant al-Masri's detention." On [] April 2004, Headquarters communicated this determination to the field, indicating that a decision had been made to release al-Masri and soliciting suggestions about how to do

(b)(1)
(b)(3) NatSecAct. The cable to [] cited in part:

In light of the fact that Khalid al-Masri (Subj) currently in detention is not identifiable with []

(b)(1)
(b)(3) NatSecAct

By mid-March, CTC had determined that it had no basis to justify the continued detention of al-Masri and, by [] April 2004, CIA Headquarters had communicated its decision to [] to release/repatriate him.

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(b)(3) NatSecAct

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(b)(3) NatSecAct

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(b)(3) NatSecAct

CIA LOAN COPY
DO NOT COPY*DISAGREEMENTS DELAY RELEASE OF AL-MASRI*

85. ~~(S//NF)~~ The delay in releasing al-Masri reflected disagreement within CIA about how to proceed.

(b)(1)
(b)(3) NatSecAct
(b)(5)

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

86. ~~(S//NF)~~ [] CTC disagreed on the exit strategy, according to []

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct
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(b)(1)
(b)(3) CIAAct
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(b)(5)

88. (S) The problems involved in al-Masri's repatriation reached to the highest levels of CIA, but were not resolved there.

(b)(5)

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(b)(3) CIAAct
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(b)(3) NatSecAct

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90. ~~(S//NF)~~ DCI George Tenet was informed about the [] January 2004 al-Masri rendition shortly after it happened and then again in late April 2004, when Chief of CTC [] [] and [] briefed him. According to Agency records, CTC provided the DCI with written notifications of the al-Masri matter on [] January 2004.²⁴ These notifications were included by CTC within the DCI Daily Operational Update, which highlighted key developments against al-Qa'ida terrorists.

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(b)(3) CIAAct
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(b)(1)

IMPLEMENTATION OF REPATRIATION PLAN (b)(3) NatSecAct
(b)(3) NatSecAct93. ~~(S)~~ / [] On [] May 2004, CIA implemented a clandestine operation to repatriate al-Masri to Germany via [](b)(1)
(b)(3) NatSecAct

(b)(3) NatSecAct

(b)(1)
(b)(3) NatSecAct 94. ~~(S)~~ / [] Agency records show that, during the early hours of [] May 2004, al-Masri was transported to []
[] He was provided with 14,500 Euros for which he signed a receipt that was forwarded to Headquarters.²⁵ [](b)(1)
(b)(3) NatSecAct [] This was five months after he had been detained []²⁵ (U//FOUO) The value of 14,500 Euros at that time was about \$17,700.~~TOP SECRET~~ / (b)(1)
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(b)(3) NatSecAct
NOTIFYING CONGRESS(b)(1)
(b)(3) NatSecAct

95. (~~TS~~/ [] /~~NF~~) Agency officers told OIG that the issue of preparing a Congressional Notification was discussed in April 2004, soon after the Agency determined that it had made a mistake in rendering and detaining al-Masri. As of [] May, according to an Agency cable, the Congressional Notification had been prepared and was in the DDO's office. The notification was not sent until 2 June 2004, however, [] days after al-Masri's repatriation [] days after the US officials had informed the German Government of the situation. US statutes and Agency regulations require that Congress be kept fully and currently informed, particularly of intelligence failures that could have an impact on US national interests.

96. (~~TS~~/ [] /~~NF~~) The Congressional Notification of 2 June 2004 provided the reasons for al-Masri's detention and rendition, how it had occurred, and how it had been resolved. It did not, however, discuss the authority for al-Masri's detention and rendition. A second Congressional Notification of 13 July 2004 provided updated information—based on the fact that [] that al-Masri had retained a lawyer. This notification again did not discuss the authorities or provisions of the MON or whether the Agency had met the standard required by the MON.

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(b)(3) CIAAct
(b)(3) NatSecAct
CIA'S TREATMENT OF AL-MASRI

97. (~~S~~/ [] /~~NF~~) CIA [] officers transported al-Masri to and from [] served as Chief of []

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(b)(3) CIAAct
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(b)(7)(f)



98. (~~S//NF~~) Agency records indicate that the physician's assistant who examined al-Masri when he was taken into CIA custody on [] January 2004 also monitored al-Masri during the flight to [] and noted no changes. CIA's [] OMS reported that OMS records indicated that no medications had been administered to al-Masri in connection with the rendition flight []

