

EXHIBIT 4

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The following information is derived from the 2008 DIA Joint GC-IG Report.

After the interrogation of Al-Marri concluded, the interrogation team destroyed what they believed to be all of the recordings of the interrogations sessions. The interrogation team and manager for the interrogation regarded the recordings as working materials similar to handwritten notes, destruction of which they believed was required when no longer needed for intelligence purposes. This belief was consistent with then DIA and DoD issuances concerning information security. During the course of the interrogations, the interrogation team chief asked about disposition instructions for the Al-Marri recordings and a DIA attorney advised that there were no specific instructions regarding retention or disposition of the Al-Marri recordings. When the recordings were destroyed, there was no court order or executive agency preservation order requiring their retention.

Those that destroyed the recordings were acting reasonably and in good faith doing what they believed regulations required. While at the time DoD and DIA information security regulations required the destruction of working materials, the recordings, however, did not clearly fit the definition of working papers under National Archives Records Administration (NARA) regulations. DIA later learned that NARA classifies the recordings as unscheduled records and the recordings should have been retained at least until a records schedule for the recordings was developed and approved by NARA.

Notwithstanding the effort to destroy all of the video recordings, recordings of some sessions remain. The recorded sessions are not remarkable except for the session in which the interrogators attempt to stop Al-Marri from chanting by using duct tape over his mouth which is described in detail in a separate summary.

When Agency officials at headquarters learned that recordings had been destroyed, DIA issued a litigation hold requiring the preservation of Al-Marri materials, including the remaining recordings of interrogations. All known recordings were recovered and are stored in the Office of the Inspector General, DIA.

Recommendations include submitting a report of records destruction to NARA; reviewing DIA and DoD regulations to clarify the definition of working materials and to revise information security program and records management regulations; and that an operational activity maintain a copy of the recordings until a records schedule is developed.

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