

leaders had been held by the CIA in Soviet-era prisons in Eastern Europe.

From records compiled by the U.S. Federal Aviation Administration and other public sources, the Tribune identified 65 aircraft that appear to be owned, leased or operated by the CIA or the Joint Special Operations Command, an interagency unit that organizes counterterror operations in conjunction with the CIA and military special forces.

Tracking flights

Those planes, which come in all shapes and sizes, are used for a variety of tasks, including carrying CIA officials to meet with foreign counterparts and moving U.S. intelligence officers and paramilitary units around the world on short notice.

Records show that the 65 aircraft in total logged at least 19,494 flights since Sept. 11, 2001, or about a dozen a day. But only a tiny percentage of those flights is likely to have involved renditions. In 2002, then-CIA Director George Tenet said there had been only about 70 CIA renditions. Earlier last year, Egyptian Prime Minister Ahmed Nazief told the Tribune that 60 to 70 suspected terrorists had been rendered to Egypt alone.

Published estimates attributed to unnamed sources put the total number of renditions since Sept. 11 at 100 to 120, with some suspects known to have been deposited in Syria, Jordan and Morocco.

For transporting suspects the CIA typically uses a specially outfitted Boeing 737 or smaller executive jets, most with relatively limited range. Following a trans-Atlantic crossing such planes usually need to refuel at the earliest opportunity. The same is true for planes returning to the U.S. from Europe and the Middle East.

Flight records show numerous landings at traditional fuel stops at Shannon, Ireland, in Portugal, and in Scotland, where human-rights campaigners recently staged protests at the Edinburgh, Glasgow and Prestwick airports.

The flight records contain no indication of what those planes were carrying. But they also document flights by CIA aircraft known to have been conducting renditions, such as the 737 that landed in Mallorca, Spain, on Jan. 22, 2004, on the way to pick up el-Masri in Macedonia and fly him, via Baghdad, to a U.S.-run prison in Afghanistan.

That flight and others overflew European countries in reaching their destinations, where several of the rendered suspects say they were subjected to torture.

Most troubling to European parliamentarians and human-rights lawyers are the handful of rendered suspects, such as el-Masri, who were shown to have no links to Al Qaeda or other terrorist groups.

El-Masri, who says he was beaten during five months of incarceration in Afghanistan, is suing Tenet with the help of the American Civil Liberties Union.

Switzerland's discovery that the plane carrying Abu Omar, whose full name is Osama Moustafa Hassan Nasr, crossed its airspace while flying between an air base in Italy and another in Germany has prompted investigations by the Swiss parliament and federal prosecutor.

According to the Swiss newspaper Blick, the federal prosecutor also is investigating whether CIA operatives violated Swiss law when they overflew that country in December 2001 while rendering two Egyptians, Ahmed Agiza and Muhammed al-Zery, from Stockholm to Cairo, where both later claimed to have been tortured.

Like el-Masri, al-Zery was freed when no terrorist link was found. Agiza was convicted of a crime unrelated to Al Qaeda.

The plane that carried al-Zery and Agiza, a Gulfstream that then bore the tail number N379P, stopped in Glasgow before returning to the U.S., as it also did in October 2001 following the first known post-Sept. 11 rendition, that of a Yemeni microbiology student, Jamil Qasim Saeed Mohammed, from Pakistan to Jordan.

U.S. allies in hot water

The United Kingdom stopovers have created political problems for President Bush's strongest ally, British Prime Minister Tony Blair, just as the Milan rendition has for Blair's Italian counterpart, Silvio Berlusconi.

Despite protests by human-rights groups and opposition members of the British Parliament, Blair declared Dec. 22 that he had no intention of asking for a formal inquiry of what the CIA airplanes were doing in the UK, because "I have absolutely no evidence to suggest that anything illegal has been happening here at all."

Berlusconi has made clear he is unhappy about the investigation of the CIA by Milan prosecutors, over whom he has no control. But he has also flatly denied that any official of his government knew the CIA was plotting to kidnap Abu Omar, to whom the Italians had given political asylum.

Berlusconi has gone so far as to suggest that the CIA was not behind the disappearance of Abu Omar, a position contradicted by the evidence assembled by prosecutors in Milan.

Asked about the European expressions of concern and outrage over the CIA disclosures in the European media, former Secretary of State Colin Powell told the BBC that "most of our European friends cannot be shocked that this kind of thing takes place."

Veteran CIA officers say it is beyond imagination that the agency would mount an operation like the Milan job without at least a tacit nod from the agency's local counterpart.

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One question that the EU investigation may address is whether European intelligence agencies that may have been "witting," in CIA parlance, had informed politicians such as Blair and Berlusconi about what those unmarked Learjets and Gulfstreams were doing landing and taking off from their airports.

If not, there could be legal consequences, not only for the 22 CIA operatives currently under indictment in Milan, but for "persons unknown" who are the targets of a kidnapping investigation in Germany. Prosecutors there say Abu Omar changed planes in Germany en route to Cairo, and that el-Masri's German citizenship may make his Macedonian abduction a violation of German law.

Dick Marty, a Swiss parliamentarian and chief human-rights investigator for the Council of Europe, which is investigating the CIA in conjunction with the EU, says he has evidence that U.S. prisoners were transported between European countries "without any judicial involvement," and held at Eastern European military bases.

Although Marty has requested satellite images of a military airfield in Poland where he believes a CIA prison formerly existed, he told Blick he had "indications" that the CIA had since transferred its Al Qaeda prisoners to North Africa.

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LOS ANGELES TIMES

Briton Offers Documents on Torture

From Associated Press

January 1, 2006

LONDON — A former British ambassador has published government documents he says prove that Britain knowingly received intelligence extracted under torture from prisoners in Uzbekistan.

Craig Murray, who was removed as ambassador to Uzbekistan after he went public about his concerns, defied a Foreign Office prohibition on publishing the internal memos Friday on his website, <http://www.craigmurray.co.uk>. The documents include memos to Foreign Office chiefs in which Murray expressed his concern over the use of "torture material."

In one memo, Murray said he was told by Foreign Office legal advisor Michael Wood that it was not illegal to use information acquired by torture, except in legal proceedings. Intelligence officer Matthew Kydd had also told him the intelligence services sometimes found such material "very useful indeed, with a direct bearing on the war on terror," he said.

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Sen. John W. Warner (R-Va.) and McCain last week responded to the president's signing statement.

"The Congress declined when asked by administration officials to include a presidential waiver of the restrictions included in our legislation," Warner and McCain said in a joint statement last week. "Our committee intends through strict oversight to monitor the administration's implementation of the new law."

WASHINGTON POST

EDITORIAL:

Unchecked Abuse

Wednesday, January 11, 2006; A20

CONGRESS VOTED by an overwhelming margin last month to ban all U.S. personnel from inflicting "cruel, inhuman or degrading" treatment on any prisoner held anywhere by the United States. President Bush, who had threatened to veto the legislation, instead invited its prime sponsor, Sen. John McCain (R-Ariz.), to the White House for a public reconciliation and declared they had a common objective: "to make it clear to the world that this government does not torture and that we adhere to the international convention of torture." His national security adviser, Stephen J. Hadley, said that "the legislative agreement that we've worked out with Senator McCain" makes the ban on cruel, inhuman and degrading treatment "a matter of law that applies worldwide, at home and abroad."

From all that, it might be concluded that the Bush administration has committed itself to ending the use of practices falling just short of torture that it has used on foreign detainees since 2002. But it has not. Instead, it is explicitly reserving the right to abuse prisoners, while denying them any opportunity to seek redress in court. Having publicly accepted the ban on cruel, inhuman or degrading treatment, Mr. Bush is planning to ignore it whenever he chooses. As a practical matter, there may be no change in the operations of the CIA's secret prisons, where detainees have been subjected to such practices as painful shackling, mock execution, induced hypothermia and "waterboarding," or simulated drowning.

The president made his intentions clear in signing the defense bill containing the McCain amendment last month. Mr. Bush issued a presidential signing statement saying his administration would interpret the new law "in a manner consistent with the constitutional authority of the President to supervise the unitary executive branch and as Commander in Chief and consistent with the constitutional limitations on the judicial power." The language refers to the assertion by the president's lawyers that his powers allow him, in wartime, to ignore statutes passed by Congress. The White House has intimated that it has similar authority in justifying Mr. Bush's authorization of surveillance of Americans without court approval, in violation of another law. The signing statement also advanced the administration's view that the McCain amendment

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does not provide for any court review of a prisoner's claim of cruel treatment, and that all appeals by foreign prisoners before the courts should be dismissed.

Even before the statement was issued, administration lawyers had taken the position that the McCain amendment would not necessarily end the use of waterboarding. "Cruel, inhuman or degrading treatment" has been defined by the Senate as any act that would violate the Fifth, Eighth or 14th amendments of the Constitution. Yet according to the reasoning of the Justice Department, simulated drowning and other techniques falling just short of torture would still be permitted under this standard "in certain circumstances." This extreme view has never been tested in court, sanctioned by Congress or even fully exposed to public view. Mr. Bush hopes to keep it that way. That's why his administration has moved so aggressively to prevent prisoners' cases from reaching federal courts and refused to release secret legal memos requested by Congress.

Mr. McCain and Sen. John W. Warner (R-Va.) reacted to the presidential statement with their own, which said, "We believe the President understands Congress's intent in passing by very large majorities legislation governing the treatment of detainees." They noted that a White House request for a presidential waiver of the restrictions had been rejected in the negotiations before the bill was passed. They also pledged "strict oversight to monitor the Administration's implementation of the new law." Follow-through on that promise is urgently needed in the coming months. Without aggressive monitoring -- and possibly further action -- by Congress, illegal abuse of foreign prisoners in the custody of the United States is likely to continue.

NEW YORK TIMES

EDITORIAL:

January 11, 2006

Editorial

A New Friend With Good Advice

The previous German chancellor, Gerhard Schröder, created quite a strain in German-United States relations when he branded the invasion of Iraq a "military adventure" and joined France in ardently opposing it. Now his successor, Angela Merkel, whose ascendancy was welcomed by the Bush administration as an antidote to the more socialist Mr. Schröder, has told interviewers that when she makes her first official call on President Bush on Friday, she intends to speak her mind about Guantánamo and say the prison must be closed.

This may sound like a prescription for prolonging the American-German chill. It really shouldn't be. What infuriated the Bush administration about Mr. Schröder was that he opportunistically used America-bashing to win votes even as he was cozying up to President Vladimir Putin and trying to lift the European Union's arms embargo against China. Mrs. Merkel has not done that. If she feels strongly about the disgrace of Guantánamo, as all honest people should, she also feels strongly about the importance of trans-Atlantic relations.

The disagreements between Washington and Berlin will not go away. If anything, the list has been lengthened in recent months by revelations of secret C.I.A. prisons in Eastern Europe and the wrongful imprisonment by the United States of a German citizen, Khaled el-Masri, who has now been released. But just as Secretary of State Condoleezza Rice has helped undo some of the damage of the administration's first-term "bring 'em on" bravado, so, too, has Mrs. Merkel earned an early round of plaudits for her capable, principled approach to foreign policy. Tone is all-important in international relations, and so far, Angela Merkel seems to get it. It worked for her in Europe when she brokered an 11th-hour compromise on the European Union's budget, and it could work in America.

A successful visit by the new chancellor is very much in Washington's interest. The Bush administration's "with us or against us" approach has left it quite isolated in Europe. Those who have been "with" America - Tony Blair of Britain, for example - have paid a steep political price, while those "against" - Jacques Chirac of France - have pretty much burned their bridges to Washington. Mrs. Merkel could be what Washington needs, a European friend with credibility and clout on both sides of the divide back home. Alas, Mrs. Merkel will most likely not persuade Mr. Bush to close down Guantánamo, but if she can convince him that her advice comes from a friend, the visit will be useful.

Citation: <http://www.nytimes.com/2006/01/11/opinion/11wed3.html>

WASHINGTON TIMES

Washington Times
January 11, 2006
Pg. 12

Amnesty Claims Torture Of Prisoners

LONDON -- Amnesty International released fresh claims of purported torture and ill-treatment of terrorist suspects today, the fourth anniversary of detainees' being taken to Guantanamo Bay, Cuba.

Testimonies from three men echo similar accusations made by released prisoners and include claims by one of the men, a Yemeni businessman, that he was abducted by the CIA from Egypt as part of its "extraordinary rendition" policy and taken to Afghanistan.

Amnesty said Abdulsalam al-Hela, 34, suffered psychological torture at five prisons before being transferred to Guantanamo Bay in September 2004.

Thursday, January 12, 2006

WASHINGTON POST

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Cardona and Sgt. Michael J. Smith are scheduled to be tried in separate courts-martial in February and March.

"I think the command is hiding something, and I think what they're hiding is material that is exculpatory that says the interrogation techniques were approved by powers above General Miller," Volzer said. "Having Pappas available to testify may have given Miller the impression that he is next to be accused of doing something inappropriate or giving inappropriate orders."

Miller, now based at the Pentagon as a senior official managing Army installations, was recommended for administrative punishment for his alleged mishandling of interrogations of a valuable detainee in Guantanamo Bay. But high-ranking military officials have declined to impose the penalty. The detainee was subjected to a number of abuses that mirrored the ones that later emerged in the Abu Ghraib photographs.

Maj. Christopher Graveline, who has prosecuted several of the Abu Ghraib abuse cases, said yesterday that Pappas might be called to testify in upcoming courts-martial, but declined to comment on "any current or future prosecutions."

Asked whether prosecutors are looking at additional charges arising out of the Abu Ghraib investigation, Graveline said: "We're taking it where the evidence leads it."

NEW YORK TIMES

January 12, 2006

Swiss Investigate Leak to Paper on C.I.A. Prisons in Eastern Europe

By **DOREEN CARVAJAL**,
International Herald Tribune

PARIS, Jan. 11 - Switzerland is conducting criminal investigations to track down the source of a leak to the Zurich-based newspaper SonntagsBlick of what it reported was a secret document citing clandestine C.I.A. prisons in Eastern Europe.

The Sunday weekly published what it reported was a summary of a fax in November from Egypt's Foreign Ministry to its London embassy that said the United States had held 23 Iraqi and Afghan prisoners at a base in Romania. It also referred to similar detention centers in Bulgaria, Kosovo, Macedonia and Ukraine.

"The Egyptians have sources confirming the presence of secret American prisons," said the document, dated Nov. 15 and written in French to summarize the contents of the fax.

"According to the embassy's own sources, 23 Iraqis and Afghans were interrogated at the Mikhail Kogalniceau base at Constanza, on the Black Sea."

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The leaked fax, which the newspaper said was sent by satellite and intercepted by the Swiss Strategic Intelligence Service, was signed by Egypt's foreign minister, Ahmed Aboul Gheit, the report said.

Christoph Grenacher, the newspaper's editor in chief, said that before the article was published, newspaper officials met with high-ranking Swiss government officials, who urged the paper to withhold the information. "We concluded that the discussion about so-called secret prisons is much more important than the interests of the secret service in Switzerland," he said.

During those discussions, he said, no one contested the authenticity of the document. Egypt has not commented on the report, but it quickly reignited a political fury in Europe that began in the fall with news reports that said there were C.I.A. interrogation centers in Europe and that there had been secret flights through European countries transferring terrorism suspects for questioning.

After the article was published on Sunday, Romania and Ukraine issued denials, and the Swiss criminal investigations were opened. Some European lawmakers seized on the information as evidence of dissembling by European Union members. "This is a piece of real evidence to back up the gut instinct many of us have that the denials of complicity we are hearing from E.U. member and candidate states cannot be relied upon," Sarah Ludford, a Liberal Democratic member of the British Parliament, said in a statement.

The Swiss Army's chief prosecutor opened an investigation of Mr. Grenacher and two of his reporters to determine whether military secrets were exposed and to find the source of the leaks. The Swiss attorney general's office is also investigating the issue, adding another layer to its existing investigation of whether there were C.I.A. flights in Swiss airspace.

Germany and Denmark are also examining accusations that the agency used their airspace to transport terrorism suspects.

The United States has acknowledged flights but not the existence of prisons. A C.I.A. spokeswoman declined to comment on the report in the newspaper.

Conceivably, the journalists could face five years in prison for revealing military secrets, although no one prosecuted under the law has ever served any prison time, the authorities said.

Martin Immenhauser, a spokesman for the military prosecutor, said of the document: "Nobody has told us that it's not authentic. I think you can say that it's 99 percent certain that it's authentic."

Citation: <http://www.nytimes.com/2006/01/12/international/europe/12cia.html>

WASHINGTON TIMES

TRANSCOM GHOST DOCS 508

Europe agency says U.S. is abusing rights

By Daniel Friedl
Associated Press

January 14, 2006

BURGDORF, Switzerland -- The head of a European investigation into alleged CIA prisons on the continent on Friday accused the United States of violating international human-rights law in its struggle against terrorism.

Dick Marty, the Swiss lawmaker leading the investigation on behalf of the Council of Europe, said there is no question the CIA is undertaking illegal activities in Europe in its transportation and detention of terrorist suspects.

"The strategy in place today respects neither human rights nor the Geneva Conventions," Marty said at a news conference in Burgdorf. "The current administration in Washington is trying to combat terrorism outside legal means, the rule of law."

The Council of Europe, the continent's main human-rights watchdog, began its investigation after allegations surfaced in November that U.S. agents interrogated key Al Qaeda suspects at clandestine prisons in Eastern Europe and transported some suspects to other countries through Europe.

New York-based Human Rights Watch identified Romania and Poland as possible sites of secret U.S.-run detention facilities. Both countries have denied their involvement.

Marty said European countries had "a fairly shocking attitude" toward U.S. policies and that attention should not be focused solely on Romania and Poland.

"The question is: Was the CIA really working in Europe? I believe we can say today, without a doubt, yes," he said.

"All the indications are that this 'extraordinary rendition' was already known about," Marty said, referring to the CIA program of transferring terrorism suspects to countries where harsher interrogation methods, including torture, are allowed.

Secretary of State Condoleezza Rice, who visited government officials in Europe last month, has refused to address questions about clandestine CIA detention centers but says the United States acts within the law.

State Department spokesman Sean McCormack said Friday that he did not have a particular comment on Marty's remarks. He added that the United States has publicly addressed the issues in the past.

"The secretary had a good set of discussions with her foreign minister counterparts during

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her most recent trip to Europe, and I would expect that dialogue would continue," McCormack said in Washington. "It is a dialogue of mutual respect."

Marty referred to the case of the Egyptian cleric and terrorist suspect Osama Moustafa Hassan Nasr, also known as Abu Omar, to support what he said.

Italian prosecutors say Abu Omar was abducted from a Milan street in 2003 and taken by CIA operatives to a joint U.S.-Italian air base, flown to Germany and then to Egypt. Prosecutors have sought to extradite the 22 purported CIA agents from the United States, although the Justice Ministry in Italy has not yet decided whether to forward the requests to Washington.

Italy also has issued arrest warrants, meaning the operatives could be detained if they travel to any of the 25 member countries of the European Union.

Sunday, January 15, 2006

WASHINGTON POST

EDITORIAL:

A General's Dishonor

Sunday, January 15, 2006; B06

BY INVOKING his right to avoid self-incrimination, Maj. Gen. Geoffrey D. Miller has avoided a much-needed cross-examination of his role in the abuse of detainees at the Abu Ghraib prison in Iraq. He has also added to his dishonor as a commander who oversaw improper interrogations at Guantanamo Bay, then introduced some of the same practices in Iraq in violation of the Geneva Conventions. Gen. Miller's subsequent account of his actions, in sworn testimony to Congress and Army investigators, has been contradicted by at least four other witnesses, so it's not surprising that he has sought shelter in the military's equivalent of the Fifth Amendment. He has yet to be the subject of any charge. But anyone who still accepts the Abu Ghraib cover story peddled by the White House and the Pentagon -- that the abuses portrayed in now-infamous photographs were invented by rogue guards on the night shift -- ought to be asking what this two-star general is afraid of.

Gen. Miller was commander at Guantanamo in 2002 when prisoners were subjected to abuses documented by shocked FBI agents as well as the International Red Cross, which called them "tantamount to torture." An Army investigation completed last summer found that an al Qaeda suspect named Mohamed Qahtani was threatened with snarling dogs, forced to wear underwear on his head and led by a leash attached to his chains -- the very abuse later shown in the Abu Ghraib photographs. In August 2003 Gen. Miller was dispatched to Iraq with the mission of improving intelligence collection from detainees. Within weeks dogs had been introduced to interrogations at Abu Ghraib, and Lt. Gen. Ricardo S. Sanchez, the senior U.S. commander in Iraq, had issued several memos

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authorizing other interrogation techniques used at Guantanamo but violating the Geneva Conventions, including painful shackling, sleep deprivation and nudity.

The military intelligence commander at Abu Ghraib, Col. Thomas M. Pappas, told investigators in 2004 that Gen. Miller specifically recommended the use of dogs in interrogations. The prison's former warden, Maj. David DiNenna, supported that account in sworn testimony last summer. So did a military interrogator who said he had been trained in using dogs by a team that Gen. Miller sent to Iraq. But the general denied recommending dogs for interrogations in sworn testimony to Congress in 2004 and in interviews with military criminal investigators. "No methods contrary to the Geneva Convention were presented at any time by the assistance team I took to Iraq," he told the Senate Armed Services Committee. This highly questionable testimony was not challenged by the Senate or by the numerous Pentagon investigations into Abu Ghraib, which excused all senior officers except for one reserve brigadier general who says, convincingly, that she was made a scapegoat.

That Gen. Miller has now been obliged to hide behind a self-incrimination shield is mainly due to the tenacity of defense lawyers handling the court-martial cases of two Abu Ghraib dog handlers. The lawyers won a court order giving them the right to interview Gen. Miller. What's not yet clear is whether Army prosecutors and senior commanders are willing to stop protecting the general. Last year his superior, Gen. Bantz J. Craddock, rejected a recommendation by the military's own investigators that Gen. Miller be sanctioned for his performance at Guantanamo. Army prosecutors have obtained immunity for Col. Pappas; that should have been done only if they intended to use his testimony against more senior commanders. Unless charges are forthcoming against Gen. Miller, he could yet escape all responsibility for his actions -- even that of telling the truth.

NEW YORK TIMES

EDITORIAL:
January 15, 2006
Editorial

The Imperial Presidency at Work

You would think that Senators Carl Levin and John McCain would have learned by now that you cannot deal in good faith with a White House that does not act in good faith. Yet both men struck bargains intended to restore the rule of law to American prison camps. And President Bush tossed them aside at the first opportunity.

Mr. Bush made a grand show of inviting Mr. McCain into the Oval Office last month to announce his support for a bill to require humane treatment of detainees at Guantánamo Bay and other prisons run by the American military and intelligence agencies. He seemed to have managed to get Vice President Dick Cheney to stop trying to kill the proposed Congressional ban on torture of prisoners.

The White House also endorsed a bargain between Mr. Levin and Senator Lindsey Graham of South Carolina, which tempered somewhat a noxious proposal by Mr. Graham to deny a court hearing to anyone the president declares to be an "unlawful enemy combatant." The bargain with Mr. Levin removed language that stripped away cases already before the courts, which would have been an egregious usurpation of power by one branch of government, and it made clear that those cases should remain in the courts.

Mr. Bush, however, seems to see no limit to his imperial presidency. First, he issued a constitutionally ludicrous "signing statement" on the McCain bill. The message: Whatever Congress intended the law to say, he intended to ignore it on the pretext the commander in chief is above the law. That twisted reasoning is what led to the legalized torture policies, not to mention the domestic spying program.

Then Mr. Bush went after the judiciary, scrapping the Levin-Graham bargain. The solicitor general informed the Supreme Court last week that it no longer had jurisdiction over detainee cases. It said the court should drop an existing case in which a Yemeni national is challenging the military tribunals invented by Mr. Bush's morally challenged lawyers after 9/11. The administration is seeking to eliminate all other lawsuits filed by some of the approximately 500 men at Gitmo, the vast majority of whom have not been shown to pose any threat.

Both of the offensive theories at work here - that a president's intent in signing a bill trumps the intent of Congress in writing it, and that a president can claim power without restriction or supervision by the courts or Congress - are pet theories of Judge Samuel Alito, the man Mr. Bush chose to tilt the Supreme Court to the right.

The administration's behavior shows how high and immediate the stakes are in the Alito nomination, and how urgent it is for Congress to curtail Mr. Bush's expansion of power. Nothing in the national consensus to combat terrorism after 9/11 envisioned the unilateral rewriting of more than 200 years of tradition and law by one president embarked on an ideological crusade.

Citation: <http://www.nytimes.com/2006/01/15/opinion/15sun2.html>

Tuesday, January 17, 2006

WASHINGTON POST

Chinese Detainees' Lawyers Will Take Case to High Court

Ruling on Uighurs Is Called Vital

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odd smile on his face, so he threw water on him to get a response. It was then, he said, that he realized the general was dead or dying, called for medics, and began CPR.

The military contends the general was smothered during the interrogation, but the defense called a pathologist who testified that the cause of Mowhoush's death was probably heart failure. Mowhoush had an enlarged heart and other signs of heart disease.

Welshofer, who has spent 17 years in the Army, is also charged with slapping another detainee, wrapping him in a sleeping bag, and body-slaming him. He said he wasn't sure to which of the many detainees he interrogated the charge referred, but said that in one case, he had to use his body weight to control a prisoner who was becoming violent.

Citation: <http://www.latimes.com/news/nationworld/nation/la-na-interrogate20jan20,0,1531849.story?coll=la-home-headlines>

THE GUARDIAN

Straw denies cover-up of rendition flights

Staff and agencies

Sunday January 22, 2006

Guardian Unlimited

The foreign secretary, Jack Straw, today denied there had been any cases of so-called extraordinary rendition involving the UK about which parliament had not been informed.

Mr Straw was forced to rush out a written ministerial statement after the leak of a memo from the Foreign Office to No 10 suggested that there could have been more requests from the United States than the four about which parliament has been told.

Mr Straw said in his statement today: "That is not the case."

