

Trial Overseer Cites 'Abusive' Methods Against 9/11 Suspect | [Original Article](#)

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The top Bush administration official in charge of deciding whether to bring Guantanamo Bay detainees to trial has concluded that the U.S. military tortured a Saudi national who allegedly planned to participate in the Sept. 11, 2001, attacks, interrogating him with techniques that included sustained isolation, sleep deprivation, nudity and prolonged exposure to cold, leaving him in a "life-threatening condition."

"We tortured [Mohammed al-]Qahtani," said Susan J. Crawford, in her first interview since being named convening authority of military commissions by Defense Secretary Robert M. Gates in February 2007. "His treatment met the legal definition of torture. And that's why I did not refer the case" for prosecution.

Crawford, a retired judge who served as general counsel for the Army during the Reagan administration and as Pentagon inspector general when Dick Cheney was secretary of defense, is the first senior Bush administration official responsible for reviewing practices at Guantanamo to publicly state that a detainee was tortured.

Crawford, 61, said the combination of the interrogation techniques, their duration and the impact on Qahtani's health led to her conclusion. "The techniques they used were all authorized, but the manner in which they applied them was overly aggressive and too persistent. . . . You think of torture, you think of some horrendous physical act done to an individual. This was not any one particular act; this was just a combination of things that had a medical impact on him, that hurt his health. It was abusive and uncalled for. And coercive. Clearly coercive. It was that medical impact that pushed me over the edge" to call it torture, she said.

Military prosecutors said in November that they would seek to refile charges against Qahtani, 30, based on subsequent interrogations that did not employ harsh techniques. But Crawford, who dismissed war crimes charges against him in May 2008, said in the interview that she would not allow the prosecution to go forward.

Qahtani was denied entry into the United States a month before the Sept. 11 attacks and was allegedly planning to be the plot's 20th hijacker. He was later captured in Afghanistan and transported to Guantanamo in January 2002. His interrogation took place over 50 days from November 2002 to January 2003, though he was held in isolation until April 2003.

"For 160 days his only contact was with the interrogators," said Crawford, who personally reviewed Qahtani's interrogation records and other military documents. "Forty-eight of 54 consecutive days of 18-to-20-hour interrogations. Standing naked in front of a female agent. Subject to strip searches. And insults to his mother and sister."

At one point he was threatened with a military working dog named Zeus, according to a military report. Qahtani "was forced to wear a woman's bra and had a thong placed on his head during the course of his interrogation" and "was told that his mother and sister were whores." With a leash tied to his chains, he was led around the room "and forced to perform a series of dog tricks," the report shows.

The interrogation, portions of which have been previously described by other news organizations, including The Washington Post, was so intense that Qahtani had to be hospitalized twice at Guantanamo with bradycardia, a condition in which the heart rate falls below 60 beats a minute and which in extreme cases can lead to heart failure and death. At one point Qahtani's heart rate dropped to 35 beats per minute, the record shows.

The Qahtani case underscores the challenges facing the incoming Obama administration as it seeks to close the controversial detention facility at Guantanamo Bay, Cuba, including the dilemmas posed by individuals considered too dangerous to release but whose legal status is uncertain. FBI "clean teams," which gather evidence without using information gained during controversial interrogations, have established that Qahtani intended to join the 2001 hijackers. Mohamed Atta, the plot's leader, who died steering American Airlines Flight 11 into the World Trade Center, went to the Orlando airport to meet Qahtani on Aug. 4, 2001, but the young Saudi was denied entry by a suspicious immigration inspector.

"There's no doubt in my mind he would've been on one of those planes had he gained access to the country in August 2001," Crawford said of Qahtani, who remains detained at Guantanamo. "He's a muscle hijacker. . . . He's a very dangerous man. What do you do with him now if you don't charge him and try him? I would be hesitant to say, 'Let him go.' "

That, she said, is a decision that President-elect Barack Obama will have to make. Obama repeated Sunday that he intends to close the Guantanamo center but acknowledged the challenges involved. "It is more difficult than I think a lot of people realize," Obama said on ABC's "This Week," "and we are going to get it done, but part of the challenge that you have is that you have a bunch of folks that have been detained, many of whom may be very dangerous, who have not been put on trial or have not gone through some adjudication. And some of the evidence against them may be tainted, even though it's true."

President Bush and Vice President Cheney have said that interrogations never involved torture. "The United States does not torture. It's against our laws, and it's against our values," Bush asserted on Sept. 6, 2006, when 14 high-value detainees were transferred to Guantanamo from secret CIA prisons. And in a interview last week with the Weekly Standard, Cheney said, "And I think on the left wing of the Democratic Party, there are some people who believe that we really tortured."

"I sympathize with the intelligence gatherers in those days after 9/11, not knowing what was coming next and trying to gain information to keep us safe," said Crawford, a lifelong Republican. "But there still has to be a line that we should not cross. And unfortunately what this has done, I think, has tainted everything going forward."

