

# Torture: The Bush Administration on Trial

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Law-abiding US citizens have been appalled that Jose Rodriguez, the director of the CIA's National Clandestine Service until his retirement in 2007, was invited onto [CBS's "60 Minutes" program](#) last weekend to promote his book [Hard Measures: How Aggressive CIA Actions After 9/11 Saved American Lives](#), in which he defends the use of torture on "high-value detainees" captured in the Bush administration's "war on terror," even though that was — and is — illegal under US and international law.

Rodriguez joins an elite club of war criminals — including [George W. Bush](#), [Dick Cheney](#) and [Donald Rumsfeld](#) — who, instead of being prosecuted for using torture, or authorizing its use, have, instead, been allowed to write books, go on book tours and appear on mainstream TV to attempt to justify their unjustifiable actions.

All claim to be protected by the "golden shield" offered by their inside man, John Yoo, part of a group of lawyers who aggressively pushed the lawlessness of the "war on terror." Abusing his position as a lawyer in the Justice Department's Office of Legal Counsel, whose mandate is to provide impartial legal advice to the executive branch, Yoo instead attempted to redefine torture and approved its use — including the use of waterboarding, an ancient torture technique and a form of controlled drowning — on an alleged "high-value detainee," [Abu Zubaydah](#), in two memos, dated August 1, 2002, that will forever be known as [the "torture memos."](#)

Unfortunately, for those who abhor the use of torture and respect the rule of law, President Obama refused to allow Yoo — and his boss, Jay S. Bybee — to be punished. A four-year internal ethics investigation concluded in January 2010 that Yoo and Bybee had been guilty of "professional misconduct," which would have led to professional sanctions, but a senior DoJ fixer, David Margolis, was allowed — or encouraged — to [override those conclusions](#), stating instead that both men had, understandably, been under great pressure following the 9/11 attacks, and had only exercised "poor judgment," which was the equivalent of nothing more than a slap on the wrist.

No one bothered mentioning that Article 2.2 of the [UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), to which the US became a signatory under Ronald Reagan, declares: "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."

And so, last Sunday, Jose Rodriguez was allowed to undertake his own redefinition of torture, essentially unchallenged, and on mainstream TV. With a disturbingly macho presentation that left Charles Pierce of [Esquire](#) "pretty convinced that Rodriguez is both a sociopath and a maniac," as well as a war criminal, he brushed off criticism of the use of torture by saying,

“We made some al-Qaeda with American blood on their hands uncomfortable for a few days, but we did the right thing for the right reason. The right reason to protect the homeland and to protect American lives.”

As Amy Davidson noted in the [New Yorker](#), he also “bragged about its use in proving the manhood of the torturer,” stating, “We needed to get everybody in government to put their big boy pants on and provide the authorities that we needed,” and “talked as if torture were an expression of strength, rather than momentary domination masking the most abject moral and practical weakness.” For [Glenn Greenwald](#), the reference to “big boy pants” exposed “a whole new level of psychosexual creepiness.”

On specific techniques, Rodriguez defended the use of waterboarding by saying, of Khalid Sheikh Mohammed, who was [subjected to waterboarding 183 times](#), “I don’t know what kind of man it takes to cut the throat of someone in front of a camera like that [a reference to KSM’s unproved confession that he personally killed US journalist Daniel Pearl], but I can tell you this is probably someone who didn’t give a rat’s ass about having water poured on his face.”

He also defended the use of physical violence and nudity by pointing out that “[t]he objective is to let him [the detainee] know there’s a new sheriff in town and he better pay attention,” compared sleep deprivation to “jet lag,” and, reflecting on the use of “stress positions” over many hours, said, “I was thinking about this the other day. The objective was to induce muscle fatigue, and most people who work out do a lot more fatiguing of the muscles.”

At another point in the interview, Rodriguez also made reference to the psychologists — including [James Mitchell](#) and [Bruce Jessen](#) — who had worked on the US military’s program for using torture to train US personnel to resist interrogation if captured by a hostile enemy, which was reverse engineered and provided [the basis of the torture program](#) in the “war on terror.” Their particular contribution was to stress that detainees must be broken down to a state of “learned helplessness” (a concept conceived by US psychologist [Martin Seligman](#) in the 1960s), in which all resistance is futile, and the detainee becomes completely dependant on his interrogators. Speaking of this, Rodriguez stated, “This program was about instilling a sense of hopelessness and despair on the terrorist, on the detainee, so that he would conclude on his own that he was better off cooperating with us.”

