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Cheney Defends “Enhanced” Interrogation

One of the most controversial of the “enhanced” interrogation techniques is the practice of waterboarding, which is a form of torture. The waterboarding victim is immobilized, strapped to a board with his or her head inclined downward and the face covered with a cloth. Water is then poured over the cloth, which upon becoming saturated restricts breathing and allows water to seep into the breathing passages and into the lungs — drowning the victim without taking the torture to the point of death.



In his speech to the AEI, Cheney downplayed the severity of the practice. “It is a fact that only detainees of the highest intelligence value were ever subjected to enhanced interrogation. You’ve heard endlessly about waterboarding. It happened to three terrorists,” Cheney told the audience.

The former vice president’s talk repeated some statements he made on CBS’s *Face the Nation* program on May 10. When interviewer Bob Schieffer asked Cheney: “Do you have any regrets whatsoever about any of the methods that were taken? Any of the things that were used back in those [post-9/11] days?” Cheney replied: “No regrets. I think it was absolutely the right thing to do. I’m convinced, absolutely convinced, that we saved thousands, perhaps hundreds of thousands of lives.”

In a follow-up question in that same interview, Schieffer asked Cheney about President Obama’s stated desire to close the U.S. detention facility at Guantanamo Bay, Cuba. Unsurprisingly, Cheney was opposed to that plan. Some of Cheney’s opposition to doing so was based on practical considerations. For example, when deciding where to send prisoners formerly housed at Guantanamo, Cheney said: “We have asked other countries to take them back, and they’ve refused.”

He also spoke of opposition from U.S. states, which would be reluctant to have suspected terrorists detained within their borders, a rare and convenient concession to states’ rights these days. But then Cheney revealed the real reason why the United States has established the detention facility outside our borders:

We had to have a place, a facility, where we could capture these people and hold them until they were no longer a danger to the United States. *If you bring them to the United States, they acquire all kinds of legal rights.* And as Khalid Shaikh Mohammed said when we captured him, he said I’ll talk to you guys after I get to New York and see my lawyer. That’s the kind of problem you’re going to have with these terrorists. [Emphasis added.]

The former vice president is correct in stating that by bringing *suspected* terrorists to the United States they *acquire* “all kinds of legal rights.” Among these are the rights guaranteed by the Fifth Amendment against being held without an indictment of a grand jury and against being deprived of life, liberty, or property without due process of law, and in the Sixth Amendment, guaranteeing the accused of the right to a speedy and public trial and the right to counsel for his defense.



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Cheney has also cited the Constitution in justifying the extraordinary measure taken, telling the AEI audience: "In seeking to guard this nation against the threat of catastrophic violence, our administration gave intelligence officers the tools and the lawful authority they needed to gain vital information. We did not invent that authority. It's drawn from Article Two of the Constitution, and it was given specificity by Congress after 9/11 in a joint resolution authorizing 'all necessary and appropriate force' to protect the American people."

The reference to Article Two presumably means the president's role as commander in chief (odd in this situation, absent a declaration of war), and the congressional resolution reads remarkably like a blank check. Of course, after 9/11 many claimed that such powers are necessary to protect the nation in a national emergency.

Consider another national emergency. On February 27, 1933, the building housing the German Reichstag (parliament) in Berlin was seriously damaged by fire. On the evening after the Reichstag fire, the aging German president, Hindenburg, was pressured by Chancellor Hitler into signing an emergency "Decree for the Protection of the People and the State." It declared: "Restrictions on personal liberty, on the right of free expression of opinion, including freedom of the press; on the rights of assembly and association; and violations of the privacy of postal, telegraphic and telephonic communications and warrants for house searches, orders for confiscations as well as restrictions on property, are ... permissible beyond the legal limits otherwise prescribed."

Within a month, members of the Reichstag met in Berlin's Kroll Opera House on March 23, 1933 to consider Hitler's Enabling Act, officially called the "Law for Removing the Distress of the People and the Reich." In his speech to the Reichstag before the vote, Hitler sought to calm the fears of those who feared the increase in governmental power that the act would represent:

The government will make use of these powers only insofar as they are essential for carrying out vitally necessary measures.... The separate existence of the federal states will not be done away.... The number of cases in which an internal necessity exists for having recourse to such a law is in itself a limited one.

While the comparison between Germany's Enabling Act and the waterboarding of a few suspected al-Qaeda terrorists may appear extreme, it is important to consider the far larger abandonment of constitutional principles that occurred after 9/11.

The month following 9/11, Congress passed the USA Patriot Act, which was signed into law by President Bush on October 26. Though worded more subtly than Germany's enabling Act, the Patriot Act nevertheless expanded the list of crimes deemed terrorist acts; increased the ability of law enforcement to secretly search homes and business records; expanded the FBI's wiretapping and surveillance authority; and provided for nationwide jurisdiction for search warrants and electronic surveillance devices, including the legal extension of those devices to e-mail and the Internet.