The memo, obtained by the New Statesman and reported in the Guardian yesterday, advised No 10 to avoid getting drawn into detail over renditions and said they were illegal in most circumstances. It said the government did not know how many times the US had asked to use British airports for rendition flights.

Rendition and extraordinary rendition are terms for transporting a suspect from a third country either back to the US, or on to a third country, outside normal extradition procedures. The practice has provoked international concern that detainees could be tortured in the countries to which they are sent.

"Some media reports over the last 48 hours, based on a leaked government document, have suggested that the government may be aware that there have been cases of

'extraordinary rendition' through UK territory or airspace about which it has not informed parliament," Mr Straw said in his statement to MPs today.

"This is not the case. I have given parliament clear answers, updated as information has become available to me."

The leaked memo, written before Mr Straw's answer to MPs on December 12 last year, said the security service (MI5) had identified two cases and went on: "The papers we have unearthed so far suggest there could be more such cases."

Mr Straw stressed in his statement today: "We have found no evidence of detainees being rendered through the UK or overseas territories since 11 September 2001. We have found no evidence of detainees being rendered through the UK or overseas territories since 1997 where there were substantial grounds to believe there was a real risk of torture.

"There were four cases in 1998 where the US requested permission to render one or more detainees through the UK or overseas territories. In two of these cases, records show the government granted the US request, and refused two others."

The foreign secretary gave no reasons why the requests had been refused.

Mr Straw added Britain had made clear "that we will grant permission only if we are satisfied that the rendition would accord with UK law and our international obligations". He said the UK had also spelled out to the US what it believed its international obligations to be under the United Nations convention against torture.

Mr Straw: "We are also clear that the US would not render a detainee through UK territory or airspace (including overseas territories) without our permission. As noted above, the US has sought such permission in the past. The government is committed to fulfilling its obligations under international law. I have sought to keep the House informed of developments and shall do so again if new information comes to light."

There have been widespread concerns that the CIA has been seizing suspects around the world and flying them for questioning at so-called "black sites" in eastern Europe or in countries such as Jordan and Egypt where torture is prevalent.

The prime minister's official spokesman said that two cases from 1998 identified in the memorandum had been disclosed in a Commons statement by Mr Straw last month. The first involved Mohammed Rashed Daoud al-Owhali, who was transported from Kenya to the US via Stansted airport to stand trial for the Nairobi embassy bombing. The request was approved by Mr Straw - then home secretary - along with a second suspect who did not, in the event, travel.

In the second case, the request from the US authorities was turned down because it involved transporting a suspect to Egypt.

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In a subsequent statement last week, Mr Straw said the Foreign Office had finished searching its records and found one further case - again from 1998 - when ministers turned down a request for a flight carrying two detainees to the US to refuel in the UK.

However, MPs expressed concern at a passage in the leaked memo, apparently sent to prepare Mr Blair for prime minister's questions on December 7, advising him not to go into detail on the issue.

The memo, drawn up by a member of Mr Straw's private office, warned that rendition was illegal under both UK and international law, except in certain rare, "tightly defined" cases and that co-operating with US rendition operations could also be unlawful. Any case where there was a "real risk" of torture could never be legal, it said.

It suggested that, in answering questions, ministers could point to comments by US secretary of state, Condoleezza Rice, stating that the US does not transport people to countries when it believed they would be tortured.

However, it also highlighted a loophole in US law, which meant the US applied a less rigorous definition of "cruel, inhumane or degrading treatment" than the UN convention against torture.

"It is not clear whether in practice this gives the US scope to use techniques which would otherwise constitute torture," it said.

Citation: <http://politics.guardian.co.uk/terrorism/story/0,,1691440,00.html>

LOS ANGELES TIMES

Los Angeles Times
January 20, 2006

Bush Urged To Specify U.S. Policy On Torture

Retired military leaders express concern after the president made ambiguous remarks on the new ban last month.

By Reuters

WASHINGTON — A group of retired military officers urged President Bush on Thursday to spell out how he would enforce a ban on the torture of U.S.-held prisoners, complaining that he muddied the issue in a statement last month.

Bush reluctantly accepted the ban, pushed by Sen. John McCain (R-Ariz.), after scandals over abuse of detainees at Abu Ghraib prison in Iraq, harsh interrogations at the U.S.

prison at Guantanamo Bay, Cuba, and reports that the CIA ran secret prisons abroad to hold terrorism suspects.

Retired military leaders, including Marine Gen. Joseph P. Hoar, who was commander of U.S. forces in the Middle East, said Bush should clarify his stance after making a statement last month that some experts said signaled he would bypass rules for treatment of detainees when he saw fit, even after he signed them into law.

The 22 former military officers said in a letter that Bush should ensure that his administration spoke "with a consistent voice to make clear that the United States now has a single standard of conduct specified in law that governs all interrogations."

In a telephone news conference, Hoar said Bush's statement "diluted the impact of the McCain amendment" by indicating "that there were going to be exceptions, and the president has the ability to do that."

McCain, who endured torture as a prisoner of war in Vietnam, spearheaded the bill to set standards for detainees' treatment that won big majorities in the Senate and House.

Bush's statement, issued after he signed the bill putting the amendment into law, said the "executive branch shall construe [the law] in a manner consistent with the authority of the president ... as commander in chief."

The statement also said the White House's approach would be "consistent with the constitutional limitations on the judicial power, which will assist in achieving the shared objective of the Congress and the president ... of protecting the American people from further terrorist attacks."

NEW YORK TIMES

January 22, 2006

Army Interrogator Found Guilty in Iraqi's Death

By THE ASSOCIATED PRESS

Filed at 6:40 a.m. ET

FORT CARSON, Colo. (AP) -- An Army interrogator committed negligent homicide when he put a sleeping bag over an Iraqi general's head and sat on his chest as the man suffocated, a military jury found.

Attorneys for Chief Warrant Officer Lewis Welshofer Jr. said he believed the general had information that would "break the back of the whole insurgency" at a time when soldiers were being killed in an increasingly lethal and bold resistance.

But prosecutor Maj. Tiernan Dolan maintained that Welshofer tortured Iraqi Maj. Gen. Abed Hamed Mowhoush at a detention camp in 2003, treating him "worse than you would treat a dog."

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Also Monday, one of the six officers on the jury, Capt. Lynne Morehouse, wrote a note to the judge asking whether she could reconsider the verdict. The note, dropped on her way into the courtroom for the bailiff to pick up, was sealed by Judge Col. Mark Toole, and he said it was too late to change her vote.

In November 2003, Mowhoush surrendered to U.S. military forces in western Iraq. Welshofer was in charge of the interrogation of the general, a Saddam Hussein confidant who was believed to be leading the burgeoning insurgency in the city of Al Qaim.

Witnesses testified that Welshofer stood by while Iraqi nationals, reportedly in the employ of the CIA, beat the general for about 30 minutes with rubber hoses. The next day, Welshofer took the general to the roof of the prison and, while other soldiers held him down, poured water on his face.

The general did not answer questions, so the following morning Welshofer turned to what was dubbed "the sleeping bag technique." Invented by another interrogator who recalled how his older brother used to stuff him in a sleeping bag to induce claustrophobia, the technique had been approved by Welshofer's supervisor.

The day after the general's death, prosecutors said, Welshofer asked for another sleeping bag so he could continue using the technique on others.

"Lesson not learned," Matt told jurors Monday. "Don't give him a chance to use that second sleeping bag."

Welshofer had contended that he was following vague instructions from U.S. commanders in Iraq to "take the gloves off" and break detainees to obtain more information about the insurgency that was killing increasing numbers of U.S. troops.

Welshofer and his wife, Barbara, have three children, and his deployment in Iraq had been tough on the family, she said Monday. She said that the family had spent all of its savings on his defense.

Citation: <http://www.latimes.com/news/nationworld/nation/la-na-interrogate24jan24,0,3366865.story?coll=la-home-nation>

CHRISTIAN SCIENCE MONITOR

Daily Update:

Tuesday, January 24, 2006

Report alleges 'outsourcing of torture' by US

Council of Europe report says European governments knew rendition was happening, despite claims to the contrary.

By **Tom Regan** | csmonitor.com

TRANSCOM GHOST DOCS 517

Despite claims to the contrary, European governments probably knew that the US was flying prisoners across their territory for "interrogation and torture" in other countries, a report claims Tuesday. The interim report from the 46-nation Council of Europe confirms the rendition of more than 100 prisoners through Europe, but it also found "no firm evidence" of a network of secret prisons in Europe. The Council of Europe is guardian of the Human Rights Convention, to which all 25 European nations are signatories.

Swiss member of Parliament Dick Marty headed the Council's investigation into the rendition allegations, which were first raised in November in an article in The Washington Post.

In Mr. Marty's interim report, he says, "It is highly unlikely that European governments, or at least their intelligence services, were unaware of the 'rendition' of more than a hundred persons affecting Europe." He says there is "a great deal of coherent, convergent evidence pointing to the existence of a system of 'relocation' or 'outsourcing' of torture", adding: "It has been proved – and in fact never denied – that individuals have been abducted, deprived of their liberty and transported ... in Europe, to be handed over to countries in which they have suffered ... torture."

Bloomberg News reports that Marty also says that the Bush administration seems to "start from the principle that the principles of the rule of law and human rights are incompatible with efficient action against terrorism." The **Financial Times** reports that Marty considers these actions by the US both illegal and counterproductive in the battle against terrorism.

The US position on the issue is that rendition, or extralegal abduction, is compatible with international law and that it has never transported people to countries where they would be at risk of torture. Rob Watson of the **BBC** told **NPR** in a radio interview Tuesday that part of the problem is a disagreement between the US and Europeans over the way to fight terrorism. Many Europeans see it as a fight against crime in which rules and laws must be followed. The US sees it as a new kind of battle against terrorism under which none of the old rules apply.

According to **The Guardian**, Marty says at this stage he has found no "formal, irrefutable evidence" into allegations by Human Rights Watch that Poland and Romania are or were running secret detention facilities for the US. But he did say that "there are many indications from various sources which must be considered reliable, justifying the continuation of ... investigative work."

The **Associated Press** reports that Marty focused on three cases in particular: an Egyptian cleric who was kidnapped in Italy by CIA agents, and taken to Egypt, where he was tortured; a German who turned out not to be a terrorist but was captured in Macedonia and taken to Afghanistan, where he says he was tortured; and six Bosnians who were abducted by US agents in that country and taken to Guantanamo Bay, Cuba, despite a Bosnian judgment ordering their release.

EUobserver reports that Marty's findings did not come as a surprise to European governments, since he had hinted at his findings in the past few weeks.

Earlier this month he accused European leaders of "shocking" passivity, arguing they knew about the illegal detainment and transportation of prisoners in their countries, and that they had known for at least two to three years. "There are countries that have collaborated actively, and there are others who have tolerated. Others have simply looked the other way," he had said.

Marty also indicated that it is unfair to single out member states as possible sites for secret prison camps, as governments all across Europe had been "willingly silent" about the facilities.

Critics of the report say that Marty, who relied primarily on media reports, along with some information provided by governments, didn't add anything to what was already known about the secret rendition program.

The Swiss news website **Swissinfo.com** reports that several other organizations have begun investigations into the allegations of rendition flights and secret prisons run on European soil. Separate investigations are also under way in Switzerland after a Sunday newspaper in that country published in early January a leaked confidential fax sent by Egypt's Foreign Ministry to the Egyptian Embassy in London. The fax, intercepted by Swiss intelligence in November, allegedly confirms the existence of the prisons in Europe.

The **International Herald Tribune** reported last week that Egyptian authorities deny that the fax was a "secret," and that it was nothing more than an ordinary press summary of news events. "We don't do any exceptional procedures," [Fatma Al Zahra Atman, the Foreign Ministry spokeswoman in Cairo] said in a phone interview with the IHT. "We just sent this by fax. Anybody could intercept it. Nothing is secret."

Still, Egypt complained to the Swiss government last week over the leak of the "official document," according to the website of the Swiss newspaper **Neue Zürcher Zeitung**. The Swiss government expressed regret over the incident, but did not officially apologize.

Citation: <http://www.csmonitor.com/2006/0124/dailyUpdate.html>

Wednesday, January 25, 2006

WASHINGTON POST

Sentence in Death Of Iraqi Angers Son

Soldier's Reprimand 'Is Not Justice'

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Mowhoush said he and his brothers were taken into custody and interrogated for days, with U.S. officials accusing them of carrying out roles in the insurgency. He said he was told they believed he was a sniper, though he said he knew nothing about the war. He and his brothers were not charged with crimes.

Mowhoush said U.S. troops took his clothes off, poured cold water on him, beat him, and made him get into uncomfortable and painful "stress positions," as they are known in the military.

His father later surrendered in an attempt to free his sons, according to classified documents. The military began to use the sons against the general, Mohammed Mowhoush said. After about 28 days in prison, the younger Mowhoush said, the Army brought the general to an old train depot outside of Qaim -- a temporary detention facility nicknamed "Blacksmith Hotel" -- to pressure him to talk.

"He was tired and I saw wounds on his body, and he was tired because they hit him so much, they made a lot of pain on him and he couldn't even talk to me," Mowhoush said, describing how he was briefly reunited with his father.

It was about that time that Abed Mowhoush had been beaten by Iraqi paramilitaries code-named "Scorpions," who were working with the CIA, according to classified documents. Mohammed Mowhoush said he saw some masked Iraqis at the prison, and said at one point they escorted him into a room near where his father was being interrogated. He said they yelled at his father and told him that if he did not tell the truth, they would execute his son.

"We expected that my father would die because of the treatment," Mowhoush said. "We were young boys -- we can handle anything. But my father was an old man -- he can't handle the treatment."

Human Rights First, an advocacy organization based in New York, organized the conference call with several reporters. David Danzig, director of the group's "End Torture Now" campaign, said he is concerned about Welshofer's sentence and about the treatment of Mowhoush's sons. "It is yet another disturbing set of evidence that suggests all kinds of illegal activity was taking place," Danzig said.

Mohammed Mowhoush said he and his brothers want to sue Welshofer for his role in their father's death. Mowhoush said he has nothing against the American people but harbors ill feelings for the U.S. Army. "We want justice to be done," he said.

WASHINGTON POST

European Inquiry Fails to Confirm Secret CIA Prisons
But U.S. Tactics Called 'Appalling'

TRANSCOM GHOST DOCS 520

By Craig Whitlock
Washington Post Foreign Service
Wednesday, January 25, 2006; A16

BERLIN, Jan. 24 -- A European human rights investigator on Tuesday accused the United States of "unacceptable and appalling" tactics in the fight against terrorism but said he was unable to independently confirm reports of secret prisons run by the CIA in Eastern Europe.

In an interim report presented to the Council of Europe, the continent's official human rights watchdog group, Dick Marty, a Swiss parliamentarian, also accused European governments of either collaborating or looking the other way as U.S. intelligence officers abducted or secretly detained terrorism suspects on European soil.

"We can say that there is a great deal of coherent, convergent evidence pointing to the existence of a system of 'relocation' or 'outsourcing' of torture," he wrote in his report, the product of a two-month investigation. "Europe must clearly and unambiguously declare that it refuses outright to tolerate such doings in its territory, or anywhere else."

Marty has only limited powers to compel individuals and governments to cooperate. His report offered no fresh evidence to support his allegations, and he relied primarily on media reports and previously documented cases to draw his conclusions. In Washington, State Department spokesman Sean McCormack dismissed the findings as the "same old reports wrapped up in some new rhetoric."

The Council of Europe commissioned the investigation after The Washington Post reported in November that the CIA had operated secret prisons for high-level al Qaeda figures in Eastern Europe since the Sept. 11, 2001, attacks. The Post has not published the names of the East European countries involved in the covert program at the request of senior U.S. officials, who argued that it could disrupt counterterrorism efforts and make those nations a target for terrorists.

Marty said he could not find any "formal, irrefutable evidence" of CIA detention centers in Eastern Europe. He said he had recently obtained satellite data and flight logs from European agencies that could offer clues, however, and cited other "reliable" sources that justified his ongoing investigation.

"I know it will be a long and difficult path," he said in a telephone interview from Council of Europe headquarters in Strasbourg, France, when asked if he expected to find concrete answers. "But as far as the truth is concerned, I am fundamentally optimistic."

Marty criticized European governments as being less than candid about their role in or knowledge of U.S. counterterrorism operations on the continent. U.S. officials have said they routinely notify or partner with allied intelligence agencies when conducting such missions.

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In London, British officials have fended off accusations that they allowed the CIA to use British airspace and military bases to carry out operations known as "extraordinary renditions," the abduction of terrorist suspects who are then handed over to other countries for interrogation.

On Monday, Prime Minister Tony Blair said the British government had been "extremely open" about renditions and had received no recent requests from the United States for the use of British airspace. The government has previously said it had received U.S. requests dating before Sept. 11, 2001, but none since then.

But a Foreign Office memo written in early December and published by the New Statesman magazine in the issue dated Jan. 23 suggested that the government was not being entirely forthcoming. It advised British officials to "try to avoid getting drawn on detail" about the debate. Citing two renditions that occurred in 1998, the memo said, "The papers we have unearthed so far suggest there could be more such cases."

Correspondent Mary Jordan in London, staff writer Glenn Kessler in Washington and special correspondent Shannon Smiley in Berlin contributed to this report.

LOS ANGELES TIMES

Mild Penalties in Military Abuse Cases

Observers see a variety of reasons for light sentences, even in interrogation deaths -- including shifting rules and CIA involvement.

By Nicholas Riccardi
Times Staff Writer

January 25, 2006

DENVER — Soldiers prosecuted in the abuse or even deaths of detainees rarely have paid a heavy price, an indication of the difficulties the U.S. military has had sorting out right from wrong during the war on terrorism, human rights groups and military lawyers say.

A report to be released next week by Human Rights First has found that service members were disciplined in 12 of the 33 cases in which detainees' deaths were ruled homicides. Often that punishment was relatively mild, as was the case for Chief Warrant Officer Lewis E. Welshofer Jr.

Charged with murder in an Iraqi general's death during an interrogation session, Welshofer was convicted last week of lesser offenses. On Monday, a jury of six Army officers at Ft. Carson, Colo., ruled that instead of serving jail time and being forced from the military, Welshofer would receive a formal reprimand, forfeit \$6,000 of his salary and

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orders or mixed messages about what sort of job they were supposed to be doing," said Deborah Pearlstein, director of the U.S. law and security program at Human Rights First in New York.

Another roadblock for prosecutors, Pearlstein said, is that the military sometimes has been careless in handling evidence. For example, a military autopsy found that an Iraqi detainee had been strangled to death at a Marine holding camp in south-central Iraq in June 2003, but the corpse was left at the Baghdad airport and irreparably damaged. According to excerpts from the Human Rights First report, most Marines charged in the death had their cases dismissed because of the destroyed evidence.

The CIA's role in some of the abuse also has complicated prosecutions. Last year, a jury of naval officers acquitted Lt. Andrew K. Ledford of charges that he'd led a brutal beating of an Abu Ghraib detainee who later died in CIA custody. Ledford and other SEALs were photographed with the detainee, but his lawyer, Spinner, argued at trial that the CIA had to be called to account for the death.

Spinner faced a similar dynamic at Welshofer's trial. Evidence showed that two days before he died, Welshofer's prisoner was beaten by reported CIA contract workers in the presence of a possible CIA agent.

"Something occurred in that courtroom that indicated to the jury that this guy was not doing this all by himself," said Scott L. Silliman, a Duke University law professor and former Air Force lawyer. "In future trials, I think you're going to see this CIA presence raised."

Citation: <http://www.latimes.com/news/nationworld/nation/la-na-abuse25jan25,0,4530365.story?coll=la-home-nation>

LOS ANGELES TIMES

Covert Activity by U.S. Called No Big Secret

A Swiss investigator says European governments probably knew suspects were being seized on their soil. He finds no proof of secret prisons.

By Sebastian Rotella
Times Staff Writer

January 25, 2006

PARIS — A European senator leading a probe into alleged CIA abductions of suspected terrorists asserted Tuesday that European governments were most likely aware of clandestine U.S. activity on their soil, but he said he had not found proof of secret detention centers in Poland and Romania.

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In a report to the Council of Europe, a legislative assembly based in Strasbourg, France, Swiss Sen. Dick Marty presented interim findings of a 2-month-old inquiry that is worsening transatlantic tensions over tough U.S. tactics against terrorism.

"Rendition affecting Europe seems to have concerned more than a hundred persons in recent years," Marty said. "Hundreds of CIA-chartered flights have passed through numerous European countries. It is highly unlikely that European governments, or at least their intelligence services, were unaware."

European anti-terrorism agencies are suspected of assisting or permitting some surreptitious U.S. "extraordinary renditions" of suspects who were later allegedly tortured in Arab countries, Marty and others say. Moreover, critics say the European indignation rings hollow because law enforcement and intelligence agencies in Europe have received information gained during interrogation of Al Qaeda figures held in U.S. custody at secret sites.

Although Marty's inquiry has no judicial powers, it has become a conduit and catalyst of increasing backlash against a shadowy U.S. counter-terrorism campaign. Many Europeans see accounts of renditions and torture, and the legal limbo of the U.S. detention facility at Guantanamo Bay, Cuba, as signs of a war run amok. In more than a dozen countries around Europe, law enforcement authorities and legislatures have opened investigations into suspected CIA abductions, detention facilities and flight stopovers.

"These abductions are criminal acts that are against the laws of all civilized countries," Marty said during a news conference.

In response, U.S. leaders have said they respect the laws and sovereignty of foreign nations, language interpreted by some observers as an indication that European intelligence agencies had given the CIA tacit approval.

In an interview during a visit to Paris on Tuesday, Homeland Security Secretary Michael Chertoff said he had not seen Marty's report. He said he hoped the debate and the focus of some European law enforcement on alleged U.S. misconduct would not damage cooperation against a shared threat.

"Obviously, the authorities are free to investigate whatever they want to investigate," Chertoff said. "But we should not allow ourselves to be distracted from the need to identify, prevent and protect against terrorist acts of violence which could cause a lot of innocent people to lose their lives."

Marty's interim report drew partly on two well-documented judicial investigations. In Italy, prosecutors have charged 22 people identified by authorities there as CIA operatives with snatching a militant imam and flying him to Egypt to be tortured. In Germany, authorities are investigating the case of a Lebanese-born German citizen who accuses American agents of spiriting him from Macedonia to an Afghan interrogation

facility, then releasing him after five months when they realized they had the wrong man.

The report also cites a case in which Swiss spies intercepted a fax from Egyptian diplomats in Cairo to the Egyptian Embassy in London making apparent reference to U.S.-run detention facilities in Eastern Europe. The group Human Rights Watch has alleged that secret CIA sites operated in Romania and Poland. Those governments have opened investigations. The issue of CIA sites in Eastern Europe first surfaced in a report in the Washington Post in November.

But Marty said he had not turned up any "formal, irrefutable evidence of the existence of secret CIA detention centers." His search will now turn to analysis of satellite images of Romanian and Polish military bases, pictures that were provided to him by European Union agencies only Monday, he said.

During debate in Strasbourg on Tuesday, some legislators faulted Marty for relying heavily on media reports. And critics said the European Parliament had limited political powers, checkered credibility and a reputation for anti-Americanism.

British legislator Dennis McShane said the report had "more holes than Swiss cheese."

Citation: <http://www.latimes.com/news/nationworld/world/la-fg-renditions25jan25,0,237212.story?coll=la-headlines-world>

WASHINGTON POST

Washington Post
January 25, 2006
Pg. 20

Indictment Has Followed In 1 Of 20 Abuse Cases

By Josh White, Washington Post Staff Writer

The Justice Department has been investigating 20 cases of alleged detainee abuse that were referred by the Defense Department and "another agency" for possible prosecution, but only one of the cases has resulted in an indictment, according to a letter from an assistant attorney general to Sen. Richard J. Durbin (D-Ill.) last week.

Eleven of the cases, which officials said involve civilian contractors who are not subject to military law, were referred by Pentagon officials. The other nine came from the other agency, which government officials said yesterday is the CIA. Aside from a single indictment in 2004, only two cases have been closed, because of "insufficient evidence," and 17 cases remain under investigation.

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represents Jumah Dossari, a Guantanamo Bay detainee who has been held for four years and has tried to kill himself numerous times. "It can hardly be said that this constitutes due process."

Colangelo-Bryan, who saw his client last month, said his visits have become far more restrictive since the U.S. government began trying to block detainees' access to federal courts. Dossari is no longer allowed to have paper or pens and is unable to write letters, he said.

"He is utterly despondent and hopeless," Colangelo-Bryan said, adding that the military has limited his contact with his client, alleging that the visits have coincided with Dossari's suicide attempts.

Researcher Julie Tate contributed to this report.

LOS ANGELES TIMES

OPINION:

For one Marine, torture came home

By Ann Louise Bardach

February 12, 2006

ABOUT A YEAR and a half ago, a 40-year-old former Marine sergeant named Jeffrey Lehner, recently returned from Afghanistan, phoned and asked to meet with me. Since his return he had been living with his father, a retired pharmacist, in the Santa Barbara home where he was raised. I first heard about Jeff from an acquaintance of mine who was dating him and who told me that he was deeply distressed about what he had seen on his tours in Afghanistan, Pakistan and the Middle East.

We met for lunch at a restaurant on Canon Perdido in downtown Santa Barbara. Jeff was focused, articulate and as handsome as a movie star. He was quite wound-up, but utterly lucid.

There was no way I could have known that day the depths of Jeff's unhappiness, no way I could have predicted the tragedy that would follow. I listened closely to his story and, while I was surprised by what I heard, I had no particular reason to disbelieve him.

He had joined the Marines enthusiastically, he told me, and served as a flight mechanic for eight years. Not long after 9/11, he began helping to fly materials into Afghanistan with the first wave of U.S. troops.

