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EO 13526 1.4(c)<25Yrs

4 July 2005

MEMORANDUM FOR: Inspector General, CIA

FROM:

Former Deputy Chief
DCI Counterterrorist Center

SUBJECT:

(U) Joint Response to OIG Report -
"Accountability Regarding Findings and
Conclusions of the Joint Inquiry into
Intelligence Community Activities Before
& After 9/11/2001."I. Introduction

1. (U) The following represents the joint response of 17 of the officers cited in the OIG report on accountability prepared in response to the findings and conclusions of the Joint Inquiry into the terrorist attacks of 9/11/2001.

- For unexplained reasons the OIG decided at some point between an earlier draft of its report and this final version that a number of us were no longer to be recommended for accountability boards. We all decided, however, to sign this joint response because none of us had any insight into the criteria used by the OIG to make its final determination.

2. (U) Although the OIG's evaluation of the Joint Inquiry's findings has improved when compared to the portions of the initial draft we were shown in the December 2004-January 2005 timeframe, largely thanks to the input from the individuals identified in that report, we still find this OIG document to be deeply flawed. Unfortunately, the OIG review has missed an historic opportunity to examine what worked and did not work well within the IC. Instead, it has chosen to take a very narrow approach to its mandate from the Joint Inquiry; an approach that does not attempt to produce a realistic and comprehensive review of what happened. In so doing, it abandoned any hope of producing a

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document that would help CIA and the IC improve its ability
to work CT issues in the future.

3. (U) For the sake of completeness and the
historical record, we insist that this joint response, the
13 January 2005 joint response to the earlier OIG draft, any
separate responses designated by individual authors, the
August 2001 OIG Inspection report on CTC, and the September
2001 OIG Inspection report on NE Division be made an
official part of this OIG report on 9/11. We believe that
it is essential that these documents be included in order to
provide a complete picture, not just to those who will read
this record in the process of deciding if there will be
accountability boards, but also because it is clear that
this OIG report may eventually—perhaps sooner rather than
later—be released to the public.

- The release of the Department of Justice IG report
sets a precedent for demands that the CIA also
release the OIG report that may be difficult to
ignore.
- If these materials are not included as part of the
official report, the only official record will be
what we consider to be a flawed OIG report.
Fairness and history demand that we be given some
opportunity to respond.
- The above named documents should also be
referenced in your report so it will be clear to
any reader that they exist.

4. (U) At the same time, the process for commenting
on the OIG report ensures that our responses will be
inadequate. We have never been allowed to retain a working
copy of the report. We have been forced to read and take
notes on what is a lengthy document; a process that makes
responding in detail to the numerous charges difficult.
And, we have not been given significant time or any
resources to try to research many of these accusations.
This response is already significantly beyond the initial
ten days we were allocated to read and respond to a report
that had been years in investigation and preparation.

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Almost without exception, whenever we have been able to research specific charges or facts raised in the initial and final OIG reports, we have found serious problems. Although the OIG had complete access to all lotus notes and cables from the period under review and draws on them—on a selective basis—to make its case, we have not had the same access. We believe we would have been able to present a more complete picture of our actions/efforts/thinking if we had equal access to notes, cable traffic, and administrative documents.

5. (U) By concentrating its efforts on an attempt to find individuals to blame, the OIG report has ignored the bigger issues that would have led to an in-depth examination of our CT analysis and operations and, hopefully, would have produced recommendations that could have stood the test of time. At a superficial level, the OIG reports tells us that we only need to worry about ensuring that our officers live up to some ill-defined level of "professional standards" and surprises will be avoided and the IC will run smoothly.

- The IG in its introduction, for example, explicitly excludes from consideration an evaluation of successes—many of which were achievements of the same officers criticized in its report. A comparison with what worked well would have given greater context to the supposed failures of the CIA and might have led to improvements in CT analysis and operations in the future.
- As such, the IG has failed to produce a comprehensive "lessons learned" that could guide us in determining what still needs to be changed.

6. (U) The OIG report also demonstrates a clear lack of understanding about the policy, resource, and practical constraints that governed CTC decisions and actions. It compounds this problem via the selective use of "facts" to make points that are based on either misunderstanding or a deliberate attempt to create a case for individual accountability rather than an unbiased examination of events.

