

THE 9/11 TRIALS: THE TORTURE QUESTION

Michael Isikoff asked one of the key questions about the conduct of KSM's trial in a civilian court: whether or not he would be able to enter evidence of his torture into the trial. Holder basically answered—though he didn't say it explicitly—that the charges and the prosecutions evidence will be designed such that the evidence of KSM's torture will not be directly relevant.

Isikoff: [inaudible] harsh interrogation techniques. Inevitably, defense attorneys are going to seek full disclosure about the circumstances of how these detainees were treated while they were in US custody and get as much of that before the jury as they can. What is the department's position on whether the defense will be entitled to know the full story of how these detainees were treated while they were in US custody?

Holder: Well, I think the question ... among the questions that have to be asked in that regard is relevance. How relevant were those statements? Will those statements be used? I don't know what the defense will try to do—it's hard for me to speculate at this point, so it's hard to know exactly what our response will be. But I'm quite confident on the basis of the evidence that we will be able to present, some of which I said has not been even publicly discussed before that we will be successful in our attempts to convict those men.

Isikoff: But will they be entitled to that evidence? Will they be entitled to know the full story of how they were treated?

Holder: Well, we'll see what motions they file and we'll see what responses we'll make and a judge will ultimately make that determination.