

**HEARING TO RECEIVE TESTIMONY ON THE
AUTHORIZATION OF SURVIVAL EVASION
RESISTANCE AND ESCAPE (SERE) TECH-
NIQUES FOR INTERROGATIONS IN IRAQ:
PART II OF THE COMMITTEE'S INQUIRY
INTO THE TREATMENT OF THE DETAINEES
IN U.S. CUSTODY**

Thursday, September 25, 2008

U.S. SENATE
COMMITTEE ON ARMED SERVICES
Washington, DC.

The committee met, pursuant to notice, at 9:36 a.m. in Room SD-106, Dirksen Senate Office Building, Hon. Carl Levin, chairman of the committee, presiding.

Committee Members Present: Senators Levin [presiding], Dole, and Thune.

Committee staff members present: Richard D. DeBobes, Staff Director, and Leah C. Brewer, Nominations and Hearings Clerk.

Majority staff members present: Joseph M. Bryan, Professional Staff Member, Ilona R. Cohen, Counsel, Mark R. Jacobson, Professional Staff Member, and Peter K. Levine, General Counsel.

Minority staff members present: Michael V. Kostiw, Republican Staff Director, William M. Caniano, Professional Staff Member, and David M. Morriss, Minority Counsel.

Staff assistants present: Jessica L. Kingston, Brian F. Sebold, and Breon N. Wells.

Committee members' assistants present: Jay Maroney, assistant to Senator Kennedy, Elizabeth King, assistant to Senator Reed, Caroline Tess, assistant to Senator Bill Nelson, Gordon I. Peterson, assistant to Senator Webb, Mark J. Winter, assistant to Senator Collins, Andi Fouberg, assistant to Senator Thune, and Jason Van Beek, assistant to Senator Thune.

**OPENING STATEMENT OF HON. CARL LEVIN, U.S. SENATOR
FROM MICHIGAN**

Chairman LEVIN. Good morning, everybody.

In June 2008, this committee held a hearing on the origins of aggressive interrogation technologies used against detainees in U.S. custody at Guantanamo, Abu Ghraib, and elsewhere. At that hearing, the committee heard how techniques such as stress positions, forced nudity, and sleep deprivation used in military survival, evasion, resistance, and escape, or SERE, training to teach U.S. per-

sonnel to resist abusive interrogations, and based in part on Chinese communist techniques used during the Korean War to elicit false confessions, were turned on their head and authorized at senior levels of our government for use in interrogations of detainees in U.S. custody.

Today's hearing will cover one way that those techniques made their way to Iraq. While some have claimed that detainee abuses at Abu Ghraib and elsewhere were simply the result of a few bad apples acting on their own, at our June hearing we heard that, as far back as December 2001, senior Department of Defense officials, including from General Counsel Williams "Jim" Haynes' office, sought out information from the Joint Personnel Recovery Agency, or JPRA, the DOD agency responsible for overseeing SERE training. We heard how, when he later received a request from Guantanamo Bay to use techniques similar to those used in SERE training, Mr. Haynes ignored strong concerns, from the military services themselves, that some of the techniques were illegal; he cut short an effort by the legal counsel to the Chairman of the Joint Chiefs of Staff to conduct a legal and policy review of the techniques; and he recommended that the Secretary of Defense approve most of them for use against detainees.

In December of 2002, Secretary Rumsfeld approved Mr. Haynes' recommendation, sending the message that stripping detainees, placing them in stress positions, and using dogs to intimidate them was acceptable. Policies authorizing some of those same abusive techniques in Afghanistan and Iraq followed the Secretary's decision.

We'll hear, this morning, how one military commander in Iraq sought and obtained interrogation support from JPRA, the agency whose expertise, again, is in teaching soldiers to resist abusive interrogations conducted by our enemies. We'll hear from Colonel Steven Kleinman, the former director of intelligence at JPRA's Personnel Recovery Academy, and we'll hear from retired Colonel John Moulton II, former commander of JPRA. Both witnesses have been cooperative with the committee's inquiry. We thank them for their appearance here today, and we thank them for their service to our Nation.

Some new information and recently declassified documents provide further insight into the extent to which SERE resistance training techniques influenced detainee interrogations conducted by U.S. personnel and the role of senior officials in approving policies authorizing the use of those techniques against detainees.

At our June 17th hearing, we heard that the Department of Defense's General Counsel's Office, led by Jim Haynes, sought advice from JPRA as far back as December 2001. Specifically, in mid-December 2001, Deputy General Counsel for Intelligence Richard Shiffren solicited information from JPRA on detainee exploitation. JPRA chief of staff, Lieutenant Colonel Daniel Baumgartner, responded to Mr. Shiffren's call with a 6-page fax. An unclassified fax cover sheet addressed to Mr. Shiffren and dated December 17th, 2001, which is tab 1, states that the document provided JPRA's—it states that the document provided JPRA's, quote, "spin on exploitation," close quote, and that if the General Counsel's Office needed, quote, "experts to facilitate this process, the JPRA stood ready

to assist.” That December 2001 call from Mr. Shiffren appears to have been JPRA’s first foray into what are called “offensive interrogation operations,” but other efforts soon followed.

On April 16th, 2002, Dr. Bruce Jesson, who was then the senior SERE psychologist at JPRA, circulated a draft exploitation plan to JPRA commander, Colonel Randy Moulton, and other senior officials at the agency. E-mails exchanged between Dr. Jesson and Colonel Moulton, tab 2, suggest that JPRA intended to seek approval of the exploitation plan.

Also in the spring of 2002, the CIA sought approval from the National Security Council, the NSC, to begin an interrogation program for high-level al Qaeda detainees. In a written response to questions which I sent to her in July of 2008, Secretary of State Condoleezza Rice, who was then the National Security Advisor to the President, responded, on September 12th, just a weeks ago, that in 2002 and 2003 there were meetings at the White House where specific CIA interrogation techniques were discussed. And that’s tab 3.

I also asked Secretary Rice whether she attended meetings where SERE training was discussed. Secretary Rice responded that she recalled being told that U.S. military personnel were subjected, in training, to, quote, “physical and psychological interrogation techniques,” close quote, and her advisor, her legal advisor at the time, John Bellinger, said, in his September 12th, 2008, written answers to my questions, that he was present in meetings at the White House or the Eisenhower Executive Office Building next door, quote, “at which SERE training was discussed,” close, 4—excuse me—“was discussed,” and that’s tab 4.

Secretary Rice also wrote, in her September 12th response, that John Yoo, Deputy assistant Attorney General at the Department of Justice’s Office of Legal Counsel, the OLC, provided legal advice at several meetings that she attended, and that the Department of Justice’s advice on the program, quote, “was being coordinated by Counsel to the President Alberto Gonzales.” She wrote that CIA’s interrogation program was reviewed by NSC principals, and that Secretary of Defense Rumsfeld participated in that review.

Secretary Rice said that when CIA sought approval of the interrogation program, she asked Director of Central Intelligence George Tenet to brief the principals, the NSC principals, and asked Attorney General John Ashcroft to, quote, “personally advise NSC principals whether the program was lawful.”

Mr. Bellinger, her legal advisor, wrote us that he asked CIA lawyers to seek legal advice, not only from the Office of Legal Counsel, but also from the criminal division of the Department of Justice, which was headed at that time by Michael Chertoff.

The meetings referred to by Secretary Rice and Mr. Bellinger were not meetings between some low-level bureaucrats. These are the most senior officials in the United States Government, advisors to the President, meeting in the White House.

Mr. Bellinger said that some of the legal analyses of proposed interrogation techniques that were prepared by the Department of Justice referred to the, quote, “psychological effects of military resistance training,” and that during that 2002–2003 timeframe, that he, quote, “expressed concern that the proposed CIA interrogation

techniques comply with applicable U.S. law, including our international obligations,” close quote.

At our June 17th hearing, the committee heard that, in July of 2002, prompted by a request from DOD General Counsel Jim Haynes, Deputy General Counsel for Intelligence Richard Shiffren called JPRA and asked for a list of physical and psychological pressures used in SERE training. In response to that request, on July 26th, 2002, JPRA provided a list of techniques that included stress positions, water-boarding, slapping, sleep disruption, and sensory deprivation. The JPRA list also made reference to a section of the JPRA manual that talks about, quote, “coercive pressures,” including treating a person like an animal. Mr. Shiffren testified that part of the reason that General Counsel’s Office sought the information was its interest in reverse-engineering the techniques for use offensively in detainee interrogations.

At that hearing, we—back a few months ago—we also heard that, in July of—October 2002, Major General Michael Dunlavey, the commander at Guantanamo, requested authority to use some of the same SERE resistance training techniques that had been on the list which JPRA provided to Mr. Haynes’ office in July.

The military services registered serious concerns about the legality of some of the techniques in Major General Dunlavey’s request. And Rear Admiral Jane Dalton, who was the legal counsel to the Chairman of the Joint Chiefs of Staff, testified that she initiated a broadbased legal and policy review of the request, but, at Mr. Haynes’ request, her review was cut short by General Richard Myers, the Chairman of the Joint Chiefs of Staff at that time.

Mr. Haynes’ subsequent—Mr. Haynes subsequently recommended that Secretary of Defense Donald Rumsfeld approve most of the techniques in Major General Dunlavey’s request. Again, on December 2nd, 2002, Secretary Rumsfeld approved Mr. Haynes’ recommendation authorizing the use of aggressive interrogation techniques at GTMO, including stress positions, instilling fear through the use of dogs, and removal of clothing.

At the June 17th hearing, we heard from then-Navy General Counsel Alberto Mora about concerns that he raised in December of 2002 and January 2003 with Mr. Haynes about interrogations at GTMO. We learned, from John Bellinger, the NSC advisor, in his September 12th response to my questions, that on several occasions Deputy assistant Attorney General Bruce Swartz raised concerns with him about allegations of detainee abuse at GTMO. Mr. Bellinger wrote to me that he, in turn, raised these concerns, quote, “on several occasions with DOD officials,” close quote.

In her September 12th response, Secretary Rice wrote that Mr. Bellinger also advised her, quote, “on a regular basis regarding concerns and issues relating to DOD detention practices and policies at Guantanamo,” close quote. She wrote that, as a result, she convened “a series of meetings of NSC principals in 2002 and 2003 to discuss various issues and concerns relating to detainees in the custody of the Department of Defense,” close quote.

At our last hearing, I described how aggressive techniques authorized by the Secretary of Defense for use at GTMO made their way to Afghanistan and Iraq. Many of these same techniques were authorized by senior military commanders.

For instance, on September 14th, 2003, Lieutenant General Ricardo Sanchez, the commander of the Combined Joint Task Force-7 in Iraq, authorized the use of dogs, stress positions, and other aggressive techniques in interrogations. The summer of 2003, the commander of a special mission unit task force in Iraq went further. He contacted JPRA for help with interrogations. Again, JPRA's expertise is in training soldiers to resist abusive interrogations by enemies that refuse to follow the Geneva Conventions. In response to the commander's request and with explicit approval from the U.S. Joint Forces Command, JPRA's higher headquarters, JPRA sent an interrogation support team to Iraq. Colonel Kleinman, who is here with us this morning, was the team leader during that visit.

