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Report Outlines Medical Workers' Role in Torture

By [SCOTT SHANE](#)

WASHINGTON — Medical personnel were deeply involved in the abusive interrogation of terrorist suspects held overseas by the [Central Intelligence Agency](#), including torture, and their participation was a “gross breach of medical ethics,” a long-secret report by the International Committee of the Red Cross concluded.

Based on statements by 14 prisoners who belonged to [Al Qaeda](#) and were moved to [Guantánamo Bay](#), Cuba, in late 2006, Red Cross investigators concluded that medical professionals working for the C.I.A. monitored prisoners undergoing [waterboarding](#), apparently to make sure they did not drown. Medical workers were also present when guards confined prisoners in small boxes, shackled their arms to the ceiling, kept them in frigid cells and slammed them repeatedly into walls, the report said.

Facilitating such practices, which the Red Cross described as torture, was a violation of medical ethics even if the medical workers' intentions had been to prevent death or permanent injury, the report said. But it found that the medical professionals' role was primarily to support the interrogators, not to protect the prisoners, and that the professionals had “condoned and participated in ill treatment.”

At times, according to the detainees' accounts, medical workers “gave instructions to interrogators to continue, to adjust or to stop particular methods.”

The Red Cross report was completed in 2007. It was obtained by Mark Danner, a journalist who has written extensively about torture, and posted Monday night with an [article by Mr. Danner](#) on the Web site of The New York Review of Books. Much of its contents were revealed in a March article by Mr. Danner and in a 2008 book, “The Dark Side,” by Jane Mayer of [The New Yorker](#), but the reporting of the Red Cross investigators' conclusions on medical ethics and other issues are new.

[Khalid Shaikh Mohammed](#), the chief planner of the Sept. 11 attacks, told investigators that when he was waterboarded, his pulse and oxygen level were monitored, and that a medical attendant stopped the procedure on several occasions.

Another prisoner, [Walid bin Attash](#), who had previously had a leg amputated, said that when he was forced for days to stand with his arms shackled above his head, a health worker periodically measured the swelling in his intact leg and eventually ordered that he be allowed to sit.

The report does not indicate whether the medical workers at the C.I.A. sites were physicians, other

professionals or both. Other sources have said that psychologists helped design and run the C.I.A. interrogation program, that physicians' assistants and former military paramedics worked regularly in it, and that physicians were involved at times.

By policy, the Red Cross, the chief independent monitor of detention conditions around the world, keeps its reports to governments confidential to encourage officials to grant access to prisoners. Bernard Barrett, a spokesman for the organization in Washington, declined on Monday to comment on the report, adding, "We deplore that confidential material attributed to the I.C.R.C. was made public."

Mark Mansfield, a C.I.A. spokesman, said that because of the Red Cross's confidentiality policy, he would not comment on the report. He said that [President Obama](#) had prohibited all government interrogators from using techniques apart from the noncoercive methods in the [Army](#) Field Manual, and that the new C.I.A. director, [Leon E. Panetta](#), "has taken decisive steps to ensure that the C.I.A. abides by the president's executive orders."

Mr. Mansfield added, however, that Mr. Panetta "has stated repeatedly that no one who took actions based on legal guidance from the Department of Justice at the time should be investigated, let alone punished." The C.I.A.'s interrogation methods were declared legal by the Justice Department under President [George W. Bush](#).

In its 40-page report, the Red Cross roundly condemned the C.I.A. detention program not only for using torture and other cruel treatment, but also for holding prisoners without notice to governments or families.

"The totality of the circumstances in which the 14 were held effectively amounted to an arbitrary deprivation of liberty and enforced disappearance, in contravention of international law," said the report, which was provided to the C.I.A. acting general counsel, [John Rizzo](#), in February 2007.

Shortly after taking office in January, Mr. Obama ordered the C.I.A. secret detention program closed and directed that the Red Cross be promptly informed of every person detained by the C.I.A. or any other agency.

The report also provided new details of the Bush administration's failure to cooperate for several years with the Red Cross's inquiries and investigations of American detention programs. Repeated inquiries and reports from the organization beginning in 2002 received no response from American officials, the report said, though the United States sent a diplomatic message addressing some inquiries in 2005.

M. Gregg Bloche, a [Georgetown University](#) law professor, who also trained as a psychiatrist and is now a visiting professor at the [University of Chicago](#) law school, called the report's findings "a disturbing confirmation of our worst fears about medical professionals' involvement in directing and modulating cruel treatment and torture."

Another critic of medical involvement in harsh interrogation, Dr. Steven H. Miles, a physician at the Center for Bioethics of the [University of Minnesota](#), said he had counted about 70 cases worldwide after

World War II in which physicians were punished for participating in torture or related crimes. Most were in Brazil, Argentina, Uruguay and Chile, he said. None have been in the United States.

Dr. Miles said that in recent decades, torture had almost always involved medical professionals, and that to deter future misconduct, the medical role in the C.I.A. program should be fully disclosed.

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US Torture: Voices from the Black Sites

By [Mark Danner](#)

ICRC Report on the Treatment of Fourteen "High Value Detainees" in CIA Custody
by the International Committee of the Red Cross
43 pp., February 2007

[Press release and contact information](#)

We need to get to the bottom of what happened—and why—so we make sure it never happens again. [\[1\]](#)

—Senator Patrick Leahy, Chairman, Senate Judiciary Committee

1.

We think time and elections will cleanse our fallen world but they will not. Since November, George W. Bush and his administration have seemed to be rushing away from us at accelerating speed, a dark comet hurtling toward the ends of the universe. The phrase "War on Terror"—the signal slogan of that administration, so cherished by the man who took pride in proclaiming that he was "a wartime president"—has acquired in its pronouncement a permanent pair of quotation marks, suggesting something questionable, something mildly embarrassing: something past. And yet the decisions that that president made, especially the monumental decisions taken after the attacks of September 11, 2001—decisions about rendition, surveillance, interrogation—lie strewn about us still, unclaimed and unburied, like corpses freshly dead.

How should we begin to talk about this? Perhaps with a story. Stories come to us newborn, announcing their intent: Once upon a time... In the beginning... From such signs we learn how to listen to what will come. Consider:

I woke up, naked, strapped to a bed, in a very white room. The room measured approximately 4m x 4m [13 feet by 13 feet]. The room had three solid walls, with the fourth wall consisting of metal bars separating it from a larger room. I am not sure how long I remained in the bed....

A man, unnamed, naked, strapped to a bed, and for the rest, the elemental facts of space and of time, nothing but whiteness.

The storyteller is very much a man of our time. Early on in the "War on Terror," in the spring of 2002, he entered the dark realm of "the disappeared"—and only four and a half years later, when he and thirteen other "high-value detainees" arrived at Guantánamo and told their stories in interviews with representatives of the International Committee of the Red Cross (reported in the confidential document listed above) did he emerge partly into the light. Indeed, he is a famous man, though his fame has followed a certain path, peculiar to our modern age: jihadist, outlaw, terrorist, "disappeared." An international celebrity whose name, one of them anyway, is instantly recognizable. How many people have their lives described by the president of the United States in a nationally televised speech?

Within months of September the 11th, 2001, we captured a man known as Abu Zubaydah. We believe that Zubaydah was a senior terrorist leader and a trusted associate of Osama bin Laden.... Zubaydah was severely wounded during the firefight that brought him into custody—and he survived only because of the medical care arranged by the CIA. [\[2\]](#)

A dramatic story: big news. Wounded in a firefight in Faisalabad, Pakistan, shot in the stomach, groin, and thigh after jumping from a roof in a desperate attempt to escape. Massive bleeding. Rushed to a military hospital in Lahore. A trauma surgeon at Johns Hopkins awakened by a late-night telephone call from the director of central intelligence and flown in great secrecy to the other side of the world. The wounded man barely escapes death, slowly stabilizes, is shipped secretly to a military base in Thailand. Thence to another base in Afghanistan. Or was it Afghanistan?

We don't know, not definitively. For from the moment of his dramatic capture, on March 28, 2002, the man known as Abu Zubaydah slipped from one clandestine world, that of al-Qaeda officials gone to ground in the days after September 11, into another, a "hidden global internment network" intended for secret detention and interrogation and set up by the Central Intelligence Agency under authority granted directly by President George W. Bush in a "memorandum of understanding" signed on September 17, 2001.

This secret system included prisons on military bases around the world, from Thailand and Afghanistan to Morocco, Poland, and Romania—"at various times," reportedly, "sites in eight countries"—into which, at one time or another, more than one hundred prisoners...disappeared.^[3] The secret internment network of "black sites" had its own air force and its own distinctive "transfer procedures," which were, according to the writers of the International Committee of the Red Cross (ICRC) report, "fairly standardised in most cases":

The detainee would be photographed, both clothed and naked prior to and again after transfer. A body cavity check (rectal examination) would be carried out and some detainees alleged that a suppository (the type and the effect of such suppositories was unknown by the detainees), was also administered at that moment.

The detainee would be made to wear a diaper and dressed in a tracksuit. Earphones would be placed over his ears, through which music would sometimes be played. He would be blindfolded with at least a cloth tied around the head and black goggles. In addition, some detainees alleged that cotton wool was also taped over their eyes prior to the blindfold and goggles being applied....

The detainee would be shackled by [the] hands and feet and transported to the airport by road and loaded onto a plane. He would usually be transported in a reclined sitting position with his hands shackled in front. The journey times...ranged from one hour to over twenty-four to thirty hours. The detainee was not allowed to go to the toilet and if necessary was obliged to urinate and defecate into the diaper.

One works the imagination trying to picture what it was like in this otherworldly place: blackness in place of vision. Silence—or "sometimes" loud music—in place of sounds of life. Shackles, together sometimes with gloves, in place of the chance to reach, touch, feel. One senses metal on wrist and ankle, cotton against eyes, cloth across face, shit and piss against skin. On "some occasions detainees were transported lying flat on the floor of the plane...with their hands cuffed behind their backs," causing them "severe pain and discomfort," as they were moved from one unknown location to another.

For his part, Abu Zubaydah—thirty-one years old, born Zein al-Abdeen Mohammad Hassan, in Riyadh, Saudi Arabia, though coming of Palestinian stock, from the Gaza Strip—

alleged that during one transfer operation the blindfold was tied very tightly resulting in wounds to his nose and ears. He does not know how long the transfer took but, prior to the transfer, he reported being told by his detaining authorities that he would be going on a journey that would last twenty-four to thirty hours.

A long trip then: perhaps to Guantánamo? Or Morocco? Then back, apparently, to Thailand. Or was it Afghanistan? He thinks the latter but can't be sure....

2.

All classified, compartmentalized, deeply, deeply secret. And yet what is "secret" exactly? In our recent

politics, "secret" has become an oddly complex word. From whom was "the secret bombing of Cambodia" secret? Not from the Cambodians, surely. From whom was the existence of these "secret overseas facilities" secret? Not from the terrorists, surely. From Americans, presumably. On the other hand, as early as 2002, anyone interested could read on the front page of one of the country's leading newspapers:

US Decries Abuse but Defends Interrogations: "Stress and Duress" Tactics Used on Terrorism Suspects Held in Secret Overseas Facilities

Deep inside the forbidden zone at the US-occupied Bagram air base in Afghanistan, around the corner from the detention center and beyond the segregated clandestine military units, sits a cluster of metal shipping containers protected by a triple layer of concertina wire. The containers hold the most valuable prizes in the war on terrorism—captured al Qaeda operatives and Taliban commanders....

"If you don't violate someone's human rights some of the time, you probably aren't doing your job," said one official who has supervised the capture and transfer of accused terrorists. "I don't think we want to be promoting a view of zero tolerance on this. That was the whole problem for a long time with the CIA...."

This lengthy article, by Dana Priest and Barton Gellman, appeared in *The Washington Post* on December 26, 2002, only months after the capture of Abu Zubaydah. A similarly lengthy report followed a few months later on the front page of *The New York Times* ("Interrogations: Questioning Terror Suspects in a Dark and Surreal World"). The blithe, aggressive tone of the officials quoted—"We don't kick the [expletive] out of them. We send them to other countries so they can kick the [expletive] out of them"—bespeaks a very different political temper, one in which a prominent writer in a national newsmagazine could headline his weekly column "Time to Think About Torture," noting in his subtitle that in this "new world...survival might well require old techniques that seemed out of the question."[\[4\]](#)

So there are secrets and secrets. And when, on a bright sunny day two years ago, just before the fifth anniversary of the September 11 attacks, the President of the United States strode into the East Room of the White House and informed the high officials, dignitaries, and specially invited September 11 survivor families gathered in rows before him that the United States government had created a dark and secret universe to hold and interrogate captured terrorists—or, in the President's words, "an environment where they can be held secretly [and] questioned by experts"—he was not telling a secret but instead converting a known and well-reported fact into an officially confirmed truth:

In addition to the terrorists held at Guantánamo, a small number of suspected terrorist leaders and operatives captured during the war have been held and questioned outside the United States, in a separate program operated by the Central Intelligence Agency.... Many specifics of this program, including where these detainees have been held and the details of their confinement, cannot be divulged....

We knew that Abu Zubaydah had more information that could save innocent lives, but he stopped talking.... And so the CIA used an alternative set of procedures. These procedures were designed to be safe, to comply with our laws, our Constitution, and our treaty obligations. The Department of Justice reviewed the authorized methods extensively and determined them to be lawful. I cannot describe the specific methods used—I think you understand why....

I was watching the live broadcast that day and I remember the uncanny feeling that came over me as, having heard the President explain the virtues of this "alternative set of procedures," I watched him stare straight into the camera and with fierce concentration and exaggerated emphasis intone once more: "The United States does not torture. It's against our laws, and it's against our values. I have not authorized it—and I will not authorize it." He had convinced himself, I thought, of the truth of what he said.

This speech, though not much noticed at the time, will stand, I believe, as George W. Bush's most important: perhaps the only "historic" speech he ever gave. In telling his version of Abu Zubaydah's story, and versions of the stories of Khaled Shaik Mohammed and others, the President took hold of many things that were

already known but not acknowledged and, by means of the alchemical power of the leader's voice, transformed them into acknowledged facts. He also, in his fervent defense of his government's "alternative set of procedures" and his equally fervent denials that they constituted "torture," set out before the country and the world the dark moral epic of the Bush administration, in the coils of whose contradictions we find ourselves entangled still. Later that month, Congress, facing the midterm elections, duly passed the President's Military Commissions Act of 2006, which, among other things, sought to shelter from prosecution those who had applied the "alternative set of procedures" and had done so, said the President, "in a thorough and professional way."

