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CIA's Torture and Abuse: America's Shame!



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The legacy of the CIA's torture and abuse program continues to obstruct the Guantanamo trials of those responsible for the bombing of the USS Cole in 2000; the 9/11 bombings in 2001; and the nightclub bombing in Indonesia in 2002. The various defendants were subjected to waterboarding in CIA secret prisons; painful shackling; and solitary confinement in darkened dungeon-like conditions for years. The CIA has classified the relevant documentation to avoid embarrassment and not to protect legitimate secrets. Moreover, there was never any accountability for the key individuals involved in these shameful acts.

John Yoo and Jay Bybee: Yoo was assigned to the Office of Legal Counsel in the Department of Justice and Bybee was the assistant attorney general. They were most

responsible for a series of torture memoranda between 2002 and 2005. These memoranda approved the techniques of “enhanced interrogation” and claimed to determine the legal limits for the torture of detainees. They make for excruciating reading. The CIA ignored the limits from day one.

The torture measures were used in the systematic abuse of detainees at Guantanamo Bay detention camp beginning in 2002 and at the Abu Ghraib facility following the U.S. invasion of Iraq in 2003. These actions have been considered war crimes by other former members of the Bush administration.

The DoJ’s Office of Professional Responsibility recommended that Yoo be referred to his state bar association for disciplinary proceedings, but a senior DoJ lawyer concluded that Yoo and Bybee merely exercised “poor judgment,” and that the department lacked a clear standard to conclude misconduct.

Yoo currently is the Emanuel S. Heller Professor of Law at the University of California in Berkeley. Bybee is a jurist serving as a senior circuit judge of the Court of Appeals for the 9th circuit. He has published numerous articles in law journals and has served as a senior fellow of constitutional law at the William S. Boyd School of Law.

CIA Director John Brennan: Brennan was personally responsible for trying to stop the Senate’s investigation of the torture program. He lied when he denied authorizing the penetration of Senate computers in order to find the documentation in the hands of congressional investigators. His actions were a violation of the separation of powers, and he should have been removed by President Barack Obama. When asked about the CIA hacking of the Senate computers, he offered that such charges were “beyond the scope of reason.”

Then chairman of the Senate intelligence committee, Senator Dianne Feinstein (D/CA), persevered, and her committee published a 549-page book that concluded torture produced no useful intelligence; that the CIA hid its worst practices; and that torture began before the DoJ memoranda were drafted. The CIA regularly lied to the White House on these issues.

When questioned about his role in the CIA’s torture and abuse program, Brennan response was that “The president told us to do it, and we did what we were told.” This classic response has a neat Nuremberg ring to it, which somehow eluded a constitutional scholar such as President Obama.

CIA Director Gina Haspel and Jose Rodriguez: Haspel deserves a special niche in the Hall of Shame. Not only did Haspel escape any accountability or responsibility for a

special leadership role in the CIA's torture program, but in 2018 she became the CIA's director. Sadly, even Senator Feinstein (D/CA) referred to Haspel in the confirmation hearings as a "good deputy director," who has the "confidence of the agency." President Trump's support for Haspel is particularly ironic since he once compared the CIA to Nazi Germany's Gestapo. CIA's "enhanced interrogation program" was right out of the Nazi playbook.

Haspel was known at the CIA to many as "bloody Gina" for her leading role in the torture program. She was a deputy and protege to Jose Rodriguez, the former director of the Center for Counterterrorism. If the CIA's torture program had a godfather, it was Rodriguez, the director of interrogations. Haspel was his most devoted acolyte. She currently directs King & Spalding's risk advisory service to advise the very rich on protecting their wealth.

Haspel commanded the CIA's most notorious secret prison in Thailand, where she oversaw the waterboarding of Abd al-Rahim al-Nishri, who took part in the attack on the USS Cole in 2000. Abu Zubaida was waterboarded at this prison 83 times, although she may not have been the commander at that time. Haspel drafted the CIA cable that ordered the destruction of the torture tapes. President Obama made no attempt to make sure there was accountability for either Haspel or Rodriguez.

Rodriguez claimed that he had to destroy the tapes to protect the identity of the torturers. There has never been a time in modern history when torturers weren't hooded. Even the torturers in Hollywood's "Zero Dark Thirty" were hooded. And so were the CIA torturers.

ACLU's David Cole: Cole is an unlikely member for the Hall of Shame in view of his current role as the ACLU's National Legal Director. In 2015, however, while serving as the Hon. George J. Mitchell Professor in Law and Public Policy at Georgetown University's Law Center, Cole concluded that the CIA got a "bum rap" from the Senate Intelligence Committee's report on torture and abuse. His exculpatory brief for the CIA was published in the *New York Times*, and never mentioned the sadistic nature of the program; that the program began before the Department of Justice sanctioned certain measures; and that it incorporated measures that were never permitted by the DoJ.

Cole never mentioned that sadistic techniques were performed on totally innocent victims, who were known to be innocent by many at the CIA. Nor did Cole mention some of the more bizarre and unconscionable aspects of the CIA program, such as "rectal feeding" and "rectal hydration" that involved a pureed blend of hummus and raisins that was "rectally

infused.” These aspects should have bothered Cole, the first recipient of the ACLU’s prize for contributions on civil liberties in 2013.

Lawrence Wright, the special counsel who investigated the Iran-contra scandal, concluded that the “failure to punish governmental lawbreakers feeds the perception that public officials are not wholly accountable for their actions. It also may lead the public to believe that no real wrongdoing took place.” This certainly applies to all those involved in CIA’s torture program.

An appropriate punishment for all members of the Hall of Shame would be forcing them to watch the 92 torture tapes that recorded the CIA’s sadistic techniques. Fortunately for them, the tapes were destroyed under Rodriguez’s orders. He faced no punishment for defying orders from the White House to protect the tapes.

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