Here's some of what we know about the Iraq trip from unclassified or declassified sources:

The task force's request for JPRA, quote, "interrogator support," was submitted through official channels, was approved by JFCOM on August 27th, 2003. JPRA put together a three-person team to support the request.

On September 4th, 2003, just as the JPRA team was arriving in Iraq, Lieutenant General Robert Wagner, the deputy commander of the U.S. Joint Forces Command, which is JPRA's senior command, sent an e-mail to Colonel Moulton, the JPRA commander, about the trip, asking, "What in JPRA's charter places JPRA in the business of intelligence collection?" close quote, tab 5.

Again, just a week earlier, JFCOM had approved the trip. Colonel Moulton replied to Lieutenant General Wagner's e-mail that, quote, "There is nothing in our charter or elsewhere that points us toward the offensive side of captivity conduct," close quote, and that JPRA was, quote, "well aware of the problems associated with crossing the Rubicon into intel collection," parenthesis, "(or anything close)" close parenthesis.

A second e-mail from Colonel Moulton, however, sent on September 9, 2003, to the JFCOM director of operations stated that, quote, "Recent history, to include discussions and training with DIA, USSOCOM, and CIA, shows that no DOD entity has a firm grasp on any comprehensive approach to strategic debriefing," slash, "interrogation. Our subject-matter experts and certain SERE psychologists currently have the most knowledgeable—and depth within DOD on the captivity environment and exploitation," close quote.

While Colonel Moulton's e-mail said that JPRA was, quote, "not looking to expand our involvement to active participation," close quote, he noted that JPRA's, quote, "potential participation is predicated solely on the request of the combatant commander," close quote.

A recently declassified summary of a 2005 interview with Colonel Moulton, tab 6, and Colonel Moulton's prepared statement for today's hearing, both describe conversations which he had with Colonel Kleinman while the JPRA team was in Iraq. Colonel Moulton acknowledges telling Colonel Kleinman that the JPRA team was authorized to participate in interrogations using SERE training techniques. Colonel Moulton said he granted that authority only after seeking approval from JFCOM.

Colonel Kleinman has said he objected to the use of SERE training techniques during the trip, and that he told Colonel Moulton both that those techniques were inconsistent with the Geneva Conventions and that granting authority for the team to use them was an illegal order.

This morning, we will hear both Colonel Moulton's and Colonel Kleinman's account of those conversations and events that occurred during that trip.

Toward the end of their trip, members of the JPRA team produced a draft concept of operations, or CONOP, for the interrogation of detainees. E-mails from Captain Daniel Donovan, U.S. Joint Forces Command staff judge advocate, reveal some of what the CONOP proposed and what JPRA thought was acceptable.

Captain Donovan, in a September 26th, 2003, e-mail to Colonel Moulton and others at JPRA, tab 7, raised a concern that techniques proposed in the CONOP would, quote, "not be legal under the Geneva Conventions." A few days later, in an e-mail to JFCOM leadership, tab 8, Captain Donovan reiterated his concern that a, quote, "number of the interrogation techniques suggested by JPRA in their draft CONOP are highly aggressive, such as the waterboard, and it probably goes without saying that if JPRA is to include such techniques in a CONOP they prepare for an operational unit in another area of responsibility, that they need to be damn sure they're appropriate in both a legal and policy sense," close quote.

Captain Donovan added, JPRA got its list of techniques from a DOD general counsel working-group report dated 6 March '03, so I'm sure that they felt that their list might have already been, quote, "blessed by Pentagon lawyers," close quote.

The working group referred to by Captain Donovan's e-mail had been established at Secretary Rumsfeld's direction in January of 2003. As the committee heard at our June 17th hearing, over the strong objections of senior military lawyers, the working group relied on a March 14th, 2003, legal opinion from the Department of Justice's Office of Legal Counsel written by John Yoo. The working group's final report, issued on April 4th, 2003, recommended several aggressive techniques, including removal of clothing, prolonged standing, sleep deprivation, dietary manipulation, hooding, increased anxiety through the use of a detainee's aversions, like dogs, and face and stomach slaps. While the final working-group report did not mention SERE, many of the techniques it recommended were strikingly similar to techniques used in the JPRA's SERE training.

Captain Donovan's e-mail said that those—that the techniques which were approved by Secretary Rumsfeld for use at GTMO in April of 2003 were not the same as those in the working-group report, and said that what the Secretary had approved was more restrictive. As we heard at our June 17th hearing, Secretary Rumsfeld's April 2003 memo to the U.S. Southern Command, GTMO's higher headquarters, was silent on most of the techniques in the working group's report. The Secretary's memo said that if techniques, beyond the 24 that he specifically authorized, were required, SOUTHCOM should, quote, "provide a written request describing the proposed technique, recommending safeguards and the

rationale for applying it with an identified detainee,” close quote. We heard, at our last hearing, that one such request arrived at the Pentagon just a few months later and was approved by the Secretary.

Secretary of Defense Rumsfeld’s original December 2, 2002, authorization of aggressive interrogation techniques, including stress positions, use of dogs, and removing detainees’ clothing, and his working group’s April 2003 recommendation of many other additional aggressive techniques conveyed the message that senior officials felt that the physical pressures and degrading tactics were appropriate for use during interrogations of detainees in U.S. military custody. Many of the aggressive techniques that the Secretary approved in December of 2002, including the three that I just mentioned—stripping detainees, putting them in stress positions, and using dogs to intimidate them—were used against detainees at Abu Ghraib.

But, even the public disclosure of abuses at Abu Ghraib apparently did not eliminate interest in using SERE specialists to provide advice on interrogations. The Department of Defense’s Inspector General said, in its 2006 report, that it was only after a request to send a JPRA team to Afghanistan in 2004 that JFCOM finally issued guidance that the use of SERE for offensive purposes lies outside the roles and responsibilities of JPRA. And that is at tab 10. [Pause.]

Chairman LEVIN. Okay. I see that there’s nobody here for an opening statement, any other Senators, so I’m going to call, first, on Colonel Moulton.

If you would provide us with your statement. And, again, thank you so much for being with us and for your cooperation with this committee.

**STATEMENT OF COLONEL JOHN R. MOULTON II, USAF (RET.),
FORMER COMMANDER, JOINT PERSONNEL RECOVERY
AGENCY**

Colonel Moulton: Yes, sir. Mr. Chairman, thank you for allowing me to appear before your committee today. The issue of treatment of detainees in U.S. custody is a critically important matter, and I’m pleased to provide information and testimony relative to the questions raised in the memo to me, dated 12 September.

In accordance with the committee’s specific request, I have written testimony addressing my recollections of the events in—or, cited in that memo.

I do want to take this time—this opportunity to say that I’ve read some of Colonel Kleinman’s previous testimony and some of the papers he had written, and I feel that we are pretty much of one mind when it comes to the treatment of detainees in U.S. custody. And I commend his service and contribution to this important effort.

I’d like to provide a brief background on my service to the United States, focusing particularly on my efforts—or time and efforts at JPRA.

I graduated from the United States Air Force Academy in 1978 and spent the first 10 years of my career flying operational jobs with WC-130s and rescue HC-130s. From 1989 to 2000, I served

in various command and staff positions, twice at the air staff. I was a research fellow at Georgetown University, where I taught American defense policy. I was also a legislative liaison for U.S. Special Operations Command and held the positions of director of operations and commander for operational squadrons.

In July of 2000, I was assigned as the deputy commander of Joint Personnel Recovery Agency, and assumed command in March of 2001. I served as commander until September 2004, and retired in December of that year.

JPRAs mission is to shape personnel recovery for the DOD inter-agency and partner nations to enable commanders, forces, and individuals to effectively accomplish the personnel recovery responsibilities. As part of that mission, JPRA provides training to DOD personnel on critical tasks essential to survival, evasion, resistance, and escape. JPRA's mission has never been to conduct interrogations of captured personnel, nor were the JPRA personnel that I commanded trained to do that mission.

Commanding the professional men and women of JPRA was, without a doubt, the most rewarding assignment of my career. The value of the myriad services performed by that agency is unparalleled and is only superceded by the commitment of the men and women working there.

Upon assuming command, I had three primary goals for my command tenure. The first of those was to restructure the organization to mirror that of other joint organizations. This restructuring included placing uniformed personnel in charge of directorates which had previously been headed by government civilians. I determined this restructuring to be critical to the accountability associated with our many varied missions.

My second priority was to create the Personnel Recovery Academy using our training facilities at Fairchild Air Force Base as the nucleus for that. I also wanted to create a uniformed command position equivalent to that of squadron commander to oversee their programs and to report directly to me.

Due to the geographic separation and the different missions from the JPRA headquarters, I determined it was necessary to have full-time oversight by a uniformed officer. That change had nothing to do with any old perceptions I had of the personnel working at Fairchild Air Force Base, but, rather, I believed it would provide them with more unit identity and cohesion.

My third priority was to create a core captivity curriculum that would bring all the service survival schools together with one standardized approach to SERE training.

After the events of September 11th, 2001, JPRA refocused its attention on the training curriculum and personnel recovery planning essential to support the warfighter in a new and ambiguous operating environment. With operations in Afghanistan and, later, Iraq, we immediately became focused on developing new area survival and evasion charts, "pointy-talkies," which are cards that help us communicate with indigenous, mostly illiterate personnel, and also to develop a survival crib sheet for deploying soldiers, sailors, and airmen who had not previously had SERE training.

Permission was especially difficult during this time, because we were faced, for the first time in history, with a conflict where are

Armed Forces were in an operational environment where they could find themselves detained as either prisoners of war, peacetime governmental detainees, or hostages. Each of these situations requires the detainee to comport himself differently, and there are different legal ramifications with each scenario and how U.S. personnel are trained to interact with their captors.

Synthesizing these requirements into something that junior servicemembers focused on their primary mission could easily understand and retain was our most critical task. The requirement resulted in a significant increase in deployment operations tempo for JPRA to ensure that all forces were trained properly.

As commander of JPRA, I reported directly to the commander of Joint Forces Command. On a day-to-day basis, I worked through the chief of staff or the director of operations, the J-3.

As had been my direction when I had assumed command of JPRA, all requests for support would be forwarded through JFCOM, who would then task JPRA, after their review and approval. The JFCOM J-3 had an officer and a J-35 who was directly responsible for dealing with the requests from other combatant commands and services that the JPRA support.

While JPRA routinely provided support teams in theater to conduct SERE training and also supported other DOD organizations with subject-matter experts on captivity psychology and counter-resistance, prior to September 2003 I'm not aware of any other direct support to interrogation operations in the field.

Throughout my tenure, I had discussion with JFCOM leadership about our mission and my reservations about extending support to interrogation operations. I believe there is a consensus among JFCOM leadership and my staff that JPRA was an organization—as an organization, was limited by its authorities. There was also common agreement that only—that the only personnel within DOD with subject-matter expertise on captivity psychology and counter-resistance were the training instructors assigned to JPRA in the service SERE schools.

