

By Amy Goodman and Juan Gonzalez

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As the Senate Select Committee on Intelligence feuds with the CIA over the declassification of its 6,000-page report on the agency's secret detention and interrogation programs, we host a debate between former CIA acting general counsel John Rizzo and human rights attorney Scott Horton. This comes as the United Nations Human Rights Committee has criticized the Obama administration for closing its investigations into the CIA's actions after Sept. 11. A U.N. report issued Thursday stated, "The Committee notes with concern that all reported investigations into enforced disappearances, torture and other cruel, inhuman or degrading treatment that had been committed in the context of the CIA secret rendition, interrogation and detention programmes were closed in 2012 leading only to a meager number of criminal charges brought against low-level operatives." Rizzo served as acting general counsel during much of the George W. Bush administration and was a key legal architect of the U.S. interrogation and detention program after the Sept. 11 attacks. He recently published a book titled "Company Man: Thirty Years of Controversy and Crisis in the CIA." Attorney Scott Horton is contributing editor at Harper's magazine and author of the forthcoming book, "Lords of Secrecy: The National Security Elite and America's Stealth Foreign Policy."

TRANSCRIPT

JUAN GONZÁLEZ: The Senate Select Committee on Intelligence is preparing to vote as soon as April 4th to declassify part of the committee's 6,000-page study on the CIA's secret detention and interrogation programs. The study has set off an unprecedented constitutional battle between the Senate and the CIA. Earlier this month, Senate Intelligence Committee Chair Dianne Feinstein took to the Senate floor to accuse the CIA of secretly removing classified documents from her staff's computers and spying on Senate staffers and their computers in an effort to undermine the panel's report.

SEN. DIANNE FEINSTEIN: If the Senate can declassify this report, we will be able to ensure that an un-American, brutal program of detention and interrogation will never again be considered or permitted. But, Mr. President, the recent actions that I have just laid out make this a defining moment for the oversight of our Intelligence Committee. How Congress and how this will be resolved will show whether the Intelligence Committee can be effective in monitoring and investigating our nation's intelligence activities or whether our work can be thwarted by those we oversee. I believe it is critical that the committee and the Senate reaffirm our oversight role and our independence under the Constitution of the United States.

JUAN GONZÁLEZ: The CIA has countered by filing a "crimes report" with the Department of Justice accusing Senate staffers of illegally accessing CIA documents.
CIA
Director John Brennan has denied Feinstein's allegations.

JOHN BRENNAN: As far as the allegations of, you know, the CIA hacking into, you know, Senate computers, nothing could be further from the truth. I mean, we wouldn't do that. I mean, that's—that's—that's just beyond the—you know, the scope of reason in terms of what we would do. ... When the facts come out on this, I think a lot of people who are claiming that there has been this tremendous sort of spying and monitoring and hacking will be proved wrong.

AMY GOODMAN: The CIA—meanwhile, the United Nations Human Rights Committee criticized the Obama administration for closing its investigations into the CIA's actions after September 11th. The U.N. report stated, quote, "The Committee notes with concern that all reported investigations into enforced disappearances, torture and other cruel, inhuman or degrading treatment that had been committed in the context of the CIA secret rendition, interrogation and detention programmes were closed in 2012 leading only to a meager number of criminal charges brought against low-level operatives."

Today we spend the hour looking at this debate. We're joined by John Rizzo. He served as acting general counsel during much of the George W. Bush administration and was a key legal architect of the U.S. interrogation and detention program after the September 11th attacks. The *Los Angeles Times* described him as, quote, "the most influential career lawyer in CIA history." He has recently published a book headlined *Company Man: Thirty Years of Controversy and Crisis in the*

CIA

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And we're joined by human rights attorney Scott Horton. He is contributing editor at *Harper's* magazine, a lecturer at Columbia's Law School. He's author of the forthcoming book, *The Lords of Secrecy: The National Security Elite and America's Stealth Foreign Policy*

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We welcome you both to *Democracy Now!* John Rizzo, first talk about the clash between the CIA right now and the Senate Intelligence Committee. Do you think the report should be declassified? And do you believe the CIA was spying on the Senate staff on the committee?

JOHN RIZZO: Well, it's good to be here.

