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A stunning new investigation by The New York Times examines claims of military abuses and a possible cover-up that goes up the chain of command. Reporters uncovered accounts that in May 2012 members of a Navy SEAL team stationed at an outpost in Kalach, in southern Afghanistan, abused detainees that had been rounded up as suspects after a bomb exploded at a military checkpoint, killing one member of the Afghan Local Police unit the SEALs had been training. According to a report by the Naval Criminal Investigative Service, which the Times acquired through a FOIA request, three Navy SEALs dropped heavy stones on the detainees' chests, stomped on their heads, and poured bottles of water on their faces in a modified form of waterboarding. One of the detainees was beaten so badly that he eventually died from his injuries. But what happened after the incident has many military justice experts questioning whether Navy commanders worked to cover up the case. Four U.S. soldiers working with the SEALs at the outpost reported that they witnessed the abuse, but Navy commanders chose to deal with the matter in a closed disciplinary process, one usually reserved for minor infractions. The SEALs were cleared of any wrongdoing. Two of the SEALs implicated in the abuse of the detainees and their lieutenant have since been promoted, despite calls by one commander to have them forced out of the SEAL team. We speak with Nicholas Kulish, a correspondent with The New York Times and one of the lead reporters on "Navy SEALs, a Beating Death, and Claims of a Cover-Up."

JUAN GONZÁLEZ: We begin today with a look into a stunning new [investigation](#) by *The New York Times*

into claims of military abuses and a possible cover-up that goes up the chain of command. The article, titled "Navy SEALs, a Beating Death and Claims of a Cover-Up," uncovers accounts that in May 2012 members of a Navy

SEAL

team stationed at an outpost in Kalach, in southern Afghanistan, abused detainees that had been rounded up as suspects after a bomb exploded at a military checkpoint, killing one member of the Afghan Local Police unit the SEALs had been training. According to a report by the Naval Criminal Investigative Service, which the

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request, three Navy SEALs dropped heavy stones on the detainees' chests, stomped on their heads, and poured bottles of water on their faces in a modified form of waterboarding. One of the detainees was beaten so badly that he eventually died from his injuries.

AMY GOODMAN: But what happened after the incident has many military justice experts questioning whether Navy commanders worked to cover up the case. Four U.S. soldiers working with the SEALs at the outpost reported that they had witnessed the abuse, but Navy commanders chose to deal with the matter in a closed disciplinary process, one usually reserved for minor infractions. The SEALs were cleared of any wrongdoing. Two of the SEALs implicated in the abuse of the detainees and their lieutenant have since been promoted, despite calls by one commander to have them forced out of the SEAL team. Retired Rear Admiral Donald Guter, who as former judge advocate general of the Navy was in charge of all its lawyers, he said of the process, quote, "It's unfathomable. It really does look like this was intended just to bury this."

New York Times reporters spoke with some of the soldiers who reported the abuse, as well as one of the Afghan men who was detained. They also spoke with the brother of Muhammad Hashem, the man who died after being interrogated at the base.

Well, for more, we're joined by Nicholas Kulish, a correspondent for *The New York Times*, lead reporter of this

[exposé](#)

, "Navy SEALs, a Beating Death and Claims of a Cover-Up."

Welcome to *Democracy Now!* It's great to have you with us, Nick. Why don't you start off with how you learned about this incident that, well, happened back in May of 2012?

NICHOLAS KULISH: Sure. Well, initially, we had a tip from a confidential source that this had taken place, which is what led us to the Naval Criminal Investigative report. The problem at that point was that it was entirely redacted, and it said that the soldiers involved, or the witnesses, had recanted their statements. So, at that point, unless we could figure out who these soldiers were, track them down and find out what they had actually seen and what they had actually said, there was nothing we could really do with it. So that was where we focused our efforts.

JUAN GONZÁLEZ: And you were able to track down some of these soldiers. And had they recanted their testimony?

NICHOLAS KULISH: All of the soldiers, and they all said that they had not recanted their

testimony.

AMY GOODMAN: So, talk about what you believe happened on that day.

NICHOLAS KULISH: I mean, I can talk about what the witnesses said.

AMY GOODMAN: What they told you.

NICHOLAS KULISH: And they said that there had been an IED, a bomb blast, that had killed one of the ALP members. The ALP picked up—

AMY GOODMAN: That's the Afghan police.

NICHOLAS KULISH: The Afghan Local Police picked up the—sort of rounded up the usual suspects, you might say. They grabbed some out-of-town scrap merchants, as well as the people that they were staying with, and brought them to the base, beating them with rifle butts, whipping them with car antennas along the way. One of the soldiers who was closest to the incident when it took place said that he expected the SEALs to stop the abuse. And with a kick to one of the kneeling, bound detainees, he said that it began with the SEALs taking over and leading the abuse themselves from that point on.