The dilemma we faced was how to provide support in these areas, while not extending past JPRA's charter. My recommendation to senior leadership at JFCOM, as early as February 2002, was to provide support requests by having individual service subject-matter experts. This approach was endorsed by JFCOM and followed throughout my tenure and command.

I believe now, as I did during these events, that JPRA should not be in the business of conducting interrogations or interrogator training. Our personnel were not trained interrogators, and JPRA is not organized, trained, and equipped to perform that mission. However, the unique knowledge and expertise of the JPRA professionals did provide invaluable support for DOD's intelligence collection efforts. At the time, with the confluence of events, especially the infusion of unlawful combatants into the conflict, the lack of clear guidance on their legal status in written operating procedures, and the lack of knowledge within the intelligence community about the psychology of captivity, which—required tough decisions to be made. I believe that JPRA's efforts expanded the knowledge of captivity psychology, which led to improvements in the collection of actual human intelligence.

I appreciate the opportunity to speak today, and look forward to answering any questions you may have. [The prepared statement of Colonel Moulton follows:]

Chairman LEVIN. Thank you very much, Colonel. And we'll put your entire statement in the record. I noted that you shortened it.

Colonel Moulton: Yes, sir.

Chairman LEVIN. And if there's no objection, we'll—

Colonel Moulton: No, sir.

Chairman LEVIN.—put the entire statement in the record.

Colonel Moulton: Yes, sir.

Chairman LEVIN. Colonel Kleinman?

**STATEMENT OF COLONEL STEVEN M. KLEINMAN, USAFR,
FORMER DIRECTOR OF INTELLIGENCE, PERSONNEL RECOVERY
ACADEMY, JOINT PERSONNEL RECOVERY AGENCY**

Colonel Kleinman: Mr. Chairman, it's a pleasure, and certainly an honor, to appear before you today, and I thank you for the invitation.

The military resume that I submitted along with my written statement, I offer up as the bona fides for a career that was involved with human intelligence, interrogation, special survival training, and special operations, and I hope that supports the credibility of the statements, observations that I make today.

Clearly, of particular interest to the committee is—are the events that transpired in conjunction with the deployment of the Joint Personnel Recovery Agency team, in September 2003, to Iraq, but I must admit that the problematic event was just symptomatic of a much larger issues that transcend any single command. But, I think, in sifting through the answer to a single question, we might uncover some very surprising and useful truths. The question is, Why did the special operations community feel that it was necessary and appropriate to request interrogation support from a command that you've pointed out has a mission of providing, not interrogation, but resistance to interrogation training?

To adequately address that question, I need to detail several contributing events that began after the horrific attacks on 9/11 and our invasion of Iraq in 2003.

The Armed Forces intelligence services of this country were shifting their focus from a conventional strategic threat to one defined as asymmetric and operational. But, much about that new threat was unavailable through our strength and technical intelligence. Surprising most, that gap is filled by the interrogation of detainees. We are now literally face to face with an enemy that most described as unlike any we'd ever encountered. A stereotyped caricature of this enemy soon emerged and did not long take—didn't—excuse me—it did not take long for us to decide that special treatment, including the so-called enhanced interrogation methods, were required, even though those were prohibited by the standards of conduct that we previously adhered to.

From the beginning, there was incredible pressure placed on interrogators to elicit actionable information—we can define that as information that operators can act upon within a 24- to 48-hour cycle—from almost every individual that we took into custody. And some of these detainees were complicit, and some were innocent.

Some were truly knowledgeable, and some were truly clueless. But, nonetheless, we erred in simply pressing interrogation and interrogators beyond the edge of the envelope. And, as a result, interrogation was no longer an intelligence collection method; rather, in many cases it had morphed into a form of punishment for those who would not cooperate.

We sent very young, very inexperienced interrogators to collect this intelligence. We asked them to do that in an asymmetric battlespace, even though they were trained for a cold-war tactical model. And we matched them against detainees about whom we know so little. So, we should not be surprised that the results were less than optimal.

But, when this proved ineffective in producing the type of actionable intelligence that senior leaders required, other viable strategies, such as I—those I hope to be able to outline today, were ignored or rejected as irrelevant in this new battlespace in the 21st century. Instead, we opted to do more of the same, only now we have ratcheted up the pressure, and, in some cases, to an alarming degree.

We had the choice of getting smarter or getting tougher. And, unfortunately, we chose the latter. Nonetheless, the intelligence shortfall continued, and operational commanders demanded more intelligence.

The resourceful special operations community, to which I'm assigned right now, sought, then, solutions outside the intelligence community. With their clear memories of their experiences during intensive resistance to interrogation exercises that are a key part of SERE training, their search led them to the cadre of very talented survival instructors, who demonstrated exceptional skill in conducting interrogations using the high pressure, often threatening tactic deployed by countries that were not signatories to the Geneva Convention. These special operators were understandably impressed by the ability of these instructors to compel compliance with both force and subterfuge.

To the nonintelligence officer, the transfer of SERE methods from the training environment to real-world operations seemed a logical option. Several critical factors, however, were overlooked. First, many of the methods used in SERE training are based on what was once known as a communist interrogation model, a system designed to physically and psychologically debilitate a person, a detainee, as a means of gaining compliance. Second, the model's primary objective was to compel a prisoner to generate propaganda, not provide intelligence. And, third, it was expressly designed to mirror a program whose methods were considered, in the West, as violations of the Geneva Convention.

The problems with employing SERE techniques in the interrogation of detainees did not stop there. I want to emphasize, Mr. Chairman, that the survival instructors are some of the most dedicated professionals in the Armed Forces. Their tireless work is in support of a single mission, and that is to help others return with honor. But, I'd be remiss, though, if I did not make abundantly clear that they are not interrogators. While there's much in common between interrogation and teaching interrogation, there are, nonetheless, very profound differences. Survival instructors, for ex-

ample, operate in the domestic environment with students who share a language and a culture. In contrast, interrogators operate worldwide, interacting with foreign nationals, often across a very substantial cultural and linguistic divide. And if questions arise about a student's voracity in the course of role play, the survival instructor need only call the student's unit of assignment to verify the information. Clearly, that's not an option for an interrogator for whom detecting deception is a critical skill.

And while interrogation role play—resistance to interrogation role play is limited in duration, frequency, and scope, interrogations of custodial detainees may last hours and continue over a span of months.

And finally, the survival instructor's focus is on the performance of the student, not collecting information. And interrogator must doggedly pursue and record every detail of intelligence in formation detainees possess. But, with little expertise in interrogation operations at the senior level—and it should be noted that the Central Intelligence Agency did not get involved in interrogation until after September 11th—the legal, operational, and moral factors that concern the employment of SERE methods went largely unrecognized. There were very few internal safeguards that should have maintained a clear separation between these two activities.

And it is this lack of expertise at the senior level that provides the final piece of the puzzle. As an experienced interrogator and a former director of the Air Force Combat interrogation course, I am acutely aware of how the laws of armed conflict apply to interrogation of detainees. I was, therefore, stunned, upon my return from Iraq, at the number of senior officers who challenged my assessment of the unlawful interrogation methods, my on-the-ground assessment of those methods, with the argument that psychologically and physically punishing interrogations are precisely what they would expect, had they found themselves captured. In a sense, they deferred the standards to the enemy.

In summary, the following are the key factors contributing to our current state of affairs:

Number one, our approach to interrogation has failed to have kept pace with our understanding of the operational environment or with our—or with knowledge of the behavioral sciences. In addition, interrogation continues to be viewed as a simple task that we can assign to our most junior military personnel.

Number two, pressed to find a solution to the critical intelligence shortfall, special operators followed their professional instincts. They could not wait for the intelligence community to catch up.

Number three, the lack of expertise at the senior level in managing and conducting interrogation was a single point of failure that facilitated introduction of SERE techniques into the repertoire of allowable interrogation methods. As a result, adversaries and allies alike have accused this nation of gross violations of the Geneva Convention and of violating the basic human rights of those in detention. The geostrategic consequences are likely to last decades.

Mr. Chairman, I'm hopeful that we might leverage our collective wisdom, expertise, and sense of justice to finally take steps necessary to revisit and refine our policies on the handling and interrogation of detainees in a manner that reflects the best of Amer-

ica's core values. Having had the honor of interviewing a number of World-War- II-era interrogators who set the standard for both operational effectiveness and propriety, I can tell you this, member of that Great Generation are watching us carefully. We walk in their shadows. Let us give them one more reason to be proud of their country.

Thank you, Mr. Chairman. [The prepared statement of Colonel Kleinman follows:]

Chairman LEVIN. Thank you, Colonel, very much.

Colonel Kleinman, let me start with you. You went to Iraq with a team of two others, so there were three of you in JPRA team. Is that correct?

Colonel Kleinman: That's correct, Mr. Chairman.

Chairman LEVIN. And when you got there—that was during the week of September 4th, 2003? Does that sound right?

Colonel Kleinman: Yes, sir.

Chairman LEVIN. And when you got there, you raised concerns, as I understand it, about the interrogation tactics which were being employed against detainees in our custody, and called Colonel Kleinman—called Colonel Moulton. Is that correct, Colonel Kleinman?

Colonel Kleinman: Not exactly, Mr. Chairman.

Chairman LEVIN. Oh. Well then, what happened?

Colonel Moulton: I observed a number of what I called—what I thought were abuses in—and at least one interrogation, I intervened and stopped. This is before I fed it back to Colonel Moulton, because I didn't think there were systemic problems. I did talk to the captain who was in charge of the J-2X, which is a position responsible for overseeing interrogation and human ops and counter-intelligence. And his quote was, "Your judgment is my judgment." So, I stopped the interrogation. I did brief the task force commander of what I did and why. And he had absolutely no reservations about that action.

Chairman LEVIN. And the task force commander was whom?

Colonel Kleinman: I've been briefed, sir. I'm not sure if I'm—

Chairman LEVIN. All right. Let me ask you this question. You witnessed an interrogation that you thought was abusive.

Colonel Kleinman: Yes, sir.

Chairman LEVIN. Can you describe what you saw?

Colonel Kleinman: Yes, sir. Very simply. The two members of my—I walked into an interrogation, all painted in black, with a spotlight on the detainee. Behind the detainee was a military guard with a iron bar, literally the caricature or stereotype of the old gangster movies, slapping it in his hand. The interrogator was sitting in a chair. The interpreter was to his left. And the detainee was on his knees. The question was asked—a question was asked by the interrogator, interpreted. The response came back, and, upon interpretation, the detainee would be slapped across the face. And that continued with every question and every response. I asked my colleagues how long this had been going on, specifically the slapping. They said approximately 30 minutes. They didn't seem to think there was a problem, because in SERE training there is called—there's a facial slap. But, it's conducted in a very

specific ways to a very specific part of the face so that it's more shock than pain. This was not conducted in that fashion.

