



## Top-level Torture

The Principals Committee answered “Yes” to the classic “Ticking Time Bomb Scenario.” And what is the Principals Committee? A rogue group that Klingons have infiltrated aboard the starship *Enterprise*? A league of banana republics? No. It’s part of the United States’ National Security Council, and its members hail from the highest levels of the Federal government.

In 2002, when it pressured the CIA to torture suspected terrorists, it included then-National Security Adviser Condoleezza Rice as its chairman as well as Vice President Dick Cheney and such former officials as Secretary of State Colin Powell, Secretary of Defense Donald Rumsfeld, CIA Director George Tenet, and Attorney General John Ashcroft.



ABC News reported on April 11, 2008 that the committee met frequently at the White House to discuss the details of torturing men — with presidential approval: “Yes, I’m aware our national security team met on this issue,” George Bush acknowledged to ABC News’ Martha Raddatz. “And I approved.”

That approval spread like Agent Orange from the president and his advisers to the men on the ground who were guarding and interrogating prisoners. It turned Abu Ghraib’s hooded, leashed, and naked “detainees” from an aberration that shamed America into official policy. No longer can the administration claim that only “a few” low-hanging “bad apples” are guilty: the president and his advisers are the biggest of those apples.

### The Third Degree Approved

American governments, whether national or local, have tortured before. The armed forces flogged soldiers and sailors well into the 19th century. In 1931, the National Committee on Law Observation and Enforcement found that “the third degree — that is, the use of physical brutality, or other forms of cruelty, to obtain involuntary confessions or admissions — is widespread.” But modern-day torturers have had to go underground, and they risk punishment if caught; it’s been decades since torture received an official and public blessing. With two words — “I approved” — George Bush profoundly changed America.

Allegations that the United States was abusing prisoners first surfaced in 2002, but few folks noticed. Then, in April 2004, pictures from Abu Ghraib horrified the world. And so President Bush hauled out the Ticking Time Bomb Scenario to explain why a country that had proudly denounced torture was now competing with the Chinese and Soviets in barbarity. From the East Room of the White House on September 6, 2006, he claimed that there were “urgent questions” after 9/11: “Who had attacked us? What did they want? And what else were they planning?... My administration ... had to find the terrorists hiding in America and across the world, before they were able to strike our country again. So



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in the early days and weeks after 9/11, I directed our government's senior national security officials to do everything in their power, within our laws, to prevent another attack."

"Everything in their power" turned out to include kidnapping people suspected of terrorism and torturing them for information. The CIA and FBI hunted alleged terrorists overseas, shanghaied them to American military bases, and questioned them — with the president and Principals demanding answers. When answers didn't materialize quickly enough, the administration pressured agents to use what it euphemizes as "alternative interrogation techniques." The rest of us call it torture.

The CIA still smarts from the beating it took for its atrocities during the Vietnam War. This time it agreed to torture only if the White House explicitly authorized every slap and kick. Which is exactly what the Principals did in their meetings. In fact, their discussions were so meticulous — including the CIA's demonstrations of the torments under consideration — that "highly placed sources" described "some of the interrogation sessions" to ABC News as "almost choreographed." Nor did these conferences sicken the Principals as they reluctantly authorized desperate measures. On the contrary, those same sources quote Chairman Rice's burbling to the CIA, "This is your baby. Go do it."

The Principals mused about whether agents should punch or slap prisoners. Could they shackle them and force them to stand for hours or even days on end? What about stripping them naked in cold cells and dousing them with water? Depriving them of sleep? Torture's agony can be amplified by combining techniques: the sum is greater than the parts. So could the CIA beat a naked man while freezing him? How about strapping especially defiant suspects to a board, swaddling their mouth and nose with a towel, and flooding it with water to approximate drowning?

This last horror, known as waterboarding, is particularly effective because it combines stark panic with the physical anguish of drowning. Dr. Allen Keller, director of the Bellevue/NYU Program for Survivors of Torture, described its effects in testimony to the U.S. Senate in 2007: "As the prisoner gags and chokes, the terror of imminent death is pervasive, with all of the physiologic and psychological responses expected, including an intense stress response, manifested by ... rapid heart beat and gasping for breath. There is a real risk of death from actually drowning or suffering a heart attack or damage to the lungs from inhalation of water. Long-term effects include panic attacks, depression and PTSD [post-traumatic stress disorder]." Victims struggle so hysterically that they sometimes snap their own bones. Waterboarding breaks prisoners in record time: most people, even "hardened terrorists," can't withstand it for longer than 30 or 40 seconds. No wonder it's beloved by some of history's most vicious regimes, including the Nazis and the Khmer Rouge.