At the same time, perhaps unwittingly, President Bush made it possible that day for those on whom the "alternative set of procedures" were performed eventually to speak. Even as the President set out before the country his version of what had happened to Abu Zubaydah and the others and argued for its necessity, he announced that he would bring him and thirteen of his fellow "high-value detainees" out of the dark world of the disappeared and into the light. Or, rather, into the twilight: the fourteen would be transferred to Guantánamo, the main acknowledged offshore prison, where—"as soon as Congress acts to authorize the military commissions I have proposed"—they "can face justice." In the meantime, though, the fourteen would be "held in a high-security facility at Guantánamo" and the International Committee of the Red Cross would be "advised of their detention, and will have the opportunity to meet with them."

A few weeks later, from October 6 to 11 and then from December 4 to 14, 2006, officials of the International Committee of the Red Cross—among whose official and legally recognized duties is to monitor compliance with the Geneva Conventions and to supervise treatment of prisoners of war—traveled to Guantánamo and began interviewing "each of these persons in private" in order to produce a report that would "provide a description of the treatment and material conditions of detention of the fourteen during the period they were held in the CIA detention program," periods ranging "from 16 months to almost four and a half years."

As the ICRC interviewers informed the detainees, their report was not intended to be released to the public but, "to the extent that each detainee agreed for it to be transmitted to the authorities," to be given in strictest secrecy to officials of the government agency that had been in charge of holding them—in this case the Central Intelligence Agency, to whose acting general counsel, John Rizzo, the report was sent on February 14, 2007. Indeed, though almost all of the information in the report has names attached, and though annexes contain extended narratives drawn from interviews with three of the detainees, whose names are used, we do find a number of times in the document variations of this formula: "One of the detainees who did not wish his name to be transmitted to the authorities alleged..."—suggesting that at least one and perhaps more than one of the fourteen, who are, after all, still "held in a high-security facility at Guantánamo," worried about repercussions that might come from what he had said.

In virtually all such cases, the allegations made are echoed by other, named detainees; indeed, since the detainees were kept "in continuous solitary confinement and incommunicado detention" throughout their time in "the black sites," and were kept strictly separated as well when they reached Guantánamo, the striking similarity in their stories, even down to small details, would seem to make fabrication extremely unlikely, if not impossible. "The ICRC wishes to underscore," as the writers tell us in the introduction, "that the consistency of the detailed allegations provided separately by each of the fourteen adds particular weight to the information provided below."

The result is a document—labeled "confidential" and clearly intended only for the eyes of those senior American officials to whom the CIA's Mr. Rizzo would show it—that tells a certain kind of story, a narrative of what happened at "the black sites" and a detailed description, by those on whom they were practiced, of what the President of the United States described to Americans as an "alternative set of procedures." It is a document for its time, literally "impossible to put down," from its opening page—

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—to its stark and unmistakable conclusion:

The allegations of ill-treatment of the detainees indicate that, in many cases, the ill-treatment to which they were subjected while held in the CIA program, either singly or in combination, constituted torture. In addition, many other elements of the ill-treatment, either singly or in combination, constituted cruel, inhuman or degrading treatment.

Such unflinching clarity, from the body legally charged with overseeing compliance with the Geneva Conventions—in which the terms "torture" and "cruel, inhuman, and degrading treatment" are accorded a strictly defined legal meaning—couldn't be more significant, or indeed more welcome after years in which the President of the United States relied on the power of his office either to redefine or to obfuscate what are relatively simple words. "This debate is occurring," as President Bush told reporters in the Rose Garden the week after he delivered his East Room speech,

because of the Supreme Court's ruling that said that we must conduct ourselves under the Common Article III of the Geneva Convention. And that Common Article III says that, you know, there will be no outrages upon human dignity. It's like—it's very vague. What does that mean, "outrages upon human dignity"?^[5]

In allowing Abu Zubaydah and the other thirteen "high-value detainees" to tell their own stories, this report manages to answer, with great power and authority, the President's question.

3.

We return to a man, Abu Zubaydah, a Palestinian who, in his thirty-one years, has lived a life shaped by conflicts on the edge of the American consciousness: the Gaza Strip, where his parents were born; Riyadh, Saudi Arabia, where he apparently first saw the light of day; Soviet-occupied Afghanistan, where he took part in the jihad against the Russians, perhaps with the help, directly or indirectly, of American dollars; then, post-Soviet Afghanistan, where he ran al-Qaeda logistics and recruitment, directing aspiring jihadists to the various training camps, placing them in cells after they'd been trained. The man has been captured now: traced to a safe house in Faisalabad, gravely wounded by three shots from an AK-47. He is rushed to the Faisalabad hospital, then to the military hospital at Lahore. When he opens his eyes he finds at his bedside an American, John Kiriakou of the CIA:

I asked him in Arabic what his name was. And he shook his head. And I asked him again in Arabic. And then he answered me in English. And he said that he would not speak to me in God's language. And then I said, "That's okay. We know who you are."

And then he asked me to smother him with a pillow. And I said, "No, no. We have plans for you."^[6]

Kiriakou and the "small group of CIA and FBI people who just kept 24/7 eyes on him" knew that in Abu Zubaydah they had "the biggest fish that we had caught. We knew he was full of information...and we wanted to get it." According to Kiriakou, on a table in the house where they found him "Abu Zubaydah and two other men were building a bomb. The soldering [iron] was still hot. And they had plans for a school on the table...." The plans, Kiriakou told ABC News correspondent Brian Ross, were for the British school in Lahore. Their prisoner, they knew, was "very current. On top of the current threat information."

With the help of the American trauma surgeon, Abu Zubaydah's captors nursed him back to health. He was moved at least twice, first, reportedly, to Thailand; then, he believes, to Afghanistan, probably Bagram. In a safe house in Thailand the interrogation began:

I woke up, naked, strapped to a bed, in a very white room. The room measured approximately [13 feet by 13 feet]. The room had three solid walls, with the fourth wall consisting of metal bars separating it from a larger room. I am not sure how long I remained in the bed. After some time, I think it was several days, but can't remember exactly, I was transferred to a chair where I was kept, shackled by [the] hands and feet for what I think was the next 2 to 3 weeks. During this time I developed blisters on the underside of my legs due to the constant sitting. I was only allowed to get up from the chair to go [to] the toilet, which consisted of a bucket. Water for cleaning myself was provided in a plastic bottle.

I was given no solid food during the first two or three weeks, while sitting on the chair. I was only given Ensure [a nutrient supplement] and water to drink. At first the Ensure made me vomit, but this became less with time.

The cell and room were air-conditioned and were very cold. Very loud, shouting type music was constantly playing. It kept repeating about every fifteen minutes twenty-four hours a day. Sometimes the music stopped and was replaced by a loud hissing or crackling noise.

The guards were American, but wore masks to conceal their faces. My interrogators did not wear masks.

During this first two to three week period I was questioned for about one to two hours each day. American interrogators would come to the room and speak to me through the bars of the cell. During the questioning the music was switched off, but was then put back on again afterwards. I could not sleep at all for the first two to three weeks. If I started to fall asleep one of the guards would come and spray water in my face.

A naked man chained in a small, very cold, very white room is for several days strapped to a bed, then for several weeks shackled to a chair, bathed unceasingly in white light, bombarded constantly with loud sound, deprived of food; and whenever, despite cold, light, noise, hunger, the hours and days force his eyelids down, cold water is sprayed in his face to force them up.

One can translate these procedures into terms of art: "Change of Scenery Down." "Removal of Clothing." "Use of Stress Positions." "Dietary Manipulation." "Environmental Manipulation." "Sleep Adjustment." "Isolation." "Sleep Deprivation." "Use of Noise to Induce Stress." All these terms and many others can be found, for example, in documents associated with the debate about interrogation and "counter-resistance" carried on by Pentagon and Justice Department officials beginning in 2002. Here, however, we find a different standard: the Working Group says, for example, that "Sleep Deprivation" is "not to exceed 4 days in succession," that "Dietary Manipulation" should include "no intended deprivation of food or water," that "removal of clothing," while "creating a feeling of helplessness and dependence," must be "monitored to ensure the environmental conditions are such that this technique does not injure the detainee." ¹⁷ Here we are in a different place.

But what place? Abu Zubaydah was not only the "biggest fish that we had caught" but the first big fish. According to Kiriakou, Zubaydah, as he recovered, had "wanted to talk about current events. He told us a couple of times that he had nothing personal against the United States.... He said that 9/11 was necessary. That although he didn't think that there would be such a massive loss of life, his view was that 9/11 was

supposed to be a wake-up call to the United States."

In those initial weeks of healing, before the white room and the chair and the light, Zubaydah seems to have talked freely with his captors, and during this time, according to news reports, FBI agents began to question him using "standard interview techniques," ensuring that he was bathed and his bandages changed, urging improved medical care, and trying to "convince him they knew details of his activities." (They showed him, for example, a "box of blank audiotapes which they said contained recordings of his phone conversations, but were actually empty.") According to this account, Abu Zubaydah, in the initial days before the white room, "began to provide intelligence insights into Al Qaeda."^[8]

Or did he? "How Good Is Abu Zubaydah's Information?" asked a *Newsweek* "Web exclusive" on April 27, 2002, less than a month after his capture. The extreme secrecy and isolation in which Abu Zubaydah was being held, at a location unknown to him and to all but a tiny handful of government officials, did not prevent his "information" being leaked from that unknown place directly into the American press—in the cause, apparently, of a bureaucratic struggle between the FBI and the CIA. Even Americans who were not following closely the battling leaks from Zubaydah's interrogation would have found their lives affected, whether they knew it or not, by what was happening in that faraway white room; for about the same time the Bush administration saw fit to issue two "domestic terrorism warnings," derived from Abu Zubaydah's "tips"—about "possible attacks on banks or financial institutions in the Northeastern United States" and possible "attacks on US supermarkets and shopping malls." As *Newsweek* learned from a "senior US official," presumably from the FBI—whose "standard interview techniques" had produced that information and the "domestic terrorism warnings" based on it—the prisoner was "providing detailed information for the 'fight against terrorism.'" At the same time, however, "US intelligence sources"—presumably CIA—"wonder whether he's trying to mislead investigators or frighten the American public."^[9]

For his part, John Kiriakou, the CIA man, told ABC News that in those early weeks Zubaydah was "willing to talk about philosophy, [but] he was unwilling to give us any actionable intelligence." The CIA officers had the "sweeping classified directive signed by Mr. Bush," giving them authority to "capture, detain and interrogate terrorism suspects," and Zubaydah was "a test case for an evolving new role,...in which the agency was to act as jailer and interrogator of terrorism suspects." Eventually a team from the CIA's Counterterrorism Center was "sent in from Langley" and the FBI interrogators were withdrawn.

We had these trained interrogators who were sent to his location to use the enhanced techniques as necessary to get him to open up, and to report some threat information.... These enhanced techniques included everything from what was called an attention shake, where you grab the person by their lapels and shake them, all the way up to the other end, which is waterboarding.

They began, apparently, by shackling him to the chair, and applying light, noise, and water to keep him awake. After two or three weeks of this Abu Zubaydah, still naked and shackled, was allowed to lie on the bare floor and to "sleep a little." He was also given solid food—rice—for the first time. Eventually a doctor, a woman, came and examined him, and "asked why I was still naked." The next day he was "provided with orange clothes to wear." The following day, however, "guards came into my cell. They told me to stand up and raise my arms above my head. They then cut the clothes off of me so that I was again naked and put me back on the chair for several days. I tried to sleep on the chair, but was again kept awake by the guards spraying water in my face."

What follows is a confusing period, in which harsh treatment alternated with more lenient. Zubaydah was mostly naked and cold, "sometimes with the air conditioning adjusted so that, one official said, Mr. Zubayah seemed to turn blue."^[10] Sometimes clothing would be brought, then removed the next day. "When my interrogators had the impression that I was cooperating and providing the information they required, the clothes were given back to me. When they felt I was being less cooperative the clothes were again removed and I was again put back on the chair." At one point he was supplied with a mattress, at another he was "allowed some tissue paper to use when going to toilet on the bucket." A month passed with no questioning. "My cell was still very cold and the loud music no longer played but there was a constant loud hissing or crackling noise, which played twenty-four hours a day. I tried to block out the noise by putting tissue in my

ears." Then, "about two and half or three months after I arrived in this place, the interrogation began again, but with more intensity than before."

It is difficult to know whether these alterations in attitude and procedure were intended, meant to keep the detainee off-guard, or resulted from disputes about strategy among the interrogators, who were relying on a hastily assembled "alternative set of procedures" that had been improvised from various sources, including scientists and psychiatrists within the intelligence community, experts from other, "friendly" governments, and consultants who had worked with the US military and now "reverse-engineered" the resistance training taught to American elite forces to help them withstand interrogation after capture. The forerunners of some of the theories being applied in these interrogations, involving sensory deprivation, disorientation, guilt and shame, so-called "learned helplessness," and the need to induce "the debility-dependence-dread state," can be found in CIA documents dating back nearly a half-century, such as this from a notorious "counterintelligence interrogation" manual of the early 1960s:

The circumstances of detention are arranged to enhance within the subject his feelings of being cut off from the known and the reassuring, and of being plunged into the strange.... Control of the source's environment permits the interrogator to determine his diet, sleep pattern and other fundamentals. Manipulating these into irregularities, so that the subject becomes disorientated, is very likely to create feelings of fear and helplessness. [\[11\]](#)

A later version of the same manual emphasizes the importance of guilt: "If the 'questioner' can intensify these guilt feelings, it will increase the subject's anxiety and his urge to cooperate as a means of escape." Isolation and sensory deprivation will "induce regression" and the "loss of those defenses most recently acquired by civilized man," while the imposition of "stress positions" that in effect force the subject "to harm himself" will produce a guilt leading to an irresistible desire to cooperate with his interrogators.

4.

Two and a half months after Abu Zubaydah woke up strapped to a bed in the white room, the interrogation resumed "with more intensity than before":

Two black wooden boxes were brought into the room outside my cell. One was tall, slightly higher than me and narrow. Measuring perhaps in area [3 1/2 by 2 1/2 feet by 6 1/2 feet high]. The other was shorter, perhaps only [3 1/2 feet] in height. I was taken out of my cell and one of the interrogators wrapped a towel around my neck, they then used it to swing me around and smash me repeatedly against the hard walls of the room. I was also repeatedly slapped in the face....

I was then put into the tall black box for what I think was about one and a half to two hours. The box was totally black on the inside as well as the outside.... They put a cloth or cover over the outside of the box to cut out the light and restrict my air supply. It was difficult to breathe. When I was let out of the box I saw that one of the walls of the room had been covered with plywood sheeting. From now on it was against this wall that I was then smashed with the towel around my neck. I think that the plywood was put there to provide some absorption of the impact of my body. The interrogators realized that smashing me against the hard wall would probably quickly result in physical injury.

