

# THE CONSTITUTION PROJECT



*Safeguarding Liberty, Justice & the Rule of Law*

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## **It Was Torture, Bipartisan Study Concludes**

*Highest civilian and military leaders responsible for 'gloves were off' attitude*

WASHINGTON, D.C. -- A bipartisan watchdog group says in a [new report released today](#) that American intelligence and military personnel used interrogation techniques on suspected terrorists captured in Afghanistan, Iraq and elsewhere that in many instances constituted torture.

That American forces engaged in torture is just one of the key conclusions reached by The Constitution Project's Task Force on Detainee Treatment, an [independent, blue-ribbon panel](#) charged with examining the treatment of suspected terrorists in U.S. custody. The panel was co-chaired by Asa Hutchinson, a former GOP Congressman from Arkansas and undersecretary of the Department of Homeland Security under President George W. Bush, and James R. Jones, a former Democratic Congressman from Oklahoma and Ambassador to Mexico under President Bill Clinton.

The group concluded that U.S. forces conducted an even larger number of interrogations that involved "cruel, inhuman or degrading" treatment. Both categories of actions violate U.S. laws and international treaties.

"After conducting our own two-year investigation, weighing the credibility of all sources and studying the current public record, we have come to the regrettable, but unavoidable, conclusion that the United States did indeed engage in conduct that is clearly torture," Hutchinson said.

"What sets the United States apart as a world leader, in addition to our military might, are our values and respect for the rule of law. All the available evidence led us to conclude that, for many of these detainees, the U.S. violated both international law and treaties and our own laws," Jones said, "greatly diminishing America's ability to forge important alliances around the world."

The group unanimously arrived at its conclusion by examining what constitutes torture in a number of historical and legal contexts. Hutchinson noted that the U.S. State Department has characterized many of the techniques used against prisoners in U.S. custody in the post-9/11 era - including interrogation methods like waterboarding, stress positions, extended sleep deprivation and cramped confinement - as torture, abuse or cruel treatment when those same techniques were employed by foreign governments.

He said that U.S. courts have made similar findings, and the CIA, in an internal review, acknowledged that many of the interrogation techniques it employed were inconsistent with the

public policy positions that the United States has taken regarding human rights.

The group concluded that much of the mistreatment that occurred at Guantánamo Bay, in Iraq, in Afghanistan and elsewhere was never explicitly authorized, but nonetheless resulted directly from decisions made by the nation's highest civilian and military leaders, most notably that the Geneva Conventions did not apply to Al Qaeda and Taliban captives, and that the CIA could employ brutal interrogation techniques against certain "high-value" detainees.

In the report, Task Force members noted their belief that the officials whose decisions contributed to the use of torture undertook those measures as their best efforts to protect their fellow citizens. However, they wrote, it is important to set forth a historical account of how these decisions were made so that our nation will proceed differently in the future.

While the report is critical of many of the decisions made and actions taken during the Bush administration, Jones said the investigation was not intended as partisan fault-finding, and its conclusions about responsibility should not be taken as anything other than an effort to understand what happened at many levels of U.S. policymaking.

Underscoring its bipartisan nature, Jones said the report "denounces the practice of rendition to torture, which began during the Clinton administration, and also criticizes several decisions of the Obama administration, particularly its ongoing concealment of the details about torture by the CIA and military, as well as its less-than-clear policy on drones."

The report urges the president to direct executive branch agencies to declassify as much evidence as possible -- consistent with legitimate national security concerns, and with redactions only where needed to protect specific individuals, to honor specific diplomatic agreements -- regarding the CIA's and military's abuse and torture of suspected terrorists in U.S. custody.

Specifically, the group called for declassification and public release of the recently adopted, but still secret, study of CIA interrogations by the Senate Select Committee on Intelligence; the Report of the Special Task Force on Interrogation and Transfer Policies; all reports of the CIA's Inspector General on the agency's interrogation, detention and transfer of detainees; and all investigations by the Department of Defense into abuses of detainees by Joint Special Operations Command Special Mission Unit Task Forces in Iraq and Afghanistan.

"We believe an honest, informed and open accounting of our government's handling of detainees in our war against terrorism will serve our country well in the future," Hutchinson said.

Based on the evidence it gathered and analyzed, the group developed a number of additional recommendations for policymakers in the executive and legislative branches, including:

- Amending the criminal laws against torture and war crimes to close loopholes that allowed government lawyers to define brutal techniques as something other than torture;
- Formalizing policy changes to ensure prompt Red Cross access to detainees;
- Preventing the military and intelligence communities from asking medical and psychological professionals to monitor harsh interrogations, violently force-feed detainees on hunger strike, or take any action towards detainees that violates professional ethics; and
- Acknowledging and respecting our legal obligation not to transfer detainees to torture overseas.

TCP's Task Force on Detainee Treatment is made up of former high-ranking officials with distinguished careers in the judiciary, Congress, the diplomatic service, law enforcement, the military, and other parts of the executive branch, as well as recognized experts in law, medicine and ethics, representing diverse political and ideological views. The [full list of members](#) is

available online.

The report is based on a thorough examination of available public records and interviews with more than one hundred people, including former detainees, military and intelligence officers, interrogators and policymakers. Task Force staff and members conducted on-the-ground fact-finding in Afghanistan, Iraq, Libya, Lithuania, Poland and the United Kingdom, and also at Guantanamo Bay.

A copy of the report and supporting information is available at <http://www.detaineeetaskforce.org>.

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### [About The Constitution Project](#)

*Created out of the belief that we must cast aside the labels that divide us in order to keep our democracy strong, The Constitution Project (TCP) brings together policy experts and legal practitioners from across the political spectrum to foster consensus-based solutions to the most difficult constitutional challenges of our time. TCP seeks to reform the nation's broken criminal justice system and to strengthen the rule of law through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.*



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