

TORTURING DEMOCRACY TRANSCRIPT

***Produced by Washington Media Associates
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The Fifth, Eighth and Fourteenth Amendments to the Constitution of the United States prohibit cruel, inhumane or degrading treatment.

NARRATOR: The attacks were unprecedented in their daring – and their destructiveness. When the President heard the first reports in a Florida elementary school, the Vice President had already been rushed to the bunker beneath the White House. There, he watched the second tower fall.

President GEORGE W. BUSH: “Tonight we are a country awakened to danger and called to defend freedom. Our grief has turned to anger and anger to resolution. Whether we bring our enemies to justice or bring justice to our enemies, justice will be done.”

NARRATOR: In the White House, the fear of a second attack was palpable. The tone - aggressive.

Vice President DICK CHENEY (September 16, 2001): “We also have to work sort of, the dark side, if you will. We have to spend time in the shadows in the intelligence world. A lot of what needs to be done here will have to be done quietly, without any discussion, using sources and methods that are available to our intelligence agencies if we’re going to be successful. That’s the world these folks operate in.”

RICHARD SHIFFRIN – Deputy General Counsel, Intelligence, Department of Defense (1998-2003): When 9/11 happens, new, radical, revolutionary, even strange ideas are brought to the fore. 9/11 created or contributed to what became a perfect storm.

NARRATOR: At the eye of the storm was Vice President Dick Cheney.

RICHARD SHIFFRIN: When photos went up in the executive branch offices, in the past it had been, like in the Department of Defense, it would be the President, the Secretary

of Defense. In this administration, it was the President and the Vice President and then the Secretary of Defense.

NARRATOR: Richard Shiffrin was a top civilian lawyer in the Pentagon at the time.

RICHARD SHIFFRIN: The Vice President is not in the chain of command -- in the military chain of command. The Secretary of Defense reports directly to the President. But the Vice President clearly took on a role that was, at least, untraditional from recent history.

NARRATOR: In that role, the Vice President and his long-time legal adviser, David Addington, would press their shared belief in unfettered presidential power.

Addington convened a group of like-minded political appointees: White House Counsel Alberto Gonzales, who had been the President's legal arm since their days together in Texas; Gonzales' White House deputy, Tim Flanigan; William "Jim" Haynes, Addington's protégé who was now the Pentagon's General Counsel; and John Yoo, whom a colleague called a "godsend." Yoo's post in the Justice Department meant that within the executive branch, legal opinions he penned had the weight of law.

The five lawyers met behind closed doors in the White House or the Pentagon – and called themselves the "War Council."

NARRATOR: Two weeks to the day after the terrorist attacks, they launched their legal revolution. A radical opinion asserted that Congress could not:

"place any limits on the President's determinations as to any terrorist threat, the amount of military force to be used in response, or the method, timing, and nature of the response. These decisions, under our Constitution, are for the President alone to make."

NARRATOR: Impatience with the rule of law – and the firm conviction that the commander in chief had the authority to ignore it – would become a hallmark of the war on terror.

(WAR IN AFGHANISTAN)

President BUSH (October 7, 2001): "More than two weeks ago, I gave Taliban leaders a series of clear and specific demands. None of these demands were met and now the Taliban will pay a price."

NARRATOR: The assault on the Taliban in Afghanistan was built around American air power – and U.S. agents on the ground calling in the shots. But as Osama bin Laden and al Qaeda disappeared into the rugged mountains on the Afghan/Pakistan border, the Pentagon increasingly relied on bounty hunters.

Tens of thousands of leaflets promising “enough money to take care of your family (and) your village for the rest of your life” were dropped by psychological ops teams.

Javed Ibrahim Paracha: “Where is Arab? Where is Arab? Where is Arab? You get thousand dollar for one Arab. Thirty thousand, forty thousand, sixty thousand. And helicopter loud speaker announcing these things.”

NARRATOR: Any Arab in the region was at risk of being turned in as a terrorist.

SHAFIQ RASUL – Detainee #086: As soon as we were handed over to the U.S. military, they tied our hands behind our back and put sacks over our heads.

NARRATOR: Twenty-four-year old Shafiq Rasul was among hundreds of men who had been rounded up by a warlord in northern Afghanistan.

SHAFIQ RASUL – Detainee #086: We couldn't see what was going on. We couldn't see anything around. We didn't know where they were taking us. We didn't know what was happening. They kept shouting things like we were the ones responsible for 9/11. We killed members of their family, and they were going to take their revenge out on us. And they had rifles in their hands and they could have shot us at any time.

***Words of Mohamed Mazouz – Detainee #294:** “We were hauled like animals, one drawing the other in its walk.”*

***Words of Jumah al-Dossari – Detainee #261:** “They started making us run towards the unknown... The prisoners started shouting and crying because of their severe pain. There were many young people with us, and the soldiers increased their insults and beatings.”*

***Moazzam Begg - Detainee #558:** “Over the noise and the din of the engines, the screaming of the soldiers. Profanity, swearing, the flashes that could be made out even despite wearing a black hood over my head. Trophy pictures being taken.”*

NARRATOR: In Washington, the question of what to do with the captives grew urgent. And the Vice President grew impatient. While he led a ceremony marking Veteran’s Day, behind the scenes, his legal counsel crafted a plan that would deny the prisoners access to America’s civilian – and military – justice.

Major General THOMAS ROMIG – Judge Advocate General, U.S. Army (2001-05): Veteran’s weekend I got a phone call from Jim Haynes and it was, “We have a small group working on a document. We would like for you to come up and review the document.”

NARRATOR: General Tom Romig was one of the top military JAGs pushed to the side – from the beginning.

General THOMAS ROMIG: Some of the things they were initially talking about were very draconian. There were issues about how many members of the panel did it take to convict, and then sentence, to death.

NARRATOR: General Romig convened an urgent meeting of senior military lawyers to war game how to respond to a far-reaching military order.

General THOMAS ROMIG: We had hoped we could make a difference in changing a number of things. We didn't.

NARRATOR: They didn't, in part, because the Vice President had convened a meeting of his own to finalize the plan. David Addington and other lawyers from the War Council were there. The military lawyers were not.

Within forty-eight hours, Cheney took the four-page order to the weekly lunch he and President Bush privately shared. Less than two hours later, it was signed by the commander in chief.

The President, it said, had the unilateral power to declare that all prisoners were war criminals. And, further, they:

“shall not be privileged to seek any remedy...in any court of the United States ... (or) any international tribunal.”

NARRATOR: They could be held indefinitely – and would be tried, if at all, in a new process with new rules. Conviction could mean:

“...life imprisonment or death.”

NARRATOR: Pentagon General Counsel Haynes said it would be the “Nuremberg of our time.”

RICHARD SHIFFRIN: They viewed this as accomplishing what Nuremberg accomplished for the losers in World War II, and that is the legal imprimatur on imposing the death penalty. There would be maybe dozens of people - Bin Laden on down - who would be captured and who would qualify for the death penalty. We couldn't execute them without some sort of system.

Vice President CHENEY (November 14, 2001): “We think it's the appropriate way to go. We think it guarantees that we'll have the kind of treatment of these individuals that we believe they deserve.”

RICHARD SHIFFRIN: That, of course, was premised on the idea that everyone we captured and detained really was a bad person. As it turns out, a large percentage of them were merely shepherds.

