

Interviewer: Okay, rolling.

Johnny: Good.

Interviewer: Okay, good morning.

- Good morning. We're very grateful to you for participating in the witness to Guantanamo project. We invite you to speak of your experiences and your involvement with the detainees in Guantanamo Bay, Cuba. We are hoping to provide you with an opportunity to tell your story in your own words. We are creating an archive of stories so that people in America and around the world will have a better understanding of what you and others have observed and experienced. Our future generations must know what happened in Guantanamo and by telling the story you're contributing to history. And we appreciate your courage and willingness to speak with us today. And if there's anything you say, David that you wanna retract just let us know and we can remove it and if you wanna take a break at any time, let us know and we can do that.

- Okay.

Interviewer: So, thanks. So I'd like to begin by having you tell us a little about yourself, your name and your age and birthday and background education.

- Okay, well, I was born in 1954. I'm 57 in Brooklyn. When I was seven, we moved to Manhattan, Chelsea. I went to Public's Elementary School, then I went to private high school called Horace Mann and then I went to Columbia University for my BA and then Harvard for my JD. My background prepared me for the work that I do now in perhaps a unique way. My father was a member of the communist party who went to jail in the early '60s as part of the witch-hunt of second level communist party officials. He was a party organizer from at least the mid '30s until the party went underground in '49 or '50 then he became the education director and then he was indicted and tried with a group of others in '57 or '58 convicted on the testimony of an army deserter that the government induced to identify and testify against, and then spent 16 months in a federal prison in Milan, Michigan. My mother, oh, and I should say that my father was the youngest of a family of immigrants from Eastern Europe who came over as part of the great wave in the late 19th century. My father was one of five children. I think that my family on their side came from Galicia in the Austria-Hungarian empire, but basically there was an immigrant background, there was a childhood in poverty, orphanages and the like, but he was very intent on education and he went to City College, which he got kicked out of for a tuition strike. And that was sort of his career. And I grew up in a background of a father who had suffered a great injustice and who had been motivated by the purest ideals. My mother grew up in a middle class Jewish family lived in the suburbs first on her block to have a bicycle but her family was progressive too. Her mother was the leader of the local NAACP chapter and was monitored by the FBI. And my mother subscribed to the tenets of my father, they met 1949. So I grew up in that background. I didn't really do anything political as a child, but when I became 14 or 15 or 16, you had the cultural revolution in

the United States, the anti-authoritarian movement in the United States. And maybe I would have become involved and passionate in that activity anyway, but it was surely intensified perhaps by my parents' background, I went to the anti war marches. I even went with a good friend to a Black Panther party rally, despite warnings that it was going to be dangerous for two white kids. I was a leader of the anti-Vietnam group at Horace Mann. And when I got to Columbia in 1972, I was disappointed that I had missed most of the action that was over by then. I went then to Harvard Law School where I was apolitical, I worked with Professor Laurence Tribe after I graduated of renowned constitutional law scholar then came down to Washington and worked for 25 years in a very prestigious corporate law firm called Covington & Burling. There was really no political activity that aroused my passion at that time the Reagan revolution occurred, but that wasn't the kind of injustice that really stirred me. Of course I was against everything that they did. I wanted to get into politics and policy which was the reason that I came down to Washington. I'd already married Naomi in 1979. And when you go to a corporate law firm like Covington, you can do policy and politics, but you have to do them on behalf of malefactors of great wealth. And so I was brought in as an appellate lawyer, as a constitutional lawyer and I continued to do that work, but beginning of 1985 I became a key part of the firm's tobacco practice and for the next 15 years or so, I spent my time not in the lawsuits, but on the legislative front dreaming up arguments against regulation of tobacco companies going around the country and testifying writing point papers all the kinds of things that a legislative advocate does. And it really was the best training in the world for what I'm doing now, ironically, the real training and advocacy. And at the time I believe in what I was doing as a cause because it involved constitutional issues, statutory issues and I felt that here was a situation of the state abusing its power. I simply didn't pay any attention to the social equities. It was really the political and legal equities. In 2001 or so, there was a big settlement between the tobacco industry and the attorneys general, actually the settlement was in 1998, but by 2001 or so that work really evaporated at the firm. I continued to do other work within my skillsets. Up until that point, I had filed an Amicus briefs maybe a couple of years, a couple each year for groups like the ACLU, Americans United for Separation of Church and State. I was deeply involved in the new Dow case which was the pledge of allegiance case just deeply involved in it as an Amicus for the ACLU and people of United for Separation of Church and State. And then that was decided in about 2002. Then in the spring of I just to roll back, I got a young lawyer named Neil Katyal at Georgetown to team up with Richard Epstein at Chicago. It was sort of a left to right combination in the new Dow case. And I mentioned this because in the spring of 2004, Neil asked me to represent anarchy, generals and admirals in the district court, in the Hamdan case. That was a great experience and it was really ego gratifying when Judge Robertson singled our brief out and actually ruled on the basis of arguments that we had presented. We locked out basically, but because I was known as having been involved in Hamdan, at the next stage when the Supreme court ruled in the Rasul case, that the detainees were entitled to bring habeas actions, that the courthouse doors were open and that they could have lawyers, a young colleague in our New York office, Mark Falcoff not so young but basically a new associate reached out to CCR and asked if there were any Guantanamo cases we could handle. At the time, CCR was handing out batches of clients to big law firms and they handed out 13 Yemenis to us. Mark called up and asked whether I would be the supervising partner for this work. I was extremely busy at the time. And I said to Mark, yes, I'll supervise as long as I don't have to do any work on this stuff. But as soon became apparent that the firm would have no influence in the litigation unless a senior guy like me got involved, and to make a long story short, the more I got involved, the more deeply I got involved, the more passionately I felt about what was happening here. These were real human beings,

individuals who were being treated absolutely outrageously and injustice viably by our own government. And I guess that's what aroused my passion most. I had represented gay men in the '80s before. It was really not, I wouldn't say before it was respectable, I'd say before it was a movement. I was always drawn to cases in which the government was placing its boot on somebody's neck, but representing individuals where this happens is much different from representing corporations even though as Mr. Romney says, corporations are people. So, okay, well anyway, let me just make the long story short. So over the next four years, I was in Yemen several times representing, going to the families, I got to know them, I got to have some feel for the culture, which is just beautiful. I fell in love with the work that I was doing. And by 2008, I had lost all interest in the corporate work. It didn't grab me whether or not IBM won in a pension case against a class of plaintiffs or patents suit. It called upon my legal skillsets but the work had become meaningless to me and empty. And I just couldn't keep my mind on it. I was always doing the Guantanamo stuff. So I left in the summer of 2008. I organized a nonprofit, which I called appeal for justice which has devolved into the name of my practice because I haven't developed it as an organization. And that's what I've been doing for the last four or five years. And I think I'm one of the few habeas lawyers who have been involved in the work since Rasul, and maybe probably the only individual habeas lawyer who represents anything like the number of clients that I represent. I'd say that I represent now more than one in 10 of the detainees and that includes the high value detainees in the account. If you take them out of the equation, the percentage is even higher. I'm very proud of it. It's given my life's work meaning, that's not why I did it but it turns out that way. I'd rather have on my tombstone the epitaph that I represented Guantanamo, David Remes Guantanamo lawyer than David Remes anti trust lawyer.

Interviewer: Just to follow up on that. And then I wanna go back, how do you support this single operation that you're doing?

- Well up until 2008, I was very handsomely paid by Covington. So I could have my cake and eat it too. Since 2008, I've spent all of my time on this work. I haven't had any other source of income except for my minor honoraria. And I've been paying for the work out of own pocket. I received a generous separation payment from Covington and I've sort of spent that down and beyond that I'm just drawing down on a bank account and what that means and I can't keep doing it for much longer, but what that means from a material standpoint is that we can't make the house dance here, we can't go on a big vacations and we'll have a very different retirement than we would have had. And I feel kind of bad about that and sometimes I regret it from that standpoint but my girls were out of school and independent. So I didn't have the tuition burden, we had renovated the house, we don't go on extravagant vacations. So we haven't, we're not part of the 47%.

Interviewer: And going back to two questions, one is, did you and I don't wanna go into it any more than this but just what you were saying. Did your parents tell you the stories that you started this interview with so that you were they informed your upbringing as well? It isn't that you heard them later on you knew as you were growing up about the hardship your father had suffered?

- Well, it's not really possible for children at the age of seven or eight to understand this kind of thing. And I don't think I really began to understand it until I was 11 or 12, but when my father got out of jail, he and my

mother sat me and my sister down and the way they presented what had happened to him was in a very romantic light. They compared him to Robin Hood basically. And as the years went on, I got filled in on more and more of the details but I had the basic story and the political aspect of the story by the time I was 10 or 11. It was something still to be not ashamed of but the cause of worry, if people knew about it. So my father and mother kept it to themselves. I kept it to myself. My sister was kind of apolitical, but for many years it was something I just didn't talk about.

Interviewer: And so then going into 911, when 911 happened when the detainees were first taken to Guantanamo, since, what were you thinking at that time and when you agreed to do, how then were you thinking of it as just another one of your many pro bono projects or did you begin to pay more attention, I just want to know what happened during those four years that kind of led you to do the hominid grief.

- Well, on September 11th, 2001, I was on a conference call with one of my partners, with a client arguing about this. And all of a sudden my partner said plane went into one of the world trade centers. Have I thought a little by plane. And then he said, because he had a television, he said another plane has gone into the other one. And with my gift for perspicacity, I said that can't be a coincidence. And then I remember not really thinking about it very much. I thought about 911 because it had happened to my home city where my sister still lived and I really did feel a sense of personal danger because they also bombed the Pentagon and there were rumors they'd bombed Capitol or the White House and so on. But I really didn't think about it. I noticed that the government said that these detainees didn't have rights under the Geneva convention, that they were arriving at Guantanamo, but I really didn't think about it. By in 2004, when I was asked to work on the Hamdan case, it was just another case, it was an interesting case. I had no idea what a military commission was, I had no idea what GTMo meant. And I learned these things as I went along and I was very blessed to have associates who could do a lot of the work with me. And it wasn't really until I began to get into the work after Rasul. And even at that immediate point in July, 2004, it was an abstraction. It wasn't until I went to Guantanamo in December or late November of 2004 and met the detainees that I really got the profound sense of horror that began the rock rolling down the hill.

Interviewer: Good, and that's where I want to go. So could you have any expectations before you got on the airplane to Guantanamo is to what you?

- I have absolutely no idea.

Interviewer: And when.

- We had to go, we had had to go through fight on the legal question of whether we could get the factual returns for the guys which were the accusations. My colleague Mark, when he looked at the returns, said, "David, my God, we're representing four people "who were in the 3030." We had absolutely no idea and no sense of these guys and no personal commitment to them at that point.

Interviewer: And so when you arrived in Guantanamo, could you tell us what that was like in terms of your level and your meeting the clients?

