

Ghraib was the price of defending democracy.' I said that wasn't the way I saw it, and that I didn't want to see some corporal made into a scapegoat. This could not have happened without people in the upper echelon of the Administration giving signals. I just didn't see how this was not systemic."

Obey asked Rumsfeld a series of pointed questions. Taguba attended the closed hearing with Rumsfeld and recalled him bristling at Obey's inquiries. "I don't know what happened!" Rumsfeld told Obey. "Maybe you want to ask General Taguba."

Taguba got a chance to answer questions on May 11th, when he was summoned to appear before the Senate Armed Services Committee. Under-Secretary Stephen Cambone sat beside him. (Cambone was Rumsfeld's point man on interrogation policy.) Cambone, too, told the committee that he hadn't known about the specific abuses at Abu Ghraib until he saw Taguba's report, "when I was exposed to some of those photographs."

Carl Levin, Democrat of Michigan, tried to focus on whether Abu Ghraib was the consequence of a larger detainee policy. "These acts of abuse were not the spontaneous actions of lower-ranking enlisted personnel," Levin said. "These attempts to extract information from prisoners by abusive and degrading methods were clearly planned and suggested by others." The senators repeatedly asked about General Miller's trip to Iraq in 2003. Did the "Gitmo-izing" of Abu Ghraib—especially the model of using the M.P.s in "setting the conditions" for interrogations—lead to the abuses?

Cambone confirmed that Miller had been sent to Iraq with his approval, but insisted that the senators were "misreading General Miller's intent." Questioned on that point by Senator Jack Reed, Democrat of Rhode Island, Cambone said, "I don't know that I was being told, and I don't know that General Miller said that there should be that kind of activity that you are ascribing to his recommendation."

Reed then asked Taguba, "Was it clear from your reading of the [Miller] report that one of the major recommendations was to use guards to condition these prisoners?" Taguba replied, "Yes, sir. That was recommended on the report."

At another point, after Taguba confirmed that military intelligence had taken control of the M.P.s following Miller's visit, Levin questioned Cambone:

LEVIN: Do you disagree with what the general just said?

CAMBONE: Yes, sir.

LEVIN: Pardon?

CAMBONE: I do.

Taguba, looking back on his testimony, said, "That's the reason I wasn't in their camp—because I kept on contradicting them. I wasn't about to lie to the committee. I knew I was already in a losing proposition. If I lie, I lose. And, if I tell the truth, I lose."

Taguba had been scheduled to rotate to the Third Army's headquarters, at Fort McPherson, Georgia, in June of 2004. He was instead ordered back to the Pentagon, to work in the office of the Assistant Secretary of Defense for Reserve Affairs. "It was a lateral assignment," Taguba said, with a smile and a shrug. "I didn't quibble. If you're going to do that to me, well, O.K. We all serve at the pleasure of the President." A retired four-star Army general later told Taguba that he had been sent to the job in the Pentagon so that he could "be watched." Taguba realized that his career was at a dead end.

Later in 2004, Taguba encountered Rumsfeld and one of his senior press aides, Lawrence Di Rita, in the Pentagon Athletic Center. Taguba was getting dressed after a workout. "I was tying my shoes," Taguba recalled. "I looked up, and there they were." Rumsfeld, who was putting his clothes into a locker, recognized Taguba and said, "Hello, General." Di Rita, who was standing beside Rumsfeld, said sarcastically, "See what you started, General? See what you started?"

Di Rita, who is now an official with Bank of America, recalled running into Taguba in the locker room but not his words. "Sounds like my brand of humor," he said, in an e-mail. "A comment like that would have been in an attempt to lighten the mood for General Taguba." (Di Rita added that Taguba had "my personal respect and admiration" and that of Rumsfeld. "He did a terrific job under difficult circumstances.") However, Taguba was troubled by the encounter, and later told a colleague, "I'm now the problem."

## DENIABILITY

A dozen government investigations have been conducted into Abu Ghraib and detainee abuse. A few of them picked up on matters raised by Taguba's report, but none followed through on the question of ultimate responsibility. Military investigators were precluded from looking into the role of Rumsfeld and other civilian leaders in the Pentagon; the result was that none found any high-level intelligence involvement in the abuse.

An independent panel headed by James R. Schlesinger, a former Secretary of Defense, did conclude that there was "institutional and personal responsibility at higher levels" for Abu Ghraib, but cleared Rumsfeld of any direct responsibility. In an August, 2004, report, the Schlesinger panel endorsed Rumsfeld's complaints, citing "the reluctance to move bad news up the chain of command" as the most important factor in Washington's failure to understand the significance of Abu Ghraib. "Given the magnitude of this problem, the Secretary of Defense and other senior DoD officials need a more effective information pipeline to inform them of high-profile incidents," the report said. Schlesinger and his colleagues apparently were unaware of the early e-mail messages that had informed the Pentagon of Abu Ghraib.

The official inquiries consistently provided the public with less information about abuses than outside studies conducted by human-rights groups. In one case, in November, 2004, an Army investigation, by Brigadier General Richard Formica, into the treatment of detainees at Camp Nama, a Special Forces detention center at Baghdad International Airport, concluded that detainees who reported being sodomized or beaten were seeking sympathy and better treatment, and thus were not credible. For example, Army doctors had initially noted that a complaining detainee's wounds were "consistent with the history [of abuse] he provided. . . . The doctor did find scars on his wrists and noted what he believed to be an anal fissure." Formica had the detainee reexamined two days later, by another doctor, who found "no fissure, and no scarring. . . . As a result, I did not find medical evidence of the sodomy." In the case of a detainee who died in custody, Formica noted that there had been bruising to the "shoulders, chest, hip, and knees" but added, "It is not unusual for detainees to have minor bruising, cuts and scrapes." In July, 2006, however, Human Rights Watch issued a fifty-three-page report on the "serious mistreatment" of detainees at Camp Nama and two other sites, largely based on witness accounts from Special Forces interrogators and others who served there. Formica, asked to comment, wrote in an e-mail, "I conducted a thorough investigation . . . and stand by my report." He said that "several issues" he discovered "were corrected." His assignment, Formica noted, was to investigate a unit, and not to conduct "a systematic analysis of Special Operations activities."

The Army also protected General Miller. Since 2002, F.B.I. agents at Guantánamo had been telling their superiors that their military counterparts were abusing detainees. The F.B.I. complaints were ignored until after Abu Ghraib. When an investigation was opened, in December, 2004, General Craddock, Rumsfeld's former military aide, was in charge of the Army's Southern Command, with jurisdiction over Guantánamo—he had been promoted a few months after Taguba's visit to Rumsfeld's office. Craddock appointed Air Force Lieutenant General Randall M. Schmidt, a straight-talking fighter pilot, to investigate the charges, which included alleged abuses during Miller's tenure.

"I followed the bread-crumbs trail," Schmidt, who retired last year, told me. "I found some things that didn't seem right. For lack of a camera, you could have seen in Guantánamo what was seen at Abu Ghraib."

Schmidt found that Miller, with the encouragement of Rumsfeld, had focussed great attention on the interrogation of Mohammed al-Qahtani, a Saudi who was believed to be the so-called "twentieth hijacker." Qahtani was interrogated "for twenty hours a day for at least fifty-four days," Schmidt told investigators from the Army Inspector General's office, who were reviewing his findings. "I mean, here's this guy manacled, chained down, dogs brought in, put in his face, told to growl, show teeth, and that kind of stuff. And you can imagine the fear."

At Guantánamo, Schmidt told the investigators, Miller "was responsible for the conduct of interrogations that I found to be abusive and degrading. The intent of those might have been to be abusive and degrading to get the information they needed. . . . Did the means justify the ends? That's fine. . . . He was responsible."

Schmidt formally recommended that Miller be "held accountable" and "admonished." Craddock rejected this recommendation and absolved Miller of any responsibility for the mistreatment of the prisoners. The Inspector General inquiry endorsed Craddock's action. "I was open with them," Schmidt told me, referring to the I.G. investigators. "I told them, 'I'll do anything to help you get the truth.'" But when he read their final report, he said, "I didn't recognize the five hours of interviews with me."

Schmidt learned of Craddock's reversal the day before they were to meet with Rumsfeld, in July, 2005. Rumsfeld was in frequent contact with Miller about the progress of Qahtani's interrogation, and personally approved the most severe interrogation tactics. ("This wasn't just daily business, when the Secretary of Defense is personally involved," Schmidt told the Army investigators.) Nonetheless, Schmidt was impressed by Rumsfeld's demonstrative surprise, dismay, and concern upon being told of the abuse. "He was going, 'My God! Did I authorize putting a bra and underwear on this guy's head and telling him all his buddies knew he was a homosexual?'"

Schmidt was convinced. "I got to tell you that I never got the feeling that Secretary Rumsfeld was trying to hide anything," he told me. "He got very frustrated. He's a control guy, and this had gotten out of control. He got pissed." Rumsfeld's response to Schmidt was similar to his expressed surprise over Taguba's Abu Ghraib report. "Rummy did what we called 'case law' policy—verbal and not in writing," Taguba said. "What he's really saying is that if this decision comes back to haunt me I'll deny it." Taguba eventually concluded that there was a reason for the evasions and stonewalling by Rumsfeld and his aides. At the time he filed his report, in March of 2004, Taguba said, "I knew there was C.I.A. involvement, but I was oblivious of what else was happening" in terms of covert military-intelligence operations. Later that summer, however, he learned that the C.I.A. had serious concerns about the abusive interrogation techniques that military-intelligence operatives were using on high-value detainees. In one secret memorandum, dated June 2, 2003, General George Casey, Jr., then the director of the Joint Staff in the Pentagon, issued a warning to General Michael DeLong, at the Central Command:

CIA has advised that the techniques the military forces are using to interrogate high value detainees (HVDs) . . . are more aggressive than the techniques used by CIA who is [sic] interviewing the same HVDs.