Chairman LEVIN. And who was conducting it?

Colonel Kleinman: One of the interrogators that was assigned to the task force. Not one of the JPRA members.

Chairman LEVIN. All right, but they were—were the other two JPRA members in the room, or—

Colonel Kleinman: Yes, sir, they were sitting in chairs behind the detainee, 2 or 3 yards away. They weren't involved, other than observing—

Chairman LEVIN. All right.

Colonel Kleinman:—at the time I was there. They made no comment.

Chairman LEVIN. At that time. Now, following that incident is when you first called Colonel Moulton. Is that correct?

Colonel Kleinman: No, sir.

Chairman LEVIN. Well, when did you call Colonel Moulton? How long after that, that you witnessed that?

Colonel Kleinman: It seems like—I—again, thinking that it was a individual problem that we could handle at the task force level, that JPRA's interests weren't really involved there, I think—it must have been a week before I talked to Colonel Moulton, maybe even longer.

Chairman LEVIN. All right.

Colonel Kleinman: That time, I was observing the activities at this interrogation facility and reporting back to the task force commander with my assessment of where the problems lied and where the possible solutions were.

Chairman LEVIN. All right. Was there another incident that you witnessed which you considered abusive?

Colonel Kleinman: Yes, sir. There was one case. A plan was laid out on butcher paper for another detainee that involved extensive stress positions, followed by interrogation, followed by short periods of sleep—45 minutes, I think. The idea was that maybe they would give them 4 hours of sleep over a 24-hour period, but it wouldn't be continuous, it would be in little 45-minute increments. But, I mean, it was literally specific. This time to this time, they'd be in stress position. This time to this time, they would be allowed to sleep. This time to this time, they would be interrogated. I stopped that, also.

Chairman LEVIN. All right. Now, did you also—was it at that point you first called Colonel Moulton?

Colonel Kleinman: No, I think it was shortly after that point that there was—a disagreement arose between myself and the two other members of the team. They felt that I had no authority to have stopped any of this interrogations, that that's not what JPRA—

Chairman LEVIN. This is what—your JPRA team, you're talking about.

Colonel Kleinman: Yes, sir. Yes, sir.

Chairman LEVIN. And you had stopped the interrogation. You were arguing with them as to whether you had the authority to do so.

Colonel Kleinman: That's correct.

Chairman LEVIN. And it was at that point you called the Colonel?

Colonel Kleinman: At that point—

Chairman LEVIN. Well, just tell us—when you called, what was the conversation?

Colonel Kleinman: Let's see—I want to provide as accurate information as possible, so let me reflect on this. It was about the point when I saw other challenges, how things weren't going to get better, and that my two JPRA colleagues were pushing to get more involved. And I told them that they should, precisely as advisors. For instance, how to handle prisoners when they first come in, how to go through pocket litter, et cetera, the things that I thought JPRA had a strength that they could offer. But, it was when they started making recommendations about the treatment of a detainee that would be essentially a replication of what we do during our role-play exercises, which sometimes are very intensive, but watched over by—are supervised by a psychologist, by medical personnel, by seasoned individuals. And that's when I called—

Chairman LEVIN. All right. And those were the techniques that you considered abusive when applied to detainees?

Colonel Kleinman: Yes, sir. It was going to—I can illiterate what those were.

Chairman LEVIN. Please.

Colonel Kleinman: Stripped naked—

Chairman LEVIN. Well, now, did you see that?

Colonel Kleinman: Ultimately, I did, sir. After the —this was after, I believe, I talked with Colonel Moulton.

Chairman LEVIN. All right, that comes afterward, the stripping naked.

Colonel Kleinman: Yes, sir.

Chairman LEVIN. Let's go back, now, to the call that you had with Colonel Moulton.

Colonel Kleinman: All right. I called Colonel—I talked to the task force commander. I expressed my concerns that the JPRA methods—the SERE methods—I shouldn't say “JPRA methods”—the SERE methods for interrogation were unlawful, they violated the Geneva Convention and national law. The task force commander had, again, absolutely no reservation about that. He said—and I think I can quote him—“Well, of course. Survival training is conducted, people who volunteer under very controlled measures. And this is a whole different field out here.” And I said, “Well, there's—my colleagues and others at the task force are expecting us to use these other methods.” And so, I told him that I was going to call Colonel Moulton to—and I think, actually, this officer had discussions with Colonel Moulton beforehand. But—

Chairman LEVIN. All right. And now—

Colonel Kleinman: So, I called—

Chairman LEVIN.—following that conversation, you called Colonel Moulton.

Colonel Kleinman: Yes, sir.

Chairman LEVIN. And then, would you—now tell us what that conversation was.

Colonel Kleinman: Yes, sir. I explained that we were being asked to use the full range of SERE methods in the interrogation of de-

tainees, and I told him that it was my view that those were violations of the Geneva Convention, they weren't authorized, and we should not do them.

Chairman LEVIN. Had—did you describe what you had seen?

Colonel Kleinman: Yes, sir. I told him that I had stopped interrogations, and the approaches that had been used that I thought were unlawful.

Chairman LEVIN. And what was his response?

Colonel Kleinman: I believe, at that time, he said that he was going to check with—I don't know if legal counsel—he was going to check other sources to make sure that we were clear on what we could and could not do.

Chairman LEVIN. All right. And then, was there anything else in that conversation, that you remember?

Colonel Kleinman: I was directed to call him again 24 hours later.

Chairman LEVIN. All right, and did you do that?

Colonel Kleinman: Yes, sir, I did.

Chairman LEVIN. And then, tell us about that second conversation.

Colonel Kleinman: The second—it was very short. I was told—and I can—I quote this—I made some notes —“We are cleared hot to use the full range of”—

Chairman LEVIN. Cleared what?

Colonel Kleinman: “We are cleared hot to use SERE methods.” “Cleared hot” is—I'll explain. You know, in the flying community, especially, when you're cleared hot, weapons-free, you can act on orders, no further direction necessary.

And so, I asked him specifically if he could enumerate those approaches, which he did. I think he—maybe he wondered why I was asking. I just wanted to make sure we were clear that we were talking about the same—we were talking about belly slap, walling—well, we went into the entire list, the—you know, the isolation, that sort of thing.

Chairman LEVIN. And did—

Colonel Kleinman: I—again, I explained to him, I—that was, in my opinion as an interrogator—not as a member of JPRA, but as an experienced interrogator, that this was a violation of Geneva Conventions. And, I might add, the task force JAG, the judge advocate that I talked to, he agreed with me, yet he never—he agreed with me 100 percent, and apparently he briefed the task force commander, but when it was time for him to brief the interrogators, it kind of fell back to the “it depends” sort of mode.

Chairman LEVIN. Now, did you explain to your headquarters that you had stopped the interrogation, you had considered them illegal? They knew that when you—when you called—

Colonel Kleinman: Yes.

Chairman LEVIN.—Colonel Moulton, you had explained to him what you had done.

Colonel Kleinman: Yes, sir. In addition, one of my team members had a satphone that we were issued, and he—

Chairman LEVIN. Had a what?

Colonel Kleinman: A satellite telephone. And he had made calls to another individual at JPRA who's pretty much our point of contact, and briefed them that that's what I had done, as well.

Chairman LEVIN. All right. Was stripping one of those methods?

Colonel Kleinman: Subsequent to the conversation I had with Colonel Moulton, yes, sir.

Chairman LEVIN. Not what you saw, but, in terms of the list of JPRA—

Colonel Kleinman: Yes, sir. It was—

Chairman LEVIN.—approve—

Colonel Kleinman: Well, I won't testify to that, sir.

Chairman LEVIN. Okay. You—

Colonel Kleinman: Only because—

Chairman LEVIN. We're not—

Colonel Kleinman:—years now, and it was an intensive phone call. I do remember—

Chairman LEVIN. No, no.

Colonel Kleinman: I'm sorry.

Chairman LEVIN. The question is, was—I'm looking at the list of JPRA methods.

Colonel Kleinman: Ah, ah.

Chairman LEVIN. Body slaps, stripping, immersion in water. Are those the JPRA—

Colonel Kleinman: Yes, sir.

Chairman LEVIN.—techniques that you went through with Colonel Moulton?

Colonel Kleinman: I'm not sure if we went through the entire list—

Chairman LEVIN. But, you went through—

Colonel Kleinman:—Mr. Chairman, but we talked about—

Chairman LEVIN. About—

Colonel Kleinman:—most of—

Chairman LEVIN.—specific techniques.

Colonel Kleinman: Right.

Chairman LEVIN. All right. After that second phone call, did you witness another incident—

Colonel Kleinman: Yes.

Chairman LEVIN.—involving your two SERE colleagues—JPRA colleagues?

Colonel Kleinman: Yes, Mr. Chairman, I did.

Chairman LEVIN. And will you describe that incident?

Colonel Kleinman: Yes, sir. After the phone call with Colonel Moulton, I—

Chairman LEVIN. That would be the second phone call.

Colonel Kleinman: Yes, sir. I told them—I related to them my discussion with Colonel Moulton.

Chairman LEVIN. "Them" being?

Colonel Kleinman: Being the two members of the JPRA team. Should I reference them by name, or does it matter? All right. The two other members of the team. I explained that the—the difference of opinion that I had with Colonel Moulton, that I told him that I thought it was an unlawful order, that—and I wasn't going to have any involvement with it, and I didn't think that they should, either.

The question was—one was a contractor, one was a civilian. There was no—the military line of authority was very unclear at the time. But, they decided that there was going to be one effort to demonstrate the way you handled an interrogation. And so, there was an individual that was suspected of being a terrorist. And how it unfolded, I said, “Well, let’s take control and show ’em how to do one in a methodical fashion.” My plan was, this person, who hadn’t provided any information, “Why don’t we create a false release sort of scenario. We’ll think that they’re letting him go, almost kind of reset button. We’ll bring him back in here, and we’ll approach him in a much more mature, much more systematic fashion, and not threatening, we’ll just be very purposeful. Will we use ploys and stratagems? Absolutely. But, we didn’t need to use any of the survival methods.”

Chairman LEVIN. The “survival methods” being those SERE methods, the aggressive methods—

Colonel Kleinman: Yes.

Chairman LEVIN.—the physical methods, the stripping and things like that.

Colonel Kleinman: Yes, Mr. Chairman.

Chairman LEVIN. That’s not what you were proposing.

Colonel Kleinman: That’s correct, I was not proposing that.

Chairman LEVIN. Okay.

Colonel Kleinman: The other two members took charge of the interrogation. And as soon as the individual—

Chairman LEVIN. Where was the interrogation?

Colonel Kleinman: It was at the same interrogation center that was associated with the task force.

Chairman LEVIN. Was there a—was that detainee driven to that place?

Colonel Kleinman: He was driven away, then brought back.

Chairman LEVIN. He was driven. And was this a cell of some kind?

Colonel Kleinman: Actually, where it took place was what we believe to be—was a bunker that was about a story into the ground—cement, cold, dark. Again, I think it was either an ammo bunker or even a defensive position.