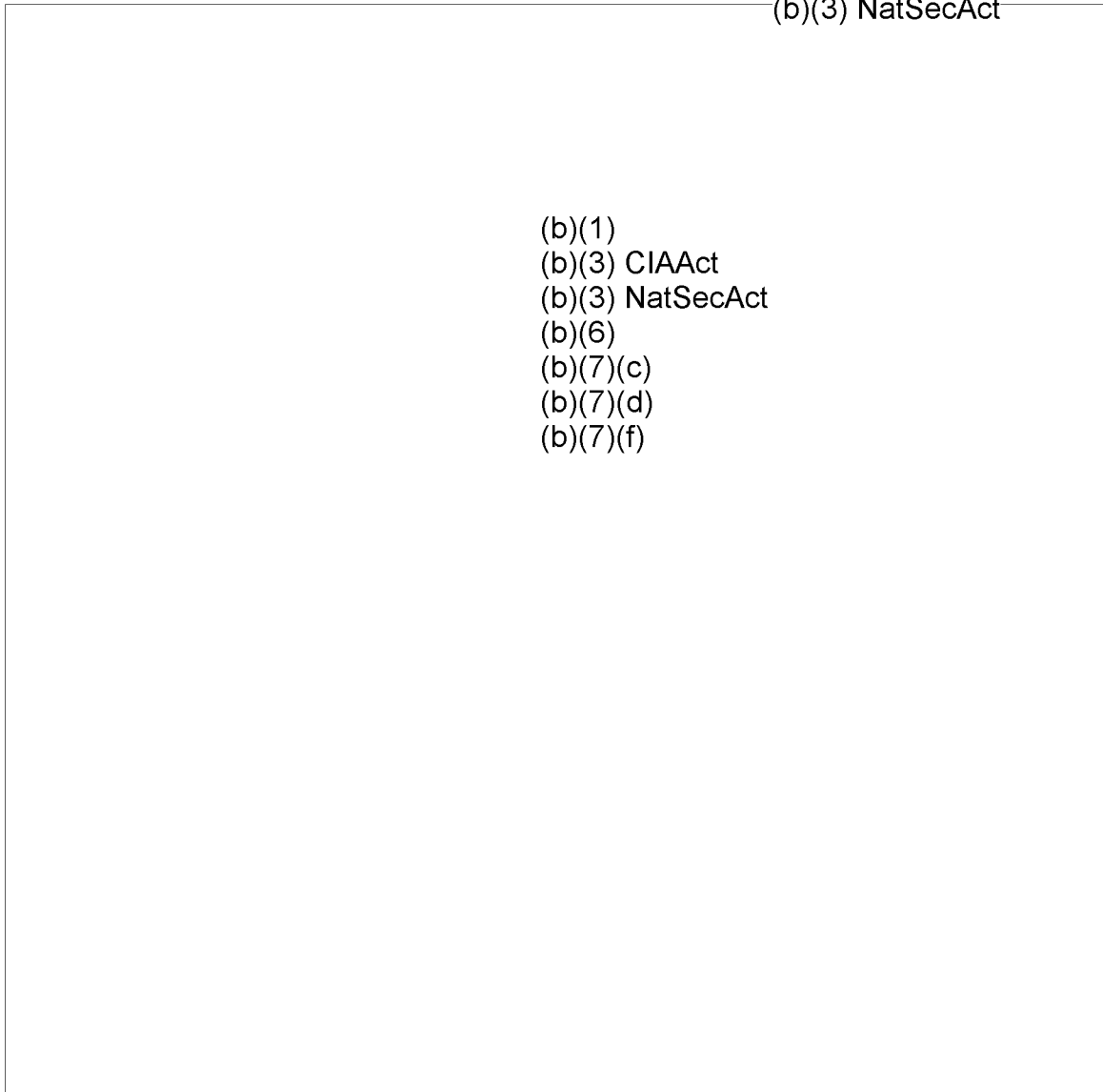
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103. ~~(S//NF)~~ Agency officers confirm al-Masri's claims that he conducted at least one hunger strike while in detention. While media reports alleged that al-Masri had been force-fed, [redacted] said they had only informed al-Masri they would force-feed him in order to persuade him to curtail a hunger strike. [redacted]

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(b)(3) NatSecAct
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105. (~~S~~ // ~~NP~~) The context for al-Masri's hunger strike was documented in reporting by an [redacted] who saw al-Masri [redacted] March 2004. [redacted] interviewed al-Masri at the behest of CTC because al-Masri had threatened a hunger strike. [redacted] said that his session with al-Masri lasted about 20 minutes and that [redacted] was present. [redacted] described al-Masri's English as basic but adequate and said he felt confident discussing psychological issues with him. [redacted] noted that al-Masri was "extremely distressed," more so than most detainees. Al-Masri claimed that they had the wrong person and that he was not a terrorist. He was frustrated that no one was working to get him released. His frustration with the situation made him very emotional, according to [redacted] said that al-Masri did not complain of physical abuse or torture and that he had not observed any indication that al-Masri was physically abused. [redacted] concluded that al-Masri's hunger strike was a ploy to gain attention in the hope of talking with someone who could facilitate his release.