DeLong replied to Casey that the techniques in use were "doctrinally appropriate techniques," in accordance with Army regulations and Rumsfeld's direction.

#### THE TASK FORCES

Abu Ghraib had opened the door on the issue of the treatment of detainees, and from the beginning the Administration feared that the publicity would expose more secret operations and practices. Shortly after September 11th, Rumsfeld, with the support of President Bush, had set up military task forces whose main target was the senior leadership of Al Qaeda. Their essential tactic was seizing and interrogating terrorists and suspected terrorists; they also had authority from the President to kill certain high-value targets on sight. The most secret task-force operations were categorized as Special Access Programs, or S.A.P.s. The military task forces were under the control of the Joint Special Operations Command, the branch of the Special Operations Command that is responsible for counterterrorism. One of Miller's unacknowledged missions had been to bring the J.S.O.C.'s "strategic interrogation" techniques to Abu Ghraib. In special cases, the task forces could bypass the chain of command and deal directly with Rumsfeld's office. A former senior intelligence official told me that the White House was also briefed on task-force operations.

The former senior intelligence official said that when the images of Abu Ghraib were published, there were some in the Pentagon and the White House who "didn't think the photographs were that bad"—in that they put the focus on enlisted soldiers, rather than on secret task-force operations. Referring to the task-force members, he said, "Guys on the inside ask me, 'What's the difference between shooting a guy on the street, or in his bed, or in a prison?'" A Pentagon consultant on the war on terror also said that the "basic strategy was 'prosecute the kids in the photographs but protect the big picture.'" "

A recently retired C.I.A. officer, who served more than fifteen years in the clandestine service, told me that the task-force teams "had full authority to whack-to go in and conduct 'executive action,' " the phrase for political assassination. "It was surrealistic what these guys were doing," the retired operative added. "They were running around the world without clearing their operations with the ambassador or the chief of station."

J.S.O.C.'s special status undermined military discipline. Richard Armitage, the former Deputy Secretary of State, told me that, on his visits to Iraq, he increasingly found that "the commanders would say one thing and the guys in the field would say, 'I don't care what he says. I'm going to do what I want.' We've sacrificed the chain of command to the notion of Special Operations and GWOT"—the global war on terrorism. "You're painting on a canvas so big that it's hard to comprehend," Armitage said.

Thomas W. O'Connell, who resigned this spring after nearly four years as the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict, defended the task forces. He blamed the criticisms on the resentment of the rest of the military: "From my observation, the operations run by Special Ops units are extraordinarily open in terms of interagency visibility to embassies and C.I.A. stations—even to the point where there's been a question of security." O'Connell said that he dropped in unannounced to Special Operations interrogation centers in Iraq, "and the treatment of detainees was aboveboard." He added, "If people want to say we've got a serious problem with Special Operations, let them say it on the record."

Representative Obey told me that he had been troubled, before the Iraq war, by the Administration's decision to run clandestine operations from the Pentagon, saying that he "found some of the things they were doing to be disquieting." At the time, his Republican colleagues blocked his attempts to have the House Appropriations Committee investigate these activities. "One of the things that bugs me is that Congress has failed in its oversight abilities," Obey said. Early last year, at his urging, his subcommittee began demanding a classified quarterly report on the operations, but Obey said that he has no reason to believe that the reports are complete.

A former high-level Defense Department official said that, when the Abu Ghraib scandal broke, Senator John Warner, then the chairman of the Armed Services Committee, was warned "to back off" on the investigation, because "it would spill over to more important things." A spokesman for Warner acknowledged that there had been pressure on the Senator, but said that Warner had stood up to it—insisting on putting Rumsfeld under oath for his May 7th testimony, for example, to the Secretary's great displeasure.

An aggressive congressional inquiry into Abu Ghraib could have provoked unwanted questions about what the Pentagon was doing, in Iraq and elsewhere, and under what authority. By law, the President must make a formal finding authorizing a C.I.A. covert operation, and inform the senior leadership of the House and the Senate Intelligence Committees. However, the Bush Administration unilaterally determined after 9/11 that intelligence operations conducted by the military—including the Pentagon's covert task forces—for the purposes of "preparing the battlefield" could be authorized by the President, as Commander-in-Chief, without telling Congress.

There was coordination between the C.I.A. and the task forces, but also tension. The C.I.A. officers, who were under pressure to produce better intelligence in the field, wanted explicit legal authority before aggressively interrogating high-value targets. A finding would give operatives some legal protection for questionable actions, but the White House was reluctant to put what it wanted in writing.

A recently retired high-level C.I.A. official, who served during this period and was involved in the drafting of findings, described to me the bitter disagreements between the White House and the agency over the issue. "The problem is what constituted approval," the retired C.I.A. official said. "My people fought about this all the time. Why should we put our people on the firing line somewhere down the road? If you want me to kill Joe Smith, just tell me to kill Joe Smith. If I was the Vice-President or the President, I'd say, 'This guy Smith is a bad guy and it's in the interest of the United States for this guy to be killed.' They don't say that. Instead, George"—George Tenet, the director of the C.I.A. until mid-2004—"goes to the White House and is told, 'You guys are professionals. You know how important it is. We know you'll get the intelligence.' George would come back and say to us, 'Do what you gotta do.' "



Bill Harlow, a spokesman for Tenet, depicted as "absurd" the notion that the C.I.A. director told his agents to operate outside official guidelines. He added, in an e-mailed statement, "The intelligence community insists that its officers not exceed the very explicit authorities granted." In his recently published memoir, however, Tenet acknowledged that there had been a struggle "to get clear guidance" in terms of how far to go during high-value-detainee interrogations.

The Pentagon consultant said in an interview late last year that "the C.I.A. never got the exact language it wanted." The findings, when promulgated by the White House, were "very calibrated" to minimize political risk, and limited to a few countries; later, they were expanded, turning several nations in North Africa, the Middle East, and Asia into free-fire zones with regard to high-value targets. I was told by the former senior intelligence official and a government consultant that after the existence of secret C.I.A. prisons in Europe was revealed, in the Washington Post, in late 2005, the Administration responded with a new detainee center in Mauritania. After a new government friendly to the U.S. took power, in a bloodless coup d'état in August, 2005, they said, it was much easier for the intelligence community to mask secret flights there.

"The dirt and secrets are in the back channel," the former senior intelligence officer noted. "All this open business—sitting in staff meetings, etc., etc.—is the Potemkin Village stuff. And the good guys—like Taguba—are gone."

In some cases, the secret operations remained unaccountable. In an April, 2005, memorandum, a C.I.D. officer—his name was redacted—complained to C.I.D. headquarters, at Fort Belvoir, Virginia, about the impossibility of investigating military members of a Special Access Program suspected of prisoner abuse:

[C.I.D.] has been unable to thoroughly investigate . . . due to the suspects and witnesses involvement in Special Access Programs (SAP) and/or the security classification of the unit they were assigned to during the offense under investigation. Attempts by Special Agents . . . to be "read on" to these programs has [sic] been unsuccessful.

The C.I.D. officer wrote that "fake names were used" by members of the task force; he also told investigators that the unit had a "major computer malfunction which resulted in them losing 70 per cent of their files; therefore, they can't find the cases we need to review." The officer concluded that the investigation "does not need to be reopened. Hell, even if we reopened it we wouldn't get any more information than we already have."

#### CONSEQUENCES

Rumsfeld was vague, in his appearances before Congress, about when he had informed the President about Abu Ghraib, saying that it could have been late January or early February. He explained that he routinely met with the President "once or twice a week . . . and I don't keep notes about what I do." He did remember that in mid-March he and General Myers were "meeting with the President and discussed the reports that we had obviously heard" about Abu Ghraib.

Whether the President was told about Abu Ghraib in January (when e-mails informed the Pentagon of the seriousness of the abuses and of the existence of photographs) or in March (when Taguba filed his report), Bush made no known effort to forcefully address the treatment of prisoners before the scandal became public, or to reevaluate the training of military police and interrogators, or the practices of the task forces that he had authorized. Instead, Bush acquiesced in the prosecution of a few lower-level soldiers. The President's failure to act decisively resonated through the military chain of command: aggressive prosecution of crimes against detainees was not conducive to a successful career.

In January of 2006, Taguba received a telephone call from General Richard Cody, the Army's Vice-Chief of Staff. "This is your Vice," he told Taguba. "I need you to retire by January of 2007." No pleasantries were exchanged, although the two generals had known each other for years, and, Taguba said, "He offered no reason." (A spokesperson for Cody said, "Conversations regarding general officer management are considered private personnel discussions. General Cody has great respect for Major General Taguba as an officer, leader, and American patriot.")

"They always shoot the messenger," Taguba told me. "To be accused of being overzealous and disloyal—that cuts deep into me. I was being ostracized for doing what I was asked to do." Taguba went on, "There was no doubt in my mind that this stuff"—the explicit images—"was gravitating upward. It was standard operating procedure to assume that this had to go higher. The President had to be aware of this." He said that Rumsfeld, his senior aides, and the high-ranking generals and admirals who stood with him as he misrepresented what he knew about Abu Ghraib had failed the nation.

