

custody.

In October 2000 dozens of women suspected of prostitution were beheaded without any judicial process in Baghdad and other cities after they had been arrested and ill-treated. Men suspected of procurement were also beheaded. The killings were reportedly carried out in the presence of representatives of the Ba'ath Party and the Iraqi Women's General Union. Members of *Feda'iyye Saddam*, a militia created in 1994 by 'Uday Saddam Hussain, used swords to execute the victims in front of their homes. Some victims were reportedly killed in this manner for political reasons.

Najat Mohammad Haydar, an obstetrician in Baghdad, was beheaded in October 2000 apparently on suspicion of prostitution. However, she was reportedly arrested before the introduction of the policy to behead prostitutes and was said to have been critical of corruption within the health services.

A woman known as "**Um Haydar**" was beheaded reportedly without charge or trial at the end of December 2000. She was 25 years' old and married with three children. Her husband was sought by the security authorities reportedly because of his involvement in Islamist armed activities against the state. He managed to flee the country. Men belonging to *Feda'iyye Saddam* came to the house in al-Karrada district and found his wife, children and his mother. Um Haydar was taken to the street and two men held her by the arms and a third pulled her head from behind and beheaded her in front of the residents. The beheading was also witnessed by members of the Ba'ath Party in the area. The security men took the body and the head in a plastic bag, and took away the children and the mother-in-law. The body of Um Haydar was later buried in al-Najaf. The fate of the children and the mother-in-law remains unknown.

5 JUDICIAL PUNISHMENTS AMOUNTING TO TORTURE

In 1994 Iraq, through a series of decrees issued by the Revolutionary Command Council (RCC), the highest legislative body in the country, introduced judicial punishments amounting to torture or to cruel, inhuman or degrading punishments for at least 30 criminal offences, including theft in certain circumstances, monopolizing rationed goods, defaulting or deserting from military service and performing plastic surgery on an amputated arm or leg. The punishments consisted of the amputation of the right hand for a first offence, and of the left foot for a second offence, or the severance of one or both ears. People convicted under these decrees were also branded with an "X" mark on the forehead.⁽⁵⁾ The Iraqi Government argued that the introduction of these severe punishments were in response to the rising crime rate resulting from worsening economic conditions as a result of the UN imposed sanctions. The punishment of amputation of the auricle of the ears and the branding of the foreheads were suspended in 1998 by the Iraqi Government, through RCC Decree 81/96.

A number of former soldiers who suffered amputation or had their ears cut off have fled the country and now live with permanent physical damage as a result of such punishments. They include:

Ahmad Dakhel Kadhim, aged 30, from al-Samawa in al-Muthanna governorate in southern Iraq, was arrested on 1 September 1994. He had been serving in the army and then deserted following the invasion of Kuwait. He was in hiding until his arrest. He was taken to al-Samawa prison where he was detained for three days and then he was blindfolded and taken to an unknown location. He later found himself in al-Samawa hospital. He was made to lie on a bed and his hands were tied to each side of the bed. He was given an anaesthetic and when he recovered consciousness his right ear had been cut off as a punishment. He was taken back to the same prison and then transferred to other prisons until 23 December 1994, when he managed to escape from prison, and at the beginning of 1995 he fled the country. Ahmad Dakhel Kadhim has been sentenced to death *in absentia*.

Majed 'Abd al-Wahed al-Sarraji, aged 30 from Baghdad, was arrested on 15 September 1994 because he failed to join the army when he was called to service. He told Amnesty International:

"I was taken to al-Rashidiya al-Hussainiya Prison in Baghdad. I stayed there for three days without being interrogated. Then on the fourth day they called my name and took me to al-Nu'man Hospital in Baghdad. I was given anaesthetic by injection on my right arm and when I woke up I discovered that they had cut off a small part of my right ear... I was taken back to the same prison where I stayed for 40 days. I found out later that all my family had been forcibly transferred by the security forces to a camp in al-Nahrawan, just outside Baghdad. The camp was surrounded by armed guards. My family was held for three months and were then allowed back to the house. I was transferred to al-Fudhaylija detention centre in Baghdad and six weeks later I was taken to al-Diwaniya Prison, south of Baghdad. I was held in this prison for two years. I was in a room where there were around 50 detainees. All of us in the room had one or both ears cut off partially or

completely..."

Majed 'Abd al-Wahed al-Sarraji managed to escape with a few inmates from al-Diwaniya Prison. He was living in hiding until the beginning of 1999 when he managed to flee the country.

Amputations were very often publicized in Iraqi media, including television and newspapers. However, since the end of 1996, following international condemnation of these punishments, reports of amputations being carried out have rarely been publicized in Iraq. In August 1998 six members of *Feda'iyye Saddam* reportedly had their hands amputated by order of Uday Saddam Hussain. They were said to have been accused of theft and extortion from travellers in the southern city of Basra.

Amputation of the tongue was reportedly approved by the authorities in mid-2000 as a new penalty for slander or abusive remarks about the President or his family. In September 2000 a man reportedly had his tongue amputated by members of *Feda'iyye Saddam* in Baghdad for slandering the President. He was said to have been driven around after the punishment while information about his alleged offence was broadcast through a loudspeaker.

Amnesty International had publicly called on the Iraqi Government to abolish the penalties of amputation and branding and to provide reparation for all victims, or for families of victims. In November 1997 the UN Human Rights Committee, the international body of experts responsible for supervising the implementation of the ICCPR, examining Iraq's fourth periodic report expressed deep concern that Iraq "has resorted to the imposition of cruel, inhuman and degrading punishments, such as amputation and branding, which are incompatible with Article 7 of the Covenant [ICCPR]" and urged that such punishments be ceased immediately.(6) The Committee recommended that "a thorough review of existing temporary laws and decrees be undertaken with a view to ensuring their compliance with the provisions of the Covenant".(7)

6 CONCLUSION AND RECOMMENDATIONS

Suspected government opponents and occasionally others are systematically and routinely tortured in Iraq. Some of the victims have died and many have been left with permanent physical and psychological damage. Others have been left with mutilated bodies resulting from the application of certain judicial punishments introduced by the government in the 1990s. Amnesty International's concerns about the systematic use of torture and about other gross human rights violations in the country are shared by the UN Commission on Human Rights which, in its 2001 session, condemned the "widespread, systematic torture and the maintaining of decrees prescribing cruel and inhuman punishment as a penalty for offences". The Commission called on the government to "abrogate all decrees that prescribe cruel and inhuman punishment or treatment, including mutilation, and to ensure that torture and cruel punishment and treatment no longer occur".(8)

Amnesty International is now urging the Iraqi Government to:

1 Ratify and implement fully in domestic law and practice the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

2 Repeal all decrees introduced in the 1990s which amount to torture or to cruel, inhuman or degrading punishments;

3 Set up an independent body to undertake prompt, thorough and impartial investigations into all allegations of torture and ill-treatment, including cases of death in custody, and ensure that the methods and findings of such investigations are made public;

4 Bring to justice anyone responsible for committing acts of torture and other serious human rights violations;

5 Issue a public declaration that torture, including rape, will not be tolerated under any circumstances;

6 Ensure that women prisoners are kept separately from men and supervised only by female prison officials;

7 Prohibit by law all extrajudicial executions;

8 Condemn publicly the practice of extrajudicial executions, and make clear to all authorities that such killings will not be tolerated;

9 Demonstrate respect for the inherent right to life by putting an immediate end to executions;

10 Pending the abolition of the death penalty in law for all offences, commute all outstanding death sentences and ensure that it is never applied in violation of Article 6(2)(9) of the ICCPR;

11 Declare a moratorium on executions as called for by the United Nations Commission on Human Rights in April 1999;(10)

Appendix

Amnesty International's 12-Point Program for the Prevention of Torture by Agents of the State

Torture is a fundamental violation of human rights, condemned by the international community as an offence to human dignity and prohibited in all circumstances under international law.

Yet torture persists, daily and across the globe. Immediate steps are needed to confront torture and other cruel, inhuman or degrading treatment or punishment wherever they occur and to eradicate them totally. Amnesty International calls on all governments to implement the following 12-Point Program for the Prevention of Torture by Agents of the State. It invites concerned individuals and organizations to ensure that they do so. Amnesty International believes that the implementation of these measures is a positive indication of a government's commitment to end torture and to work for its eradication worldwide.

1. Condemn torture

The highest authorities of every country should demonstrate their total opposition to torture. They should condemn torture unreservedly whenever it occurs. They should make clear to all members of the police, military and other security forces that torture will never be tolerated.

2. Ensure access to prisoners

Torture often takes place while prisoners are held incommunicado — unable to contact people outside who could help them or find out what is happening to them. The practice of incommunicado detention should be ended. Governments should ensure that all prisoners are brought before an independent judicial authority without delay after being taken into custody. Prisoners should have access to relatives, lawyers and doctors without delay and regularly thereafter.

3. No secret detention

In some countries torture takes place in secret locations, often after the victims are made to "disappear". Governments should ensure that prisoners are held only in officially recognized places of detention and that accurate information about their arrest and whereabouts is made available immediately to relatives, lawyers and the courts. Effective judicial remedies should be available at all times to enable relatives and lawyers to find out immediately where a prisoner is held and under what authority and to ensure the prisoner's safety.

4. Provide safeguards during detention and interrogation

All prisoners should be immediately informed of their rights. These include the right to lodge complaints about their treatment and to have a judge rule without delay on the lawfulness of their detention. Judges should investigate any evidence of torture and order release if the detention is unlawful. A lawyer should be present during interrogations. Governments should ensure that conditions of detention conform to international standards for the treatment of prisoners and take into account the needs of members of particularly vulnerable groups. The authorities responsible for detention should be separate from those in charge of interrogation. There should be regular, independent, unannounced and unrestricted visits of inspection to all places of detention.

5. Prohibit torture in law

Governments should adopt laws for the prohibition and prevention of torture incorporating the main elements of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and other relevant international standards. All judicial and administrative corporal punishments should be abolished. The prohibition of torture and the essential safeguards for its prevention must not be suspended under any circumstances, including states of war or other public emergency.

6. Investigate

All complaints and reports of torture should be promptly, impartially and effectively investigated by a body

independent of the alleged perpetrators. The methods and findings of such investigations should be made public. Officials suspected of committing torture should be suspended from active duty during the investigation. Complainants, witnesses and others at risk should be protected from intimidation and reprisals.

7. Prosecute

Those responsible for torture must be brought to justice. This principle should apply wherever alleged torturers happen to be, whatever their nationality or position, regardless of where the crime was committed and the nationality of the victims, and no matter how much time has elapsed since the commission of the crime. Governments must exercise universal jurisdiction over alleged torturers or extradite them, and cooperate with each other in such criminal proceedings. Trials must be fair. An order from a superior officer must never be accepted as a justification for torture.

8. No use of statements extracted under torture

Governments should ensure that statements and other evidence obtained through torture may not be invoked in any proceedings, except against a person accused of torture.

9. Provide effective training

It should be made clear during the training of all officials involved in the custody, interrogation or medical care of prisoners that torture is a criminal act. Officials should be instructed that they have the right and duty to refuse to obey any order to torture.

10. Provide reparation

Victims of torture and their dependants should be entitled to obtain prompt reparation from the state including restitution, fair and adequate financial compensation and appropriate medical care and rehabilitation.

11. Ratify international treaties

All governments should ratify without reservations international treaties containing safeguards against torture, including the UN Convention against Torture with declarations providing for individual and inter-state complaints. Governments should comply with the recommendations of international bodies and experts on the prevention of torture.

12. Exercise international responsibility

Governments should use all available channels to intercede with the governments of countries where torture is reported. They should ensure that transfers of training and equipment for military, security or police use do not facilitate torture. Governments must not forcibly return a person to a country where he or she risks being tortured.

This 12-Point Program was adopted by Amnesty International in October 2000 as a program of measures to prevent the torture and ill-treatment of people who are in governmental custody or otherwise in the hands of agents of the state. Amnesty International holds governments to their international obligations to prevent and punish torture, whether committed by agents of the state or by other individuals. Amnesty International also opposes torture by armed political groups.

(1) In July 1999 Amnesty International issued a public statement explaining the organization's position on sanctions, as well as calling on the UN Security Council to give urgent attention to the humanitarian situation in Iraq and taking all necessary measures to protect the rights of the civilian population. For more information see the public statement entitled *Iraq: UN Security Council Considers the Humanitarian Panel's Report on Sanctions*, AI Index: MDE 14/06/99, issued on 28 July 1999.

(2) Ayatollah Mohammad Sadeq al-Sadr and two of his sons, Hojjatu al-Islam al-Sayyid Mostafa al-Sadr and al-Sayyid Mu'ammal al-Sadr, were shot dead by armed men in al-Najaf. Their family were said to have been denied a funeral ceremony. Iraqi opposition groups blamed the government for their killing. Amnesty International condemned the killings and urged the government to set up an immediate, thorough and independent investigation.

(3) AFP report, 22 February 1999.

(4) Reuters report, 15 May 1999.

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(5) For more details on these punishments see Amnesty International's report *Iraq: State cruelty - branding, amputation and the death penalty*, AI Index: MDE 14/03/96, published in April 1996

(6) UN Doc. CCPR/C/79/Add.84, para 12

(7) Ibid

(8) E/CN.4/RES/2001/14. 18 April 2001. Situation of human rights in Iraq.

(9) Article 6(2) of the ICCPR states that in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide.

This penalty can only be carried out pursuant to a final judgment rendered by a competent court.

(10) In its Resolution 1999/61, adopted on 28 April the Commission called on all states which maintain the death penalty to establish a moratorium on executions, with a view to completely abolishing the death penalty.

Earlier, hundreds of foes of U.S. detention policy fanned out on the steps of the U.S. Supreme Court, some in detainee-style jumpsuits and black hoods, others in mock military garb, and staged some political theater of their own in the frigid winter weather.

"Guantánamo has brought shame to our nation," Larry Cox, executive director of Amnesty International, told the crowd from a lectern entwined with barbed wire.

Behind him stood dozens of jumpsuit-clad protesters, some with black tape across their mouths, others bearing the name of a detainee. "There's no evidence that we have been made safer," said Cox, "but there is growing evidence that the moral authority of the United States has been severely diminished."

Miami Herald staff writer Laura Figueroa and Rosenberg contributed to this report from Miami and Clark from Washington. It also drew details from news photos and Associated Press reports.

WALL STREET JOURNAL

OPINION:

Wall Street Journal
January 12, 2007
Pg. 12

The Gitmo High Life

By Robert L. Pollock

For sheer irony it's hard to beat this week's spectacle of Cindy Sheehan protesting the U.S. detention facilities at Guantanamo Bay -- from inside the prison that is Cuba itself. It's not uncommon for asylum-seeking Cubans to brave minefields and shark-infested waters to enter the U.S. naval base, which five years ago this week also became home to many top figures from al Qaeda and the Taliban.

That anniversary has brought forth predictable demands that Guantanamo be closed from the self-styled human rights activists at Amnesty International and other groups. But the world needs a place to hold al Qaeda terrorists, who continue to strike in Europe, Iraq and Afghanistan -- even if they have failed to hit the United States since 2001. And after visiting Guantanamo just before Christmas, it was easy to understand why Belgian Police official Alain Grignard (who came last year with a delegation from the Organization for Security and Cooperation in Europe) was moved to declare it "a model prison, where people are better treated than in Belgian prisons."

This is no less true of Camp Five, Gitmo's maximum security facility that houses its most dangerous detainees. Modern and clean, it looks just like a U.S. jail. Meals (I ate the same lunch the detainees did that day) are high in caloric content, if not exactly gourmet.

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The average detainee has gained 18 pounds. And in the interrogation room it's the Americans who may have to suffer long hours in straight-back chairs, while the detainees -- I kid you not -- get a La-Z-Boy. I was shown a Syrian under interrogation via closed circuit television. His questioners were two pleasant-looking young women. He was smiling.

I'm not under the impression that these sessions are always fun and games. But detainees in Defense Department custody are treated according to the restrictive rules of the Army Field Manual, which bans all forms of coercive interrogation. I double checked with the camp's lead interrogator: other government agencies -- read CIA and FBI -- have to follow those rules too. Not only does that mean no "torture" is going on. Your average good-cop bad-cop routine isn't allowed. Cooperative detainees get rewards like movies. "Harry Potter" is one of their favorites.

When it comes to medical care, almost no expense is spared -- as I discovered after spotting an overweight man lounging in the rec yard of Camp Five. "Khalid Sheikh Mohammed?" I inquired (he was some distance away). "No, that's Paracha," came the somewhat exasperated reply.

Saifullah Paracha is a Pakistani businessman and media owner who claims two meetings with Osama bin Laden were purely for journalistic interest. He is believed to be an important figure in the case against Majid Khan, one of the 14 "high value" detainees recently transferred to Gitmo from CIA custody. Last year Mr. Paracha's son Uzair was sentenced to 30 years in a U.S. prison for aiding an al Qaeda operative in a plot to bomb U.S. targets.

Maybe terrorism is stressful work. But whatever the reason, the elder Paracha also suffers from heart disease. So late last year -- at an expense of some \$400,000 -- the U.S. government flew down doctors and equipment to perform cardiac catheterization. Mr. Paracha's response was to refuse treatment and file a petition in U.S. federal court for transfer to a hospital in the U.S. or Pakistan. At least his lawyers were frank about their cynical motives: "His death in U.S. captivity would be a blow to American prestige."

The medical care at Guantanamo seems state of the art. All detainees over 50 are offered colonoscopies; at least 16 have been performed. Gitmo's psychiatrist told me that fewer than 1% of detainees suffer from mood disorders, a rate lower than that of the general population. That would appear to undercut claims that indefinite detention is itself a form of "mental torture."

Guantanamo detainees don't lack for legal representation. A list of lead counsel released this week in response to a Freedom of Information Act request reads like a who's who of America's most prestigious law firms: Shearman and Sterling; Wilmer Cutler Pickering Hale & Dorr; Covington & Burling; Hunton & Williams; Sullivan & Cromwell; Debevoise & Plimpton; Cleary Gottlieb; and Blank Rome are among the marquee names.

A senior U.S. official I spoke to speculates that this information might cause something of scandal, since so much of the pro bono work being done to tilt the playing field in favor of al Qaeda appears to be subsidized by legal fees from the Fortune 500. "Corporate CEOs seeing this should ask firms to choose between lucrative retainers and representing terrorists" who deliberately target the U.S. economy, he opined.

None of the above is meant to suggest Guantanamo is a fun place. What terrorist detention facility would be? (Base commander Adm. Harry Harris rejects the term "prison," by the way: "We are not about punishment; we are about keeping enemy combatants off the battlefield.") But the picture of Guantanamo usually painted by the press and human-rights activists is a terribly distorted one. Americans should rest assured that the men held there are probably getting better treatment than they deserve.

Mr. Pollock is a member of The Wall Street Journal's editorial board.

Saturday, January 13, 2007

NEW YORK TIMES

January 13, 2007

Official Attacks Top Law Firms Over Detainees

By NEIL A. LEWIS

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WASHINGTON, Jan. 12 — The senior Pentagon official in charge of military detainees suspected of terrorism said in an interview this week that he was dismayed that lawyers at many of the nation's top firms were representing prisoners at Guantánamo Bay, Cuba, and that the firms' corporate clients should consider ending their business ties.

The comments by Charles D. Stimson, the deputy assistant secretary of defense for detainee affairs, produced an instant torrent of anger from lawyers, legal ethics specialists and bar association officials, who said Friday that his comments were repellent and displayed an ignorance of the duties of lawyers to represent people in legal trouble.

"This is prejudicial to the administration of justice," said Stephen Gillers, a law professor at New York University and an authority on legal ethics. "It's possible that lawyers willing to undertake what has been long viewed as an admirable chore will decline to do so for fear of antagonizing important clients.

"We have a senior government official suggesting that representing these people somehow compromises American interests, and he even names the firms, giving a target to corporate America."

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detainees, said about 500 lawyers from about 120 law firms had volunteered their services to represent Guantánamo prisoners.

When asked in the radio interview who was paying for the legal representation, Mr. Stimson replied: "It's not clear, is it? Some will maintain that they are doing it out of the goodness of their heart, that they're doing it pro bono, and I suspect they are; others are receiving moneys from who knows where, and I'd be curious to have them explain that."

Lawyers expressed outrage at that, asserting that they are not being paid and that Mr. Stimson had tried to suggest they were by innuendo. Of the approximately 500 lawyers coordinated by the Center for Constitutional Rights, no one is being paid, Mr. Ratner said. One Washington law firm, Shearman & Sterling, which has represented Kuwaiti detainees, has received money from the families of the prisoners, but Thomas Wilner, a lawyer there, said they had donated all of it to charities related to the September 2001 terrorist attacks. Mr. Ratner said that there were two other defense lawyers not under his group's umbrella and that he did not know whether they were paid.

Christopher Moore, a lawyer at the New York firm Cleary, Gottlieb, Steen & Hamilton who represented an Uzbeki detainee who has since been released, said: "We believe in the concept of justice and that every person is entitled to counsel. Any suggestion that our representation was anything other than a pro bono basis is untrue and unprofessional." Mr. Moore said he had made four trips to Guantánamo and one to Albania at the firm's expense, to see his client freed.

Senator Patrick J. Leahy, the Vermont Democrat who is chairman of the Judiciary Committee, wrote to President Bush on Friday asking him to disavow Mr. Stimson's remarks.

Mr. Stimson, who was a Navy lawyer, graduated from George Mason University Law School. In a 2006 interview with the magazine of Kenyon College, his alma mater, Mr. Stimson said that he was learning "to choose my words carefully because I am a public figure on a very, very controversial topic."

NEW YORK TIMES

EDITORIAL:

January 13, 2007

EDITORIAL

Round Up the Usual Lawyers

No one who has followed President Bush's policies on detainees should be surprised when a member of his team scorns American notions of justice. But even by that low standard, the administration's new attack on lawyers who dare to give those prisoners the meager representation permitted them is contemptible.

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Speaking this week on Federal News Radio, a Web site and AM radio station offering helpful hints for bureaucrats and helpful news for the administration, Cully Stimson, the deputy assistant secretary of defense for detainee affairs, tried to rally American corporations to stop doing business with law firms that represent inmates of the Guantánamo internment camp.

It does not seem to matter to Mr. Stimson, who is a lawyer, that a great many of those detainees did not deserve imprisonment, let alone the indefinite detention to which they are subjected as “illegal enemy combatants.” And forget about the fundamental American right that everyone should have legal counsel, even the most heinous villain.

In his interview, reported yesterday by The Washington Post editorial page, Mr. Stimson rattled off some of the most respected law firms in the country that, after initial hesitation, have courageously respected that right. He called it “shocking” that they were “representing detainees down there” and suggested that when corporate America got word of this dastardly behavior, “those C.E.O.’s are going to make those law firms choose between representing terrorists or representing reputable firms.” He added: “We want to watch that play out.”

When his interviewer asked who was paying these firms for the work, Mr. Stimson said, “It’s not clear, is it?”

Actually, it is quite clear. Mr. Stimson surely knows that the vast majority of those cases are being handled for free by law firms that have not signed on to Mr. Bush’s post-9/11 revision of the American rules of justice. Still, he persisted, saying some lawyers were “receiving monies from who knows where.”

The interview was a greatest-hits remix of Bush administration nonsense about Guantánamo, including Mr. Stimson’s message to corporate executives that lawyers “are representing the very terrorists who hit their bottom line in 2001.” The only terrorists at Guantánamo associated with 9/11 were transferred there recently after being held for years in secret C.I.A. prisons where no lawyer could enter.

Not only do we find Mr. Stimson’s threats appalling, we differ with him about 9/11. The tragedy and crime of that day was that thousands of innocents were slaughtered — not that it hurt some companies’ profit margins.

Citation: <http://www.nytimes.com/2007/01/13/opinion/13sat1.html>

BOSTON GLOBE

Democrats may push to shutter war prisons

TRANSCOM GHOST DOCS 610

Party leaders say they'll cut funding

By Rick Klein, Globe Staff | January 13, 2007

Page 1

WASHINGTON -- House Democratic leaders yesterday outlined plans to try to force the Bush administration to close the Abu Ghraib prison in Iraq and the Guantanamo Bay detention facility in Cuba, taking aim at two sites that have sparked an international furor over the Bush administration's war policy.

Representative John P. Murtha, the chairman of the powerful Defense Appropriations subcommittee and a close ally of House Speaker Nancy Pelosi, said he wants to close both prisons by cutting their funding, "to restore our credibility worldwide." If he succeeds, it would force the administration to find a new location for high-value terrorism suspects.

"We have the role, as elected officials, to exert our influence through the power of the purse -- that's what it's all about," said Murtha, a Pennsylvania Democrat whose committee will hold hearings on Iraq next week. "We try not to micromanage the Defense Department, but I tell you, they need micromanagement. They're out of control."

The effort to close the prisons, which Murtha said Pelosi supports, illustrates how congressional Democrats are confronting the president over his war policies. The aggressive push to change the war's course has intensified after the president's address Wednesday night in which he announced plans to send an additional 21,500 troops to Iraq.