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(b)(3) NatSecAct
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BOX 2

OMS PSYCHOLOGISTS' REPORTS OF AL-MASRI

(S//NF) In the written report of his session with al-Masri, contained in a

(b)(1)
(b)(3) NatSecActable from [] on [] March 2004, OMS psychologist [] cited that al-Masri was agitated and frustrated—"visibly trembling from the anger he is currently experiencing." He was "openly tearful and speechless," and his "thought content was depressive in nature." Al-Masri reported that he had "feelings of helplessness, hopeless, and passive suicidal ideation (i.e., wishing he was dead)." The report said that the source of al-Masri's frustration was the unknown status of his case and the uncertain length of his detention, complicated by lack of interaction with Agency personnel. The lack of interaction, which was the result of few intelligence requirements and thus few debriefing sessions, had "prevented him from developing a context, time line, or understanding of his detention." According to the report, al-Masri "strongly considers himself to be falsely detained." This confluence of psychological pressures was "wearing down the subject's emotional resilience and coping skills." The report concluded that, "Without being given some feedback on his case disposition, subject's mental and emotional status is likely to continue to deteriorate."

(S//NF) On [] May 2004, a second OMS psychologist conducted an

(b)(1)
(b)(3) NatSecAct updated psychological assessment of al-Masri with the aid of an Arabic linguist that was reported [] in a cable to Headquarters. In the report, the psychologist noted that, "at various times during his confinement during the last four plus months Subject has experienced feelings of depression, loneliness, hopelessness, and anger." It was observed, however, that due to "deft handling" by [] officers al-Masri has significantly improved. The psychologist warned though that, "The next few weeks will be critical in maintaining his mental health, and any undue delay in his release could send him into another downward spiral. The longer it takes to complete his release, the more likely his anger may fester, thereby causing potential long-term issues for HQs." The psychologist noted that al-Masri had rebounded from his previous bouts with depression and that he was psychologically stable with "no evidence of any significant or prolonged psychological harm secondary to his detention."

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107. ~~(S//NF)~~ Officers in [] made some effort during April and May to relieve al-Masri's sense of isolation. []

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108. ~~(S//NF)~~ By [] May 2004, [] indicated that al-Masri had again reached a point of despair. In a cable on that date, [] requested that Headquarters provide a specific departure date that could be relayed to al-Masri to forestall a hunger strike and allow [] to work out a post-release settlement with him. The cable described al-Masri as "both deeply angry and depressed." The cable reported that al-Masri claimed he had a right to know the end game and that he wanted to know what the charges were against him or be given a date when he would depart. The cable cited that al-Masri compared his situation to a Kafka novel—he could not possibly prove his innocence because he did not know what he was being charged with. The cable reported al-Masri as saying he had nearly reached the end of what he could bear and that, as of [] May 2004, he would begin a total hunger strike to his death. [] emphasized that it had been in a like situation previously with al-Masri and that he had proved capable of a serious hunger strike. [] pointed out that it would be undesirable for al-Masri to be on a hunger strike just before his release.

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109. (S//NF) That same day, ALEC Station sent a five-page cable to the field. It reported that CTC analysts completed [] research on al-Masri but did not find any information linking him or his customers with known terrorist individuals or organizations.

110. (S//NF) CIA Headquarters responded to [] May 2004 cable the next day, reporting that a meeting was held with DCI Tenet on [] May 2004 and that a series of decisions regarding the disposition of al-Masri was briefed. The decisions were refined at a follow-up meeting on [] May. The cable described the decisions as follows:

- ◆ Al-Masri could be informed that his release will occur within one week—in order to "mitigate" his intense frustration and anger.
- ◆ [] May 2004 was the optimal day to start the release operation.
- ◆ As part of his pre-release interview, al-Masri could be offered a sum in Euros not to exceed the equivalent of US \$50,000. The cable noted that the 3,000 Euros that al-Masri possessed when he arrived [] could not be located. (b)(1) (b)(3) NatSecAct
- ◆ The situation would be briefed to appropriate NSC officials.
- ◆ The Agency was finalizing a Congressional Notification that would be submitted to the Intelligence Oversight committees soon and could be used as background for briefing purposes.

