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MI5, Camp Delta, and the story that shames Britain

Bisher al-Rawi and Jamil el-Banna are among eight British residents who remain prisoners at the U.S. Naval Air Station at Guantanamo Bay, Cuba. They are jailed because British officials rendered them into the hands of the CIA in Africa, a fact that may explain why the British government refuses to intercede on their behalf. Bisher and Jamil have been wrongfully imprisoned now for more than three years. This is the story of their betrayal by the British government and their appalling treatment at the hands of the CIA and the U.S. military.

By George B. Mickum

Published: 16 March 2006

The author, a partner with Washington law firm Keller and Hackman, represents Bisher al-Rawi and Jamil el-Banna. This exclusive report is compiled from conversations with his two clients, their declassified letters and declassified legal responses, and information provided by the US Military

Several weeks after 11 September 2001, two MI5 agents arrived at Bisher al-Rawi's family home to recruit him to work for British Intelligence. The visit was part of an effort to recruit scores of individuals from London's Muslim community for reconnaissance work and to assist the war on terror.

ABU QATADA

In particular, MI5 sought contacts with some of the Muslim clerics preaching in London. Mr al-Rawi was a perfect candidate, educated, fluent in English, and a friend of a Muslim cleric named Abu Qatada. The agents presented identification, introducing themselves to Mr al-Rawi as "Alex" and "Matt". However, they are the same names the agents used throughout the Muslim community in London.

The agents asked Mr al-Rawi wide-ranging questions, which he answered candidly. At the end of the meeting, they asked if he would agree to speak to them again.

Two more meetings took place at Mr al-Rawi's family home in London. At the agents' suggestion, Mr al-Rawi started meeting them at a coffee shop in Victoria station. Shortly after, the agents asked Mr al-Rawi to work for MI5 on a more formal basis. He agreed. Over the next nine months, meetings took place in hotel rooms in and around London.

Throughout Mr al-Rawi's relationship with MI5, his agents pressured him to accept payment for his services. He refused all such overtures. The only thing Mr al-Rawi, 38, who is Iraqi born, ever accepted from MI5 was a mobile telephone. He took it to put an

end to the agents' demand for him to be contactable.

As his work with MI5 continued, Mr al-Rawi became increasingly alarmed about his relationship with MI5 and his potential exposure. Eventually, he sought assurances from Matt and Alex that his work as an intermediary between MI5 and Abu Qatada would not get him into trouble. Ultimately, he requested a meeting with MI5 and a private attorney, suggesting the human rights lawyer Gareth Peirce. MI5 refused.

To assuage his concerns and convince him to continue working for MI5, the agents set up the first of two meetings with an MI5 lawyer whom they called "Simon". Alex and Matt were present at both meetings. Simon introduced himself to Mr al-Rawi as a lawyer with MI5. He conceded that Simon was not his real name. Simon assured Mr al-Rawi he was running no risk by working with MI5 and that MI5 and Simon himself would come to his aid if Mr al-Rawi found himself compromised. Simon told him that all he needed to do was record the date and time of his conversations with Simon, and MI5 would be able to identify and locate Simon. Mr al-Rawi's refusal to insist on a meeting with a private attorney would have devastating consequences.

Abu Qatada was completely aware of Mr al-Rawi's relationship with MI5. Mr al-Rawi carried questions and answers between the parties, served as a translator, and participated in negotiations with Abu Qatada. "All I did in Britain was try to help with steps necessary to get a meeting between Abu Qatada and MI5. I was trying to bring them together. MI5 would give me messages to take to Abu Qatada, and Abu Qatada would give me messages to take back to them."

It was during this time that Mr al-Rawi's good friend, Jamil el-Banna, a Jordanian British resident, became involved. While the British Government was publicly asserting that Abu Qatada's whereabouts were unknown, Abu Qatada was actively engaged in a dialogue with British officials that involved Mr al-Rawi and Mr el-Banna. Mr al-Rawi asked Mr el-Banna to drive Abu Qatada's wife and son to meet Abu Qatada in London. Mr el-Banna followed Mr al-Rawi, who led the way on his motorcycle. When Abu Qatada was arrested, Mr el-Banna taxied his wife and child home at the request of the British officials on the scene. Mr el-Banna never was arrested: the police thanked him for his assistance. He was never even questioned because everyone was aware of his limited involvement. Based on this involvement, he has been tortured and jailed for three years.

