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Guantánamo and the Many Failures of U.S. Politicians

by Andy Worthington

In the summer of 2002, as Jane Mayer described it in her book [*The Dark Side*](#), “The CIA, concerned by the paucity of valuable information emanating from [Guantánamo], dispatched a senior intelligence analyst, who was fluent in Arabic and expert on Islamic extremism, to find out what the problem was.” After interviewing a random sample of two dozen or so Arabic-speaking prisoners, the analyst “concluded that an estimated one-third of the prison camp’s population of more than 600 captives at the time, meaning more than 200 individuals, had no connection to terrorism whatsoever.”

The analyst expressed his concerns to Maj. Gen. Michael Dunlavey, Guantánamo’s senior military commander, and “was further disconcerted to learn that the general agreed with him that easily a third of the Guantánamo detainees were mistakes.” “Later,” Mayer added, “Dunlavey raised his estimate to fully half the population.”

Dunlavey didn’t explain what he believed about the other half of the prison’s population, but in 2006 a team at the Seton Hall Law School in New Jersey analyzed the publicly available information about 517 prisoners, which had been released by the Pentagon, and discovered that, according to their own records, which explained the circumstances of the prisoners’ capture and described their purported connections to al-Qaeda and/or the Taliban, only 8 percent were alleged to have had any kind of affiliation with al-Qaeda, 55 percent were not determined to have committed any hostile acts against the United States or its allies, and the rest, as Mayer put it, “were charged with dubious wrongdoing, including having tried to flee U.S. bombs.” She added, “The overwhelming majority — all but 5 percent — had been captured by non-U.S. players, many of whom were bounty hunters.”

Analyzing this information, and bearing in mind that, at the time the Seton Hall team compiled its report, records did not exist for 200 other prisoners because they had already been released, the stark conclusion is that, according to the Pentagon’s own findings, only around 40 of the prisoners were alleged to have had any connection with al-Qaeda, and the rest were either innocent men, Afghan Taliban recruits, or foreigners recruited to help the Taliban fight an inter-

Muslim civil war that began long before the 9/11 attacks and had nothing to do with al-Qaeda or international terrorism.

In 2002, after the CIA analyst completed his survey of the Guantánamo prisoners, he wrote a report about what he had discovered. As Mayer described it,

He mentioned specific detainees by name, so there was no confusion about whom the United States was wrongly holding. He made clear that he believed that the United States was committing war crimes by holding and questioning innocent people in such inhumane ways.

His report soon reached John Bellinger, legal counsel to National Security Advisor Condoleezza Rice. “Immediately distressed,” as Mayer put it, Bellinger convened a meeting with the analyst, attended by Gen. John Gordon, the National Security Council’s senior terrorism expert (and a former deputy director of the CIA), and the two men then approached White House Counsel Alberto Gonzales to discuss the report’s significance.

When they went to meet Gonzales, however, they found him flanked by David Addington, Vice President [Dick Cheney](#)’s legal counsel, and Timothy Flanigan, a lawyer in the White House Counsel’s Office. “Neither had any official national security role,” Mayer wrote, “and no one had warned Bellinger that they would be there. But they did all the talking.”

According to two sources who told Mayer about the meeting, Addington dismissed Bellinger’s concerns by declaring, imperiously, “No, there will be no review. The President has determined that they are ALL enemy combatants. We are not going to revisit it!” After Bellinger fired back, pointing out that this was “a violation of basic notions of American fairness,” Addington replied, “We are not second-guessing the President’s decision. These are ‘enemy combatants.’ Please use that phrase. They’ve all been through a screening process. There’s nothing to talk about.” Mayer added, “The President had made a group-status identification, as far as he was concerned. To Addington, it was a matter of presidential power, not a question of individual guilt or innocence.”

