

4-1-2023

Foreign Detainee Operations Post 9/11: An Example of the United States' Ethical Compromise

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Foreign Detainee Operations Post 9/11: An Example of the United States' Ethical Compromise



Honors Thesis

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Abstract: After 9/11, the United States government issued a series of policies that allowed tortuous interrogations to extract actionable information. After being a member of the Geneva Conventions and the Convention Against Torture, the U.S. directly defied these international treaties purely because it suited their interests during the retaliation against al-Qaeda. This paper seeks to address the lack of accountability that was present in the Bush administration and supporting departments while attempting to draft doctrine that capitalized on the subjectivity of torture laws, as well as the implications these actions have on the nation. This research takes a multi-case study approach which allows for an in-depth analysis of interrogative techniques, living conditions, and the legal process.

Keywords: Detainee, Ethics, Torture, Interrogation



University of
Dayton

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As citizens of the United States, we often hear of our international influence supported by our military victories and patriotism. The U.S. has appeared to take the role of a global peacekeeper with military occupations on every continent. Events that have international consequences can sometimes threaten this influence and damage the United States' overall efficacy in global and societal issues. A situation of international consequence is the United States' handling of foreign detainee operations after the terrorist attacks on 9/11. After announcing War on Terror, the U.S. rushed into the Middle East to strike at al-Qaeda in retribution. The Constitution was reinterpreted by subjective arguments on what defines suffering to support the government's torture of suspected al-Qaeda members. Detainee operations post 9/11 illustrate high-ranking government officials' inclination to bend the law according to their immediate needs. Who in the chain of command will be held accountable if government officials have the resources to project their ideals into the legal system? The treatment of foreign detainees demonstrates our leaders' willingness to institute fundamental changes to laws rooted in treaties such as the Geneva Conventions and Convention Against Torture which degrades U.S. international influence as the nation fails to keep its word.

Background

In the 1970's and 80's, the Soviet Union invaded Afghanistan and the inhabitants of the region were called to defend themselves, known as a jihad or "struggle." The term jihad is misrepresented and now carries a negative connotation due to racial profiling after 9/11. Jihad is not an offensive action where Muslims are called to attack or invade another group and there is no wording in the Quran that represents this definition. Instead, the Quran describes a jihad as an attempt to convert aggressors to Islam and to

take physical action to defend themselves when necessary (Esposito, 2002, p. 1-4). Several mujahideen groups (Islamic guerrilla fighters) originated from the Afghan response to the Soviet invasion. These groups were collectively named the Peshawar Seven. All around the world, members of these groups went to mosques to recruit fighters for the cause. Donations came pouring in from charity organizations, mosques, and countries such as Saudi Arabia, the United Kingdom, and the United States. The U.S. funneled hundreds of millions of dollars towards these mujahideen fighting camps, which at the time were partially assisted by al-Qaeda, in the name of democracy (Hickman & Kiriakou, 2017, p. 44-45).

In 1989, the Soviet Invasion of Afghanistan was thwarted and the donations from the U.S. stopped. After incidences of meddling from the U.S, particularly the Persian Gulf War, al-Qaeda's attention turned to Western culture (Hickman & Kiriakou, 2017, p. 32-33). Following an offensive jihad doctrine, al-Qaeda attacked America on September 11, 2001. The response from the U.S. military was quick and the CIA continued amassing information on al-Qaeda to begin the search for their high-ranking officials. Though it had announced a War on Terror in the Middle East, the U.S. argued that the Geneva Conventions (outlining proper wartime ethics and procedures) did not apply to al-Qaeda since it was not recognized as a nation-state (p. 85-86). Legal gaps formed, creating a gray space that enabled the Bush administration to create detainee operation doctrine that suited their goals. However, several obstacles still prevented the Bush administration and supporting departments from fully instituting these changes, such as the Military Commission Act, the Convention Against Torture, and the Federal Torture Statute.

The Military Commission Act

Following the capture of foreign detainees, there needed to be a method of ascertaining guilt rather than solely relying on the CIA's word. Previously, detainees were housed at Guantanamo Bay since the first capture after 9/11 in 2002 with few legal pathways. Military commissions were created to address a lack of legal guidelines in the processing of foreign detainees and to maintain systemic balance by providing methods of proving or disproving innocence. Commissions were headed by officers in the military and run identical to the court system in the U.S. Trials were guided by the Military Commissions Act of 2006 which defined what an enemy combatant was and outlined how proceedings should be conducted. The Military Commission Act was like the U.S. criminal justice system; however it left out the possibility of habeas corpus, a key component in creating equitable conditions for defendants (House of Representatives, 2006). The Military Commission Act allowed the CIA to legally validate their actions while also taking away any chance of detainees capitalizing on legal gray space and receiving ample protections traditionally provided by the law.

After *Hamdan v. Rumsfeld* in June of 2006, military commissions required congressional approval in an attempt to regulate which detainees were being brought before the court and tried. The removal of habeas corpus is confirmed by *Johnson v. Eisentrager*, a U.S. Supreme Court case stating that habeas corpus is not guaranteed to non-U.S. citizens, continuing to separate any protection of the law that foreign detainees could use to their benefit. Having already declared members of al-Qaeda excluded from rights dictated in the Geneva Conventions, taking away habeas corpus represented another major step that enabled the Bush administration and CIA to treat prisoners

brutally and prevent it from becoming known in court. However, the detainee exclusion from habeas corpus in *Johnson v. Eisentrager* was thrown out by *Boumediene v. Bush* in 2008 (Supreme Court, 2006-2008).

The Office of Military Commissions was created within the Department of Defense and was responsible for seeing commissions were conducted as prescribed by the D.C. Circuit Court which had final say over judgements. However, the Military Commission Act prevented the court from using the Geneva Conventions as a legal foundation for decision making, since it does not directly translate into the American legal system. It did allow for detainees to receive legal counsel and prevented excessive punishment such as flogging, branding, tattooing, or any other cruel or unreasonable punishment, citing 18 U.S.C. §2340A Torture Statute (House of Representatives, 2006). At the time of the institution of the Military Commission Act in 2006, members of Congress were aware of the CIA's ongoing interrogation methods and it was a matter of discussion during deliberation. Testimonies were provided to emphasize the implications enhanced interrogation had on the country, including a letter to the House of Representatives by Vladimir Bukovsky, a human rights activist, stated:

“If it isn't stopped, torture will destroy your nation's important strategy to develop democracy in the Middle East, and if you cynically outsource torture to contractors and foreign agents, how can you possibly be surprised if an 18-year-old in the Middle East casts a jaundiced eye toward your reform efforts there?”

Despite attempts to illustrate how torture had affected the detainees, the lack of congressional awareness became increasingly evident. Representatives failed to understand that engaging in torture lowered the standards of the Geneva Conventions and

Convention Against Torture (House of Representatives, 2006). The United States holds influential power in all treaties it signs and sets an international example. If the U.S. fails to recognize the importance of upholding treaties, we risk our armed forces facing similar treatment in the hands of an adversary.

