

**Written Testimony for Senate Judiciary Committee Constitution Subcommittee
Hearing: Restoring the Rule of Law**

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The Campaign to Ban Torture: *American Voices for American Values*

Reassessing U.S. Counterterrorism Strategy

There is an urgent need for a reversal of this country's counterterrorism strategy. The current strategy, based on retribution, human rights abuses, and violations of international law, has badly damaged the United States' reputation in the world. For generations, America's unparalleled strength and reputation set us apart. Through our example, other nations were moved to adopt the universal principles that we honored. The example we set today is altogether different; it is cloaked in shame, clouded by moral relativism.

Additionally, our policies have invited human rights violations by other governments. Credible reports have emerged that repressive regimes have justified their use of torture and other forms of cruel treatment by pointing to the U.S. use of torture and other abuses in Iraq, Afghanistan, Cuba/Guantanamo Bay and elsewhere. In addition, attorneys for Charles "Chuckie" Taylor have argued that because the U.S. government has committed abuses since September 11, 2001, there is no longer a universal condemnation of the use of torture when it takes place in the context of anti-terrorism efforts (Center for Justice and Accountability, 2-08. Also, Human Rights First, "Russian Government Using Counterterrorism as a Pretext," 2-16-05.) And senior military officials note that U.S. national security is being damaged by the current policies, as allies decline to cooperate in counterterrorism efforts because they refuse to be directly or tacitly involved in the use of torture and other forms of cruel, inhuman and degrading treatment of detainees.

Torture and cruelty are now expected from the U.S. by constituencies around the world, among our traditional allies, our opponents, and those who have not usually had a firm opinion. The repercussions of this attitude toward the U.S. are enormous, with some saying that it will take at least two generations to recover our national credibility and moral leadership. In addition, the public has been manipulated about torture's ability to extract intelligence. Defenders of U.S. torture policy claim that torture and cruelty, while repugnant, are a necessary means to a virtuous end: keeping America safe. This argument, however, is premised on the mistaken notion that torture actually works. As FBI, military intelligence and CIA professionals have reported, using torture yields more faulty information than actionable intelligence. We know this to be true from more than 20 years of providing care and rehabilitative services to torture survivors. They have told us that they would have said anything to end the torture. Torture and cruelty elicit unreliable information and damage our national security.

Regaining a Consensus against Torture

Recognizing this urgent need to make a clean break from the policies of torture and cruelty, for the last several years CVT has been examining ways to effectively re-orient U.S. counterterrorism strategy toward policies that are firmly grounded in the rule of law. In June 2007, Ambassador Marc Grossman suggested to us that a Presidential Executive Order could address many of CVT's priorities in our anti-torture work. Ambassador Grossman, now Vice Chairman of the Cohen Group, a global consulting firm headed by former Secretary of Defense William Cohen, previously served as U.S. Ambassador to Turkey (1994-97); Assistant Secretary of State for European Affairs (1997-2000); and Under Secretary of State for Political Affairs (2001-2005). With distinguished foreign policy experience in both Republican and Democratic Administrations, Ambassador Grossman has been a key advisor to CVT for more than a decade.

CVT explored this concept with a group of leaders from the military, foreign policy and security policy sectors in a June 23, 2007 meeting in Washington. Participants in this bi-partisan gathering encouraged CVT to pursue this approach, and agreed to serve as advisors and to help advance the initiative.

Also in June 2007, CVT and the National Religious Campaign Against Torture (NRCAT) and Evangelicals for Human Rights (EHR) began to discuss the notion of combining a strong moral argument against torture, issued by the nation's religious leaders, with a series of strategic arguments against torture, issued by the nation's military, foreign policy and security policy leaders. To accomplish this goal the three organizations formed a partnership to pursue the goal of an Executive Order against torture and cruelty.

Declaration of Principles

CVT, NRCAT and EHR, with advice from senior experts in the military, national security, foreign policy, and faith sectors, drafted the "*Declaration of Principles for a Presidential Executive Order on Prisoner Treatment, Torture and Cruelty.*" This *Declaration of Principles* forms the core of The Campaign to Ban Torture.

