

# **Torture, Rendition, Illegal Detention and Murder Indictment**

## **Torture:**

**Count 1:** The Bush administration authorized the use of torture and abuse in violation of international humanitarian and human rights law and domestic constitutional and statutory law.

## **Rendition:**

**Count 2:** The Bush administration authorized the transfer (“rendition”) of persons held in U.S. custody to foreign countries where torture is known to be practiced.

## **Illegal Detention:**

**Count 3:** The Bush administration authorized the indefinite detention of persons seized in foreign combat zones and in other countries far from any combat zone and denied them the protections of the Geneva Conventions on the treatment of prisoners of war and the protections of the U.S. Constitution.

**Count 4:** The Bush administration authorized the round-up and detention in the United States of tens of thousands of immigrants on pretextual grounds and held them without charge or trial in violation of international human rights law and domestic constitutional and civil rights law.

**Count 5:** The Bush administration used military forces to seize and detain indefinitely without charges U.S. citizens, denying them the right to challenge their detention in U.S. courts.

## **Murder:**

**Count 6:** The Bush administration committed murder by authorizing the CIA to kill those that the president designates, either US citizens or non-citizens, anywhere in the world.

## **Count 1**

a. The Defendants responsible for the violations delineated in this count include: George W. Bush, President of the United States, Dick Cheney, Vice President, Donald H. Rumsfeld, Secretary of Defense, former Director of Central Intelligence, George Tenet; Lt. Gen. Ricardo S. Sanchez, V Corps, Commanding General and formerly in charge of Combined Joint Task Force 7, Iraq; Colonel Thomas M. Pappas, Brigade Commander, 205<sup>th</sup> Military Intelligence Brigade; Maj. Gen. Geoffrey Miller; Alberto Gonzales, formerly White House Counsel and now Attorney General of the United States; Jay S. Bybee, Assistant Attorney General, and David Addington, Vice Presidential Counsel.

b. Defendants’ actions under this count constitute egregious violations of international and domestic law, including crimes of war and crimes against humanity. The U.S. laws violated include, but are not limited to: the Fifth Amendment to the Constitution; 18 U.S.C. Section 242 (War Crimes); 18 U.S.C. Section 2340 (Convention Against Torture Statute); the Uniform Code of Military Justice, Army Regulation 190-8, Articles 3 and 5 of the Third and Fourth Geneva Conventions, and customary international law as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

c. In commission of Count 1, those named above did engage in the following acts:

1) In or about December, 2001, Bush ordered torture by authorizing Tenet to order the Special Access Program that led to the secret detention of Hiwa Abdul Rahman Rushul, Khalid Shaikh Mohammed, Abu Zabaida and dozens of other detainees without any contact with the outside world in secret prisons around the world and ordering them subjected to tortures including water-boarding, severe beatings, subjection to extreme temperatures, suspension in painful positions, denial of pain-killing medicine after gunshot wounds, severe burning by hot metal, asphyxiation and by threat of death and sexual assault against themselves and members of their families. During such torture an unknown number of detainees died, including Manadel al-Jamadi, Abdul Wali and Abid Hamad Mahalwi.

2) On or about August 1, 2002, upon the initiative of Cheney, Addington and Gonzales drafted a memorandum, "Re: Standards of conduct under USC 2340-2340 A" signed by Bybee, justifying torture and authorizing its use on detainees and detailing possible defenses in the event of prosecution under the Convention Against Torture Act. The memorandum was approved by Bush, Cheney and the National Security Council.

3) In October, 2002, Miller requested authorization of torture techniques for use at Guantanamo.

4) Beginning in November, 2002, Miller, acting with the authorization of the above-cited memorandum, committed grave breaches of the Geneva Conventions by ordering coerced interrogation of hundreds of detainees at Guantanamo Bay, by subjecting them to humiliating and degrading treatment, including the forced removal of clothing, sleep deprivation, sensory deprivation, subjection to loud and prolonged noise, by denying them medical care and by submitting them to torture. Miller ordered the torture of at least dozens of detainees at Guantanamo Bay by ordering them subjected to extremes of heat and cold, shackled in painful positions for many hours, subjected to beatings with batons, all of which caused the detainees severe pain and suffering. In addition he ordered them threatened with dogs, subjecting them to threat of severe pain and suffering by dog-bite. In addition he ordered that detainees be threatened with transfer to countries known for extreme methods of torture.