Democratic leaders will try to include the measure to close the prisons in a spending bill designed to pay for war operations, Murtha said. He acknowledged that closing Abu Ghraib and Guantanamo would be more symbolic than substantive. Abu Ghraib gained international infamy in 2004 after pictures emerged of US soldiers torturing and sexually abusing Iraqi prisoners there. The Guantanamo facility, which has housed Al Qaeda members and other terror suspects for more than five years, has emerged as a lightning rod for criticism of US policies in combating terrorism.

Numerous human rights groups and a United Nations commission have called for it to be shuttered, citing widespread reports of prisoner mistreatment. Starting last fall, Bush has used the prison as a holding place for suspects who were previously held in secret CIA prisons.

"My action is trying to restore credibility in the Middle East," Murtha said.

Bush has defended the detention center as a "necessary" part of the war on terror.

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"I'd like to close Guantanamo, but I also recognize that we're holding some people that are darn dangerous and that we better have a plan to deal with them in our courts," Bush said in June.

A Pelosi spokesman, Brendan Daly, said the speaker isn't going to make a final judgment on whether the prisons should be closed until after Murtha's committee has hearings on the issue.

"She has encouraged him to look into it," Daly said.

Murtha's plan emerged as a new series of volleys over the president's war plans played out on Capitol Hill.

House and Senate Democratic leaders say they still hope to change the president's mind about the troop "surge" by passing a non binding resolution of disapproval in the coming weeks. But a growing number of Democrats say that -- because Bush is almost certain to ignore such a resolution -- more must be done to hasten the end of the war.

The most likely step, many Democrats say, would involve spending restrictions on the war budget.

"The non binding resolution is symbolic, and that's nice to do if you've got the time to do it," said Representative John F. Tierney, a Salem Democrat. But lawmakers have to use their power over the budget to stop the war, he said.

"That's where we're going to find out which Democrats and which Republicans are going to take a stand on this," Tierney said.

Though some Republicans are also skeptical of Bush's plan, they indicated they will resist Murtha's attempts to close prisons and control war policy.

"You can't conduct a war or a battle from the House chamber or a committee room," said Representative C.W. Bill Young of Florida, the ranking Republican on the Defense Appropriations subcommittee.

Still, in an indication of the president's waning support in Congress, House Republican leaders held a "listening session" yesterday morning to hear out GOP members' concerns, and Republican leaders have been invited to join the president at Camp David for further talks this weekend.

Bush yesterday made calls to King Abdullah II of Jordan and President Hosni Mubarak of Egypt to rally support in the Middle East. And for a second straight day, lawmakers grilled top administration officials about the plan on Capitol Hill.

Defense Secretary Robert M. Gates insisted that the White House has no plans to attack targets in Iran. He also said he believes that having more US troops in Iraq will succeed

because Iraqi leaders say they are committed to reaching political settlements to pacify the nation.

"If they fail to do those things, then I think it's incumbent upon the administration and incumbent upon me to recommend looking at whether this is the right strategy," Gates told the Senate Armed Services Committee.

The White House got some support from Senator John McCain of Arizona, the committee's top Republican and a 2008 Republican presidential prospect. McCain said the troop increase will give Iraqis "the best possible chances to succeed."

But Senator Edward M. Kennedy, a Massachusetts Democrat, said the US mission has changed substantially since Congress gave the president the authority to destroy weapons of mass destruction and depose Saddam Hussein.

"Why not come back to the Congress? Why not come back and permit us to have a vote on this surge?" Kennedy asked.

Gates said he would pass that message on to the president, but "I think he feels that he has the authority that he needs to proceed."

That is driving much of Democrats' interest in forcing the president's hand. Kennedy and other Democrats have proposed keeping the president from sending more troops to Iraq by blocking the money he would need to do it.

Representative James P. McGovern, a Worcester Democrat, said he is preparing a bill that would go even further, cutting off funds for nearly all troops after six months and allocating only enough resources to provide for the "safe and orderly withdrawal" of US forces.

Sunday, January 14, 2007

WASHINGTON POST

Views on Detainee Representation Draw Fire

Pentagon Official's Suggestion of a Boycott Is Irresponsible, Legal Groups Say

By John Heilprin
Associated Press
Sunday, January 14, 2007; A05

The Pentagon yesterday disavowed a senior official's remarks suggesting companies boycott law firms that represent detainees at the U.S. military prison at Guantanamo Bay, Cuba.

TRANSCOM GHOST DOCS 613

Thursday, January 18, 2007

WASHINGTON POST

Detainee's Letters Give Peek at Life At Guantanamo

Bush Named Ex-Maryland Man One of 14 'High-Value' Prisoners

By Eric Rich
Washington Post Staff Writer
Thursday, January 18, 2007; A04

Majid Khan, a terrorism suspect secretly detained for years by the CIA and now held in the military prison at Guantanamo Bay, Cuba, told his Pakistani wife in a letter that she should not dwell on the thought of his return because "if I come back, it will be a miracle of God."

The handwritten letter and three others to his family in suburban Baltimore are the first substantial communication from any of the 14 "high-value" detainees to become public since the captives were transferred in September from what were called CIA "black" sites to the U.S. military prison at Guantanamo.

Khan's letters, redacted in places by military censors, reveal that he has embraced religion in ways that he had not as a high school student in Owings Mills, according to family members and teachers. Khan commanded his wife, Rabia Yaqoob, to study the Koran "with all the footnotes and the explanations" and thanked her for "giving me a daughter in the midst of your sadness."

"Our life is not less than a story from the movies," he wrote. "If you add a few songs to it, it would make a very good film."

The government has denied Khan, 26, and the other high-value detainees access to lawyers, asserting in court that the "alternative interrogation methods" to which Khan was subjected are among the nation's most sensitive national security secrets. As a result, little is known about the arrests, detentions or interrogations of those captives.

U.S. officials say Khan, a Pakistani national, took orders from Khalid Sheik Mohammed, the man accused of orchestrating the Sept. 11, 2001, attacks, and who is also a high-value detainee at Guantanamo. Khan was allegedly asked to research the poisoning of U.S. reservoirs and the blowing up of U.S. gas stations, and was considered for an operation to assassinate the Pakistani president.

The letters Khan wrote to his wife and family were delivered through the International Committee of the Red Cross, whose representatives are permitted to visit the detainees on the condition that the agency does not publicly disclose information gathered during the meetings.

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Khan's letter to his wife, written in Urdu, was introduced in court in Pakistan and has been published on an Urdu-language Web site operated by the BBC. Yaqoob's attorney, Nisar A. Mujahid, said the letter, by revealing Khan's desperation, supports his contention that the government of Pakistan should use diplomatic pressure to help protect Khan's rights.

Khan's oldest brother, Mahmood Khan, said yesterday that the family was releasing the letters it received to draw attention to the case. Mahmood Khan said that, for several days after the letters arrived last month, he could not bring himself to read them.

"The more you read about how much he loves us, the things going through his mind, what he's been through -- what am I going to say to him?" asked Mahmood Khan, speaking at the family's home.

The letters in English are rife with spelling and grammatical errors. Khan wrote that he is held in solitary confinement, that he is allowed to leave his cell "to get sunburn" for one hour each day, and that he can sometimes talk with other inmates through cell walls. Beyond those particulars, the details of his confinement are few.

"In this letter I am going to mention some of the things I have been through," he wrote on Oct. 20. The next 19 lines of text are blacked out. After the redaction comes Khan's complaint that he did not have his glasses during his first two years of detention and that the military prison lacks basketball courts and other comforts common in U.S. prisons.

"But in some way this place is still better and in some way other were better," he wrote.

Gitanjali Gutierrez, a lawyer who has been seeking access to Khan, said the redactions, although expected, raised questions. "So many of the interrogation techniques are already known," said Gutierrez, a lawyer with the Center for Constitutional Rights, which represents many detainees at Guantanamo.

Majid Khan was detained while he was staying with a brother in Pakistan in March 2003, according to his family and court filings by his attorneys. They said men who were not in uniform burst into the brother's apartment in Karachi late one night and put hoods over the faces of those inside: Majid, his brother Mohammad and his brother's wife. The couple's one-month-old son was also taken into custody.

Although the others were released without charges over the course of three months, Majid Khan's whereabouts were not officially disclosed until September, when President Bush named him as one of the 14 high-value detainees.

Mahmood Khan said his brother, a 1999 graduate of Owings Mills High School, dreamed of being a deejay or a rap musician, even for a time a U.S. Marine, but not a terrorist.

Khan was most recognizable as that young man in the earliest of the notes. He thanked his family for the letters they had sent, bragged that he could do 100 push-ups in 80

seconds, and asked for news of deaths and marriages. "And I don't need to tell you how much I love and miss you guys," he wrote.

Khan was more serious in the second letter. He wrote that he had grown a beard and had studied Islam deeply since his capture, that he now wrote poetry and could read the Koran without translation.

He asked his father for forgiveness and wrote that he had sinned, a reference, according to Mahmood Khan, not to criminal activity but to the pursuit of material indulgences.

"Things never stay the same, and life goes on, so please don't worry about me," he wrote. "Remember it's my sins who brought me here. When my sins are forgiven then I'll get freedom, so it's between me and Allah."

Staff researcher Julie Tate contributed to this report

MSNBC

Thursday, January 18, 2007

Manual to allow executions based on hearsay

Pentagon plan for detainee trials could spark fresh bipartisan debate

The Associated Press

Updated: 1:52 p.m. CT Jan 18, 2007

WASHINGTON - The Pentagon has drafted a manual for upcoming detainee trials that would allow suspected terrorists to be convicted on hearsay evidence and coerced testimony and imprisoned or put to death.

According to a copy of the manual obtained by The Associated Press, a terror suspect's defense lawyer cannot reveal classified evidence in the person's defense until the government has a chance to review it.

The manual, sent to Capitol Hill on Thursday and scheduled to be released later by the Pentagon, is intended to track a law passed last fall by Congress restoring President Bush's plans to have special military commissions try terror-war prisoners. Those commissions had been struck down earlier in the year by the Supreme Court.

The Pentagon manual could spark a fresh confrontation between the Bush administration and Congress — now led by Democrats — over the treatment of the nation's terrorism suspects.

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Last September, Congress — then led by Republicans — sent Bush a bill granting wide latitude in interrogating and detaining captured enemy combatants. The legislation also prohibited some of the worst abuses of detainees like mutilation and rape, but granted the president leeway to decide which other interrogation techniques are permissible.

Long road to bill's passage

Passage of the bill, which was backed by the White House, followed more than three months of debate that included angry rebukes by Democrats of the administration's interrogation policies, and a short-lived rebellion by some Republican senators.

The Detainee Treatment Act, separate legislation championed in 2005 by Sen. John McCain, R-Ariz., prohibited the use of cruel, inhuman or degrading treatment of military and CIA prisoners. It was approved overwhelmingly by Congress despite a veto threat by Bush, who eventually signed it into law.

The Pentagon manual is aimed at ensuring that enemy combatants — the Bush administration's term for many of the terrorism suspects captured on the battlefield — "are prosecuted before regularly constituted courts affording all the judicial guarantees which are recognized by civilized people," according to the document.

As required by law, the manual prohibits statements obtained by torture and "cruel, inhuman or degrading treatment" as prohibited by the Constitution.

However, the law does allow statements obtained through coercive interrogation techniques if obtained before Dec. 30, 2005, and deemed reliable by a judge.

Nearly 400 detainees suspected of links to al-Qaida and the Taliban are still being held at the U.S. military prison at Guantanamo Bay, Cuba, while about 380 others have been transferred or released. The Defense Department is currently planning trials for at least 10 suspects.

Geneva Conventions violated?

Democrats have said they would like to revisit detainee legislation and address concerns that the bill gives the president too much latitude interpreting standards set by the Geneva Conventions on prisoner treatment — and may deny detainees legal rights.

Rep. Ike Skelton, D-Mo., chairman of the House Armed Services Committee, said he planned to scrutinize the manual to ensure that it does not "run afoul" of the Constitution.

"I have not yet seen evidence that the process by which these rules were built or their substance addresses all the questions left open by the legislation. This committee will fulfill its oversight responsibility to make sure this is the case," Skelton said in a written statement.

Sen. Arlen Specter, R-Pa., and some Democrats have said the legislation will be shot down by the courts as unconstitutional because it bars detainees from protesting their

detentions. Under the law, only individuals selected for military trial are given access to a lawyer and judge; other military detainees can be held until hostilities cease.

URL: <http://www.msnbc.msn.com/id/16691101/>

Friday, January 19, 2007

NEW YORK TIMES

January 19, 2007

Pentagon Revises Its Rules on Prosecution of Terrorists

By MARK MAZZETTI

Page A18

WASHINGTON, Jan. 18 — The Pentagon on Thursday unveiled its new courtroom rules for prosecuting prisoners held as terrorists, allowing military tribunals to consider hearsay evidence and testimony obtained through coercion, but not torture.

Pentagon officials said, however, that the new policy more closely resembled courts-martial governed by the Uniform Code of Military Justice than the previous procedures used to prosecute terrorist suspects.

Under legislation signed into law last year, the government is poised to restart tribunals that the Supreme Court halted last summer. Pentagon officials said military prosecutors had determined there was sufficient evidence to bring war crimes charges against 60 to 80 of the 395 prisoners detained at the military prison at Guantánamo Bay, Cuba.

The Pentagon detailed the new procedures in a 238-page manual released Thursday.

The new procedures follow the guidelines Congress set down in the Military Commissions Act late last year.

Representative Ike Skelton, the Missouri Democrat who became chairman of the House Armed Services Committee this month when control of the House changed hands, pledged to scrutinize the new procedures so that they did not “run afoul” of the Constitution.

The new manual explicitly forbids military prosecutors from using evidence obtained through torture. At the same time, it makes a distinction between torture and coercion, allowing testimony that came as the result of coercive techniques used by military and intelligence officials until late 2005, when Congress passed a law banning cruel and inhumane treatment of prisoners.

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In order for coerced testimony to be used in military commissions, a military judge would have to determine that it was both reliable and relevant to the case. The matter is particularly important because the Pentagon is planning for the trials of 14 “high value” detainees, who until they were moved to Guantánamo Bay in September were kept elsewhere in secret prisons run by the Central Intelligence Agency.

The prisoners detained at those sites, including Khalid Shaikh Mohammed, the accused mastermind of the terrorist attacks of Sept. 11, 2001, are believed to have been subjected to particularly harsh interrogation methods like “water boarding,” which induces a feeling of drowning.

Daniel J. Dell’Orto, the Pentagon’s principal deputy general counsel, told reporters on Thursday that the new procedures followed the guidelines of the Military Commissions Act and ensured that detainees receive, as called for by international law, “all the judicial guarantees which are recognized as indispensable by civilized people.”

Pentagon officials said that none of the most significant prisoners would be among the first group to stand trial before the military commissions.

“Those cases are going to have to be developed carefully, and it’s going to take some time, because they are extraordinarily complex,” said Brig. Gen. Thomas L. Hemingway, a Pentagon official who helped draft the new guidelines.

The Bush administration established the military commissions in the months after the Sept. 11 attacks to prosecute “unlawful combatants” captured during counterterrorism operations around the globe, many of them in Afghanistan.

Last summer, the Supreme Court struck down the commissions as unconstitutional, forcing the White House and Congress to develop new guidelines.

Human rights groups on Thursday criticized the new procedures for straying from the military’s traditional rules for courts-martial. Among other things, the rules allow too much leeway for government lawyers to keep defendants from viewing classified evidence, they said.

“Classified sources and methods are protected,” said Jennifer Daskal, a lawyer at Human Rights Watch. “This creates the possibility that the defense will not learn the ways in which the evidence was obtained, which could have been through coercive techniques like water boarding and sleep deprivation.”

Mr. Dell’Orto said that while defendants would not be allowed to see classified evidence, defense lawyers would be given an unclassified summary of the material.

There are currently 395 detainees held at Guantánamo Bay, but it is likely that only a fraction of those will be prosecuted before military commissions. Even if prisoners are

not charged, officials said, the United States still has the right to detain them indefinitely or hand them over to their native governments.

"It doesn't mean that they are not unlawful combatants. It doesn't mean that they shouldn't be detained," said Bryan Whitman, a Pentagon spokesman.

Besides Mr. Mohammed, according to the government, the former C.I.A. detainees currently at Guantánamo Bay include senior members of Al Qaeda believed to be responsible for the bombing of the United States destroyer Cole in 2000 in Yemen and the 1998 attacks on American embassies in Kenya and Tanzania.

The prosecutors for the trials of those men will be a mix of military and civilian lawyers.

SAN FRANCISCO CHRONICLE

San Francisco Chronicle
January 19, 2007
Pg. 6

Law Firm Boycott Call Raises Ethical Issues

Experts differ on whether defense official broke rules

By Bob Egelko, Chronicle Staff Writer

The Defense Department official who called for a business boycott of law firms representing prisoners at Guantanamo Bay is potentially subject to discipline by the State Bar of California, of which he is a member.

But although Charles Stimson's comments have been condemned by the American Bar Association and other legal organizations as an assault on lawyers' moral obligation to represent unpopular clients, interviews with several California legal ethics experts found only one who thought he had broken the rules governing attorney conduct. Violations of those rules carry penalties that range from reprimands to disbarment.

San Francisco attorney Richard Zitrin, who teaches ethics at UC Hastings College of the Law and formerly chaired the State Bar's ethics committee, said one of several rules that Stimson appears to have violated dates from the O.J. Simpson murder trial. It prohibits lawyers from making out-of-court statements that are likely to prejudice a court proceeding.

"What could have more of a prejudicial effect on a proceeding than to threaten a detainee's lawyer that the law firm will lose business if the lawyer continues to represent the detainee?" Zitrin asked. He said the bar, if it investigates Stimson and finds violations,

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Grey said both investigations were closed by CID on Jan. 11. "If any new credible information becomes available, CID stands ready to reopen the investigation," he said.

The deaths of Naseer and Mohammed were never reported to higher authorities, according to both the battalion and group commanders who oversaw the 20th Group's operations in Afghanistan. That distinguished them from scores of other questionable deaths of detainees in U.S. custody in both Afghanistan and Iraq.

The Times account last fall cited numerous Afghan witnesses who saw Naseer immediately before and after his death and said he appeared to have been badly beaten. It quoted one Special Forces member as saying the team held a meeting after the detainee died to coordinate stories should an investigation arise.

"Everybody on the team had knowledge of it," the soldier said, speaking on condition of anonymity. "You just don't talk about that stuff in the Special Forces community. What happens downrange stays downrange."

Other detainees arrested with Naseer also showed signs of severe beating that were noted in local doctors' reports after their release from the base. One of those detainees was a man with one leg.

The commander of the Special Forces team at the time of both deaths was Chief Warrant Officer Kenneth C. Waller, a full-time National Guardsman who continues to work at 20th Group headquarters in Birmingham. Grey would not say whether Waller, who is now 36, is among those implicated in the CID investigation.

Officials with 20th Group said today that Waller, despite the ongoing case involving his unit, is currently deployed to East Africa, as is Col. Leonard Kiser, the 20th Group's current commanding officer. Neither was available for comment.

While the Special Forces team in Gardez consisted mostly of Alabama National Guardsmen, it also included several members from other groups.

One of them, Sgt. 1st Class Michael E. MacMillan, an intelligence analyst with the 7th Special Forces Group at Ft. Bragg, was depicted by other team members as being heavily involved in the interrogation of detainees at the base.

Pyes is a freelance investigative journalist who reported for The Times and the Washington-based Crimes of War Project.

Saturday, January 27, 2007

WASHINGTON POST

Tortured Man Gets Apology From Canada

TRANSCOM GHOST DOCS 621

By Doug Struck
Washington Post Foreign Service
Saturday, January 27, 2007; A14

MONTREAL, Jan. 26 -- The prime minister of Canada apologized Friday to Maher Arar and agreed to give \$9 million in compensation to the Canadian Arab, who was spirited by U.S. agents to Syria and tortured there after being falsely named as a terrorism suspect.

Arar, 36, a former computer engineer who was detained while changing planes at a New York airport in 2002 and imprisoned in a Syrian dungeon for 10 months, said after the announcement that he "feels proud as a Canadian."

"We cannot go back and fix the injustice that occurred to Mr. Arar," Prime Minister Stephen Harper said in issuing the formal apology in Ottawa. "However, we can make changes to lessen the likelihood that something like this will ever happen again." The head of the Royal Canadian Mounted Police resigned over the affair, and the government has pledged to increase oversight of its intelligence agencies.

Harper and Arar both criticized the United States for its refusal to accept the exhaustive Canadian inquiry that found Arar was an innocent man. Public resentment in Canada has swelled this week over U.S. officials' insistence that Arar should remain on its "watch list" of potential suspects, as well as the testy comments of U.S. Ambassador David Wilkins, who said Canada had no business questioning who was on the list.

The United States has never acknowledged it made a mistake in the Arar case, which has become one of the most public embarrassments in the U.S. practice of "extraordinary rendition" of suspects to other countries for interrogation and imprisonment. Last week, Sen. Patrick J. Leahy (D-Vt.) demanded an explanation for the administration's stance. He complained that American officials "knew damn well, if he went to Syria, he'd be tortured. It's beneath the dignity of this country to send somebody to another country to be tortured."

The financial compensation settles a claim Arar made against the government for having provided exaggerated and false information to the United States that identified him as a terrorist suspect. Harper said the amount "is within this government's realistic assessment of what Mr. Arar would have won in a lawsuit." His attorneys also were awarded about \$870,000 in legal fees.

"The evidence is clear that Mr. Arar has been treated unjustly. He should not be on a watch list," Harper said.

Reacting at a separate news conference in Ottawa, Arar thanked Canadians for siding with him in the campaign, which he began with a news conference when he was finally returned from Syria uncharged.

"I cannot begin to tell you how important it is today that Prime Minister Harper and his government have followed through" on the recommendations of the inquiry commission,

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he said. "In doing so, the government of Canada and the prime minister have acknowledged my innocence. This means the world to me."

"The struggle to clear my name has been long and hard," he said. "My kids have suffered silently, and I think I owe them a lot. I feel now I can devote more time to them, more time for being a good father and to rebuild my life."

Special correspondent Natalia Alexandrova in Toronto contributed to this report.

NEW YORK TIMES

January 27, 2007

Canada to Pay \$9.75 Million to Man Tortured in Syria

By IAN AUSTEN

Page A5

OTTAWA, Jan. 26 — Maher Arar, the Canadian software engineer who was detained by American officials in 2002 and deported to Syria, where he was jailed and regularly tortured, will receive 11.5 million Canadian dollars (\$9.75 million) in compensation from the Canadian government, under a settlement announced Friday.

The compensation ends a lawsuit brought by Mr. Arar and follows a recommendation from a judicial inquiry into his case. That inquiry said the expulsion to Syria was caused by false assertions made by the Canadian police to United States officials, saying that Mr. Arar was an Islamic extremist linked to Al Qaeda.

Mr. Arar, traveling on a Canadian passport, was pulled aside by immigration agents in New York as he changed planes on his way home to Ottawa from Tunisia. He was instead flown to Syria, his birthplace.

The Canadian judicial inquiry cleared Mr. Arar of any terrorism connections in September 2006, and concluded that anonymous Canadian officials had orchestrated a defamation campaign against him after his return from Syria in October 2003.

As he announced the settlement on Friday, Prime Minister Stephen Harper offered a formal apology to Mr. Arar and his family for their "terrible ordeal."

Mr. Arar, whose career was destroyed by the episode and who has suffered emotional problems since returning to Canada, said the government's apology was more important for him than the financial settlement.

TRANSCOM GHOST DOCS 623

Wednesday, January 31, 2007

LOS ANGELES TIMES

Germany may indict U.S. agents in 2004 abduction

The 13 operatives are said to have taken part in a Muslim's kidnapping.

By Jeffrey Fleishman and John Goetz
Special to The Times

January 31, 2007

BERLIN — German investigators have recommended that prosecutors issue arrest warrants for 13 U.S. intelligence operatives in connection with the kidnapping, beating and secret detention of a German citizen suspected of having links to terrorist networks.

The operatives are said to have been part of a CIA-sponsored team that transported alleged terrorists to interrogation camps around the world. Investigators say the group forced a handcuffed and blindfolded Khaled Masri, a German citizen of Lebanese descent, onto a Boeing 737 in Macedonia and flew him to Afghanistan in January 2004. Masri was never charged with a crime, and was released after five months.

German law enforcement officials said indictments could be filed as early as this week against the suspects, including four pilots, a medic and members of an operations unit. The most serious charge is expected to be kidnapping, according to an official who asked not to be named. None of the suspects, who include CIA contract employees, have been named publicly.

The Masri case has strained U.S.-German relations and led to a parliamentary investigation of allegations that German intelligence agents were involved in the abduction. Investigators also have examined discrepancies about when high-ranking government officials were informed of Masri's fate.

The prospect of criminal charges in the Masri ordeal comes as an Italian court is deliberating whether to order the trial of 26 Americans and nine Italians implicated in the February 2003 abduction of a radical Egyptian cleric known as Abu Omar. The Italian government may demand the extradition of the accused Americans, including the former CIA station chief in Milan, where Omar was snatched from a sidewalk.

The CIA has not commented on the Masri case, although White House, Justice Department and agency officials have argued that U.S. laws authorized such covert operations, and that they have been assured that no suspects have been tortured.