(AFGHANISTAN)

NARRATOR: Historically, the military has carried out battlefield interrogations – and operated according to strict, bright line rules.

The U.S. Army Field Manual on Interrogation defines torture as “the infliction of intense pain to body or mind to extract a confession or information, or for sadistic pleasure.”

NARRATOR: In the days after 9/11, President Bush had ordered the Central Intelligence Agency to capture or kill al Qaeda operatives around the world. In the chaos of Afghanistan, agents took their pick of the prisoners.

CIA Agent: *“These are terrorists?”*

Prisoner: *“Yes, these are terrorists I believe.”*

CIA Agent: *“These men are terrorists. All these men are terrorists. I think you're a terrorist. You come here to Afghanistan to kill people.”*

Colonel STEVEN KLEINMAN – Senior Intelligence Officer, U.S. Air Force (1985-2008): We're in the middle of a global war on terror and commanders have information needs that need to be answered now. In fact, better yet, they should have been answered yesterday.

NARRATOR: Colonel Steve Kleinman is a veteran Air Force interrogator who served in both Iraq wars.

Colonel STEVEN KLEINMAN: At some point when we realized interrogation was going to be very important after 9/11, the agency apparently looked within its capabilities, its personnel, and found that they didn't have a real, formal, structured interrogation capability.

NARRATOR: Hobbled by its lack of experience in dealing with this new enemy, the CIA scrambled. For interrogation advice, they turned to Arab countries the U.S. had long accused of torture. Private contractors were hired. And someone pulled the CIA's old “bible of interrogation” off the shelf. The manual – code-named KUBARK - was an artifact of the Cold War.

(KOREAN WAR)

NARRATOR: During the Korean War, American prisoners were tortured by their communist captors.

Newsreel announcer: *“Confiscated films show the Red press conferences....”*

NARRATOR: Thirty-six of them - airmen shot out of the sky – were kept isolated, and tortured psychologically.

Newsreel announcer: Statements broadcast by the Communist propaganda machine throughout the world.”

NARRATOR: They confessed to elaborate conspiracies.

(Sync from newsreel): “Our two outboard wing bombs were germ bombs we dropped on....” “The thing I forgot to mention about the germ bombs....”

Colonel STEVEN KLEINMAN: Very well educated, committed people, committed to a cause, suddenly appearing in a trial and making these wild allegations about their role in some insurgent group within the Soviet Union, their role as recruited assets of the CIA when we knew that they weren't. So it scared a lot of people. How -- what method were they using to get people to do these things?

NARRATOR: It was a propaganda coup for the North Koreans - until the war ended, and the POWs were released.

American POW: “All this information given in this so-called confession was entirely without basis. It was wrung out of me by torture, both mentally and physically.”

NARRATOR: One pilot, trying to explain what happened to him, described a “slow, quiet and diabolical poisoning” of the mind. But poisoning his mind left no physical scars.

Newsreel announcer: “Out of the bitter prisoner of war lessons learned in Korea comes the School for Survival at Stead Air Force Base in Nevada.”

NARRATOR: The US military created a secret program to inoculate troops at highest risk of capture. They were trained in “Survival, Evasion, Resistance and Escape” – called “SERE” – using harsh methods copied from the Communists.

Newsreel announcer: “The prisoner is subjected, sometimes for hours, to machine gun questioning....”

NARRATOR: The CIA also studied the communist techniques that had produced the false confessions - and concluded that prolonged isolation and deprivation “reduced prisoners to animals.”

Newsreel announcer: “Rigorous training for young Americans who must face an implacable foe and not break on the rack of physical and mental torture.”

NARRATOR: Those secret studies led to KUBARK - which the CIA itself later set aside amidst Congressional investigations into the legality of the interrogation methods.

(KANDAHAR AIR BASE)

NARRATOR: But in 2001, at an American prison camp in Afghanistan, KUBARK would be revived.

MOAZZAM BEGG – Detainee #558: In Kandahar, it seemed to be an initiation ceremony almost, a pre-cursor to something a lot more intensive.

NARRATOR: Moazzam Begg, a British citizen, had been seized by Pakistani officers who burst into the Islamabad apartment where he and his family were living.

MOAZZAM BEGG – Detainee #558: It's almost like a conveyor where you can hear sounds of other prisoners screaming, being screamed at, dogs barking.

NARRATOR: KUBARK'S menu of coercive interrogation techniques instructed that prisoners be "cut off from the known" and "plunged into the strange."

MOAZZAM BEGG – Detainee #558: If you can't see anything, you're going to be terrified. It's the dark that humans are afraid of, not the light. Somebody puts a black bag over your head and you hear the sound of a gun, "ch ch," you think, "My head is going to be blown off." And that did happen. I heard that sort of "ch ch" sound several times.

If the Americans are doing it, and they're not accountable, then who's going to come to your rescue?

(WASHINGTON)

NARRATOR: In Washington, top officials were contemplating interrogations of unprecedented harshness.

Common Article 3 of the Geneva Conventions specifically bans all "violence to life and person" including "cruel treatment and torture... and outrages upon personal dignity, in particular humiliating and degrading treatment."

NARRATOR: A violation of Geneva's Article 3 ban on torture is a war crime under U.S. law.

MARTIN LEDERMAN – Legal Adviser, Department of Justice (1994-2002): The prohibition in the Geneva Conventions against cruel treatment turns out to have been probably the most important of the legal restrictions that the Bush administration had to deal with.

NARRATION: Martin Lederman was a senior adviser in the Justice Department at the beginning of the Bush Administration.

MARTIN LEDERMAN: In this administration, President Bush has, by all accounts, been quite forthright in that he's asked his lawyers not to give him the best view of the law, but instead, to push the envelope. The metaphor that they've used is to go as close to the legal line as possible without going over. So the metaphor they've come up with is to "get chalk on one's spikes." This was the message that went out from the White House.

NARRATOR: On January 9th, 2002, in the first of a series of opinions that would provide legal cover for coercive interrogations, John Yoo began to push the envelope.

"Customary international law of armed conflict in no way binds the President or the US Armed Forces concerning the detention or trial of members of al Qaeda and the Taliban."

NARRATOR: In other words, the President has the power to suspend - or simply ignore - the fundamental laws of war. That includes Geneva and its guarantees of basic human rights to prisoners and civilians alike.

RICHARD ARMITAGE – Deputy Secretary of State (2001-05): Our views were well known in this matter. We were not on board.

NARRATOR: Richard Armitage served three combat tours in Vietnam.

RICHARD ARMITAGE: For the most part, the Department of State was left out of this discussion, I think precisely because we'd have no part of it.

NARRATOR: The State Department's top lawyer called John Yoo's legal reasoning "seriously flawed" - and warned that if heading to the dark side meant violating Geneva:

"This raises a risk of future criminal prosecution for US civilian and military leadership and their advisers, by other parties to the Geneva Conventions."

NARRATOR: That is, if officials - including President Bush – were accused of torture or inhumane treatment, they could be prosecuted for war crimes.

(AFGHANISTAN)

NARRATOR: While the clash escalated in Washington, in Afghanistan, most every Arab captured by – or sold to – the United States was being readied for a trip halfway around the world.