Chairman LEVIN. But, he was driven away first, and then brought back?

Colonel Kleinman: Yes.

Chairman LEVIN. What was the purpose of that?

Colonel Kleinman: The idea was to make him think that he was being released and then picked up by different people.

Chairman LEVIN. Okay.

Colonel Kleinman: He was brought back in—

Chairman LEVIN. And what happened in that bunker then?

Colonel Kleinman: What happened in that bunker was something I’d seen hundreds of times. It’s the way we go about some of the survival training. He was—

Chairman LEVIN. You’ve seen it hundreds of times in your survival training of our own people—

Colonel Kleinman: Yes. Yes.

Chairman LEVIN.—under a very controlled environment that you’ve described.

Colonel Kleinman: Yes, Mr. Chairman.

Chairman LEVIN. That's not what this environment was, I take it.

Colonel Kleinman: This was an uncontrolled environment—

Chairman LEVIN. Okay.

Colonel Kleinman:—by any of those measures.

Chairman LEVIN. And against a detainee.

Colonel Kleinman: Yes.

Chairman LEVIN. Now, would you describe what you saw?

Colonel Kleinman: He was literally carried, by two of the Guards, into the bunker, struggling against them. He was taken down there. The—my two JPRA colleagues took over from that point. They ripped his abaya off—not cut—they ripped it off.

Chairman LEVIN. His what?

Colonel Kleinman: His—the traditional Middle Eastern wear, a long, almost dresslike garment. And they—with heavy material—the ripped it off his body, ripped off his underwear, took his shoes. They had hooded him already. Then they had shackled him by the wrists and by the ankles, and being screamed at the entire time, in his ear, in English, about essentially what a poor specimen of human that he was. And then, the orders were given that he was to stand in that position for 12 hours. No matter how much he asked for help, no matter how much he pleaded, unless he passed out, the Guards were not to respond to any requests for help. And it wasn't until after 12 hours that we'd start to interrogate. And he was left in that position, in a cement room about, maybe, 6 foot by 6 foot. Small enough that, had he lost consciousness and fallen over in any direction, he would have clearly hit his head on a wall.

Chairman LEVIN. Okay. So, he was stripped naked and left standing.

Colonel Kleinman: Yes, sir.

Chairman LEVIN. And that's when you left?

Colonel Kleinman: That's when I left. And I—to get—

Chairman LEVIN. And what did you say to your JPRA colleagues?

Colonel Kleinman: I told them that this is—this is unlawful. This is absolutely—not only is it unlawful—I mean, I went into detail about how—talked about the operational effectiveness, trying to gain their support in that way. But, I just told them, “This is unlawful.” And I—we ended up putting a stop to it.

Chairman LEVIN. You what?

Colonel Kleinman: I ended up putting a stop to it right there. There was no reason to continue, at that point.

Chairman LEVIN. You put a stop to that.

Colonel Kleinman: Yes.

Chairman LEVIN. Okay. And was there another conversation, then, you had with Colonel Moulton?

Colonel Kleinman: No, sir. No, at that point, my discussions were almost daily with the task force commander, telling him what we could not do and giving him my assessment of what his options were. And, at that point, what happened for the remainder of our time out there is, my two colleagues pretty much stayed inside a room, had no contact, other than meals, with the task—although they—no, I take that back. They did provide survival training to

some of the Rangers there, refresher training, you know, getting back to their strength, what they do incredibly well.

Chairman LEVIN. And this is the survival training that they were trained to do.

Colonel Kleinman: Yes. Both these individuals were career survival instructors.

Chairman LEVIN. And you said one was a contractor? And then you said—

Colonel Kleinman: Yes.

Chairman LEVIN.—one was a civilian.

Colonel Kleinman: Yes, sir. One was a government civilian, you know, a full-time employee of, with, Department of the Air Force, and the other was a contractor.

Chairman LEVIN. Okay.

I guess the best—the easiest way to do this was—does your memory of these phone calls differ in any significant way from Colonel Kleinman's?

Colonel Moulton: Pretty close. I do remember, from my recollection, that the first call—first off, our team was sent in to help identify resistance techniques being employed by—we called 'em the DUCs, detained unlawful combatants. The first call, as I recall, Colonel Kleinman said that the task force had wanted us to show them—demonstrate to the task force interrogators some of the counter-resistance technologies that we had employed in our survival school. That was one that I took up the chain, again, to Joint Forces Command, and they came back and said, "You're authorized to do that." The second call I got from Colonel Kleinman, I believe, was the one where he said that they now wanted participation. And that's the one that I asked two questions. I wanted to know the legal status. I said, "Are these detained unlawful combatants?" The response was yes.

Chairman LEVIN. I'm sorry, you, after the second call, then made this inquiry that you're now talking about? That you wanted to know two things.

Colonel Moulton: This is during the second call.

Chairman LEVIN. Okay. You asked him.

Colonel Moulton: Right. Yes. I wanted to—

Chairman LEVIN. Colonel Kleinman.

Colonel Moulton: Right. I wanted to know if these were PWs, prisoners of war, or if they were detained unlawful combatants. And I wanted to know if any of the techniques were over and beyond what we had done in our survival training. He said, basically, that they—he was told they were detained unlawful combatants, from my recollection, and that they weren't going over and above what we did in our survival schools.

I took that message back to Joint Forces Command. We talked about, again, the charter responsibilities. I had that conversation, as I recall, with the senior leadership. At that time, they said, "All right, all 'em to do it, you know, once or twice, but that"—I think it was just, like, one time—"Demonstrate, one time, with the actual detainees, and then that's it," because they—again, my senior leadership, as well as I, were concerned about us getting involved in offensive side of the interrogation business.

Chairman LEVIN. Did they tell you that it was beyond your charter to get involved in offensive activity?

Colonel Moulton: I told them it was beyond our charter. I think I had been, since the very beginning, back in—as early as 2001 or—

Chairman LEVIN. And who was it, in the senior leadership, that you talked to?

Colonel Moulton: I believe it was either Admiral Bird or General Wagner. I know I talked to both of those. I'm not sure which one is on which conversation.

Chairman LEVIN. And did you tell them of Colonel Kleinman's—what he had observed, that he considered it illegal and he had stopped it?

Colonel Moulton: No, and that's probably the only significant disagreement I had with Colonel Kleinman. I do remember he said he thought it was not covered under the Geneva Convention. I did not hear the words "illegal order." In fact, I specifically remember receiving one of the after-action reports from one of the other members that mentioned "illegal order," and it—obviously, something like that hit me pretty hard. So, I talked to Colonel Kleinman about it. But, he did—he was adamant about—that he thought it was against the Geneva Convention.

Chairman LEVIN. And were you told that enemy combatants are not protected by the Geneva Convention? Is that what you were told?

Colonel Moulton: Yes, sir, that was the assumption that we were under.

Chairman LEVIN. You were—did you assume it or were you told that by somebody?

Colonel Moulton: Well, we were told that. I—that's what—

Chairman LEVIN. Do you remember—

Colonel Moulton:—my recollection—I don't remember where.

Chairman LEVIN. Do you remember who told you that?

Colonel Moulton: No, sir. I think there was—I mean, there were several discussions, both publicly and within DOD channels, about, What is the legal status of these terrorists that we're fighting? Are they PWs? Are they detained unlawful combatants? And that's why—in fact, before I sent the team over, I talked to the task force commander and asked him what the legal status was. And I was told that they were detained unlawful combatants and not covered under the Geneva Conventions.

Chairman LEVIN. And that was people in Iraq. You were—

Colonel Moulton: Yeah.

Chairman LEVIN.—told that people in Iraq who were detained—

Colonel Moulton: Yes, sir.

Chairman LEVIN.—not—were—who were illegal combatants, not prisoners of war, they weren't wearing uniforms, but they were illegal combatants that you were told, even though they were in Iraq, that they were not covered by Geneva.

Colonel Moulton: Yes, sir, that's correct.

Chairman LEVIN. And you don't remember who told you that.

Colonel Moulton: I believe—sir, I believe—

Chairman LEVIN. You don't remember who told you that, or do you?

Colonel Moulton: I believe it was the task force commander.
 Chairman LEVIN. And who's that?
 Colonel Moulton: I was told we're not supposed to—
 Chairman LEVIN. Oh, then don't.
 Colonel Moulton: Okay. I've got the name. I can—
 Chairman LEVIN. No, that's fine. That's fine. If you were, for whatever reason, told not to—
 Colonel Moulton: Okay.
 Chairman LEVIN.—that's fine.
 Colonel Moulton: Sir, one other thing I—
 Chairman LEVIN. Sure.
 Colonel Moulton:—I failed to mention was, when I did talk to the Joint Forces Command leadership, "We have some concerns," and they always said that it really has to go through Central Command's legal office or the people on the ground. And I'm pretty positive I relayed that to Colonel Kleinman.
 Chairman LEVIN. Okay. Do you remember that, Colonel?
 Colonel Kleinman: I'm sorry, can you repeat that?
 Chairman LEVIN. Just look at—talk into the mic.
 Colonel Moulton: Sure. Okay.
 Chairman LEVIN. Obviously, I don't mind you looking at each other, but the—it won't get into the mic if you do that.
 Colonel Moulton: Yes, sir. I relayed to colonel Kleinman that Joint Forces Command said to go through the CENTCOM or the task force legal folks for their legal chop on it.
 Chairman LEVIN. Okay. Who was supposed to do that?
 Colonel Moulton: Well, Colonel Kleinman.
 Chairman LEVIN. Who was supposed to go through the CENTCOM? Was that something that Colonel Kleinman was supposed to do?
 Colonel Moulton: Yes, sir. He was supposed to take the legal advice from—
 Chairman LEVIN. All right.
 Colonel Moulton:—the legal authorities within CENTCOM.
 Chairman LEVIN. And do you remember that, Colonel?
 Colonel Kleinman: I talked to the local—the task force JAG.
 Chairman LEVIN. Yeah.
 Colonel Kleinman: Yes, sir, I did.
 Chairman LEVIN. And what was his reaction to what you saw?
 Colonel Kleinman: His reaction was that what I did was the right thing, that it was unlawful to use those methods.
 Chairman LEVIN. And did you inform Colonel Moulton of that?
 Colonel Kleinman: I informed—at that point, I informed the task force commander. We didn't—I don't know that we had another discussion after that. It was—
 Chairman LEVIN. All right.
 Colonel Kleinman:—still trying to clarify—because, as I mentioned earlier, Mr. Chairman, the problem was, that's what he told me, that's what he also told me in the presence of the task force psychologist. But, when it was time to brief the interrogators, he briefed it that way, then when the question arose, it was, "Well, it depends." There was not a real—
 Chairman LEVIN. All right.
 Colonel Kleinman:—any clarity anymore.

Chairman LEVIN. All right. So, Colonel Moulton, the bottom line is that you checked up in your command—with your command, and that you were told that the team was authorized to use the SERE physical pressures, but not go beyond those. Is that—

Colonel Moulton: Yes, sir, predicated on the legal advice they got from the CENTCOM legal representative.