"From the moment a soldier enlists, we inculcate loyalty, duty, honor, integrity, and selfless service," Taguba said. "And yet when we get to the senior-officer level we forget those values. I know that my peers in the Army will be mad at me for speaking out, but the fact is that we violated the laws of land warfare in Abu Ghraib. We violated the tenets of the Geneva Convention. We violated our own principles and we violated the core of our military values. The stress of combat is not an excuse, and I believe, even today, that those civilian and military leaders responsible should be held accountable."

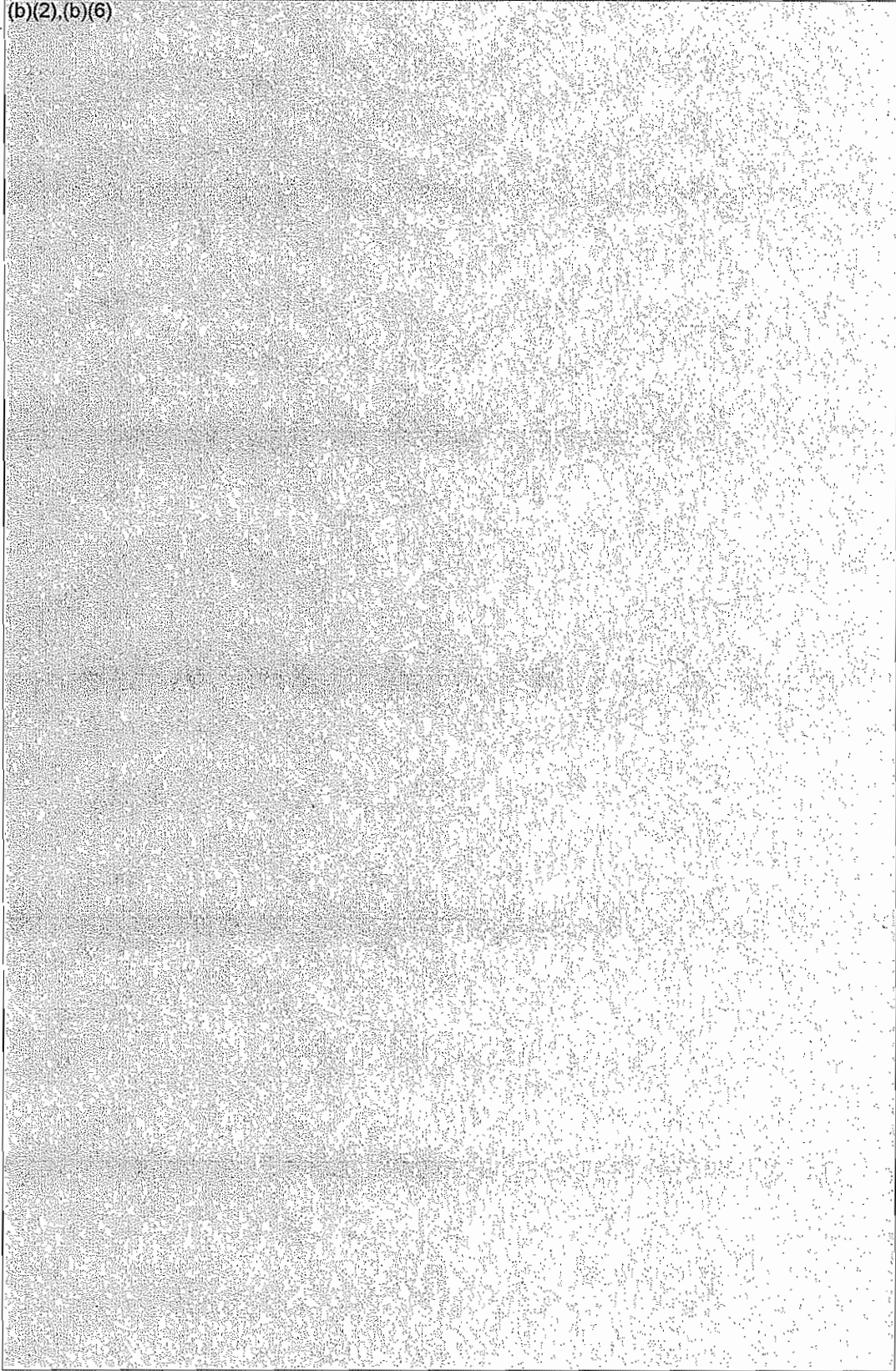
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Subject: GTMO BIRD: Gitmo Force-Feeding Violates Medical Ethics; Cheney Says Don't Close Gitmo; Shoebat Against Releasing Detainees; Victims of CIA's Rendition Program; Questions for Murtha and Moran

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>Today's Gitmo Bird. Re: First Article - I have annotated the abbreviated JAMA Article directly relating to the Associated Press story.

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>Paralegal, GySgt, USMC (Ret.)  
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Guantanamo Force-Feeding Violates  
Medical Ethics, Commentary Says

Associated Press  
July 31, 2007 4:02 p.m.

CHICAGO -- Military doctors violate medical ethics when they approve the force-feeding of hunger strikers at the U.S. prison camp at Guantanamo Bay, according to a commentary in a prestigious medical journal. The doctors should attempt to prevent force-feeding by refusing to participate, the commentary's three authors write in Wednesday's Journal of the American Medical Association. "In medicine, you can't force treatment on a person who doesn't give their voluntary informed consent," said Sondra Crosby of Boston University, one of the authors. "A military physician needs to be a physician first and a military officer second, in my opinion." As of Tuesday, 20 of 23 fasting detainees at Guantanamo were being fed liquid meals through flexible tubes inserted through their noses and throats, said Guantanamo spokesman Navy Cmdr.



Rick Haupt. The strikers are protesting conditions at the camp and their open-ended confinement.

A few physicians have declined to participate in force-feeding, although the specific number has not been tracked, Cmdr. Haupt said. The military does not punish doctors who won't participate in force-feeding, Cmdr. Haupt wrote Friday in an email response to questions from the Associated Press.

A mass hunger strike began at Guantanamo in August 2005 and reached a peak of 131 detainees. Last year, the military started strapping detainees in restraint chairs during tube feedings to prevent the prisoners from resisting or making themselves vomit. The restraint chairs constitute excessive force and coercion, Dr. Crosby said.

Department of Defense spokeswoman Cynthia Smith said force-feeding is done "in a humane and compassionate manner," using a method that is consistent with procedures used in U.S. federal prisons. "No patient receives any medical treatment unless medically necessary," Ms. Smith said.

Last year, Dr. Crosby and another co-author reviewed the medical records of two detainees who were force-fed and wrote affidavits filed in federal court. They were not paid for that work, which they did at the request of the prisoners' attorneys. Reviewing those medical records prompted the commentary, Dr. Crosby said. "We were and still are disturbed by the practices," she said.

The medical records contained no evidence that the hunger strikers received ongoing psychiatric evaluations or had been adequately told about the risks of fasting or tube feeding, Dr. Crosby said. If they understand the consequences, the ethical approach is to let them fast without force-feeding, Dr. Crosby said. She said it's also unclear whether the strikers have access to independent medical consultation.

Cmdr. Haupt, the Navy spokesman, said strikers are seen once each week by mental health professionals. The strikers' physical and mental health is closely monitored, he said. However, they aren't allowed to consult with independent doctors, Cmdr. Haupt said.

The commentary calls on professional organizations to back doctors who refuse to participate in force-feeding. Commentaries are the opinions of the authors, not of the journal's editors or of the American Medical Association, but the AMA has endorsed the World Medical Association's policy against force-feeding.

About 360 men are still held at Guantanamo on suspicion of terrorism or links to al Qaeda or the Taliban.

#### "CLINICIAN'S CORNER

Hunger Strikes, Force-feeding, and Physicians' Responsibilities Sondra S. Crosby, MD; Caroline M. Apovian, MD; Michael A. Grodin, MD JAMA. 2007;298:563-566.

Prison hunger strikes present clinical, ethical, legal, and human rights challenges to physicians who care for hunger strikers. Controversy continues over the care of prisoners who are hunger striking at the US Naval Base in Guantánamo Bay, Cuba.<sup>1</sup> The World Medical Association (WMA) has updated the Declaration of Malta with guidelines on care of hunger strikers,<sup>2</sup> and recent court opinions in the United States and Europe have attempted to define the obligations of physicians caring for hunger strikers in prison settings.<sup>3</sup> This Commentary describes the medical aspects of starvation and examines the ethical, legal, and human rights dimensions of decision making by health care professionals caring for imprisoned patients who are hunger striking.

#### Prisoner Hunger Strikes

A hunger strike, by definition, is food refusal used as a form of protest or demand. Hunger strikes occur in various settings, but . . . [Full Text of this Article <<http://jama.ama-assn.org/cgi/content/full/298/5/563>> ] Author Affiliations: Departments of Medicine (Drs Crosby and Apovian) and Psychiatry (Dr Grodin), Boston University School of Medicine, and Department of Health Law, Bioethics and Human Rights, Boston University School of Public Health (Drs Crosby and Grodin), Boston, Massachusetts.

<http://jama.ama-assn.org/cgi/content/short/298/5/563>"

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## Cheney: Don't Close Guantanamo Yet

By Michael Abramowitz

Washington Post Staff Writer

Wednesday, August 1, 2007; A04

Vice President Cheney

<<http://www.washingtonpost.com/ac2/related/topic/Dick+Cheney?tid=informline>> said yesterday that he would not immediately close the prison housing terrorism suspects at Guantanamo Bay <<http://www.washingtonpost.com/ac2/related/topic/Guantanamo+Bay?tid=informline>>, because there is no other place to send some of the world's most dangerous men.