Yes, I have stated publicly that I believe that the report should be declassified. It is said to be 6,000 pages long. Estimated \$50 million of taxpayer money was spent on it. Sure, I think—I think it should come out, as well as what I read is a very detailed CIA rebuttal. I say that, even though I assume that the report, given the description by Senator Feinstein and others, will be extremely critical of the CIA's performance during that period. And, of course, that would presumably include my performance. But I do think it should come out, yes.

JUAN GONZÁLEZ: Well, as we just played in that clip from Senator Feinstein, she called it "an un-American, brutal program" of detention and interrogations. Now, you were involved in providing some of the legal context or justifications for the program post the attacks in—of 9/11. Could you talk about your assessment of that program?

JOHN RIZZO: Well, I certainly don't—wouldn't describe it as an un-American program, I mean, as everyone knows now, that the interrogation program was extraordinarily aggressive. And, you know, some of the techniques, particularly waterboarding, I—could be described as brutal. I don't think any of those techniques—I didn't at the time, and I don't think today, that any of them rose to the legal threshold of torture.

AMY GOODMAN: Scott Horton?

SCOTT HORTON: Well, it seems to me quite clear-cut that certainly waterboarding and a number of the other techniques that were described, both used individually and in combination, do constitute torture, have been viewed as torture by the United States. The United States has very aggressively criticized other nations using them.

And when Senator Feinstein says it's un-American, she is absolutely right. In fact, this is one of the principles on which the United States defined itself going back to the Revolutionary War and George Washington, who denounced torture and pledged that the U.S. would treat prisoners humanely in wartime. That's been part of the nation's birthright, up until this last conflict. So I think we are seeing something quite profound.

Also, I think this is essentially a historical study. The Senate Select Committee on Intelligence is not looking at a program that's underway right now, that's still being used. It's a review of things that went on in the past. More—you know, certainly, most of these practices were terminated at the end of 2006. So it's really astonishing that there is such ferocious pushback to publication of a report. And I think John Rizzo is to be commended for coming out and clearly stating, as he has, that the report should be out there and should be published.

AMY GOODMAN: John Rizzo, talk about the main argument you make in your book, *Company Man*.

JOHN RIZZO: Main argument about the program?

AMY GOODMAN: Overall, the main point you're making about the CIA, the 30 years of controversy and crisis at the CIA.

JOHN RIZZO: Well, I was a—yeah, I was a career CIA lawyer. I joined as a young guy in 1976 and retired at the end of 2009, having served most of the post-9/11 period as the chief legal officer. So, the book is—obviously, a good part of it is devoted to the post-9/11 years, when I first—my name first became public. But it tracks the—I was fortunate. My career basically tracked the modern evolution of the CIA . And during the course of those 30-plus years, I was involved in virtually every crisis, controversy, screw-up that the CIA was involved in. So, I thought it was sort of an unprecedented kind of insider memoir that would use my story and my experiences and my observations to describe to the reader how the CIA has evolved in the last 30 years. And that would—that evolution would include, of course, the birth of congressional oversight that occurred right about the time I arrived, and then on through the years through all sorts of crises. The fundamental point is that the CIA is a very resilient organization. And also, it must be stated that the CIA manages to get itself into controversies every few years like clockwork.

AMY GOODMAN: We're going to break, then come back to this conversation, and we're going to talk about the issues of torture and rendition that the CIA has been accused of. Our guest is John Rizzo, retired CIA attorney, who served as the agency's acting general counsel during most of the Bush administration, author of a new book. It's called *Company Man: Thirty Years of Controversy and Crisis in the CIA* . And we're joined by Scott Horton, a longtime human rights attorney, contributing editor at *Harper's* magazine. This is *Democracy Now!* We'll be back with them both in a minute.

[break]

AMY GOODMAN: "Adagio Ma Non Troppo," Charles Mingus, the video footage taken from this date 35 years ago, March 28, 1979, the anniversary of the worst nuclear accident in U.S. history, the partial meltdown of the reactor at Three Mile Island. For our radio listeners, you can go to democracynow.org and see that.

This is *Democracy Now!*, democracynow.org, *The War and Peace Report*. I'm Amy Goodman, with Juan González. We're spending power talking about the CIA

. John Rizzo is with us in Washington, D.C., retired CIA

attorney, served as the agency's acting general counsel during most of the Bush administration. He has just written a book called

Company Man: Thirty Years of Controversy and Crisis in the CIA

. And Scott Horton is with us, longtime human rights attorney and contributing editor at *Harper's*

magazine, also lecturer at Columbia University Law School and author of a forthcoming book called

The Lords of Secrecy: The National Security Elite and America's Stealth Foreign Policy

. Juan?