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111. (S//NF) [] on [] May 2004, indicated that it appreciated the receipt of an outline for moving toward resolution of the al-Masri situation. [] reported that, on the evening of [] May, [] officers had met with al-Masri to discuss his decision to engage in a total hunger strike. Based on his rapport with several of these officers, al-Masri was persuaded that such a hunger strike was not in his best interest as these officers promised his situation was moving forward. Although he had already begun refusing food and water, al-Masri agreed to postpone his hunger strike. The following evening, these officers met again with al-Masri and related conditions for his release that included: his peaceful demeanor during transport and release; that he would not advocate or engage in violence of any kind upon his return to Germany; that he would keep his distance from extremists, [] that he would not reveal his experiences to the media or local authorities; and that he would accept that his post-release activities would be monitored and that any breach of his pledge would have consequences. Al-Masri accepted the conditions and contended that he only wanted to resume his life. [] advocated providing al-Masri with 40,000 Euros plus money to cover the funds he had with him when detained and his expenses for getting home.²⁶

112. (S//NF) Four days later, al-Masri was repatriated.

²⁶ (S//NF) [] inquired in this cable what became of the money that al-Masri possessed when he was detained (b)(1) [] that it seemed to have disappeared. In its response,

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[] The debate about how much money to give al-Masri when he was repatriated endured for several months. The final decision to give him 14,450 Euros was based on the argument that German authorities would question his arrival in country with more than 15,000 Euros.

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There was no evidence in any of the photographs of physical abuse or trauma.

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[REDACTED]

According to Agency records, in keeping with standard practice for flight safety, al-Masri was restrained with flex cuffs, his eyes were covered, and he had noise suppression muffs over his ears. In consideration of CTC/RDG's request, however, al-Masri was not forced to wear a diaper, and he was permitted to use the toilet and drink water. Al-Masri also did not wear the usual sweat clothes but wore civilian clothing purchased specifically for him by CTC/RDG officers.

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114. (U//~~FOUO~~) In public statements since his release and in his lawsuit claiming damages from the United States for his rendition and detention, al-Masri has claimed that, while in US custody, he was shackled, beaten, injected with drugs, and sodomized. Al-Masri also claimed he had gone on a hunger strike that ended after 37 days when his captors force-fed him. He claimed he lost 60 pounds.

EPILOGUE

115. (U//~~FOUO~~) In December 2005, al-Masri's story became public, and he initiated a civil claim in US District Court against former DCI George Tenet, a number of unidentified CIA employees, and three aviation companies. Al-Masri contended that he was held illegally [REDACTED] and tortured as part of CIA's "rendition"

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program for terror suspects. The Department of Justice cited state secrets privilege to argue that the case should be dismissed. A US District Court judge in Alexandria, Virginia, dismissed the case on 12 May 2006. On 24 July 2006, al-Masri filed an appellate brief of the judge's ruling with the US Fourth Circuit Court of Appeals in Richmond, Virginia. On 2 March 2007, a panel of the Fourth Circuit Court of Appeals Court affirmed the dismissal of al-Masri's lawsuit by the US District Court. On 30 May 2007, al-Masri petitioned the US Supreme Court to review his case.

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*COMMENTS BY INDIVIDUALS INVOLVED IN AL-MASRI'S RENDITION AND
DETENTION*

ALEC STATION MANAGERS

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[redacted] was the originating officer for most of the ALEC Station cables dealing with al-Masri in January and February 2004. (b)(1)

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118. (S//NF) [redacted] recalled that, when [redacted] initially detained al-Masri, [redacted] others at ALEC Station believed he was [redacted] who used the alias Khalid al-Masri. [redacted]

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CONSULTATIONS WITH DEPARTMENT OF JUSTICE

196. (U//~~FOUO~~) OIG consulted with Department of Justice (DoJ) attorneys regarding the al-Masri matter periodically throughout the investigation. The Chief of the Department's Counterterrorism Section of the National Security Division believed the information contained in this Report provided sufficient justification for an OIG referral to DoJ. The Chief advised that such a referral should not delay publication of a Report of Investigation or any administrative action by the Agency. The matter was subsequently referred to DoJ in writing. The Department of Justice, in turn, transferred the matter to the Office of the United States Attorney for the Eastern District of Virginia. On 29 May 2007, the US Attorney, EDVA reported, by letter, that they declined to pursue federal prosecution in this matter in favor of possible administrative action by the Agency.

AGENCY ACCOUNTABILITY STANDARDS

197. (U//~~FOUO~~) According to Agency Regulation (AR) Series 13—*Conduct, Accountability, and Discipline*:

- ◆ AR 13-1, c, (4) specifies that, "Employees . . . are expected to perform their duties in a professional and satisfactory manner. An employee who is responsible for a significant failure to act in accordance with the level of professionalism and diligence reasonably to be expected or who evidences a

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pattern of conduct that demonstrates a failure to carry out the functions of his position has not lived up to this standard."