President Bush

<<http://www.washingtonpost.com/ac2/related/topic/George+W.+Bush?tid=informline>> has said repeatedly that he wants to close the prison once administration officials figure out what to do with several hundred remaining detainees. But senior administration officials have been divided about how to accomplish that, given practical impediments such as the reluctance on the part of some countries to accept the return of their citizens detained there.

Cheney gave voice to his position in an interview with CNN

<<http://www.washingtonpost.com/ac2/related/topic/Cable+News+Network+LP+LLP?tid=informline>>'s Larry King <<http://www.washingtonpost.com/ac2/related/topic/Larry+King?tid=informline>>, who asked whether Cheney agreed with former secretary of state Colin L. Powell <<http://www.washingtonpost.com/ac2/related/topic/Colin+Powell?tid=informline>> that the facility should be closed "yesterday."

"I think you need to have someplace to hold those individuals who have been captured during the global war on terror. I'm thinking of people like Khalid Sheik Mohammed

<<http://www.washingtonpost.com/ac2/related/topic/Khalid+Shaikh+Mohammed?tid=informline>> .

This is a man we captured in Pakistan

<<http://www.washingtonpost.com/ac2/related/topic/Pakistan?tid=informline>> . He's the mastermind of 9/11," Cheney replied. "There are hundreds of people like that, and if you closed Guantanamo, you'd have to find someplace else to put these folks."

Cheney also came to the defense of a former aide, Eric S. Edelman

<<http://www.washingtonpost.com/ac2/related/topic/Eric+Edelman?tid=informline>>, now an undersecretary of defense. Edelman recently stirred controversy when he responded to a request from Sen. Hillary Rodham Clinton

<<http://projects.washingtonpost.com/congress/members/c001041/>> (D-N.Y.) for a briefing on withdrawal plans from Iraq

<<http://www.washingtonpost.com/ac2/related/topic/Iraq?tid=informline>> by accusing her of reinforcing "enemy propaganda that the United States will abandon its allies" by discussing a timetable for withdrawal.

Cheney said he thought Edelman wrote "a good letter" and added that "we don't get into the business of sharing operational plans -- we never have -- with the Congress."

A spokesman for Clinton noted that Defense Secretary Robert M. Gates

<<http://www.washingtonpost.com/ac2/related/topic/Robert+Gates?tid=informline>> took a more "conciliatory tone" after the Edelman letter and reaffirmed Congress's role in overseeing the administration. "It seems the right hand doesn't know what the far-right hand is doing," said Clinton spokesman Philippe Reines.

Cheney also disclosed that he recently had dinner with his former chief of staff I. Lewis "Scooter" Libby, whose 30-month sentence for perjury and obstruction of justice was commuted by Bush. Cheney said earlier this week that he disagreed with the verdict.

"He's doing well," Cheney said. "He obviously went through a very, very difficult time, very hard for him and for his family. I think having the commutation of sentence decided has been a huge relief for him, but he still has a very difficult road. He's got -- obviously he needs to find work. He's got legal bills. He carries the burden of having been convicted. All those are not easy problems. But he's clearly in -- he's in good spirits and getting on with his life."

<http://www.washingtonpost.com/wp-dyn/content/article/2007/07/31/AR2007073101725.html>

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Fox guest compares releasing Gitmo detainees to Russian roulette

07/31/2007 @ 9:04 am

Filed by David Edwards and Muriel Kane

Fox News on Tuesday raised the question of whether the US detention center at Guantanamo Bay should be shut down, weighing the possibility of released terrorists returning to the battlefield against that of holding innocent people indefinitely.

Fox spoke to self-described former PLO terrorist, Walid Shoebat, who compared releasing the Guantanamo inmates to playing Russian roulette, where a gun with a bullet in only one chamber can still be fatal. "It is a crazy idea," he said. Shoebat's advise on the detainees was to "keep them in prison, sentence them later on. Look, in Israel, we had administrative arrests. You can go for years until you are proven innocent or guilty."

When asked, "You're a former terrorist. ... Why'd you turn your life around?" Shoebat replied, "I came to America and I've converted to Christianity. ... I began to recognize the pathological lies that we grew up under. Even in prison ... we made all kinds of claims." Shoebat, an Evangelical Christian, has since 9/11 made frequent appearances supporting Israel and condemning Islam, which he compares to Nazism. His background and credentials have at times been called into question <[http://www.sourcewatch.org/index.php?title=Walid\\_Shoebat](http://www.sourcewatch.org/index.php?title=Walid_Shoebat)> .  
[http://rawstory.com/news/2007/Fox\\_guest\\_Russian\\_Roulette\\_for\\_Gitmo\\_0731.html](http://rawstory.com/news/2007/Fox_guest_Russian_Roulette_for_Gitmo_0731.html)

The video interview can also be seen at the above link.

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Two More Victims of CIA's Rendition Program, Including Former Guantánamo Detainee, Join ACLU Lawsuit Against Boeing Subsidiary (8/1/2007) Evidence of Company's Role in CIA Program Mounts FOR IMMEDIATE RELEASE

CONTACT: [media@aclu.org](mailto:media@aclu.org)

NEW YORK -- Today, two additional victims of the United States government's unlawful "extraordinary rendition" program joined a lawsuit brought by the American Civil Liberties Union against Jeppesen Dataplan, Inc., a subsidiary of Boeing Company. The ACLU charges in its amended complaint that Jeppesen knowingly provided direct flight services to the CIA enabling the clandestine transportation of Bisher al-Rawi and Mohamed Farag Ahmad Bashmilah to secret overseas locations where they were subjected to torture and other forms of cruel, inhuman and degrading treatment.

"Being a victim of the CIA's rendition program was horrific beyond words," said al-Rawi. "Regrettably, there are many more like me who haven't been fortunate enough to be released. No one should have to endure such illegal and inhumane treatment."

In addition to adding two more plaintiffs to the case, today's amended complaint cites further evidence of Jeppesen's involvement in the CIA's program. Citing a report from the Council of Europe, the amended complaint alleges that Jeppesen intentionally submitted "dummy flights" to various aviation authorities in order to conceal the true flight paths of the rendition planes. The ACLU's original complaint cited a New Yorker article that reported that a former Jeppesen employee informed the magazine that, at an internal corporate meeting, a senior Jeppesen official stated, "We do all of the extraordinary rendition flights - you know, the torture flights. Let's face it, some of these flights end up that way." (Jane Mayer, The New Yorker, Oct. 30, 2006.) "The more evidence we obtain, the more we learn about the magnitude of Jeppesen's role in the CIA's rendition program," said Anthony D. Romero, Executive Director of the ACLU. "It is reprehensible for American corporations to profit from a government program involving kidnapping and torture. The rendition program is unlawful, immoral, and anathema to American values. Companies that choose to facilitate it should be held legally accountable."

The ACLU's original complaint, filed on May 30 in the U.S. District Court for the Northern District of California, was initiated on behalf of Binyam Mohamed, Abou Elkassim Britel and Ahmed Agiza, three other victims of the CIA's rendition program.

The lawsuit charges that Jeppesen, through its travel service known as Jeppesen International Trip Planning, has been a main provider of flight and logistical support services for aircraft used by the CIA in the U.S. government's extraordinary rendition program. The CIA rendition flights transfer terror suspects to countries where the U.S. government knows detainees are routinely tortured or otherwise abused in contravention of universally accepted legal standards. The lawsuit also charges that Jeppesen has facilitated flights to U.S.-run detention facilities overseas where the U.S. government maintains that the safeguards of its laws do not apply. According to the lawsuit, since December 2001, Jeppesen has provided flight and logistical support to at least 15 aircraft that have made a total of 70 rendition flights.

"The support services provided by Jeppesen have been absolutely critical to the functioning of the government's rendition program," said Steven Watt, a staff attorney for the ACLU's Human Rights Program.

Specifically, the ACLU alleges in its amended complaint that Jeppesen provided crucial support services to the CIA for the following flights involving al-Rawi and Bashmilah:

\* In December 2002, Iraqi citizen and British resident Bisher al-Rawi was stripped, dressed in a diaper, shackled, blindfolded, restrained in a harness, and flown from Banjul, Gambia to Kabul, Afghanistan where he was secretly detained, interrogated, and tortured at the secret U.S.-run detention facility known as the "Dark Prison" and then at the Bagram Air Base.

\* In October 2003, Yemeni citizen Mohamed Farag Ahmad Bashmilah was beaten, stripped, dressed in a diaper, shackled, blindfolded, hooded, strapped in an airplane, and flown from Jordan to Kabul, Afghanistan and then taken to Bagram Air Base where he was interrogated, tortured, and held incommunicado by the U.S. government for about six months.

"Through the entire flight from Gambia to Kabul, I was on the verge of screaming," said al-Rawi. "I was terrified."

After their detentions in Afghanistan, al-Rawi and Bashmilah continued to endure brutal treatment in U.S. custody. In February 2003, al-Rawi was flown to the U.S. prison in Guantánamo Bay, Cuba. He was released in March 2007 and now resides in England. No charges have ever been brought against him.

In April 2004, Bashmilah was again stripped, diapered, shackled, hooded, and transferred to a CIA "black site" in an unknown country where he was once again tortured. In May 2005, he was once again "prepared" for flight, this time to Yemen where he was detained for about nine months before being released.