- Well at that time, the military there, the joint task force Guantanamo really regarded these men as dangerous terrorists, really. And when we came off of the plane, it was evening, there were two bright Klieg lights facing us, two armed soldiers with machine guns and we were herded through an inspection line where they went through all our belongings, we were taken to the CBQ, which was the equivalent of a grade B motel six at the time. Then in the morning, we were ferried over to the other side of the Bay. The habeas lawyers were kept on the Leeward side of the Bay where the airport was. It was basically devoid of any civilization and that wasn't accidental. They still didn't accept the legitimacy of the habeas lawyers. I overheard one Sergeant say, when other Sergeant that Rasul was simply an advisory opinion. Yeah, wow. So we then were brought to Camp Delta or Camp Echo where they had set up these huts for client meetings. And in that way that the huts were organized, you'd go in, there'd be a cage on one side where the detainees were kept when they weren't meeting with their lawyers and then there was the meeting room where or the meeting area, 'cause the cage was a cage where there'd be a table and facing the back wall would be the detainee. And then the, on the other side with our backs facing the door were the lawyers and the translators. By the way, the interview rooms, the meeting rooms are bigger than this room, deeper than this room. The interview area was probably narrower. No, yeah, basically the same as this room it was not a big area is the point I'm trying to make. And the cage was even a smaller area with a concrete bed against the wall, a metal sink and toilet and more than one client has told me that being there all this time has been like living in a bathroom and I can see why. And so we arrived there and these clients were utterly abject. They had no idea what to expect from us. We had no idea what to expect from them. I'm told that they all thought that the habeas lawyers were another set of interrogators at the very beginning. And they had every reason to think so, but most of them at least, pardon.

Interviewer: Why they have every reason to think so?

- Because they had been interrogated, of course hundreds of times, the authorities used every trick in the book to lie to them, disorient them, get them to tell the real truth of their activities. And this, from their standpoint was just the latest tactic that they were using. And later they tried to discredit the habeas lawyers by sending in interrogators who were sort of dressed like habeas lawyers but were wearing hairpieces that were sort of a skew and by accusing us, as you may have heard from other lawyers of being Jewish or being gay, stuff like that and found many other ways to try to separate us. But that's another story the detainees at first thought that we were government agents and I think that that survived for quite a while, at least. Yeah, for quite a while, for a couple of years. Some of them still felt that we were that way. And when we went and met their families in Yemen, they felt that we were trying to trick the families into getting information that we could then report back to the government. But they put their trust in us over time despite their misgivings. At one point a client said to me this was Hassan bin Attash who was captured when he was about 16, and his brother Walid bin Attash is one of the high value detainees and one of the 5911 defendants. Hassan said, "I trust you, but I don't trust you 100%." (laughs) And another client Abdul-Salam al-Hilam who was quite a prominent businessman in Sanaa and was actually kidnapped in Cairo said, "No matter what I tell you, "no matter how innocuous it is, "the government will find some way "to twist something that I said "even as if it's 1% against me." So they had all these fears. And I must say that over the years, most of them gave us a narrative that didn't really change from the narratives they had provided to

their interrogators before. In some cases they did saying that they had been tortured or coerced into confessions or that they were the victims of snitches who were making false accusations but they still gave us the narratives. It wasn't as though we came in and they said, we really did commit terrorist acts. I mean, we haven't been telling anybody but we blew this up, we conspired with bin Laden and we can give you all these secrets because we're your lawyers. The fact is that at least for our clients, their accounts to us were consistent with their previous accounts. And it turns out that we could corroborate their accounts.

Interviewer: So David.

- But the thing I wanna say about the first meeting,

Interviewer: Yeah.

- is Mark had visited them maybe a little bit earlier and when each of us got back, we slept for two days. Absolutely because what we found was a mixture of appalling, interesting, and well, I can use other words. I think appalling covers it best. We were shocked and the emotional, I mean the emotional impact I can't begin to tell you because of the abjectness of these men having been held there at the time it was only two and a half years, now it's over 10 years for most of them.

Interviewer: That's what I think would show the audience what you're expressing. If you can describe what you saw when you walked into that hut, what did you see before you, and did that surprise you?

- I saw these men, most of whom were not, some of whom were very slight physically. None of whom was more than average build. They were sitting behind their chair, behind the desk and a chair with one leg chained to the floor. We had two seats in front of the table for a translator and the lawyer. And if there were more lawyers, there'd be more seats of course. And all I can tell you is we were hit by and they were all wearing yellow jumpsuits. We were just appalled. And remember, none of us had ever been on a military base. So being there under the supervision of escorts which we also had to have and who were at the beginning chief petty officers who get to be chief petty officers by being Royal Schmucks. And I don't think I'm saying anything that the junior men wouldn't say. So we had this very strange feeling of being on a military base and seeing soldiers with guns and code words with one were picked up by our escorts and they were driving us toward the base. They pick up the phone and say charcoal or rubric. And these are actually brevity codes. They call them, instead of saying a long bunch of words, they use the shorthand. It's really not supposed to be secret. I don't think, I don't think secrecy would serve much of a purpose. We had to go through a checkpoint of guards at I think it's called the Roosevelt checkpoint. The guards all had guns and machine guns. There must have been four or five. We had to, of course, wear identity badges all the time. We couldn't go around without escorts. There were these Barb wire ringed prison camps. And just to give you a sense, because this is relevant. Once after the habeas work started growing, I was part of group of maybe 15 or 20 habeas lawyers going through Camp Echo, which was a series of interview huts as I mentioned, forming a square with a courtyard in the middle of it, a square courtyard. And there we were, there were these huts, the tarp wall the tarp, the sniper tarp parks on the fences, basically designed to obscure a sniper's vision into the camp, the guard towers, the barbed wires. And there we were sort of a

Motley group, all shapes and sizes. Heinz is 57 different varieties. And the young guard turned and said, "This looks like a tour of a concentration camp." Out of the mouth of babes. And I say that because it really helps validate the picture that we present. Then we were brought into the huts and there were these guys, they were unfamiliar to us in every way. They were Arabs and most of them were colored as middle Eastern Arabs are, they all had great big black beards because they're not supposed to shave and mustaches. And most of them had big heads of unruly hair. They spoke a language we had never heard. They worshiped a religion that was totally alien to us. Their culture was entirely unfamiliar. So in a certain way, it was like meeting people from a different, an alternative world. And plus they were people and they were sitting there in orange jumpsuits chained to the floor, telling us stories of horrible treatment and horrible experiences in Afghanistan and Pakistan, stories of torture, stories of what they endured simply as they were going through mountain passes from Afghanistan to Pakistan, walking eight days in nearly naked, not naked but near shoeless without a proper attire through snow bound mountains, little food, almost like, it wasn't a forced march at all but it was the way they had to escape. And just the image of these men fleeing in these conditions. It was all very visual, almost cinematic and very shocking. We had never imagined pictures like that in our minds, appalling, as I mentioned and fascinating at the same time it was that weird combination. And we had never seen people so abject. Wasn't like meeting somebody who had stolen a hubcap, this was entirely new to us. And it didn't really, it took a while for us, I'm making a generalization, but I think that it's true to number one, differentiate among our clients.

Interviewer: Interesting.

- No, one shoe was the same as another. They all have polish noses and that kind of thing but at the beginning, it's difficult to differentiate when everybody shares those same, the same characteristics that I've mentioned. And one of the horrors in the whole Guantanamo narrative is how the Pentagon cast these guys as an undifferentiated mass, each one is the same as another. They're all fungible, the worst of the worst but it's time went on. We had 13 clients, we began to appreciate the individuality of each man, the uniqueness of this story, the uniqueness of this family and family situation. And these detainees became people to us. And I can't tell you what an impact that had because then the spotlight turned on how they were being treated, how they had been treated by the United States. I don't know whether that answers your question.

Interviewer: It's actually very amazingly interesting because how you evolve. We haven't heard that from many people, just that evolution of the turning coming into the prison and over the years, that's been really interesting. So yeah, it does.

- One more last thing.

Interviewer: Yeah.

- We had a very adversary relationship with JTF from the beginning. First of all, as I said, they didn't except our legitimacy. They thought that we were extensions of our clients. And on one occasion, I nearly came to blows with a Lieutenant commander because a client hadn't been brought when he was supposed to be brought out, the wrong client was brought at another time, they made life miserable for the detainees who

had lawyers requiring them to spend two or three days in isolation before and afterward. And we were regarded as the enemy and they did everything they could to make life hard for us. And at one point I picked up the phone and I shouted at the Lieutenant commander. I said, one of my clients is missing. And he said, "He's not missing, we know where he is." And the wrong client was brought and on and on. And then he came over and chewed me out for being disrespectful for his guards. And then I denied it and we really had a face-off. We nearly came to blows, at another point Clive Smith was pistol whipped by guards and threatened with arrest, pistol whip maybe a little strong you'd have to ask him again. My understanding was that a pistol was involved. The Lieutenant commander that I almost came to blows with got back at me by opening my legal mail. And then the claim was that the illegal mail was simply jostled in being carried from one place to another. And it really was antagonistic. And over the years it's become routinized and they do their thing, we do our thing. This is all, it's like getting, renewing your license at the DMV. But in the first few years I'd stay through 2006, 2007, maybe even later, it was a relationship of hostility on their part toward us. And as I say, finally, this was going on so long that the two sides and the hysteria of 911 and Iraq started to recede that this became, these visits became routine but at the beginning, when you add that to our encounter with the detainees, our encounter with the military, it was a pretty impactful situation.

Interviewer: Well, you mentioned Jewish.

Johnny: Just a second. Would you mind setting the bottle down? You're welcome to first drink wherever you want. I just don't wanna have it in the shot (indistinct)

- Sorry.

Johnny: It's okay.

- I hope you can edit it out or something. I hope I haven't ruined this.

Johnny: No, no, not at all.

Interviewer: I actually.

Johnny: Don't wanna make it (indistinct)

- Okay. (laughs) Oh, that's what they tell me when I'm on TV, don't have that Coke bottle there.

Interviewer: You mentioned Jewish earlier. Did the JTF, or did any of the military tell your clients that you were Jewish and that maybe they shouldn't trust you because of that? Do you know?

- Yes, well, the specific example is Tom Wilner. I don't know whether you've interviewed him but they would say these guys and we know this because either because somehow the idea was planted in these guys' minds. I mean, they actually heard that and they actually said that, but they would also say, these guys are Jews and Jews will never do anything for you without getting something back. They want fame, they want

money, somehow or other, their motives here are materialistic and selfish which of course is the Shylock kind of image. And of course, the men equate Jews with Israelis and Israelis are the evil empire as far as the men are concerned but I never experienced antisemitism. I never experienced it. My clients would go out of their way to say, we embrace all religions whether it's Muslim or Christianity or Judaism, their theory, as I understand it is that Islam is simply the highest stage of a progression and the Jews are somewhere down there and the Christians are somewhere down there. And it's sort of like a Marxian view of evolution toward perfection. Some of them were anti of war. I would have to say anti-semitic, but they're antisemitism. And this is something that's hard for people to understand was not racial, their antisemitism, to the extent you can call it, that was political. It wasn't racial, it wasn't religious, it was political because of the identification Israel. So I know that nobody except my fellow habeas lawyers will understand this because antisemitism is antisemitism. This was political, not religious or racial.