ARREST IN GAMBIA

Mr al-Rawi then turned his energy to his brother Wahab's long-planned mobile peanut oil factory, a project in Gambia.

Gambian authorities detained Mr al-Rawi, Mr el-Banna and their friends immediately after the group landed in Africa. Indeed, shortly after the arrest, Gambian authorities told the arrested group that the British had told them to make the arrests.

There is no question that British officials rendered Mr al-Rawi and Mr el-Banna into the hands of CIA officials in Africa in November of 2002. During one of Mr el-Banna's more than 100 interrogation sessions, his interrogator told him his adopted country had betrayed him

A British citizen, Abdullah El Janoudi, who accompanied Mr al-Rawi and Mr el-Banna to Gambia, confirms that a large American by the name of Lee told him British officials had the group arrested. He also confirms that during the interrogations that took place every two days, the CIA continued to press for incriminating evidence about Abu Qatada that linked him with al-Qa'ida.

In Africa, the CIA had a complete file on Mr al-Rawi that included his hobbies, information that can only have come from British Intelligence. Mr al-Rawi states that "from the very beginning in the Gambia the CIA said, 'The British told us that one of you was helping MI5.' By the second day in the Gambia, they [the CIA] were asking me to work for the US in Britain. I said I would not."

AFGHANISTAN

Although Mr al-Rawi's brother Wahab and another friend were released after a month and returned to England, Mr al-Rawi and Mr el-Banna were rendered at the end of 2002 in a CIA Gulfstream jet, one of a fleet of jets used by the CIA in its "extraordinary rendition" programme, in which the US transports victims to foreign countries for the express purpose of torture.

Mr el-Banna's account of his arrest reads:

Detainee: "When they came and arrested and handcuffed me, they were wearing all black. They even covered their heads ... They took me, covered me, put me in a vehicle and sent me somewhere. I don't know. It was at night. Then from there to the airport right away.

Tribunal president: An airport in Gambia?

Detainee: Yes. We were in a room like this with about eight men. All with covered-up faces.

Tribunal president: Were you by yourself at that time?

Detainee: Yes. They cut off my clothes.

Mr al-Rawi and Mr el-Banna were taken to the notorious "dark prison" in Kabul, Afghanistan. There, both men were imprisoned underground in isolation and darkness and tortured over two weeks. They were held in leg shackles 24 hours a day. They were starved, beaten, dragged along floors while shackled, and kicked. Round-the-clock screams from fellow prisoners made sleep impossible.

Subsequently, they were transferred to the US Air Force base at Bagram, Afghanistan. Although they were chained hand and foot and hooded, while waiting to be transported, their captors beat them. Mr el-Banna, in particular, was beaten repeatedly.

In Bagram, they were imprisoned and tortured for another two months. They were beaten, starved, and sleep deprived. What is particularly noteworthy is the fact that the only information the interrogators were interested in was information about Abu

Qatada. Over the years, CIA and military interrogators have repeatedly attempted to suborn testimony from both men, linking Abu Qatada to al-Qa'ida. Mr el-Banna has repeatedly refused offers of freedom, money, and passports in exchange for false testimony.

GUANTANAMO BAY

Ultimately, both men were transported to Guantanamo, a trip so harrowing that a government informer, who was posing as a prisoner and had to be transported and treated the same as other prisoners, stated in a television interview that, at the time, he wished someone would shoot him. Forced to wear darkened goggles, face-masks and earphones, chained at the ankles, handcuffed behind their backs with thin plastic that caused incredible pain, and, in some cases, lasting damage, starving and sick prisoners who had been deprived of sleep were forced to maintain a sitting position, legs forward and chained without moving for nearly 24 hours.

If they moved they were beaten, kicked, hit with blunt objects. The government informer lasted barely one month in the intolerable conditions in Guantanamo before demanding freedom. During the first month at Guantanamo in which both were kept in strict solitary confinement, the pair were interrogated six hours per day and kept in the interrogation room for 14 hours per day, sometimes in freezing temperatures to induce hypothermia, one of the many techniques approved for use by the Bush administration. In some cases they were short-shackled, hands behind heels, for the entire time.