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7. (U) Finally, the leadership team in place during the run-up to 9/11/2001 wants to restate the point raised in the 1/13/2005 joint response: we were responsible for the Center's actions, within the constraints placed upon us by policy and the resources we had under our control. It is our belief that to hold more junior officers responsible for the work environment they found themselves in, and over which they had no control, would only encourage an environment of risk-aversion or discourage individuals from taking on the risky missions.

II. Context

8. (U) We will not attempt to repeat the many contextual problems we had with the earlier draft, although some carry through to the final report. We again urge a close read of our 1/13/2005 joint response, which contains a detailed response to many of the claims that are either explicit or implicit in the OIG final report. There are a number of issues that do require additional comment, however, now that we have seen the entire report and revisions to the earlier OIG draft.

9. (C) **Resources.** This is a prime example of a topic that demonstrates how the OIG report either lacks an understanding about the policy and resource constraints we faced or how it tries to selectively use "facts" to paint a negative picture of CTC. The OIG report, for example, questions CTC's management of available resources. In particular it claims that we did not spend all the money available to us despite our repeated requests for additional funding. As proof of this it cites the fact that there is currently about [] million of CTC FY00 base funds unspent.

- In reality, on 30 September 2000 there was only [] (0.5 percent) in FY00 base funds that was not obligated. This represented only about 2 days of spending in CTC.

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- What is the discrepancy? We obligate funds against activities such as field operations, PCS deployments, contracts, etc. If all the charges do not come through, the unspent total climbs over the years until the books are cleared. It is against provisions of the Anti-Deficiency Act to obligate or spend more money than we have been budgeted. Under these circumstances and with the late arrival of Base funds in FY00 (~~million arrived on 27 July 2000~~), it is miraculous that we were as close to spending our entire budget as we were at the end of FY00.
- OIG is well aware from its previous audits that deobligations of expired one-year tenured budgets is a long-standing Agency problem and not systemic to just CTC. To resolve this problem, the Agency was granted authority to fight the post-9/11 war on terrorism using two-year tenured budgets. The Agency did not have two-year tenured budgets until FY02 and CTC did the best it could within the constraints of those fiscal realities in FY00.
- Even the entire ~~million~~ represents only slightly more than one week of funding at our average spend rate, and as a percent of our budget (less than 3 percent) is not significantly different than the overall DO budget "excess" for FY00. Not something you can build new initiatives upon.
- The OIG report seems to implicitly say we should have obligated more money than we had on the assumption that not all the estimated bills would come due over the next four years. Not something we were allowed to do.

10. (C) Moreover, the OIG report selectively treats the fundamental issue of the Center's financial resources. One passage in the report asserts that the OIG did not attempt to reach a conclusion on what overall funding should have been because of conflicting information on the adequacy of funding. Despite being unable to comment on resources,

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somehow they seem to be content to misuse budget information to claim inefficient management of funds. Finally, we would note FY00 was a very confused year: starting off with cuts, accelerated spending due to the Millennium Threat, and late in the year a reserve release and supplemental funding.

- It is clear from the post-9/11 environment that we were nowhere near the funding level required to carry out an aggressive CT program. And that the overall issue is how the USG allocates funds to cover priority issues. That topic cannot be adequately addressed without looking at the roles of Congress and OMB.

11. (c) **Staffing.** Similarly, the OIG report says it does not assess the sufficiency of personnel in CTC, except to the extent that it concludes there were not enough officers with operations experience in UBL Station given the workload the unit faced. This seems to be an attempt by OIG to ignore the workload issue that we discussed extensively in our 13 January 2005 joint response and the IG's own August 2001 inspection report. The focus on operations experience also seems to be an attempt to divert attention from the reality of the CTC environment pre-9/11.

- The officers we had working these issues were the same ones that were responsible for the success CTC had prior to 9/11 and, in many cases, are the ones responsible for CTC's post-9/11 successes once we had adequate resources, authorities, and policies. It also ignores the operational experience of the people in the field who, by-and-large, were responsible for implementation.
- The OIG report also seriously downplays the importance of our effort to homebase more analysts and operations officers to deepen our expertise across the board. This process continues through today and began once CTC was given permission to homebase officers rather than to rely exclusively on rotations.