Chairman LEVIN. All right. Well, the legal advice they got was that it was not proper.

Colonel Moulton: I didn't hear that it—Senator, the first time I heard anything about an “illegal order” was in the after-action report from one of the other members.

Chairman LEVIN. Okay. But, your recollection, Colonel Kleinman, is that you told Colonel Moulton that you thought it was an illegal order.

Colonel Kleinman: Yes, sir, I told him that the methods were unlawful, and therefore, the order to execute them would be unlawful.

Chairman LEVIN. All right.

Colonel Kleinman: Now, Mr. Chairman, I might want to add, we were talking over a secure line. I don't question, at all, Colonel Moulton's view of it, from his perspective.

Chairman LEVIN. I'm sorry, I was distracted.

Colonel Kleinman: Oh, I'm sorry. I just wanted to add to—add the context. We were over a secure line, you know, halfway around the world. I don't at all question Colonel Moulton's view of what happened or his judgment, based on the context from which he was operating. I thought I was very clear about it, and I have no question—if he doesn't recall it that way, I think it's just a matter of he didn't hear it.

Chairman LEVIN. All right. You're—you just have either different recollections or you didn't hear something or—

Colonel Moulton: No, I specifically—in both phone calls, Colonel Kleinman specifically said he thought that the actions being taken were not in accordance with the Geneva Convention. Of course, at that time, we were under the assumption, from the information that we had gotten from the task force, that these were detained unlawful combatants, and the Geneva Convention did not apply.

Chairman LEVIN. All right.

Colonel Moulton: But, I do not remember the words “illegal order.”

Chairman LEVIN. Well, if Geneva applies in Iraq, that would be an illegal order, right? If Geneva applies in Iraq.

Colonel Moulton: Yes, sir. But, I did not hear those specific words.

Chairman LEVIN. All right.

Colonel Kleinman, I understand that it is permissible that the—your colleagues—your JPRA colleagues names be part of the record. I understand that. And, as I understand it, the names are Terrence Russell and Lenny Miller. Is that correct?

Colonel Kleinman: That's correct, Mr. Chairman.

Chairman LEVIN. All right.

I just want to clarify the point, in the phone calls, as to whether or not you told Colonel Moulton that you had stopped these interrogations, the interrogation that you had witnessed, the first one.

Colonel Kleinman: Yes, I did explain that I had done that.

Chairman LEVIN. And do you remember that, Colonel Moulton?

Colonel Moulton: I don't remember if that came from the conversation with Colonel Kleinman or one of the people back at Fairchild. At some point, I was told that he had stopped and intervened in a—

Chairman LEVIN. All right.

Colonel Moulton: But, I think it was after the phone calls. I can't remember exactly when.

Chairman LEVIN. Okay.

Let's see, Colonel Kleinman, you've mentioned, now, these two JPRA employees. Were either of them trained interrogators?

Colonel Kleinman: No, Mr. Chairman. Their background—both had very impressive backgrounds as survival instructors. Both were retired, I believe, master sergeants in the United States Air Force, where their entire career was spent.

Chairman LEVIN. But, they were not trained—

Colonel Kleinman: They were never interrogators. And, to the best of my knowledge, up to the point that we appeared in Iraq, they had never actually seen a—what I would describe as a real-world interrogation.

Chairman LEVIN. You mentioned, Colonel Kleinman, the task force psychologist. Did the task force SERE psychologist have a view on the appropriateness of using SERE techniques in detainee interrogations?

Colonel Kleinman: Yes, sir, he did. He was—

Chairman LEVIN. Who was that, if you could—if it's appropriate to name him. If—in any event, what—

Colonel Kleinman: I'll have to—

Chairman LEVIN.—what was his or her view?

Colonel Kleinman: His view was that it was inappropriate, it was absolutely inappropriate. It was designed for a very specific purpose, being resistance to interrogation. It was not designed to be used against detainees as a method of interrogation.

Chairman LEVIN. Were you aware of that, Colonel Moulton?

Colonel Moulton: No, sir. [Pause.]

Colonel Moulton: Senator Levin, if I may add—

Chairman LEVIN. Sure.

Colonel Moulton:—one thing?

Chairman LEVIN. Please.

Colonel Moulton: The only conversations I had with the team was through Colonel Kleinman, and I spoke—the only contact I had with the task force was through the commander there. Once I found out that there was an intervention, there might be some type of an issue, I called back, talked to the task force commander, who told me that he was very satisfied with the support he was receiving, and everything was going fine, which, obviously, when the team got back, was a little bit different, but that was the message that was conveyed to me. That's probably why I wasn't more excited about this.

Chairman LEVIN. Did the task force commander tell you, Colonel Moulton, that the Geneva Conventions did not apply?

Colonel Moulton: Sir, I don't know if he specifically told me that. We—I specifically asked him the legal status of the detainees and whether or not they were allowed to do these things.

Colonel Kleinman: Mr. Chairman, I did have that conversation with the task force commander specifically.

Chairman LEVIN. All right. Colonel Kleinman?

Colonel Kleinman: I explained to him, the brigadier general, that it was my view that these were unlawful, they were a violation of Geneva Convention and national law. He didn't hesitate for a moment, again, saying, very clearly, which I've heard from others, is "SERE methods have a purpose, they have a real important purpose under controlled conditions for training volunteers." And he emphasized that. So, he—

Chairman LEVIN. Well—

Colonel Kleinman:—he didn't have any argument about that. But—

Chairman LEVIN. Are we talking about the same task force commander?

Colonel Kleinman: Yes, we are, sir.

Chairman LEVIN. Who is it? I mean, is that—any reason why his—has he been named here already?

Colonel Kleinman: No, he has not been named, and we were both briefed that perhaps in open—

Chairman LEVIN. Do you remember the name, or—

Colonel Moulton: Yes, sir, I do.

Chairman LEVIN. Who was that?

Colonel Moulton: It's General Koenig.

Chairman LEVIN. Is that the same person?

Colonel Kleinman: Yes, Mr. Chairman.

Chairman LEVIN. Okay. So, everyone at the task force thought that SERE should not be used, these SERE techniques should not be used against detainees. So, who on the ground—who on the ground, if anybody, was authorizing these, or did that authority come from headquarters?

Colonel Kleinman: Initially, before we—before I stopped them? It was—there was no real clear authority given to either—to either execute them or not. It was simply—their understanding was, JPRA was out there—

Chairman LEVIN. Okay.

Colonel Kleinman:—to provide—more than guidance, but to demonstrate the use of these SERE methods. And when I went back to the task force commander with concerns—but, I'll tell you, Mr. Chairman, there was—it falls into a void. I would brief the task force commander very clearly, and he very clearly agreed with my assessment of it, but there was no orders ever issued—when I'd go over to the interrogation center, they never got—their senior interrogator, not—never got any guidance about that—

Chairman LEVIN. Did you—

Colonel Kleinman:—except for—from me.

Chairman LEVIN. But—from you, and you stopped them.

Colonel Kleinman: Yes. Yes, sir.

Chairman LEVIN. Well then, who gave them the order to proceed after you had stopped them? Where did that come from? On the ground, everyone seems to be opposed to it.

Colonel Kleinman: I don't know. I don't know, Mr. Chairman.

And your characterization that everybody at the task force was against the use—

Chairman LEVIN. Well, everyone, so far.

Colonel Kleinman: Right.

Chairman LEVIN. Everyone who's been identified, so far. I mean, the commander, you said, said, hey, he agrees with you.

Colonel Kleinman: Right.

Chairman LEVIN. So, I don't know who disagreed with him, but he's the commander.

Colonel Kleinman: Yes, sir.

Chairman LEVIN. So, if the commander agrees with you, you stop 'em, you say they're illegal, you say they violate Geneva, and somehow or other they start again. And then you stop the second one, or the one that you saw in that bunker that you described. We don't know what happened after that, do we, whether or not the techniques were used after that?

Colonel Kleinman: I don't—I don't know.

Chairman LEVIN. And you said that you talked to the legal—the task force legal advisor. What was his—do you remember his name or her name?

Colonel Kleinman: No, I don't recall.

Chairman LEVIN. All right.

Colonel Kleinman: No.

Chairman LEVIN. You don't—you wouldn't know that, do you?

Colonel Moulton: No, sir.

Chairman LEVIN. Okay. Is it accurate that other task force personnel were not pleased with your decision to stop those—the use of those tactics? Is that true?

Colonel Kleinman: That's very accurate, Mr. Chairman.

Chairman LEVIN. Now, while you were still in Iraq, you prepared a draft of a concept of operations, or CONOP, for the interrogation of detainees, and your staff sent this CONOP to Captain Dan Donovan, who was the JFCOM staff judge advocate. And you did that, according to our information, on September the 22nd, 2003.

According to e-mails from Captain Donovan, JPRA based the CONOP on a draft report on interrogation techniques that had been written by the DOD Detainee Working Group. So, the Department of Defense had a working group. According to Captain Donovan, this CONOP included highly aggressive interrogation technologies, including the water-board, and that's tab 8. You also mentioned the—I think you mentioned the draft working-group report. Where did, if you know, JPRA get a copy of that draft Department of Defense working-group report? Do you know, Colonel Kleinman?

Colonel Kleinman: This is subsequent to our trip to Iraq?

Chairman LEVIN. Well, at the end of your trip you—

Colonel Kleinman: Yeah.

Chairman LEVIN.—you drafted—

Colonel Kleinman: Ah. Ah. Let me clarify that, Mr. Chairman.

Chairman LEVIN. Yes.

Colonel Kleinman: I did not draft that. I—that came—that tasking to draft one came—I don't know if it came from—direct from—I don't think, from Colonel Moulton, but one of the staff officers—

Chairman LEVIN. Well, let's stop right there. Do you—are you familiar with this?

Colonel Moulton: Yes, sir.

Chairman LEVIN. Okay.

Colonel Kleinman: Yeah, we were given direction that we should capture our experience out there and begin drafting a concept of operations, with the idea that perhaps JPRA was moving down towards an expansion of the charter. So, I passed that order on to Mr. Terry Russell to prepare that. And I told him the reason I wasn't going to is because I absolutely disagreed with that type of expansion of the use of SERE methods, and so, my contribution would be nothing but contrary. But, the commander asked for one, and he'd been, in turn, I believe, asked for one, so I directed Mr. Russell to prepare one.

Chairman LEVIN. All right. Is there anything—is that your recollection, too, Colonel Moulton?

Colonel Moulton: Yes, sir. The—I think the genesis of that was, from the after-action reports, the fact that there was no process involved there, no standardized process. And if something like that was going to happen again, we wanted to make sure that there was some kind of a comprehensive process.

The—with respect to the SERE techniques that was, I believe, a cut-and-paste out of the guide. Our concern was more about working with the SERE psychologist to make sure that whoever was doing this understood that there is a very, very involved comprehensive process of properly handling detainees.