Legal experts say it is extremely unlikely the U.S. government would turn over suspects for legal proceedings in either Germany or Italy.

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Both cases have outraged lawmakers across the Continent and underscored the legal and human rights questions dividing the U.S. and Europe on countering terrorism. But they also have indicated that some European governments may have been complicit in the CIA program, known as "extraordinary renditions," to capture and transport suspected militants to secret prisons for interrogations that sometimes included torture.

Legal documents, credit card receipts and hotel records show that those allegedly involved in the Masri abduction stayed at a luxury resort on the Spanish island of Majorca before flying to Skopje, Macedonia, on Jan. 23, 2004. When checking into the hotel, some of the operatives gave aliases, such as Kirk James Bird and James Fairing. The covert team's charges in Majorca included a food bill of \$1,625 and an \$81 charge for a massage.

Masri's odyssey began weeks earlier, when he was pulled off a bus on New Year's Eve 2003 while crossing the Serbian border into Macedonia. The car salesman and father of four told the Los Angeles Times in 2005 that he had left Germany for a holiday. He said Macedonian security officials seized him and drove him from the border to a hotel in Skopje, the capital, where he was interrogated for days and accused of being an extremist.

Masri said he was threatened at gunpoint and was denied repeated requests to contact German authorities. One night, he said, he was blindfolded and taken to an airport.

"I was led into a room. The door closed behind me and I was beaten from all sides for about one minute," he said. "They bent my arms to my back and cut off my clothes.... I saw seven to eight men all dressed in black and wearing masks. I tried to keep my underpants on but they ripped them off. They put me in diapers and a dark blue sweatsuit with the legs and sleeves cut out."

Aviation records viewed by The Times show that a jet registered to a company with links to the CIA landed at Skopje airport at 8:51 p.m. on Jan. 23, 2004. The plane left Skopje hours later, at 2:30 a.m., flying to Baghdad, then to Afghanistan.

Masri said he was drugged for the flight and remembers waking up in "a small, dirty cell." He said he was interrogated in cycles by Americans and a man he referred to as Sam, who spoke fluent German. Much of the questioning, Masri said, dealt with his attendance at a mosque frequented by radicals in his hometown of Ulm, Germany.

Masri said he went on a hunger strike for 37 days until he was force-fed. He was released in the mountains of Albania five months after he disappeared.

Around the time Masri was freed, the American ambassador to Germany, Daniel R. Coats, informed the German Interior Ministry that the U.S. had detained a German citizen and was preparing to release him. The Germans, however, say they weren't told about Masri until after he was released. The question of when the German officials knew, and

why they kept quiet about the incident, is part of the parliamentary investigation.

One theory to explain the kidnapping, according to officials who asked not to be identified, may be that the captors mistook Masri for a man by the same name who is suspected of terrorist links to Al Qaeda. There also have been suggestions that U.S. intelligence wanted to learn more about the mosque in Ulm, where several known militants who fought in the separatist Russian republic of Chechnya were known to worship.

German prosecutors said they were convinced early on that Masri's tale of abduction and imprisonment was true. They have repeatedly blamed the U.S. for not cooperating with the investigation. In December 2005, Masri filed suit against the CIA in a U.S. district court. A judge dismissed the lawsuit last year, saying that a trial would "present a grave risk of injury to national security." The decision is being appealed.

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LOS ANGELES TIMES

EDITORIAL:

Where's the contrition for rendition?

Maher Arar, wrongfully deported and tortured in Syria, got an apology from Canada but not the United States.

January 31, 2007

MAHER ARAR, a software engineer who was wrongly deported by the United States to his native Syria, where he was imprisoned and tortured for a year, has received an apology and an offer of \$8.9 million from the government.

Before you think that the Bush administration has repented for mistreating Maher, we should add that the apology and the settlement offer came from the *Canadian* government, whose police force supplied the U.S. with faulty intelligence identifying Maher as an Islamic terrorist. The U.S. government, far from apologizing to Maher for seizing him at John F. Kennedy Airport in 2002 and sending him to Syria, refuses to remove his name from a terrorist watch list.

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The administration hasn't made public the reasons for continuing that designation, although Justice Department and intelligence officials have agreed to brief Congress on the matter this week. Canada's minister of public safety, who has reviewed the confidential U.S. file on Arar, has said that it contains "nothing new" that would justify treating him as a terrorism suspect.

A Canadian inquiry exonerated Arar and concluded that U.S. authorities "removed him to Syria against his wishes and in the face of his statements that he would be tortured if sent there." Canadian Prime Minister Stephen Harper last week apologized for the "terrible ordeal" Arar endured. But not the Bush administration.

Is that because it has a legitimate reason to consider him dangerous? Or is it because an apology would draw attention to the policy of "extraordinary rendition" under which he and other suspected terrorists were spirited to other countries unburdened by U.S. notions of due process?

Because of the way it has conducted the war on terrorism, the Bush administration has lost the benefit of the doubt. Bush has insisted that "torture is never acceptable, nor do we hand over people to countries that do torture," but the facts say otherwise. The CIA kidnapped German citizen Khaled Masri in 2004 and flew him to Afghanistan for severe interrogation, a case that led German investigators to recommend issuing warrants against 13 U.S. intelligence operators. The president himself has said that the CIA used "an alternative set of procedures" to extract information from suspected terrorists.

Couple that record with the administration's general reluctance to confess error, and it's no wonder members of Congress are skeptical. If they aren't satisfied by the administration's explanations for continuing to stigmatize Arar, they should say so. And even at this late date, the president should examine his conscience and decide whether he doesn't owe this man and his family an apology.

Citation: <http://www.latimes.com/news/opinion/la-ed-arar31jan31.0,2200572.story?coll=la-opinion-leftrail>

Thursday, February 01, 2007

WASHINGTON POST

Germans Charge 13 CIA Operatives

By Craig Whitlock
Washington Post Foreign Service
Thursday, February 1, 2007; A01

TRANSCOM GHOST DOCS 627

BERLIN, Jan. 31 -- The CIA's clandestine program of abducting suspected terrorists and taking them to secret sites for interrogation unraveled further on Wednesday as German prosecutors issued arrest warrants for 13 agency operatives in the kidnapping of a German citizen in the Balkans in December 2003.

The case is the second in which European prosecutors have filed charges against CIA employees involved in counterterrorism operations. Italian prosecutors have charged 25 CIA operatives and a U.S. Air Force officer with kidnapping a radical cleric on a Milan street in 2003 and taking him to Cairo, where he says he was tortured.

European law enforcement authorities acknowledged that it is highly unlikely that any CIA officers -- most of whom work undercover, using false identities -- would be apprehended or extradited from the United States. But the arrest warrants, filed in Munich, mark yet another case in which CIA activities in Europe since the attacks of Sept. 11, 2001, have strained diplomatic ties and underscored deep differences between the United States and its transatlantic allies over how to fight terrorism.

Christian Schmidt-Sommerfeld, the chief prosecutor in Munich, said the 13 CIA operatives were wanted on suspicion of kidnapping and inflicting bodily harm on Khaled el-Masri, a German citizen of Lebanese descent. Masri has said he was detained by border guards Dec. 31, 2003, while en route to a holiday in Macedonia, and handed over to the CIA, which took him to a secret prison in Afghanistan and interrogated him about his alleged ties to Islamic radicals in Germany.

After five months in detention -- during which, he said, he was physically abused -- Masri was flown back to the Balkans and dumped on a hillside in Albania after his captors apparently decided they had apprehended the wrong man. German prosecutors said they were skeptical when he came to them with his bizarre-sounding story but later corroborated many parts of his account.

Robert Wood, a spokesman for the U.S. Embassy in Berlin, declined to comment on the arrest warrants, as did a State Department spokesman in Washington. The CIA also declined to comment.

German prosecutors said they received a list of CIA operatives suspected of involvement in Masri's disappearance from authorities and a journalist in Spain. According to hotel records and flight logs, the crew of the privately chartered CIA plane that carried Masri from the Balkans to Afghanistan had stopped for a few days beforehand on the Spanish resort island of Palma de Mallorca.

Prosecutors in Munich did not name the suspects publicly and released few other details about the probe. But Schmidt-Sommerfeld said that all of the suspects used aliases and that investigators were still trying to learn their true identities.

"Ongoing analysis will concentrate on, among other things, determining the correct personal details of the suspects," he said.

The German state television network NDR released a list of 11 men and two women it said were named in the arrest warrants. According to the station, some of the suspects worked as pilots for Aero Contractors, an aviation firm based in Smithfield, N.C. Flight data show that Aero operated the Boeing 737 that carried Masri to Kabul on Jan. 24, 2004.

Aero Contractors was named as a defendant in a lawsuit Masri filed in U.S. District Court.

An employee who answered the phone at Aero's headquarters said no one was available to comment on the arrest warrants.

At a news conference in Augsburg, Germany, Masri's attorney called the arrest warrants "a great success" and said his client was "very satisfied" with the outcome of the investigation. At the same time, the lawyer, Manfred Gnjjidic, said he realized it was doubtful that German authorities would be able to track down any of the suspects and bring them to trial.

"It is a very clear signal that the German ruling powers will not tolerate this action, this criminal action, against a German citizen and would like to hold those accountable," Gnjjidic said.

German arrest warrants are not legally enforceable in the United States, although the prosecutors in Munich could seek to have the suspects arrested if they traveled to other nations in the European Union.

The German government said it learned of Masri's abduction from Daniel R. Coats, then the U.S. ambassador to Germany, in May 2004. Coats told Otto Schily, then Germany's interior minister, that Masri had been grabbed mistakenly but was paid off to keep quiet, according to German officials. Coats also asked Schily to keep the affair a secret, the officials said. Masri has denied receiving any money.

U.S. officials have not publicly admitted any guilt or responsibility. In December 2005, German Chancellor Angela Merkel said U.S. Secretary of State Condoleezza Rice acknowledged in a meeting in Berlin that Masri had been "erroneously taken." But U.S. diplomats denied she had done so.

A year later, when asked by a reporter in Washington whether the United States owed Masri an apology, Rice declined to offer one. "We have tried to deal with this case in a way that is responsible and -- you know, that's all I'm going to say about this case," she said.

Masri filed suit against the CIA, but his complaint was dismissed in May on grounds that it could damage national security operations. The decision is on appeal.

Some details surrounding Masri's disappearance remain murky. The ponytailed car salesman has said he was interrogated in Afghanistan by a man named "Sam" who was fluent in German and hinted that he worked for German intelligence. The German government has denied any involvement in Masri's kidnapping or detention.

Johannes Jung, a member of a German parliamentary committee that has scrutinized Masri's case, said the arrest warrants would send a strong message to the United States. The committee has investigated the extralegal abductions of two other German residents by U.S. counterterrorism agents, a practice known as "extraordinary rendition."

"This policy of rendition has to be stopped," said Jung, a member of the Social Democratic Party. "It's totally out of control, and the U.S. needs to rethink its policy in this regard. We couldn't imagine that this policy of rendition could really be true, but we have learned that it is true."

Staff writer Glenn Kessler and staff researcher Julie Tate in Washington contributed to this report.

NEW YORK TIMES

February 1, 2007

German Court Challenges C.I.A. Over Abduction

By MARK LANDLER

Page 1

FRANKFURT, Jan. 31 — A German court on Wednesday issued an arrest warrant for 13 people in the mistaken kidnapping and jailing of a German citizen of Lebanese descent, in the most serious legal challenge yet to the Central Intelligence Agency's secret transfers of terrorism suspects.

Prosecutors in Munich said the suspects, whom they did not identify, were part of a C.I.A. "abduction team" that seized the man, Khaled el-Masri, in Macedonia in late 2003 and flew him to Afghanistan. He was imprisoned there for five months, during which, he said, he was shackled, beaten and interrogated about alleged ties to Al Qaeda, before being released without charges.

His ordeal is the most extensively documented case of the C.I.A.'s practice of "extraordinary rendition," in which terrorism suspects are seized and sent for interrogation to other countries, including some in which torture is practiced.

"This is a very consequential step," August Stern, the prosecutor in Munich, said in a telephone interview. "It is a necessary step before bringing a criminal case against these people."

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The Central Intelligence Agency has never acknowledged any role in Mr. Masri's detention, and a C.I.A. spokesman declined to comment on Wednesday. The German government said it would not comment on the case, except to affirm the independence of the public prosecutor.

Mr. Stern said investigators would seek to establish the true identities of the 13 people, most of whom are believed to use aliases. They include the four pilots of the Boeing 737 that picked up Mr. Masri, a mechanic and several C.I.A. operatives, people familiar with the case said.

Issuing an arrest warrant is a major expansion of the legal challenge to the C.I.A.'s rendition program in Europe. Italian prosecutors are seeking indictments against 25 C.I.A. operatives and Italy's former intelligence chief for the kidnapping of a militant Egyptian cleric in 2003.

In Germany, unlike Italy, defendants cannot be tried in absentia. As a practical matter it is unlikely that the Bush administration will acquiesce in the extradition to Germany of the 13 suspects. But the arrest warrant could further hinder their ability to move around Europe. The German case also carries more weight, legal experts said, because of the reputation of courts here for painstaking deliberation and because of recent efforts to repair damaged diplomatic ties between Germany and the United States.

It is, in fact, a delicate time for both countries. The Bush administration has faced a drumbeat of criticism because of its antiterrorism policies since the attacks on Sept. 11, 2001, while the German chancellor, Angela Merkel, has been eager to heal rifts over the Iraq war.

"It is unique that a German court would issue warrants against 13 C.I.A. agents," said Hans-Christian Ströbele, a Green Party member of a German parliamentary committee that is investigating the flights.

The arrest warrants, which were first reported in The Los Angeles Times on Wednesday, also have political implications within Germany, where the role of the government in tolerating — or even facilitating — C.I.A. flights has come under increased scrutiny. Frankfurt Airport was reportedly used for many of the flights, as was the American air base at Ramstein.

On Wednesday, a German broadcaster, NDR, published what it said were the names of the 13 people — 11 men and 2 women. Mr. Stern declined to discuss the names, which have been picked up by other German news organizations.

Although the prosecutor's action on Wednesday was the first major legal development in the case, the German news media have been speculating about it for months. In September a television program, "Panorama," tracked down three of those named in North Carolina. They declined to comment on their activities.

For Mr. Masri, who has had to overcome a tide of public skepticism about his account since it was first reported in The New York Times in early 2005, the court's action is a significant step in bolstering the credibility of his claims, said his lawyer, Manfred Gnjdic.

"This is unbelievably important for our case," Mr. Gnjdic said in an interview. "It's the first direct sign of the German government against the C.I.A. that they did the wrong thing."

Mr. Masri, who is unemployed, lives in the southern German city of Neu-Ulm. The lawyer said Mr. Masri had been buoyed by a statement of support from the former German interior minister, Otto Schily.

Mr. Masri is petitioning a federal appeals court in Richmond, Va., to reinstate a lawsuit against the agency. Last May a federal judge threw out a suit brought by Mr. Masri, accepting the government's contention that it would be impossible to hold a trial without disclosing state secrets.

The Justice Department has declined to help the German prosecutors in their investigation, which has made the Germans dependent on information from other sources, including journalists investigating the C.I.A. practice of transferring suspects across international borders.

A major break, Mr. Stern said, came from a Spanish reporter who compiled a list of the names of people said to have been involved in Mr. Masri's abduction from sources in the Civil Guard, a Spanish paramilitary police agency. The C.I.A. used the Spanish island of Majorca as a logistics center for its flights, Mr. Gnjdic said, and the authorities found the names of members of the rendition team on hotel logs there.

Mr. Stern also credited tips from prosecutors in Milan and from Dick Marty, a Swiss senator who conducted an inquiry on the transfer issue on behalf of the Council of Europe.

The nature of Germany's role in Mr. Masri's case, and in other C.I.A. flights, remains murky. Mr. Masri has asserted that he was interrogated three times inside his prison in Kabul, Afghanistan, by a German who identified himself as "Sam."

Germany's foreign minister, Frank-Walter Steinmeier, has said he was not told of the abduction until June 2004, after Mr. Masri had been released in Albania. As chief of staff to Gerhard Schröder, then the chancellor, Mr. Steinmeier oversaw all German intelligence services.

Mr. Steinmeier is facing questions about his role in another case, involving a German-born Turkish man imprisoned for four and a half years at the American military jail in Guantánamo Bay, Cuba.

The man, Murat Kurnaz, was released by the United States last August after lengthy negotiations between Germany and the United States. But internal German intelligence documents indicate that the Germans turned down an offer by the Americans to send Mr. Kurnaz home as early as 2002.

Mr. Steinmeier has insisted that the Americans never made an official offer to release Mr. Kurnaz. He has also noted that worries about security were running high in the aftermath of the Sept. 11 attacks. German newspapers have been full of speculation about whether the affair will cost Mr. Steinmeier his job.

Investigation in Spain

MADRID, Jan. 31 (Reuters) — A judge has ordered Spain's intelligence agency to declassify any documents it has about secret C.I.A. transporting of terrorism suspects, court officials said Wednesday.

Stephen Grey contributed reporting from Toronto, and Mark Mazzetti from Washington.

WASHINGTON POST

Washington Post
February 1, 2007
Pg. 4

Judge Delays Hearings Of 16 At Guantanamo

Sixteen lawsuits by Guantanamo Bay detainees were put on hold by a federal judge who said he may no longer have jurisdiction to hear their cases.

U.S. District Court Judge Reggie B. Walton in Washington said the Military Commissions Act, signed into law in October, has left him unable to consider whether the detainees can challenge being jailed at the Marine facility in Cuba.

An appeals court in Washington is considering whether civilian jurists can rule on those cases. Until that issue is resolved, Walton said, "it is this court's view that it lacks the authority to take any action in these cases."

Walton's six-page order denying the motions challenging detention of the 16 men left open the possibility of refiling the requests if the appeals court decides civilian courts can review detainee cases.

If the appeals panel "concludes that this court retains some degree of jurisdiction over any or all of the above-captioned cases, the matters will be automatically reopened as appropriate," he wrote.

transferred to the civilian justice system last year. Marri, who took up residence in Peoria, Ill., on a student visa in 2001, was arrested there.

Marri was arrested by the FBI in December 2001 and charged with credit card fraud and lying to federal agents. He was accused of denying that he had repeatedly tried to call a man in the United Arab Emirates who was the paymaster for the Sept. 11 hijackers. The charges were dropped in June 2003 when President Bush declared Marri an enemy combatant and moved him to military control.

Thursday, the judges focused their questions not on whether Marri is an al-Qaeda operative but on whether he was properly designated an enemy combatant.

Judge Diana Gribbon Motz questioned under what circumstances the president can order someone on U.S. soil to be detained as an enemy combatant. Under the traditional laws of war, she said, combatants are captured on a battlefield and connected to a nation or state at war with the United States.

Motz said that she is concerned about giving the government broad authority "to pluck up anyone from the streets of the United States" and added: "We don't want other nations to do that to our people."

But Judge Roger L. Gregory suggested that Congress knew it was dealing with an "amorphous enemy" when it passed the Military Commissions Act last year, creating a tribunal system for accused combatants such as Marri to challenge their status.

The provision of the act that denies access to U.S. courts to foreign nationals deemed enemy combatants was aimed primarily at Guantanamo Bay detainees. Attorneys for those prisoners have filed a challenge to that provision, arguing that it violates constitutional guarantees against being detained without the right to contest the charges in court.

WASHINGTON POST

Travel Logs Aid Germans' Kidnap Probe CIA Team's Movements Tracked With Spain's Help

By Craig Whitlock
Washington Post Foreign Service
Friday, February 2, 2007; A11

BERLIN, Feb. 1 -- If not for the pit stops on a Mediterranean resort island, where they relaxed in four-star hotels and went to the spa for a massage, the CIA operatives who now face arrest on kidnapping charges in Germany would have remained safely in the shadows, according to German prosecutors.

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German investigators said they received detailed records of the intelligence agents' stopovers on the Spanish island of Palma de Mallorca from Spanish police last year. The documents, which included the operatives' passport numbers, hotel bills and aviation records, enabled prosecutors to identify a CIA abduction crew that allegedly kidnapped Khaled el-Masri, a German citizen, in a bungled counterterrorism operation in early 2004.

On Wednesday, prosecutors in Munich announced that a German court had issued arrest warrants for 13 people it named as CIA operatives involved in the Masri kidnapping. While most of the people used aliases and their true identities remain unclear, German authorities said the Spanish records provided a critical break and kept the investigation alive.

"It made it possible for us to identify specific individuals and to connect them with the kidnapping case," said Christian Schmidt-Sommerfeld, the chief Munich prosecutor, in a statement disclosing the warrants. "This information as well as other investigative evidence now leads to the grounds of suspicion against these 13 distinctly identifiable individuals."

It's not the first time that CIA officers have left a long trail of clues during an undercover counterterrorism operation in Europe. Italian prosecutors charged 25 CIA operatives and a U.S. Air Force officer with kidnapping a radical cleric in Milan in 2003 after investigators traced their cellphone logs and frequent-flier records. They also found that the operatives had racked up more than \$150,000 in expenses while in Italy, including long stays at \$500-a-night hotels.

Records of the other team's stopovers at Palma de Mallorca were gathered by the Guardia Civil, a Spanish police agency that has investigated the CIA's use of the island as a staging ground for other counterterrorism operations in Europe and North Africa. Some of the records were provided to The Washington Post by Human Rights Watch, a New York-based advocacy group that has investigated extralegal abductions by CIA counterterrorism squads.

A CIA spokesman at headquarters in Langley, Va., declined comment for this article.

Aviation records show that the CIA operatives arrived at Palma de Mallorca at 10 p.m. Jan. 22, 2004, from Algiers. They spent the night at the Marriott Son Antem Golf Resort and Spa, paying \$175 each for a room, including breakfast. One male member of the team, who stayed in Room 216, was billed for \$85 worth of massages and a \$23 bar tab. He and the others paid with their Visa cards.

The next day, the CIA crew departed in a privately chartered Boeing 737 for Skopje, Macedonia, where Masri had been detained secretly for three weeks by Macedonian security agents on suspicion of involvement with a terrorist network, according to German prosecutors. The plane stayed on the ground for less than six hours before departing with Masri on board, heading first to Baghdad and then to Kabul.

Masri, a German citizen of Lebanese descent, said he was kept in a secret CIA prison that was known as the Salt Pit and interrogated about Islamic radicals in Germany before his captors realized they had the wrong man. He said he was flown back to the Balkans five months later, released on a hillside in Albania and warned to keep his mouth shut.

After delivering him to Afghanistan, the CIA operatives flew back to Palma de Mallorca after a brief stopover in Romania, aviation records show. The team spent three more nights on the Spanish island before returning to Washington. For the flight home, they ordered a shrimp cocktail for the pilot and two bottles of Pesquera red wine, according to invoices from the ground services crew at the Palma airport.

John Sifton, a senior researcher on counterterrorism for Human Rights Watch, said the operatives may have taken a carefree approach because they assumed they were being protected by European intelligence partners. Masri, for instance, was handed over to the CIA by Macedonian security agents. And in the Milan kidnapping case, top officials with the Italian military intelligence agency known as Sismi have been charged with conspiring with the CIA.

"I suppose they never expected there would be a flap about all this or else they would have been more cautious," Sifton said. "When you think a local government is cooperating with you in your criminal activities, you're probably less careful."

U.S. officials have never publicly admitted guilt or responsibility in the Masri case, and the U.S. Justice Department has refused to cooperate with requests for information from German prosecutors.

Masri sued the CIA for damages in U.S. District Court in Virginia. His complaint was dismissed in May on grounds that the lawsuit could generate revelations that would damage national security. Masri is appealing. His attorneys said the recent revelations from Europe show that the secrecy concerns are moot.

"It renders even more far-fetched the argument that every single development in this case is a state secret," said Ben Wizner, an ACLU lawyer who is representing Masri in his lawsuit.

Staff researcher Julie Tate in Washington contributed to this report.

NEW YORK TIMES

February 2, 2007

Poster of Hussein at Guantánamo Draws Detainee Complaints

By DAVID ROHDE

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EDITORIAL:

No more renditions

If the U.S. wants European allies to help in the war on terror, it has to respect their laws.

February 2, 2007

THERE ARE PLENTY of legal and moral reasons why the CIA shouldn't be snatching terrorism suspects off the streets of Europe and shipping them to unsavory countries to be tortured. But there is a simple, practical reason why the Bush administration should forthrightly repudiate its disastrous rendition policy: The United States cannot prevent terrorist attacks without help from its European allies, and they will be less inclined to cooperate when confronted with a policy they rightly believe to be beyond the pale.

After the disgrace of Abu Ghraib and the ongoing international furor over the indefinite detentions at Guantanamo Bay, the Bush administration cannot afford further self-inflicted damage to its prestige. But this week, the bills for rendition came due when a German court issued arrest warrants for 13 Americans accused in the Keystone Kops kidnapping of a German citizen — the wrong man, as it turned out. Khaled Masri was imprisoned and abused in Afghanistan for five months before being released without charge.

