

# WHY CAN'T CIA HANDLE THE SAME LEVEL OF OVERSIGHT THE MILITARY GETS?

"We tortured Qahtani," the convening authority for military commissions, Susan Crawford, admitted to Bob Woodward earlier this year. "His treatment met the legal definition of torture."

Though I'm sure it happened, any criticism of Crawford for this admission was muted. I know of no one who claimed that Crawford was causing servicemen and women to be distracted from their core mission of protecting the country. No skies fell, and few claimed they had or would.

But it's not just Crawford who confessed that the military tortured a Gitmo detainee. Congress, too, has chronicled the ways in which the military tortured detainees. The Senate Armed Services Committee spent eighteen months investigating the way in which the military adapted SERE techniques for use on al Qaeda, Afghan, and Iraqi detainees. Their report describes how techniques approved by Donald Rumsfeld for some circumstances—sleep deprivation and stress positions contributed to homicides in Afghanistan.

In December 2002, two detainees were killed while detained by CITF-180 at Bagram. Though the techniques do not appear to have been included in any written interrogation policy at Bagram, Army investigators concluded that the use of stress positions and sleep deprivation combined with other mistreatment at the hands of Bagram personnel, caused or were direct contributing factors in the two homicides.

It describes how, a month before those

homicides, the Special Forces wrote a memo noting their risk in participating in such interrogations.

"we are at risk as we get more 'creative' and stray from standard interrogation techniques and procedures taught at DoD and DA schools and detailed in official interrogation manuals."

It describes the CIA's General Counsel warning DOD that certain units in Iraq were using methods that not even the CIA would use on the same detainees (suggesting the military interrogators were violating the Geneva Conventions in a legal war zone).

CIA General Counsel Scott Muller had called Jim Haynes and told him that the techniques used by military interrogators at the SMU TF facility in Iraq were "more aggressive" than techniques used by CIA to interrogate the same detainees.

It describes the actions those who tortured, those who planned the torture, and those who authorized it.

It describes interrogators stripping detainees, beating them, making them stand for 12 hours, interrogating them for 20 hours, threatening death and the detention of detainee family members, female interrogators touching them inappropriately. It describes the documents that authorized some version of those actions.

It describes James Mitchell and Bruce Jessen developing interrogation plans based on SERE and Colonel Randy Moulton pitching those techniques throughout the military and intelligence services. It describes Major General Dunlavy asking to use harsher interrogation methods in Gitmo and Captain Carolyn Wood adopting the methods from Afghanistan in Iraq. It describes Jim Haynes recommending methods amounting to

torture in a mere one page memo and Rummy approving that memo even as he added a snarky comment asking why detainees didn't have to stand more. It describes David Addington and Alberto Gonzales helping to craft the legal cover for these activities. It describes the multiple warnings, internally, that this program constituted torture.

In short, SASC produced a report that showed how torture was systematically introduced into the military, with the participation of figures from the White House on down to unit commanders. SASC produced that report and—with a reasonable amount of redaction—released it to the public.

And while some Republicans (notably, the Senate Intelligence Committee's ranking member, Kit Bond) tried to claim the report had been a partisan hit job, none of the Republicans on the Committee dissented in its release: not John McCain, not Jeff Sessions, not even James Inhofe.

Secretary of Defense Robert Gates did not write op-eds wailing that such oversight would distract servicemen and women and impede their ability to defend the country. While some people who had personally been involved in setting up Gitmo—most notably Kirk Lippold—have personally attacked Obama for ending torture and moving to close Gitmo, even Lippold's complaints were not directed against oversight itself.

There were, for a few weeks, claims that Congress' oversight of the military's role in torture would make the sky fall, but the sky didn't fall. Admittedly, there were many more claims that the release of new detainee abuse pictures might make the sky fall, but even there, those cries were directed against ACLU, and not oversight in general.

In this day and age, those Special Forces personnel involved in interrogation are every bit as exposed as the CIA. They did everything the CIA did except perhaps for waterboarding (and some may have even participated in the

abusive interrogations of top al Qaeda figures). So the military is just as exposed because of its involvement in torture as the CIA.

Yet the military withstood oversight and exposure of its role in torture.

Compare that to the CIA's response, as the Senate Intelligence Committee conducts what appears to be a thorough investigation and as the House Intelligence Committee begins a broader investigation into CIA's role in covert ops. Such oversight will doom the morale of the men and women at CIA! In doing so, it will distract these professionals and prevent them from doing their jobs!

And, most recently, the Director of the CIA issued a veiled threat, suggesting CIA shouldn't use intelligence on Congress (and vice versa). Imagine the response if, in response to Congressional oversight, the Secretary of Defense were to raise using DOD's weapons on Congress (which is not to say NSA hasn't collected some Congressional communications over the years).

I know it's a perennial game in DC to wail that the intelligence community will simply melt if Congress exercises oversight over it. But really. In the face of DOD withstanding precisely the same kind of oversight Congress is discussing for the CIA, isn't it time to simply laugh at the cries that the sky is falling?