JUAN GONZÁLEZ: Well, John Rizzo, before the break you were mentioning that there's periodic crises that erupted with the CIA's activities. And you were, early in your career, as you say in your book, involved in one of the great constitutional crises, the Iran-Contra. You talk about how former CIA Director William Casey asked you at one point to provide the most expansive finding you could to allow the U.S. government to continue to back the particular sides that the Reagan administration then was supporting in Central America—the Guatemalan government against its leftist rebels, the Nicaraguan Contras. Could you talk about that, the finding then and in retrospect, because that turned out to be a huge battle between Congress and the administration and the CIA over foreign policy?

JOHN RIZZO: Sure, Juan. Yeah, that, the Iran-Contra scandal, occurred about 10 years into my career, and it was basically, looking back, the turning point of my career, because it was my first opportunity to have a front row seat and participate firsthand in a major confrontation and investigation between CIA and the Congress. And it—as you indicated, director, CIA

director at the time, William Casey, was a very forceful, very aggressive advocate, anti-Communist advocate. And he directed me to—and I was not—I was, you know, not a senior attorney at the time, but he directed me, since I was the lawyer for the Clandestine Service, to draft authorizations for President Reagan to sign that were, to my experience to date, very aggressive. It was the—as you indicated, the Central America, the Contra crusades. It was the covert actions against the—support the mujahideen against the Soviet occupation of Afghanistan. So, it was rather breathtaking. And, of course, the Iran-Contra scandal erupted because of CIA's, pursuant to White House direction, Oliver North—William Casey and Oliver

North concocted a scheme to trade—basically trade U.S. arms for hostages that the Iranian-backed Hezbollah was holding and divert those proceeds—unlawfully—to the Nicaraguan Contras. So it was a huge uproar, and there was a special congressional committee created. And as I say, it was a template for a number of clashes between CIA and Congress over the years.

I mean, honestly, this current contretemps—of course, I've been away five years now, so all I know—I don't have any inside information, but, you know, it really strikes me as something—as a kind of—a kind of clash over congressional committee access to documents that I saw a number of times in my career. And frankly, I'm a bit flummoxed as to how it escalated, how this current thing has escalated the way it has.

JUAN GONZÁLEZ: Scott Horton, you are familiar with the Iran-Contra scandal and the constitutional crisis that developed then. Could you talk about your perspective on it?

SCOTT HORTON: Well, I think John used the word "resilient" right at the outset, and, you know, that's clearly right. That's one of the things I think I found most remarkable in his book. You know, we've been told that things like the Church Committee and the Iran-Contra probes clipped the wings of the CIA, left it weak and unwilling to go out and do its work. I never had the impression that that was true. And I think one of the things that emerges from John's book is, in fact, how little impact these things had on the agency and its operations, which continued to be very, very aggressive. And I think also the relationship with the White House was stressed there historically, comes through very, very clearly. And, you know, that may, in the end, raise this fundamental question of how effective has congressional oversight ever been? Certainly, even in periods when there was a sharp clash in approach and views on policy between congressional overseers and the CIA, it seems it's only very, very rarely that congressional oversight has been able to move or slow down the CIA in any way.

And, you know, that carries forward to the current controversy with this new report on torture and the way this has been slow-walked. I mean, really, it's an amazing amount of time it's taken to get it out. And we see the eruption of this final amazing controversy over documents which are claimed to have disappeared. But in any event, it's a bizarre—it's bizarre that there could be such a controversy, because the whole function of oversight involves having access to and

reviewing these documents. So the suggestion that members of Congress, members of the Oversight Committee, could have done something wrong by reviewing documents, which it is their responsibility to review, is just bizarre.

AMY GOODMAN: Well, let's talk about some concrete examples of the issues that are being looked at now. I want to ask about extraordinary rendition and the case of Khaled El-Masri, the German citizen who sued the CIA for illegally kidnapping him in Macedonia in 2003. After accusing him of being a member of al-Qaeda, the CIA flew him to a secret prison in Afghanistan and held him for five years [sic]. He was only released—for five months. He was only released after the CIA realized they had detained the wrong man, and left him alone on an abandoned road in Albania. While in CIA custody, El-Masri says he was repeatedly beaten, drugged, roughly interrogated by masked men, detained in squalid conditions and denied access to an attorney or his family. This is Khaled El-Masri.