Interviewer: And do you believe your clients when they first told you what apparently was somewhat shocking stories that you weren't expecting to hear the first time you met them and then subsequently I'm sure you began to believe it, but in those early days.

- I believed it from the very beginning.

Interviewer: Why?

- Why not? No, I mean, that's little bit to flip because of the human character of their experiences and the uniqueness of their experiences, the vividness of their accounts, the similarities of their accounts. And I don't believe that over two years, 800 people sat down to work out a common story 'cause there were also differences that were significant. Some people were apprehended here, some people were apprehended there. The military would say, these guys can't been in Afghanistan to teach Quran because they know Arabic, the Afghans are or the Afghans are Pashtun and there's no middle language. And I'd make the point that up until the early '60s, the Bible was taught in Latin and nobody knew what that meant either. And of course there were translators but I think that was part of the military view but every guy had his own story. They seemed to be victims when you met them. I think that's probably and then their stories were both believable visually not all that comprehensible factually, not because they were difficult to understand at the literal level, but because it was all against a background that was completely unfamiliar. But I will say just to make a very long story short, it was the humanity of the situation that led us to simply take for granted that what they told us was true.

Interviewer: Did they tell you about their treatment in Guantanamo and do you believe that too? I mean, other than the history of why they ended up in Guantanamo, did they talk about whether they were mistreated in Guantanamo and?

- Yeah, just to start even earlier, they told us about their horrifying treatment in the dark prison which was a CIA prison, bog room prison, and then Guantanamo and they told us about the physical abuse and the psychological abuse they suffered, their relationship with the guards and the military there. One of the things about having been involved in this so long and on such a broad basis is that I have an institutional

memory about what has gone on. I can trace it on a timeline what happened this year, what happened that year, this particular event, that particular event, who was the leader of this group, who was in this cell block, whether this cell block was a torture cell block or a punishment cell block, the movement of detainees. I learned this stuff from them and because I represented so many detainees, I've had a panoramic sense of it. And I absolutely believed it.

Interviewer: Can you tell us one or two stories just for viewers 'cause you might not watch this for 50 years and so for them to have an actual story or two that just what you see, what you experienced would be really helpful.

- Yes, and of course, all I can recount is what they told me.

Interviewer: Sure.

- And I also want to draw the distinction. There were the interrogators, and then there were the guards and the prison keepers, the administrators. And I make the distinction because people on the outside have really been be, oh sorry, because the narratives that people have been exposed to involve interrogations, enhanced interrogations, what have you. And when Jane Mayer, who I who's one of the best journalists and deepest journalists in the world writes a book that follows the torture policy up the string to Rumsfeld, she's talking about interrogations. I ran into Chris Wallace of Fox of all people. And I said, there's torture going on. I said that in one way or another. And he said, I thought that was just with the interrogations, but the guards and the officers in charge, and the commanders created a situation and implemented a situation that was savage, sadistic, brutal, good with a Saurus and look up the synonyms. It was just, I know you want examples. So I'll give you a couple of examples. Here on the psychological level. This is not physical so much, but psychological. They made it difficult, very difficult for the men to pray by purposely putting them in shorts. And I guess from the standpoint of Islam, you're not supposed to show your behind to somebody behind you wearing shorts. I can only speculate on the reason but it was this serious reason. They would interrupt prayer calls, they would put the arrow to Mecca in the wrong place, they'd give them the wrong time, they were very systematic and careful about hitting these guys where it hurt most their religion because these men, most of them, if not all of them were devoutly religious across the board in a way that Westerners can't understand. I once suggested to a reporter that he think of Manhattan populated by hosteds from the Bowery up to the Bronx. It was sort of like that. And that is the greatest point of sensitivity for them. As you know there are the burning Quran stories and stories like that. And so this is all background to what I thought was the most horrifying of all which was at a certain point, they would punish a detainee by taking him to a special room which I call room 101 after the infamous room in George Orwell's 1984, where they would sit the detainee down in a chair and cut off his beard. And the Quran says, you have to have a beard. And to me, it was a horrifying Echo of what the Germans and the Nazis did with highly religious Jews. We could see on the street, they'd just go up to them. But these morons who were doing this only knew that it was very humiliating, they didn't make the reference. There was the incessant use of what were called earth teams emergency response forces where maybe half a dozen soldiers dressed in these robo cop uniforms would go in and just beat the shit out of these guys on no pretext or the slightest pretext. And when I was in the inspection area, going into Echo for interviews, I once saw these black uniforms and

they were very frightening. Okay, then there were things like guards simply shoving the detainees by the head into the toilet hall. And there's a trace of that even now in one of the camps. There was verbal abuse, there was physical abuse, banging heads on walls. One of my clients still has a terribly sore back as a result of this, another client. I mean, some clients bear the physical marks of this. And what I'm saying is verbal but when you began to visualize the abuse that these men suffered, not as individuals who were being interrogated but people who live day to day under these circumstances, men had to urinate in their cells naked or wherever, pulling down their pants in the full view of the guards, they were lied to. I once said to a client, they put you in a situation where you don't know whether anything that's said it's a lie and where you don't know what's up, what's down. I do suspect that that is more along the lines of interrogators but there was just relentless physical brutality. The men responded in their own ways splashing as the most known one. And I just I'd have to go back to my notes to recount all the forms of physical abuse and all the forms of psychological abuse. And they've told me that the forms of psychological abuse and religious abuse were the worst of all and the commander actually had an advisor, a Muslim advisor, seriously. I have his name somewhere, he's well known who basically told the command, this is how you get to them on the religious ground. And he was always portrayed by the command as telling the commanders how to respect the men's religion. But in fact, this is what he was doing. They also denied the men a chaplain after the first chaplain was perceived as getting too close to the men. The idea that a Muslim population hasn't had a Muslim chaplain for eight, nine, 10 years is also amazing. Again, I'd have to go back to my notes which I'm sure will be part of the file were the specific examples, but they were Legion, they were very tough and the worst ones were the psychological religious ones.

Interviewer: I just wanna add to that, David that many of the detainees we interviewed called it a psychological prison, more than a physical, isn't it? I think that's what you (indistinct)

- That's what I'm describing but from my standpoint, because I don't relate to the depth of their religious version or religiosity, I understand that at kind of an abstract level but the physical stuff I really understand.

Interviewer: Well, do you know any of your clients who were in isolation for long periods of time?

- Yes.

Interviewer: And can you tell us a little about that and why?

- Well, my poor client Adnan Lateef was considered, I guess kind of a wild man, not in a physical, I mean not in the sense of being a physical threat but just because he was sort of uncontrollable. He had mental issues, psychological issues plus he was just so obstreperous that the guards used to ask other detainees how to handle him. There were leaders who, I mean detainees were regarded as leaders like my clients, Shockya Amir. He actually negotiated for the detainees at one point with the administration who were kept in isolation he's charismatic, mesmerizing, intelligent, perfect English. He could be anything he wants even when he gets out. I don't know the rhyme or reason for keeping a number of clients in isolation. I really don't. Someone in isolation is punishment but all I can do without going back. I'm sort of embarrassed about this but I've had so many clients that, although I know each as an individual, and I know what

experiences they've had. I can't always put the experience with a particular client.

Interviewer: I think you've given a really good sense of it and other people have given it too, so this is the Mosaic. And when you put all the videos together, you go get.

- And I suspect that you're hearing basically the same story from us, we all went through this. It's so fascinating the detainees had generally a consistent set of experiences from the moment that they were captured up until through Guantanamo. My clients like Abdul Salam, who was captured in Cairo went through sort of an arc of prisons which I sometimes joke or like stations of the cross. And at one point I wanted to go to Afghanistan and trace the particular prisons. Then there's my client Saifullah Paracha, who was picked up in Thailand and he went through his own experiences. But they'll all tell you what happened when they got off the plane. The physical examinations involving forced rectal examinations, being kept in these chicken coops, being forced to be naked in front of women guards as they were photographed and filmed. And then what happened to them in the cells? It's a common experience, unbelievably common and then we have the common experience.

Interviewer: And you mentioned the dark prison. Can you describe that to us if you?

- Yes, first of all, when the dark prison was mentioned, we knew it was a prison and we knew it was a special prison but we had no idea about the significance of these prisons over time as deliberately designed torture chambers. I have about maybe three or four clients who went through it, but the most, the first and the most vivid description was by Abdul-Salam al-Hilam. And what he described was being in a room without any light, no light in the hallway, except maybe dim lights. Having his arm chained to the wall maybe about two and a half, three feet up. And he would say to us, how do you sleep? How do you sleep? And they would play the ear, shattering music. He'd be completely in the dark. And then at some point when he couldn't predict it, the guards would come and take him to the interrogation room which would also be completely dark, except for strobe lights that were directed to him. Strobe lights. What a disorientation out of coming from that kind of a cell and then being questioned under those circumstances. He and other clients recount hearing screams in other cells from other men. It's hard to remember more details. I had physical descriptions of the facility from him and other clients. I have very vivid sense of that but I think that Abdul-Salam's treatment really summarizes the dark prison. I've had other clients who were hung by chains from their arms with their feet off the ground.

Interviewer: This is an Afghanistan.

- No, this is, I mean, yeah this is an Afghanistan at dark prison. And so this was more intense than what they went through at bog room. But what they went through at bog room was pretty intense too.

Interviewer: So you heard about suicides. Did any of your clients try to commit suicide? Is that a story you wanna tell us at all?

