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

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Public Facing Advocacy Writing

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November 14, 2019

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It was five years ago next month that the Senate intelligence committee released a [525 page redacted executive summary](#) of the Torture Report, the name by which its 6,700 page study of the CIAs post 9/11 detention and interrogation program is now known. For a brief moment, Americans from all walks of life looked behind the curtain at our governments decision to torture and the myriad consequences that flowed. It was front page news and legitimately a topic of national discussion. Then it wasnt.

For all of its importanceand it is critically importantthe Torture Reports executive summary is a dense congressional oversight report that was never going to have lasting cultural resonance. But movies do. Thats why tomorrows theatrical release of the film *The Report*, an honest telling of the CIA torture program and Congresss struggle to investigate it, is so valuable.

The movie is a much-needed reminder that many people know very little about our governments decision to torture in the aftermath of 9/11, and maybe even less about related developments since. We revisit some of that history below, not only because we think much work remains to be done to effectively safeguard against a return to government-sanctioned torture, but also because the predominant theme that runs through this tragic storythat truth and accountability mattercould hardly be more relevant today.

CIA torture program victims suffered significant, and in some cases permanent, psychological and physical harm

From 2002 to 2008, the CIA held at least 119 men captive in a global network of secret black site prisons and subjected many of them to enhanced interrogation, the euphemism that two contract psychologistsJames Mitchell and Bruce Jessengave to the torture tactics they sold to the CIA. Mitchell and Jessens methods, which became the CIAs methods, were derived from military training programs known by the acronym SERE (Survival, Evasion, Resistance and Escape), which were developed after the Korean War to prepare pilots and Special Forces operators for what they could expect if they were captured. The techniques included slamming the men against walls; stripping them naked, diapering them, and chaining them to the floor or ceiling; cramming them for hours into coffin-shapedor smallerboxes; and drowning them, just not to death.

From the beginning, the CIA claimed that so-called enhanced interrogation wouldnt cause any unnecessary, serious, or lasting damage, and that the CIAs Office of Medical Services would ensure as much. Agency officials maintained this position throughout the life of the torture program (in which medical professionals were deeply involved). It was absurd. CIA torture victims have suffered precisely the type of profound harm that was clearly foreseeable given the abuses perpetrated upon them.

One of us, Dr. Crosby, is an expert in evaluating and treating torture survivors and has examined close to 20 men tortured in the war on terror, including CIA torture program victims. As she has said previously, The suffering and harm these men have endured, and continue to endure, is beyond anything I have seen. The damage ranges from traumatic brain injury, to lasting musculoskeletal pain (e.g., from men having their wrists tied behind their backs and then being hung from their arms), to post traumatic stress disorder. Some of the harm is irreversible; trauma causes actual structural and functional changes in the brain.

With respect to Abd al-Rahim al-Nashiri in particularwhom Dr. Crosby has examined repeatedly and whose torture features prominently in the Torture Reports executive summarythe goal was to destroy him psychologically. In that, the CIA [effectively succeeded](#).

Based on my own evaluation of the records made available to me, my conversations with Dr. Rosenfeld and my own evaluations of and conversations with Mr. Al-Nashiri personally, it is my conclusion that Mr. Al-Nashiri suffers from complex posttraumatic stress disorder as a result of extreme physical, psychological, and sexual torture inflicted upon him by the United States. In my opinion, the CIA also succeeded in inducing learned helplessness in Mr. Al-Nashiri. The result is that Mr. Al-Nashiri is most likely irreversibly damaged by torture that was unusually cruel and designed to break him. Indeed, in my many years of experience treating torture victims from around the world, Mr. Al-Nashiri presents as one of the most severely traumatized individuals I have ever seen.

Torture did not, and does not, work

The Torture Reports executive summary [walks through and systematically dismantles](#) each major success story that the CIA has attributed to torture, from plots thwarted to terrorists captured to the collection of other critical terrorism-related intelligence. In some cases, there was no relationship between the cited counterterrorism success and any information provided by detainees during or after the use of torture. In the remaining cases, the CIA claimed that torture produced critical information that the CIA didn't otherwise have and couldn't otherwise get, when in fact the information was either (1) corroborative of information already available to the Intelligence Community from sources other than the CIA detainee (and was therefore not otherwise unavailable); or (2) acquired from the CIA detainee prior to the use of the EITs.