In Italy, prosecutors are also reportedly seeking to indict 25 CIA operatives for kidnapping an Islamic cleric in Milan and sending him to Egypt for alleged torture. Sweden too has been burned by cooperating with U.S. renditions. In December 2001, it handed over to CIA operatives two asylum-seekers accused of terrorism. They were sent back to Egypt where, despite promises to Sweden that they would be properly treated, both also were allegedly tortured.

Continental opposition to U.S. foreign policy is hardly breaking news. But that doesn't mean in this case that the furious European electorates are wrong. Due process remains a fundamental Western value, and outrage about violations is a sign of democratic health, not political opportunism. It did not smooth matters that the White House initially denied that any such practices were being used.

It's not as if the Bush administration can claim that renditions from Western Europe have produced life-saving intelligence. (We would have probably heard about the successes by now, if a plausible case could be made.) Even if they had, it's unlikely that the positive effects would outweigh the negative impact of having Washington's most important law enforcement allies — countries that have large Muslim populations known to periodically shelter and incubate terrorists — turn sour on collective policing and prevention efforts.

The administration needs to gain cooperation with local authorities before snatching suspects, ban the outsourcing of torture and keep its word to allied governments about the

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treatment of detainees. We damage the cause of fighting terrorism together when we don't respect European laws. There can be no more disappearances, no more renditions and no more Masris.

Citation: <http://www.latimes.com/news/opinion/la-ed-allies02feb02,0,2177650.story?coll=la-opinion-leftrail>

Saturday, February 03, 2007

WASHINGTON POST

Pentagon Official Who Criticized Detainee Lawyers Quits

From News Services
Saturday, February 3, 2007; A06

A senior Pentagon official resigned yesterday, the Defense Department announced, three weeks after criticizing lawyers who represent terrorism suspects.

Charles "Cully" Stimson, deputy assistant secretary of defense for detainee affairs, called it "shocking" that major U.S. law firms represented Guantanamo Bay detainees free of charge and said they would likely suffer financially after their corporate clients learned of the work.

"I think, quite honestly, when corporate CEOs see that those firms are representing the very terrorists who hit their bottom line back in 2001, those CEOs are going to make those law firms choose between representing terrorists or representing reputable firms," Stimson said in a Jan. 11 interview on Federal News Radio.

The legal community was outraged by his comments. Stimson also suggested that some lawyers were being untruthful about doing the work free of charge and instead were "receiving moneys from who-knows-where."

Stimson believed that the controversy "hampered his ability to be effective in this position," department spokesman Bryan Whitman said. He stressed that Defense Secretary Robert M. Gates did not ask him to resign.

Stimson had been in his post since January 2006. He publicly apologized several days after the radio interview, saying his comments did not reflect his values and that he firmly believes in the principles of the U.S. legal system.

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The American Civil Liberties Union national legal director, Steven R. Shapiro, told Reuters yesterday that he feared Stimson's original remarks represented Bush administration opposition to due process for the detainees.

Monday, February 05, 2007

WASHINGTON POST

In Another CIA Abduction, Germany Has an Uneasy Role

By Craig Whitlock
Washington Post Foreign Service
Monday, February 5, 2007; A11

HAMBURG -- The decision by Munich prosecutors to press charges against CIA counterterrorism operatives for kidnapping a German citizen, Khaled el-Masri, won widespread applause last week from German politicians and the public. "The great ally is not allowed to simply send its thugs out into Europe's streets," lectured the Munich newspaper Sueddeutsche Zeitung.

But there has been an awkward silence and no prosecutions in the parallel case of another German citizen, Mohammed Haydar Zammar, who was also covertly abducted in a CIA-sponsored mission after the attacks of Sept. 11, 2001. The difference: German agents were directly involved in the Zammar case, providing crucial information to the CIA about his travels and making a secret trip to Syria to interrogate him after he landed in prison there.

Zammar vanished from public view five years ago but resurfaced last fall in a Syrian courtroom, where he stands accused of training in al-Qaeda camps and faces the death penalty. After insisting for years that they couldn't confirm his whereabouts, German diplomats in Damascus have scrambled to provide him with a defense attorney and consular assistance.

Unlike Masri, a car salesman from Bavaria who was grabbed in an apparent case of mistaken identity, Zammar had previously drawn scrutiny from German and U.S. investigators for his role in the Hamburg cell that planned the Sept. 11 hijackings. German authorities have never assembled enough evidence to charge him with a crime. But given his association with the Hamburg group, few people in Germany have been willing to take up his cause or question the legality of how he was abducted.

"He's seen as being in a different category because there's the impression that he's a bad guy, and he's not around to defend himself," said Cem Ozdemir, a German legislator in

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the European Parliament and member of a committee that has investigated CIA activities in Europe. "Even if he is a bad guy, he doesn't deserve to be tortured."

Details of the German role in Zammar's disappearance have emerged gradually in recent months as legislative panels in Berlin and Brussels have conducted investigations into CIA counterterrorism operations in Europe.

German officials have said that they were not directly involved in Zammar's seizure and did not know where he had been taken until June 2002, when The Washington Post first reported that he had been arrested in Morocco and secretly transferred to Syria at the behest of the CIA. But the legislative probes have revealed that German federal police made the abduction possible by forwarding details of Zammar's travel plans to U.S. agents.

In addition, German officials have admitted that several German intelligence operatives and investigators went on a secret mission to Damascus in November 2002 to interrogate Zammar. According to lawmakers in Berlin who are reviewing the case, the Germans gained access to Zammar only after cutting a deal with the Syrian government to drop a criminal investigation into a suspected Syrian espionage ring based in southern Germany.

German Interior Minister Wolfgang Schaueble defended the interrogation of Zammar as proper and legitimate. But he drew heavy criticism from other lawmakers when he suggested that German intelligence agents might use information shared by other countries, such as Syria, even if it was obtained as a result of torture.

Guel Pinar, a Hamburg lawyer who has represented Zammar and his family, said it was apparent German officials knew in advance that the CIA had targeted him for "extraordinary rendition," an extralegal tactic under which Islamic radicals have been abducted and interrogated at secret sites overseas.

"Clearly, the Germans at the very least were guilty of being an accessory in terms of his rendition to Syria," Pinar said in an interview. "They knew what they were doing when they gave his travel dates to the Americans. Why else would they do that?"

German prosecutors have not announced any criminal inquiries into Zammar's disappearance, even though his family reported him missing five years ago. Pinar said she has drafted a civil lawsuit on his behalf against the German government. But she said his wife, Rabab Banhaoui, has decided against filing it, for fear it would worsen his situation in Syria.

German authorities have made few statements about the case. The German Foreign Ministry did not respond to several requests for an interview. The German Embassy in Damascus, which has been monitoring Zammar's closed-door trial, declined to comment.

Zammar reemerged last October, when a European Union official monitoring trials in Damascus saw him in a state security court and notified the German Embassy. If not for

the chance encounter, Zammar might have remained out of sight forever, Pinar said. "No one in the world would have known," she said.

A spokeswoman for the European Commission delegation in Syria declined to comment, calling the case a "highly sensitive subject."

Zammar, 45, was born in Syria but emigrated to Germany in 1972 and obtained citizenship there. Syrian authorities have charged him with membership in the Muslim Brotherhood, a fundamentalist group that is banned in the country, and with visiting al-Qaeda training camps in Afghanistan. It is unclear whether he is charged with committing any crimes in Syria.

A parliamentary committee is expected to review the German government's handling of Zammar's case later this month. One question is whether information obtained by German interrogators is being used against him in court by Syrian prosecutors, a particularly sensitive issue since he faces the death penalty, which is banned in Germany.

"It is a big problem, I believe, for Germany and the federal government," said Hans-Christian Stroebale, a member of the committee from the Greens party. "It's the duty of a state to help its citizens. But clearly in Zammar's case, the state did not do this."

Former inmates in Syria, including Maher Arar, a Canadian citizen who was similarly targeted for rendition by the CIA but later released, have said that Zammar was kept in a tiny cell in a special prison wing. They said prisoners were regularly tortured, and that Zammar -- who tipped the scales at 300 pounds when he lived in Hamburg -- had lost about a third of his weight.

Special correspondent Shannon Smiley contributed to this report.

Wednesday, February 07, 2007

WASHINGTON POST

U.S. Declines to Join Accord on Secret Detentions

58 Nations Sign Separate Pact On Child Soldiers

By Molly Moore
Washington Post Foreign Service
Wednesday, February 7, 2007; A14

PARIS, Feb. 6 -- Representatives from 57 countries on Tuesday signed a long-negotiated treaty prohibiting governments from holding people in secret detention. The United States declined to endorse the document, saying its text did not meet U.S. expectations.

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Louise Arbour, the U.N. high commissioner for human rights, said the treaty was "a message to all modern-day authorities committed to the fight against terrorism" that some practices are "not acceptable."

In Washington, State Department spokesman Sean McCormack declined to comment, except to say that the United States helped draft the treaty but that the final wording "did not meet our expectations."

The Associated Press reported that McCormack declined to comment on whether the U.S. stance was influenced by the Bush administration's policy of sending terrorism suspects to CIA-run prisons overseas, which President Bush acknowledged in September.

"Our American friends were naturally invited to this ceremony," French Foreign Minister Philippe Douste-Blazy said after the signing here. "Unfortunately, they weren't able to join us. That won't prevent them from one day signing on in New York at U.N. headquarters, and I hope they will."

Some U.S. allies in Europe also declined to join, among them Britain, Germany, Spain and Italy.

The convention defines forced disappearance as the arrest, detention or kidnapping of a person by state agents or affiliates and subsequent denials about the detention or location of the individual.

The treaty, adopted by the U.N. General Assembly in December, has been pushed for nearly a quarter-century by rights groups and the families of individuals who have disappeared at the hands of various governments. It also addresses the international debate over the rights of terrorism suspects.

At a separate gathering, a non-binding accord banning the use of child soldiers was signed here Tuesday by representatives of 58 countries, including African nations that have been harshly criticized by the United Nations and human rights groups for arming children. The United States did not participate, saying that it objected to some of the wording of the documents but that it remained committed to its treaty obligations on the issue.

Douste-Blazy, the French foreign minister, described the agreement as having "a great political value" in pressuring national armies, paramilitaries and opposition forces to stop using children as combatants.

"What this conference has shown is that there is a great deal of political commitment to ending the unlawful recruitment of children," said Rima Salah, deputy executive director of UNICEF, the United Nations' advocacy agency for children, which co-sponsored the conference with the French government. "What needs to be done now is to harness this commitment and turn it into concrete action on the ground."

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U.N. and human rights groups estimate that as many as 300,000 children younger than 18 are used worldwide in armed conflicts as soldiers or servants for soldiers. They say girls in particular are often sexually abused and exploited by militaries and armed groups.

The accord calls for an immediate halt to recruitment of children, the release of those now serving in militaries or paramilitaries and the expansion of programs for reintegrating the youngsters into their communities and societies.

Among the countries signing the accord were Congo, Chad, Sudan and Uganda, all of which the United Nations has singled out on the abuse of children by armed factions and militaries. Burma and the Philippines, which the United Nations has also cited, did not take part in the conference or sign the agreement, UNICEF said.

The International Criminal Court in The Hague considers the use of children younger than 15 in armed conflicts a war crime and announced last week that Congolese warlord Thomas Lubanga Dyilo will be tried on charges of recruiting child soldiers as young as 10.

Friday, February 09, 2007

WASHINGTON POST

OPINION:

An Iraq Interrogator's Nightmare

By Eric Fair
Friday, February 9, 2007; A19

A man with no face stares at me from the corner of a room. He pleads for help, but I'm afraid to move. He begins to cry. It is a pitiful sound, and it sickens me. He screams, but as I awaken, I realize the screams are mine.

That dream, along with a host of other nightmares, has plagued me since my return from Iraq in the summer of 2004. Though the man in this particular nightmare has no face, I know who he is. I assisted in his interrogation at a detention facility in Fallujah. I was one of two civilian interrogators assigned to the division interrogation facility (DIF) of the 82nd Airborne Division. The man, whose name I've long since forgotten, was a suspected associate of Khamis Sirhan al-Muhammad, the Baath Party leader in Anbar province who had been captured two months earlier.

The lead interrogator at the DIF had given me specific instructions: I was to deprive the detainee of sleep during my 12-hour shift by opening his cell every hour, forcing him to stand in a corner and stripping him of his clothes. Three years later the tables have turned. It is rare that I sleep through the night without a visit from this man. His memory harasses me as I once harassed him.

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Joe Navarro, an FBI interrogation expert who was at the meeting, said he wouldn't want anyone like Bauer on his team. "Only a psychopath can torture and be unaffected," he said. "You don't want people like that in your organization. They are untrustworthy, and tend to have grotesque other problems."

Bauer, as a counterterrorism agent, has just 24 hours to stop a terrorist plot endangering the U.S. and invariably chooses torture to force suspects to divulge critical secrets.

Monday, February 12, 2007

NEW YORK TIMES

February 12, 2007

Egypt Frees Muslim Cleric Seized in 2003

By REUTERS

Page A8

CAIRO, Feb. 11 (Reuters) — Egyptian authorities have released a Muslim cleric who was kidnapped in what was widely believed to be a C.I.A. operation in Italy and handed over to Egypt, the cleric's lawyer said Sunday.

The cleric, Hassan Mustafa Osama Nasr, also known as Abu Omar, was grabbed off a Milan street in 2003 and flown to Egypt, where he said he was tortured by Egyptian agents. The lawyer, Montasser al-Zayat, said Mr. Nasr had been released and was back with his family.

Mr. Zayat said that a court had ordered him to be freed, and that the Ministry of Interior had complied. "I expected that the justifications for his detention are done with," he said.

While Mr. Nasr was initially charged with membership in an illegal organization, the charges were ultimately dropped, and he was briefly released in April 2004 before being detained without charge under Egypt's emergency laws.

His lawyer had said he believed that Mr. Nasr was rearrested after ignoring warnings not to speak to anyone about the kidnapping and being sent to Egypt.

CHRISTIAN SCIENCE MONITOR

Monday, February 12, 2007

Daily Update:

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"We would never try to censor anybody," [Jill Savitt, the group's director of public programs] said. "We would never tell Hollywood what to do, but we are trying to tell them what legal interrogation looks like. If it makes them pause, that's a bonus."

The **Los Angeles Times** reports that, after the meeting with Finnegan and the interrogators, "24" executive producer Howard Gordon has been filmed "for a Humans Rights First video about torture that is expected to be used next fall at West Point and perhaps other military organizations as well." Surnow, however, said he would not participate in the film. In the New Yorker article, Surnow said he believes that torture does work to get suspects to confess, despite the warning of the group that visited his show.

Citation: <http://www.csmonitor.com/2007/0212/p99s01-duts.html>

Tuesday, February 13, 2007

WASHINGTON POST

Freed Cleric Is Planning Lawsuit

Egyptian Abducted In Milan in 2003, Allegedly by CIA

By Nora Boustany
Washington Post Foreign Service
Tuesday, February 13, 2007; A15

A radical Muslim cleric who Italian prosecutors say was abducted by the CIA in Milan in 2003 and flown secretly to Cairo has been freed from an Egyptian jail and plans to sue the U.S. and Italian governments for damages, the man's attorney said Monday.

Hassan Mustafa Osama Nasr, known as Abu Omar, was ordered released Sunday by an Egyptian security court and is "recovering with his family in Alexandria," the attorney, Montasser al-Zayat, said in a telephone interview from Cairo.

An Italian official said Monday that Nasr, an Egyptian national, would be arrested on terrorism charges if he returned to Italy. When he was abducted, the official said, Italian authorities had been developing a case that he was helping recruit men to go to Iraq to join the insurgents.

Zayat said his client has retained Italian lawyers to take action there. "Abu Omar will be filing a suit against the U.S. and Italian administrations to seek damages for his kidnapping, his moral and financial losses and his excruciating personal and psychological torment," he said.

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Zayat said another lawsuit would be filed against former Italian prime minister Silvio Berlusconi, alleging he "personally gave the green light to the operation." Berlusconi has denied having prior knowledge of the abduction plan.

Khaled el-Masri, a German citizen who German prosecutors say was seized by the CIA in Macedonia, flown to Afghanistan and released after five months, filed suit against the agency. The case was dismissed last May on grounds it could harm national security operations. That decision is being appealed.

The disappearances of Nasr and Masri were apparent cases of a CIA tactic known as "extraordinary rendition," in which individuals the agency deems extremely dangerous are captured abroad and sent without judicial review to friendly third countries, often ones with records of human rights abuses and heavy-handed interrogation methods.

Italian prosecutors have charged 25 people they say are CIA operatives and one U.S. Air Force officer in connection with Nasr's abduction. In addition, prosecutors are pursuing charges against six Italian intelligence officials who they say cooperated in the abduction.

CIA spokesman Mark Mansfield on Monday declined to comment on the case, as did Luca Ferrari, spokesman for the Italian Embassy in Washington.

In sermons at his mosque in Milan, Nasr frequently denounced the United States, Zayat said. He was abducted on a street as he walked to his mosque, stuffed into a white van, blindfolded, beaten and taken to Aviano Air Base, a joint U.S.-Italian installation, his attorney said.

Zayat said Nasr was so badly roughed up that while in flight he suffered a serious cardiac episode. "He almost choked, and they ended up making an emergency landing in what I believe was an American military base in Germany," he added. "When the imam recovered, he was flown to Egypt, where he was thrown in jail."

There, according to Zayat, Nasr was systematically beaten, tortured and otherwise physically abused. He attempted suicide three times while in prison, the lawyer said.

Nasr was initially charged with membership in an illegal organization. After those charges were dropped, he was released briefly in 2004, then detained again under special emergency laws. Zayat said he was only allowed this past year to visit Nasr in prison, where the cleric was held in solitary confinement.

The Italian news agency ANSA quoted Nasr as saying by telephone Monday that "I've been reduced to a wreck of a human being. I cannot speak, I cannot leave the country. I don't want to go to prison again."

Zayat said he spoke with Nasr for several hours by telephone late Sunday and again Monday. "At first, we thought he should go overseas to relax, but now he has made up

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his mind to stay home with his family. After four hard years of suffering, far away from the press and from the eyes of the world, he now is recovering."

Zayat speculated that the release resulted from the abiding publicity about Nasr's case.

NEW YORK TIMES

February 13, 2007

No Proof of C.I.A. Illegality, Portuguese Premier Says

By ELAINE SCIOLINO

Page A8

LISBON, Feb. 12 — Prime Minister José Sócrates said Monday that his government had no concrete evidence to support allegations that the United States had conducted illegal counterterrorism activities on an American air base on Portuguese soil.

In an interview, Mr. Sócrates confirmed that his government had opened an investigation into whether C.I.A.-operated planes, some of them possibly carrying terrorism suspects, made stopovers at the American Air Force base in the Azores Islands in the Atlantic Ocean, which are governed by Portugal.

But he stressed that relations between the United States and Portugal were not at all strained as a result of the allegations.

"We have no indication of any illegal activity practiced by the Americans," he said. "It would not be proper that an ally would conduct illegal activities." He called the United States a "country with respect for the law, a state based on laws" that would be treated as innocent until proven guilty.

The investigation was opened after Ana Gomes, a Portuguese member of the European Parliament, met with Portugal's attorney general, Fernando Pinto Monteiro, in late January to present him with what she called evidence that dozens of C.I.A. planes had landed in Portugal, some flying to or from the American military prison at Guantánamo Bay, Cuba.

Ms. Gomes was quoted by Portuguese news organizations as saying she had collected statements from witnesses who claimed to have seen prisoners chained to one another at the American base at Lajes in the Azores. She also said the local authorities knew that Portugal was being used for flights operated by the Central Intelligence Agency.

The investigation is expected to take three to four months.

The Lusa news agency recently quoted Deputy Attorney General Cândida Almeida as saying the investigation was pursuing "many leads" after Ms. Gomes presented her

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dossier. "The complaints we have received show areas we might explore," he was quoted as saying.

Yet Foreign Minister Luís Amado has said that the authorities have not found any evidence of C.I.A. wrongdoing and contested a European Parliament committee report that said 91 C.I.A. flights had made stopovers in Portugal.

The European Parliament committee report said that Britain, Poland, Germany, Italy and other European Union nations were aware of C.I.A. flights over Europe and of "extraordinary rendition," a practice in which the United States sends foreign terrorism suspects to third countries for interrogation.

In the interview, Mr. Sócrates, a Socialist whose party has a majority in Parliament, talked at length about Sunday's referendum to liberalize Portugal's restrictive abortion law and called it his duty to promote legislation liberalizing the law.

He said reform was essential to eliminate the shame and injustice of illegal "backstreet abortions" that can lead to the prosecution of women who undergo abortions, the health care providers who perform them and even "accomplices" like husbands or family members.

Nearly 60 percent of voters supported liberalizing the abortion law in a referendum on Sunday, but the result was not considered legally binding because turnout was under 44 percent. The referendum's validity hinged on a 50 percent turnout.

Mr. Sócrates said the margin of support for change mandated his decision. "We now have the legitimacy to change the law," he said, adding, "What would happen if after such a conclusive result we do nothing?"

A former environment minister and divorced father of two, Mr. Sócrates, 49, was baptized Catholic but said he was not observant. "I'm not a Catholic," he said. "I'm a Christian."

Despite the staunch opposition of the Catholic Church to the abortion measure, Mr. Sócrates said the church accepted the inevitability of a more liberal law. "The Catholic Church has 200 years of experience and is able to deal with this kind of thing," he said. "The church can live with it."

He predicted passage of a new law before the current session of Parliament ends in July.

The law, he said, will allow women to legally have abortions in Portugal during the first 10 weeks of pregnancy. The current law allows abortion until the 12th week in case of "mental and physical risk," the 16th week in case of rape, the 24th week in case of a malformed fetus and at any time if the woman's life is in danger.

The availability of abortion is further complicated by the medical profession's narrow interpretation of the existing law. As for criticism by opponents of abortion rights who contend that the outcome of the referendum does not give him the right to act, he replied, "If they are saying that, it is an expression of them being bad losers."

Asked why the turnout in Sunday's vote was not higher, Mr. Sócrates acknowledged that some voters might have stayed away because the issue was simply too difficult. "This question is very embarrassing for people," he said. "Some people probably cannot solve the moral dilemma."

MIAMI HERALD

Miami Herald
February 13, 2007
Pg. 1

Britain: Problems Remain In Guantanamo War Court

Britain's attorney general condemned the latest Pentagon version of the Guantanamo war court; a senior Democratic senator plans to offer a revision today.

By Carol Rosenberg

Britain's top lawyer told the U.S. legal establishment on Monday that Congress and the Bush administration have failed to fix fundamental flaws in its war crimes court at Guantánamo -- jeopardizing Western efforts in the war on terrorism.

"The changes made are too little and too late. There remain fundamental problems with this system of detention," Lord Peter Goldsmith told the American Bar Association's annual winter meeting, being held this year in Miami.

Goldsmith's remarks to the House of Delegates, the ABA's 546-member policy-making body, signaled U.S. ally Britain's first public condemnation of the new rules for military commissions passed in the last days of the Republican-led Congress.

He also made his comments on the eve of new legislation -- expected to address some of the British official's complaints -- to be introduced this morning by Sen. Chris Dodd, D-Conn., a veteran member of the Senate Foreign Relations Committee.

Dodd's office said the senator consulted human rights groups and military law experts to write the Effective Terrorists Prosecution Act, which would once again revamp military justice meant for Guantánamo.

CHICAGO TRIBUNE

<http://www.chicagotribune.com/news/nationworld/chi-0702140057feb14,1,7496327.story?coll=chi-newsnationworld-hed>

Contractor sentenced for beating detainee

Items compiled from Tribune news services

February 14, 2007

RALEIGH, NORTH CAROLINA -- The first American civilian to be charged with mistreating a detainee during the wars prompted by the Sept. 11 attacks was sentenced Tuesday to nearly 8 1/2 years in prison for beating a man in Afghanistan who later died.

Former CIA contract employee David Passaro, 40, was accused of hitting Afghan detainee Abdul Wali with a flashlight and kicking him in the groin during a two-day interrogation at a remote military base in July 2003. Wali died within 48 hours of the interrogation, after complaining of abdominal pain and an inability to urinate.

U.S. District Judge Terrence Boyle has said that the absence of an autopsy probably kept Passaro from being charged with murder.

THE GUARDIAN

EU countries ignored CIA terror suspect flights, report says

Staff and agencies

Wednesday February 14, 2007

Guardian Unlimited

The European parliament today approved a report accusing Britain, Germany, Italy and other EU countries of turning a blind eye to CIA flights carrying terrorist suspects in Europe.

The report, following a year-long investigation, was approved by MEPs by 382 to 256, with 74 abstentions, in a vote largely split along left-right political lines.

In its report, the European parliament's committee on CIA activities in Europe said more than 1,200 CIA-operated flights had used European airspace between 2001 and 2005.

It accused some European countries of turning a blind eye to the flights, a number of which were allegedly used to illegally transport terrorism suspects.

The US intelligence agency may also have operated secret jails for terrorism suspects at US military bases around Europe, according to the report.

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Several member states were criticised for a "lack of cooperation" and the committee accused Britain, Austria, Italy, Poland and Portugal of showing an obstructive attitude.

Criticism of Britain for allegedly not cooperating with the parliamentary investigation was removed from the report at the insistence of Labour MEPs and the final wording was also softer on the German government.