The lawsuit was filed under the Alien Tort Statute, which permits aliens to bring claims in the United States for violations of the law of nations or a United States treaty. The statute recognizes international norms accepted among civilized nations that are violated by acts such as enforced disappearance, torture and other inhuman treatment described in the lawsuit. In a related case, the ACLU has petitioned the United States Supreme Court to review the case of Khaled El-Masri, an innocent German citizen who was also a victim of the government's unlawful rendition program. Although the story of El-Masri's mistaken kidnapping and detention at the hands of the CIA is known throughout the world, his lawsuit was dismissed by the U.S. District Court for the Eastern District of Virginia after the government invoked the so-called "state secrets" privilege. That decision was upheld by the U.S. Court of Appeals for the Fourth Circuit in March 2007.

More information on the Jeppesen lawsuit, including copies of the original and amended complaints, as well as information on El-Masri's case, can be found online at

[www.aclu.org/rendition](http://www.aclu.org/rendition) In addition to Watt, attorneys on the Jeppesen lawsuit are national ACLU Legal Director Steven Shapiro, Ben Wizner, Alexa Kolbi-Molinas and Jameel Jaffer of the national ACLU, Ann Brick of the ACLU of Northern California, Paul Hoffman of Schonbrun DeSimone Seplow Harris & Hoffman LLP, and Hope Metcalf of the Yale Law School Lowenstein Clinic. In addition, Margaret L. Satterthwaite of the International Human Rights Clinic of New York University School of Law represents Mohamed Farag Ahmad Bashmilah, and Clive Stafford-Smith and Zachary Katznelson represent Binyam Mohamed.

Khaled El-Masri is represented by Watt, Wizner, Shapiro, Jaffer and Melissa Goodman of the national ACLU, Rebecca Glenberg of the ACLU of Virginia and Victor Glasberg of Victor M. Glasberg & Associates.

<http://www.aclu.org/safefree/torture/31165prs20070801.html>

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Questions for Reps. Murtha and Moran  
August 1, 2007

Tomorrow, the House is expected to take up the defense appropriations bill, and despite the good news coming out of Iraq in recent days, the Democratic leadership is prepared to do everything it can to tack on amendments aimed at discrediting the war on terror. The chairman of House Defense Appropriations Subcommittee, Rep. Jack Murtha, says he will offer an amendment to shut down the detention facility at Guantanamo Bay, Cuba, where approximately 360 jihadists captured abroad are being held. For years political opponents of the Bush administration led by organizations like the Center for Constitutional Rights, the hard-left outfit founded by attorney William Kunstler, have held that the overwhelming majority of Gitmo detainees are either innocents who were snatched up by unscrupulous bounty hunters for money and turned over to the U.S. military or low-level members of hostile groups who posed no real threat to U.S. military forces.

CCR and its political allies thought they had hit the jackpot in February 2006, when a report published by the Seton Hall University School of Law and a pair of attorneys representing detainees surveyed declassified information on persons who had been detained at Gitmo and concluded that only 8 percent had been characterized as al Qaeda fighters and that more than half of the detainees had not committed any hostile act against the United States. But a just-published study of the same data - 516 military hearings conducted in 2004 and 2005 to determine whether individual detainees should continue to be held as enemy combatants - suggests that the oft-cited Seton Hall study dramatically understated the danger posed by the detainees.

According to the new study, published by the Combatting Terrorism Center (CTC) at West Point, 73 percent of the detainees were "demonstrated threats" to coalition forces; 95 percent represented at least a "potential threat" as an enemy combatant - defined as someone "who supported hostile activities or was affiliated with groups that executed and/or supported terrorist acts," or received weapons training or possessed weapons that could be used in support of terrorist activities. The potential enemy combatants included people who were identified as fighters for al Qaeda or the Taliban; persons who received training at an al Qaeda or Taliban camp and ones who "received training in the employment of combat weapons other than or in addition to rifles/small arms including grenades, rocket-propelled grenades, sniper rifles and the construction and/or deployment of explosives and [improvised explosive devices]."

When Mr. Murtha and advocates like Rep. Jim Moran make the case to shut down Gitmo, we hope that more responsible Democrats and Republicans will ask them serious questions about the jihadists at Guantanamo Bay. It would be interesting to know two things: Do they know how dangerous Gitmo detainees are, and where do they plan to send them if Gitmo is shut down?

<http://washingtontimes.com/apps/pbcs.dll/article?AID=/20070801/EDITORIAL/108010001>

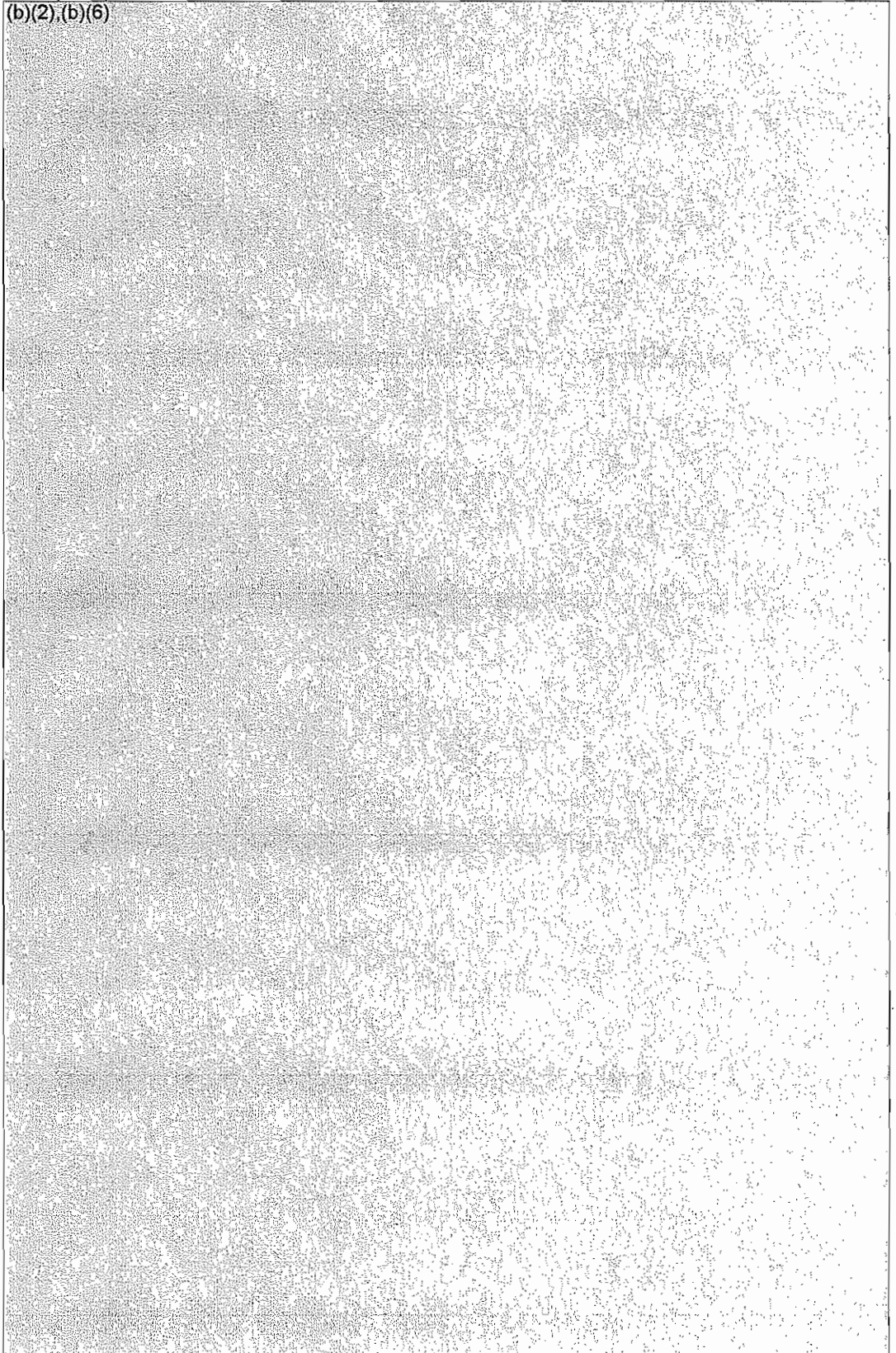


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**Sent:**  
**To:**

(b)(6) DoD OGC  
Friday, September 28, 2007 4:00 PM

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Subject:

GTMO BIRD: HVD's ALLOWED LAWYERS; GITMO DETAINEE RELEASED; CCR FILES VISIT REQUEST FOR KHAN; LAWYERS DENIED ACCESS TO DETAINEES; O'CONNOR COMMENTS ON TERROR TRIALS; DETAINEE ART; LCDR SWIFT & HAMDAN; YEE SPEECH

>All

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>Today's GTMO bird.

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>(b)(6)

>Paralegal, GySgt, USMC (Ret.)

>Department of Defense

>Office of the General Counsel (Legal Counsel)

>1099 14th Street, NW (Franklin Court)

>(b)(2)

>Washington, DC

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U.S. to Allow Key Detainees to Request Lawyers

14 Terrorism Suspects Given Legal Forms at Guantanamo By Josh White and Joby Warrick

Washington Post Staff Writers Friday, September 28, 2007; A01 Fourteen "high-value" terrorism suspects who were transferred to Guantanamo Bay, Cuba

<<http://www.washingtonpost.com/ac2/related/topic/Guantanamo+Bay?tid=informline>> , from secret CIA

<<http://www.washingtonpost.com/ac2/related/topic/Central+Intelligence+Agency?tid=informline>> prisons last year have been formally offered the right to request lawyers, a move that could allow them to join other detainees in challenging their status as enemy combatants in a U.S. appellate court.