SHAFIQ RASUL – Detainee #086: The soldiers just grab you, pick you up and basically drag you to the plane. They put gloves on our hands, taped the gloves to our

hands so you can't take them off. And they put handcuffs on. They went round our waist, down to our feet, shackled our feet together.

Words of Mohamed Mazouz – Detainee #294: *“They had destroyed all our senses: Neither to see, neither to hear, neither to speak, neither to feel, nor to move our fingers.”*

Words of Ahmed Errachidi – Detainee #590: *“A guard hissed: ‘From now on, we dictate your food, your water, your sleep and your shit. You have no life. That whisper lived with me for five years. It became louder and louder in my ears.’”*

NARRATOR: The photographs of shackled and blindfolded prisoners provoked alarm – and an urgent letter from Amnesty International reminding Secretary of Defense Rumsfeld that:

“The term ‘cruel, inhuman or degrading treatment’ should be interpreted...to extend the widest possible protection against abuses...including the holding of a detained or imprisoned person in conditions which deprive him...of the use of any of his natural senses.”

(Press Conference, Department of Defense - January 11, 2002):

Q: *How do you respond to charges – hooding, shaving, chaining, perhaps even...”*

Secretary Rumsfeld: *“What are the words?”*

Q: *“Hooding, shaving, chaining, perhaps even tranquilizing some of these people – violating their civil rights.”*

Secretary Rumsfeld: *“Uh, that – uh- that’s not correct.”*

Q: *“That you’ve done it?”*

Secretary Rumsfeld: *“That it’s a violation of their rights. It simply isn’t.”*

NARRATOR: Whether or not they agreed, the Administration had its first public warning: The war on terror was pushing the edge of international law.

(GUANTANAMO)

NARRATOR: The prison camp at Guantanamo – the “legal equivalent of outer space,” one official called it - would push even closer to that edge.

Words of Asif Iqbal - Detainee #087: *“When I had the goggles as well as the shackles removed, I thought I was hallucinating. I could just see a series of cages with people wearing orange”.*

NARRATOR: In many Arab countries, orange is the color worn by prisoners condemned to die.

They were, Secretary Rumsfeld said, the “most dangerous, best trained, vicious killers on the face of the earth.” Interrogators assumed they were in custody because they should be.

SHAFIQ RASUL – Detainee #086: They'd say if you don't admit to being a member of al-Qaeda, if you don't admit to meeting Osama bin Laden, that if you - if you don't care what happens to yourself, we can do whatever we want to your family, we can deport them back to their home countries, Pakistan, and the Pakistani government can do whatever they want.

NARRATOR: They were held in isolation and secrecy - locked into a system of punishment before any evidence of guilt was established.

SHAFIQ RASUL – Detainee #086: You start losing hope, you think you're going to spend the rest of your life here.

(WASHINGTON)

NARRATOR: In Washington, Secretary of State Colin Powell – the most experienced military man among the President's top advisers – stepped up his defense of Geneva's half century of war-fighting rules.

RICHARD ARMITAGE: We were trying to wrestle with how to fight both an enemy and an idea, and I think came up with a wrongheaded solution - opting out of Geneva. We, after all, want our soldiers, should they be unfortunate enough to be captured, to be treated in a proper way. And yet, we weren't willing to afford that to others. That seems a little counter-intuitive to me. It did at the time, and it does now.

NARRATOR: Before the Secretary of State could make his case to the President personally, he was undermined by the Vice President. In a blunt memo written by Cheney's counsel, David Addington – but delivered by White House Counsel Alberto Gonzales – Bush was advised that the war on terror:

“renders obsolete Geneva's strict limitations on questioning of enemy prisoners”.

NARRATOR: And in an argument that could have been written by a criminal defense lawyer, the President was told that opting out of the Geneva Conventions:

“substantially reduces the threat of domestic criminal prosecution under the War Crimes Act.”

RICHARD ARMITAGE: If you were twisting yourselves into knots because you're fearful that you may be avoiding some war crimes, then you're probably tripping too closely to the edge.

Colonel LAWRENCE WILKERSON – Chief of Staff to Secretary of State (2002-05): Addington, clearly, was the brainpower behind this, and I think they felt like their flexibility within what they had designed was such that there wouldn't be any fear of repercussions, legal repercussions.

NARRATOR: Colonel Larry Wilkerson, a 31-year military veteran, had long been an aide to General Colin Powell.

Colonel LAWRENCE WILKERSON: They had a vision, they were ruthless in carrying it out, and they executed it very well.

President BUSH (January 28, 2002): “We’re discussing all the legal ramifications of how we characterize the actions at Guantanamo Bay. A couple of things we agree on. One, they will not be treated as prisoners of war. They’re illegal combatants. Secondly, they will be treated humanely. And then we’ll, I’ll figure out – I’ll listen to all the legalisms and announce my decision when I make it.”

General THOMAS ROMIG: There were a number of things that people were ready to jettison because these were different times. That’s a dangerous thing because then you can always have the excuse to jettison the law, the procedures, the due process, the Conventions, whatever you want, when it’s convenient.

NARRATOR: On February 7th, 2002 – for the first time in history - President Bush declared that the United States would not be constrained by Geneva’s prohibitions against cruel and inhumane treatment. None of the prisoners in U.S. custody would be protected by the laws of war.

(BAGRAM)

NARRATOR: In a far corner of the U.S. military base at Bagram in Afghanistan, a former Soviet machine shop had been converted into a prison. There, Moazzam Begg would be interrogated by American agents using tactics that had been refined in the prison camps of Stalin’s Soviet Union.

MOAZZAM BEGG – Detainee #558: The hands would be placed right above the head, and tied or shackled to the top of the door, which was the entrance to the cage.

Dramatization based on US Army investigation

MOAZZAM BEGG – Detainee #558: I saw people who literally were no longer able to physically sustain that position and just hung off limp. The entire weight of their body being held by their wrists.

CLIVE STAFFORD SMITH - Director, *Reprieve*, Legal Rights NGO: That goes back to the Middle Ages. It was called *strappado* by the Spanish Inquisition.

NARRATOR: Clive Stafford Smith has represented more than forty prisoners in U.S. custody during the war on terror, including Moazzam Begg.

CLIVE STAFFORD SMITH: And it basically dislocates your shoulders slowly and very painfully.

NARRATOR: After one interrogation, Begg was dragged into a cell and hog-tied, his hands cuffed behind his back and chained to his ankles – and left that way overnight.

**Dramatization based on
*Enemy Combatant by Moazzam Begg***

MOAZZAM BEGG – Detainee #558: I would be interrogated at any given time of the day or night, unannounced. An interrogator would walk in and tell me to get up. The guard would make sure I would be seated or standing, depending on how long I'd been in either position.

NARRATOR: A floodlight was aimed into his cell twenty-four hours a day.

MOAZZAM BEGG – Detainee #558: You want to fall asleep. You want to do anything in order that you can just lie down in the corner no matter how hard the floor is, how cold it is, no matter how uncomfortable sleep would be with shackles on your arms and legs.

NARRATOR: Depriving a prisoner of sleep also has a name from the Middle Ages – “*tormentum insomniae.*”

MOAZZAM BEGG – Detainee #558: It goes beyond being scared now. You just want to sleep. They produced pictures of my wife, my children, and waved these pictures in front of me, asking me if I knew what had happened to my wife and kids that night. If I thought they were safe, if I thought I'd ever see them again. If I really cared about them so much, I would tell them everything.

