

SHANGRI LA:  
IMAGINED  
CITIES

**Guest Curator  
Rijin Sahakian**

**Los Angeles Municipal Art Gallery  
October 26 - December 28, 2014**

# LA ISLAM ARTS INITIATIVE

The Los Angeles / Islam Arts Initiative is presented by the City of Los Angeles Department of Cultural Affairs (DCA) with major support from the Doris Duke Foundation for Islamic Art, the National Endowment for the Arts, the California Community Foundation, the California Institute of the Arts (CalArts), the Barnsdall Art Park Foundation, and the Sister Cities of Los Angeles Organization.



Anchoring this initiative are two connected exhibitions, *Doris Duke's Shangri La: Architecture, Landscape and Islamic Art* and the DCA-commissioned contemporary art exhibition, *Shangri La: Imagined Cities* held at DCA's Los Angeles Municipal Art Gallery (LAMAG) at Barnsdall Park.



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## Los Angeles / Islam Arts Initiative

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# NOT AN EXCEPTION: U.S. PRISON POLICY FROM CALIFORNIA TO CUBA

CHITRA GANESH  
& MARIAM  
GHANI  
WITH ALEXIS AGATHOCLEOUS  
& RAMZI KASSEM

Chitra Ganesh & Mariam Ghani with Alexis Agathocleous & Ramzi Kassem

Not an Exception: U.S. Prison Policy from California to Cuba

In summer 2013, 30,000 prisoners at Pelican Bay and other California state prisons organized a hunger strike to protest extended solitary confinement. For years, and sometimes even decades, Pelican Bay inmates remain completely isolated for 22 to 24 hours per day and are denied all forms of contact with the outside world, in clear violation of international human rights standards. Perhaps it is not so surprising, then, that the prisoners at Pelican Bay cited the ongoing hunger strike at Guantanamo Bay as an inspiration for their latest wave of organizing. Meanwhile, Guantanamo prisoners have said they were inspired by hunger strikes undertaken by prisoners' rights movements in the United States and Ireland, among other places.

At the end of the summer of 2013, we sat down with human rights lawyers Alexis Agathocleous and Ramzi Kassem to discuss U.S. prison practices across the globe. Our conversation traced a series of similar connections—including examples of the so-called “imperial boomerang” made infamous by recent events in Ferguson, Missouri—to suggest that activists should follow policymakers in imagining “domestic” and “foreign” struggles as a single continuum, rather than as separate spheres.

Agathocleous and Kassem have been at the forefront of legal advocacy around civil liberties and prisoners' rights for much of the last decade, and each brings a unique perspective to the current debate. As part of his work with the Center for Constitutional Rights, Alexis represents a group of Pelican Bay prisoners who have been held in solitary confinement for a dozen years or more, while Ramzi represents some of the Guantanamo prisoners who have been cleared for transfer since 2009 but are still under an executive hold.

For years, both Agathocleous and Kassem have provided invaluable insight and advice for our ongoing collaboration, Index of the Disappeared, an experimental archive of detentions, deportations, renditions, and redactions. A number of subjects covered in this conversation—Guantanamo, hunger strikes, the global war on terror, surveillance, shifting definitions of torture, Communication Management Units (CMUs), racial profiling, and the prison-industrial complex—are also subjects of Index archive collections.

We have edited the original interview transcript for the present publication, and added endnotes with updates on some cases mentioned in the interview.

(MG & CG, August 2014)

**MARIAM GHANI:** Index of the Disappeared recently produced a project for Creative Time Reports called *The Guantanamo Effect*, which looks at Guantanamo as an idea, or a kind of self-replicating virus, that has spread and mutated to reappear in different forms and guises all around the world. One form in which it has reappeared is the Communication Management Units (CMUs) now housed in prisons within the United States. We wanted to bring you together today to talk about how policies and practices developed at Guantanamo have circulated around the globe to Bagram and places like Bagram, and then back to the United States, to the CMUs and places like them.

**RAMZI KASSEM:** My students and I work both on the CLEAR (Creating Law Enforcement Accountability and Responsibility) Project and on Guantanamo and Bagram defense, partly because we recognize

that the cleavage in the human rights advocacy community between so-called domestic concerns and so-called global human rights concerns is an artificial one. This cleavage exists in our minds, but the government does not buy into it. The government very much views its counter-terrorism policies and practices, be they implemented domestically or internationally, as part of a single unitary spectrum.

We do our clients and ourselves a disservice by buying into that artificial separation between different segments of our own rights community and struggles. For that reason, it's important to recognize the continuities that exist between Guantanamo not just as a location but also, as you said, as an idea with both domestic and global manifestations.

And we should think about Guantanamo not just prospectively, in the sense of how it will influence

the future course of events in the United States, or the way both the United States and other countries will participate in the world. We also have to look retrospectively, and recognize that many themes we associate with the idea of Guantanamo actually pre-date 9/11 by quite a lot. While these did not always uniquely affect Muslim communities as they tend to nowadays, Guantanamo itself, the idea, borrows from a lot of pre-9/11 tropes, policies, practices and injustices.

**ALEXIS AGATHOCLEOUS:** That makes a lot of sense. I'm involved in one big case around the Communications Management Units, which, as you say, do affect Muslim communities more drastically. But I am also litigating a case against the state of California, a domestic detention case that is in federal court in California, where we're challenging the use of prolonged solitary confinement in the state's super-max facility.

So it's an interesting challenge, as you say, to consider how a number of the human rights abuses that people are responding to, in Guantanamo and elsewhere, also have a long history in the domestic context. Our responses depend not only the devastating psychological and physical toll of the conditions imposed on prisoners, but also on who is being targeted.

There is a long history, for example, of super-max confinement being used primarily against people of color, politicized groups, people who are organizing within prisons, who are organizing other prisoners and agitating for their rights. We see a disproportionate number of people from these communities being isolated under such conditions.

It can be very difficult to figure out where historical convergences and divergences occur, but I agree that it's a mistake to overlook them and view what's happening now as something new – not only because that's inaccurate, but because I think we need to do a better job of linking to pre-9/11 and pre-Guantanamo political organizing. A more powerful movement opposing these human rights abuses will be built if we can link communities that aren't traditionally associated but do have very similar stakes in this debate.

**RK:** That's precisely why a large part of our organizing against NYPD surveillance of Muslims within the CLEAR project is about making connections between the predominantly Muslim communities we work with in CLEAR and other communities in New York City who are equally targeted by constitutionally suspect, ineffective profiling.

In connecting NYPD surveillance with stop-and-frisk, we try to ensure that communities targeted by surveillance also show up at the Center for Constitutional Rights Floyd trial<sup>1</sup> and pack the courthouse, to signal a shared struggle and aligned interests. Fundamentally, these are kindred forms of profiling, and the underlying logic and mechanisms of stop-and-frisk and surveillance are nearly identical.

**CHITRA GANESH:** I think those are really important points, because so much of how we have seen these different mechanisms proliferate is by articulating Guantanamo as an exception. I think understanding these historical trajectories – how many current practices, as you've said, predate what's happening now – is key to countering that argument. Even bringing up something like Japanese internment, which younger students can talk about because they're being taught it, helps us to see that Guantanamo and its effects are not exceptional, but rather part of a much longer, more complex history.

**RK:** The problem with a lot of the conversation about Guantanamo is exactly how it starts by framing Guantanamo as an exception. While Guantanamo certainly has unique dimensions historically and otherwise, this exceptional framing is problematic because it blinds us to all these other aspects, and all the ways in which Guantanamo will survive those physical structures that exist there today.

My view, for a few years at least, is that by the time the Guantanamo prison facilities are closed, it will mostly be symbolic – not for my clients and their families and their communities, for whom it will mean the world for them to be (ideally) released and returned home – but symbolic in the larger sense that a lot of the practices will continue in different ways.

**CG:** Or are already continuing right now in secret prisons or CMUs.

**MG:** Alexis, maybe you can explain a bit about the actual structure of a Communications Management Unit or CMU, and the special Bureau of Prisons rules applied to prisoners in a CMU.

**AA:** There are currently two communications management units in the U.S. One is in Indiana, and one is in Illinois. These are isolated units housed within broader federal prison settings. So the prisoners in the CMUs never have any contact whatsoever with the prisoners in the other part of the prison. In fact, the CMU at Terre Haute

is their old death row facility, converted into a CMU after their death row was shut down.

The first CMU was opened in 2006, the second in 2008. They are small units. At this stage, since they were first opened, about 160 to 170 prisoners have cycled through. About two-thirds of those prisoners are Muslim.

The units were opened very, very quietly, because the policies in place there were relatively unprecedented, in terms of the extent and duration of the communications restrictions placed on the prisoners there. It really was a break from the stated Federal Bureau of Prisons (BOP) policy, which assumes that prisoners will have ongoing contact with family members and community members. This policy is based on a very broadly accepted idea that a prisoner, once released, is going to be much more successful in reintegrating into society if he or she has been allowed to maintain community and family ties all along.

So it took a long time for people to figure out what was going on at the CMU. It started to become clear when prisoners there started reaching out to legal advocacy groups, such as the Center for Constitutional Rights, and saying, "Look, we've been designated to this unit, we have almost no ability to reach out to our families and to our communities, and we're not being told why we're here. We're not being told what evidence was used to designate us here, and we're not being told what to do to get out."

**CG:** What was the government's justification for their failure to publish and disclose these changes?

**MG:** Or the rationale for this shift in policy?

**AA:** Basically the government's position is that there is nothing unusual about the Communications Management Units, that they are in fact general population units that just happen to be very small, impose drastic restrictions, and just happen to be two-thirds Muslim. Their claim is that prisoners at the CMUs are not entitled to any particularized process, or any disclosure of the allegations used against them, because there's actually nothing unusual about the restrictions imposed on them – the BOP claims it is within their discretion to limit communications in this fashion.

So the lynchpin of our litigation against the BOP is to point out that in fact the communications restrictions in place at the CMU are very unusual, and that you are constitutionally entitled to due process once you are placed in a restricted prison

setting that imposes what the Supreme Court terms atypical and significant hardships. So our burden in this case is to establish that what is happening at the CMU is atypical and significant.

It seems fairly intuitive when you look at the restrictions in place, the most significant of which, I think, is that prisoners at the CMU are never entitled to what's called a contact visit. This means that even on the limited occasions that family or community members are allowed to visit, there is an absolute no contact rule in place. So the visits occur through Plexiglas over a telephone. People see this in representations of prison life on TV or in the movies, so I think there is an idea that it's somehow orthodox, but it is in fact extremely unorthodox to have a no-contact visit of that nature.

And what's also unusual is that these restrictions are imposed for years and years and years at a time. The prisoners have no idea when they'll be released from this setting or what they would have to do to earn their way out. For example, Kifah Jayyousi was just last week released from the CMU and transferred to general population, and it will be the first time in five years he has been able to touch or hug his family members. He has five kids whom he has not been able to hug for five years, and they will finally be able to do that.

While these debates get bogged down in very technical due process requirements, and the burden of proof to establish a due process violation, what it actually comes down to is that this guy has not been able to hug his 13-year-old daughter since she was seven.

**RK:** And that's not a unique issue. One of our CLEAR clients is married to a man in one of the CMUs. When we met with her a couple of weeks ago, she shared with us the very hard time she has explaining to their five-year-old why he can't touch his father when they visit. He can't hug his father. And there are many, many families in that situation.

When you think about what the families of the men at Guantanamo or Bagram are going through, it's a difference in degree but not a difference in kind. My clients at Guantanamo and Bagram haven't been in the same physical location as their families for over a decade. A few years ago, the military began permitting video teleconferences – basically Skype – between the prisoners and their families, depending on where they're from and their disciplinary status. The best-case scenario is five or six of those calls a year. But in most cases, the calls are often restricted for "disciplinary" or other reasons.

When you look across the entire spectrum of the system, very frequently the justification offered by the government leverages the exceptionalization of particular acts and particular categories of prisoners. So these men are either convicted terrorists or they're enemy combatants, but regardless of the varied phrasing, it's essentially the same leveraging mechanism—and you can see it even in the way that society here responded to the Boston bombing versus the way it responded to other, comparably senseless acts of violence in society at large.

Exceptionalizing certain acts of violence over others, or categories of prisoners over others, leaves a lot of room for the government to push through really extreme and radical policies when it comes to prison—to normalize them, entrench them, and then generalize them, to ultimately use them beyond the initially targeted population.

You see it in the terrorism trials that we've seen since 9/11. The conditions that Alexis describes are conditions that are imposed on defendants pre-trial. We could cite many cases of people being thrown into solitary as they await trial, with devastating consequences to their mental health—people who haven't even been convicted.

**AA:** That's exactly right. Invoking exceptionalism, hand in hand with the incredibly successful mobilization of the term "terrorism," has had a couple of effects. Obviously, it's a whole other can of worms, but the convictions that we've seen post-9/11 on razor-thin evidence, or on the basis of "plots" that are essentially manufactured by the government to then be prosecuted as terrorism cases, really create an atmosphere of profound fear, both in the affected communities and in our court system itself.

The result is, I think, a sort of boldness that the federal government has developed. It's saying, "Trust us, we know what we're doing," and claiming that these national security issues trump fundamental due process and the presumption of transparency in the criminal justice system. But once those mechanisms of transparency are eroded, a very, very troubling chain of decision-making occurs.

In the context of CMUs, for example, now that we're deep in litigation and discovery in that case, we're finding a pattern of designations and transfers to CMUs, and also decisions to retain people there, based on their protected First Amendment activity. Because the term "terrorist" has been invoked and because this is known as a terrorist unit, the BOP has been reluctant to allow judicial oversight or

disclosure of what they are doing or how they are making their decisions.

