

# THE CONVERSATION

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## Senate CIA torture report release: expert reaction

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Secrets out? EPA/Dennis Brack

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The US Senate has released the executive summary of a long-withheld report on harsh interrogation techniques used by the CIA in the post-9/11 era. Previously undisclosed techniques have been revealed and the report found the techniques were ineffective. The CIA management of the operation has been described as inadequate and flawed. Here, academics in both the US and UK look at the report and what the decision to release the findings will mean.

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## **It's a good day to be an American**

### **James J. Walsh, Massachusetts Institute of Technology**

Well, it's not all good. Today's report released by the Senate Select Committee on Intelligence documents the ugly and unlawful use of torture by the US government. Arguably as disturbing are revelations that the CIA misled the public, the Congress, and other parts of the executive branch about its activities. It made false claims about the effectiveness of enhanced interrogation, hid the scale and severity of the program, and even destroyed videotape evidence.

But as I watched on TV, as Chairwoman Feinstein and then Senator McCain presented the report, I could not help but feel a sense of drama, as if history was watching.

I have known Senator Feinstein for many years and have found her to be a serious person who understands policy, principle, and politics. She has been a vocal defender of the intelligence community, which made her remarks all the more powerful. Senator McCain, a former POW who was subjected to torture, spoke to core American values in a way that few people can.

At this particular moment, mid-day on December 9, 2014, these two longtime lawmakers rose to the occasion and made one proud to be a citizen of the United States. In turn, the Democrat and the Republican reminded us what statesmen look like. They spoke in measured, somber tones and did not seek political advantage. They stood in the well as defenders of democracy and the rule of law.

So yes, it's not a bad day to be an American.

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## **Legal framework unclear**

**Michael J. Glennon, Tufts University**

The report's significance lies in its rebuttal of the claim that torture was approved at the highest levels of the United States government. That claim is undercut if approval was based upon material misinformation. Consent, to be valid, has to be informed consent – but the report indicates that the President and Congress both were seriously misled.

The report's greater significance, however, lies in what it does not say. It implies that some, perhaps many, of the activities it reviews violated the law, but the report neither lays out nor applies any legal framework. Which of these activities was in fact illegal? Why has no one been prosecuted? Why are many of the participants in these programs still work for the Agency? Was anyone even disciplined? More important, who bears responsibility for all this? And where was the committee itself while all this was going on?

The report describes vividly how (in President Obama's own words) "the CIA gets what it wants." I've suggested elsewhere that the explanation lies in the emergence of a system of double government in the United States in the realm of national security. Unless that changes, we will have no reason to be surprised if and when this happens again.

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## **They should have said 'no'**

**Joseph Wippl, Boston University**

The timing of the issuance of the Senate report on the use by CIA of Enhanced Interrogation Techniques after the World Trade Center attacks on 9/11 was under discussion in the Senate Select Committee on Intelligence for an extended period of time. After the loss in November of the Democratic majority in the Senate, the Democratic majority obviously believed the report needed to be made public now or it would never see the light of day. It is a polarized country.

The report adds little to the knowledge of CIA activities after 9/11. If anything, it is a footnote to everything that happened after that fateful day. 9/11 resulted in an hysterical reaction throughout government with the almost total support of the American people after that tragedy. It was guided by a herd instinct, to punish the guilty and to remake the Middle East.

What the CIA was instructed to do by the US government to do after 9/11 may have been immoral, it may have been wrong and it may have been stupid but it was legal – according to the Office of Legal Counsel in the Justice Department. The US government has that power even if it violated principles on which our government was founded.

The report apparently makes the argument that Enhanced Interrogation Techniques, some of which were torture and some of which were not, did not provide intelligence worthwhile enough to justify its use. Better not to make this argument; better to just state it is wrong.

In retrospect, CIA officials should not have supported the administration in the use of some of the Enhanced Interrogation Techniques. They should have said “no.” If good can come out of this report, it is that torture should never happen again even if the worst happens: a major attack on US citizens.

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## **Public opinion and transparency**

**Eric Heinze, Queen Mary, University of London**

President Obama can scarcely be faulted for pushing for the release of CIA information about torture, particularly given the methods authorised under his predecessor George W Bush. This limited disclosure is, perhaps, better than none. Ultimately, however, such information will only feed the ongoing terrorism sideshow.

The heavily redacted report will do little for transparency, since it will mostly confirm what has already been widely known. Nor will the information do much to resolve the truly important questions about legitimate national security policy.

Neither among politicians, nor among the public at large is there any serious consensus about what counts as a genuine threat to democracy, how long governments ought to wait for such threats to be deemed actionable, and – when the time for action does come – what actions governments may, or must, legitimately take.

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## **Trouble on the right**

**Tom Packer, University of Oxford**

On the domestic political front, the key lens for this issue is partisanship. The natural belief of the Republican partisan is that the report and its release just represent the Bush administration being unfairly singled out by Democrats for taking difficult, tough and necessary steps.