KHALED EL-MASRI: [translated] They took me to this room, and I had handcuffs, and I had a blindfold. And when the door was closed, I was beaten from all sides. I was hit from all sides. I then was humiliated. And then I could hear just like—that I could hear that I was being photographed in the process when I was completely naked. Then my hands were tied to my back. I got a blindfold, and they put chains to my ankles and a sack over my head, and just like the pictures we have seen of Guantánamo, for example. Then I was dragged brutally into the airplane, and in the airport I was thrown to the floor. I was tied to the floor and to the sides of the airplane. At some point when I woke up again, I found myself in Afghanistan. I was brutally dragged off the airplane and put in the trunk of a car. I was thrown into the trunk of a car.

AMY GOODMAN: John Rizzo, talk about Khaled El-Masri and this case.

JOHN RIZZO: Well, unfortunately, I hate to do this, but the El-Masri case, the U.S. government still considers that whole episode to be classified, so I'm very—I'm constrained about talking about it in any detail. It wasn't—I didn't—you may notice, I didn't talk about it in the book.

Let me just briefly say about renditions that, yes, CIA did conduct some renditions in the post-9/11 era—some, not the—it's been alleged that there were, you know, dozens or even hundreds. But yes, CIA did conduct renditions. Renditions, however, actually go back through several administrations. It wasn't a—it wasn't—you know, this term "extraordinary rendition" I always found puzzling, because renditions were not a product of the post-9/11 era, and, in fact, the Obama administration carefully preserved its authority. At the same time when it closed the interrogation program, it carefully preserved its authority to conduct renditions. So renditions, in and of themselves, are actually a fairly well-established fact in American and world, actually, intelligence organizations.

AMY GOODMAN: Do you think it's fair to call it kidnapping?

JOHN RIZZO: Well, sure, it's a—yeah, I mean, it's a euphemism. I mean, it's taking someone against their will. You know, it's an authorized government program, but if the term "kidnapping" means, you know, taking someone who doesn't want to be taken and taking them somewhere else, then I suppose one could, you know, euphemistically, describe it that way.

AMY GOODMAN: Scott Horton, talk about this case.

SCOTT HORTON: Well, I think the Khaled El-Masri case is really significant for a number of different reasons. The first is, well, note, you know, John can't talk about it because it's still classified. It's secret. And so, this is one of several cases where we see secrecy being invoked and used to cover up mistakes, because Khaled El-Masri has a name very similar to someone who was a serious al-Qaeda terrorist, and he was mistaken for that individual. And he was picked up, brutalized, tortured and imprisoned because of that mistake. That's something that in a democratic society, you know, we should be able to talk about and discuss, and we should be able to have government accountability and closure on these issues, but secrecy is used effectively to block that.

The next major issue concerning El-Masri is the fact that this is—this is a case that went to the highest court in Europe, the European Court of Human Rights in Strasbourg. They handed down a very important decision, landmark decision, what's now viewed as perhaps their most important single judgment dealing with the torture issue. And in that decision, they concluded that the procedures that were used, that you heard Mr. El-Masri himself describe in the outtake here, did constitute torture. And they also said that the government of Macedonia had failed in its legal responsibilities by not opening a criminal inquiry and prosecuting those who were

involved. And those who were involved were, by and large, CIA agents. I mean, not just any CIA agents, it included, as the Associated Press subsequently disclosed, a very, very senior CIA functionary who directed the entire thing, who subsequently went on to be the head of the Global Jihad Unit, has been a briefer in the White House and so forth. The CIA insists we shouldn't use her name, although it's very, very well known. So, you know, I think a hugely significant event, hugely embarrassing, but it's something, frankly, it will behoove the United States and the CIA to just come clean about.

AMY GOODMAN: And it's not just a mistake about the kidnapping. He lived to tell about what was done to him.