Perhaps even more eye-opening than this conclusion is the real-time correspondence from CIA officers themselves expressing essentially the same. The executive summary contains many such examples. Here are three:

[Khalid Sheikh Mohammed](#)

On June 22, 2003, CIA interrogators reported that [KSM] nervously explained to debriefer that he was under enhanced measures when he made those claims about terrorist recruitment in Montana, and simply told his interrogators what he thought they wanted to hear. A CIA Headquarters response cable stated that the CIA's ALEC Station believed KSM's fabrication claims were another resistance/manipulation ploy and characterized KSM's contention that he felt forced to make admissions under enhanced interrogation techniques as convenient excuses. As a result, ALEC Station urged CIA officers at the detention site to get KSM to reveal who is the key contact person in Montana? By June 30, 2005, ALEC Station had concluded that KSM's reporting about African American Muslims in Montana was an outright fabrication.

[Abu Zubaydah](#)

Over several years CIA officers identified errors in the CIA's representations concerning the effectiveness of the CIA's enhanced interrogation techniques in relation to the Abu Zubaydah reporting pertaining to Jose Padilla and Padilla's alleged plotting. In response to one such representation, the chief of the Abu Zubaydah Task Force wrote to [REDACTED] CTC Legal in 2002 that AZ's info alone would never have allowed us to find [Jose Padilla and Binyan Mohammed]. In 2004, she sought to correct inaccurate CIA representations again, telling colleagues:

AZ never really gave this is the plot type information. He claimed every plot/operation he had knowledge of and/or was working on was only preliminary. (Padilla and the dirty bomb plot was prior to enhanced and he never really gave us actionable intel to get them).

[Hambali](#)

A CIA cable states: With the gradual ramp-up of intensity of the session and the use of the enhanced measures, [Hambali] finally stepped over the line and provided the information. Months later Hambali admitted to fabricating the information provided. A cable explained that Hambali gave answers that were similar to what was being asked and what he inferred the interrogator or debriefer wanted, and when the pressure subsided or he was told the information he gave was ok, [Hambali] knew that he had provided the answer that was being sought.

None of this is surprising, especially to two of us: Brig. Gen. Irvine, who as an Army strategic intelligence officer taught prisoner of war interrogation for 18 years, and Dr. Chris Meissner, who has spent his career researching the science of interrogation. As Brig. Gen. Irvine has [written here previously](#), I have spent decades studying which interrogation techniques work, and which do not. The institutional experience, research, and science consistently point to the efficacy of rapport-based techniques and the unreliability of coercion.

Indeed, Dr. Meissner and his colleagues [have detailed](#) that psychological theory and research has clearly demonstrated that harsh interrogation methods (including the use of torture and other psychologically-manipulative tactics) are an ineffective strategy for eliciting accurate and reliable information, for several reasons.

First, studies assessing the use of torture to elicit confessions suggest that it is likely to *increase* (rather than decrease) resistance, leading to a more recalcitrant individual who is reluctant to cooperate with an interrogator he or she cannot trust. Second, such methods ignore the vital importance of memory; sleep deprivation, physical harm, and psychological manipulation work to *reduce* people's motivation to engage in memory retrieval, rendering them more suggestive and prone to false recall. Coercion especially when it rises to the level of torture is antithetical to the conditions that would otherwise foster a more extensive, detailed, and accurate recollection.

Third, harsh interrogation tactics make assessing credibility difficult, if not impossible. The science suggests that the most effective cues to credibility lay in a person's verbal narrative not the nonverbal cues associated with anxiety that interrogators are often taught. In other words, behaviors that CIA personnel read as signs of lying or withholding information were in fact a product of torture. But because those behaviors were interpreted as deception, interrogators pressed on to try to get specifically what they thought was being withheld or concealed. To the extent this cycle produced any information, it lacked the kind of narrative context that would allow for properly assessing the information's veracity.