How Cheney and Addington destroyed all notions of justice

I hope Jane Mayer — and her publishers — will forgive me for quoting at length from her book, but these passages — plus the research undertaken by the Seton Hall Law School, and, I believe, my own research for my book [The Guantánamo Files](#), and the many hundreds of articles I have written in the last two years — should demonstrate, beyond a shadow of a doubt, that the administration’s claim that its “war on terror” prisoners were so exceptionally dangerous that they should be treated neither as prisoners of war, protected by the Geneva Conventions, nor as criminal suspects, entitled to the protections of the U.S. legal system, was hyperbole of the most reckless and damaging kind.

Far from being a prison for “the worst of the worst,” Guantánamo was, in fact, nothing more than a chaotic assemblage of largely random prisoners, mostly bought from the U.S. military’s opportunistic allies in Afghanistan and Pakistan, or from villagers and townspeople desperate for the bounty payments for “al-Qaeda and Taliban suspects,” averaging \$5,000 a head, which were advertised on leaflets dropped from planes. These stated,

You can receive millions of dollars for helping the anti-Taliban force catch al-Qaeda and Taliban murderers. This is enough money to take care of your family, your village, your tribe for the rest of your life — pay for livestock and doctors and school books and housing for all your people.

In addition, and contrary to Addington’s claims, none of the prisoners had been through a screening process at all. In all previous wars since Vietnam, the U.S. military had held “competent tribunals” under Article 5 of the Geneva Conventions. These involved screening prisoners close to the time and place of capture, to ascertain whether they were combatants or civilians caught up in the fog of war, and during the first Gulf War, for example, the military held around 1,200 of these tribunals, and in three-quarters of the cases the prisoners were sent home. In the “war on terror,” however, the competent tribunals were ruled out, and, in fact, [the orders](#) that came down from on high stipulated that every single Arab who came into U.S. custody was to be transferred to Guantánamo.

Once in Guantánamo, there was no improvement. It was not until June 2004 that the Supreme Court ruled that the prisoners had habeas corpus rights, and even when this happened the government responded not by allowing the prisoners to challenge the basis of their unexplained detention in a U.S. court, as the Supreme Court intended, but by introducing the Combatant Status Review Tribunals. A mockery of the Article 5 competent tribunals — given that the military knew almost nothing about the majority of the men in its custody — the tribunals drew largely on confessions made through the use of torture, coercion, or bribery, or “generic” information that had nothing to do with the prisoners. In addition, as was explained by [Lt. Col. Stephen Abraham](#), a veteran of U.S. intelligence who worked on the tribunals, they were, essentially, designed not to ascertain whether the prisoners had been seized by mistake, but to [rubberstamp their designation](#), on capture, as “enemy combatants” who could be held without charge or trial.

As a result, Mayer’s description of David Addington’s response to the complaints aired by John Bellinger should also confirm that this sinister experiment in arbitrary detention and interrogation — which involved the U.S. not only tearing up the Geneva Conventions and the Army Field Manual, but also attempting to circumvent the anti-torture statute — was based on an arrogant presumption that the president was above the law, that “innocence” and “guilt” were

irrelevant constructs, and that it was justifiable to hold any number of prisoners forever, and to interrogate them as often and as coercively as the government wished.

This was done in order to build up a [“mosaic” of intelligence](#) not just about the small group of men responsible for the terrorist attacks on September 11, 2001 (and the previous attacks on the U.S. embassies in Kenya and Tanzania and the attack on the USS *Cole* in 2000), but also about Afghan resistance to the U.S. presence in Afghanistan, about every single Muslim resistance group around the world (whether “terrorists” or not), and — from exotic captives like the handful of Russians who were seized, or [the 17 Uighurs](#) (Muslims from China’s oppressed Xinjiang province, who had fled persecution in their homeland, and had nothing to do with al-Qaeda or the Taliban) — about the activities of their own governments.

Fearmongering, cowardice, and terrible policy decisions

I mention all these facts at this particular time because the last few weeks have seen a torrent of scaremongering, misinformation, and woefully misguided policy proposals pour forth from the nation’s politicians — and the president — with regard to Guantánamo, and I believe it is important to set the record straight.

