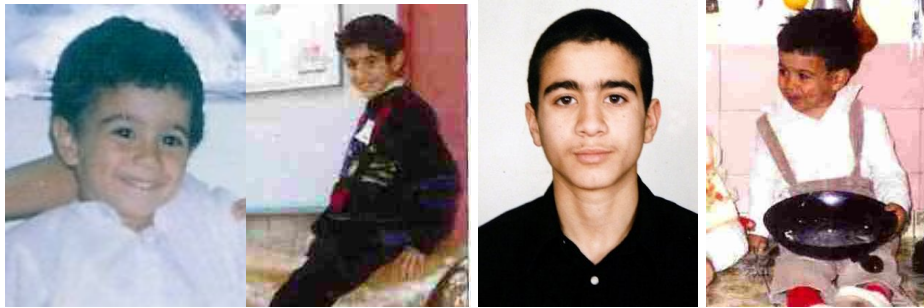


America's Secret Shame: Torture of a Child Soldier



Omar Khadr- Guantanamo Trial Date January 26, 2009

Note: Facts, testimony and excerpts contained in this summary can be verified in motions contained in the Legal Filings section of this report.

On July 27, 2002, U.S. forces launched an air attack on a suspected Al Qaeda compound. F-18 fighter jets first fired more than 2,000 rounds on the compound. Two more F-18's followed, each dropping "pinpoint," 500-pound bombs. Four Apache helicopters were next, directing at least 150 rounds of cannon fire and 62 Hydra FFAR rockets into the compound. The Apache helicopters were followed by a pair of A-10s who, according to reports, "expended all of their rockets and gun rounds." (Estimated to be a minimum of 1,500 rounds of cannon fire and 12 Hydra rockets.) Grenade launchers and hand thrown grenades were being utilized throughout the firefight. Officer reports indicate that as the firefight was winding down, "rounds and grenades were cooking off" in the compound.

Ground forces moved in to find (according to the original report) at least two survivors. According a U.S. Army officer's statement, "I remember looking over my right shoulder and seeing (name redacted by government) just waste the guy who was still alive. He was shooting him."

Another survivor was a 15 year old boy, Omar Khadr, found underneath a pile of rubble, his eyes bleeding from shrapnel, three bullet holes in his back, and a gaping chest wound where witnesses stated, "I could literally see his heart still beating."

"PV2 had his sites right on him point blank. I was about to tap him on the back and tell him to kill him (Omar), but the SF guys stopped us and told us not to," stated the same U.S. Army officer.

And so began the legal journey of Omar Khadr, a child actively indoctrinated by his father at the age of 10 and sent into battle at the age of 15. Now 22 years old, he has spent a third of his life in Guantanamo Bay; nearly blind, disabled, interrogated and tortured for six years.



Claims of Actual Innocence

- U.S. military officer altered action reports to implicate Omar after they were initially filed
- Omar Khadr was shot in the back by U.S. troops
- Omar Khadr was unconscious and blinded by shrapnel before Sgt. Speer was killed by a grenade
- Exculpatory forensic evidence indicates Sgt. Speer's injuries were consistent with the type of grenade being thrown by coalition forces, suggesting his death was actually the result of friendly fire

The Facts

- Omar Khadr was a 15 year old boy when he was captured by U.S. forces and is clearly afforded protection under the U.S. ratified Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict and the International Labor Organization Convention 182.
- Omar Khadr was repeatedly subjected to coercive and often brutal interrogation methods, beginning as soon as he regained consciousness in his hospital bed.
- Omar Khadr received multiple severe injuries during the assault on the compound, rendering him immobile. A court qualified expert in firearms, ballistics, wound ballistics and explosives states, "Simply the concussive effect of these munitions, let alone the shrapnel injuries suffered by Mr. Khadr, cast considerable doubt on his ability to behave volitionally, let alone rationally." (Throwing a grenade was not physically possible)
- Omar Khadr's alleged statements confessing to throwing an F-1 grenade, injuring one soldier and killing SSG Speer, were extracted during interrogations involving torture.
- The U.S. Government has altered original reports indicating that the enemy fighter responsible for Speer's death was "killed" to conform to charges fabricated against Omar Khadr.
- SIX prosecutors have now resigned in protest from the war crimes tribunal at Guantanamo – citing numerous legal, ethical and possibly criminal problems with the handling of detainee cases.
- Supervising attorney barred from participating due to political influence
- The U.S. Government removed the original judge in this case for demanding that evidence be shared with the defense. He also refused to set a trial date until the prosecution began to provide materials requested by defense to ensure a fair trial.
- There have been serious allegations of misconduct by the prosecution involved with Guantanamo trials. See excerpts of original emails below:

