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# The Ethics of Interrogation: Torture and Public Management

*James P. Pfiffner*

Although some military officers obviously saw harsh interrogation techniques and torture as essential in the wars in Afghanistan and Iraq, many in the military believe that the use of torture threatens the professionalism of the American military and puts U.S. forces in danger of being tortured if they are captured. Torture is illegal under international and U.S. law, yet political guidance after the 9/11 terrorist attacks that resulted in a limited number of U.S. personnel perpetrating torture and using harsh interrogation techniques at Guantanamo Bay, Cuba; Bagram Air Force Base in Afghanistan; and Abu Ghraib prison in Iraq. The evidence comes from a range of sources, including the International Committee of the Red Cross and Amnesty International, as well as the personal accounts of interrogators, victims of torture, and the U.S. military itself.<sup>1</sup> This chapter examines the basis for this behavior, the efficacy of it, and the political guidance that gave rise to these unlawful techniques.

## The Ticking Time Bomb Scenario

In the popular TV show *24*, intrepid terror fighter Jack Bauer foils fictional attempts to commit evil deeds that can only be stopped if the hero extracts information about the impending calamities and stops them before they occur. Most of the time he is forced to resort to coercive interrogation and torture (and the torture is often graphically depicted) to get the bad guy to cough up the information, which leads to the saving of innocent lives in the nick of time. Bauer is always the patriotic hero, and his brutal means are depicted as necessary to save the day.

The American public may be convinced that such situations are often encountered by U.S. law enforcement, counterterrorism personnel, and military officers, but the reality is that they are very rare. Even the creator of the show, Bob Cochran, concedes, "Most terrorism experts will tell you that the 'ticking time

1 bomb' situation never occurs in real life, or very rarely. But on this show it  
2 happens every week."<sup>2</sup> The show is so compelling that the dean of the U.S.  
3 Military Academy at West Point, Brigadier General Patrick Finnegan, went to  
4 see its creators in California to ask them to portray interrogation situations that  
5 more closely reflect reality. Military cadets were so enamored of the show that it  
6 was difficult to get them to accept the professional military doctrine that follows  
7 the U.S. rule of law and the laws of war. Finnegan said, "I'd like them to stop.  
8 They should do a show where torture backfires."<sup>3</sup>

9 The most convincing argument that torture may be necessary is the "ticking  
10 time bomb" scenario featured on 24. Yet, blanket condemnations of torture are  
1 often countered with this type of hypothetical situation.<sup>4</sup> In such a case, the  
2 argument goes, torture is necessary in order to save innocent lives.<sup>5</sup> However,  
3 there is a chain of premises upon which such a scenario rests. First, there must  
4 be good intelligence that a planned attack exists and that the bomb is currently  
5 ticking. Second, the "right person" must be captured. Third, the captive must  
6 have detailed knowledge of the attack. (Terrorist cells typically practice good  
7 operational security.) Fourth, torture must be the best way to extract accurate  
8 information. (Many experienced interrogators argue that civil treatment is more  
9 effective, and note that a captive might say anything to stop the pain or might  
20 deliberately deceive the interrogators.) Fifth, the captive must divulge the infor-  
1 mation quickly to allow an imminent attack from taking place. (Hurried interro-  
2 gations do not necessarily produce the best information, and they can result in  
3 unintended death of the detainee.) Finally, the information obtained must be  
4 actionable, and the means to prevent an attack must exist.

5 If any one of these premises is absent or incorrect, or if the problems cited  
6 exist, torture will not solve the problem. Thus, even if one posits that torture  
7 might be justified in order to save innocent lives—as in the simple and rare  
8 version of the ticking bomb scenario—most torture scenarios are ruled out. The  
9 further a situation is removed from the ticking bomb scenario, the less torture is  
30 justified. Some argue that even if no ticking bomb is found, the lives of soldiers  
1 may be saved if intelligence about an adversary's location is discovered through  
2 torture. This type of argument, however, can be made in almost any combat  
3 situation. Enemy captives might conceivably have information that might help,  
4 and torture might be justified by any nation in any armed conflict. Nevertheless,  
5 this kind of justification of torture to extract tactical information is precisely the  
6 reason that rules of warfare banning torture have developed over the centuries,  
7 and why the United States is a party to the Geneva conventions. The generally  
8 accepted rules of warfare forbid torture and provide for the humane treatment  
9 of enemy captives. Without these rules, all armed forces would be vulnerable to  
40 torture if captured by the enemy; therefore, all sides have long had a stake in  
41 banning the use of torture.