- What I'll say is that there have been two detainees out of, there been nine detainees who died. I won't call

any of them suicide. Two of them died of clearly physical causes. One died of cancer, one died of a heart attack after exercising on a treadmill, that leaves you with seven. There were three, the famous three from 2006 I think who died under circumstances that render the characterization of their deaths as suicides completely unbelievable. And Scott Horton of Harpers has really torn that account to shreds, so has Mark Denbeaux at Seton Hall? So they weren't suicides. Then there was someone else who died exactly a year afterward by the Muslim calendar. I don't remember his story in particular. There was a guy named Al Hanashi, ISN 78, who died in a psych ward. And you can imagine the kind of scrutiny these men are under in a psych ward. All of the cells throughout the camp are wired for sound, have moving dome cameras or cameras within domes. And the way that the military said that he died was by self strangulation. It's almost like a Jim Carey. Idea, the idea was that he somehow wrapped his underwear around his neck and pulled. We think that it was a medication issue. Then there was my client Adnan who died in September this year. The military doesn't even claim that it was a suicide or even an intended suicide. And since this is designed for the future and not current consumption, we have become aware of the conclusions of the autopsy report which I think since this is all second or third hand from the government did not claim that it was a suicide. Of course, it's not claiming that it was physical brutality, but was a medical issue. As I suspected, he could have been. And we'll find this out in time, the wrong medication, too much medication, too little medication, medication where it was contra indicated or medication that had adverse interactions with others. There was a high degree of carelessness and indifference and neglect on the part of the authorities to the physical problems of the men. One of the, I know I'm sort of going off on a tangent. One of the great complaints of our clients was no matter what their complaint in the first several years, the answer was mortuary. And the men were very distrustful of the corpsmen and the doctors and the nurses. But that's another story. So Adnan didn't commit suicide. Al Hanashi didn't commit suicide. These three guys didn't commit suicide. There's another guy who was found dead in an exercise area under extremely suspicious circumstances, how he would have been let into the area without being searched and deprived of anything he could admit some suicide with is kind of a mystery. So that's five. Then you have the two who died of natural causes and then you had one who we don't think committed suicide but I can't remember the details of it. The suicide story was a cynical attempt by the military to absolve themselves of responsibility for these deaths. And as you may recall, the military went so far not only to claim that these men were suicides but at the beginning, the military claimed that this was part of their war against the United States. You may remember that phrase, asymmetric war. Well, the idea of committing suicide was to bring condemnation to Guantanamo and to America. So it wasn't even out of desperation or hopelessness or despair. This was terrorism. The current, I'm sorry, the second most current commander or the current commander has said that Guantanamo was just another front in the war against terrorism. And he says this in 2012 or 2011, the mindset is unbelievable.

Interviewer: Why do you think you'll get the information on Adnan, isn't it? I understood government doesn't have to release any further information to you, right?

- And again, this is totally confidential at this point. Yemen wouldn't take Adnan's remains back unless the US gave them the autopsy report. So the US is going to give them the autopsy report and the Yemen government will give the autopsy report to the families. And we will talk to one of Adnan's brothers, we'll try to place the first call tomorrow and give him a heads up of what's happening and what we think the report

will conclude. And we're going to give the autopsy report to some independent pathologists to review as well. So that's how we know about it. And that's the unusual circumstance with the US with releasing it. Now true to a public affairs strategy. The report will be turned over to the Yemen government in the week of the presidential elections so it will be unnoticed. The Pentagon is not only wish you a press-release, Yemen may not even acknowledge it. So the US is doing everything possible to bury the story if you'll pardon the phrase but that's another long way of answering your question. Then there is an investigation ongoing by the Naval Criminal Investigative Service which we can understand why it's taking so long.

Interviewer: Investigating what?.

- Investigating the sequence of events. Who's responsible for what. The pathologist determines the cause of death with input by the car and or I guess or medical examiner. But then the NCIS is exploring whether there was criminal or culpable activities and that's routine. They do it in the case of every detainee but they sometimes take a couple of years to do it. They sometimes never finish. And all that's released to the public turns out to be a heavily redacted version. The FBI seems to be investigating it because Shaker told me that the FBI wanted to interrogate him about Adnan's death 'cause they were both in the punishment cell block, in the psych cells of the punishment cell blocks. But so Shaker said, well, my lawyer David Remes is down here. I'm not gonna talk to you unless my lawyer's here. So take advantage of the opportunity. I'll tell you anything you wanna know but I have to have the lawyer in my room. They never did that. They never took advantage of that. Another side note, I won't go into this but there will be outside investigators coming in and again, taking information from him. But that has nothing to do with the suicide point. Then SOUTHCOM, which is the unit of the military with overall responsibility for South America and Latin America. And I don't know what else, I don't know what else, you can find that out pretty easily is conducting its own investigation. So right now you have three investigations ongoing with no claim that this was suicide, with no claim that this was natural causes. When he was found dead, I've been told that the news went all the way up to the joint chiefs of staff because it was regarded as such a political hot potato. Again, I'm getting in front of the story. So yeah, the question or witness privilege.

Interviewer: Absolutely (indistinct)

- I'll invoke. So no, the others, the government was able to sort of pass off very easily, but it's not able to do that here. That's why I think there are so many investigations going on. And I also think that the Pentagon and the government in general wanna get their stories straight.

Interviewer: I mean, why wouldn't they do investigations? Why wouldn't they just bury the whole thing and just say?

- Well, it's I say, it's routine for the NCIS to do investigations in the case of deaths. This is not unique to Adnan. I don't know about the FBI. And I only say it's the FBI because Shaker told me that it was the FBI. And we know that it's SOUTHCOM, I can't remember how we know, but we know. We know based on objective sources.

Interviewer: Why do you think Shaker is not released since he's your client? Can you tell us 'cause apparently he was destined for release and then he hasn't been over these years?

- And just to mention, Adnan was approved for release four times. Why he wouldn't be released, he was the prime candidate for release on humanitarian grounds. We have other clients who have been approved for release who are still there. They're Yemenis. He is the last UK resident at Guantanamo. He was one of the detainee leaders, he's been in isolation for almost since the beginning. They do have ways of communicating despite being isolated. He has always felt that the US was afraid to release him because he would reveal the horrors that he suffered, he thinks that the UK doesn't want him because he would support and complain about horrors that the British were complicit in and would go out on his soap box anyway and become a big critic. That's his theory. There are always whispers that there are negotiations between the UK and Shaker over his release which is also a political hot potato. Everybody says they're trying to do the right thing but the right thing never happens. They sort of toss the ball at each other on this. The Brits complain that Congress passed a law that makes it, well, we claim that Congress passed a law that makes us very horrible. I mean, not horrible, really but hard to approve the release of anybody, even those people that the government doesn't want to release. He's a very high profile detainee. And I know I wander all over the place in some of these answers, but for some reason he's just a hard nut to crack. He's not a nut, but he's hard to crack.

Interviewer: So, my understanding the US has said that they will not keep anybody in isolation for more than 30 days. And you just described Shaker as being in isolation for what apparently these years. How does the US justify that?

- I think that the US is talking about individuals ordinary rank and file detainees say those in Camp Six who commit some violation, big or small. They're sent to Camp Five and put there as punishment. They may stay there for 30 days. I think that's the official policy. Some of them stay longer, but then there is another class of detainee who is kept in isolation for other reasons. And I have a few clients who fall into that category. So the 30 day maximum and they talk about is for situations other than those that my clients are involved in, who have special cases.

Interviewer: Could you describe the kind of isolation that he's in?

- Yes, let me have a sip of water first.

Interviewer: Yeah, if you want to get him, should we get another one of these?

- If you got anything I'd love a can of diet Coke but that maybe room service will barely bring it up.

Interviewer: We don't have one actually. Can you turn off the camera for a minute. About the isolation that Shaker has experienced or is experiencing

- Yes, Shaker experienced and some of my other clients experienced particularly horrible isolation in the last

couple of years. I wouldn't say that I was proud to have the number of clients I did who were isolated this way but it did seem impressive to me. (laughs) This a reference to Five Echo. Echo is the camp that holds the men who have been convicted by the military commission. It holds a special group, which I'll go into a little later of men who are deemed to be extraordinarily influential among the detainee population. It houses hunger strikers of which there aren't a lot anymore. And it's the place where the detainees who violate the rules or who are said to violate the rules are sent to. It's the punishment camp. And just to describe the geography of it, in the beginning there was Delta. Delta was a very large camp, full of converted, large converted trailers and divided into cells. And each cell was caged and they were mesh wires, mesh wiring, or crosshatched iron sides, which is why I call it a cage, squat toilets, which is what most of the men are accustomed to anyway, but that doesn't excuse it in an American camp. I've story of his story to tell about that but I'll leave it until later if we have time. Then the military built Camp Five, which had four wings, Alpha, Bravo, Charlie, and Echo. Then the military built Camp Six both of them are modeled on maximum security US prisons. There are two stories. And skipping way ahead to the present. Maybe two or three years ago. Well, three or four years ago, the Bush administration set up, I miss camp. It it's Alpha, Bravo, Charlie, Delta, okay? They set up an Echo called Five Echo. Echo was sort of attached to the main camp, five camp proper, except it too was a converted trailer. The Pentagon released photos of this after Ben Fox of the AP broke this story in December, 2010, I think. Probably 2010. Maybe 2011, the years sort of merge into each other.

Interviewer: The story you're gonna tell us?

- Yeah, very briefly. And he didn't tell it in the detail that I can tell it in.

Interviewer: Okay.

- This is where a number of the influentials were placed, which is includes Shaker. It included Hassan bin Attash, It included Abdul-Salam al-Hilam. Shaker has been the most vivid in describing the circumstances. What he hated was the way he had to go to the bathroom. You'll understand why when I explain it because these men were meant to be punished extraordinarily harshly. The makeup of the cell would be you had the bed, the concrete bed, you didn't have a toilet. You had a hole in the ground. You didn't have a sink, you have a faucet. Let me reverse it so I can explain it better because I'm, right-handed, here's the bed, here's the hole, here's the faucet and here's a drain pipe going from faucet to hole. The hole is located in a way that makes it impossible for you squat. You have to dig your foot at the perpendicular line where the bed connects to the floor and place your other foot on the diagonal drain pipe in order to take a dump, in order to take a dump and urinate, you have to stuff your penis into the hole. The faucet will turn on the water for two minutes or something like that, maybe even less. Shaker has developed a practice of flushing the toilet a few times and then using the toilet water, putting his hands in and using the toilet water to bathe himself. There were blinding lights, mirrors, cameras, and Shaker was kept in Five Echo until Ben wrote his story. And we got a lot of publicity out of it. The military told him that this cell, this kind of cell complied with the standards of the American Bureau of Prisons, not a government organization, a standard setting organization. I've never heard of that even from Lusaway and the like. And there were a few other aspects, but that by itself is torture. He had to count on guards to wake him up at the proper time for prayer. And sometimes the guards did it and sometimes they didn't. So he ended up staying up all night often in order to

meet morning prayer. The people in Five Echo weren't allowed to have any communication with other detainees. They played in, they got physical activity in a rec area that was too far away from the other rec areas to shout total isolation inside and outside. And the authorities finally closed this down. One detail about this that I forgot to mention but it was important. This Five Echo block was set up under the Bush administration. The Bush people used it for a very short period of time and then abandoned it because they thought it was so cruel. It was the Obama administration that reinstated its use under the commanders that the Obama administration put there, I'm not saying president Obama checked it off on a box. I think it was the command decision down there but it's a very, very great irony. Now, Shaker is in a blocking Camp Five that is a punishment block. It only has a few detainees. It has Shaker, it had Adnan and maybe one or two others there, maybe one other. Shaker and Adnan were in a joining cells. Shaker, and I have to be careful at this point because the military tries to treat as classified everything surrounding Adnan's death but everything I'm telling you is unclassified and the US will probably declassify it in 75 years you realize coats from World War I are still classified, I think or only declassified lately. So there are, so Shaker is in a cell that has floor to ceiling glass, plexiglass doors with a guard monitoring him all the time plus there are guards who go by every three minutes or every one minute. And as a matter of routine, I would suspect which is all I can say at this point that Adnan was in the same kind of cell. So Shaker was an eye witness to Adnan's death as was another detainee I presume who was also there in a cell practically opposite to Adnan's. I can't say that he was eye witness. So all this cell block is, is a series of iron or concrete cells with the little key hole. There's no communal living. The US calls these the equivalent of single residence cells. That's how they put it. It may not be technical isolation by some definitions but as far as these men are concerned because they're confined 22 hours a day, they have this very limited ability to communicate, they're cut off from the general population, I can't really go further than that, but I think it's the fact that there's no communal life. The fact that there are so few of them, according to Shaker, blinding lights are shined into his cell. There are generators going right behind the walls.

