



Episode 304-The Torture Report and what it Left Out

Guest: Scott Horton

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Scott Horton hosts the Scott Horton Show on the Liberty Radio Network.

WOODS: Start off with the basics that people need to know. What is this report? Who is or are the authors? What are the circumstances surrounding it? Just the basics.

HORTON: This report is a product of the Senate Intelligence Committee staff, and it's a product of their work going through CIA papers. It's entirely based on CIA documents that were given to them. And the investigation happened because when the Senate Intelligence Committee tried to get, or at least I guess when they found out about, the videotapes of all the torture sessions, José Rodriguez, who had been the head of the torture program, destroyed the videotapes, which is just clear, blatant obstruction-of-justice kind of a thing. So a lawyer was assigned named Durham to have a preliminary investigation to see whether to have an investigation into this obstruction of justice. So then they let him off the hook, and so the Senate Intelligence—and they ended up doing nothing with that at all.

So the Senate Intelligence Committee decided they were going to go through, and they were going to come up with their report themselves. So what's important to note about this is that it does not include the CIA's rendition program, where the CIA would kidnap people and send them to Mubarak in Egypt, Assad in Syria, Qaddafi in Libya, and have them tortured—outsource tortured. That's some other report for a different day, I guess. I don't think that one's ever been done. It also does not include the military's role in the torture whatsoever. So usually if somebody says torture of Bush Administration, you'd think of Abu Ghraib. Well, all of that was under Donald Rumsfeld and the special forces, and I guess CIA was running around there some, but that wasn't one of their black sites. That was under the military. Stanley McChrystal—the guy who lost the Afghan war—he also ran a torture prison at a place called Camp Nama in Iraq, and there's all kind of—there's the Taguba Report and our inspector general reports, and books and books, and all this other work on the military's role and really the bulk—really thousands and thousands of people were tortured by the military in these prisons during the occupations and really all over the place in their own homes on the side of the road during those

occupations. So this—and including more than 100 were, at least, died in custody. Many of those were tortured to death, outright homicides during torture under the military.

This report has a much narrower focus. It's about those people who were abducted by the CIA and taken to various black sites under CIA control and tortured by CIA officers and their contractor agents working for them.

So it's important, I think, to note just how narrow a focus this is—for as much horror is in there, it's far from any kind of whole story. It also almost entirely excludes George W. Bush, Dick Cheney, George Tenet, Donald Rumsfeld, Condoleezza Rice, their deputies, their lawyers like Addington, Haynes, Yoo, Alberto Gonzalez, the whole torture team of lawyers, Douglas Feith, and those who worked together to pretend that the Geneva Conventions don't apply to people who are not signatories to the Geneva Convention—although the Taliban, I think, actually were signatories to it. They fought without uniforms in irregular, sort of civilian, guerrilla fashion. And so that made them outside of any protection of the law, and of course, they said the same thing about al Qaeda and everyone else. Of course, the Geneva Convention is behind the American government for signing it. It doesn't matter who we're fighting against. But that was their quite dishonest, pretend interpretation, and they also came up with the scheme that George W. Bush being the president is above the law—that the only phrase in the Constitution that means a thing at all is the commander-in-chief clause, and that means that if there's a war on undeclared as it was, then, you know, sort of authorized by Congress, but anyway, in that level of wartime, there is no law that he cannot cancel, override, or make an exception for, etc.

And these were in the memos, and eventually, later Bush lawyers overrode those memos. Jack Goldsmith came in and said this is ridiculous—not in the American republic, not even in 2006 are we going to allow this to be the interpretation of the law, it's just not right, and pulled a couple of those back, but that was the basis of the whole thing. They tried to blame this all on the night shift at Abu Ghraib prison. These national guardsmen—Lynndie England, remember her? With the leash and all that? And Charles Graner—the few that were put in prison. But, in fact, it was an operation from the very top down. Bush and Cheney—the principals of the foreign policy part of the cabinet and their lawyers and their top operators who orchestrated this entire thing, and as this report documents and full well acknowledged violation of the law. They knew they were torturing. They were telling each other, okay, we are breaking the torture laws. So we need a permission slip from the Department of Justice so we can say that we thought it was legal because they said we could, kind of thing. They knew good and well.