Torture Legislation and Treaties

After imprisoning detainees, the CIA was faced with the issue of interrogating them. However, the methods proposed violated federal statutes and treaties the U.S. had entered, specifically the Convention Against Torture in 1987 (which the U.S. was the original proponent of) that explicitly states torture under any circumstances is forbidden. The Federal Torture Statute 18 USC §2340, a statute serving as a U.S. legal extension of Convention Against Torture, prohibits:

Torture committed by public officials under color of law against persons within the public official's custody or control. Torture is defined to include acts specifically intended to inflict severe physical or mental pain or suffering. (It does not include such pain or suffering incidental to lawful sanctions.) The statute applies only to acts of torture committed outside the United States. There is Federal extraterritorial jurisdiction over such acts whenever the perpetrator is a national of the United States or the alleged offender is found within the United States, irrespective of the nationality of the victim or the alleged offender. (DOJ, 2020)

The U.N. Convention Against Torture defines torture as:

Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a

third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. (United Nations, 1984, p. 1)

The Military Commission Act, Federal Torture Statute, Convention Against Torture, and Geneva Conventions stood in the way of the Bush administration of engaging in torture during their interrogation of the detainees. Having entered the Geneva Conventions and originally proposed the Convention Against Torture, the administration devoted their vast resources (particularly the Office of Legal Counsel) to produce memorandums that condoned and reinterpreted the laws we had in place to allow for a more “rigorous” interrogation style. The Bush administration, specifically the “Bush Six” which was an inner group of political officials that sought to enable aggressive CIA interrogation styles, was instrumental in abandoning the legal ethics and rerouting agency policy (Cole, 2009, p. 3-4). The Bush Six consisted of Alberto Gonzales (US Attorney General,) Jay Bybee (Head of the Office of Legal Counsel,) John Yoo (Assistant of Attorney General in the Office of Legal Counsel,) Douglas Feith (Undersecretary of Defense for Policy,) William Haynes (General Counsel for Department of Defense,) and David Addington (Chief of Staff to the Vice President) (ECCHR). Each of these individuals occupied a powerful position in the government that they leveraged to create classified documents that could hide and protect the interrogation activities in Guantanamo Bay and other locations.

Purpose of Research

In a broader scope, this study examined government oversight and how federal agencies engaging in interrogation were controlled by checks and balances, if at all. This study focused on the events that enabled corruption of ethics to occur and reflects the policies that were shaped by the presidential administrations and the satellite agencies tasked with maintaining government protocols, such as the Office of Legal Counsel. The study assessed how agencies were able to capitalize on their authority and the law to take advantage of subjectivity in the Federal Torture Statute, Convention Against Torture, and Geneva Conventions.

Method

A case study approach was chosen for this topic because of its ability to demonstrate common practices, systemic patterns, and the lasting impacts that actions have on an institution. Specific to the subject of detainee operations, a case study analysis enabled an in-depth examination of how doctrine on detainee treatment and the resulting human rights exploitation were a product of the U.S. government's willingness to compromise ethical standards. It allowed for example comparisons to establish a definitive pattern and highlight key issues to propose viable solutions for how the government can increase accountability of its officials and agency processes.

To eliminate bias and determine relevance, several factors were considered to identify appropriate cases. Cases were from individuals that were identified as high value targets and detained by the U.S. in the Middle East after 9/11. High value targets are individuals that are of high priority for capture or assassinating, and in this case, were people who participated in the attack on 9/11, had knowledge of those who did, and knew

where other operatives of al-Qaeda were located. Factors such as the location of the detainee at the time of capture, what interrogation site they are taken to, and if they were exposed to interrogation techniques that are prohibited in the U.S. justice system were considered. Cases of people who were captured in Afghanistan, Saudi Arabia, or Pakistan were picked because these were nations within the U.S. military's area of operation. Detainees that were then housed in Guantanamo Bay or other CIA black sites were selected based on priority of U.S. occupation. At these holding locations, interrogation habits and patterns were analyzed for abusive characteristics, including but not limited to, the interrogation techniques listed in the appendix.

Cases selected based on these conditions were Abu Zabaydah, Khalid Sheikh Mohammed, and Mohammed al-Qahtani. Each of these individuals were identified as high value targets and were captured in retaliation efforts after 9/11. They were all interrogated utilizing "enhanced techniques" that constituted torture in a practical sense, but not a legal one due to the Bush Six's and the Office of Legal Counsel's ability to reinterpret the law and redefine what it meant to be tortured based on extreme standards. The patterns exhibited by the cases could potentially be described as violating ethical guidelines.

The cases were then analyzed using a case analysis table (see Appendix-5) with two columns: one that listed the selection questions and a corresponding column describing how each case demonstrates characteristics relevant to these selection requirements. After examining primary and secondary sources regarding the cases of each selected detainee, the information is summarized and added to the chart. Many of the sources used to gather information were previously classified memorandums, internal

operation doctrine, and individuals that had direct contact with this system of interrogation and/or its lasting effects. The case analysis table is then used to establish a pattern demonstrated by the government agents at the lowest level and continues to answer broader questions to show how the actions of the governing officials create unethical conditions.

Abu Zabaydah and Khalid Sheikh Mohammed

Some of the first attempts at proposed legal enhanced interrogation were Abu Zabaydah and Khalid Sheikh Mohammed, as they were some of the first high ranking captures the United States made after the retaliation on al-Qaeda began. Zabaydah was a member of the Afghan forces fighting against the Soviet invasion in the 1970's and 80's. At that time, al-Qaeda was integrated into the military campaign and located at many of the different mujahideen training camps in the region. Zabaydah, a devout Islam dedicated to the defense of his people and faith, was ordered to the al-Farouq training camp where al-Qaeda aided in the teaching of key soldier skills. He was accused of joining al-Qaeda and was believed to be the third highest ranking member in the militia and was therefore considered to be a remarkably high value target. After being critically injured and captured by the CIA, Zabaydah was taken to a medical site and transferred to Guantanamo Bay when he was stable (Hickman & Kiriakou, 2017, p. 36).

Khalid Sheikh Mohammed (henceforth KSM) was another high value target and was accused of a lengthy list of terrorist activities including not only 9/11, but attacks on the World Trade Centers in 1993, U.S. embassies in Kenya and Tanzania in 1998, the U.S.S. Cole, and possibly the murder of Daniel Pearl, a Wall Street Journalist. KSM was known as the Operations Chief of al-Qaeda and was known to run a safe house called the

“House of Martyrs.” KSM was reportedly captured in an urban raid in early March of 2003 and likewise transferred to Guantanamo Bay through CIA custody (Bowden, 2003, p. 1).

