

Human Rights Watch

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

<https://www.hrw.org/news/2016/06/16/letter-president-obama-re-cia-torture>

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On June 16th, 2016, Human Rights Watch sent this letter to President Barack Obama urging him to take action before the end of the presidential term to account for the grave abuses committed as part of the Central Intelligence Agency's detention and interrogation program.

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear President Obama:

I write on behalf of Human Rights Watch to urge you to take action before the end of your term in office to further accountability for the grave abuses committed as part of the Central Intelligence Agency's detention and interrogation program. Documents that the CIA recently released about the program in response to Freedom of Information Act requests^[1] disclose new information that underscores the brutality and illegality of the program. Failure to take concrete action to address these crimes will leave a stain on your legacy, undermine respect for the rule of law, encourage a future president to use abusive interrogation techniques again, and weaken the effectiveness of the United States in advocating against torture globally.

The Senate Intelligence Committee's executive summary of its 2014 report on the CIA program (Senate Summary) and recent reporting have exposed a great deal about the CIA's use of torture, but the newly released documents add excruciating details. For example, it was known that Afghan detainee Gul Rahman died of hypothermia in his cell after the CIA tortured him, left him half naked on a concrete floor in freezing temperatures, and deprived him of food. But a just-released internal document about an investigation into Rahman's death attempts to blame Rahman for what happened to him, underscoring the program's depravity: Rahman's actions contributed to his own death. By throwing his own meal he was unable to provide his body with a source of fuel to keep him warm.

Similarly, the CIA's use of diapers in its program had been reported, but one new document unreservedly states that humiliating detainees was the sole purpose for their use. It goes on to state that:

when the prisoner soils a diaper, they are changed by the guards. Sometimes the guards run out of diapers and the prisoners are placed back in their cells in a handcrafted diaper secured by duct tape. If the guards don't have any available diapers, the prisoners are rendered to their cell nude.

The Bureau of Prisons (BOP) was known to have visited CIA detention facilities, but the new documents reveal that the BOP appears to have played a significant role in training CIA personnel.

One of the released documents gets to the heart of CIA awareness as to the lawfulness of their actions. A draft request to the US Attorney General for an advance declaration of prosecution demonstrates that senior CIA officials knew that techniques they planned to employ as part of the CIA program would likely violate US laws before they actually used them, and sought to secure legal cover for actions that were patently criminal. The CIA then went on to employ tactics that exceeded even the illegal authorizations it had obtained.

As one 2003 email from the CIA's chief of interrogations released in the trove reveals, the CIA program was a "train wreck [sic] waiting to happen. The email continues, I intend to get the hell off the train before it happens."

Numerous media reports have detailed and explained the significance of other revelations in the recent document release.^[2]

While the release of these documents, albeit through Freedom of Information Act requests, is a step toward increased transparency, it also highlights the fact that a number of important documents remain classified. For example, the CIA released one document titled Proposed Response to Letter from Human Rights Watch, but all three pages of the document were redacted. Similarly, the agency released at least one 34-page document related to the role the CIA's Office of Medical Services (OMS) played in the CIA program with minimal redactions, but another 89-page document from OMS was released almost entirely redacted with only one paragraph, taking up one quarter of one page, left legible. Indeed, available evidence raises serious questions about the role medical professionals, many of whom would have undertaken to uphold the ethical principle to do no harm, played in the CIA program.^[3]

It remains common for some public figures including candidates for office to support the use of torture, and former senior CIA officials continue to defend its use. Legal prohibitions against torture have been bolstered during your administration. However, in the absence of concrete actions to enforce such prohibitions, you will only encourage future policymakers or other US government officials again to resort to torture by giving them reason to believe they will not be prosecuted for it.

The best way to clarify the illegality of the CIA's use of torture would be to restart criminal investigations. The reasons behind the closure of prior investigations remain unclear. In our December 2015 report, *No More Excuses: A Roadmap to Justice for CIA Torture*,^[4] we provided extensive material and analysis challenging claims that it was not legally possible for the Justice Department to prosecute. For example, we noted that with many potential charges, statutes of limitations and jurisdictional hurdles can be overcome and should not be bars to prosecutions. We also noted that revelations in the Senate Summary and other documents undercut claims that senior officials relied in good faith on the advice of counsel that the interrogation techniques being used were legal, given that those officials went shopping for an opinion that would offer legal cover for their activities.

Prosecutions and redress are required by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, a treaty that the US was instrumental in creating, that the US and 158 other countries have ratified, and that has been incorporated into US law.

Even if the Justice Department would open new investigations, it should at a minimum explain in detail why prior investigations were closed and work with other executive departments to provide redress and rehabilitation to victims. The US should also go much further in releasing information about the program than it has to date.

The administration appears more mindful of the harm suffered by those held under the CIA program. This year the Justice Department for the first time did not invoke the state secrets privilege in a suit brought by former detainees. But that suit involves only three plaintiffs, while scores of men in the CIA program were tortured and ill-treated. Some of these men remain in US custody and are not receiving adequate medical and psychological care. Many others are now out of US custody, were never charged by the US with any crime, and are trying, with great difficulty due to the trauma and injuries they sustained in the CIA program and prolonged incommunicado detention, to rebuild their lives.

As International Day in Support of Victims of Torture approaches, on June 26, 2016, we urge you to acknowledge the wrongful treatment of victims of CIA torture and announce measures that would begin to account and provide redress for US actions. Our report, *No More Excuses*, includes a detailed list of recommendations to US government bodies for doing so, which we enclose with this letter.

Thank you for your attention to this important matter.

Sincerely,

Kenneth Roth

Executive Director

Human Rights Watch

CC: The Honorable Loretta Lynch, Attorney General of the United States

^[1] Central Intelligence Agency, Electronic Reading Room, Documents Related to the Former Detention and Interrogation Program, <https://www.cia.gov/library/readingroom/collection/documents-related-former-detention-and-interrogation-program>. The Freedom of Information Act request was brought by the American Civil Liberties Union and *Vice News*.

^[2] Jason Leopold, Barbaric Conditions That Led to a Detainee's Death Are Laid Bare in CIA Reports, *Vice News*, June 14, 2016, <https://news.vice.com/article/cia-black-site-conditions-that-led-to-detainee-death-laid-bare-by-report>; Greg Miller, Karen DeYoung, and Julie Tate, Newly released CIA files expose grim details of agency interrogation program, *Washington Post*, June 14, 2016, https://www.washingtonpost.com/world/national-security/newly-released-cia-files-expose-grim-details-of-agency-interrogation-program/2016/06/14/6d04a01e-326a-11e6-95c0-2a6873031302_story.html; Brian Bennett and David Cloud, Newly released CIA documents detail torture tactics after Sept. 11; Bush voiced unease about treatment of detainees, *Los Angeles Times*, June 14, 2016, <http://www.latimes.com/nation/la-fg-cia-torture-20160614-snap-story.html>; Josh Gerstein, CIA releases declassified documents on interrogations, *Politico*, June 14, 2016, <http://www.politico.com/blogs/under-the-radar/2016/06/cia-releases-declassified-documents-on-interrogation-224346>.

^[3] Spencer Ackerman, CIA medical staff gave specifications on how to torture post-9/11 detainees, *The Guardian*, June 15, 2016, <https://www.theguardian.com/us-news/2016/jun/15/cia-torture-program-september-11-medical-staff-instructions-details>.

^[4] Human Rights Watch, *No More Excuses: A Roadmap to Justice for CIA Torture*, December 1, 2015, <https://www.hrw.org/report/2015/12/01/no-more-excuses/roadmap-justice-cia-torture>.

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