And yet the Bush administration thirsted to waterboard. Officials justified this by denying that waterboarding and their other assaults are torture. Pampered politicians who seldom suffer more than a long meeting asked us to believe that bombarding a man with rap music and blinding light while forcing him to stand in place for hours isn't torture.

"We don't engage in torture," Vice President Cheney declared in December 2005, despite having authorized the CIA to engage in exactly that. Three months later, Chairman Rice announced, "The president made very clear from day one that he would not condone torture." Really? Then the meetings over which she presided were mutinous. Bush himself asserted on September 6, 2006, "The United States does not torture." The next month, Cheney schizophrenically insisted, "We don't torture," while admitting in the next breath that the administration authorized the waterboarding of alleged terrorist Khalid Sheik Mohammed — though Cheney dismissed nearly drowning him as "a dunk in the water." Bush again averred in October 2007, "This government does not torture people," and, in November



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2007, “We do not torture.” Rather, we “aggressively pursue” terrorists and “bring them to justice.” Lady Justice has apparently scrapped her scales for a towel and water bucket.

Tragically, the administration jettisoned America’s honor for nothing more than a dramatic device. The Ticking Time Bomb Scenario, in which a captured terrorist knows details that will save lives but must be tortured to divulge them, first surfaced in a French novel published during the 1960s. Political philosopher Michael Walzer later speculated in an academic article about the morality — or lack thereof — of torturing under such circumstances.

Then came 9/11. Suddenly, the Scenario exploded into American thought. Attorney Alan Dershowitz announced that since torture saves lives, we should not only condone it but regulate it. In other words, we can crush a man’s fingers but only after completing the proper paperwork.

Fox TV based its series *24* on a weekly ticking bomb and a silent terrorist whom hero Jack Bauer tortures into spilling his guts. Bob Cochran, one of the show’s creators, told the *New Yorker*, “Most terrorism experts will tell you that the ‘ticking time bomb’ situation never occurs in real life, or very rarely. But on our show it happens every week.” His caveat didn’t keep U.S. Supreme Court Justice Antonin Scalia from publicly defending *24*’s wickedness at a conference of European and North American judges, arguing that federal agents need great leeway in trying times: “Jack Bauer saved Los Angeles.... He saved hundreds of thousands of lives.... There’s a great scene where he told a guy that he was going to have his family killed. They had it on closed circuit television — and it was all staged.... They really didn’t kill the family.” Scalia seemed to imagine that Bauer’s methods may be necessary to combat terrorism in real life, saying, “Is any jury going to convict Jack Bauer? I don’t think so. So the question is really whether we believe in these absolutes. And ought we believe in these absolutes.”

If a TV character can sway a sophisticated Supreme Court Justice, perhaps we can’t blame the interrogators at Guantanamo Bay for looking to emulate Jack Bauer. When White House lawyers pressed Gitmo’s personnel for suggestions on “aggressive interrogation techniques,” they copped ideas from *24*. That makes the opinion of the series’ writer, Howard Gordon, foolishly optimistic: “I think people can differentiate between a television show and reality.”

### **The Case Against Torture**

The Ticking Bomb Scenario is the stuff of bestsellers because it pits a great good — saving hundreds or thousands of lives — against the horrific evil of intentionally hurting our fellow man. But when we separate it from the chills and thrills, its logic immediately falls. First, the Scenario ignores the fact that “you” aren’t torturing: government is. That’s the same institution that takes four days to deliver your mail across town and keeps neither bridges in Minnesota nor the dollar from collapsing. Should we entrust bureaucrats this bumbling with the awesome power to torture?

Second, the Scenario assumes perfect knowledge on the part of the torturer. He knows there’s an actual bomb, not just the threat of one; he’s sure he has the right suspect; even more improbably, he knows that his victim knows all essential facts about the bomb, especially where it is and how to defuse it. He’s also certain the guy will crack under torture — not everyone does — and that he will speak truthfully about the bomb’s location. If the torturer is wrong about any of these “facts,” his brutality goes for naught.

Actually, torture seldom pries the truth from folks. Victims will say anything to stop the pain. Just ask Colin Powell, who still has egg on his face because he believed tales gleaned under torture. Ibn al-Shaykh al-Libi shrieked that Iraq taught al-Qaeda to use chemical and biological weapons. Powell



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reported this at the United Nations in 2003 and then had to recant. Another of the feds' victims, Abu Zubaida, frankly admitted he told CIA agents whatever they wanted to hear. Experts with the stomach to study such things agree that tortured confessions aren't trustworthy.

