

# The manipulation of minds: reckoning with the legacy of the American post 9/11 torture program

Maria Hartwig<sup>1</sup> and Mark Fallon<sup>2</sup>

## Abstract

In this article, we argue that the government's post 9-11 torture program was a big lie, in that the designers, executors and enablers knew all along that torture does not elicit reliable information. We review the government's own research on the matter, and we discuss the ways in which methods known to be unreliable were implemented, most saliently at the detention facility at Guantánamo Bay. We review the secrecy and propaganda surrounding the scope and horror of the torture program at Guantánamo and black sites around the world, and the painful truth of how the government knowingly adopted the terror policies of the torture program, against their own knowledge, against international human rights, and against the law.

On January 20, 2021, Joseph R. Biden, Jr. became the 46<sup>th</sup> President of the United States, following what might very well have been the most chaotic election in the recent history of the United States. The turmoil reached a peak on Jan 6, 2021, when Trump supporters stormed the Capitol in Washington, DC. At the center of this extended and ongoing political upheaval is what has been

labeled “The Big Lie” – the completely disproven notion that Biden's win was based on fraudulent grounds, and that the election was stolen from Trump because of a corrupted voting process.

President Biden has consistently rejected reality warping and presents himself on the national stage as a man of reason, and a strong supporter of science. He has proclaimed “Science is discovery. It's not fiction”, as he announced that his team of scientific advisors would summon “science and truth” to combat climate change, the COVID-19 pandemic and other challenges facing his new administration, adding “The same laws apply, the same evidence holds true regardless of whether you accept them.”

President Biden can show his self-proclaimed commitment to truth by following through on his words with action. In particular, he can fulfil the task which his two predecessors, Trump and Obama, both failed to do: *Closing the detention facility at Guantánamo Bay*. The same United States law and international law apply; the same evidence, or lack thereof holds true for those remaining 38 prisoners being held within the confines of a US-run concentration camp in the Caribbean. The laws of science apply, the rules of evidence apply, and the rule of law applies. Science and truth cannot be situationally applied to suit political agendas, especially not

- 1) Department of Psychology, John Jay College of Criminal Justice, City University of New York. Correspondence to: hartwigmaria@gmail.com
- 2) Visiting scholar, John Jay College of Criminal Justice

within the confines of a facility once called a “Battle Lab” (Leopold, 2015), where the military touts phrases like “honor bound” and “defend freedom” at the entrance, yet the truths of what goes on inside are withheld from the public record, via the government’s complex layers of secrecy, including classification, redactions, and obfuscations.

There can be no justice without truth. The system has derailed every effort to bring the suspected 9/11 terrorists to justice before tribunals that have failed and have been derailed by torture. While President Biden can’t remove the stain of the national torture policies, he can show that the Constitution endures; that the rule of law prevails, by illuminating the shadowland of the torture regime. Joe Biden needs to demonstrate that truth matters - even painful truths.

In this article, we will describe that through a painstaking and laborious process of discovery, we now know that behind the gates of Guantánamo Bay and its related archipelago of black sites there were prisoners, often held on dubious grounds or no reasonable grounds at all. We know that these prisoners were submitted to treatments aimed squarely at generating complete psychological disintegration. As we will lay out in the article, prisoners captured during Operation Enduring Freedom and Operation Iraqi Freedom were subjected to physical violence, sexual violence, and an astonishing array of psychologically abusive tactics under the misnomer ‘interrogation’. We also know that the torture program metastasized into a monster, as if lifted from the pages of the most absurd of postmodern fictions, and that the United States has never held anyone accountable, nor faced any reckoning for this disaster of human rights (Senate Select Committee Study of the Central Intelligence Agency Detention and Interrogation Program, 2014). And we know that the disas-

ter that was the torture program was all based on lies, one big lie in particular – that *torture worked to break through to truth*. The chief argument, which we will defend below, is that the schemers behind the system of torture *knew all along that this was bogus*; that torture does nothing to produce truth, that what it breaks is a person’s autonomy and very selfhood, rendering them compliant in the extreme. Indeed, the CIA and United States military, who both committed war crimes, *knew all along that they propagated falsehoods* – our main argument is that the historical record shows that the CIA itself has a long history of studying precisely the effect of techniques like those employed post 9/11. As we shall see, the so called architects had no interrogation experience, but were well-versed in communist-based methodologies known to produce false information.

### Reckoning with an American Gulag

The issue surrounding Guantánamo Bay is broader than the mere closing of the physical prison and doing justice to the thirty some men still imprisoned there, if such a thing is even remotely possible at this time. It also involves a vast reckoning with America’s involvement in and administration of one of the most egregious human rights violations in recent history: The state-sponsored torture program consisting of *a family of interrogational abuses* deployed in the name of the so-called War on Terror (Luban & Newell, 2019). It also involves exposing the systematic efforts on behalf of the perpetrators of the program, to hide from the American public what happened, to redact to the point of absurdity, to knowingly and pervasively transmit false propaganda about the program’s nature, effects, and effectiveness. All of this entails exposing the full truth about the torture program, even if the facts that constitute the full truth are ugly, painful, or embarrassing -

without the truth, a genuine reckoning with our conduct and our professed values cannot occur. Without a reckoning of atrocities, like the trials at Nuremberg, how can we know that the United States will not commit them again? We cannot.

