

Torture memos reveal brutality of US imperialism

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On Thursday, the US Justice Department released four legal memos crafted during the Bush administration that authorized agents of the Central Intelligence Agency (CIA) to commit specific acts of torture against prisoners swept up in the “war on terror.” The Obama administration faced a Thursday deadline to release the memos after a Freedom of Information Act lawsuit by the American Civil Liberties Union (ACLU).

The release of the legal opinions, written by lawyers in the Justice Department’s Office of Legal Counsel in 2002 and 2005, adds to an overwhelming body of evidence that proves the Bush administration carried out a large-scale and systematic torture operation in flagrant violation of domestic and international law. The public record already included accounts from victims, a recently leaked International Committee of the Red Cross report documenting various instances of torture, and numerous media accounts that include quotes from interrogators and Bush administration officials endorsing torture.

Yet in multiple statements by President Obama, CIA chief Leon Panetta, and Director of National Intelligence Dennis Blair, the White House has announced that it will neither investigate nor prosecute those who carried out torture. Panetta has also declared that the CIA will provide legal counsel to any agent that might become subject to investigations into torture.

The memos, released in redacted form to protect the identity of CIA interrogators, describe acts of torture in clinical detail, always associating these with a threadbare legal defense. Among the forms of torture endorsed by the memos are:

*Walling. “The interrogator pulls the individual forward and then quickly and firmly pushes the individual into the wall... During this motion, the head and neck are supported with a rolled hood or towel... to help prevent whiplash.”

*Water dousing. “Cold water is poured on the detainee either from a container or from a hose without a nozzle... The maximum period of time that a detainee may be permitted to remain wet has been set at two-thirds the time at which, based on the extensive medical literature and experience, hypothermia could be expected to develop... For water temperature at 41 [degrees Fahrenheit] total duration of exposure may not exceed 20 minutes...”

*Facial Slap. “The purpose of the facial slap is to induce shock, surprise, and/or humiliation.”

*Cramped Confinement. “The confined space is usually dark... For the larger confined space, the individual can stand up or sit

down; the smaller space is large enough for the subject to sit down. Confinement in the larger space can last up to eighteen hours; for the smaller space... no more than two hours.”

*Stress positions. “A variety of stress positions may be used... they are designed to produce physical discomfort associated with muscle fatigue... In wall standing, it will be holding a position in which all of the individual’s body weight is placed on his finger tips.”

*Nudity. “This technique is used to cause psychological discomfort, particularly if a detainee for cultural or other reasons, is especially modest.”

*Sleep deprivation. “The primary method of sleep deprivation involves the use of shackling to keep the detainees awake. In this method, the detainee is standing and is handcuffed, and the handcuffs are attached by a length of chain to the ceiling... a detainee undergoing sleep deprivation is generally fed by hand by CIA personnel so that he need not be unshackled. If the detainee is clothed, he wears an adult diaper under his pants. Detainees subject to sleep deprivation who are also subject to nudity... will at times be nude and wearing a diaper. The maximum allowable duration is 180 hours...”

*Use of insects. A memo authorizes agents to place an insect in the “cramped confinement box” of a prisoner who interrogators noticed had “a fear of insects.”

*Waterboarding. “In this procedure, the individual is bound securely to an inclined bench... Water is then applied to a cloth [that] is lowered until it covers both the nose and mouth... This causes an increase in carbon dioxide level in the individuals’ blood [which] stimulates increased effort to breathe. This effort plus the cloth produces the perception of ‘suffocation and incipient panic,’ i.e., the perception of drowning... The procedure may then be repeated... [A] medical expert... will be present throughout...”

Based on language in the memos, it is clear that they were the outcome of extensive discussions among the CIA, Justice Department, and likely high-ranking Bush administration officials. For example, the memos refer frequently to face-to-face meetings between Justice Department lawyers and CIA interrogators that had already taken place.

The memos’ evident purpose was to provide legal assurances to CIA interrogators that they would not face criminal prosecution for torture. The first memo, written by OLC counsel Jay Bybee in August of 2002 and addressed to John A. Rizzo, a deputy counsel

to the CIA, considers several specific examples of torture, and concludes, case by case, that none of the methods proposed by the CIA violate Section 2340 of the US Code, which prohibits interrogation methods by those “acting under the color of law” that inflict physical or mental pain and suffering.