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12. (~~S//NF~~) Finally, we are puzzled by the inconsistency in OIG messages on training, especially with respect to targeting officers in UBL Station. Several quotes from the IG's December 2003 Inspection Report on "The Future of Target Analysis" will highlight the mixed message being provided by the OIG. First, the OIG defines target analysis in a manner consistent with the approach of UBL Station:

- "There are contending definitions of target analysis, but for the purposes of this inspection report, we define it as the application of analytic techniques to focus collection and covert action." And, "These target officers can provide background information, context, and insight about which targets should be sought, and how they can best be pursued."

13. (~~S//NF~~) The December 2003 report then quotes a "widely respected senior target officer" to describe the tradecraft of targeting, indicating that it involves: driving collection, target marketing, 'operationalizing' information, and operational planning. The detailed discussion included in the report of these last three characteristics accurately describes the main activities of UBL Station, which served as a headquarters component that was driving, marketing, and coordinating field operations. Instead of highlighting that the UBL Station targeting effort was doing exactly what its own target analysis inspection says they should be doing, the OIG 9/11 report criticizes them for not having the same operational experience and training that exists in the field.

- There is no evidence in the OIG 9/11 report to support its assessment that officers highly trained in the recruitment cycle and street tradecraft—necessary to run field operations—are by definition more qualified than targeting officers to use all-source intelligence to identify, validate, designate for pursuit, and coordinate multi-station operations against targets of interest.

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- If the OIG, nevertheless, believes that operations training is necessary, we question why they did not include that recommendation as part of its 9/11 target analysis recommendations in December 2003, or for that matter, make a similar recommendation in its August 2001 inspection of CTC.
- The OIG 9/11 report seems to indicate that offices and officers will be held accountable for having or providing training that the OIG itself does not recommend. In the current environment it will be difficult to send many targeting officers through the course ~~when they are in such demand as part of the buildup of the cadre operations officers.~~

14. (C) **Systemic Problems.** The OIG 9/11 report abdicates any responsibility for examining the role of systemic issues in the runup to the terrorist attacks. Without understanding the nature of these systemic issues associated with the Agency and the USG approach to counterterrorism, we are uncertain how the IG's assertion of lapses on the part of individuals square with the 19 systemic recommendations the OIG says it made to the DDCI in September 2004 by the OIG. The memo the OIG drafted on systemic issues within the CIA needs to be considered as a part of the overall OIG process. The OIG 9/11 report clearly states that such a memo was prepared and forwarded to the DDCI. None of us have seen this report.

15. (S//NF) **August 2001 OIG Inspection of CTC.** This is perhaps the most perplexing portion of the final OIG report. The initial draft IG report completely ignored the OIG's own CTC inspection report, delivered just one month prior to the 9/11 terrorist attacks. As highlighted in our 1/13/2005 joint response, the August 2001 inspection report speaks of a well-run Center that is suffering from a stressful work environment, and limited options for dealing with continued shortfalls. Nowhere in this earlier report does the OIG recommend the Agency take steps to change the environment in CTC.

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- When this report was brought to the OIG's attention in our January 2005 response, it made major changes to its initial findings in the 9/11 report, but ultimately absolves itself of any responsibility for its earlier report by essentially claiming that its inspections process was superficial, conducting a "lessons learned" exercise, and changing its methodology. Nevertheless, the OIG 9/11 report still cites the August 2001 report to make points when it suits its purposes.
- None of this can change the fact that leadership throughout the Agency has been told to rely on IG inspections as an aid in improving the management of their units. We are now being told that was a mistake and that OIG will do better in the future. That is all very convenient with the benefit of hindsight, but it seems that no matter what assertions are made now, these inspections were supposed to identify problems and make recommendations for corrections.
- We, in fact, believe the August 2001 report is a better representation of the environment in CTC and implicitly the environment inside the Agency with respect to CT-related issues than is the flawed 9/11 IG report.