First, up were Republicans, inspired, no doubt, by former Vice President Dick Cheney, who appears to be on an endless “Torture Tour,” [touting lies](#) about the efficacy of “enhanced interrogation techniques” in keeping the nation safe and failing to mention how he [used torture to produce lies](#) to justify the invasion of Iraq. In a movement that rapidly snowballed, U.S. Senators and U.S. Representatives from across the country repeated unsubstantiated lies about the dangers posed by the prisoners in Guantánamo and [sounded fearful warnings](#) about the implications of moving any of them to prisons on the U.S. mainland.

By Wednesday this revival of cowardice and fear had swept up [an alarming number](#) of Democrat politicians, and when it came to funding the wars in Iraq and Afghanistan, politicians of both parties happily approved a budget of \$91 billion, but [refused to give the president](#) the \$80 million he had requested for the closure of Guantánamo.

On Thursday, Obama regained some of this lost ground. In [a speech](#) in which he made it clear that he was doing his best to clear up the “mess” left by his predecessors, he chastised the fearmongers for muddying a genuine debate about how to proceed. However, Obama too demonstrated that he has been infected by what he described as the Bush administration’s “season of fear,” by proposing that the prisoners at Guantánamo who will not be freed will either be tried in federal courts, put forward for trial in an amended version of the [failed military commissions](#) introduced by Dick Cheney and David Addington, or subjected to “preventive detention.”

I have no problem with the first of these proposals, and was encouraged that, on the same day, the Justice Department announced that a former “high-value detainee” at Guantánamo,

[Ahmed Khalfan Ghailani](#), would be tried in a New York court for his alleged participation in the 1998 African embassy bombings. However, I was disturbed that the president thought it worth proposing military commissions as a possible parallel path (given that no sticking plaster can disguise [how corrupt the whole process was](#) under the Bush administration), and [completely dismayed](#) that he could contemplate introducing a form of “preventive detention,” and was advocating legitimizing the Guantánamo regime (which is, of course, a form of “preventive detention”) for use on prisoners against whom no case can be brought because the supposed evidence will not stand up to independent scrutiny — meaning, of course, that it is tainted by torture or other forms of coercion, and is therefore not evidence at all.

A global witch hunt

At the start of this article, I presented some dark truths about Guantánamo in the hope that the account would demonstrate why the prison must be closed, and why few of the 240 men still held — perhaps 10 percent, perhaps a little more — represent a threat to the United States. In conclusion, if you’d like a few final, shocking facts about the Bush administration’s “war on terror,” consider what David Addington, acting as the mouthpiece of the de facto president, Dick Cheney, was really doing when he dismissed John Bellinger’s complaints in the fall of 2002.

Far from just defending a detention policy that, with the blessing of Congress, had filled the cell blocks at Guantánamo (on the basis that the [Authorization For Use Of Military Force](#), passed in the first week after the 9/11 attacks, authorized the president “to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001”), Addington was also defending the expansion and extension of this policy around the world. Taking into account the prisoners held in Afghanistan and Iraq, and those subjected to “extraordinary rendition,” the total number of prisoners held at Guantánamo actually makes up less than 1 percent of the total number of prisoners (at least 80,000 between 2001 and 2005, according to [figures released by the Pentagon](#)), who have been held at some point in the “war on terror,” without either the effective protection of the Geneva Conventions or the protections of the U.S. criminal justice system.

This was, if I may be blunt, a witch hunt on the most colossal scale, but I hope these statistics also help to explain why every facet of the Bush administration’s “war on terror” needs dismantling, so that only two categories of prisoner are allowed in future: prisoners of war, seized in wartime and protected by the Geneva Conventions, and terrorists, to be treated as criminal suspects and put forward for trial in federal courts.

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This article was originally published in May 2009.