In fact, there's actually a place in this report where Scott McClellan, who was Bush's spokesman for a while. He at one point in a press conference reassured the Washington press corps, he said: don't worry, everyone in American captivity is being treated humanely, and when the CIA heard that they said, oh, no, *humanely*? Did the Republicans cancel the program? Are we out here without a legal fig leaf? Quick, and they went back and contacted the Department of Justice and said, "We're still protected by the memos, right?" Because they knew that they were torturing people quite in violation of all of the laws that enforce the domestic laws passed

by our Congress and signed by our president that enforce our participation in the Geneva Conventions and the Anti-Torture Convention and the War Crimes Convention and all of those things. Signed and voted in super-majorities by both parties of both houses of Congress and presidents of both parties, including Ronald Reagan and Newt Gingrich and everybody who would be a torture monger now who back then said this is the law, and there are no exceptions, and necessity is not an exception, and we don't care if you're being invaded, and we don't care if you have a domestic insurrection—attempted coup d'état—we don't care anything. There are no circumstances that can ever be used as a legal justification for getting out from under the torture statute. It is a criminal law. So if America is a government or has a government of laws and not men, then all of these guys belong in the supermax. That's it. It's an open and shut case for what they've done to these people, and I don't know if you want me to highlight some of the actual torture tactics and some of the more horrible things they do. That was not in the report. It's what I just told you, basically.

WOODS: And that is important to talk about—what it omits. For now, let's address the Dick Cheney reply, which is that this is a whole lot of hooey, that this—and I've also seen this said by a source you and I very much trust—isn't really torture at all, these enhanced interrogation techniques. And they were effective in getting us full, actionable intelligence. So unless you're going to come up with some kind of substitute for them, it is wrong to get rid of them or penalize people for engaging in them.

HORTON: Okay, well, so first of all, there's that necessity defense, and like I just said, the law that Ronald Reagan signed said necessity—you're still going to prison. It's right there in the law. It basically forbids necessity as a defense, just like if Edward Snowden tried to plead that he was only trying to help the free people of America know the truth about their lawless government, he would be forbidden in court on an Espionage Act charge to even mount that defense. He's not allowed to say that. Well, same thing for torture: you're not even allowed to say, but Your Honor, I had to. It's forbidden in the law that Ronald Reagan signed in the anti-torture statute. And that's just the law. If you don't like it, change the law, but that's the law, and so Dick Cheney belongs in the supermax. All he is saying is, yes, I am guilty of thousands and thousands and thousands of felony counts of violating these laws, and to try to play down the actual whether it amounts to torture or not is, of course, in direct contradiction to the case that they're making, is that only by torturing these people into a state of complete and total helplessness were they able to get them to cooperate and tell us the things that we needed to know to stop these plots.

So they are just outright lying, and they are admitting they are lying, and they are arguing against their own damn lie when they say that it doesn't amount to torture, it's not torture. They locked Abu Zubaydah in a coffin for two weeks with insects. They beat these guys. They slammed their heads into the walls. They punched them. They kicked them. They kept them naked. They kept them in sensory deprivation sometimes for months in total darkness, total quiet for months at a time. You had CIA officers themselves supposedly crying over what they