The move, confirmed by Defense Department

<<http://www.washingtonpost.com/ac2/related/topic/U.S.+Department+of+Defense?tid=informline>> officials, will allow the suspects their first contact with anyone other than their captors and representatives of the International Committee of the Red Cross

<<http://www.washingtonpost.com/ac2/related/topic/International+Federation+of+Red+Cross+and+Red+Crescent+Societies?tid=informline>> since they were taken into custody. The prisoners, who include Khalid Sheikh Mohammed

<<http://www.washingtonpost.com/ac2/related/topic/Khalid+Shaikh+Mohammed?tid=informline>> , the alleged mastermind of the Sept. 11, 2001, attacks, have not had access to lawyers during their year at Guantanamo Bay or while they were held, for varying lengths of time, at the secret CIA sites abroad. They were entitled to military "personal representatives" to assist them during the administrative process that determined whether they are enemy combatants. U.S. officials have argued in court papers against granting lawyers access to the high-value detainees without special security rules, fearing that attorney-client conversations could reveal classified elements of the CIA's secret detention program and its controversial interrogation tactics.

Defense officials gave the detainees "Legal Representation Request" forms during the last week of August and the first week of September, and sources familiar with the process said at least four detainees have requested attorneys.

The form, referring to the Combatant Status Review Tribunal, allows the detainees to say whether they "wish to have a civilian lawyer represent me and assist me with filing a petition to challenge the CSRT determination that I am an Enemy Combatant." The Detainee Treatment Act, enacted in late 2005, gives Guantanamo Bay captives the right to challenge their enemy-combatant designations in the U.S. Court of Appeals

<<http://www.washingtonpost.com/ac2/related/topic/U.S.+Court+of+Appeals?tid=informline>> for the District of Columbia Circuit.

The form distributed to the high-value suspects also allows them to request that the American Bar Association

<<http://www.washingtonpost.com/ac2/related/topic/American+Bar+Association?tid=informline>> "find a lawyer who will represent my best interests, without charge."

William H. Neukom, the association's president, criticized the use of the organization's name on the form, telling government lawyers yesterday that his organization does not want to "lend support and credibility to such an inadequate review scheme."

A Pentagon spokesman said this week that the detainees, like all others at Guantanamo, are provided information on how to request counsel.

"These counsel will be permitted to visit the detainee and engage in confidential written communications with the detainee once the counsel has obtained the necessary security clearance" and agrees to certain special court rules, said Navy Cmdr. J.D. Gordon. One Pentagon official warned that those lawyers will have to undergo especially thorough background checks before they are allowed to see the high-value captives.

Defense and intelligence officials said the decision to allow legal representation does not represent a shift in policy.

"It was the intent and the plan all along that they would have a right to counsel," said a senior intelligence official, who insisted on anonymity because many details of the detention program remain classified. The official said the concerns about protecting sensitive government information apply equally to the 14 men and the approximately 325 other detainees at Guantanamo Bay.

"The goal here is to have the trials open and public to the greatest extent consistent with protecting classified information," the official said.

But lawyers and advocacy groups pressing for legal rights for the detainees contend that there has been a change in tone since last fall, when Justice Department

<<http://www.washingtonpost.com/ac2/related/topic/U.S.+Department+of+Justice?tid=informline>> lawyers argued that the detainees might reveal details about their captivity that may "reasonably be expected to cause extremely grave damage" to national security, according to an Oct. 26 court filing.

One of the 14 special detainees, Majid Khan, 27, who went to high school in the Baltimore

<<http://www.washingtonpost.com/ac2/related/topic/Baltimore?tid=informline>> area, filled out his form on Sept. 5. He signed the document and added a short handwritten note at the bottom of the page. That note and the fact that the U.S. military

<<http://www.washingtonpost.com/ac2/related/topic/U.S.+Armed+Forces?tid=informline>> had him

sign the document have riled defense lawyers who have been attempting to represent Khan for more than a year at the request of his family but who have been denied access to him. In the note, Khan said that he believes he already has an attorney at the Center for Constitutional Rights but that he has never received any official correspondence from that lawyer. The lawyer, Gitanjali Gutierrez, said yesterday that she has written Khan letters over the past year that clearly did not reach him.

"Please send me a lawyer or representative who can brief me with my options," Khan wrote, according to a copy of the form provided to The Washington Post <http://www.washingtonpost.com/ac2/related/topic/The+Washington+Post+Company?tid=informline> by the Center for Constitutional Rights. "Also please, if you can send me basic introduction criminal law books with all law terms, etc. Also I would like to know what has media said about me and full copy of tribunal CSRT about me, which was available on the Internet. (Thanks in advance)."

The government alleges that Khan took orders from Mohammed, and was asked to research how to poison U.S. reservoirs and how to blow up U.S. gas stations.

Gutierrez said she thinks the effort to connect detainees with lawyers is the Defense Department "trying to put some gloss on the idea that this review process is legitimate and the high-value detainees are being given access to the courts."

"Now it's their opportunity to turn it from a gloss to a reality," Gutierrez said. "But we'll see if they come through."

Staff researcher Julie Tate contributed to this report.

<http://www.washingtonpost.com/wp-dyn/content/article/2007/09/27/AR2007092702458.html?hpid=topnews>

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Gitmo prisoner released  
2 Denver lawyers work to free man held for six years

By Sue Lindsay, Rocky Mountain News  
September 28, 2007

Two Denver lawyers have won the release of a man held prisoner at Guantanamo Bay for six years.

"We are overjoyed for our client," attorney John Holland said. "We're relieved for the resolution of this particular injustice, but the problem continues for many other prisoners who are likewise held unjustly and denied all fundamental rights known to the Western world. "There are many thousands of people who remain completely voiceless in secret prisons. We don't even know their names."

Holland and his daughter, Anna Cayton-Holland, represent the man, who is from the African country of Mauritania, and three other Guantanamo prisoners. Hundreds of other prisoners are represented by teams of volunteer lawyers from throughout the U.S.

Mohamed Al Amin was 17 when he was arrested in Pakistan in 2002. He had been held since then at Guantanamo, without being charged.

Al Amin was returned to Mauritania on Wednesday and was jailed, awaiting release there, Holland said.

U.S. authorities determined that he was "eligible for release" earlier this year, Holland said, "but he is just now getting out."

"Approximately 90 other people have been determined eligible for release but many still have not been released," he said.

Cayton-Holland said that Al Amin was studying the Quran in Pakistan when he was "sold into custody" by bounty hunters.

"Being a foreign citizen living in Pakistan made him an easy mark," she said. "There has never been any evidence put forward that he was a terrorist."

Holland and Cayton-Holland traveled to Mauritania in January to encourage newly elected President Sidi Ould Cheikh Abdellahi to lobby for Al Amin's release.



"I feel an overwhelming sense of relief," Holland said. "You stay up at night thinking about people like this. You feel terrible because you're impotent - you can't get a hearing." He said that Guantanamo prisoners are detained for years without a hearing or charges being filed.

[http://www.rockymountainnews.com/drmn/local/article/0,1299,DRMN\\_15\\_5709320,00.html](http://www.rockymountainnews.com/drmn/local/article/0,1299,DRMN_15_5709320,00.html)

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FORMER GHOST DETAINEE AT GUANTÁNAMO TO RECEIVE LAWYERS CCR FILES VISIT REQUEST TO SEE CLIENT MAJID KHAN IN EARLY OCTOBER Synopsis On September 28, 2007, attorneys with the Center for Constitutional Rights (CCR) filed a visit request with the Defense Department to see their client, Majid Khan, who was transferred one year ago from secret CIA detention to Guantánamo. Two attorneys from the Center received Top Secret SCI clearance this week, higher than many members of the military who conducted the detainees' Combatant Status Review Tribunals (CSRT's), and expect to finally meet their client after a year of fighting for access. The request was made for visits either the week of October 8 or the week of November 5. Said CCR attorney Wells Dixon, "We are glad the government finally agrees that Majid is entitled to immediate access to his counsel, and we fully expect they will approve our pending visit request and allow us access to him in Guantánamo within a few weeks." Majid Khan wrote by hand at the bottom of a form offering to have the American Bar Association help him retain counsel, "I think I already have a lawyer at CCR, but I never received any official letters from my lawyers (Gitanjali S. Gutierrez)... Please send me a lawyer or representative who can brief me with my options. Also please, if you can send me basic introduction criminal law books with all law terms, etc. Also I would like to know what has media said about me and full copy of tribunal CSRT about me, which was available on the Internet. (Thanks in advance)."

Said Shayana Kadidal, Managing Attorney of the Center for Constitutional Rights Guantánamo Global Justice Initiative, "What is disturbing about the form given to the detainees is the way the government is trying to make a fundamentally flawed process look legitimate by invoking the name of the American Bar Association. The Detainee Treatment Act review is so limited it doesn't even come close to a substitute for habeas corpus."

<http://www.ccr-ny.org/v2/reports/report.asp?ObjID=tkqBlem3rU&Content=1121>

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## Lawyers are Denied Access to Detainees

### A Bad Week at Guantánamo

By ANDY WORTHINGTON

One thing you learn when studying Guantánamo is that nothing can ever be taken for granted, and the events of the last week have demonstrated, yet again, that this is the case. In Washington, last week District Court Judge Ricardo Urbina dismissed 16 lawsuits, challenging the indefinite imprisonment of at least 40 detainees in Guantánamo. This has had the knock-on effect of denying lawyers access to their clients. Crowing smugly, Justice Department lawyer Andrew Warden declared after the decision, "In light of this development, counsel access (both legal mail and in-person visits) is no longer permitted."