SCOTT HORTON: That's exactly correct. And, I mean, not only that, but he became the subject of a criminal investigation in Germany. I at one point went and interviewed some of the criminal investigators in Munich who had worked on his case, and they said, "Look, you know, he gave an account, and we were able to absolutely verify his account about what was done to him, including the use of psychotropic drugs and so forth," all of which has come out. They were able to make their conclusions by examining his body, by cutting his hair, dealing with hair samples and so forth. So we know from that some of the things that were done to him in his captivity, both in Macedonia and Afghanistan. And they raise very, very serious issues of violation of the law—even if he were a terrorist, but, of course, he was just a simple German green grocer, you know? And for him to have been subjected to this sort of abuse is horrible.

AMY GOODMAN: So the White House just said they did it to the right—to the wrong man.

JUAN GONZÁLEZ: John Rizzo, I want to ask you about one of the most infamous, I guess, of CIA renditions, that took place in Milan, Italy, when a Muslim cleric named Abu Omar was snatched off the streets in 2003. Omar was taken to the U.S. bases in Italy and Germany before being sent to Egypt, where he says he was tortured. Twenty-two CIA agents were later convicted in absentia in Italy for kidnapping. And last year, Sabrina De Sousa, one of the CIA

agents convicted in absentia, broke her silence and spoke to the McClatchy Newspapers.

SABRINA DE SOUSA: I don't think I could live with myself for the rest of my life knowing exactly what happened, and, in particular, knowing that the U.S. rendered an individual, Abu Omar, when they had no prosecutable evidence against him. And worse, after the rendition, it turned out there was a big misunderstanding between Cairo and Rome, because the Egyptians maintained that the only reason they issued an arrest warrant for him was at the behest of the Americans. After the rendition, Egypt came back and said, "Where is the information to prosecute him?" And the CIA station chief, Castelli, said, "I thought you had the information." And Rome said—and Cairo said, "No, we don't. We issued this arrest warrant on your behalf. We don't. So where is the information?" And that's why he was finally set free, because there was no prosecutable information, you know, to get him convicted and put away.

INTERVIEWER: Did Abu Omar pose an imminent and dangerous threat to American lives?

SABRINA DE SOUSA: If he was dangerous and posed an imminent and clear danger, the DIGOS, the Italian police, would have picked him up right away. He was under investigation for two years, and pretty aggressive investigation on the part of DIGOS, and they found that his activities did not meet a threshold in Italy with which to prosecute him.

JUAN GONZÁLEZ: John Rizzo, I'm sure that that was one case that you came across during your time at the CIA. Could you—what can you tell us about it?

JOHN RIZZO: You know, I'm really sorry. I don't really—don't like to stonewall, but again, that's a particular rendition that the U.S. government still considers classified. So, I mean, I'll say parenthetically, I agree with my friend Scott that too much, too many things remain classified for too long. And, you know, I would be happy to talk about either one of those cases, but, you know, with deep regret, my hands are tied on that.

AMY GOODMAN: I mean, what's interesting about this, it does go to the issue of classification. I mean, these CIA agents were tried in absentia. This is all brought out in a court. You have this CIA agent speaking about it publicly, and yet the CIA says you cannot talk about this.

JOHN RIZZO: Well, I'm afraid, yeah. I mean, I don't disagree with that, with what you describe. I mean, I worked with Ms. De Sousa. She was a fine officer. But, in fact, she was—you know, that sound bite, she was—she retired from the agency, but she was not given authorization to talk about the program, and neither am I.

AMY GOODMAN: Scott Horton, if you can tell us what exactly happened here? Clearly, she and the other agents cannot go to Europe, as they were convicted in absentia.

SCOTT HORTON: Well, we had 26 people convicted. I mean, I think this is one of the things that demonstrates the huge risk of this program and the lack of just simple wisdom being applied in the selection of targets. I think—to the extent this program was selected against people who really presented an imminent danger and were plotters of hijackings and things of that sort, I don't think it was going to raise that much of an issue in Europe or elsewhere, but to the extent that it focused on people like Abu Omar or like Khaled El-Masri, it did, and it's very, very embarrassing. And in this case, we see 26 people being convicted. We—

AMY GOODMAN: So they kidnap him off the streets of Milan.

SCOTT HORTON: And he was taken to Aviano Air Base, involving an Air Force officer, who then winds up also being charged at the outset. And then he's taken to Ramstein in Germany, and then, from there taken, to Egypt. And I have to say, in looking at—

AMY GOODMAN: And what happened to him?