In the beginning, Jeff supported the administration's policies in the region. But over time, that began to change. As we talked, Jeff brought out an album of photos from Afghanistan. He pointed to a series of photographs of a trailer and several huts behind a barbed-wire fence; these were taken, he said, outside a U.S. military camp not far from

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the Kandahar airport. He told me that young Afghans — some visible in blue jumpsuits in his photos — had been rounded up and brought to the site by a CIA special operations team. The CIA officers made no great secret of what they were doing, he said, but were dismissive of the Marines and pulled rank when challenged.

Jeff said he had been told by soldiers who had been present that the detainees were being interrogated and tortured, and that they were sometimes given psychotropic drugs. Some, he believed, had died in custody. What disturbed him most, he said, was that the detainees were not Taliban fighters or associates of Osama bin Laden. "By the time we got there," Jeff said, "the serious fighters were long gone."

Jeff had other stories to tell as well. He said the CIA team had put detainees in cargo containers aboard planes and interrogated them while circling in the air. He'd been on board some of these flights, he said, and was deeply disturbed by what he'd seen.

Was Jeff telling me the truth? As a reporter who writes investigative articles, I get calls frequently from people with unusual stories — sometimes spot-on accurate ones, sometimes personal vendettas and sometimes paranoid, crazy stories. Jeff seemed truthful, and he had told the same stories almost verbatim to several friends and family members. But I was worried because at the time, I hadn't heard about such abuses in Afghanistan, and Jeff's stories were hard to verify.

More worrisome, Jeff was seeking treatment for post-traumatic stress disorder, and I wondered whether he could withstand the scrutiny his allegations would generate.

PTSD's symptoms can include anxiety, deeply frightening thoughts, a sense of helplessness or flashbacks. Jeff's case apparently stemmed, according to Jim Nolan, a fellow veteran and a friend from Jeff's PTSD support group, from witnessing the "unspeakable," and from his inability to stop what he knew to be morally wrong.

His case was compounded, his friends said, by strong feelings of "survivor's guilt" involving the crash of a KC-130 transport plane into a mountain in January 2002 — killing eight men in his unit. He'd been scheduled to be on the flight and had been reassigned at the last minute. As part of the ground crew that attended to the plane's maintenance, he blamed himself. Afterward, he went to the debris site to recover remains. He found his fellow soldiers' bodies unrecognizable. He also told me he was deeply shaken by the collateral damage he saw to civilians from U.S. air attacks — especially the shrapnel wounding of so many Afghan children.

Jeff told me that he often couldn't sleep at night, thinking about what he had seen and heard. He had gone to Afghanistan a social drinker but came home, like so many veterans, a problem drinker. And he admitted self-medicating with drugs. He was seeking help — and just days after we met, he drove 100 miles to enter a treatment program in Los Angeles. But the Veterans Affairs hospital's PTSD ward was full, he told me, so he was placed in a lockdown ward for schizophrenics, which only aggravated his isolation and despair.

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Jeff left the hospital after a day. He got in touch with Dr. Sharon Rapp, who is the only psychologist trained in treating post-traumatic stress for all returning veterans who live between L.A. and San Francisco, according to the Santa Barbara VA office. Rapp, who is by all accounts a gifted and dedicated therapist, placed him in a PTSD group with about 10 Vietnam veterans who took Jeff under their wing. But it became increasingly clear that he, like so many veterans, needed far more than outpatient and group therapy.

At the time Jeff told me his story, I didn't quite know what to do with it. Such allegations were not yet being reported — and many Americans would probably have found his accusations unimaginable. For multiple reasons, I put his story on the back burner. I continued to stay in touch with Jeff — and occasionally spoke with his father, Ed, who invariably answered the phone — as I ruminated on his troubling tale.

However, late last year, details about secret prisons began to appear. Human Rights Watch, for instance, reported that a number of men being held at the U.S. prison at Guantanamo Bay, Cuba, had given their lawyers "consistent accounts" of being held and tortured at a secret American-run prison in Afghanistan. I decided it was time to call Jeff and meet again.

It was early December. Jeff was still living in his father's home off Old San Marcos Road. He'd broken up with my friend and another woman to whom he had been briefly engaged, and he was struggling to stay sober.

But by the time I called, it was too late. The day I phoned, Jeff had quarreled with his father. That afternoon, they held an unscheduled counseling session with Rapp. According to the Santa Barbara County Sheriff's Department, Rapp was so concerned after their meeting that she phoned the Lehner house about 6 p.m. Ed answered, spoke with her and then called his son to take the phone. At that point, the line suddenly turned to static. Fearing the worst, Rapp called the police.

The worst proved to be the case. The police found two bodies, and quickly labeled the case a murder-suicide. Ed Lehner, they said, had died from multiple gunshot wounds, and Jeff from a single, self-inflicted wound to the head.

The irony was that after eight years in the military, the first and only person Jeff Lehner killed was his father.

Nolan, who said he returned from Vietnam in emotional tatters, was not entirely surprised by the turn of events. According to Nolan, Jeff's relationship with his father, a soft-spoken man with diabetes, had strains predating his Marine years, and it had deteriorated as Jeff's dependency on him deepened. "He had talked about suicide a couple of times during our meetings," Nolan said, "as all of us had at one time or another. It's about a loss of respect. When you lose respect between family members, there's nothing but anger left, and that's how the rage works in you."

There are ways to deal with the rage, of course, but treatment of returning veterans is woefully inadequate, owing to a lack of funding. Although the VA acknowledges PTSD as a serious problem for returning veterans, VA hospitals around the country have sharply reduced their inpatient psychiatric beds, according to the Los Angeles Times.

Suicide, meanwhile, is an enormous and growing concern. Statistics are hard to come by, but some estimate that although 58,000 veterans died in combat in Vietnam, more than that took their own lives after returning home. In a 1987 CDC study, the suicide rate for Vietnam vets was 65% higher than that of civilians. The Army estimates that the suicide rate among Iraq veterans is one-third higher than the historical wartime average, owing to the psychological strains of no-holds-barred insurgency warfare. That means we're looking at a future blizzard of suicides without an adequate VA program in place to address the crisis.

Without Jeff and the further details he could have provided, I doubt I will ever know for certain whether all his Afghanistan stories are true. But no matter what you believe when you read this, the story of Jeff's life and death raises issues we must grapple with if we're going to continue sending troops into insurgencies and guerrilla war zones. Thirty years after Vietnam, we seem to have learned very little.

Of course, I feel badly now that I didn't spend more time with Jeff or try harder to get his story published while he was alive.

He had such a dazzling smile — the type you knew was destined for great things.

ANN LOUISE BARDACH writes the Interrogation column for Slate and is the author of "Cuba Confidential, Love and Vengeance in Miami and Havana." Her article on Gov. Arnold Schwarzenegger's ties to the tabloids was a finalist for last year's PEN USA journalism award.

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Monday, February 13, 2006

NEW YORK TIMES

February 13, 2006

The Bagram File

Years After 2 Afghans Died, Abuse Case Falter

By TIM GOLDEN

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memos released yesterday included previously blacked-out statements and detailed discussions of the FBI's concerns.

"Now we can say that the documents show conclusively that abuse and torture at Guantanamo was not the result of rogue elements but was the consequence of policies deliberately adopted by senior military and Pentagon officials," said Jameel Jaffer, an ACLU lawyer.

Air Force Lt. Col. John Skinner, a Pentagon spokesman, said a series of investigations and reviews have shown that Defense Department officials never encouraged or condoned abuse. "No matter how hard some may try to manipulate documents and information to support their myth, the facts tell a different story," Skinner said. "Guantanamo remains a safe, humane and professional detention operation."

Defense Secretary Donald H. Rumsfeld approved an expanded list of interrogation tactics in December 2002 for use on an important suspect. Rumsfeld later rescinded the list. A military investigation into allegations of abuse at Guantanamo Bay found that the cumulative effect of the detainee's treatment was abusive but not illegal.

One FBI agent wrote in an e-mail that he observed two military interrogators "showing a detainee homosexual porn movies and using a strobe light" in an interrogation room adjoining one he was using, adding that he had also heard of detainees being wrapped in Israeli flags. Detainees have complained of similar treatment.

The FBI documents also show that FBI officials declined to get involved in investigating abuse at Iraq's Abu Ghraib prison in January 2004, days after officials learned there was photographic evidence of abuse and several months before it became public.

"First, the matter truly is outside our mission and would squander resources," wrote an FBI official on Jan. 22, 2004. "Second, we need to maintain good will and relations with those operating the prison. Our involvement in the investigation of the alleged abuse might harm our liaison."

CHICAGO TRIBUNE

<http://www.chicagotribune.com/news/nationworld/chi-0602240144feb24,1,6316677.story?coll=chi-newsnationworld-hed>

Declassified notes reveal CIA flights

Items compiled from Tribune news services

February 24, 2006

TORONTO, CANADA -- CIA planes have landed in Canada 74 times since the Sept. 11 attacks, underscoring fears that the United States is ferrying suspected terrorists through its neighboring country en route to foreign prisons for torture, according to newly

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declassified government documents.

The government memos were released this week under Canada's Access to Information Act. The Associated Press obtained them Thursday from The Canadian Press.

Internal government notes revealed senior intelligence officials from six agencies met in November to discuss the flights.

The U.S. has come under fire for its "rendition" practices.

LOS ANGELES TIMES

Los Angeles Times
February 24, 2006

E-Mails Show FBI Agents Fretted About Prisoner Abuse

One official was hesitant to probe Abu Ghraib, while others warned of Guantanamo methods.

By Greg Miller, Times Staff Writer

WASHINGTON — Senior FBI officials in Iraq were reluctant to investigate allegations of prisoner abuse for fear that the bureau would lose access to high-value detainees and the stream of intelligence from interrogations, according to documents released Thursday by the American Civil Liberties Union.

But the documents also contain numerous complaints from FBI agents working at the U.S. detention facility at Guantanamo Bay, Cuba. The agents said that military interrogators were using abusive, ineffective and potentially illegal methods. One e-mail described an interrogation in which a prisoner was put under a strobe light and shown gay pornographic films.

The e-mails were among more than 50 documents obtained from U.S. agencies as part of a lawsuit filed under the Freedom of Information Act by the ACLU.

The documents suggest that harsh interrogation methods were approved of and encouraged by high-ranking Pentagon officials and commanders. In an internal FBI memo dated May 2004, an unidentified bureau official complained that Defense Secretary Donald H. Rumsfeld's public pronouncements about interrogation policies were misleading.

"I know these techniques were approved at high levels within DoD and used" on specific prisoners, said the official, referring to the Department of Defense. The names of the

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approximately 450 people who were detained at Guantanamo Bay for some part of the past four years.

But the Pentagon has refused to discuss individual detainees in its custody.

The document release could include information gleaned from International Committee of the Red Cross letters that detainees used to defend themselves in "combatant status review tribunals," meaning the names of detainees' family members could also be a part of the disclosure.

"The Department of Defense will comply with the judge's decision in this matter," Navy Lt. Cmdr. J.D. Gordon, a Pentagon spokesman, said yesterday.

Defense officials made it clear yesterday that the release will not be a roster of the approximately 490 detainees now held at Guantanamo Bay. Instead it will contain names associated with about 390 hearing transcripts. Some detainees did not participate in the hearings.

Bill Goodman, legal director of the Center for Constitutional Rights, said yesterday that the ruling is a step in the right direction but will not quell concerns about the U.S. detention system. The center oversees federal cases filed on behalf of hundreds of the detainees in Cuba.

"The government has detained prisoners without due process; lied about who these people are; concealed their treatment from the public and denied basic information to the very people who are authorized to represent the detainees," Goodman said in a written statement. "This administration prefers to operate in the shadows, but Judge Rakoff's ruling helps shine a light that can make this process more open and democratic."

The Defense Department, however, has given the ICRC access to detainees at Guantanamo Bay, escorted news media representatives and members of Congress through the facility, and allowed international human rights officials to visit. But department officials have strictly limited contact with detainees.

Sunday, February 26, 2006

NEW YORK TIMES

February 26, 2006

A Growing Afghan Prison Rivals Bleak Guantánamo

By **TIM GOLDEN** and **ERIC SCHMITT**

While an international debate rages over the future of the American detention center at Guantánamo Bay, Cuba, the military has quietly expanded another, less-visible prison in Afghanistan, where it now holds some 500 terror suspects in more primitive conditions, indefinitely and without charges.

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Pentagon officials have often described the detention site at Bagram, a cavernous former machine shop on an American air base 40 miles north of Kabul, as a screening center. They said most of the detainees were Afghans who might eventually be released under an amnesty program or transferred to an Afghan prison that is to be built with American aid.

But some of the detainees have already been held at Bagram for as long as two or three years. And unlike those at Guantánamo, they have no access to lawyers, no right to hear the allegations against them and only rudimentary reviews of their status as "enemy combatants," military officials said.

Privately, some administration officials acknowledge that the situation at Bagram has increasingly come to resemble the legal void that led to a landmark Supreme Court ruling in June 2004 affirming the right of prisoners at Guantánamo to challenge their detention in United States courts.

While Guantánamo offers carefully scripted tours for members of Congress and journalists, Bagram has operated in rigorous secrecy since it opened in 2002. It bars outside visitors except for the International Red Cross and refuses to make public the names of those held there. The prison may not be photographed, even from a distance.

From the accounts of former detainees, military officials and soldiers who served there, a picture emerges of a place that is in many ways rougher and more bleak than its counterpart in Cuba. Men are held by the dozen in large wire cages, the detainees and military sources said, sleeping on the floor on foam mats and, until about a year ago, often using plastic buckets for latrines. Before recent renovations, they rarely saw daylight except for brief visits to a small exercise yard.

"Bagram was never meant to be a long-term facility, and now it's a long-term facility without the money or resources," said one Defense Department official who has toured the detention center. Comparing the prison with Guantánamo, the official added, "Anyone who has been to Bagram would tell you it's worse."

Former detainees said the renovations had improved conditions somewhat, and human rights groups said reports of abuse had steadily declined there since 2003. Nonetheless, the Pentagon's chief adviser on detainee issues, Charles D. Stimson, declined to be interviewed on Bagram, as did senior detention officials at the United States Central Command, which oversees military operations in Afghanistan.

The military's chief spokesman in Afghanistan, Col. James R. Yonts, also refused to discuss detainee conditions, other than to say repeatedly that his command was "committed to treating detainees humanely, and providing the best possible living conditions and medical care in accordance with the principles of the Geneva Convention."

Other military and administration officials said the growing detainee population at Bagram, which rose from about 100 prisoners at the start of 2004 to as many as 600 at

times last year, according to military figures, was in part a result of a Bush administration decision to shut off the flow of detainees into Guantánamo after the Supreme Court ruled that those prisoners had some basic due-process rights. The question of whether those same rights apply to detainees in Bagram has not been tested in court.

Until the court ruling, Bagram functioned as a central clearing house for the global fight against terror. Military and intelligence personnel there sifted through captured Afghan rebels and suspected terrorists seized in Afghanistan, Pakistan and elsewhere, sending the most valuable and dangerous to Guantánamo for extensive interrogation, and generally releasing the rest.

But according to interviews with current and former administration officials, the National Security Council effectively halted the movement of new detainees into Guantánamo at a cabinet-level meeting at the White House on Sept. 14, 2004.

Wary of further angering Guantánamo's critics, the council authorized a final shipment of 10 detainees eight days later from Bagram, the officials said. But it also indicated that it wanted to review and approve any Defense Department proposals for further transfers. Despite repeated requests from military officials in Afghanistan and one formal recommendation by a Pentagon working group, no such proposals have been considered, officials said.

"Guantánamo was a lightning rod," said a former senior administration official who participated in the discussions and who, like many of those interviewed, would discuss the matter in detail only on the condition of anonymity because of the secrecy surrounding it. "For some reason, people did not have a problem with Bagram. It was in Afghanistan."

Yet Bagram's expansion, which was largely fueled by growing numbers of detainees seized on the battlefield and a bureaucratic backlog in releasing many of the Afghan prisoners, also underscores the Bush administration's continuing inability to resolve where and how it will hold more valuable terror suspects.

Military officials with access to intelligence reporting on the subject said about 40 of Bagram's prisoners were Pakistanis, Arabs and other foreigners; some were previously held by the C.I.A. in secret interrogation centers in Afghanistan and other countries. Officials said the intelligence agency had been reluctant to send some of those prisoners on to Guantánamo because of the possibility that their C.I.A. custody could eventually be scrutinized in court.

Defense Department officials said the C.I.A.'s effort to unload some detainees from its so-called black sites had provoked tension among some officials at the Pentagon, who have frequently objected to taking responsibility for terror suspects cast off by the intelligence agency. The Defense Department "doesn't want to be the dumping ground," one senior official familiar with the interagency debates said. "There just aren't any good options."

A spokesman for the Central Intelligence Agency declined to comment.

Conditions at Bagram

The rising number of detainees at Bagram has been noted periodically by the military and documented by the International Committee of the Red Cross, which does not make public other aspects of its findings. But because the military does not identify the prisoners or release other information on their detention, it had not previously been clear that some detainees were being held there for such long periods.

The prison rolls would be even higher, officials noted, were it not for a Pentagon decision in early 2005 to delegate the authority to release them from the deputy secretary of defense to the military's Central Command, which oversees the 19,000 American troops in Afghanistan, and to the ground commander there.

Since January 2005, military commanders in Afghanistan have released about 350 detainees from Bagram in conjunction with an Afghan national reconciliation program, officials said. Even so, one Pentagon official said the current average stay of prisoners at Bagram was 14.5 months.

Officials said most of the current Bagram detainees were captured during American military operations in Afghanistan, primarily in the country's restive south, beginning in the spring of 2004.

"We ran a couple of large-scale operations in the spring of 2004, during which we captured a large number of enemy combatants," said Maj. Gen. Eric T. Olson, who was the ground commander for American troops in Afghanistan at the time. In subsequent remarks he added, "Our system for releasing detainees whose intelligence value turned out to be negligible did not keep pace with the numbers we were bringing in."

General Olson and other military officials said the growth at Bagram had also been a consequence of the closing of a smaller detention center at Kandahar and efforts by the military around the same time to move detainees more quickly out of "forward operating bases," in the Afghan provinces, where international human rights groups had cited widespread abuses.

At Bagram, reports of abuses have markedly declined since the violent deaths of two Afghan men held there in December 2002, Afghan and foreign human rights officials said.

After an Army investigation, the practices found to have caused those two deaths — the chaining of detainees by the arms to the ceilings of their cells and the use of knee strikes to the legs of disobedient prisoners by guards — were halted by early 2003. Other abusive methods, like the use of barking attack dogs to frighten new prisoners and the handcuffing of detainees to cell doors to punish them for talking, were phased out more gradually, military officials and former detainees said.

Human rights officials and former detainees said living conditions at the detention center had also improved.

Faced with serious overcrowding in 2004, the military initially built some temporary prison quarters and began refurbishing the main prison building at Bagram, a former aircraft-machine shop built by Soviet troops during their occupation of the country in the 1980's.

Corrals surrounded by stacked razor wire that had served as general-population cells gave way to less-forbidding wire pens that generally hold no more than 15 detainees, military officials said. The cut-off metal drums used as toilets were eventually replaced with flush toilets.

Last March, a nine-bed infirmary opened, and months later a new wing was built. The expansion brought improved conditions for the more than 250 prisoners who have been housed there, officials said.

Still, even the Afghan villagers released from Bagram over the past year tend to describe it as a stark, forsaken place.

"It was like a cage," said one former detainee, Hajji Lalai Mama, a 60-year-old tribal elder from the Spinbaldak district of southern Afghanistan who was released last June after nearly two years. Referring to a zoo in Pakistan, he added, "Like the cages in Karachi where they put animals: it was like that."

Guantánamo, which once kept detainees in wire-mesh cages, now houses them in an elaborate complex of concrete and steel buildings with a hospital, recreation yards and isolation areas. At Bagram, detainees are stripped on arrival and given orange uniforms to wear. They wash in collective showers and live under bright indoor lighting that is dimmed for only a few hours at night.

Abdul Nabi, a 24-year-old mechanic released on Dec. 15 after nine months, said some detainees frequently protested the conditions, banging on their cages and sometimes refusing to eat. He added that infractions of the rules were dealt with unsparingly: hours handcuffed in a smaller cell for minor offenses, and days in isolation for repeated transgressions.

"We were not allowed to talk very much," he said in an interview.

The Rights of Detainees

The most basic complaint of those released was that they had been wrongly detained in the first place. In many cases, former prisoners said they had been denounced by village enemies or arrested by the local police after demanding bribes they could not pay.

Human rights lawyers generally contend that the Supreme Court decision on Guantánamo, in the case of *Rasul v. Bush*, could also apply to detainees at Bagram. But lawyers working on behalf of the Guantánamo detainees have been reluctant to take cases from Bagram while the reach of the Supreme Court ruling, which is now the subject of further litigation, remains uncertain.

As at Guantánamo, the military has instituted procedures at Bagram intended to ensure that the detainees are in fact enemy combatants. Yet the review boards at Bagram give fewer rights to the prisoners than those used in Cuba, which have been criticized by human rights officials as kangaroo courts.

The two sets of panels that review the status of detainees at Guantánamo assign military advocates to work with detainees in preparing cases. Detainees are allowed to hear and respond to the allegations against them, call witnesses and request evidence. Only a small fraction of the hundreds of panels have concluded that the accused should be released.

The Bagram panels, called Enemy Combatant Review Boards, offer no such guarantees. Reviews are conducted after 90 days and at least annually thereafter, but detainees are not informed of the accusations against them, have no advocate and cannot appear before the board, officials said. "The detainee is not involved at all," one official familiar with the process said.

An official of the Afghan Independent Human Rights Commission, Shamsullah Ahmadzai, noted that the Afghan police, prosecutors and the courts were all limited by law in how long they could hold criminal suspects.

"The Americans are detaining people without any legal procedures," Mr. Ahmadzai said in an interview in Kabul. "Prisoners do not have the opportunity to demonstrate their innocence."

Under a diplomatic arrangement reached last year after more than a year of negotiations, Afghan officials have agreed to take over custody of the roughly 450 Afghan detainees now at Bagram and another 100 Afghans held at Guantánamo once American-financed contractors refurbish a block of a decrepit former Soviet jail near Kabul as a high-security prison.

Because of the \$10 million prison- construction project and an accompanying American program to train Afghan prison guards, both of which are to be completed in about a year, military officials in the region have abandoned any thought of sending any of the Afghan detainees at Bagram to Guantánamo. Still, many details of the deal remain uncertain, including when the new prison will be completed, which Afghan ministry will run it and how the detainees may be prosecuted in Afghan courts.

Pentagon officials said some part of the Bagram prison would probably continue to operate, holding the roughly 40 non-Afghan detainees there as well as others likely to be captured by American or NATO forces in continuing operations.

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Prisoner Transfers Stalled

Until now, military officials at both Bagram and Guantánamo have been frustrated in their efforts to engineer the transfer to Cuba of another group of the most dangerous and valuable non-Afghan detainees held at Bagram, Pentagon officials said.

Three officials said commanders at Bagram first proposed moving about a dozen detainees to Guantánamo in late 2004 and then reiterated the request in early 2005. In an unusual step last spring, the officials added, intelligence specialists based at Guantánamo traveled to Bagram to assess the need for the transfer.

But as Central Command officials were forwarding a formal request to the Pentagon for the transfer of about a dozen high-level detainees, at least one of them, Omar al-Faruq, a former operative of Al Qaeda in Southeast Asia, escaped from the Bagram prison with three other men. Mr. Faruq had first been taken to Bagram by C.I.A. operatives in late summer 2002, but was removed from the prison about a month later, a soldier who served there said.

Two officials familiar with intelligence reports on the escape said that last July, after Mr. Faruq had been returned to Bagram by the C.I.A., he and the other men slipped out of a poorly fenced-in cell and, in the middle of the night, piled up some boxes and climbed through an open transom over one of the doors.

In August, weeks after the escape, a Defense Department working group called the Detainee Assistance Team endorsed the Central Command's recommendation for the transfer of nine Bagram detainees to Guantánamo, two officials familiar with the matter said.

Since then, the recommendation has languished in the Pentagon bureaucracy. Officials said it had apparently been stalled by aides who had declined to forward it to Secretary of Defense Donald H. Rumsfeld out of concern that any new transfers to Guantánamo would stoke international criticism.

"Out of sight, out of mind," one of those officials said of the Bagram detainees.

Carlotta Gall, Ruhullah Khapalwak and Abdul Waheed Wafa contributed reporting from Afghanistan for this article.

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NEW YORK TIMES

EDITORIAL:
February 26, 2006
Editorial

A Judicial Green Light for Torture

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Sullivan, a civil liberties lawyer in civilian life, bristled at the Dracula analogy, saying opposition to the commissions ``isn't about hiding from the facts. It's about having a fair process where facts can be confronted and opposed."

Veteran Miami defense attorney Neal Sonnett called this week's proceedings "a bad idea" since the Supreme Court ``is going to affect all the Military Commission trials one way or the other."

Sonnett is visiting the sprawling 45-square-mile base as an observer for the American Bar Association.

"The process is flawed," he said, noting that the ABA pushed for procedural changes even before the Pentagon trials "dissolved into chaos" in August 2004.

A key issue is whether already established U.S. civilian or military courts could hear Guantánamo cases.

As an "unlawful enemy combatant," the prosecutor said, Barhoumi and others attended an al Qaeda training camp to use ``terrorism and fear trying to advance their ideology."

"Their concept of a camp is markedly different from ours," he added. ``Arts and crafts didn't involve Popsicle sticks. It is the art of killing and it was crafting bombs out of land mines to kill Americans."

Thursday, March 02, 2006

NEW YORK TIMES

March 2, 2006

Human Rights Director Urges Europe to Improve Oversight

By CRAIG S. SMITH

Page A8

PARIS, March 1 — Frustrated by his failure to find clear evidence that European governments have taken part in the secret detention or transportation of American-held terrorism suspects, the chief of Europe's human rights agency called Wednesday for tougher oversight of European intelligence services and stricter controls over foreign agents operating in Europe.

"These are two glaring gaps in Europe," said the official, Terry Davis, secretary general of the Council of Europe, which is responsible for enforcing the European Convention on Human Rights.