### 42 43 **The Efficacy of Torture** 44

45 One of the key assumptions of the ticking bomb scenario is the capacity to get a  
46 person to divulge crucial information to save innocent lives. While there is a wide

1 range of interrogation techniques—from friendly trickery to the most extreme  
2 infliction of pain—the results are mixed.<sup>6</sup> Approaches that work with some  
3 people do not work with others. Even if people are forced to talk, they may not tell  
4 the truth. They may say whatever it takes to stop the pain. Willie J. Rowell, an  
5 Army Criminal Investigation Division (CID) agent for thirty-six years, is dubious  
6 about torture’s efficacy. “They’ll tell you what you want to hear, truth or not  
7 truth.”<sup>7</sup>

8 The army field manual on interrogations stated (before revisions in 2006),  
9 “Army interrogation experts view the use of force as an inferior technique that  
10 yields information of questionable quality. The primary concerns, in addition to  
11 the effect on information quality, are the adverse effect on future interrogations  
12 and the behavioral change on those being interrogated.”<sup>8</sup> In testimony before  
13 Congress in March 2005, Porter Goss, director of the Central Intelligence Agency  
14 (CIA), said, “As I said publicly before, and I know for a fact, that torture is  
15 not—it’s not productive. . . . That’s not professional interrogation. We don’t do  
16 torture.”<sup>9</sup> The army field manual was revised in 2006, and harsh techniques to  
17 obtain intelligence continue to be forbidden. The Bush administration, however,  
18 grants more leeway to the CIA for interrogations. They can use harsher methods,  
19 but what those methods are has not been made public.

20 Several British detainees at Guantanamo said that they were tortured in  
21 order to force them to admit that they went to Afghanistan to fight a holy war  
22 and that they were in a video of Osama bin Laden in 2000. They denied that they  
23 had been involved in these activities, but said that they confessed to stop the  
24 pain and ill-treatment. They were finally exonerated when British Intelligence  
25 produced proof that they were not in Afghanistan at the time the video was  
26 made.<sup>10</sup> Thus, even if one posits that torture might be justified in a very limited  
27 number of scenarios, there is much professional opinion and empirical evidence  
28 that torture is not necessarily effective in gaining accurate and timely information.

### 31 Behavioral Dimensions of Torture

32  
33 In the wake of the publication of the Abu Ghraib photographs and other  
34 accounts of the abuse of prisoners, many citizens asked, “How could these acts  
35 have been committed by U.S. soldiers?” Part of the answer is that most human  
36 beings are heavily influenced by their immediate social setting. U.S. military  
37 training includes army doctrine on the legitimate uses of violence and on the  
38 provisions of the Geneva Accords with regard to prisoners; the Accords prohibit  
39 torture. What then, went wrong? How could U.S. soldiers commit the terrible  
40 acts that have been recorded in photographs and reported throughout the  
41 world? Several behavioral science experiments help to explain the dynamics of  
42 human behavior in institutional settings.

43 In trying to understand how the Holocaust could have occurred in Germany  
44 in the 1930s and 1940s, scholars have offered a number of explanations. Sadly, it  
45 has become clear that the actions necessary to exterminate Jews in large numbers  
46 were carried out in part by ordinary people (military and civilian), and not merely

1 by Nazi party members or SS forces. One of the insights of Hannah Arendt is  
2 what she described as “the banality of evil,” that ordinary people doing what  
3 they saw as their jobs and duties were capable of contributing to heinous acts.”<sup>11</sup> **AQ1**  
4 In *Unmasking Administrative Evil*, Guy Adams and Danny Balfour explain  
5 how public administrators can contribute to evil acts simply by conscientiously  
6 performing their assigned duties. Their argument is that large-scale evil is often  
7 masked; that is, perpetrators see themselves as merely doing their duty conscien-  
8 tiously and do not believe they are doing anything wrong. Their acts cumulatively,  
9 however, can result in an evil outcome, as in the Holocaust.<sup>12</sup>