But objections to testimony by the EU foreign policy chief, Javier Solana, remained, with the parliament accusing him of making "omissions" in his statement to the committee.

The non-binding resolution said the European parliament "condemns extraordinary rendition as an illegal instrument used by the United States in the fight against terrorism. (It) condemns, further, the acceptance and concealing of the practice, on several occasions, by the secret services and governmental authorities of certain European countries."

The EU parliament has no legal powers on the matter and can only make recommendations. Left-leaning members condemned a "dirty war" waged with European complicity, while conservatives said the investigation was fuelled by anti-Americanism.

"It (the report) is the rigorous analysis of five years of excesses and abuses often tolerated in the name of the fight against terrorism," Claudio Fava, the author of the report, told MEPs. "Many governments have looked the other way."

But many conservative MEPs said the report lacked hard evidence.

"It presumes there is one chief guilty party and that is the USA," said Jas Gawronski of the European People's party on the investigating committee. "That's why we don't like this report." It is claimed that so-called rendition flights allowed suspects to be questioned in countries where they had no rights under US law. Amnesty International and other human rights groups have heavily criticised the US over the allegations.

The Bush administration acknowledges the secret transfer of suspects to foreign countries, but denies torturing them or handing them to countries that did.

Various European courts are considering or have taken action on some alleged "rendition" cases.

In Italy, a judge is deciding whether there is enough evidence to try 26 Americans, most believed to be CIA agents, and six Italians in connection with the 2003 kidnapping of Hassan Mustafa Osama Nasr, known as Abu Omar.

The Muslim cleric, freed last week from a prison in Egypt, wants to sue the former Italian prime minister Silvio Berlusconi for damages, his lawyer said this week.

A Munich court last month issued arrest warrants for 13 suspected CIA agents accused of kidnapping Khaled el-Masri, a German national of Lebanese descent.

Mr Masri, who spent five months in an Afghan jail where he said he was tortured, wants to sue the CIA.

Last year the German parliament set up a special committee to investigate the alleged "renditions" of Mr Masri and of Murat Kurnaz, a German-born Turk.

Mr Kurnaz spent nearly five years in Guantánamo Bay prison camp where he said he was tortured and abused.

Citation: <http://www.guardian.co.uk/international/story/0,,2012965,00.html>

Thursday, February 15, 2007

WASHINGTON POST

E.U. Report Faults 16 Nations in Probe Of Secret CIA Flights

By Molly Moore
Washington Post Foreign Service
Thursday, February 15, 2007; A14

PARIS, Feb. 14 -- The European Parliament on Wednesday approved a report admonishing 15 European countries and Turkey for helping the CIA transport terrorism suspects held in secret or for failing to cooperate in the parliament's investigation of the practice.

The legislative body for the European Union's 27 countries said many member states have been "turning a blind eye" to the CIA-operated flights carrying prisoners who were subjected to "incommunicado detention and torture" during interrogations, violating E.U. human rights standards.

"We have opened up a closed door and there is even more behind this," said parliament member Giovanni Claudio Fava, an Italian Socialist who drafted the report. It was approved by a 382 to 256 vote, with 74 abstentions.

The parliament criticized the CIA renditions -- an extralegal tactic by which alleged terrorists have been abducted and interrogated at secret sites overseas -- "as an illegal instrument used by the USA in the fight against terrorism" and condemned the "acceptance and concealing of the practices by the secret services and governmental authorities of certain European countries."

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The parliament deleted some of the toughest sections of the report, however, including recommendations for sanctions against some countries for human rights violations. It softened criticisms of some governments, including those of Britain, Germany and Spain, after intense lobbying from those states.

The vote came after a divisive debate among members.

Parliament member Jas Gawronski of Italy criticized the final report as "a blanket condemnation of the secret services" and said it was "predicated on the assumption that there is one chief guilty party and that is the USA."

President Bush acknowledged last September that the CIA used secret prisons to interrogate some terrorism suspects overseas. He did not say where the prisons were located.

A parliamentary committee spent a year investigating the allegations and interviewed more than 200 witnesses, including E.U., NATO and U.S. State Department officials as well as individuals who alleged they had been kidnapped by CIA agents in Europe and held in secret U.S. prisons.

The report criticized the E.U. foreign policy chief, Javier Solana, for "omissions" in his testimony before the parliamentary panel.

The report, which repeated basic findings made in a draft released last year, admonished 11 countries for having a role in CIA flights: Germany, Sweden, Spain, Ireland, Greece, Cyprus, Denmark, Turkey, Macedonia, Bosnia and Romania. The report also cited Britain, Austria, Italy, Poland and Portugal as uncooperative in the probe.

The report said its investigators had received no information to "contradict any of the allegations" that the CIA ran a secret prison in Romania and said the parliament could not "acknowledge or deny" that any of the secret facilities had been set up in Poland. Those two countries have denied hosting CIA prisons.

Separately, the Swiss government on Wednesday authorized a criminal investigation into a February 2003 CIA flight that reportedly carried Egyptian cleric Hassan Mustafa Osama Nasr, known as Abu Omar, from Italy, where he was allegedly kidnapped, to Ramstein Air Base in Germany, crossing Swiss airspace. Nasr was then taken to Cairo.

WASHINGTON POST

EDITORIAL:

Restoring a Right

The detention and treatment of foreign prisoners still needs to be reformed.

Thursday, February 15, 2007; A26

TRANSCOM GHOST DOCS 653

The president issued the order two days after the top legal authority in Britain condemned the would-be tribunals in an address to the American Bar Association.

'Symbol of injustice'

Guantánamo is "a symbol of injustice that the long tradition of American justice and liberty ought to see removed at the earliest moment," Lord Goldsmith, long a critic of the U.S. detention center, said in calling the latest war-court format "too little and too late."

In the past, Pentagon spokesmen have defended the project as a necessity of the war on terrorism. They have repeatedly said that if the "enemy combatants" are not held at the remote U.S. Navy base in southeast Cuba, they would need to be held elsewhere.

The Miami Herald asked on Wednesday, if there were no funding, how quickly the Defense Department could relocate the captives -- and where they might be sent. The Pentagon declined to respond.

Friday, February 16, 2007

NEW YORK TIMES

February 16, 2007

Testimony Is Said to Implicate C.I.A. in Seizure of Suspect in Italy

By REUTERS

Page A5

ROME, Feb. 15 — The Central Intelligence Agency spoke with Italy's spy chief about kidnapping terrorism suspects in Italy and flying them abroad days after the Sept. 11 attacks, according to testimony being used to prosecute American and Italian agents.

A former Italian intelligence chief's testimony obtained by Reuters says that this conversation took place about 16 months before prosecutors say the C.I.A. grabbed a radical Muslim cleric in Milan and flew him to Egypt, where, he says, he was tortured.

A Milan judge is expected to decide on Friday whether to indict 26 Americans, most of them believed to be C.I.A. agents, and 6 Italians for kidnapping. Neither the United States nor Italy has acknowledged any role in the affair.

The C.I.A. station chief in Rome "asked my opinion, 'What do you think' about the hypothesis of carrying out the strategy of so-called renditions," Gianfranco Battelli, who in 2001 was the chief of Sismi, the military intelligence agency, told prosecutors.

TRANSCOM GHOST DOCS 654

The deposition of Mr. Battelli, who stepped down long before the abduction and is not a defendant, says the C.I.A. official “made explicit reference to the possibility of grabbing a terrorist suspect in Italy, taking him to an airport and from there boarding him to a foreign country.”

If Judge Caterina Interlandi orders a trial, it would be the first criminal case over renditions — one of the most widely debated aspects of President Bush’s campaign to curb terrorism.

The Muslim cleric, Hassan Mustafa Osama Nasr, also known as Abu Omar, says he was tortured in Egypt after being seized in Milan, driven to an American military base in northern Italy and flown to Egypt.

The case is being closely watched in Europe. The European Parliament approved a report on Wednesday saying governments helped conceal secret American transfers of terrorism suspects.

A court in Munich issued arrest warrants last month for 13 people suspected of being C.I.A. agents who were accused of kidnapping a German of Lebanese descent and flying him to Afghanistan, where he, too, said he was tortured.

The Italians linked to the Nasr case have been defending themselves vigorously and, in the process, making compromising statements about their American counterparts and one another.

All claim to have refused to help the C.I.A. in the kidnapping itself, except an Italian police officer who says he was told by the C.I.A.’s Milan station chief that the purpose was to recruit the imam as an informer, not to abduct him.

The transcript says that Mr. Battelli said he told the C.I.A. chief that he was about to leave his position and that the C.I.A. should talk with his successor.

That man, Nicolo Pollari, is the highest-level Italian official facing indictment. He denies any wrongdoing and says evidence proving his innocence is being kept classified by Prime Minister Romano Prodi.

Mr. Prodi told one newspaper this month that his government “is against any rendition but the case that you refer to concerns state secrets.” Mr. Prodi, who took office in May, said the files were classified by his predecessor, Silvio Berlusconi.

Deputy Prime Minister Francesco Rutelli said the government on Thursday asked Italy’s constitutional court to examine whether prosecutors had violated state secrecy laws by obtaining classified documents to push their case.

Mr. Nasr was released from an Egyptian prison last Sunday, four years after his suspected rendition. He says he was tortured, including being subjected to electric shocks and beatings.

Saturday, February 17, 2007

WASHINGTON POST

Milan Court Indicts 26 Americans In Abduction

CIA Operatives May Be Tried in Absentia

By Sarah Delaney and Craig Whitlock
Washington Post Foreign Service
Saturday, February 17, 2007; A01

ROME, Feb. 16 -- An Italian judge gave approval Friday for what will be the first overseas criminal trial of CIA officers involved in a covert counterterrorism operation, as a court in Milan indicted more than two dozen Americans on charges of kidnapping a radical Muslim cleric four years ago.

After a judicial hearing that lasted two months, the court handed down indictments against 25 CIA operatives, a U.S. Air Force lieutenant colonel and five Italian spies who are accused of grabbing an imam, Osama Mustafa Hassan Nasr, off the street and stuffing him into a white van as he walked to noonday prayers Feb. 17, 2003. Nasr was taken from Milan to his native Egypt, where he claims he was tortured in prison for more than three years.

The trial is scheduled to open June 8 and will challenge the legality of a long-standing CIA practice known as "extraordinary rendition," in which terrorism suspects are secretly abducted and taken to other countries for interrogation. None of the American defendants is in custody, nor are they expected to appear in court. Prosecutors said they will be tried in absentia.

Arrest warrants against the CIA operatives were obtained in 2005. A judge approved the indictments Friday after the judicial hearing and a lengthy criminal investigation that retraced in minute detail how the CIA put together the kidnapping plot.

The CIA and the State Department declined to comment on the indictments. "This is an issue that is before the judiciary in Italy," State Department spokesman Tom Casey said.

It is the second case in which criminal charges have been filed against CIA officers for illegally abducting a terrorism suspect. German prosecutors in Munich issued arrest warrants last month for 13 CIA operatives suspected of kidnapping a Lebanese German man, Khaled el-Masri, in the Balkans in December 2003 and taking him to Afghanistan.

TRANSCOM GHOST DOCS 656

He was released five months later after the CIA realized they had grabbed the wrong man.

In addition, the Swiss government announced this week that it had approved a criminal investigation into the use of Switzerland's airspace to fly Nasr from Italy to a U.S. military base in Germany after his abduction.

He was put on another CIA-chartered plane to Cairo soon afterward.

The Milan prosecution team, headed by investigating magistrate Armando Spataro, has asked the Italian government to file a request with the U.S. Justice Department for extradition of the 26 American defendants. The request has already been refused once, by Roberto Castelli, then Italy's justice minister. But it is being reconsidered by a new Italian government that came to power last year.

The indictment publishes the names of the 25 CIA operatives, including the CIA's former Rome station chief Jeffrey Castelli and former Milan substation chief Robert Seldon Lady, who are accused of conspiring with the Italian military intelligence agency, known as Sismi.

Most of the CIA operatives named in the indictments had been using undercover aliases; prosecutors said they do not know the operatives' true identities and acknowledged that it is unlikely they will be found or brought to Italy to stand trial.

A former Sismi director, Gen. Nicolo Pollari, has also been charged.

Arianna Barbazza, a Milan lawyer who has been appointed to represent several of the U.S. defendants, said she and other defense attorneys in the case had been unable to contact their clients. She said it was highly unlikely that the United States would respond to an extradition request, even if the Italian government decided to make one.

Barbazza said the trial will probably reveal more about the Italian spies and their agency, "because it will attempt to verify whether Sismi was aware beforehand of the kidnapping."

Matilde Sansalone, who represents the CIA's former Rome station chief and two other Americans, said the apparent decision by the CIA operatives not to hire their own lawyers "demonstrates a specific choice to not participate in the proceedings."

Sansalone said she and other defense lawyers would not contest Nasr's abduction but would argue that there is insufficient evidence to find individual defendants guilty.

Nasr was released this week by an Egyptian court after spending nearly four years in prison. He is staying with his family in Alexandria, Egypt, and is considering filing a civil lawsuit against the Italian and U.S. governments, according to a Cairo lawyer, Montasser al-Zayat, who has worked on his behalf.

Attorneys involved in the case said it was unlikely Nasr would return to Milan to testify in the trial; he faces arrest in Italy on terrorism-related charges that were filed after his abduction. Sansalone said the outcome of the trial could change if Nasr does testify, however.

This week the Italian government also asked the country's constitutional court to determine whether investigators overstepped their legal authority by ordering wiretaps of the Italian spies' telephone calls. A ruling in the government's favor could be a setback to the prosecutor's case.

Whitlock reported from Berlin.

NEW YORK TIMES

February 17, 2007

Italy Indicts C.I.A. Operatives in '03 Abduction

By IAN FISHER

Page 1

ROME, Feb. 16 —An Italian judge indicted 26 Americans on Friday, most of them C.I.A. officers, in what will become the first trial of the American program of secretly whisking away terror suspects. Italy's former top spy was also indicted.

Despite the indictment, issued by a judge in Milan, it is unlikely that any of the Americans, one of whom is an Air Force colonel, will ever face trial here. The trial is expected to take place in June.

The indictments came in connection with the case of a radical Egyptian cleric, Hassan Mustafa Osama Nasr. The cleric, known as Abu Omar, disappeared near his mosque in Milan on Feb. 17, 2003, and said he was kidnapped.

He was freed this week from jail in Egypt, where he says he was taken and tortured.

The indictment marked a turning point in Europe, where anger is high at the American program of "extraordinary renditions," an aggressive policy of seizing suspected terrorists on foreign soil and interrogating them at secret locations in a third country.

Though the Italian indictment is the first in which such a case was ordered to trial, this week the Swiss government approved an investigation into the flight that was said to have carried Mr. Nasr from Italy to Germany, through Swiss airspace. The flight reportedly then went from an American air base in Germany to Egypt.

Late last month, a German court issued an arrest warrant for 13 people suspected of involvement in the kidnapping in Macedonia of a German citizen of Lebanese descent. There are also investigations into extraordinary renditions in Portugal and Spain.

In the meantime this week, a European Union parliamentary committee issued a detailed report into what it said were “at least” 1,245 secret C.I.A. flights in Europe, some of them involving extraordinary renditions. The report, which awaits approval by Parliament, is particularly sensitive because it suggested forcefully that a number of governments knew of the flights.

“We believe there has been either active collusion by several E.U. governments or turning a blind eye,” one member of the European Parliament, Baroness Sarah Ludford of Britain, said this week.

All the operatives, who included the top two C.I.A. officials in Italy at the time, have left the country. A spokesman for the C.I.A. declined to comment on the indictment, and an American government official said that no extradition requests had been received from Italy for those charged. If Italy did seek extradition, there seems little chance the Bush administration would agree.

Here in Italy, the possible complicity of the government of Silvio Berlusconi, the prime minister at the time, is one of the most difficult issues in the case. Among the Italians indicted Friday were Nicolo Pollari, who until earlier this year was Italy’s chief of military intelligence, and his former deputy, Marco Mancini.

Mr. Pollari has denied responsibility, saying he cannot defend himself because he would need to use evidence classified as state secrets. The suggestion is that officials outranking Mr. Pollari gave approval for the kidnapping. “We are very disappointed by the decision of the judge, being convinced that the lack of proof and the acquisition of documents covered by secrets of state demonstrates Pollari’s innocence,” Mr. Pollari’s lawyer, Tittal Madia, said, according to the newspaper *Corriere della Sera*.

The case has snarled Italian politics with several complications. This week, the government of Prime Minister Romano Prodi asked the Constitutional Court to review whether the prosecutor in Mr. Nasr’s case, Armando Spataro, overstepped his bounds by wiretapping the phones of Italian agents.

On Friday, Mr. Spataro said in a statement that he “astonished” by the government’s move, saying he had followed all the laws in gathering evidence.

Meanwhile, a member of Mr. Prodi’s government, Antonio Di Pietro, minister of infrastructure and a former corruption prosecutor, criticized the government for not having requested the extradition of the officers.

Mr. Prodi’s government has not said whether it will make such requests. But the issue looms as one more source of conflict between Italy and the United States.

While both American and Italian officials say the relationship remains solid, it has been tested in recent months on several fronts. A big demonstration is being planned on Saturday in Vicenza, in northern Italy, where the Americans have asked to enlarge an existing air base, and Italian officials have recently criticized American actions in Iraq, Lebanon and Somalia.

Earlier this month, an Italian court ordered an American soldier to stand trial for the death in Iraq of Nicola Calipari, an Italian secret service agent killed in 2005 while securing the release of a kidnapped Italian journalist. The soldier is unlikely to be extradited to Italy.

Deportation Challenge Rebuffed

JOHANNESBURG, Feb. 16 (Reuters) — A South African court on Friday rejected a challenge to the deportation of a Pakistani citizen whose family says was subject to “extraordinary rendition” as part of the American effort to curb terrorism.

Khalid Rashid was arrested as an illegal alien in October 2005 and subsequently disappeared. South Africa says he was deported “under special circumstances” and flown to Pakistan, where he was handed over to Pakistani officials.

Mr. Rashid’s lawyers sought to challenge the deportation, but the Pretoria High Court on Friday rejected the move along with lawyers’ requests to introduce new information in the case, the South African Press Association said.

Mr. Rashid’s family and lawyers say he has not been heard from since his removal to Pakistan, which they believe was part of the C.I.A.’s rendition program.

Mark Mazzetti contributed reporting from Washington.

NEW YORK TIMES

OPINION:

February 17, 2007
OP-ED CONTRIBUTOR

Military Justice Goes AWOL

By STEPHEN BUDIANSKY

Page A15

Leesburg, Va.

THIS week President Bush issued a final executive order authorizing military commissions to begin trying suspected terrorists. Under rules drafted by the Pentagon last

TRANSCOM GHOST DOCS 660

Pilots traced to CIA renditions

The Times identifies three fliers facing kidnapping charges in Germany related to a 2003 counter-terrorism mission.

By Bob Drogin and John Goetz
Special to The Times

February 18, 2007

CLAYTON, N.C. — The forecast called for heavy snow on the route home, so the three pilots who had just flown a covert CIA-sponsored "extraordinary rendition" flight were forced to stay an extra night at the Gran Melia Victoria, a luxury hotel overlooking the marina on the island of Majorca.

Up in Room 552, the pilot who called himself Capt. James Fairing picked up the phone at 2:28 in the afternoon and dialed his tree-shaded home in a subdivision carved out of pine forests here in Clayton, about 15 miles southeast of Raleigh. He also called his employer, a North Carolina-based air charter service that long has worked for the CIA.

Fairing's copilot, who registered as Eric Matthew Fain, reached for the phone in his room and called a woman back home with whom he owns a 22-foot speedboat and who also flies missions for the CIA. The third pilot from the stranded flight carried a U.S. passport issued to Kirk James Bird. The passport photo shows a balding, middle-age man with a broad smile.

The names they used were all aliases, but The Times confirmed their real identities from government databases and visited their homes this month after a German court in January ordered the arrest of the three "ghost pilots" and 10 other alleged members of the CIA's special renditions unit on charges of kidnapping and causing serious bodily harm to Khaled Masri, a German citizen of Lebanese descent, three years ago.

Charged under aliases

None of the pilots responded to repeated requests for comment left with family members and on their home telephones. The Times is not publishing their real names because they have been charged only under their aliases.

Relying on the operatives' passport numbers, hotel records, credit card bills and aviation records, German prosecutors are seeking to properly identify the 13 Americans in a high-profile case that has upset relations between Washington and Berlin and caused a political scandal in Germany over whether government officials sanctioned the CIA operation.

Elsewhere in Europe, legal and parliamentary investigations have focused a harsh spotlight on the CIA's program to abduct suspected terrorists and ferry them to secret sites for interrogation, operations known variously as "black renditions" or "extraordinary renditions."

On Friday, an Italian judge issued arrest warrants for 26 suspected CIA operatives for allegedly abducting a radical Muslim cleric outside his mosque in Milan in February 2003 and delivering him to Egypt, where his lawyer says he was tortured. The trial is set for June 8 in Milan.

All the Americans charged, including the top two CIA officers in Italy at the time, have departed the country, but Italian law allows defendants to be tried in absentia.

None of the aliases used in Italy match those in the German case, although one of the pilots may have been involved in both incidents.

One former CIA operation officer who was involved in the Italian case at CIA headquarters, speaking on condition of anonymity because the case is classified, said he and his colleagues were increasingly nervous about traveling in Europe for fear of getting swept up in the investigations. He said he checked with a contact at the Italian intelligence service for reassurance that he would not be arrested.

Seized in error

According to Masri's account, he was detained by local authorities while crossing from Serbia into Macedonia on Dec. 31, 2003. Three weeks later, seven or eight men in masks stripped him naked, put him in a diaper and jumpsuit, drugged him and then chained him, spread-eagle and blindfolded, to the floor of a Boeing 737 that flew to Afghanistan on Jan. 24, 2004. German prosecutors say the men in masks were with the CIA rendition team.

At the time, U.S. intelligence authorities believed Masri was involved with radical Islamic groups in Ulm, a city in southern Germany. Masri was released five months later after undergoing what he described as repeated beatings and other physical abuse in a now-closed CIA-run prison called the Salt Pit in Kabul, the Afghan capital. U.S. officials have told German authorities that Masri was seized and imprisoned in error because his name is similar to that of a suspected terrorist linked to Al Qaeda.

Flight records show that Aero Contractors, based in Smithfield, N.C., operated the plane that carried Masri from Macedonia to Afghanistan. The charter aircraft company has flown scores of sensitive missions for the CIA and has played a key support role in counter-terrorism operations since the Sept. 11 attacks, according to former agency officials.

The three pilots in the Masri rendition case live within a 30-minute drive of the guarded Aero hangar and offices at the rural Johnston County airport. Reached by telephone Saturday, Aero official Freddy Pearce declined to discuss any aspect of the company's business.

The chief pilot in the Masri case, who used the alias Fairing, called Pearce at his Clayton home during his layover in Spain.

In real life, the chief pilot is 52, drives a Toyota Previa minivan and keeps a collection of model trains in a glass display case near a large bubbling aquarium in his living room. Federal aviation records show he is rated to fly seven kinds of aircraft as long as he wears his glasses.

His wife, reached by phone at her office, said her husband had done no wrong. "He's just a pilot," she said.

His copilot, who used the alias Fain, is a bearded man of 35 who lives with his father and two dogs in a separate subdivision. He called home during a subsequent mission from the Royal Plaza Hotel on the Spanish resort island of Ibiza, according to records collected by Spanish investigators from the Guardia Civil.

The third pilot, who used the alias Bird, is 46, drives a Ford Explorer and has a 17-foot aluminum fishing boat. Certified as a flight instructor, he keeps plastic models of his favorite planes mounted by the fireplace in his living room in a house that backs onto a private golf course here. His wife declined to comment.

On the flight back to Washington, after the snow had cleared, the rendition team celebrated by ordering 17 shrimp cocktails and three bottles of fine Spanish wine, according to catering invoices obtained by the prosecutors.

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Monday, February 19, 2007

NEW YORK TIMES

February 19, 2007

Australian Held at Guantánamo May Go Home

TRANSCOM GHOST DOCS 663

February 21, 2007

Court Endorses Law's Curbs on Detainees

By STEPHEN LABATON

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WASHINGTON, Feb. 20 — A divided federal appeals court on Tuesday upheld a new law stripping federal judges of authority to review foreign prisoners' challenges to their detention at Guantánamo Bay, Cuba.

The decision set the stage for a third trip to the Supreme Court for the detainees, who will once again ask the justices to consider a complex issue that tests the balance of power among the White House, Congress and the courts in the murky context of the fight against international terrorism.

It also prompted some senior Democratic lawmakers, who have fought the Bush administration on the matter before and who now hold sway in Congress, to vow enactment of a law more favorable to the prisoners.

The Supreme Court previously ruled twice that federal statutes empowered the courts to consider Guantánamo prisoners' habeas corpus petitions challenging the grounds for their detention. In response to those rulings, Congress twice rewrote law to limit the detainees' avenues of appeal. The most recent rewriting was at issue in Tuesday's 2-to-1 decision.

