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## Panel 2: How Are Laws Applied and Detention Practices Reformed? Reforming Interrogation Practices

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## Panel 2: How Are Laws Applied and Detention Practices Reformed?

### Reforming Interrogation Practices

*Remarks of David Danzig\**

**H**ELLO, I'M DAVID DANZIG. I'M THE DIRECTOR OF THE PRIMETIME TORTURE PROJECT. I WORK AT HUMAN RIGHTS FIRST. I'm based in New York City. And our organization used to be called the Lawyers' Committee for Human Rights but is now known as Human Rights First.

I'm going to do four things. First, I'm going to tell you how I came to be working on the way that torture is portrayed on television. Second, I'm going to talk a little bit about what we do about it. Third, I'm going to show you a very short film. And then last, I'm going to try to explain why this matters.

Before I do that, I just want to check on the sophistication of this audience by asking a basic question: how many of you have seen the television show "24"? Looks like – Dean Grossman, you don't have a television in your home?

**DEAN CLAUDIO GROSSMAN:** We have grandchildren, so we have televisions everywhere.

**DAVID DANZIG:** Okay, it looks like about half. Okay, so can we get – this may qualify as the dumbest question ever asked at Washington College of Law at American University – can someone please give a very brief description of what happens on the television show "24"? Any volunteers who have already seen it, this is CLE credit.

**VIVIANA KRSTICEVIC (AUDIENCE-MEMBER ANSWER):** It's a ticking bomb scenario. As the story develops, the characters are getting rough and tough trying to dismantle whatever peril at whatever cost.

**DAVID DANZIG:** Exactly, yes. It's the story of one U.S. security agent, and it's a 24-episode series. Over the course of one season, it supposedly takes place in real time; it follows one day in his life. We're now up to Season 7. In the first six seasons,



From left: David Danzig, Steven Watt, James Ross, and Eugene Fidell

Courtesy of Rick Reinhard

there were 89 scenes of torture, and virtually all of them were the same. What happens is that this character – whose name is Jack Bauer – uses torture and frequently confronts a terrorist who doesn't want to give him any information at all, is willing to die with the information that he has, and Bauer – within three seconds of knifing him in the knee, or choking him, or punching him, or whatever, you name it, withholding medication – extracts the information. So, that's "24."

How did I come to start to work on this issue? After the revelations about Abu Ghraib, I was working at Human Rights First, and my job quickly became to reach out to military officials and talk to them about torture, what did they think? And so during the summer of 2004, I cold-called 300 or so retired generals and admirals. And what was interesting about it is I almost invariably found that the people on the other end of the phone would begin lecturing me about how important it is that we stop torture, which to me was very eye opening. And not only were these people interested in our work being successful, they wanted to work with us. And so, this became a big part of what Human Rights First did to try and address this issue. We put together this coalition of retired admirals and generals and we worked with them in a public way to show that torture is not only wrong but doesn't work. In fact, when President Obama

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signed the executive order banning it, he had generals and admirals sit behind him, and those were 16 of the people who worked with us.

So, it was very interesting and very exciting for me to be talking to these people and have them think so much like we did. An example of someone we talked to was a four-star Marine general named Joe Hoar who took over for Schwarzkopf in Central Command. And when I called him, he interrupted me to say that I was doing God's work; what could he do to help me. And so I was having fantastic conversations with these people, and my life was going along swimmingly when I had a problem. My Netflix queue ran to its natural end, and, for whatever reason, I selected "24." And these DVDs started showing up in my mailbox, and I started watching them. For those of you who have watched the show on DVD, you know what it's like. You can't stop. At the end of every hour, it's a cliffhanger, and you desperately want to see what happens next. And so – whereas you might sit down to watch at 10 o'clock thinking you're just going to watch an hour in this agent's life and go to bed at 11 – at 3 o'clock in the morning, you're wondering: "What's going to happen! Is the bomb going to explode? Is L.A. going to disappear from the face of the planet?"

So, this is happening, and I quickly went through Season 1, Season 2, Season 3. And what was strange for me is that I started leading this kind of double life where, during the day, I was talking to General Joe Hoar: "Oh, torture is horrible. We're going to work this out and figure out what to do." And then at night, I was: "Rip his head off, Jack Bauer, and do the right thing!" Then I realized that this was having a strange impact on the way in which I thought about these issues. And I had a whispering conversation with a colleague of mine who was actually working on torture, and we both sort of said, "Do you think we really

need a Jack Bauer?" And we kind of thought, if we think that maybe Jack Bauer is needed in the world, and we work full time to stop torture, what impact is this show having on the broader public? And so I worked up my nerve, and I called a colonel who worked at West Point.

This colonel had started a law of war elective at West Point; basically, what he was teaching they called "the torture class." And the conversation that we had – he was an expert in a case that was winding its way through the Supreme Court, and I said, "I'm David Danzig of Human Rights First," and the last thing that he wanted to do – I could tell – was talk to a human rights guy. You know, he just thought this conversation would go a particular way, and it just wasn't going well. And then I said, "No, no, no, I'm not calling about that case; I'm calling about '24.'" And he said, "Wait a minute! You're calling about '24'?" "24" is the biggest problem I have in my class!" And the conversation really changed. And – I don't know why he said this – but he said, "I'm standing up now!" I remember distinctly being in my office and sitting in my chair and slowly standing up. And so he and I had this very intense conversation, almost like being in "24" – in the show. And him saying, "Where are you?" "I'm in New York! Where are you?" "I'm just an hour away! We should get together!" And that began, for me. I went up to West Point; I talked to the educators there. It wasn't just this guy. The educators there felt they had to watch this show on Monday nights in order to argue with their students that what Jack Bauer was doing on TV was actually wrong.