5) In December, 2002, Rumsfeld, acting under the authorization of the August, 2002 memorandum, committed grave breaches of the Geneva Conventions by ordering the coerced interrogation of detainees at Guantanamo, by subjecting them to humiliating and degrading treatment, including the forced removal of clothing, sensory deprivation, stress positions, and torture ordering that detainees at Guantanamo be threatened with dogs, subjecting them to threat of severe pain and suffering by dog-bite.

6) In August, 2003, Rumsfeld sent Miller to Iraq to institute torture techniques there.

7) In September, 2003, Sanchez committed grave breaches of the Geneva Conventions by ordering coerced interrogation of hundreds of detainees in Iraq, by subjecting them to humiliating and degrading treatment, including the forced removal of clothing, sleep deprivation, sensory deprivation, subjection to loud and prolonged noise, by denying them medical care and by submitting them to torture by ordering them subjected to extremes of heat and cold, shackled in painful positions for many hours, all of which caused the detainees severe pain and suffering. In addition he ordered them threatened with dogs, subjecting them to threat of severe pain and suffering by dog-bite. Furthermore when Sanchez was informed by the ICRC of additional torture and degrading treatment occurring in detention centers throughout Iraq, he did nothing to stop these acts.

8) Beginning in September, 2003 many detainees at Abu Ghraib, and elsewhere in Iraq were tortured pursuant to the directives of Rumsfeld, Miller and Sanchez, authorized by the August, 2002 memorandum. During the commission of the acts of torture that the defendants conspired to commit, at least 28 detainees died.

## **Count 2**

a. The Defendants responsible for the violations delineated in this count include: George W. Bush, President of the United States, John Ashcroft, formerly Attorney General of the United States; Tom Ridge, formerly Secretary of State for Homeland Security; George Tenet, formerly Director of Central Intelligence.

b. Defendants' actions under this count constitute egregious violations of international and domestic law. The laws violated include, but are not limited to: the Due Process Clause of the Fifth Amendment to the Constitution; 18 U.S.C. Section 242 (War Crimes); 18 U.S.C. Section 2340 (Convention Against Torture Statute), 28 U.S.C. § 1350, note (the Torture Victim Protection Act), 5 U.S.C. § 702 (Administrative Procedure Act); the Convention Against Torture and implementing regulations.

c. In commission of Count 2, those named above did engage in the following acts:

1) Since September 11, 2001, the Defendants committed grave breaches of the Geneva Conventions and authorized torture by authorizing covert "extraordinary renditions," -- the detention and transfer of over 100 detainees including both US citizens, such as Ahmed Omar Abu Ali, and non-citizens, such as Canadian Maher Arar, to countries known for torture, to be tortured at CIA direction. The Defendants who have adopted, ratified, and/or implemented the "extraordinary renditions" policy know that non-U.S. citizens removed under this policy will be interrogated under torture.

### **Count 3**

a. The Defendants responsible for the violations delineated in this count include: George W. Bush, President of the United States, Dick Cheney, Vice President, Donald H. Rumsfeld, Secretary of Defense, Alberto Gonzales, formerly White House Counsel and now Attorney General of the United States; George Tenet, formerly Director of Central Intelligence, Jay S. Bybee, Assistant Attorney General, and David Addington, Vice Presidential Counsel.

b. Defendants' actions under this count constitute egregious violations of international and domestic law, including crimes of war and crimes against humanity. The U.S. laws violated include, but are not limited to: Article II of the U.S. Constitution; the Due Process Clause of the Fifth Amendment to the Constitution; the due process requirements embodied in the common law; 5 U.S.C. Section 702 (the Administrative Procedure Act); 18 U.S.C. Section 242 (War Crimes); Deprivation of Rights Under Color of Law (18 USC 242); Conspiracy Against Rights (18 USC 241); the Uniform Code of Military Justice, Army Regulation 190-8, Articles 3 and 5 of the Third and Fourth Geneva Conventions, and customary international law as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

c. In commission of Count 3, those named above did engage in the following acts:

1) In October, 2001 Cheney and Addington committed grave breaches of the Geneva Conventions by directing that a Presidential order be drafted authorizing the indefinite detention without charge of detainees and their subjection to military tribunals.