Abu Zabaydah and KSM are both discussed in this section because their cases are identical and are conducted under the same memorandums that function as the instructing doctrine. Most of this section of the case study is focused on Zabaydah because of the lack of material on KSM. Much of the material on KSM is heavily redacted, given his status as a high value target and knowledge of several terrorist events outside the scope of 9/11. In contrast, information on Zabaydah is easier to find because of his lack of knowledge of 9/11. There was also doubt as to whether Abu Zabaydah was even an accomplice at all and if the CIA had mistakenly detained Zabaydah, who may have had the same name as another man in al-Qaeda (Hickman & Kiriakou, 2017, p. 90-95). It can be assumed that the government specifically restricts the flow of information on a case-by-case basis as dictated by the priority of the detainee.

Having captured these high value detainees, the U.S. was hard pressed to get actionable information and wanted to get it quickly. However, they still had to abide by the Geneva Conventions and the Convention Against Torture. They accomplished this task through a series of memos written by the Office of Legal Counsel (OLC), nicknamed the Torture Memos. The first two were secretly released on August 1, 2002. One was a memorandum addressed to John Rizzo, then Acting General Counsel of the CIA, discussing whether their interrogation style would violate section 2340A. This memo was in reference to Abu Zabaydah, who was thought to be the senior lieutenant for Osama bin Laden. The CIA was certain that Zabaydah had information he was refusing to disclose

and they needed aggressive methods to extract it. To institute stricter methods to combat his resistance, the CIA consulted previous SERE specialists (Survival, Evasion, Resistance and Escape,) who were familiar with tactics used to aggressively interrogate prisoners and proposed a 10-step technique (see Appendix-1) which would gradually grow in intensity (Bybee, 2002, p. 1-4). Furthermore, this memo provided defenses in case of prosecution and cited extreme forms of punishment as the threshold for torture, such as being burned or beaten with clubs. So long as there was no prolonged mental effects and no specific intent to commit torture, then it was a legitimate operation (Bybee, 2002, p. 10-16).

This 10-step method was originally drafted for Zabaydah and meant to target some of his fears, such as the cramped confinement technique coupled with the addition of insects in his box. All other steps were meant to provide some value of shock or exhaustion that would weaken his defenses, most notably the walling technique, the facial hold, and sleep deprivation. Climaxing in intensity, and perhaps the most well-known interrogation method, was the institution of waterboarding. This involves placing a detainee on an angled platform and his head declined, placing cloth over his mouth, and pouring water for no more than 10 seconds to bring about the feeling of drowning. Waterboarding creates the feeling of suffocation because of the build of carbon dioxide in the detainee's bloodstream.

In an Inspector General's report, KSM was reported to have been waterboarded 183 times. In addition to the steps, Zabaydah was also subjected to mefloquine, a drug originally intended for malaria. A part of the CIA's MK-ULTRA program, devoted to creating drugs for torture and interrogation, experimented with this drug because its side

effects created paranoia, depression, aggression, hallucination, and suicidal tendencies, to name a few. The suggested dose was a maximum of 250 mg, but Zabaydah was given an astounding dose of 1,250 mg (CIA Inspector General, 2004, 91). In essence, mefloquine was administered to synthesize clinical insanity. All aforementioned techniques are reminiscent of the KUBARK manual, a guide developed by the CIA and released to its agents in 1963 that instructed them on how to engage in torture (see Appendix-4). All later attempts at enhanced techniques are derivatives of this guide's basic instructions and intentions. In conjunction with one another, these methods developed a relentless assault on a person's psychological and physical defenses, leaving them open to facilitate information collection.

The other 2002 memorandum to Alberto Gonzales, who was counsel to the president, covered similar points in the memo to John Rizzo, but focused on the legal elements of torture in relation to the Convention Against Torture and section 2340A. It stated that interrogation would only constitute torture if victims suffered intense pain or suffering that could lead to physical injury or death, organ failure, or permanent damage (Bybee, 2002, p. 1-5). To demonstrate these tactics as necessary but still ethical, the memorandum mentions the torture of Bosnian Muslims, who were subjected to Russian roulette, injury to their genitals, and forced removal of their teeth. Drawing a parallel to allied nations, it discusses methods utilized by European nations and Israel like the CIA's 10-step interrogation style. This memo establishes that the 10-step guide was cruel and degrading, but not torture. If Congress wanted to step in, the author states Congress has no constitutional right to violate the president's authority in matters relating to the battlefield (p. 24-39).

After the 2002 torture memos were leaked, the public backlash forced the OLC to reject the previous versions and release a new updated memo to calm widespread dissent. The memo to James Comey, the Deputy Attorney General at the time of December 30, 2004, redefined interrogative actions and their legal limits. However, these interpretations continued to capitalize on the subjectivity of pain and the adjectives that describe it, such as “severe” or “extreme or outrageous.” The CIA Inspector General had also released a report stating the use of these interrogation techniques was abusive and the belief that this could be medically safe was unfounded (Levin, 2004, p. 2-10).

Despite the sentiments the 2004 memo attempted to reinforce with the public, the OLC continued to draft more memos. Congress was beginning to act and the presidential administration and the CIA tried to continue their operations. To safeguard their tactics, they consulted the OLC, who released three more classified memos in 2005. These 2005 memos continued to cover the United States’ obligation to the Convention Against Torture and 2340A while still justifying the CIA’s actions. It also referenced SERE trainees who went through similar techniques and had no lasting impacts, failing to recognize that it was a training event that trainees knew would end unlike a permanent prisoner of war who knows they will not be released. This is a key aspect that affects the mental state of the victim and weakens them for information extraction (Cole, 2009, p. 25-27).

Moreover, this was all made possible with the institution of the Detainee Treatment Act in 2005 which laid out the basic guidelines for processing detainees. This act was identical to civilian procedures, allowing for the rights of a defense attorney and a trial, but neglecting to give the right to habeas corpus. It also permitted agents of the

U.S., the FBI and CIA, to utilize the previously discussed techniques. Members of Congress sought to rectify these gaps through an amendment lead by John McCain, a victim of torture as a prisoner of war himself. These attempts did not help Abu Zabaydah or KSM receive humane and decent treatment.

Government officials like Secretary of Defense Donald Rumsfeld, President Bush, and the Office of Legal Counsel were the drivers of this humanitarian violation. They capitalized on national aggression of 9/11 to shield their actions and create doctrine that would justify their interrogation methods while taking advantage of an inability to quantify what constitutes physical and psychological torture proposed by the Convention Against Torture and Geneva Conventions.

Mohammed al-Qahtani

Psychological trauma has also been implemented into the interrogation of other detainees. It has been subject to backlash for its harsh tactics and disrespect for a person's intimate beliefs, values, and overall sanity. There could not be a clearer example in the case of Mohammed Al-Qahtani, who was labeled as the "would-be 20th hijacker" of 9/11. Pursued for his suspected role in this attack, his rank in al-Qaeda, and his insider knowledge of the organization, al-Qahtani (or Detainee 063) was captured in December of 2001 by the Pakistani Army and was subsequently handed into custody of the U.S. (Zagorin, 2006). A log of his interrogation was leaked to Time Magazine and details the kind of psychological manipulation and abuse he went through for months. Though not a transcript of all that was said, it provided critical events and timelines for interrogation progression.