Once you start to dig beneath the surface, you find that the CMUs are actually, in many instances, being used as a way to silence people's speech and to remove them from prison populations where that speech is seen as undesirable.

Daniel McGowan is an environmental activist, and he's one of the plaintiffs in this lawsuit. We have had previously secret documents disclosed to us that establish that the federal government has explicitly written down that they are keeping him in the CMU because he is politically active, because he has espoused support for radical organizations, and because he is in an influential position within those organizations.

**MG:** We also have to remember that what's happening within the prisons fits into a larger pattern of the chilling of political speech more generally. Ramzi, with your work with CLEAR, I believe you've looked into some of the effects of the NYPD surveillance of student groups.

**RK:** Like Alexis just said, if you scratch beneath the surface you find something that's both really innocuous and, equally importantly, constitutionally protected activity. Even when it comes to the most local form of so-called counter-terrorism policing, like the NYPD Intelligence Division surveillance program targeting American Muslim communities in New York City and beyond, which Commissioner Ray Kelly views as one of his signature programs, along with stop-and-frisk. Often, once you get past the rhetoric of "New York City is under threat" and the idea, not backed up by any empirical evidence, that the threat will emanate from New York City's own Muslim communities, what you see is just a police force that is mostly concerned with dissent and unpopular speech, and speech that is critical of U.S. foreign policy, and organizing around U.S. foreign policy or even domestic police accountability and other related issues.

The effect of that sort of widespread surveillance is saddening, shocking, and staggering. For two years, the CLEAR project went into Muslim student associations, mostly in the CUNY<sup>2</sup> system but also some private institutions, and into the different mosques and community organizations and youth centers that we work with on a weekly basis, and we interviewed students, organizers, community leaders, community members, activists, and business owners. The resulting report, Mapping Muslims,<sup>3</sup> really details the pervasive chill that has invaded this community.

Chitra Ganesh & Mariam Ghani with Alexis Agathocleous & Ramzi Kasseh

Not an Exception: U.S. Prison Policy from California to Cuba

When we walked into a Muslim Student Association (MSA) whose members we had interviewed, we saw a sign that was up on the wall, and we reproduced a picture of that sign in our report. The sign said, "No political speech in the MSA room." And they pasted on the wall next to that sign one of the Associated Press articles based on leaked NYPD documents that reflected the NYPD Intelligence Division's interest in politically active Muslim student associations. And so, for that reason, those MSAs immediately either disbanded or overtly discouraged their members from engaging in certain kinds of speech.

We saw that in mosques as well. The extent to which surveillance chills ... The reason I highlight this is that one of the NYPD and Mayor Bloomberg's principal defenses of surveillance has been to say, basically, no harm no foul. People were not aware that they were placed under surveillance, so how could you say that this hurts them, right? And I think both parts of that statement are false. The first part, because by the time the AP published that series of stories in 2011, most of the communities that we worked with in New York City didn't experience it as a revelation. They experienced it as a confirmation.

**CG:** A fact of everyday life.

**RK:** That's right. These communities have been very well aware of the reality of both NYPD surveillance and FBI surveillance for years. Seeing the NYPD's records in the AP stories was valuable, but just as a confirmation of the depth and the detail of that surveillance. But no one was shocked and surprised.

The second part of the NYPD defense is equally false, in that there is a cost of surveillance, and that cost is borne primarily by the communities infiltrated. Those communities are no longer able to function in a natural way. When we speak with imams, they tell us that rather than turn their mosque into a welcoming space, a second home for their congregants, the way any pastor would in any church in New York City, their instinct is to push everyone out between prayer times, so as not to attract NYPD attention. Their instinct is to end certain conversations or to encourage congregants to talk about politics outside of the mosque and not within its walls.

You also hear spiritual leaders saying that their role is to have private counseling sessions about really sensitive details in the congregants' lives, but because of the pervasive fear of who might be an informant, who might be undercover, a lot of imams very frankly said, "If someone comes into my

mosque and I don't know who they are, I don't know who their family is, and they ask me to have a private conversation with them, I am going to try to include a third person to be my witness. And that may disrupt the relationship that I'm supposed to have with the congregant, and make it impossible for that person to share private concerns with me, because they'd have to air those in front of a third person, but it's necessary for self-protection." So these communities have been harmed in very concrete, specific ways.

**AA:** I think the idea that surveillance is occurring in a vacuum completely ignores the context of the last decade in these affected communities. I mean, right after 9/11 there was the institution of this "hold until cleared" policy, wherein people were swept up under the premise of minor immigration infractions, and held under this policy [for unrelated reasons and disproportionate amounts of time]. And that was here in New York. That experience wasn't lost on people.

Also, there have been a number of high profile criminal cases, like the case up in Albany, in which people are being swept into what are essentially government-manufactured plots, and then sent to places like ADX<sup>4</sup> and the CMUs. That's not lost on people either. It all ultimately converges and has a chilling affect.

I've spoken to a lot of people who have family members at the CMUs, and one of the things they talk about is how during the first years of CMUs, they became pariahs within their own communities because of the degree of fear, especially of association—any form of association, even conversation, was used as evidence of conspiracy, or as evidence of material support. Surveillance must be seen within this much broader context.

**MG:** How has your work changed over the last five to 10 years? Do you feel the legal response to this context has changed?

**CG:** Or your own thinking about the work you do, from when you began working on these issues and cases, to the present moment?

**RK:** The main transformation for me has been moving beyond a narrow conception of my role as a lawyer. The first was not being overly invested in formal victory in the courts—keeping your eyes on success as measured by clients' goals, goals of the communities you're serving, and leveraging the judicial system to generate attention that feeds into larger movement building, but not being overly invested in formal outcomes.

Going through the ups and downs of litigation, and seeing the varied ways one can effect change, have helped me grow in that regard. It's something I try to emphasize with my students — think about success without victory and learn to transform seeming obstacles or problems into opportunities. For example, if you request a piece of information from the government about your client who's detained at Guantanamo — if they give you a document, how will you use that? If they don't give you a document, how could you use that? There's opportunity in both.

Another change has been reevaluating the role played by lawyers within movements — not seeing ourselves at the center of different movements that we support, or assuming that we have all the answers or even the right questions. I've gotten more comfortable personally with this, and also worked to help students be more open to taking cues from the communities that we work with, whether the prisoner population of Guantanamo or a community in Bensonhurst.

**AA:** I second that. Something we're all getting better at doing, which dovetails back with how we opened this discussion, is connecting the dots between different situations that seem distinct but in fact share many things in common. One example I see is people becoming much smarter and more strategic about placing very individual clients, issues, and claims into a broader human rights framework, which really helps to draw those links.

One of the most interesting recent examples is around the hunger strike at Guantanamo. Obviously it's been going on for a long time, but now it's finally starting to gain some traction in the public consciousness. I was talking to my clients at the Pelican Bay super-max facility in California, who also went on hunger strike two summers ago to protest the fact that they had been held in solitary confinement for anywhere between 10 and 35 years, and they used similar tactics and terms to explain their plight.

Now they've just announced that they are going back on hunger strike this July. One of their sources of inspiration is the hunger strike at Guantanamo. They know what's happening there, they know that prisoners mobilized this tactic out of desperation but also as an exercise of agency, and now they are making those connections too: "There is a broad human rights framework in which broad sets of abuses are occurring, we're on this continuum, and we take inspiration from that." I think it's pretty remarkable.

**MG:** That's amazing.

**RK:** Just like your clients at Pelican Bay looked to what was happening at Guantanamo, I've had numerous explicit conversations with my clients at Guantanamo about Israeli prisons where Palestinian prisoners had gone on hunger strike recently, and even about more distant, historical parallels, like the IRA hunger strike in the U.K. prisons.

These men are also politicized and aware. It's important to say that because when the hunger strike first began, what was really interesting to me was the prison administration's initial statement. First they denied there was any hunger strike, then they minimized its political significance by infantilizing detainees' motivations. They said things like the men are protesting because they are not getting ice cream or because we've pulled back some of the luxurious privileges that we've bestowed upon them.

**CG:** Or further delegitimizing the strike by saying "They're probably eating in secret when we're not looking."

**RK:** Exactly. "They're not actually on hunger strike." So you adopt this narrow definition of hunger strike that attempts to erase it out of existence just as they adopted a narrow definition of torture that eliminated torture.<sup>5</sup> This initial reaction is so telling. What is more threatening than a concerted political action by prisoners who are seeing those connections across geographical and temporal boundaries?

So it's very much a conscious political act on the part of the men at Guantanamo. And as Alexis was saying, it's an act of agency. I would note, though, that my clients don't frame it as a gesture born of desperation. In many ways, they articulate it as a life-affirming gesture, an exercise of dignity, a means of asserting autonomy. Those men do not wish to die. Quite the contrary, they want to live; they want to go home and see their families. But given their circumstances, this is the way they can get that point across.

As dire as the circumstances are now, as harsh as the crackdown has been, as brutal and oppressive as the force-feeding practices are at Guantanamo, I think in many ways my clients are in a better mental space than they've ever been.

Al Jazeera just released the force-feeding protocols from March 2013. There is language in the U.S. government's protocols saying we must isolate and force-feed hunger strikers in order to defeat their

solidarity — because they recognize that what keeps the hunger strike going, and makes it work, is solidarity. This tells us is that our role as their lawyers is to amplify their protest, to make sure they know that the world knows what they're doing and hears their message, to ensure that we help them create and maintain that solidarity.

**CG:** Mariam and I were at an event organized by the Center for Constitutional Rights last night, where prisoner's letters were read aloud. One of the sentences that stayed with me was one of the prisoners saying that via hunger striking, "the bond that we have, we have all become like one body." As though we feel ourselves to be part of the same physical body and we all share one heart.

**RK:** What I always go back to is the place where the hunger strike began. It didn't begin in Camp 5, which has cellblocks that are entirely solitary confinement, it began in Camp 6, which is the U.S. government's flagship, model, state-of-the-art facility. It's where they take journalists on their "Potemkin Village" tours to showcase how normal and great Guantanamo is and how complacent and happy the prisoners are. That's the messaging behind Camp 6 under the Obama administration.

The fact that the hunger strike began in Camp 6 adds a layer of significance to the message. It doesn't matter that you may allow communal living, or certain amenities that the government characterizes as luxuries. That does nothing to change the fundamental, constant reality of Guantanamo, which is indefinite imprisonment without charge, without fair process, for over a decade. The men are not blind to that reality. The fact that they began their hunger strike in Camp 6 signals a rejection of all the rhetoric intended to justify the existence of a place like Guantanamo and normalize the practice of detaining people indefinitely forever.

Alexis, now that your clients are going back on hunger strike, what do you anticipate and what do they anticipate? Will the response be similar? Or will it be drowned out, and people won't pay attention? And if that's your expectation, why?

**AA:** It's bit hard to predict exactly how this will play out this time around. Last time it happened against a different backdrop. Now that the prisoners have this class action lawsuit in place, there is additional leverage and attention to what is going on in the prison, at least in the context of the lawsuit. That said, the last hunger strike was incredibly successful for a few reasons. It was extraordinary just as a political feat, since these thousand or so

guys at Pelican Bay are all in isolation, meaning they never see each other because they are kept in their cells for at least 23 hours a day, and whenever they leave they are escorted in shackles and they are taken, ostensibly for an hour a day but often for less than that or not at all, to an exercise pen that's called a dog run, which is another solitary cell that's a little bit longer and taller where they're allowed to walk around for an hour.

So their circumstances are extraordinary and their only means of communicating with each other is basically by yelling through the walls and the pipes. They do so at risk of disciplinary infractions but it occurs nonetheless.

These men organized their own hunger strike, and from there they organized solidarity hunger strikes across California, and then eventually across the United States. And at its peak, there were 13,000 prisoners across the United States hunger striking in solidarity with the prisoners at Pelican Bay.

**CG:** That's amazing.

**AA:** It really is. I am hard pressed to think of many political movements that can mobilize that kind of action in those sheer numbers, and the fact that it was done from isolation was pretty extraordinary.

In terms of outcomes, it did bring California Corrections (CDCR) to the table. They were forced to contend with what was going on because there was a fair amount of media attention and public outrage. And CDCR did commit to making reforms as a result of the hunger strike. The hunger striking committee issued various demands, frankly very modest demands, and CDCR promised to engage and to take those into consideration. What we've seen subsequently is a systematic failure to do anything meaningful in response, hence the renewed hunger strike.

The Center for Constitutional Rights is an organization that tends to bring litigation in support of social movements and organizing that's already fleshed out—the litigation is just a piece of that strategy. That's out of deference to the political movements people are involved in, first of all. But it's also due to a realistic assessment of what Ramzi mentioned before, that litigation in federal courts rarely generates the sort of justice-based outcomes that one would hope for, so it shouldn't be the whole strategy.

The Pelican Bay case should be quite interesting this time, because there are pressure points from so many different places. A really important shift is the

new human rights based analysis of solitary confinement, both domestically and internationally, which has been fairly game changing. Last summer, the Special Rapporteur for Torture from the United Nations issued a report finding that prolonged solitary confinement constitutes torture under the Convention Against Torture and also violates other human rights instruments<sup>6</sup> to which the United States is a signatory. And the U.N. has defined prolonged solitary confinement as anything that is longer than 15 days.

**RK:** And with that, the Rapporteur also said you should abandon the practice altogether.

**AA:** Exactly.

**RK:** If you don't abandon it and do continue the practice, you *cannot* do it for any longer than 15 days. And with Alexis' clients, you're talking about a decade. I have clients at Guantanamo, here in the United States, and elsewhere, who have been placed in solitary confinement for periods far exceeding that 15-day maximum. It's deeply troubling how out of synch the United States is with these international norms.