During his lengthy incarceration, Mr el-Banna has repeatedly asked his interrogators to administer a polygraph test, but the military has refused. However, the military's unwillingness to give him a lie detector deviates from standard prison policy. Former interrogators at Guantanamo confirm that a "passed" polygraph test is a prerequisite to be transferred to Camp IV, the lowest security prison camp on the base.

Mr el-Banna is in Camp IV. Mr al-Rawi, who also is in Camp IV, had a polygraph administered, but the military has refused to turn over the results and there is no mention of it in records produced by the military.

Indeed, the military has taken great pains to prevent any exculpatory information from creeping into the official records to ensure prisoners have no chance to exonerate themselves. In Guantanamo, Mr al-Rawi has met perhaps 10 different CIA agents. One agent who went by the name "Elizabeth" told him: "Don't think that leaving here will come without a price." Mr al-Rawi said: "She asked me whether I would work with them, and I said no. [She] suggested, 'How about working with MI5?'"

MI5 MEETINGS

Mr al-Rawi's relationship with MI5 did not end with his arrest. He has met MI5 agents at Guantanamo on numerous occasions. He first met an MI5 agent in the early autumn of 2003, fully shackled. After some perfunctory questions and answers that confirmed his work with MI5, the agent offered him an oblique, belated apology: "Sorry about all this." Several months later, Alex, the MI5 agent with whom Mr al-Rawi worked in London, interrogated him at Guantanamo. Among other things, Mr al-Rawi told Alex the Americans wanted him to work for US intelligence.

In January 2004, Martin and Matt, the other two MI5 agents that Mr al-Rawi worked with in London, met Mr al-Rawi in an interrogation room. During that meeting, agents proposed that Mr al-Rawi return to working with MI5 upon his release. He agreed. The following day, the agents told him it would take them one to six months to get him home.

Former Guantanamo interrogators report that all prisoner interviews with foreign intelligence officials are videotaped. The trial judge in charge of both men's cases granted them motion to preserve that specific evidence along with copious other evidence we have managed to identify.

REVIEW TRIBUNAL

I advised the men more than one month before I travelled to Guantanamo in September 2004, advising them not to appear before the CSRT (Combatant Status Review Tribunal) or participate in the process. My letters were not delivered until after each had participated in his tribunal. I advised them against participating, among other reasons because the tribunals were permitted to rely on information obtained under torture. Both men were not even permitted to review all the evidence against them, and thus had no chance to defend themselves.

The following testimony from a CSRT proceeding demonstrates the Bush administration's commitment to providing prisoners with meaningful due process. In response to the charge "While living in Bosnia, the detainee associated with a known al-Qa'ida operative" the following colloquy, which could have been lifted from the pages of *The Adventures of Alice in Wonderland*, took place:

Detainee: Give me his name.

President: I do not know.

Detainee: How can I respond to this?

President: Did you know of anybody who was a member of al-Qa'ida?

Detainee: No, no.

President: I'm sorry, what was your response?

Detainee: No. If you tell me the name, I can respond and defend myself against this accusation.

President: We are asking you the questions and we need you to respond to what is on the classified summary.

Although both men never were anywhere near Afghanistan or Iraq, never were involved in any wrongful activity, never possessed a weapon of any kind, they were powerless to defend themselves against the charge that they had associated with Abu Qatada, "a known al-Qa'ida operative", even though Abu Qatada has never been charged with any crime or been shown to be a member of or involved in al-Qa'ida. But, the full extent of both men's betrayal by MI5 does not end here.

At the tribunal, Mr al-Rawi testified under oath about his relationship with MI5 and his role as a liaison between MI5 and Abu Qatada. He informed the tribunal that MI5 had expressly approved of his role: "During a meeting with British Intelligence, I had asked if it was OK for me to continue to have a relationship with Abu Qatada. They assured me it was."