10 In the 1960s, Yale University psychologist Stanley Milgram designed an  
11 experiment that intended to show that Americans would not be as compliant as  
12 were Germans when asked to inflict pain on other human beings. In his exper-  
13 iment the subject was told that he was participating in an experiment about the  
14 connection between electrical shock and memory. The subject was supposed to  
15 deliver a shock to a person (in reality, an actor) in the next room every time an  
16 incorrect response was given. The shocks were calibrated from 15 volts to 450 volts,  
17 and as the supposed voltage of the shocks was increased, the actor expressed  
18 increased pain. If the subject hesitated to administer the next level of shock, the  
19 experimenter, with the help of a white lab coat and the voice of scientific author-  
20 ity, prompted the subject to apply the shock despite the screams of pain from  
21 the actor in the next room. Ninety-nine percent of the subjects were willing to  
22 administer the “strong” shock of 135 volts, and 62 percent were willing to go to  
23 the “XXX” category of 435 and 450 volts.<sup>13</sup>

24 This classic experiment demonstrated that ordinary Americans, with their  
25 individualistic cultural values, were not so different from Germans. One of the  
26 lessons of this experiment is that Americans would go much further than was  
27 predicted (by Milgram) along a path of inflicting pain when it appeared to be  
28 sanctioned by science and authority.

29 Another classic experiment on the malleability of Americans’ behavior was  
30 conducted at Stanford University in the 1970s. The purpose of the experiment was to  
31 examine the effect of adopted roles in organizational behavior. The experimenters  
32 selected what they determined to be twenty-two normal undergraduate men and  
33 randomly assigned them to be either jailors or prisoners in a simulated prison set  
34 up in the basement of the psychology building. The “ground rules” were that the  
35 prisoners would be treated as prisoners, but would not be subject to any inhu-  
36 mane treatment. The experiment had to be terminated after six days rather than  
37 the planned two weeks because of the brutality and mistreatment by the “guards.”

38 Again, this experimental evidence illustrates how seemingly ordinary and  
39 normal people can easily be led to commit inhumane behavior. In this case the  
40 conditions were only an imagined “prison” environment. The “guards” knew the  
41 “prisoners” were guilty of nothing but were acting a part. The experimenters  
42 concluded, “In less than a week, the experience of a ‘prison’ environment undid  
43 (temporarily) a lifetime of learning; human values were suspended, self-concepts  
44 were challenged and the ugliest, most base, pathological side of human nature  
45 surfaced. We were horrified because we saw some boys (‘guards’) treat other boys  
46 as if they were despicable animals, taking pleasure in cruelty.”<sup>14</sup>



1 of interrogation techniques that were used at Guantanamo via Secretary of Defense  
2 Donald Rumsfeld's decisions<sup>18</sup> about allowable interrogation techniques, and also  
3 via the "migration" of those techniques to Iraq, which, unlike Guantanamo, the  
4 United States considers to be covered by the Geneva conventions.<sup>19</sup>

5 In addition to the decisions about harsh techniques that were allowable during  
6 interrogations, administration lawyers produced analyses that defined torture  
7 very narrowly and argued that the president's authority as commander in chief of  
8 the armed forces allowed him to ignore laws meant to forbid torture. On August 1,  
9 2002, Assistant Attorney General Jay S. Bybee, head of the Office of Legal Counsel  
10 (OLC), signed a memorandum dealing with what would constitute torture under  
11 Title 18 of the U.S. Code (criminal law), which applied the Convention Against  
12 Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the  
13 United States.<sup>20</sup> The OLC memo construed the definition of torture narrowly:  
14 "We conclude that for an act to constitute torture, it must inflict pain that is . . .  
15 equivalent in intensity to the pain accompanying serious physical injury, such  
16 as organ failure, impairment of bodily function, or even death." This narrow  
17 definition would allow a wide range of brutal actions that do not meet the exact-  
18 ing requirements specified in the memo. The memo specifically excludes from  
19 torture "cruel, inhuman, or degrading treatment or punishment," some examples  
20 of which are specified: wall standing, hooding, noise, sleep deprivation, and  
21 deprivation of food and drink. But the memo did specify that some practices—  
22 such as severe beatings with clubs, threats of imminent death, threats of removing  
23 extremities, burning, electric shocks to genitalia, and rape or sexual assault—  
24 would be torture. Later, when Judge Advocate General (JAG) officers in the  
25 Pentagon learned about the memo, they objected to the loosening of the restraints  
26 on torture.