**AA:** Yes. And this renewed hunger strike in California is happening against the backdrop of a dramatic shift in public and political consciousness around this issue because of Guantanamo, what's been happening internationally, and these prisoner-led movements. So it has the potential to be another game-changer.

**MG:** We've now heard a certain renewal of rhetoric around creating some sort of path to the closing of Guantanamo. What do you see as the probability of this actually happening? What are some ways in which that might actually be possible?

**RK:** I want get to that by addressing the disconnect between the rhetoric and a prognosis of what's going to happen in a prison like Guantanamo.

Hunger strikes are our clients' concerted action. Through their peaceful protest at Guantanamo they have built a movement. There are now solidarity strikes in the United States as well—a rolling hunger strike nationwide in solidarity with the prisoners' hunger strike at Guantanamo. So what are the results of this movement?

The White House and President Obama went from not wanting to address the hunger strike at all to addressing it twice on April 30th and then again in his recent speech about counterterrorism policy. The prisoners were able to bring themselves back

onto the agenda, to mobilize a great deal of solidarity in the United States and internationally, and to focus the critical media attention they garnered on various U.S. government policies. I think that in and of itself is a major achievement.

Concretely, what have they obtained in relation to their demands? Lifting the moratorium, as announced by President Obama in a more recent address, is a necessary step. The moratorium is a self-imposed White House policy that prevents the U.S. government from transferring anyone from Guantanamo to Yemen or Saudi Arabia, which has been continually in place for two years. It's good that the President has taken that step, but insufficient and certainly not applause-worthy. The moratorium was a self-inflicted wound to begin with. Its reversal was necessary, but what we really require from the White House is some recognition of the fact that all along they've had the authority, despite congressional obstacles, to release prisoners from Guantanamo, but have chosen for political reasons not to exercise that authority.

The President's recent speech did not recognize that. What I and my clients at Guantanamo are waiting to see, before they even entertain the notion of suspending their hunger strike, is the release of some prisoners. Now that would signal a concrete commitment to move towards closing down the prison. Anything short of that will likely be dismissed as more empty rhetoric by prisoners who have seen and heard such rhetoric many times over since Obama came into power.

Republican talking points these days foreground how different countries are unwilling to accept prisoners, and so there is no clear path ahead even for a President who really wished to close the prison. I don't think any of that is true. Half the prisoner population has been approved for release by the full panoply of national security agencies and the U.S. government. Those are men that unanimously those agencies have said—

**MG:** Fine. Let them go.

**RK:** There is no reason to keep them at Guantanamo. There are countries who are willing to take them. One of my clients who's on hunger strike is in solitary confinement and has been in solitary for years—Shaker Amer, a Saudi national and U.K. resident whose family lives in the United Kingdom. The United Kingdom's official stated policy is that they want him back. He has been approved for release both under the Bush administration and the Obama administration.

If you can't start with that case, if you can't hand someone over, not just to any country but to the United States' oldest and most reliable ally, supposedly, the United Kingdom, how can we take the rhetoric that Obama wishes to close the prison seriously?

So that's what I'm waiting for and, more importantly, what my clients are waiting for—that concrete step. Lifting the moratorium is great, but it must be followed by a step in the right direction, like the release of *at least one* prisoner.

**MG:** Many people don't understand how complex the process can actually be to have someone released from Guantanamo, and what an extensive negotiation it entails between the receiving state and the releasing state.

**CG:** Do you think there is a potential scenario where Guantanamo prisoners, who are set to be released in a country like Yemen, that has been deemed unfit to receive released prisoners, would then be transferred into further indefinite detention in the U.S.?

**RK:** In the United States?

**MG:** Well, in Yemen also, it's possible.

**RK:** Both are possibilities. There's a case of one prisoner from Guantanamo who was brought to the United States for trial, was tried, convicted, and spent a lot of that pre-trial time and post conviction time in conditions that are identical to the ones that Alexis's clients endure every day.

Actually, the President flagged the possibility of indefinite U.S. detention explicitly when he said he wanted to import the military commission system from Guantanamo into the United States. What Obama has said, when it comes to detention policy, has been either unhelpful or downright harmful. This idea—that instead of abandoning a fundamentally flawed military commission system, designed to produce convictions and not justice by any stretch, Obama proposes bringing [it] back into the United States to further entrench and normalize it—is definitely harmful. Proposals about housing it in South Carolina, for example, are currently being floated about.

That's one possibility. The other thing that I'm worried about, as you mentioned, is the conditions my clients may encounter after they're sent back to their home countries or resettled in a third country.

I have had five clients released over the years. I spoke

to one of them in Saudi Arabia last week. He was released in 2009, a week before we were scheduled to go to trial. We had responded in writing to the government's evidence at that point. The government did not want to go to trial, because it knew it would lose. So the week before our trial date, they just put him on a plane, and the first thing we knew about it was a phone call announcing to us that he was on a plane bound for Saudi Arabia. That was in June of 2009, and he remained in the so-called rehabilitation center in Saudi Arabia, so essentially in Saudi custody, until March of 2012.

The conditions in that rehabilitation center in Saudi Arabia were better than the conditions in a normal Saudi prison. They were better than what was going on at Guantanamo at the time. But it was still a deprivation of liberty. I can't imagine that the Yemeni government would have means at all similar to the Saudi government. I can only imagine that if there is a similar "rehabilitation center" in Yemen, the conditions there would be worse. On the whole, my clients would probably take that over Guantanamo, because even if the conditions are worse in Yemen, at least they would be able to see their families and hope at some point to be free men. Can I ask you both a question?

**MG:** Of course.

RK: You've been doing this together for almost a decade, and I don't think I know any other artists who have been engaged with these issues for that long. How has that changed your view of the world and also your view of each other? Because I know you were friends before you started collaborating.

**CG:** It's true.

**MG:** Well, we have had a Vulcan mind meld around our work.

**CG:** We call it the big brain.

**MG:** Yes, we have a sort of hive mind. But it's also been helpful for me because my own practice would not, even though I think of it as political, fall under the categorization of political art as it generally gets articulated.

It's been interesting to work on something over a long period of time in an art world that prioritizes breadth and trendy issues over depth of engagement. That might be why our project flies a bit under the radar, but I feel like prioritizing depth and long-term engagement produces a way of working that allows us to keep going with ideas and subjects and materials that can often be difficult to

work with in a more short-term or intensive way.

I think about this with our Guantanamo Effect project. What it might be like to look at it five years from now, for example, as a document or marker of how people were reacting or how this issue was being thought about in 2013 versus 2018. It will become dated, inevitably, but it will also preserve certain stories and connections against the grain of an era of constant media amnesia, where we have no idea what became of that thing that was happening last week because we're distracted by the new crazy thing that happens.

**CG:** It's really the collaboration between us that has allowed us to remain engaged with this project for so long. I think if either of us had tried to do it alone, we wouldn't have been able to stay with it for so long. The depth of engagement is made possible by the kind of creative marriage across disciplines born out of *Index of the Disappeared*.

**MG:** A lot of times with political art there is a grey area of representation — specific kinds of suffering or conflict are physically represented in what can verge on an exploitative or a sensationalist way. So it's great to have a practice that's more research-based and archival, which can negotiate these questions of representation in a way that I feel comfortable with.

**CG:** Over the decade that we've spent on this project, we've been able to really grapple with some of these issues around representation of people and experiences, and that time has allowed us to develop a series of different, and we hope ultimately more nuanced, answers to the most difficult questions.

Since we conducted this interview, several new developments have taken place in the cases discussed. In April of 2014, the NYPD disbanded their former Demographics Unit,<sup>7</sup> the principal instigator of mass surveillance within Muslim communities, largely as a result of efforts by lawyers like Ramzi, working within organizations such as CLEAR and the American Civil Liberties Union. The NYPD, however, continues its staunch defense of deploying Muslim informants in so-called anti-terrorism work.<sup>8</sup> Stop-and-frisk policing of black and Latino communities, which Ramzi discusses as a parallel to the racial profiling of Muslim communities, has also undergone significant changes. In August of 2013, a New York federal judge rejected stop-and-frisk policy on the grounds that it violated the 4th and 14th Amendment rights of minorities in New York City, who have been disproportionately affected by stop-and-frisk. Since the election of new mayor Bill de Blasio, the City of New York has dropped its opposition to the Floyd case, and agreed to enter an arbitration process, but the NYPD police unions continue to resist arbitration.<sup>9</sup>

As we write, men continue to be imprisoned in indefinite detention at Guantanamo, some never even having been formally charged, while others, who have been cleared for release for years, still await any actual change in their conditions. In July 2014, a nurse on duty at Guantanamo refused to comply with his official orders to participate in the force-feeding of prisoner Abu Wael Dhiab, who is now in the eighteenth month of his hunger strike to protest his indefinite detention.<sup>10</sup>

Ashker v. Brown, the lawsuit Alexis litigates with the Center for Constitutional Rights to challenge extended solitary confinement at Pelican Bay State, was granted class certification by a California federal judge in June 2014.<sup>11</sup> Class certification allows hundreds of men who have been held in isolation at Pelican Bay for over 10 years the opportunity to join this lawsuit and fight against their prolonged solitary confinement. Solidarity and strength in numbers, which were so important to mobilizing the 60-day hunger strike organized by Pelican Bay prisoners in summer 2013, continue to be critical to current

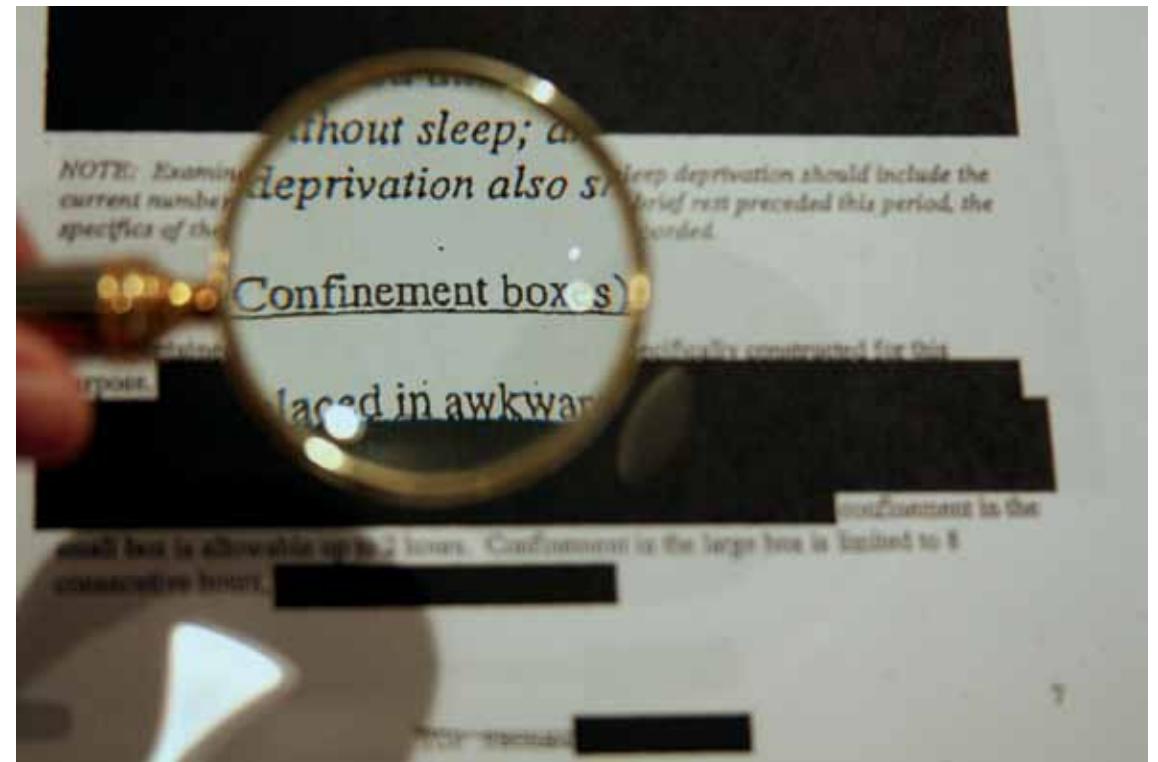
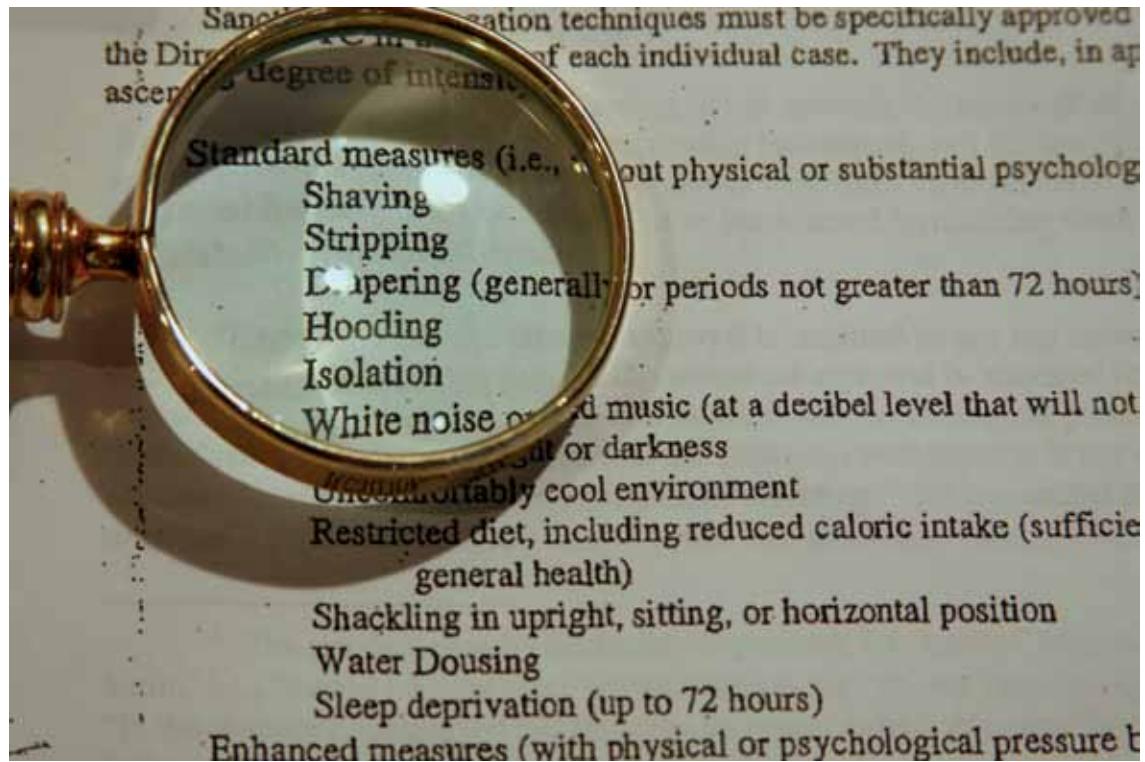
developments in this case. Alexis notes, "Since their 2011 hunger strikes, hundreds of prisoners at the Pelican Bay SHU—and across California—have stood together in solidarity to protest inhumane conditions and broken policies they've been subjected to for decades. This case has always been about the constitutional violations suffered by all prisoners at the SHU, so it is only appropriate that it proceed as a class action."<sup>12</sup>