Bottom line: Both Capt. [REDACTED] and Maj. [REDACTED] believe that what we are doing is so wrong that they cannot "morally, ethically, or professionally continue to be a part of this process."

eight months. It appears that instead of pausing, conducting an honest appraisal of our current preparation, and formulating an adequate prosecution plan for the future, we have invested substantial time and effort to conceal our deficiencies and mislead not only each other, but also those outside our office either directly responsible for, or asked to endorse, our efforts. My fears are not insignificant that the inadequate preparation of the cases and misrepresentation related thereto may constitute dereliction of duty, false official statements, or other criminal conduct.

2. Suppressing FBI Allegations of Abuse at

Bagram - Over dinner and drinks, KK and Lt ██████ heard from FBI agents that detainees were being abused at the Bagram detention facility. Lt ██████ told KK after dinner that they couldn't report the allegations because it was told to them "in confidence." KK told CDR ██████, LtCol ██████ and ██████ anyway, and all three stated that there was not credible evidence and concluded on their own volition that they should not report the allegation to you or other members of the office. Interestingly, CDR ██████ recently suggested the Lt ██████, despite his lack of experience and judgment, be sent to review the CID reports of abuse at Bagram.

4. The disappearance/destruction of evidence -

As I have detailed to you, my copy of CDR ██████ notes detailing the 302 in which al Bahlul claims torture and abuse is now missing from my notebook. The 302 can not be located. Additionally, ██████ of the FBI related last week that he called and spoke to CDR ██████ about the systematic destruction of statements of the detainees, and CDR ██████ said that this did not raise any issues.

I would like to conclude with the following --

when I volunteered to assist with this process and was assigned to this office, I expected there would at least be a minimal effort to establish a fair process and diligently prepare cases against significant accused. Instead, I find a half-hearted and disorganized effort by a skeleton group of relatively inexperienced attorneys to prosecute fairly low-level accused in a process that appears to be rigged. It is difficult to believe that the White House has approved this situation, and I fully expect that one day, soon, someone will be called to answer for what our office has been doing for the last 14 months.

- Upon examination of the X-rays of the soldier wounded by the grenade Omar Khadr was accused of allegedly throwing, the ballistics expert concluded, "The F-1 is a heavy grenade (Russian made, pineapple-shaped grenade used by Afghanistan forces)... that results in the erratic dispersion of a few large cubical fragments. Based upon the wide distribution of penetration wounds... coupled with the lack of burn injuries to his body, SSG Speer's injuries are consistent with an M67 grenade exploding a few meters away - like those being thrown by coalition forces." (See Defense Motion 13 June 2008)

The Charges Against Omar Khadr

- Murder in violation of the law of war – accused of throwing a Russian-made F-1 grenade that killed SSG Christopher Speers
- Attempted murder in violation of the law of war – accused of helping to build IEDs
- Conspiracy
- Providing material support for terrorism
- Spying

Khadr's Treatment at Guantanamo

Affidavit of Omar Khadr:

"I am a prisoner in Guantanamo Bay, Cuba. I was taken prisoner by U.S. forces on July 27, 2002 when I was 15 years old. I was severely wounded in the battle where I was captured. I was shot at least twice in the back, at least once in my left shoulder exiting my left breast, and once in my right shoulder exiting my upper right side. I was also struck with shrapnel in my left eye and was wounded in my left thigh, knee, ankle and foot."

"During the first three days, they would shackle my feet and hands out to my sides with handcuffs when they did not like the answers I was giving... this caused me great pain. This treatment was for punishment and to make me give them the answers they wanted."

"The interrogators brought barking dogs into the interrogation room while my head was covered with a bag. The bag was wrapped tightly around my neck, nearly choking me and making it hard to breathe. This terrified me."