One is reminded here that Abu Zubaydah was not alone with his interrogators, that everyone in that white room—guards, interrogators, doctor—was in fact linked directly, and almost constantly, to senior intelligence officials on the other side of the world. "It wasn't up to individual interrogators to decide, 'Well, I'm gonna slap him. Or I'm going to shake him. Or I'm gonna make him stay up for 48 hours,'" said John Kiriakou.

Each one of these steps...had to have the approval of the Deputy Director for Operations. So before you laid a hand on him, you had to send in the cable saying, "He's uncooperative. Request permission to do X." And that permission would come.... The cable traffic back and

forth was extremely specific. And the bottom line was these were very unusual authorities that the agency got after 9/11. No one wanted to mess them up. No one wanted to get in trouble by going overboard.... No one wanted to be the guy who accidentally did lasting damage to a prisoner.

Smashing against hard walls before Zubaydah enters the tall black coffin-like box; sudden appearance of plywood sheeting affixed to the wall for him to be smashed against when he emerges. Perhaps the deputy director of operations, pondering the matter in his Langley, Virginia, office, suggested the plywood?

Or perhaps it was someone higher up? Shortly after Abu Zubaydah was captured, according to ABC News, CIA officers "briefed high-level officials in the National Security Council's Principals Committee," including Vice President Dick Cheney, National Security Adviser Condoleezza Rice, and Attorney General John Ashcroft, who "then signed off on the [interrogation] plan." At the time, the spring and summer of 2002, the administration was devising what some referred to as a "golden shield" from the Justice Department—the legal rationale that was embodied in the infamous "torture memorandum," written by John Yoo and signed by Jay Bybee in August 2002, which claimed that for an "alternative procedure" to be considered torture, and thus illegal, it would have to cause pain of the sort "that would be associated with serious physical injury so severe that death, organ failure, or permanent damage resulting in a loss of significant body function will likely result." The "golden shield" presumably would protect CIA officers from prosecution. Still, Director of Central Intelligence George Tenet regularly brought directly to the attention of the highest officials of the government specific procedures to be used on specific detainees—"whether they would be slapped, pushed, deprived of sleep or subject to simulated drowning"—in order to seek reassurance that they were legal. According to the ABC report, the briefings of principals were so detailed and frequent that "some of the interrogation sessions were almost choreographed." At one such meeting, John Ashcroft, then attorney general, reportedly demanded of his colleagues, "Why are we talking about this in the White House? History will not judge this kindly."¹²

We do not know if the plywood appeared in Zubaydah's white room thanks to orders from his interrogators, from their bosses at Langley, or perhaps from their superiors in the White House. We don't know the precise parts played by those responsible for "choreographing" the "alternative set of procedures." We do know from several reports that at a White House meeting in July 2002 top administration lawyers gave the CIA "the green light" to move to the "more aggressive techniques" that were applied to him, separately and in combination, during the following days:

After the beating I was then placed in the small box. They placed a cloth or cover over the box to cut out all light and restrict my air supply. As it was not high enough even to sit upright, I had to crouch down. It was very difficult because of my wounds. The stress on my legs held in this position meant my wounds both in the leg and stomach became very painful. I think this occurred about 3 months after my last operation. It was always cold in the room, but when the cover was placed over the box it made it hot and sweaty inside. The wound on my leg began to open and started to bleed. I don't know how long I remained in the small box, I think I may have slept or maybe fainted.

I was then dragged from the small box, unable to walk properly and put on what looked like a hospital bed, and strapped down very tightly with belts. A black cloth was then placed over my face and the interrogators used a mineral water bottle to pour water on the cloth so that I could not breathe. After a few minutes the cloth was removed and the bed was rotated into an upright position. The pressure of the straps on my wounds was very painful. I vomited. The bed was then again lowered to horizontal position and the same torture carried out again with the black cloth over my face and water poured on from a bottle. On this occasion my head was in a more backward, downwards position and the water was poured on for a longer time. I struggled against the straps, trying to breathe, but it was hopeless. I thought I was going to die. I lost control of my urine. Since then I still lose control of my urine when under stress.

I was then placed again in the tall box. While I was inside the box loud music was played again and somebody kept banging repeatedly on the box from the outside. I tried to sit down on the

floor, but because of the small space the bucket with urine tipped over and spilt over me.... I was then taken out and again a towel was wrapped around my neck and I was smashed into the wall with the plywood covering and repeatedly slapped in the face by the same two interrogators as before.

I was then made to sit on the floor with a black hood over my head until the next session of torture began. The room was always kept very cold.

This went on for approximately one week. During this time the whole procedure was repeated five times. On each occasion, apart from one, I was suffocated once or twice and was put in the vertical position on the bed in between. On one occasion the suffocation was repeated three times. I vomited each time I was put in the vertical position between the suffocation.

During that week I was not given any solid food. I was only given Ensure to drink. My head and beard were shaved everyday.

I collapsed and lost consciousness on several occasions. Eventually the torture was stopped by the intervention of the doctor.

I was told during this period that I was one of the first to receive these interrogation techniques, so no rules applied. It felt like they were experimenting and trying out techniques to be used later on other people.

5.

All evidence from the ICRC report suggests that Abu Zubaydah's informant was telling him the truth: he was the first, and, as such, a guinea pig. Some techniques are discarded. The coffin-like black boxes, for example, barely large enough to contain a man, one six feet tall and the other scarcely more than three feet, which seem to recall the sensory-deprivation tanks used in early CIA-sponsored experiments, do not reappear. Neither does the "long-time sitting"—the weeks shackled to a chair—that Abu Zubaydah endured in his first few months.

Nudity, on the other hand, is a constant in the ICRC report, as are permanent shackling, the "cold cell," and the unceasing loud music or noise. Sometimes there is twenty-four-hour light, sometimes constant darkness. Beatings, also, and smashing against the walls seem to be favored procedures; often, the interrogators wear gloves.

In later interrogations new techniques emerge, of which "long-time standing" and the use of cold water are notable. Walid Bin Attash, a Yemeni national involved with planning the attacks on the US embassies in Africa in 1998 and on the USS *Cole* in 2000, was captured in Karachi on April 29, 2003:

On arrival at the place of detention in Afghanistan I was stripped naked. I remained naked for the next two weeks. I was put in a cell measuring approximately [3 1/2 by 6 1/2 feet]. I was kept in a standing position, feet flat on the floor, but with my arms above my head and fixed with handcuffs and a chain to a metal bar running across the width of the cell. The cell was dark with no light, artificial or natural.

During the first two weeks I did not receive any food. I was only given Ensure and water to drink. A guard would come and hold the bottle for me while I drank.... The toilet consisted of a bucket in the cell.... I was not allowed to clean myself after using the bucket. Loud music was playing twenty-four hours each day throughout the three weeks I was there.

This "forced standing," with arms shackled above the head, a favorite Soviet technique (*stoika*) that seems to have become standard procedure after Abu Zubaydah, proved especially painful for Bin Attash, who had lost a leg fighting in Afghanistan:

After some time being held in this position my stump began to hurt so I removed my artificial

leg to relieve the pain. Of course my good leg then began to ache and soon started to give way so that I was left hanging with all my weight on my wrists. I shouted for help but at first nobody came. Finally, after about one hour a guard came and my artificial leg was given back to me and I was again placed in the standing position with my hands above my head. After that the interrogators sometimes deliberately removed my artificial leg in order to add extra stress to the position....

By his account, Bin Attash was kept in this position for two weeks—"apart [from] two or three times when I was allowed to lie down." Though "the methods used were specifically designed not to leave marks," the cuffs eventually "cut into my wrists and made wounds. When this happened the doctor would be called." At a second location, where Bin Attash was again stripped naked and placed "in a standing position with my arms above my head and fixed with handcuffs and a chain to a metal ring in the ceiling," a doctor examined his lower leg every day—"using a tape measure for signs of swelling."

I do not remember for exactly how many days I was kept standing, but I think it was about ten days.... During the standing I was made to wear a diaper. However, on some occasions the diaper was not replaced and so I had to urinate and defecate over myself. I was washed down with cold water everyday.

Cold water was used on Bin Attash in combination with beatings and the use of a plastic collar, which seems to have been a refinement of the towel that had been looped around Abu Zubaydah's neck:

Every day for the first two weeks I was subjected to slaps to my face and punches to my body during interrogation. This was done by one interrogator wearing gloves....

Also on a daily basis during the first two weeks a collar was looped around my neck and then used to slam me against the walls of the interrogation room. It was also placed around my neck when being taken out of my cell for interrogation and was used to lead me along the corridor. It was also used to slam me against the walls of the corridor during such movements.

Also on a daily basis during the first two weeks I was made to lie on a plastic sheet placed on the floor which would then be lifted at the edges. Cold water was then poured onto my body with buckets.... I would be kept wrapped inside the sheet with the cold water for several minutes. I would then be taken for interrogation....

Bin Attash notes that in the "second place of detention"—where he was put in the diaper—"they were rather more sophisticated than in Afghanistan because they had a hose-pipe with which to pour the water over me."

6.

A clear method emerges from these accounts, based on forced nudity, isolation, bombardment with noise and light, deprivation of sleep and food, and repeated beatings and "smashings"—though from this basic model one can see the method evolve, from forced sitting to forced standing, for example, and acquire new elements, like immersion in cold water.

Khaled Shaik Mohammed, the key planner of the September 11 attacks who was captured in Rawalpindi on March 1, 2003—nine of the fourteen "high-value detainees" were apprehended in Pakistan—and, after a two-day detention in Pakistan during which he alleges that a "CIA agent...punched him several times in the stomach, chest and face [and]...threw him on the floor and trod on his face," was sent to Afghanistan using the standard "transfer procedures." ("My eyes were covered with a cloth tied around my head and with a cloth bag pulled over it. A suppository was inserted into my rectum. I was not told what the suppository was for.") In Afghanistan, he was stripped and placed in a small cell, where he "was kept in a standing position with my hands cuffed and chained to a bar above my head. My feet were flat on the floor." After about an hour,

I was taken to another room where I was made to stand on tiptoes for about two hours during

questioning. Approximately thirteen persons were in the room. These included the head interrogator (a man) and two female interrogators, plus about ten muscle guys wearing masks. I think they were all Americans. From time to time one of the muscle guys would punch me in the chest and stomach.

These "full-dress" interrogations—where the detainee stands naked, on tiptoe, amid a crowd of thirteen people, including "ten muscle guys wearing masks"—were periodically interrupted by the detainee's removal to a separate room for additional procedures:

Here cold water from buckets was thrown onto me for about forty minutes. Not constantly as it took time to refill the buckets. After which I would be taken back to the interrogation room.

On one occasion during the interrogation I was offered water to drink, when I refused I was again taken to another room where I was made to lie [on] the floor with three persons holding me down. A tube was inserted into my anus and water poured inside. Afterwards I wanted to go to the toilet as I had a feeling as if I had diarrhoea. No toilet access was provided until four hours later when I was given a bucket to use.

Whenever I was returned to my cell I was always kept in the standing position with my hands cuffed and chained to a bar above my head.

After three days in what he believes was Afghanistan, Mohammed was again dressed in a tracksuit, blindfold, hood, and headphones, and shackled and placed aboard a plane "sitting, leaning back, with my hands and ankles shackled in a high chair." He quickly fell asleep—"the first proper sleep in over five days"—and remains unsure of how long the journey took. On arrival, however, he realized he had come a long way:

I could see at one point there was snow on the ground. Everybody was wearing black, with masks and army boots, like Planet-X people. I think the country was Poland. I think this because on one occasion a water bottle was brought to me without the label removed. It had [an] e-mail address ending in ".pl."

He was stripped and put in a small cell "with cameras where I was later informed by an interrogator that I was monitored 24 hours a day by a doctor, psychologist and interrogator." He believes the cell was underground because one had to descend steps to reach it. Its walls were of wood and it measured about ten by thirteen feet.

It was in this place, according to Mohammed, that "the most intense interrogation occurred, led by three experienced CIA interrogators, all over 65 years old and all strong and well trained." They informed him that they had received the "green light from Washington" to give him "*a hard time*." "They never used the word 'torture' and never referred to 'physical pressure,' only to '*a hard time*.' I was never threatened with death, in fact I was told that they would not allow me to die, but that I would be brought to the '*verge of death and back again*.'"

I was kept for one month in the cell in a standing position with my hands cuffed and shackled above my head and my feet cuffed and shackled to a point in the floor. Of course during this month I fell asleep on some occasions while still being held in this position. This resulted in all my weight being applied to the handcuffs around my wrist resulting in open and bleeding wounds. [Scars consistent with this allegation were visible on both wrists as well as on both ankles.] Both my feet became very swollen after one month of almost continual standing. ^[13]

For interrogation, Mohammed was taken to a different room. The sessions last for as long as eight hours and as short as four.

The number of people present varied greatly from one day to another. Other interrogators, including women, were also sometimes present.... A doctor was usually also present. If I was perceived not to be cooperating I would be put against a wall and punched and slapped in the

body, head and face. A thick flexible plastic collar would also be placed around my neck so that it could then be held at the two ends by a guard who would use it to slam me repeatedly against the wall. The beatings were combined with the use of cold water, which was poured over me using a hose-pipe. The beatings and use of cold water occurred on a daily basis during the first month.

Like Abu Zubaydah; like Abdelrahim Hussein Abdul Nashiri, a Saudi who was captured in Dubai in October 2002, Mohammed was also subjected to waterboarding, by his account on five occasions:

I would be strapped to a special bed, which could be rotated into a vertical position. A cloth would be placed over my face. Cold water from a bottle that had been kept in a fridge was then poured onto the cloth by one of the guards so that I could not breathe.... The cloth was then removed and the bed was put into a vertical position. The whole process was then repeated during about one hour. Injuries to my ankles and wrists also occurred during the waterboarding as I struggled in the panic of not being able to breath. Female interrogators were also present...and a doctor was always present, standing out of sight behind the head of [the] bed, but I saw him when he came to fix a clip to my finger which was connected to a machine. I think it was to measure my pulse and oxygen content in my blood. So they could take me to [the] breaking point.

As with Zubaydah, the harshest sessions of interrogation involved the "alternative set of procedures" used in sequence and in combination, one technique intensifying the effects of the others:

The beatings became worse and I had cold water directed at me from a hose-pipe by guards while I was still in my cell. The worst day was when I was beaten for about half an hour by one of the interrogators. My head was banged against the wall so hard that it started to bleed. Cold water was poured over my head. This was then repeated with other interrogators. Finally I was taken for a session of water boarding. The torture on that day was finally stopped by the intervention of the doctor. I was allowed to sleep for about one hour and then put back in my cell standing with my hands shackled above my head.