Mr. Davis released a report documenting responses by the council's 46 member states to questions about whether any of their officials had been involved in the extrajudicial

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transportation or detention of terrorism suspects. No country said yes; some failed to reply adequately or at all. He singled out Italy and Poland for special criticism, as well as two former Yugoslav republics, Macedonia and Bosnia and Herzegovina. Albania's response was so cursory it was not even included.

In the report, Mr. Davis called Europe a "happy hunting ground" for foreign security services and said the skies "appear to be excessively open," noting that no government had procedures in place to check for human rights offenses in civilian aircraft passing over or landing in their countries.

The Council of Europe investigation and one by the European Parliament were undertaken after reports were published in November that the C.I.A. had operated secret prisons in central and eastern Europe as part of its well-documented "rendition" program, in which American-held terrorism suspects are sent to third countries for interrogation, outside the jurisdiction of United States law.

Though the council's recommendations carry little weight, participation in renditions by members would constitute a breach of the rights convention. All members must conform to the convention under their national laws.

The council says it has evidence that the C.I.A. carried out extrajudicial seizures in Europe, most notably of a cleric, Hassan Mustafa Osama Nasr, who was seized by American agents in Milan, Italy, in February 2003 and sent to Egypt.

But evidence that European governments have been involved or that detainees were interrogated in Europe remains oblique and circumstantial, consisting primarily of flight logs for planes used by the C.I.A.

Such records show, for example, that a Boeing 737 operated by a C.I.A.-linked company and suspected of being used to transport detainees made stops in Poland and Romania in 2003 and 2004.

The plane, with the registration number N313P, flew from Kabul to a remote airport in northeastern Poland on Sept. 22, 2003, about the time, according to Human Rights Watch, that several "high value" detainees were transferred from Afghanistan. It left Poland that evening for Morocco and continued the next day to the Guantánamo Naval Base in Cuba.

The same plane later flew from Skopje, Macedonia, to Kabul on Jan. 24, 2004, on the day that a German-Lebanese man, Khaled el-Masri, was flown from Macedonia to Afghanistan. The plane flew to Romania the next day.

Mr. Davis, a Briton, said responses to his questions about those and other flights showed that given current regulations, it was "virtually impossible" for governments to know whether aircraft using their airspace or airports were being flown "for purposes incompatible with internationally recognized human rights standards."

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"You'll not see something if you do not look," he said in a telephone interview from Council of Europe headquarters in Strasbourg, France.

He also complained that the principle of diplomatic immunity hindered the enforcement of laws when it came to foreign agents. "Immunity," Mr. Davis said, "cannot mean impunity."

Miami Herald
March 2, 2006

Hearings May Consider Torture

The specter of military torture entered pretrial debate over how to proceed in the trial of a Yemeni captive.

By Carol Rosenberg

GUANTANAMO BAY NAVY BASE, Cuba -- A U.S. Army colonel presiding over four war-crimes cases here acknowledged on Wednesday that upcoming trials may have to weigh whether torture was used to gather testimony against alleged al Qaeda conspirators.

"My personal belief is torture is not good," said Army Col. Peter Brownback at pretrial hearings for Yemeni captive Ali Hamza al Bahlul, an alleged al Qaeda propagandist. Bahlul, 37, attended part of the proceedings despite earlier declaring a boycott.

Brownback debated the definition of torture with Army Maj. Tom Fleener, Bahlul's defense attorney, and both agreed one instance would be "poking a person in the eye with a red-hot needle."

No such specific allegation has emerged at Guantánamo. But a Pentagon spokeswoman, Air Force Maj. Jane Boomer, said after the hearing that Military Commissions rules that protect information for national security reasons do not specifically ban evidence gained through torture.

"Hypothetically, is it possible? Do the rules allow for it?," she said. "Yes."

Earlier, in court, Fleener, a Wyoming federal public defender in civilian life, put the presiding officer on notice: "I believe there was evidence that Mr. Al Bahlul was tortured. It's going to be an issue that's going to come up."

With the U.S. Supreme Court set to hear arguments March 28 on the commissions' legitimacy, the Bahlul trial is emerging as a showcase for war-crimes trial controversies.

Bahlul again refused his military lawyer, citing the "scar on the psyche" of the American people, caused by the Sept. 11, 2001, attacks.

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A detainee from Kazakhstan said he was captured by Afghans and turned over to the United States, but did not understand why he was in custody because he just grows vegetables. The tribunal officials tried to pry information from him.

"We are trying to figure out why you are here, the U.S. wouldn't detain someone for two years for simply growing vegetables. Can you help us understand?" the tribunal official said, with no response. "Do you want to tell us why you think you are here?"

The detainee then answered: "I am here because I went to Afghanistan with my family for a better life. They captured me at that house, that is the reason why I am here," he said, before he was asked if he grew poppies in his garden. "I don't know what a poppy is," he said.

Said Amir Jan, like some others, said he ended up in Guantanamo because "somebody got paid by turning in people, those are the people who should be here, not us." Detainees said Pakistani officials were paid bounties of as much as \$10,000 to turn over suspects, making a business off the war.

"When Americans came to Afghanistan, I was in prison, we were cheering and screaming. We were going to be released and the Taliban isn't in power. How could I be so bad to turn around and fight against the people who released me from prison?" Jan said, before asking for help from the tribunal. "Please, I am hoping that you guys, very beautiful lady, look at my case, study, try to find out who I am, and decide about me."

One detainee who has been ruled to be "no longer an enemy combatant" and has been freed -- Egyptian Sami al-Laithi -- told the tribunal that he thought the review process was unfair. He said the definition of the term "enemy combatant" was so broad that it could not be understood.

"The American military is my adversary, and all the laws require that the panel or the board have to be third party, that is completely neutral and has nothing to do with adversaries," al-Laithi said, before a tribunal official explained that it was an administrative proceeding, not a legal one. "If the adversary is my judge, also I should not expect any justice uphold."

Research editor Lucy Shackelford contributed to this report.

WASHINGTON POST

OPINION:

A Fate Worse Than Guantanamo?

The U.S. Has an Obligation to the Prisoners It Is Releasing Overseas

By Eric Umansky
Sunday, March 5, 2006; B07

TRANSCOM GHOST DOCS 542

Walid al-Qadasi should have been thrilled he was finally leaving Guantanamo Bay, Cuba. Al-Qadasi, a Yemeni man in his mid-twenties, had been held at the prison there about two years. He was first arrested in late 2001 by Iranian authorities who, al-Qadasi later recalled, "sold" him to U.S.-allied Afghan forces for a bounty. With little evidence against him -- and no tribunal having established his guilt or innocence -- al-Qadasi was sent home from Guantanamo in April 2004.

In an affidavit taken by the Center for Constitutional Rights, which leads a team

of attorneys representing Guantanamo detainees, al-Qadasi says that he remembers almost nothing of the unexpected move. He recalls being given an injection at Guantanamo and then simply waking up in another cell in what turned out to be Yemen. (Other detainees have also spoken of being drugged during transfers.) Once in Yemen, al-Qadasi said, he was "routinely beaten" by guards. Yemeni officials insist al-Qadasi is being held at the request of the United States, an assertion the Pentagon denies. Whatever the case, al-Qadasi has now been sitting in that jail for two years without a lawyer or prospects for a trial.

With the calls coming again to close Guantanamo -- the latest of them in a recent report from the United Nations asserting treatment "amounting to torture" -- it's important to consider al-Qadasi's case. Shuttering the U.S. prison wouldn't be a bad idea; at the very least it might help the United States' image. The question is where should the prisoners go and, more important, what sort of safeguards should there be to ensure they won't face treatment even worse than what they got at Guantanamo.

The issue is not just theoretical or relevant to only a few cases. No prisoners have been sent to Guantanamo Bay in 18 months. As the New York Times reported recently, the United States is holding hundreds of al-Qaeda and Taliban suspects at what was supposed to be a temporary jail in Afghanistan. As for the detainees at Guantanamo, the United States is moving them out. Eighty have been transferred to their home countries for continued detention. Another 180 detainees have been cleared in one way or another and, in the Pentagon's careful parlance, "transferred for release."

The military appears to put al-Qadasi in this second category. In that grouping, a Pentagon spokesman told me, "We don't insist the prisoner continue to be held." Rather, he explained, the country the detainee is being returned to just "promises to ensure that the prisoner won't be a threat to the United States."

Scattered reports -- from local lawyers and human rights groups -- show that at least two dozen former Guantanamo detainees, including those returned to Pakistan, Saudi Arabia and Yemen, have been moved, only to languish in their new jails again without charges. But it's hard to get an overall picture because the Pentagon publishes transfer figures only in the aggregate and there is no other clearinghouse for information. What is clear is that the numbers are about to increase.

The United States is negotiating with Afghanistan, Saudi Arabia and Yemen to return nearly all the detainees who are from those countries. In Afghanistan and Yemen, the men will reportedly be housed in U.S.-funded prisons. Talks on the possible wholesale transfers have been going on since last summer. Among the apparent sticking points: Afghanistan, like most countries, has a constitution that doesn't allow for prisoners to be held indefinitely without trial.

Meanwhile, the administration is pushing to remove the one check that exists on the transfers. Since the Supreme Court ruled nearly two years ago that Guantanamo detainees have access to federal courts, prisoners there have been able to challenge plans to move them to countries where they might face abuse. After all, such transfers would violate an anti-torture treaty the United States has signed. But in the administration's view, that avenue for appeal shouldn't exist: The government argues that the recently passed Graham-Levin amendment, which limits detainees' access to the courts, applies to the cases already filed on behalf of nearly all detainees. If that view prevails, it will close out the possibility of using the cases to challenge pending transfers or even have detainees' lawyers be notified about them.

Of course there's nothing necessarily wrong with sending prisoners back to their home countries. And it seems ironic that lawyers might push for their clients to stay at Guantanamo Bay. But the question isn't whether detainees should be sent home; it's what the intention is for sending them and protections, if any, there will be.

Walid al-Qadasi is still sitting in jail in Yemen. As for his treatment, it's hard to tell. Yemeni officials haven't allowed visitors recently. So, yes, let's close Guantanamo Bay. Let's also keep one of the few checks remaining on the transfers and hope there are no more cases like that of al-Qadasi.

Eric Umansky writes the Today's Papers column for Slate.

Monday, March 06, 2006

NEW YORK TIMES

March 6, 2006

Voices Baffled, Brash and Irate in Guantánamo

By TIM GOLDEN

Page 1

This article was reported by Margot Williams, Tim Golden and Raymond Bonner and written by Mr. Golden.

Among the hundreds of men imprisoned by the American military at Guantánamo Bay, Cuba, there are those who brashly assert their determination to wage war against what they see as the infidel empire led by the United States.

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Gitmo's Innocent Victims

Bush, Rumsfeld and torture

By Nat Hentoff

At Guantanamo, says Secretary of Defense Donald Rumsfeld, "there are hundreds of people who want to kill Americans." Yet, five independent investigators for the U.N. Human Rights Commission report that the detainees interrogation center there should be closed. They have conducted an 18-month investigation, and none of the five have any other connections to those members of the U.N. Human Rights Commission who themselves are human-rights abusers. This report will continue to reverberate.

Manfred Nowak, the U.N. special rapporteur on torture, is the author of the report, which concluded that a range of decidedly coercive interrogation techniques at Guantanamo "must be assessed as amounting to torture." Mr. Nowak added the team was "particularly concerned" about the brutal force-feeding of desperate detainees engaged in hunger strikes after three to four years of being imprisoned without seeing the evidence against them, among other disregard for international law.

This investigation was first reported in the Los Angeles Times (Feb. 13), which significantly called attention to these guidelines of the International Red Cross: "Doctors should never be party to actual coercive feeding. Such actions can be considered a form of torture and under no circumstances should doctors participate in them on the pretext of saving the hunger striker's life." But doctors are involved in the force-feeding at Guantanamo.

The report strongly recommends that the United States close the detention center, whose abuses, I add, have been a useful recruiting tool for terrorists around the world, and finally try the prisoners in U.S. courts. (The Supreme Court has also required, in the 2004 *Rasul v. Bush* decision, that these detainees be provided real, not sham, due process.) Responding to the findings of the five independent investigators, White House spokesman Scott McClellan, echoing the president and Mr. Rumsfeld, declared: "We know that these are dangerous terrorists being kept at Guantanamo Bay. They are people determined to harm innocent civilians." (Mr. Rumsfeld also has claimed "they are the best-trained, most vicious killers on the face of the Earth.")

But the nonpartisan National Journal, after studying Defense Department court documents in response to habeas-corpus petitions by prisoners' lawyers, found that more than half of those in 132 of the files are not even accused of fighting this country or its allies on any battlefield. And an exhaustive report by the Seton Hall Law School in New

Jersey discloses that only eight percent of all detainees at Guantanamo have been connected to al Qaeda.

In repeatedly condemning the U.N. report, however, the president and others on his team have scornfully emphasized that these five investigators never even traveled to Guantanamo.

Indeed, after trying for a year and a half to get permission to come, last November Mr. Nowak and his colleagues were finally offered a one-day visit to the prison, but with the unyielding condition that they would not be allowed to speak privately with any of the prisoners. (Only the International Red Cross is allowed to see them; but -- a very big "but" -- the Red Cross cannot make public any of its factual determinations.)

The U.N. investigators, of course, refused to go to Guantanamo without being able to interview the very subjects of their inquiry. Whom would they have seen if they had accepted our government's cagey offer? To begin with, they would have met the military authorities, who would surely say they faithfully obey the president's order to treat the prisoners humanely and never, ever torture them. The U.N. team could also have spoken with whatever lawyers for the detainees were present. But if the investigators put in their report only what advocates for the prisoners claimed instead of talking to the prisoners themselves, they would have been accused of manifest bias.

Our government's gag rule on the International Red Cross, and its insistence that the investigators not see the prisoners, make clear how afraid this administration is after Abu Ghraib of any further revelations of what is being done at Guantanamo to scandalize our name around the world, and not only among our enemies.

Bishop Desmond Tutu of South Africa, one of the very few African leaders with the integrity and courage to publicly denounce Robert Mugabe for his merciless repression of the people of Zimbabwe, says, as quoted in the Feb. 19 issue of Newsweek: "It is disgraceful and one cannot find strong enough words to condemn what Britain and the United States and some of their allies have accepted about the conditions of Guantanamo (as the U.N. inquiry has reported)."

Mr. Nowak emphasizes that the inquiry into America's treatment of its prisoners is not over. "The investigation is going far beyond Guantanamo," he told The Washington Post on Feb. 14. He has asked the Bush administration "to cooperate with us on various places where suspected terrorists are held: Iraq, Afghanistan, Guantanamo and elsewhere." "Elsewhere" includes the secret CIA "black sites" prisons among the CIA's "special powers" authorized by President Bush on Sept. 17, 2001.

When will Congress appoint an independent prosecutor? The existence of these prisons is now known, but not what is being done there all over the world, to our shame.

Nat Hentoff's column for The Washington Times appears on Mondays.

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U.S. District Judge Gladys Kessler is considering whether to prohibit the forced-feeding practice in the case of Mohammed Bawazir, who has been imprisoned at Guantanamo Bay since the spring of 2002.

WASHINGTON POST

LETTERS TO THE EDITOR:

Washington Post
March 8, 2006
Pg. 18

Our Military's Failure Of Accountability

The U.S. military is in dire ethical straits.

Last August a four-star general was fired for having had an extramarital affair [front page, Aug. 10]. Yet the day before, a Pentagon spokesman gave a limp explanation for why no two-, three- or four-star officer had been reprimanded for the prisoner abuse at Abu Ghraib. One does not have to condone adultery to sympathize with the general who was a scapegoat for the military's failure to exercise discipline in the prison cases.

Pentagon spokesman Lawrence T. Di Rita said that "the two most senior people responsible for the prison were admonished in career-ending actions" [letters, Aug. 8]. That would be a one-star general and a colonel. Mr. Di Rita does not understand the military's concept of responsibility if he believes they were the "most senior people responsible for the prison." The buck for such errors stops at the Oval Office. The blame for Abu Ghraib should have been levied closer to the president than the brigadier who commanded the prison.

These offenses were serious. Some prisoners died. Others were treated in ways that amounted to torture. Still others were humiliated shamefully. The image of our country as a defender of human rights was badly damaged.

Second, similar abuses have occurred at Guantanamo Bay in Cuba, at the Bagram air base in Afghanistan and probably in those undisclosed CIA places of detention. The problem is far wider than one brigadier and one colonel.

Other military spokesmen have argued that more senior generals were not responsible because they did not know what was taking place at these prisons. That attitude is antithetical to the ethical fabric that holds a military organization together. The job of senior officers is to know what goes on in their command. Young men and women cannot be expected to respond without hesitation to orders in combat if they do not believe their superiors will be held responsible for capriciously or foolishly ordering them to risk their lives.

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Much is at stake in this failure to hold someone at an appropriate level accountable for what were grievous and disgraceful performances in these prisons.

Stansfield Turner, Great Falls

The writer, a retired Navy admiral, was director of central intelligence from 1977 to 1981.

Editor's Note: The Aug. 10 article by Josh White appeared in that day's *Current News Early Bird*. The Aug. 8 letter appeared in the Aug. 9 *Early Bird*.

Thursday, March 09, 2006

London Financial Times

March 8, 2006

Guantanamo Officer Maintains Silence On Abu Ghraib

Geoffrey Miller's decision not to testify on prison abuses has left questions unanswered, reports Demetri Sevastopulo

Major General Geoffrey Miller, the former Guantanamo Bay commander instrumental in developing interrogation policies at Abu Ghraib, raised eyebrows recently when he declined to testify in the investigation of two soldiers accused of using dogs to terrorise prisoners at the Baghdad prison.

Lawyers for the dog handlers - who, like low-ranking military police convicted over Abu Ghraib, say they were following orders - wanted to question Gen Miller about his controversial visit to Abu Ghraib in 2003.

Colonel Thomas Pappas says that during the visit, Gen Miller recommended using dogs in interrogations. Colonel Pappas, who was responsible for military intelligence at Abu Ghraib, says Gen Miller also said he was using dogs at Guantanamo. Gen Miller denies the allegations.

Gen Miller invoked Article 31 of the military justice code - the equivalent of the constitutional right not to testify to prevent possible self-incrimination - the same day Col Pappas was granted immunity in exchange for agreeing to testify. Gen Miller's lawyer says he was unaware that Col Pappas had taken that course.

Former senior military lawyers say Gen Miller could be key to understanding whether the Abu Ghraib abuses were the result of a few rogue soldiers, as President George W. Bush has argued, or whether responsibility lies higher up the chain of command. "For a general

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April 09, 2007, 1:25 a.m.

Don't Investigate Pelosi -- Debate Her

The talk about charging the Speaker with a Logan Act violation is foolish.

By Andrew C. McCarthy

Wouldn't it be nice if, just once, we learned from our mistakes?

The beleaguered Bush administration has had a dreadful couple of years. Now, for the first time in recent memory, a silk purse has fallen into the president's lap in the form of House Speaker Nancy Pelosi's blundering stroll down "the road to Damascus," also known as "Appeasement Avenue." So what happens? Some influential administration supporters suggest turning it into the sow's ear of all time: An indictment against Pelosi under the Logan Act.

Here's hoping President Bush not only turns a deaf ear to this advice but sees the opportunity for a teaching moment.

Let's be clear from the start: There isn't much question that Speaker Pelosi has committed a felony violation of the Logan Act. This two-century-old law, codified at Section 953 of the federal penal code, bars Americans who are "without authority of the United States" from conducting relations "with any foreign government ... in relation to any disputes or controversies with the United States, or to defeat the measures of the United States[.]"

It is settled beyond peradventure that the *authority of the United States* over the conduct of foreign relations rests exclusively with the executive branch. As John Marshall, later to become the nation's most important Chief Justice, famously observed, "The President is the sole organ of the nation in its external affairs, and its sole representative with foreign nations.... The [executive] department is entrusted with the whole foreign intercourse of the nation." In 1936, the Supreme Court explicitly acknowledged in its *Curtiss-Wright Export* decision, the "delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations[.]" And, as convincingly explained in the *Wall Street Journal* by the eminent Professor Robert F. Turner, the congressional debate over passage of the Logan Act demonstrates that the law was understood to bar legislative interference with the president's management of American diplomacy.

So the Bush administration is in charge of foreign relations. It has a policy of attempting to isolate the rogue Syrian regime of Bashar Assad. Far from authorizing Speaker Pelosi's visit with Assad, the president asked her not to go. Pelosi went anyway, and proceeded to embarrass herself and our nation by meddling ineptly in the Syrian/Israeli conflict, concurrently giving the despicable Assad just the lifeline our policy has sought to deny him. As the Logan Act goes, it doesn't get more black-and-white than that.

But is this really a *law-enforcement* issue? Federal statutory and regulatory books now

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burst into the thousands upon thousands of pages. Must the fact that a statute is inevitably implicated always mean we should delegate our political and national security issues — our *policy disputes* — to the federal courts for resolution?

Lawsuits, of course, have become as American as baseball, apple pie and You Tube. But hard as it may be for so litigious a culture to get this through its thick skull, not every problem in life is a *legal* problem. In a dynamic, confident society, policy disagreements are a sign of good health. They are not grounds for convening a grand jury — and if that's what they become, confident dynamism is certain to shrivel into diffident paralysis.

It took us nearly a decade and thousands of dead to learn that Islamic terrorism is not, essentially, a legal problem, even though it always involves violations of federal law. The best hint might have come in spring 1998 when a federal grand jury indicted Osama bin Laden. So chastened was al Qaeda's emir that he responded by ... bombing U.S. embassies in East Africa, nearly sinking the U.S.S. Cole, and ordering the 9/11 attacks. Yes, laws were violated; but that was beside the point — and adding counts every time something went boom did not seem to stop things from going boom and innocents from being slaughtered. We needed to find more apt means for dealing with jihadist terrorism because the law, though ubiquitous, is neither effective nor the main consideration.

Still, the lesson has failed to take hold even in the life-and-death matter of our security. In December 2005, the *New York Times* disclosed the existence of the National Security Agency's Terrorist Surveillance Program. There ensued for over a year a heated national debate over a complete sideshow: namely, whether the warrantless penetration of potential enemy electronic communications — something the United States has done in every war since it has been technologically possible to do so — violated a statute, the Foreign Intelligence Surveillance Act of 1978 (FISA).

Should we be trying to intercept al Qaeda's messaging? How much of our privacy is really compromised if we know there might be government eavesdropping on our international phone calls and e-mails — especially when we know foreign intelligence agencies may be listening anyway? Was the NSA program making us safer? These were the crucial policy questions. But they got no oxygen. The air, instead, was sucked out of the debate by dueling constitutional law scholars holding forth on the question whether the president's constitutional power excused a clear transgression of FISA. Consumed by whether a national security program was *legal*, we forgot to probe whether it was *effective* — even as the paramount issue effectiveness was underscored by the absurdity of legislators nattering about “gross illegality” while continuing to fund the program, which polls showed the American people solidly favoring.

The NSA controversy was not alone. Cognate “scandals” erupted over secret CIA prisons for al Qaeda captives and monitoring of the international banking system to track terror funds. Did these programs contribute to our security? Who knows? We, after all, were too busy mulling the ramifications of international law and domestic financial privacy

statutes to spend much time on anything so mundane as the safety of Americans or success in the war.

And has anything been more reviled on the Right in recent years than the prosecution of Scooter Libby, Vice President Cheney's former chief of staff? Here you had political issues of the utmost importance: the nature of the intelligence which prompted the U.S. invasion of Iraq, the administration's interpretation of that intelligence, and the state of Saddam Hussein's capacity and intentions regarding nuclear weapons development. Former ambassador Joseph Wilson scandalously misled the nation about these matters, and the Bush administration, quite properly, sought to correct the public record and undermine Wilson's credibility — pointing out, among other things, that he had been chosen for his infamous trip to Niger not because of any special expertise but at the suggestion of his CIA-insider wife who, herself, was predisposed to reject the possibility (which turns out to be the high likelihood) that Iraq had been seeking to stockpile uranium.

So what did we do? We spent three years not on these crucial matters of policy but obsessed over whether there had been a technical violation of statutes barring disclosures of classified information (*viz.*, the fact of Valerie Plame Wilson's employment by the CIA) ... under circumstances where there had plainly been no intent to violate the law and the disclosures at issue had palpably done no damage to national security. Finding no violations, moreover, we were then riveted by Libby's indictment and ultimate conviction for perjury and obstruction of justice. These were not unimportant matters, but were they worth the price paid? As public support for the war flagged, the administration was chilled from explaining itself for fear of accusations that it was interfering in a criminal investigation; and the investigation raised the powerful specter of our politics being criminalized.

Do we really want to do this all over again?

Speaker Pelosi should, of course, be rebuked for offending a bedrock separation-of-powers principle. But for the administration, the politics of her trip couldn't be better. The Syrian regime is in the midst of executing a murderous coup to keep its hooks in Lebanon while abetting the terrorists who kill Americans and Israelis. The Speaker's ham-handed diplomatic foray is proof positive of the folly of negotiating with such thugs. In addition, as Pelosi spoke preposterously of the Assad regime's openness to peace, and had to be corrected on the international stage after misrepresenting Israel's position, she confirmed the perception of many Americans that the Left is not up to the task of safeguarding our national security.

That she also violated the Logan Act is an excellent rhetorical point. But it would make for an incredibly foolish indictment. Why turn the page from a worthy national-security debate over the right strategy for dealing with state sponsors of terrorism?

The president can not only win that debate. He can use this opportunity to illustrate how damaging the criminalization of politics is in a democracy. He can stress that policy is

something the Framers committed to the good judgment of an informed citizenry, not to the courts. And he can trenchantly separate himself from his knee-jerk "let's appoint a prosecutor" critics by pointedly explaining that he trusts the American people, not the judicial system, to decide such matters as whether they really want détente Pelosi-style.

For a change, how 'bout we go with the silk purse rather than the sow's ear?

