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**REVIEW & OUTLOOK****Tortured Evidence***July 1, 2008; Page A16*

Democrats on Capitol Hill are continuing their "torture" hearings, with selective leaks suggesting that government officials delighted in cruel and inhuman punishment. Allow us to tell you the story they aren't telling friendly reporters.

Consider the case against former Pentagon General Counsel William Haynes, who in 2002 recommended the use of some "enhanced" interrogation techniques, such as light deprivation, stress positions and removal of clothing. Then-Secretary of Defense Donald Rumsfeld signed off on that recommendation. Michigan's Carl Levin, the main Monday morning Senator, has been portraying this as illegal and disdainful of other Pentagon lawyers.

**Carl Levin**


But Mr. Haynes was offering advice consistent with Justice Department legal briefs. And a document produced by Mr. Levin's own investigation shows that Mr. Haynes was willing to listen to internal critics. Among Mr. Levin's star witnesses was former Navy General Counsel Alberto Mora. That's the same Mr. Mora who in 2004 wrote a long statement about his role in the interrogation debate, and his interaction with Mr. Haynes.

According to that document, Mr. Mora arranged a meeting with Mr. Haynes in late 2002 to object to certain Guantanamo interrogation techniques. Mr. Haynes explained that he believed the techniques were legal and weren't torture. Mr. Mora agreed torture was not the "intent," but worried the interrogations could get out of hand. "Mr. Haynes listened attentively throughout. He promised to consider carefully what I had said," Mr. Mora wrote.

Several weeks later, concerned the policy hadn't changed, Mr. Mora again met with Mr. Haynes, who said that some U.S. officials felt the techniques were necessary to elicit information from men believed to have participated in 9/11 with knowledge of other terror plots. "I acknowledged the ethical issues were difficult. I was not sure what my position would be in the classic 'ticking bomb' scenario . . .," Mr. Mora wrote.

Mr. Haynes said he'd get back to him, and he did by initiating two meetings – including one between Mr. Mora and the legal adviser to the Chairman of the Joint Chiefs of Staff – so Mr. Mora could register his concerns. "I regarded Mr. Haynes's initiative to schedule the above two meetings as a

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positive development and a sign that he not only took my arguments seriously, but that he possibly agreed with some or many of them."

About five days later, Mr. Rumsfeld suspended the techniques, and set up a working group to develop new recommendations. It was Mr. Haynes who oversaw an effort to find consensus among that group. Mr. Mora was also pleased by a letter Mr. Haynes sent to Senator Patrick Leahy, which Mr. Mora wrote was "the perfect expression of the legal obligations binding DOD and the happy culmination of the long debates in the Pentagon as to what the DOD detainee treatment policy should be. I wrote an email to Mr. Haynes expressing my pleasure on his letter and stating that I was proud to be on his team." Keep in mind this was written by one of the most vocal internal Pentagon critics of aggressive interrogation.

We report all this because it shows that, even as Senator Levin tries to portray a Bush Administration conspiracy to ram through "illegal" interrogation methods, what we really had in the period following 9/11 was a legitimate difference of opinion. President Bush ordered political appointees to prevent another attack, in part by breaking al Qaeda detainees, and they argued over how best to do this. Mr. Levin is now using those internal disagreements to play "gotcha," when he should be congratulating Administration officials for their willingness to listen and their moral conscience.

What isn't in doubt is that these public servants acted in good faith, and their efforts are one reason the country hasn't been attacked again. As political smears go, this tortured exercise is low even by Carl Levin's degraded standards of fairness.

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