By R. Jeffrey Smith

From The Washington Post | Original Article

Human rights experts have long pressed the administration of former president George W. Bush for details of who bore ultimate responsibility for approving the simulated drownings of CIA detainees, a practice that many international legal experts say was illicit torture.

In a memoir due out Tuesday, Bush makes clear that he personally approved the use of that coercive technique against alleged Sept. 11 plotter Khalid Sheik Mohammed, an admission the human rights experts say could one day have legal consequences for him.

In his book, titled "Decision Points," Bush recounts being asked by the CIA whether it could proceed with waterboarding Mohammed, who Bush said was suspected of knowing about still-pending terrorist plots against the United States. Bush writes that his reply was "Damn right" and states that he would make the same decision again to save lives, according to a someone close to Bush who has read the book.

Bush previously had acknowledged endorsing what he described as the CIA's "enhanced" interrogation techniques - a term meant to encompass irregular, coercive methods - after Justice Department officials and other top aides assured him they were legal. "I was a big supporter of waterboarding," Vice President Richard B. Cheney acknowledged in a television interview in February.

The Justice Department later repudiated some of the underlying legal analysis for the CIA effort. But Bush told an interviewer a week before leaving the White House that "I firmly reject the word 'torture,' " and he reiterates that view in the book. Reuters and the New York Times first published accounts of the book's contents Tuesday evening.

Since the 2003 waterboarding of Mohammed and similar interrogations of two other CIA

detainees in 2002 and 2003, the agency has forsworn the technique, which involves pouring water onto someone's face while strapped to a board, to convince them they will shortly drown.

President Obama and Attorney General Eric H. Holder Jr. have both said waterboarding is an act of torture proscribed by international law, a viewpoint supported by a handful of Republican lawmakers on Capitol Hill and opposed by other Republicans. But the Obama administration has not sought to punish former Bush administration officials for approving it.

The 26-year-old United Nations Convention Against Torture requires that all parties to it seek to enforce its provisions, even for acts committed elsewhere. That provision, known as universal jurisdiction, has been cited in the past by prosecutors in Spain and Belgium to justify investigations of acts by foreign officials. But no such trials have occurred in foreign courts.

Tom Malinowski, the Washington advocacy director for Human Rights Watch, said, "Waterboarding is broadly seen by legal experts around the world as torture, and it is universally prosecutable as a crime. The fact that none of us expect any serious consequences from this admission is what is most interesting."

M. Cherif Boussiani, an emeritus law professor at DePaul University who co-chaired the U.N. experts committee that drafted the torture convention, said that Bush's admission could theoretically expose him to prosecution. But he also said Bush must have presumed that he would have the government's backing in any confrontation with others' courts.

Georgetown University law professor David Cole, a long-standing critic of Bush's interrogation and detention policies, called prosecution unlikely. "The fact that he did admit it suggests he believes he is politically immune from being held accountable. . . . But politics can change."