Bush himself has strongly denied the CIA deceived him.

Meanwhile, the Tea Party, and the libertarian circle associated with **Rand Paul** in particular, has expanded the small group in the GOP who are extremely wary of giving the government power to go to the lengths the CIA apparently thought acceptable.

At the same time, many Republicans are still very focused on security policy, and very worried about any long-term restrictions on “enhanced interrogation” techniques. This tendency is well represented on the House and Senate intelligence committees – and their news organ of choice, the Weekly Standard, has already published an **attack** on the report written by a former interrogator.

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## **The view from Europe**

**Claudia Hillebrand, Aberystwyth University, Wales**

One of the interesting questions is to what extent the extraordinary rendition campaign has affected intelligence co-operation. At least 54 countries are said to have been collaborating with the CIA on this, nearly half of them European ones.

This has led some national parliaments and courts as well as the Council of Europe and the European Parliament to investigate European involvement since 2005. The inquiries have not only revealed a spider’s web of renditions, but raise difficult question about the nature and limits of intelligence liaison.

The released summary of the Senate report provides further (anonymised and redacted) information about the extent of cooperation, but there are many outstanding issues. We still don’t know to what extent European partners were aware of the details of the CIA operation, especially with respect to its human rights violations, from rendition to unlawful detention to the use of torture.

It’s not clear if these were individual incidences of collaboration, or whether there was a globalised “state of exception” during the War on Terror. And it’s still undecided who, if any, should be held to account for facilitating, or contributing to these human rights violations.

So far, European governments have been reluctant to take responsibility for their actions. But this was not a rogue CIA operation, and nor did the extraordinary renditions take place without the knowledge of at least some European intelligence services and governments. The court trials concerning the case of Abu Omar in Italy, and the ongoing controversies surrounding the roles of Poland and Lithuania, are testament to that.

So while the report will probably lead to a public outcry in Europe and elsewhere, the Europeans still have questions of their own to answer.

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## **These techniques have a history**

**Samantha Newbery, University of Salford, England**

Past revelations have already told us that the CIA’s so-called “enhanced interrogation techniques” included waterboarding, putting detainees into painful positions, sleep deprivation, and much more.

But we must remember these techniques are not unique to the US or to the War on Terror. Similar methods were developed by the British military in the wake of the Second World War during conflicts

connected with the end of empire. The Malayan Emergency (1948-60), the Kenyan Emergency (1952-60) and the conflict in Cyprus (1955-9), to name but a few, all saw British forces expose detainees to sleep deprivation, stress positions, white noise, and more, all in an effort to gain intelligence.

The most well-known British uses of these kinds of interrogation techniques hail from Northern Ireland in 1971 and from Basra, Iraq, in September 2003. In the latter, the use of these techniques contributed to the death of a detainee. These examples are particularly well-known because of their hugely damaging exposure and repercussions – again, something not unique to post-9/11 America.

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## **A failure of leadership?**

### **Clodagh Harrington, DeMontfort University, England**

In 2004, when the Abu Ghraib scandal first broke, President Bush responded by saying that such misconduct was “not the American way” – but it was hard to swallow his statement given US history.

Now, the Senate committee’s report has only demonstrated how dishonest Bush’s appraisal really was – and just how far the response to the September 11 attacks radically tipped the balance away from civil liberties and towards national security.

A majority of the American public initially shared unconditional approval of the Bush-Cheney foreign policy agenda – but by 2008, there was a desire for meaningful change. Enter Barack Obama – a man who personifies the notion that a candidate has to “campaign in poetry, but govern in prose.”

He may have agreed to ban the use of torture early in his first term, but he’s lost a great deal of credibility since Guantanamo Bay, a monument to injustice, has remained operational throughout his presidency.

Obama is clearly a man of integrity, and to date he’s avoided the scandals that usually bedevil a president in his second term. He could have allowed the CIA report to come out at a sensitive foreign policy moment for the nation, or delayed it, or prevented it, or promoted it. Whatever the strategy, an avalanche of criticism was inevitable. But still, if there are reprisals against American personnel or property in response to the report, he will get the blame.

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## **A troubling desire for a humane war on terror**

### **Peter Bloom, Open University, England**

This report is a significant rebuke of both the CIA and its policies. Indeed, it shows that the agency’s reliance on torture was not the exception but the rule. Highlighted was a pattern of systematic and unchecked human rights violations and a potential cover up of these abuses to the highest levels of government.

The grotesque nature of these offenses makes the CIA an easy political villain. However, underlying such a demonization is a potentially just as scary fantasy. Namely, that the so-called war on terror can

in fact be humane. That the problem with this strategy is its excesses not its deeper underlying assumptions and values.

While this report importantly critiques state-sponsored torture, it also, then, risks, in my view, strengthening popular and political support for the war on terror and American foreign policy. It threatens to focus dissent on the problem of how terrorists are treated, distracting attention from deeper critiques of the war itself and the unequal global power relations it reinforces.



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