"The soldiers tied my hands above my head to the door frame or chained them to the ceiling and made me stand like that for hours... because of my injuries, my hands could not be raised all the way to my head, but they would pull them up as high as they could go and tie them there."

"Interrogators threatened to have me raped or sent to other countries like Egypt, Syria, Jordan or Israel to be raped."

"I was not allowed to use the bathroom and was forced to urinate on myself."

"Sometimes they would shine extremely bright lights right up against my face and my eyes would tear and tear and tear. These lights caused me great pain since my eyes were badly injured and had shrapnel in them."

"In Bagram, I would always hear people screaming, day and night. An old man who was captured with me was also brought to the Bagram camp. I saw bandages and injuries on his legs where he had been tortured. Later, one of the interrogators told me this man had died."

"One pushed my back into the wall with his elbow and the other pushed my face into the wall... the mask was still over my mouth and nose and it was difficult to breathe. They held me like this and I could not breathe and passed out. When they felt me falling, they would start to relax, but when I began to wake up, they would do it again until I passed out and began to fall again."

"I did not want to expose myself to any more harm, so I always just told the interrogators what I thought they wanted to hear... I knew what answers made the interrogators happy and would always tailor my answers based on what I thought would keep me from being harmed."

"I have been visited by people claiming to be from the Canadian Government... I showed them my injuries and told them what I told the Americans was not right and not true... because they would torture me... they called me a liar and I began to sob."

"After the Canadians left and I told the Americans that my previous statements were untrue, life got much worse for me... they would shackle me... leave me in harsh, painful positions for hours at a time... pull my hair... spit in my face... I spent a month in isolation... it was like a refrigerator..."

"A military official removed my chair and short-shackled me by my hands and feet to a bolt in the floor... then moved my hands behind my knees... for five or six hours, causing me extreme pain. Occasionally the interrogators would come in and laugh at me."

"During the course of his interrogation of me, the Afghan man told me a new detention center was being built in Afghanistan for uncooperative detainees at Guantanamo... told me I would be sent to Afghanistan and raped... that they like small boys."

"The interrogator told me they would throw my case in a safe and I would never get out of Guantanamo."

Timeline:

September, 1986 - Omar Khadr is born in Canada.

1990 - At age 4, Omar Khadr is moved to the Middle East by his father. He is shuttled back and forth between Canada and the Middle East for the next decade by his family.

2001 - At age 14, Omar Khadr is given to a Libyan militant in southern Afghanistan to work as a translator.

June, 2002 - U.S. ratifies UN Optional Protocol on the Use of Children in Armed Conflict identifying the minimum compulsory recruitment age as 18.

July, 2002 - U.S. troops raid a suspected al Qaeda compound where Omar Khadr is staying. U.S. Army SSG Christopher Speer is killed by shrapnel from a grenade during the firefight. Fifteen year-old Omar Khadr is severely injured, captured and taken to Bagram Air Base.

July 27, 2002 - Official After Action Report filed by U.S. Army officer stating person who allegedly threw grenade, killing SSG Speer, was killed. (See Defense Motion 15 January 2008)

October, 2002 - The U.S. sends 16 year-old Omar Khadr to be detained with adult population at Guantanamo Bay - in violation of international laws protecting children involved in armed conflict.

September, 2004 - U.S. military tribunal decides to keep Omar Khadr in custody at Guantanamo Bay.

November, 2005 - The U.S. military charges Omar as an "enemy combatant" charged with conspiracy, attempted murder and aiding the enemy.

June, 2006 – U.S. Supreme Court strikes down military commissions as inconsistent with minimum standards for a fair trial under the Geneva Conventions in landmark decision of *Hamdan v. Rumsfeld*.

October, 2006 – Bush Administration signs Military Commission Act defining "unlawful enemy combatant" as: 1) a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents who is not a lawful enemy combatant 2) a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense.

June, 2007 - Military Commission judge throws out the case against Omar Khadr because he is labeled an "enemy combatant," instead of an "unlawful enemy combatant." A U.S. military appeals court later overturns the decision and reinstates charges, this time labeling Omar Khadr as an "unlawful enemy combatant."