So, this began the Primetime Torture Project. The purpose of the project is to research the way that TV portrays torture, try to influence it, and provide the tools for military educators like those at West Point and others.



View of conference attendees

The first thing we found in terms of research – we’re now moving to the sort of second part of my talk now: what do we do. In terms of research, what we found was quite surprising. The way that torture is shown on television has changed dramatically since 9/11. There used to be a very little bit of torture on TV, about an average of four scenes per year on primetime television, before 2001. After 2001, it’s exploded. Now, there’s more than 120 scenes a year. In one year, there were 230 scenes. “24” is at the leading edge of this. What we also found was quite surprising: it’s not just that there’s more torture on television, but this torture is having a real world impact on the way in which junior soldiers and officers operate in the field. One of the things that actually helped us was uncovered by ACLU’s FOIA [Freedom of Information Act] research in which they found scoping notes – field notes – from an inspector general report. And, basically they had reported an interview of a platoon leader, and the platoon leader told them that, “At the point of capture, non-commissioned officers (which are junior officers) are using interrogation techniques that they literally remembered from the movies and television.” This is an inspector general, a 3-star general’s report. We also then went out and talked to people in the field, and, anecdotally, talked to a unit that watched TV and then used the techniques they saw on television on the Iraqis in their custody. Subsequent to that, Philip Sands published a terrific book in which one of the things that he found was that Lieutenant Colonel Diane Beaver – who believe it or not is the JAG [Judge Advocate General] officer in charge of Guantánamo – said that when the second season came out on DVD, interrogators were inspired by what they saw. So the show is having a tremendous impact on the way in which people think about these issues, including maybe myself. But also, the way in which some people were operating in the field.

So what we decided to do was put together two short films and provide them to military educators to use in their classrooms to try and show junior soldiers the difference between what Jack Bauer does and the way in which these things will work in the field. So, this is the second one. I’ll just play it for you. It’s less than 5 minutes.

*[Video entitled: Interrogation: Doing It Right]*

So, this is the second part of a two-part series that is being used – 1,200 military educators have used it at West Point, ROTC units, and other training facilities. So, the first thing that we were trying to do in this project is to provide tools for military educators. The second thing that we were trying to do is to reach out to Hollywood and try to influence the way in which they write television. One of the things that we did was – not this group of people [pointing to film credits which remained on screen] – but reached out to series of senior interrogators who had served in the FBI, the Army, and the CIA, and also brought the Dean [of the U.S. Military Academy at West Point], Pat Finnegan, [a brigadier] general to the set of “24” to talk to the producers and to talk to Kiefer Sutherland – the star who plays Jack Bauer – about the way in which they show torture.

I’ll just tell you one story. It was a fascinating meeting which we were supposed to meet with them for an hour, and we ended up meeting with them for four hours. In their six seasons, they

had never actually spoken to an interrogator before we got there. I’ll just tell you one quick story that I think illuminates the problem. And that is that when we went to meet Kiefer, I went with the general, and the general was in his Class A field greens with medals and everything. And we went to the set. The meeting was at 9:30 a.m. Kiefer came in at nine and sort of breezed right past us, and we thought well, you know, maybe he’ll come back. We were just standing there, and this guy comes up to the general. And the guy is in kind of a SWAT uniform, and he comes right up to the general and hits the general on the shoulder rather hard, particularly given that this is a general who he doesn’t know and has never met. He gives him a big punch in the shoulder and says to him, “Hey man, when’s first call?” Turns out, he was confused; he thought that the general was in fact just a fake general like everybody else. And that is actually the problem we’re having in reverse. Because they have done such a good and convincing job of presenting a fake thing in a real way, they didn’t recognize the real guy because they thought he was fake. And they argue no one would ever be so stupid to think the fake was real, but the reality was in fact that they were so stupid when it happened in reverse to them.

I just want to go to the fourth point and just spend a minute on why does all of this matter? There’s a part of it that’s fun and funny. There’s a part of it that’s really not. More than 12 million people now watch this television program every Monday night and what they see over and over and over again is torture working, and the good guys using it. We have conducted focus groups which show that there’s a certain segment of the U.S. population that is morally opposed to torture. Then there’s a whole group of people who are confused about it: maybe it’s wrong, but maybe it works so we should use it. And when you talk to those people, what they say over and over again is that how can it be wrong if it works? And so they think that because it works, we should use it, and it’s ok. And the way that this show portrays it really feeds right into that. Jack Bauer is so conflicted over having to do this, but he has got to because he’s got to save the day. And that then is echoed in this political debate by a number of our political figures, or public figures, including, shockingly, Judge Scalia who at a conference of jurists in Canada talked about Jack Bauer as if he was real. “He saved L.A.,” is what Scalia said, “and we would never put him in jail.” And people at this conference were saying, “Wait, Scalia, you know he’s not a real person.” Scalia continued almost in character, saying, “No, no, what he did was amazing. He saved hundreds of thousands of people.” Bizarre. You see this over and over again. In the Republican presidential debate, Tom Tancredo, one of the candidates, when asked about his counter-terror policies, said he’d call in Jack Bauer – Standing ovation. I could go on and on. The bottom line is that this show influences the way that people think in this country and abroad – it’s piped into dozens of other countries. My view is that, if we really want to confront this problem, one of the things that we ought to be doing is trying to change the way that they show it, and think more about the way in which Hollywood projects this issue. I think this is the way we can make real Obama’s promise to never use torture again. Thanks a lot.

**HRB**