

STATEMENT

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The United States Senate Armed Services Committee

Mr. Chairmen and committee members, I appear today voluntarily and in my private capacity. Although I am currently an employee of the Department of Defense, I do not speak today on its behalf. I am here to testify truthfully and completely regarding my knowledge of the development and implementation of interrogation policies and practices at Guantanamo Bay, Cuba, from June 2002 to June 2003.

As the Staff Judge Advocate for the detention facility at Guantanamo Bay, I wrote a legal opinion in October 2002. In it, I concluded that certain aggressive interrogation techniques, if appropriately reviewed, controlled, and monitored, were lawful. Since the Department of Defense publicly released my opinion in 2004, it has received considerable attention and scrutiny. I have been vilified by some because of it, and discounted and forgotten by many others. Regardless, I accept full responsibility for my legal opinion. It was based on my own independent research and analysis. It represents the best work I could do under the constraints and circumstances I faced at the time. No one improperly influenced me to write this opinion or -- to my knowledge -- even attempted to do so. I tried to consult experts and superiors on the content of the opinion prior to issuing it, but received no feedback. I do not say that to shift blame. As I said, the blame for any error in that opinion is mine and mine alone.

I cannot, however, accept responsibility for what happened to my legal opinion after I properly submitted it to my chain of command. I fully expected that it would be carefully reviewed by legal and policy experts at the highest levels before a decision was reached. I did not expect that my opinion, as a Lieutenant Colonel in the Army Judge Advocate General's Corps, would become the final word on interrogation policies and practices within the Department of Defense. For me, such a result was simply not foreseeable. Perhaps I was somewhat naïve, but I did not expect to be the only lawyer issuing a written opinion on this monumentally important issue. In hindsight, I cannot help but conclude that others chose not to write on this issue to avoid being linked to it. That was not an option for me. My commander was responsible for detention and interrogation operations for the most dangerous group of terrorists the world has ever seen. The specter of another catastrophic attack on the American people loomed large in our thoughts, and haunted our dreams. We knew that accurate, actionable intelligence was necessary to prevent another such attack. We did our jobs knowing that if we failed, the American people would pay a terrible price.

I have repeatedly been asked whether I was pressured to write my October 2002 legal opinion. I felt a great deal of pressure, as did all of us at the detention facility. I felt the pressure of knowing that thousands of innocent lives might be lost if we got it wrong. I knew that many honest, decent Americans would condemn our actions if we did not balance our efforts to protect them with due respect for the rule of law. I believed at the time, and still do, that such a balance could be reached -- if the interrogations were strictly reviewed, controlled, and monitored. My legal opinion was not a "blank check" authorizing unlimited interrogations. Throughout the opinion, I emphasized the need for medical, psychiatric, and legal reviews to be conducted prior to the approval of each and every interrogation plan. My judge advocates and I were intent on

monitoring each interrogation, and would stop any excessive or abusive behavior if we saw it. What I accomplished in my legal opinion has largely gone unnoticed. My command did not conduct interrogations independently, without the notice or approval of higher authorities. Individual interrogators were not given the opportunity to improvise techniques without command approval or control. In short, the interrogation techniques discussed in my legal opinion would not have been conducted in an abusive or unlawful manner, if the approval and control procedures I outlined were followed. In this way, what happened at Guantanamo Bay stands in stark contrast to the anarchy that occurred at Abu Ghareb.

I close this statement as I began it, by accepting responsibility. I reached my legal conclusions after careful analysis and at all times acted in good faith. I discussed my ideas openly with my colleagues and encouraged full debate. Some of my critics chose not to participate in these discussions. Had they, their concerns and reservations would have received fair consideration. That my colleagues and I openly discussed these issues should not be surprising. The American people, including many legal experts, were having similar conversations at homes, schools, and work places across the Nation.

If my legal opinion was wrong, then I regret the error very much. I am a proud professional. I feel very keenly any failure on my part to be precise and accurate in the advice I render. I freely accept sincere dissent and criticism. But there is something very important I will never have to regret. At a time of great stress and danger, I tried to do everything in my lawful power to protect the American people.

Thank you.

Diane E. Beaver, Lieutenant Colonel (Retired), USA