In late August 2014, meanwhile, a bill proposed in the California State Legislature, which would have allowed inmates in the state's Security Housing Units to keep photographs and make a phone call after three months of good behavior, was listed as inactive due to fears that the bill would be vetoed by Governor Jerry Brown.<sup>13</sup> The tabling of this bill serves to prolong the harsh conditions specific to the California prison system, which not only continues to hold some prisoners in solitary for up to 23 hours per day, but has also recently been legally mandated to address long-term overcrowding issues in its general population.

*Index of the Disappeared* has always been interested in connecting the dots between issues that are seen to be geographically and temporally separate. For *Shangri-La: Imagined Cities*, therefore, we wanted to link the central question of the exhibition, the Orientalist basis of the Shangri-La collection, with the bias that underlies prison policies in the U.S. and particularly in the California prison system, leading to both the disproportionate imprisonment of people of color and the use of isolation to segregate and silence Muslim and politicized prisoners within the prison system.

Notes

- 1 Floyd, et al. v. City of New York, et al. is a federal class action lawsuit filed against the NYPD and City of New York, challenging the practice of stop-and-frisk. Current status of case at <https://ccrjustice.org/ourcases/current-cases/floyd-et-al>
- 2 City University of New York. NYPD surveillance of Muslim Student Associations was focused on MSAs at public universities.
- 3 Available at <http://www.law.cuny.edu/academics/clinics/immigration/clear/Mapping-Muslims.pdf>
- 4 ADX is a Bureau of Prisons abbreviation for "Administrative Maximum" segregation. In this case Alexis is referring to the Florence ADX facility, a federal supermax prison in Colorado constructed to house high-risk and high-profile federal inmates, and described by its warden as "a cleaner version of hell" (in Mother Jones, 2013).
- 5 Ramzi is referring to the legal redefinition of torture in the Office of Legal Counsel memos of August 1st, 2002 (prepared by Alberto Gonzales, Jay Bybee and John Yoo) and the other OLC memos known collectively as the "torture memos." These memos put forth arguments to shield U.S. officials from being charged with war crimes for using "enhanced interrogation techniques" on prisoners believed to be part of either the Taliban or Al-Qaeda, following arguments in earlier memos that the accepted laws of war, including the Geneva Convention, do not apply to combat against non-state enemies.
- 6 Specifically, the U.N. Rapporteur cited articles 1 and 16 of the Convention Against Torture, articles 7 and 10 of the International Covenant on Civil and Political Rights, and article 19 of the Convention on the Rights of the Child, as well as the following General Assembly resolutions: Standard Minimum Rules for the Treatment of Prisoners, Rules for the Protection of Juveniles Deprived of Their Liberty, and Principles for the Protection of Persons with Mental Illness.
- 7 <http://www.nydailynews.com/new-york/bratton-disbands-nypd-muslim-spying-unit-article-1.1757446>
- 8 <http://www.thenation.com/article/179504/nypd-has-disbanded-its-most-notorious-spy-unit-age-muslim-surveillance-really-over>
- 9 <https://ccrjustice.org/ourcases/current-cases/floyd-et-al>
- 10 <http://www.miamiherald.com/2014/07/15/4237720/navy-nurse-refuses-to-force-feed.html>
- 11 For more information see <http://www.latimes.com/local/political/la-me-ff-class-action-prison-solitary-confinement-20140602-story.html>
- 12 <http://www.ccrjustice.org/newsroom/press-releases/hundreds-of-california-prisoners-isolation-join-class-action-lawsuit>
- 13 <http://www.reuters.com/article/2014/08/30/us-usa-california-prisons-idUSKBN0GU01D20140830>



**Mariam Ghani**  
*The Trespassers*, 2011  
Video stills  
Single channel video, 95:00  
Photography by Alfredo Rubio  
Courtesy of the artist

# THE TRESPASSERS: TRANSCRIPTS + NOTES

MARIAM GHANI

## Speculations

All human evil comes from a single cause:  
man's inability to sit quietly in a room.  
(Pascal)

**Q:** So, how did you end up in Afghanistan?

**A:** Well, we went to Pakistan for my friend's wedding, like ...

**Q:** OK ...

**A:** And then we thought we might as well cross the border and see what was going on over there, y'know?

**Q:** And what happened next?

**Q:** So, how did you end up in Afghanistan?

**A:** Well, I joined up right after 9/11, you know ...

**Q:** Right ...

**A:** And the next thing I knew, we were deploying to Bagram.

**Q:** And what happened next?

**Q:** So, how did you end up in Afghanistan?

**A:** Well, we'd been talking about going back ever since I was a kid ...

**Q:** Naturally ...

**A:** And when I got a chance to go, it didn't seem to matter so much how I went, you see.

**Q:** And the money?

**A:** Right. That played a part as well.

**Q:** So was it everything you hoped it would be?

**A:** I don't know how to answer that question.

**Q:** Why not?

**A:** I don't remember what I was looking for.

## The Battle Lab

Major General Dunlavey and later Major General Miller referred to GTMO as a "Battle Lab" meaning that interrogations and other procedures there were to some degree experimental, and their lessons would benefit DOD in other places. While this was logical in terms of learning lessons, I personally objected to the implied philosophy that interrogators should experiment with untested methods, particularly those in which they were not trained.

Frankly, the 1992 version of Field Manual 34-52 had a problem with it. It was 18 years old and it was how things were done for POWs. We had world-class prisoners, not Enemy Prisoners of War (EPWs) or POWs. When we got them they had already been detained for five months and had their stories already down.

We had not fought a real war since Vietnam. Except for DHS, our interrogators were virtually inexperienced. It was an on the job training situation at GTMO.

Joint Task Force 170 had authorizations for a psychiatrist, a psychologist and a psychiatric technician on its duty roster, but no one had been deployed to fill those positions. Nobody really knew what we were supposed to do for the unit, but at least the duty roster had its positions filled.

The Secretary of Defense said he wanted a product and he wanted intelligence now. He told me what he wanted, not how to do it.

This is my opinion. Even though they were giving information and some of it was useful, while we were there a large part of the time we were focused on trying to establish a link between Al Qaeda and Iraq and we were not being successful in establishing that link. The more frustrated people got in not being able to establish the link, there was more and more pressure to resort to measures that might produce immediate results.

Harsh techniques used on our service members have worked and will work on some, what about those?

Force is risky, and may be ineffective due to the detainees' frame of reference. They are used to seeing much more barbaric treatment.

Agreed.

Psychological stressors are extremely effective (for example sleep deprivation, withholding food, isolation, loss of time)

We can't do sleep deprivation

Yes, we can – with approval.

\* Disrupting the normal camp operations is vital. We need to create an environment of “controlled chaos.”

**Lieutenant Colonel Beaver:** We may need to curb the harsher operations while ICRC is around. It is better not to expose them to any controversial techniques. We must have the support of the DOD.

**Becker:** We have had many reports from Bagram about sleep deprivation being used.

**LTC Beaver:** True, but officially it is not happening. It is not being reported officially. The ICRC is a serious concern. They will be in and out, scrutinizing our operations, unless they are displeased and decide to protest and leave. This would draw a lot of negative attention.

**Fredman:** The DOJ has provided much guidance on this issue. The CIA is not held to the same rules as the military. In the past when the ICRC has made a big deal about certain detainees, the DOD has “moved” them away from the attention of the ICRC. Upon questioning from the ICRC about their whereabouts, the DOD's response has repeatedly been that the detainee merited no status under the Geneva Convention. The CIA has employed aggressive techniques on less than a handful of suspects since 9/11.

Under the Torture Convention, torture has been prohibited by international law, but the language of the statutes is written vaguely. Severe mental and physical pain is prohibited. The mental part is explained as poorly as the physical. Severe physical pain described as anything causing permanent damage to major organs or body parts. Mental torture described as anything leading to permanent, profound damage to the senses or personality. It is basically subject to perception. If the detainee dies you're doing it wrong. So far, the techniques we have addressed have not proven to produce these types of results, which in a way challenges what the BSCT paper says about not being able to prove whether these techniques will lead to permanent damage. True, but officially it is not happening. It is not being reported officially. The ICRC is a serious concern. They will be in and out, scrutinizing our operations, unless they are displeased and decide to protest and leave. This would draw a lot of negative attention.

**LTC Beaver:** We will need documentation to protect us

**Fredman:** Yes, if someone dies while aggressive techniques are being used, regardless of cause of death, the backlash of attention would be extremely detrimental. Everything must be approved and documented.

**Fredman:** The Torture Convention prohibits torture and cruel, inhumane and degrading treatment. The US did not sign up on the second part, because of the 8th amendment (cruel and unusual punishment), but we did sign the part about torture. This gives us more license to use more controversial techniques.

**LTC Beaver:** Does SERE employ the “wet towel” technique?

**Fredman:** If a well-trained individual is used to perform [sic] this technique it can feel like you're drowning. The lymphatic system will react as if you're suffocating, but your body will not cease to function. It is very effective to identify phobias and use them (ie, insects, snakes, claustrophobia). The level of resistance is directly related to person's experience.

**Major Burney:** Whether or not significant stress occurs lies in the eye of the beholder. The burden of proof is the big issue. It is very difficult to disprove someone else's PTSD.

**Sam:** This looks like the kind of stuff Congressional hearings are made of. Quotes from LTC Beaver regarding things that are not being reported give the appearance of impropriety. Other comments like “It is basically subject to perception. If the detainee dies you're doing it wrong” and “Any of the techniques that lie on the harshest end of the spectrum must be performed by a highly trained individual. Medical personnel should be present to treat any possible accidents” seem to stretch beyond the bounds of legal propriety. Talk of “wet towel treatment” which results in the lymphatic gland reacting as if you are suffocating, would, in my opinion, shock the conscience of any legal body looking at using the results of the interrogations, or possibly even the interrogators. Someone needs to be considering how history will look back at this.

The Commander of US SOUTHCOM has forwarded a request by the Commander of Joint Task Force 170 (now JTF-GTMO) for approval of counter-resistance techniques to aid in the interrogation of detainees at Guantanamo Bay. The request contains three categories of counter-resistance techniques, with the first category the least aggressive and the third category the most aggressive. I have discussed this with the Deputy Secretary of Defense, Doug Feith,

Mar'iam Ghani

The Trespassers Transcripts + Notes

and General Myers, and I believe all join in the recommendation that, as a matter of policy, you authorize the commander of SOUTHCOM to employ, in his discretion, only Categories I and II and the fourth technique listed in Category III (use of mild, non-injurious physical contact, such as grabbing, poking in the chest with a finger, and light pushing). Approved – however, I stand for 8-10 hours a day; why is standing limited to 4 hours? Signed Donald Rumsfeld, December 2nd, 2002

Following the Secretary's December 2nd, 2002 authorization, senior staff at GTMO began drafting a standard operating procedure (SOP) specifically for the use of SERE procedures in interrogations. The draft SOP itself stated that, “the premise behind this is that the interrogation tactics used at US military SERE schools are appropriate for use in real-world interrogations. These tactics and techniques are used at SERE school to ‘break’ SERE detainees. The same tactics and techniques can be used to break real detainees during interrogations.”

I believe the techniques and tactics that we use in training have applicability. What I am wrestling with is the implications of using these tactics as it relates to current legal constraints, the totally different motivations of the detainees, and the lack of direction of senior leadership within the [U.S. Government] on how to uniformly treat detainees. The handling of [Designated Unlawful Combatants] is a screwed up mess and everyone is scrambling to unscrew the mess.

Pretty much everyone involved in counter-terrorism issues at the Department of Justice (DoJ), including the senior leadership of the department, was aware of concerns about the effectiveness of Department of Defense (DoD) interrogations. Nahmias said that concern about ineffectiveness generally, as well as concerns about ineffective interrogations of specific detainees, “were a repeated issue during my entire time at Justice.”