Interviewer: Can you state, was Adnan and Shaker able to talk because they're so close through the plexiglass or through some?

- Well, I don't know that I have heard Shaker say that he talked to Adnan.

Interviewer: Or to the other person who was there?

- But based on the physical situations in other blocks that I'm aware of, it would have been possible for them to shout to each other. And there is information that is still classified that corroborates that Shaker could hear Adnan very, very well. So I don't doubt that they can communicate, but I and my colleagues still regard it as isolation. They factor isolation and that's the way it used to be throughout the camp until the camp began to allow communal living. No common rec. When you took rec, you took it by yourself.

Interviewer: That's true for these men that you're describing.

- That's right.

Interviewer: Right, so.

- And rec maybe a two o'clock in the morning.

Interviewer: Right, so he had very little of any communication with another.

- Right, or the general population though I have to say despite all, these men find ways to communicate with each other, not necessarily somebody like Shaker's not gonna get much information. At one point, my clients Saifullah Paracha told me that in the camp where he was, they used to talk to each other through air vents and through drainpipes.

Interviewer: Right.

- And I'm kind of, I've always been kind of surprised because you think that the camp was listening to the man although it listens anyway, and that the men would say something that would upset the authorities but this is just normal.

Interviewer: Well, it could be the authorities were not hearing what is being said just you know. You had mentioned when we took a break about having a gay client, which I hadn't heard before. Can you describe what it's like to be gay men in that community?

- I don't know of a single openly gay detainee. I think that an open detainee would be ostracized, totally ostracized. One of my clients is ostracized for far less in quotes than being gay.

Interviewer: Well, the government know though. I mean, people must know 'cause everything's on camera.

- But they don't engage in sex in the camp between themselves. But hilariously there's a warning sign at the exit into the rec area that says no sex in the rec area, yeah, so.

Interviewer: You've been told that, are you serious?

- I've been told that. Anyway, it began to emerge. I think the first time I and my translators noticed anything that was a little bit out of the ordinary was when my client and I were sitting at a where he was at the head with his back to the wall. And instead of being here with my back to the door, I was perpendicular facing the cage. He put his foot, his ankle, his shin on mine. I think he was wondering what my reaction would be. I didn't react at all. Other things, he'd say to me, you're my lawyer but you're so much more to me than your lawyer, than my lawyer. At some point I wrote a note to him that I had translated because I didn't want to embarrass him by saying it. I said, look, one way out of here is if you acknowledge you're gay.

Interviewer: Really?

- I mean, no, that's a guess on my part because of the risk the authorities would assume he'd be subject to.

Just we're always looking for ways to get our clients out. So the long and the short of the note was if you're gay, we'll use that to try to get you out. And his response after he spent about two minutes looking at this and thinking was a lie that I am, if you want me to.

Interviewer: And you don't think the other detainees would pick up this?

- Who knows? I think, he said it it's a secret. I assume it's a secret.

Interviewer: And the authorities, you don't think pick it up or they don't wanna pick it up.

- I don't know. Ask them.

Interviewer: Yeah, interesting. Can you tell us why that (indistinct) was ostracized?

- That was another detainer that I mentioned. My clients Saifullah Paracha, He's a Pakistani. He speaks perfect English because he came to the US in 1971. He's a green card holder. His wife is a green card holder. He has family in the US. He's the one who was kidnapped in Thailand. And the government's accusation is that he was a financier for Al-Qaeda. He doesn't speak Arabic. He only speaks Urdu. The authorities have stuck him in a cell block of detainees who only speak Arabic. There are other detainees. I think the brothers Ramah Rabbani the Rabbani brothers who speak Urdu but they've put Saifullah in this block where nobody speaks Urdu. And this has gone on for many, many years.

Interviewer: Well, how does project communicate or does he not communicate with anybody else? He isolated by language then.

- Within the block, although there may be, I think there may be detainees who speak English and Arabic.

Interviewer: Oh, but other than that, he would be isolated.

- He wouldn't have no way of communicating except with the guards. And that is probably his salvation. He knows a lot. I mean, he knows, and this gets into another area that I'll cover very briefly. He and other detainees now know everything that goes on in the world. In fact, sometimes I go there and they tell me things that I don't know with the access to all the media I have access to because a few years ago after keeping the men totally incommunicado, the authorities put television sets up which included state televisions but that's better than nothing and Al Jazeera English. It made it very hard for the Arabic only speakers. And in fact, some of the friction among the detainees involved, what channel to watch which must be familiar to all of us, children and adults alike, but Saifullah listens to CNN, listens to al Jazeera English. I've been on Al Jazeera English many times. And when I go down there all of the men say, I saw you there. Some men say, I didn't see your picture but I heard your voice. Others say, I heard your voice. And I saw you in your suit and everything. And one thing that got all of their attention, impressed them was something I said right after Adnan died, which was, they may not know the specific cause of death but it was Guantanamo that killed him. So anyway, that is a long way of going back to this Southern separatists. And

that is to explain that another client has been put in a similar situation.

Interviewer: I think you kind of sit there. I just want to confirm that, do you think Paracha was put there for a reason that he knew too much? Why do you think they put him with only Arabic speakers?

- Well, there are hardly any Urdu speakers. So the question is why is he being kept from the only other detainees who speak Urdu? And I think that the two others, I'm pretty sure the two others are these two brothers whose last names in our terms are Rabbani. I can't remember who, they are the Pakistanis, the Pakistan government considers them the only true Pakistanis. They think that KSM, Khalid Sheikh Mohammed is not a real Pakistani, but he's from another country and there's another 911 defendant. I think it's Mashi Con who's KSM's nephew if I recall. And when I've been over to the Pakistani embassy, those are the only real Pakistanis, the others come from somewhere else. So anyway, that's another anecdote on the side. So the mystery is why they don't put him with with Rabbanis.

Interviewer: Okay, and Rabbanis, have they been dedicated for release too, are they?

- I can't recall.

Interviewer: Okay I haven't touched on yet your trip to Yemen, you've gone several times.

- Eight times.

Interviewer: Eight times. Is there something you can tell us about those trips that might be interesting for the viewers?

- Yes, both a personal and the political levels. First of course, when I went to Yemen I was completely disoriented because it's nothing. I mean, it has no virtually no Western culture. You go to Saudi Arabia or Dubai, you might as well be or Hong Kong I mean, but Yemen in particular, because it's so poor and so backward, there has been hardly any American investment there. I may have seen one or two billboard signs for Kentucky Fried Chicken or something but there's virtually no Western cultural presence. So that's one thing. You can buy consumer goods. So that's one thing. The second was, it was all strange because the dress is strange for example. The men may wear these white robes, have their cathedral. That's how Arabic head covering on their heads, wearing Western style jackets. And it's a big point of pride if you have the label on the outside so everybody knows that you have Biani suit. And then they wear jambia which are curved knives in curved sheets, the kind that you associate with a Latin and the 40 knights, the women are virtually all attired in abayas that go from the top of their heads where their hijabs are to their ankles and they also wear knee cobs so that all you can see is the eyes. And the more conservative ones wear screens that go across so you don't even see their eyes. All you really see is these they're almost trouts because they're also designed not to indicate the body contours. And then you look down in there wearing Reebok's sneakers. It's the most paradoxical thing. We arrived there, we had this guy who was supposed to tail us around. We tried to get rid of him. It was very hard because we didn't wanna be followed by the KGB minder. It turned out that he was just this Porsche nook journalist, who was making a little money and he'd report

back to headquarters, but he wasn't a spy or anything. And we sort of managed to push him away. We went to, we first met the publisher of one of the English language papers who snuckered us. I use snuck her and she snuck out of \$100 saying that this was the price of this or this was the price of that. And you have to bear in mind that \$1 is two rials and rials are their version of \$1. So think of what \$100 means. If once I paid three rials for a cab drive, a cab, like being transported by cab which even though there was only two rials I think I may have the counting wrong, 300 rials or 200 rials. Don't take my word for it. I'm just giving you an idea. And the cab driver was so grateful for the 100 rials tip. That's how poor they are. Anyway, we found a guide named Nasser Arabi who was a life saver and became a very good friend. He is an international translator. He is a human rights activist and he's a journalist. He's played down the activist part of it over the years. He's respected by everyone, has no enemies, has unbelievable contacts and he became our guide. We met thanks to him, the almost all of the ministers. It's like meeting cabinet members here. The attorney general, the minister of the Ministry Human Rights, the minister of human rights, the minister of foreign affairs, the minister of this, this ministry that's very hard for us to comprehend, which is in charge of providing groups with medic with the religious charity. I mean, if there was never a combination of church and state, and most amazingly, he got us a meeting with the head of the political security office which is responsible for the political persecution so to speak and really captures political enemies of the regime, or at least accused ones. And we sat in a great room and he sat in one easy chair with the thick arms. I sat in another one, parallel to him. There was a table between us with water or tea. Then there was a circle of everybody else. And one of my young colleagues said it looked like a meeting between a heads of state. So it was an extraordinary. And then we had.

Interviewer: What was the reason to meet there?

- I wanted to say one other thing.

Interviewer: Sorry.

