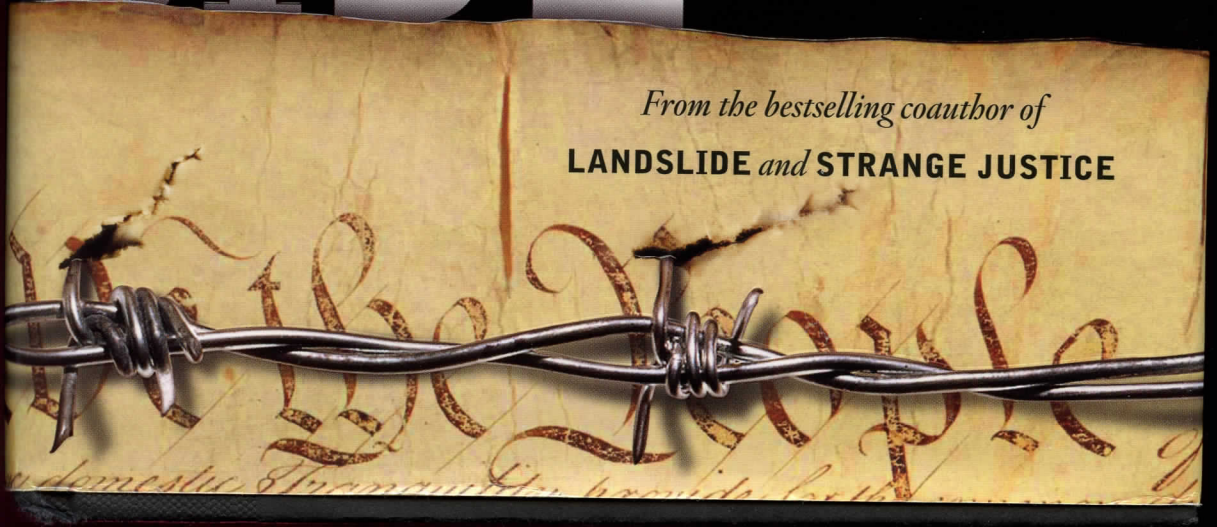
JANE MAYER

THE INSIDE STORY OF HOW
THE WAR ON TERROR TURNED INTO
A WAR ON AMERICAN IDEALS

THE DARK SIDE



From the bestselling coauthor of
LANDSLIDE *and* **STRANGE JUSTICE**

"It was begun in desperation," he later explained. During the 1990s, under the Clinton Administration, the stated mission of his job had been to "detect, disrupt, and dismantle" terrorist operations. His unit spent much of 1996 studying how Al Qaeda operated; by the next year, Scheuer said, they had determined the need to try to capture Bin Laden and his associates. The problem, in his view, was that Clinton's reluctance to authorize lethal operations against Bin Laden put the CIA in a bind. He recalled, "We went to the White House and they said, 'Do it.'" He added that Richard Clarke, who was in charge of counterterrorism for the National Security Council at the time, offered no advice. "He told me, 'Figure it out by yourselves,'" Scheuer said. (Clarke did not respond to a request for comment about Scheuer.)

Scheuer sought the counsel of Mary Jo White, then the U.S. Attorney for the Southern District of New York, who, along with a small group of FBI agents in New York, was pursuing the 1993 World Trade Center bombing case. In 1998, White's team obtained an indictment against Bin Laden authorizing U.S. agents to bring him and his associates to the United States to stand trial. This formally established that Bin Laden was a wanted fugitive who could be legally rendered to stand trial in the United States. From the start, though, the CIA was wary of granting terrorism suspects the due process afforded by American law. The agency did not want to divulge secrets about its intelligence sources and methods, and American courts demanded transparency. Even establishing the chain of custody of key evidence—such as a laptop computer—could easily pose a significant problem: foreign governments, fearing retaliation from their Muslim populations, might refuse to testify in U.S. courts about how they had

obtained the evidence, for fear of having their secret cooperation exposed. The provenance of a laptop computer had in fact been the center of an extraordinarily bitter tussle between the CIA and the FBI. Filled with details of Al Qaeda's structure, it was considered the Rosetta Stone of counterterrorism in the pre-9/11 period. But the CIA had refused to share it with the FBI for months, because of the Agency's fears that the computer's foreign sourcing would leak out.

The CIA also felt that other agencies sometimes stood in its way. In 1996, for example, the State Department stymied a joint effort by the CIA and the FBI to question one of Bin Laden's cousins in America because he had a diplomatic passport, which protects the holder from U.S. law enforcement. An FBI agent arrived in the Falls Church, Virginia, office of the cousin, Abdullah Mohammed Bin Laden, demanding to question him. But he suavely said that he would be "more than happy" to talk, except for this: he produced a diplomatic passport. He was not a diplomat, he was working for a suspicious nongovernmental organization. But the Saudi government had accredited him to the embassy as an "attaché." Describing the CIA's frustration, Scheuer said, "We were turning into voyeurs. We knew where these people were, but we couldn't capture them." And even if they could, he noted, "we had nowhere to take them." The Agency realized that "we had to come up with a third party."

The obvious choice, Scheuer said, was Egypt. The largest recipient of U.S. foreign aid after Israel, Egypt was a key strategic ally, and its secret police force, the Mukhabarat, had a reputation for brutality. Egypt had been frequently cited by the State Department for torture of prisoners. According to a 2002 report, detainees were "stripped and blindfolded; suspended from a ceiling or doorframe with feet just touching the floor; beaten with fists, whips, metal rods, or other objects; subjected to electrical shocks; and doused with cold water [and] sexually assaulted." Hosni Mubarak, Egypt's leader, who came to office in 1981 after President Anwar Sadat was assassinated by Islamist extremists, was determined to crack down on terrorism. His prime political enemies were radical Islamists, hundreds of whom had fled the country and joined Al Qaeda. Among this radical Islamic diaspora was Ayman al-Zawahiri, the Cairo physician who after having been brutally tortured in Egyptian prisons went on to Afghanistan, where he eventually became Bin Laden's top deputy.