Reading the ICRC report, one becomes eventually somewhat inured to the "alternative set of procedures" as they are described: the cold and repeated violence grows numbing. Against this background, the descriptions of daily life of the detainees in the black sites, in which interrogation seems merely a periodic heightening of consistently imposed brutality, become more striking. Here again is Mohammed:

After each session of torture I was put into a cell where I was allowed to lie on the floor and could sleep for a few minutes. However, due to shackles on my ankles and wrists I was never able to sleep very well....The toilet consisted of a bucket in the cell, which I could use on request [he was shackled standing, his hands affixed to the ceiling], but I was not allowed to clean myself after toilet during the first month.... During the first month I was not provided with any food apart from on two occasions as a reward for perceived cooperation. I was given Ensure to drink every 4 hours. If I refused to drink then my mouth was forced open by the guard and it was poured down my throat by force.... At the time of my arrest I weighed 78kg. After one month in detention I weighed 60kg.

I wasn't given any clothes for the first month. Artificial light was on 24 hours a day, but I never saw sunlight.

7.

Q : Mr. President,...this is a moral question: Is torture ever justified?

President George W. Bush : Look, I'm going to say it one more time.... Maybe I can be more clear. The instructions went out to our people to adhere to law. That ought to comfort you. We're a nation of law. We adhere to laws. We have laws on the books. You might look at these

laws, and that might provide comfort for you.

—Sea Island, Georgia, June 10, 2004

Abu Zubaydah, Walid Bin Attash, Khaled Shaik Mohammed—these men almost certainly have blood on their hands, a great deal of blood. There is strong reason to believe that they had critical parts in planning and organizing terrorist operations that caused the deaths of thousands of people. So in all likelihood did the other twelve "high-value detainees" whose treatment while secretly confined by agents of the US government is described with such gruesome particularity in the report of the International Committee of the Red Cross. From everything we know, many or all of these men deserve to be tried and punished—to be "brought to justice," as President Bush, in his speech to the American people on September 6, 2006, vowed they would be.

It seems unlikely that they will be brought to justice anytime soon. In mid-January, Susan J. Crawford, who had been appointed by the Bush administration to decide which Guantánamo detainees should be tried before military commissions, declined to refer to trial Mohammed al-Qahtani, who was to have been among the September 11 hijackers but who had been turned back by immigration officials at Orlando International Airport. After he was captured in Afghanistan in late 2002, Qahtani was imprisoned in Guantánamo and interrogated by Department of Defense intelligence officers. Crawford, a retired judge and former general counsel of the army, told *The Washington Post* that she had concluded that Qahtani's "treatment met the legal definition of torture."

The techniques they used were all authorized, but the manner in which they applied them was overly aggressive and too persistent....

You think of torture, you think of some horrendous physical act done to an individual. This was not any one particular act; this was just a combination of things that had a medical impact on him, that hurt his health. It was abusive and uncalled for. And coercive. Clearly coercive. [\[14\]](#)

Qahtani's interrogation at Guantánamo, accounts of which have appeared in *Time* and *The Washington Post*, was intense and prolonged, stretching for fifty consecutive days beginning in the late fall of 2002, and led to his hospitalization on at least two occasions. Some of the techniques used, including longtime sitting in restraints, prolonged exposure to cold, loud music, and noise, and sleep deprivation, recall those described in the ICRC report. If the "coercive" and "abusive" interrogation of Qahtani makes trying him impossible, one may doubt that any of the fourteen "high-value detainees" whose accounts are given in this report will ever be tried and sentenced in an internationally recognized and sanctioned legal proceeding.

In the case of men who have committed great crimes, this seems to mark perhaps the most important and consequential sense in which "torture doesn't work." The use of torture deprives the society whose laws have been so egregiously violated of the possibility of rendering justice. Torture destroys justice. Torture in effect relinquishes this sacred right in exchange for speculative benefits whose value is, at the least, much disputed. John Kiriakou, the CIA officer who witnessed part of Zubaydah's interrogation, described to Brian Ross of ABC News what happened after Zubaydah was waterboarded:

He resisted. He was able to withstand the water boarding for quite some time. And by that I mean probably 30, 35 seconds.... And a short time afterwards, in the next day or so, he told his interrogator that Allah had visited him in his cell during the night and told him to cooperate because his cooperation would make it easier on the other brothers who had been captured. And from that day on he answered every question just like I'm sitting here speaking to you.... The threat information that he provided disrupted a number of attacks, maybe dozens of attacks.

This claim, echoed by President Bush in his speech, is a matter of fierce dispute. Bush's public version, indeed, was much more carefully circumscribed: among other things, that Zubaydah's information confirmed the alias ("Muktar") of Khaled Shaik Mohammed, and thus helped lead to his capture; that it helped lead, indirectly, to the capture of Ramzi bin al-Shibh, a Yemeni who was another key figure in planning the September 11 attacks; and that it "helped us stop another planned attack within the United

States."

At least some of this information, apparently, came during the early, noncoercive interrogation led by FBI agents. Later, according to the reporter Ron Suskind, Zubaydah

named countless targets inside the US to stop the pain, all of them immaterial. Indeed, think back to the sudden slew of alerts in the spring and summer of 2002 about attacks on apartment buildings, banks, shopping malls and, of course, nuclear plants.

Suskind is only the most prominent of a number of reporters with strong sources in the intelligence community who argue that the importance of the intelligence Zubaydah supplied, and indeed his importance within al-Qaeda, have been grossly and systematically exaggerated by government officials, from President Bush on down.^[15]

Though it seems highly unlikely that Zubaydah's information stopped "maybe dozens of attacks," as Kiriakou said, the plain fact is that it is impossible, until a thorough investigation can be undertaken of the interrogations, to evaluate fully and fairly what intelligence the United States actually received in return for all the severe costs, practical, political, legal, and moral, the country incurred by instituting a policy of torture. There is a sense in which the entire debate over what Zubaydah did or did not provide, and the attacks the information might or might not have prevented—a debate driven largely by leaks by fiercely self-interested parties—itsself reflects an unvoiced acceptance, on both sides, of the centrality of the mythical "ticking-bomb scenario" so beloved of those who argue that torture is necessary, and so prized by the writers of television dramas like *24*. That is, the argument centers on whether Zubaydah's interrogation directly "disrupted a number of attacks."

Perhaps unwittingly, Kiriakou is most revealing about the intelligence value of interrogation of "high-value detainees" when he discusses what the CIA actually got from Zubaydah:

What he was able to provide was information on the al-Qaeda leadership. For example, if bin Laden were to do X, who would be the person to undertake such and such an operation? "Oh, logically that would be Mr. Y." And we were able to use that information to kind of get an idea of how al-Qaeda operated, how it came about conceptualizing its operations, and how it went about tasking different cells with carrying out operations.... His value was, it allowed us to have somebody who we could pass ideas onto for his comments or analysis.

This has the ring of truth, for this is how intelligence works—by the patient accruing of individual pieces of information, by building a picture that will help officers make sense of the other intelligence they receive. Could such "comments or analysis" from a high al-Qaeda operative eventually help lead to the disruption of "a number of attacks, maybe dozens of attacks"? It seems possible—but if it did, the chain of cause and effect might not be direct, certainly not nearly so direct as the dramatic scenarios in newspapers and television dramas—and presidential speeches—suggest. The ticking bomb, about to explode and kill thousands or millions; the evil captured terrorist who alone has the information to find and disarm it; the desperate intelligence operative, forced to do whatever is necessary to gain that information—all these elements are well known and emotionally powerful, but where they appear most frequently is in popular entertainment, not in white rooms in Afghanistan.

There is a reverse side, of course, to the "ticking bomb" and torture: pain and ill-treatment, by creating an unbearable pressure on the detainee to say something, anything, to make the pain stop, increase the likelihood that he will fabricate stories, and waste time, or worse. At least some of the intelligence that came of the "alternative set of procedures," like Zubaydah's supposed "information" about attacks on shopping malls and banks, seems to have led the US government to issue what turned out to be baseless warnings to Americans. Khaled Shaik Mohammed asserted this directly in his interviews with the ICRC. "During the harshest period of my interrogation," he said,

I gave a lot of false information in order to satisfy what I believed the interrogators wished to hear in order to make the ill-treatment stop.... I'm sure that the false information I was forced to invent...wasted a lot of their time and led to several false red-alerts being placed in the US.

For all the talk of ticking bombs, very rarely, if ever, have officials been able to point to information gained by interrogating prisoners with "enhanced techniques" that enabled them to prevent an attack that had reached its "operational stage" (that is, had gone beyond reconnoitering and planning). Still, widespread perception that such techniques have prevented attacks, actively encouraged by the President and other officials, has been politically essential in letting the administration carry on with these policies after they had largely become public. Polls tend to show that a majority of Americans are willing to support torture only when they are assured that it will "thwart a terrorist attack." Because of the political persuasiveness of such scenarios it is vital that a future inquiry truly investigate claims that attacks have been prevented.

As I write, it is impossible to know what benefits—in intelligence, in national security, in disrupting al-Qaeda—the President's approval of use of an "alternative set of procedures" might have brought to the United States. What we can say definitively is that the decision has harmed American interests in quite demonstrable ways. Some are practical and specific: for example, FBI agents, many of them professionals with great experience and skill in interrogation, were withdrawn, apparently after objections by the bureau's leaders, when it was decided to use the "alternative set of procedures" on Abu Zubaydah. Extensive leaks to the press, from both officials supportive of and critical of the "alternative set of procedures," undermined what was supposed to be a highly secret program; those leaks, in large part a product of the great controversy the program provoked within the national security bureaucracy, eventually helped make it unsustainable.

Finally, this bureaucratic weakness led officials of the CIA to destroy, apparently out of fear of eventual exposure and possible prosecution, a trove of as many as ninety-two video recordings that had been made of the interrogations, all but two of them of Abu Zubaydah. Whether or not the prosecutor investigating those actions determines that they were illegal, it is hard to believe that the recordings did not include valuable intelligence, which was sacrificed, in effect, for political reasons. These recordings doubtless could have played a critical part as well in the effort to determine what benefits, if any, the program brought to the security of the United States.

Far and away the greatest damage, though, was legal, moral, and political. In the wake of the ICRC report one can make several definitive statements:

1. Beginning in the spring of 2002 the United States government began to torture prisoners. This torture, approved by the President of the United States and monitored in its daily unfolding by senior officials, including the nation's highest law enforcement officer, clearly violated major treaty obligations of the United States, including the Geneva Conventions and the Convention Against Torture, as well as US law.
2. The most senior officers of the US government, President George W. Bush first among them, repeatedly and explicitly lied about this, both in reports to international institutions and directly to the public. The President lied about it in news conferences, interviews, and, most explicitly, in speeches expressly intended to set out the administration's policy on interrogation before the people who had elected him.
3. The US Congress, already in possession of a great deal of information about the torture conducted by the administration—which had been covered widely in the press, and had been briefed, at least in part, from the outset to a select few of its members—passed the Military Commissions Act of 2006 and in so doing attempted to protect those responsible from criminal penalty under the War Crimes Act.
4. Democrats, who could have filibustered the bill, declined to do so—a decision that had much to do with the proximity of the midterm elections, in the run-up to which, they feared, the President and his Republican allies might gain advantage by accusing them of "coddling terrorists." One senator summarized the politics of the Military Commissions Act with admirable forthrightness:

Soon, we will adjourn for the fall, and the campaigning will begin in earnest. And there will be 30-second attack ads and negative mail pieces, and we will be criticized as caring more about the rights of terrorists than the protection of Americans. And I know that the vote before us was specifically designed and timed to add more fuel to that fire. [\[16\]](#)

Senator Barack Obama was only saying aloud what every other legislator knew: that for all the horrified and

gruesome exposés, for all the leaked photographs and documents and horrific testimony, when it came to torture in the September 11 era, the raw politics cut in the other direction. Most politicians remain convinced that still fearful Americans—given the choice between the image of *24*'s Jack Bauer, a latter-day Dirty Harry, fantasy symbol of untrammelled power doing "everything it takes" to protect them from that ticking bomb, and the image of weak liberals "reading Miranda rights to terrorists"—will choose Bauer every time. As Senator Obama said, after the bill he voted against had passed, "politics won today."

5. The political damage to the United States' reputation, and to the "soft power" of its constitutional and democratic ideals, has been, though difficult to quantify, vast and enduring. In a war that is essentially an insurgency fought on a worldwide scale—which is to say, a political war, in which the attitudes and allegiances of young Muslims are the critical target of opportunity—the United States' decision to use torture has resulted in an enormous self-administered defeat, undermining liberal sympathizers of the United States and convincing others that the country is exactly as its enemies paint it: a ruthless imperial power determined to suppress and abuse Muslims. By choosing to torture, we freely chose to become the caricature they made of us.

8.

In the wake of the attacks of September 11, 2001, Cofer Black, the former head of the CIA's Counterterrorism Center and a famously colorful hard-liner, appeared before the Senate Intelligence Committee and made the most telling pronouncement of the era: "All I want to say is that there was 'before' 9/11 and 'after' 9/11. After 9/11 the gloves come off." In the days after the attacks this phrase was everywhere. Columnists quoted it, television commentators flaunted it, interrogators at Abu Ghraib used it in their cables. ("The gloves are coming off gentlemen regarding these detainees, Col Boltz has made it clear that we want these individuals broken."^[17])

The gloves came off: four simple words. And yet they express a complicated thought. For if the gloves must come off, that means that before the attacks the gloves were on. There is something implicitly exculpatory in the image, something that made it particularly appealing to officials of an administration that endured, on its watch, the most lethal terrorist attack in the country's history. If the attack succeeded, it must have had to do not with the fact that intelligence was not passed on or that warnings were not heeded or that senior officials did not focus on terrorism as a leading threat. It must have been, at least in part, because the gloves were on—because the post-Watergate reforms of the 1970s, in which Congress sought to put limits on the CIA, on its freedom to mount covert actions with "deniability" and to conduct surveillance at home and abroad, had illegitimately circumscribed the President's power and thereby put the country dangerously at risk. It is no accident that two of the administration's most powerful officials, Dick Cheney and Donald Rumsfeld, served as young men in very senior positions in the Nixon and Ford administrations. They had witnessed firsthand the gloves going on and, in the weeks after the September 11 attacks, they argued powerfully that it was those limitations—and, it was implied, not a failure to heed warnings—that had helped lead, however indirectly, to the country's vulnerability to attack.

And so, after a devastating and unprecedented attack, the gloves came off. Guided by the President and his closest advisers, the United States transformed itself from a country that, officially at least, condemned torture to a country that practiced it. And this fateful decision, however much we may want it to, will not go away, any more than the fourteen "high-value detainees," tortured and thus unprosecutable, will go away. Like the grotesque stories in the ICRC report, the decision sits before us, a toxic fact, polluting our political and moral life.

Since the inauguration of President Obama, the previous administration's "alternative procedures" have acquired a prominence in the press, particularly on cable television, that they rarely achieved when they were actually being practiced on detainees. This is especially the case with waterboarding, which according to the former director of the CIA has not been used since 2003. On his first day in office, President Obama issued executive orders that stopped the use of these techniques and provided for task forces to study US government policies on rendition, detention, and interrogation, among others.