The Scenario also fails because it presents a false dichotomy: either officials torture the bomber or multitudes die. But reality is seldom that clear-cut. There are other options, and though they may require more patience and effort than waterboarding powerless prisoners, they yield accurate information. For example, the FBI works to gain a suspect's trust before questioning him. This succeeds well enough that the agency refused to cooperate with the CIA when it began torturing per presidential preference.

Torture fails in other ways, too. The country condoning it loses its soul as the unspeakable becomes ordinary and terror stalks the land. But even if torture worked, even if it alone could wring the truth from its victims without savaging society, it is still and always wrong. Under any circumstances, no matter what. There can be no debate. Those who argue otherwise leave morality, humanity, decency, and civilization far behind.

Torture obviously violates the Golden Rule. We can presume that a president who brags about his Christianity should obey that divine law; unless he asks Muslims to shackle him and pour water up his nose, we can also presume that what he does unto others is not what he wants others to do unto him. Indeed, the Victim of an earlier empire's torture commanded His followers to bless — not waterboard — their enemies. One can be a torturer or a Christian but not both.

Torture inevitably leads to more sins, notably lying and murder. Bush, Cheney, Rice, et al. continue to insist that America does not torture though the CIA waterboarded at least three suspected terrorists and abused hundreds more. These politicians lie about the nature of the agonies they inflict, preposterously pretending that excruciating pain is not torture. They've lied about the accuracy and importance of the information their victims revealed; for example, they claimed that waterboarding Abu Zubaida wrung secrets from him he would have otherwise withheld. But "former FBI officials privy to details of the case continue to dispute the CIA's account of the effectiveness of the harsh measures," as the *Washington Post* noted last December.

Torturers almost always murder, too — and we're not talking just "accidental" deaths from too many beatings. Hurting a man makes an implacable enemy of him, so governments often execute victims rather than free them to seek vengeance or justice.

Torture is as anti-constitutional as it is anti-Christian. It mocks everything the Founding Fathers sought to achieve, in spirit and in letter. The Constitution's entire purpose is to restrain government, to stymie its endless quest to control us, to neutralize the world's deadliest and most destructive force. Imbuing government with the virulent power of torture, then, defeats the Constitution's rationale.

Torture also specifically violates the Eighth Amendment: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." Hoping to circumvent this, the administration appealed to the Department of Justice (DOJ) for advice. Attorneys Jay Bybee and John Yoo complied. In a memo dated March 14, 2003, they freed the federal government from the Eighth's constraints with facile, specious reasoning: the amendment "applies solely to those persons upon whom criminal sanctions have been imposed." It "thus has no application to those individuals who have not been punished as part of a criminal proceeding, irrespective of the fact that they have been detained by the government.... The detention of enemy combatants can in no sense be deemed 'punishment' for



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purposes of the Eighth Amendment. Unlike imprisonment pursuant to a criminal sanction, the detention of enemy combatants involves no sentence judicially imposed or legislatively required.... Accordingly, the Eighth Amendment has no application here.”

Yoo and Bybee also redefined “torture” (torture becomes torture only when “equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily functions, or even death”). They capped this tour de force by shrugging that it doesn’t matter anyway because national defense justifies anything; besides, the president is omnipotent in time of war. That leads to some scary stuff. Someone asked Yoo, “If the president deems that he’s got to torture somebody, including by crushing the testicles of the person’s child, there is no law that can stop him?” Yoo answered, “No treaty.”

Yoo and Bybee’s memos sailed so far over the top that even the DOJ eventually disavowed them — but not before prisoners at Abu Ghraib, Gitmo, and the CIA’s secret gulags suffered agonizingly. And not before torture’s evil genie escaped its bottle to haunt America.

Can we wrestle it back inside? Not easily. Torture is one of the state’s favorite tools. Governments throughout history have wielded it mercilessly because pain is the simplest means of controlling people. As the United States cuts more of its constitutional moorings, as Congress continues to legislate against our interests in favor of the American empire, it will increasingly need to force compliance. And the easiest way to do that is to threaten us with severe pain. The administration has already gulled too many Americans into endorsing torture so long as the government hurts only bad guys and only to protect us. That reasoning will allow rulers to bring their tortures home, to our shores. After all, drug dealers endanger us. So do child abusers, rapists, executives of companies that pollute or discriminate, tax resisters, political protestors, etc.

Trying to justify torture in 2005, the president blustered, “There’s an enemy that lurks and plots and plans and wants to hurt America again.” Sadly, it’s the Bush administration.

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