- We met with the media. We met with Arabic language press. We met with English language press, BBC, Germans, Japanese. Media from all over the world. My purpose in going there was twofold. First, I wanted to bring the families up to date and meet the families and try to give them some hope that people were really working for their sons, brothers, cousins, et cetera, in Guantanamo, and give them some comfort or sense of what was going on. The second reason was, that actually was threefold. The second reason was that I wanted to do what I could to build pressure on the Yemen government to place more pressure on the United States because president Abdullah Sallah, Abdullah Ali Sallah would say all the right things, but nothing would happen. And the third reason was purely a media reason to bring attention to the Yemeni detainees. So it was the, all three of these purposes came together in meeting with all these government people. And, but we had the great experience because of our guide of being driven from Sanaa which is the capital city and the edge of the states influence down to Ogden the old English colonial port whose biggest claim to fame is the Queen Elizabeth stayed in a hotel there in 1958. As you go, you go through another city but then you go through fields where women, till the fields or harvest the fields, wearing the abaya and sand pants. You remember those conical, there are blue thin blue plastic bags all over the place, the type you would get in a supermarket or what the newspapers are wrapped up in. They're all empty but they were all

used to carry cot, which is a narcotic not a heavy narcotic, but I think first stimulates you and then it puts you in a hallucinogenic state. To be honest, I've tried it a few times and it didn't do anything for me but you give you a little bit of a caffeine buzz. And we met people who were totally uneducated and illiterate whose lives consisted mainly of cot consumption and sitting around not exactly playing cards with other men but the equivalent of playing cards. We saw herds of camels as we went to the South. We went to, when I brought my wife and daughter, we went to a hot bath in a defunct volcano, but naturally there was one bath for men and another bath for women. I just can't be. And there's so much natural beauty in Sanaa, around Sanaa and starting to go down, you have these geographical formations that are sort of like what you'd find in Death Valley, I think with the road runner. But then as you go through toward the South to Tayis, you have these mountains where there that are terrorist for planting fertile area. And then as you go further to the South, it gets sandier and dryer again. So, and we went out to pure local Arabic restaurants. I mean, Yemeni restaurants, which is a whole other story in itself. We stayed away from anything that catered to Westerners or businessmen. And this is the kind of thing we wanted to eat where the common Yemeni ate and how the common Yemeni ate which meant sitting on the floor, usually on plastic, having maybe a dozen dishes in front of you and eating with your hands. And this is in a country that also has practically no paper products. So you don't get napkins. There's an area where you can wash your hands and the soap is like laundry detergent. And there's a box of tissues at the cash register. I love those places. There's a kind of place that has two big stoves. And all they do is prepare boiled lentils. I love boiled lentils. So I've told my friends that it's, I love the food that it's one of the best cuisines in the world but this is all to say that we were introduced to just the most fantastic. And I mean that in the old fashioned sense, the most fantastic civilization. Is the way I'd put it. Everything was strange. Everything foreign, our friend Nassar Arabi was just a treasure in being able to guide us around in his contacts, in his reputation. And he's been my guy ever since.

Interviewer: How did the families talk to you?

- Most of the families met with us. There was one that I can remember that definitely didn't meet with us. There might've been more than one but everyone was so desperate for news because these were and this was in the days before the camp allowed any kind of real communication between the families and the detainees. So the families were desperate for information. We wanted to learn what was going on with the families. Perhaps over the years, one or two families stopped meeting with us because we never had anything to say that meant anything to them in terms of your son's getting out of there. And they didn't care about all the political mumbo-jumbo. Mark Falcoff and another, a couple of other associates accompanied me and Mark took videos of our meetings with the families. And I have almost all, I have almost all the videos from those meetings, and they're kind of personal in the sense that I would say to the mothers or grandmothers, for your son's sake, take your knee cap off. That is what covers the face. So they'd still have their hijab on and the wives and the mothers, the grandmothers did, which was a totally amazing things for them to do because men are not supposed to see that kind of skin except their wives and maybe other women in the immediate family. So this was the equivalent of asking these women to take off their clothes but they did it because they wanted their sons to see them. And the women always cried, always ended up crying. Some of the fathers expressed gratitude and thanks which simply made us feel ashamed because we hadn't gotten our guys out. Others were kind of neutral. Maybe one or two were angry but almost all of them were very appreciative of us. One family down there in Adnan the father was there and three or four

daughters were there and they addressed in their Sunday best to see us. And we had a room in the local Sheraton and we explained things to them. Once we talked to the detainees and told them what we'd found, some of them were violently angry, not violently. Some of them were terribly angry that we had met the families. They thought it was a violation of their privacy, of the family's privacy. And that we were just agents trying to get information from them. And some of our clients prohibited us from seeing their families. These families, I mean, these detainees not only missed the births of their own children. Let's say your wife was pregnant when you were picked up and the growing up of their own children. But naturally that also applied to of the children not just their own children, members of the extended family, mothers and fathers died while these men were in Guantanamo. Abdul-Salam has one of the worst stories. His mother died. He says a part break about the detention but his two sons died horrible deaths. They were playing with a hand grenade that exploded, a live hand grenade.

Interviewer: How do you hear about it?

- I don't know. I think maybe the ICRC informed him but such as the setup in the camps, even now that one of my clients learned that his father had died only because the family of another detainee found out about it. So he didn't even get a direct communication. And one dimension of this is that most of these guys were picked up when they were 19, 20, 21. These were their golden years not just physically in the narrow sense but these are the years when you sow your wild seeds. Is that the right expression? Oh, you sell your oats. And these men are, have lost that. If they go back, they'll go back in their 30s, long after they would've set up families. Their most productive active years have been taken away from them. In some cases, our clients have spent a third of their lives in Guantanamo away from their families away from their homes. And for them, our world is a strange to them as theirs is to us. Back to Yemen briefly, I met with former Al-Qaeda members. former Taliban ministers, others who I suspected were Al Qaeda because one of them gleaned over at lunch and said what's your view on martyrdom operation? And I said, well, look, I'm just against innocence civilians being killed. And that was part of an experience. That's another story if you ever do follow ups, because I have a billion of these stories. Another one was, I don't remember his name at the moment but he's a former Al-Qaeda guy. He was Osama bin Laden chief body guard. He's the man with no country because he ratted out the Al-Qaeda people, his buddies and the government tolerates him. But isn't in love with him either. And I must tell you about one conversation I had with him. It was maybe the first time I met with him or the second time, we met in the dining room at the hotel Sheba, which is where we stayed all the time run by Indians and pretty Western in the sense that it had Western toilets and a business center, had spoke English. So we met in the dining room there in one of the non-smoking tables There are smoking restrictions, consistent smoking tables, non-smoking tables. And we were talking politics and we were talking about 911. And I said, look how many civilians were killed? And he said, "That was collateral damage." I said, and besides think about how an Afghan mother or wife feels when they hear American bomber jets fly overhead. And somehow or other we came to the subject. I know what I said. I said, I find this situation kind of ironic that here you have Pakistan with thousands of nuclear weapons and Afghanistan, this poor primitive country. And he said, "Well, all I'd need is one nuclear weapon." And I said, for what? And he said to drop on the United States. And my palms get sweaty. I said, you're scaring the shit out of me. My palms got sweaty. I don't think many Americans have broken bread without Al-Qaeda members or former Al-Qaeda members or Taliban ministers, people who were in charge of getting the Taliban safe passage out

of Afghanistan or out of Pakistan or wherever they were after 911, who could describe sort of organization. I don't mean like an organization chart, but where they fit in, what kind of position for work and so on. It was an extraordinary experience I have, stories within this story. We could go on for 10 hours that I could discuss. I had to get a security clearance to do this work because well, you can speculate on the government's reasons for acquiring it. And every other lawyer has to get a security clearance. I think that wherever my father is up there, he must have been totally amazed, but also kind of mused that I would get a security clearance because remember what security clearance has meant in the '50s or '60s, then I want to represent a high value detainee and to get a security clearance means getting a top secret clearance SCI, TSSCI and the TSSCI stands for, the SCI stands for secret compartmented information which means here's secret, here's top secret and then here's SCI. You just get a sliver what you're working on. After three years of struggle, I got my approval. Think of what my father would have thought. And at the moment, I have a pretty good shot of joining the defense team for Khalid Sheikh Mohammed.

Interviewer: And you'd like to do that?

- I think that I want to do that more than any thing next in my legal career. Why? Do I think he's innocent? Well, for reasons of privilege, I'm not going to answer the question. Should he serve a very harsh sentence? Well, because of privilege issues, I'm not going to answer the question, but to me, this is a political trial. It's a show trial, although it was one of his lawyers pointed out it's the first secret show trial. And I really want to use the trial to put our system of justice on trial to expose the proceedings as the political proceedings show trials that they are. I suppose, one of the motivations of this relate back to my father but also when I was in the late '60s, I was a great admirer of the defendants in the Chicago wait trial. I thought that some Black Panthers, I sort of glorified in my mind certain Black Panthers and what they went through. I think it was a guy named George Jackson but he was one of my, I was angry about the injustices visited on him. So I think that that political education was a big part of it. So I wanna get in the middle of this not the criminal law aspects but for the political aspects of it.

Interviewer: I have a few more questions but do you have jotted down some notes? Are there some things you want to address now and then I can kind of go into more questions?

- Okay, this is just a detail. This is just a detail. The first is that I want to acknowledge the incredible support that my law firm, Covington & Burling has provided since I left. While I was at the firm during the Rasul period up until the Boumediene period, the issues that we faced legally were not client specific. They were all broad issues. Like what should the protective border look like? Should the government be able to dismiss the cases? Because there was a stay of Rasul and we weren't allowed to actually move forward in court. When Boumediene was decided, all of a sudden we had 13 separate court proceedings. So I couldn't have done it alone but I'm not just expressing appreciation to them because they enabled me to continue to do what I was doing but they put so much resources into this because these detainees continued to be their clients and Covington was just unstinting and not only were they indispensable but they stepped up to the cases. I ended up still doing a lot of the common issues. I have been working very intensively with the media while Covington has handled the sort of day-to-day nuts and bolts matters like discovery and motions. Very important motions, I have to say, but they have eight associates, nine associates, and two partners.

Sometimes I joke that I'm getting more support now that I've left the firm than I had when I was there. Although I don't call all the shots now. The other is that I've received threats including a death threat, as well as your ordinary abusive email. The guy who sent the death threat didn't reach me so he left the message on my phone mail. (laughs) And he swore he used every crude word in the English language and his last sentence was, watch the back of your head or watch your back. But it was clearly you better count on being an object of a threat here. And then over the years I've just received several emails about, again calling me all sorts of names.

Interviewer: Who are these people? Do you know who, I mean you don't have to give us the names but what kind of person left you this?

Interviewer: This particular guy, we don't know who he was. The firm went to great lengths to track it down. And the very, very vigilant security people at Covington had me keep the shades down and the blinds closed and be very careful when I walk home, they took it very seriously and they did a lot of investigation, but they could never find. The others, I suppose some were really hostile at a serious political level. But there was one woman who sent me an email with how could you do this, et cetera, and so forth. And I picked up the phone and I called her and I said, well this is a question of basic fairness, would you wanna be held without charge, without knowing how long it would be with no evidence against you? Would you want, how would you feel if that happened to you? And she said, "Look, I'm just scared. "I don't know what to do. "I've gone a long way by trying to speak to these people. "I don't mean that derisively people who have threatened me "and very often, that's what it is, it's fear." And they'll admit that it's fear. Sometimes they'll just say, well you're representing killers, but then you have these people and they are so appreciative of having someone like me talk to them, acknowledge the reality, but the fears. So those are the two things I wanted to mention.

Interviewer: Well, a couple of things. Did you ever go to Camp Seven or did you see Camp Seven or Camp No, either one?

- I have never seen Camp Seven. I don't believe I ever, I won't ever and I don't even think the lawyers for these men have seen Camp Seven. I think that there is a separate interview site for these men. I mean, you can see Camp Seven aerially through Google. And one of the lawyers for an HVD told me that I can find it simply by comparing the image before it was built with the image after it was built. As for Camp No, I never saw it. I think it might've been taken apart and I wouldn't have seen it.

Interviewer: And why do you think it has been taken apart?

- Probably because it was revealed. It became camp yes.