The transfer of power allows presidents to shape American history and control the nation's destiny. Presidents hold the power to wage war or keep the peace, to pardon and prosecute, and to convene tribunals for the violations of the laws of war. As the Guantánamo torch has been passed, Joe Biden is the fourth president to hold it. Meanwhile, lingering in a legal labyrinth and maligned procedural problems, 36 tortured prisoners remain in limbo, in classified confines on a military outpost far from their homes.

The prison at Guantánamo Bay is a symbol of a military tribunal system that is approaching its third decade, ironically established under an operation called Enduring Freedom (Bravin, 2013). Operation Enduring Freedom triggered the Guantánamo Bay war courts, whereby President George W. Bush issued a military order asserting his authority to try suspected al-Qaeda terrorists before military tribunals. Bush targeted al-Qaeda, an organization that pledged allegiance – bayat – to Osama bin Laden, whose terrorist attack, killing almost 3,000 on September 11, 2001, brought America into a state of existential shock.

Since the first prisoners arrived at Guantánamo on January 11, 2002, approximately 780 prisoners have been held captive there, with nine dying there, and all but 36 others released or transferred (see the Guantánamo Docket, 2022). Yet, there have been no trials for the 9/11 and USS Cole (DDG-67) suspects. There have been Transfer Review Boards convened by the DoD Criminal Investigation Task Force (CITF),

JTF-GTMO Detainee Assessments, Combatant Status Review Tribunals, a Guantánamo Review Task Force, and ongoing Periodic Review Boards, lacking transparency, trying to imagine if they could prevent some future crime that might be committed, and keeping the crimes we committed on the prisoners shrouded in secrecy. While President Obama admitted “we tortured some folks”, the who and how we tortured apparently, and who committed the torture, edges too close to potential accountability for the perpetrators, both individuals and agencies.

The people currently imprisoned at Guantánamo Bay are suspected war criminals, captured in the war on Afghanistan, by now the longest-lasting war in US history. This war has outlasted the Civil War, Spanish-American War, both World Wars, and the Korean War combined. The Constitutionality of the military commissions processes have been repudiated by the Supreme Court, required Congressional revision, and have resulted in international condemnation. President Obama failed to close the Guantánamo prison through two terms, and President Trump, who campaigned he would “load it up with some bad dudes,” signed an executive order to keep the prison at Guantánamo Bay open. The time to close it is overdue. On July 2, 2021, the last official military officials were exfiltrated from Afghanistan, ending two decades of occupation. Bagram Air Base, which had housed the Bagram Collection Point, where so many Guantánamo prisoners transited through, was overrun by looters. On July 26, 2021, President Biden and Iraqi prime minister Mustafa al-Kadhimi sealed a deal, formally ending the US combat mission in Iraq by the end of 2021, evoking images of the famous “Mission Accomplished” banner that hung behind President George W. Bush on the aircraft carrier USS Abraham Lincoln (CVN-72), declar-

ing major combat operations in Iraq had ended in May 2003. With Operations Enduring Freedom and Iraqi Freedom over, the only way for President Biden to deal with the human remains of those operations, the Guantánamo 36, is to come to terms with the American torture program.

### **The torture regime: a big lie**

In the beginning of this article, we referred to the contemporary ‘Big Lie’ of 2021 as the one claiming that Biden’s presidential authority is invalid because of a fraudulent election. From a historical perspective, this is surely not the only political lie of noteworthy scope— we could point to many examples (e.g., the Watergate scandal, the secrets that were exposed in the Pentagon papers, see Ellsberg, 2003, and the revelation of the program of covert criminal activities conducted by the FBI, partly under the codename COINTELPRO, see Johnson, 2015). Here, we point to another Big Lie; one that is not relegated to history but in fact unfolds in present time and runs like a thread through Operation Enduring Freedom and Operation Iraqi Freedom into the present day.

This Big Lie is about the torture techniques employed under various euphemisms - Enhanced Interrogation Techniques (EIT), or Counter-Resistance Strategies (CRS). These were the restoration of the psychological torture legacy programs described in the KUBARK Counterintelligence Manual and later called Human Resource Exploitation (HRE), when images of CIA “interrogation” invoked too many unpleasant images. As we shall see, these tactics were known all along by the very government that administered them, to NOT be effective in generating true information – making this an intentional act to mislead the public about the actual effects of the techniques. The government engaged

in a series of propaganda and public perception management efforts about interrogation in order to promote the view that harsh tactics including physical, psychological and sexual abuse were necessary to produce true information – again, a view they themselves had known to be false for a long time.