27 After six months of experience at Guantanamo following the traditional  
28 rules, military officials became frustrated because of their inability to extract what  
29 they considered valuable intelligence. According to one military official, "We'd  
30 been at this for a year-plus and got nothing out of them," so it was concluded  
31 that "we need to have a less-cramped view of what torture is and is not."<sup>21</sup>  
32 Major General Michael B. Dunlavey forwarded the requested changes and  
33 justified them by arguing that the normal field manual techniques "have become  
34 less effective over time."<sup>22</sup> His request was forwarded to Secretary Rumsfeld by  
35 Defense Department (DoD) general counsel William J. Haynes II on November  
36 27, 2002, with the recommendation that seventeen new techniques in several  
37 categories be authorized.<sup>23</sup> In December 2002, Secretary Rumsfeld approved  
38 additional techniques that could be used against detainees who refused to talk.<sup>24</sup>

39 In 2004, former secretary of defense James Schlesinger headed an independ-  
40 ent panel, appointed by Secretary Rumsfeld, which was tasked with finding the  
41 cause of the incidents at Abu Ghraib.<sup>25</sup> The Schlesinger Report concluded, "It is  
42 clear that pressure for additional intelligence and the more aggressive methods  
43 sanctioned by the Secretary of Defense resulted in stronger interrogation tech-  
44 niques."<sup>26</sup> Some of the techniques approved at Guantanamo violated the Geneva  
45 conventions (e.g., stress position, up to thirty days of isolation, and removal of  
46 clothing).<sup>27</sup> Most of the techniques did not amount to torture, though some of

1 them were harsh and might amount to torture, depending on the intensity and  
2 application (e.g., thirty-day isolations, sensory deprivation, twenty-hour inter-  
3 rogations, and noninjurious physical contact).<sup>28</sup> According to the *Wall Street*  
4 *Journal*, techniques that were used included deprivation of food, deprivation of  
5 sleep (for up to ninety-six hours), deprivation of clothing, and shackling in stress  
6 positions.<sup>29</sup> The problem, of course, is that in the actual practice of interroga-  
7 tions, as was evident at Guantanamo Bay and Abu Ghraib, guards and interroga-  
8 tors can get carried away and move beyond the boundaries specified in the  
9 legal memoranda. Ensuring that this does not happen is the obligation of those in  
10 leadership positions.

11 Despite the use of additional interrogation techniques at Guantanamo, no  
12 ticking time bomb plots were discovered (that we know of), though some useful  
13 intelligence was obtained. According to some defense officials, of the approxi-  
14 mately six hundred men imprisoned at Guantanamo, only one-third to one-half  
15 of the inmates seemed to be of value.<sup>30</sup> The harsh interrogation practices, how-  
16 ever, had meanwhile been exported to Abu Ghraib and used there, despite the  
17 fact that the war in Iraq was covered by the Geneva Agreements, as the adminis-  
18 tration admitted. General Geoffrey Miller, who was in charge of interrogation at  
19 Guantanamo, was assigned to Abu Ghraib to improve intelligence collection.  
20 General Janice Karpinski, who had been in charge of Abu Ghraib, said that Miller  
21 was sent to “Gitmo-ize” Abu Ghraib.<sup>31</sup>

22 In addition to official memoranda and executive directives, leadership was  
23 also provided through public statements by high-level officials. Even if low-level  
24 perpetrators of torture do not directly hear the statements, the impact of author-  
25 itative public statements is far-reaching. Mid-level officials in the administration  
26 and in the military take the statements seriously as expressions of policy and of  
27 the attitudes of top officials. They then pass down the chain of command the  
28 directives and the attitudes conveyed in public statements. In this case, leadership  
29 conveyed the administration’s point of view concerning detainees and permissi-  
30 ble treatment of them.

31 President Bush, in talking about the detainees at Guantanamo, declared,  
32 “They’re dangerous and they’re still around, and they’ll kill in a moment’s  
33 notice.”<sup>32</sup> Vice President Cheney said, “These are the worst of a very bad lot. . . .  
34 They are very dangerous. They are devoted to killing millions of Americans,  
35 innocent Americans, if they can, and they are perfectly prepared to die in the  
36 effort. And they need to be detained, treated very cautiously, so that our people  
37 are not at risk.”<sup>33</sup> On January 27, 2002, Secretary of Defense Rumsfeld said just  
38 before he left for Guantanamo, “These are among the most dangerous, best  
39 trained vicious killers on the face of the earth. And that means that the people  
40 taking care of these detainees and managing their transfer have to be just exceed-  
41 ingly careful for two reasons. One, for their own protection, but also so these  
42 people don’t get loose back out on the street and kill more people. This is a very,  
43 very serious business and it ought to be treated in that manner. . . . They are not  
44 POWs, they will not be determined to be POWs.”<sup>34</sup>

45 Statements like these, coming from those who were the most authoritative  
46 government officials and who should have been the most knowledgeable about

1 the war on terror, were almost certain to dispose U.S. personnel in charge of the  
2 detainees to treat them as if they were complicit in the 9/11 atrocities and were  
3 actively seeking to kill scores of American civilians. In combination with official  
4 changes in policy, these kinds of statements helped to create the conditions under  
5 which torture was conducted.