Meantime, Democratic leaders in Congress, who have been in control since 2006, have at last embarked on

serious investigations. Senators Dianne Feinstein and Christopher Bond, the chair and ranking member of the Intelligence Committee, have announced a "review of the CIA's detention and interrogation program," which would study, among other questions, "how the CIA created, operated, and maintained its detention and interrogation program," make "an evaluation of intelligence information gained through the use of enhanced and standard interrogation techniques," and investigate "whether the CIA accurately described the detention and interrogation program to other parts of the US government"—including, notably, "the Senate Intelligence Committee." The hearings, according to reports, are unlikely to be public.

In February, Senator Patrick Leahy, chairman of the Judiciary Committee, called for the establishment of what he calls a "nonpartisan commission of inquiry," better known as a "Truth and Reconciliation Committee," to investigate "how our detention policies and practices, from Guantanamo to Abu Ghraib, have seriously eroded fundamental American principles of the rule of law." Since Senator Leahy's commission is intended above all to investigate and make public what was done—"in order to restore our moral leadership," as he said, "we must acknowledge what was done in our name"—he would offer grants of immunity to public officials in exchange for their truthful testimony. He seeks not prosecution and justice but knowledge and exposure: "We cannot turn the page until we have read the page."

Many officials of human rights organizations, who have fought long and valiantly to bring attention and law to bear on these issues, strongly reject any proposal that includes widespread grants of immunity. They urge investigations and prosecutions of Bush administration officials. The choices are complicated and painful. From what we know, officials acted with the legal sanction of the US government and under orders from the highest political authority, the elected president of the United States. Political decisions, made by elected officials, led to these crimes. But political opinion, within the government and increasingly, as time passed, without, to some extent allowed those crimes to persist. If there is a need for prosecution there is also a vital need for education. Only a credible investigation into what was done and what information was gained can begin to alter the political calculus around torture by replacing the public's attachment to the ticking bomb with an understanding of what torture is and what is gained, and lost, when the United States reverts to it.

President Obama, while declaring that "nobody's above the law, and if there are clear instances of wrongdoing...people should be prosecuted," has also expressed his strong preference for "looking forward" rather than "looking backwards." One can understand the sentiment but even some of the decisions his administration has already made—concerning state secrecy, for example—show the extent to which he and his Department of Justice will be haunted by what his predecessor did. Consider the uncompromising words of Eric Holder, the attorney general, who in reply to a direct question at his confirmation hearings had declared, "waterboarding is torture." There is nothing ambiguous about this statement—nor about the equally blunt statements of several high Bush administration officials, including the former vice-president and the director of the CIA, confirming unequivocally that the administration had ordered and directed that prisoners under its control be waterboarded. We are all living, then, with a terrible contradiction, an enduring one, and it is not subtle, any more than the accounts in the ICRC report are subtle. "It was," as Mr. Cheney said of waterboarding, "a no-brainer for me." Now Abu Zubaydah and his fellow detainees have stepped forward out of the darkness to link hands with the former vice-president and testify to his truthfulness.

—*March 12, 2009*

Notes

^[1]See "[Restoring Trust in the Justice System: The Senate Judiciary Committee's Agenda in the 111th Congress](#)," 2009 Marver Bernstein Lecture, Georgetown University, February 9, 2009.

^[2]See "[President Discusses Creation of Military Commissions to Try Suspected Terrorists](#)," September 6, 2006, East Room, White House, available at cfr.org.

^[3]See, for the authoritative account, Dana Priest, "[CIA Holds Terror Suspects in Secret Prisons](#)," *The Washington Post*, November 2, 2005.

[4] See Jonathan Alter, "[Time to Think About Torture: It's a New World, and Survival May Well Require Old Techniques That Seemed Out of the Question](#)," *Newsweek*, November 5, 2001. See also Raymond Bonner, Don Van Natta Jr., and Amy Waldman, "[Interrogations: Questioning Terror Suspects in a Dark and Surreal World](#)," *The New York Times*, March 9, 2003.

[5] "[President Bush's News Conference](#)," *The New York Times*, September 15, 2006.

[6] From "CIA—Abu Zubaydah. Interview with John Kiriakou." This is the rough and undated transcript of a video interview conducted by Brian Ross of ABC News, apparently in December 2007, available at [abcnews.go.com](#). Quotations from this document have been edited very slightly for clarity. See also Richard Esposito and Brian Ross, "[Coming in from the Cold: CIA Spy Calls Waterboarding Necessary But Torture](#)," ABC News, December 10, 2007.

[7] See "Working Group Report on Detainee Interrogations in the Global War on Terrorism: Assessment of Legal, Historical, Policy, and Operational Considerations," April 4, 2003, in Mark Danner, [Torture and Truth: America, Abu Ghraib, and the War on Terror](#) (New York Review Books, 2004), pp. 190–192. A great many of these documents, collected in this book and elsewhere, were leaked in the wake of the publication of the Abu Ghraib photographs, and have been public since late spring or early summer of 2004.

[8] See David Johnston, "[At a Secret Interrogation, Dispute Flared Over Tactics](#)," *The New York Times*, September 10, 2006.

[9] See Mark Hosenball, "[How Good Is Abu Zubaydah's Information?](#)," *Newsweek* Web Exclusive, April 27, 2002.

[10] See Johnston, "At a Secret Interrogation, Dispute Flared Over Tactics."

[11] See KUBARK *Counterintelligence Interrogation—July 1963 and Human Resource Exploitation Training Manual—1983*, both archived at "Prisoner Abuse: Patterns from the Past," National Security Archive Electronic Briefing Book No. 122. For the historical roots of the "alternative set of procedures" see Alfred W. McCoy, *A Question of Torture: CIA Interrogation, from the Cold War to the War on Terror* (Metropolitan, 2006); and Jane Mayer, *The Dark Side: The Inside Story of How the War on Terror Turned into a War on American Ideals* (Doubleday, 2008), especially pp. 167–174. See also my "[The Logic of Torture](#)," *The New York Review*, June 24, 2004, and [Torture and Truth](#).

[12] See Jan Crawford Greenburg, Howard L. Rosenberg, and Ariane de Vogue, "[Sources: Top Bush Advisors Approved 'Enhanced Interrogation'](#)," ABC News, April 9, 2008.

[13] The bracketed comment appears in the ICRC report.

[14] See Bob Woodward, "[Detainee Tortured, Says US Official: Trial Overseer Cites 'Abusive' Methods Against 9/11 Suspect](#)," *The Washington Post*, January 14, 2009.

[15] See Ron Suskind, "[The Unofficial Story of the al-Qaeda 14](#)," *Time*, September 10, 2006. See also Suskind's *The One Percent Doctrine: Deep Inside America's Pursuit of Its Enemies Since 9/11* (Simon and Schuster, 2006), pp. 99–101, and Mayer, *The Dark Side*, pp. 175–177.

[16] See "Statement on Military Commission Legislation: Remarks by Senator Barack Obama," September 28, 2006.

[17] See my [Torture and Truth](#), p. 33.

The Red Cross Torture Report: What It Means

By [Mark Danner](#)

ICRC Report on the Treatment of Fourteen "High Value Detainees" in CIA Custody
by the International Committee of the Red Cross
43 pp., February 2007

[Download the text](#) of the ICRC Report on the Treatment of Fourteen "High Value Detainees" in CIA Custody by *The International Committee of the Red Cross*, along with the cover letter that accompanied it when it was transmitted to the US government in February 2007. This version, reset by The New York Review, exactly reproduces the original including typographical errors and some omitted words.

When we get people who are more concerned about reading the rights to an Al Qaeda terrorist than they are with protecting the United States against people who are absolutely committed to do anything they can to kill Americans, then I worry.... These are evil people. And we're not going to win this fight by turning the other cheek.

If it hadn't been for what we did—with respect to the...enhanced interrogation techniques for high-value detainees...—then we would have been attacked again. Those policies we put in place, in my opinion, were absolutely crucial to getting us through the last seven-plus years without a major-casualty attack on the US....

—Former Vice President Dick Cheney, February 4, 2009^[1]

1.

When it comes to torture, it is not what we did but what we are doing. It is not what happened but what is happening and what will happen. In our politics, torture is not about whether or not our polity can "let the past be past"—whether or not we can "get beyond it and look forward." Torture, for Dick Cheney and for President Bush and a significant portion of the American people, is more than a repugnant series of "procedures" applied to a few hundred prisoners in American custody during the last half-dozen or so years—procedures that are described with chilling and patient particularity in this authoritative report by the International Committee of the Red Cross.^[2] Torture is more than the specific techniques—the forced nudity, sleep deprivation, long-term standing, and suffocation by water," among others—that were applied to those fourteen "high-value detainees" and likely many more at the "black site" prisons secretly maintained by the CIA on three continents.

Torture, as the former vice-president's words suggest, is a critical issue in the present of our politics—and not only because of ongoing investigations by Senate committees, or because of calls for an independent inquiry by congressional leaders, or for a "truth commission" by a leading Senate Democrat, or because of demands for a criminal investigation by the ACLU and other human rights organizations, and now undertaken in Spain, the United Kingdom, and Poland.^[3] For many in the United States, torture still stands as a marker of political commitment—of a willingness to "do anything to protect the American people," a manly readiness to know when to abstain from "coddling terrorists" and do what needs to be done. Torture's powerful symbolic role, like many ugly, shameful facts, is left unacknowledged and undiscussed. But that doesn't make it any less real. On the contrary.

Torture is at the heart of the deadly politics of national security. The former vice-president, as able and ruthless a politician as the country has yet produced, appears convinced of this. For if torture really was a

necessary evil in what Mr. Cheney calls the "tough, mean, dirty, nasty business" of "keeping the country safe," then it follows that its abolition at the hands of the Obama administration will put the country once more at risk. It was Barack Obama, after all, who on his first full day as president issued a series of historic executive orders that closed the "black site" secret prisons and halted the use of "enhanced interrogation techniques" that had been practiced there, and that provided that the offshore prison at Guantánamo would be closed within a year.

In moving instantly to do these things Obama identified himself as the "anti-torture president" no less than George W. Bush had become the "torture president"—as the former vice-president, a deeply unpopular politician who has seized the role of a kind of dark spokesman for the national id, was quick to point out. To a CNN interviewer who asked Mr. Cheney in March whether he believed that "by taking those steps...the president of the United States has made Americans less safe," Cheney replied:

I do. I think those programs were absolutely essential to the success we enjoyed of being able to collect the intelligence that let us defeat all further attempts to launch attacks against the United States since 9/11. I think that's a great success story.^[4]

To which President Obama a few days later answered, "I fundamentally disagree with Dick Cheney." He went on:

I think that Vice President Cheney has been at the head of a movement whose notion is somehow that we can't reconcile our core values, our Constitution, our belief that we don't torture, with our national security interests.... That attitude, that philosophy has done incredible damage to our image and position in the world.^[5]

The President spoke of justice and reputation and the attitudes of Muslims toward Americans. And he spoke of "the facts"—which, he said of Mr. Cheney, "don't bear him out." It is clear that the President, a former professor of constitutional law and self-professed "optimistic guy" who, when asked whether those who have tortured should be punished, speaks of his preference for "looking forward" over "looking backward," appreciates the political importance of the "great success story" being shaped by Cheney and others out of the recent past, a "success story" that the new president, with his overly "legalistic" concern for the Constitution, is said to be wantonly and foolishly destroying.

Cheney's story is made not of facts but of the myths that replace them when facts remain secret: myths that are fueled by allusions to a dark world of secrets that cannot be revealed. At its heart is the recasting of President George W. Bush, under whose administration more Americans died in terrorist attacks than under all others combined, as the leader who "kept us safe," and who was able to do so only by recognizing that the US had to engage in "a tough, mean, dirty, nasty business." To keep the country safe "the gloves had to come off." What precisely were those "gloves" that had to be removed? Laws that forbid torture, that outlaw wiretapping and surveillance without permission of the courts, that limit the president's power to order secret operations and to wage war exactly as he sees fit.

The logic here works both ways: if "taking the gloves off" was a critical part of the "great success story" that has "kept the country safe," then those who put the gloves on—Democrats who, in the wake of the Watergate scandal during the mid-1970s, passed laws that, among other things, limited the president's freedom to order, with "deniability," the CIA to operate outside the law—must have left the country vulnerable. And if by passing those restrictive laws three decades ago Democrats had left the country defenseless before the September 11 terrorists, then putting the gloves back on, as President Barack Obama on assuming office immediately began to do, risks leaving the country vulnerable once more.

Thus another successful attack, if it comes, can be laid firmly at the door of the Obama administration and its Democratic, "legalistic" policies. Especially in the case of "the ultimate threat to the country," as the former vice-president put it two weeks after leaving office, of

a 9/11-type event where the terrorists are armed with something much more dangerous than an airline ticket and a box cutter—a nuclear weapon or a biological agent of some kind. That's the one that would involve the deaths of perhaps hundreds of thousands of people, and the one

you have to spend a hell of a lot of time guarding against.

I think there's a high probability of such an attempt. Whether or not they can pull it off depends [on] whether or not we keep in place policies that have allowed us to defeat all further attempts, since 9/11, to launch mass-casualty attacks against the United States....

If you release the hard-core Al Qaeda terrorists that are held at Guantánamo, I think they go back into the business of trying to kill more Americans and mount further mass-casualty attacks. If you turn them loose and they go kill more Americans, who's responsible for that?

Who indeed? Mr. Cheney's politics of torture looks, Janus-like, in two directions: back to the past, toward exculpation for what was done under the administration he served, and into the future, toward blame for what might come under the administration that followed.

Put forward at a time when Republicans have lost power and popularity—and by the man who is perhaps the least popular figure in American public life—these propositions seem audacious, outrageous, even reckless; yet the political logic is insidious and, in the aftermath of a future attack, might well prove compelling. We are returning here to old principles, the post-cold war national security politics that Karl Rove, scarcely four months after the September 11 attacks, set out bluntly before his colleagues at the Republican National Committee: "We can go to the country on this issue"—the "War on Terror," Rove said, because voters "trust the Republican Party to do a better job of protecting and strengthening America's military might and, thereby, protecting America." And in 2002 and 2004, just as Rove had predicted, Republicans gathered a rich harvest from this "politics of fear," establishing and adding to majorities in both houses of Congress and managing to reelect a president who had embroiled the country in a deeply unpopular war in Iraq.