2) On November 16, 2001, Bush did under color of law willfully subject thousands of detainees outside the United States to the deprivation of their rights to due process under the Fourth, Fifth and Sixth Amendments to the Constitution by on Nov. 16, 2001 issuing a Military Order authorizing unconstitutional detention without charge of non-citizens, also thereby committing a grave breach of the Geneva Conventions.

3) In November, 2001, pursuant to the above-cited Military order, thousands of individual were detained in camps in Afghanistan and at Guantanamo Bay, Cuba without charge or trial. The detainees have been imprisoned at the Guantánamo since January 2002. They have been held incommunicado without access to their families or counsel or to the courts.

4) In or about December, 2001, Bush committed authorized Tenet to order the Special Access Program that led to the secret detention of Hiwa Abdul Rahman Rushul, Khalid Shaikh Mohammed, Abu Zabaida and dozens of other detainees without any contact with the outside world in secret prisons around the world.

5) In January, 2002, Gonzales committed grave breaches of the Geneva Conventions by advising Bush in written memos to suspend the application of the Geneva conventions to detainees.

6) On February 7, 2002, Bush committed grave breaches of the Geneva Conventions by issuing in February 7, 2002 a Memorandum stating that Geneva Convention does not apply to detainees, “unlawful combatants”.

7) Beginning in March, 2003, tens of thousands of individuals are detained in Iraq without charge or trial, in violation of the Geneva Conventions.

#### **Count 4**

a. The Defendants responsible for the violations delineated in this count include: John Ashcroft, formerly Attorney General of the United States; Alberto Gonzales, Attorney General of the United States; Tom Ridge, formerly Secretary of Homeland Security, Michael Chernoff Secretary of Homeland Security

b. Defendants’ actions under this count constitute egregious violations of international and domestic law. The laws violated include, but are not limited to: the First, Fourth, Fifth, and Sixth Amendments to the Constitution, Deprivation of Rights Under Color of Law (18 USC 242); Conspiracy Against Rights (18 USC 241); the Alien Tort Statute (28 U.S.C. 1350), customary international law, and treaty law as incorporated into federal common law and statutory law.

c. In commission of Count 4, those named above did engage in the following acts:

1) Thousands of male non-citizens from the Middle East, South Asia, and elsewhere who are Arab or Muslim or have been perceived by Defendants to be Arab or Muslim, were detained on minor immigration violations following the September 11, 2001 terrorist attacks on the United States (“post-9/11 detainees”), and were treated as “of interest” to the government’s terrorism investigation and subjected to a blanket “hold until cleared policy” pursuant to which the Immigration and Naturalization Service (“INS”) denied them bond without regard to evidence of dangerousness or flight risk, and detained them until the Federal Bureau of Investigation (“FBI”) cleared them of terrorist ties. All were in fact cleared of any connection to terrorism.

2) Subsequently, in the period from January, 2002 to the present, tens of thousands of non-citizens from many countries, primarily from the Caribbean, and Africa but also from the Middle East, South Asia, Latin America and Eastern Europe, were detained without criminal charge for months and in some cases years as “administrative detainees”, a practice in violation of the basic provisions of the Fourth, Fifth and Sixth Amendments.

3) The victims were subjected to one or more of the following unconstitutional policies and practices: they were held without an indictment by a Grand jury, they were denied the right to counsel, the right to a trial by jury and denied any form of judicial review. They were held without any criminal charge being brought against them. They were denied bond. Some were classified as being “of high interest” to the government’s terrorism investigation, “Witness Security” and/or “Management Interest Group 155” detainees in the absence of adequate standards or procedures for making such a determination or evidence that they were involved in terrorism. They were subjected to a communications blackout and other actions that interfered with their access to counsel and their ability to seek redress in the courts. After receiving final removal orders or grants of voluntary departure, some were held in immigration custody far beyond the period necessary to secure their removal or voluntary departure from the United States, again without regard to whether they posed a danger or flight risk.

