

FBI agents created “war crimes file” documenting US torture

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FBI agents who witnessed the torture of detainees at the US prison camp in Guantánamo Bay, Cuba created what they called a “war crimes” file documenting what they had seen, according to a report released Tuesday by the Justice Department’s Office of the Inspector General (OIG).

The file, initiated in 2002, was ordered shut down by higher-ups in 2003 and agents were told to stop keeping records of the illegal acts that they had seen. Nonetheless, the use of the term “war crimes” by the US government’s main domestic intelligence arm, an agency with its own long record of political repression, is an extraordinary confirmation of charges that have long been leveled by opponents of the Bush administration and the criminal practices it has carried out in the so-called “global war on terror.”

According to the OIG report, FBI agents objected to the use by the CIA and the US military of techniques that one FBI official called “borderline torture.” Some agents raised concerns within the agency, but these concerns were ignored or squelched by the White House.

The report is on the role of the FBI in observing or participating in abusive practices, and is based on a survey of several hundred FBI agents. It seeks to absolve the bureau and its agents of responsibility for the abuse.

Although it deliberately ignores the question of accountability, the 437-page report by Inspector General Glenn Fine makes clear once again that the policy of torture was approved at the highest levels.

Among the techniques used by the military and the CIA to which the FBI agents objected were: sleep deprivation; prolonged “short-shackling,” or the shackling of the hands and feet together; the use of dogs to terrorize detainees; humiliation, including tying a detainee to a leash and forcing him to perform tricks; and sexual humiliation, including enforced nudity and touching.

The military and CIA used these methods against prisoners held at Guantánamo Bay and elsewhere. Many of these same torture techniques would become notorious when they were depicted in photographs involving prisoners at Abu Ghraib

in Iraq. Their replication makes it clear that the crimes in Abu Ghraib were not an aberration perpetrated by rogue prison guards, but rather a deliberate and planned implementation of methods designed to “break” detainees.

The FBI agents objected to the methods largely on the grounds that they would not provide “actionable intelligence.” They were also worried that the use of torture could undermine future trials and might cast the FBI and the US government in a bad light if they were publicly revealed.

According to the report, some FBI personnel began complaining to their supervisors as early as 2002. These complaints were reported to at least one meeting of the National Security Council at the White House in 2003. However, there was no change in policy and the torture continued.

Then-Attorney General John Ashcroft reportedly questioned some of the methods, including to then-National Security Adviser Condoleezza Rice. However, Ashcroft refused to be interviewed by Fine, citing the confidentiality of the discussions.

It is hardly surprising that the FBI agents’ concerns were ignored, since the impetus behind the use of torture came from the White House itself. Beginning with the capture of alleged Al Qaeda members Mohammed Al-Qahtani in December 2001 and Abu Zubaydah in March 2002, top administration officials saw an opportunity to shred international law and employ torture more openly on the pretext of the “war on terror.” Administration officials, including Vice President Dick Cheney, were closely involved in directing the details of the interrogations.

A report by ABC news last month found that top Bush administration officials participated in discussion about torture techniques that were so detailed that “some of the interrogation sessions were almost choreographed—down to the number of times CIA agents could use a specific tactic.”

In part as a response to concerns within the CIA and military over legal accountability, the Justice Department itself issued at least two legal opinions in 2002 and 2003 that provided a pseudo-legal rationale for torture.

The focus of the OIG report is on military-controlled facilities between 2001 and 2004. The report has very limited information on the torture of prisoners at the hands of the CIA, as the CIA refused to cooperate with the investigation. According to the report, “we were unable to obtain highly classified information about CIA-controlled facilities, what occurred there, and what legal authorities governed their operations.”

The CIA also refused to allow the OIG to interview Abu Zubaydah. The White House has acknowledged that it used waterboarding on Zubaydah, among other methods. The CIA claimed that the inspector general had no pressing need to interview Zubaydah, and that he might provide false allegations against CIA agents.

The report’s section on the interrogation of Zubaydah seeks to exonerate FBI Special Agent Gibson, who has been accused of participating in the torture. An email written by an acquaintance of Gibson charged that Gibson “spoke openly and with much enthusiasm about the torturing of captured al-Qaeda terrorists [including Zubaydah], undisclosed locations and the brutal interrogation techniques by both CIA and FBI which Agent [Gibson] was involved.”

The interrogation of Zubaydah was initially in the hands of the FBI but was quickly taken over by the CIA. Much of the details in the report about the treatment of Zubaydah are redacted. It does note, however, “Gibson stated that the CIA personnel assured him that the procedures being used on Zubaydah had been approved ‘at the highest levels’ and that Gibson would not get in trouble” for participating.

The report cites an email from Spike Bowman, head of the national security law unit at the FBI, declaring in July 2003: “Beyond any doubt, what they are doing (and I don’t know the extent of it) would be unlawful were these enemy prisoners of war,” referring to the treatment of Zubaydah.

Another section of the report deals with a facility in Iraq, the name and location of which is redacted along with large portions of the section. It notes that an FBI Agent, referred to as Ryan, worked at the facility in the spring and summer of 2004 and reported that “a military interrogator told him that detainees at the facility were confined in ‘inhumane conditions’ and were subjected to abusive interrogation techniques, including food, water, and sleep deprivation and ‘water interrogation.’”

“Water interrogation” is apparently a reference to “waterboarding,” which would indicate that this particular torture technique was more widely employed than the Bush administration has acknowledged.

A substantial section of the report is devoted to disputes between FBI agents and the military over the treatment of Mohammed Al-Qahtani at Guantánamo Bay in 2002. The report found that these disputes were ultimately resolved in

favor of the more aggressive methods employed by the military, which was operating under the close supervision of then-Defense Secretary Donald Rumsfeld.

The brutal interrogation methods used on Al-Qahtani have been reported already—including the use of dogs, tying him to a chain and forcing him to perform dog tricks, and sexual humiliation.

The report details, however, the close interest of the military—including General Geoffrey Miller, who was then in charge of Guantánamo Bay and was later sent by Rumsfeld to Iraq—in the interrogation of Al-Qahtani. Citing an FBI agent, the report states that Miller used such terms as “relentless” and “sustained attack” to describe the way that he wanted Al-Qahtani to be treated.

The fact that several FBI agents protested strongly against the treatment of prisoners held by the military and CIA is an indication of how blatantly illegal this treatment was. They were clearly seen by some agents as “war crimes” for which the authors could ultimately be prosecuted.

In implementing this policy, the Bush administration systematically violated the most basic tenants of international and domestic law, including anti-torture statutes and the Geneva Conventions.

This policy has been known for years. Leading figures from both political parties were briefed on it from the very beginning. What is most remarkable is that not a single individual responsible for its implementation has been held accountable.

The full report by the Justice Department’s Office of the Inspector General can be found here.



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