AMY GOODMAN: And then what happened?

NICHOLAS KULISH: Two of the soldiers were standing on a rooftop nearby. Two of the soldiers were standing on another rooftop slightly farther away. All four describe a fairly consistent set of circumstances, which you alluded to—dropping rocks, one of the soldiers said to me, so heavy that a muscular SEAL needed two hands to lift them, which would mean at least 20 pounds probably, dropping them onto their chests, at one point

pulling their legs apart, dropping them on their groins, standing on one of the victims' heads eight to 10 times—so, I mean, you know, if the witness statements are correct, a really pretty gruesome circumstance.

JUAN GONZÁLEZ: Well, one of the things that struck me in some of these statements that were given is the—that this apparently may not have been an isolated incident in terms of how the SEALs were dealing with the local population, because one of the soldiers said—and this is an enlisted man, not part of the SEALs—"My initial thought of the SEAL's was that I thought they were disciplined professionals. As time went on it seemed the SEAL's became bored. They started throwing grenades off the roof of the camp, shoot at local nationals that were on ridgelines, most of the time they would do it without warning. When they did shoot warning shots at the locals it was for no reason, they were no threat. ... This didn't happen everyday, but it was often." So, it did seem that there was definitely conflict between some of the regular soldiers and the SEALs on the way they were handling their assignments.

NICHOLAS KULISH: Yeah, absolutely. There were other incidents that I heard about. At one point, one of the SEALs pulled a gun on a soldier in the base gym—as a joke, supposedly, but that's a very—that, in and of itself, we've been told by military lawyers, would be a serious offense; shooting at a kitten under an ammunition shed, which, aside from the kitten itself, you talk about possibly hitting explosives or a ricochet hitting one of the servicemembers on the base. And, you know, I'd like to point out that we spoke with Afghan elders and villagers, who confirmed a lot of this, such as shooting at people in their almond groves or wheat fields, just, you know, warning shots or for fun or however you want to characterize it.

AMY GOODMAN: I want to turn to an excerpt from the statement by the soldiers who witnessed the abuse of the detainees. One of the soldiers, whose name was redacted from the report, spoke of the general actions by the Navy SEALs, saying, quote, "Me and my guys witnessed all sorts of inappropriate behavior by the SEALs. I personally witnessed them throwing grenades over the wall of the compound for no particular reason. I saw them shoot at random vehicles with the .50cal and I also saw one of the SEAL's shoot an Mk-13 grenade launcher towards an Afghan male as a warning shot. They didn't kill anyone, but it was all very excessive." So, you have this situation, and the question is: How does the military then deal with it?

NICHOLAS KULISH: Well, and that's the real issue. You know, the commander—these SEALs were from SEAL Team 2. And the commander of SEAL Team 2, who was in Afghanistan at the time—

AMY GOODMAN: And explain where this is in Afghanistan.

NICHOLAS KULISH: Sure. This is in—you would say southern or eastern, southeastern Afghanistan. It's a very remote area. You wouldn't—you don't even have cellphone service there. But there is a road crossing and a bus stop, so there is, you know, by Afghan standards, some sort of bustling commerce that takes place there.

So, the soldiers actually did not report the abuse immediately. There was some concerns, at such an isolated outpost, outnumbered by the Navy personnel. They waited until they got back to the larger regional base at Tirin Kot, where they then reported the abuse up the chain of command. The Navy SEAL commander who was in charge of the four SEALs who were accused called in the Naval Criminal Investigative Service, took their guns away, and—

AMY GOODMAN: NCIS.

NICHOLAS KULISH: NCIS. And when it became clear that there were serious allegations, he sent them home. So, as far as the criminal justice experts that we've spoken to—the military justice experts, I should say—that was all handled correctly, the way that you would expect.

JUAN GONZÁLEZ: So, but then what happened? How come they were not court-martialed?

NICHOLAS KULISH: I think that's the biggest question that remains. I think that, you know, the former JAGs that we spoke to, Judge Advocate General Corps military lawyers, all said that the logical next step would have been an Article 32 hearing. That's similar to a grand jury for the military. I think some people might be familiar with it, because Bowe Bergdahl recently had an Article 32 hearing. But for some reason, that did not take—that did not take place. The Navy captain, Robert E. Smith, said that he believed that conflicting statements between the Naval personnel and the Army soldiers was enough that he should handle it with his own closed hearing.