4) While in detention, the detainees have been subjected to unreasonable and excessively harsh conditions. Some have been held in overcrowded and unsanitary county jail facilities and housed with

potentially dangerous criminal pretrial detainees, even though they themselves have never been charged with a crime. Others have been kept in federal and county facilities where they have been placed in tiny cells for over 23 hours a day and strip-searched, manacled, and shackled when taken out of their cells. Many have suffered physical and verbal abuse by their guards. These abuses include being badly beaten and being attacked by dogs. Many have been denied the ability to practice their faith during their detention.

5) During their confinement, Defendants or their agents subjected some detainees to coercive and involuntary custodial interrogation designed to overcome their will and coerce involuntary and incriminating statements from them.

6) By adopting, promulgating, and implementing these policies and practices, Defendants Ashcroft, Gonzales, Ridge, and Chernoff, and others have intentionally or recklessly violated rights guaranteed to the detainees by the Fourth, Fifth and Sixth Amendments to the United States Constitution, customary international law, and treaty law. In doing so they have also violated the Deprivation of Rights Under Color of Law Act (18 USC 242) which prescribes punishment for “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens”. They have also engaged in a Conspiracy Against Rights (18 USC 241) by conspiring to injure, oppress, threaten, and intimidate the detainees in the free exercise or enjoyment of the rights and privileges secured to them by the Constitution of the United States, including the right to personal liberty and to due process.

## **Count 5**

a. The Defendants responsible for the violations delineated in this count include: George W. Bush, President of the United States, Dick Cheney, Vice President, Donald H. Rumsfeld, Secretary of Defense, Alberto Gonzales, formerly White House Counsel and now Attorney General of the United States; Jay S. Bybee, Assistant Attorney General, and Dick Addington, Vice Presidential Counsel.

b. Defendants’ actions under this count constitute egregious violations of international and domestic law. The laws violated include, but are not limited to: Fourth, Fifth, and Sixth Amendments to the Constitution, Deprivation of Rights Under Color of Law (18 USC 242); Conspiracy Against Rights (18 USC 241); customary international law, and treaty law as incorporated into federal common law and statutory law.

c. In commission of Count 5, those named above did engage in the following acts:

1) On June 9, Bush ordered Rumsfeld to detain Jose Padilla, a U.S. citizen as an “enemy combatant”. Rumsfeld ordered that military personnel carry out this Presidential directive, which had no basis in any law. Padilla was not charged with any criminal offense, was not indicted by a grand jury, was not convicted or even tried by a jury, was given no access to counsel and has been imprisoned for over three years. Padilla’s rights under the Fourth, Fifth and Sixth Amendments to the Constitution were thereby violated in violation of 18 USC 242 and 18 USC 241.

2) On the initiative of Cheney and Addington, Gonzales inserted into an Aug.1, 2002 memorandum from Bybee wording justifying the President unlimited power to detain as enemy combatants anyone, without any judicial process. This memorandum, approved by Bush and Cheney is part of a conspiracy against the rights of all US citizens and residents.

3) In court papers in the case of Padilla, and in the case of Hamdi as well as elsewhere, Bush and his agents have claimed that the President has the power to designate any one, citizen or immigrant, as a enemy combatant and to jail them indefinitely without charge or trial. Such assertions by those acting under color of law constitute a conspiracy against the rights of all US citizens and residents.

### **Count 6**

a. The Defendants responsible for the violations delineated in this count include: George W. Bush, President of the United States, George Tenet, formerly Director of Central Intelligence

b. Defendants' actions under this count constitute egregious violations of international and domestic law. The laws violated include, but are not limited to: the Fourth, Fifth, and Sixth Amendments to the Constitution, Deprivation of Rights Under Color of Law (18 USC 242); and Murder (18 USC 1111)

c. In commission of Count 6, those named above did engage in the following acts:

1) In October 2001 Bush issued a secret finding authorizing the CIA to kill those he designated, either US citizens or non-citizens, anywhere in the world.

2) Under the authority of this secret finding, Bush and Tenet ordered the killing by Predator drone of US citizen Kamal Derwish.