And, just this last week, I reviewed an after-action report. I noticed, from General Wagner's statement, he said one wasn't forwarded until 2005. But, we did forward one up to Joint Forces Command afterwards. Unfortunately, it's classified. But, if you look at the recommendations that came out of that after-action report, it really addressed many of the issues that Colonel Kleinman's talking about, and also may have prevented the types of things that happened at Abu Ghraib and other places.

Chairman LEVIN. Okay. Now, this draft—there was a draft CONOP report. Is that correct? You didn't do it, but someone on—in your party did it. Is that—

Colonel Kleinman: Yes.

Chairman LEVIN.—right?

Colonel Kleinman: Yes, Mr. Chairman.

Chairman LEVIN. All right. Was the CONOP written before the after-action reports, do you know?

Colonel Kleinman: Yes. Our after-action reports from our trip to Iraq?

Chairman LEVIN. Yeah.

Colonel Kleinman: Yes, sir, they—it was. At least a draft was—

Chairman LEVIN. The draft.

Colonel Kleinman: Yes. It was completed and transmitted before we left Iraq.

Chairman LEVIN. And that's what I'm referring to, is that draft report.

Colonel Kleinman: Right.

Chairman LEVIN. Now, according—on tab 8, Captain Donovan said that the CONOP included highly aggressive interrogation techniques, including the water-board. He specifically made reference, however, to that working group at the Department of De-

fense. And I'm asking—I think I've asked you, Colonel Kleinman, and you said you don't know where they got that.

Colonel Kleinman: That's correct.

Chairman LEVIN. Colonel Moulton, do you know?

Colonel Moulton: No, sir.

Chairman LEVIN. So, are either of you familiar with that working group at the Department of Defense?

Colonel Moulton: Sir, I'm very familiar with the working group, but—

Chairman LEVIN. Well, the— [Pause.]

Chairman LEVIN. Okay. The working group I'm referring to is a group of senior lawyers. Is that the same working group?

Colonel Moulton: Yes, sir.

Chairman LEVIN. Okay. And you're familiar with that —the product of that working group?

Colonel Moulton: Parts of it. And the draft that was included in our CONOP, I was told came from that working group.

Chairman LEVIN. Did you see that draft?

Colonel Moulton: I didn't read the whole thing, sir.

Chairman LEVIN. Did you have a copy of it? Was it available to you?

Colonel Moulton: Yes, sir. We forwarded that to Joint—that was what was forwarded to Captain Donovan.

Chairman LEVIN. Okay. By you?

Colonel Moulton: Well, I don't know if it was me, specifically, but I chop—I chop everything before it goes up to Joint Forces—

Chairman LEVIN. Okay.

Colonel Moulton:—Command. So, I would have signed the package.

Chairman LEVIN. You would have signed the package that contained that draft of that working group of senior lawyers at the Department of Defense. In other words, the—

Colonel Moulton: No, sir. We—the SERE resistance techniques were taken from whatever the working group put together. I don't think—

Chairman LEVIN. But, that—I'm talking about a specific draft of a working group—of that working group. They came up with a draft.

Colonel Moulton: Yes, sir.

Chairman LEVIN. And you had access to it and forwarded that draft to your commander.

Colonel Moulton: No—sir, I don't think it was the entire draft, I think it was just resistance-technique portions of that draft—that—I'm not sure. I just—

Chairman LEVIN. Okay.

Colonel Moulton:—think that's what it was.

Chairman LEVIN. All right. But, you—anyway, there was reference to that working group's draft.

Colonel Moulton: Yes, sir.

Chairman LEVIN. Okay. And did JPRA play any role in the working group?

Colonel Moulton: No, sir. We did—sir, I believe some of the techniques were probably part of the documentation that was sent to

Mr. Shiffren in an earlier—you know, earlier time, but we did not actively participate in the working group.

Chairman LEVIN. All right. Shortly after the JPRA team left for Iraq—and this is for Colonel Moulton—in September, shortly after the JPRA team left for Iraq, you sent an e-mail to the—JPRA’s liaison office at the Central Command, and—that discussed a possible trip by you and a couple of other JPRA employees to very—to visit various CENTCOM interrogation facilities. And this is tab 9. You said that, quote, “I can support, and have already presented, the concept to JFCOM. We just need the invite.” Did you ever get the invite—invitation from CENTCOM?

Colonel Moulton: Yes, sir, I believe we did.

Chairman LEVIN. And the DOD IG, in his report, said that there was a planned JPRA trip to Afghanistan in May of 2004.

Colonel Moulton: I believe that’s correct.

Chairman LEVIN. And who requested the JPRA support in Afghanistan?

Colonel Moulton: That was CENTCOM, sir.

Chairman LEVIN. And, do you know, what did they want JPRA to do in Afghanistan?

Colonel Moulton: They wanted us to go and take a look at the entire process of interrogation, from the constabulary process all the way through the interrogation process. A lot of that had to do with the outcome in the after-action that came out of the trip that Colonel Kleinman’s folks took.

Chairman LEVIN. Okay. Now, was the trip canceled?

Colonel Moulton: Yes, sir.

Chairman LEVIN. And why was that canceled?

Colonel Moulton: I’m not sure exactly why. I believe Admiral Giambastiani, when—got up and briefed Admiral Giambastiani, he decided not to go further with it.

Chairman LEVIN. And what—when would that have been?

Colonel Moulton: I’m not positive. I’d say it was probably within a week of when the departure was supposed to be.

Chairman LEVIN. Okay. Just excuse me a minute. [Pause.]

Chairman LEVIN. Now, Admiral Giambastiani, what was his rank—or, what was his position?

Colonel Moulton: Sir, he was the commander of Joint Forces Command.

Chairman LEVIN. All right. Let me go back to the visit to Iraq. This is, Colonel Moulton, for you. Why did you think that the task force in Iraq wanted a JPRA team to go to Iraq?

Colonel Moulton: Sir, the request that came from the commander specifically said he was having problems with interrogation, and he had heard that our people were able to identify resistance techniques being used by detainees.

Chairman LEVIN. And did he make reference to “JPRA interrogators”?

Colonel Moulton: I don’t believe so, sir.

Chairman LEVIN. Was there a complaint that you registered at the time, or did you tell JFCOM that your folks should not be used as interrogators?

Colonel Moulton: I don’t recall that, but that would have been my position.

Chairman LEVIN. But, you don't remember telling them that you didn't want them used as interrogators?

Colonel Moulton: I don't remember that, no, sir.

Chairman LEVIN. But, that is your, and was your, position, you said.

Colonel Moulton: Yes, sir, absolutely.

Chairman LEVIN. Okay. Now, Colonel—Dr. Bruce Jessen, who was the senior SERE psychologist at JPRA, sent you an e-mail, which is tab 2, on April 16th, 2002; and attached to that e-mail was a draft exploitation plan. Do you know what prompted Dr. Jessen to draft that plan?

Colonel Moulton: Sir, I'm not familiar with that—I just don't have the information. I have no—

Chairman LEVIN. We're going back to 2002 now. We're going back in time. This was way before Iraq. So, your reply said that—and that was dated April 17th, 2002—said that he should put together a briefing to take up for approval. Do you—take up to whom? Who are you referring to?

Colonel Moulton: That would have been: take up to Joint Forces Command.

Chairman LEVIN. And did that briefing ever occur?

Colonel Moulton: Sir, I don't believe so. I don't—I don't remember Dr. Jessen going up with me for any briefings. It may have happened. I just don't recall that, sir.

Chairman LEVIN. All right. Do you remember whether or not the plan was ever implemented, that exploitation plan in tab 2?

Colonel Moulton: No, sir.

Chairman LEVIN. The answer is, you don't remember, or—

Colonel Moulton: Sir, I don't remember.

Chairman LEVIN. All right. And now, if you'll look at tab 4, Colonel Moulton, this is a September 9th, 2003, e-mail from you to Rear Admiral Bird, who is the director of operations at JFCOM. And this is what it says, "A recent history, to include discussions and training with DHS, USSOCOM, CIA, shows that no DOD entity has a firm grasp on any comprehensive approach to strategic debriefing," slash, "interrogation. Our subject-matter experts and certain service SERE psychologists currently have the most knowledge and depth within DOD on the captivity environment and exploitation."

What are the discussions and training with DHS, SOCOM, and CIA that your e-mail makes reference to?

Colonel Moulton: Sir—

Chairman LEVIN. See where it says "discussions and training"?

Colonel Moulton: Yes, sir. Sir, when we—initially, the training we were providing was to help those organizations actually do their own resistance or survival training. The feedback I was getting from my SERE psychologist was that those folks did not have—or, were not familiar with the captivity environment, the psychology of captivity, and they noted that they didn't have any standardized methodology for doing any kind of strategic debriefing.

Chairman LEVIN. Okay. Colonel Moulton, the committee has heard, today and back on June 17th, about several JPRA offensive activities. This is a list of what we've heard: JPRA's defensive—excuse me—JPRA's December 2001 response to a request from the

DOD General Counsel's Office for information on exploitation; briefings by JPRA for deploying DIA personnel; JPRA's July 2002 response to a request from DOD General Counsel's Office for information on physical and psychological pressures used in SERE training; the August 2002 JPRA training for GTMO personnel at Fort Bragg; September 2003 deployment of the JPRA interrogation assistance team to Iraq.

Now, the JFCOM staff judge advocate's account of her interview with you—and this is tab—tab 6—says that—at paragraph number 2—that you never deployed a support team without approval from the JFCOM J-3, the director of operations. That's—again, that's tab 6.

Colonel Moulton: Yes, sir, that's correct.

Chairman LEVIN. And I just mentioned all those activities. Is—who at JFCOM did you speak to about JPRA's offensive operations?

Colonel Moulton: Sir, it would have been the J-3. That's where all the tasking went through.

Chairman LEVIN. Okay. And who was that?

Colonel Moulton: Depending on the timeframe, it would have been either Brigadier General Moore or Rear Admiral Bird.

Chairman LEVIN. All right. Now, did you talk to—was that General Thomas Moore?

Colonel Moulton: We called him "Tango." I think it might be, yes.

Chairman LEVIN. Okay, but what—

Colonel Moulton: Marine Corps.

Chairman LEVIN. Did you—you talked to the JFCOM director of operations.

Colonel Moulton: Yes, sir.

Chairman LEVIN. Did you talk to the chief of staff, General James Soligan?

Colonel Moulton: Sir, I probably did, but I—I'd talk to those gentlemen on a—literally on a daily basis, so I—

Chairman LEVIN. But, would you have talked about all or some of those items that I just specified to—do you remember—

Colonel Moulton: One or the other—one or the other would have—I would have talked to about every one of those.

Chairman LEVIN. Okay. And what about General Wagner, the deputy commander?

Colonel Moulton: No, sir. I think the first time I got involved with General Wagner was when Colonel Kleinman's phone call came in, I think it was on a Friday evening, and I couldn't get ahold of Admiral Bird, and I couldn't get ahold of General Soligan, the chief of staff, so I went up the chain and spoke with General Wagner.

Chairman LEVIN. On that—about that conversation.