6 Some of the U.S. captives were guilty of supporting al Qaeda and of resisting  
7 U.S. forces in Afghanistan and Iraq. The reality, however, was that not all of the  
8 prisoners held at Guantanamo were in fact enemy belligerents or had informa-  
9 tion that the U.S. could use to prevent future attacks. Indeed, Major General  
10 Michael Dunlavey, who was in charge of investigations at Guantanamo, estimated  
11 that up to half of the prisoners did not possess any intelligence of value to the  
12 United States.<sup>35</sup>

13 One of the reasons that many prisoners were of little intelligence value and  
14 may not have participated in hostilities toward the United States was the way in  
15 which they came to be captives of the United States. In Afghanistan, U.S. forces  
16 depended on Afghan locals to capture and interrogate suspected hostile forces.  
17 This dependency was compounded by the substantial bounties placed on the  
18 heads of U.S. enemies. The United States offered \$5,000 for each Taliban member  
19 and \$20,000 for each al Qaeda member brought into U.S. custody, and Secretary  
20 Rumsfeld said that leaflets advertising these offers were “dropping like snowflakes  
21 in December in Chicago.”<sup>36</sup> With incentives like these, it does not take much  
22 imagination to figure out that some Afghanis would relish not only giving up  
23 their tribal enemies, but also profiting from doing so.

24 In 2002 there were so many prisoners arriving from Afghanistan of little  
25 intelligence value that Major General Dunlavey actually went to Afghanistan to  
26 “chew us out” in the words of one U.S. officer. Dunlavey complained that many of  
27 those sent to Guantanamo were “Mickey Mouse” types in terms of their military  
28 or intelligence value. Some U.S. personnel in Afghanistan then tried to alleviate  
29 the problem by drawing up a list of fifty-nine detainees who were innocent, who  
30 were not dangerous, or who had little intelligence value. Nevertheless, the danger  
31 of making even one mistake was so high that all fifty-nine ended up being sent  
32 to Guantanamo. Once in Guantanamo, it was very difficult to get out. Indeed, a  
33 U.S. spokesperson in the Pentagon denied the presence of any detainees who  
34 should not have been in Guantanamo: “All are considered enemy combatants  
35 lawfully detained in accordance with the law of armed conflict.”<sup>37</sup>

### 37 **Conclusion: The Consequences of Torture**

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39 It is notable that the justifications of, and pressure to use, torture came from  
40 civilians in the Bush administration who did not have significant military experi-  
41 ence. The highest-level person who objected to the use of these methods was  
42 Secretary of State Colin Powell, who had had a professional military career and  
43 had seen combat in Vietnam. In addition, many in the JAG Corps of the army  
44 objected to the suspension of the Geneva conventions and the use of harsh  
45 interrogation methods. They favored the traditional policies that U.S. forces had  
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1 taken toward captured enemies from the time of George Washington until the  
2 wars in Afghanistan and Iraq. It is further notable that military personnel brought  
3 “torture scandals” to light and helped put an end to them.<sup>38</sup>

4 It is important here to note that torture of prisoners has probably happened  
5 in most wars in which the United States has participated. What is different about  
6 the war on terror is that the president of the United States, by suspending the  
7 Geneva conventions in February 2002, established a policy that set the condi-  
8 tions that led to the torture of prisoners. In addition, President Bush threatened  
9 to veto the Detainee Treatment Act of 2005, which forbade torture and which  
10 was sponsored by John McCain (who was tortured as a POW in Hanoi). When  
11 the bill passed Congress with veto-proof majorities, the president, in signing the  
12 bill, issued a signing statement declaring that he would enforce the law only when  
13 it did not interfere with his own constitutional prerogatives, which he did not  
14 specify. The next year, in arguing for passage of the Military Commissions Act of  
15 2006, President Bush argued that “the program” of harsh interrogation methods  
16 used by the CIA was essential to U.S. security in the war on terror.