Enhanced interrogation was always illegal, and the CIA knew it

To this day, at least in some quarters, the myth persists that CIA torture was legal at the time. One justification for this claim is that so-called enhanced interrogation couldn't have been torture, and so wasn't unlawful, because we've used it on our own personnel. That begs the question and relies on a false premise. SERE quietly abandoned waterboarding in 2007 because it really wasn't useful training, it was simply excruciating torture. Contrary to CIA practice, U.S. troops knew that SERE wouldn't kill them, and there was always the option to opt out and the knowledge of an end date to the training. The difference in conditions between the SERE program and the CIA black sites meant the two contexts simply weren't, and never could have been, the same.

No, enhanced interrogation was torture, and it was categorically prohibited. As our colleague and former Navy General Counsel Alberto Mora has [eloquently written](#): [The right to be free from cruelty] is possessed by and the prohibitions against torture apply to everyone,

everywhere, and at all times, both in peace and in war Torture is now, and has always been, abhorrent to the law of our nation and the laws of all nations.

The CIA knew this, too, which explains why its lawyers were hunting for legal defenses to torture months before the CIA took custody of its first detainee. [One internal CIA memo](#) described a novel legal application of the *necessity* defense to avoid prosecution of U.S. officials who tortured to obtain information that *saved lives*. It continued: A policy decision must be made with regard to U.S. use of torture in light of our obligations under international law, with consideration given to the circumstances and to international opinion on our current campaign against terrorism states may be very unwilling to call the U.S. to task for torture when it resulted in *saving thousands of lives*.

Once the policy decision to torture was made, the lawyers blessed it. But their opinions required outrageous legal gymnastics and were built on a foundation of lies. More specifically, the opinions are explicit that they are dependent upon the facts as the CIA provided them, the most significant of which were that torture was working (i.e., providing unique, otherwise unobtainable intelligence that was saving lives), and that it was neither physically nor psychologically damaging. Both of those facts were fiction. Perhaps the best evidence of the memos illegitimacy is that the Justice Department subsequently [withdrew many of them](#), and a 2009 [executive order](#) continues to prohibit government lawyers from relying on any of them.

Why does this all still matter?

None of us believes that this dark chapter of U.S. history is closed, at least not in a way that gives us confidence that it couldnt be reopened. To be sure, there have been some important steps forward: President Obamas executive order formally ending the torture program; the release of the Torture Reports executive summary; enactment of the [McCain-Feinstein anti-torture bill](#); and the U.S. governments support of a scientific program to develop [ethical, legal, and effective interrogation approaches](#).

But those steps are not sufficiently durable or complete: executive orders can be withdrawn with the stroke of a pen; the full Torture Report (of which the executive summary constitutes only 8%) [remains classified and all but inaccessible even to the executive branch](#); and the Armys interrogation manual, to which the McCain-Feinstein bill restricts U.S. interrogators, is so out of date that its methods might well prove ineffective in the face of a future crisis, causing officials to look elsewhere for answers.

Perhaps most important, there has been precious little if any accountability for those who were complicit in torture. To appreciate the extent of their impunity, one need look no further than Gina Haspel, who rose to become CIA director with the support of a bi-partisan majority of the same Senate intelligence committee that launched its investigation because of gruesome videotapes that [Haspel and her boss ordered destroyed](#), and that documented torture at [the black site Haspel once ran](#). By contrast, torture program victims, who will bear the scars of their abuse forever, have been all but forgotten.

Stepping back, while the story of the CIA torture program is unique in some respects, many of the lessons to be drawn from it are not. Truth matters. When the stakes are high, government officials who pursue and seek to expose the truth often do so at great professional, and personal, cost. The executive branch will sometimes go to extraordinary lengths to obscure the truth and resist oversight. Our democracy only works if Congress and the courts provide the check on executive branch power that our Constitution envisions. Accountability is the most powerful deterrent; without it, wrongdoing is far more likely to be repeated.

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It is not too late to get much of this right, and with whats happening in our government today now would be an especially good time for policymakers on both sides of the aisle to demonstrate the will and ability to do so.

The views expressed are those of the authors and do not reflect the official policy or position of the Department of Defense or the U.S. Government.

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