Cheney's politics of fear—and the vice-president is unique only in his willingness to enunciate the matter so aggressively—is drawn from the past but built for the future, a possibly post-apocalyptic future, when Americans, gazing at the ruins left by another attack on their country, will wonder what could have been done but wasn't. It relies on a carefully constructed narrative of what was done during the last half-dozen years, of all the disasters that could have happened but did not, and why they did not, and it makes unflinching political use of the powers of secrecy. As the former vice-president confided to the CNN correspondent John King,

John, I've seen a report that was written based upon the intelligence that we collected then that itemizes the specific attacks that were stopped by virtue of what we learned through these programs. It's still classified. I can't give you details of it without violating classification, but I can say there were a great many of them.

Attacks prevented, threats averted, lives saved—all secret and all ascribed to a willingness to do the "tough, mean, dirty, nasty" things that needed to be done. Things the present "anti-torture president" is just too "legalistic" to do. Barack Obama may well assert that "the facts don't bear him out," but as long as the "details of it" cannot be revealed "without violating classification," as long as secrecy can be wielded as the dark and potent weapon it remains, Cheney's politics of torture will remain a powerful if half-submerged counter-story, waiting for the next attack to spark it into vibrant life.

2.

"Key to what we did" in the "War on Terror," the former vice-president told CNN, "was to collect intelligence against the enemy. That's what...the enhanced interrogation program was all about." It was not about punishment or pain or degradation but rather about intelligence. The question was, how to gather vital intelligence most efficiently and yet do it—as the former vice-president insists it was done—"legally" and "in accordance with our constitutional practices and principles." These "techniques" would not be torture but rather "enhanced interrogation" or "extreme interrogation," or, in President George W. Bush's favored phrase, almost beautiful in its utter and perfect neutrality, "an alternative set of procedures." These "procedures" were "designed to be safe, to comply with our laws, our Constitution, and our treaty

obligations."^[6]

Working through the forty-three pages of the International Committee of the Red Cross's report, one finds a strikingly detailed account of horrors inflicted on fourteen "high-value detainees" over a period of weeks and months—horrors that Red Cross officials conclude, quite unequivocally, "constituted torture." It is hard not to reflect how officials concerned about protecting the country arrived at this particular "alternative set of procedures," and how they convinced themselves, with the help of attorneys in the White House and in the Department of Justice, that these "procedures" were legal. Thanks especially to pathbreaking reporting by Jane Mayer in *The New Yorker*, to the historical work of Alfred W. McCoy, and now to a partially released report by the Senate Armed Services Committee and a series of leaked and declassified memos by the Bush Justice Department, we have a fairly extensive record of the intricate bureaucratic mechanics of how the program came to be. We can find its roots in various CIA studies of sensory deprivation and induced psychosis and "learned helplessness," some of them more than four decades old, and, in the case of the particular "alternative set of procedures," in the work of consultants and psychologists who had been involved in shaping and administering the SERE ("Survival Evasion Resistance and Escape") "counter-resistance" program developed by the US military.^[7]

The effort began early in the days after the September 11 attacks. By December 2001, according to the Senate Armed Services Committee report, the general counsel in the Department of Defense "had already solicited information on detainee 'exploitation' from the Joint Personnel Recovery Agency (JPRA), an agency whose expertise was in training American personnel to withstand interrogation techniques considered illegal under the Geneva Conventions." Two months later, on February 7, 2002, President Bush signed a memorandum stating that the Third Geneva Convention in effect didn't apply to prisoners in the "War on Terror." This decision cleared the way for the adaptation of SERE techniques to interrogation of prisoners in the "War on Terror." As the authors of the Senate Armed Services Committee report explain:

During the resistance phase of SERE training, US military personnel are exposed to physical and psychological pressures...designed to simulate conditions to which they might be subject if taken prisoner by enemies that *did not abide by the Geneva Conventions*. As one JPRA instructor explained, SERE training is "*based on illegal exploitation (under the rules listed in the 1949 Geneva Convention Relative to the Treatment of Prisoners of War) of prisoners over the last 50 years.*"

The techniques used in SERE school, based, in part, on Chinese Communist techniques used during the Korean war to elicit false confessions, include stripping students of their clothing, placing them in stress positions, putting hoods over their heads, disrupting their sleep, treating them like animals, subjecting them to loud music and flashing lights, and exposing them to extreme temperatures. It can also include face and body slaps and until recently, for some who attended the Navy's SERE school, it included waterboarding.^[8]

An awareness of this history makes reading the International Committee of the Red Cross report a strange exercise in climbing back through the looking glass. For in interviewing the fourteen "high-value detainees," who had been imprisoned secretly in the "black sites" anywhere from "16 months to almost four and a half years," the Red Cross experts were listening to descriptions of techniques applied to them that had been originally *designed to be illegal* "under the rules listed in the 1949 Geneva Conventions." And then the Red Cross investigators, as members of the body designated by the Geneva Conventions to supervise treatment of prisoners of war and to judge that treatment's legality, were called on to pronounce whether or not the techniques conformed to the conventions in the first place. In this judgment, they are, not surprisingly, unequivocal:

The allegations of ill-treatment of the detainees indicate that, in many cases, the ill-treatment to which they were subjected while held in the CIA program, either singly or in combination, constituted torture. In addition, many other elements of the ill-treatment, either singly or in combination, constituted cruel and inhuman or degrading treatment.

In view of the roots of the "alternative set of procedures," this stark judgment might be dismissed as the chronicle of a verdict foretold. Both "torture" and "cruel, inhuman and degrading treatment" are declared

illegal under the Third Geneva Convention, to which the Supreme Court ruled in June 2006 that—President Bush's February 2002 memorandum notwithstanding—the United States in its treatment of all prisoners must adhere. They are also illegal under the Convention Against Torture of 1984, to which the United States is a signatory, and illegal under the War Crimes Act of 1996 (though the Military Commissions Act of 2006 makes an attempt to shield those who applied the "alternative set of procedures" from legal consequences under this law). What is more, as the report concludes,

The totality of the circumstances in which the fourteen were held effectively amounted to an arbitrary deprivation of liberty and enforced disappearance, in contravention of international law.

It is a testament as much to the peculiarities of the American press—to its "stenographic function" and its institutional unwillingness to report as fact anything disputed, however implausibly, by a high official—that the former vice-president's insistence that these interrogations were undertaken "legally" and "in accordance with our constitutional practices and principles" continues to be reported without contradiction, and that President Bush's oft-repeated assertion that "the United States does not torture" is still respectfully quoted and, in many quarters, taken seriously. That they are so reported is a political fact, and a powerful one. It makes it possible to contend that, however adamant the arguments of the lawyers "on either side," the very fact of their disagreement makes the legality of these procedures a matter of partisan political allegiance, not of law.

3.

In the long months of confinement, I often thought of how to transmit the pain that a tortured person undergoes. And always I concluded that it was impossible.

—Jacobo Timerman [\[9\]](#)

Whatever the tangled history of the techniques described in the ICRC report—whatever the sources in Communist China or Soviet Russia or wherever else they might be traced—what was done in the end was quite simple. In setting out after September 11 to "do whatever it takes" in the "tough, mean, dirty, nasty business" of protecting the country against "evil people," Bush administration officials were modern people treading a timeless road. However impressive the advanced degrees of the consultants they hired, the techniques of "enhanced interrogation" are in their essence ancient, for they play on emotions and physical realities that are basic and unchanging. Consider, for example, the "crude but effective" methods of the Soviet State Political Directorate (GPU):

They consisted usually of tying the victim in a strait-jacket to an iron bunk. The strait-jacket was his only clothing; he had no blanket, no food and was unable to go to the lavatory. With a gag in his mouth and a stopper in his rectum he would be given periodic beatings with rubber poles. [\[10\]](#)

Brutal stuff; hard to imagine Americans, however intent on "collecting intelligence against the enemy," engaging in such things. And yet as one looks again at those "crude but effective" procedures, one notices certain unchanging necessities. There is, for example, the basic need to keep the subject helpless and restrained, here accomplished with forced nudity and a straitjacket. In the "black sites," the same end was achieved by forced nudity and what the Red Cross terms, in its chapter of the same name, "prolonged use of handcuffs and shackles." One of the fourteen detainees, for example, tells the Red Cross investigators that

he was kept for four and a half months continuously handcuffed and seven months with the ankles continuously shackled while detained in Kabul in 2003/4. On two occasions, his shackles had to be cut off his ankles as the locking mechanism had ceased to function, allegedly due to rust.

This technique, like other of the "alternative set of procedures" detailed by the Red Cross, seems to have been consistently applied to many of the fourteen "high-value" detainees. Walid bin Attash told the Red

Cross investigators that

he was kept permanently handcuffed and shackled throughout his first six months of detention. During the four months he was held in his third place of detention, when not kept in the prolonged stress standing position [with his hands shackled to the ceiling], his ankle shackles were allegedly kept attached by a one meter long chain to a pin fixed in the corner of the room where he was held.

As with the GPU set of procedures, prisoners were kept naked, deprived of blankets, mattresses, and other necessities, and deprived of food. As for "the stopper in the rectum," it was supplied by the GPU to deal with the practical if unpleasant problem of how to cope, in the case of a person who is naked and entirely under restraint and at the same time experiencing prolonged and extreme pain, with the inevitable consequences of his bodily functions. The Americans at the "black sites," who had also to face this unpleasant necessity, particularly when holding detainees in "stress positions," for example, forcing them for many days to stand naked with their hands shackled to a bolt in the ceiling and their ankles shackled to a bolt in the floor, developed their own equivalent:

While being held in this position some of the detainees were allowed to defecate in a bucket. A guard would come to release their hands from the bar or hook in the ceiling so that they could sit on the bucket. None of them, however, were allowed to clean themselves afterwards. Others were made to wear a garment that resembled a diaper. This was the case for Mr. Bin Attash in his fourth place of detention. However, he commented that on several occasions the diaper was not replaced so he had to urinate and defecate on himself while shackled in the prolonged stress standing position. Indeed, in addition to Mr. Bin Attash, three other detainees specified that they had to defecate and urinate on themselves and remain standing in their own bodily fluids.

One turns, finally, to those "periodic beatings with rubber poles" that the GPU administered. No rubber poles are to be found in the Red Cross report. Once again, though, as with the stopper in the rectum and the diapers, the rubber poles simply represent the GPU's practical solution to a problem shared by the CIA at the "black sites": How can one beat a detainee repeatedly without causing debilitating or permanent injury that might make him unfit for further interrogation? How, that is, to get the pain and its effect while minimizing the physical consequences?

Where the GPU responded by developing rubber poles, the CIA created its plastic collar, "an improvised thick collar or neck roll," as the Red Cross investigators describe it in Chapter 1.3.3 ("Beating by use of a collar"), that "was placed around their necks and used by their interrogators to slam them against the walls." Though six of the fourteen detainees report the use of the "thick plastic collar," which, according to Khaled Shaik Mohammed, would then be "held at the two ends by a guard who would use it to slam me repeatedly against the wall," it is plain that this particular technique was perfected through experimentation. Indeed, the plastic collar seems to have begun as a rather simple mechanism: an everyday towel that was looped around the neck, the ends gathered in the guard's fist. The collar appeared later and brought with it other innovations:

Mr. Abu Zubaydah commented that when the collar was first used on him in his third place of detention, he was slammed directly against a hard concrete wall. He was then placed in a tall box for several hours (see Section 1.3.5, Confinement in boxes). After he was taken out of the box he noticed that a sheet of plywood had been placed against the wall. The collar was then used to slam him against the plywood sheet. He thought that the plywood was in order to absorb some of the impact so as to avoid the risk of physical injury.

How to inflict pain without causing injury that might inhibit or prevent further interrogation? And how to do so in such a way that the pain inflicted might be said not to be akin to that "associated with serious physical injury so severe that death, organ failure, or permanent damage resulting in a loss of significant body function will likely result"? This was of course the legal definition of torture concocted by White House and Justice Department lawyers (and codified in what has come to be known as the "Torture Memo," written by John Yoo and signed by Jay Bybee on August 1, 2002). The challenging task set before these

lawyers was to somehow "make legal" a set of techniques that had originated in a program developed expressly to prepare soldiers for techniques that were illegal, and thereby to offer officials and interrogators a "golden shield" that would suffice to convince them they would be protected from legal consequences.)

In answer to these questions, and with the benefit of experimentation, especially on Mr. Abu Zubaydah, one of the first of the alleged "big fish" al-Qaeda captives, the CIA seems to have arrived at a method that is codified by the International Committee of the Red Cross experts into twelve basic techniques, as follows:

- **Suffocation by water** poured over a cloth placed over the nose and mouth...
- **Prolonged stress standing position**, naked, held with the arms extended and chained above the head...
- **Beatings by use of a collar** held around the detainees' neck and used to forcefully bang the head and body against the wall...
- **Beating and kicking**, including slapping, punching, kicking to the body and face...
- **Confinement in a box** to severely restrict movement...
- **Prolonged nudity**...this enforced nudity lasted for periods ranging from several weeks to several months...
- **Sleep deprivation**...through use of forced stress positions (standing or sitting), cold water and use of repetitive loud noises or music...
- **Exposure to cold temperature**...especially via cold cells and interrogation rooms, and...use of cold water poured over the body or...held around the body by means of a plastic sheet to create an immersion bath with just the head out of water.
- **Prolonged shackling** of hands and/or feet...
- **Threats of ill-treatment**, to the detainee and/or his family...
- **Forced shaving** of the head and beard...
- **Deprivation/restricted provision of solid food** from 3 days to 1 month after arrest...

As the Red Cross writers tell us, "each specific method was in fact applied in combination with other methods, either simultaneously or in succession." A clear picture of this cumulative effect comes from the three long excerpts of interviews with detainees published as annexes at the end of the report, which I have quoted from and discussed at length in my earlier article.^[11] To understand the effect one must remember what all experienced torturers know: dramatic results can be achieved with simple techniques. Forced standing, for example:

Ten of the fourteen alleged that they were subjected to prolonged stress standing positions, during which their wrists were shackled to a bar or hook in the ceiling above the head for periods ranging from two or three days continuously, and for up to two or three months intermittently.... For example, Mr. Khaled Shaik Mohammed alleged that, apart from the time when he was taken for interrogation, he was shackled in prolonged stress standing position for one month in his third place of detention.... Mr. Bin Attash for two weeks with two or three short breaks where he could lie down in Afghanistan and for several days in his fourth place of detention.... Mr. Hambali for four to five days, blindfolded with a type of sack over his head, while still detained in Thailand....

This prolonged forced standing is, again, an ancient technique, and a favorite, notably, of the Soviet intelligence services. It can be difficult, when gazing at the stark descriptions of these procedures, to understand their effect. Secretary of Defense Donald Rumsfeld, for example, when approving in December 2002 a series of interrogation techniques that included forced standing for up to four hours, famously scribbled in the lower margin, beneath his initials: "However, I stand for 8–10 hours a day. Why is standing limited to 4 hours? D.R." Secretary Rumsfeld, who no doubt was standing at his desk when he scrawled these words, professed to have difficulty comprehending the difference between working at a standing desk in one's office—signing documents, talking on the telephone, speaking to subordinates, drinking coffee—and standing naked in a very cold room with hands shackled to the ceiling for hours and days at a time.