That this is possible, 39 months after the Supreme Court ruled decisively, in *Rasul v. Bush*, that the detainees had the right to challenge the basis of their detention, and that habeas corpus was, as Justice John Stephens so memorably described it, "a writ antecedent to statute throwing its roots deep into the genius of our common law," demonstrates, succinctly, how the Bush administration has, for the last six years, shamed the "genius" of the American legal system by reducing it to a game of legislative ping-pong.

Although lawyers for the detainees remain confident that the Supreme Court will rule in the detainees' favor (probably in spring 2008), this is a terrible setback for the detainees in question. Imprisoned without charge or trial for over five and a half years, they have no other contact with the outside world apart from through the minimal ministrations of the International Committee of the Red Cross, and their lawyers are often their only lifeline. This process is made that much harder when, year after year, the lawyers are driven to admit



to their clients that, despite widespread opposition to the existence of Guantánamo, their attempts to bring them justice-- a day in court before a judge who can impartially weigh the evidence set before him by the government-- are repeatedly obstructed by the administration. In all likelihood, Judge Urbina's ruling will not shut down the lawyer-client relationship entirely. As reported by the Associated Press, Andrew Warden "outlined a series of legal steps that would be required before the attorneys could resume contact with the detainees." After jumping through hoops and being generally belittled, more restrictive arrangements will be arranged with the lawyers, but they may come too late for the Libyan detainee Abdul Rauf al-Qassim. Cleared by a military administrative board after five years at Guantánamo, al-Qassim, a deserter from the Libyan army, had spent a decade living in Afghanistan and Pakistan without raising arms against anyone, and was kidnapped from a house in Lahore, Pakistan, in May 2002, after fleeing Afghanistan with his pregnant Afghan wife. Al-Qassim has spent most of this year fighting cynical attempts by the administration to return him to the country of his birth, where he has legitimate fears that he will be tortured. Wells Dixon, one of his lawyers at the Center for Constitutional Rights, explained that he would "most likely not be able to complete [the new] measures in time for a scheduled visit" with al-Qassim next month, which he described as "crucial," because he was "in the midst of trying to prevent the government from transferring [him] back to Libya. In measured tones, he added, "This is just the latest example of the government's efforts to frustrate counsel access to detainees." In a press release, another CCR attorney, Shayana Kadidal, spelt out al-Qassim's plight in stronger terms: "We need to remember that this is a man the government has cleared for release-- as close to a statement of innocence as the government will ever issue. Abdul Rauf should never have been taken to Guantánamo in the first place, and the courts should not allow the government to 'disappear' him into Libya in order to cover up its own mistake."

In a second, and far more shocking development, the Military Commissions at Guantánamo-- the widely derided show trials, which purport to provide justice, while relying on secret evidence obtained through torture-- stumbled back to life on Monday. Condemned as illegal under US law and the Geneva Conventions by the Supreme Court in June 2006, the Commissions were reinstated in the Military Commissions Act (MCA) last fall, but were derailed again three months ago, when the military judges appointed to preside over the cases of child soldier Omar Khadr and Salim Hamdan, one of Osama bin Laden's chauffeurs, shut down the trials. They argued, correctly, that the MCA had mandated them to try "illegal enemy combatants," whereas the system that had made them eligible for trial-- the Combatant Status Review Tribunals, "administrative" hearings which also relied on secret evidence obtained through unknown means-- had only declared them to be "enemy combatants."

After a farcical interlude, in which the administration declared petulantly that it would appeal the judges' decisions, and was then pilloried when it transpired that the appeals court in question had not yet been established, the Court of Military Commissions Review convened a month ago in a borrowed courtroom near the White House.

Announcing their verdict on Monday, the court's three military judges-- all appointed by the Pentagon-- agreed with Khadr's military judge, Col. Peter Brownback, that Khadr's classification as an "enemy combatant" at his Combatant Status Review Tribunal in Guantánamo "failed to meet the requirements for jurisdiction set forth in the Military Commissions Act," but explained that Brownback had "erred" in ruling that a Tribunal Review was required to determine that Khadr was an "unlawful enemy combatant" as a pre-requisite for bringing charges against him under the Military Commissions Act. They added, moreover, that he had "abused his discretion in deciding this critical jurisdictional matter without first fully considering" the government's evidence.

The decision was immediately condemned by human rights activists. Jameel Jaffer, the director of the American Civil Liberties Union's national security project, declared, "This ruling may be a step forward for the military commissions but it's a step backwards for the rule of law. While there are prisoners at Guantánamo who should be tried for war crimes, they should be tried under rules that are fair and that will be perceived as fair. The current rules fail this test."

More importantly, the verdict was also condemned by Khadr's defense lawyers, led by Lt. Cmdr. William Kuebler, the principled military attorney, who, in the past few months, has described

the Commissions as rigged, ridiculous, unjust, farcical, a sham, and a lawless process. As soon as Pentagon spokesman Bryan Whitman announced that Khadr's trial had been revived, and that it was the Pentagon's intention "to move out in an expeditious manner to get the military commission cases to trial," Kuebler responded by saying that Khadr's legal team would appeal, asking a civilian court in Washington to block the trial. "This court," Kuebler explained, referring to the Court of Military Commissions Review, "had the chance to bring some degree of legitimacy to an otherwise lawless process," adding, pointedly, "It failed to do so." In a statement, he and Khadr's other lawyers-- Dennis Edney and Nathan Whittington-- accused the military judge of "prohibited off-the-record coordination," and explained that the date set by the Pentagon for Khadr's trial to begin-- October 11-- failed to allow them enough time to challenge the case. "It is the latest evidence of the government's determination to rush forward with the flawed military commission process at breakneck speed, disregarding whatever rights of the accused that may get in the way," Kuebler declared. Expect more fireworks to follow from the latest in an increasingly long line of government-appointed military lawyers to have turned on their masters in the most principled manner possible. Those in any doubt that Lt. Cmdr. Kuebler means what he says should recall that in June he explained to a GQ reporter, "I think things have been done to people that under any definition except this administration's very narrow one would be torture."

Andy Worthington ([www.andyworthington.co.uk](http://www.andyworthington.co.uk) <<http://www.andyworthington.co.uk/>> ) is a British historian, and the author of 'The Guantánamo Files: The Stories of the 774 Detainees in America's Illegal Prison'

<<http://www.amazon.com/exec/obidos/ASIN/0745326641/counterpunchmaga>> (to be published by Pluto Press in October 2007).

He can be reached at: [andy@andyworthington.co.uk](mailto:andy@andyworthington.co.uk)

<http://www.counterpunch.org/worthington09272007.html>

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Retired U.S. justice says terror cases will be a challenge for years 20 hours ago OTTAWA - A long-serving justice of the U.S. supreme court said those still on the highest American bench will have to deal with interrogation techniques and whether they constitute torture.

Sandra Day O'Connor, the first woman to sit on the American high court, told students at the University of Ottawa that classifying interrogation techniques might not be as clear-cut as many may think.

While she said civil liberties cannot be thrown out in pursuit of security, she quoted one of her predecessors who observed that "the bill of rights is not a suicide pact."

O'Connor, who was appointed to the court by Republican president Ronald Reagan, said she has no illusions about the dangers posed by terrorism.

"We can't grow complacent in our concern about threats to security."

Students asked which side - security or liberty - should be favoured and she said there are no absolutes.

"It depends on the question," she said.

"It depends on the exigencies of the danger involved."

O'Connor, who retired last year after a quarter-century on the high court, said judges have wrestled with similar problems in the past.

She told the students of a time when a president of the United States in wartime decided to use special military tribunals to try citizens accused of colluding with the enemy.

However, she added, that president wasn't George W.

Bush and Guantanamo, it was Abraham Lincoln.

And in that case, the American supreme court ruled that military tribunals had no jurisdiction as long as the civilian courts were open and functioning.

O'Connor, 76, said the issues today are distinct from those facing Lincoln, but they also have their similarities and she suggested the courts can look to history for guidance.

Dealing with terrorism will challenge lawyers and judges for years to come, O'Connor said.

She told law students that terrorism is a major legal issue today and will continue to be one as courts wrestle with the implications of laws aimed at suppressing terrorists.

The key is striking a balance between protecting national security and preserving civil liberties.

"If I were a law student today, I would be totally fascinated by these very fundamental issues," she said.

Courts in Canada, the United States, Britain, Germany and Australia have all tackled terror cases in recent years.

"In all these nations, people are engaged in discussions concerning these very important issues," she said.

And despite the court rulings, that's not the end of it.

"We haven't heard the last of these issues."

Justice Marshall Rothstein of the Supreme Court of Canada, who also spoke to the group, said these judgments depend on the facts in individual cases.

"It's a balancing exercise," he said.

[http://canadianpress.google.com/article/ALeqM5gD5C9pw67Q\\_HtII99CbZXakqP5Cg](http://canadianpress.google.com/article/ALeqM5gD5C9pw67Q_HtII99CbZXakqP5Cg)

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New exhibit from artist Margot Herster seeks to put faces to the detainees at Guantánamo Bay.  
by Leah Bartos

Sentinel correspondent:

From the cloaked silhouettes of Abu Ghraib prisoners to the smoke pluming from the Twin Towers, the most infamous images of the so-called War on Terror depict nothing short of human ugliness stemming from all sides of the frontlines.

But photographer Margot Herster has taken a different view.

In her quest to restore the personalities of a handful of Guantánamo Bay prisoners, Herster compiled images of 11 detainees and their families for a new installation titled,

"Guantánamo: Pictures from Home," now exhibiting at the Porter Sesnon Gallery on the campus of UC Santa Cruz.