Bybee also suggested interrogators lacked the “specific intent” to inflict pain and suffering, and therefore any suffering that resulted was not torture.

The other three memos were penned by OLC attorney Steven G. Bradbury to Rizzo. A 2005 memo he wrote determined that the combined use of the methods outlined in the 2002 memo would not violate USC 2340.

The memos’ clinical and legalistic descriptions of torture fail to convey the horror experienced by those worked over by the CIA. Reading the memos in conjunction with the International Committee of the Red Cross report gives a much fuller sense of what these methods meant when put into practice on human bodies. (See “Red Cross report details CIA war crimes”)

The media generally joined Obama in studiously avoiding use of the term “torture” in describing the CIA’s methods. The *New York Times* referred to the acts of torture as “brutal interrogation techniques.” For its part, the *Washington Post* ran an editorial hailing as wise and courageous Obama’s decision to protect “government agents who may have committed heinous acts they were told were legal.”

This “just-following-orders” defense is also commonly referred to as the “Nuremberg Defense,” as it was so commonly used by Nazi defendants in the war crimes trials after World War Two. The American and British officials who set up the Nuremberg trials established the vulnerability of this defense through Principle IV, which states, “The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him.”

That is not the only precedent from WWII with a bearing on current developments. As the *Times* notes, “the United States prosecuted some Japanese interrogators at war crimes trials after World War Two for waterboarding and other methods detailed in the memos.”

In the International Military Tribunal for the Far East, or the Tokyo War Crimes Trials from 1946-1948, several Japanese soldiers were convicted of carrying out waterboarding, then commonly called “the water cure,” on US and other allied prisoners.

An American GI’s description of the experience could have just as well been uttered to describe the CIA’s method. “They laid me out on a stretcher and strapped me on. The stretcher was then stood on end with my head almost touching the floor and my feet in the air. ...They then began pouring water over my face and at times it was almost impossible for me to breathe without sucking in water.”

The Obama administration is attempting to squelch any serious public inquiry into the criminal practices of its predecessor in the name of “moving on.” According to Obama, “nothing will be gained by spending our time and energy laying blame for the past.”

In a statement, Attorney General Eric Holder said, “It would be unfair to prosecute dedicated men and women working to protect America for conduct that was sanctioned in advance by the Justice Department.”

This is nonsense. The heinous actions carried out on CIA “terror suspects” had nothing to do with protecting America. Torture, extraordinary rendition, secret “black site” prisons—these were all part and parcel of American capitalism’s striving to offset its decline at the expense of the peoples of the Middle East—and the American working class.

In his confirmation hearings, Holder unambiguously labeled waterboarding as torture. Holder has not attempted to square this definition with his refusal to carry out his constitutional and legal duty to enforce domestic law and US treaty obligations by prosecuting the torturers.

Obama’s “forgiveness” of Bush is reminiscent of President Gerald Ford’s pardon of his predecessor, Richard Nixon, for his crimes against his political opponents that came to light in the Watergate scandal of 1972. Presidents can rely on their successors to forgive their major political crimes, and so trample over laws with increasing impunity.

The ruling elite’s clemency toward those who have committed the heinous crime of torture stands in sharp contrast to its enthusiastic prosecution of those filling up the American prison system—by far the largest in the developed world. Millions have been jailed for committing petty offenses against property or various drug-related crimes.

The media and leading politicians have joined hands in agreeing that there should be no investigation or criminal indictments of CIA officials or those in the Bush administration who gave orders to torture. Responding to the memos’ release, Democratic Senator Patrick Leahy of Vermont reiterated his call for a toothless “truth commission” that would take as a quid pro quo the forgiveness of all criminal acts in “the war on terror.”

The Obama administration wishes to avoid an investigation and public discussion of the torture memos because they serve as an indictment not only of the Bush administration, but the entire American ruling class. Leading Congressional Democrats were briefed on the CIA’s “enhanced interrogation techniques.”

Those CIA agents who carried out torture must face investigation and trial. But it is significant that the media fails to enunciate the names of those who planned, authorized, and ultimately bear responsibility for torture—Bush, Vice President Dick Cheney and Defense Secretary Donald Rumsfeld and other top officials. These war criminals must face justice.



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