We make bold claims. How do we know that the government told a big lie when they touted the harsh interrogation techniques? There are at least three reasons. First, the Department of Defense (DoD) and the Central Intelligence Agency (CIA) possessed a plethora of documents, some produced by the entities themselves, outlining the maltreatment and torture of prisoners of war (POW’s). The government widely catalogued the treatment of POW’s captured and detained during World War II, the Korean war, and by Communist Soviet and China.

Second, the government, in particular the CIA, has a long history of experimentation on human subjects, far beyond the reach of modern ethical review boards necessary by federal law. In the case of the CIA’s programs, their pattern is one of focus on *manipulation and control of the mind*. Before providing some detail of the CIA’s efforts and investment in programs of mind control, let us pause to contemplate what the purpose of such a program was likely to be. Numerous writers and commentators have likened the purpose of these experimentation to the creation of a psychological blank slate – a erosion of the self and a suspension of volition so profound that the subject in question would commit actions even against the fundamental instinct for self-preservation.

Third, the government continuously rejected the advice of interrogation professionals responsible for investigating al-Qaeda – these professionals advised against harsh mea-

tures and instead advocated the use of rapport-based methods (Fallon, 2017).

In short, the government has clearly known for many decades that people, through relentless use of tools that exploit the human mind and body, people can be made to behave like slaves (or more precisely, become slaves), driven to comply with any command, including saying anything they believe their masters want to hear. Despite this, after the terror attacks on 9/11, the CIA carried out a systematic information operation which manipulated the media, the public, and policymakers, and the entire chain of command to enforce the known lie that the process of psychologically breaking a person can and will lead to reliable intelligence (Senate Select Committee Study of the Central Intelligence Agency Detention and Interrogation Program, 2014).

### **The CIA's pursuit of mind manipulation and control**

A government can justify interest in matters of mind manipulation for defensive purposes. For example, understanding how a person can be systematically broken down is of relevance for United States' POW's and the threat they may pose to national security. However, mind manipulation and control can also be deployed offensively, in order to gain some form of perceived advancement, as in the case of the CIA.

As early as 1956, the CIA produced a report entitled *Brainwashing: A Psychological Viewpoint*, which drew on some 300 previously classified or unclassified documents on the topic (with an estimate that the total number of such documents available at that time likely exceeded 1,000). This remarkable report was unclassified in 1999 and begins with a quote from the French writer Jules Verdain: "We know now that men can be made to do exactly anything..... It's all a question of finding the

right means. If only we take enough trouble and go sufficiently slowly, we can make him kill his aged parents and eat them in a stew".

The aim and anticipated outcomes of brainwashing are clearly reflected in the foreword to the CIA's early report, in which a brainwashed person is described as "an involuntarily re-educated person". The means to this end are described in detail, including the systematic process of isolation, sleep disruption, environmental and dietary manipulation and sustained situational, social and psychological stressors. The report described techniques which rendered the subject "completely helpless" and as viewing the interrogation as a welcomed break "after a long period of isolation, anxiety and despair."

Below, we will describe how the United States government rolled out, under the guise of 'interrogation', a program of mind control – that is, psychological and physical torture – entirely similar to the techniques studied by the CIA under the theme of 'brainwashing', as well as related methods used in current military training for those at high risk of capture (e.g., SERE training, for Survival, Evasion, Resistance, Escape). They did so despite knowing the effects. It is sometimes stated that the government 'reverse-engineered' these methods to create an "interrogation" program for high-value targets who were supposedly trained in sophisticated techniques to withstand interrogation<sup>1</sup>. In fact, the \$81 million program

1 A document found in an al-Qaeda cell in Manchester which contained scattered information about how to prepare for battle became the foundation for the widely floated myth that al-Qaeda members were armed with counterinterrogation techniques, and therefore may need extraordinary measures. In fact, there has never been any evidence presented that the so-called Manchester manual was widely circulated beyond the British cell, nor

executed under a CIA contract awarded to James Mitchell and Bruce Jessen was a direct replica of well-known techniques of interrogational abuse (Biederman, 1956, Report of the Committee on Armed Services, 2008). In a civil suit brought by the ACLU involving three detainees, one of whom died in CIA custody, Mitchell and Jessen denied any legal responsibility, and mounted a defence based on an unflattering comparison between their role as contractors and those who sold Cyklon B to be used in Nazi gas chambers<sup>2</sup>. Regardless of legal responsibility, it is clear that the effects of the torture techniques were long known, and the government had *no basis to believe that their 'enhanced' interrogations would lead to gains in intelligence*. In fact, there was tremendous opposition by individuals, commands and agencies within the government (Fallon, 2017).