— *Andrew C. McCarthy directs the Center for Law & Counterterrorism at the Foundation for Defense of Democracies.*

Gen. Hayden's account of the tapes, which apparently was hastily prepared after the New York Times inquired about them, also asserts that top congressional leaders and committees were informed of the tapes' existence and of the decision to destroy them. This was quickly contradicted by a parade of Republicans and Democrats who said they were not told about the tapes' destruction in advance. Rep. Jane Harman (D-Calif.) said she warned in a 2003 letter against the destruction of any videotapes. The executive director of the Sept. 11 commission said it asked the CIA for such material in 2004 but did not receive it.

Congress has already immunized CIA staffers for the acts of torture they may have committed against al-Qaeda prisoners. But destruction of the evidence could still be a crime. Sen. John D. Rockefeller IV (D-W.Va.) said Thursday that the Senate intelligence committee he chairs has asked "for a complete and accurate chronology of events related to the tapes, including how the tapes were used, when and why they were destroyed, who was notified of their destruction and when, and any communication about them that was provided to the courts and Congress." Attorney General Michael B. Mukasey, who promised Congress he would uphold the law in just this sort of case, should order a criminal inquiry by the Justice Department.

In the meantime Congress must act to ensure that the CIA will no longer practice torture. On Wednesday a conference committee approved an amendment to an intelligence funding bill that would require that the recently revised Army interrogation manual, which bans waterboarding and other torture methods, apply to detainees held by U.S. intelligence agencies. Many senior military commanders -- including, most recently, Gen. David H. Petraeus -- have said that the techniques in the manual have proven effective in obtaining intelligence and that harsher methods are counterproductive. Senators who have trumpeted their faith in Gen. Petraeus's judgment in Iraq should listen to this counsel as well.

NEW YORK TIMES

December 8, 2007

C.I.A. Was Urged to Keep Interrogation Videotapes

By MARK MAZZETTI

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WASHINGTON, Dec. 7 — White House and Justice Department officials, along with senior members of Congress, advised the Central Intelligence Agency in 2003 against a plan to destroy hundreds of hours of videotapes showing the interrogations of two operatives of Al Qaeda, government officials said Friday.

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The chief of the agency's clandestine service nevertheless ordered their destruction in November 2005, taking the step without notifying even the C.I.A.'s own top lawyer, John A. Rizzo, who was angry at the decision, the officials said.

The disclosures provide new details about what Gen. Michael V. Hayden, the C.I.A. director, has said was a decision "made within C.I.A. itself" to destroy the videotapes. In interviews, members of Congress and former intelligence officials also questioned some aspects of the account General Hayden provided Thursday about when Congress was notified that the tapes had been destroyed.

Current and former intelligence officials say the videotapes showed severe interrogation techniques used on two Qaeda operatives, Abu Zubaydah and Abd al-Rahim al-Nashiri, who were among the first three terror suspects to be detained and interrogated by the C.I.A. in secret prisons after the Sept. 11 attacks. ←

Top C.I.A. officials had decided in 2003 to preserve the tapes in response to warnings from White House lawyers and lawmakers that destroying the tapes would be unwise, in part because it could carry legal risks, the government officials said.

But the government officials said that Jose A. Rodriguez Jr., then the chief of the agency's clandestine service, the Directorate of Operations, had reversed that decision in November 2005, at a time when Congress and the courts were inquiring deeply into the C.I.A.'s interrogation and detention program. Mr. Rodriguez could not be reached Friday for comment.

As the chairman of the House Intelligence Committee in 2003, Porter J. Goss, then a Republican congressman from Florida, was among Congressional leaders who warned the C.I.A. against destroying the tapes, the former intelligence officials said. Mr. Goss became C.I.A. director in 2004 and was serving in the post when the tapes were destroyed, but was not informed in advance about Mr. Rodriguez's decision, the former officials said.

It was not until at least a year after the destruction of the tapes that any members of Congress were informed about the action, the officials said. On Friday, Representative Peter Hoekstra, the Michigan Republican who was chairman of the House Intelligence Committee from 2004 to 2006, said he had never been told that the tapes were destroyed.

"I think the intelligence committee needs to get all over this," said Mr. Hoekstra, who has been a strong supporter of the C.I.A. detention and interrogation program. "This raises a red flag that needs to be looked at."

The first notification to Congress by the C.I.A. about the videotapes was delivered to a small group of senior lawmakers in February 2003 by Scott W. Muller, then the agency's general counsel. Government officials said that Mr. Muller had told the lawmakers that the C.I.A. intended to destroy the interrogation tapes, arguing that they were no longer of

any intelligence value and that the interrogations they showed put agency operatives who appeared in the tapes at risk.

At the time of the briefing in February 2003, the lawmakers who advised Mr. Muller not to destroy the tapes included both Mr. Goss and Representative Jane Harman of California, who was the top Democrat on the House Intelligence Committee. Ms. Harman described her role on Friday. Mr. Goss's role was described by former intelligence officials.

According to two government officials, Mr. Muller then raised the idea of destroying the tapes during discussions in 2003 with Justice Department lawyers and with Harriet E. Miers, who was then a deputy White House chief of staff. Ms. Miers became White House counsel in early 2005.

The officials said that Ms. Miers and the Justice Department lawyers had advised against destroying the tapes, but that it was not clear what the basis for their advice had been.

A message left at Mr. Muller's law office on Friday was not returned, and White House officials would not comment about Ms. Miers's role.

It was also not clear when the White House or Justice Department were told that the tapes had been destroyed, or whether anyone at either place was notified in advance that Mr. Rodriguez had ordered that the step be taken. Dana Perino, the White House spokeswoman, said Friday that President Bush had "no recollection" of being made aware of the tapes' destruction before Thursday, when General Hayden briefed him on the matter.

In his message to C.I.A. employees on Thursday, General Hayden said that the leaders of the intelligence committee had been informed of the agency's "intention to dispose of the material," but he did not say when that notification took place.

Several former intelligence officials also said there was great concern that the tapes, which recorded hours of grueling interrogations, could have set off controversies about the legality of the interrogations and generate a backlash in the Middle East.

According to one former intelligence official, the C.I.A. then decided to keep the tapes at the C.I.A. stations in the countries where Abu Zubaydah and Mr. Nashiri were interrogated.

Abu Zubaydah was captured in Pakistan, and it has been reported that he was taken to Thailand for part of his interrogation. It is unclear where Mr. Nashiri was interrogated by C.I.A. operatives.

Mr. Nashiri, a Qaeda operations chief in the Arabian Peninsula until his capture in 2002, is thought to have planned the October 2000 bombing of the destroyer Cole in Yemen.

The current and former intelligence officials said that when Mr. Rodriguez ultimately decided in late 2005 to destroy the tapes, he did so without advising Mr. Rizzo, Mr. Muller's successor as the agency's top general counsel. Mr. Rizzo and Mr. Goss were among the C.I.A. officials who were angry when told that the tapes had been destroyed, the officials said.

Mr. Rodriguez retired from the agency this year.

The Senate Intelligence Committee announced Friday that it was starting an investigation into the destruction of the videotapes.

Senator John D. Rockefeller IV, the West Virginia Democrat who is chairman of the committee, said, "Whatever the intent, we must get to the bottom of it."

NEW YORK TIMES

December 8, 2007

Congress Looks Into Obstruction as Calls for Justice Inquiry Rise

By ERIC LICHTBLAU

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WASHINGTON, Dec. 7 — The Central Intelligence Agency faced the threat of obstruction-of-justice investigations on Friday from both the Justice Department and Congressional committees over the destruction of videotapes of interrogations of Qaeda operatives.

The Justice Department said it would review calls for a formal inquiry into the destruction of the tapes, while the House and Senate intelligence committees said they were opening investigations of their own into the episode, which Senator John D. Rockefeller IV of West Virginia, chairman of the Senate panel, called "extremely disturbing."

Dana Perino, the White House spokeswoman, said Friday that President Bush "has no recollection of being made aware of the tapes or their destruction" before this week. She added that the C.I.A. and the White House counsel's office were reviewing the facts and that they would cooperate with any Justice Department inquiry.

The pressure for a full investigation into the handling of the tapes puts Attorney General Michael B. Mukasey in a difficult position early in his tenure because of the questions

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The legal filing came after lawyers Gitanjali Gutierrez and Wells Dixon met Khan at Guantanamo Bay in October, the first time any of the high-value detainees was allowed to consult with an attorney.

In declassified notes released by the Center for Constitutional Rights, Khan told his attorneys that he can communicate with Abu Zubaida in a previously unidentified Guantanamo facility where detainees formerly imprisoned at secret CIA facilities are held, which he called Camp 7. Cmdr. J.D. Gordon, a Pentagon spokesman, said he could not discuss the specific location of Guantanamo detainees for security reasons.

Khan told his attorneys about their conversations.

"The collective experiences of these men, who were forcibly disappeared by the government and became ghost prisoners, reveal a sophisticated, refined program of torture operating with impunity outside the boundaries of any domestic or international law," according to the court filing.

Khan also told his attorneys that he has gone on hunger strikes to see his lawyers, to protest his living conditions, and to get copies of The Washington Post.

Staff writer Dan Eggen contributed to this report.

NEW YORK TIMES

December 9, 2007

Man Held by C.I.A. Says He Was Tortured

By WILLIAM GLABERSON

Page A28

WASHINGTON, Dec. 8 — The first of the so-called high-value Guantánamo detainees to have seen a lawyer claims he was subjected to "state-sanctioned torture" while in secret C.I.A. prisons, and he has asked for a court order barring the government from destroying evidence of his treatment. ←

The request, in a filing by his lawyers, was made on Nov. 29, before officials from the Central Intelligence Agency acknowledged that the agency had destroyed videotapes of interrogations of two operatives of Al Qaeda that current and former officials said included the use of harsh techniques.

Lawyers for the detainee, Majid Khan, a former Baltimore resident, released documents in his case on Friday. They claim he "was subjected to an aggressive C.I.A. detention and

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interrogation program notable for its elaborate planning and ruthless application of torture" to numerous detainees.

The documents also suggest that Mr. Khan, 27, and other high-value detainees are now being held in a previously undisclosed area of the Guantánamo prison in Cuba he called Camp 7.

Those detainees include 14 men, some suspected of being former Qaeda officials, who President Bush acknowledged were held in a secret C.I.A. program. They were transferred to military custody at Guantánamo last year. ←

Asked about Mr. Khan's assertions, Mark Mansfield, a C.I.A. spokesman, said, "the United States does not conduct or condone torture." He said a small number of "hardened terrorists" had required what he called "special methods of questioning" in what he called a lawful and carefully run program.

The documents were heavily redacted by government security officials, and none of Mr. Khan's specific assertions of torture could be read. One entire page was blacked out.

In addition to the court filing, Mr. Khan's lawyers at the Center for Constitutional Rights in New York released recently declassified notes of their first meetings with Mr. Khan, in October. The notes asserted that he had symptoms of post-traumatic stress disorder because of his treatment, including memory problems and "frantic expression." They said he was "painfully thin and pale."

A Pentagon spokesman, Cmdr. Jeffrey D. Gordon, declined to respond to the assertions about Mr. Khan's condition, saying that most detainees at Guantánamo gain weight.

Pentagon officials have said they believe that Khalid Shaikh Mohammed, the mastermind of the Sept. 11 attacks, selected Mr. Khan, who grew up in the suburbs of Baltimore, to study the feasibility of blowing up gasoline stations and poisoning reservoirs in the United States. But he has not been charged with any offenses.

His lawyers said Mr. Khan, while living in Pakistan, was "forcibly disappeared" and that he had "admitted anything his interrogators demanded of him, regardless of the truth."

Lawyers who represent Guantánamo detainees agree to stringent restrictions that bar them from disclosing information from their clients until it is cleared by government security officials.

The notes that were declassified from Mr. Khan's lawyers, Gitanjali S. Gutierrez and J. Wells Dixon, say he "lives in Camp 7" and imply that he has contact with at least one other high-value detainee, Abu Zubaydah.

Officials at Guantánamo have not discussed the existence of a Camp 7. They often say publicly that the most recent center constructed there is Camp 6, a modern maximum-security building.

Commander Gordon, citing security concerns, declined to comment on the indication that there may be a secret detention unit, and added that "we do not disclose the exact location of detainees within Guantánamo."

The request for an order barring the government from destroying any evidence of torture was filed in the United States Court of Appeals for the District of Columbia Circuit, which is considering a challenge by Mr. Khan to his detention.

Mr. Khan's lawyers claim that "there is a substantial risk that the torture evidence will disappear." They did not specify what evidence they believe may exist.

An intelligence official speaking on the condition of anonymity said the C.I.A.'s interrogations of Mr. Khan were not videotaped.

Mr. Dixon, one of Mr. Khan's lawyers, said Saturday that the admission that officials had destroyed videotapes of interrogations showed why such an order was needed.

"They are no longer entitled to a presumption that the government has acted lawfully or in good faith," Mr. Dixon said.

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EDITORIAL:

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EDITORIAL

In Arrogant Defense of Torture

Page WK9

The White House is already complaining about reports that House and Senate conferees have come to an agreement on an intelligence measure mandating that all agencies, including the Central Intelligence Agency, comply with the Army Field Manual's outlawing of torture. The manual properly reflects American law by explicitly proscribing the gamut of torture measures — including waterboarding — that have proved dear to the heart of administration zealots.

Waterboarding, in which interrogators subject suspects to the grisly conditions of simulated drowning, is illegal under both federal laws and international compacts, including the Geneva Conventions. But the administration has foolishly flouted these

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laws, which were adopted to protect American citizens captured overseas, as much as suspects captured by Americans, from barbaric abuse by interrogators.

The administration denies it has stooped to torture in intelligence gathering — despite its post-9/11 record of secret detention programs and rendition kidnappings that outsource interrogations to governments known to use torture. The Times reported last week that the C.I.A. destroyed hundreds of hours of videotapes documenting the interrogation of two Al Qaeda operatives. Congress must find out what was on those tapes and who is responsible for their destruction. ←

“The C.I.A. program has provided valuable, actionable intelligence,” a White House spokesman insisted, dismissing Congress’s Army Field Manual initiative as “dangerous and misguided.” The new attorney general, Michael Mukasey, twisted himself into knots during his confirmation hearing, refusing to say whether waterboarding was torture and therefore illegal. Small wonder that Congress feels obliged to require that all agencies follow the Army manual’s clear proscription of torture.

There is certainly merit in a Congressional debate. Lawmakers should demand that the White House and its allies explain why intelligence operatives should scoff at a ban on torture that soldiers swear to and is unquestionably the law of the land.

LOS ANGELES TIMES

EDITORIAL:

The Supreme Court's habeas hearing

How the justices reacted to the case for giving Guantanamo inmates more rights.

December 9, 2007

A few months after the attacks of Sept. 11, 2001, the U.S. government transported almost 700 suspected terrorists who had been captured abroad to Guantanamo Bay Naval Base in Cuba, where the Bush administration assumed — wrongly — that they would have no opportunity to challenge their confinement in a U.S. court. But what if the alleged enemy combatants had been deposited somewhere else — say, in a prison under the control of the CIA in Egypt or Poland? ←

Last week, the Bush administration's lawyer tried to convince the Supreme Court that the 300-some remaining detainees might as well be in Egypt or Poland because Congress has excluded Guantanamo from the reach of a federal statute authorizing prisoners to seek their release by using the ancient writ of habeas corpus. Fortunately, a majority of the justices seemed skeptical of that claim. Even without a statute, prisoners held in the United States have access to habeas under the Constitution, which says that Congress may suspend the writ only in cases of rebellion or invasion. More important, as Justice Ruth Bader Ginsburg noted at last week's argument, the court ruled in the 2004 case of

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Rasul vs. Bush that Guantanamo was under the "exclusive jurisdiction and control" of the United States.

But Ginsburg, who was sympathetic to the detainees, raised a question that also concerned pro-administration justices and that highlights the stresses on traditional American liberties created by the unending, borderless war on terror. She asked Seth Waxman, the detainees' lawyer, if he would concede that "if they were in, say, Germany, that these detainees would have no access to habeas, no access to our courts?" Waxman, wary of a trap, replied that it would depend on whether the prisoners were being held by the United States or Germany. Justice Antonin Scalia then engaged Waxman in an argument over whether there was precedent in either English or American law for granting habeas "to an alien in a territory that was not under the sovereign control of the United States or England."

Scalia said no. But Scalia has been wrong before, and a brief filed by a group of legal historians noted that English courts in India could consider habeas applications from Indians even at a time when India wasn't sovereign British territory. The key factor was whether "the jailer ... was operating under the Crown or a Crown-chartered organization." A majority of the justices seem to agree. In the Rasul case, Justice John Paul Stevens wrote for the court that "the reach of the writ depended not on formal notions of territorial sovereignty, but rather on the practical question of 'the exact extent and nature of the jurisdiction or dominion exercised in fact by the Crown.'"

Substitute "United States" for "Crown" and a suspected terrorist detained by the U.S. on foreign soil -- and not classified as a prisoner of war -- would have the right to challenge his confinement in a federal court. For the Bush administration and some conservative members of the court, this is the fate to avoid because it would involve the judiciary in overseeing the detention of suspected foreign terrorists abroad. At last week's argument, Chief Justice John G. Roberts Jr. suggested another problem with a worldwide reach for habeas: It could insert the courts into diplomatic negotiations between the United States and foreign countries where prisoners were under U.S. control.

These aren't trivial concerns. But, as Waxman pointed out, courts likely would decline to exercise authority if there were "military exigencies" -- for example, the imprisonment of a suspected terrorist on the battlefield. Waxman also conceded that a habeas court might be unable to act for "a limited time period." Yet, as he reminded the court, the detainees he represents "have been confined at Guantanamo for almost six years, yet not one has ever had meaningful notice of the factual grounds of detention."

The situation in Guantanamo is manifestly unconstitutional. But would the predicament of those held there be any less unjust if they were being held in a prison in Egypt or Poland? We don't think so. On Friday the high court agreed to hear the appeals of two U.S. citizens of Arab descent held by the U.S. military in Iraq. American courts should offer a similar avenue of appeal to foreigners in American custody, wherever the jail. ←

Tuesday, December 11, 2007

WASHINGTON POST

Waterboarding Recounted

Ex-CIA Officer Says It 'Probably Saved Lives' but Is Torture

By Joby Warrick and Dan Eggen
Washington Post Staff Writers
Tuesday, December 11, 2007; A01

A former CIA officer who participated in the capture and questioning of the first al-Qaeda terrorist suspect to be waterboarded said yesterday that the harsh technique provided an intelligence breakthrough that "probably saved lives," but that he now regards the tactic as torture.

Zayn Abidin Muhammed Hussein abu Zubaida, the first high-ranking al-Qaeda member captured after the Sept. 11, 2001, attacks, broke in less than a minute after he was subjected to the technique and began providing interrogators with information that led to the disruption of several planned attacks, said John Kiriakou, who served as a CIA interrogator in Pakistan.

Abu Zubaida was one of two detainees whose interrogation was captured in video recordings that the CIA later destroyed. The recent disclosure of the tapes' destruction ignited a recent furor on Capitol Hill and allegations that the agency tried to hide evidence of illegal torture.

"It was like flipping a switch," said Kiriakou, the first former CIA employee directly involved in the questioning of "high-value" al-Qaeda detainees to speak publicly.

In an interview, Kiriakou said he did not witness Abu Zubaida's waterboarding but was part of the interrogation team that questioned him in a hospital in Pakistan for weeks after his capture in that country in the spring of 2002.

He described Abu Zubaida as ideologically zealous, defiant and uncooperative -- until the day in mid-summer when his captors strapped him to a board, wrapped his nose and mouth in cellophane and forced water into his throat in a technique that simulates drowning.

The waterboarding lasted about 35 seconds before Abu Zubaida broke down, according to Kiriakou, who said he was given a detailed description of the incident by fellow team members. The next day, Abu Zubaida told his captors he would tell them whatever they wanted, Kiriakou said.

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"He said that Allah had come to him in his cell and told him to cooperate, because it would make things easier for his brothers," Kiriakou said.

Kiriakou's remarks came a day before top CIA officials are to appear before a closed congressional hearing to account for the decision to destroy recordings of the interrogations of Abu Zubaida and another senior captive, Abd al-Rahim al-Nashiri. Last Thursday, CIA Director Michael V. Hayden announced that the recordings were destroyed in 2005 to protect the identities of CIA employees who appear on them.

The recordings were destroyed despite orders from judges that required the government to preserve records related to its interrogation programs. The lawsuits were filed by captives at the Guantanamo Bay military prison who were contesting their detentions.

Also yesterday, the House intelligence committee's chairman, Silvestre Reyes (D-Tex.), and ranking Republican Pete Hoekstra (Mich.) announced that the panel is launching its own investigation into the tapes' destruction. Reyes and Hoekstra said in a statement that Hayden's assertion that the committee had been "properly notified" of the destruction "does not appear to be true."

The Justice Department and the CIA inspector general's office also have begun a preliminary inquiry into the tapes' destruction. Members of the bipartisan commission that investigated the Sept. 11 attacks have said they were repeatedly told that the CIA did not have videotapes of interrogations.

Agency officials have said they briefed intelligence committee leaders from both parties over the course of two years on interrogation techniques. Officials said the briefings included mention of the tapes, but none of the lawmakers asked to view them.

U.S. intelligence officials confirmed that Kiriakou was a CIA employee involved in the capture and questioning of Abu Zubaida. Kiriakou, a 14-year veteran of the CIA who worked in both the analysis and operations divisions, left the agency in 2004 and works as a consultant for a private Washington-based firm.

After the hospital interviews bore no fruit, Abu Zubaida was flown to a secret CIA prison, where the interrogation duties fell to a team trained in aggressive tactics, including waterboarding. Shortly before the transfer, Kiriakou said he left Pakistan for Washington, where he said he continued to monitor the interrogation through classified cables and private communications with colleagues. ←

Kiriakou said he did not know that the interrogations were videotaped, although there often were closed-circuit video systems in the rooms where questioning took place. He said he also had no knowledge of the decision to destroy videotapes of the interrogations. Officials said there are hundreds of hours of recordings, but most are of Abu Zubaida alone in his cell recovering from his injuries.

The circumstances surrounding Abu Zubaida's interrogation and treatment are still murky and fiercely disputed. FBI agents have opposed the use of coercive techniques as counterproductive and unreliable; intelligence officials have defended the tactics as valuable.

President Bush and others have portrayed Abu Zubaida as a crucial and highly placed terrorist, but some intelligence and law enforcement sources have said he did little more than help with logistics for al-Qaeda leaders and their associates.

In documents prepared for a military hearing at Guantanamo Bay, where he is still held, Abu Zubaida asserted that he was tortured by the CIA, and that he told his questioners whatever they wanted to hear to make the torture stop.

At the time the tapes were destroyed, several federal judges had issued court orders requiring the CIA and other government agencies to preserve records related to the interrogation and detention of alleged terrorism suspects after the Sept. 11 attacks. Some attorneys are seeking new orders for preserving the records.

In one case, attorneys for Yemeni national Mohmoad Abdah alleged in a motion filed Sunday that the CIA may have violated an order issued in June 2005 by U.S. District Judge Henry H. Kennedy Jr. in Washington. Kennedy told the government to "preserve and maintain all evidence and information regarding the torture, mistreatment, and abuse of detainees now at the United States Naval Base at Guantanamo Bay, Cuba."

Because Abu Zubaida had provided information that led to the capture of several Guantanamo Bay detainees, defense attorneys argue that any recordings of his interrogation should have been preserved.

"The revelation that the CIA destroyed these videotapes raises grave concerns about the government's compliance with the preservation order entered by this Court," wrote Abdah's lawyers, David H. Remes and Marc D. Falkoff.

Kiriakou, whose account first appeared in a story on ABC News's Web site, said he decided to go public to correct what he says are misperceptions about the role played by CIA employees in the early months of the government's anti-terrorism efforts.

"It's easy to point to intelligence failures and perceived intelligence failures, but the public has to understand how hard people are working to make them safe," he said.

Kiriakou said he first spoke to Abu Zubaida in a Pakistani military hospital. Abu Zubaida was recovering from wounds he suffered in the gun battle that led to his capture.

After he came out of a coma, Abu Zubaida was initially talkative, holding long conversations with Kiriakou from his hospital bed. The two discussed personal matters that ranged from religion to Abu Zubaida's private regret about having never married or fathered children.

Kiriakou said he repeatedly counseled Abu Zubaida to provide details about al-Qaeda's infrastructure, leadership and plans. Abu Zubaida refused and eventually became more defiant.

He was later flown to a secret CIA prison, where he was subjected to harsher methods, including waterboarding, Kiriakou said. Kiriakou said he made a final appeal to Abu Zubaida shortly before the waterboarding began. ←

"You have one more opportunity to cooperate. My guys are telling me that you're being a jerk," Kiriakou recalled telling Abu Zubaida. His reply, according to Kiriakou: "They're being jerks, too."

Kiriakou said he now has mixed feelings about the use of waterboarding. He said that he thinks the technique provided a crucial break to the CIA and probably helped prevent attacks, but that he is now convinced that waterboarding is torture, and "Americans are better than that."

"Maybe that's inconsistent, but that's how I feel," he said. "It was an ugly little episode that was perhaps necessary at that time. But we've moved beyond that."

Staff writers Walter Pincus and Michael Abramowitz and staff researcher Julie Tate contributed to this report.

WASHINGTON POST

Lawyers Assert That Pentagon Overstates Ex-Detainee Threat

By Josh White
Washington Post Staff Writer
Tuesday, December 11, 2007; A11

A Seton Hall law professor contends that the Defense Department has overestimated the number of former Guantanamo Bay detainees who became involved in terrorist activities after they were released from the military prison.

Bush administration officials have long said that numerous former Guantanamo detainees have turned up on battlefields or have become involved in unspecified "anti-coalition militant activities." Defense officials put the number at 30 in a news release in July.

The Pentagon cited seven former detainees by name, saying they turned up on battlefields after leaving the prison, and it said there are 23 others who became involved in unspecified terrorist activity but did not name them.

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In material they will deliver to a congressional committee today, however, Mark P. Denbeaux and his son, Joshua, who represent Guantanamo detainees, said the data lack specificity and include some former detainees who did nothing more than speak out publicly about their captivity.