Al-Qahtani was transferred to Guantanamo Bay to be interrogated for any information he might know about the whereabouts of bin Laden, any future attacks, or location of key personnel. Interrogation started on November 23, 2002. Interrogation experts immediately began utilizing harsh techniques that are bearable when managed separately, but ultimately destructive when applied all at one time. The interrogation log states that al-Qaeda operatives are trained to make false claims of abuse to gain attention and take advantage of civil liberties. Al-Qahtani's attempt at this was ineffective at making any meaningful change.

Al-Qahtani was put into an isolation cell with no contact with any other detainees and was mostly kept away from any windows or natural light. The purpose of this was for him to feel disconnected from the outside world and create a hell that only he existed in. The interrogators gave and took away light whenever they wanted to. This, along with many other techniques, reinforces the idea that the detainee has no control and the captors are the ones who can decide his fate. This establishes dominance in favor of the interrogators and is leveraged in later sessions. Moreover, he was only given four hours of sleep which was broken up throughout the day with a series of naps. With no access to a clock and the interrogators succeeding in disrupting his circadian rhythm, al-Qahtani had no sense of time and time began to slow in his perspective. This technique is utilized to make the prisoner think that his captivity will never end and there is no way out. These conditions started on day one of al-Qahtani's stay.

In their first session, Detainee 063 attempted to start a hunger strike, which included not drinking water, because he claimed abusive treatment. The beginning interrogator started with the topic of al-Qahtani's relationships and discussed his brothers

in Cuba to build somewhat of a rapport. The detainee, a Muslim, consistently asks to pray and is denied by the interrogator who replies that a time to pray will be given later. Eventually, al-Qahtani agrees to drink water if he is allowed to pray. This interaction establishes a reward system in which the detainee does something desired and is given something he wants, reinforcing the dominance of his captors. From there, interrogators began to probe al-Qahtani on triggering topics, such as his family or 9/11. Interrogation models such as this one can build the detainee up or down and are meant to cause an inconsistency in emotions and disrupt any resistance to questioning. An example of this may be establishing a rapport of how much al-Qahtani's family must have meant to him to build him up. Later, the interrogator would bring up how his family would have moved on by now and forgotten about him to bring about feelings of despair and desperation. This up/down model is applied to almost every topic.

On the topic of 9/11, al-Qahtani remained firm in his assertions that he had no ties with al-Qaeda, nor was he supposed to be the 20th hijacker. The interrogators recognized his strong resistance on this subject and continuously pushed him for hours on it and return to the subject sometimes multiple times a day, slowly chipping away at his resolving and trying to poke holes in his cover stories. Within the first few days of his captivity, it is clear from the log that al-Qahtani was beginning to feel the effects of these conditions. The interrogators used this building sense of helplessness to attack his mental fortitude, stating that only he had the power to make this end if he would tell the interrogators everything they needed to know. They said that he would be given leniency and they could return him to his family one day.

A major front that al-Qahtani was attacked on was his faith in Islam. The interrogators were not always harsh with him and would on occasion engage in casual conversation to put the detainee at ease. This was utilized with the subject of Islam and what it meant to be a good Muslim, what it would be like on judgment day as referenced by the Quran, and that God had tasked him with rebuilding Islam. Interrogators would gain his perspective on these topics and then use it against him to make him feel guilty, as if he would go to hell unless he could redeem himself by confessing his sins. They would read passages from the Quran to him, pointing out his faults. After a few weeks in captivity, the interrogators constructed a shrine in an interrogating booth that was dedicated to Osama bin Laden. They would lead al-Qahtani to this shrine when he asked to pray and would tell him to pray to his “god,” bin Laden, leading to emotional outbursts and an obvious deterioration of resistance. He was woken up with a traditional adhan, the Muslim call to prayer, but was told that he was no longer allowed to pray and that the adhan was a call to interrogation.

Al-Qahtani’s religious restrictions were violated as well, such as shaving his beard, which resulted in sobbing and pleading with them to stop. Interrogators would show al-Qahtani bathing suit models in magazines, and he would refuse to look. Eventually, through the reward system, they trained him to memorize details about the images to receive something. All the while, they would insult him, telling him he was not trying hard enough or that he was terrible at memorizing details. Furthermore, al-Qahtani stated he did not want any female interrogators or translators to touch him or be near him, which was taken advantage of. Sometimes the women would touch him or speak in his

ear. One of the male interrogators crawled on top of him in a sensual manner as al-Qahtani lay on the floor attempting to put distance between himself and his captors.

Al-Qahtani was pressed for a confession that he was a member of al-Qaeda and would repeatedly deny it, stating that he came to the United States to find used cars to sell for profit and make money to take back to his family. Interrogators would claim that al-Qaeda had abandoned and forgotten about him and would tie this back to him being tasked with rebuilding Islam. They told him that al-Qaeda was falling apart and the jihadists always fail to achieve meaningful success in the end. Al-Qahtani was prohibited from using the bathroom at one point and was told that he would not be allowed to go unless he told the interrogators the truth. He then confessed to being a member of al-Qaeda to use the bathroom. After coming back, the detainee stated he lied so he could relieve himself. This forced confession was later used as evidence to justify keeping al-Qahtani at Guantanamo Bay.

Other tactics were utilized to make the detainee feel worthless and alone, such as giving him Arabic lessons (his native language) and making him write words like “coward,” “liar,” and “failure.” These words were used to emphasize his lack of commitment to confess his sins and his failed involvement in aiding the 9/11 attack. Al-Qahtani was also thrown a mock birthday party in which the interrogators put a party hat on him and everyone, including the guards, sang “God Bless America” instead of “Happy Birthday” to mock him. They brought in cake, offered him some, and made him watch as everyone enjoyed themselves. Similar tactics were employed later as the interrogators put on a barbecue, making him sit on a bench from a distance as he watched others laugh and enjoy their freedom. At times, the interrogators made a “happy Mohammed mask” that

they would place on him when it was apparent he was sad, further insulting him. They would point out banana rats, a species native to the region, and compare him to the rats. However, the interrogators made the distinction that even the rats had more freedom than he did. Similarly, interrogators would teach al-Qahtani tricks as if he were a dog and continuously compare him to one. These methods, while petty, reinforce the freedoms and enjoyment the detainee can no longer have and served to heighten the desperation to leave every time he was taken to the interrogation room.