Interviewer: You mentioned you had an incident about the toilet that you wanted to tell us. You might have a shocker but it was a separate one.

- There was a separate one, which is sad, very sad and also humorous. One day I was having a meeting with

Adnan Lateef and my translator was sitting on my left and I was sitting there and he was sitting across and toward the end of the meeting, he started engaging me in a heated argument about whether a particular detainee who was still in a camp. I knew that he wasn't hot and was insisting that he was. And then at a certain point, Adnan picked up a little container of his blood and threw it at me. And I was drenched from head to my knees. And even though it was a little cup, it's bladders and goes a long way. If you think of it in terms of drops and what Adnan had done, and he's known for this kind of ingeniousness was slice away probably with his fingers a chip of Formica from under the table and use another cup that I had brought that he took off the table without my seeing it. And he used the sliver of Formica to cut his wrists and drip his blood into the cup. So the blood hit me. I was shocked, I wasn't angry as I would have been with my other clients, I think. And I was in sort of a shock days. I kept saying, why are you doing this? Why did you do this? And at a certain point, he just said, "This wasn't against you." I have to go back and say that when he threw it at me, he said, "This is so you'll remember me." My translator says that when he did this, he had some look in his eyes that indicated that he didn't know what he was doing. He was being guided by a Jinney or Jin which is what Jinney is derived from but in this case it's the little devil sitting on your shoulder making you do things that you wouldn't do otherwise. And I was taken out of the cell quickly by, I had occasion to look up Jin the other day. It's J-I-N-N-E-Y. I think so, if you wanna look it up and he had always claimed, by the way my footnotes are like a law review law review footnotes. He at the beginning claimed that he had attempted suicide under the influence of a Jin because it was contrary to Islam to try to kill himself. So I wasn't responsible for it. Anyhow, the glaze look in his eyes, the guards immediately rushed him and all of a sudden it wasn't guards and lawyer. It was person to person and American to American. It was so amazing. A complete change in personas. I washed my eyes out in one of those, I washed things. And then I went back to the next at lunchtime which is the department store supermarket, a place that people buy the basics at. And I bought a new shirt and I bought a new pair of pants. I didn't buy a new pair of sneakers. And for a year afterward, I walked around with sneakers with Adnan's blood on them. Now that's just the beginning. The next visit I think this was May and June. The next visit, they would only let me see Adnan under the most restrictive conditions as though he was Hannibal Lecter, but in a certain way, he controlled them in the way that the joke goes one rat says to the other, every time I press the lever, he gives me food. So anyway, he came to the hut with about three soldiers on each side with hard handcuffs. And of course they were chained to his waist chain and they were connected to his ankle chains. But in addition, he had a second set of what amounted to handcuffs that amounted to a straight jacket. They pinned his elbows to his side and they pinned his hands to his shoulders so that he was essentially immobile except for walking. And I didn't see him approach, but with these guards on each side and him in his chains, I again thought of Christ and the Romans going up the Hill or of a Royal procession. And it's the Royal procession aspect. I mean, it's sort of horrible from the outside but he must have said, hey, look what I've accomplished. Nothing could be done out of the protocol without the commanders specific instructions. When he was brought into the cell, they don't let him sit behind a camera. I mean, behind a table or anything, they don't know what this wizard will do next. I said, how is he supposed to eat if both arms are like this? So they followed it up the chain. And finally the top guy said, okay, you can loosen his right hand so that he would be like this. There were two guards inside this hut which is obviously a violation of the attorney-client privilege about six guards outside, looking in or looking at what was going on through a camera. My translator took off for lunch at about 12:00 but I wanted to continue to sit with Adnan. At about 12:20 he said that he had to go to the bathroom which meant moving him from his chair to the cage. I convey that to the poor young guard who said, well, we can't

move him, we have to keep him in that chair with those restraints, I'm sorry. And I said, well, please try to get permission. So she left and nobody ever came back. Then as it approached one o'clock, he said, "It's time for afternoon prayer." So I again, notified the people on the outside and maybe it went up the chain, but the answer was, he cannot be moved to the cage. we'll put a prayer mat in front of the chair and he can pray on the prayer mat. Well, obviously that was unacceptable to him. So they said, all right, we'll bring you into the cage. And there were several guards in the room at the time. And I said, would you please remove his upper body restraints so he can use the toilet? And they said, no, he can't. He has to keep them on while he goes to the toilet. And I said, well, you have to remove his upper body restraints for him to pray. And they said, no, we'll just lay a mat out. Once I went berserk, but I complained very vigorously but had no success. So he didn't go to the toilet and he didn't pray and demanded that he be taken back to his cell. But here's the thing that makes it even more interesting. When they said that they would not remove his upper body restraints, I went immediately to the next, which had only telephones I could use. I called up my counterpart at the justice department explained the situation said that I wanted to talk to the judge. This is judge Henry Kennedy, on very short notice. And at one point I said there, well, at one point, I said they're treating him like KSM. And judge Kennedy said, what's KSM? So not everybody is quite as intensely involved. So we went through, I filed an emergency declaration explaining what was going on, an emergency motion. And you just go back and these are public documents on the file. Motion to allow client to go to the toilet and pray without restraints, 'cause we like to tell the story through the name of the brief. And here is what is amazing about the call. From now on he said to the government never bring him to his lawyer at a time when he'll have to pray because under no circumstances am I going to allow you to make him pray in chains? That's just out of it. The government lawyer said with respect to using the toilet that they wanted him held in chains for force protection reasons. It's a book response, but they were basically saying that it was a security threat. He's in this cage, a locked cage, no contact, no physical contact with me, two guards watching him from two different directions. They wouldn't let him out of the chains saying that they feared he would act up. So one got past the prayer point and got to the toilet point, the government lawyer said, there's a security issue here. And Judge Kennedy, and this could go either way. Said, well Mr. Remes, I'm not going to second guess the military's determination that there's a security issue here but the man and then the lawyer said, the government lawyer said and I'll have two things out of order. We know how to manage the situation. And I said but one thing you can't do is tell a man how to go to the toilet. And here's the worst part of it. You have this federal judge, this August figure with such power and such dignity saying to the government lawyer, well, he has to be able to clean himself. And I have the transcript of our conversation based on my notes, but it was surreal. So when we went back and he heard that he'd have to stay in chains that's when he broke up the meeting. And he's the one who died last month. I managed to have some of the most colorful clients at Guantanamo.

Interviewer: And pregnant stories.

- Yes.

Interviewer: Since your clients are the ones most impacted in numbers by the fact that there are a lot, almost half of them left in Guantanamo and they're not gonna be released because apparently you haven't is too unstable, Can you, I guess (indistinct)

- That's assertively why.

Interviewer: It's assertively why. Maybe you can just that but in the same context, could you address how you see the Obama administration since you have a good sense of it? Many lawyers we interviewed were there early in the early days, but you're here in the present and you could just address.

- Let me, I'll do that. Let me also say, as a matter of process that if you need to break this up, I'd would be very happy and very eager to come back for another session so I can fill in some of the details.

Interviewer: Let's take a break for a minute Johnny?

Johnny: Yeah.

Interviewer: Okay, so we're back on is to your thoughts about the Obama administration, given that you have so many clients who are impacted by his actions for you could best explain what you think about what the Obama ministration has done compared to Bush.

- Obama was naive coming into office. He didn't anticipate that the Republicans would turn it against him and make it a terrorism issue. He thought there was universal support for it, which in fact there was. Bush said he wanted to close it, McCain said he wanted to close it. But Obama came into office. He signed the executive order with great flourish and fanfare and made it a signature issue. He then set up a task force to review each man's file and make a determination of whether that individual should be kept or released. It's my sense that people within our habeas community pressed for this task force on the theory that, oh, well once you look at the files, it'll be clear that nobody should be here and then let everybody go. I think that this was, it turned out to be a huge mistake in retrospect. I opposed a lot of other people opposed it. We said, what do we need a task force to get them to get rid of people from Guantanamo? After all 779 men passed through, Bush released 532 of them. So I think in the first couple of weeks, Obama could have released a large number of men but he didn't. Instead he made Guantanamo a signature issue and opposing his plans for Guantanamo became a big political sledgehammer for the Republicans. And because he had set up this task force which didn't come into existence or functioning until mid spring or late spring. And then which took a year to complete, the Republicans filled the vacuum, made Guantanamo a litmus test for whether you're for terrorism or against terrorism. And at that point Guantanamo became a big political issue for Obama. If he hadn't made it up a signature issue, if he hadn't put the target on his back and he had just done it, I think a lot of men who are there now would be gone. But instead as I say, they thought they were smarter than the Bush people, better educated, fair, jester, rationaler and they just at smarter themselves with the task force.

Interviewer: And the same thing goes with the a week is that could have been brought to America. That's part of the same time.

- If you'll let me, I'm gonna answer the question but let me go back just a little bit.

Interviewer: Okay.

- There was something I was going to say, but I got distracted, so I'll go on. Oh, I know what I was going to say. At the point that it became a political hot potato, President Obama retreated every single time. He thought Guantanamo, I guess, would be this isn't easy dramatic break with Bush, everybody will love me and now I can go on and do what I wanna do. And his biggest program of course, was the healthcare reform legislation. Rahm Emanuel as his chief of staff is widely believed to have sold Obama on the idea that Obama should expend absolutely zero political capital on Guantanamo because what was more important passing healthcare legislation that would affect millions, tens of millions of people. We're getting a few guys out of Guantanamo where there's absolutely no political upside, only down side. And we're just not gonna lose a boat over that. So I think that continued, there were very ardent supporters of closing Guantanamo such as Greg Craig, who I think was in charge of that issue in the White House but he got kicked out, partly over this issue. I was in Guantanamo when president Obama issued his press release, his executive order. When I heard the advance news that it was coming, I was almost elated. And my clients said to me, "David, you always see the glass as half empty or more." And that is my policy because I don't wanna oversell anything for the sake of my own credibility and my pessimism has never failed me. So they had that advance notice but then when I saw the actual executive order the next day, I saw the loopholes that were built into it. When I got to a point which says any detainees who aren't sent home by the end of the one-year period shall be transferred to detention facilities elsewhere. That was the loophole. Now of course, it all became moved later on. But when I looked at the loophole, when I looked at how carefully lawyered the document was to really leave Obama a very free hand, I realized that it was more sizzle than steak, as we said in 2012. Anyhow Obama, and I use him as a shorthand for his administration. Finally set up this cumbersome Guantanamo review task force naturally as a government bureaucracy it took a long time to set up and it had to establish protocols and methods of review and on and on. In the spring maybe April, the administration found in North Virginia a community of Uyghurs who would welcome the 22 Uyghurs at Guantanamo. I think it was 22 at the time with open arms, take them in, make sure that they succeeded and would just generally support them. So the administration decided to send the Uyghurs to Northern Virginia. By the way, I may be misstating the number. It may only have been four Uyghurs that were 22 all in all at Guantanamo. So they were going to do that. They were about to do that then somehow or other news got out that they were going to do it. Frank Wolf, a representative from Northern Virginia raised a stink about it. God everybody's scared and concerned. The administration just backed off, no attempt to defend it. They're just okay. They just backed off. And that had very serious ramifications because later on down the road when ambassador Dan Fried was trying to resettle many detainees in Western Europe, Eastern Europe, these countries would say, well, why should we take these guys when you won't even take them? And I think he said at one point, this has recently been quoted somewhere that it would reduce his success by 50% or 60%. Again, the historical record should be checked but it was sort of that kind of a statement. If the other countries say to us, why should we import your headache? So that made it very difficult to resettle people. The next event, if I recall correctly was November, 2009 when Attorney General Holder announced that the 5911 defendants would be tried in federal court in New York. Actually it wasn't the next event. There was a speech that Obama gave in the National Archives in May of 2009, in which he laid out the various principles. He was going to follow in deciding who to keep and who to release. And it winded up bringing him all the