### The big lie unfolds: the 9/11 torture program

On August 6, 2001, President George W. Bush was briefed that bin Laden was determined to strike the US. Signals of danger in the intelligence community included uncorroborated threat reporting from another

service that 'Bin Laden wanted to hijack a US aircraft to gain the release of "Blind Shaykh" 'Umar" Abd al-Rahman and other US-held extremists" (National Commission on Terrorist Attacks Upon the United States, 2004). While the system was blinking red, and bin Laden's intentions should have been clear following the attack on the USS Cole (DDG-67) and al-Qaeda's history, 19 hijackers turned commercial aircraft into missiles and were able to commit a premeditated mass murder claiming the lives of almost 3,000 people. In the days and weeks following those attacks, the Bush administration set in motion a political and legal process that culminated in the American GULAG archipelago of black sites. In this big lie to the American public, the administration proceeded to utilize techniques that they knew generated nothing of substance – and furthermore, deployed them in thick clouds of secrecy, so that the American people would never know the depravities perpetrated in their name.

On November 13, 2001, President Bush made the historically unusual move to invoke the military in the pursuit, prosecution and punishment of these crimes. He issued an order that held that the perpetrators of the 9/11 attacks should be brought to justice via a system of military tribunals. On September 17, 2001, President Bush secretly issued a Memorandum of Notification which allowed the CIA to establish the Rendition, Detention and Interrogation (RDI) program, one of several euphemisms for processes and programs that included kidnapping and torture. After urging by the CIA, on February 7, 2002, he signed a memorandum stating that the Geneva Convention – which former Deputy Counsel of the CIA John Rizzo called 'pesky little international obligations' (Ladin, 2016) - did not apply to the conflict with al-Qaeda, further paving the way for the commission of torture.

---

is there evidence that al-Qaeda operatives were systematically trained in counter-interrogation. In spite of this, the CIA used the myth on repeated occasions to justify the expansion of the torture program and subsequent execution of ever-more brutal treatment.

- 2 This defense strategy is strange, since the Nuremberg tribunals did in fact hold suppliers of Cyklon B responsible. Furthermore, the comparison is half-baked because while suppliers of lethal gas presumably did only that, Mitchell and Jessen were far more involved in the events – Mitchell himself functioned as an 'interrogator' on multiple occasions, and he has admitted in public hearings to waterboarding Khalik Sheik Mohammed (while also committing physical assault).

On March 28, 2002, Abu Zubaydah was captured in Pakistan and transferred to CIA custody. His case marks the first known instance in which the government resorted to the use of torture after 9/11. Not long after the torture of Zubaydah began in the fall of 2002, CIA detainee Gul Rahman died, chained to the wall in a detention site called COBALT (most likely the CIA black site Salt Pit north of Kabul, Afghanistan), naked from the waist down in what is called a stress position designed to maximize pain, with the apparent cause of death being hypothermia. His family has never been officially notified that he is dead, and his body has not been returned. It is worth noting that the CIA officer who ordered Gulman's shackling distorted the course of events around his death to CIA headquarters, but that rather than facing consequences for his actions, a CIA station recommended that he be awarded a \$2,500 cash award for his 'consistently superior work'.

### The case of prisoner 063

The victims of the government-sponsored torture program are too many to list here, and the gruesome treatment they endured is too vast. We can however use the case of Mohammed al-Qahtani, aka prisoner 063, as an illustrative example of the methods used in the torture program (Zagorin & Duffy, 2005). He was believed to have been the so-called "20<sup>th</sup> hi-jacker", who landed in Orlando, Florida in August 2001, allegedly in order to meet with Mohammed Atta, the ringleader of the 9/11 plot. An immigration officer rejected his cover story based on its implausibility, and al-Qahtani was deported. More than a year later, he was captured, detained, and subjected to a stunning range of abuses by his captors, the United States government, and specifically the US military. His case is the only instance in which the United States has confessed to

committing torture (Glaberson, 2009). al-Qahtani now remains in custody, reportedly in a psychiatric facility in Saudi Arabia.

The treatment of al-Qahtani was documented by the government itself, using a routine system for logging activities. The interrogation logs read like a diary of an extended nightmare. There are at least 83 pages of entries documenting a process that somehow manages to be systematic, haphazard, relentless and arbitrary all at once. It is a document of torture – again, the government admits it – but it also stands as a horrific exemplar the CIA's longstanding obsession with 'brainwashing', the process we characterized earlier as breaking a person apart entirely in order to reach a point of complete submission and subjugation.

The interrogation log, beginning in November 2002 reports a remarkable range of mistreatments, including relentless sleep deprivation, humiliation and manipulations aimed at producing in the detainee an experience of complete loss of control and autonomy.