SCOTT HORTON: And in Egypt, he's held, and he's interrogated for quite some time. The Egyptian come back, ultimately saying, "We don't get it. I mean, this guy really is not an

important figure. He doesn't really have important information." And at this point, the embarrassment factor weighs in, and the CIA just wants him to be held. In fact, I've interviewed people in Cairo who have confirmed, you know, they were put under intense pressure by the CIA to keep him quiet and to hold him there, basically because they were afraid of what he would come out and say. Well, this is nonsense, again. And I think, in the case of Italy—if we look back, you know, there were people in the intelligence community who went to Ronald Reagan when the Achille Lauro incident occurred and said, "Let's just swoop in and grab one of the terrorists who's being held by the Italians." And Reagan said, you know, "We don't do that, because that's going to damage our long-term relations with an important NATO ally." Reagan was absolutely right. And here, I think you see what happens when you take the wrong course.

JUAN GONZÁLEZ: Well, John Rizzo, I wanted to ask you about one topic I think you can talk about. In 2010, in his first major interview since leaving office, former President George Bush admitted that he approved the waterboarding of prisoners. Bush's remarks came in an interview with NBC's Matt Lauer.

MATT LAUER: Why is waterboarding legal, in your opinion?

GEORGE W. BUSH: Because the lawyers said it was legal, said it did not fall within the Anti-Torture Act. I'm not a lawyer. And—but you got to trust the judgment of people around you. And I do.

MATT LAUER: You say it's legal, and the lawyers told me.

GEORGE W. BUSH: Yeah. ... First of all, we used this technique on three people.

MATT LAUER: Mm-hmm.

GEORGE W. BUSH: Captured a lot of people and used it on three. We gained valuable information to protect the country, and it was the right thing to do, as far as I'm concerned.

MATT LAUER: So, if it's legal, President Bush, then if an American is taken into custody in a foreign country, not necessarily a uniformed American—

GEORGE W. BUSH: Look, I'm not going to debate the issue, Matt. I really—

MATT LAUER: I'm just asking. Would it be OK for a foreign country to waterboard an American citizen?

GEORGE W. BUSH: It's—all I ask is that people read the book. And they can reach the same conclusion if they would have made the same decision I made or not.

MATT LAUER: You'd make the same decision again today?

GEORGE W. BUSH: Yeah, I would.

JUAN GONZÁLEZ: Well, John Rizzo, in your book, you don't recall the events quite the same way as President Bush recalled them.

JOHN RIZZO: Yeah, yeah, Juan, it's a rather curious episode. In his memoir, President Bush, you know, claimed that he was involved in the interrogation program from the beginning and, in fact, approved all the proposed techniques in advance. He talked about having vetoed a couple of them. And these are very vivid conversations he claimed to have had with George Tenet. This would be in the 2002, 2003 time frame. And I didn't—reading that, I didn't recall any of that. I dealt with George Tenet daily in those days. I mean, I was consumed with this program in the start-up period, as was he. He had never told me about having talked to President Bush about this—what was then a new program, much less getting any guidance or directions from the president. So, I mean—and when the book came out, I actually reached out to George Tenet, because I thought I had missed something. I said, "Did you have these conversations with President Bush?" And he said he had no recollection of ever having discussed the interrogation program with the president in those early days. So, I mean, frankly, I found the passage in President Bush's memoir bewildering.

AMY GOODMAN: And just mentioning that passage in *Decision Points*, he wrote, "I took a look at the list of techniques. There were two that I felt went too far, even if they were legal. I directed the CIA not to use them." Bush went on to write, quote, "Tenet asked if he had permission to use enhanced interrogation techniques, including waterboarding, on Khalid Sheikh Mohammed. ... 'Damn right,' I said." Scott Horton?

SCOTT HORTON: Well, you know, George Bush, when he's asked why he says, "The lawyers tell me it was legal," but, of course, the Department of Justice was certainly one of the blackest chapters in the history of the Department of Justice, this whole affair. And when they go in and do their internal review, they say, "We look at the two lawyers who were involved preparing these memoranda, and we're very concerned that the offer of preferment or advancement given to these lawyers"—one was offered—had an appointment to the court of appeals dangled in front of him, the other was offered an assistant attorney general position—"that this influenced and undermined their exercise of independent professional judgment." So I think it's a good demonstration of how power can corrupt and how lawyers not exercising independent professional judgment can lead to huge problems for the country down the road.