One can gain a hint of the difference simply by rising and standing motionless with one's hands extended directly overhead and trying to maintain the position for, say, thirty minutes. Then imagine maintaining it

for several hours, or days, or weeks. The physical effects, as described in a notorious study of Communist interrogation methods by two psychologists, are dramatic:

After 18 to 24 hours of continuous standing, there is an accumulation of fluid in the tissues of the legs. This dependent edema is produced by the extravasation of fluid from the blood vessels. The ankles and feet of the prisoner swell to twice their normal circumference. The edema may rise up the legs as high as the middle of the thighs. The skin becomes tense and intensely painful. Large blisters develop, which break and exude watery serum....^[12]

This medical observation is confirmed in the accounts of at least two of the detainees in the ICRC report, including that of Khaled Shaik Mohammed:

...I was kept for one month in the cell in a standing position with my hands cuffed and shackled above my head and my feet cuffed and shackled to a point in the floor. Of course during this month I fell asleep on some occasions while still being held in this position. This resulted in all my weight being applied to the handcuffs around my wrists resulting in open and bleeding wounds.... [Scars consistent with this allegation were visible on both wrists as well as both ankles.] Both my feet became very swollen after one month of almost continual standing.^[13]

4.

I fundamentally disagree with Dick Cheney.... The facts don't bear him out.

—President Barack Obama, *60 Minutes*, March 22, 2009

One fact, seemingly incontrovertible, after the descriptions contained and the judgments made in the ICRC report, is that officials of the United States, in interrogating prisoners in the "War on Terror," have tortured and done so systematically. From many other sources, including the former president himself, we know that the decision to do so was taken at the highest level of the American government and carried out with the full knowledge and support of its most senior officials.

Once this is accepted as a fact, certain consequences might be expected to follow. First, that these policies, violating as they do domestic and international law, must be changed—which, as noted, President Obama began to accomplish on his first full day in office. Second, that they should be explicitly repudiated—a more complicated political process, which has, perhaps, begun, but only begun. Third, that those who ordered, designed, and applied them must be brought before the public in some societally sanctioned proceeding, made to explain what they did and how, and suffer some appropriate consequence.

And fourth, and crucially, that some judgment must be made, based on the most credible of information compiled and analyzed and weighed by the most credible of bodies, about what these policies actually accomplished: how they advanced the interests of the country, if indeed they did advance them, and how they hurt them. For at this point, President Obama's assertion that "the facts don't bear [Cheney] out" remains simply that: an assertion. To that assertion Mr. Cheney and others, including President Bush, respond and will continue to respond with claims of "specific attacks that were stopped by virtue of what we learned through these programs"—about which, of course, they "can't give you details...without violating classification." And when public officials do cite specific cases—as President Bush himself did in describing the use of the "alternative set of procedures" on Abu Zubaydah, who, the President claimed, "was a senior terrorist leader" who "provided information that helped stop a terrorist attack being planned for inside the United States"—other officials, many of them also "in a position to know," leak differing versions to reporters which seem to demonstrate that the claims that were made are exaggerations and worse.^[14]

Unfortunately, these contrary accounts, however convincing—and in the case of Abu Zubaydah they have been very convincing—generally come from unnamed officials and cannot serve as definitive proof, or as a sufficiently credible repudiation of what former officials, including the President of the United States, still assert. Far from ending the discussion about whether torture really was, as Cheney insists, "absolutely crucial to getting us through the last seven-plus years without a major-casualty attack," these ongoing

battles between extravagant claims and undermining leaks will ensure that it persists.

It is because of the claim that torture protected the US that the many Americans who still nod their heads when they hear Dick Cheney's claims about the necessity for "tough, mean, dirty, nasty" tactics in the war on terror respond to its revelation not by instantly condemning it but instead by asking further questions. For example: Was it necessary? And: Did it work? To these questions the last president and vice-president, who "kept the country safe" for "seven-plus years," respond "yes," and "yes." And though as time passes the numbers of those insisting on asking those questions, and willing to accept those answers, no doubt falls, it remains significant, and would likely grow substantially after another successful attack.

This political fact partly explains why, when it comes to torture, we seem to be a society trapped in a familiar and never-ending drama. For though some of the details provided—and officially confirmed for the first time—in the ICRC report are new, and though the first-person accounts make chilling reading and have undoubted dramatic power, one can't help observing that the broader discussion of torture is by now in its essential outlines nearly five years old, and has become, in its predictably reenacted outrage and defiant denials from various parties, something like a shadow play.^[15]

News of the "black sites" first appeared prominently in the press—on the front page of *The Washington Post*—in December 2002.^[16] A year and a half later, after the publication and broadcast of the Abu Ghraib photographs—the one moment in the last half-dozen years when the torture story, thanks to the lurid images, became "televisual"—a great wave of leaks swept into public view hundreds of pages of "secret" documents about torture and the Bush administration's decision-making regarding it.^[17] There have been many important "revelations" since, but none of them has changed the essential fact: by no later than the summer of 2004, the American people had before them the basic narrative of how the elected and appointed officials of their government decided to torture prisoners and how they went about it.

The reports on American torture now fill a shelf next to my desk, beginning with the Taguba Report in 2004, still perhaps the best of them, and then going on to include the ICRC report on Abu Ghraib, the Schlesinger Report, the Fay/Jones Report, the Church Report, the Schmidt Report, and now the Armed Services Committee Report, the full text of which will soon break into the news in all its glory, telling us in much more conclusive detail a story the major outlines of which we already know. More revelations will come from this, and more news, particularly about the mechanics by which prominent senior officials approved use of the "alternative set of procedures" and closely monitored their day-to-day application. We will continue in an endless round-robin of revelation, in which we tell ourselves we are learning something new though in fact, when it comes to the central problem of torture—what we as a society should do about it and whether we will in fact do anything—we are in the end simply repeating to ourselves things, however increasingly detailed and awful, that we already know.

Meantime a number of organizations, including the American Civil Liberties Union in a powerful letter by its director, Anthony Romero, have called on Attorney General Eric Holder—who in his confirmation hearings said bluntly that "waterboarding is torture"—to appoint a special prosecutor to look into possible violations of the law under the Bush administration's interrogation program. As I write, the chair of the Senate Judiciary Committee, Patrick Leahy of Vermont, has called for the establishment of a kind of "truth commission" that will gather information, in part by trading immunity from prosecution for former officials for their truthful testimony, about "how our detention policies and practices...have seriously eroded fundamental American principles of the rule of law." And the chair of the Intelligence Committee, Senator Dianne Feinstein of California, and its ranking member, Senator Christopher Bond of Missouri, have announced their own investigation into "how the CIA created, operated, and maintained its detention and interrogation program" and—what is crucial—their intention to make "an evaluation of intelligence information gained through the use of enhanced and standard interrogation techniques."

5.

That is the central, unanswered question: What was gained? We know already a good deal about what was lost. On this subject President Obama in his *60 Minutes* response was typically eloquent:

I mean, the fact of the matter is after all these years how many convictions actually came out of Guantánamo? How many terrorists have actually been brought to justice under the philosophy that is being promoted by Vice President Cheney? It hasn't made us safer. What it has been is a great advertisement for anti-American sentiment. Which means that there is constant effective recruitment of Arab fighters and Muslim fighters against US interests all around the world.... The whole premise of Guantánamo promoted by Vice President Cheney was that somehow the American system of justice was not up to the task of dealing with these terrorists.... Are we going to just keep on going until the entire Muslim world and Arab world despises us? Do we think that's really going to make us safer?

This is as clear and concise a summary of the damage wrought by torture as one is likely to get. Torture has undermined the United States' reputation for respecting and following the law and thus has crippled its political influence. By torturing, the United States has wounded itself and helped its enemies in what is in the end an inherently political war—a war, that is, in which the critical target to be conquered is the allegiances and attitudes of young Muslims. And by torturing prisoners, many of whom were implicated in committing great crimes against Americans, the United States has made it impossible to render justice on those criminals, instead sentencing them—and the country itself—to an endless limbo of injustice. That limbo stands as a kind of worldwide advertisement for the costs of the US reversion to torture, whose power President Obama has tried to reduce by announcing that he will close Guantánamo.

The question is how to set beside this damage to the country's interests—some of which can be measured by polling data in Muslim countries, by rises in recruitment to violent jihadist groups, and so on—against the claims that attacks have been averted. As is so often the case, the categories are not commensurable. Confronted with former Vice President Cheney's arguments, President Obama says "the facts don't bear him out," but the facts he points to appear to be facts about the political damage caused by torture, or about the difficulties it poses to the country in trying to prosecute prisoners. He appears not to be speaking about the same facts that the former administration officials do—facts that they claim prove that torture, in averting attacks and protecting the country, saved lives.

Investigating what kind of intelligence torture actually yielded is not a popular task: those who oppose torture do not like to admit that it might, in any way, have "worked"; those who support its use don't like to admit that it might not have. It is a regrettable but undeniable fact that torture's illegality, or the political harm it may do to the country's reputation, is not sufficient to discourage the willingness of many Americans to countenance it. However one might prefer that this be an argument about legality or morality, it is also an argument about national security and, in the end, about politics. However much one agrees with President Obama that Cheney's "notion" that "somehow...we can't reconcile our core values, our Constitution, our belief that we don't torture, with our national security interests," the fact is that many people continue to believe the contrary, and this group includes the former president and vice-president of the United States and many senior officials who served them.

There is a reason that the myth of the "ticking bomb" and the daring, ruthless US agent who will do anything to stop its detonation—anything including torture, a step that proves his commitment and his seriousness—is sacralized in popular culture, and not only in television dramas like *24* but in *Dirty Harry* and the other movies that are its ancestors. The story of the ticking bomb and the torturing hero who defuses it offers a calming message to combat pervasive anxiety and fear—that no matter what horrible threats loom, there are those who will make use of untrammelled government power to protect the country. It also appeals to uglier and equally powerful emotions: the desire for retribution, the urge to punish and to avenge, the felt need in the face of vulnerability to assert power. [\[18\]](#)

In this political calculus, liberals obsessed by "legalisms" are part of the problem, not part of the solution, and it is no accident that it is firmly in that camp that the former vice-president has been seeking to isolate the new president. Cheney's success in this endeavor will not be evident now—he is, after all, the most unpopular member of a deeply unpopular party—but the seeds he is so ostentatiously sowing could, if unchallenged by facts and given the right conditions, flourish dramatically in the future.

The only way to defuse the political volatility of torture and to remove it from the center of the "politics of

fear" is to replace its lingering mystique, owed mostly to secrecy, with authoritative and convincing information about how it was really used and what it really achieved. That this has not yet happened is the reason why, despite the innumerable reports and studies and revelations that have given us a rich and vivid picture of the Bush administration's policies of torture, we as a society have barely advanced along this path. We have not so far managed, despite all the investigations, to produce a bipartisan, broadly credible, and politically decisive effort, and pronounce authoritatively on whether or not these activities accomplished anything at all in their stated and still asserted purpose: to protect the security interests of the country.

This cannot be accomplished through the press; for the same institutional limitations that lead journalists to keep repeating Bush and Cheney's insistence about the "legality" of torture make it impossible for the press alone, no matter how persuasive the leaks it brings to the public, to make a politically decisive judgment on the value of torture. What is lacking is not information or revelation but political credibility. What is needed is not more disclosures but a broadly persuasive judgment, delivered by people who can look at all the evidence, however highly classified, and can claim bipartisan respect on the order of the Watergate Select Committee or the 9/11 Commission, on whether or not torture made Americans safer.

This is the only way we can begin to come to a true consensus about torture. By all accounts, it is likely that the intelligence harvest that can be attributed directly to the "alternative set of procedures" is meager. But whatever information might have been gained, it must be assessed and then judged against the great costs, legal, moral, political, incurred in producing it. Torture's harvest, whatever it may truly be, is very unlikely to have outweighed those costs.

6.

Such an investigation would have to begin with an inquiry into the broader issue of the Bush administration's detention policies after September 11. These policies, built on a cascading series of reverse incentives, filled United States facilities, from Guantánamo to Abu Ghraib to the secret prisons, with tens of thousands of prisoners.

The reverse incentives began with the bounties of anywhere from several hundred to thousands of dollars offered by US Special Forces in Afghanistan for any "Al Qaeda or Taliban member" whom Afghans might bring to American soldiers—incentives that led to the imprisonment of hundreds of Afghan farmers and even of lower-level Taliban who offered nothing whatever in the form of intelligence but who nonetheless ended up imprisoned in Guantánamo, often for years. They were sent there by young US Army interrogators, many of them reservists with little training and no language skills, who found themselves with the awful responsibility of deciding whether or not to let these prisoners go—and who, whatever their doubts about the prisoners' value as intelligence sources, in the days after September 11 had no practical incentive to release them and every incentive not to. As Chris Mackey, the pseudonym of an Army reservist who served as an interrogator in Afghanistan in 2002, said:

In talking to some of the officers at Kandahar and Bagram...they all talk about how there was a great fear among them, those who were going to be putting their signatures to the release of prisoners, great fear that they were going to somehow manage to release somebody who would later turn out to be the 20th hijacker. So there was real concern and a real erring on the conservative side, especially early in the war.^[19]

This pervasive and understandable concern, together with a lack of competent linguists and interrogators in the combat zone, led to a general policy of rounding up suspects that flooded Guantánamo with prisoners who simply should not have been there. Lawrence Wilkerson, a retired US Army colonel who at the time served as chief of staff to Secretary of State Colin Powell, confirms what other studies have shown: that because of "the utter incompetence of the battlefield vetting in Afghanistan" and "the incredible pressure coming down from Secretary of Defense Rumsfeld and others to 'just get the bastards to the interrogators,'" many or even most of those detained "were innocent of any substantial wrongdoing, had little intelligence value, and should be immediately released." Colonel Wilkerson goes on:

Several in the US leadership became aware of this improper vetting very early on.... But to have

admitted this reality would have been a black mark on their leadership from virtually day one of the so-called Global War on Terror and these leaders already had black marks enough: the dead in a field in Pennsylvania, in the ashes of the Pentagon, and in the ruins of the World Trade Towers. They were not about to admit to their further errors at Guantánamo Bay. Better to claim that everyone there was a hardcore terrorist, was of enduring intelligence value, and would return to jihad if released.^[20]

These initial errors, and the adamant refusal to correct or admit them, led to an overwhelmed, inefficient, and fundamentally unjust US detention system, one that displayed for the world, in televised images of orange-suited, shackled, and hooded prisoners at Guantánamo, and later naked, grotesquely contorted, and abused prisoners at Abu Ghraib, a kind of continuing lurid recruitment poster for al-Qaeda—a dramatic visual confirmation and reaffirmation of the very claims of an evil, repressive, imperialistic United States that lay at the heart of its ideology. Many studies have confirmed the essential truth that a great many prisoners, probably a majority, were unjustly held, without adequate cause or sufficient investigation.^[21] Of the nearly eight hundred prisoners who have passed through Guantánamo, well over half have been released without charge, often after years of detention.