positive publicity of his first debate in the presidential elections. I mean, it didn't do him any harm but it sort of sank like a stone but he laid that out and he was pretty faithful to it. It contemplated indefinite detention by the way, which dismayed us. So Obama took the position that he should have the flexibility that some people should be tried in federal court, other people should be tried in the military commissions and he decided to, and I'm not just saying this on my own authority. It's stuff that I've read and studied educated recounting. Okay, he wanted the first trial to be a trial in federal court of the 5911 defendants because he thought that this would be the ultimate proof that the civilian system could work and deliver justice. There might be other people. And he actually named about five other people as I recall who would go to the military commissions. I don't remember who they all are but initially Mayor Bloomberg, he, by the way Obama chose the Southern District of New York which is in Manhattan, Mayor Bloomberg endorsed this. There may have been a couple of other prominent politicians who endorsed it. But once again, as soon as it became known, there was an explosion and within a month or two, Eric Holder had withdrawn or dismissed the indictment and it became evident that if they were going to be tried anywhere, they'd be tried in Guantanamo. The scare was, it wasn't Frank Wolf this time. It was representative Peter King who I think is from Staten Island but he may be from one of the other outer boroughs. That's how people broke up in New York talk. The city means Manhattan. So all of a sudden, oh my God, instead of being a symbol of our strength to try these guys two blocks away from the ruins of the world trade center, it became a full hearty invitation to terrorist attacks. They contemplated having hundreds of police. Everybody from the tri-state area would have to come in figuratively speaking. Then, and as I said, they feared that there would be terrorist attempts that would cost hundreds of millions of dollars. Okay, so he backs off from that in December, 2009, then the task force report comes out in, and I use that to illustrate his unwillingness to expend any political capital to promote his own policy. Now, in the Uyghurs case, their explanation, the administration's explanation is, well, we didn't work it out in advance because if we thought, if we did, we knew we'd get an explosion, but the problem is having not made the foundation for this, they suffered the consequences politically. So then in 2009, you get the joint task force report. People slowly start being released. Only 67 have been released from Guantanamo alive of those who have left Guantanamo, all of whom would have been approved for transfer by the task force. So, and ambassador Fried had a very hard time because we wouldn't take anybody. The other aspect of this that was really ironic is that at the very time, the US was trying to convince other countries to take these guys. He put aside the question of whether we take them or not. It was arguing in court that these were Al-Qaeda members. These were Taliban members. The US had a lawful right to hold them because they were dangerous. The justice department and the state department were working completely across purposes. Why should we take a terrorist? Why should we take anybody? So that's what was happening with respect to the effort to release people. Then the next thing that happened of significance is December, 2009, I guess this was shortly after Holder folded. There was the Christmas day airliner bombing attempt by I won't even try to remember his name, but he was colloquially known as the underwear bomber. In weeks before that, there had been a shooting in Fort Hood in American base. I can't remember what state, by a Muslim. And it was believed that the Muslim had been in contact with this American cleric in Yemen named Al-Awlaki. And so Al-Awlaki was considered to be a spider in the center of the web. Then you have the Christmas day bombing and it immediately becomes a matter of belief that the Nigerian who tried the bombing had also been in touch with Al-Awlaki. That built Al-Awlaki up even more. Although in fact, he was a pretty minor figure as I understand it. So within a day or two, senior political members of Congress from both parties were demanding that Obama stop transferring

Guantanamo detainees to Yemen. They said that, the administration said when they announced it that this was because of unsettled conditions or the unsettled situation, but it wasn't, it was a purely political move to quell this political uproar. Now since Yemenis account for over half of the detainee population right away there, you've said, these guys are off the table. Not only are they half of the population but they're two thirds of the men who have been approved for transfer. And I don't have to spin out the implications. Then Congress got into the act and began passing legislation that really tied the president's hands by requiring him to make certifications or his secretary of defense that no secretary of defense would make. And meanwhile, the courts particularly a reactionary DC circuit kept ruling for the government. And the worst ruling of all was that even if a detainee one is habeas corpus case, the court couldn't enforce an order against the United States to release him. So that eliminated habeas as a remedy for all intents and purposes. So look where we are. Congress has tied the president's hands. The president has taken half the detainees off the table or two thirds of the approved ones. And the court has said that he doesn't have to release even people who were in habeas cases. So we had all three branches of government against us and we still do, we still do. And we probably always will. I don't know what will break this issue and then achieve the results that we're fighting for. That's pretty much been the situation so far from a legal standpoint. Congress has passed the Guantanamo, the defense, sorry the National Defense Authorization Act a couple of times for 2011, 2012, that had these restrictions in them. And it's now considering the act for 2013 and there's no reason to believe that the restrictions won't be there actually 2012 was more restrictive than 2011. Obama is not going to drop his policy. Then Romney certainly won't drop his policy of keeping people from being transferred from Yemen. And I don't think an American president will transfer more than a trickle of detainees as long as it will be hardly noticed and not controversial at all. One of our clients Hodson Odine one is habeas case and the government did transfer him to Yemen after he had won the case and didn't appeal because his story aroused so much outrage. He had been a university student who visited a friend the evening that the Pakistani police raided the house, seized everybody in it. And then he wound up in Guantanamo for eight years. And the district court Judge Kennedy wrote a scathing opinion. So the US made an exception to the no Yemeni policy and sent him back, which was great.

Interviewer: When was it?

- This was in the summer of 2010. They released two other of our clients in December, 2009 before the airliner bombing attempt together with three or four other Yemenis and their plan as I understand it was to ship about half a dozen Yemenis every month back to Yemen. But these two guys sort of caught the last train out of Paris. It just became pure luck because the Yemenis were then stuck. The Guantanamo has not been even a gleam in anybody's eye in the presidential campaign. The war against terrorism so-called, hasn't really been an issue in the presidential campaign. I don't think any president is going to release more than a handful of detainees because there's no political upside, it's all downside. And so I think my final judgment is that Obama was naive coming into office, thinking that it would be easy and applauded and popular, and he thereafter exercised no leadership in promoting his own policy. Didn't give support to members of Congress, kept litigating the habeas cases as fiercely as Beverly has ever before. Wouldn't spend a simple grain of sand of political capital on it with the result that the men continued there except those that Dan Fried was able to get out, which actually isn't unimpressive. When Obama came in, there were 242 detainees and the US has released 67 by now. So that's really a quarter of the population, over a

quarter of the population but there are still almost 90 men who have been approved for transfer, who haven't been transferred. There's still the regime of indefinite detention and there's still the regime of military commission trials which were invented to make it easier to convict defendants. It's like I say to my friends, the situation is hopeless, but I'm not discouraged.

Interviewer: Well, I was gonna say if there's anything that I didn't ask you but I just wanted to say, 'cause you kind of said, I just wanna confirm going forward. You don't see change. I mean, it's not, it could be inevitable at some men are gonna die in Guantanamo. They're just gonna live their rest of lives there.

- When my, yes, I do. When one died of a heart attack, one died of cancer, I have the dubious distinction of representing the oldest detainees at Guantanamo. Saifullah Paracha who's in his 60s and I have another one who's in his 60s but looks like he's in his 80s and Saifullah has serious heart condition, serious diabetes. He wanted to be operated on in the states. They wouldn't do it. And he didn't wanna be operated spread eagle than having his arms and legs chained to the operating table. So the result was that he lives off his medication but that's just a digression from the fact that I can see no end to this. And even though the men are mainly in their 30s and 40s now, I see no light at the end of the tunnel, except for a few unusual detainees Shaker on is an example. Maybe the two remaining Uyghurs will be examples but they will be the exceptions that prove the rules the rule. And like I say, I don't see an end to this at this point.

Interviewer: Well, and that kind of depressing.

- May I say one other thing?

Interviewer: Yeah, please.

- Which I wanted to say.

Interviewer: I was gonna ask you (indistinct)

- Yeah, well, this is the other thing I wanted to say. This is an oral history with the expectation that in a decade, two decades, three decades, people are still going to be interested in this, are going to be writing about it, are going to be researching it. The books will be written that this will be like the Japanese internment situation. And that it really is a matter of historical importance. I think that some of the habeas lawyers who came in to the case, there were probably about 200 at one time, came in because this guy's being unjustly detained. We wanna get him out. Others came in saying, looking at it like, we're a law firm, this is a case, we'll pursue the case and we win, we win, we lose, we lose. But then there were others of us who viewed Guantanamo as a cause and have devoted a large chunk of our lives to this. Or in my case, it appears a never ending commitment to this unless I get on a defense team and one of the trials of the 911 defendants. And I am conscious of the historical character of the work that we're doing. And it's kind of an amazing thought of becoming part of history. Maybe a footnote, maybe only one mentioned in the index but really a part of history. I'm conscious of that. I think the people at the center for constitutional rights and the other human rights organizations recognize it but now the number of lawyers working on the cases who

regard it as a cause or calling have dwindled maybe to a handful, the CCR people, the reprieve people and so on that I mentioned, once the cases were allowed to move forward individually in the Boumediene case, people paid attention to their individual cases and didn't pay attention to Guantanamo. So you immediately lost that among the habeas lawyers plus Obama was able to diffuse the issue to a large extent. But so we're faced with a problem that Guantanamo really isn't viewed broadly as an issue anymore. There are very few of us in the habeas council community who present it as a cause. And that's very sad 'cause we're not taking advantage of the resources we have but I think that we're conscious of the historical dimension of the matter.

Interviewer: Well to just add, I think, I mean 50 years, it took six years for the Japanese to determine it. It could take that long, a generation for before people really do look back at what happened in Guantanamo. So what you're telling us, it would be I think more worthwhile 30 years from now than it is today. People will finally be willing to look back at what happened?

- There should be a record.

Interviewer: And I really appreciate what you've given us. You've given us the longest interview you've done up to now and we really appreciate it. And before we.

- And if you had come back, I'm glad to give you more time.

Interviewer: And I welcome that and it might happen. Before we close, Johnny needs 20 seconds of room tone where we just exit quietly, so before we can turn off the mic, so.

- Right.

Johnny: Begin room tone. End room tone.