For example, on November 24, 2002, al-Qahtani, after having been allowed to sleep at midnight the night before, is woken up at 4:00 am for continued interrogation. The 9<sup>th</sup> and 10<sup>th</sup> log entries of that morning read "0457: SGT R advises detainee not to sleep." And "0509: SGT R advises detainee not to sleep." The 24<sup>th</sup> log entry of that day is at 8:40 am: "SGT R has the detainee stand for 10 minutes to stretch and avoid sleeping.", followed by "0900. SGT A asks the detainee if he wants to pray and sleep. The detainee says yes. SGT A says you have to drink water. The detainee says no. SGT R gives detainee 1 more chance. The detainee says no. SGT R empties water on floor and tells the detainee "you had your chance". The Corpsman then checks the detainee's vital signs, they are OK. 0925: SGT A discusses levels of guilt and sin. 0930: SGT A talks about the embarrassment of using a weak cover

story and mixes in the “You can make this stop” approach. The detainee remains unresponsive.” In the late afternoon, al-Qahtani is so dehydrated that medical personnel coercively administer fluids via IV: “1800: Medical personnel checked vital signs and determined that detainee needed to be hydrated.”, after which the interrogation resumes. The last log entries of November 24 read “2330: Detainee began to cry. 2400: Pressure wrap was put on detainee’s feet to combat the swelling. Detainee was put to bed”, with interrogation beginning at 4 am on the following day.

The onslaught of tactics and the seemingly haphazard way in which they were employed are also illustrated by the logs for November 26 (another of the many days with interrogations beginning at 4:00 am). They read “1835: SGT M takes over the interrogation. P&E down<sup>3</sup> was employed (ie You look like hell. Do you want to see me everyday and pray on the floor where you urinated?). 1845: Manchester Document<sup>4</sup>/ Futility- The Al-Qaida training manual was written by somebody who never went through an interrogation. 1850: Why doesn’t Usama bin Laden use his children, or why does he not participate in suicide missions? Al-Qaida is falling apart themselfutility. SGT M reviewed with detainee the slips that he made. 1905: Manchester Document themselfutility. 1930: P&E down. 1940: SGT B takes over interrogation.

2010: Detainee drinks a bottle of water and is allowed to pray. Comparison is made between idol worship and swearing Bay’a to Usama bin Laden.”

Some of the degrading treatments are so absurd that they border on the incomprehensible. For example, the fourth log on December 2, 2002, reads “0630: Detainee taken to bathroom and exercised. Control started session with Arabic lesson and explained how Saudis go to Bahrain for alcohol and prostitutes. Continues we are in control approach.”, followed by “0800: Detainee taken to bathroom and offered water. 0900: Detainee woken up and offered MRE – refused.

0910: Lead cleaned detainee’s face and combed hair and beard. Showed 9-11 video. 1000: Lead and control explained that detainee has no control. 1030: Control began “birthday party” and placed party hat on detainee. Detainee offered birthday cake - refused. Interrogators and guards sing “God bless America”. Detainee became very angry.” The next day, at 09:30 am: “Interrogators gave class to new MPs in view of detainee stating the resistance training, clouded thinking, series of mistakes, and attempts to gain control that the detainee has exhibited. Interrogators ran puppet show satirizing the detainee’s involvement with Al Qaida.”, and on December 13, the log reads “1115: Detainee taken to bathroom and walked 10 minutes. Offered water – refused. Interrogators began telling detainee how ungrateful and grumpy he was. In order to escalate the detainee’s emotions, a mask was made from an MRE box with a smiley face on it and placed on the detainee’s head for a few moments. A latex glove was inflated and labelled the “sissy slap” glove. This glove was touched to the detainee’s face periodically after explaining the terminology to him. The mask was placed back on the detainee’s head. While wearing the mask, the team began dance instruction with the detainee. The detainee became agitated and began shouting. The mask was removed and detainee was allowed to sit. Detainee shouted and addressed lead as “the oldest Christian here” and wanted to know why lead allowed the detainee to be treated this way.”.

3 This is shorthand for Pride Down and Ego Down, two Army Field Manual-endorsed tactics which entail various attacks on the person’s self and identity as well as their belief systems. In this instance, the ‘interrogator’ was likely referencing an earlier logged event where the detainee was denied requests to use the bathroom, forcing him to urinate in his pants.

4 See footnote 1.



Of what use could puppet shows, birthday party hats, and ‘sissy slap gloves’ be in gaining intelligence? The answer is as plain as it seems – none. However, these spectacles serve a different purpose, and that is the purpose of humiliation. 063 was far from the only prisoner who was subjected to *systematic humiliation*, and the telegraphic text of his interrogation logs belies the brutality with which humiliation was used (Harris & Mak, 2014; Senate Select Committee Study of the Central Intelligence Agency Detention and Interrogation Program, 2014). Some of the themes of humiliation were based on existential belief systems (e.g., desecrating symbols of the holy) - behavior that may seem innocuous but can cause profound inner turmoil, reactions that are rooted deeply in our evolutionary past (Rozin & Haidt, 2013).