Towards the end of the interrogation log leaked to Time Magazine (Zagorin, 2005), al-Qahtani began to break. He was only given a total of four hours of sleep each day, except for one day, and subjected to 20 hours of interrogation. After months of emotional trauma and sleep deprivation, al-Qahtani was easily manipulated into confessing some details to the questioners. Al-Qahtani was at one point engaged in a casual conversation with the interrogator who subtly introduced the topic of 9/11 as al-Qahtani's mind began to drift. Slowly, the interrogator started to include al-Qahtani with the other hijackers as he referenced the plot on 9/11. He then admitted that he did not know that the plan was to kill themselves in the attack on the U.S. and had decided not to get on the plane. The log covers events from November 23, 2002 to January 11, 2003 for a total of 50 days. These psychological interrogation tactics deteriorated the detainee's will to resist and his overall sanity.

These interrogation methods were proposed in a memorandum by Lieutenant Colonel Jerald Phifer on October 11, 2002 (see Appendix-2) to his commander to get approval for enhanced tactics to combat counter-resistance strategies. Members of al-Qaeda were known to be trained in resisting interrogation and LTC Phifer reasoned that

stronger procedures were required for this detainee. Secretary of Defense Donald Rumsfeld approved methods 1-14 and 18 on December 2, 2002, but later rescinded this approval in January of 2003. With the aid of legal advisors, he released thirty-five interrogations techniques that were permitted, referred to as the Working Group Techniques (see Appendix-3.) These tactics were reminiscent of previous research conducted by Albert Biderman on psychological manipulation in 1957 and integrated into the “KUBARK Counterintelligence Interrogation” manual. Any subsequent methods of enhanced interrogation, whether physical or psychological, have used these principles (see Appendix-4.)

Attempts were taken in the military and in Congress to propose some method of checks and balances. Complaints had been made to the chain of command that interrogation methods were too harsh, leading to investigations into Guantanamo Bay. A report by the Pentagon in July of 2005 recommended that the commandant of Guantanamo, Major General Bantz, be reprimanded for failing to supervise and control interrogations such as al-Qahtani’s. On the civilian side, John McCain attempted to pass his amendment to the Detainee Treatment Act to prevent an agent of the United States from engaging in torture or overly harsh interrogation styles. This attempt unfortunately did not help al-Qahtani’s treatment.

Unlike the cases of Khalid Sheikh Mohammed and Abu Zabaydah where physically enhanced interrogation styles were used, the psychological methods that Mohammed al-Qahtani was exposed to is harder to criticize. This is what the original proposers of these techniques seek to take advantage of. It is easy to say that no torture took place because the detainee was not physically harmed and therefore there should be

no lasting trauma. However, the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment states that lasting psychological trauma is a direct result of torture, no matter the form. Al-Qahtani is now a broken version of his former self, as witnesses state that he now crouches in the corner of his cell with a sheet draped over him while talking to voices and crying. These enhanced psychological techniques seek to capitalize on the grey line between harsh treatment and torture to maintain innocence. Although definitions of what abuse, trauma, and torture already exist, officials still attempt to take advantage of the inability to quantify human pain and suffering.

Discussion

The use of torture was not developed solely by the U.S., which simply built upon and employed tactics that have been developed for thousands of years. Dating back to ancient Greece to confirm the testimony of slaves in a court proceeding, torture has been used to gather information from a subject (Einolf, 2007, p. 107). During the Roman Empire, torture was committed against those accused of treason and in Medieval Europe, against foreigners as well. Witch trials conducted in 12th century capitalized on torture to determine a person's innocence (Einolf, 2007, p. 108). Enhanced interrogations and the justifications behind them are reminiscent of historically barbaric acts, demonstrating how little has changed since ancient times. Techniques from historical periods have been recorded and key characteristics have been used to derive the counterintelligence techniques seen in the modern time, such as the deprivation of outside stimuli as studied by Albert Biderman and employed by the KUBARK Manual in the 1950's and 60's (Ojeda, 2008, pgs. 6-8). The culmination and refining of techniques throughout history

demonstrates the careful development and utilization of counterintelligence interrogation conducted by the CIA.

The aforementioned detainee cases illustrate the techniques employed by the CIA to extract information from detainees and are justified through doctrine published with the intent of circumventing prior treaties. Government officials knowingly pursued this course of action despite the risks it poses to several aspects of our nation's interests, particularly weakening the United States' moral stance in any situation it attempts to utilize its international influence. Enhanced interrogations were not only pursued, but concealed from the public eye because they knew how others would react. These concerns must be addressed if we are to propose a solution.

Detainees who are subjected to these interrogation methods are shells of what they used to be. Mohammed al-Qahtani's lawyer reported that he now huddles in the corner of his cell with a sheet of himself and talks to voices in his head (Zagorin, 2006). Abu Zabaydah also suffers from intense mental trauma and has developed bed-wetting habits. It should be noted that evaluations of KSM's well-being have not been reported, likely due to his high ranking in al-Qaeda and the CIA's determination to hide their time with him. Members of the military who attend SERE, much of what these techniques are based on, mention its intensity and how they lose all perception of time that make captivity training feel real. It can be assumed that detainees imprisoned at Guantanamo who were made to suffer through these interrogations for months on end would be permanently scarred.

Officials often point to the scenario of a "ticking time bomb" to defend their collection of actionable information to save lives. The extent to which this has been

successful is questionable but has no doubt led to the capture of other al-Qaeda members (Hickman & Kiriakou, 2017, p. 86). What the OLC and the Bush Six failed to consider was a moral standard. It is easy, even understandable, to want to attack and degrade those who aided in the murders on 9/11. However, should we intentionally engage in activities we know to be tortuous, inhumane, and humiliating? How should the government interrogate people that possess potentially life-saving information, particularly non-U.S. citizens that are not entitled to all our constitutional rights? What attempts should be made to quantify pain and suffering? These questions are not only relevant but necessary to move forward with any operations conducted in relation to foreign detainees. Officials failed to ask any of these questions and have opened the U.S. up to moral criticism.

Under no justifications should the government have the right to decide whether someone should be tortured or treated inhumanely. The founding principles of the Constitution were indeed made to apply to the citizens of the U.S. but were also instituted to protect human rights. It was created by those separating themselves from what they considered to be tyranny and therefore wanted to protect the rights of all individuals. From this point of view, it no longer becomes necessary to judge whether a person has achieved citizenship in this nation, but an inherent duty to uphold human rights as dictated by the spirit of the Constitution. Furthermore, the Bill of Rights was added to the Constitution to prevent the federal government from abusing gaps or capitalizing on broad legislation that might inevitably develop another tyranny. Freedom of speech and religion or the right to a fair trial is a natural extension of the spirit of the Constitution, serving to specify and further protect human rights. The U.S. also signed the Geneva Conventions and Convention Against Torture: yet another reason the government has a

responsibility to perform their duties ethically. It is therefore a national responsibility to apply these principles to all people, regardless of their crime. If not because of our founding principles, then because we gave our word to international treaties. If leaders make moral or legal exceptions now, they will continue to abuse it in the future.