The initial panicked rush to "round up prisoners," which was replicated in Iraq during the first months of the insurgency in the summer and fall of 2003, led to what Wilkerson calls an "ad hoc intelligence philosophy" developed to "justify keeping many of these people, called the mosaic philosophy."

Simply stated, this philosophy held that it did not matter if a detainee were innocent. Indeed, because he lived in Afghanistan and was captured on or near the battle area, he must know something of importance.... All that was necessary was to extract everything possible from him and others like him, assemble it all in a computer program, and then look for cross-connections and serendipitous incidentals—in short, to have sufficient information about a village, a region, or a group of individuals, that dots could be connected and terrorists or their plots could be identified.

Thus, as many people as possible had to be kept in detention for as long as possible to allow this philosophy of intelligence gathering to work. The detainees' innocence was inconsequential.

I saw the consequences of this policy in Iraq, in the fall of 2003, when "neighborhood sweeps" and "cordon and capture operations" in "hot areas" led to wholesale arrests of young men. These men, about whom nothing was known apart from the fact that they were young and lived in a neighborhood deemed "hot," were flex-cuffed, hooded, and promptly sent to Abu Ghraib, where they...sat. Interrogators were overwhelmed, mostly with prisoners who simply had no intelligence to impart. The interrogators were well aware of this, of course, but in part because officers of the combat units who made the arrests sat on the boards that had to approve prisoner releases, it was almost impossible to release prisoners once they had been brought to Abu Ghraib. "Certain [Coalition Forces] military intelligence officers told the ICRC," according to a 2004 Red Cross report on Abu Ghraib, "that in their estimate *between 70 percent and 90 percent of the persons deprived of their liberty in Iraq had been arrested by mistake.*"^[22]

As military interrogators described to me in some detail, these numbers overwhelmed the intelligence collection system that the wholesale arrests were intended to supply and fortify, leading interrogators to spend most of their time working through thousands of prisoners who had nothing to tell them—but who nonetheless could in most cases not be released and had to be interviewed, often repeatedly.

One soon begins to see a pattern: among officials at the top, panic and fear and incompetence lead to a compensating, self-justifying desire to "do whatever's necessary" to prevent attacks and finally to a consequent injustice inflicted on the innocents at the bottom that is both persistent and politically damaging. Thus the movement from Secretary of Defense Rumsfeld's call to "just get the bastards to the interrogators" to the overflow of innocent prisoners from Guantánamo to Abu Ghraib, innocents who rendered unworkable the very system that the "get tough" directives were meant to snap into effective action.

Chris Mackey, the US Army interrogator, writes of "the gravitational laws that govern human behavior when one group of people is given complete control over another in a prison. Every impulse tugs downward."^[23] All evidence suggests that in the days after September 11, 2001, the very officials who should have been ensuring that there were restraints put on such "gravitational laws" were instead doing all they could to augment them. Fear and a compensating desire to prove that nothing would be allowed to stand in the way of the all-important goal of protecting the country—especially not overly "legalistic" notions about international treaties and limitations on presidential power—were allowed to drive policy, and the country is still struggling to cope with the results.

7.

We know a great deal about the Bush administration's policy of torture but we need to know more. We need to know, from an investigation that will study all the evidence, classified at however high a level of secrecy, and that will speak to the nation with a credible bipartisan voice, whether the use of torture really did produce information that, in the words of the former vice-president, was "absolutely crucial to getting us through the last seven-plus years without a major-casualty attack on the US." We already have substantial reason to doubt these claims, for example the words of Lawrence Wilkerson, who, as chief of staff to Secretary of State Powell, had access to intelligence of the highest classification:

It has never come to my attention in any persuasive way—from classified information or otherwise—that any intelligence of significance was gained from any of the detainees at Guantánamo Bay other than from the handful of undisputed ring leaders and their companions, clearly no more than a dozen or two of the detainees, and even their alleged contribution of hard, actionable intelligence is intensely disputed in the relevant communities such as intelligence and law enforcement.

It is important to note that a great many of those charged with the duty to "keep us safe" do not share the former president's view about the necessity of his "alternative set of procedures." Indeed, on September 6, 2006, a couple of hours before President Bush told the nation in his East Room speech about the "separate program operated by the Central Intelligence Agency" where the "alternative set of procedures" were used, and announced that the fourteen "suspected terrorist leaders and operatives" were being sent from the black sites to Guantánamo (where they would tell their stories at last to the Red Cross investigators), a very different event was taking place across the Potomac. At the Department of Defense, high-ranking officers and officials were introducing the new *Army Field Manual for Human Intelligence Collector Operations*—the newly rewritten manual for interrogators that was, as Lieutenant General John Kimmons, the Army deputy chief of staff for intelligence, pointed out, unique in a number of ways:

The Field Manual explicitly prohibits torture or cruel, inhumane, and degrading treatment or punishment.... To make this more imaginable and understandable to our soldiers...we have included in the Field Manual specific prohibitions. There's eight of them: interrogators may not force a detainee to be naked, perform sexual acts or pose in a sexual manner; they cannot use hoods or place sacks over a detainee's head or use duct tape over his eyes; they cannot beat or electrically shock or burn them or inflict other forms of physical pain—any form of physical pain; they may not use water boarding, they may not use hypothermia or treatment which will lead to heat injury; they will not perform mock executions; they may not deprive detainees of the necessary food, water and medical care; and they may not use dogs in any aspect of interrogations....^[24]

Lieutenant General Kimmons's list of procedures is remarkable for including almost all of those that had come to light during the years of the Bush administration, either at Abu Ghraib, Guantánamo, or, now, at the "black sites." Indeed, just before his commander in chief's vivid defense to the country of the necessity of the "alternative set of procedures," the general was declaring that the military had expressly forbidden precisely those procedures—and was explaining, in answer to a reporter's question about whether the prohibitions didn't "limit the ability of interrogators to get information that could be very useful," precisely why:

I am absolutely convinced the answer to your first question is no. No good intelligence is going to come from abusive practices. I think history tells us that. I think the empirical evidence of the last five years, hard years, tells us that.

And moreover, any piece of intelligence which is obtained under duress, through the use of abusive techniques would be of questionable credibility. And additionally, it would do more harm than good when it inevitably became known that abusive practices were used. And we can't afford to go there.

And yet the "loud rhetoric" of Dick Cheney, as Colonel Wilkerson remarks, "continues even now" and remains a persistent political fact in our debate about national security. What should be a debate about facts remains instead a debate fueled by reckless assertions about "still classified" intelligence and leaks that undermine those assertions. The debate over the supposed importance of intelligence provided by Abu Zubaydah, whose torture, including waterboarding, is related with awful immediacy in the ICRC report, is only the most prominent of these controversies. Though waterboarding has not been performed on prisoners in American custody since 2003, there is a reason we continue to talk about it. Though we have known about the Bush administration's policy of torture for five years, there is unquestionably more debate about it now than there ever has been. We are having, in a ragged way, the debate about ethics and morality in our national security policies that we never had in the days after September 11, when decisions were made in secret by a handful of officials.

Philip Zelikow, who served the Bush administration in the National Security Council and the State Department and then went on to direct the 9/11 Commission, remarked in an important speech three years ago that these officials, instead of having that debate simply called in the lawyers: the focus, that is, was not on "what should we do" but on "what can we do."^[25]

There is a sense in which our society is finally posing that "what should we do" question. That it is doing so only now, after the fact, is a tragedy for the country—and becomes even more damaging as the debate is carried on largely by means of politically driven assertions and leaks. For even as the practice of torture by Americans has withered and died, its potency as a political issue has grown. The issue could not be more important, for it cuts to the basic question of who we are as Americans, and whether our laws and ideals truly guide us in our actions or serve, instead, as a kind of national decoration to be discarded in times of danger. The only way to confront the political power of the issue, and prevent the reappearance of the practice itself, is to take a hard look at the true "empirical evidence of the last five years, hard years," and speak out, clearly and credibly, about what that story really tells.

—April 2, 2009; this is the second of two articles.

Notes

^[1]See John F. Harris, Mike Allen, and Jim VandeHei, "Cheney Warns of New Attacks," *Politico*, February 4, 2009.

^[2]See my article, "US Torture: Voices from the Black Sites," *The New York Review*, April 9, 2009, in which the ICRC report is extensively excerpted, and to which the present essay is a sequel. The report is based on extensive interviews, carried out in October and December 2006, with fourteen so-called "high-value detainees," who had been imprisoned and interrogated for extended periods at the "black sites," a series of secret prisons operated by the CIA in a number of countries around the world, including, at various times, Thailand, Afghanistan, Poland, Romania, and Morocco. [Download](#) the full text of the report.

^[3]Among others, the Senate Armed Services Committee has made public parts of its *Inquiry into the Treatment of Detainees in US Custody* and more of this will doubtless be released in coming days. Meanwhile, a Spanish judge sent to a prosecutor a case against Alberto Gonzales, the former White House counsel and attorney general, and five other senior Bush officials, including John Yoo and Jay Bybee. See Marlise Simons, "Spanish Court Weighs Inquiry on Torture for 6 Bush-Era Officials," *The New York Times*, March 28, 2009. In the United Kingdom, the Crown Prosecution Service has begun an inquiry into

allegations of the torture of Binyam Mohamed during his detention by the CIA. In Poland, prosecutors have reportedly begun an inquiry into allegations that the CIA made use of an abandoned military facility as a "black site" to torture prisoners.

[4] "Interview with Dick Cheney," *State of the Union With John King*, CNN, March 15, 2009.

[5] See "Obama on AIG Rage, Recession, Challenges," *60 Minutes*, March 22, 2009.

[6] See "President Discusses Creation of Military Commissions to Try Suspected Terrorists," September 6, 2006, East Room, White House, available at cfr.org. This is the most important speech President Bush gave on the "alternative set of procedures" and is analyzed at length in my previous article.

[7] See, for the definitive account, Jane Mayer, "Outsourcing Torture," *The New Yorker*, February 15, 2005, and *The Dark Side: The Inside Story of How the War on Terror Turned into a War on American Ideals* (Doubleday, 2008); and also Alfred W. McCoy, *A Question of Torture: CIA Interrogation, from the Cold War to the War on Terror* (Metropolitan, 2006).

[8] See *Senate Armed Services Committee Inquiry into the Treatment of Detainees in US Custody*, "Executive Summary and Conclusions," released December 11, 2008, p. xiii. Emphasis added.

[9] See Jacobo Timerman, *Prisoner Without a Name, Cell Without a Number* (University of Wisconsin Press, 1981), p. 32.

[10] See Robin Bruce Lockhart, *Ace of Spies* (1967; Penguin, 1984), p. 176.

[11] See my "US Torture: Voices from the Black Sites," especially pp. 71–75.

[12] See Lawrence E. Hinkle Jr. and Harold G. Wolff, "Communist Interrogation and Indoctrination of 'Enemies of the State,'" *A.M.A. Archives of Neurology and Psychiatry*, Vol. 76, No. 2 (August 1956), p. 134.

[13] The interpolated words in brackets are as they appear in the Red Cross report.

[14] I discuss the Abu Zubaydah case more fully in my previous article. Nearly three years ago author Ron Suskind offered an extensive account of Abu Zubaydah and the exaggerations that officials had made about him, from President Bush on down—both about his rank and importance in al-Qaeda and about the value of the information he supposedly offered after the application of the "alternative set of procedures." See Ron Suskind, *The One Percent Doctrine: Deep Inside America's Pursuit of Its Enemies Since 9/11* (Simon and Schuster, 2006), especially pages 99–101 and 115–118. The debate about the case has continued to be pursued furiously in the press, an indication of the strong feelings of many, mostly unnamed officials within the intelligence and law enforcement communities. See, most recently, Peter Finn and Joby Warrick, "Detainee's Harsh Treatment Foiled No Plots: Waterboarding, Rough Interrogation of Abu Zubaida Produced False Leads, Officials Say," *The Washington Post*, March 29, 2009.

[15] Jane Mayer, in her article "The Black Sites," *The New Yorker*, August 13, 2007, and in her book, *The Dark Side*, published many of the details of abuse contained in the ICRC report, though not texts from the report itself.

[16] See Dana Priest and Barton Gellman, "US Decries Abuse but Defends Interrogations: 'Stress and Duress' Tactics Used on Terrorism Suspects Held in Secret Overseas Facilities," *The Washington Post*, December 26, 2002.

[17] In October of that year I published several hundred pages of those documents in my book *Torture and Truth: America, Abu Ghraib, and the War on Terror* (New York Review Books, 2004). A few months later Karen J. Greenberg and Joshua L. Dratel published their more comprehensive collection, *The Torture Papers: The Road to Abu Ghraib* (Cambridge University Press, 2005).

[18] These emotions affect government officials as well, as this description of those who insisted on the torture of Abu Zubaydah suggests: "They couldn't stand the idea that there wasn't anything new," the official

said. "They'd say, 'You aren't working hard enough.' There was both a disbelief in what he was saying and also a desire for retribution—a feeling that 'He's going to talk, and if he doesn't talk, we'll do whatever.'" See Finn and Warrick, "Detainee's Harsh Treatment Foiled No Plots."

[\[19\]](#) See "Interview: Chris Mackey and Greg Miller discuss their book, 'The Interrogators,'" *Fresh Air*, National Public Radio, July 20, 2004. See Chris Mackey with Greg Miller, *The Interrogators: Inside the Secret War Against Al Qaeda* (Little, Brown, 2004).

[\[20\]](#) See Lawrence Wilkerson, "Some Truths About Guantánamo Bay," *The Washington Note*, March 17, 2009.

[\[21\]](#) See, for example, Corine Hegland, "Who Is at Guantánamo Bay," *National Journal*, February 3, 2006.

[\[22\]](#) See "Report of the International Committee of the Red Cross (ICRC) on the Treatment by the Coalition Forces of Prisoners of War and Other Persons Protected by the Geneva Conventions in Iraq During Arrest, Internment and Interrogation," February 2004, reviewed in my article "Torture and Truth," *The New York Review*, June 10, 2004.

[\[23\]](#) See Mackey and Miller, *The Interrogators*, p. 471.

[\[24\]](#) See "DoD News Briefing with Deputy Assistant Secretary Stimson and Lt. Gen. Kimmons from the Pentagon," September 6, 2006.

[\[25\]](#) See Philip Zelikow, "Legal Policy for a Twilight War," Annual Lecture, *Houston Journal of International Law*, April 26, 2007.