were doing, and after they were telling their bosses: hey, look, this guy is all tortured out. Believe me, I am the one torturing him, and I am telling you he's good and tortured, and we're done. The bosses would override it. "Go back to work. Tell him we want to hear the name Saddam. Tell me a story about Saddam, and go back to work on these guys." The boss would overrule them and overrule them. The anal rape, which I guess I won't go into too much detail. It's all over the news for people who want to talk about it. I know it's a family podcast here you're running, Tom, but we are talking about torture here, so that's in there. The very credible threats to torture and murder and rape people's family members. After all, if you are literally being tortured in a salt pit—torture dungeon beneath Afghanistan, and your torturer who is torturing you says that he's going to do this to your mother, too, you don't really have reason to doubt that, right? Americans might want to say, well, geez, if the local guard at the local county jail threatened to do that, that's not really a credible threat—come on, you're not going to do that. And that's not what we're talking about here. We're talking about guys who absolutely are getting away with pure torture and murder, making credible threats against people's children, in fact, including even kidnapping and torturing the mentally disabled relative of one of their captives in order to try to get him to talk, just like in the hypothetical. Remember the guy from the Cato Institute asked John Yoo—cover your kids' ears—"Do you think George Bush, the president, has the right to order the CIA to crush a child's testicles to get at his father?" And John Yoo's only answer was, "Well, I think it depends why he thinks he needs to do that," which of course, is a non-answer because he is exactly making the case that it's only up to George Bush to decide why and whether he wants to do that, and it's not reviewable by anyone else. So here they are at least threatening that kind of—or no, in this one case they literally were taking it out on some of these mentally disabled—according to the Senate report—from the CIA document—taking it out on somebody's mentally handicapped relative in order to try to coerce them.

You had guys they say at least threatened with a drill. We know mock executions, you know, putting people on their knees telling them today's your last day, taking them out back, putting them on their knees, putting a gun to the back of their head and then dry firing it a few times to just completely terrorize them. And listen, here's the level of whether it was torture or not, Tom. They say that the CIA torturer could just look at Abu Zubaydah and raise his eyebrow, and Abu Zubaydah would climb up on the waterboard like a good, little trained puppy and would climb up on his waterboard to be tortured in order to be spared being beaten within an inch of his life first. And, of course, whether it's effective at all—it shouldn't count at all. It shouldn't even be a question at all. It doesn't matter whether it's effective at all. But also that's a damn lie, and the Senate torture report shows that where just like, remember they said about the NSA we have 54 cases where we saved Americans from terrorist attacks, and then the reviews came out, and they said no, you don't have 54 cases. You have none. You have one case of a San Diego cab driver sent them money to somebody in Somalia that maybe was affiliated with al-Shabaab or something. What a joke. Same thing here. They claimed 20 different cases of, well, we tortured the truth out of this guy, and it stopped this terrorist attack, and it stopped

this terrorist attack, and the Senate staff, they went through and they said no. And they showed there weren't. They showed each time: you say you got this information from torturing on this date. That's funny, because here that information is already in the documents that you didn't get through torture on this previous date—on each case they show where any torture information that was even useful at all—certainly there was no ticking time bomb scenario like on 24 ever, not once. Any information at all they already had from other means besides torture.

WOODS: All right, so you're saying that Dick Cheney is not giving any specific examples. He's just vaguely pointing to some national security benefit that came from this?

HORTON: Exactly, it's the same slogan as got us into the war in 2003 in Iraq, which is, well, I'm sure the president has secret information he can't tell us. The question is: do you trust that these Republicans are telling the truth or not? And especially on the Right, well, I don't know, especially on the Left, too, people don't really care for a substantive argument. What they care for is which character to line up behind. And so virtually the entire American Right has decided that this is OK now because their political heroes say so, and their political heroes, of course, insist how necessary it was because—especially Dick Cheney: he's trying to keep himself out of prison. He's trying to keep even the possibility that he could be ever held to account under the law for this at bay by basically making it—that's why he threw George W. Bush under the bus last night. Did you see that? On FOX News he goes, oh, yeah, forget the Senate report. Me and George Bush, we knew everything about what they were doing. Where the Senate report says that the CIA didn't tell George Bush about waterboarding until 2006. No way. We knew everything about it, he was saying, and that's because he's basically upping the ante. He's saying, are you willing to prosecute us all, including George W. Bush? That's the challenge to the American people who demand accountability for this, and we're supposed to back down under the assumption, probably correct, that that's just impossible in space-time in this universe, and so forget it. And so that's exactly why they are doing it. They've got guilt written all over their faces.

WOODS: Scott, let me read you an excerpt from Daniel Larison over at *The American Conservative*. He writes, "Worse still, more than two dozen of those subjected to these barbaric treatments were wrongfully detained, and the CIA kept such poor records of its detainees that the exact number of detainees and how they were treated may never be known. At least one of the detainees died in custody, and no action was taken against the people responsible. These are the inevitable abuses that will come from employing evil means in the name of national security." Comment?