In terms of conducting ethical interrogation, there are effective methods that have been proven to work without subjecting detainees to inhumane conditions. The FBI utilizes an informed interrogation method that allows for an in-depth background of a prisoner and begins to develop a rapport. The prisoner is more likely to speak truthfully and be more forthcoming with someone they have developed some form of a relationship with, rather than attempting to withhold information while being waterboarded. The enhanced interrogation approach promises effective and efficient results, specifically with al-Qaeda members who are trained at resisting interrogation, but fails to achieve notable results. There are few, if any, successes that justify this approach. For example, it took over two months for interrogators to achieve an unintentional confession from al-Qahtani. After Abu Zabaydah and KSM gave actionable information, they continued to be waterboarded to ensure that they were telling the truth. At what point does interrogation transform into pointless torture if the detainee has already confessed? Utilizing enhanced interrogation methods does not provide enough results nor an assurance that the responses will be truthful. The U.S. compromises its moral integrity for a method that simply does not work consistently.

The CIA and its agents were able to continue this process through the administration's classified doctrine. No one can be held accountable if other departments (particularly the Inspector General) know what is going on. It was not until 2004 that the

first memos were leaked and there was backlash that the OLC began to retract its previous statements (while simultaneously reinforcing their original decision.) In 2005, the OLC was prompted by officials to release three more classified memos that solidified their course of action in using enhanced interrogation techniques. Accountability was avoided because of the government's ability to mark documents as “classified” and therefore must be addressed if further deception is to be avoided.

The use of these techniques and the failure to address them through legislation opens the U.S. up to a multitude of problems. As the U.S. has a military presence on every continent, it often plays a part in most conflicts through use of force, supplying resources, or providing political advice to foreign allies. Consequently, it has become an influence many countries look to for an example. Engaging in enhanced interrogation techniques that flagrantly violate notable conventions dictating how all major conflicts are fought threatens this status. Retracting our support for ethical actions in military campaigns and prisoner of war interrogations places our military at risk for similar treatment. What persuades nations to abide by their signatures of these treaties if a superpower nation is incapable of holding its own officials accountable?

In conclusion, enhanced interrogation techniques have been developed for as long as human civilization has existed and were researched by the CIA in the 1950's and 60's. After 9/11, became prevalent as government officials took advantage of their authority and the ability to classify documents so they could justify torture. Participation in enhanced interrogation techniques after signing human rights treaties places U.S. troops and international influence at risk. Though President Obama declassified the torture memos in 2008 and officially released it to increase accountability, no legal action has

been taken to prevent this from happening in the future. Investigation after investigation, government officials and agents have not been held accountable and left off with mere admonishments. We have failed to create an example out of those who sought to take advantage of their positions and reinterpret international treaties, providing fruitful ground for corruption that will surely come. If the U.S. is to maintain its international influence, it must not forego its ethical processes or risk losing its footing in creating favorable conditions worldwide.

Appendix

Figure 1- Enhanced Interrogation Techniques

1. The Attention Grasp	Consists of grasping the detainee with both hands, with one hand on each side of the collar opening, in a controlled and quick motion. In the same motion as the grasp, the detainee is drawn toward the interrogator
2. The Walling Technique	The detainee is pulled forward and then quickly and firmly pushed into a flexible false wall so that his shoulder blades hit the wall. His head and neck are supported with a rolled towel to prevent whiplash.
3. The Facial Hold	Used to hold the detainee's head immobile. The interrogator places an open palm on either side of the detainee's face and the interrogator's fingertips are kept well away from the detainee's eyes.
4. The Facial Slap	The fingers are slightly spread apart. The interrogator's hand makes contact with the area between the tip of the detainee's chin and the bottom of the corresponding earlobe.
5. Cramped Confinement	The detainee is placed in a confined space, typically a small or large box, which is usually dark. Confinement in the smaller space lasts no more than two hours and in the larger space it can last up to 18 hours.
6. Insects in Cramped Confinement	Involves placing a harmless insect in the box with the detainee.
7. Wall Standing	The detainee may stand about 4 to 5 feet from a wall with his feet spread approximately to his shoulder width. His arms are stretched out in front of him and his fingers rest on the wall to support all of his body weight. The detainee is not allowed to reposition his hands or feet.
8. Application of Stress Positions	May include having the detainee sit on file floor with his legs extended straight out in front of him with his arms

	raised above his head or kneeling on the floor while leaning back at a 45-degree angle.
9. Sleep Deprivation	Sleep deprivation will not exceed 11 days at a time.
10. Waterboarding	Involves binding the detainee to a bench with his feet elevated above his head. The detainee's head is immobilized and an interrogator places a cloth over the detainee's mouth and nose while pouring water onto the cloth in a controlled manner. Airflow is restricted for 20 to 40 seconds and the technique produces the sensation of drowning and suffocation.

(Bybee, 2002, p. 2-4).

Figure 2- LTC Jerald Phifer 2002 Memorandum

A1	Yelling at the detainee (not directly in his ear or to the level that it would cause physical pain or hearing problems.)
A2	Techniques of deception (multiple interrogation techniques; the interviewer may identify himself as an interrogator from a country with a reputation for harsh treatment of detainees.)
A3	Use of stress positions (like standing,) for a maximum of four hours.
A4	The use of falsified documents or reports.
A5	Use of an isolation facility for up to thirty days (permission may be requested for isolation to cover medical visits of a non-emergent nature and extend beyond the initial thirty days.)
A6	Interrogation of the detainee in an environment other than the standard interrogation booth.
A7	Deprivation of light and auditory stimuli.

A8	Detainee may also have a hood placed over his head during transportation and questioning. The hood should not restrict breathing in any way and the detainee should be under direct observation when hooded.
A9	Use of twenty-hour interrogations.
A10	Removal of all comfort items (including religious items.)
A11	Switching the detainee from hot rations to MRE.
A12	Removal of clothing.
A13	Forced grooming (shaving of facial hair, etc.)
A14	Using detainees' individual phobias (such as fear of dogs) to induce stress.
A15	The use of scenarios designed to convince the detainee that death or severe painful consequences are imminent for him and/or his family.
A16	Exposure to cold weather or water (with appropriate medical monitoring.)
A17	Use of a wet towel and dripping water to induce the misperception of suffocation (or waterboarding.)
A18	Use of mild, non-injurious physical contact such as grabbing, poking in the chest with the finger and light pushing.

(Ojeda, 2008, pgs. 11-12)

Figure 3- 2003 Rumsfeld Working Group Techniques

B1	Direct	Asking straightforward questions.
B2	Incentive/Removal of Incentive	Providing a reward or removing a privilege, above and beyond those required by the Geneva Conventions.