Other themes of humiliation weaponized by the CIA were sexual in nature, whereby a range of harassments and assaults were inflicted on the sexual identity of the detainee, with the chief purpose, again, of humiliation and subjugation. Detainees were groped, forced to look at sexual materials and pornography (the 063 logs document at least three instances in which al-Qahtani was forced to wear a string of binders [sic] of scantily clad women around his neck), forced to masturbate, and/or they were sexually assaulted under the euphemism of “Invasion of Space by Female”. One writer notes that “[t]he mounting evidence of sexualized interrogation of suspected enemy combatants makes clear Abu Ghraib was not an isolated incident. Rather, the evidence points to it being a calculated strategy of war. Indeed, evidence of this policy, including interrogation methods that exploit the interrogator’s gender, comes directly from the government itself” (Rumann, 2010).

Some of the harassment and assault on detainees, including the sexual abuse, was tailor-

made for a given person, based on exploitation of their personal and medical history. Relatedly, other forms of abuse were gross exploitations and/or violations of the body conducted on quasi-medical grounds (e.g., forced rectal ‘re-hydration’ or ‘feeding’ administered in a punitive manner). Unbiased data shows that these abuses led to permanent psychological scarring (Iacopino & Xenakis, 2011).

Regarding psychological scars from Guantánamo Bay (Apuzzo, Fink, & Risen, 2016) and the case of al-Qahtani, it is worth noting that al-Qahtani already suffered from severe mental illness before being taken into custody by the United States government. As an 8-year old boy, he suffered a traumatic brain injury which led to permanent mental impairment, including severe dysregulation of emotion and impairments in executive functioning (i.e., the basic ability to exercise self-control, see Center for Constitutional Rights, 2020). As a teenager, he displayed signs of schizophrenia (with which he was diagnosed in 2000), and he was confined to a psychiatric facility after a public psychotic episode.

Let us zoom out from the details for a moment. What happened in the case of prisoner 063 is that the United States knowingly deployed a range of extremely violent tactics on a deeply ill man. Beyond ethics; it is a legal absurdity: Even the most primitive systems of justice display some degree of jurisprudence whereby certain categories of people are not liable criminal targets because of their basic incompetence to fulfil the criteria of *mens rea*, in simple terms, the possession of a guilty mind. We do not prosecute children nor the deranged (at least in theory), for this reason. In the United States justice system, there exists a variety of safeguards and barriers meant to screen out those not mentally competent to meet the criteria of *mens rea*. Considerations

of a person's mental state occur at multiple levels – for example, a person needs to meet certain criteria for competency to stand trial in the first place; they also need to be mentally competent to make various legal choices (e.g., whether to waive the right to an attorney, the right to a jury trial, and even the competency to be executed).

It was former Secretary of Defense Donald Rumsfeld who personally authorized the plan to proceed with the full scope of brutality against al-Qahtani (who, again, ought to be a moot subject for prosecution because of his insanity). Further, Rumsfeld was “personally involved” in his interrogation plan and requested “weekly briefings” on his case.

It is morbid to think of one of the most high-ranking politicians in the nation personally engineering the suffering of a sick prisoner. Yet, this is what happened. Would the Secretary of Defense give direct advice on (botching) a surgical procedure in a given military field operation? Of course not, the notion is absurd; surgery requires professionalism and skills, and in any event, such a matter would be far below the level of the Secretary of Defense. Yet, in the case of al-Qahtani, the absurd could not be more real – Rumsfeld's physical signature of approval to proceed to torture al-Qahtani is documented by the government itself.

Interestingly, in 2011, several media outlets including CNN reported that al-Qahtani had provided critical information related to the courier whose positions and movements were used to hunt and kill Osama Bin Laden (Joscelyn, 2011; Ross, 2011). These accounts were based on ‘anonymous government officials’, who implied, if not outrightly stated, that it was the torture of al-Qahtani that generated this supposedly key piece of intelligence. The media reported on (and thus contributed to) a re-ignited defence of the torture program based on the intelligence attributed to al-Qa-

htani. Even if the claim was true, it certainly does not morally nor legally justify anything. But is the claim true? In fact, it is completely implausible. Recall that the Pentagon's own records show that al-Qahtani was already at Guantánamo Bay undergoing torture in November 2002 – he was captured by Pakistani security forces on December 15, 2001 and brought by the US to Guantánamo Bay on Feb 12, 2002. How is it logically possible that al-Qahtani could have possessed intelligence about the whereabouts of Bin Laden's courier, after nearly 10 years of imprisonment, even if it is true that he met the person in question prior to his capture? It is not. The only reasonable conclusion to be drawn is that the media propagated government lies that seemed designed to smear al-Qahtani, provide further justification for torture. The CIA's intentions were forecast long before the conspiracy to torture was perpetrated and can be found on the CIA's own website (declassified for release in 2016). This chilling legal analysis executed on November 26, 2001, establishing *institutional mens rea*, states: “A policy decision must be made with regard to U.S. use of torture in light of our obligations under international law, with consideration given to international opinion on our current campaign against terrorism—states may be very unwilling to call the U.S. to task for torture when it resulted in saving thousands of lives” (Mazzetti, 2014).