NARRATOR: A woman began to scream in a nearby cell. Threats against a prisoner's family were called “second degree torture” during the Spanish Inquisition – and were commonly used by the Soviet KGB.

For two days and two nights, he heard the woman he thought might be his wife being tortured.

MOAZZAM BEGG – Detainee #558: If there's any point in my life that I wanted to kill somebody, it was this point. And if I could have got those shackles around their necks, I would have done so and got out to the next room just to stop what's happening.

NARRATOR: During the eleven months Moazzam Begg was imprisoned in Bagram, at least two men in U.S. custody there died.

In Guantanamo, he was locked into a 6-by-8 foot cage where he would spend the next two years, in isolation. His nightmares were filled with the screams of a woman.

The 1994 U.S. Torture Statute defines torture as an “act committed by a person...specifically intended to inflict severe physical or mental pain or suffering...upon another person within his custody or physical control.”

NARRATOR: In March 2002, U.S. intelligence teams, backed by more than one hundred police officers, had moved in on a suspected al Qaeda safe house in Faisalabad, Pakistan.

Malik Mohammed Khalid - Police Inspector: “He said, ‘Allah Akbar,’ three times. ‘I am ready to be a martyr. Kill me.’”

NARRATOR: Abu Zubaydah – alleged to be a major figure in al Qaeda – was severely wounded, but taken alive.

President BUSH (April 9, 2002): “We hauled in a guy named Abu Zubaydah. He’s one of the top operatives plotting and planning death and destruction on the United States. He’s not plottin’ and plannin’ anymore. He’s where he belongs.”

NARRATOR: The man FBI officials called al Qaeda’s “travel agent”- and so a minor figure - had disappeared into the spider web of secret CIA prisons spread across the globe.

MARTIN LEDERMAN: The White House and the Vice President’s office were, in 2002, urging the CIA to engage in a detention and interrogation program – something they apparently had not ever done before – and to use techniques that appeared on their face to violate several different legal restrictions. The CIA quite understandably said, “We’re not going to do that, unless we are given some assurance by lawyers within the Justice Department that this is lawful.”

NARRATOR: The agency insisted on what one official called a “golden shield.” On August 1st, 2002, they got it - in an opinion requested by the White House and delivered by John Yoo’s office in the Justice Department. The Vice President’s lawyer had framed the core premise :

“Congress can no more interfere with the President’s conduct of the interrogation of enemy combatants than it can dictate strategic or tactical decisions on the battlefield.”

NARRATOR: That is, any attempt by Congress to interfere with a Presidential order - even if it crossed the line into torture - would be unconstitutional. And any interrogation would be legal unless it caused pain that was:

“equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death.”

Colonel LAWRENCE WILKERSON: If you define torture as organ damage, death or almost death, then you can stand up and say that you don't do torture. And I think that's what they were doing.

NARRATOR: In secret White House meetings chaired by National Security Advisor Condoleezza Rice, a committee of top officials that included Vice President Cheney, Defense Secretary Rumsfeld and CIA director George Tenet, reviewed – and approved – the specifics of harsh interrogations.

Many of the proposed techniques were based on the military's secret “SERE” training - “Survival, Evasion, Resistance and Escape” – for Americans at risk of capture by torture regimes.

MALCOLM NANCE – Chief of Training, US Navy SERE (1997-2001): The simulated captivity is supposed to expose students to - well, it's a stock phrase that we all, every instructor memorizes: “A totalitarian evil nation with a complete disregard for human rights and the Geneva Convention.”

NARRATOR: Malcolm Nance is a 20-year veteran of the military intelligence community.

MALCOLM NANCE: And if you can endure a “totalitarian evil nation with a complete disregard for human rights and the Geneva Convention,” you can pretty much endure everything.

RICHARD ARMITAGE: My particular class was ambushed. We heard a lot of shooting outside the truck, some strange fellows with accents and strange uniforms with stars on their caps pulled us out of the back of the truck, started slapping us around. And the next thing I knew, we were in a prison camp.

NARRATOR: Like Richard Armitage, SERE trainees are slapped, hooded, their sleep disrupted. Under the constant watch of physicians and psychologists, they are stripped, exposed to temperature extremes, sexually humiliated.

And some officers at the Navy's SERE school were subjected to what has been known since the Spanish Inquisition as the “water torture.” During World War II and Vietnam, it was prosecuted by the U.S. as a war crime.

RICHARD ARMITAGE: I was put on an incline. My legs were like that and my back went down. A wet towel was put over my nose and mouth. It was completely soaked. But I could still breathe. And then a question would be asked and I would not answer it. Water would slowly be poured in this, and the next time I took a breath, I'd be drawing in water.

MALCOLM NANCE: You start to panic. And as you panic, you start gasping, and as you gasp, your gag reflex is overridden by water. And then you start to choke, and then you start to drown more. Because that water doesn't stop until the interrogator wants to ask you a question. And then for that second, the water will continue, and you'll get a second to puke and spit up everything that you have, and then you'll have an opportunity to determine whether you're willing to continue with the process.

RICHARD ARMITAGE: I did realize the people doing this were actually on my side. But the sensation to me was one of total helplessness. And I've had a lot of sensations in my life, but helplessness was not generally one of them. But the sensation was enormously unpleasant and frightening.

NARRATOR: In 2002, at a secret jail in Thailand, contractors whose expertise was in the Army's SERE torture resistance training – not interrogation - led the CIA'S mental demolition of Abu Zubaydah. He was confined in a cage called a "dog box" – so small he could not stand. The Red Hot Chili Peppers were blasted at full volume for hours on end.

Colonel STEVEN KLEINMAN: If our purpose was, as interrogators, to do what the KGB was doing much of during the show trials – and that is to force somebody to comply and to create propaganda - then they're great. They'd be perfect. But that's not what we're after. We're after intelligence information which is true.

NARRATOR: Abu Zubaydah was stripped naked, held in frigid cells, doused with cold water. Video cameras recorded him 24 hours a day.

Colonel STEVEN KLEINMAN: Did the CIA not understand the difference between SERE resistance training and interrogation for intelligence purposes? And if they didn't, I find that shocking.

NARRATOR: The agency was on tenuous legal ground, as well – and so insisted on high-level authorization for each new step, including one of the harshest SERE techniques: Waterboarding. It was the newly-coined term for the centuries-old water torture.

MALCOLM NANCE: There's no simulation here. It's controlled drowning. Water is entering your system. It can overload your ability to gag it out.

**Waterboarding demonstration
Provided by Amnesty International**

RICHARD ARMITAGE: There is no question in my mind - there's no question in any reasonable human being, there shouldn't be, that this is torture. I'm ashamed that we're even having this discussion.

NARRATOR: Though the Administration would later admit that Abu Zubaydah was one of three prisoners who were waterboarded, hundreds of hours of videotape of his interrogation had been destroyed. And that meant any evidence of the water torture – a felony under US law – had been destroyed as well.

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NARRATOR: On August 4th, 2001, a 26-year-old Saudi named Mohamed al-Qahtani flew from London to Orlando, Florida with \$2800 in his pocket – but no return ticket. A suspicious immigration officer refused him entry.