16. (e) The IG seems to be on the horns of a dilemma: either they have to admit that the problems they are now citing are only evident with the benefit of hindsight because they could not detect them at the time, or they have to admit that they have for years been producing useless reports and that perhaps they should hold themselves up to the same standard of accountability—that they did not perform their jobs with a reasonable level of professionalism, skill, and diligence and consequently did not discharge their responsibilities in a satisfactory manner. At a minimum, if one accepts the current IG position, the OIG inspection process should be shut down until the IG can explain its past practices and how it intends to improve in the future. There is no sense

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spending the resources currently devoted to the inspection process if it is not providing management with a useful tool to improve itself that will not be repudiated when convenient.

III. Key Issues

A. Watchlisting & Passing Intelligence to the FBI

17. (~~S//NF~~) Despite our best efforts in our previous joint response to inform the OIG of the procedures associated with watchlisting, including the fact that the instructions to the field clearly indicated that it was a field and not a Headquarters function, the final report continues to accuse CTC officers of not performing up to the IG's standard. It also accuses the former Chief, CTC of not upgrading procedures for nominating individuals for watchlisting. The system and procedures in place and described in cables to the field did, in fact, produce more nominations by CIA than from any other government agency and there is no indication that there was widespread confusion on responsibilities. With the resources and people available pre-9/11, it functioned as well as any system could have operated.

- We have gone into some detail in our 13 January 2005 joint response and will not repeat that material here, but urge a close read of our earlier comments.
- It is unclear why the OIG has selectively focused accountability on a few CTC officers when the field has primary responsibility and FBI officers had the information about both men as soon as CTC learned of it. As the OIG report points out, dozens of officers opened and/or read the cable.
- Here as in other places we also must object to the connotation of some of the passages in the OIG report. For example, the report asserts that if al-Mihdhar and al-Hazmi had been placed on the No-Fly list there might have been a greater chance of disrupting the 9/11 plots. It is impossible to

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know the consequences of placing these two individuals on the watch list earlier or on the No-Fly list. Indeed, the plotters were successful in dealing with the inability of one member of the group to get into the United States. Yet the report seems to want to imply greater impact to warrant accountability boards.

B. Strategic Analysis

18. (U) The final draft of the OIG 9/11 report fails to address the key issue on strategic analysis that we raised in our 13 January joint response. Fundamentally, strategic analysis is designed to call policymaker attention to an important issue. There are no credible indications that the people that mattered inside the USG did not fully understand the al-Qa'ida threat. Indeed, if anything, the 9/11 Commission hearings and report clearly indicate that senior officials in both the Clinton and Bush administrations understood the threat.

- During the Clinton administration that awareness was embedded in the covert action authorities approved by the White House. In public testimony these officials even claim to have given us far more authority than an exacting, legal reading of the Memoranda of Notification would justify.
- The understanding of the threat did not end with the Clinton administration. One of the officials who spanned both administrations was Dick Clarke, the NSC's senior CT policy officer. Consequently, there was continuity in Bush administration on this issue. Additional strategic pieces would not have advanced the knowledge base of those charged with making or advocating policy in the NSC.

19. (U) Strategic analysis does not exist in the real intelligence world for its own sake. Yet given the certainty that the magnitude of the al-Qa'ida threat was fully understood in the policy community, the IG still seems to be telling us that we should have produced more, at the same time telling us that we also did not produce enough

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current intelligence for the PDB and SEIB. The IG has taken the usual bureaucratic approach, requiring that more be done across the board without any recommendation for additional resources to accomplish this mission and then threatening to hold people accountable for not being able to be all things to all people. Unlike the IG's 9/11 report, at least its August 2001 inspection report acknowledged that CTC had few options to meet these conflicting demands and was doing a good job managing the environment that confronted the Center.

- That said, although we believe our record is solid, CTC was not satisfied with the amount of strategic analysis we were able to complete given our staffing levels and competing demands for analytic products. Unlike the OIG report, which just asserts we should have done more, we were actively working to increase the resources devoted to strategic analysis. The former Chief of the Analysis and Information Group was aggressively pushing a program to increase staffing and expertise within AIG. CTC could not control the speed of the response from the bureaucracy.

