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It seems almost trivial to accuse someone who launched an illegal war that has killed over a million people of torture. But if we are going to prosecute the lowest ranked torturers, it makes sense to look up the chain of command.

There is no doubt that George W. Bush conspired to commit torture, cruel and inhuman treatment, and murder. How do I know? He said so.

In his January 28, 2003, State of the Union, Bush said: "All told more than 3,000 suspected terrorists have been arrested in many countries. And many others have met a different fate. Let's put it this way: they are no longer a problem to the United States."

Too vague and wink-wink for you? Try this:

On April 11, 2008, ABC News produced a video interview of Bush during which he was asked about meetings his top subordinates had held to approve specific instances of torture. Bush said: "And yes, I'm aware our national security team met on this issue. And I approved." The National Security Council's Principals Committee, which held the meetings, included Vice President Dick Cheney, National Security Adviser Condoleezza Rice, Defense Secretary Donald Rumsfeld, Secretary of State Colin Powell, CIA Director George Tenet, and Attorney General John Ashcroft. In the same interview, Bush defended the use of the drowning torture on prisoner Khalid Sheikh Mohammed, saying: "We had legal opinions that enabled us to do it. And no, I didn't have any problem at all trying to find out what Khalid Sheikh Mohammed knew."

On January 11, 2009, Fox News aired a video interview of Bush in which he admitted personally authorizing the torture of Khalid Sheikh Mohammed, saying: "One such person who gave us

information was Khalid Sheikh Mohammed. ... And I'm in the Oval Office and I am told that we have captured Khalid Sheikh Mohammed and the professionals believe he has information necessary to secure the country. So I ask what tools are available for us to find information from him and they gave me a list of tools, and I said are these tools deemed to be legal? And so we got legal opinions before any decision was made."

Does anyone else verify this? Well, how about John Yoo and Dick Cheney? On January 29, 2009, John Yoo, a former official in the Office of Legal Counsel who had drafted secret memos authorizing torture, published an article in the Wall Street Journal with the headline "Obama Made a Rash Decision on Gitmo," in which he wrote: "On the advice of his intelligence advisers, the president could have authorized coercive interrogation methods like those used by Israel and Great Britain in their antiterrorism campaigns. (He could even authorize waterboarding, which he did three times in the years after 9/11.)"

On May 10, 2009, former Vice President Cheney appeared on the CBS News television program "Face the Nation." Asked what Bush had known about torture methods, Cheney replied, "I certainly, yes, have every reason to believe he knew -- he knew a great deal about the program. He basically authorized it. I mean, this was a presidential-level decision. And the decision went to the president. He signed off on it."

This is Yoo and Cheney saying "If you come after us you'll have to come after Bush." Pretty generous of them, I think. Douglas Feith, whose fate is also on the line here, argued in the Wall Street Journal on April 3, 2009, that it would make no sense to prosecute those who advised Bush without prosecuting Bush. Sign him up for the witness stand!

OK, but did Bush put his approval down in writing anywhere? He certainly did. On Sept. 17, 2001, Bush produced an executive order authorizing the CIA to set up unacknowledged detention facilities around the world. For years after this date, prisoners in these facilities were not identified to the International Committee of the Red Cross or provided due process. On February 7, 2002, Bush produced a Memorandum for the Vice President, the Secretary of State, the Secretary of Defense, the Attorney General, Chief of Staff to the President, Director of Central Intelligence, Assistant to the President for National Security Affairs, and Chairman of the Joint Chiefs of Staff on the subject of "Humane Treatment of al Qaeda and Taliban Detainees." In this memorandum, Bush "determined" that "none of the provisions of Geneva apply to our conflict with al Qaeda in Afghanistan or elsewhere throughout the world," and "[C]ommon article 3 of Geneva does not apply to either al Qaeda or Taliban detainees," and "[T]he Taliban detainees are unlawful combatants and, therefore, do not qualify as prisoners of war under article 4 of Geneva," and "al Qaeda detainees also do not qualify as prisoners of

war." On June 29, 2006, the United States Supreme Court ruled in *Hamdan v. Rumsfeld* that the Geneva Conventions apply to prisoners held under Bush's command at Guantanamo Bay. On December 30, 2005, Bush signed a signing statement, "President's Statement on Signing of H.R. 2863," in which he claimed the power to ignore a new prohibition on torture contained in the bill he had just signed into law.