Many of the interviewers were young and inexperienced and yelled and screamed at the detainees but had no knowledge of Al Qaeda. Any concerns we, as the FBI, raised were dismissed because the military needed intelligence immediately. We were also told in no uncertain terms we were not in charge and the military were running the show.

Although very enthusiastic, DHS interrogators appear to have limited experience in any kind of interview approach which emphasizes patience or being friendly over a long period of time. They appear to be highly susceptible to pressure to get quick results, and this pressure will be reflected in

that they improvise plans as they go along.

The reliability of their techniques is questionable. Worse, there appears to be no one on the DHS side who seems concerned about this. They are quick to dismiss any approach that extends beyond their experience or imagination.

Their embracement [sic] of a fear-based approach is consistent with the military environment in which they operate but may not be conducive to the long-term goal of obtaining reliable intelligence.

Hello from GTMO,

As of 10/8/2002 @1800 hours, DHS will discontinue their current efforts regarding prisoner #63 [Mohamed al-Qahtani]. Besides the sleep deprivation they utilized loud music, bright lights, and “body placement discomfort,” all with negative results. They asked X and I to participate in an “after action” on this phase which we will probably do. At present the plan is for DHS to initiate their Phase II on #63 sometime this weekend. The detainee is down to around 100 pounds, but is still as fervent as ever. That's it for now, more to follow.

Phase II: The military would place a government translator with al-Qahtani. The translator would act and be treated like a detainee, and he would engage al-Qahtani in conversation, and ask targeted questions to extract the sought-after information.

Phase III: The plan referred to Level III techniques, apparently a reference to the techniques listed in the October 2002 memorandum in which MG Dunleavy requested that the commander of SOUTHCOM approve 19 counter-resistance techniques not specifically listed in Field Manual 34-52. SERE and other counter-interrogation resistance training techniques would be employed.

Phase IV: Al-Qahtani would be sent off-island, either temporarily or permanently, to Jordan, Egypt or another third country to allow those countries to employ interrogation techniques that will enable them to obtain the requisite information.

After X left, he heard that #63 ended up in hospital.

I occasionally saw sleep deprivation interviews with strobe lights, and two different kinds of loud music. I asked one of the interrogators what they were doing. They said it would take approximately four days to break someone doing an interrogation, sixteen hours on with the lights and music, and four hours off.

On one occasion the air conditioning had been turned down so far and the temperature was so cold in the room that the barefooted detainee was shaking with cold. When I asked the MPs what was going on, I was told that interrogators from the day prior had ordered this treatment, and the detainee was not to be moved. On another occasion, the AC had been turned off, making the temperature in the unheated room probably well over 100 degrees. The detainee was almost unconscious on the floor with a pile of hair next to him. He had apparently been literally pulling his own hair out throughout the night.

There were two interrogators in the room with the detainee. A asked B if the detainee had been spitting at the interrogators or exhibiting belligerent behavior towards them. B replied no, then told A that the detainee's head had been duct taped because he would not stop quoting the Koran.

If you think this is tough, you should see what's happening in Afghanistan.

#### Death in Bagram

Pursuant to a lease agreement executed by the US and Afghan governments, Afghanistan ceded exclusive use and control of Bagram Airbase to the United States. The lease grants the United States exclusive use, exclusive control, and exclusive, peaceable, undisturbed and uninterrupted possession of all facilities and land at Bagram Airfield, without cost and without interference by the Afghan government. The lease continues in effect in perpetuity unless and until the United States determines unilaterally that it no longer requires use of the base. US civil and military personnel at Bagram are subject only to US jurisdiction. Bagram prisoners have no access to Afghan courts and cannot claim or assert protections under Afghan law.

The following is the SECDEF (Secretary of Defense) criteria for detention.

CENTCOM should, as necessary, obtain control over the following enemy combatants:

All Al Qaeda personnel;

All Taliban leaders, Afghan and non-Afghan;

Non-Afghan Taliban personnel, including named individuals as identified by the intelligence community, anyone with special skills or education, such as those known as professor or engineer, and anyone who speaks a Western language;

Any others whom screeners think may pose a threat to US interests, may have intelligence value, or may be of law enforcement interest.

Although SECDEF criteria for detention are generally known and understood, the approach to detaining personnel differs substantially across the theater. In some areas, few persons are detained unless there is a specific pre-existing justification or a threat to the force present. In other locations, cordon and search operations yield large numbers of detainees without apparent application of specific criteria. There is an inverse correlation between the length of time a unit has been in theater and the number of individuals it detains.

Inconsistent and unevenly applied standards in the detention and interrogation process increase the possibility of the abuse of detainees, especially forward in the battle area. Ironically, that same weakness in standards degrades the intelligence collection process with negative effects growing the further a detainee moves through the system.

On December 4th, 2002, a PUC (Person Under Control) died at the Bagram Collection Point (BCP). Six days later, on December 10th, a second PUC died at the BCP. The patterns of detainee abuse in these two incidents share some similarities.

Habibullah was very stubborn and gave smart responses. Once they asked him if he wanted to spend the rest of his life in cuffs. His response was "yes, don't they look good on me?" He was very sick, clearing his throat and coughing up phlegm constantly. He was a pretty young man.

X wanted to put him in the safety position of kneeling for the interrogations. But Habibullah could not kneel. He told me about the pain in his legs and ultimately, he sat on the floor because his right leg would not bend at the knee. His right foot was swollen up too. He limped into the interrogation room. After about 90 to 120 minutes, we got nothing out of him, and the interview was going nowhere. X called for the MPs and they came in, put him back on his feet, and took him back to his cell. The MPs were so big and strong, I really couldn't tell if he was walking or being carried. There was one MP on each side and they moved him quickly. They took him back to isolation. Because of his position that was where he was being kept.

**Q:** What did Habibullah tell you happened to his leg?

**A:** He never said. He complained it hurt, but did not say why or how. We all thought he was exaggerating his cough because it would

conveniently get worse when we asked serious questions. But he was sick. He was coughing up nasty stuff and spitting it into the cup.

**Q:** When detainees were sick or injured and told this to you, what were the responsibilities of interrogators, once you translated these complaints?

**A:** If they were happy with the detainee's answers, they would say OK, I'll see what I can do for you. If they didn't like the answers they got, or did not like the detainee's behavior, they would do nothing and just ignore their complaints.

**Q:** Did X tell the MPs about Habibullah's medical complaints, his legs and his cough?

**A:** I don't remember.

The interpreter told me that this product, resembling snuff, called *niswa*, when discontinued caused the kind of reaction we were seeing — coughing, phlegm. I felt like I was getting an insider's perspective on a cultural thing and that was why it never alarmed me that he had any type of serious medical condition.

Sergeant X and Specialist Y went back in with me to try to get Habibullah to eat. One of us took his hood off and X was holding the fruit up in front of him and he had no reaction. His eyes were almost completely open, he was kind of staring off. His head was tilted, so that he was looking in my direction, and I took it as a taunt. One of the other NCOs put an apple in his hand. He wouldn't even hold onto it. Finally, I looked at X and Y and made the comment, out of frustration, that "This guy's a fuckin' idiot." When I turned back toward him, spit hit me right in the chest. I looked down and I was in shock. I honestly thought he spit, but I'm not sure if he spit at me. I was pissed. Later, X told me that I kneed him, but I honestly don't recall doing it. I just snapped. I was so angry and I literally saw red. Y grabbed him by the shirt, pulled him forward and yelled at him. I remember backing away from him and I said something like "Don't ever spit on me again." I then delivered a common pronial strike with my knee, maybe a couple of times. I guess I hit him pretty hard with my right knee in his right thigh. X's eyes were wide and he and Y were both shocked. I am known as the calmest and easiest of the guards. The other guys often kidded me about being too easy on the detainees. They thought I was soft, maybe even weak. I probably hit him harder than I should have. A few minutes, maybe ten minutes later, the sergeant of the guard, Staff Sergeant (SSG) Z, came in with an apple and an orange. He wanted to discuss the incident with me and try to get the

detainee to eat. I told him we were trying to get the detainee to eat and he spit on me, but I didn't tell him about my common pronial strikes. He told me, "We have to get him to eat." We tried to get Habibullah's attention from the door, while waiting for a third person, by banging on the door. I had a gut feeling that something was wrong with him medically, but I told SSG Z that he was probably faking. We got no response from him. He was slumped forward, pretty much dead weight. We took his hood off and undid the chains from the ceiling and eased him to the ground. We talked about what to do and nudged at his foot with our boots, me and SSG Z, checking for a response. I reached down and felt for a pulse and I got nothing. X ran around the corner to the medical room and got a blood pressure cuff and the stethoscope. A couple of times I thought maybe I felt a weak pulse but there was nothing. SSG Z said, "Don't even joke with me." We sent for the medic and Z sent for the stethoscope and BP cuff at around the same time. The medic refused to get out of bed. We sent the runner back a second time and the medic said, "If he's unconscious it's beyond me. You'd better call the hospital." By now it's been probably 30 minute since we first walked in the cell and he had no pulse.

**Q:** The blood pressure readings you cited in earlier statements, where did they come from?

**A:** The first one I thought I heard. Looking back now, I was in denial that the detainee was dead. I probably heard my own heart racing.

**Q:** Do you know anyone who delivered blows to Habibullah besides the knee blows you gave him?

**A:** Yes. After the deployment was pretty much over, when everyone else went home, I went with a small group of soldiers, Specialist (SPC) A, SPC B, SPC C and myself, to Qatar. We were supposed to be putting our equipment and vehicles on the boat to come home. One night we were sitting around playing cards, and it came up again, the death. I walked away. I just can't talk about it. But A made the comment, "It was really weird, because when you relieved me that day, we had a lot of problems with him and had to adjust his cuffs a bunch, I must have given him (the detainee, Habibullah) at least 50 common pronial strikes that day, and he deserved every one of them."

**Q:** Have you heard people around the unit refer to you as the "Knee of Death"?

**A:** Yes, they refer to me by so many things associated with the death, "Grim Reaper" among them. Our commander has asked us to come up

with a new company motto. Ours is “Tigers is the Tower.” A lot of people want us to use “Death by Knee.” Pretty much everyone who thinks the deaths were a joke. I must have heard it from fifty guys in the unit.

**Q:** After the first death, did the practice of delivering common peronial strikes change?

**A:** They told us we had to log it. They did not ask that it be discontinued.

I had no contact that I can recall with the other detainee that died, the one CID has told me was named Ullah and was designated PUC 412. I did have contact with detainee Dilawar, PUC 421, on at least two occasions when I served as the interpreter for his interrogation by military intelligence personnel. The lead interrogator was Specialist X, and at least once he was accompanied by Sergeant Y. I recall this session specifically because of what Y did to Dilawar. At the beginning of this session, X was going slow, and Y was always very aggressive. He always wanted to lead. Dilawar was in trouble with Y quickly. Y had a rule that the detainee had to look at him, not me. He gave him three chances, and then he grabbed him by the shirtfront and pulled him toward him, across the table, slamming his chest into the tablefront. This caused Dilawar to stand up. It only happened once, during this session, because Dilawar was very weak and compliant, but very quiet. With other detainees, Y did this repeatedly. When Dilawar first came into the interview, he said he was too weak and was unable to talk. He also said that his wife had died. Initially, none of us believed Dilawar’s wife had died. We all thought it was a clever attempt to avoid interrogation. Dilawar complained that his hands and feet were numb, and he kept asking for water. I observed uncontrollable shaking, bouncing of his legs while he was seated. I believe he also said he was “beaten up” but we didn’t pursue that. Y went and got a small water bottle. I observed him poke a hole in the bottle near the bottom. He gave the bottle to DILAWAR. DILAWAR could not open the bottle top, he was too weak. While DILAWAR tried to open the bottle, water was draining out of the hole in the bottom and onto DILAWAR’s clothing. Y changed tactics. He turned the bottle over, so the hole was at the top, and squeezed water into DILAWAR’s mouth. He pressed the bottom of the bottle against DILAWAR’s lips. This effectively gagged DILAWAR by forcing a large volume of water into his mouth and nose rapidly. Water spilled out of his mouth, down the front of his clothes and he spit it back out. Y squeezed the bottle repeatedly, saying “Come on, drink. Drink! You were asking for water.” When he removed the water, Dilawar was

finally able to breathe and he spit the water out. Y yelled “What are you spitting at me?” DILAWAR told me he was not spitting at Y, it was not intentional, he could not breathe. I told this to Y. At this point DILAWAR was standing up and Y told DILAWAR to get on his knees and DILAWAR said he could not. He said he was “too weak.” He would be happy to, but he couldn’t, he was too weak. Y then told the Military Police (MP) to put DILAWAR on his knees, which the MP did by kneeling DILAWAR either in the back or the back of the leg. They summoned two MPs to return him to his cell. DILAWAR left under his own power, on his feet, but he was limping. I think Military Intelligence (MI) asked the MPs to keep him standing, not all the time.