AMY GOODMAN: If Bush didn't authorize it, what does it mean?

SCOTT HORTON: In this case, I think there's no question but that responsibility rests ultimately with the president for this, whether he was specifically conscious of the individual techniques or

participated in briefings or not. I think one thing that John Rizzo's book does, really in spades, is show how careful the CIA was, going both to the Justice Department to get opinions, but then ultimately also to the White House, preparing this, briefing it in detail, getting consent. And when we see that the White House has withheld 900—or, 9,000 pages of documents from the Senate Select Committee, I think this portrait that Rizzo provides gives us a very clear sense of what those documents are likely to be.

AMY GOODMAN: We're going to break, then come back to this discussion. We're spending the hour with John Rizzo, retired CIA attorney, author of *Company Man: Thirty Years of Controversy and Crisis in the CIA*

, and Scott Horton, human rights attorney. When we come back, who should be held responsible for rendition, what all here agree is kidnapping for torture? Should administration officials be brought to trial? This is *Democracy Now!*
We're back in a minute.

[break]

AMY GOODMAN: This is *Democracy Now!*, democracynow.org, *The War and Peace Report*. I'm Amy Goodman, with Juan González. Our guests are John Rizzo, a retired CIA attorney, served as the agency's acting general counsel during most of the Bush administration, author of the new book, *Company Man*; we're also joined by Scott Horton, human rights attorney, lecturer on human rights at Columbia University. I'm Amy Goodman, with Juan González. Juan?

JUAN GONZÁLEZ: Well, John Rizzo, I wanted to ask you about a policy issue in terms of the growth and expansion of the CIA in recent decades, and especially its relationship to the official American military. You take, for instance, Guantánamo—Guantánamo is a military base, but yet it also became the site of the CIA interrogations of prisoners there in the war against terrorism—and the CIA's possession of its own air force, its own ability to attack people around the world with missiles in targeted killings. What do you see as the tension or problems between the established military and its system of accountability to the public versus the CIA

, as the
CIA
continues to expand its efforts around the world?

JOHN RIZZO: Yes, Juan. Well, that's a fascinating question. Before I—I'll try to be concise, but before I start, I should just briefly clarify: The CIA interrogation program did not take place at Guantánamo; it took place at—well, again, another new word in the post-9/11 lexicon—the black sites overseas. So there were no CIA interrogations done at Guantánamo. That was strictly a military DOD operation.

But to get to your larger question, yes, there has been. And I certainly—and certainly, 9/11, as it did a lot of things, accelerated this new phenomenon of increased CIA involvement in paramilitary activities—you know, creation of, as you indicated, an air force—that would seem to parallel the normal, existing, traditional roles and duties of the U.S. military. And, you know, personally, I was—I did get increasingly concerned about this overlap between the CIA's traditional, historic functions and getting into, to my mind, was activities that could be more effectively carried out by the Pentagon, which, after all, is a much bigger organization with much more money at its disposal. So I think it's a—I think it's a trend that bears watching.

JUAN GONZÁLEZ: Scott Horton?

SCOTT HORTON: Well, I think, at the end, when we review all these issues surrounding the CIA, this is the big question we come back to at the end, which is: Is the CIA's mission really true to the original vision of the National Security Act? And I think it's changed, because that original vision was it was going to be an intelligence-gathering and analysis organ that was going to be largely divorced from operations. It may have a little bit of authority on rare occasions to engage in covert operations, but I think the idea was it would be quite rare. Largely, operations would be controlled by the military. And I think what we see today is we see an entity that has paramilitary units, has its own air force, has been waging a seven-, eight-, nine-year drone war in Pakistan with hundreds of strikes—more than 300 by now. You know, that just seems almost impossible to reconcile with this original vision.

And the question—I think you come back to a question that Harry Truman asked in the end of 1963, after the failed Bay of Pigs incident after President Kennedy's assassination. He said he was really very worried about what had happened to the CIA. It really—it had become so heavily engaged in operations that its intelligence-gathering and analysis function was failing. And, of course, today we see—you know, we see a Russian invasion in Crimea, and only days before that, we see CIA analysts on the Hill saying that there's no realistic risk of such a thing happening. You know, we see a failure to foresee the Arab Spring. So this sort of analytical function is falling down. There's a direct connection, I think, between those failures and the heavy emphasis on operations.

