

Center for Justice and Accountability

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

<https://cja.org/op-ed-cja-executive-director-c-dixon-osburn-tortures-bad-business-trump-will-find/>

Public Facing Advocacy Writing

This op-ed, written by CJA Executive Director C. Dixon Osburn, was originally published in the [San Jose Mercury News](#).

C. Dixon Osburn, January 31, 2017

The Trump plane may be restricted to domestic flights and an occasional autocratic regime after Donald Trump's presidency ends.

In 2021, Trump could visit Vladimir Putin in Sochi, but he might be arrested as a war criminal should he fly to the European Union. That's because Trump says he might order a return to torture. Being a war criminal will put a cramp on his global business operations.

The question of whether he could be arrested for torture is not far-fetched. Former President George W. Bush canceled his trip to Geneva when news surfaced that he could be arrested. Other senior officials responsible for reinstating torture and CIA black sites may find no immunity abroad even while in office.

European countries that helped the Bush Administration with black sites and rendition to torture are being held liable for their conduct, and are likely wary of getting caught in that trap again.

The question isn't whether torture works.

Trump thinks it does. Television dramas like 24 certainly leave the impression that Jack Bauer can save the world every hour with torture. But a 6,700 page report by the Senate Intelligence Committee, under Senator Dianne Feinstein's leadership, concludes otherwise.

Dozens of highly respected generals and admirals, including Trump's Secretary of Defense, General James Mattis, conclude otherwise. The FBI refused to participate in the Bush torture program. We are learning now that even many in the CIA dissented over the Bush torture program.

There is no evidence that torture like water boarding, rectal feeding, mock executions, coffin confinement, prolonged sleep and sensory deprivation, and other depraved actions done under the W regime produced actionable intelligence.

While the evidence shows that torture doesn't work, the real point is that torture is illegal. It is prohibited under the Geneva Conventions and U.S. law.

The U.S. prosecuted Japanese soldiers for water boarding after World War II. The U.S. convicted Chuckie Taylor for torture. U.S. courts have repeatedly found perpetrators of torture liable for their actions, including last June in a case my organization brought against a former Pinochet officer living in Florida.

Torture is also immoral. Trump says that the U.S. must fight fire with fire because ISIS will not play fair. One fights wanton illegality with the law, not lawlessness. We must demonstrate to the world that civilization thrives when we respect law, and we descend into chaos and moral turpitude when we don't.

While Trump has indicated his predilection for torture, he has not ordered it. Indeed, he seems to change his views almost daily, as he did again Friday, saying he would defer to his Secretary of Defense. Yet, he has ordered a review of the Army Field Manual that outlines the interrogation tactics that may be used.

We must remain vigilant for a John Yoo style sleight of hand. Yoo wrote the legal memo for the Bush Department of Justice in which he upended any rational notion of what constitutes torture, or cruel, inhuman and degrading treatment. He concluded that actions like water boarding did not constitute torture unless and until the moment of imminent organ failure.

The memo was later rescinded. But, beware, cloak-and-dagger lawyering could rewrite our norms once again, and we won't know until it's too late.

Let's hope Trump will heed Sen. John McCain's warning that he will sue the Administration in a New York minute should the torture trumpets blare. Let's hope he heeds our national security leaders who oppose torture.

I would be just as glad if he concludes that torture will be bad for business. He may never golf at Trump Turnberry again.

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***"We will never catch all the torturers—but we will always catch some,
and none of them will ever know who is next."***