AMY GOODMAN: One of the military experts you spoke to is Geoffrey Corn, a former military lawyer who was the Army's senior expert adviser on the law of war. He warned that not taking charges seriously damages ethical standards and morale. You quote him saying, "What's the message for the 10,000 guys that were in the same moment and said, 'No, we're not crossing this line'? It diminishes the immense courage it takes to maintain that line between legitimate and illegitimate violence." This is a very profound point, Nick.

NICHOLAS KULISH: Yeah, you know, and I think that Geoffrey Corn felt very passionate about that, that it's not—it's not easy to be out there in these difficult situations in places like Afghanistan or Iraq, losing friends at times to wounds, or even being killed, and then being expected to follow the laws of war and behave yourself and be respectful to the local population. By overlooking or choosing to ignore serious allegations of abuse, you're, in some ways, I think—Geoffrey Corn would say you're kind of invalidating all the efforts and hard choices that those other soldiers have made.

JUAN GONZÁLEZ: And what's the—what was the effect of this, in terms of the local—you said you talked to some local elders—on the surrounding community, of these kinds of actions?

NICHOLAS KULISH: Sure. I think it's important to note that the point of this mission was to win over the local population. The reason they were in such a small outpost is that they were supposed to be close to the people, getting to know the people, building up a local police force that could defend them from the Taliban. After this incident and the series of incidents that preceded it, many people fled for the Taliban-controlled area. We very recently learned, just in the past couple of weeks, that after this incident took place—or, just recently, that the Taliban are in control of the area and, with the help of the villagers, bulldozed the outpost, that the Americans had retreated from.

AMY GOODMAN: In May 2010, Matthew McCabe was the last of three Navy SEALs acquitted after facing courts-martial on charges that they mistreated an Iraqi prisoner suspected in the deaths of four Blackwater security guards whose charred bodies were dragged through the city of Fallujah in 2004. U.S. military officials had charged one of the SEALs with punching the prisoner, Ahmed Hashim Abed, after he was taken into custody September 1st in Iraq. All three SEALs had been charged with dereliction of duty and lying to Navy investigators to cover up the incident. This is Matthew McCabe speaking to Fox News after he was cleared.

MATTHEW McCABE: I'm ridiculously happy right now. This is an amazing feeling, and I'm glad we can just tie it up with me being found not guilty. And, you know, the other two guys were already found not guilty, so this is amazing. I'm on cloud nine right now.

AMY GOODMAN: That was Matthew McCabe speaking to Fox News after he was cleared. He also described the court-martial process.

MATTHEW McCABE: There's kind of some misconception about—what we did is we denied general's mast, which doesn't necessarily mean that we request court-martial; however, that is the next step if the convening authority does not want to dismiss the charges. So, we ended up coming to court-martial, and that was in the best interest of everybody anyways, and we all got acquitted.

AMY GOODMAN: So that's an example in another case not related to this one, but what this means. And if you can talk about not only the Navy SEALs not being court-martialed—this, in Afghanistan, in your case—but people being promoted?

NICHOLAS KULISH: Yeah, and I think that for the witnesses, in fact, the witnesses did not know what had happened, what the disposition of this case was. They believed that they were testifying at a court-martial, when in fact it was just the—what's called the captain's mast procedure. And I think it's fair to say that they were stunned when they learned that the people involved had been—that the SEALs who they had accused had been promoted. They were absolutely shocked.

JUAN GONZÁLEZ: Has there been any reaction, since your article came out, to the—to what you reported?

NICHOLAS KULISH: I mean, there's been a great deal of reaction from readers. People have really been very interested in the story there. There has not, since it's been reported, been anything from the Navy command or from the Pentagon. In their statements to us, they've said that they defend the prerogative of a commander to deal with these discipline issues, as a broader point, that there's a long tradition of that being the way that it's handled, whether they agree with each and every case or not.

AMY GOODMAN: How does this—is there a possibility of this being reopened? And what has been the response to your piece? It was front page of *The New York Times* yesterday.

NICHOLAS KULISH: Sure. You know, we spoke with Rachel VanLandingham, who was the chief legal adviser to the Army's—or the military's Central Command for detainee matters. And she said very strongly, after reviewing the entire NCIS file, that she thought that the case should be reopened. So the question—I think the open question is whether that will happen.

AMY GOODMAN: Well, I want to thank you for being with us, Nicholas Kulish, correspondent for *The New York Times*, one of the lead reporters on their new [exposé](#), "Navy SEALs, a Beating Death and Claims of a Cover-Up." He's also the author of *The Eternal Nazi: From Mauthausen to Cairo, the Relentless Pursuit of SS Doctor Aribert Heim*.