**Q:** Did anyone relay the information about DILAWAR’s leg and hand numbness to medical authorities?

**A:** No.

I served as the interpreter on one occasion, that I recall, during a session with PUC 421 (whom I have been told by CID was named Dilawar.) DILAWAR was a suspect in a rocket attack on Americans. He denied this completely. He was a skinny guy, about 5’7” and weighed about 110-115 lbs. He was a pretty small guy. He was also a young guy, maybe in his late 20s. About 10 minutes into the interview, X had me instruct him to get on his knees. To effect this, he had to get himself out of the chair with his feet and hands cuffed and kneel in front of the chair. She had me tell him to raise his cuffed hands over his head and them there. DILAWAR’s arms got tired and he’d drop them so X (who was standing behind him) would pull his hands back up from behind or would hit his hands as he dropped them forward to get them back in the air. DILAWAR complained that he could not hold his hands up and that he couldn’t do it anymore. This went on for five to ten minutes. X berated him for being weak and questioned him about being a man, which was very insulting because of his heritage and she was trying to goad him into a reaction. He did not get angry, he simply kept complaining about the discomfort. This is the strongest reaction an Afghan man would have to pain, they do not cry and would especially not do this in front of a woman. After that, maybe twenty minutes into the interview, told me to instruct DILAWAR over to the wall. She then told me to have DILAWAR sit along the wall, but not on the floor. The position was like sitting along the wall with no chair under you. Dilawar also told me this hurt him and he could not do it. Several times he moved, so X and Y picked him up and shoved him back into the wall. This happened multiple times. During this time, he continued to tell me that his legs hurt and that he could not do this. X and Y grabbed him by his shirt

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(front), dragged him to his feet and shoved him back against the wall, sliding him back into seated position. DILAWAR slid down the wall and onto the floor and Y picked him up and repeated this for about another ten minutes. Once Y shoved him hard into the wall and X warned him “Be careful” and “not hit him too hard”. She mentioned he was small and not to be so rough, that it wasn’t allowed. This went on for ten or fifteen minutes. He was so tired he couldn’t get up. She’d tell him not to talk, but DILAWAR was not that type of guy. He kept complaining and she was yelling at him in English. He didn’t understand English and she spoke no Pashtun. At that point, I wasn’t doing much, they weren’t using me. DILAWAR was trying to talk with me, asking for help. X was telling him “Don’t look at him, he can’t help you, he’s with us, he won’t help you.” I translated this and I explained that they were doing this because he was being uncooperative. They stood him up and at one point X stepped on his bare foot with her boot and grabbed him by his beard and pulled him towards her. At one point, DILAWAR was on his knees, his hands were cuffed and raised in front of his chest and grabbed him by his beard and pulled him tightly towards chest. Once X kicked DILAWAR in the groin (private areas) with her right foot. She was standing some distance from him and she stepped back and kicked him. His hands were cuffed, he was standing and she must not have made full contact. He did groan and grab himself, but he did not fall down. In my experience a full contact blow or kick in that area causes you to fall down or to your knees.

**Q:** At what point was the interview over?

**A:** About ten minutes after it started, they didn’t ask any more questions. About the first ten minutes (I think) they were actually questioning him, after that it was pushing, shoving, kicking and shouting at him. There was no interrogation going on. They weren’t questioning him. They were roughing him up. Y went to get the MPs and when they came in, they picked him up from the floor and put the hood back on him and dragged him out of the door back to his cell. X told them to put him in a standing position with his hands overhead until the next shift came on.

**Q:** Did X understand any Pashtun?

**A:** I’m sure she knew a little, but not enough to be helpful.

**Q:** Could she tell that DILAWAR was complaining about pain and tiredness?

**A:** I told her what DILAWAR was saying. Some things don’t need words, the tone of voice and body language tell you that a person is in pain

or can’t comply anymore. I think they knew what effect their actions were having on him.

**Q:** When you were hired was the subject of what was acceptable for interrogators to do with detainees discussed?

**A:** No, we were supposed to support the American Army in Operation Enduring Freedom and do as they asked us to.

From the beginning, they were asking if they were allowed to put the detainees into safety positions, or utilize sleep deprivation. I can tell you that up until the deaths of the two detainees, we never got a clear-cut answer from the Staff Judge Advocate as to what could or could not be done. Our guidance was “Just don’t violate the Geneva Convention. Look at these Powerpoint slides.”

**Q:** How often were safety positions or stress positions used during interrogations?

**A:** Often, I would say daily. I would say that not by every interrogator on a daily basis, but at least one of us used them each day.

**Q:** Do you know if Y was referred to as the “King of Torture”?

**A:** Yes, the two incidents that I saw would lead me to think that he was doing things to the detainees that he was not supposed to be doing. Staff Sergeant W knew about it, and even referred to Y as the “King of Torture.”

What most people don’t realize is that there was very little in the form of structure and rules for dealing with this type of detainee. There was the Geneva Convention for Enemy Prisoners of War, but nothing for terrorists. It was an interesting balancing act. We sometimes developed a rapport with detainees and Staff Sergeant W would sit us down and remind us these were evil people, and talk about 9/11, and how they weren’t our friends and could not be trusted.

**Q:** Did any of the other MPs appear to dislike the detainees?

**A:** I would say the entire unit. When we arrived we were still thinking about September 11th. We didn’t know if the detainees were innocent or guilty. We did know when the detainees who came into the facility were “top dogs” or not. We knew the second detainee was a “top dog” because of the briefings provided by Sergeant First Class X.

At that point, most of us were convinced that the detainee was innocent. I believe my questioning plan for the interrogation may have been about the environment in Khost itself, and not about the rocket attack.

**Q:** In your earlier statement, you indicated that you talked with Dilawar, PUC 421, when he was placed in standing restraint, the day before his death. What did you observe and what communication did you have with him or his guards?

**A:** DILAWAR was on sleep deprivation. The MPs were ordered by SSG W and/or CPT V not to let him sleep and he was chained in a standing position in an isolation cell as part of that. The MI leadership had to approve and direct sleep deprivation. I heard he had been there all night by the time I talked with him, at midday the next day. All day long, the MPs used different interpreters to tell him “only one more hour.” If I had known he was standing all that time, I would have protested. When I spoke with him, he barely had the energy to talk. I told him “Look, please if you want to be able to sit down and be released from shackles, you just need to be quiet for one more hour”. He told me that if he was in shackles another hour he would die. I told him nothing bad would happen to him if he did as he was asked and he agreed to. Of course at the time, I had no idea he had been restrained and kept awake all that time. The next day I heard he had died. He kept telling me he needed to see a doctor and he needed a shot. I told the MP (whom I can't recall or identify) that he was asking for a doctor. The MP walked over to DILAWAR, took DILAWAR's hand and pressed down on the detainee's nailbed. He then looked back at me and pronounced the detainee's vital signs were fine and that he was just trying to get out of the restraints.

**Q:** Why was DILAWAR in standing restraint?

**A:** Sleep deprivation.

If a detainee spilled his guts during the initial interview, he could go straight to general population. But 99% of the time, they went on to sleep deprivation. This was to disorient them and make them more susceptible to interrogations. MI decided how much sleep a detainee got, and it depended on the detainee's level of cooperation. The decision to direct a course of sleep deprivation was reached collectively by the interrogators. Then the head MI guy, SSG W, would tell the MPs to keep the detainee awake. Sleep deprivation was an MI decision. The MPs just did what they were told by MI. I think W would tell the MP Sergeant of the Guard and then the MPs would be responsible for

keeping the MPs awake.

**Q:** How were the MPs supposed to keep the detainee awake?

**A:** Sometimes loud music, banging on cells, and sometimes they would chain them to the ceiling standing up. I have heard that after six days with no sleep, anyone will talk. It was considered the best tactic, but that was how the other detainee died.

**Q:** How many times at the most did you strike Dilawar, PUC 421, and under what circumstances?

**A:** Somewhere in the area of 37 times, less than 40 for sure. There was one time, which I did not remember before, where I told Dilawar “That's it,” implying I was fed up with him, and I said I was going to give him 15 common peronial strikes in each leg. Then I delivered the blows. When I recounted the story later, that is the way I told it. I told people that I had to switch knees because my leg got tired. I'm not absolutely certain that I delivered 30 strikes at that time. That was the number I said but it may have been a few more or less than that. There were also another 5 to 7 times I struck him, with knee strikes, during times when he was being non-compliant.

**Q:** Where did the 30 knee strikes occur?

**A:** Dilawar was restrained in the isolation cell, on the top floor, in the first cell on the left. I can't recall the number of the cell.

**Q:** How was Dilawar restrained at the time you delivered the 30 blows?

**A:** He was chained to the ceiling. His hands were either together over his head or out to his side. He was wearing a set of short handcuffs and there was a long leg iron connecting him to the Hesco wire ceiling. I can't recall the configuration of his restraints, only that he was restrained in one of the two ways I have described. His legs would have been shackled together with a set of leg irons at the ankles. His feet would have been touching the floor.

**Q:** How was Dilawar being non-compliant? What behavior was Dilawar engaged in that provoked such a response from you?

**A:** Not putting his hood back on, mule-kicking the door, pulling his hood off.

**Q:** Did your knee become sore from delivering blows to Dilawar?

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**A:** No, not really, but when I told the story I remember exaggerating and saying I hit him so much and so hard that my knee got sore. I don't know if I actually kneed him 30 times.

**Q:** Why can't you clearly recall the circumstances of the times you delivered blows to Habibullah and Dilawar?

**A:** They were not the only PUCs I delivered blows to. I did it to a lot of other PUCs who did not die. It happened a lot. It was standard practice to pop someone who did not comply. These two guys died, but I probably kneed 20 or more PUCs total, and I just can't differentiate between the rest of the PUCs and the ones that died. Each time I entered a cell, other guys were with me, but who was with me for each specific incident, I just don't know, there were too many.

**Q:** Did you know that striking a PUC who was restrained and no threat to you was wrong?

**A:** Yes.

**Q:** If you knew it was wrong, why did you do it?

**A:** It was morally wrong, but it was SOP (standard operating practice). Really it wasn't a written down SOP, but it was standard practice and it was what was routinely done. So I just went along with what everyone else was doing.

**Q:** Did anyone in leadership deliver, or know about the practice of delivering, common peronial knee strikes?

**A:** Yes. All of them knew.

I cannot recall exactly who, but they showed us additional techniques which they said were used by police agencies for people who would not comply with what they were told, or were resistant. One of these techniques was the common peronial strike. That is when you use your knee and strike the outside thigh of an individual. The blow is designed to strike a nerve in the leg, which causes the leg to collapse, giving you the opportunity to subdue the individual. I knew when the instruction was given that it was not what I was taught at MP school in 1993. The use of the strikes was not ordered by anyone within the company, but was provided so that we would have more options if our formal training did not work for some reason. One of my team members, Specialist A, was employed as a civilian police officer. He told me that he would not use the peronial strike, as it would “tear up” the legs of the individual you struck.

**Q:** How did the detainee react to the common peronial strike?

**A:** He screamed out “Allah, Allah, Allah,” and my first reaction was that he was crying out to his God. Everybody heard him cry out and thought it was funny. X and Y were there when this happened and they thought it was funny too. It became a kind of running joke, and people kept showing up to give this detainee a common peronial strike just to hear him scream out “Allah.” I know A, B, and the majority of first platoon came by and gave him a common peronial strike just to hear him cry out, because it was funny. When shift change came about, second platoon heard about it, and things went downhill from there. I am pretty sure nearly all of second platoon did it too. And I know third platoon did it too. On the next day, X, Y and I went to the detainee's cell because he was making some noise. I opened up the cell, and X and Y went into the cell, and each gave him one common peronial strike and he cried out “Allah, Allah” again. I stood by the cell when it happened. We then left.

**Q:** How many strikes do you believe the detainee received in all?

**A:** I don't even know. It went on over a 24 hour period, and I should think it was over 100 strikes.

**Q:** Are you saying that every platoon in your company gave common peronial strikes to this detainee to hear him scream out “Allah”?

**A:** Yes.

**Q:** Was the second detainee that died always restrained when the common peronial strikes were given?

**A:** Yes.

**Q:** How do you know the second detainee that died was struck for fun and not because of some type of bad behavior?

**A:** Because everyone was talking about wanting to hear him cry out “Allah, Allah, Allah.”

**Q:** Who else would know about the strikes besides you?

**A:** Everyone in the unit knew about it.

**Q:** Are you sure Sergeant First Class (SFC) Z knew about the strikes?

**A:** He was aware of what was going on and nipped

it in the bud. That's when he gave us the order to stop giving peronial strikes to anybody.

**Q:** What exactly did you tell SFC Z about what was going on?

**A:** I think I told SFC Z that the detainee (that later died)'s leg was looking bad. His pants would fall down sometimes when he was in standing restraints. The first time that I saw him I noticed he had a bruise on one of his thighs. Over time I noticed it was getting bigger and he was beginning to put his weight on one leg. I assumed Z already knew about the bruise getting bigger from the common peronial strikes, because he seemed to know everything about what was going on in there. I don't recall what I told him about people giving the detainees common peronial strikes.

**Q:** Did you tell anyone else about the bruising?

**A:** I told a field medic, I have no idea who he was, about the bruising when he came by for his once-a-day medical check. He checked it out and said it was okay.

We used to hear him yelling and screaming. Then one day I heard the MPs talking on the radio, and they said this man's number, 421, had died. A couple days later I asked an MP (G-6) what happened and he told me a detainee died. He said he had a heart attack. After this event, all the hitting, things started to change. The food was better, no hanging from chains, the punishment was not as severe. If we were caught talking, they made us stand up with our hands in the air.

**Q:** Do you think the death of either of those detainees was deliberate?

**A:** I think that someone was irresponsible. I don't think that anyone meant to kill them, just that their tactics were overused. I think that the PUCs were not cared for enough and that both the MPs and medical staff did not observe their medical conditions well enough.

**Q:** How do you feel about the deaths of the two detainees?

**A:** I am not surprised at all. I think the culture, the nation, the company, the Army breed the mentality that allowed it to happen.

## The Winds of War

On January 24th, 2003, 9 days after Secretary Rumsfeld rescinded authority for the techniques at GTMO, the Staff Judge Advocate for Combined Joint Task Force 180 (CJTF-180), Central Command's conventional forces in Afghanistan, produced an interrogation techniques memo. While that memo remains classified, unclassified portions of a report by Major General George Fay stated that the memo "recommended removal of clothing—a technique that had been in the Secretary's December 2 authorization" and discussed "exploiting the Arab fear of dogs" another technique approved by the Secretary on December 2, 2002.