"The Department has always taken allegations of abuse seriously," Pentagon spokesman Geoff Morrell said in an e-mail. "We have conducted more than a dozen investigations and reviews of

our detention operations, including specifically the interrogation of Mohammed Al Qahtani, the alleged 20th hijacker. They concluded the interrogation methods used at GTMO, including the special techniques used on Qahtani in 2002, were lawful. However, subsequent to those reviews, the Department adopted new and more restrictive policies and procedures for interrogation and detention operations. Some of the aggressive questioning techniques used on Al Qahtani, although permissible at the time, are no longer allowed in the updated Army field manual."

After the Supreme Court ruled in the 2006 *Hamdan v. Rumsfeld* case that the original military commission system for Guantanamo Bay violated the Constitution and the Geneva Conventions, Congress rewrote the rules and passed the Military Commissions Act, creating a new structure for trials by commissions. The act bans torture but permits "coercive" testimony.

Crawford said she believes that coerced testimony should not be allowed. "You don't allow it in a regular court," said Crawford, who served as a judge of the United States Court of Appeals for the Armed Forces from 1991 to 2006.

Under the act, Crawford is a neutral official overseeing charges, trials and sentencing, with ultimate decision-making power over all cases coming before the military commissions.

In May 2008, Crawford ordered the war-crimes charges against Qahtani dropped but did not state publicly that the harsh interrogations were the reason. "It did shock me," Crawford said. "I was upset by it. I was embarrassed by it. If we tolerate this and allow it, then how can we object when our servicemen and women, or others in foreign service, are captured and subjected to the same techniques? How can we complain? Where is our moral authority to complain? Well, we may have lost it."

The harsh techniques used against Qahtani, she said, were approved by then-Defense Secretary Donald H. Rumsfeld. "A lot of this happened on his watch," she said. Last month, a Senate Armed Services Committee report concluded that "Rumsfeld's authorization of aggressive interrogation techniques for use at Guantanamo Bay was a direct cause of detainee abuse there." The committee found the interrogation techniques harsh and abusive but stopped short of calling them torture.

An aide to the former defense secretary accused the committee chairman, Carl M. Levin (D-Mich.), of pursuing a politically motivated "false narrative" that is "unencumbered by the preponderance of the facts."

In June 2005, Time magazine obtained 83 pages of Qahtani's interrogation log and published excerpts that showed some of the extreme abuse. The report of a military investigation released the same year concluded that Qahtani's interrogations were "degrading and abusive."

Crawford said she does not know whether five other detainees accused of participating in the Sept. 11 plot, including alleged mastermind Khalid Sheik Mohammed, were tortured. "I assume torture," she said, noting that CIA Director Michael V. Hayden has said publicly that Mohammed was one of three detainees waterboarded by the CIA. Crawford declined to say whether she considers waterboarding, a technique that simulates drowning, to be torture.

The five detainees face capital murder charges, and Crawford said she let the charges go forward because the FBI satisfied her that they gathered information without using harsh techniques. She noted that Mohammed has acknowledged his Sept. 11 role in court, whereas Qahtani has recanted his self-incriminating statements to the FBI.

"There is no doubt he was tortured," Gitanjali S. Gutierrez, Qahtani's civilian attorney, said this week. "He has loss of concentration and memory loss, and he suffers from paranoia. . . . He wants just to get back to Saudi Arabia, get married and have a family." She said Qahtani "adamantly denies he planned to join the 9/11 attack. . . . He has no connections to extremists." Gutierrez said she believes Saudi Arabia has an effective rehabilitation program and Qahtani ought to be returned there.

When she came in as convening authority in 2007, Crawford said, "the prosecution was unprepared" to bring cases to trial. Even after four years working possible cases, "they were lacking in experience and judgment and leadership," she said. "A prosecutor has an ethical obligation to review all the evidence before making a charging decision. And they didn't have access to all the evidence, including medical records, interrogation logs, and they were making charging decisions without looking at everything."

She noted that prosecutors are required to determine whether any evidence possessed by the

government could be exculpatory; if it is, they must turn it over to defense lawyers. It took more than a year, she said -- and the intervention of Deputy Defense Secretary Gordon England -- to ensure they had access to all the information, much of it classified.

Crawford said detainee interrogation practices are a blot on the reputation of the United States and its military judicial system. "There's an assumption out there that everybody was tortured. And everybody wasn't tortured. But unfortunately perception is reality." The system she oversees probably can't function now, she said. "Certainly in the public's mind, or politically speaking, and certainly in the international community" it may be forever tainted. "It may be too late."

She said Bush was right to create a system to try unlawful enemy combatants captured in the war on terrorism. The implementation, however, was flawed, she said. "I think he hurt his own effort. . . . I think someone should acknowledge that mistakes were made and that they hurt the effort and take responsibility for it."

"We learn as children it's easier to ask for forgiveness than it is for permission," Crawford said. "I think the buck stops in the Oval Office."

*Researchers Julie Tate and Evelyn Duffy contributed to this report.*