To be spouting all of the above on mainstream TV without, essentially, any comeback from the host, Lesley Stahl, or from those who should be enforcing America’s obligations to prosecute torturers, is depressing enough, but it was not all that was wrong. Rodriguez also spoke openly of the crime for which he is most generally known — the destruction of 92 videotapes that contained the “interrogations” in Thailand of Abu Zubaydah and [Abd al-Rahim al-Nashiri](#), another “high-value detainee” who was waterboarded. As Glenn Greenwald [explained last week](#):

At the time the destruction order was issued, numerous federal courts — as well as the 9/11 Commission — had ordered the US Government to preserve and disclose all evidence relating to interrogations of Al-Qaeda and 9/11 suspects. Purposely destroying evidence relevant to legal proceedings is called “[obstruction of justice](#).” Destroying evidence which courts and binding tribunals (such as the 9/11 Commission) have ordered to be preserved is called “contempt of court.” There are many people who have been harshly punished,

including some sitting right now in prison, for committing those crimes in far less flagrant ways than was done here. In fact, so glaring was the lawbreaking that the co-Chairmen of the 9/11 Commission — the mild-mannered, consummate establishmentarians Lee Hamilton and Thomas Kean — wrote [a New York Times Op-Ed](#) pointedly accusing the CIA of “obstruction” (“Those who knew about those videotapes — and did not tell us about them — obstructed our investigation”).

As with John Yoo and Jay S. Bybee, Rodriguez was never punished. An investigation into the destruction of the videotapes began under George W. Bush, and continued under Obama, but in November 2010 [the DoJ announced](#) that the investigation would be closed without any charges being filed. As Greenwald explained, Judge Alvin Hellerstein, who had ordered the CIA to preserve and produce the tapes, “refused even to hold the CIA in contempt for deliberately disregarding his own order.” Instead, he “reasoned that punishment for the CIA was unnecessary because, as he put it, new rules issued by the CIA ‘should lead to greater accountability within the agency and prevent another episode like the videotapes’ destruction.”

However, while Rodriguez — like John Yoo, Jay S. Bybee and senior Bush administration officials, up to and including the President — continues to get away with his crimes, it is uncertain if, overall, the apologists for torture are winning. For them to succeed in persuading enough ordinary Americans that the law doesn’t actually apply to the US president, or anyone working for him, they also need to establish that all this torturing kept America safe, and on this front, despite their protestations over the years, they have no proof that torture worked.

In his interview, Rodriguez wheeled out the tired old lies about torture leading to the capture of “high-value detainees.” In a moment of courage, Lesley Stahl mentioned well-established claims that Abu Zubaydah’s torture had led operatives on [countless wild goose chases](#), to which Rodriguez replied, “Bullshit. He gave us a road map that allowed us to capture a bunch of Al-Qaeda senior leaders.” In contrast, of course, former FBI interrogator Ali Soufan pointed out last year that torture did not yield important leads, and that, for example, information from Abu Zubaydeh pointing to Khalid Sheikh Muhammad’s central role in the 9/11 attacks came before the CIA’s torturers took over his interrogations.

Soufan also pointed out the difference between torturers and skilled interrogators, which [CNN described](#) as follows:

“There is a difference between compliance and cooperation,” he said. Compliance can result from torture — a detainee will do anything to make the rough treatment end. But real cooperation, says Soufan, comes from engaging the detainee after learning everything possible about them.

Torture’s apologists always want to deny the importance of skilled interrogators, who conduct extensive research on their subjects and often spend a long time building up a rapport with them. Instead, they permanently seek to reinforce the macho idiocy of their preferred approach, which is driven more by vengeance and bloodlust than anything else.

In Rodriguez’s case, he also resorted to claims that torture had led to the capture of Osama bin Laden, telling Dana Priest of the [Washington Post](#) last week, “I am certain, beyond any doubt, that these techniques, approved at the highest levels of the US government, certified by the Department of Justice, and briefed to and supported by bipartisan leadership of

congressional intelligence oversight committees, shielded the people of the United States from harm and led to the capture and killing of Osama bin Laden.”

