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## Emancipation Day for 'good faith' torturers?

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Both the Bush-Cheney and Obama administrations have strongly opposed the very idea of a comprehensive independent investigation of CIA "enhanced interrogations" at the agency's secret prisons and during its "renditions" of terrorism suspects to countries known for torturing prisoners.

American and international critics of torture were told by President George W. Bush, and are now told by President Barack Obama, that these actions took place under legal justification provided by the Justice Department (recall the John Yoo "torture memos"). And our government assured practitioners of "enhanced interrogations" that they would be protected from punishment.

Nonetheless, as I and others have reported ("For CIA Agents, Insurance Sometimes Necessary," npr.org, Dec. 14, 2005) some CIA and other intelligence agents have bought liability insurance in case they eventually wind up as defendants in legal actions.

CIA agent Robert Baer told NPR that when he left the agency in 1997, he warned his comrades to not get involved in any possible violations of U.S. law: "You can't afford the lawyers."

But a CIA spokesman told NPR that "the insurance policies are not unusual, that many government employees buy the same sort of coverage. He said the CIA partially reimburses officers for the cost of basic coverage." Still, as I also reported, there were CIA agents worrying.

However, on June 30, the Justice Department eased the anxiety of both CIA agents and Special Forces officers by declaring that, apart from investigations into two alleged deaths of suspects while under CIA interrogations, no additional investigations into a large group of other such cases would be "warranted."

New Defense Secretary Leon Panetta, in his last day as director of the CIA, exulted, "We are now finally about to close this chapter of our agency's history" (New York Times, June 30).

In the same article, Attorney General Eric Holder seconded Panetta by emphasizing that any intelligence officers, including CIA agents, "who acted 'in good faith' within the scope of the Justice Department's legal guidance at the time would not face prosecution."

What about the present review of the two purportedly murderous CIA interrogators? Oh, that's just to find out whether those interrogators used "unauthorized interrogation techniques." All the others presumably stayed within Yoo-style limits.

It was hard for me to believe that Holder said that with a straight face in view of his own sharp criticisms of the Bush-Cheney "dark side" before President Obama elevated him to become this nation's chief law enforcement officer.

The ACLU's deputy legal director, Jameel Jaffer, wasn't buying this tricky government maneuver, either: "While we welcome the announcement that the Justice Department will conduct an investigation into these two deaths of prisoners in CIA custody, it is difficult to understand the prosecutor's conclusion that only those deaths warrant further investigation."

Just as I've documented our nation's torture history in many columns, Jaffer also refused to close this indelibly shameful chapter in American history, making the easy-to-confirm point that "with the approval of the Bush administration's most senior officials (including our present chief executive officer), the CIA operated an interrogation program that subjected prisoners to unimaginable cruelty and violated both international and domestic law." Added Hina Shamsi, director of the ACLU's National Security Project: "The central problem was not with interrogators who disobeyed orders, but with senior officials who authorized a program of torture.

"The Justice Department must conduct an investigation that is broad enough to reach the senior officials who were most responsible for developing this program."

Surely not an investigation by the Obama-Holder Justice Department? But what if the Republicans win the presidency next year? During all the "enhanced interrogation" years, while I continually covered this story, I've been aware of very few Republicans in Congress – let alone the currently leading aspirants for the Oval Office – being concerned with what President Obama himself said at Washington's National Archives Museum on May 21, 2009:

*(Column continues below)*

"I know some have argued that brutal methods like waterboarding were necessary to keep us safe. I could not disagree more. As commander in chief, I see the intelligence, I bear responsibility for keeping this country safe, and I reject the assertion that these are the

most effective means of interrogation. What's more, they undermine the rule of law. They alienate us in the world. They serve as a recruitment tool for terrorists and increase the will of our enemies to fight us, while decreasing the will of others to work with America."

That's a direct quote.

Mr. President, sir – you have not said a word in disagreement with what Panetta said about preventing the punishment of torturers so that, "We are now finally about to close this chapter of our agency's history."

If, President Obama, you still believe what you said so passionately at the National Archives, then we will expect to hear your intention to set in motion an independent investigation, with subpoena powers, to finally provide factual accountability for those responsible – as you also said – "for these tactics were on the wrong side of the debate, and the wrong side of history. We must leave these methods where they belong – in the past. They are not who we are. They are not America."

While I await a future president to actually reinstate true American (non-torture) values into world consciousness, my column will relentlessly continue to pursue this topic. There is still so much to accurately tell the citizenry – very much including the new generation of citizens who are not learning in their classes about our being on the wrong side of history.

President Obama, you speak often about education.

What a teaching moment this would be.

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