They assert that the Pentagon has cited only 15 former Guantanamo detainees who have become involved in terrorist activities after their release.

Defense officials said yesterday that they have evidence about all 30 who, they say, participated in combat or lent support or financing to terrorist organizations.

"It doesn't matter if it's seven, 14, 30 or 50," said Bryan Whitman, a Pentagon spokesman. "The point we're trying to make is that we assume some risk in this. Even one is too many."

Mark Denbeaux, director of the Seton Hall Law School Center for Policy and Research, plans to present the information to a Senate Judiciary subcommittee hearing today on the legal rights of Guantanamo detainees. Denbeaux has been critical of Pentagon data regarding the threats the detainees pose, and his previous reports have drawn fire from defense officials.

"Department of Defense senior officials have publicly claimed that dozens of former Guantanamo detainees were captured or killed during battles with American forces following their release," Denbeaux wrote in a prepared statement for the committee. "This public representation was entirely inaccurate every time it was uttered."

Tom Malinowski, Washington advocacy director of Human Rights Watch, also has disputed the Pentagon's assertions about the number of detainees who have returned to battle. He said it is part of a systematic effort to show that the numbers do not add up.

"Some people probably have gone back to, or begun for the first time, armed activity against the United States after leaving Guantanamo, but that number is clearly very small," Malinowski said.

NEW YORK TIMES

December 11, 2007

Destruction of C.I.A. Tapes Cleared by Lawyers

By MARK MAZZETTI and SCOTT SHANE

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WASHINGTON, Dec. 10 — Lawyers within the clandestine branch of the Central Intelligence Agency gave written approval in advance to the destruction in 2005 of

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hundreds of hours of videotapes documenting interrogations of two lieutenants from Al Qaeda, according to a former senior intelligence official with direct knowledge of the episode.

The involvement of agency lawyers in the decision making would widen the scope of the inquiries into the matter that have now begun in Congress and within the Justice Department. Any written documents are certain to be a focus of government investigators as they try to reconstruct the events leading up to the tapes' destruction.

The former intelligence official acknowledged that there had been nearly two years of debate among government agencies about what to do with the tapes, and that lawyers within the White House and the Justice Department had in 2003 advised against a plan to destroy them. But the official said that C.I.A. officials had continued to press the White House for a firm decision, and that the C.I.A. was never given a direct order not to destroy the tapes.

"They never told us, 'Hell, no,'" he said. "If somebody had said, 'You cannot destroy them,' we would not have destroyed them."

The former official spoke on condition of anonymity because there is a continuing Justice Department inquiry into the matter. He said he was sympathetic to Jose A. Rodriguez Jr., the former chief of the clandestine branch, who has been described by intelligence officials as having authorized the destruction of the tapes. The former official said he was concerned that Mr. Rodriguez was being unfairly singled out for blame in the destruction of the tapes.

The former official said Mr. Rodriguez decided in November 2005 that he had sufficient authority to destroy the interrogation videos, based on the written authorization given to him from lawyers within the branch, then known as the Directorate of Operations.

The C.I.A. has said that the two interrogations shown in the videotapes occurred in 2002, and that the taping of interrogations stopped that year. On Monday, however, a lawyer representing a former prisoner who said he was held by the C.I.A. said the prisoner saw cameras in interrogation rooms after 2002.

In describing the decision to destroy the tapes, current and former officials said John A. Rizzo, the agency's top lawyer at the time, was not asked for final approval before the tapes were destroyed, although Mr. Rizzo had been involved in discussions for two years about the tapes.

It is unclear what weight an opinion from a lawyer within the clandestine service would have if it were not formally approved by Mr. Rizzo. But the former official said Mr. Rodriguez and others in the clandestine branch believed the legal judgment gave them the blessing to destroy the tapes.

The former official said the leaders of the clandestine service believed they "didn't need to ask Rizzo's permission."

Gen. Michael V. Hayden, the C.I.A. director, is scheduled to appear before a closed session of the Senate Intelligence Committee on Tuesday to answer questions about the tapes' destruction. He has defended the action as having been "done in line with the law," but the destruction has prompted sharp criticism from Republicans and Democrats in Congress.

Officials at the White House and the Central Intelligence Agency were directed over the weekend to preserve any documents related to the destruction of the tapes.

The former intelligence official who described the decision to destroy the tapes said Mr. Rodriguez's primary concern was the safety of C.I.A. agents whose faces could be identified in the tapes. The tapes were destroyed amid growing Congressional and legal scrutiny into the C.I.A.'s detention and interrogation program. ←

Some former C.I.A. officials said they would be very surprised if a lawyer for the Directorate of Operations, or D.O., would give legal approval for such a controversial decision without consulting Mr. Rizzo.

"Although unlikely, it is conceivable that once a C.I.A. officer got the answer he wanted from a D.O. lawyer, he acted on that advice," said John Radsan, who worked as a C.I.A. lawyer between 2002 and 2004 and is now a professor at William Mitchell College of Law in Minnesota. "But a streamlined process like that would have been risky for both the officer and the D.O. lawyer."

Mr. Radsan added, "I'd be surprised that even the chief D.O. lawyer made a decision of that magnitude without bringing the General Counsel's front office into the loop."

In mid-2005, the name of the Directorate of Operations was changed to the National Clandestine Service.

Paul Gimigliano, a C.I.A. spokesman, declined to comment for this article, citing the joint investigation into the matter by the Justice Department and the C.I.A.'s inspector general.

The former prisoner who reported seeing cameras, Muhammad Bashmilah of Yemen, was seized by Jordanian intelligence agents in 2003 and turned over to the C.I.A., according to an investigation by Amnesty International, the human rights advocacy organization. He was flown from Jordan to Afghanistan in October 2003 and held there until April 2004, when he was flown by plane and helicopter to a C.I.A. jail in an unidentified country, Amnesty found. Mr. Bashmilah and two other Yemeni men held with him were flown to Yemen in May 2005 and later released.

Meg Satterthwaite, a director of the International Human Rights Clinic at New York University who is representing Mr. Bashmilah in a lawsuit, said Mr. Bashmilah described cameras both in his cells and in interrogation rooms, some on tripods and some on the wall. She said his descriptions of his imprisonment, in hours of conversation in Yemen and by phone this year, were lucid and detailed.

In a message to C.I.A. employees on Thursday, General Hayden said "videotaping stopped in 2002," after officials "determined that its documentary reporting was full and exacting, removing any need for tapes."

Asked Monday about Mr. Bashmilah's claims, Mr. Gimigliano said he had nothing to add to General Hayden's statement.

In a related legal action, lawyers representing 11 inmates of the American military detention center at Guantánamo Bay, Cuba, filed an emergency motion on Sunday seeking a hearing on whether the government has obeyed a 2005 judge's order to preserve evidence in their case.

The C.I.A.'s destruction of tapes "raises grave concerns about the government's compliance with the preservation order entered by this court," the lawyers, David H. Remes and Marc D. Falkoff, wrote in their motion.

The June 2005 order, signed by Judge Henry H. Kennedy Jr., of the United States District Court in Washington, required the government to "preserve and maintain all evidence and information regarding the torture, mistreatment and abuse of detainees" at Guantánamo.

That preservation order, one of several issued in Guantánamo cases, may be relevant to the C.I.A. videotapes, Mr. Remes said. He noted that the government has said that "a senior Al Qaeda lieutenant" reported seeing one of his Guantánamo clients in Afghanistan, raising the possibility that the statements on the destroyed videotapes may be relevant to his case.

"There is never any justification for destroying materials that any reasonable person would believe might be requested in a civil or criminal proceeding," said Mr. Remes, of the law firm Covington & Burling. "The C.I.A. had every reason to believe the videotapes would be relevant down the road."

CHICAGO TRIBUNE

CIA Waterboarding Details Emerge

By PAMELA HESS

Associated Press Writer

TRANSCOM GHOST DOCS 569

Hayden Tells Panel He Can't Answer Every Question About Tapes

By Dan Eggen and Walter Pincus
Washington Post Staff Writers
Wednesday, December 12, 2007; A04

CIA Director Michael V. Hayden told the Senate intelligence committee in a closed hearing yesterday that he was unable to answer key questions about the destruction of interrogation videotapes because the decisions were made before he worked at the CIA.

Hayden told reporters after the hearing that he had "a chance to lay out the narrative, the history of why the tapes were destroyed."

But because the tapes were made in 2002 under then-CIA Director George J. Tenet and were destroyed in 2005 under another director, former representative Porter J. Goss (R-Fla.), Hayden said he is unable to answer all the panel's questions.

"Other people in the agency know about this far better than I," Hayden said.

Sen. John D. Rockefeller IV (D-W.Va.), the intelligence panel's chairman, told reporters that the hearing was "useful and not yet complete" because of Hayden's inability to supply crucial information, including who authorized the destruction of videotapes and why lawmakers were not told about it sooner, or at all.

Hayden's appearance before the intelligence panel followed his disclosure last week that the CIA had destroyed recordings of the interrogations of suspected al-Qaeda operative Zayn Abidin Muhammed Hussein, commonly known as Abu Zubaida, and another senior captive, identified by intelligence officials as Abd al-Rahim al-Nashiri. Hayden said the destruction was necessary to protect the identities of CIA personnel who appear on the tapes, but many lawmakers and defense attorneys have alleged it was an attempt to cover up illegal torture.

One former senior intelligence official said yesterday that the recordings were contained on older-style videocassettes, rather than modern digital tapes or discs, and that no verbatim transcripts were made. Instead, results of the interrogations were contained in classified summaries, the official said.

Hayden's appearance followed disclosures by a former CIA officer, John Kiriakou, who said that the use of a simulated drowning technique known as waterboarding on Zubaida elicited information that "probably saved lives" but also amounts to torture.

Kiriakou's public remarks prompted Hayden to send a reminder to CIA employees yesterday about the importance of not disclosing classified information, intelligence officials said.

The Justice Department and the CIA inspector general have launched a joint inquiry into whether CIA officials obstructed justice or tampered with evidence by destroying the videotapes after federal courts had ordered the government to preserve materials related to interrogations and when the Sept. 11 commission was seeking information. The House and Senate intelligence committees have announced their own investigations of the tape destruction. Hayden is scheduled to participate in a closed-door hearing before the House panel today.

Attorney General Michael B. Mukasey declined to comment yesterday on the ongoing Justice probe or whether a special prosecutor should be appointed in the case, as was suggested by Senate Majority Leader Harry M. Reid (D-Nev.) and others.

"I think the Justice Department is capable of doing whatever it appears needs to be done," Mukasey said. "The question of a special prosecutor is the most hypothetical of hypotheticals, and that isn't going to be faced until it happens. And if it has to be, it will be."

Mukasey, whose confirmation was nearly undone after he refused to say whether waterboarding is torture, said he is still studying the legal issues.

In a floor speech, Reid said the tape destruction had hurt the country's "moral authority" and said that the "the possibility of obstruction of justice is very real."

Intelligence officials have said that the destruction was ordered in November 2005 by Jose A. Rodriguez Jr., then the CIA's director of clandestine operations, and that CIA lawyers approved the decision. Administration officials have said that Justice Department and White House lawyers, including longtime Bush aide Harriet E. Miers, had recommended against destroying the tapes.

President Bush, echoing previous remarks by his aides, said yesterday that he did not know about the tapes or their destruction until last week. "My first recollection of whether the tapes existed or whether they were destroyed was when Michael Hayden briefed me," Bush said in an interview yesterday with ABC News.

Hayden firmly defended the decision to destroy the tapes in a written message to CIA employees last week, saying that the tapes posed a "serious security risk" and were no longer relevant to any legislative or judicial inquiries.

One administration official said yesterday that Hayden is in a difficult position because "he wasn't at the CIA when the tapes were made, and he wasn't there when they were destroyed; he just gets to clean it up." But the official said that Hayden "thinks it would be less than honorable to throw other people from the CIA, including any predecessors, under a bus."

The disclosure of the destroyed tapes also has led plaintiffs' lawyers and defense attorneys to step up their demands for preservation orders covering interrogation records.

In one case yesterday, the U.S. Circuit Court of Appeals for the District of Columbia ordered the government not to destroy evidence related to the case of Majid Khan, a detainee who was in secret CIA custody for three years and is now at the military prison at Guantanamo Bay, Cuba. Khan's attorneys alleged in a court filing two weeks ago that he was tortured and that they feared evidence of his treatment could be destroyed.

Staff writers Joby Warrick and Josh White and staff researcher Julie Tate contributed to this report.

WASHINGTON POST

Evidence From Waterboarding Could Be Used in Military Trials

By Josh White
Washington Post Staff Writer
Wednesday, December 12, 2007; A04

The top legal adviser for the military trials of Guantanamo Bay detainees told Congress yesterday that he cannot rule out the use of evidence derived from the CIA's aggressive interrogation techniques, including waterboarding, a tactic that simulates drowning.

Air Force Brig. Gen. Thomas W. Hartmann, who oversees the prosecutors who will try the detainees at military commissions, said that while "torture" is illegal, he cannot say whether waterboarding violates the law. Nor would he say that such evidence would be barred at trial.

"If the evidence is reliable and probative, and the judge concludes that it is in the best interest of justice to introduce that evidence, ma'am, those are the rules we will follow," Hartmann said in response to questions from Sen. Dianne Feinstein (D-Calif.), at a Senate Judiciary subcommittee hearing.

Hartmann also declined to say that waterboarding would be illegal if used by another country on U.S. forces, drawing expressions of concern from Sen. Lindsey O. Graham (R-S.C.). Graham has advocated that techniques used by all U.S. agencies conform to the Geneva Conventions, which prohibit cruel, inhuman or degrading tactics.

Hartmann's testimony came amid broad discussion of the use of waterboarding on at least three important terrorist suspects who were taken into secret CIA custody after the Sept. 11, 2001, attacks. The CIA announced last week that it destroyed videotapes in 2005 that depicted the use of harsh interrogation tactics on two detainees, arguing that the move was made to protect personnel visible on the recordings.

Hartmann's testimony conflicted with the views of the former military commissions chief prosecutor, who resigned in October after concluding that the process had become too

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Hartmann's testimony conflicted with the views of the former military commissions chief prosecutor, who resigned in October after concluding that the process had become too

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politicized. In recent interviews, Air Force Col. Morris Davis said he categorically rejected the idea of using any evidence derived from waterboarding because he believes that the technique produces unreliable information. Davis was invited to testify at yesterday's hearing, but the Defense Department ordered him not to attend.

In September 2005, just days after Davis took the job as lead prosecutor, he told his team of about two dozen prosecutors and analysts that they probably would run across evidence that resulted from waterboarding and wanted to make it clear that it would never be presented in a courtroom.

"In my opinion, evidence derived by waterboarding is not reliable, and I took it off the table," Davis said. "I think the vast majority of people were relieved. By and large, most everybody involved in the process, the whole team, was really committed to trying to do this in a way that wasn't an embarrassment to the country."

Davis said he does not have an opinion about the effectiveness of waterboarding as an intelligence-gathering method. But, he said, because it produces questionable information, it should not be used in a court of law.

Prosecutors, who plan to present between 80 and 90 cases, have reviewed evidence on dozens of Guantanamo detainees and concluded, according to Davis, that waterboarding was used on only "a handful" of them. Declining to discuss classified information, he said it is very clear in the intelligence reporting which techniques were used on each detainee and what kind of information was elicited from them.

"Whatever method was employed would be clearly spelled out," Davis said. "There were things that I read that I thought were wrong, that if the shoe were on the other foot, that if it was one of our guys being subjected to it, we'd be pitching a fit.

"If we saw Saddam Hussein doing waterboarding to one of our guys, we'd be planning the mission to do something about it," he said.

After yesterday's hearing, Graham, a reserve Air Force lawyer, said he believes Davis is right and that "no military judge would ever entertain the idea of allowing evidence from waterboarding."

Charles D. "Cully" Stimson, a former deputy assistant secretary of defense for detainee affairs, said he suspects that some of the information derived from waterboarding must be reliable or the CIA would not use it. But Stimson said he would never use such information in a courtroom.

"If I were the prosecutor, I would not be putting in any statements educed by waterboarding," said Stimson, a longtime prosecutor and military lawyer who is now at the Heritage Foundation. "It offends my sense of what's right and wrong."

NEW YORK TIMES

TRANSCOM GHOST DOCS 574

The court hearing in the Guantánamo case, set for Friday in Washington by District Judge Henry H. Kennedy Jr. over the government's objections, will be the first public forum in which officials submit to questioning about the tapes' destruction.

There is no publicly known connection between the 16 plaintiffs — 14 Yemenis, an Algerian and a Pakistani — and the C.I.A. videotapes. But lawyers in several Guantánamo cases contend that the government may have used information from the C.I.A. interrogations to identify their clients as "unlawful combatants" and hold them at Guantánamo for as long as six years.

"We hope to establish a procedure to review the government's handling of evidence in our case," said David H. Remes, a lawyer representing the 16 detainees.

Jonathan Hafetz, who represents a Qatari prisoner at Guantánamo and filed a motion on Tuesday seeking a separate hearing, said the videotapes could well be relevant.

"If the government is relying on the statement of a witness under harsh interrogation, a videotape of the interrogation would be very relevant," said Mr. Hafetz, of the Brennan Center for Justice at New York University law school.

In addition to the Guantánamo court filings, the American Civil Liberties Union has asked a federal judge to hold the C.I.A. in contempt of court for destroying the tapes. The A.C.L.U. says the destruction violated orders in a Freedom of Information Act case brought by several advocacy groups seeking materials related to detention and interrogation.

David Johnston contributed reporting.

NEW YORK TIMES

December 19, 2007

Picture of Secret Detentions Emerges in Pakistan

By CARLOTTA GALL

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ISLAMABAD, Pakistan — Pakistan's military and intelligence agencies, apparently trying to avoid acknowledging an elaborate secret detention system, have quietly set free nearly 100 men suspected of links to terrorism, few of whom were charged, human rights groups and lawyers here say.

Those released, they say, are some of the nearly 500 Pakistanis presumed to have disappeared into the hands of the Pakistani intelligence agencies cooperating with Washington's fight against terrorism since 2001.

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No official reason has been given for the releases, but as pressure has mounted to bring the cases into the courts, the government has decided to jettison some suspects and spare itself the embarrassment of having to reveal that people have been held on flimsy evidence in the secret system, its opponents say.

Interviews with lawyers and human rights officials here, a review of cases by The New York Times and court records made available by the lawyers show how scraps of information have accumulated over recent months into a body of evidence of the detention system.

In one case, a suspect tied to, but not charged with the 2002 killing of Daniel Pearl, the American journalist, was dumped on a garbage heap, so thin and ill he died 20 days later. He, like one other detainee, was arrested in South Africa several years ago and released in Pakistan this year.

The Pakistani government denies detaining people illegally and says that many of the missing are actually in regular jails on criminal charges, while other cases have been fabricated.

In at least two instances, detainees were handed over to the United States without any legal extradition proceedings, Pakistani lawyers and human rights groups say. American officials here and in Washington refused to comment on the cases.

“They are releasing them because these cases are being made public,” said Shaukat Aziz Siddiqui, a lawyer working at the Supreme Court who has taken many cases of the missing. “They want to avoid the publicity.”

In addition, human rights groups and lawyers here contend, the government has swept up at least 4,000 other Pakistanis, most of them Baluchi and Sindhi nationalists seeking ethnic or regional autonomy who have nothing to do with the United States campaign against terrorism.

Human rights groups and lawyers describe the disappearances as one of the grimmest aspects of Pervez Musharraf's presidency, and one that shows no sign of slowing.

Under previous governments, “there were one or two cases, but not the systematic disappearances by the intelligence agencies under Musharraf,” said Iqbal Haider, secretary general of the Human Rights Commission of Pakistan, an independent nonprofit organization.

The issue of the missing became one of the most contentious between President Musharraf and the Supreme Court under its former chief justice, Ifikhar Muhammad Chaudhry.

The releases are particularly galling to lawyers here because as one justification for imposing emergency rule on Nov. 3, President Musharraf accused the courts of freeing

terrorism suspects. That decree was lifted Saturday, but the former chief justice and other judges were dismissed and remain in detention. The Supreme Court hearings on the missing have been halted.

While Mr. Musharraf criticized the court as being soft on terrorists, court records show that Mr. Chaudhry was less interested in releasing terrorism suspects than in making sure their cases entered the court system.

He said at each hearing that his primary concern was for the families of the missing, who were suffering anguish not knowing where their loved ones were.

His main aim was to regularize the detention of the missing, not to free them, Mr. Siddiqui said. "Not a single person who was convicted was released on the Supreme Court's order," he said.

Detainees have been warned on their release not to speak to anyone about their detention, yet fragments of their experiences have filtered out through relatives and their lawyers. A few even appeared in court and told their stories, and it became increasingly clear that the "disappeared" men had in fact been held in military or intelligence agency cells around the country, often for several years without being charged.

Still, the government denies detaining people illegally or torturing them. Brig. Javed Iqbal Cheema, a spokesman for the Interior Ministry and leader of the national crisis management cell that deals with terrorism, said many of the men said to be missing had been found in jails or police cells and had been charged with crimes.

Others, he said, may have gone to the hills or to Afghanistan to fight and died there. Still others, he suggested, were fabricated. "Let me assure you that there's a lot of politics going on into the missing persons also," he said.

Critics say abuses continue. The director of the human rights commission, I. A. Rehman, said the government had set up a nearly invisible detention system. "There are safe houses in Islamabad where people are kept," he said, citing accounts from the police and freed detainees. "Police have admitted this. Flats are taken on rent; property is seized; people are tortured there."

In some cases, detainees recounted that they had been interrogated in the presence of English-speaking foreigners, who human rights officials and lawyers suspect are Americans.

A United States Embassy spokeswoman said she could not comment on the allegations and referred all questions to Washington. A spokesman for the Central Intelligence Agency, Mark Mansfield, declined to comment on Mr. Rehman's accusations, or on any specific detainees.

One detainee, a Jordanian named Marwan Ibrahim, who was arrested in a raid in the city of Lahore, where he had been living for 10 years, said he was sent to a detention center in Afghanistan run by Americans, then to Jordan and Israel, and was finally released in Gaza, according to an account Mr. Ibrahim gave to Human Rights Watch.

Another detainee, Majid Khan, 27, a Pakistani computer engineer who disappeared from Karachi four years ago, surfaced April 15 this year before a military tribunal in Guantánamo Bay. His American lawyers say he was subjected to torture in C.I.A. detention in a secret location. Mr. Mansfield, the C.I.A. spokesman, declined to comment, except to say that the "C.I.A.'s terrorist interrogation effort has always been small, carefully run, lawful, and highly productive."

"Fewer than 100 hardened terrorists have gone through the program since it began in 2002," he added, "and, of those, less than a third required any enhanced interrogation measures."

As more and more such accounts have come to light, President Musharraf has fought vigorously to keep the details of Pakistan's secret detentions hidden.

A week into emergency rule, he passed a decree amending the 1952 Army Act to allow civilians to be tried by military tribunals for general offenses. The tribunals are closed to the public and offer no right of appeal.

The amendment was made retroactive to January 2003. Mr. Haider of the human rights commission said the amendment was to cover the illegal detentions by the intelligence agencies. "These agencies have gone berserk, and President Musharraf is legitimizing their acts," he said.

Brigadier Cheema, the Interior Ministry spokesman, acknowledged that prosecutors and investigators had had difficulty pinning crimes on detainees. Hundreds of people in Guantánamo have not been charged either, he pointed out. The Army Act amendment would resolve much of the problem, he said.

"Sometimes it becomes difficult to prove a case, but you have reasons that a person poses a threat to humanity and to society," he said.

The intervention of the Supreme Court under Mr. Chaudhry was undoubtedly exposing this system of secret detentions.

He first took up the cases of the missing in 2006, demanding that the government trace the detainees and account for them.

His steady requests for information from senior police, Interior Ministry and military officials in court helped to trace nearly 100 detainees. Most of those were subsequently released without charges.

"This was very embarrassing to the government because the people who were supposed to be found and released, they told all their stories," said Mr. Rehman of the human rights commission.

Amina Masood Janjua, who has led a campaign to trace the missing, first learned about news of her husband, who disappeared in July 2005, from a written account by another detainee. Later the detainee, Imran Munir, was produced in court and told her he had been held in the military base at Chaklala, in Rawalpindi, south of the capital, and saw her husband in another cell.

Another detainee, Hafiz Muhammad Tahir, was brought before the court and told the judges he had been ordered by the police to give a false account of his detention and charges against him, Mrs. Janjua said. In fact he had been held secretly for three years without charge. The chief justice ordered him to be freed, and he was released the same day.

But only four or five detainees ever appeared before the Supreme Court. Most of the 100 detainees released this year have been freed surreptitiously by the police and intelligence agencies, lawyers and human rights officials said. "They cannot admit that they had these people because they have no charges against them, no documentation," Mrs. Janjua said.

One such detainee, Saud Memon, was dumped on a garbage heap, she said. Mr. Memon owned a plot of land where Mr. Pearl, the American journalist, was beheaded in 2002. Citing witness accounts from Pakistani investigators, The Wall Street Journal, Mr. Pearl's employer, reported recently that Mr. Memon had driven three men who were the killers to the site.

Mr. Memon was picked up in South Africa in March 2003, his family said, and later brought to Pakistan and held by intelligence agencies. His brother, Mahmood, said the family learned only this year from another detainee who had been released that Mr. Memon was in Pakistan.

Mr. Memon was dumped near his home in April, so thin and ill that he never recognized his wife and children, and died within three weeks. Yet he was never charged and the Pakistani government never acknowledged holding him.

Mr. Mansfield of the C.I.A. declined to comment on Mr. Memon's case, saying, "The C.I.A. does not, as a rule, comment on allegations regarding who has, or has not, been in its custody."

Salman Masood contributed reporting from Islamabad and Eric Schmitt from Washington.

LOS ANGELES TIMES

OPINION:

TRANSCOM GHOST DOCS 579

"It might be the better practice to keep those, in any event, given the nature of the interests at stake, in terms of the subject matter that was on the tapes," Filip said.

