CONCLUSIONS

250. (TS/EA) The Agency's detention and interrogation of terrorists has provided intelligence that has enabled the identification and apprehension of other terrorists and warned of terrorist plots planned for the United States and around the world. The CTC Detention and Interrogation Program has resulted in the issuance of thousands of individual intelligence reports and analytic products supporting the counterterrorism efforts of U.S. policymakers and military commanders. The effectiveness of particular interrogation techniques in eliciting information that might not otherwise have been obtained cannot be so easily measured, however.

251. (TS/EA) After 11 September 2001, numerous Agency components and individuals invested immense time and effort to implement the CTC Program quickly, effectively, and within the law. The work of the Directorate of Operations, Counterterrorist Center (CTC), Office of General Counsel (OGC), Office of Medical Services (OMS), Office of Technical Service (OTS) has been especially notable. In effect, they began with almost no foundation, as the Agency had discontinued virtually all involvement in interrogations after encountering difficult issues with earlier interrogation programs in Central America and the Near East. Inevitably, there also have been some problems with current activities.

252. (S/NE) OGC worked closely with DoJ to determine the legality of the measures that came to be known as enhanced interrogation techniques (EITs). OGC also consulted with White House and National Security Council officials regarding the proposed techniques. Those efforts and the resulting DoJ legal opinion of 1 August 2002 are well documented. That legal opinion was based, in substantial part, on OTS analysis and the experience and expertise of non-Agency personnel and academics concerning whether long-term psychological effects would result from use of the proposed techniques.
253. *(S/NF)* The DoJ legal opinion upon which the Agency relies is based upon technical definitions of "severe" treatment and the "intent" of the interrogators, and consists of finely detailed analysis to buttress the conclusion that Agency officers properly carrying out EITs would not violate the Torture Convention's prohibition of torture, nor would they be subject to criminal prosecution under the U.S. torture statute. The opinion does not address the separate question of whether the application of standard or enhanced techniques by Agency officers is consistent with the undertaking, accepted conditionally by the United States regarding Article 16 of the Torture Convention, to prevent "cruel, inhuman or degrading treatment or punishment."

254. *(TS)* Periodic efforts by the Agency to elicit reaffirmation of Administration policy and DoJ legal backing for the Agency's use of EITs—as they have actually been employed—have been well advised and successful. However, in this process, Agency officials have neither sought nor been provided a written statement of policy or a formal signed update of the DoJ legal opinion, including such important determinations as the meaning and applicability of Article 16 of the Torture Convention. In July 2003, the DCI and the General Counsel briefed senior Administration officials on the Agency's expanded use of EITs. At that time, the Attorney General affirmed that the Agency's conduct remained well within the scope of the 1 August 2002 DoJ legal opinion.

255. *(TS)* A number of Agency officers of various grade levels who are involved with detention and interrogation activities are concerned that they may at some future date be vulnerable to legal action in the United States or abroad and that the U.S. Government will not stand behind them. Although the current detention and interrogation Program has been subject to DoJ legal review and Administration political approval, it diverges sharply from previous Agency policy and practice, rules that govern interrogations by U.S. military and law enforcement officers, statements of U.S. policy by the Department of State, and public
statements by very senior U.S. officials, including the President, as well as the policies expressed by Members of Congress, other Western governments, international organizations, and human rights groups. In addition, some Agency officers are aware of interrogation activities that were outside or beyond the scope of the written DoJ opinion. Officers are concerned that future public revelation of the CTC Program is inevitable and will seriously damage Agency officers' personal reputations, as well as the reputation and effectiveness of the Agency itself.

256. (TS) The Agency has generally provided good guidance and support to its officers who have been detaining and interrogating high value terrorists using EITs pursuant to . In particular, CTC did a commendable job in directing the interrogations of high value detainees at . At these foreign locations, Agency personnel—with one notable exception described in this Review—followed guidance and procedures and documented their activities well.

257. (TS) By distinction, the Agency—especially in the early months of the Program—failed to provide adequate staffing, guidance, and support to those involved with the detention and interrogation of detainees in .

258. (TS) Unauthorized, improvised, inhumane, and undocumented detention and interrogation techniques were used. referred to the Department of Justice (DoJ) for potential prosecution. The incident will be the
subject of a separate Report of Investigation by the Office of Inspector General.

Unauthorized techniques were used in the interrogation of an individual who died at Asadabad Base while under interrogation by an Agency contractor in June 2003. Agency officers did not normally conduct interrogations at that location and the Agency officers involved lacked timely and adequate guidance, training, experience, supervision, or authorization, and did not exercise sound judgment.

259. (TS) The Agency failed to issue in a timely manner comprehensive written guidelines for detention and interrogation activities. Although ad hoc guidance was provided to many officers through cables and briefings in the early months of detention and interrogation activities, the DCI Confinement and Interrogation Guidelines were not issued until January 2003, several months after initiation of interrogation activity and after many of the unauthorized activities had taken place.

260. (TS) Such written guidance as does exist to address detentions and interrogations undertaken by Agency officers is inadequate. The Directorate of Operations Handbook contains a single paragraph that is intended to guide officers. Neither this dated guidance nor general Agency guidelines on routine intelligence collection is adequate to instruct and protect Agency officers involved in contemporary interrogation activities.

261. (TS) During the interrogations of two detainees, the waterboard was used in a manner inconsistent with the written DoJ legal opinion of 1 August 2002. DoJ had stipulated that
its advice was based upon certain facts that the Agency had submitted to DOJ, observing, for example, that "... you (the Agency) have also orally informed us that although some of these techniques may be used with more than once [sic], that repetition will not be substantial because the techniques generally lose their effectiveness after several repetitions." One key Al-Qa'ida terrorist was subjected to the waterboard at least 183 times and was denied sleep for a period of 180 hours. In this and another instance, the technique of application and volume of water used differed from the DOJ opinion.

262. (TS, ) OMS provided comprehensive medical attention to detainees where EITs were employed with high value detainees, OMS did not issue formal medical guidelines until April 2003. Per the advice of CTC/Legal, the OMS Guidelines were then issued as "draft" and remain so even after being re-issued in September 2003.

263:  

264. (TS) Agency officials report that reliance on analytical assessments that were unsupported by credible intelligence may have resulted in the application of EITs without justification. Some participants in the Program, particularly field interrogators, judge that CTC assessments to the effect that detainees are withholding information are not always supported by an objective
evaluation of available information and the evaluation of the interrogators but are too heavily based, instead, on presumptions of what the individual might or should know.

266. (TS//SI) The Agency faces potentially serious long-term political and legal challenges as a result of the CTC Detention and Interrogation Program, particularly its use of EITs and the inability of the U.S. Government to decide what it will ultimately do with terrorists detained by the Agency.