- ◆ AR 13-1, d, addresses the responsibility of managers, noting that, "Managers ultimately are responsible for the actions or inactions of their subordinates and should institute reasonable measures to ensure compliance with Agency standards of conduct."
- ◆ AR 13-3, c, (1) addresses discipline, specifying that, "All employees, including managers, are expected to meet the Agency's standards of conduct and perform Agency duties in a satisfactory manner. Those who fail to do so may be subject to disciplinary action, which may range from an oral admonition to termination of employment."
- ◆ AR 13-6, b, (1), specifies in part that, "As a general matter, the D/CIA or DD/CIA would convene the Agency Accountability Board when events examined indicate significant failures of fundamental CIA missions or responsibilities, involve systemic failures, or involve very senior Agency officers."
- ◆ AR 13-6, Appendix I, c, indicates that, "Any finding of deficient performance must be specific and may include omissions and failure to act in accordance with a reasonable level of professionalism, skill, and diligence."
- ◆ AR 13-6, Appendix I, d, specifies that, "Determinations under the above standard will be based in part on whether the facts objectively indicate a certain action should have been taken or not taken and whether the employee had the opportunity and the responsibility to act or not act."

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- ◆ AR 13-6, Appendix I, e, notes that, "Managers may be held accountable in addition for the action(s) or inaction of subordinates even if the manager lacks knowledge of the subordinates conduct. Such accountability depends on: (1) Whether the manager reasonably should have been aware of the matter and has taken reasonable measures to ensure such awareness. (2) Whether the manager has taken reasonable measures to ensure compliance with the law and Agency policies and regulations."

CONCLUSIONS

198. (S//NF) Available intelligence information did not provide a sufficient basis to render and detain Khalid al-Masri. Further, the Agency's prolonged detention of al-Masri was unjustified. Al-Masri's rendition and long detention resulted from a breakdown in tradecraft and legal oversight. After the decision had been made to repatriate al-Masri, implementation was delayed by bureaucratic infighting.

199. (S//NF) CIA personnel involved in al-Masri's capture and detention failed to utilize Agency resources on a timely basis, as with their reliance on the faulty analysis [redacted]

[redacted] ALEC and [redacted]
Stations accepted that assessment and failed to act promptly to have

200. (S//NF) CTC's connection of al-Masri to a suspect al-Qa'ida terrorist was tenuous, indirect, and circumstantial. [redacted]

[redacted]

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201. (~~S~~/~~NF~~) CTC and [redacted] failed to take responsible steps to verify al-Masri's identity.

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202. ~~(S//NF)~~ ALEC Station exaggerated the nature of the limited data it possessed:

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203. (~~TS~~ / [] / ~~NF~~) The Agency did not meet the standard prescribed in the 17 September 2001 Presidential MON to permit CIA to capture and detain an individual.

- ◆ The Agency did not possess information that al-Masri personally posed "a continuing, serious threat of violence or death to US persons and interests" or that he was "planning terrorist activities." The MON language required that the individual being captured or detained must himself pose a "serious threat of violence or death"
- ◆ The language used to justify al-Masri's rendition and detention failed to meet the required standard of the MON. The authorizing cable stated that, "al-Masri knows key information that could assist in the capture of other al-Qa'ida operatives that pose a serious threat of violence or death to U.S. persons and interests and who may be planning terrorist activities." In addition to CTC legal adviser [] senior Agency attorneys, including the then-General Counsel, the current Acting General Counsel, and the current Chief of CTC/LGL have confirmed that mere possession of information that could assist in the capture of such al-Qa'ida operatives does not constitute sufficient grounds for renditions.

(b)(3) CIAAct
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(b)(7)(c)

204. (~~S~~ / ~~NF~~) Interviews of some of the key personnel involved in the case of Khalid al-Masri, and review of some of the documentary evidence, indicate there were individuals in addition to al-Masri who were captured, detained, and rendered by the Agency based on the legally insufficient justification used in the al-Masri case. Some of those cases were reported to have been reviewed, but it is unknown if all cases have been identified and acted on.

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205. (~~S~~//NF) What little information was known of al-Masri was exaggerated by ALEC Station personnel as it was described to CTC senior managers, leading them to approve al-Masri's rendition.

(b)(1) As a result, al-Masri was rendered [] January 2004
(b)(3) NatSecAct further detained.

206. (~~S~~//NF) [] personnel acted with due diligence in handling the al-Masri matter and in their concerted efforts to engage Headquarters to expeditiously resolve the matter.

207. (~~S~~//NF) CTC management failed to act in a timely manner following the [] February 2004 assessment from [] that the Agency lacked sufficient justification to continue to detain al-Masri as a terrorist. After receiving no response, [] again formally communicated its assessment a month later to Headquarters. It took Headquarters until mid-March 2004 to conclude that it did not possess sufficient justification to continue to detain him. As a result, al-Masri spent unnecessary months in detention.