B3	Emotional Love	Playing on the love a detainee has for an individual or group.
B4	Emotional Hate	Playing on the hatred a detainee has for an individual or group.
B5	Fear Up Harsh	Significantly increasing the fear level in a detainee.
B6	Fear Up Mild	Moderately increasing the fear level in a detainee.
B7	Reduced Fear	Reducing the fear level of a detainee.
B8	Pride and Ego Up	Boosting the ego of a detainee.
B9	Pride and Ego Down	Attacking or insulting the ego of a detainee, not beyond the limits that would apply to a POW.
B10	Futility	Invoking the feeling of futility of a detainee.
B11	We Know All	Convincing the detainee that the interrogator knows the answer to questions he asks the detainee.
B12	Establish Your Identity	Convincing the detainee that the interrogator has mistaken the detainee for someone else.
B13	Repetition Approach	Continuously repeating the same question to the detainee within interrogation periods of normal duration.
B14	File and Dossier	Convincing the detainee that the interrogator has a damning and inaccurate file that must be fixed.
B15	Mutt and Jeff	A team consisting of a friendly and harsh interrogator. The harsh interrogator might employ the pride and ego down technique.
B16	Rapid Fire	Questioning in rapid succession without allowing the detainee to answer.

B17	Silence	Staring at the detainee to encourage discomfort.
B18	Change of Scenery Up	Removing the detainee from the standard interrogation setting (generally to a location more pleasant, but no worse.)
B19	Change of Scenery Down	Removing the detainee from the standard interrogation setting and placing him in a setting that may be less comfortable; would not constitute a substantial change in environmental quality.
B20	Hooding	This technique is questioning the detainee with a blindfold in place. For interrogation purposes, the blindfold is not on other than during the interrogation.
B21	Mild Physical Contact	Lightly touching a detainee or lightly poking the detainee in a completely non-injurious manner. This also includes softly grabbing of shoulders to get the detainee's attention or to comfort the detainee.
B22	Dietary Manipulation	Changing the diet of a detainee; no intended deprivation of food or water; adverse medical or cultural effect and without intent to deprive subject of food or water; e.g. hot rations to MREs.
B23	Environmental Manipulation	Altering the environment to create moderate discomfort (e.g. adjusting temperature or introducing an unpleasant smell.) Conditions would not be such that they would injure the detainee.
B24	Sleep Adjustment	Adjusting the sleeping times of the detainee (e.g. reversing sleep cycles from night to day.) This technique is NOT sleep deprivation (sleep deprivation is a separate technique.)
B25	False Flag	Convincing the detainee that individuals from a country other than the United States are interrogating him.
B26	Threat of Transfer	Threatening to transfer the subject to a third country that subject is likely to fear would subject him to torture or death. (The threat would not be acted upon nor would the

		threat include any information beyond the naming of the receiving country.)
B27	Isolation	Isolating the detainee from other detainees while still complying with the basic standard of treatment.
B28	Use of Prolonged Interrogation	The continued use of a series of approaches that extend over a long period of time (e.g. 20 hours per day per interrogation.)
B29	Forced Grooming	Forcing a detainee to shave hair or beard. (Force applied with intention to avoid injury. Would not use force that would cause serious injury.)
B30	Prolonged Standing	Lengthy standing in a “normal” position (nonstress.) This has been successful, but should never make the detainee exhausted to the point of weakness or collapse. Not enforced by physical restraints. Not to exceed four hours in a 24 hour period.
B31	Sleep Deprivation	Keeping the detainee awake for an extended period of time (Allowing the individual to rest and then awakening him, repeatedly.) Not to exceed four days in succession.
B32	Physical Training	Requiring detainees to exercise (perform ordinary physical exercises actions) (e.g. running, jumping jacks); not to exceed 15 minutes in a two hour period; not more than two cycles, per 24-hour periods.) Assists in generating compliance and fatiguing the detainees. Not enforced compliance.
B33	Face Slap/Stomach Slap	A quick glancing slap to the fleshy part of the cheek or stomach. These techniques are used strictly as shock measures and do not cause pain or injury. They are only effective if used once or twice together. After the second time on a detainee, it will lose the shock effect. Limited to two slaps per application; no more than two applications per interrogation.
B34	Removal of Clothing	Potential removal of all clothing; removal to be done by military police if not agreed to by the subject. Creating a feeling of helplessness and dependence. Thai technique

		must be monitored to ensure the environmental conditions are such that this technique does not injure the detainee's safety.
B35	Increasing Anxiety by Use of Aversions	Introducing factors that of themselves create anxiety but do not create terror or mental trauma (e.g. simple presence of dog without directly threatening action.) This technique requires the commander to develop specific and detailed safeguard to insure the detainee's safety.

(Ojeda, 2008, pgs. 13-15)

Figure 4- Key Aspects from KUBARK Counterintelligence Interrogation Manual

C1	Monopolization of Attention	Environment reduces sensory stimuli as quickly as possible to produce anxiety that the interrogator can capitalize on. Reverts the detainee back to childlike mentality and behavior. Detainee is forced to think and focus on the situation at hand.
C2	Induced Debilitation and Exhaustion	Detainees made to hold positions that are simple, yet exhausting, such as holding the position of attention. Effects are increased through contrasting elements (i.e. having the detainee sit in a comfortable chair before holding these exhausting positions.)
C3	Cultivation of Anxiety and Despair	Interrogators completely change prison to reduce any sense of time, space, and sensory stimuli. The goal is to create mental discomfort. Anything familiar is discarded. Make the detainee feel as if they are cut off from the rest of the world. Change of sleep pattern and food. Constantly disrupting patterns through aggressive and passive methods
C4	Alternating Punishments and Rewards	Mutt and Jeff routine (good cop, bad cop) and creates a contrast in character. Sleep and food can be rewarded for supplying information but should be done irregularly. Can be accomplished with one interrogator by reacting favorably or unfavorably to whether sufficient information has been supplied.

C5	Demonstrating Omniscience of Captor	Detainee made to think that the interrogator knows all, presented with a thick file that may be filled with blank paper. Questions asked to ascertain detainee's "trustworthiness" and is told the interrogator knows if the detainee has lied.
C6	Demonstrating Omnipotence of Captor	The interrogator demonstrates that they have the power to control any forms of comfort or means of survival. They are shown to be the only ones that allow sleep, food, water, peace, etc.
C7	Temporal Disorientation	Completely changing detainee's sense of time through manipulation of sleep schedule, advancing or reverting clock times, changing mealtimes, etc.
C8	Sensory Disorientation	Detainee subjected to "Alice in Wonderland" effect where everything is different and is enforced through odd, wacky questions or suggestion of changing qualities (i.e. rising heat or bitter tasting food/cigarettes.)
C9	Threat	Threatening to hurt, maim, kill the detainee or people that the detainee may care about, including but not limited to family, friends, colleagues, etc.
C10	Pharmacological Manipulation	Use of drugs to weaken detainee's resistance, especially if they have extreme feelings of guilt or unease. Allows for prying of information and can cause psychological discomfort.