But Filip also echoed the remarks of his potential boss, Attorney General Michael B. Mukasey, by refusing to say whether waterboarding amounts to illegal torture.

Staff writer Dan Eggen contributed to this report.

WASHINGTON POST

CIA Seeks Investigation Of Ex-Officer's Claims

Waterboarding Statements Raise Concern

By Peter Baker and Joby Warrick
Washington Post Staff Writers
Friday, December 21, 2007; A03

The CIA has asked the Justice Department to investigate whether a former agency officer illegally disclosed classified information in describing the capture and waterboarding of an al-Qaeda terrorism suspect, officials said yesterday.

In interviews last week with The Washington Post and other news organizations, former CIA officer John Kiriakou discussed details of the capture of Zayn al-Abidin Muhammed Hussein alleging that he resisted cooperating with interrogators until he was subjected to waterboarding, which makes a captive believe he is being drowned.

Kiriakou, who participated in the capture of the man commonly known as Abu Zubaida in Pakistan in March 2002, said he did not see the waterboarding but was given details by others who were there. He said waterboarding was effective in Abu Zubaida's case, though Kiriakou now regards the technique as torture.

Kiriakou's attorney, Mark Zaid, a Washington lawyer whose clients include former CIA employees, said the CIA routinely refers such cases to the Justice Department, though only rarely do the referrals result in criminal charges.

"If they do pursue it, they will open a Pandora's box that will put the spotlight on whether the interrogations were lawful, and the extent to which they have been fully revealed by federal officials," Zaid said in an interview.

News of the investigation came amid continuing controversy over the CIA's destruction of videotapes, which recorded interrogations of Abu Zubaida and another CIA prisoner. The CIA disclosed earlier this month that videotapes were destroyed in 2005, and the Justice Department and CIA inspector general have launched a preliminary inquiry.

President Bush yesterday declined to say whether he thinks the CIA acted responsibly by destroying the tapes, while a House committee accelerated its own investigation of the episode and subpoenaed the CIA official who reportedly ordered the destruction.

"I'm going to reserve judgment until I find out the full facts," Bush said. Noting the multiple investigations now opened, he added: "Until these inquiries are complete, until the oversights are finished, then I will be rendering no opinion from the podium."

Bush's remarks came as sources disclosed that another government lawyer argued strongly against destroying the tapes. Scott Muller, who was appointed CIA general counsel in 2002, was the agency's top legal expert when White House officials were receiving initial briefings about the existence of the tapes, and he opposed their destruction until his departure in late 2004, two officials familiar with the discussions said yesterday.

CIA Director Michael V. Hayden told lawmakers privately last week that three White House lawyers also urged the agency to be "cautious" about destroying the tapes, said sources familiar with the classified testimony. Another source said that a fourth White House lawyer, Bush's friend Harriet E. Miers, followed up with similar advice in 2005.

The House intelligence committee also moved yesterday to dig deeper into what happened to the tapes. Chairman Silvestre Reyes (D-Tex.) said the panel subpoenaed Jose A. Rodriguez Jr., the CIA's former director of operations, who is said to have made the decision to destroy the tapes.

The panel was talking with CIA officials to secure testimony from John A. Rizzo, the CIA's current general counsel. The committee also wants to hear from four other CIA lawyers -- Steven Hermes, Robert J. Eathing, Elizabeth Voigt and John McPherson -- as well as the unidentified CIA officials in charge of the secret overseas prison where the interrogations took place. Also in the panel's sights are Muller, former CIA directors George J. Tenet and Porter J. Goss, and James L. Pavitt, former deputy director of operations.

Staff writer Dan Eggen contributed to this report.

NEW YORK TIMES

December 30, 2007

Tapes by C.I.A. Lived and Died to Save Image

By SCOTT SHANE and MARK MAZZETTI

TRANSCOM GHOST DOCS 581

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Staff writer Dan Eggen contributed to this report.

NEW YORK TIMES

December 30, 2007

Tapes by C.I.A. Lived and Died to Save Image

By SCOTT SHANE and MARK MAZZETTI

TRANSCOM GHOST DOCS 582

WASHINGTON — If Abu Zubaydah, a senior operative of Al Qaeda, died in American hands, Central Intelligence Agency officers pursuing the terrorist group knew that much of the world would believe they had killed him.

So in the spring of 2002, even as the intelligence officers flew in a surgeon from Johns Hopkins Hospital to treat Abu Zubaydah, who had been shot three times during his capture in Pakistan, they set up video cameras to record his every moment: asleep in his cell, having his bandages changed, being interrogated.

In fact, current and former intelligence officials say, the agency's every action in the prolonged drama of the interrogation videotapes was prompted in part by worry about how its conduct might be perceived — by Congress, by prosecutors, by the American public and by Muslims worldwide.

That worry drove the decision to begin taping interrogations — and to stop taping just months later, after the treatment of prisoners began to include waterboarding. And it fueled the nearly three-year campaign by the agency's clandestine service for permission to destroy the tapes, culminating in a November 2005 destruction order from the service's director, Jose A. Rodriguez Jr.

Now, the disclosure of the tapes and their destruction in 2005 have become just the public spectacle the agency had sought to avoid. To the already fierce controversy over whether the Bush administration authorized torture has been added the specter of a cover-up.

The Justice Department, the C.I.A.'s inspector general and Congress are investigating whether any official lied about the tapes or broke the law by destroying them. Still in dispute is whether any White House official encouraged their destruction and whether the C.I.A. deliberately hid them from the national Sept. 11 commission.

But interviews with two dozen current and former officials, most of whom would speak about the classified program only on the condition of anonymity, revealed new details about why the tapes were made and then eliminated. Their accounts show how political and legal considerations competed with intelligence concerns in the handling of the tapes.

The discussion about the tapes took place in Congressional briefings and secret deliberations among top White House lawyers, including a meeting in May 2004 just days after photographs of abuse at Abu Ghraib prison in Iraq had reminded the administration of the power of such images. The debate stretched over the tenure of two C.I.A. chiefs and became entangled in a feud between the agency's top lawyers and its inspector general. The tapes documented a program so closely guarded that President Bush himself had agreed with the advice of intelligence officials that he not be told the locations of the secret C.I.A. prisons. Had there been no political or security considerations, videotaping every interrogation and preserving the tapes would make sense, according to several intelligence officials.

"You couldn't have more than one or two analysts in the room," said A. B. Krongard, the C.I.A.'s No. 3 official at the time the interrogations were taped. "You want people with spectacular language skills to watch the tapes. You want your top Al Qaeda experts to watch the tapes. You want psychologists to watch the tapes. You want interrogators in training to watch the tapes."

Given such advantages, why was the taping stopped by the end of 2002, less than a year after it started?

"By that time," Mr. Krongard said, "paranoia was setting in."

The Decision to Tape

By several accounts, the decision to begin taping Abu Zubaydah and another detainee suspected of being a Qaeda operative, Abd al-Rahim al-Nashiri, was made in the field, with several goals in mind.

First, there was Abu Zubaydah's precarious condition. "There was concern that we needed to have this all documented in case he should expire from his injuries," recalled one former intelligence official.

Just as important was the fact that for many years the C.I.A. had rarely conducted even standard interrogations, let alone ones involving physical pressure, so officials wanted to track closely the use of legally fraught interrogation methods. And there was interest in capturing all the information to be gleaned from a rare resource — direct testimony from those who had attacked the United States.

But just months later, the taping was stopped. Some field officers had never liked the idea. "If you're a case officer, the last thing you want is someone in Washington second-guessing everything you did," said one former agency veteran.

More significant, interrogations of Abu Zubaydah had gotten rougher, with each new tactic approved by cable from headquarters. American officials have said that Abu Zubaydah was the first Qaeda prisoner to be waterboarded, a procedure during which water is poured over the prisoner's mouth and nose to create a feeling of drowning. Officials said they felt they could not risk a public leak of a videotape showing Americans giving such harsh treatment to bound prisoners.

Heightening the worries about the tapes was word of the first deaths of prisoners in American custody. In November 2002, an Afghan man froze to death overnight while chained in a cell at a C.I.A. site in Afghanistan, north of Kabul, the capital. Two more prisoners died in December 2002 in American military custody at Bagram Air Base in Afghanistan.

By late 2002, interrogators were recycling videotapes, preserving only two days of tapes before recording over them, one C.I.A. officer said. Finally, senior agency officials decided that written summaries of prisoners' answers would suffice.

Still, that decision left hundreds of hours of videotape of the two Qaeda figures locked in an overseas safe.

Clandestine service officers who had overseen the interrogations began pushing hard to destroy the tapes. But George J. Tenet, then the director of central intelligence, was wary, in part because the agency's top lawyer, Scott W. Muller, advised against it, current and former officials said.

Yet agency officials decided to float the idea of eliminating the tapes on Capitol Hill, hoping for political cover. In February 2003, Mr. Muller told members of the House and Senate oversight committees about the C.I.A.'s interest in destroying the tapes for security reasons.

But both Porter J. Goss, then a Republican congressman from Florida and the chairman of the House Intelligence Committee, and Representative Jane Harman of California, the ranking Democrat, thought destroying the tapes would be legally and politically risky. C.I.A. officials did not press the matter.

The Detention Program

Scrutiny of the C.I.A.'s secret detention program kept building. Later in 2003, the agency's inspector general, John L. Helgerson, began investigating the program, and some insiders believed the inquiry might end with criminal charges for abusive interrogations.

Mr. Helgerson — now conducting the videotapes review with the Justice Department — had already rankled covert officers with an investigation into the 2001 shooting down of a missionary plane by Peruvian military officers advised by the C.I.A. The investigation set off widespread concern within the clandestine branch that a day of reckoning could be coming for officers involved in the agency's secret prison program. The Peru investigation often pitted Mr. Helgerson against Mr. Muller, who vigorously defended members of the clandestine branch and even lobbied the Justice Department to head off criminal charges in the matter, according to former intelligence officials

"Muller wanted to show the clandestine branch that he was looking out for them," said John Radsan, who served as an assistant general counsel for the C.I.A. from 2002 to 2004. "And his aggressiveness on Peru was meant to prove to the operations people that they were protected on a lot of other programs, too."

Mr. Helgerson completed his investigation of interrogations in April 2004, according to one person briefed on the still-secret report, which concluded that some of the C.I.A.'s techniques appeared to constitute cruel, inhuman and degrading treatment under the

international Convention Against Torture. Current and former officials said the report did not explicitly state that the methods were torture.

A month later, as the administration reeled from the Abu Ghraib disclosures, Mr. Muller, the agency general counsel, met to discuss the report with three senior lawyers at the White House: Alberto R. Gonzales, the White House counsel; David S. Addington, legal adviser for Vice President Dick Cheney; and John B. Bellinger III, the top lawyer at the National Security Council.

The interrogation tapes were discussed at the meeting, and one Bush administration official said that, according to notes of the discussion, Mr. Bellinger advised the C.I.A. against destroying the tapes. The positions Mr. Gonzales and Mr. Addington took are unknown. One person familiar with the discussion said that in light of concerns raised in the inspector general's report that agency officers could be legally liable for harsh interrogations, there was a view at the time among some administration lawyers that the tapes should be preserved.

Looking for Guidance

After Mr. Tenet and Mr. Muller left the C.I.A. in mid-2004, Mr. Rodriguez and other officials from the clandestine branch decided again to take up the tapes with the new chief at Langley, Mr. Goss, the former congressman.

Mr. Rodriguez had taken over the clandestine directorate in late 2004, and colleagues say Mr. Goss repeatedly emphasized to Mr. Rodriguez that he was expected to run operations without clearing every decision with superiors:

During a meeting in Mr. Goss's office with Mr. Rodriguez, John A. Rizzo, who by then had replaced Mr. Muller as the agency's top lawyer, told the new C.I.A. director that the clandestine branch wanted a firm decision about what to do with the tapes.

According to two people close to Mr. Goss, he advised against destroying the tapes, as he had in Congress, and told Mr. Rizzo and Mr. Rodriguez that he thought the tapes should be preserved at the overseas location. Apparently he did not explicitly prohibit the tapes' destruction.

Yet in November 2005, Congress already was moving to outlaw "cruel, inhuman and degrading" treatment of prisoners, and The Washington Post reported that some C.I.A. prisoners were being held in Eastern Europe. As the agency scrambled to move the prisoners to new locations, Mr. Rodriguez and his aides decided to use their own authority to destroy the tapes, officials said.

One official who has spoken with Mr. Rodriguez said Mr. Rodriguez and his aides were concerned about protection of the C.I.A. officers on the tapes, from Al Qaeda, as the C.I.A. has stated, and from political pressure.

The tapes might visually identify as many as five or six people present for each interrogation — interrogators themselves, whom the agency now prefers to call “debriefers”; doctors or doctor’s assistants who monitored the prisoner’s medical state; and security officers, the official said. Some traveled regularly in and out of areas where Al Qaeda and other Islamist extremists are active, he said.

Apart from concerns about physical safety in the event of a leak, the official said, there was concern for the careers of officers shown on the tapes. “We didn’t want them to become political scapegoats,” he said.

According to several current and former officials, lawyers in the agency’s clandestine branch gave Mr. Rodriguez written guidance that he had the authority to destroy the tapes and that such a move would not be illegal.

One day in November 2005, Mr. Rodriguez sent a cable ordering the destruction of the recordings. Soon afterward, he notified both Mr. Goss and Mr. Rizzo, taking full responsibility for the decision.

Former intelligence officials said that Mr. Goss was unhappy about the news, in part because it was further evidence that as the C.I.A. director he was so weakened that his subordinates would directly reject his advice. Yet it appears that Mr. Rodriguez was never reprimanded. Nor is there evidence that Mr. Goss promptly notified Congress that the tapes were gone.

The investigations over the tapes frustrate some C.I.A. veterans, who say they believe that the agency is being unfairly blamed for policies of coercive interrogation approved at the top of the Bush administration and by some Congressional leaders. Intelligence officers are divided over the use of such methods as waterboarding. Some say the methods helped get information that prevented terrorist attacks. Others, like John C. Gannon, a former C.I.A. deputy director, say it was a tragic mistake for the administration to approve such methods.

Mr. Gannon said he thought the tapes became such an issue because they would have settled the legal debate over the harsh methods.

“To a spectator it would look like torture,” he said. “And torture is wrong.”

NEW YORK TIMES

OPINION:

January 2, 2008
Op-Ed Contributors

Stonewalled by the C.I.A.

TRANSCOM GHOST DOCS 587

on certain lines of questioning; the context of the interrogations so we could assess the credibility and demeanor of the detainees when they made the reported statements; and the views or assessments of the interrogators themselves.

The general counsel responded in writing with non-specific replies. The agency did not disclose that any interrogations had ever been recorded or that it had held any further relevant information, in any form. Not satisfied with this response, we decided that we needed to question the detainees directly, including Abu Zubaydah and a few other key captives.

In a lunch meeting on Dec. 23, 2003, George Tenet, the C.I.A. director, told us point blank that we would have no such access. During the meeting, we emphasized to him that the C.I.A. should provide any documents responsive to our requests, even if the commission had not specifically asked for them. Mr. Tenet replied by alluding to several documents he thought would be helpful to us, but neither he, nor anyone else in the meeting, mentioned videotapes.

A meeting on Jan. 21, 2004, with Mr. Tenet, the White House counsel, the secretary of defense and a representative from the Justice Department also resulted in the denial of commission access to the detainees. Once again, videotapes were not mentioned.

As a result of this January meeting, the C.I.A. agreed to pose some of our questions to detainees and report back to us. The commission concluded this was all the administration could give us. But the commission never felt that its earlier questions had been satisfactorily answered. So the public would be aware of our concerns, we highlighted our caveats on page 146 in the commission report.

As a legal matter, it is not up to us to examine the C.I.A.'s failure to disclose the existence of these tapes. That is for others. What we do know is that government officials decided not to inform a lawfully constituted body, created by Congress and the president, to investigate one of the greatest tragedies to confront this country. We call that obstruction.

Thomas H. Kean and Lee H. Hamilton served as chairman and vice chairman, respectively, of the 9/11 commission.

WASHINGTON POST

Criminal Probe on CIA Tapes Opened

Case Assigned to Career Prosecutor

By Dan Eggen and Joby Warrick
Washington Post Staff Writers
Thursday, January 3, 2008; A01

The Justice Department said yesterday that it has opened a formal criminal investigation into the CIA's destruction of interrogation tapes, appointing a career prosecutor to

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examine whether intelligence officials broke the law by destroying videos of exceptionally harsh questioning of terrorism suspects.

The criminal probe, announced by Attorney General Michael B. Mukasey, significantly escalates a preliminary inquiry into whether the CIA's actions constituted an obstruction of justice. Officials have said that some White House and Justice Department lawyers advised the CIA not to destroy the tapes, which contained information of interest to the attorneys of detainees and to a congressionally chartered panel examining the Sept. 11, 2001, terrorist attacks.

The decision opens the door to fresh scrutiny of the CIA's activities by the FBI, which clashed repeatedly with CIA field officers over the use of the harsh interrogation techniques and ultimately withdrew its own agents from interrogations to avoid entanglement in activities that senior FBI officials considered improper.

To oversee the probe, Mukasey appointed John Durham, a career federal prosecutor from Connecticut, bypassing the department's Washington headquarters and the local U.S. attorney's office in Alexandria, which recused itself from the case.

"Following a preliminary inquiry into the destruction by CIA personnel of videotapes of detainee interrogations, the Department's National Security Division has recommended, and I have concluded, that there is a basis for initiating a criminal investigation of this matter," Mukasey said in a statement. He cautioned that "the opening of an investigation does not mean that criminal charges will necessarily follow."

The department said on Dec. 8 that it began a preliminary inquiry after the CIA's disclosure that its officers had destroyed videotapes of the interrogations of two senior al-Qaeda suspects in 2002. The CIA said Jose Rodriguez Jr., then the agency's director of clandestine operations, ordered the tapes' destruction, acting out of what agency officials initially said was concern that CIA interrogators could be at risk of terrorist retaliation.

Some former CIA officials later said that the destruction, which came shortly after The Washington Post disclosed the existence of secret CIA interrogation sites in Europe and elsewhere, was also prompted by concern that the interrogators could be at risk of prosecution.

Mukasey's decision was supported by some members of Congress, which has launched its own investigation of the matter. But House Judiciary Committee Chairman John Conyers Jr. (D-Mich.) criticized the probe over its "limited scope" and advocated the appointment of "a more independent special counsel."

"Nothing less than a special counsel with a full investigative mandate will meet the tests of independence, transparency and completeness," Conyers said in a statement.

Durham, who will lead the probe, is second-in-command at the U.S. attorney's office in Connecticut but will serve as an acting U.S. attorney and report to Craig Morford, the

acting deputy attorney general and a former career prosecutor. Mukasey described Durham as "a widely respected and experienced career prosecutor who has supervised a wide range of complex investigations in the past."

Durham is well known as a publicity-averse specialist in organized crime cases. Former attorney general Janet Reno named him as a special prosecutor in the investigation of allegations that FBI agents and police officers in Boston had ties to Mafia informants, resulting in the 2002 racketeering conviction of one of the FBI agents. He is a registered Republican, according to Connecticut voter records.

Mukasey did not indicate in his statement whether he or any of his aides will recuse themselves from the probe. Democratic lawmakers have urged him to do so because some Justice Department lawyers had advised the CIA not to destroy the tapes.

Leaders of the House and Senate intelligence committees vowed to continue their separate inquiries, including a hearing on Jan. 16 at which they plan to grill Rodriguez. Various committee members have accused the CIA of not properly informing them about how the tapes came to be made and, later, destroyed, despite CIA statements to the contrary.

"Those tapes may have been evidence of a crime, and their destruction may have been a crime in itself," said Sen. Edward M. Kennedy (D-Mass.) in a statement yesterday. Jamal D. Ware, a senior member of the Republican staff of the House intelligence committee, said he supports the criminal probe, "given the failure to keep Congress fully and currently informed of the existence and destruction of these tapes and the apparent attempt to mislead the public about what the committee knew of the matter."

The CIA issued a statement promising to "cooperate fully with this investigation," which senior officials had expected. "Everyone understood this would not end with the preliminary inquiry," said one U.S. official familiar with the agency's decision-making.

A former senior intelligence official saw some benefit in the decision to appoint someone from outside Washington to head the probe. "It's not a bad idea to try to depoliticize the investigation — to insulate the department as much as possible from the kind of political turmoil we often see in this town," the former official said, referring to the Justice Department.

Several officials said that the FBI has not been deeply involved in the tapes probe and that the decision to pursue a full-scale investigation was made by senior Justice Department officials, based on a finding by prosecutors in the National Security Division that evidence suggests criminal violations may have occurred.

The precise reason for the finding and the names of those targeted by the probe could not be learned yesterday.

Although the tapes in question were not provided to any court or to the members of the government-appointed 9/11 Commission, they were evidently seen by CIA Inspector General John L. Helgerson, who disclosed in a statement yesterday that he plans to recuse himself from the criminal inquiry to avoid a conflict of interest.

Helgerson said he and his staff "reviewed the tapes at issue some years ago," when agency officials were debating whether to destroy them. "During the coming weeks I anticipate describing fully the actions I and my office took on this matter to investigators from the executive and legislative branches," Helgerson said.

A Justice Department official, who spoke about internal deliberations on the condition of anonymity, said the U.S. attorney's office in Alexandria had recused itself to "err on the side of caution." Several cases handled by that office, including the prosecution and conviction of al-Qaeda operative Zacarias Moussaoui, involved CIA interrogations, possibly including those that had been videotaped.

Staff writer John Solomon and staff researcher Julie Tate contributed to this report.

WASHINGTON POST

Probe Leader Called A Tough Prosecutor

Durham Handled Corruption, Mafia Cases

By Dafna Linzer
Washington Post Staff Writer
Thursday, January 3, 2008; A06

John H. Durham, who was appointed yesterday to lead a criminal probe into the destruction of the CIA's interrogation tapes, oversaw corruption charges against a Republican governor in Connecticut, put away FBI agents in Boston and prosecuted many of New England's Mafia bosses.

Former colleagues said the deputy U.S. attorney is known for seeking maximum sentences, shunning plea bargains and avoiding the spotlight. Four friends said they could not recall him losing a case in more than 30 years as a prosecutor, almost all of it spent fighting organized crime and gang violence in Connecticut.

Two former prosecutors and a Justice Department official said that Durham, 57, was recommended for his assignment by his former boss, Kevin O'Conner, who was the U.S. attorney in Connecticut until he became an assistant to Alberto R. Gonzales shortly before Gonzales resigned last year. O'Conner is awaiting confirmation as an associate attorney general.

Durham, a career prosecutor and registered Republican, has served as the No. 2 to four U.S. attorneys in Connecticut -- two Democrats and two Republicans. Friends describe

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elevated the probe from a preliminary inquiry to a criminal investigation, suggesting that prosecutors in the department's National Security Division, which jointly looked into the matter with the CIA inspector general, had found enough evidence of possible wrongdoing to warrant heightened scrutiny. The tapes, recorded during 2002 and destroyed in 2005, may have shown detainees being subjected to torture techniques such as waterboarding, or simulated drowning.

The CIA matter normally would be handled by the U.S. attorney for the Eastern District of Virginia -- the federal prosecutor's office in the jurisdiction where the CIA is based. Out of an "abundance of caution" to avoid even the appearance of a too-cozy relationship between prosecutor and subject, Mr. Mukasey wisely turned to John H. Durham, a veteran prosecutor based in Connecticut with an impressive track record on tough cases. Mr. Durham has worked since 1982 as a federal prosecutor, earning plaudits from Republican and Democratic administrations alike. In 1999, he made headlines as the head of a massive corruption investigation into organized crime ties to the Boston police force that led, among other things, to the conviction of a former star FBI agent on charges that he helped protect Mafia figures.

Also yesterday, CIA Director Michael V. Hayden and Inspector General John L. Helgerson announced that they would recuse themselves from involvement in investigating the tapes' destruction. This was an appropriate step, particularly on the part of Mr. Helgerson, who has said he and his staff reviewed the tapes.

Numerous pitfalls remain. Congress is proceeding with its own investigations. While parallel congressional and executive branch investigations are not uncommon, they almost always present hazards. Congressional grants of immunity in exchange for testimony could undermine a criminal prosecution. Public testimony opens the door for witnesses to align their stories. In this case, the House intelligence committee has subpoenaed Jose A. Rodriguez Jr., the CIA official who reportedly authorized the tapes' destruction, for a Jan. 16 hearing. Congress without question has a legitimate oversight interest, but it should tread carefully so as not to damage a possible criminal prosecution. If a crime has been committed, those responsible should be held accountable.

In all likelihood, the Justice Department investigation will focus narrowly on whether the destruction of the tapes constituted a crime; it will probably not delve into whether the tapes depicted a crime, namely torture. Congress should continue to demand answers about the administration's past and current detention and interrogation policies. Lawmakers should also press ahead with legislation that would, once and for all, outlaw waterboarding and require all U.S. personnel to use only those interrogation techniques authorized by the Army Field Manual.

NEW YORK TIMES

January 3, 2008

Justice Dept. Sets Criminal Inquiry on C.I.A. Tapes

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By MARK MAZZETTI and DAVID JOHNSTON

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WASHINGTON — Attorney General Michael B. Mukasey said Wednesday that the Justice Department had elevated its inquiry into the destruction of Central Intelligence Agency interrogation videotapes to a formal criminal investigation headed by a career federal prosecutor.

The announcement is the first indication that investigators have concluded on a preliminary basis that C.I.A. officers, possibly along with other government officials, may have committed criminal acts in their handling of the tapes, which recorded the interrogations in 2002 of two operatives with Al Qaeda and were destroyed in 2005.

C.I.A. officials have for years feared becoming entangled in a criminal investigation involving alleged improprieties in secret counterterrorism programs. Now, the investigation and a probable grand jury inquiry will scrutinize the actions of some of the highest-ranking current and former officials at the agency.