February, 2008 - Omar Khadr signed an affidavit stating that he was tortured and threatened with rape during attempts to force confessions by interrogators. (See Affidavit of Omar Khadr, official documents section)

May, 2008 - The Supreme Court of Canada concludes that Canadian officials participated in an "illegal" process when they shared information about Omar Khadr with the United States. Upon review of records available to the Canadian government the judge presiding of the case issues a ruling that concludes Omar Khadr was tortured.

June, 2008 - Guards at Guantanamo Bay describe Mr. Khadr as salvageable, non-radicalized and a "good kid," according to visiting Canadian officials.

July, 2008 - Omar Khadr's Canadian defense counsel releases more than seven hours of video of the boy being interrogated by Canadian spy agents while in Guantanamo Bay in 2003.

September, 2008 – Sixth prosecutor resigns in protest citing ethical, legal and potentially criminal violations.

September, 2008 – Pentagon refuses to reopen abuse case even though there is evidence that Omar Khadr was suffocated, physically assaulted, denied pain medication, threatened with rape and forced to stand for hours with his hands handcuffed to the top of a cell, replying, "...these matters are the subject of pre-trial motions or may become matters litigated at trial."

2002-2008 – According to affidavit, Omar Khadr is repeatedly tortured and interrogated – in violation of the Geneva Conventions, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, the Labor Organization Convention 182, and the U.S. Army Field Manual on Interrogation. (See Treaties Section)

The World Watches: United States Breaks International Treaties Protecting Child Soldiers

Treaties broken by United States Government Officials:

- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict – Ratified 2002
- Labor Organization Convention 182 – Ratified 1999

In September 2002, the United States ratified an Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, coming into force for the U.S. in January, 2003. The protocol condemns the use of child soldiers and states, "Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years." Under the Optional Protocol, the United States is directed to demobilize or otherwise release from service any children who have been recruited or used in combat in contravention to the Protocol. (See Treaties section for complete Optional Protocol) By the terms of the Optional Protocol, the U.S. agrees that children may not be combatants and will cooperate in the implementation of rehabilitation and social reintegration of persons who are victims of acts contrary to this protocol.

According to the United States Department of State - Facts About Child Soldiers website: <http://www.state.gov/documents/organization/51160.pdf>

- In Afghanistan, the Department of Labor is funding a program that has demobilized nearly 4,000 child soldiers and enrolled them in education and counseling programs.
- In 1999, the United States ratified International Labor Organization Convention 182, which recognizes the "forced or compulsory recruitment of children for use in armed conflict" as one of the worst forms of child labor.
- In December 2002, the United States ratified the UN Optional Protocol on the Use of Children in Armed Conflict that makes the minimum compulsory recruitment age 18.

The Convention on the Rights of the Child (CRC) is the most comprehensive treaty on children's rights and protection of child soldiers. The CRC is the most universally accepted and least controversial human rights treaty in history, defining a child as "every human being below the age of eighteen years." Of the 195 countries around the world, only two have NOT ratified this treaty: Somalia and the United States. Although the U.S. is not a party, it has ratified the Optional Protocol on Child Soldiers and accepts much of the CRC itself as reflective of customary international law.

Prosecutors Join Defense Counsel in Condemning Guantanamo Prosecutions; Since 2004, Six Have Resigned

Major John Carr – March 2004 - A captain at the time, Carr was on the team to prosecute Gitmo's first war crimes trials. But the Air Force prosecutor quit, saying prosecutors in their office had suppressed evidence of abuse and had failed to turn over potentially exculpatory evidence. The action, Carr wrote in an email to the then-chief prosecutor, "may constitute dereliction of duty, false official statements or other criminal conduct."

Major Robert Preston – March 2004 - Preston was on the same team as Carr and resigned at the same time. He complained that others in their office had suppressed FBI documentation of abuse. "I sincerely believe that this process is wrongly managed, wrongly focused and a blight on the reputation of the armed forces," Preston wrote in an email to his superiors. "This assignment is quite literally ruining my life."

Captain Carrie Wolf – Mid-2004 - Little has been written about Capt. Wolf, but she reportedly wrote emails to superiors detailing concerns about the tribunal system. She asked to be moved from the prosecutors' office around the same as Preston and Carr. Wolf appears to have never publicly commented on the decision.