Colonel Moulton: Yes, sir.

Chairman LEVIN. And then, what about the commander, Admiral Giambastiani?

Colonel Moulton: No, sir, I think the only time we got Admiral Giambastiani involved was when we briefed him on that 2004 trip.

Chairman LEVIN. Okay. And so, they never gave their—other than that one time with General Wagner, they never gave their approval of offensive operations.

Colonel Moulton: Yes, sir, they did. Every deployment we had, we briefed, prior to, in exactly what we were going to do. When you talk offensive, our folks were over there assessing, providing observations and feedback, but the only time they actually got involved was in Colonel Kleinman's trip.

Chairman LEVIN. All right. So—but, in terms of active participation in offensive operations, other than pure observation, that—

Colonel Moulton: In—

Chairman LEVIN.—was approved by any of those folks.

Colonel Moulton: Yes—no, sir.

Chairman LEVIN. That—

Colonel Moulton: The observation and training was. Everything we did was approved by Joint Forces Command.

Chairman LEVIN. All right. Okay. So, the list of what I told you, that was approved, but none of those included the use of those specific techniques against detainees. Is that correct?

Colonel Moulton: The training may have.

Chairman LEVIN. Against detainees?

Colonel Moulton: Oh, no. No, sir. That would—

Chairman LEVIN. Actual detainees?

Colonel Moulton: No. No, sir.

Chairman LEVIN. Okay. Now, in September of '03, Captain Donovan, the JFCOM staff judge advocate, found out about JPRA's offensive activities, the actual use of those activities against detainees, and he raised concerns about them. That's tab 7 and 8. Did anyone—and this goes to you, Colonel Moulton—did anyone—prior to that—anyone else at JFCOM express concern about those activities?

Colonel Moulton: Yes, sir. Every time I brought up to the leadership there, we always had the charter discussion about what we were doing, whether or not this was within the charter of the Joint Personnel Recovery Agency. From the very beginning, my staff, the Joint Forces Command staff all said it was outside. However, because there were no subject-matter experts within DOD, outside of those resident with JPRA and the SERE schools, that's why we decided to go ahead and support as subject-matter experts, but not as JPRA personnel.

Chairman LEVIN. So, it was outside of your charter.

Colonel Moulton: Yes, sir. Sir, I think the easiest way to explain it is if I went to Colonel Kleinman and wanted him to—we needed a Russian speaker, even though he's—

Chairman LEVIN. I understand.

Colonel Moulton:—intelligence—

Chairman LEVIN. But, it was out—what they—this list of things that were requested were outside of the charter.

Colonel Moulton: Yes, sir.

Chairman LEVIN. In February of '05, in a statement to the Department of Defense Inspector General, Lieutenant General Wagner, who is the deputy commander at JFCOM, said that, "Relative to interrogation capability, the expertise of JPRA lies in training personnel how to respond to—how to respond and resist interrogations, not in how to conduct interrogations." That was his statement. Do you agree with Lieutenant General Wagner's statement?

Colonel Moulton: Yes, sir.

Chairman LEVIN. On September 29th, '04, Major General Soligan, JFCOM's chief of staff, wrote a memorandum for you, tab 10, saying that requests for JPRA offensive support for the Office of the Secretary of Defense and combatant commands went, quote, "beyond the chartered responsibility of JPRA." Lieutenant General Wagner said, in his February '05 statement, that requests for JPRA interrogation support were, quote, "both inconsistent with the unit's charter and might create conditions which task JPRA to engage in offensive operational activities outside of JPRA's defensive mission," close quote.

You have said, in a September 8th, '03, e-mail—that's tab 5—to Lieutenant General Wagner, that, quote, "There is nothing in JPRA's charter or any—or elsewhere that points us toward the offensive side of captivity conduct," close quote.

Now, those are a list of offensive activities in which JPRA engaged in. I read you that list.

Colonel Moulton: Yes, sir.

Chairman LEVIN. You said that they had been approved, despite the fact that there's nothing in the charter or elsewhere that provides for JPRA doing that. Are you with me so far?

Colonel Moulton: Yes, sir.

Chairman LEVIN. Do you know of anyone who's been held accountable for those violations of JPRA's charter?

Colonel Moulton: Sir, as I put in my written statement, we all had concerns with that, and that's why we are only going to support with subject-matter experts, not representatives from JPRA.

Chairman LEVIN. All right. But, do you know of anybody that's been held accountable for the decision to go outside of JPRA's charter?

Colonel Moulton: No, sir.

Chairman LEVIN. Just excuse me for one moment. [Pause.]

Chairman LEVIN. Just a couple more questions.

Colonel Kleinman—Well, I can ask either one of you, actually. Let me start with Colonel Moulton, and then Colonel Kleinman. Describe for us the protections which are in place for our soldiers that go through SERE training.

Colonel Moulton: Sir, it's very comprehensive. It starts with the—SERE psychologist to monitor them, to make sure that—there is obviously some psychological ramifications to this kind of training. We have medical doctors onboard. We have several instructors that are just reviewing the entire operations. And it's a very, very methodical and closely supervised activity.

Chairman LEVIN. And can the—can a—one of our personnel—can our personnel end it when they give a signal of some kind?

Colonel Moulton: Yes, sir.

Chairman LEVIN. Colonel Kleinman, do you want to add anything to that, in terms of protections given in the SERE program to our people who are being trained?

Colonel Kleinman: Yes, sir. Mr. Chairman, it's an exceptionally professional program. I was certified as an instructor in the course, one of the few officers privileged to do so. It began with a psychological test that—looking to weed out those who have a high propensity for acting out. On a regular basis, I'd be interviewed by one of the—either the psychologist or the technicians to see how my life

is going, to make sure that I didn't come in one day and I was supposed to use a more aggressive approach after getting a Dear John letter the day before. It's very specific about training. Using the physical pressures, you're taught to use them; you receive them, so you know what it feels like; you're observed all the time; you're constantly checked and rechecked. It—there's no gaps in the way it's conducted.

And, again, the psychologists have a dual role. Not only are they watching the psychological health of the students, but they're also monitoring, just as closely, the instructor staff to make sure that somebody who is, you know, pushing somebody against a wall is doing it because it's consistent with the learning objective, rather than because of anger. So, it's very, very specific.

Chairman LEVIN. Colonel Moulton, when you just heard, this morning—I guess, not for the first time, but when you've—well, let me just ask the followup that—

Were these safeguards in place at the task force interrogation facility in Iraq that you've described, Colonel Kleinman?

Colonel Kleinman: None of those were in place, Mr. Chairman.

Chairman LEVIN. Let me just ask Colonel Moulton now. When you heard Colonel Kleinman's description of what he observed in Iraq—

Colonel Moulton: Yes, sir.

Chairman LEVIN.—and how these techniques, which were supposed to be used for a totally different purpose, were used against detainees, what was your reaction to what you heard here this morning?

Colonel Moulton: Well, obviously I'm disappointed at what happened there.

Chairman LEVIN. Is it beyond disappointment? I mean, when you hear that techniques that were supposed to be used to help people resist abuse so—and techniques which were used by our enemies in order to force confessions—and they didn't care if the confessions were true or not. The Communist Chinese, they didn't care if the confession was true. They wanted the confession. They could care less. They wanted the propaganda value of the confession. And when you heard that these techniques, the way Colonel Kleinman described them, were used for a purpose which they were never intended to be used, was it just disappointed or—

Colonel Moulton: No, sir. I'm sorry, it's much worse than that. And what's even sad about this is—I think it was done, initially, with good intentions. I think we understood that, on what we'd call the defensive side, we've got a focal point, which is the Joint Personnel Recovery Agency. There is no focal point within DOD on the offensive side, and that's one of the messages that we were trying to bring up over and over and over again, which was—lead to all the problems we had, whether it was at the task force over in Iraq or Guantanamo Bay or Abu Ghraib. That was a very serious concern for us.

So, yes, we're—I'm more than disappointed. I'm—I feel terrible that that's where it went. However, at the time, we were acting on good intentions. Initially, when we got involved, it was just to help them identify those detainees who were using resistance techniques.

Colonel Kleinman: May I add to that comment—
Chairman LEVIN. Sure.

Colonel Kleinman:—Mr. Chairman?

I agree 100 percent with Colonel Moulton's characterization of the need for a—an overriding authority, a responsible party to oversee standards of training, standards of selection, standards of conduct for interrogation, which did not, and still, frankly, do not exist today. One of the aspects of JPRA that I was most impressed with, coming to that agency after being an interrogator, was their purposeful approach to it, their very professional approach to what they did. We didn't have those standards of conduct. Again, we didn't have—we didn't have psychologists monitoring our activities, informing how we did what we did.

So, I think JPRA, in its model, offered a great deal to the United States intelligence community in—in fact, had they followed through, said, "Well, let's adapt the JPRA model," in terms of systems management, program management, professionalism—I think—well, I'd go beyond that—it's my professional judgment that some of the difficulty we had today, Abu Ghraib and elsewhere, would have been avoided.

Chairman LEVIN. And what's the price that we've paid for Abu Ghraib? Do you have an opinion on that?

Colonel Moulton: Well, I think it's pretty severe, as far as international opinion. That hurt us gravely. It also may have had some future ramification for our own detainees in the future. It's definitely severe.

Chairman LEVIN. Well, let me thank both of our witnesses here.

The abuses of detainees at Abu Ghraib, as we've learned from these hearings, was not simply the result of a few soldiers acting on their own interrogation. Techniques similar to those used in SERE resistance training, such as stripping detainees of their clothes, placing them in stress positions, use of dogs, appeared in Iraq only after they had been approved for use in Afghanistan and at GTMO.

Secretary of Defense Rumsfeld's December 2002 authorization and subsequent interrogation policies, plans, and techniques approved by senior military and civilian officials, some of which we've heard about this morning, conveyed a very clear message to the troops, that physical pressure and degradation were appropriate treatment for detainees in U.S. military custody, and the abuses that resulted from these decision have damaged our efforts to win the support of the people of the world and our allies to our side in the war in which we are fighting.

And I hope that by shedding light on what occurred and how it occurred, that this hearing and the previous hearing and our committee's inquiry will help us to begin to repair that damage and to make sure that our men and women never are involved in these kind of activities again.

For reasons which you both have given—the damage done to our security, to the view of our country by the rest of the world, whose suppose we need in the war that we're waging, the future threat to our troops, as Colonel Moulton just mentioned—we've got to begin to repair this damage. And your testimony, because of its openness, and you, Colonel Kleinman, in terms of your behavior at

the time, stopping what were clearly illegal, improper activities, this will help us to show the kind of openness that we can be proud of in this country and that hopefully the rest of the world will understand and appreciate that, at least when we make these kind of horrific mistakes, that we own up to them, we acknowledge them, and we seek to repair them.

Your presence here this morning, your cooperation with this committee is helpful. And in that regard, we thank you both, we thank you both for your service to our country and we stand adjourned. [Whereupon, at 11:20 a.m., the hearing was adjourned.]