The case of prisoner 063 is a travesty of justice and a tragedy, regardless of his planned involvement in the 9/11 plot. The fundamental injustice of his treatment by the United States government, along with his pre-existing mental illness, generates in its totality a picture of an unimaginable personal hell – a hell he is still suspended in as we write these words. The treatment of prisoners in US custody should shock the conscience of anyone able to see through the thin remaining veil of secrecy, and

the deceptive calculus of the torture enthusiasts and their enablers. After 20 years of indefinite detention, ‘20<sup>th</sup> Hijacker’ was repatriated to Saudi Arabia for mental health care, in a move opposed by three Republican senators (Rosenberg, 2022).

### **The age-old propaganda machine muddling the truth**

Whatever ideological differences may exist in general, or however people may differ in their moral, political and religious belief systems, under international law it remains factually true that the American government committed war crimes during the so-called War on Terror. As we have described, the documentation is overwhelming. Despite this, some vocal defendants of the torture regime engaged, and continue to engage in linguistic acrobatics regarding the definition of torture, and/or rely on phony and made-up legal justifications to downplay numerous elements of what was done to prisoners of war, on the soils of the American GULAG that included Guantánamo Bay (Honigsberg, 2017). Denial of the facts that the US engaged in war crimes can of course partly be driven by purely instrumental, self-oriented motivations to escape scrutiny and possible punishment for involvement in criminal conduct. But it is also worth noting that existential shock and fear alters people’s patterns of thought in ways that may not be clear to a lay observer, or even to the person themselves: Social psychological science shows that fundamental fear, of the kind that was instilled in many by the terrorist attacks on 9/11, leads people to psychologically close ranks, to rally against an enemy, real or perceived, and to seek punishment, partly as a symbolic way to display adherence and loyalty to the code of one’s own tribe (Pyszczynski, T., Solomon, S., & Greenberg, 2003). In this view, much of the torture

regime was not driven by rational reasoning at all, but by psychological motives for existential relief. To the extent those who continue to embrace torture operate based on a (likely non-conscious) hunger for raw retribution (Carlsmith & Sood, 2009), they are likely to be beyond rational argument.

### **Restoring truth, justice and the American way**

President Biden must expose the big lie about torture, restore the rule of law and adhere to international conventions on human rights. Cruelty as policy must be repudiated. The prohibition against torture is absolute and the fruits of that poisonous tree must be acknowledged. Every drop from the poisoned chalice is contaminated. For justice to prevail, torturers must be unmasked. Accountability can take many forms and one of them is a public acknowledgement and reconciliation of truth. The military commissions process at Guantánamo Bay is not justice delayed, it is justice deceived. A clean team, one not involved in any manner in the torture program, should conduct a complete review of the full Senate Torture Report, with a view towards transparency. If fair trials cannot be conducted, prisoners should be released. No one should be held indefinitely without trial. The danger posed here is not from their release, but an insider-threat - from ourselves. As the late Senator John McCain said in his impassioned speech from the floor of Congress when the Torture Report Executive Summary was released: “But in the end, torture’s failure to serve its intended purpose isn’t the main reason to oppose its use. I have often said, and will always maintain, that this question isn’t about our enemies; it’s about us. It’s about who we were, who we are and who we aspire to be. It’s about how we represent ourselves to the world.”

### Concluding remarks

What the government set in motion resulted in incalculable suffering and loss. There has been no justice for the victims of 9/11, nor for the war crimes committed in the pursuit of the culprits. Instead, there has been bloodshed, dread, tears and terror – all unfolding under a defunct military commission which seemed foolish to begin with. Under the most common of moral and legal frameworks, the government, including but not limited to the CIA, is culpable for this mess, on the simple basis that their actions were *purposeful* – malice aforethought, because they knew the effects of the physical and psychological weapons they deployed; they knew the harm it would cause, and – despite the lies they told the public – they knew it would not work to elicit accurate and reliable intelligence.

All of this is painful to acknowledge; to think that there has been such a big lie, such an ugly lie, that this lie has been told to us repeatedly by representatives of a government that claims democracy; that not a single score has been settled with regards to those responsible; all this in its totality resists psychological processing. It is our human nature to believe that the world is a fair and just place. We *want* to believe this, because such a belief structure provides order to the terror of an uncertain world. We shudder to imagine a place where gratuitous pain is inflicted on the undeserved, perhaps because in such a morally agnostic universe, we ourselves are candidates for victimization. But our epistemic preferences are one thing, and the truth is another. If we are to live in a rational world, a principled one, truth must trump existential discomfort – it may even be that truth must be the most cherished principle of all.