AMY GOODMAN: John Rizzo, you were the CIA's chief legal officer for seven years. In 2011, you were quoted by *Newsweek* in an [article](#) titled "Inside the Killing Machine." You were quoted describing drone killings as, quote, "murder," and you described the target list as, quote, "basically a hit list." Would you stand by those characterizations now?

JOHN RIZZO: Well, Amy, that interview was a—to be honest about it, was a mistake on my part. I thought I was off the record; the reporter thought we were on the record. So, I said things in that interview that I never wanted or intended to be published. But, you know, the drone program is what it is: It's a program to target and kill terrorists. And, you know, it is directed and authorized by the president of the United States. I think I—you know, I should not have used the term "murder," but it is definitely a killing program, and it is a—it is a killing machine.

AMY GOODMAN: And the list that the president has, that he takes responsibility, a hit list?

JOHN RIZZO: Well, I mean, again, it was a euphemism, the—again, probably an unpolitic choice of words, but it is—you know, when you get right down to it, it is a list of people who are targeted for lethal action, so one—

AMY GOODMAN: And we do know, from all the information out, thousands of innocent people have been killed. I mean, you look at the [NYU -Stanford report](#), "Living Under Drones," and other information that's come out. I wanted to ask about this issue of prosecution. Scott Horton, who should be held accountable?

SCOTT HORTON: Well, in the end of the day, of course, John, in his book, talks about the

prosecution or the investigations that were undertaken both under President Bush and under President Obama that led to no action and no prosecution. And those investigations started from the bottom. They started with the allegations—they started, actually, with the

CIA

inspector general's report and then focused on individual

CIA

officers. And I think there's a fundamental problem with the U.S. Department of Justice dealing with these things. And that is that it's almost impossible to deal with them divorced from the policy choices that was made. Under the doctrine of command responsibility, it's those who set the policies who bear ultimate responsibility if criminal violations are determined. And here we had the Department of Justice involved in this process of fixing the policies, so it really couldn't investigate itself. And so I think that's the dilemma of examination and prosecution. And I think we see, even now, with the Senate Select Committee's report, that there's no discussion really of accountability. Philip Giraldi, in the piece he did in

The American Conservative

, in fact, flags that point. And that's right. You know, we've got a—we have a clear problem there. And—

AMY GOODMAN: Should Bush be prosecuted? Should Rumsfeld? Should Cheney?

SCOTT HORTON: There should be—

AMY GOODMAN: Should President Obama?

SCOTT HORTON: There should be a really independent investigation, which still hasn't occurred, as far as I'm concerned. And the basis for it has got to be disclosure of much more factual detail that's still—still not there.

I want to add one other thing, and that is, John said, you know, no CIA operations at Guantánamo. That's still a huge question. I've seen a lot of evidence suggesting the contrary. Certainly we have Strawberry Fields and Penny Lane operations that were going on out there.

AMY GOODMAN: Which were?

SCOTT HORTON: Which were operations geared towards perhaps turning prisoners who were about to be released, turning them into assets. Of course, we have programs like that going on in every single war. You'd be guilty of some failure not to. We've got a lot of evidence linking the CIA to those programs.

AMY GOODMAN: John Rizzo, even if you thought you were off the record, you do stand by what you said: You're talking murder, hit list. Do you think that an administration official should be prosecuted?

JOHN RIZZO: Well, Amy, I mean, I can't be obviously—I'm somewhat biased in this, since I was one of the senior officials involved in—that took part in the implementation and conception of the program. No, I don't—look, this is why I want—I support the Senate report coming out. All of the facts should come out. The American people deserve to know what was done in their name and make their own judgments. But at this point, going back now and going back against the individuals, whether they be senior or further on down the chain, I mean, this interrogation—

AMY GOODMAN: Well, we'll—

JOHN RIZZO: This interrogation—

AMY GOODMAN: We'll have to leave it there.

JOHN RIZZO: I'm sorry.

AMY GOODMAN: But I want to thank you both for being with us. John Rizzo's book is called *Company Man: Thirty Years of Controversy and Crisis in the CIA*

, served as the chief legal counsel for the CIA

for seven years. And Scott Horton, thanks so much for joining us, human rights attorney,

contributing editor at
Harper's
magazine.

I'll be speaking in [St. Louis](#) Saturday night, March 29th, celebrating the First Amendment.