20. (U) The OIG criticism of our strategic analysis is carried to an extreme in the discussion of the production of intelligence analysis on aircraft as weapons. On this topic the IG faults CTC for not doing a specific assessment of this threat. Yet the 9/11 Commission staff in its August 2004 Staff Report on the FAA makes the following statements: "The FAA was the agency primarily responsible for assessing intelligence for its relevance specifically to US commercial aviation." And also: "Nevertheless, the FAA had indeed considered the possibility that terrorists would hijack a plane and use it as a weapon. In the spring of 2001, FAA intelligence distributed an unclassified CD-ROM presentation to air carriers and airports, including Logan, Newark, and Dulles. The presentation cited the possibility that terrorist might conduct suicide hijacking but stated: 'fortunately, we have no indication that any group is currently thinking in that direction.'" The Staff Report later states: "However, the FAA's security briefings to airports in the spring of 2001 contained an important

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caveat. It stated that from the hijackers' perspective, 'A domestic hijacking would likely result in a greater number of American hostages but would be operationally more difficult. We don't rule it out . . . If, however, the intent of the hijacker is not to exchange hostages for prisoners, but to commit suicide in a spectacular explosion, domestic hijacking would probably be preferable.'" What should we make of this? A couple of obvious conclusions are warranted:

- The IG has not dealt with material surfaced by other inquiries, such as the 9/11 Commission. In some cases, such as this one, this material should have a fundamental impact on the IG's conclusions.
- The IG is again asking that CTC do something additional that would only duplicate work that has already been done by some other element of the USG, and in this case an organization that had primacy over the issue. This is particularly striking during a period of intelligence reform prompted by the 9/11 Commission report that is calling for less duplication.
- The possibility that aircraft would be used as weapons was not enough to generate a real world response even when explicitly acknowledged because there was not specific threat information. As the OIG report notes, there was on average only about one report per year that dealt with the aircraft threat out of the thousands of threat reports received between the mid-1990s and 2001. One more review by CTC would not have changed the response by the aviation community. Although it is worth noting that the former Chief of AIG was in the process of setting up a unit to look at possible future terrorist tactics at the time of 9/11.

21. (U) The OIG effort to assign accountability to CTC is also evident in the charge that not enough was done by CTC on the domestic aspect of the threat. The 9/11 Commission Report clearly indicates: "Taken together, the two directives (PDD 62 & 63) basically left the Justice

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Department and the FBI in charge at home and left terrorism abroad to the CIA, the State Department, and other agencies, under Clarke's and Berger's coordinating hand." On several occasions the former Chief, CTC asked the FBI for a comprehensive briefing on the role and activities of al-Qa'ida in the United States. We never received such a briefing. Yet now, the IG would hold us responsible for actions that properly were a different organizations lead, just as in the case of analysis of aircraft as weapons.

C. Kahlid Shaykh Muhammad (KSM)

22. (~~S//NF~~) There is not much more ground to cover than what we highlighted in our 13 January joint response, and we urge a close read of our earlier comments. A few key points, however, are worth emphasizing here:

- The IG claim that we should have come to closure on the role of KSM sooner than we did is, of course, driven by hindsight, when everything becomes much clearer. On top of this, however, the IG report does not present a credible scenario as to the implications of our limited understanding of the role played by KSM. It is not as if CTC did not capture and render KSM because we were not able to document his role in al-Qa'ida beginning in the late 1990s.
- The idea that it was inappropriate to assign KSM to the ~~Renditions Branch~~ rather than to UBL Station is also perplexing and driven by hindsight. The IG documents that the FBI considered KSM an FBI case, not even a joint FBI-CIA case. There was a warrant out for his arrest. ~~Renditions Branch~~ was assigned the job of providing support in tracking down and capturing those individuals wanted in the United States. The IG report even states that CTC issued hundreds of requirements cables in its effort to locate KSM and bring him to justice. These cables often emphasized the fact that KSM posed a threat and asked for information about what he was doing and with whom he was meeting. CTC was working ~~the~~

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~~condition~~ with the resources available to it under
the policies in place at the time.

- And finally, the internal contradictions in the IG
report are nowhere more evident than when
discussing KSM. The IG wants CTC to add to the
workload of UBL Station by leaving the KSM case
there, at the same time they are complaining that
unit was suffering from a heavy workload and did
not have the experience to carry out operations.