HORTON: Jack Hunter over at *Rare* had a great one too. He said, "The people who are the torture apologists here sound just like Osama bin Laden." And he's got the quote of bin Laden saying: what do you mean, don't kill their civilians? They kill our civilians, so we kill them back. And Jack Hunter is saying that's the exact same argument. All this talk about, oh, you have such soft feelings for how Khalid Sheik Mohammed and Ramzi bin al-Shibh, the 9/11 terrorists, are treated—well, actually I don't have soft feelings for them. The question is about the authority

of the people who would abuse them and whether they have the authority to do so or not is the real question when it comes to those guys. And then like you said, we're talking about a government program here. You think everybody that the CIA and the military ever kidnapped and tortured were guilty terrorists? Maybe now they are. You can ask Omar al-Baghdadi about his time down in Camp Bucca about how much of a terrorist he is now, and the same for Zawahiri, the co-founder of al Qaeda—the same for Zarqawi, the founder of al Qaeda in Iraq.

People turn into terrorists after you torture them. That's certainly true. But there's just no way that you can have a global torture program where you don't have innocent people being treated this way and being treated absolutely horribly too to some of the worst tortures. And there's this guy al-Masri. I am not sure if this one is in the report or not because this is part of the rendition program where he was just the wrong guy. And there was Maher Arar. I believe both of these guys share more or less the same story here, where they were both mistaken identity cases, sent to Bashar al Assad to be tortured by the fascist Baathists in Syria at the same time we're fighting the fascist Baathists in Iraq. We're using Assad to torture these guys for us. In fact, the rendition program goes back to Bill Clinton, as Michael Scheuer has pointed out, bragging about it. But Robert Baer, the former CIA officer, has said kind of as a cliché repeating a cliché from inside the CIA. If you want somebody tortured, you send them to Assad. If you want them to disappear forever, you send them to Mubarak. And that would be Hosni Mubarak, Hillary Clinton's family friend and former dictator of Egypt. He's now been replaced by Abdul Faisal Assisi, but in fact, remember even when Mubarak had to go and Hillary Clinton put it on the front page of the *New York Times*. She was really pushing for Omar Suleiman, the head of Egyptian secret torture police, to be the new replacement pharaoh as Mubarak was on his way out.

WOODS: Scott, there is a utilitarian argument that's going to be appealing to a lot of regular Americans, and they are going to say we're in this conflict, how we get into it is secondary to the fact that that we're in it, and we've got enemies who will stop at nothing, who do barbaric things, and so in fighting against an enemy like this that is so wily and so difficult to pin down, you have to use crude methods. You're not going to be able to do things just so. And sometimes you're going to have to be brutal to some people because the alternative is that many, many, many thousands of people wind up being killed in equally horrifying ways. It's impossible to keep clean hands in a situation like that.

HORTON: Well, tough. George Washington said, if I hear about any of you guys torturing British captives, I'll put you against the wall and shoot you. Torture is not allowed, sorry, that's it. That's been the law in America since before this Constitution was ever ratified, and besides the fact, Tom, that the utilitarian argument—after being completely destroyed by the moral one—is completely bogus. Like I said, the reason Ayman al Zawahiri quit being a surgeon and became the world's most dangerous terrorist is because Mubarak tortured him back in the early 1980s, and the reason that Abu Musab al Zarqawi became the most dangerous man in the Iraq war—he did as much as Donald Rumsfeld and George Bush to create a sectarian civil war; he was

basically the bin Laden of the Sunni insurgency there who created al Qaeda in Iraq in 2004, *after* the invasion and butchered so many civilians and created al Qaeda in Iraq that grew into the Islamic State today—he was a two-bit, racist nobody until he was tortured by America’s sock puppet kingdom in Jordan—tortured him and turned him into a hell-bent warrior, basically, against America and its sock puppets and their interests in the region and ended up lining up with Osama bin Laden to wage war against it.