That law, the Military Commissions Act of 2006, was signed by President Bush last October. Its enactment followed the Supreme Court's rejection of his administration's earlier arguments that the right of habeas corpus — the fundamental right, centuries old, to ask a judge for release from unjust imprisonment — did not apply to foreigners being held outside the United States as enemy combatants.

The new law explicitly eliminated the federal courts' jurisdiction over habeas challenges by such prisoners. It instead set up military panels to review the justification of detention in individual cases, with limited right of appeal to the courts afterward.

In its ruling Tuesday, the United States Court of Appeals for the District of Columbia Circuit found that the new law did not violate the constitutional provision that bars the government from suspending habeas corpus except in "cases of rebellion or invasion." Two of the three appeals court judges, citing Supreme Court and other historical precedent, held that the right of habeas corpus did not extend to foreign citizens detained outside the United States.

The majority decision was written by Judge A. Raymond Randolph, whose two earlier opinions on habeas corpus and Guantánamo prisoners had also favored the Bush

administration. Those opinions were reversed by the Supreme Court, but on statutory grounds rather than constitutional ones.

The dissenting judge on Tuesday, Judith W. Rogers, said the new law did violate the constitutional provision restricting the suspension of habeas corpus.

Administration officials welcomed the decision as a vindication of its position on the rights of detainees, after years of its halting efforts to create a legal process that would withstand tests in court.

“The decision,” said Erik Ablin, a Justice Department spokesman, “reaffirms the validity of the framework that Congress established in the Military Commissions Act permitting Guantánamo detainees to challenge their detention through combatant status review tribunals with the opportunity for judicial review before the D.C. Circuit.”

Tony Snow, the White House spokesman, said at his daily news briefing, “The court decided the position that we put forward.” He declined to say more.

Lawyers representing the detainees vowed to seek a new review by the Supreme Court.

Shayana Kadidal, a lawyer at the Center for Constitutional Rights, which represents many of the detainees, said, “This decision empowers the president to do whatever he wishes to prisoners without any legal limitation as long as he does it offshore.”

Mr. Kadidal said the ruling encouraged “a contempt for international human rights law” and “such notorious practices as extraordinary rendition”: sending terrorism suspects abroad for interrogation, where, rights advocates say, they may face torture.

Democrats now in control of Congress said they would move quickly on legislation they recently introduced that would unambiguously give federal courts the right to consider detainees’ habeas petitions.

“The Military Commissions Act is a dangerous and misguided law that undercuts our freedoms and assaults our Constitution by removing vital checks and balances designed to prevent government overreaching and lawlessness,” said Senator Patrick J. Leahy, the Vermont Democrat who heads the Senate Judiciary Committee.

Last week Mr. Leahy joined a group of other Senate Democrats, including Christopher J. Dodd of Connecticut, Russell D. Feingold of Wisconsin and Robert Menendez of New Jersey, in introducing the legislation restoring habeas rights for the Guantánamo prisoners. Senator Arlen Specter of Pennsylvania, the Judiciary Committee’s ranking Republican, also endorsed that measure last week, and said Tuesday that he believed the dissent from the new appeals court decision would ultimately prevail in the Supreme Court.

But other Republican lawmakers, including Senators John Cornyn of Texas and Lindsey Graham of South Carolina, both of whom also serve on the committee, applauded the ruling.

The decision, *Lakhdar Boumediene v. George W. Bush*, involved a consolidation of the cases of 63 detainees, all from foreign countries, who had sought review in two federal district courts. One judge had ruled that she had the authority to consider the cases, while another had ruled that he did not, and granted the administration's motion to dismiss the inmates' habeas petitions.

Writing for the appeals court, Judge Randolph first turned to the statutory issue. He said arguments put forward by the detainees' lawyers that the new law was not meant to apply to the prisoners at Guantánamo Bay "are creative but not cogent." Congress, he said, clearly meant to keep the federal courts from considering the detainees' cases.

Turning to the question of whether Congress had acted within the Constitution, he said there had been no earlier cases in which a court had granted a habeas corpus petition for a foreign national held at an overseas military base. The Constitution, he said, "does not confer rights on aliens without property or presence within the United States."

The opinion was also signed by Judge David B. Sentelle.

In her dissent, Judge Rogers said: "Prior to the enactment of the Military Commissions Act, the Supreme Court acknowledged that the detainees held at Guantánamo had a statutory right to habeas corpus. The M.C.A. purports to withdraw that right but does so in a manner that offends the constitutional constraint on suspension."

LOS ANGELES TIMES

EDITORIAL:

Restore habeas rights

Now that a federal appeals court has upheld the ban on habeas corpus at Guantamo, Congress should act.

February 21, 2007

IN UPHOLDING A LAW that denies detainees at Guantanamo Bay Naval Base the ancient right of prisoners to challenge their confinement in court, a federal appeals court has presented the Democratic-controlled 110th Congress with a challenge. Does it have the fortitude to undo an injustice perpetrated by the Republican-controlled 109th?

The injustice came in the 2006 Military Commissions Act, which barred detainees at Guantanamo — now numbering 395 — from contesting their imprisonment by seeking writs of habeas corpus. This exclusion, like Guantanamo itself, has been an embarrassment to the United States.

TRANSCOM GHOST DOCS 666

OPINION:

A War Under Law

Congress Must Address U.S. Detainee Policies

By Jeffrey H. Smith

Thursday, February 22, 2007; A19

In November, Americans voiced their frustration with the war in Iraq and gave control of Congress to the Democrats. The voters rejected the president's swaggering, go-it-alone approach and the administration's contemptuous attitude toward the Geneva Conventions, which led to the abuses at Abu Ghraib, actions that so damaged our credibility that other nations are much less willing to cooperate in the war on terrorism. Secretary of State Condoleezza Rice, and her able legal adviser, John Bellinger, have pushed for reforms that have begun to reverse this trend -- but much more must be done.

Sens. Christopher J. Dodd and Patrick J. Leahy introduced legislation last week that will move us further in the right direction. But there are three things Congress should do.

First, Congress should reconsider the detainee legislation passed last fall. Last-minute changes rammed through by the White House watered down many of the bill's key provisions. On the treatment of detainees and interrogation techniques it created two standards -- one for the military and another for the CIA. The standards for the military are in an Army Field Manual, but the CIA standards are to be enumerated in a presidential executive order. Rumors suggest that the White House is struggling to develop those rules. Congress should relieve the president of that task before he makes a bad situation worse.

If Vice President Cheney has his way, a good dunking may be among the approved CIA techniques, even though "waterboarding" is prohibited by the Army Field Manual. Cheney's October remarks that dunking a detainee was " a no-brainer" were irresponsible and added to the confusion in the field (and around the world) about the rules for treatment of detainees.

It is not clear why the military and the CIA should have different standards for the treatment and interrogation of detainees. All U.S. agencies should use the techniques best able to elicit information that is vital to our security. And why should the CIA once again be asked to take risks not knowing whether, when the political winds change in Washington, its officers will be left facing charges that they violated the law?

Hearings should be held to determine which interrogation techniques have produced useful intelligence. Lawmakers should review the recent report of the government's Intelligence Science Board, which concluded that there was no scientific evidence that coercive techniques produced good intelligence. Congress should also consider the requirements of international law and develop a single standard that will apply equally to all agencies.

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Second, Congress should repeal the provisions that stripped detainees at Guantanamo Bay and elsewhere of the right of habeas corpus and that instead gave them an extremely limited right to challenge their detentions. A federal appeals court, interpreting lawmakers' last effort, ruled Tuesday that detainees do not have the right to use a habeas petition to challenge the basis of their detention. The case will surely be appealed to the Supreme Court because detainees must have the right to argue to a federal judge -- not a military officer, as in the current law -- that the factual basis on which they are being held indefinitely and without criminal charges is not accurate. Detainees' right to habeas corpus could be limited, as was suggested by Sens. Arlen Specter and Patrick Leahy, to prevent frivolous lawsuits over conditions at Guantanamo. But detaining men with no hope of a fair hearing ensures that, if they weren't terrorists when they were detained, they probably will be when they are finally released.

Third, Congress should also examine the practice of "rendition," or sending detainees to countries for trial or detention where, it is alleged, they can be mistreated or tortured. Before the attacks of Sept. 11, 2001, rendition was a valuable but selectively used tool of U.S. law enforcement and intelligence agencies. Since Sept. 11 it has been used extensively, and its continued viability has been questioned. Congress should establish a solid legal footing for renditions, including measures to ensure that anyone sent to another country is not mistreated.

The administration should listen, really listen, to the American people and to those in Congress and the military who understand that adhering to international law and our core values will help us win the war on terrorism. It will take years to get out of the hole we're in, but if Congress leads and the president understands, we can begin climbing out.

The writer is a former general counsel of the CIA and a partner at Arnold & Porter, a Washington law firm that represents the International Counsel Bureau. The bureau provides Kuwaiti counsel for the families of the Kuwaiti detainees at Guantanamo.

WASHINGTON POST

'Ghosts of Abu Ghraib': Fearlessly Facing the Shame

By Tom Shales
Washington Post Staff Writer
Thursday, February 22, 2007; C01

"Ghosts of Abu Ghraib," a new HBO documentary produced and directed by Rory Kennedy, daringly approaches a scandal that hardly anyone wants to see reexamined -- least of all, one can safely assume, the Bush administration and the Pentagon.

The reason is not just that what happened at Abu Ghraib is, to understate in the extreme, unpleasant. The documentary says it's also because this breakdown was not so much

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Conventions (which specify that prisoners of war be "treated humanely") and U.N. conventions against torture, to which the United States is, at least technically, a signatory. That was done by, among other things, refusing to classify the up to 6,000 inmates of Abu Ghraib as prisoners of war; Rumsfeld instead calls them "unlawful combatants" at a news conference. Then the term "torture" was redefined so narrowly in government memos that it would be almost impossible to commit it.

When the scandal broke, the administration sent out "conscious disinformation," one former official recalls, including the trivializing assertion that what happened at Abu Ghraib was just " 'Animal House' on the night shift." (Earlier, one of the military police stationed there recalls thinking of the place as " 'Apocalypse Now' meets 'The Shining,' except this is real and we're in the middle of it.")

It could easily be argued that it was the torturers and not the tortured who suffered the most as a result of what happened at Abu Ghraib. The damage done to the reputation of the United States was critical and criminal, and the torture that occurred can be seen as but a symptom of a much larger corruption: the pursuit of the war itself and the fallacious "evidence" fed to the American people to justify it.

The wider moral of the film is simpler and nonpolitical and painfully, poignantly evident: When you treat people as less than human, you become less than human yourself. "Ghosts of Abu Ghraib" will haunt those who see it long after the final frames have flickered out.

Ghosts of Abu Ghraib (77 minutes) debuts tonight at 9:30 on HBO.

NEW YORK TIMES

February 22, 2007

Romania Finds No Proof of C.I.A. Prisons

By REUTERS

Page A13

BUCHAREST, Romania, Feb. 21 (Reuters) — The Romanian government has found no proof that the Central Intelligence Agency set up secret detention facilities in Romania or used Romanian airspace to fly terrorism suspects across Europe, a parliamentary commission investigating the flights said on Wednesday.

Last week, the European Parliament said European governments and secret services had accepted and concealed secret American flights carrying detainees across the Continent. Dick Marty, a Swiss senator who conducted an inquiry on the transfer issue on behalf of the Council of Europe, said last year that Romania and Poland, staunch allies of the United States, had run covert detention facilities for the agency.

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But Norica Nicolai, the head of Romania's senate commission, told reporters that a yearlong inquiry had "found no solid argument to make us believe that the C.I.A. was running illegal transports of prisoners."

Ms. Nicolai said the commission had studied 43 flights suspected of carrying detainees and investigated several Romanian air bases deemed to be stopovers or secret rendition centers in reports by nongovernmental organizations and news media.

NEW YORK TIMES

EDITORIAL:

February 22, 2007

Editorial

American Liberty at the Precipice

Page A22

In another low moment for American justice, a federal appeals court ruled on Tuesday that detainees held at the prison camp at Guantánamo Bay, Cuba, do not have the right to be heard in court. The ruling relied on a shameful law that President Bush stamped through Congress last fall that gives dangerously short shrift to the Constitution.

The right of prisoners to challenge their confinement — habeas corpus — is enshrined in the Constitution and is central to American liberty. Congress and the Supreme Court should act quickly and forcefully to undo the grievous damage that last fall's law — and this week's ruling — have done to this basic freedom.

The Supreme Court ruled last year on the jerry-built system of military tribunals that the Bush Administration established to try the Guantánamo detainees, finding it illegal. Mr. Bush responded by driving through Congress the Military Commissions Act, which presumed to deny the right of habeas corpus to any noncitizen designated as an "enemy combatant." This frightening law raises insurmountable obstacles for prisoners to challenge their detentions. And it gives the government the power to take away habeas rights from any noncitizen living in the United States who is unfortunate enough to be labeled an enemy combatant.

The United States Court of Appeals for the District of Columbia Circuit, which rejected the detainees' claims by a vote of 2 to 1, should have permitted the detainees to be heard in court — and it should have ruled that the law is unconstitutional.

As Judge Judith Rogers argued in a strong dissent, the Supreme Court has already rejected the argument that detainees do not have habeas rights because Guantánamo is located outside the United States. Judge Rogers also rightly noted that the Constitution limits the circumstances under which Congress can suspend habeas to "cases of Rebellion or invasion," which is hardly the situation today. Moreover, she said, the act's alternative

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reviewed by the Supreme Court on appeal, but Congress should not wait for its decision. It should move quickly on the Habeas Corpus Restoration Act.

The Supreme Court has already twice overruled decisions by the D.C. Circuit denying Guantanamo detainees habeas rights, but it is hard to predict whether it will do so again. The court's composition has changed since those rulings, with the addition of justices more likely to be sympathetic to the arguments of the Bush administration. Congress has reversed part of the basis for the court's previous rulings by enacting a statute saying that persons found to be "enemy combatants" by military review panels, including detainees held at Guantanamo, have only a limited right of appeal.

The principal remaining question is whether Congress's action is permitted under Article I, Section 9 of the Constitution, which says, "The Privilege of the Writ of Habeas Corpus shall not be suspended" except in cases of "Rebellion or Invasion." Two judges of the three-member appeals court panel ruled that the provision does not apply at Guantanamo because it is not on U.S. territory and the detainees are foreigners. A dissent written by Judge Judith Rogers pointed out that one of the earlier Supreme Court rulings stated that giving appeal rights to Guantanamo inmates "is consistent with the historical reach of the writ of habeas corpus." But the court has not ruled squarely on the constitutional issue.

Rather than wait for the court's decision, Congress should correct its own mistake. The 51 to 48 vote rejecting Mr. Specter's previous attempt to restore habeas condemned hundreds of foreign prisoners to indefinite detention without trial at Guantanamo; only a few score are expected to be prosecuted by the military commissions. Since 2002 it has become clear that a number of prisoners at the facility were arrested in error, are not terrorists and pose no threat to the United States. Moreover, improvements in the prisoners' treatment have come about largely because of their court appeals. Congress has both a practical and a moral interest in ensuring that this basic human right is restored.

LOS ANGELES TIMES

OPINION:

America tortures (yawn)

In just a few years we've grown disturbingly comfortable with the fact that the U.S. practices torture.

Rosa Brooks

February 23, 2007

IT WAS MUCH LIKE the usual Nigerian e-mail scam, but it had a dispiriting twist.

"Greetings," went the e-mail, "I am Captain Smith Scott of the US Marine Force ... in Baghdad-Iraq. On the 10th day of February 2007 ... we captured three (3) of the

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Terrorists.... In the process of torture they confessed being rebels for late Ayman al-Zawahiri and took us to a cave in Karbala.... Here we recovered.... some US Dollars amounting to \$10.2M.... I am in keen need of a Reliable and Trustworthy person like you who would receive, secure and protect these boxes containing the US Dollars for me up on till my assignment elapses here in Iraq."

Apparently, savvy e-mail scammers now assume that a reference to U.S. Marines torturing prisoners lends credibility to their come-ons.

Well, why not? Thanks to Abu Ghraib, Guantanamo, "extraordinary renditions" and "black sites," many people now take for granted the image of the American as torturer. At least 100 prisoners have been killed while in U.S. custody in Iraq and Afghanistan, and many more have been beaten, humiliated and abused. Still others have been secretly handed over to our even less-scrupulous friends in various Middle Eastern intelligence services. And though the vast majority of our troops and officials abide by both the spirit and the letter of U.S. and international laws, such abusive tactics have been authorized by officials at the highest level of the U.S. government.

In November 2001, 66% of Americans said they "could not support government-sanctioned torture of suspects" as part of the war on terrorism. And when photos of abuses at Abu Ghraib surfaced in the spring of 2004, the U.S. news media treated it — rightly — as a major scandal. In October 2005, the U.S. Senate voted 90-9 in support of legislation prohibiting the inhumane treatment of prisoners, sponsored by Arizona Sen. John McCain.

But over the last year, we seem to have lost our former sense of outrage, though prisoner abuse has hardly ended. A handful of low-ranking people have been convicted for their roles in abuses at Abu Ghraib and elsewhere, but the bigger fish carry on as usual. In September, President Bush gave a speech defending the use of "alternative" interrogation methods; a poll shortly after that found public opposition to torture was down to 56%. In October, Congress obligingly passed the Military Commissions Act, which permits the use of coerced testimony in trials of suspected enemy combatants and restricts the ability of U.S. courts to examine allegations of abuse.

Lately, news relating to torture has been greeted by a collective yawn. On Jan. 31, German prosecutors issued a warrant for the arrest of 13 CIA operatives involved in the illegal abduction of Khaled Masri, a German citizen who was taken to Afghanistan for a little "alternative" interrogation — and then unceremoniously abandoned in Albania when the CIA realized that it had grabbed the wrong guy. On Feb. 16, an Italian court indicted 26 U.S. intelligence operatives and contractors accused of kidnapping an Islamic cleric and taking him to Egypt, where, he says, he was tortured.

It should be huge news when two of our European allies demand the arrest of U.S. government agents — but these stories were rapidly superseded on the front pages by news of Anna Nicole Smith's embalming and matters of similarly pressing national interest. (This newspaper learned the names of several of the indicted officials but

declined to print them "because they have been charged only under their aliases.")

If you need any more evidence that the American public has gotten blasé about torture, consider the hit Fox action drama "24." The show featured 67 torture scenes during its first five seasons, and most of those depicted torture being used by "heroic" U.S. counter-terror agents.

In this week's New Yorker, Jane Mayer reported on the efforts of human rights groups, interrogation experts and military leaders to persuade the show's producers to stop glamorizing torture. A few days after her story was posted on the New Yorker's website, executive producer Howard Gordon announced that "24" will indeed have fewer torture scenes in the future — but not because of the complaints. The reason for the shift? Torture "is starting to feel a little trite," Gordon explained. "The idea of physical coercion or torture is no longer a novelty or surprise."

We've come a long way since 1630, when John Winthrop, first governor of the Massachusetts Bay Colony, told the settlers on the Arabella that "we must consider that we shall be as a city upon a hill. The eyes of all people are upon us." If we failed to live up to the high standards we set for ourselves, warned Winthrop, "we shall be made a story and a by-word through the world."

His prediction, it turns out, was absolutely right. Just ask the Nigerian e-mail scammers.

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Tuesday, February 27, 2007

NEW YORK TIMES

EDITORIAL:
February 27, 2007
Editorial

Canada's Move to Restore Rights

Page A18

The United States was not the only country to respond to the horror of the Sept. 11 terrorist attacks with policies that went much too far in curtailing basic rights and civil liberties in the name of public safety. Now we see that a nation can regain its senses after calm reflection and begin to rein back such excesses, but that heartening news comes from Canada and not the United States.

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Wednesday, February 28, 2007

WASHINGTON POST

New Light Shed on CIA's 'Black Site' Prisons

By Dafna Linzer and Julie Tate
Washington Post Staff Writers
Wednesday, February 28, 2007; A01

On his last day in CIA custody, Marwan Jabour, an accused al-Qaeda paymaster, was stripped naked, seated in a chair and videotaped by agency officers. Afterward, he was shackled and blindfolded, headphones were put over his ears, and he was given an injection that made him groggy. Jabour, 30, was laid down in the back of a van, driven to an airstrip and put on a plane with at least one other prisoner.

His release from a secret facility in Afghanistan on June 30, 2006, was a surprise to Jabour -- and came just after the Supreme Court rejected the Bush administration's assertion that the Geneva Conventions do not apply to prisoners like him.

Jabour had spent two years in "black sites" -- a network of secret internment facilities the CIA operated around the world. His account of life in that system, which he described in three interviews with The Washington Post, offers an inside view of a clandestine world that held far more prisoners than the 14 men President Bush acknowledged and had transferred out of CIA custody in September.

"There are now no terrorists in the CIA program," the president said, adding that after the prisoners held were determined to have "little or no additional intelligence value, many of them have been returned to their home countries for prosecution or detention by their governments."

But Jabour's experience -- also chronicled by Human Rights Watch, which yesterday issued a report on the fate of former "black site" detainees -- often does not accord with the portrait the administration has offered of the CIA system, such as the number of people it held and the threat detainees posed. Although 14 detainees were publicly moved from CIA custody to the detention facility at Guantanamo Bay, Cuba, scores more have not been publicly identified by the U.S. government, and their whereabouts remain secret. Nor has the administration acknowledged that detainees such as Jabour, considered so dangerous and valuable that their detentions were kept secret, were freed.

After 28 months of incarceration, Jabour -- who was described by a counterterrorism official in the U.S. government as "a committed jihadist and a hard-core terrorist who was intent on doing harm to innocent people, including Americans" -- was released eight months ago. U.S. intelligence and counterterrorism officials confirmed his incarceration

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and that he was held in Pakistan and Afghanistan. They would not discuss conditions inside black sites or the treatment of any detainee.

A House in Islamabad

By Jabour's account, and that of U.S. intelligence officials, his entrance into the black-sites program began in May 2004. In interviews, he said he was muscled out of a car as it pulled inside the gates of a secluded villa in the Pakistani capital of Islamabad.

In the week before his arrival, Jabour said, Pakistani intelligence officers had beaten, abused and burned him at a jailhouse in Lahore, where he was arrested. There two female American interrogators also questioned him and told him he would be rich if he cooperated and would vanish for life if he refused. He said he was later blindfolded and driven four hours north to the villa in a wealthy residential neighborhood.

The house in Islamabad, which U.S. intelligence officials say was jointly run by the CIA and Pakistani intelligence, had been outfitted with jail cells. When Jabour arrived, he saw as many as 20 other detainees, including the 16-year-old son of an Egyptian sheik, who had been captured in Pakistan. Dozens of al-Qaeda suspects swept up in the years after Sept. 11, 2001, have been through the house, according to accounts by former prisoners and U.S. intelligence officials with knowledge of the facility.

Jabour spent five weeks there, chained to a wall and prevented from sleeping more than a few hours at a time. He said he was beaten nightly by Pakistani guards after hours of questions from U.S. interrogators. Then he and others were whisked off to CIA-run sites. Some sites were in Eastern Europe; Jabour went to one in Afghanistan. Interrogators -- whom he described as Americans in their late 20s and early 30s -- told Jabour he would never see his three children again.

Human Rights Watch has identified 38 people who may have been held by the CIA and remain unaccounted for. Intelligence officials told The Post that the number of detainees held in such facilities over nearly five years remains classified but is higher than 60. Their whereabouts have not been publicly disclosed.

"The practice of disappearing people -- keeping them in secret detention without any legal process -- is fundamentally illegal under international law," said Joanne Mariner, director of the terrorism program at Human Rights Watch in New York. "The kind of physical mistreatment Jabour described is also illegal." Mariner interviewed Jabour separately as part of the organization's investigation.

The CIA said it would not comment directly on Jabour. "The agency does not, as a rule, publicly discuss specific rendition cases from the war on terror," said Paul Gimigliano, a spokesman for the CIA. But, he said, renditions "are a key, lawful tool in the fight against terror, and have helped save lives by taking terrorists off the street. They are conducted with care, they are closely reviewed, and they have produced valuable intelligence that has allowed the United States and other nations to foil terrorist plots."

John D. Rockefeller IV (D-W.Va.), chairman of the Senate intelligence committee, plans to investigate the fate of the missing detainees as part of a larger examination into the CIA's operation of secret prisons and its rendition program.

Aiding Al-Qaeda Fighters

In interviews with The Post from his parents' home in the Gaza Strip, Jabour acknowledged helping al-Qaeda and Taliban fighters who fled Afghanistan as the U.S. military hunted for the perpetrators of the Sept. 11 attacks.

Jabour was born to Palestinian parents in Jordan, raised in Saudi Arabia and educated in Pakistan. In 1998, he said, he became drawn to the plight of Muslims in Chechnya living under Russian rule. He crossed the border into Afghanistan so he could train in jihadist camps, then planned to join up with Chechen separatists.

"In Afghanistan, I met other people who believed in the Islamic state, where it was safe to practice Islam the way they wanted," Jabour said in a recent conversation. "I became friends with other Arabs who felt like me, Palestinians and Jordanians, but after three months of training I was told there was no chance to go to Chechnya."

Jabour returned to Pakistan in 1999. Two years later, after the U.S. military offensive in Afghanistan, those he lived and trained with came calling for help.