208. (~~TS~~/[]/~~NF~~) CTC legal adviser [] and by extension, [] failed to provide adequate legal review and oversight of the al-Masri case. They failed to ensure that one of the most sensitive programs ever undertaken by the Agency—the capture, detention, and rendition of suspected terrorists worldwide—was conducted in accordance with the terms of the Presidential covert action authority.

209. (~~S~~//NF) CTC attorney [] contention that someone changed the legal justification language [] originally included in the [] January 2004 cable authorizing al-Masri's rendition is not credible. In interviewing all of those individuals involved in the preparation of the cable and in reviewing all relevant documents, OIG found no basis to substantiate [] claim. Indeed, OIG found several other cables

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(b)(3) CIAAct

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justifying the rendition of other individuals coordinated by [] with the similar, inaccurate legal text as used in the cable approving the al-Masri rendition.

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(b)(3) NatSecAct

210. (S//NF) From the time of al-Masri's detention []

[] many Agency officers expressed skepticism that al-Masri was a terrorist. The

skepticism of officers in [] was expressed in

(b)(1)

(b)(3) NatSecAct

cables beginning in January 2004 and extended through the period of his detention. Only ALEC Station officers and CTC attorneys appeared to support the rendition and remained steadfastly committed to al-Masri's continued detention. Widespread skepticism from senior DO officers was not accepted, recognized, and addressed in a timely fashion.

(b)(1)

(b)(3) CIAAct

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(b)(6)

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211. (S//NF) CTC senior managers failed to involve

themselves in the oversight or resolution of the al-Masri matter. Mid-

level ALEC Station officers effectively decided that al-Masri should

be rendered. ALEC Station officer [] continued to

influence the decision to detain al-Masri long after []

reported their judgment on [] February 2004 that he was not a

terrorist and even after the Agency determined he should be

released. Senior CTC managers deferred to [] judgment as

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(b)(3) NatSecAct

the subject [] expert, despite objections from the Chief

Division, [] and others.

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(b)(3) NatSecAct

212. (S//NF) After concluding in mid-March 2004 that the

Agency had no justification for detaining al-Masri, Agency officers

took too long to repatriate him.

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(b)(3) CIAAct

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213. (~~S~~//~~NF~~) OIG's investigation found no credible information that al-Masri was subjected to physical abuse of any kind while in CIA custody. Evidence gathered during the investigation suggests that the experience that gave rise to al-Masri's allegation he was sodomized was, in fact, a routine rectal examination conducted by a physician's assistant during his initial medical examination. The investigation also found that al-Masri's rendition was conducted according to Agency protocols. During his confinement in CIA custody, al-Masri was cut off from contact with his family. He was held in a small cell [] with some clothing, bedding, and a bucket for his waste, and provided with adequate medical attention. Al-Masri engaged in a hunger strike in April 2004. He ended his hunger strike when faced with the possibility of being force-fed.

214. (~~S~~//~~NF~~) The Agency did not inform Congress of its mistaken rendition and detention of al-Masri until 2 June 2004—after al-Masri's repatriation and after the German Government had been informed. The Agency provided more information to Congress in July 2004, after it learned that al-Masri had retained an attorney. The Agency did not, in either notification, inform Congress that CIA failed to meet the standard required in the MON to justify al-Masri's rendition and detention.

215. (~~TS~~/ [] //~~NF~~) A number of Agency officers bear responsibility for the Agency's flawed handling of the al-Masri matter. These individuals include officers who exaggerated the nature of the limited data on al-Masri; who knew or should have known the MON's requirements to capture and detain an individual; who exaggerated the basis for al-Masri's alleged ties to al-Qa'ida; who

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failed to act in a timely manner following [] prompt
assessment that the Agency lacked sufficient justification to continue
to detain al-Masri as a terrorist; and who failed to provide adequate
legal review and operational and legal oversight of the al-Masri case.

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RECOMMENDATIONS

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CONCUR:

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John L. Helgerson
Inspector General

16 July 2007
Date

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Appendix A

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(b)(3) NatSecAct

APPENDIX A

(b)(1) ~~(S//NF)~~ CABLE, D/CTC APPROVAL FOR THE RENDITION OF
(b)(3) CIAAct KHALID AL-MASRI TO US CUSTODY
(b)(3) NatSecAct

(ALEC [] Jan 2004)

(b)(3) NatSecAct []

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(b)(3) NatSecAct []

STAFF

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ALEC (b)(3) NatSecAct []

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SUBJECT: D/CTC APPROVAL FOR THE RENDITION OF KHALID AL-MASRI TO
US CUSTODY

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

(b)(1)
(b)(3) CIAAct TEXT:
(b)(3) NatSecAct []

1. ACTION REQUIRED: --ALL STATIONS ARE ADVISED TO PLEASE
OBTAIN AMBASSADOR/COM APPROVALS FOR THIS RENDITION PRIOR TO
COMMENCEMENT OF OPERATIONS.