And Mubarak, our loyal sock puppet torture dictator, he is the one who warned us: if you invade Iraq, you’re going to create 10,000 bin Ladens. Well, he could have added if you invade Iraq, and you stay, and you help fight the Shiite side in a sectarian war, and if you torture tens of thousands of people, you’re going to create 100,000 bin Ladens, and so all the war mongers can do—all the really the Right and the at least pro-state, interventionist Left can do is come up with more of the same thing—keep on them, keep killing them when that’s what created this mess in the first place. George H.W. Bush did not have to invade Saudi Arabia in order to invade Iraq and stay and blockade it. Bill Clinton didn’t have to keep the blockade on and keep the occupation going. None of these presidents going back have had to support Israel’s occupation of the Palestinians in the West Bank, the Gaza strip and East Jerusalem, and they are basically perpetual, now on and off, occupation of southern Lebanon, but back then 20 years running the occupation of Lebanon. People look at the 9/11 attack like those planes just came out of the clear, blue sky. It makes the perfect false metaphor for what was going on there that day, even though the 1990s was the era of Jerry Seinfeld and Crystal Pepsi and dot-com bubbles and peace, they thought, history was actually really going on, and plans were being laid. So the fact the Americans in general were caught by surprise by the September 11 attacks doesn’t mean that they just came from evil that had assembled itself for no reason in the days leading up to the attack.

It was American intervention in the first place, support for torture dictators in the first place, that got us into this mess. And all we can do—just look at the policy. The people who said we got to fight ‘em over there and torture ‘em over there so we don’t have to fight ‘em over here are the same ones telling us that we have to keep torturing them and keep fighting them. We’ve got to chase them into Libya. Oh, we’ve got to fight a war for them in Libya. But and then we’ve got to chase them to Mali. We’ve got to chase them down in Nigeria. Maybe we can double down on the drone war in Somalia. We’re not sure whose side we want to back in Yemen now that the Shiites are coming out ahead. The whole thing is a complete catastrophe, and I defy anybody to recommend to me which president is going to continue carrying on the global war on terror after two terms of George W. Bush and two terms of Barack Obama only now get it right and now only kill the people who need killing without creating 10 more for every one you kill and now figure out a way to really be surgical in your brutality like the Democrats pretend to be without just making matters worse. Look at their plan for the war with the Islamic State right now. They are on the Shiite side, Iran’s side, of the sectarian war in Iraq, but they are still on the Saudi Arabian, Sunni, bin Laden’s side in Syria. They can’t even figure out, and it’s one, big Islamic state in the middle, and they can’t even come up with a

coherent policy for how to fight on its eastern and western fronts. This is ridiculous. The whole thing.

Look, the smartest person running foreign policy in DC right now is Susan Rice, okay, and when Jeb Bush comes and brings the neoconservatives back in, you think what? That's the adults. They are the ones who are going to finally get this right? I am sorry I am so severely against your devil's argument here, Tom, but it doesn't hold up. If intervention caused this in the first place, and then the "well, now we're in it so we have to solve it" level of intervention that came after has only made it this much worse, well, than what can we expect another level of intervention to be? When George Bush had 150,000 soldiers and Marines occupying Iraq, they couldn't eliminate al Qaeda there. They didn't get rid of al Qaeda there. Al Qaeda came right back and turned into al Nusra in Syria and the Islamic State now in Syria and Iraq. And that was when all the soldiers were there. Now this group the Islamic State is 10 times, maybe 50 or 100 times as powerful as al Qaeda in Iraq ever was, and so now we're going to send our soldiers in there at some point here, and they are going to what? Try to rouse the Islamic State and drive them out of Mosul, drive them out of Fallujah after another full-scale war, that's possible, but then what? All you did was turn them from an Islamic State, a caliphate, a pseudo, whatever caliphate, self-described, back into an insurgency. And so, okay, fine, well, we fought an eight-year war against the Sunni-based insurgency in Iraq. I guess we can fight another one, and then when we leave, they'll still be there after another eight years of this. The point is, George H.W. Bush should have never got us into this mess, and every day that he and any of these presidents and their staff have kept us meddling in the Middle East over there, the worse they have made matters for everyone over there and for the American people, too. We have to just quit.

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