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## Defending Torture Is Indefensible

By Ivan Eland

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On the news talk shows, everyone is talking about torture – mostly defending the Bush’s administration’s hysterical actions after the 9/11 attacks. Granted, 9/11 was a searing experience for the general public, which wanted action in retaliation. However, it is the duty of wise political leaders to reason with the public to dampen the desire for any rash, counterproductive actions. Instead, Bush administration officials used such public fear and anger from 9/11 to fuel public support for their own unrelated policy agenda that made the Islamist terrorism problem worse. Torture was one aspect of that policy agenda. Even after 9/11, terrorism was a rare event, as it was before, and government terrorism experts should have known that the resources of a small group, such as al Qaeda, were not great enough to necessitate excesses in response, such as torture and other government usurpation of American constitutionally-guaranteed civil liberties.

When prisoner abuse and torture at the Abu Ghraib prison in Iraq were exposed, guerrilla violence following in the wake of Bush’s trumped up post-9/11 invasion and occupation of that country worsened. Now, torture at CIA secret prisons around the world after 9/11, already well known but highlighted and detailed by the Senate Intelligence Committee report, is likely to similarly fan the flames of anti-American Islamism. Yet the Sunday news programs give more air time to the defenders of Bush’s clearly illegal and counterproductive policy than opponents of torture – such as committee members and human rights organizations. The reason is that the media is in the habit of focusing in on executive branch officials as authoritative sources on

policy (because the executive branch, contrary to the country's founders' vision, now is by far the most powerful arm of government). Also, the media likes to fan controversy and ex-officials defending lurid, outrageous, and frankly "un-American" policy is well...great television. I say un-American because secret imprisonment and torture clearly violates U.S. law, official U.S. policy prior to the Bush administration, the international convention on torture and other cruel, inhuman, or degrading punishment signed by Ronald Reagan and ratified by Congress, and long-standing international standards of human rights. Finally, Obama administration officials, who discontinued torture when Obama came into office, have been ducking the issue, because they don't want to adversely affect the morale of the CIA bureaucracy.

However, maybe if some CIA personnel who tortured people were prosecuted, the agency would learn to avoid such illegalities in the future. People going to jail would have a more searing effect than apparently the Church Committee hearings in the mid-1970s had on illegal and unconstitutional practices by intelligence agencies. In fact, perhaps Congress should pass a law that prohibits the CIA (and the NSA) from doing any activities other than lawful intelligence collecting on foreigners. Both agencies would be much better off and have better morale in the long-term if they stuck to this vital mission. Yet, since its inception, the CIA has been distracted by more glamorous missions than the drudgery of painstaking intelligence collection – first covert action against unfriendly countries and more recently the management of the secret prisons where the torture occurred.

As well as being un-American – we should be better than our adversaries, such as ISIS or al Qaeda, who kidnap people and mistreat and gruesomely kill prisoners, but were not – torture theretofore had been clearly regarded as counterproductive, even by the U.S. government itself. The FBI and U.S. military initially blanched at the idea of U.S. personnel torturing people, because bad information is usually produced by the victim just to get the pain to stop. The CIA during the Bush administration forgot its own report concluding the same in 1989. Moreover, the U.S. military – especially its lawyers – has never been keen on the practice because it gives future enemies an excuse to torture American service personnel in retaliation and makes it more likely that any enemy will fight to the death rather than be taken prisoner by the Americans. Both effects can result in more deaths to U.S. military personnel in any war.

But in the wake of 9/11, did Bush and Cheney listen to the experts in the military and the FBI on the counterproductivity of torture? No, instead these avoiders of combat during the Vietnam era had to pose as macho and pretend to do something to vanquish evil everywhere in lieu of focusing on capturing al Qaeda members that perpetrated the 9/11 attacks, interrogating them with FBI and military interrogators using legal tried-and-true methods, and trying them as criminals in perfectly capable civilian courts.

Instead, Bush and Cheney thought it would be really cool to let the CIA hire bozo contractors, who had no interrogation experience, to run a keystone cops program to kidnap and manhandle captives in CIA secret prisons. According to CIA admission, either implicitly or explicitly in CIA documents, this policy led to a shocking outcome: almost a quarter (at least) of detainees in CIA prisons weren't guilty of anything at all, were held for years in dungeon-style prisons, and some were tortured.

It is amazing that in an America that is becoming politically correct on everything else, so many defenders of a heinous, clearly illegal practice can be found. They are mostly Republicans defending what was an outlaw Bush administration – the exception being John McCain who represents the military's view on the subject. Since Dick Cheney, the most dangerous American politician in recent times, has publicly declared that he would support torture if he had it to do over again, maybe this blatant in-your-face attitude will cause some country overseas who has signed the torture convention or has had American torture done on its territory will prosecute him; certainly the Obama administration, which overall has not been that much better than the Bush administration in safeguarding American civil liberties, will not. At minimum, maybe former Bush administration officials will fear to travel overseas for fear of being shanghaied for prosecution and jailing. Alberto Gonzalez, Bush's Attorney General, recently expressed some personal fear of this outcome on a news program.

Since Bush started all of the U.S. government torture rolling by his "wink and nudge" declaration in February 2002 that al Qaeda fighters would not be held under the safeguards of the Geneva Conventions and has crowed about the necessity of using torture during his tenure, maybe he should just stay at home on the Texas ranch too.