17 President Bush’s perspective stands in stark contrast to the statements by  
18 former generals Charles C. Krulak and Joseph P. Hoar when they wrote the  
19 following:

20  
21 Any degree of “flexibility” about torture at the top drops down the chain of  
22 command like a stone—the rare exception fast becoming the rule. . . . This has had  
23 disastrous consequences. . . . This war will be won or lost not on the battlefield but  
24 in the minds of potential supporters who have not yet thrown in their lot with the  
25 enemy. . . . This way lies defeat, and we are well down the road to it. . . . Before the  
26 president once again approves a policy of official cruelty, he should reflect on that.<sup>39</sup>

## 27 28 Notes

- 29
- 30 1. See, for instance, Antonio M. Taguba, “Article 15-6 Investigation of the 800th Military  
31 Policy Brigade” (February 26, 2003), in *The Torture Papers: The Road to Abu Ghraib* ed.  
32 Karen J. Greenberg and Joshua L. Dratel (New York: Cambridge University Press,  
33 2005), pp. 405–465; “Report of the International Committee of the Red Cross (ICRC)  
34 on the Treatment by the Coalition Forces of Prisoners of War and Other Protected  
35 Persons by the Geneva Conventions in Iraq During Arrest, Internment and  
36 Interrogation” (February 2004), in Greenberg and Dratel, *Torture Papers*, pp. 383–404,  
37 <http://www.globalsecurity.org> (accessed July 12, 2004); Major General George R. Fay,  
38 Investigating Officer, “Investigation of the Abu Ghraib Detention Facility and 205th  
39 Military Intelligence Brigade,” in *The Abu Ghraib Investigations*, ed. Steven Strasser  
40 (New York: Public Affairs, 2004), pp. 109–171; LG Anthony R. Jones, “AR 15-6  
41 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade.” reprinted  
42 in Greenberg and Dratel, *Torture Papers*, pp. 991–1018.
  - 43 2. Jane Mayer, “Whatever It Takes,” *New Yorker*, February 19 and 26, 2007, 66–82, 68.
  - 44 3. *Ibid.*, 72.
  - 45 4. Another variation on this scenario is a case, reported by Mark Bowden, in which a  
46 young boy was kidnapped, tied, and gagged and then hidden by the kidnapper.  
When the kidnapper was captured by the police, he would not reveal where the boy was.

- 1 The police thought the boy might still be alive and threatened to bring in an interroga-
- 2 tor to torture the man to get him to reveal the location of the boy (the man revealed
- 3 the location, but the boy was dead). A reasonable person might conclude that torture
- 4 was justified in this instance. See Mark Bowden, "The Dark Art of Interrogation,"
- 5 *Atlantic Monthly*, October 2003, <http://www.theatlantic.com> (accessed July 29, 2004).
- 6 5. For an insightful analysis of the logic of the ticking bomb scenario, see Vittorio
- 7 Bufacchi and Jean Maria Arrigo, "Torture, Terrorism and the State: A Refutation of the
- 8 Ticking-Bomb Argument," *Journal of Applied Philosophy* 223, no. 3 (2006): 355–373;
- 9 David Luban, "Liberalism, Torture, and the Ticking Bomb," *Virginia Law Review* 91,
- 10 no. 6 (October 2005): 1425.
- 11 6. See the detailed analysis of interrogation methods by Bowden, "Dark Art,"
- 12 <http://www.theatlantic.com> (accessed July 30, 2004).
- 13 7. Seymour M. Hersh, "Torture at Abu Ghraib," *The New Yorker*, May 10, 2004, 47. See also,
- 14 Tim Golden and Don Van Natta Jr., "U.S. Said to Overstate Value of Guantanamo
- 15 Detainees," *New York Times*, June 21, 2004, 1.
- 16 8. Sec. 4A3, Current Doctrine. The relevant portions of the Army Field Manual 34–52
- 17 are attached to Secretary Rumsfeld's Memorandum for the Commander, U.S. Southern
- 18 Command; Subject: Counter-Resistance Techniques in the War on Terrorism (S)
- 19 (April 16, 2003). They were revised in 2006 and explicitly rule out torture.
- 20 9. Douglas Jehl, "Questions Left By C.I.A. Chief on Torture Use," *New York Times*,
- 21 March 18, 2005, 1, A5.
- 22 10. Vikram Dodd and Tania Branigan, "Questioned at Gunpoint, Shackled, Forced to
- 23 Pose Naked, British Detainees Tell Their Stories of Guantanamo Bay," *The Guardian*,
- 24 August 4, 2004, TruthOut.org (accessed August 9, 2004).
- 25 11. Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York:
- 26 Viking, 1963).
- 27 12. Guy B. Adams and Danny L. Balfour, *Unmasking Administrative Evil*, rev. ed. (Armonk,
- 28 NY: M. E. Sharp, 2004).
- 29 13. Stanley Milgram, *Obedience to Authority* (New York: Harper and Row, 1974). See the
- 30 detailed description of the experiment and its implications in Adams and Balfour,
- 31 *Unmasking Administrative Evil*, pp. 36–39, from which this description is taken.
- 32 14. C. Hanley, C. Banks, and P. Zimbardo, "Interpersonal Dynamics in a Simulated Prison,"
- 33 *International Journal of Criminology and Penology* 1 (1974): 69–97. See the detailed
- 34 description of the experiment and its implications in Adams and Balfour, *Unmasking*
- 35 *Administrative Evil*, pp. 27–29, from which this description is taken.
- 36 15. Memorandum for the President (January 25, 2002), from Alberto R. Gonzales; Subject:
- 37 "Decision RE application of the Geneva Convention on Prisoners of War to the
- 38 Conflict with al Qaeda and the Taliban." According to *Newsweek*, the memo was
- 39 "actually" written by David Addington, Vice President Cheney's legal aide. Daniel
- 40 Klaidman, "Homesick for Texas," *Newsweek*, July 12, 2004, 32. Gonzales has been
- 41 criticized in the press for saying that the "new paradigm" renders the Geneva limita-
- 42 tions "quaint." But the context of his use of the word "quaint" is not as damning as
- 43 excerpting the word makes it seem. The end of the sentence reads: ". . . renders quaint
- 44 some of its provisions requiring that captured enemy be afforded such things as
- 45 commissary privileges, scrip (i.e., advance of monthly pay), athletic uniforms, and
- 46 scientific instruments." Whether this is a fair representation of the Geneva require-