(b)(1)
(b)(3) NatSecAct 2. RELEASE OF THIS CABLE CONSTITUTES D/CTC APPROVAL TO
RENDER KHALID AL-((MASRI)), DPOB 29 JUNE 1963, KUWAIT, DIRECTLY
INTO [] CONTROL IN [] FOR ONWARD
TRANSFER TO [] SINCE HIS DETENTION ON

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

WE BELIEVE AL-MASRI KNOWS KEY INFORMATION THAT COULD ASSIST
IN THE CAPTURE OF OTHER AL-QA'IDA OPERATIVES THAT POSE A SERIOUS
THREAT OF VIOLENCE OR DEATH TO U.S. PERSONS AND INTERESTS AND
WHO MAY BE PLANNING TERRORIST ACTIVITIES. THIS APPROVAL
ALLOWS ADDEES TO PLAN AND EXECUTE OPERATIONS DESIGNED TO
RENDER AL-MASRI WITH THE KNOWLEDGE, CONSENT, OR ASSISTANCE OF
THE COUNTRY IN WHICH THE OPERATION IS TO OCCUR. ALL STATIONS
ARE ADVISED TO PLEASE OBTAIN AMBASSADOR/COM APPROVALS FOR

2
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(b)(3) NatSecAct

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THIS RENDITION PRIOR TO COMMENCEMENT OF OPERATIONS. CTC/RDG
WILL PROVIDE A SCHEDULE FOR THE RENDITION OF AL-MASRI AS WELL
AS APPROPRIATE GUIDANCE SEPTEL.

3. RENDITION JUSTIFICATION: IF ALL GOES WELL WITH THE
REQUEST TO TRANSFER AL-MASRI FROM ☐
ALEC/HQS SEEKS TO RENDER HIM TO (b)(1) ☐ FOR CONTINUED
DEBRIEFING. (b)(3) NatSecAct

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

3
SECRET ☐ NOFORN//MR

(b)(3) NatSecAct

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(b)(3) NatSecAct

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

4. PER STANDARD PRACTICE, ALL PERSONS ENGAGED IN OPERATIONS TO CAPTURE, DETAIN AND RENDER MUST BE ADVISED THAT [] DOES NOT CONDONE TORTURE, MUTILATION, AND/OR THE MISTREATMENT OF PRISONERS. NEVERTHELESS, PLEASE NOTE THAT PERSONS ENGAGED IN THESE OPERATIONS RETAIN THE RIGHT OF SELF-DEFENSE AND THE RIGHT TO DEFEND THE PHYSICAL SAFETY OF FELLOW OFFICERS, PERSONNEL WORKING WITH [] ELEMENTS, AND [] ASSETS.

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

5. PER REF F THIS CABLE DOES NOT AUTHORIZE THE USE OF ANY PHYSICAL PRESSURES DURING THE CUSTODIAL DEBRIEFING OF SUBJECT(S) BEYOND THOSE REQUIRED TO PROTECT THE SAFETY OF OUR OFFICERS AND THOSE WORKING WITH US, OR OTHERWISE REQUIRED IN ORDER TO PREVENT ESCAPE. PLEASE ENSURE THAT ALL [] OFFICERS ENGAGED IN THIS OPERATION ARE FAMILIAR WITH REF G.

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

6. ALEC/HQS IS WORKING WITH CTC/RDG TO ARRANGE FOR A [] FLIGHT FOR AL-MASRI FROM [] CTC/RDG WILL [] (b)(1)
ADVISE DATES/TIMES AND FULL ITINERARY SEPTTEL. ALEC/HQS PLAN IS (b)(3) CIAAct
TO PLACE AL-MASRI [] WHERE WE WILL CONTINUE (b)(3) NatSecAct
[] FORTS TO VERIFY HIS TRUE IDENTITY AND CONTINUE DEBRIEFING HIM
RE HIS LINKS TO KNOWN AL-QA'IDA OPERATIVES AND OBTAINING FROM
AL-MASRI HIS KNOWLEDGE REGARDING FUTURE PLANNED ATTACKS.

(b)(1)
(b)(3) NatSecAct

(b)(1)
(b)(3) CIAAct
(b)(3) NatSecAct

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(b)(3) NatSecAct

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(b)(3) NatSecAct

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(b)(3) CIAAct
(b)(3) NatSecAct

END OF MESSAGE

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(b)(3) NatSecAct

Appendix B

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(b)(3) CIAAct

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(b)(7)(c)

APPENDIX B~~(S//NF)~~ [] **REPORTED CLAIM OF A PRIOR EXPLANATION FOR**(b)(6) [] **CONCURRENCE ON THE KHALID AL-MASRI RENDITION CABLE**

(b)(7)(c)

1. (U//~~FOUO~~) The Office of Inspector General (OIG) provided an opportunity for individuals cited in this draft Report of Investigation to review pertinent portions for factual accuracy and completeness. Office of General Counsel (OGC) attorney [] reviewed relevant portions of the draft Report as part of this process and provided comments.