From Afghanistan, the techniques made their way to Iraq. According to the Department of Defense (DoD) Inspector General (IG), at the beginning of the Iraq war, special mission unit forces in Iraq "used a January 2003 Standard Operating Procedure (SOP) which had been developed for operations in Afghanistan."

Captain (CPT) Wood stated that interrogators had used sleep deprivation and stress positions in Afghanistan and that she "perceived the Iraq experience to be evolving into the same operational environment as Afghanistan. She said that she used her "best judgment and concluded [the techniques] would be effective tools for interrogations at [Abu Ghraib]." She also said that she later put together a request for additional interrogation options because "the winds of war were changing" and there was "mounting pressure from higher for 'actionable intelligence' from interrogation operations." CPT Wood said that she did not want to repeat her experience in Afghanistan, where interrogators lacked written guidance. "A lot of the interrogators and analysts also served in Guantanamo Bay and Afghanistan where some other techniques were approved for use ... I understood the Afghanistan rules were a little different because the detainees were not classified as EPWs. It was, 'use techniques in the spirit of the Geneva Convention,' not, 'you will apply the Geneva Convention.' In order to use those similar techniques from GTMO and Afghanistan in Iraq, we sought approval from the higher command."

In his report of his investigation into Abu Ghraib, Major General George Fay said that interrogation techniques developed for GTMO became "confused" and were implemented at Abu Ghraib. For example, Major General Fay said that removal of clothing, while not included in CJTF-7's SOP, was "imported" to Abu Ghraib, could be "traced through Afghanistan and GTMO," and contributed

to an environment at Abu Ghraib that appeared "to condone depravity and degradation rather than humane treatment of detainees."

On July 26, 2003, CPT Wood submitted a proposed interrogation policy to her chain of command. The proposed policy was based on the interrogation policy in use at the Special Mission Unit (SMU-TF) facility in Iraq. CPT Wood said that she and her staff simply "cleaned up some of the grammar, changed the heading and signature block, and sent it up" to CJTF-7 as a proposed policy for the 519th MI Brigade. Mirroring the SMU-TF policies, CPT Wood's proposed policy included sleep management, "varying comfort positions" (sitting, standing, kneeling, prone), presence of military working dogs, 20-hour interrogations, isolation, and yelling, loud music, and light control. The proposed policy stated that "EPWs that refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind." The prohibition against threats, insults and exposure to unpleasant or disadvantageous treatment, however, was limited to EPWs and CPT Wood stated that, to her knowledge, there were no EPWs held at Abu Ghraib.

CPT Ponce added:

...The gloves are coming off gentleman regarding these detainees. Colonel Boltz has made it clear that we want these individuals broken. Casualties are mounting and we need to start gathering info to help protect our fellow soldiers from any further attacks.

Today's enemy, particularly those in [Southwest Asia], understand force, not psychological mind games or incentives. I would propose a baseline interrogation technique that at a minimum allows for physical contact resembling that used by SERE schools (This allows open-handed facial slaps from a distance of no more than about two feet and back-handed blows to the midsection from a distance of about 18 inches. Again, this is open-handed.) ...Other techniques would include close confinement quarters, sleep deprivation, white noise, and a litany of harsher fear-up approaches. ... fear of dogs and snakes appear to work nicely. I firmly agree that the gloves need to come off.

Major Nathan Hoepner, the Operations Officer (S-3) of the 501st MI Battalion, took issue with the language in Captain Ponce's email, stating in an email of his own:

As for "the gloves need to come off..." we need

to take a deep breath and remember who we are. Those gloves are most definitely NOT based on Cold War or WWII enemies—they are based on clearly established standards of international law to which we are signatories and in part the originators. Those in turn derive from practices commonly accepted as morally correct, the so-called "usages of war." It comes down to standards of right and wrong—something we cannot just put aside when we find it inconvenient, any more than we can declare that we will "take no prisoners" and therefore shoot those who surrender to us simply because we find prisoners inconvenient. "The casualties are mounting..." we have taken casualties in every war we have ever fought—that is part of the very nature of war. We also inflict casualties, generally more than we take. That in no way justifies letting go of our standards. We have NEVER considered our enemies justified in doing such things to us. Casualties are part of war—if you cannot take casualties then you cannot engage in war. Period. BOTTOM LINE: We are American soldiers, heirs of a long tradition of staying on the high ground. We need to stay there.

Meanwhile, in [ b(2) ]

The capture of senior Al Qa'ida operative Abu Zubaydah on 27 March 2002 presented the Agency with the opportunity to obtain actionable intelligence on future threats to the United States from the most senior Al-Qai'da member in US custody at that time. This accelerated CIA's development of an interrogation program.

Several months earlier, in late 2001, CIA had tasked an independent contractor psychologist, who had experience in the US Air Force's Survival, Evasion, Resistance and Escape (SERE) training program, to research and write a paper on Al-Qa'ida's resistance to interrogation techniques. This psychologist collaborated with a Department of Defense (DoD) psychologist who had [redacted] SERE experience in the US Air Force and DoD to produce the paper, "Recognizing and Developing Countermeasures to Al-Qa'ida Resistance to Interrogation Techniques: A Resistance Training Perspective." Subsequently, the two psychologists developed a list of new and more aggressive EITs [extended interrogation techniques] that they recommended for use in interrogations.

*Standard measures* (i.e. without physical or substantial psychological pressure)  
Shaving  
Stripping  
Diapering (generally for periods not greater

than 72 hours)  
 Hooding  
 Isolation  
 White noise or loud music (at a decibel level that will not damage hearing)  
 Continuous light or darkness  
 Uncomfortably cool environment  
 Restricted diet, including reduced caloric intake (sufficient to maintain general health)  
 Shackling in upright, sitting or horizontal position  
 Water Dousing  
 Sleep deprivation (up to 72 hours)

#### Enhanced Interrogation Techniques

- The *attention grasp* consists of grasping the detainee with both hands, with one hand on each side of the collar opening, in a controlled and quick motion. In the same motion as the grasp, the detainee is drawn towards the interrogator.
- During the *walling* technique, the detainee is pulled forward and then quickly and firmly pushed into a flexible false wall so that his shoulder blades hit the wall. His head and shoulders are supported with a rolled towel to prevent whiplash.
- The *facial hold* is used to hold the detainee's head immobile. The interrogator places an open palm on either side of the detainee's face and the interrogator's fingertips are kept well away from the detainee's eyes.
- In the *facial or insult slap*, the fingers are slightly spread apart. The interrogator's hand makes contact with the area between the tip of the detainee's chin and the bottom of the corresponding earlobe.
- In *cramped confinement*, the detainee is placed in a confined space, typically a small or large box, which is usually dark. Confinement in the smaller space lasts no more than two hours and in the larger space it can last up to 18 hours.
- *Insects* placed in a confinement box involve placing a harmless insect in the box with the detainee.
- During *wall standing*, the detainee may stand about 4 to 5 feet from a wall with his feet spread approximately to his shoulder width. His arms are stretched out in front of him and his fingers rest on the wall to support all of his body weight. The detainee is not allowed to reposition his hands or feet.
- The application of *stress positions* may include

having the detainee sit on the floor with his legs extended straight out in front of him with his arms raised above his head or kneeling on the floor while leaning back at a 45 degree angle.

- *Sleep deprivation* will not exceed 11 days at a time.
- The application of the *waterboard* technique involves binding the detainee to a bench with his feet elevated above his head. The detainee's head is immobilized and an interrogator places a cloth over the detainee's mouth and nose while pouring water onto the cloth in a controlled manner. Airflow is restricted for 20 to 40 seconds and the technique produces the sensation of drowning and suffocation.

One of the psychologists/interrogators acknowledged that the Agency's use of the technique differed from that used in SERE training and explained that the Agency's technique is different because it is "for real" and is more poignant and convincing.

Thomas described for the OIG the techniques that he saw the CIA interrogators use on Zubaydah after they took control of the interrogation. [redacted] Thomas said he raised objections to these techniques to the CIA and told the CIA it was "borderline torture." He stated that Zubaydah was responding to the FBI's rapport-based approach before the CIA assumed control over the interrogation, but became uncooperative after being subjected to the CIA's techniques.

As a result, D'Amuro did not think the techniques would be effective in obtaining accurate information. He said what the detainees did not expect was to be treated as human beings. He said the FBI had successfully obtained information through cooperation without the use of "aggressive techniques. D'Amuro said that when an interrogator knows the subject matter, vets the information, and catches an interviewee when he lies, the interrogator can eventually get him to tell the truth. In contrast, if "aggressive" techniques are used long enough, detainees will start saying things they think the interrogator want to hear just to get them to stop.

The Agency lacked adequate linguists or subject matter experts and had little hard knowledge of what particular Al-Qa'ida leaders—who later became detainees—knew. This lack of knowledge led analysts to speculate about what a detainee "should know," vice [sic] information the analyst could objectively demonstrate the detainee did know. [paragraph redacted] When a detainee did not respond to a question posed to him, the

assumption at Headquarters was that the detainee was holding back and knew more; consequently, Headquarters recommended resumption of EITs.

EITs require advance approval from Headquarters, as do standard techniques whenever feasible. The field must document the use of both standard techniques and EITs.

In December 2002, [redacted] cable reported that a detainee was left in a cold room, shackled and naked, until he demonstrated cooperation. When asked in February 2003, if cold was used as an interrogation technique, \_\_\_\_ responded, "not per se." He explained that physical and environmental discomfort was used to encourage the detainees to improve their environment. \_\_\_\_ observed that cold is hard to define. He asked rhetorically, "How cold is cold? How cold is life threatening?"

One officer expressed concern that one day, Agency officers will wind up on some "wanted list" to appear before the World Court for war crimes stemming from activities [redacted]. Another said, "Ten years from now we're going to be sorry we're doing this ... [but] it has to be done."

No decisions on any "endgame" for Agency detainees have been made. Senior Agency officials see this as a policy issue for the US government rather than a CIA issue. Even with CIA initiatives to address the issue with policymakers, some detainees who cannot be prosecuted will likely remain in CIA custody indefinitely.

#### The Translators

Linguist: Works within a \_\_\_\_\_. Translates \_\_\_\_\_ questions and detainees' answers in an accurate and timely manner.

The Army turned to Titan in 2003 to provide linguists to perform translation in exactly the same fashion as military linguists, whose positions they were filling due to the critical shortage. Before the linguists deployed to Iraq, Titan provided a brief orientation, instructing them that, upon assignment to a military unit, they would "fall within th[e] chain of command." Titan further told the linguists that they should raise any problems first with military supervisors and then "work your way up the chain of command." Titan sent its linguists to Fort Benning, Georgia, for a week of military pre-deployment training, which served many of the same purposes as military basic training (or "boot camp"). Upon arriving in Iraq, Titan linguists were assigned to military units by Major John Scott Harris, an Army officer who served as linguist

manager for the Coalition Joint Task Force, overseeing the assignment of both military and Titan linguists. The linguists were fully integrated in their units and were required to accompany their units on their missions, including combat missions. Starting in 2003, Titan linguists were assigned to the Abu Ghraib prison.

As each linguist arrived, Chief Warrant Officer Rumminger conducted interrogation indoctrination training, in which he provided instruction as to what was authorized by the Interrogation Rules of Engagement ("IROE") and what was prohibited. At the end of training, each linguist was required to sign two documents: a memorandum of understanding with the unit, and the IROE. In the memorandum of understanding, the linguist agreed to follow military rules and directives while attached to the unit and not to discuss the unit's mission with others; the memorandum of understanding specifically provided that, in the event of a disagreement between the linguist and an interrogator, the interrogation should stop, and the two parties should report immediately to the officer in charge.

After completing training, the Titan linguists were given work assignments by Chief Warrant Officer Rumminger (or by non-commissioned officers ("NCOs") with responsibility for particular interrogation teams). Titan management had no role in the day-to-day supervision, direction or control of its linguists. Titan linguists, like military linguists, were required to reflect, as precisely as possible, the words and manner of the interrogator. There was no difference in how Titan and military linguists were used. Noncompliance with military orders was likely to result in removal from the unit or from the contract.

Titan linguists were also required to report any violation of the law of war to the military "in the first instance" because it was an "operational issue"; in the event that they encountered difficulties, they could turn to their site managers, who would help them to take the issue up the military chain of command.

**Q:** Did you have an impression regarding what weight was given to the statements of interpreters relative to their allegations of assaults by MI interrogators in interviews?

**A:** We reviewed it as credible. I put great weight behind it. He had no reason to make it up.

**Q:** Did the interpreters working with MI ever speak about concerns they had related to interrogation

techniques or tactics?

**A:** They never spoke to the interrogators. They had been instructed to speak directly to Staff Sergeant W if they had any concerns. I don't recall if that ever happened or not. It probably did. We saw interpreters come and work with us for short periods of time and I would guess they did not get along with someone, or did not like something that was being done, so they left.

I felt strongly enough that after this session I went to the MI supervisor, Staff Sergeant W, and told him about it. He told me it was wrong and he would talk to them. But I remember seeing W passing the interrogation room and he saw what was going on. My impression was that W knew and tolerated what they were doing. He told me that they had to be tougher at Bagram than in GTMO. It was his way of justifying the interrogation tactics.

I don't remember the date, but A told me Sergeant X had kicked BT-421 in the genitals during an interrogation. I immediately had X brought to the BCP to talk to her about the allegation. She told me she had not kicked BT-421 in the genitals, but had spread his legs apart with her foot.

