



## **SUPPORT THE MCCAIN-FEINSTEIN-COLLINS-REED ANTI-TORTURE AMENDMENT**

On June 9, 2015, Senator John McCain (R-Ariz.) introduced an amendment to the FY 2016 National Defense Authorization Act to strengthen the prohibition against torture. The amendment is co-sponsored by Senators Dianne Feinstein (D-Calif.), Susan Collins (R-Maine) and Jack Reed (D-R.I.).

### **What does the McCain-Feinstein-Collins-Reed amendment do?**

The amendment requires all U.S. government interrogations that occur outside a law enforcement context to follow the Army Field Manual on Interrogations. This manual allows interrogators to use a specific set of interrogation techniques, prohibits them from using any others, and includes clear prohibitions on torture and cruel treatment. While the current version of the interrogation manual also contains some troubling provisions, the amendment provides a mechanism to address them. Within one year after the amendment becomes law, the interrogation manual must be reviewed and revised to ensure that it complies with all U.S. legal obligations and “reflects current, evidence-based, best practices for interrogation that are designed to elicit reliable and voluntary statements and do not involve the use or threat of force.” The amendment also requires that the manual, and any revisions to it, remain public. Finally, the amendment mandates that the International Committee of the Red Cross be notified of, and given prompt access to, all detainees in U.S. custody or control, no matter where they are being held.

The amendment would not change current interrogation practice – as a matter of policy, all government agencies conducting interrogations outside a law enforcement context have been required to follow the manual for the last six years.

### **Why should Members support the McCain-Feinstein-Collins-Reed amendment?**

*U.S. service members and intelligence professionals deserve clarity and certainty about what is and is not permissible when conducting interrogations.*

“Interrogators deserve to know where the boundaries lie, and to have confidence that when acting within them they will not be second-guessed down the road. The ‘enhanced interrogation’ program and the process through which it was repeatedly authorized blurred those lines. Doing so was dangerous and wrong. The McCain amendment would redraw the lines, clearly, where they belong.” – Brig. Gen. David R. Irvine (Ret.)<sup>1</sup>

*A strong bipartisan majority of Americans (67%) supports legislation to strengthen and clarify the prohibition against torture.*

In January 2015, The Constitution Project released a [poll](#) on Americans’ attitudes towards torture. The poll found widespread approval across the political spectrum for strengthening U.S. laws against torture, specifically by making it clearer to the CIA and to the military what behavior is legal, and what is illegal, when interrogating people who may have information about terrorists. That is precisely what the McCain-

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<sup>1</sup> Brig. Gen. Irvine maintained a faculty assignment for 18 years with the Sixth U.S. Army Intelligence School, teaching prisoner-of-war interrogation and military law. He served on [The Constitution Project Task Force on Detainee Treatment](#).

Feinstein-Collins-Reed amendment would accomplish. Three quarters of Democrats, 69% of independents and 56% of Republicans said they would approve of such a proposal. The poll also showed that even stronger bipartisan majorities of Americans think torturing people is immoral (69%), and should not be done if the government might have other ways to obtain information about terrorists (76%).

*CIA Director John Brennan agrees with banning the use of interrogation techniques not in the Army Field Manual.*

In his memorandum transmitting the CIA's response to the Senate Select Committee on Intelligence oversight report on the CIA's former "enhanced interrogation" program, Brennan said that he "agree[s] with the President's decision" – implemented through [Executive Order 13491](#) – to bar the CIA from operating detention facilities and ban the use of all interrogation techniques not in the Army Field Manual. "I personally remain firm in my belief that enhanced interrogation techniques are not an appropriate method to obtain intelligence and that their use impairs our ability to continue to play a leadership role in the world," he said. "Moreover, it is my resolute intention never to allow any Agency officer to participate in any interrogation activity in which enhanced interrogation techniques would be employed."<sup>2</sup> A fact sheet on the CIA's website reiterates that "[i]t is Director Brennan's resolute intention to ensure that Agency officers scrupulously adhere to these directives [in Executive Order 13491], which the Director fully supports."<sup>3</sup>

*The amendment would make it nearly impossible to resuscitate the "enhanced interrogation" program.*

The United States already has a number of laws prohibiting torture and cruel treatment, most of which were on the books when the "enhanced interrogation" program began, and all of which were in force before the program ended. The CIA and lawyers in the justice department repeatedly circumvented them to authorize, and reauthorize, "enhanced interrogation." The amendment would prevent that from happening again. Interrogators would be restricted to the specific set of techniques enumerated in the Army Field Manual on Interrogation, and the manual would need to be reviewed and revised to ensure that those techniques comply with U.S. legal obligations and "reflect[] current, evidence-based, best practices for interrogation that are designed to elicit reliable and voluntary statements and do not involve the use or threat of force."

*Passing the amendment would send a clear signal the world over that Congress is serious about preventing a return to government-sanctioned torture and cruel treatment in the face of a future crisis.*

"We know from our decades of experience representing the United States at home and overseas how engaging in abuse of detainees damaged U.S. relations with other nations. Some strategic partners and allies questioned whether they could trust the United States, and some reduced their cooperation with us. Our government lost credibility in the eyes of many to continue to champion the rule of law. These relationships and that credibility are essential to our national security, particularly in an age when threats against the U.S. emanate from all corners of the globe and the cooperation of allies and friends is so essential. Passing the McCain-Feinstein-Collins-Reed amendment would send a powerful message the world over that the United States is serious about learning from and never again repeating serious mistakes that were made in the aftermath of 9/11." – Ambassador Thomas R. Pickering, Ambassador James R. Jones.<sup>4</sup>

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<sup>2</sup>[https://www.cia.gov/library/reports/CIAAs\\_June2013\\_Response\\_to\\_the\\_SSCI\\_Study\\_on\\_the\\_Former\\_Detention\\_and\\_Interrogation\\_Program.pdf](https://www.cia.gov/library/reports/CIAAs_June2013_Response_to_the_SSCI_Study_on_the_Former_Detention_and_Interrogation_Program.pdf).

<sup>3</sup> <https://www.cia.gov/news-information/press-releases-statements/2014-press-releases-statements/cia-fact-sheet-ssci-study-on-detention-interrogation-program.html>.

<sup>4</sup> Ambassadors Pickering and Jones served on [The Constitution Project Task Force on Detainee Treatment](#).