(b)(3) CIAAct

(b)(6)

(b)(7)(c)

2. ~~(S//NF)~~ As part of OIG's review process, the chiefs of Agency components affected by the Report also are offered an opportunity to review the Report in draft and comment on or concur with the Recommendations. Acting General Counsel John Rizzo notified the Inspector General of the results of his review of the draft Report on 16 April 2007. He provided new information concerning statements [] made to []

(b)(3) CIAAct

(b)(6)

(b)(7)(c)

[] Rizzo reported that,

Specifically, according to [] offered to your investigators two possible explanations why the cable authorizing al-Masri's detention and rendition contained an incorrect statement regarding the applicable legal standard for terrorist detentions and renditions. The first, and the one cited throughout the report, is that the language in question was inserted at some point in the coordination chain after [] had reviewed and concurred in the cable. However, [] asserts that [] offered the investigators an alternative possible scenario, which is that in reviewing the cable [] missed in the first instance what was [] concedes an inaccurate statement of the applicable legal standard.

(b)(6)

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(b)(7)(c)

In other words, [] told your investigators that [] simply could have made-during a period of intense, frenetic activity in CTC-a mistake in concurring in the cable as drafted. There is no mention of this alternative possible scenario as

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described by [] anywhere in the report, leaving the reader with only the "subsequent language change" explanation offered by []

(b)(3) CIAAct
(b)(6)
(b)(7)(c)

Rizzo concludes that he finds,

... the report's failure to note anywhere [] alternative explanation—[] might have simply missed noticing the language in question—a troubling and potentially significant omission, since it goes directly to the issue of [] truthfulness, credibility and potential personal culpability.

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(b)(6)
(b)(7)(c)

(b)(3) CIAAct
(b)(6)
(b)(7)(c)

3. (~~S//NF~~) [] reported alternate explanation provided by Rizzo in his 16 April 2007 memorandum is new information to OIG. [] statement to [] managers that [] may have made a mistake in concurring on the approval cable for al-Masri's rendition that cited less than the MON standard had not previously been offered to OIG by [] despite a number of opportunities to do so.

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(b)(7)(c)

(b)(6)
(b)(7)(c)

(b)(3) CIAAct
(b)(6)
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◆ When interviewed by OIG on 9 June 2005, [] told the investigators that an unidentified CIA employee had changed the language [] had written in the [] January 2004 cable approving al-Masri's rendition after [] had coordinated on it.

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(b)(1)
(b)(3) NatSecAct

◆ OIG invited [] to review and comment on the Report of Interview for completeness and factual accuracy. [] on 3 August 2005, made written comments on the interview report but did not mention this alternative explanation—that [] made a mistake in concurring on the cable—as reported by Rizzo in April 2007.

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(b)(6)
(b)(7)(c)

(b)(3) CIAAct
(b)(6)
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◆ OIG also invited [] to review pertinent portions of the draft Report of Investigation for factual accuracy and completeness. When [] reviewed the draft text, [] provided written comments on 12 March 2006 and again made no mention of the alternative explanation.

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(b)(7)(c)

(b)(3) CIAAct
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(b)(3) CIAAct

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(b)(7)(c)

- ◆ As discussed in the Report, [redacted] (b)(6)
[redacted] reported that [redacted] had advised [redacted] in (b)(7)(c)
April or May 2004 that "someone" had changed the language
[redacted] had written in the al-Masri rendition approval cable. (b)(3) CIAAct
[redacted] did not tell OIG that [redacted] offered any other (b)(6)
explanation. (b)(7)(c)

- ◆ As also discussed in the Report, [redacted] coordinated on four
other cables authorizing renditions of other individuals
around the period of the al-Masri rendition that also cited
the incorrect legal standard. [redacted] use of the insufficient
legal justification language in renditions approval cables at
this time appears to be systemic and consistent, not an
isolated "mistake" as [redacted] reportedly recently claimed to (b)(6)
managers. (b)(7)(c)

4. (~~S//NF~~) OIG acknowledges that [redacted] reportedly presented
an alternative explanation to [redacted] managers in April 2007 that [redacted] (b)(6)
coordination of the rendition cable was an isolated "mistake." [redacted] (b)(7)(c)
did not present this explanation to OIG at any time, despite repeated
opportunities to do so over a protracted period of time.

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