Featuring more than 100 photographs, video vignettes and audio installations, the exhibit offers an alternate view of the Guantánamo detainees, who have gone essentially nameless to the American public at large.

"Everything that we see about the War on Terror has a characteristic of evoking fear and mistrust. This is a project about building trust and building relationships, instead of breaking down relationships," Herster said.

Herster's project was first inspired by her husband's stories about the detainees he represented while doing pro bono work for the Allen & Overy law firm in New York.

From his anecdotes and personal details about the detainees, such as one man whose legs were too short to touch the ground, Herster began to imagine the lives of these individuals, even though she herself would not be permitted to meet them.

After connecting with several other attorneys representing the detainees, Herster began collecting copies of the detainees' passport photos, as well as snapshots of their families that the lawyers had taken when visiting the detainees' home countries of Yemen, Afghanistan, Saudi Arabia, Kuwait, and Bahrain. The attorneys then brought the photos back to the detainees, many of whom had become rather skeptical of the entire U.S. legal process. The family photos, Herster explained, played a key role in establishing a trusting relationship between lawyer and client.

Commenting on the family photos, Herster said, "What struck me was the warmth in them; they were so welcoming and comfortable in the families' living rooms. Given the anxiety and fear and all the things we associate with the people at Guantánamo, it's such a stark contrast to flip through these photos"

There are about 340 people currently detained at Guantánamo on suspected terrorism charges or links to al Qaeda and the Taliban. And while attorneys are working to attain writs of habeas corpus, which would allow them to challenge their detainment in a federal court, Herster is also working to bring faces to these numbers.

"You can start to see a personality developing, even though we don't really know anything about these people," Herster said of the stories that emerge in the installation.

In addition to the photographs for "Pictures from Home," Herster also collaborated with video artist and photographer Carolyn Mara Borlenghi to produce a short video called "The Lawyers," in which the attorneys recount their experiences representing the Guantánamo detainees, as well as a sound installation called Interview Cell Recordings.

Though an accomplished photographer herself, Herster did not take any of the photos or shoot any of the video footage in the "Pictures from Home" installation. Herster believes that the art lies in the relationship between the photographer and the subject. In this case, the relationship she highlights is between families and detainees, as well as the attorneys who are working to bring them back together. The power of these images, she says, comes from the context in which they were produced.

"It's really interesting how amateur photography has become so prominent in this time, in this conflict. Some of the most powerful images of the war have been from people who are bystanders or participants in the war in some way," Herster said.

While the family photographs were originally produced to build a relationship between the attorneys and the detainees, Herster believes that in a new context, the photographs offer great insights into the lives of these otherwise faceless individuals.

"I think that's all art can do, is give people a vehicle for connecting with one another" <http://www.santacruzsentinel.com/archive/2007/September/28/style/stories/03style.htm>

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#### Above All, an Advocate for Justice

Visiting Associate Professor Charles Swift successfully represented Salim Hamdan, a Guantanamo Bay detainee, before the U.S. Supreme Court. He joined the School of Law faculty this semester.

In December 2003, Lt. Commander Charles Swift, a Navy lawyer, was appointed to represent Salim Ahmed Hamdan, a Guantánamo Bay detainee and Osama bin Laden's former driver. Hamdan was to be tried before a military tribunal on the charges of conspiracy and providing material support for terrorism.

Hamdan didn't want to plead guilty, so Swift decided to challenge the system of military tribunals itself by suing the man who had created it: his boss, President Bush.

"Filing a lawsuit against the president wasn't our idea of courage," said Swift, who is now on the faculty at the School of Law. "Real courage was to face the idea that we could be embarrassed and we could fail and do it anyway."

The controversial case, Hamdan v. Rumsfeld, proceeded all the way to the U.S. Supreme Court. Hamdan, a Yemeni man, denied a role in the 9/11 attacks and protested the injustice of the Bush administration's military commissions.

It was the second time Swift had appeared in federal court, and only the first time for his partner, Neal Katyal.

"It was hard to find anyone who believed for a moment that we would be successful," Swift said.

Swift and Katyal won the case for Hamdan, with the Supreme Court ruling that military commissions violated the Geneva Conventions and the Uniform Code of Military Justice.

Two weeks after the decision, however, Swift was passed over for promotion at the Pentagon, leading to his retirement from the military. Many speculated that this surprise had something to do with Swift's controversial stance defending a man accused of aiding terrorism.

Swift, who was named one of the National Law Journal's "100 Most Influential Lawyers in America" in 2006, was appointed to the law school's faculty in July.

David F. Partlett, the dean of the law school, said Swift's supposed controversial stance does not detract from, but rather adds to Swift's strength of character.

"I think it's a great thing for Emory law school to have someone who believes so thoroughly in the way law should work in America," Partlett said. "He's an excellent lawyer and he believes that everyone should have the protection of law – and good lawyers everywhere want that."

Shaina Stahl, a third-year law student, also said Swift's presence will only add to the University's prestige.

"I think that it's good to have more and more controversial people – it sparks discussion and that's what we're here to do in an academic environment," Stahl said.

Visiting Associate Professor Charles Swift was born in Franklin, N.C., and graduated from the U.S. Naval Academy in 1984 before attending Seattle University Law School. After graduating cum laude, Swift joined the Judge Advocate General's Corps so he could practice law while remaining a uniformed officer of the U.S. Navy.

Named Junior Officer of the Year in 1997 at Naval Legal Service Northwest, Swift went on to represent more than 150 service members in military justice proceedings.

"The greatest reward you will ever receive in your life is from public service," Swift said. "The amazing thing about life is that it is impossible to know, when that opportunity is presented, whether you will or won't [seize it]."

Swift, a history major at the Naval Academy, expressed admiration for President John Adams, who after the Boston Massacre represented the British soldiers in court, to the detriment of his reputation.

"I think that [America's] greatest strength is that we are first and foremost a nation of laws," Swift said, praising the United States' system, in which someone like Hamdan can triumph over the President in court.

Now the acting director of the International Humanitarian Law Clinic, an offshoot of the work of six Emory law students who also worked with Guantánamo Bay detainees, Swift emphasized the idea that students should get involved in humanitarian efforts.

"You are receiving at Emory an incredible gift ... and that is the ability to make a difference," Swift said. "If students come to this school and say, 'I believe in what I believe in, I understand that I could fail, but I'm going to do it anyway,' they are going to make an incredible difference in this world."

Partlett also spoke of the importance of having Swift on campus as an emblem of humanitarian law and the great benefits both faculty and students will reap from his presence at Emory.

"We're all delighted," Partlett said. "He's a wonderful colleague, he's very outgoing, his experience is vast, and it's great for him to be here."

<http://www.emorywheel.com/detail.php?n=24344>



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At Guantanamo, a chaplain's story  
By Michael Moreno,

Captain James Yee saw guards tear pages from the Quran, interrogators yell, "The devil is your God now," and female guards forcibly give lap dances and touch detainees' genitalia.

But despite his efforts to educate soldiers and improve treatment of detainees, the former Guantanamo Bay Chaplain was labeled a spy.

Yee, who became a prisoner himself after he voiced concern over what he felt to be inappropriate treatment of detainees, spoke at Binghamton University Tuesday night about his experiences and the importance of protecting civil rights.

Yee received his appointment at the detention camp after educating soldiers on Islam following the Sept. 11 terrorist attacks.

During his tenure there Yee counseled Muslim detainees.

"They used Islam against the prisoners to break them," said Yee, who fought for policy changes, including the provision of a small cloth hammock for prisoners to keep their Quran - which was regularly desecrated during cell searches.

Unfortunately for Yee, this same service is what would lead to him being labeled as a spy, arrested and thrown into a maximum security prison for over two months.

"I want the audience to leave here tonight with an awareness of the seriousness and issues surrounding Guantanamo Bay, Cuba," said Yee prior to taking the stage.

His speech touched on many of the interrogation methods he witnessed during his time there, including the mistreatment of the Quran by prison guards and interrogations involving the use of satanic imagery, and the use of female guards in such sexual acts as lap dances and the touching of genitalia.

"Some detainees were brought into a small room with a satanic circle drawn on the ground," said Yee. "They were forced to kneel in the circle, much like in prayer, while the interrogator yelled, 'The devil is your God now, not Allah!'"

Yee, who spent much of his time attempting to defend the rights of the 600-plus Muslims detained at United States Naval base in southeast Cuba, found himself the target of the same treatment when he was arrested by FBI agents at a Florida airport in September of 2003.

Yee was returning from "Gitmo" for a short reprieve to see his family when he was named an enemy combatant and sent to the Consolidated Naval Brig, in Charleston, S.C. There, he was kept for 76 days and treated with sensory deprivation techniques.

Upon his release, he was tried for the mishandling of classified documents, but no evidence was found against him and all charges were dropped. Yee believes to this day that he was singled out not just for being a Muslim, but also because of his Chinese heritage.

He still remembers the words of a fellow soldier at Gitmo: "Who the hell does this Chinese Taliban think he is, telling us how to treat our prisoners?"

Captain Yee, since honorably discharged from service, now travels across the country giving speeches on his ordeal and the the conditions at Guantanamo Bay.

"Our county's leadership needs to change," said Yee. "The current leadership is bringing us down the wrong path. These post-9/11 counter-terrorism policies have eroded our civil liberties."

Yee hopes that his speeches will help "inspire students to protect their freedoms."

"You, as our future leaders, must put this country back on the right track," he said. "We need to become a beacon of human rights to the world again."

[http://www.bupipedream.com/pipeline\\_web/display\\_article.php?id=5705](http://www.bupipedream.com/pipeline_web/display_article.php?id=5705)