Colonel BRITAIN MALLOW – Commander, Criminal Investigation Task Force (2002-05): Mohamed Qahtani had been detained at a U.S. border station in Florida.

NARRATOR: Colonel Britt Mallow headed a special Pentagon task force of the military's criminal investigators.

Colonel BRITAIN MALLOW: When he was first captured, information was developed that indicated that he was, in fact, the same person that had been turned away at the border.

NARRATOR: And that meant al-Qahtani might be the “20th hijacker” - recruited for the team that would overpower passengers on United 93.

As the first anniversary of the 9/11 attacks approached, demands from Washington for “actionable intelligence” from al-Qahtani - in custody at Guantanamo – escalated.

In September, the Pentagon announced that Major General Geoffrey Miller – a career Army artillery officer – would run both the detention and intelligence operations at the prison camp. “When I showed up at Guantanamo,” he later acknowledged, “I had never before witnessed” an interrogation.

Colonel BRITAIN MALLOW: If you look at some of the people that were put in charge of Guantanamo, they had very little experience with intelligence. They had very little experience with detention operations. They had very little experience with interrogations. And yet these were the ones that were making the decisions and were put under the pressure to make those decisions without a lot of good information.

NARRATOR: On September 25th, that pressure intensified when lawyers from the War Council – David Addington and the Pentagon’s Jim Haynes arrived - from Washington, along with the CIA’s top lawyer – all of them well aware of al-Qahtani.

The secret August “torture memo” – providing legal cover for harsh interrogations - was, figuratively at least, in their pockets. In addition to its narrow definition of illegal physical torture, the memo also argued that:

“For purely mental pain or suffering to amount to torture...it must result in significant psychological harm of significant duration... lasting for months or even years.”

NARRATOR: A week after the lawyers’ visit, a senior CIA official instructed Guantanamo officers on various SERE-derived tactics. According to minutes of the briefing, he told them complying with laws against torture:

“is basically subject to perception. If the detainee dies, you’re doing it wrong.”

NARRATOR: Nine days later, the outgoing commander of Guantanamo’s interrogation corps – who would later testify that his “marching orders” came from the President of the United States – officially requested authority to use harsh methods:

“such as those used in US military interrogation resistance training or by other US government agencies.”

NARRATOR: He listed some of the same SERE tactics the CIA had turned into a blueprint for torture, including:

the “use of a wet towel and dripping water to induce the misperception of suffocation” and “scenarios designed to convince the detainee that death or severely painful consequences are imminent for him and/or his family.”

NARRATOR: On December 2nd, 2002, Secretary of Defense Rumsfeld signed off on an “Action Memo” prepared by his General Counsel, Jim Haynes, approving fifteen of the proposed interrogation techniques. Many of them defied the military’s own definitions of cruel and inhumane treatment. Al-Qahtani could be kept in isolation, stripped nude, kept awake and interrogated for twenty hours at a time. Phobias such as fear of dogs could be exploited, as could painful stress positions – keeping him standing for up to four hours.

The Secretary, who works at a standup desk, added a handwritten note.

“I stand for 8-10 hours a day. Why is standing limited to 4 hours?”

Colonel LAWRENCE WILKERSON: It just showed an incredible naiveté, and I think this is more the case, an incredible hubris. No one sat down, not John Yoo, not David

Addington, not Dick Cheney, not Donald Rumsfeld, and said, “What’s the cumulative effect of allowing all these things to be done?” What if you were to do twelve of these things repeatedly over a 45-day period in the dark with no exposure to the light, no sleep, hypothermic temperature conditions, hanging by your wrist from the wall sometimes. That’s not torture? I don’t think anyone ever sat down and thought about that. If they did, they condoned it.

The Uniform Code of Military Justice prohibits U.S. Armed Forces from engaging in cruelty, oppression or maltreatment of prisoners, assaulting prisoners and communicating a threat to wrongfully injure a detainee.

(GUANTANAMO)

NARRATOR: Mohamed al-Qahtani - detainee #063 - had already been in solitary confinement for months.

According to FBI agents who saw him, he:

“was evidencing behavior consistent with extreme psychological trauma, talking to non-existent people, reporting hearing voices...”

**Dramatization based on
Schmidt-Furlow report, Dept. of Defense**

NARRATOR: Now, his interrogations would intensify. An hourly log – leaked from Guantanamo - narrates the harsh details.

He is forced to wear a woman’s bra. A thong is draped over his head – sexually taunting and humiliating - a Muslim man.

A leash is tied around his neck.

1115: Began teaching the detainee lessons such as stay, come, and bark to elevate his social status up to that of a dog. Detainee became very agitated.

1300: Dog tricks continued and detainee stated he should be treated like a man.

NARRATOR: Nine hours later, while women are in the interrogation booth, he is stripped naked.

2200: After approximately five minutes of nudity the detainee ceased to resist.... He stated that he did not like the females viewing his naked body.

Dr. MICHAEL GELLES – Chief Psychologist, Naval Criminal Investigative Service (1991-2006): The majority of, many of these military interrogators were very young. They were 18, 19, 20 – kids who were kids, who essentially were serving their country.

NARRATOR: Mike Gelles feared what he called “force drift” at the off-shore prison – that abusive tactics approved for al-Qahtani’s interrogation would spread.

Dr. MICHAEL GELLES: Here we had all these alleged terrorists in Guantanamo Bay, and we weren't getting the intelligence that leadership thought we should be getting. So it was time now to begin to think about, how were we going to expedite this process, ticking time bomb - all this shapes the context.

Colonel BRITTAIN MALLOW: My top agent strongly, strongly believed that we could not be a part in any way to anything that might be seen as illegal or improper. I sent out, by email, instructions to our agents. “If you see something that you think is wrong, we want you to report it to us immediately. But we want you to disengage.”

NARRATOR: While Colonel Mallow was ordering his investigators to stand down, General Geoffrey Miller – just five weeks after taking charge – put forward a Standard Operating Procedure for his interrogators, based on SERE.

“JTF GTMO ‘SERE’ Interrogation Standard Operating Procedure”

NARRATOR: This order has never before been shown in its entirety.

“These tactics and techniques are used at SERE school to “break” SERE detainees. The same tactics and techniques can be used to break real detainees during interrogation.”

Colonel BRITTAIN MALLOW: General Miller wasn’t an expert in detention operations, in intelligence operations, and especially not in interrogation. So he relied on the experts that he surrounded himself with.

NARRATOR: They were mostly from the CIA’s equivalent in the Pentagon – the Defense Intelligence Agency, or DIA.

Colonel BRITTAIN MALLOW: They were telling him these aggressive ways of getting at it were the best. We offered an alternative. And General Miller basically said, “If you’re not going to help us in this, if you’re not going to participate in this, if you don’t want to be on our team, you’re out of here.”

Dr. MICHAEL GELLES: I wondered how informed those who were making these decisions truly were. I always wondered about a lot of the agendas that were being worked – how political was this?

(WASHINGTON)

NARRATOR: In Washington, a blunt lesson in the politics of harsh interrogations was unfolding. On December 17th, 2002, the head of the Naval Criminal Investigative Service took the troubling reports he had received to the Navy's top civilian lawyer.

ALBERTO MORA – General Counsel, U.S. Navy (2001-06): He came to me and without prior warning or announcement said that his people down in Guantanamo had reported to him that detainees were being abused.