In response, Sen. Dianne Feinstein (D-Calif.), the chair of the Senate Intelligence Committee, and Sen. Carl Levin (D-Mich.), the chair of the Senate Armed Services Committee, issued a joint statement ([PDF](#)) condemning the remarks made by Rodriguez and others — including former Attorney General Michael Mukasey and former CIA director Michael Hayden — who had leapt on the bandwagon as the anniversary of bin Laden’s death approached, calling them “inconsistent with CIA records,” and “misguided and misinformed,” and expressing their disappointment that “Mr. Rodriguez and others, who left government positions prior to the OBL operation and are not privy to all of the intelligence that led to the raid, continue to insist that the CIA’s so-called ‘enhanced interrogation techniques’ used many years ago were a central component of our success.”

The statement, as the [New York Times](#) explained, “rebutted various claims that critical information about bin Laden’s courier” came from Khalid Sheikh Mohammed or from Abu Faraj al-Libi, another “high-value detainee,” seized in Pakistan in 2005, and held at Guantánamo, like Khalid Sheikh Mohammed and 13 other “high-value detainees,” since September 2006. In addition, the Times noted that the statement “rejected claims that tough treatment drew valuable information about bin Laden’s courier from a third detainee, unidentified in the statement,” but elsewhere identified as [Hassan Ghul](#), another “high-value detainee,” seized in Iraq in 2004, who was never held at Guantánamo. The statement noted that, “While this third detainee did provide relevant information, he did so the day before he was interrogated by the CIA using their coercive interrogation techniques.”

“Instead,” the Times explained, Sens. Feinstein and Levin stated, without elaborating, that “the CIA learned of the existence of the courier, his true name and location through means unrelated to the CIA detention and interrogation program.”

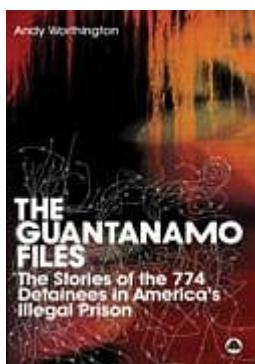
This is significant, but what is needed now is for the Senate Select Committee on Intelligence to complete its comprehensive review of the CIA’s former detention and interrogation program, and publish it. As the statement also explained, “Committee staff have reviewed more than 6 million pages of records and the Committee’s final report, which we expect to exceed 5000 pages, will provide a detailed, factual description of how interrogation techniques were used, the conditions under which detainees were held, and the intelligence that was — or wasn’t — gained from the program.”

As Dan Froomkin explained in the [Huffington Post](#) last Monday, the investigation by Democrats, which has taken nearly three years, and has involved Republican lawmakers refusing to take part, “concludes that records from the Bush administration fail to support claims that torture was effective in stopping any terrorist attack,” or in leading to the discovery and killing of Osama bin Laden last year.

While people like Jose Rodriguez remain free to peddle their lies and distortions about torture, and to profit from it, America’s name not only continues to be tarnished, but the American public also continue to be shamefully misled. The long-awaited report into the CIA’s torture program should be published as soon as possible, to let people know what really happened, and hopefully to play a part in tearing down the “golden shield” that has so far protected the Bush administration’s torturers from prosecution.

*Andy Worthington is the author of [The Guantánamo Files: The Stories of the 774 Detainees](#)*

[in America's Illegal Prison](#) (published by Pluto Press, distributed by Macmillan in the US, and available from Amazon — click on the following for the [US](#) and the [UK](#)) and of two other books: [Stonehenge: Celebration and Subversion](#) and [The Battle of the Beanfield](#). To receive new articles in your inbox, please subscribe to my [RSS feed](#) (and I can also be found on [Facebook](#), [Twitter](#), [Digg](#) and [YouTube](#)). Also see my [definitive Guantánamo prisoner list](#), updated in April 2012, "[The Complete Guantánamo Files](#)," a 70-part, million-word series drawing on files released by WikiLeaks in April 2011, and details about the documentary film, "[Outside the Law: Stories from Guantánamo](#)" (co-directed by Polly Nash and Andy Worthington, and available on DVD [here](#) — or [here](#) for the US). Also see my [definitive Guantánamo habeas list](#) and [the chronological list of all my articles](#), and please also consider [joining the new "Close Guantánamo campaign,"](#) and, if you appreciate my work, feel free to [make a donation](#).



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