Mr al-Rawi requested that the MI5 agents Alex, Matt, and Martin appear before the tribunal to confirm his work with MI5 and Abu Qatada. Very much out of character, the tribunal president recognised the obvious importance of such testimony and "determined that these three witnesses were relevant". He instructed the military prosecutor to make inquiries and to determine whether the British Government would make the witnesses available .

The British Government not only refused to allow the witnesses to appear, it refused to confirm the accuracy of Mr al-Rawi's account, thereby ensuring both men's fate and consigning them to indefinite imprisonment. The following account is taken from Mr al-Rawi's CSRT:

President: Detainee has requested three witnesses who would testify that he supported the British Intelligence Agency. We have contacted the British Government and at this time, they are not willing to provide the tribunal with that information. The witnesses are no longer considered reasonably available, so I am going to deny the request for those three witnesses.

Later in the proceeding, the president issued the following clarification: " The British Government didn't say they didn't have a relationship with you, they just would not confirm or deny it. That means I only have your word."

Mr el-Banna's CSRT hearing was so procedurally defective that it would make good farce were the result not so devastating. The only evidence considered by the tribunal was that he drove Abu Qatada's wife and son to visit him during the time British authorities were engaged in discussions with him. In fact, his CSRT hearing was postponed and reconvened three times on 25 September, 28 September, 2 October and 9 October 2004 to allow the military's prosecuting attorney to collect and present additional evidence to the tribunal.

At the conclusion, Mr el-Banna's personal representative, a soldier and non-lawyer who could be compelled under the CSRT rules to testify against him courageously dissented from the tribunal's conclusion, including a formal statement in the CSRT record: "The personal representative states that the record is insufficient to prove that the detainee is an enemy combatant."

Although Mr al-Rawi disclosed his involvement with MI5 during our first meeting in 2004, he has been loath to go public with this information. But there are few options left available to both men.

Congress voted to ban torture by an overwhelming majority in December 2005, but President Bush signed the bill into law with a clarifying "signing statement" that allows him to ignore it whenever he chooses. Of more immediate concern is Congress's recent legislative reversal of the Supreme Court's decision to allow prisoners at Guantanamo to file petitions for habeas corpus . In response to the passage of the Detainee Treatment Act, the US government moved quickly to dismiss all of the habeas cases filed by prisoners at Guantanamo, including those filed by Mr al-Rawi and Mr el-Banna.

NO RETURN

Neither man can return to the UK because their visas have expired. The British Government adamantly refuses to reissue them visas or allow them to return home on humanitarian grounds. If the cases are dismissed, the US military intends to transfer Mr al-Rawi to Iraq and Mr el-Banna to Jordan. There, each will be jailed with the host country's pro-American acquiescence. Recent reconnaissance indicates the US government is negotiating with foreign governments to jail prisoners from Guantanamo indefinitely.

Why the British Government has treated these two men as it has, I cannot say. What seems most likely is that they were simply expendable pawns in Great Britain's and America's attempt to create a case against Abu Qatada

My security clearance allows me to review all of the classified evidence in the cases, including all the evidence the tribunal relied upon to conclude that Mr al-Rawi and Mr el-Banna were enemy combatants. There is no evidence in the record, classified or unclassified, which supports the military's determination that these are enemy combatants. None.

The African business trip that ended in chains and imprisonment

By Robert Verkaik

Jamal el-Banna and Bisher al-Rawi were arrested at Banjul airport, Gambia, in November 2002 on suspicion of links to terrorism.

The two friends were in a party of five businessmen who were trying to start up a peanut oil venture. Two other British nationals detained at the same time were flown home.

The Government argues that Mr al-Rawi, an Iraqi citizen in his late thirties and Mr el-Banna, a Palestinian in his forties, who have both brought up families in Britain, are British residents with limited rights.

After their arrest, the two men were interviewed by the Americans and flown in chains to Bagram in Afghanistan. In early 2003, they were taken to Guantanamo Bay.

Last month Mr Justice Collins ruled that Mr el-Banna and Mr al-Rawi should have their case for judicial review heard in the High Court, and that claims of torture at the camp meant the Government might have an obligation to act. But the Government

maintains: "It is only through ... their nationality that persons can ... enjoy the obligations placed on a state by international law."

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