**D. Intra-DO Coordination and Cooperation/Liaison
Relationships**

23. (~~S//NF~~) We will not repeat our earlier comments
from our 13 January joint response, but would like to note
the 21 September 2001 IG Inspection of the Near East
Division to emphasize the correctness of some of our earlier
comments.

- That report acknowledged the [redacted]
[redacted] and based on the comments the IG
staff heard during its inspection, attributed it
to policy differences with the United States over
Middle East policy [redacted]
[redacted]
- In its current report, the IG again ignores its
contemporary inspection of similar or related
issues, and instead chooses to assert that lack of
progress with [redacted] was the result of poor
relations between CTC and [redacted]

24. (~~S//NF~~) Elsewhere in its NE inspection the IG
implicitly points out the excellent working relationship
between NE and CTC by praising [redacted] Stations
and [redacted]-Base. All places that CTC was heavily involved
in funding and working with on the CT target. Given all of
this it seems more likely that the problem with working the
CT target in [redacted] had more to do with the
environment there than with tension between UBL Station [redacted]
[redacted]

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- Indeed, the OIG inspection of NE was more concerned with looking backward to the last crisis. The only recommendation it made to NE management was to review its work on [redacted]

[redacted]
No recommendations or significant discussion addressed any of the issues now raised in the OIG 9/11 report.

E. Intelligence Community

25. (U) The overall discussion of the role of the Intelligence Community in the OIG's 9/11 report is confusing. When non-CIA elements of the IC refuse to staff the Community Counterterrorism Board in CTC, the IG asserts it is CTC or CIA's fault, not the fault of the organization that was supposed to fill the position. At the same time, when the IC does something good—the OIG report praises the AD/CI/Collection as the manager with the only effective collection strategy—it implicitly seems to imply that this was simultaneously a failing of the CIA and CTC. CTC was working very closely with the AD/CI/Collection and saw this as a successful part of the overall CT effort. There was certainly no reason to divert scarce resources to duplicate what was already working.

- Other parts of the OIG 9/11 report on CTC's interaction with the IC seem to ignore the 9/11 Commission's Report and the entire debate over intelligence reform which highlighted the lack of control over the IC by the DCI or an entity like CTC with community responsibilities. It seems odd to hold individuals accountable for issues that seemingly required the largest organizational realignment of the entire IC in 50 years to correct.

IV. Unfinished Business

26. (U) A comprehensive and useful report on 9/11 would have included a discussion of broader issues to help the CIA evolve in a time of intelligence reform. Among the

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difficult topics that have not yet been addressed is how to deal with surprise and, in particular, surprise attack. The key questions should have been:

- How can CTC officers, who in the pre-9/11 environment were clearly working the hardest and the longest on this issue, do things differently in this period of intelligence reform to reduce the risk of surprise?
- How do personnel and budgets get allocated when there are conflicting priorities?
- How do you attract officers to work on high priority topics such as counterterrorism, if when the inevitable intelligence surprise comes along they are going to be held personally accountable?

Acknowledgement Block

(U) Seventeen officers mentioned in the OIG 9/11 report, including all 16 of the current or former CTC officers cited by the IG, have signed the above response. Signatures have been retained separately by the former DC/CTC in accordance with the approach used in the OIG report, which utilizes only the titles of the officers involved.

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CTC Front Office Statement and Signature Blocks

(U) Finally, the former CTC front office wants to re-emphasize (as it did in the 1/13/2005 joint response) that we were responsible for the activities of the Center under our watch. We believe it is not appropriate for more junior officers to be held responsible for conditions over which they had no control. All of the undersigned believe that the Center admirably discharged its responsibilities given the constraints under which it was operating. If we were not always successful, it was not for want of trying or dedication to the mission. We are proud to have served with our fellow officers on the front line in the war against terrorism during this difficult and stressful period. There was no more expert and determined group of individuals anywhere than those who labored in anonymity within CTC to protect our country and our fellow citizens. CTC's capabilities are clearly demonstrated by the series of operations and analyses conducted by the Center that set the stage for the USG response to the 9/11 attacks, and perhaps more dramatically by the success achieved when previous restrictions and resource constraints were removed. The country and we owe a debt of gratitude to those who gave of themselves before and after 9/11 to fight the terrorists who plot attacks against America. It was an honor to serve with them.