"Some of their children were injured, some of their women were wounded. From that moment, they came to our home and we helped them," he said.

Using funds from al-Qaeda financiers, Jabour said, he arranged for food, medical treatment and travel documents for several dozen people and arranged for others, including two African men who fought for al-Qaeda, to slip out of Pakistan. He did not return to Afghanistan to fight, and he said he had no interest in attacking Americans.

The U.S. counterterrorism official who discussed aspects of Jabour's classified file did not call him a member of al-Qaeda. But the official said that in Pakistan, Jabour "was in direct touch with top al-Qaeda operations figures," including Hamza Rabia, who briefly served as one of Osama bin Laden's lieutenants before a missile from a CIA predator drone killed him in December 2005. In interviews, Jabour said he met with Rabia on two occasions.

The official said Jabour "provided the money and means for other jihadists to move from Afghanistan to Pakistan" and provided funds that went to an al-Qaeda bioweapons lab. "He's an all-around bad guy," the official said. No charges were brought against Jabour, however, and the official would not say why he is free today.

Taken to Afghanistan

On June 16, 2004, after weeks in the villa, Jabour was drugged, blindfolded and put on a plane. Counterterrorism officials did not dispute that he was taken to a black site in Afghanistan. Jabour said the facility was run by Americans in civilian clothes and guarded by masked men who wore black uniforms and gloves.

He said he does not know where the facility is located, and counterterrorism officials would not say whether Jabour was held at two known detention sites in Afghanistan -- one run by the U.S. military at Bagram air base, the other operated by the CIA outside Kabul.

Jabour said he was often naked during his first three months at the Afghan site, which he spent in a concrete cell furnished with two blankets and a bucket. The lights were kept on 24 hours a day, as were two cameras and a microphone inside the cell. Sometimes loud music blasted through speakers in the cells. The rest of the time, the low buzz of white noise whizzed in the background, possibly to muffle any communication by prisoners through cell walls.

Daily interrogations were conducted by a variety of Americans. Over two years, Jabour said he encountered about 45 interrogators, plus medical staff and psychologists. He was threatened with physical abuse but was never beaten.

Once, he was shown a small wooden crate his interrogators called a "dog box" and was told he would be put in it if he didn't cooperate. He was told that Khalid Sheik Mohammed, the suspected architect of the Sept. 11 attacks who was among the 14 moved to Guantanamo Bay last year, became cooperative after he had been put in the box. But Jabour said he was not subjected to the crate.

He was, however, chained up and left for hours in painful positions more than 20 times and deprived of sleep for long periods. Sometimes he would have one hand chained to a section of his cell wall, making it impossible to stand or sit.

About six weeks into his stay, he was issued a pair of pants. Later he was given a T-shirt, then shoes, a Koran and finally a mattress. Jabour said prison conditions slowly improved: Air conditioning was installed; a library was built and stocked with books in Arabic, Urdu and English. Well-behaved detainees were rewarded with movie nights, in which such Hollywood blockbusters as "Titanic" were screened. A deputy director of the facility taught Jabour how to play chess and gave him pencils and paper. Jabour used to draw pictures of trees and grass, which he hung in his windowless cell.

Jabour recalled with fondness the prison director, a man named Charlie. "He told me, 'Marwan, we need information -- if you cooperate, that is good.' I told him I wasn't hiding anything and was not a dangerous man. He told me that they didn't want to use force but would if they had to. I told him I wouldn't lie to him."

Jabour began to receive better food, including pizza and Snickers and Kit-Kat bars.

Transferred and Released

On Dec. 18, 2004, six months after his arrival, Jabour was transferred to a larger cell. Under the sink he found a small inscription that read: "Majid Khan, 15 December, 2004, American-Pakistani." Khan, whose family lives outside Baltimore, was arrested in March 2003 in Karachi, Pakistan, and was among the group transferred to Guantanamo five months ago. The U.S. government has not divulged where Khan was held during his first 3 1/2 years of incarceration.

Jabour met only one other prisoner during his time there. That was an Algerian named Yassir al-Jazeera, a suspected high-level al-Qaeda operative who was arrested in Pakistan in March 2003. Their visits were arranged by the facility director, who told Jabour they were rewards for good behavior.

During interrogations, Jabour was often shown hundreds of photographs of wanted or captured suspects. One photo appears to have been that of Muhammad Naeem Noor Khan, a British-Pakistani who was arrested in Pakistan in July 2004.

Noor Khan, a suspected al-Qaeda operative, was thought to be involved in the planning of a disrupted 2004 attack on U.S. and British financial institutions. Babar Awan, a Pakistani lawyer hired by Noor Khan's family, said he has "heard nothing from the government authorities or any other authorities about where Noor Khan is."

There is no public U.S. government record available that states the CIA ever held Jabour, al-Jazeera or Noor Khan.

Last April, John D. Negroponte, who was then director of national intelligence, told Time magazine that he did not know what would be the "endgame for the three dozen or so high-value detainees" in CIA custody at that time.

Jabour's odyssey ended with a secret flight to Amman, Jordan, where he woke to find himself in an office staring at government wall portraits of King Abdullah and his dead father, King Hussein. "I don't know why they released me, but I told them everything I knew . . .," Jabour said. "You have to tell them the truth and that was no problem for me. They are smart people," he said of his American captors.

The Jordanians called the International Committee for the Red Cross, which sent a representative to interview Jabour and to contact his family. He remained in Jordanian custody for six weeks, was interrogated and was then handed over to Israel's security services.

The Israelis treated him better than his other captors, he said. They got Jabour his first lawyer, an Israeli Arab named Nizar Mahajna, who said in an interview that the Israelis had held Jabour in a prison near Haifa for two months. He was not mistreated, blindfolded or shackled, the lawyer said.

Israeli authorities had considered charging Jabour with fighting for an enemy of the Jewish state. But, Mahajna said, Jabour's training in Afghanistan had occurred more than eight years earlier, he was not a member of al-Qaeda and he had never lived in the Palestinian territories.

"The Israelis were given secret information on Marwan, which they got from the Americans. It wasn't shared with me but whatever it says, the central fact remained that the Pakistanis and the Americans had let him go. Why should Israel keep him?" Mahajna said.

The Israeli government dropped the case and transferred Jabour to Gaza. Prison guards drove him to the Erez border crossing between Israel and the Gaza Strip. "Good luck," one of them said to Jabour as he crossed into Gaza, where his parents awaited.

WASHINGTON POST

OPINION:

Europe's Runaway Prosecutions

By David B. Rivkin Jr. and Lee A. Casey
Wednesday, February 28, 2007; A19

An Italian court announced this month that it is moving forward with the indictment and trial of 25 CIA agents charged with kidnapping a radical Muslim cleric. These proceedings may well violate international law, but the case serves as a wake-up call to the United States. Overseas opponents of American foreign policy are increasingly turning to judicial proceedings against individual American officials as a means of reformulating or frustrating U.S. aims, and action to arrest this development is needed.

The Italian case involves a 2003 CIA mission to apprehend an Egyptian cleric named Osama Mustafa Hassan Nasr. Suspected of terrorist ties, Nasr was seized in Milan and transported to Egypt, where he claims he was tortured. This was, of course, an "extraordinary rendition" -- a long-standing and legal practice that generally involves the cooperation of two or more governments in the capture and transportation of a criminal suspect outside of normal extradition proceedings. It was through such a rendition that the terrorist "Carlos the Jackal" was delivered for trial to France from Sudan in 1994.

The United States has used extraordinary renditions as part of the war on terrorism, but the continuing value of this tactic, particularly in Europe, is questionable. One of the primary European objections to the concept of a "war" on terrorism is the fear that U.S. forces will treat Europe as a battlefield. Although this fear is specious -- international law has long provided that, even in wartime, a nation cannot pursue its enemies into the territory of friendly countries without their express permission -- extraordinary rendition gets uncomfortably close to U.S. military operations on European streets. Moreover, unlike many other aspects of U.S. policy, extraordinary rendition can probably be

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abandoned without severely undercutting the war effort. That being the case, and given the obvious and increasing hard feelings the policy has prompted in Europe, extraordinary renditions should end.

Yet the United States must still vigorously resist the prosecution of its indicted agents. If they acted with the knowledge and consent of the Italian government (as The Post's Dana Priest reported in 2005), they are immune from criminal prosecution in that country. Although foreign nationals traveling abroad are ordinarily subject to local judicial authority, international law has long recognized an exception for government agents entering another country with its government's permission. As Chief Justice John Marshall explained in *The Schooner Exchange v. McFaddon* (1812), an early Supreme Court case involving the immunity of a French warship in American waters, "[o]ne sovereign being in no respect amendable to another . . . can be supposed to enter a foreign territory only under an express license, or in the confidence that the immunities belonging to his independent sovereign nation, though not expressly stipulated, are reserved by implication."

Because of this general rule, elaborate Status of Forces Agreements are negotiated before the troops of one state are stationed in another. These agreements usually narrow the jurisdictional immunities to be enjoyed by American troops stationed abroad, although under the NATO Status of Forces Agreements, to which Italy and the United States are both parties, America retains primary jurisdiction over offenses committed by individuals on duty -- as would have been the case here. If the Status of Forces Agreement does not apply -- as it might not, because intelligence agents are involved -- then the general rule applies. In either case, it is up to American, not Italian, authorities to determine whether any offense was committed in the capture and rendition of Nasr.

Unfortunately, the effort to prosecute these American agents is only one instance of a growing problem. Efforts to use domestic and international legal systems to intimidate U.S. officials are proliferating, especially in Europe. Cases are pending in Germany against other CIA agents and former defense secretary Donald Rumsfeld -- all because of controversial aspects of the war on terrorism. These follow Belgium's misguided effort to pursue "universal jurisdiction" claims for alleged violations of international law, which also resulted in complaints against American officials including Vice President Cheney and former secretary of state Colin Powell. That law was amended, but the overall problem is unlikely to go away. The initiation of judicial proceedings against individual Americans is too attractive a means of striking at the United States -- and one often not subject to control by the relevant foreign government.

Accordingly, Congress should make it a crime to initiate or maintain a prosecution against American officials if the proceeding itself otherwise violates accepted international legal norms. Thus, in instances where there is a clear case of immunity, U.S. prosecutors could answer proceedings such as the Italian indictments with criminal proceedings in U.S. courts. By responding in kind, even if few overreaching foreign officials are ever actually tried, such a law would create a powerful disincentive for these kinds of legal antics.

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The authors served in the Justice Department under Presidents Ronald Reagan and George H.W. Bush, and have been expert members of the U.N. Subcommission on the Promotion and Protection of Human Rights.

LOS ANGELES TIMES

Human Rights Watch lists 39 secret CIA detainees

It names suspects thought to have been held abroad and calls for fuller disclosure by U.S.

By Josh Meyer
Times Staff Writer

February 28, 2007

WASHINGTON — A human rights group Tuesday published the names of 38 men and one woman it believes have been locked up in secret overseas facilities, and asked President Bush to disclose the identity and fate of all detainees the CIA has held since 2001.

Among those that Human Rights Watch suspects of being held by the CIA now or at one time is Khalid Zawahiri, an Egyptian allegedly picked up in the South Waziristan region of Pakistan in February 2004. Officials from the group say Zawahiri is probably the son and former associate of Ayman Zawahiri, said to be second in command of Al Qaeda.

Another on the list is Aafia Siddiqui, a woman who made the FBI's Most Wanted list for her possible role in alleged Al Qaeda plots to launch attacks on U.S. soil.

The New York-based human rights organization included those and other names in a Monday letter to Bush that was made public Tuesday.

The group also released a report titled "Ghost Prisoner: Two Years in Secret CIA Detention," which tells the story of another terrorism suspect, Marwan Jabour, a Palestinian man who claims he was tortured and held incommunicado for more than two years by the United States and Pakistan.

Human Rights Watch officials said the letter and the report were part of an effort to pry loose more information about detainees who have been held by the CIA or other U.S. authorities.

The White House and CIA had not acknowledged that the detainee program existed until September, when Bush announced that Khalid Shaikh Mohammed, the suspected architect of the Sept. 11 terrorist attacks, and 13 others had been held by the CIA and were being transferred to military custody at Guantanamo Bay, Cuba.

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The Defense Department is preparing to try those men, including some accused of being Al Qaeda's most dangerous operatives, in some form of hybrid military-criminal justice proceeding.

Joanne Mariner, director of Human Rights Watch's Terrorism and Counterterrorism Program, said in her letter to Bush that the organization understood the need to detain and incarcerate suspected terrorists. But she also said the United States was breaking the law by holding them in custody without announcing it and by not giving them a way to contest their incarceration.

"If such persons are indeed implicated in terrorist crimes, they should be charged and prosecuted, not subject to enforced disappearance," Mariner wrote.

The White House referred calls for comment to the CIA, which said it abides by the rule of law when detaining, transferring and interrogating terrorism suspects.

"The agency's terrorist interrogation program has been conducted lawfully, with great care and close review, producing vital information that has helped disrupt plots and save lives," said CIA spokesman Paul Gimigliano. He also said the CIA and U.S. government did not "conduct or condone torture" or transfer suspects to countries that do engage in torture.

Human Rights Watch listed 16 individuals it said were probably detained in CIA facilities and an additional 22 who it said "may have been once held in secret CIA prisons."

The group said it compiled the list by conducting interviews with former detainees, local authorities, defense lawyers and family members and by scouring local news agencies in Pakistan, Saudi Arabia and other countries where the suspects allegedly were captured.

"In many cases, the local authorities bragged about it," said John Sifton, a senior researcher at Human Rights Watch.

The group acknowledged that some of the names have been disclosed previously but said it was necessary to include them because U.S. officials have refused to confirm their status or whereabouts.

Bush announced the arrest in Iraq of Hassan Ghul in comments to the media on Jan. 26, 2004. He said that Ghul reported directly to Shaikh Mohammed and that he was "helping Al Qaeda to put pressure on our troops."

Another suspected Al Qaeda operative on the list, Mustafa Setmariam Nasar, is wanted by Spain, and his 2005 arrest in Pakistan has been well publicized.

But many of the other names have never been disclosed, including Jabour's.

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Jabour was arrested by authorities in Lahore, Pakistan, in May 2004, then held for a month at a secret detention facility operated by the U.S. and Pakistan, the report says.

He was flown to a CIA secret prison, most likely in Afghanistan, before he was flown to Jordan last summer, transferred to Israel and eventually released in the Gaza Strip, where he has family.

Mariner said Jabour gave her the names of at least nine previously undisclosed terrorism suspects he had seen at detention facilities.

U.S. counter-terrorism officials would not confirm Jabour's account but said they consider him to be a dangerous Al Qaeda operative.

"This guy has a history. He trained in Afghanistan and fought with the Taliban before working with Al Qaeda," said a U.S. counter-terrorism official who spoke on condition of anonymity because he was not authorized to comment on the matter. "He was in touch with top Al Qaeda operational figures ... and was strongly linked to Al Qaeda chemical and biological efforts and had provided some funding for an Al Qaeda biological weapons lab.

The Human Rights Watch report says Jabour acknowledges some ties to Islamic militants, including training at a camp in Afghanistan and helping others escape to Pakistan in 2003, but he denied any ties to terrorism.

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Thursday, March 01, 2007

WASHINGTON POST

U.S. Won't Send CIA Defendants To Italy

Abduction Probes Hurt Anti-Terrorism Efforts, State Dept. Official Says

By Craig Whitlock
Washington Post Foreign Service
Thursday, March 1, 2007; A12

TRANSCOM GHOST DOCS 683

BERLIN, Feb. 28 -- The State Department's top lawyer said Wednesday that the United States would refuse to extradite CIA officers who face kidnapping charges in Italy, warning that European criminal prosecutions of U.S. agents were harming transatlantic counterterrorism efforts.

An Italian court issued indictments against 25 CIA operatives and a U.S. Air Force officer Feb. 16, charging them with kidnapping a radical Muslim cleric in Milan four years ago. Although the Italian government has not made a final decision on whether to ask the United States to extradite the defendants, John B. Bellinger III, legal adviser to Secretary of State Condoleezza Rice, said the request would be rejected regardless.

"If we got an extradition request from Italy, we would not extradite U.S. officials to Italy," Bellinger told reporters in Brussels, where he was meeting with European Union officials.

Bellinger's statement was the first time that a U.S. government official has directly addressed the Italian criminal investigation, which is expected to produce the first overseas trial of CIA officers involved in a covert counterterrorism operation.

The trial is scheduled to open June 8 in Milan. Italian prosecutors say they will try the American defendants in absentia, if necessary. Five Italian spies, including the former head of military intelligence, have also been charged.

In a separate case, a German court issued arrest warrants Jan. 31 for 13 CIA operatives accused of kidnapping a German citizen in Macedonia in December 2003. German authorities have said they are unlikely to make a formal extradition request to the U.S. government or go to trial. But the ongoing European criminal investigations and other probes into CIA activity on the Continent have soured relations with the Bush administration.

"I do think these continuing investigations can harm intelligence cooperation -- that's simply a fact of life," Bellinger said Wednesday. He also criticized a recent investigation by the European Parliament into CIA counterterrorism operations, calling the legislature's findings "unbalanced, inaccurate and unfair."

Many European lawmakers and human rights groups have accused the CIA of violating European sovereignty and international law by covertly apprehending and detaining terrorism suspects on the Continent. They have also criticized European intelligence services for taking part in the operations or failing to stop them.

"Instead of stonewalling investigations into its and other governments' illegal renditions activities, the United States should support its allies' efforts to bring perpetrators to justice," Jumana Musa, Amnesty International's U.S. advocacy director for domestic human rights and international justice, said in a statement. "The United States must recognize that it has obligations under U.S. and international law to seek accountability for agents who participated in activities that led to torture."

LOS ANGELES TIMES

OPINION:

I am not a state secret

Having just lost in court, a CIA kidnap victim asks why the U.S. won't admit its error.

By Khaled El-Masri

KHALED EL-MASRI, a German citizen born in Lebanon, was a car salesman before he was detained in December 2003.

March 3, 2007

ON NEW YEAR'S EVE in 2003, I was seized at the border of Serbia and Macedonia by Macedonian police who mistakenly believed that I was traveling on a false German passport. I was detained incommunicado for more than three weeks. Then I was handed over to the American Central Intelligence Agency and was stripped, severely beaten, shackled, dressed in a diaper, injected with drugs, chained to the floor of a plane and flown to Afghanistan, where I was imprisoned in a foul dungeon for more than four months.

Long after the American government realized that I was an entirely innocent man, I was blindfolded, put back on a plane, flown to Europe and left on a hilltop in Albania — without any explanation or apology for the nightmare that I had endured.

My story is well known. It has been described in literally hundreds of newspaper articles and television news programs — many of them relying on sources within the U.S. government. It has been the subject of numerous investigations and reports by intergovernmental bodies, including the European Parliament. Most recently, prosecutors in my own country of Germany are pursuing indictments against 13 CIA agents and contractors for their role in my kidnapping, abuse and detention. Although I never could have imagined it, and certainly never wished it, I have become the public face of the CIA's "extraordinary rendition" program.

Why, then, does the American government insist that my ordeal is a state secret? This is something beyond my comprehension. In December 2005, with the help of the American Civil Liberties Union, I sued former CIA Director George Tenet along with other CIA agents and contractors for their roles in my kidnapping, mistreatment and arbitrary detention. Above all, what I want from the lawsuit is a public acknowledgment from the U.S. government that I was innocent, a mistaken victim of its rendition program, and an apology for what I was forced to endure. Without this vindication, it has been impossible for me to return to a normal life.

The U.S. government does not deny that I was wrongfully kidnapped. Instead, it has argued in court that my case must be dismissed because any litigation of my claims will

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expose state secrets and jeopardize American security, even though President Bush has told the world about the CIA's detention program, and even though my allegations have been corroborated by eyewitnesses and other evidence. To my amazement and dismay, last May, a federal district court judge agreed with the government and threw out my case. And then Friday, the U.S. 4th Circuit Court of Appeals upheld that decision. It seems that the only place in the world where my case cannot be discussed is in a U.S. courtroom.

I did not bring this lawsuit to harm America. I brought the lawsuit because I want to know why America harmed me. I don't understand why the strongest nation on Earth believes that acknowledging a mistake will threaten its security. Isn't it more likely that showing the world that America cannot give justice to an innocent victim of its anti-terror policies will cause harm to America's image and security around the world?

IN NOVEMBER, I traveled to America for the first time to hear my lawyers argue my case before the appeals court in Richmond, Va. and to meet with members of Congress and their staff on Capitol Hill. (It's obvious that the U.S. government does not consider me a security threat, or I would not have been allowed to enter the country, much less be in the same room with federal judges and members of Congress.)

Although I did not understand all of the arguments made by the lawyers, I was impressed by the dignity of the proceedings and by the respect for the rule of law that I have always associated with America. I'm deeply disappointed to find that this same legal system denies me the chance to fully present my case.

If I were being treated fairly by the American legal system, perhaps we would not have reached the point where German prosecutors are bringing criminal charges against American citizens.

During my visit in November, many Americans offered me their personal apologies for the brutality that had been perpetrated against me in their name. I saw in their faces the true America, an America that is not held captive by fear of unknown enemies and that understands the strength and power of justice. That is the America that, I hope, one day will see me as a human being — not a state secret.

Citation: <http://www.latimes.com/news/opinion/la-oe-elmasri3mar03,0,3264255.story?coll=la-opinion-center>

Sunday, March 04, 2007

WASHINGTON POST

TRANSCOM GHOST DOCS 686

What mattered most, Basoglu said, was the degree to which the victim felt a loss of control.

The finding supports suggestions by other experts that people trained to endure torture, such as insurgents or prisoners of war, suffer the least long-term damage.

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Wednesday, March 07, 2007

WASHINGTON POST

Hearings for 14 Guantanamo Detainees to Be Held in Secret, Officials Say

By Josh White
Washington Post Staff Writer
Wednesday, March 7, 2007; A03

Military tribunals are scheduled to begin Friday for 14 high-value foreign terrorism suspects held at Guantanamo Bay, Cuba, but the hearings to determine whether they are enemy combatants will take place behind closed doors because of the risk that top-secret information could surface, defense officials said yesterday.

The hearings will be the first secret Combatant Status Review Tribunals at Guantanamo; similar proceedings for hundreds of other detainees have been open to news media.

The hearings were to be the first time men such as Khalid Sheik Mohammed -- the alleged architect of the Sept. 11, 2001, attacks -- made public appearances since their arrests and years-long detention in secret CIA facilities.

Instead, the 14 detainees will face separate three-officer panels out of view and without a lawyer. They will each have a government-provided personal representative and the opportunity to address the tribunals. None of the men has seen anyone other than his captors, except for representatives of the International Committee of the Red Cross who visited shortly after their arrival in September.

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Though President Bush has determined that the detainees are enemy combatants, new U.S. laws require the tribunals. If the detainees are found to be enemy combatants, they will be entitled to annual reviews of their status until they face trial.

Defense officials also announced that a second round of annual reviews for 328 detainees had been completed, with 55 getting recommendations for transfer to their home nations and 273 being referred for continued detention at Guantanamo.

There are 385 detainees at the facility; about 80 have been cleared for transfer to other countries. It is unclear what will happen to detainees who are not cleared for transfer but have not been charged with crimes, although Bush has expressed a desire to close the detention facility.

NEW YORK TIMES

March 7, 2007

U.S. Releases Rights Report, With an Acknowledgment

By HELENE COOPER

Page A6

WASHINGTON, March 6 — The Bush administration acknowledged Tuesday that its treatment of terrorism suspects was being questioned, even as it used an annual report to criticize the human rights records of Iraq, Afghanistan and a long list of other countries.

“Our democratic system of governance is accountable, but it is not infallible,” Secretary of State Condoleezza Rice said in releasing the Congressionally mandated report. It weighs the human rights situation in 193 countries — but not the United States, and Ms. Rice did not specifically cite any American violations.

But Barry Lowenkron, an assistant secretary of state, said the State Department was “issuing this report at a time when our own record, and actions we have taken to respond to terrorist attacks against us, have been questioned.” He referred to American laws “governing the detention, treatment and trial of terrorist suspects.”

Officials from countries that are often cited in the report have complained that the United States is quick to criticize others for violations that sometimes occur in America, and the remarks on Tuesday, one White House official said, were an attempt to answer those charges. In particular, the administration has come under fire from human rights groups for its treatment of prisoners at Guantánamo Bay, Cuba.

The report described serious problems in countries with close ties to the United States, and cited worsening sectarian violence in Iraq. “On one side, predominantly Sunni Arab groups such as Al Qaeda in Iraq, irreconcilable remnants of the Baathist regime, and insurgents waging guerrilla warfare violently opposed the government and targeted Shi’a

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Guantanamo Bay, Prime Minister John Howard said. Hicks, the only Australian at the U.S. military prison in Cuba, was charged March 1 with providing material support for terrorism, becoming the first inmate at the camp to face a military commission for alleged crimes in the U.S. war on terrorism.

Howard, a White House ally in the wars in Iraq and Afghanistan, began demanding recently that U.S. officials speed up the trial process. Hicks is a Muslim convert who was captured on the Taliban side by U.S.-allied Afghan forces in late 2001.