NARRATOR: One of Alberto Mora's great uncles had been imprisoned in a Nazi concentration camp; another was tortured before he was hanged.

ALBERTO MORA: He felt that the abuse was serious, that it most probably violated American law and certainly violated American values, that his men were upset at being associated with this, and did I want to know more.

Dr. MICHAEL GELLES: It was everything that he didn't believe in. And he sat there, still, listening, didn't ask a question for minutes. We all finished. And that's then when I remember him saying, "This is not right."

NARRATOR: Mora was shown the action memo Rumsfeld had approved – and portions of al-Qahtani's interrogation log. For forty-eight of fifty-four consecutive days, the prisoner would be questioned from 4 AM until midnight.

0400: Detainee was told to stand and loud music was played to keep detainee awake. Was told he can go to sleep when he tells the truth.

NARRATOR: Doctors kept his body functioning well enough for the interrogation to continue.

07 December 2002

2000: Corpsman checks vitals and finds the detainee's pulse is unusually slow.

2050: Heartbeat is regular but very slow – 35 bpm.

NARRATOR: Medically close to death, al-Qahtani was rushed to the hospital where he was revived and then, less than two days later, released.

09 December 2002

1800: Detainee is hooded, shackled and restrained in a litter for transport to Camp X-Ray.

1830: Detainee arrives at Camp X-Ray and is returned to interrogation booth.

ALBERTO MORA: I was horrified. I was stupefied. I was astonished that this could have taken place, that Secretary Rumsfeld himself would have been asked, much less gotten involved, in these kinds of matters.

NARRATOR: He took his concerns to the author of the “Action Memo,” Rumsfeld’s top lawyer, Jim Haynes.

ALBERTO MORA: I told him, “Jim, this could be torture.” And he instantaneously responded, “No it’s not.” And I said, “Think through a little bit more carefully as to each of these techniques. Light and auditory stimulus deprivation -- what does that mean? You put them in a completely dark room for an hour, a day, a week, a month, until the person goes blind? Until madness sets in? Phobia techniques. What is that? The rats, the bats, the snake, a coffin. When and how?”

When I left, I was convinced that he would be picking up the phone, calling the Secretary, and saying, “Boss, I made a mistake, we need to reel back something that we need to think through a little more carefully.”

President BUSH: “Join us in the countdown.. 5, 4, 3, 2, 1”

NARRATOR: Mora left Washington for the holidays, certain his intervention would succeed. He did not yet fully grasp that the abuses at Guantanamo were not the result of a lawyer’s mistake – but of policy set at the highest levels.

(AFRICA)

NARRATOR: In the Gambia in west Africa – far from Washington and the battlefield in Afghanistan – the great-grandson of a former prime minister of Jordan had been arrested when he arrived from London on a business trip.

Bisher al-Rawi was held by Gambian authorities for a month until December 8th, 2002.

BISHER AL-RAWI – Detainee #906: Two Gambian agents, they sort of stand me up, and we start walking. And boom, two big guys grab me and start dragging me.

NARRATOR: The “two big guys” were Americans. Al-Rawi had been swept up in a covert CIA program to nab suspects and move them to countries where they would be interrogated outside the law. Like hundreds of men abducted in so-called “extraordinary renditions,” al-Rawi was “good to go” in just twenty minutes.

Dramatization based on Report of the Council of Europe

NARRATOR: Trussed like an animal and surrounded by American agents, he was loaded onto a Gulfstream jet bound for one of the CIA’s secret “black sites.” “Throughout the entire flight, I was on the verge of screaming. I was terrified.”

(KABUL, AFGHANISTAN)

NARRATOR: Near Kabul in Afghanistan, in the dead of winter, al-Rawi was thrown into an unheated underground cell.

**Dramatization based on
Report of the Council of Europe**

NARRATOR: Unknown numbers of men - some who ended up in Guantanamo, others who have since disappeared – were held in what they themselves called the “prison of darkness.”

Words of Binyam Mohamed - Detainee # 1458: *“They hung me up. I was allowed a few hours of sleep on the second day, then hung up again, this time for two days. My wrists and hands had gone numb... After a while I felt pretty much dead. I didn’t feel I existed at all.”*

NARRATOR: The occasional beam from a guard’s flashlight was all that pierced the dark and frigid cells.

BISHER AL-RAWI – Detainee #906: You do not know what you’re losing, you know, not being able to see. You have to use your senses, all of them. It was a very, very difficult place to handle.

NARRATOR: It was, one prisoner said, “as if you were inside a tomb.” Except for the sound. Speakers in every cell blasted non-stop, around the clock, for days that turned into weeks.

BRENT MICKUM – Attorney, Spriggs & Hollingsworth: We’re talking about never essentially being allowed to ever fall asleep soundly.

NARRATOR: Brent Mickum was Bisher al-Rawi’s *pro bono* American attorney.

BRENT MICKUM: So that, you know, you get to the point where you will say anything to try and be allowed to get some sleep. And what everyone has told me, they have no idea what they may have said. I mean, you’re just not lucid. They could ask, you know, did you assassinate George Bush? And they would say, “Yeah.”

NARRATOR: When he arrived in the light and heat of Guantanamo, al-Rawi assured other prisoners that the worst was over.

BISHER AL-RAWI – Detainee #906: That hope, that human hope, natural hope that gosh, you know, maybe it’s gonna get better. Unfortunately, unfortunately, every time you think it’s gonna get better, it was getting worse.

NARRATOR: In early January, 2003, in a move guaranteed to be reported straight to the Vice President’s office, and so at considerable risk to his career – Alberto Mora drafted a memo calling the tactics still being used at Guantanamo:

“at a minimum, cruel and unusual treatment and, at worst, torture.”

NARRATOR: On January 15th, he told Jim Haynes that if the interrogations were not halted, he would sign the memo – exposing the Administration’s policy.

ALBERTO MORA: Jim pushed the memorandum back at me in its envelope and said, “I don’t know what you’re trying to accomplish with this,” which was an astonishing comment. And then he said, “Well, I’m happy to inform you that the Secretary is considering rescinding his authorities.” So I said, “Considering?” And then he said, “I know, I know. Let me get back to you.”

NARRATOR: To defuse the growing rebellion inside the Pentagon, Rumsfeld did suspend approval of the harshest tactics. And he asked the military’s top lawyers to weigh in on interrogations – a year after the first prisoners had arrived at Guantanamo.

General THOMAS ROMIG : We only had one conversation with Mr. Rumsfeld. He came in and gave us a pep talk. And basically said this is so important, and what you’re doing will -- will affect the United States for years to come. And it was a -- I thought it a little strange that we were getting a pep talk on something like this. Maybe it was an attempt to get us to do what they wanted to do politically.

NARRATOR: In fact, Jim Haynes had already turned to the War Council’s reliable scribe, John Yoo. And Yoo wrote an 81-page legal opinion expanding the still secret “torture” memo. He now added, for example, that the President had the authority to approve tactics that could include drugging a prisoner, as long as the drugs did not:

“create a profound disruption...substantially interfering with his cognitive abilities or fundamentally altering his personality.”

NARRATOR: And, that to violate US law against maiming:

“cutting, biting, slitting...”