- 1 Conflict in Afghanistan,” pp. 2, 4. The memo is printed in Greenberg and Dratel,  
2 *Torture Papers*, pp. 122–125. Many of the memoranda and oral directives included  
3 statements that detainees were to be treated “humanely” despite the more aggressive  
4 interrogation techniques to which they could be subjected. The problem was that if  
5 the detainees were in fact treated humanely, it would be more difficult to extract  
6 information from them. Thus, these statements must have been considered to be pro  
7 forma, while the overall thrust of the directives was that detainees were to be subject  
8 to more aggressive interrogation techniques that were outside the Geneva Convention  
9 limits.
- 10 17. The White House, Washington, Memorandum of February 7, 2002, signed by President  
11 Bush.
- 12 18. See Golden and Natta Jr., “Guantanamo Detainees,” 1, A12, A13. Memorandum for  
13 Commander USSOUTHCOM; Subject: Counter-Resistance Techniques (January 15,  
14 2003), signed by Secretary Rumsfeld. Memorandum for the Commander, U.S.  
15 Southern Command; Subject: Counter-Resistance Techniques in the War on Terrorism  
16 (S) (April 16, 2003), signed by Secretary Rumsfeld. Printed in Greenberg and Dratel,  
17 *Torture Papers*, p. 239.
- 18 19. See *Final Report of the Independent Panel to Review Department of Defense Detention*  
19 *Operations* (herein after, the Schlesinger Report), in Strasser, *Abu Ghraib Investigations*,  
20 pp. 7, 34, 35.
- 21 20. In a memo from Assistant Attorney General Jay S. Bybee to Alberto R. Gonzales,  
22 counsel to the president, “Re: Standards of Conduct for Interrogation under 18 U.S.C.,  
23 sections 2340 and 2340A, August 1, 2002,” reprinted in Greenberg and Dratel, *Torture*  
24 *Papers*, pp. 1, 6, 15, 24, 28. According to *Newsweek*, the memo was written in close  
25 consultation with White House lawyers. Klaidman, “Homesick for Texas,” 32.
- 26 21. Quoted in Jess Bravin, “Pentagon Report Set Framework for Use of Torture,” *Wall*  
27 *Street Journal*, June 7, 2004, *WSJ* website.
- 28 22. Memorandum for Commander, United States Southern Command; Subject:  
29 Counter-Resistance Strategies (October 11, 2002); signed Michael B. Dunlavey.
- 30 23. Action Memo for: Secretary of Defense; From: William J. Haynes II, General Counsel;  
31 Subject: Counter-Resistance Techniques (November 27, 2002). On this memo,  
32 Secretary Rumsfeld wrote by hand, “However, I stand for 8–10 hours a day. Why is  
33 standing limited to 4 hours?” This penned comment by Rumsfeld trivializing the  
34 use of stress positions must have been intended as either a glib joke or a serious  
35 question. In either case it is unworthy of the Secretary of Defense. If he was serious,  
36 it demonstrates an amazing lack of familiarity with the stress techniques used by  
37 interrogators, which often involved standing in awkward and painful positions for  
38 long periods of time in the context of little food, little sleep, terror of dogs, and disori-  
39 entation due to combinations of these techniques. If he did not, in fact, understand  
40 this, he was naïve. If it was a joke, it was made in poor taste for the official of the  
41 United States Government who authorized the series of techniques that led to the  
42 abuses of Abu Ghraib. A photocopy of the memo is contained in Greenberg and  
43 Dratel, *Torture Papers*, p. 236.
- 44 24. See Golden and Natta Jr., “Guantanamo Detainees,” 1, A12, A13.
- 45 25. Schlesinger Report.
- 46 26. Schlesinger Report, p. 33.
27. Schlesinger Report, p. 72, for specification of techniques used at Guantanamo and  
Afghanistan.
28. According to a DoD handout to the press on June 22, 2004, category II techniques that  
were actually used at Guantanamo included isolation, deprivation of light, 20-hour