"A secret first draft of [Attorney General John] Ashcroft's [counter-terrorism] bill included a section titled 'Suspension of the Writ of Habeas Corpus,'" reported the December 3, 2001 *Times* of London. "Such a move would have allowed authorities to hold suspects in secret and indefinitely without charging them or producing them before a judge." Representative James Sensenbrenner (R-Wis.), chairman of the House Judiciary Committee, told *Newsweek* that this provision "stuck out like a sore thumb. It was the first thing I crossed out."

Though excised from the final legislation, the onerous language of the original draft revealed the



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mindset and flagrant disregard for the Bill of Rights (including the Habeas Corpus guarantee — one of the oldest common-law protections of the rights of the accused) exhibited by some key players in the Bush administration.

Despite its apparent dangerous new powers, only one senator, Russ Feingold (D-Wis.), voted against the bill, claiming that it "does not strike the right balance between empowering law enforcement and protecting civil liberties." Sixty-six members of the House voted against the bill. One of them, Representative Ron Paul (R-Texas), expressed grave concerns over many of its provisions:

I do not believe that our Constitution permits federal agents to monitor phones, mail, or computers without a warrant.... History demonstrates that the powers we give the federal government today will remain in place indefinitely. How comfortable are you that future Presidents won't abuse those powers?... The bottom line is that every American should be very concerned about the unintended consequences of policies promoted to fight an unending, amorphous battle against terrorism.

In his speech to the neo-con AEI, Cheney defended an invasive program rooted in the same philosophy that authored the Patriot Act, though created by a secret executive order signed by President Bush in 2002: "Our government prevented attacks and saved lives through the Terrorist Surveillance Program, which let us intercept calls and track contacts between Al Qaida and persons inside the United States. The program was top secret, and for good reason, until the editors of the *New York Times* got it and put it on the front page."

Cheney no doubt regrets that the Sedition Act, once used to arrest Benjamin Franklin's grandson, newspaper editor Benjamin Franklin Bache, expired in 1801.

Cheney also championed the role of the CIA in his speech before the AEI, taking umbrage at those who compared the spy agency's "enhanced interrogation" techniques with those who abused prisoners at Abu Ghraib prison in Iraq: "It takes a deeply unfair cast of mind to equate the disgraces of Abu Ghraib with the lawful, skillful, and entirely honorable work of CIA personnel trained to deal with a few malevolent men."

It is hardly surprising to anyone who knows the history of neoconservatism that Cheney, speaking as a leading neocon before a group of other neocons, would defend the CIA so adamantly. Irving Kristol, the man who has been dubbed the "godfather of neoconservatism," co-founded the British-based *Encounter* magazine that had been funded by the CIA. Thomas W. Braden, who headed the CIA's IOD (International Organizations Division) operations between 1951 to 1954, admitted that the money for the magazine "came from CIA, and few outside the CIA knew about it."

Kristol, like Cheney, is a member of the elitist Council on Foreign Relations, and a fellow emeritus at the American Enterprise Institute, of which Cheney is a Trustee.

Like many early neocons, Kristol was a Trotskyite, an adherent of the teachings of Leon Trotsky, a commissar under Vladimir Lenin, in his youth. Another early neocon, Willmoore Kendall, had also been a Trotskyite and had served in the OSS during World War II, staying on when the OSS became the CIA in 1947, and then became a Yale professor. This proved to be a common theme among the founders of neoconservatism: a Trotskyite philosophy; service with or connections to the OSS and the CIA; and, finally, a career in politically oriented journalism.

When Willmoore Kendall was a professor at Yale, he came to have great influence over one of his brightest students — William F. Buckley, Jr. Buckley would long be given undeserved recognition as a



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leader in the "conservative" movement, when it was, in fact, *neoconservatism* that Buckley so zealously advanced.

When Buckley sought to avoid military service after finishing Yale during the Korean War, Kendall sent him to James Burnham, another Trotskyite socialist who had also seen service with the OSS and then with the CIA. The plan was to have Buckley avoid serving in the military by having him serve in the CIA instead.

These two men, Kendall and Burnham, strongly influenced Buckley and were part of the initial team when their protégé launched *National Review* magazine in 1955. The early *National Review* team was loaded with Trotskyites and CIA veterans. So strong was the CIA presence at the neocon magazine that columnist Gary Wills, formerly a close friend of Buckley's, expressed publicly his strong suspicions that *National Review* had been a "CIA operation."

As for Cheney's credentials, while already a member of the board of directors at the Council on Foreign Relations, he accepted a post at the neocon AEI and later was CEO of Haliburton Corporation, a company with widespread defense contracts in support of both wars in Iraq. Interestingly, in April 2002, Halliburton's subsidiary KBR (formerly Kellogg, Brown and Root) was awarded a \$7 million contract to construct steel holding cells at Camp X-Ray — the detention facility at the U.S. Naval Base at Guantanamo Bay, Cuba.

Given his past associations, Dick Cheney is hardly an impartial defender of the CIA's "enhanced interrogation" techniques.

As for why anyone should care that a few foreigners that very likely had terrorist connections were abused by the CIA? Because bending the Bill of Rights regarding suspected terrorists has set a precedent that may be used against today's (and tomorrow's) patriotic citizens.

The Bill of Rights does not exist to protect the guilty, but the *innocent*.

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