Lt. Col. Stuart Couch – Mid-2004 - Couch came to believe that the detainee he was slated to prosecute, Mohamedou Ould Slahi, had been abused during his time at Gitmo. Couch refused to participate in the planned tribunal and said he was "morally opposed" to the interrogation techniques "and for that reason alone refused to participate in the prosecution in any manner."

Col. Morris Davis – October 2007 - "I concluded that full, fair and open trials were not possible under the current system." Morris said he resigned "a few hours" after being told that his new boss would be a controversial Defense Department lawyer who had approved abusive treatment of prisoners. This spring, Morris testified on behalf of Salim Hamdan. Under questioning, Morris recounted being told by his superior, "We can't have acquittals. We have to have convictions."

Lt. Col. Darrel Vandeveld – September 2008 - Testifying on the behalf of the defense, Vandeveld said he found key evidence that hadn't been given to the defense and he eventually went from a "true believer to someone who felt truly deceived."

Canadian Prime Minister Abandons Canadian Citizen – Only Westerner Remaining at Guantanamo

After careful examination of the facts surrounding Omar Khadr's status as a child soldier and his brutal treatment and torture by the United States government, the House of Commons Subcommittee on International Human Rights issued a report in June 2008 recommending the following:

- The Government of Canada should demand the immediate termination of Military Commission proceedings against Omar Khadr
- Express its objection to the U.S. detention of Omar Khadr as an "enemy combatant"
- The Government of Canada demand Omar Khadr's immediate release from Guantanamo Bay to the custody of Canadian law enforcement officials
- Calls on Government of Canada to take appropriate measures consistent with Canada's obligations under the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict

Prime Minister Stephen Harper has refused to protect this Canadian citizen and has, instead, deferred to the Bush Administration's judgment.

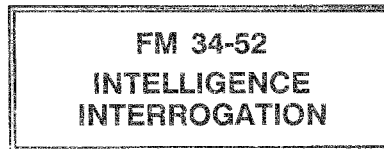
U.S. Policy

The McCain Amendment

The first provision of the McCain amendment to the Department of Defense Appropriations Bill prohibiting cruel, inhuman and degrading treatment or punishment (CIDT) with regard to persons kept in detention by the Department of Defense and in the custody or control of the United States Government worldwide, provides that no person in the custody or effective control of the DoD or detained in a DoD facility shall be subject to any interrogation treatment or technique that is not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation. According to the manual, these Conventions, including the 1949 Geneva Conventions on the Treatment of Prisoners of War, are to be "strictly observed and enforced by the United States Forces without regard to whether they are legally binding upon this country and its specific relations with any other specific country."

Excerpts from the U.S. Army Field Manual on Interrogation

(complete manual available at <http://www4.army.mil/ocpa/reports/ArmyIGDetaineeAbuse/FM34-52IntelInterrogation.pdf>)



HEADQUARTERS, DEPARTMENT OF THE ARMY

Revelation of use of torture by US personnel will bring discredit upon the US and its armed forces while undermining domestic and international support for the war effort. It also may place US and allied personnel in enemy hands at a greater risk of abuse by their captors.

The GWS, GPW, GC, and US policy expressly prohibit acts of violence or intimidation, including physical or mental torture, threats, insults, or exposure to inhumane treatment as a means of or aid to interrogation.

Experience indicates that the use of prohibited techniques is not necessary to gain the cooperation of interrogation sources. Use of torture and other illegal methods is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear.

The United States of America is the only country in the world to try a child for War Crimes in the modern history of war crimes tribunals.



"I wouldn't be alive today if it weren't for the presence of non-governmental organizations that believed that children like myself, due to our emotional and psychological immaturity, had been brainwashed and forced to be killers, and above all, that we could be rehabilitated and reintegrated into society.

Healing from the war was a long-term process that was difficult but very possible. It required perseverance, patience, sensitivity, and a selfless compassion and commitment from the staff members at my healing center. Effective rehabilitation of children is in itself a preventative measure and this should be the focus, not punitive measures against children that have no beneficial outcome."

- Ishmael Beah, Former Sierra Leonean Child Soldier
Senate Judiciary Subcommittee on Human Rights and the Law -
Hearings on the Child Soldier Prevention Act of 2007 - April 24, 2007