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Egypt. In Cairo that summer, Edward S. Walker Jr., the U.S. Ambassador to Egypt, learned about the plan from the CIA's Cairo station chief. It was considered so secret, the two met in a special secure area of the fortresslike embassy, a room encased by electronically impenetrable walls and regularly swept for eavesdropping equipment. Given Egypt's difficulties halting terrorism on its own, using more conventional police methods, Walker endorsed the plan.

Soon after, the United States offered Egypt its rich resources to track, capture, and transport terrorist suspects globally—including access to a small fleet of aircraft. Egypt embraced the idea immediately. "What was clever was that some of the senior people in Al Qaeda were Egyptian," Scheuer said. "It served American purposes to get these people arrested, and Egyptian purposes to get these people back, where they could be interrogated." Technically, U.S. law required the CIA to seek "assurances" from Egypt that rendered suspects wouldn't be tortured. But even during the Clinton Administration, this obligation appears to have been little more than a sham. Scheuer insisted that the assurances were obtained, but he acknowledged that he was "not sure" if any documents confirming the arrangement were signed. In a congressional hearing, he acknowledged candidly that even if the assurances not to torture were written in indelible ink, coming from Arab police states, "they weren't worth a bucket of warm spit."

Each rendition was authorized at the very top levels of both governments. Tenet or the head of the CTC was required to sign off on each case. The National Security Adviser, too, was apprised of many of the renditions. The long-serving chief of the Egyptian central intelligence agency, Omar Suleiman, negotiated directly with top Agency officials. Walker described the Egyptian counterpart, Suleiman, as "very bright, very realistic," adding that he was cognizant that there was a downside to "some of the negative things that the Egyptians engaged in, of torture and so on. But he was not squeamish, by the way."

A series of spectacular operations followed almost immediately from this secret pact. On September 13, 1995, U.S. agents helped kidnap Talaat Fouad Qassem, one of Egypt's most wanted terrorists, in Croatia. Qassem had fled to Europe after being linked by Egypt to the assassination of Sadat; he had been sentenced to death in absentia. Croatian police seized Qassem in Zagreb and handed him over to U.S. agents, who interrogated him aboard a ship cruising the Adriatic Sea and then took him back to Egypt. Once there, Qassem disappeared.

There is no record that he was put on trial. Hossam el-Hamalawy, an Egyptian journalist covering human rights issues, said, "We believe he was executed." He was far from the only rendered suspect presumed dead.

A more elaborate operation was staged in Tirana, Albania, in the summer of 1998. According to the *Wall Street Journal,* the CIA provided the Albanian intelligence service with equipment to wiretap the phones of a suspected cell of Muslim militants led by Ayman al-Zawahiri's brother, Mohammed. Tapes of the conversations were translated into English, revealing lengthy discussions between the Zawahiri brothers. There were no outstanding indictments in the case, so the United States pressured Egypt for assistance; in June, Egypt issued an arrest warrant for Shawki Salama Attiya, one of the militants. Over the next few months, Albanian security forces, working with U.S. agents, killed one suspect and captured Attiya and four others. These men were bound, blindfolded, and taken to an abandoned air base, then flown by jet to Cairo for interrogation. Attiya later alleged that he suffered electrical shocks to his genitals, was hung from his limbs, and was kept in a cell in filthy water up to his knees. Two other suspects, who had been sentenced to death in absentia, were hanged. Egypt also sentenced both of the Zawahiri brothers to death in absentia. Meanwhile, however, the brutalization of what were referred to as the "Albanian returnees" became a rallying cry for Islamic militants in Egypt—radicalizing sentiment against America.

On August 5, 1998, a month after the Albanian rendition, in what was beginning to take on the aura of a very personal vendetta, an Arab-language newspaper in London published a letter from Zawahiri threatening retaliation against the United States—in a "language they will understand." He warned that America's "message has been received and that the response, which we hope they will read carefully, is being prepared." Two days later, the U.S. embassies in Kenya and Tanzania were blown up, killing 224 people.

Meanwhile, the rendition program was becoming bureaucratized in Washington, like any other government function. In 1997, a "Rendition Branch" was formally added to the CIA's Counterterrorist Center. In 1998, President Clinton signed a still-classified directive giving Clarke, the national coordinator for counterterrorism, detailed guidelines for "Apprehension, Extradition, Rendition and Prosecution" of wanted fugitives, including Bin Laden. Renditions became almost routine. While waiting for one such abduction to take place

on the other side of the globe, Clinton's National Security Council staff whiled away the late-night hours watching movies, including, memorably, *The Mouse That Roared.*

The United States began rendering terror suspects to other countries, too, but the most common destination remained Egypt. The partnership between the American and the Egyptian intelligence services was extraordinarily close: The Americans could give the Egyptian interrogators questions they wanted put to the detainees in the morning, Scheuer said, and get answers by the evening. The Americans asked to question suspects directly themselves, but, Scheuer said, the Egyptians refused. "We were never in the same room at the same time."

Scheuer claimed that "there was a legal process" undergirding these early renditions. Every suspect who was apprehended, he said, had been convicted in absentia. Before a suspect was captured, a dossier was prepared containing the equivalent of a rap sheet. The CIA's legal counsel signed off on every proposed operation. Scheuer said that this system prevented innocent people from being subjected to rendition. "Langley would never let us proceed unless there was substance," he said. Moreover, Scheuer emphasized, renditions were pursued out of expedience—"not out of thinking it was the best policy."