(Ojeda, 2008, pgs. 6-8)

Figure 5- Case Analysis

Abu Zabaydah aka Zayn al-Abidin Muhammad Husayn

What are the detainees accused of?	Originally working for the Afghan forces working against Soviet invasion, ordered to Farouq training camp run by al-Qaeda. From there exposed to extreme Islamic values. Trained fighters against Soviet occupation and rebel forces in Tajikistan and entered al-Qaeda. Supposedly third high ranking man in al-Qaeda.
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How are they processed?	Given medical treatment at a CIA site, then taken to Guantanamo Bay to interrogation.
How are they interrogated?	Using ten step guide proposed by the torture memo from 2002. Also using Mefloquine, usually prescribed for Malaria but causes strong psychological side effects. Zabaydah was given nearly four times the recommended dose.
What, if any, are the checks and balances when handling prisoners?	Detainee Treatment Act to layout basic procedures, roughly follows the laws in civilian courts minus the right of habeas corpus. John McCain Amendment sought to address gaps in DTA and stop torturous activities.
What legal policies does the government follow/create?	2002-2005 memos, six in total. Many of these were originally proposed for Zabaydah interrogations, since he was the first high value target they caught.
How do they capitalize on the subjectivity of the law?	Abu Zabaydah was one of the first known detainees captured and therefore much of the original doctrine was based on his case. It proposed enhanced interrogation based on the “ticking time bomb” hypothetical, meaning he had information that could save lives, so it was necessary to use enhanced interrogation. These methods were compared to very harsh forms of torture (i.e. genital mutilation or body mutilation) to make these methods appear more reasonable to acquire this information. It was illustrated to be within the boundaries of CAT while attempting to subtly redraw the boundaries and capitalize on how suffering and pain is incapable of being quantified.

Mohammed Al-Qahtani

What are the detainees accused of?	The would-be 20th hijacker for the Pennsylvania flight and fellow conspirator for the events on 9-11.
How are they processed?	Captured in battle of Tora Bora in Afghanistan in December of 2001. Funneled back into CIA custody and transferred to Guantanamo.
How are they interrogated?	Sleep deprivation, exposure to cold, forced standing, denial of bathroom break, denial of clothing. “Al-Qaeda training encourages to make false claims of abuse.” 20 hours of sleep deprivation every day. Intimidation by military dogs, intense

	<p>isolation for 3 months. Refused to drink water and inevitably hospitalized, heart rate was thirty-five beats a minute. Has admitted to being sent to KSM, meeting bin Laden, received terrorist instruction at two al-Qaeda training camps. Interrogators talk about family, attempts to build rapport to eventually establish dominance. Uses reward systems to try to break hunger strikes, eventually being allowed to pray in exchange for drinking water. Interrogators bring up triggering topics like level of guilt, family, perpetrators of 9/11, “you can make this stop” method, reference to things in Islam like how al-Qahtani will act on Judgment Day. Al-Qahtani told he was abandoned by al-Qaeda. Needed to go to bathroom and admitted to working for al-Qaeda and bin Laden in exchange. Coordination and acting between interrogators. Pride and Ego-made fun of for urinating himself. Al-Qahtani told “jihadists all fail, Al-Qaeda falling apart.” Using religion against him, reading Quran passages. Given Arabic lessons and writing words like liar, coward, and failure. Had a birthday party for him and put a hat on him. Offered birthday cake. Interrogators and guards sing God bless America. Al-Qahtani told he was tasked with rebuilding a morally sound Islam. Subjected to loud music. Detainee given naps. Insult his nationality, arrogant Saudi approach- “Saudis go to Bahrain for booze and whores.” Interrogators control sense of time. Detainee compared to banana rats and said they had more freedom than him. BBQ held so that he could see everyone eat and have a good time. Shown videos of Taliban bodies. Al-Qahtani talked about freedoms he used to have and how he feels now. Call to prayer is now call to interrogation. Use pictures of bikini girls to insult his modesty. “Happy Mohammed” mask, interrogation booth converted to UBL shrine and was instructed to pray to his god UBL. Interrogators teaching him tricks and comparing him to a dog, engage in light conversation, draw sense of ease, then harshly interrogate again. Continuously questioned about Manchester document. Interrogators began to invade personal space, crawling on top of him. Al-Qahtani asked to write will and torn up after withholding information. Al-Qahtani’s current behavior consistent with extreme psychological trauma like talking to nonexistent people, hearing voices, crouching in cell covered with sheet for hours.</p>
<p>What, if any, are the checks and balances</p>	<p>Pentagon report in July 2005 wanted commandant of Guantanamo Major general Bantz reprimanded for not watching interrogations, likely in reference to al-Qahtani.</p>

when handling prisoners?	Senator John McCain of Arizona lead congress in passing legislation preventing US personnel from engaging in torture. Did not help al-Qahtani.
What legal policies does the government follow/create?	Use of interrogation logs proves government justifies detention through information acquired through abuse. Detainee Treatment Act does not allow right to private action so detainees cannot accuse and detention without trial. Does not allow review of procedures of interrogation in court. Secretary of defense Donald Rumsfeld allowed harsh treatment for al-Qahtani through approval of interrogation techniques. Phifer memo, Rumsfeld approved methods, and torture memos reminiscent of KUBARK manual.
How do they capitalize on the subjectivity of the law?	Psychological torture is harder to define. Creating scenarios in which detainees are not physically harmed can create a gray area that interrogators and proponents capitalize on. Focus often on physical abuse rather than enhanced and sustained psychological manipulation and degradation.

Khalid Sheikh Mohammed

What are the detainees accused of?	Considered the architect of two attempts on the World Trade Center in 1993 attacks on U.S. embassies in Kenya and Tanzania in 1998, and the USS Cole. Could be behind murder of Wall Street Journal reporter Daniel Pearl. KSM labeled Operations Chief of al-Qaeda. Ran a safe house called House of Martyrs.
How are they processed?	Captured in urban raid and taken into CIA custody. Imprisoned in Guantanamo.
How are they interrogated?	KSM told “we’re going to kill your children.” Inspector General stated KSM was waterboarded 183 times. Senator McCain stated enhanced interrogation produces false and misleading information. KSM lied and said that Abu Ahmed had moved to Peshawar, got married and got out of al-Qaeda.
What, if any, are the checks and balances when handling prisoners?	Detainee Treatment Act to lay out basic procedures, roughly follows the laws in civilian courts minus the right of habeas corpus. John McCain Amendment sought to address gaps in DTA and stop torturous activities.

What legal policies does the government follow/create?	2002-2005 memos, six in total.
How do they capitalize on the subjectivity of the law?	“Ticking time bomb” hypothetical, meaning he had information that could save lives, so it was necessary to use enhanced interrogation. These methods were compared to very harsh forms of torture (i.e. genital mutilation or body mutilation) to make these methods appear more reasonable to acquire this information. It was illustrated to be within the boundaries of CAT while attempting to subtly redraw the boundaries and capitalize on how suffering and pain is incapable of being quantified.

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