Bush's subordinates, through the years of his presidency, established an official policy of torture, and cruel and inhuman treatment. The CIA produced secret guidelines authorizing torture. The Office of Legal Counsel in the Department of Justice produced secret opinions authorizing torture. Bush's subordinates engaged in the widespread use of officially sanctioned torture. Incidents of torture, cruel and inhuman treatment, and murder by torture are extensively documented, including by a February 2007 International Committee of the Red Cross Report on the Treatment of Fourteen 'High Value Detainees' in CIA Custody.

Numerous incidents of torture by Bush's team have resulted in murder. On October 24, 2005, the government released to the ACLU military records that included 44 autopsies and death reports as well as a summary of autopsy reports of individuals apprehended in Iraq and Afghanistan. The documents showed that detainees died during or after interrogations by Navy Seals, Military Intelligence and "OGA" (Other Governmental Agency) -- a term used to refer to the CIA. According to the documents, 21 of the 44 deaths were homicides. Eight of the homicides appeared to have resulted from abusive techniques used on detainees, in some instances, by the CIA, Navy Seals and Military Intelligence personnel. On March 16, 2005, the Associated Press reported that "At least 108 people have died in American custody in Iraq and Afghanistan, most of them violently, according to government data provided to The Associated Press. Roughly a quarter of those deaths have been investigated as possible abuse by U.S. personnel."

On January 15, 2009, Susan Crawford, the convening authority for the Guantanamo military commissions, was quoted in the *Washington Post* as saying that the United States had tortured prisoner Mohammed al-Qahtani. "We tortured Qahtani," she said. "His treatment met the legal definition of torture."

Bush never voluntarily made public what he knew about torture, cruel and inhuman treatment, or murder by his subordinates. Instead, for years, he publicly denied that the United States ever used torture. When evidence of torture was made public, including photographs from Abu Ghraib prison in Iraq made public in 2004, Bush did not investigate the problem, remove those responsible from office, or punish them. The military convicted several low-ranking soldiers, but did not pursue responsibility up the chain of command.

As an employee of the executive branch, Bush was governed by Executive Orders 12674 and 12731, which provide that executive branch employees hold their positions as a public trust and that the American people have a right to expect that they will fulfill that trust in accordance with certain ethical standards and principles. These include abiding by the Constitution and laws of the United States, as well as not using their offices to further private goals and interests.

Pursuant to the Constitution, his oath of office, his status as executive branch employee, and his presence in the United States, Bush is required to obey Amendment VIII of the Constitution which prohibits the infliction of cruel and unusual punishment; as well as treaties which under Article VI of the Constitution are the supreme law of the land, including the Universal Declaration of Human Rights which prohibits torture or cruel, inhuman, or degrading treatment or punishment; the Third Geneva Convention relative to the Treatment of Prisoners of War, the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, and Common Article 3 of the Geneva Conventions which prohibits violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture, as well as outrages upon personal dignity, in particular, humiliating and degrading treatment; the International Covenant on Civil and Political Rights which prohibits torture or cruel, inhuman, or degrading treatment or punishment; the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment which requires that the United States work to prevent all forms of torture; as well as Title 18, United States Code, Section 2340A which prohibits conspiring to torture; and Title 18, United States Code, Section 2441 which prohibits conspiring to torture or inflict cruel or inhuman treatment or murder.

Give him the fair trial he denied to so many others. Then and only then can we look forward to a future without torture.