



Written by [Thomas R. Eddlem](#) on December 15, 2014

## The Tortured Logic of the Torture Lobby

The argument in favor of torture ultimately boils down to this: Our government must torture some innocent people in order to protect other innocent people.

How so?

If you listen to the exponents of torture on the Sunday news shows, torture must be employed because of the need for vital intelligence against terrorist attacks. Therefore, it creates a conundrum that necessitates torture of the innocent. If you don't hold a trial before you torture, you don't sort the guilty from the innocent. But if you have a trial first, the intelligence isn't timely and useful. Moreover, it's not just terrorists who have vital information; many non-terrorists are not eager to give relevant information to American intelligence agents. Therefore, if you torture for the purpose of getting information, you must also torture innocent bystanders and eyewitnesses as well as actual terrorists. This explains why so many hundreds of innocent people have been tortured by the U.S. government since 9/11.



This is part of the reason the U.S. Bill of Rights goes a step beyond merely banning torture; the Eighth Amendment bans even "cruel and unusual punishments." If you don't think waterboarding is "cruel and unusual," try waterboarding your dog publicly and avoiding an arrest from your local police department for animal cruelty charges. Dick Cheney publicly says that waterboarding is not cruel and unusual punishment (possibly because he wants to avoid criminal prosecution for doing this to humans), and maybe he actually believes it and engages in that form of "enhanced interrogation" upon his dog privately. But if he were to waterboard his dog publicly, however, there isn't a state in the union that wouldn't convict him of animal cruelty charges. Maybe former CIA Director Michael Hayden "walls" his dog privately, but if he were to slam his dog repeatedly into a wall on the town green in his hometown, he'd be arrested on animal cruelty charges in a heartbeat.

Moreover, it's not just the Eighth Amendment that is destroyed by the tortured logic of the torture lobby. A government green light to torture means destruction of almost the entire Bill of Rights. The right to trial by jury (Sixth Amendment), right to an attorney (Sixth Amendment), due process (Fifth Amendment) and right against self-incrimination (Fifth Amendment) must be done away with by the logic of the torture lobby.

The instant someone says that the government can torture — despite the explicit prohibitions against it



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in the U.S. Constitution — they give the government the power to punish any of its enemies, including political enemies, with torture. This kind of abusive power always comes home; it never stays limited to foreigners or legitimate bad guys. Just ask Donald Vance or Nathan Ertel, the innocent American citizens and U.S. Navy veterans who were tortured for months at Camp Cropper in Iraq. Such power can and will eventually be used to intimidate the free press and free speech protected by the First Amendment as well as other enumerated rights. And it's no surprise that this premium on getting information by any means necessary means that the same people who back torture — Cheney, Hayden, et. al. — are also the chief cheerleaders for eliminating the Fourth Amendment prohibition on warrantless searches.

The question that must be asked of torture advocates is this: Is it worth torturing innocents and tossing the Bill of Rights into the wood chipper to get dubiously reliable information? Donald Vance, a victim of "food manipulation" (starvation for several days) [says](#), "I can certainly imagine someone admitting to incredible crimes [they didn't commit] for a sandwich." Jesse Ventura — who underwent waterboarding as a Navy SEAL — [told CNN](#), "You give me a water board, Dick Cheney and one hour, and I'll have him confess to the Sharon Tate murders.")

The argument of the torturers is that we need to be brutal in order to prevail in the "war" against terrorists who have sworn to destroy us, and that we have become soft as a nation. It's an argument based upon irrational and exaggerated fear that has no connection to the real terrorist threat. The innocent people tortured, torture advocates essentially argue, need to suck it up and act more like previous generations who fought the Nazis and the communists. But the previous generations who fought the Germans, Japanese, and Russians didn't torture. Instead, they prosecuted those who did. American leaders in World War II put Japanese waterboarders in prison for decades. And Ronald Reagan's Justice Department prosecuted waterboarders, putting Texas sheriffs in jail who fought the "drug war" the same way Cheney and company fought terrorism.

Of course, a threat comparison between the struggle against communism and Naziism and the terrorist threat today is not even a close comparison. The communists and Nazis ruled over hundreds of millions, killed tens of millions and possessed advanced technology (including the former possessing even nuclear weapons). Meanwhile ISIS and al-Qaeda have no land, no army, and no technology or resources of any consequence. The pinnacle of their achievement in destructive technology was limited to creative use of box-cutters.

The torture lobby has been out in force on the Sunday news shows and news networks since the U.S. Senate Intelligence Committee publicly documented torture by the CIA in order to stave off a public demand for prosecutions on felony torture charges by U.S. attorneys. If former Vice President Dick Cheney, former CIA Directors Michael Hayden and George Tenet, and others lose their public political argument, they will have no legal case and will face life in prison under felony torture-death charges. Thus far, the U.S. attorney for Washington, D.C., Ronald Machen, Jr., has been too cowardly to defy outgoing Attorney General Eric Holder's order not to prosecute torturers.

Yet it's vital that the Senate Intelligence Committee's torture report not simply publicly document how the executive branch's security apparatus has put itself above the law, and above even the U.S. Constitution. The one truly foundational ingredient of a banana republic is that the *military and intelligence apparatus* must be above the law. This is precisely what a torture regime with legal immunity would do, and what the Obama administration has sought to do by guaranteeing the Bush-era torturers a mulligan for their hideous crimes that have resulted in blindings, anal violations, and even



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deaths of innocent people as well as actual terrorists.

Some argue that the torture of innocents under the Bush/Cheney program means the program simply needs to be reformed. But you can't reform the abuse of a program when the program *is abuse*. You can't defend constitutional liberties with a program that is by definition set against constitutional liberties. And you don't fight tyranny by becoming the tyrant.

If only Ronald Machen, Jr. would realize that.



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