NARRATOR: Must be specific:

“to the body part the statute specifies ...the nose, ear, lip, tongue, eye or limb.”

NARRATOR: Alberto Mora asked John Yoo to meet him in the Pentagon.

ALBERTO MORA: As he was talking, I was becoming more concerned and more alarmed, and ultimately I asked him the question, “Well, John, does this mean the President has the authority to order torture?” And he said, “Yes.”

NARRATOR: John Yoo’s memo pushed even further, opining that anyone prosecuted for following the President’s orders would be legally protected.

General THOMAS ROMIG: There isn't a court internationally or in the United States that would support that theory if you've committed an act of torture or war crime, but because you believe you are operating under the umbrella of a presidential war powers, the commander in chief war powers, you're immune. The commander-in-chief doesn't have the power to make that which is illegal under the law of war, legal.

NARRATOR: But Jim Haynes ordered a report based on John Yoo's assertions.

ALBERTO MORA: Jim Haynes invited me to speak to him privately as to my thoughts. I said, "If I were you, I'd put this in a desk drawer. I'd never, never let it see the light of day again. Just let it go away."

General THOMAS ROMIG: I was told, that, you know, we're not going to go forward on it, everything's on hold, you've been listened to, and many of those techniques that were at the extreme end are -- are now out the window.

ALBERTO MORA: We thought we had won. The word from Guantanamo was that the abuse of prisoners had stopped.

NARRATOR: In fact, they had lost. And they had been deceived. The top military lawyers would not find out for more than a year that in April, 2003, Rumsfeld had secretly given the go-ahead to use 24 harsh interrogation techniques at Guantanamo.

(GUANTANAMO)

NARRATOR: General Miller was briefed. Interrogators at the prison camp had their own "golden shield" – immunity from prosecution, in advance.

Colonel STUART COUCH - Senior Prosecutor, Office of Military Commissions (2003-06): I looked down the hall. And I heard this head-banger music blaring out. And I could see what appeared to be, like strobe light coming out of the doorway.

NARRATOR: Colonel Stuart Couch, a military prosecutor who had gone through SERE training as a Marine, visited the prison camp to hear evidence on a case he'd been assigned.

Colonel STUART COUCH : And so I walked down the hallway and the door was open. And I saw a detainee sitting on the floor. He was shackled. And the room was blacked out with exception of the strobe light. And he was just, he was rocking back and forth.

**Dramatization based on
Inspector General report, Dept. of Justice**

Colonel STUART COUCH: It looked, for all the world, like an experience that I had gone through in SERE School. You know, the strobe lights, the heavy metal music. I mean, that was right out of the SERE school playbook. There was an Air Force attorney that was accompanying me, giving me the tour. And I just said, "Did you see that?" And he goes, "Well, yeah." And I said, "You know, I got a problem with that." And he goes, "Well, that's approved."

NARRATOR: Colonel Couch was not the only one troubled by the tactics Secretary Rumsfeld had approved. FBI agents at the prison camp were keeping what they called a "war crimes" file - noting what they witnessed.

"I entered interview rooms to find a detainee chained hand and foot in a fetal position to the floor, with no chair, food, or water. Most times they had urinated or defecated on themselves, and had been left there for 18, 24 hours or more."

"On another occasion... the temperature in the unventilated room (was) probably well over 100 degrees. The detainee was almost unconscious on the floor, with a pile of hair next to him. He had apparently been literally pulling his own hair out throughout the night."

"A detainee... said a female interrogator, after not getting cooperation from him, called four guards into the room. While the guards held him, she... embraced the detainee from behind and put her hand on his genitals... and she wiped [what he thought was menstrual] blood from her body on his face and head."

SHAFIQ RASUL – Detainee #086: We were basically shackled to the floor sitting like this, shackled to the floor, and you'd be sitting there freezing. It seemed like it was an experiment just to see to what extent they could take a human.

MALCOLM NANCE: We have re-created our enemy's methodologies in Guantanamo. It will hurt us for decades to come. Decades. Our people will all be subjected to these tactics, because we have authorized them for the world now. How it got to Guantanamo is a crime and somebody needs to figure out who did it, how they did it, who authorized them to do it, and shut it down. Because our servicemen will suffer for years.

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(IRAQ)

President BUSH: "My fellow citizens, at this hour American and coalition forces are in the early stages of military operations to disarm Iraq, to free its people and to defend the world from grave danger."

NARRATOR: Three months after President Bush declared the end of major combat operations in Iraq, a potent guerrilla resistance rose across broad swaths of the country.

Demands for real-time, battlefield intelligence grew urgent. The “gloves are coming off,” interrogators were told in August, 2003. Prisoners needed to be broken.

One interrogator suggested:

“...a baseline interrogation technique that at a minimum allows for physical contact resembling that used by SERE instructors. Sleep deprivation... Fear of dogs and snakes appear to work nicely. I firmly agree that the gloves need to come off.”

NARRATOR: In late August - on orders from the Secretary of Defense - Major General Geoffrey Miller traveled to Baghdad, and told the general in charge of U.S. prison operations he was there to “gitmoize” the interrogations. Rumsfeld arrived, too, and toured the American prison installed in what had been the heart of darkness during Saddam Hussein’s regime – Abu Ghraib.

Eight days later, interrogation techniques that mirror those Rumsfeld had authorized in Guantanamo were authorized for Iraq.

NARRATOR: These are exclusive photographs of a prisoner at Abu Ghraib – and hand-written instructions taped outside his cell. He will be deprived of sleep, kept in stress positions, interrogated in the middle of the night. It is clear evidence of treatment that violates the Geneva Conventions - even as the Administration claimed Geneva was being honored in Iraq.

(GUANTANAMO)

NARRATOR: Behind the razor wire at Guantanamo, detainee #760 - Mohamedou Slahi - had become another focus of intense attention in Washington.

Colonel STUART COUCH: Slahi just jumped off the pages. This guy is one of the most serious guys we’ve got in Guantanamo.

NARRATOR: Colonel Stuart Couch had been assigned to prosecute Mohamedou Slahi.

Colonel STUART COUCH: I did see information from other, from a high-value detainee that indicated he knew at least three of the hijackers that were integral to the 9/11 attack. That’s what got my attention. That’s what got the attention of just anybody that was familiar with Slahi’s case.

NARRATOR: Throughout the summer and fall of 2003, Slahi was the subject of a “special interrogation plan” approved by Secretary Rumsfeld.

**Dramatization based on
Schmidt-Furlow report, Dept. of Defense**

NARRATOR: His diary describes what happened.

SLAHI DIARY: *“I was very hurting for my hands were locked to the floor and I could not stand. Mary was touching me with her sexual parts all over and talking dirty. I am not willing to talk in details about that ugly happen.”*

NARRATOR: Intelligence information from Slahi’s interrogation suddenly began to flood Stu Couch’s desk.

SLAHI DIARY: *“I’ve been so long in segregation. ...I had been counting the holes of the cage I was in. They are about four thousand one hundred holes.”*

Colonel STUART COUCH: I’ve got in the back of my mind what I had seen on that first trip. And I’m thinking, okay, why is he being this prolific? What’s going on? You know, is it physical coercion?

NARRATOR: Besides the physical coercion, an interrogator posing as a Navy captain sent by the White House told Slahi that his family was “in danger” if he didn’t cooperate, that his mother had been imprisoned – and implied she might be raped in custody.