The tapes were never provided to the courts or to the Sept. 11 commission, which had requested all C.I.A. documents related to Qaeda prisoners. The question of whether to destroy the tapes was for nearly three years the subject of deliberations among lawyers at the highest levels of the Bush administration.

Justice Department officials declined to specify what crimes might be under investigation, but government lawyers have said the inquiry will probably focus on whether the destruction of the tapes involved criminal obstruction of justice and related false-statement offenses.

Mr. Mukasey assigned John H. Durham, a veteran federal prosecutor from Connecticut, to lead the criminal inquiry in tandem with the Federal Bureau of Investigation. The appointment of a prosecutor from outside Washington was an unusual move, and it suggested that Mr. Mukasey wanted to give the investigation the appearance of an extra measure of independence, after complaints from lawmakers in both parties that Mr. Mukasey's predecessor, Alberto R. Gonzales, had allowed politics to influence the Justice Department's judgment.

Mr. Durham was not appointed as a special counsel in this case, a step sought by some Congressional Democrats. He will have less expansive authority than a special counsel and will report to the deputy attorney general rather than assume the powers of the attorney general, which he would have had as a special counsel.

Mr. Durham has spent years bringing cases against organized crime figures in Hartford and Boston. In legal circles he has the reputation of a tough, tight-lipped litigator who compiled a stellar track record against the mob.

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A C.I.A. spokesman said that the agency would cooperate fully with the Justice Department investigation. Current and former officials have said that the C.I.A. official who ordered the destruction of the tapes in November 2005 was Jose A. Rodriguez Jr., who at the time was the head of the agency's clandestine branch.

The decision to start a full-scale criminal investigation into the matter came four weeks after the disclosure on Dec. 6 that the tapes had been created and then destroyed. The Justice Department and the C.I.A. opened a preliminary inquiry on Dec. 8, and Mr. Mukasey said Wednesday that he had concluded from that review "that there is a basis for initiating a criminal investigation of this matter."

The chairmen of the House Intelligence Committee, Representative Silvestre Reyes, Democrat of Texas, and the Senate Intelligence Committee, Senator John D. Rockefeller IV, Democrat of West Virginia, welcomed Mr. Mukasey's announcement. But neither gave any indication he would defer to the criminal inquiry, and in separate statements they pledged to proceed with their committees' investigations into the destruction of the tapes.

John L. Helgerson, the C.I.A. inspector general who took part in the preliminary inquiry, said Wednesday that he would step aside from the criminal investigation to avoid any appearance of a conflict of interest.

Mr. Helgerson's office had reviewed the videotapes, documenting the interrogation of Abu Zubaydah and Abd al-Rahim al-Nashiri, as part of an investigation into the C.I.A.'s secret detention and interrogation program. Mr. Helgerson completed his investigation into the program in early 2004.

Among White House lawyers who took part in discussions between 2003 and 2005 about whether to destroy the tapes were Mr. Gonzales, when he was White House counsel; Harriet E. Miers, Mr. Gonzales's successor as counsel; David S. Addington, who was then counsel to Vice President Dick Cheney; and John B. Bellinger III, then the legal adviser to the National Security Council. It is unclear whether anyone outside the C.I.A. endorsed destroying the tapes.

The new Justice Department investigation is likely to last for months, possibly beyond the end of the Bush administration.

Mr. Durham is currently the top-ranking deputy in the United States attorney's office in Connecticut, supervising all major felony cases brought in the state.

In the late 1990s he was assigned as a special attorney in Boston leading an inquiry into allegations that F.B.I. agents and police officers had been compromised by mobsters.

In taking over the inquiry, Mr. Durham is expected to be able to move ahead without a long delay because his team will include Justice Department prosecutors who have already been working on the case. But at least in the beginning, it is likely to proceed

more slowly than parallel investigations on Capitol Hill that are already well under way. Investigators from the House Intelligence Committee last month reviewed C.I.A. documents related to the destruction of the tapes, and the committee has called government witnesses to testify at a hearing scheduled for Jan. 16.

Mr. Mukasey pointedly did not designate Mr. Durham as a special counsel, in effect refusing to bow to pressure from Congressional Democrats to appoint an independent prosecutor with the same broad legal powers that were given to Patrick J. Fitzgerald, the special counsel who was appointed in 2003 to lead the investigation into the disclosure of a C.I.A. officer's identity. That inquiry resulted in the perjury and obstruction prosecution of L. Lewis Libby Jr., formerly Mr. Cheney's chief of staff. After Mr. Libby's conviction, President Bush commuted his sentence.

Mr. Fitzgerald was appointed after the attorney general at the time, John Ashcroft, determined that his own relationship with officials under possible scrutiny in the leak case forced him to recuse himself from the investigation. As special counsel, Mr. Fitzgerald had the authority of the attorney general for the matters under investigation.

Mr. Durham will report to the deputy attorney general, an office being held temporarily by Craig S. Morford. Mr. Durham will have the powers of the United States attorney for the Eastern District of Virginia, a jurisdiction that includes C.I.A. headquarters. If a grand jury is convened as expected, it will meet in Alexandria, Va., where the prosecutor's office is located.

Mr. Mukasey said "in an abundance of caution" the office of United States attorney for the district, Chuck Rosenberg, had been recused from the case and would not take part in the inquiry. Mr. Rosenberg's office has investigated cases of detainee abuse by C.I.A. employees and contractors and has worked closely with the C.I.A. on counterterrorism and espionage cases.

Mr. Mukasey said the decision was made "to avoid any possible appearance of a conflict with other matters handled by that office." Appointments like Mr. Durham's are sometimes made in cases in which prosecutors like Mr. Rosenberg have recused themselves.

In an Op-Ed article in The New York Times on Wednesday, Thomas H. Kean and Lee H. Hamilton, the chairman and vice chairman of the Sept. 11 commission, said they believed that C.I.A. officials had deliberately withheld the tapes from the commission. They suggested that since the commission received its authority from both Congress and President Bush, any deliberate withholding of evidence might have violated federal law.

"Those who knew about those videotapes — and did not tell us about them — obstructed our investigation," they wrote.

IRAQ

Systematic torture of political prisoners

1 INTRODUCTION

Torture is used systematically against political detainees in Iraqi prisons and detention centres. The scale and severity of torture in Iraq can only result from the acceptance of its use at the highest level. There are no attempts to curtail or prevent such violations or punish those responsible. This total disregard for a basic human right, the right not to be tortured or ill-treated, grossly violates international human rights law which prohibits torture in all circumstances. The International Covenant on Civil and Political Rights (ICCPR), which Iraq ratified in 1971, states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment"(Article 7).

Amnesty International has over the years received numerous reports of torture and interviewed hundreds of torture victims. The organization has also published many reports documenting a wide range of human rights violations in the country, including torture and ill-treatment. Victims of torture in Iraq have been subjected to a wide range of forms of torture. The bodies of many of those executed had evident signs of torture, including the gouging out of the eyes, marks of severe beatings and electric shocks to various parts of the body, when returned to their families. Some detainees died as a result of torture. Many torture victims now live with permanent physical or psychological damage.

Torture is used both to extract information or confessions from detainees and as a punishment. Political detainees are tortured immediately following arrest and their torture generally takes place in the headquarters of the General Security Directorate in Baghdad or in its branches in Baghdad and in the governorates. Torture also takes place in the headquarters of the General Intelligence (*al-Mukhabarat al-'amma*) in al-Hakimiya in Baghdad, its branches elsewhere, as well as in police stations and detention centres such as al-Radhwanliya. Detainees in these places are held incommunicado for months or even years without access to any lawyers or family visits.

Victims of torture have included suspected government opponents who range from army, security and intelligence officers suspected of having contacts with the Iraqi opposition abroad or accused of plotting against the government, to followers of leading Shi'a Muslim religious personalities. Torture has also been used against women suspected of having links with Shi'a Islamist groups in the country or simply because of family links. In many cases relatives of those active in the Iraqi opposition abroad have been tortured or ill-treated as a way of putting pressure on those opposition leaders to cease their activities.

Iraq's legislation prohibits the use of torture. Article 22(a) of Iraq's Interim Constitution states that "the dignity of the person is safeguarded. It is inadmissible to cause any physical or psychological harm". Article 127 of the Code of Criminal Procedure states that "it is not permissible to use any illegal means to influence the accused to secure his statement. Mistreatment, threatening to harm, inducement, threats, menace, psychological influence, and the use of narcotics, intoxicants and drugs are all considered illegal means." In fact the Iraqi Penal Code criminalizes the use of torture by any public servant. Article 333 states that "any employee or public servant who tortures, or orders the torture of an accused, witness, or expert in order to compel that person to confess to committing a crime, to give a statement or information, to hide certain matters, or to give a specific opinion will be punished by imprisonment or detention. The use of force or threats is considered to be torture". Amnesty International is not aware of any instances where officials suspected of torture of detainees have been brought to justice.

In the mid-1990s Iraq introduced judicial punishments such as amputation of hand and foot, branding of forehead and cutting off of the ears, and many people have been left with permanently mutilated bodies as a result of such punishments. Such punishments have been described as cruel, inhuman and degrading by international human rights bodies. The Iraqi Government justified the introduction of these punishments by the increase in the crime rate which it attributed to the impact of economic sanctions imposed on the country since 1990.

Iraq continues to be subjected to comprehensive trading sanctions imposed by UN Security Council resolutions since 1990 in the aftermath of its occupation of Kuwait. The sanctions have, according to many international experts, journalists, non-governmental organizations and UN agencies, crippled Iraq's economic infrastructure and have resulted in the breakdown of the socio-cultural fabric of the society, acute poverty, malnutrition, wide-spread corruption and crime, and the reported deaths of over half a million children under the age of five.(1) It is, however, the responsibility of the Iraqi Government to uphold the rule of law and respect of human rights.

The international community has been concerned about the human rights situation in Iraq for many years and therefore decided in 1991 to appoint a Special Rapporteur in order to report regularly to the UN Commission on Human Rights on the situation of human rights in Iraq.

2 METHODS OF TORTURE

Torture victims in Iraq have been blindfolded, stripped of their clothes and suspended from their wrists for long hours. Electric shocks have been used on various parts of their bodies, including the genitals, ears, the tongue and fingers. Victims have described to Amnesty International how they have been beaten with canes, whips, hosepipe or metal rods and how they have been suspended for hours from either a rotating fan in the ceiling or from a horizontal pole often in contorted positions as electric shocks were applied repeatedly on their bodies. Some victims had been forced to watch others, including their own relatives or family members, being tortured in front of them.

Other methods of physical torture described by former victims include the use of *Falaqa* (beating on the soles of the feet), extinguishing of cigarettes on various parts of the body, extraction of finger nails and toenails and piercing of the hands with an electric drill. Some have been sexually abused and others have had objects, including broken bottles, forced into their anus. In addition to physical torture, detainees have been threatened with rape and subjected to mock execution. They have been placed in cells where they could hear the screams of others being tortured and have been deprived of sleep. Some have stayed in solitary confinement for long periods of time. Detainees have also been threatened with bringing in a female relative, especially the wife or the mother, and raping her in front of the detainee. Some of these threats have been carried out.

3 VICTIMS OF TORTURE

3.1 Followers of Shi'a Clerics

Over the years many victims of torture have been Shi'a Muslims from Baghdad or from southern Iraq. They were arrested and tortured because they were suspected of anti-government activities. Many of them were students at *al-Hawza al-'Ilmiya* in al-Najaf in the south, which is considered to be one of the most prestigious theological teaching institutions in Shi'a Islam. Mass arrests and torture often took place during the periods of unrest which southern Iraq has witnessed intermittently over the last few years. The murder in al-Najaf of Ayatollah Mohammad Sadeq al-Sadr, a prominent leading Shi'a cleric, and his two sons on 19 February 1999(2) sparked off riots in predominantly Shi'a districts in Baghdad, especially in Saddam City (also known as al-Thawra City), and in southern towns of al-Hilla, Karbala', al-Nassiriya and al-Najaf. Protests in Saddam City resulted in the killings of dozens of protesters by the security forces and the arrest of hundreds of people. The riots lasted for three days and according to press reports at least 100 people were killed in Baghdad alone.(3)

A month later riots erupted in Basra for three days between 17 and 20 March 1999 during which the local headquarters of the ruling Ba'ath Party was attacked and several government officials were killed by armed Iraqi Shi'a Islamists, some of whom were reportedly sent by Iraqi Shi'a opposition groups based in Iran. As soon as government forces regained control of Basra on 20 March the repression started with dozens of people executed following torture and hundreds of others were arrested and tortured.

On 16 April 1999 violent clashes were reported between protesters and security forces when the latter attempted to prevent Shi'a Muslims from taking part in Friday prayers at the al-Hikma Mosque in Saddam City in Baghdad. These clashes reportedly left scores of protesters dead. An eye witness told Amnesty International that "when people were prevented from prayers they started shouting slogans against the authorities. Some protesters were armed and started shooting at the security forces but the latter were using tanks against the population and many people, including children, were killed. Initially the security forces did not remove the dead bodies. They waited for families and relatives to come and collect them so that they

could arrest them. However, the families were too frightened to do so and in the end the security forces had to collect the bodies to clean the streets." As a retaliation, armed Islamist activists killed the director of Abu Ghraib Prison, Major Hassan al-'Amiri, and several other security officers the following day in an attack on a house close to the mosque, which was used as a temporary headquarters for the security forces.

The Iraqi government denied all reports of unrest which followed the assassination of Ayatollah al-Sadr. However in mid-May 1999 a government official admitted for the first time that disturbances had taken place in Basra claiming that "some agents who came from behind the border, from Iran, carried out sabotage acts in the city of Basra on March 17 in order to harm Iraq and its people".(4)

Among those arrested in Basra were several university lecturers. One person A (name withheld) told Amnesty International that he was arrested on 7 June 1999 at night from his home in Basra. He was taken to the General Intelligence prison in Basra and was tortured during interrogation. Methods of torture included extinguishing cigarettes on his feet and beating. He was also made to lie naked on the floor of the prison's concrete courtyard which was unshaded from the heat of the sun. He was then dragged by his arms from one side of the courtyard to another. This left his back, buttocks and thighs bleeding. A was taken to a special courtroom in Basra. There was a judge and several security men in the court. The judge told him that he was guilty of six charges, including criticising the government in his lectures and collecting money to help families of those executed in Basra. A stated that he was innocent. He was then hit by a security officer on the back of his head with a weapon which left his head bleeding. He was taken back to the prison. He was then released on 19 July 1999 after his family had bribed local military and security officials. A few other lecturers remain detained until now after they had been tortured. They include **Khaled al-'Adeli** and **'Abd al-Hussain Hanin**, lecturers in Chemistry and Computing, respectively, at Basra University. They are reported to be still detained at the General Intelligence prison in Basra.

During and following these events hundreds of followers of Ayatollah al-Sadr were arrested and were subjected to torture. Dozens were later summarily tried and executed. Among them were **Al-Shaikh Salim Jassem Sadkhan al-'Abboudi** and **al-Shaikh 'Ala' Hussain al-Shuwaili** who were reportedly arrested in around June 1999 and were sentenced to death in May 2000 and executed a month later. Both were from Saddam City and their family homes were demolished by the security forces. Others executed during the same period after they had been tortured included **al-Sayyid Sa'ad Mohammad 'Ali al-Nouri**, **Qassim Ghazi al-Shuwaili** and **al-Sayyid 'Amr al-Mussawi**. **Al-Shaikh Nazzar Kadhim al-Bahadli**, a 29-year-old theology student from Saddam City, was arrested in June 1999 and was tortured for long periods in the building of Saddam Security Directorate. His wife, father and mother were reportedly brought to the building in August 1999 and were tortured in front of him to force him to confess to being one of those responsible for the disturbances in Saddam City. He was said to have confessed in order to spare his parents and his wife any further torture. They were released following his confession but he was sentenced to death later and was executed at the beginning of 2001.

Al-Shaikh Yahya Muhsin Ja'far al-Zeini, from Saddam City, is a 29-year-old former theology student in *al-Hawza al-'Ilmiya* in al-Najaf. On 2 July 1999 he was arrested in his parents' house following his arrival from al-Najaf. His father and two brothers had been detained as substitute prisoners until his arrest. Security men blindfolded him and took him to the building of Saddam Security Directorate. Once there, he was taken to a room and his blindfold was removed. He told Amnesty International:

"... I saw a friend of mine, al-Shaikh Nasser Taresh al-Sa'idi, naked. He was handcuffed and a piece of wood was placed between his elbows and his knees. The two ends of the wood were placed on two high chairs and al-Shaikh Nasser was being suspended like a chicken. This method of torture is known as *al-Khaygania* (a reference to a former security director known as al-Khaygani). An electric wire was attached to al-Shaikh Nasser's penis and another one attached to one of his toes. He was asked if he could identify me and he said "this is al-Shaikh Yahya". They took me to another room and then after about 10 minutes they stripped me of my clothes and a security officer said "the person you saw has confessed against you". He said to me "You followers of [Ayatollah] al-Sadr have carried out acts harmful to the security of the country and have been distributing anti-government statements coming from abroad. He asked if I have any contact with an Iraqi religious scholar based in Iran who has been signing these statements. I said "I do not have any contacts with him"... I was then left suspended in the same manner as al-Shaikh al-Sa'idi. My face was looking upward. They attached an electric wire on my penis and the other end of the wire is attached to an electric motor. One security man was hitting my feet with a cable. Electric shocks were applied every few minutes and were increased. I must have been suspended for more than an hour. I lost consciousness. They took me to another room and made me walk even though my feet were swollen from beating.... They repeated this method a few times".

Al-Shaikh Yahya was regularly subjected to electric shocks followed by beating on the feet. For two months he had to sleep on the floor with his hands tied behind his back and his face on the floor. He stated that this was more unbearable than being subjected to electric shocks. On one occasion Shaikh Yahya was suspended from a window for three days. Another method of torture that he described was that while suspended a heavy weight was attached to his genitals and was left hanging for some time. After five months of detention in the building of the Saddam Security Directorate al-Shaikh Yahya and 21 other detainees arrested at the same time were transferred to the Security Directorate of al-Rassafa district, also in Baghdad. He remained held without charge or trial until 14 April 2000 when he was released.

Al-Shaikh Mohammad 'Aziz Rahif al-'Aqqabi, a 27-year-old man married with children, was arrested in the early hours of 14 May 2000 in his house in Saddam City. He was accused of involvement in the murder of the head of Saddam Security Directorate which took place during the disturbances. He was held in Saddam Security Directorate during which he was tortured. In the first 15 days he was held in solitary confinement blindfolded and his hands tied behind his back. The blindfold was removed only during prayers. He stated to Amnesty International:

"...on the second day of my arrival I was taken to a room for interrogation. The blindfold was removed. The interrogator asked me a lot of questions about people I knew but I said I did not know them. Then he asked the guard to take me to *al-Gannara* [butcher's] room. Once inside the room the blindfold was removed again and the room was empty. I then had my hands tied with a telephone cable behind my back. I was made to stand on a barrel and then the guards encircled each of my upper arms with a tight belt. The belts had a knob. The knobs were tied to a rope and onto a horizontal rod. The guards then pushed the barrel I was standing on and I was left suspended. One guard then held me from the waist and started to pull me down. This was very painful. The interrogator asked the guard to tie my penis and one of my toes to an electric wire and onto an electric motor. He would then turn the electricity on and would increase it. The interrogator was also beating me with a stick on my back...".

Al-Shaikh al-'Aqqabi was regularly tortured during the first 15 days of detention. He was made to confront one of his friends who under torture had told the interrogators that Shaikh al-'Aqqabi was involved in the killing of the head of Saddam Security Directorate. Al-Shaikh al-'Aqqabi "confessed" to the killing under torture. However the details he gave about the circumstances surrounding the killing convinced the security officers interrogating him that he was not involved. Nevertheless he was kept detained without trial and was tortured further in order to extract from him information about activities of other followers of Ayatollah al-Sadr. He was released on 7 November 2000.

Iyyad Taresh Sajet al-Sa'idi, a 25-year-old former student at Baghdad's Institute of Fine Arts, was arrested together with three of his brothers, **Salem, Hamid, Fahd**, on 26 June 1999. They were arrested and held in Saddam Security Directorate as substitute prisoners because another brother, **al-Shaikh Nasser Taresh Sajet al-Sa'idi** was sought by the security authorities. When al-Shaikh Nasser, aged 31 and married with two children, was arrested on 30 June 1999 in al-Najaf where he had been studying theology, and was transferred to Saddam Security Directorate the brothers were not released. They were interrogated in connection with the activities of al-Shaikh Nasser who was a follower of Ayatollah al-Sadr. Each one of them was made to attend the torture of al-Shaikh Nasser. They themselves were tortured separately in front of their brother. Methods of torture included being left suspended and electric shocks being applied on their bodies including their genitals. They were tortured every two or three days during the first three weeks. The three brothers stayed in Saddam Security Directorate until 7 August 1999 when they were transferred to al-Rassafa Security Directorate. On 15 November 1999 they were taken back to Saddam Security Directorate and were released five days later. Following his release Iyyad al-Sa'idi discovered that he had been dismissed from the Institute of Fine Arts. His brother al-Shaikh Nasser was sentenced to death on 13 May 2000. At the beginning of 2001 he was transferred to al-Radhwanaya detention centre where he is reported to be still on death row. No information relating to the exact charges against him or his trial is available to Amnesty International.

3.2 Other suspected political opponents

B (name withheld), a Kurdish businessman from Baghdad, married with children, was arrested in December 1996 outside his house by plainclothes security men. Initially his family did not know his whereabouts and went from one police station to another enquiring about him. Then through friends they found out that he was being held in the headquarters of the General Security Directorate in Baghdad. The family was not allowed to visit him. Eleven months later in November 1997 the family was told by the authorities that he had been executed and that they should go and collect his body. His body reportedly bore evident signs of torture. His eyes were gouged out and the empty eye sockets were filled with paper. His right wrist and left

leg were broken. The family was not given any reason for his arrest and subsequent execution. However, they suspected that he was executed because of his friendship with a retired army general who had links with the Iraqi opposition outside the country and who was arrested just before B.'s arrest and was also executed.

Salah Mahdi, a 35-year-old traffic warden in al-Mansur district in Baghdad, married with three children, was arrested together with scores of people following the attempted assassination of 'Uday Saddam Hussain, the eldest son of the President, in December 1996. He was accused of neglect because he did not notice the car the assailants used. He was held in the Special Security building and was severely tortured. He died, reportedly as a result of torture, in around June 1997. His family was told that he had died but the body was never returned to them for burial despite their repeated requests and to date his burial place reportedly remains unknown to the family.

'**Abd al-Wahad al-Rifa'i**', a 58-year retired teacher, who was executed by hanging after he had been held in prison without charge or trial for more than two years. On 26 March 2001 his family in Baghdad collected his body from the Baghdad Security Headquarters. The body reportedly bore clear marks of torture including the pulling out of toe-nails and swelling on his right eye. 'Abd Wahad al-Rifa'i, married with nine children, was arrested on 8 March 1999. Initially he was held in the headquarters of the General Security Directorate in Baghdad then transferred to the Baghdad Security Headquarters. He was believed to have been arrested because the authorities suspected that he was in contact with the Iraqi opposition abroad through his brother, 'Abd al-Rahim al-Rifa'i, an active anti-government opponent living in Europe. 'Abd al-Wahad al-Rifa'i's wife and children have reportedly had their food ration card withdrawn from them as a punishment and the authorities also stopped pension payments which 'Abd al-Wahad was receiving before his execution.

Hundreds of army and security officers have been arrested in recent years and many have been executed. Charges against them have included plotting to overthrow the government or having contacts with the opposition abroad. Many were subjected to torture. A former Iraqi General Intelligence officer C (name withheld) told Amnesty International that he was arrested in mid-1990s on suspicion of having contacts with the opposition. He was held in solitary confinement for two years at the headquarters of the General Intelligence in al-Hakimiya in Baghdad. During the two years of detention he endured prolonged and repeated torture in the interrogation room. He was left suspended for long hours from a horizontal rod. His hands and feet were tied behind his back and was suspended from the upper arms. He was also beaten with a cable on different parts of the body, especially on the back of his head. Electric shocks were applied to various parts of the body and a wooden stick was inserted into his anus. He was held in solitary confinement all this time. The cell he was held in was painted entirely in red, including the ceiling, the floor and the doors. The light was red too. It is often referred to as the "red room" by former torture victims. He was released at the end of 1997. However he was rearrested again two years later also on suspicion of establishing contacts with the opposition and was held in the same detention centre. He was subjected to the same forms of torture as described above. C has now been left with permanent physical damage.

A number of former Iraqi political detainees were forced to undergo surgery to have a leg or arm amputated because they had been tortured for long periods of time and had developed gangrene for which they did not receive medical treatment. They had no choice but to sign statements in hospitals to the effect that it was solely their decision to have the amputation carried out.

4 TORTURE, ILL-TREATMENT AND EXTRAJUDICIAL EXECUTION OF WOMEN

Women too have been tortured, ill-treated and in some cases extrajudicially executed in Iraq. **Su'ad Jihad Shams al-Din**, a 61-year-old medical doctor, was arrested at her clinic in Baghdad on 29 June 1999 on suspicion that she had contacts with Shi'a Islamist groups. She was detained without charge or trial and was released on 25 July 1999. She was initially held in Baghdad Security Directorate and then was transferred to al-Ambar Security Directorate (also in Baghdad) on 5 July. Su'ad Jihad Shams al-Din was tortured frequently during interrogation by security men. Methods of torture included mostly beatings on the sole (*fajafa*) with a cable.

Some women have been raped in custody. They were detained and tortured because they were relatives of well known Iraqi opposition activists living abroad. The security authorities use this method to put pressure on Iraqi nationals abroad to cease their activities. For example, on 7 June 2000 Najib al-Salih, a former army general who fled Iraq in 1995 and joined the Iraqi opposition, was sent a videotape showing the rape of a female relative. Shortly afterwards he reportedly received a telephone call from the Iraqi intelligence service, asking him whether he had received the "gift" and informing him that his relative was in their