**Q:** Did she ever strike him in his genital area?

**A:** No.

**Q:** Was she ever in a position to strike him in his genital area?

**A:** Yes, when he was on his knees, she would place her foot in between his knees.

**Q:** Did you ever see her strike him in the groin area while in this position?

**A:** No.

**Q:** Is it possible she could have?

**A:** Yes, but I never saw her.

**Q:** Could someone else have seen her strike him?

**A:** If she did, A might have seen her.

**Q:** Does A seem reliable and truthful to you?

**A:** No.

**Q:** Why not?

**A:** Because he leaves a lot out of what is said when

he gets the answer for us.

**Q:** How do you know that?

**A:** Because whenever the person says something about the Taliban, he leaves that out of the answer.

**Q:** How many times have you worked with A?

**A:** About 4 or 5 times.

**Q:** How many of those times were with BT-421?

**A:** Just once.

**Q:** Do you think A would lie about someone striking BT-421?

**A:** I don't think he'd have a reason to. He was angry about the stress positions we would use, like putting him on his knees.

**Q:** What disputes arose between interrogators and interpreters that caused Staff Sergeant W to institute a two-man concept for conducting the interrogations of detained personnel?

**A:** That was not the only reason he did it. I'm not sure what specifically triggered it. But I do recall that some interpreters were uncomfortable with yelling, cursing and some of the comments they were expected to translate. The interpreters were disturbed by some of the treatment of their people.

**Q:** Did interrogations, and treatment of detainees generally, become harsher at any particular time?

**A:** Yes, if the detainee had been in custody for two weeks and not told you anything, or changed the information he was providing on a regular basis.

We had problems with judging this. Sometimes the interpreters translated answers differently, so it could appear they were lying. There was one time when the man was saying the same thing all week, but the interpreters translated it differently, so it appeared to us he was lying.

**Q:** Would a detained individual inform yourself or another interpreter if they had been struck or were injured?

**A:** Most of the detainees were shy from talking with us because we were American or we were working for the Americans. They often would not share their true feelings with us. Some would not answer questions, some would not cooperate, and others would constantly lie to us. I was told by some of the

detainees that the Afghan militia had beaten them before they were released to US forces.

In my view, most of the issues termed "non-compliance" of Afghan people arose from the shock of bringing people from rural settings into an urban or city setting. This was different for them and things happened at such a quick pace, they had problems understanding and reacting. The MPs interpreted this as a behavioral issue, when in my view it was simply too much sensory input for them to process. They had never been hooded or goggled. When they were told they would have a number instead of a name, one man even cried. They were especially disturbed by the medical procedures, undressing in front of people, rectal examinations. They were resistant to many procedures because they didn't know what was happening. Many come from villages, and have never been subjected to rigid discipline. They didn't react quickly enough for the MPs. I saw many detainees beaten by the MPs. I've seen MPs beat up detainees, by kicking them with their boots in the legs and stomach for non-compliance. The problem with this is the detainee can't comply, because they have no idea what the MP is saying. They kick detainees while moving them to their cell. Then when the detainee finally gets to their cell, they lay down and pray to God for relief. They then get in trouble for talking (praying) and the MPs come in the cell and kick them some more for talking, which is against the rules.

**Q:** Regarding other interviews you assisted with, approximately how many interviews did you interpret for during your time at the Bagram Collection Point (BCP)?

**A:** At the time of the deaths, I had done just a few interviews, I pretty much was brand new. By now, I have done hundreds, sometimes I do as many as three interviews a day. My observation has been that yelling and screaming is less effective than talking rationally with people. I tried to convince some of the Alpha Company interrogators to try something besides yelling and bullying and as they changed tactics they got better results. Most of them slowly switched over.

**Q:** Did you observe any Alpha Company interrogators touching detainees, during interviews?

**A:** Yes, some provided comforting touching on the shoulder. Some would shove or shake detainees, at that time, everyone touched detainees. Now, I've been told that MI cannot touch detainees. I don't think Alpha Company knew that.

**Q:** Did you observe anyone exhibit violent physical or abusive conduct toward detainees?

**A:** Not a whole lot, a bit of shoving and shaking, but an enormous amount of verbal abuse. Of course, the detainees probably didn't understand what was being said, but there was no mistaking the tone. That comes across even if you don't speak the language. It made me terribly uncomfortable to tell those ugly things to the detainees.

**Q:** Were there any threats to detainees or their families—that you were asked to translate?

**A:** Not really, mostly they said ugly things like "who will take care of your family while you are away?" Stuff designed to make them want to go home, but no direct threats.

**Q:** Being an Afghani, how did it make you feel that two detainees died at BDF?

**A:** It was shocking. As contract interpreters, we are told to keep our opinions to ourselves. But as an individual, you have to make your own judgement about how much you are willing to accept. I did my part to inform MI supervisors about the actions of X and Y. W talked to them, then Dilawar died, and a lot of things changed, got a little better.

#### Complicity

**Q:** Did you know that the threat of imminent death constitutes torture under the Geneva Convention?

**A:** No sir, not at that time.

**Q:** Was it possible for you to refuse to translate a threat, if one was made in an interrogation or capture situation?

**A:** That would depend.

**Q:** On what exactly?

**A:** On who was making the threat.

The soldiers told me through an interpreter: "Shut up, don't speak, otherwise we will shoot you here. We are Americans."

Subject: AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade.

Finding: Civilian-16, Translator, Titan employee. A preponderance of evidence supports that Civilian-16 did, or failed to do, the following:

Failed to report detainee abuse.

Failed to report threats against detainees.

Finding: Civilian-17, Interpreter, Titan employee. A preponderance of evidence supports that Civilian 17 did, or failed to do, the following:

Actively participated in detainee abuse.

Failure to report detainee abuse.

Failure to stop detainee abuse.

So you know, some agents have asked what it means that a prisoner is being “abused or mistreated.” We have said our intent is for them to report conduct that they know or suspect is beyond the authorization of the person doing the harsh interrogation. While the agent may not know exactly what is permitted, an agent would suspect that pulling out fingernails or sodomizing the detainee is beyond the level of authorization. On the other hand, there is no reason to report on “routine” harsh interrogation techniques that DOD has authorized their employees/contractors to use. [FBI legal counsel Caproni, 2004 email to FBI director Mueller]

Re: Interview/Interrogations

Our people will continue to conduct interview of detainees (PUCs) at secure locations only. If, during the conduct of any interview, events occur that, in the opinion of the FBI agent(s) present, exceed acceptable FBI interview practices, the agent(s) will immediately remove themselves from the scene and will report their concerns to the Afghanistan On-Scene Commander. [rough draft of OGC guidance to FBI field agents, 2004]

What does it mean to “participate” in aggressive interrogation (outside our guidelines) when you are in forward positions. What happens if the army beats the stuffing out of a detainee, gives him to the FBI, he starts talking to the FBI and then the Army wants him back. Have we just “participated” in good cop – bad cop with the Army? How long after Army does its thing do we need to wait to not be viewed as a “participant” in the harsh interrogation. [Caproni email to OGC, October 2004]

FBI is participating (or certainly will be viewed as participating) in aggressive but lawful DOD techniques where FBI agents are [working] with the military interrogators and merely as policy absent themselves from the rough stuff and come back in (minutes, hours or days later) to question the

detainee. [OGC reply]

D’Amuro proposed that the FBI be permitted to interview the detainees first, before the CIA would use its “special techniques.” D’Amuro said that the FBI recognized that it would have a “taint problem” if the FBI conducted its interviews after the CIA had used the more aggressive techniques. However, no agreement was reached with the CIA at that time.

From November 2004 through April 2005, the attorney drafted several proposals to address the “participation” issue. Ultimately, he proposed a “totality of the circumstances” test, suggesting that an FBI interrogation of a subject that was “distinctly apart in time from an interrogation by non-FBI personnel where methods which could be reasonably interpreted as abusive or inherently coercive were employed” could be found as having occurred in concordance with FBI policy.

According to Jack Goldsmith, Special Council in the Department of Defense (2002-2003) and Assistant Attorney General, Office of Legal Counsel (2003-2004): “never in the history of the United States had lawyers had such extraordinary influence over war policies as they did after 9/11. The lawyers weren’t necessarily expert on al Qaeda, or Islamic fundamentalism, or intelligence, or international diplomacy, or even the requirements of national security. But lawyers – especially White House and Justice Department lawyers – seemed to ‘own’ issues that had profound national security and political and diplomatic consequences.

On 29 July 2003, the DCI and the General Counsel provided a detailed briefing to selected NSC [National Security Council] Principals on CIA’s detention and interrogation efforts involving “high value detainees” to include the expanded use of EITs. According to a Memorandum for the Record prepared by the General Counsel following that meeting, the Attorney General confirmed that DoJ approved of the expanded use of various EITs, including multiple applications of the waterboard. The General Counsel said he believes everyone in attendance was aware of exactly what CIA was doing with respect to detention and interrogation, and approved of the effort.

The CIA wanted the Salt Pit to be a “host-nation facility,” an Afghan prison with Afghan guards. Its designation as an Afghan facility was intended to give US personnel some insulation from actions taken by Afghan guards inside, a tactic used in secret CIA prisons in other countries, former and current CIA officials said. The CIA, however, paid the entire cost of maintaining the facility, including

Mar'iam Ghan'i

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the electricity, food and salaries for the guards, who were all vetted by agency personnel. The CIA also decided who would be kept inside, including some “high-value targets,” al-Qaeda leaders in transit to other, more secure secret CIA prisons. “We financed it, but it was an Afghan deal,” one senior intelligence officer said.

During their May 2005 meeting, President Bush and President Karzai expressed a strong desire to return Afghan detainees to Afghanistan as part of the US-Afghanistan Strategic Partnership. According to the New York Times, which has a draft of the 2005 Notes, Washington has asked Kabul to share intelligence information from the detainees, “utilize all methods appropriate and permissible under Afghan law to surveil or monitor their activities following any release,” and “confiscate or deny passports and take measures to prevent each national from traveling outside Afghanistan.” As part of the accord, the United States said it would finance the rebuilding of an Afghan prison block and help equip and train an Afghan guard force. Block D in Pul-i-Charkhi is that prison block.

According to defense lawyers, defendants in Block D are predominantly Pushto speakers, and there are no interpreters during trials.

One defense counsel stated that when he questions the validity of the evidence during trial, the prosecutors’ standard response is: “Why would the Americans detain him then? The US has nothing against this person unless he’s guilty.”

SOURCE NOTES

Speculations

Pascal quotation inspired by NYRB review of *The Road to Guantanamo*

Q&As based on (not transcripts of) conversations with former detainees, soldiers and translators in various media reports.

The Battle Lab

Senate Armed Services Committee (SASC) Report (2009)

Major General Mike Dunleavy, former Guantanamo (GTMO) commander, interview for internal Army investigation of abuse at GTMO

Minutes from the 10/2/02 GTMO Counter-Resistance Strategy Meeting

Department of Defense (DoD) memo authorizing extended interrogation techniques at GTMO (12/02)

Department of Justice Office of the Inspector General Review (DoJ OIG Review) of FBI Involvement in Interrogations in Guantanamo, Afghanistan and Iraq (2008)

FBI emails about Mohamed Al-Qahtani, aka prisoner #63 (2002)

FBI responses to detainee abuse survey (2003-4)

Death in Bagram

Wahid, Rahman et al v. Gates (Bagram habeas corpus challenge)

2003 detention/transfer criteria used by US forces in Afghanistan

Jacoby Report (2004) on detention operations in Afghanistan

Church Report (2005)

Army criminal investigation task force (CITF) investigation of 2002 deaths at Bagram

The Winds of War

SASC Report

Meanwhile, in [ (b)(2) ]\*

\*(b)(2) means “censored/withheld for reasons of national security, according to paragraph (b)(2) of the Freedom of Information Act”

CIA Inspector General (IG) Report (2004)

CIA Office of Medical Services (OMS) interrogation guidelines (2002)

CIA Enhanced Interrogation Technique (EIT) “bullet points” revised by John Yoo of the DoJ Office of Legal Counsel (OLC) (2002)

DoJ OIG report

The Translators

GTMO Combined Joint Task Force Standard Operating Procedure (SOP)

Saleh et al v. Titan, CACI et al (contractor liability lawsuit)

CITF investigation of Bagram deaths

Complicity

Q&A based on (not transcript of) interviews with former translators.

NYT interviews with former Bagram detainees (2007)

Army Regulation (AR) 15-6 investigation of Abu Ghraib abuse

DOJ OIG Review

SASC Report

Washington Post (Dana Priest) report on the death of Gul Rahman at the CIA secret prison codenamed “Salt Pit” in Northern Afghanistan

Mohamed Ahmad Farang Bashmilah testimony, Bashmilah et al v. Jeppesen Dataplan (rendition flight contractor lawsuit)

Human Rights First report on Afghan trials for former GTMO and Bagram detainees

All of the primary source documents (government reports, memos, emails etc.) used in the video have been officially declassified and are freely available online, as well as in the *Trespassers* print archive usually exhibited with the video. Many of them can be downloaded from the archive built up by the ACLU (American Civil Liberties Union) from FOIA (Freedom of Information Act) releases. All of the secondary documents (NGO reports, media reports, legal briefs and analysis, etc.) are also available online. The *Trespassers* archive is related to and partially replicated from the archive of Index of the Disappeared, my ongoing collaboration with Chitra Ganesh. The Index archive covers detention, deportation, rendition and redaction. The *Trespassers* archive is specifically focused on the themes covered in the video. When exhibited, the *Trespassers* archive usually includes a selection of binders loaned from the larger Index archive, to provide greater context for the primary documents.

Mariam Ghani

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