WALL STREET JOURNAL

OPINION:

Wall Street Journal
March 8, 2007
Pg. 17

Gitmo's Guerrilla Lawyers

By Debra Burlingame

He was the first American to die in what some have called "the real war." Johnny "Mike" Spann, the 32-year-old CIA paramilitary commando, was interrogating prisoners in an open courtyard at the Qala-I-Jangi fortress in Afghanistan when the uprising of 538 hardcore Taliban and al Qaeda fighters began. Spann emptied his rifle, then his sidearm, then fought hand-to-hand as he was swarmed by raging prisoners screaming "Allahu akbar!"

The bloody siege by Northern Alliance and U.S. forces went on for several days, only ending when 86 of the remaining jihadi fighters were smoked out of a basement where they had retreated and where they murdered a Red Cross worker who had gone in to check on their condition. Spann, a former Marine, is credited with saving the lives of countless Alliance fighters and Afghan civilians by standing and firing as they ran for cover. His beaten and booby-trapped body was recovered with two bullet wounds in his head, the angle of trajectory suggesting he had been shot execution style.

One of the committed jihadis who came out of that basement, wounded and unrepentant, was "American Taliban" John Walker Lindh, now serving a 20-year sentence in a federal prison. Another who was shot during the uprising and pulled out of the basement along with Lindh was Nasser Nijer Naser al-Mutairi. Today, the 29-year-old is living somewhere in Kuwait, a free man.

The true story of Mr. Mutairi's journey, from the uprising in Qala-I-Jangi to Guantanamo Bay's military detention camp to the privileged life of an affluent Kuwaiti citizen, is one that his team of high-priced lawyers and the government of Kuwait doesn't want you to know. His case reveals a disturbing counterpoint to the false narrative advanced by Gitmo lawyers and human-rights groups -- which holds that the Guantanamo Bay detainees are

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innocent victims of circumstance, swept up in the angry, anti-Muslim fervor that followed the attacks of September 11, then abused and brutally tortured at the hands of the U.S. military.

Mr. Mutairi was among 12 Kuwaitis picked up in Afghanistan and detained at Guantanamo Bay in 2002. Their families retained Tom Wilner and the prestigious law firm of Shearman & Sterling early that same year. Arguably, it is Mr. Wilner's aggressive representation, along with the determined efforts of the Kuwait government, that has had the greatest influence in the outcome of all the enemy combatant cases, in the court of law and in the court of public opinion. The lawsuit filed on their behalf, renamed *Rasul v. Bush* when three cases were joined, is credited with opening the door for the blizzard of litigation that followed.

According to Michael Ratner, the radical lawyer and head of the Center for Constitutional Rights (CCR), the center received 300 pieces of hate mail when the organization filed the very first Guantanamo detainee case in February of 2002. The shocking images of 9/11 were still fresh; it would be three more months until most human remains and rubble would be cleared from ground zero. There was no interest in Guantanamo from the lawyers at premium law firms.

But by 2004, when the first of three detainee cases was heard by the U.S. Supreme Court, the national climate had changed. The country was politically divided, the presidential election was in full swing, and John Kerry was talking about treating terrorism like a criminal nuisance. The Guantanamo cases gave lawyers a chance to take a swipe at the president's policies, give heroic speeches about protecting the rights of indigents, and be a part of the kind of landmark legal cases that come along once in a lifetime. The Guantanamo Bay Bar increased from a lonely band of activist lawyers operating out of a run down office in Greenwich Village to an association of 500 lawyers. Said Mr. Ratner about the blue chip firms that initially shunned these cases, "You had to beat the lawyers off with a stick."

Mr. Wilner and his colleagues at Shearman & Sterling were the exception, although he has been exceedingly coy about the true nature of his firm's role. Unlike the many lawyers who later joined in the litigation on a pro bono basis, Shearman & Sterling was handsomely paid. Mr. Wilner has repeatedly stated that the detainees' families insisted on paying Shearman & Sterling for its services and that the fees it earned have been donated to an unspecified 9/11-related charity. According to one news report, the families had spent \$2 million in legal fees by mid-2004. In truth, Kuwaiti officials confirmed that the government was footing the bills.

How did Shearman & Sterling get tapped for this historic assignment? Speaking at Seton Hall Law School in fall of 2006, Mr. Wilner recounted that he visited the facility at Guantanamo Bay in 2002, months before he met the Kuwaiti 12's families. What was Mr. Wilner doing at Gitmo more than two years before *Rasul* established the legal basis for lawyers getting access to detainees inside the camp? One of his Gitmo legal colleagues has said that Mr. Wilner was brought into the case by an oil industry client.

It turns out that Shearman & Sterling, a 1,000-lawyer firm with offices in 19 cities all over the world, has substantial business dealings on six continents. Indeed, Shearman's client care for Middle Eastern matters has established a new industry standard: The firm's Abu Dhabi office states that it has pioneered the concept of "Shariah-compliant" financing. In Kuwait, the firm has represented the government on a wide variety of matters involving billions of dollars worth of assets. So the party underwriting the litigation on behalf of the Kuwaiti 12 -- from which all of the detainees have benefited -- is one of Shearman & Sterling's most lucrative OPEC accounts.

Shearman & Sterling did far more than just write legal briefs and shuttle down to Gitmo to conduct interviews about alleged torture for the BBC. In addition to its legal services, the firm registered as an agent of a foreign principal under the Foreign Agents Registration Act of 1938 (FARA) as well as the Lobbying Disclosure Act of 1995 (LDA) to press the Kuwaiti detainees' cause on Capitol Hill. Shearman reported \$749,980 in lobbying fees under FARA for one six-month period in 2005 and another \$200,000 under the LDA over a one-year period between 2005 and 2006. Those are the precise time periods when Congress was engaged in intense debates over the Detainee Treatment Act and the Military Commissions Act, legislation which Shearman & Sterling and its Kuwaiti paymasters hoped would pave the way for shutting down Guantanamo permanently and setting their clients free.

Mr. Wilner, a media-savvy lawyer who immediately realized that the detainee cases posed a tremendous PR challenge in the wake of September 11, hired high-stakes media guru Richard Levick to change public perception about the Kuwaiti 12. Mr. Levick, a former attorney whose Washington, D.C.-based "crisis PR" firm has carved out a niche in litigation-related issues, has represented clients as varied as Rosie O'Donnell, Napster, and the Roman Catholic Church. Mr. Levick's firm is also registered under FARA as an agent of a foreign principal for the "Kuwaiti Detainees Committee," reporting \$774,000 in fees in a one year period. After the U.S. Supreme Court heard the first consolidated case, the PR campaign went into high gear, Mr. Levick wrote, to "turn the Guantanamo tide."

In numerous published articles and interviews, Mr. Levick has laid out the essence of the entire Kuwaiti PR campaign. The strategy sought to accomplish two things: put a sympathetic "human face" on the detainees and convince the public that it had a stake in their plight. In other words, the militant Islamists who traveled to Afghanistan to become a part of al Qaeda's jihad on America had to be reinvented as innocent charity workers swept up in the war after 9/11. The committed Islamist who admitted firing an AK-47 in a Taliban training camp became a "teacher on vacation" who went to Afghanistan in 2001 "to help refugees." The member of an Islamist street gang who opened three al-Wafa offices with Suliman Abu Ghaith (Osama Bin Laden's chief spokesman) to raise al Qaeda funds became a charity worker whose eight children were left destitute in his absence. All 12 Kuwaitis became the innocent victims of "bounty hunters."

A Montreal-based marketing firm was hired to create the families' full-service Web site which fed propaganda -- unsourced, un rebutted and uninvestigated by the media -- aimed

at the media all over the world. Creating what Mr. Levick calls a "war of pictures," the site is replete with images meant to appeal to Americans: smiling Kuwaiti families wearing T-shirts and baseball caps, cute children passing out yellow ribbons.

After the *Rasul* decision, the PR momentum picked up speed and the Supreme Court became, in Mr. Levick's words, their "main weapon," a "cudgel" that forced more attention in what he calls the traditional "liberal" press. Dozens of op-eds by Mr. Wilner and the family group leader (described as a U.S.-trained former Kuwaiti Air Force pilot who cherishes the memory of drinking Coca Cola) were aimed at the public and Congress.

Mr. Levick maintains that a year and a half after they began the campaign, their PR outreach produced literally thousands of news placements and that, eventually, a majority of the top 100 newspapers were editorializing on the detainees' behalf. Convinced that judges can be influenced by aggressive PR campaigns, Mr. Levick points to rulings in the detainee cases which openly cite news stories that resulted from his team's media outreach.

The Kuwaiti 12 case is a primer on the anatomy of a guerilla PR offensive, packaged and sold to the public as a fight for the "rule of law" and "America's core principles." Begin with flimsy information, generate stories that are spun from uncorroborated double or triple hearsay uttered by interested parties that are hard to confirm from halfway around the world. Feed the phonied-up stories to friendly media who write credulous reports and emotional human interest features, post them on a Web site where they will then be read and used as sources by other lazy (or busy) media from all over the world. In short, create one giant echo chamber.

Mr. Mutairi's profile is the most brazen example of Mr. Levick's confidence that the media can be easily manipulated. The Web site describes him as a member of an apolitical and peaceful sect of missionaries, and that he went to Afghanistan in October of 2000 to "minister in the small mosques and schools" in the country's poorer regions.

Everything Mr. Levick did was in partnership with Tom Wilner and the law firm of Sherman & Sterling. It was their joint litigation-PR plan, with the Guantanamo lawsuits helping the PR messaging and the PR messaging helping the lawsuits. All of this may be legal, but it is hardly ethical.

Shearman & Sterling lawyers aren't hucksters crassly promoting a cheap product; they are sworn officers of the court volunteering to represent alien enemy combatants in a time of war, interjecting themselves in cases that affect how American soldiers on the battlefield do their job. It is one thing to take these cases in order to achieve the proper balance between due process concerns and unprecedented national security issues. It is another to hire PR and marketing consultants to create image makeovers for suspected al Qaeda financiers, foot soldiers, weapons trainers and bomb makers, all of which is financed by millions of dollars from a foreign country enmeshed in the anti-American, anti-Israel elements of Middle East politics.

Although a few mistakes were made when some of the Guantanamo detainees were taken into custody in the fog of war, others were indisputably captured with AK-47s still smoking in their hands. Any one of those who have been properly classified in Combat Status Review Tribunals as an unlawful enemy combatant could be the next Mohamed Atta or Hani Hanjour, who, if captured in the summer of 2001, would have been described by these lawyers as a quiet engineering student from Hamburg and a nice Saudi kid who dreams of learning to fly.

How we deal with alien enemy combatants goes to the essence of the debate between those who see terrorism as a series of criminal acts that should be litigated in the justice system, one attack at a time, and those who see it as a global war where the "criminal paradigm" is no more effective against militant Islamists whose chief tactic is mass murder than indictments would have been in stopping Hitler's march across Europe. Michael Ratner and the lawyers in the Gitmo bar have expressly stated that the habeas corpus lawsuits are a tactic to prevent the U.S. military from doing its job. He has bragged that "The litigation is brutal . . . You can't run an interrogation . . . with attorneys." No, you can't. Lawyers can literally get us killed.

We may never know how many of the hundreds of repatriated detainees are back in action, fighting the U.S. or our allies thanks to the efforts of the Guantanamo Bay Bar. Approximately 20 former detainees have been confirmed as having returned to the battlefield, 12 of them killed by U.S. forces. Of the eight detainees who were rendered back to Kuwait for review of their cases, all were acquitted in criminal proceedings, including Mr. Mutairi, who has given press interviews admitting that he was shot in the November 2001 uprising at Qala-I-Jangi.

Only one Kuwaiti, Adel al-Zamel, has been sent to prison for crimes committed before his work with al-Wafa in Afghanistan. A member of an Islamist gang that stalked, videotaped and savagely beat "adulterers," he was sentenced to a year in prison in 2000 for attacking a coed sitting in her car. These are some of the men Tom Wilner was talking about when he went on national television and said with a straight face, "My guys . . . loved the United States."

The guy who really loved the United States stood and fought to protect us from radical Islamists, rather than enable them. In his job application for the CIA, Mike Spann wrote, "I am an action person that feels personally responsible for making any changes in this world that are in my power because if I don't no one else will." We owe our unqualified support and steadfastness to the warriors who take personal responsibility when no one else will.

Allowing lawyers to subvert the truth and transform the Constitution into a lethal weapon in the hands of our enemies -- while casting themselves as patriots -- makes a mockery of the sacrifices made by true patriots like Mike Spann. If Sens. Patrick Leahy and Arlen Specter, chairman and ranking members, respectively, of the Senate Judiciary Committee succeed in their plan to turn enemy combatant cases over to the federal courts, we will sorely rue the day that we eliminated "lawyer-free zones."

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Ms. Burlingame, a former attorney and a director of the World Trade Center Memorial Foundation, is the sister of Charles F. "Chic" Burlingame III, the pilot of American Airlines flight 77, which was crashed into the Pentagon on Sept. 11, 2001.

Friday, March 09, 2007

LOS ANGELES TIMES

OPINION:

The military's Gitmo script

A tour of the facility features strict boundaries and well-rehearsed lines.

By Karen J. Greenberg

KAREN J. GREENBERG is the executive director of the Center on Law and Security at the New York University School of Law and editor of "The Torture Debate in America." A longer version of this piece ap

March 9, 2007

SEVERAL WEEKS AGO, I took the media tour at Guantanamo. From the moment I arrived on a frayed Air Sunshine prop-jet to the time I boarded the same plane to head home, I had no doubt that I was on an alien planet. Along with two European colleagues, I was treated to two-plus days packed with site visits and interviews (none with prisoners) designed to "make transparent" Guantanamo and its manifold contributions to our country's national security.

Thanks to our military handlers, I learned a great deal about Gitmo decorum, as the military would like us to practice it. My escorts told me how best to describe the goings-on at Guantanamo, regardless of what my own eyes and prior knowledge told me.

Here, in a nutshell, is what I picked up:

1. *Guantanamo is not a prison.* The official term is "detention facility." Although the two most recently built complexes, Camps Five and Six, were modeled on prisons in Indiana and Michigan, it is not acceptable to use the word "prison" at Gitmo.
2. *Guantanamo has no prisoners, only "enemies."* As in "unlawful enemy combatants" or "detained enemy combatants."
3. *Once an enemy combatant, always an enemy combatant.* "Today, it is not about guilt or innocence. It's about unlawful enemy combatants," Rear Adm. Harry B. Harris Jr., the commanding officer of Guantanamo, told us. "And they are all unlawful enemy combatants." This despite the fact that the government also has a category for those deemed "no longer an enemy combatant," which was not mentioned. Nor was the possibility of mistaken detention.

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9. *Guantanamo houses no contradictions.* Islam is treated with respect. The prisoners' food is halal. Every prisoner, even the noncompliant, has a Koran if he wants it. But if you ask about other basic rights, such as the presumption of innocence, a sergeant without a name will chastise you about the dangers posed by enemy combatants.

"We allow two hours of recreation a day in order to comply with the Geneva Convention," we were told. But an escort also pointed out that the authorities need prisoners "to go outside so that we can search their cells for weapons and contraband." Try to explore these differing motives and an officer will reprimand the guide for giving out "misinformation."

I felt sorry for the handlers. Most of them had arrived only about eight months ago and were handed a script. They honestly didn't know the answers to the questions we asked.

10. *One final lesson: Visitors who fail to reproduce the official narrative will be punished.* "Tell it the wrong way and you won't be back," one of our escorts warned me over lunch.

Only time will tell if I got it right.

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THE GUARDIAN

Guantánamo terror trials begin in secret

Peter Walker and agencies
Friday March 9, 2007

Guardian Unlimited

The first stage in the trial of 14 high-level terrorism suspects held at the Guantánamo Bay detention centre will begin today behind closed doors, with both the media and the men's defence lawyers barred from attending.

Among those facing a panel of three US military officers today will be Khalid Sheikh Muhammad, the alleged mastermind behind the September 11 attacks, fellow top al-Qaida suspect Abu Zubaydah and Ramzi bin al-Shibh, also implicated in September 11.

The 14 detainees - officially described by the US as "high-value" suspects - were moved to Guantánamo Bay in September from a series of secret CIA detention centres.

The process beginning today is known as the "combatant status review" process, by which the panel will decide whether they should continue to be held at Guantánamo, or be transferred elsewhere or freed.

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The reviews, which have no time limit for completion, are not intended to decide on a detainee's innocence or guilt.

However, they are likely to pave the way for formal trials on terrorism charges before special military tribunals created under the Military Commissions Act, passed last year.

Opponents of the military commissions say they deny suspects' rights and allow unfair evidence such as statements obtained through torture.

All detainees at the US military base in Cuba appear periodically before review panels to determine whether they should remain in custody.

Announcing today's hearings on Tuesday, the Pentagon also said that similar boards for other Guantánamo detainees during 2006 had seen 55 people recommended for transfer and 273 returned to be held as "enemy combatants", the designation the US gives to the al-Qaida and Taliban suspects at the centre.

Today's hearings for the 14 men will be the first time the media has been shut out from combatant status review tribunals since they began in 2005. The only account of the process will come from Pentagon transcripts, which will be edited "to remove information that could be dangerous to national security", according to officials.

Such measures would have to be taken "given the nature of these individuals and the information that will be necessary as a part of these combatant status review tribunals", the Pentagon spokesman Bryan Whitman said earlier this week.

"The goal of the [defence] department and the United States government here is to be as transparent as possible," he said.

"But I think everybody recognises that these individuals are unique for the role that they have played in terrorist operations and in combat operations against US forces."

Initially, the Pentagon planned to withhold the names of the detainees from the transcripts, but later reconsidered.

The US has faced years of condemnation from human rights groups and other governments for holding detainees in Guantánamo Bay as enemy combatants.

Washington had maintained such detainees were entitled to no rights under the Geneva conventions until the Supreme Court ruled otherwise last year.

A series of released detainees, including some British former prisoners, have talked about facing abuse and torture at the base, something US officials deny.

In June last year, the US supreme court ruled that the planned tribunals violated US and international law. The government responded by passing the Military Commissions Act

2006, which legislates for tribunals where evidence can be brought and permits indefinite detention without trial where it cannot.

One of the first prisoners to appear before a tribunal will be Australian suspect David Hicks, whose trial will start on March 20, Australia's prime minister, John Howard, said yesterday.

Mr Hicks, the only Australian at Guantánamo, was charged on March 1 with providing material support for terrorism for allegedly fighting on the side of the Taliban when US-led forces invaded Afghanistan in 2001.

Mr Howard, who has come under increasing political pressure over Mr Hicks' detention without trial for more than five years, recently began demanding that US officials speed up the commission process.

He told Southern Cross Broadcasting that Mr Hicks would make his first court appearance at an arraignment hearing on March 20, adding: "It is not before time - it has taken too long."

Citation: <http://www.guardian.co.uk/guantanamo/story/0,,2030400,00.html>

MIAMI HERALD

Miami Herald
March 9, 2007
Pg. 1

Hearings Start Today In Secret

By Carol Rosenberg

If all follows Pentagon plans, sometime today alleged 9/11 mastermind Khalid Sheik Mohammed or another of 13 so-called high-value captives will be led in shackles into a trailer at Guantánamo Bay and be chained to the floor.

There, the captive will get a chance to argue, after years in secret CIA custody, that the United States has no right to call him an enemy combatant.

Reporters who sat through dozens of these Combatant Status Review Tribunal hearings in 2004 and 2005 are familiar with the process. Guantánamo briefers have said they will conduct hearings for their celebrity captives in much the same way.

In fact, last fall, soon after President Bush ordered the CIA to transfer Mohammed and the other men to Defense Department custody at Guantánamo, officers handling the CSRTs dusted off the 2004 procedures.

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There is one key difference: The Pentagon announced this week it was imposing a media blackout on the proceedings -- meaning a small table inside the room for three reporters subject to special ground rules will not be used. Instead of sitting in an anteroom until soldiers snap on surgical gloves and escort a prisoner inside the tiny, makeshift room with its chilly air conditioner, reporters will wait hundreds of miles away.

3-member panel

The Pentagon will release transcripts of the typically one- to two-hour exchange between the captive and a three-member panel of U.S. military officers, led by a colonel. Security experts will review the material before its release, but the Pentagon has provided no timetable.

It is unknown whether the high-value detainees at the U.S. Navy base in southeast Cuba will discuss the circumstances of their capture or their treatment while held at so-called CIA black sites. However, military commanders have long shielded interrogation techniques to avoid tipping off at-large terrorists.

No attorneys will be at today's scheduled hearing.

The Defense Department created the hearings in 2004, soon after the U.S. Supreme Court ruled that detainees at Guantánamo could contest their captivity in federal courts. However, then-Justice Sandra Day O'Connor left open the possibility that some other kind of review would do.

So the Pentagon panel emulates a battlefield review -- now four-plus years after their capture or hand-over to U.S. authorities a half a world away.

Scripted process

During those seen by the media, and later released in transcripts, the officers followed a script: Accusations -- not charges -- were announced; the captive was invited to swear an oath to Allah over a Koran; he was allowed to answer the accusations; then panel members asked questions.

Translation was mostly the norm -- from Urdu and Uighur to Arabic and Pashtu, with some U.S. military contract translators struggling to keep pace with a captive's long-winded and sometime circuitous pleas.

A few seemed surly, but many sounded polite -- noticeably when the presiding officer was a woman.

The hearings were all held inside prefabricated trailer-style buildings that were planted on gravel inside Camp Delta. They have toilets, special security monitors and mostly modest office furniture.

By the time reporters were invited to watch -- at first brought in by special airlift to observe what the Pentagon said was extraordinary transparency -- the military split the sessions in half to showcase the proceedings:

- An unclassified portion, where reporters could watch a captive answer the broad allegations against them, but not any specific secret evidence.

"One plus one is two. But one plus five is not 10. You want to make one plus five equal 10," said a 27-year-old Yemeni with scraggly beard in November 2004. He was denying an accusation of supporting al Qaeda because he attended a Muslim school in Pakistan that the U.S. had linked to Osama bin Laden's terror group.

- Then came the classified portion. Reporters were ushered out; guards once again donned surgical gloves and led the shackled captive out the door.

Afterward, the panel would study the captive's classified intelligence file in secret to see whether he met the Bush administration's definition of enemy combatant.

Criteria included membership in al Qaeda or the Taliban, association with al Qaeda or Taliban members or, in some cases, suspected terrorist sympathies. Because it was a battlefield-style hearing, the traditional U.S. rules of evidence did not apply.

The Pentagon shielded the results of the review, making it impossible to know if the young Yemeni was among the 38 of 558 detainees who were found not to meet the minimum definition of enemy combatant.

Sunday, March 11, 2007

WASHINGTON POST

Episode at Guantanamo Leaves Family at a Loss

By Faiza Saleh Ambah
Washington Post Foreign Service
Sunday, March 11, 2007; A14

MEDINA, Saudi Arabia -- Mishal al-Harbi's brain was deprived of oxygen for several minutes on the evening of Jan. 16, 2003, while he was in U.S. detention at Guantanamo Bay, Cuba. As a result, he cannot stand, his speech is slurred, and he has a twitch that periodically causes his head to shake and his legs to jerk.

U.S. authorities say Mishal's brain was damaged when he tried to hang himself at Guantanamo. But his brother Fahd says a beating by prison guards cut off the flow of oxygen, leaving Mishal unable to walk or talk properly. Fahd said his brother needs

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Fahd said the time his brother spent at Guantanamo may have irrevocably damaged his future.

"All the men who were released from Guantanamo, they are now leading a normal life," he said. "But Mishal can't walk, get himself a glass of water or go to the bathroom by himself. I just want him to go back the way he was before Guantanamo."

LOS ANGELES TIMES

OPINION:

The silence that fueled Walter Reed and Abu Ghraib

The military's culture of fear allows crises to fester before exploding into public view.

By M. Gregg Bloche

M. GREGG BLOCHE is a professor of law at Georgetown University, senior fellow at the Brookings Institution and visiting professor of law at UCLA.

March 11, 2007

WHAT went wrong at Walter Reed Army Medical Center? Congressional hearings and a new commission to study medical care for soldiers and veterans will yield some answers, but in the meantime, a past crisis may provide some clues.

Clinicians correct their mistakes by talking about them, a truth brought home in recent years by multiple studies of medical error in civilian settings. In healthcare, silence is deadly. Military doctors understand this. The culture of armed forces medicine has long encouraged open discussion of clinical and administrative difficulties. Rank has counted for less in such conversations than it typically does in the military. But since 9/11, there's been slippage toward a different ethic — one of denial and evasion. Fear has driven this shift — fear of the consequences of speaking freely.

In 2004 and 2005, I and a colleague, Jonathan Marks, reported that some military doctors covered up detainee abuse — and even helped to plan it — at Abu Ghraib, Guantanamo Bay and secret sites elsewhere.

When these stories and others broke, many in military medicine were shocked and ashamed. They tried to talk about what had gone wrong — and what the rules should be at such places as Abu Ghraib — in the face of pressure to support the Bush administration's few-holds-barred approach to detainees suspected of terrorism. But the Army's top doctor, Lt. Gen. Kevin C. Kiley, and his politically appointed civilian overlord, William Winkenwerder, both of whom now face congressional fire for the

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