- 1 interrogations, and forced grooming. Those approved but not used included hooding,  
2 removal of clothing, use of dogs, and noninjurious physical contact.
- 3 29. Bravin, "Pentagon Report."
- 4 30. Golden and Natta Jr., "Guantanamo Detainees," p. 1, A12, A13. See also Seymour  
5 Hersh, *Chain of Command* (New York: Harper Collins, 2004), pp. 2–3.
- 6 31. Schlesinger Report, p. 8. See also Mark Marzzetti, Julian E. Barnes, and Edward  
7 T. Pound, "Inside the Iraq Prison Scandal," *U.S. News and World Report*, May 24, 2004, 22.  
8 See also Interview by Leon Wordon, "Newsmaker Interview: Brig. Gen. Janis  
9 Karpinski," *Signal Newspaper of Santa Clara, CA*, July 4, 2004, Truthout.org (accessed  
10 July 10, 2004).
- 11 32. Donna Miles, "Bush: Guantanamo Detainees Receiving Humane Treatment,"  
12 Department of Defense, American Forces Press Service, June 20, 2005, [http://www.  
13 defenselink.mil/news/newsarticle.aspx?id=16359](http://www.defenselink.mil/news/newsarticle.aspx?id=16359) (accessed April 2, 2005). Although  
14 this statement was made in 2005, it represents the tone of President Bush's attitude  
15 since 9/11. His attitude toward detainees might even have softened because in 2005  
16 it had been demonstrated that many detainees were innocent and posed no threat to  
17 the United States.
- 18 33. Fox News, "Rumsfeld: Afghan Detainees at Gitmo Bay Will Not Be Granted POW  
19 Status," January 28, 2002, <http://www.foxnews.com/story/0,2933,44084,00.html>.
- 20 34. News conference of Secretary of Defense Rumsfeld, January 27, 2002,  
21 [http://www.defenselink.mil/transcripts/2002/t01282002\\_t0127enr.html](http://www.defenselink.mil/transcripts/2002/t01282002_t0127enr.html).
- 22 35. Tim Golden, "Administration Officials Split Over Stalled Military Tribunals," *New York  
23 Times*, October 25, 2004, A1. Joseph Margulies, *Guantanamo and the Abuse of Presidential  
24 Power* (New York: Simon and Schuster, 2006), p. 65.
- 25 36. Quoted in Margulies, *Guantanamo*, p. 69.
- 26 37. Greg Miller, "Many Held at Guantanamo Not Likely Terrorists," *Los Angeles Times*,  
27 December 22, 2002, <http://www.latimes.com/la-na-gitmo22dec22,0,2294365.story>.
- 28 38. See Taguba, "Article 15-6 Investigation," the "Taguba Report," Part I, Sec. 2, No. 5., in  
29 Greenberg and Dratel, *Torture Papers*, pp. 405–465. Fay, "Investigation," pp. 109–171.  
30 Jones, "AR 15-6 Investigation," pp. 991–1018.
- 31 39. Charles C. Krulak and Joseph P. Hoar, "It's Our Cage, Too: Torture Betrays Us and  
32 Breeds New Enemies," *Washington Post*, May 17, 2007, A17.
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# QUERY FORM

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## Queries and / or remarks

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AQ1	Where does this quote begin?	