Colonel STUART COUCH: If you tell me that Slahi gave up information because you told him, and showed him in a letter, that you’re bringing his mother to Guantanamo and that she could be abused by men, is anything that he tells you from that point, you know, is that credible?

SLAHI DIARY: *“‘If you are ready to buy I am selling,’ I said. I tried my best to make myself look as bad as I could and that exact way you can make your interrogator happy.”*

NARRATOR: Slahi’s interrogation, Colonel Couch concluded, had been “morally repugnant.” He refused to prosecute.

Colonel STUART COUCH: God means what he says. And we were created in his image, and we owe each other a certain level of dignity -- a certain level of respect. And that’s just a line we can’t cross. If we compromise our own ideals as a nation, then these guys have accomplished much more than driving airplanes into the World Trade Center and into the Pentagon.

(ABU GHRAIB)

NARRATOR: When the abuse of prisoners at Abu Ghraib was exposed in April, 2004, the administration tried to direct attention away from the question of torture. Blame was pointed toward the young MPs.

President BUSH: (April 30, 2004) “I share a deep disgust that those prisoners were treated the way they were treated. Their treatment does not reflect the nature of the American people. That’s not the way we do things in America. And so I, uh, I didn’t like it one bit.”

NARRATOR: But, there are the photographs. Images that portray tactics earlier approved by the chain of command – and covered by legal opinions initiated in the White House.

In the aftermath of Abu Ghraib, the military reasserted its ban on the harsh methods prohibited by its Army Field Manual on Interrogation.

The secret Justice Department memos that provided legal cover by trying to define torture out of existence had been withdrawn.

Then, In December, 2004, the newly-re-elected President nominated one of the War Council’s five lawyers, Alberto Gonzales, to be Attorney General of the United States.

(Confirmation hearings - January 6, 2005)

Senator Richard Durbin (D-IL): *“Can U.S. personnel legally engage in torture under any circumstances?”*

Alberto Gonzales: *“I suppose without -- I don’t believe so, but I’d want to get back to you on that and make sure that I don’t provide a misleading answer.”*

NARRATOR: But mislead he did. Soon after Gonzales was sworn in, the Justice Department secretly issued a new legal opinion renewing the CIA’s “golden shield” to use the harsh tactics the President called “alternative interrogation techniques.”

(GUANTANAMO)

NARRATOR: It had been more than three years since the first prisoners arrived in Guantanamo.

Vice President CHENEY: “They’ve got a brand new facility down at Guantanamo. We spent a lot of money to build it. They’re very well treated down there. They’re living the tropics. They’re well fed. They’ve got everything they could possibly want. There isn’t any other nation in the world that would treat people who were determined to kill Americans the way we’re treating these people.”

CLIVE STAFFORD SMITH: None of them been charged with a crime, none of them been convicted of a crime, for the most part aren’t guilty of a crime, and yet they’re being held in these maximum security prisons, which, if I made you do it for a week it would drive you crazy. And we pretend like this is civilized, and it is utterly uncivilized.

NARRATOR: After two years of interrogations with no end in sight, Bisher al-Rawi refused to be questioned again. He was labeled “non-compliant” and moved to Camp

Five, where prisoners were confined alone at least twenty-two hours a day. They were not in solitary confinement, the Pentagon insisted, but simply held in “single-occupancy cells.”

BISHER AL-RAWI – Detainee #906: They just leave you there in a cell, concrete cell, with nothing. And you're shivering, like you can take it for an hour or two, maybe a day, you sleep and you're shivering. And the pictures don't show you what the authorities are actually doing there.

NARRATOR: Al-Rawi was held in a cell that was lit 24 hours a day. At times the air conditioning was turned off and he was left to swelter in the tropical heat; at others, it was set to blow frigid air and, as punishment, his jumpsuit was taken away.

Dramatization based on Testimony of Bisher al-Rawi

NARRATOR: After a year in solitary, al Rawi began incessantly pacing back and forth in the tiny cell, talking to himself, laughing maniacally.

BISHER AL-RAWI – Detainee #906: You push him, you deprive him of his senses. You deprive him of his -- of life. And then the point could come when he will just flip. And then your mind will just say, that is it. I'm finished. I'm done.

NARRATOR: His lawyers feared al-Rawi was slipping into a madness that would be permanent. If that happened, it would be the terrible proof that, even by the Administration's narrow definition, he had been mentally tortured.

(WASHINGTON)

President BUSH (September 15 , 2006): “This debate is occurring because of the Supreme Court's ruling that said that we must conduct ourselves under the Common Article 3 of the Geneva Convention. And that common Article 3 says there will be no outrages upon human dignity. It's very vague. What does that mean – ‘outrages upon human dignity?’ That's a statement that is wide open to interpretation.”

NARRATOR: In 2006, the Supreme Court ruled that Guantanamo's detainees were entitled to the protections of the Geneva Conventions. One Justice warned that “violations of Common Article 3 are considered ‘war crimes.’”

White House announcer (October 17 , 2006): “Ladies and gentlemen, the President of the United States and the Vice President of the United States.”

NARRATOR: But just weeks before the mid-term elections, stampeded by the threat of looking weak on terrorism, Congress once again bowed to the Administration's “policy of cruelty.”

President BUSH: “It is a rare occasion when a President can sign a bill he knows will save American lives. I have that privilege this morning.”

NARRATOR: The new law stripped the courts of the power to hear cases based on Geneva. And, in a provision that had been pushed hard by the Vice President, it granted retroactive immunity to U.S. officials who might have carried out – or ordered – torture.

(GUANTANAMO)

NARRATOR: In March, 2004, after 832 days in U.S. custody, Shafiq Rasul had been flown home from Guantanamo. British authorities released him without charge.

In January 2005, Moazzam Begg was released. He had been in U.S. custody, without being charged, for more than one thousand days.

On March 30th, 2007, Bisher al-Rawi was once again trussed like an animal and hustled aboard a plane. This time, he was headed home. He had been in U.S. custody four years, 4 months and 22 days.

BISHER AL-RAWI – Detainee #906: The things that are buried in your mind, they stick with you - you just can't forget it. You can't. It just stays with you and it hurts you every day, every time you remember it.

NARRATOR: At least five hundred men have been freed from the off-shore prison – with no explanation for their years behind bars. More than two hundred fifty are still held there, most of them in solitary confinement.

Mohamedou Slahi is one who remains. In his seventh year at Guantanamo, no charges have been filed against him.

In 2006, Abu Zubaydah was transferred from a CIA black site to the island prison. After almost seven years in U.S. custody, no charges have been filed against him.

In May, 2008, without explanation, the Pentagon dropped all charges against Mohamed al-Qahtani. He is, according to his lawyer, “paranoid,” “incoherent,” “cracked.” He remains in U.S. custody.

On June 12th, 2008, the Supreme Court once again rebuked the Administration, ruling that Guantanamo’s prisoners have the constitutional right to challenge their detention.

None of the prisoners will be automatically – or quickly - released. But the White House will now have to publicly defend their treatment – and its practices - in U.S. federal courts.

Words of Fawzi al-Odah – Detainee #232: *“I have become an old man here. Death in this situation is better than being alive and staying here without hope.”*