

# “THE PRESIDENT ULTIMATELY MADE THE CALL”

GQ has another of those articles describing Eric Holder’s failed efforts to restore DOJ’s independence and sustain rule of law as Attorney General. There are a few new details in there – such as details of what torture was described in the CIA IG Report but must be among the redactions (notably, strangling of one prisoner).

As he flipped through the pages of one report, Holder told me, reading descriptions of field agents holding a power drill to the head of one prisoner, strangling another, battering some, waterboarding others, and threatening to rape their wives and children, he was filled with “a combination of disgust and sadness.”

The piece is more rich in capturing Holder’s self-denial, his attempts to ignore that his actions directly violate principles he laid out before he became Attorney General.

“But before the inauguration,” I said, “both you and the president said that habeas should apply to enemy combatants.”

“I’m not sure I ever opined on that,” Holder said.

“I could read you a quote.”

Holder laughed uncomfortably.

“Here’s the quote: ‘Our government authorized the use of torture, approved secret electronic surveillance without due process of law, *denied the writ of habeas corpus to hundreds of accused enemy combatants*,’ and a few other

things.”

Holder was silent. “But I was talking about Guantánamo,” he said. “I’m pretty sure I was talking about Guantánamo.”

But I’m most interested in a fairly subtle moment, when a former White House official (it might be someone like Greg Craig) made it clear that Obama, not Rahm, made the decision to have the White House pick the venue for Khalid Sheikh Mohammed’s trial.

“It was wildly unfortunate,” says David Ogden, Holder’s former deputy attorney general. “The president gave that decision to the attorney general. The attorney general made it. Then the White House had to deal with a political reality in Congress. And the situation was assessed as being politically untenable.” Others are less forgiving, calling Obama’s capitulation an insult to Holder and a regression to the arbitrary policy of the Bush years. “There is an important principle at stake here,” Holder told me. “You don’t shy away from using this great system for political reasons. It hampers our ability as we interact with our allies if we don’t stand for the rule of law when it comes to a case that is politically difficult to bring.” Among Holder’s political allies, the blame for KSM lay not with Rahm but Obama. “Rahm was critical,” says one former White House official. “But the president ultimately made the call.”

The whole piece seems to lay out Holder’s angst as he decides to stick around after being stripped of his independence. Given this detail – the the President himself replaced justice with politics – he really ought to think seriously about regaining his principle by leaving.