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Office of the Assistant Attorney General *Washington, D.C. 20530*

May 27, 2004

Mr. Scott Muller
General Counsel
Central Intelligence Agency
Room 7C24 Headquarters Bldg.
Washington, D.C. 20505

Dear Scott:

Thank you for sending us a copy of the Inspector General Report concerning the Central Intelligence Agency's program for enhanced interrogation techniques.

Information in that report has raised concerns about certain aspects of interrogations in practice. As you know, the opinion that the Office of Legal Counsel provided to John Rizzo in August 2002 addressing ten enhanced interrogation techniques depended upon a number of factual assumptions as well as limitations concerning how those techniques would be applied, and it is my understanding that this Office subsequently agreed that the same legal principles, subject to the same factual assumptions and limitations, could be applied for interrogations of persons other than the specific individual addressed in that August 2002 opinion. Our initial review of the Inspector General's Report raises the possibility that, at least in some instances and particularly early in the program, the actual practice may not have been congruent with all of these assumptions and limitations.

In particular, it appears that the application of the waterboard technique may have deviated in some respects from the descriptions in our opinion. We have not yet reviewed all the pertinent facts to determine whether such deviations are material for purposes of the advice we provided. Some facts discussed by the Report had clearly been discussed with Department of Justice personnel in 2003. Some other information, however, appears to have been generated in the course of the Inspector General's inquiry. It raises a concern, for example, that the Inspector General has suggested, among other things, that the "SERE waterboard experience is so different from the subsequent Agency usage as to make it almost irrelevant." IG Report at 22 n.26. As you know, the use of the waterboard in SERE training was a significant factor in this Office's legal analysis. I understand that the waterboard technique has not been used since March 2003. In light of

the assertions in the Inspector General's Report, and the factual assumptions underlying our advice, we strongly recommend that any use of this technique remain suspended until we have had a more thorough opportunity to review the Report and the factual assertions in it.

We recommend that with respect to the use of the other nine techniques, you review the steps you have already taken to ensure that in actual practice any use of those techniques adheres closely to the assumptions and limitations stated in our opinion of August 2002.

Finally, the Report also includes information concerning interrogations that are not part of the enhanced interrogation techniques program. As you know, we have not provided advice on practices described in those portions of the Report.

Sincerely,

Jack L. Goldsmith III