### References

- Apuzzo, M., Fink, S., & Risen, J. (2016). How U.S. torture left a legacy of damaged minds. *New York Times*. Retrieved from <https://www.nytimes.com/2016/10/09/world/cia-torture-guantanamo-bay.html>
- Biederman, A. (1956). Communist attempts to elicit false confessions from Air Force prisoners of war. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1806204/pdf/bullnyacadmed00378-0046.pdf>
- Bravin, J. (2013). *The terror courts: Rough justice at Guantánamo Bay*. Yale University Press.
- Center for Constitutional Rights. (2020). Mohammed al Qahtani. Retrieved from <https://ccrjustice.org/mohammed-al-qahtani>
- Committee on Armed Services, United States Senate (2008). Inquiry into the treatment of detainees in U.S. custody. Retrieved from [https://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final\\_April-22-2009.pdf](https://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final_April-22-2009.pdf)
- Ellsberg, D. (2003). *Secrets: A Memoir of Vietnam and the Pentagon Papers*. Penguin.
- Fallon, M. (2017). *Unjustifiable means: The inside story of how the CIA, Pentagon and US government conspired to torture*. Regan Arts.
- Glaberson, W. (2009). Detainee was tortured, a Bush official confirms. *New York Times*. Retrieved from <https://www.nytimes.com/2009/01/14/us/14gitmo.html?referringSource=articleShare>
- The Guantánamo Docket (2022). Retrieved from <https://www.nytimes.com/interactive/projects/Guantánamo/detainees/current>
- Harris, S., & Mak, T. (2014). The most gruesome moments in the CIA torture report. *Daily Beast*. Retrieved from <https://www.thedailybeast.com/the-most-gruesome-moments-in-the-cia-torture-report>
- Honigsberg, P. (2017). The Consequences today of the United States' Brutal Post-9/11 Interrogation Techniques. *Notre Dame Journal of Law, Ethics & Public Policy*, 31(1), 29.
- Iacopino, V., & Xenakis, S. N. (2011). Neglect of Medical Evidence of Torture in Guantánamo Bay: A Case Series. *PLOS Medicine*, 8(4), e1001027. <https://doi.org/10.1371/journal.pmed.1001027>
- Joscelyn, T. (2011). Did enhanced interrogation of the 20<sup>th</sup> hi-jacker help identify Bin Laden's courier? *Washington Examiner*. Retrieved from <https://www.washingtonexaminer.com/weekly-standard/did-enhanced-interrogation-of-the-20th-hijacker-help-identify-bin-ladens-courier>
- Johnson, L. K. (2015). *A Season of Inquiry: The Senate Intelligence Investigation*. University Press of Kentucky.
- Ladin, D. (2016). In secret email, CIA's chief lawyer mocked 'pesky little international

- obligations'. Retrieved from <https://www.aclu.org/blog/national-security/torture/secret-email-cias-chief-lawyer-mocked-pesky-little-international?redirect=blog/speak-freely/secret-email-cias-chief-lawyer-mocked-pesky-little-international-obligations>
- Leopold, J. (2015). How Guantanamo became America's interrogation battle lab. Retrieved from <https://www.vice.com/en/article/xwpb84/how-Guantánamo-became-americas-interrogation-battle-lab>
- Luban, D., & Newell, K. S. (2019). Personality Disruption as Mental Torture: The CIA, Interrogational Abuse, and the US Torture Act. *Georgetown Law Journal*, 108, 333.
- Mazzetti, M. (2014). Panel faults CIA over brutality and deceit in terrorism interrogations. *New York Times*. Retrieved from <https://www.nytimes.com/2014/12/10/world/senate-intelligence-committee-cia-torture-report.html>
- National Commission on Terrorist Attacks Upon the United States (2004). Retrieved from [https://govinfo.library.unt.edu/911/report/911Report\\_Ch8.htm](https://govinfo.library.unt.edu/911/report/911Report_Ch8.htm)
- Ross, T (2011) Courier's phone 'led US directly to compound'. The Independent. Retrieved from <https://www.independent.ie/world-news/middle-east/couriers-phone-call-led-us-directly-to-compound-26729256.html>
- Rozin, P., & Haidt, J. (2013). The domains of disgust and their origins: Contrasting biological and cultural evolutionary accounts. *Trends in Cognitive Sciences*, 17(8), 367–368. <https://doi.org/10.1016/j.tics.2013.06.001>
- Rumann, C. (2010). Use of female interrogators: The analysis of sexualized interrogations the detainee interrogation working group did not conduct. *Hastings Women's Law Journal*, 21, 273.
- Senate Select Committee Study of the Central Intelligence Agency Detention and Interrogation Program (2014). Retrieved from <https://www.govinfo.gov/content/pkg/CRPT-113srpt288/pdf/CRPT-113srpt288.pdf>
- Zagorin, A., & Duffy, M. (2005). Inside the interrogation of detainee 063. *Time Magazine*. Retrieved from <https://time.com/3624326/inside-the-interrogation-of-detainee-063/>
- Rosenberg, C. (2022). '20<sup>th</sup> Hijacker' Is Returned to Saudi Arabia for Mental Health Care. Retrieved from <https://www.nytimes.com/2022/03/07/us/politics/saudi-arabia-911-hijacker.html>