The Campaign is an effort to convince the next President of the United States to issue an Executive Order implementing a set of principles upon which U.S. counterterrorism policy, as it relates to detention, prisoner treatment and interrogation policies, ought to be based. It unequivocally rejects the current policy of torture and cruelty. This Presidential Executive Order would announce to the world a fundamental change in U.S. counterterrorism policies and a return to foreign policy approaches grounded firmly in respect for human rights.

The Declaration is printed below as well as attached to this testimony.

Declaration of Principles for a Presidential Executive Order on Prisoner Treatment, Torture and Cruelty

Though we come from a variety of backgrounds and walks of life, we agree that the use of torture and cruel, inhuman or degrading treatment against prisoners is immoral, unwise, and un-American.

In our effort to secure ourselves, we have resorted to tactics which do not work, which endanger US personnel abroad, which discourage political, military, and intelligence cooperation from our allies, and which ultimately do not enhance our security.

Our President must lead us by our core principles. We must be better than our enemies, and our treatment of prisoners captured in the battle against terrorism must reflect our character and values as Americans.

Therefore, we believe the President of the United States should issue an Executive Order that provides as follows:

The “Golden Rule.” We will not authorize or use any methods of interrogation that we would not find acceptable if used against Americans, be they civilians or soldiers.

One national standard. We will have one national standard for all US personnel and agencies for the interrogation and treatment of prisoners. Currently, the best expression of that standard is the US Army Field Manual, which will be used until any other interrogation technique has been approved based on the Golden Rule principle.

The rule of law. We will acknowledge all prisoners to our courts or the International Red Cross. We will in no circumstance hold persons in secret prisons or engage in disappearances. In all cases, prisoners will have the opportunity to prove their innocence in ways that fully conform to American principles of fairness.

Duty to protect. We acknowledge our historical commitment to end the use of torture and cruelty in the world. The US will not transfer any person to countries that use torture or cruel, inhuman, or degrading treatment.

Checks and balances. Congress and the courts play an invaluable role in protecting the values and institutions of our nation and must have and will have access to the information they need to be fully informed about our detention and interrogation policies.

Clarity and accountability. All US personnel—whether soldiers or intelligence staff—deserve the certainty that they are implementing policy that complies fully with the law. Henceforth all US officials who authorize, implement, or fail in their duty to prevent the use of torture and ill-treatment of prisoners will be held accountable, regardless of rank or position.

Campaign to Ban Torture

In order to build a national consensus against torture and create the broadest support possible, in the months leading up announcing the Campaign’s public launch, the three organizations began the process of soliciting high level bipartisan endorsements for the Declaration.

Recognizing the authority, expertise and integrity that respected military leaders and national security and foreign policy experts uniquely possess on this issue, CVT sought endorsements from these influential groups while NRCAT and EHR focused on securing endorsements from key leaders in the religious community. (NRCAT is submitting testimony outlining its efforts in this area).

We launched the Campaign on June 25 and announced the support of a broad array of more than 200 leaders from the military, national security, foreign policy, and religious sectors. The endorsers CVT secured include:

- Three former Secretaries of State: George Schultz, Madeline Albright and Warren Christopher
- Three former Secretaries of Defense: William Perry, William Cohen and Harold Brown
- Three former National Security Advisors: Zbigniew Brzezinski, Anthony Lake, and Samuel R. Berger
- Four former members of the Joint Chiefs of Staff
- Ambassador Richard Armitage, John Whitehead, Alberto Mora, Ambassador William Taft IV, Dr. John Hamre, Senator Sam Nunn, General Paul Kern, and numerous other retired flag officers

The full list of endorsers is attached to this testimony, as are several press clippings from the day of the launch.

These individuals agreed to endorse the Declaration and to engage others in this initiative because of a shared commitment to work against the use of torture and cruelty—both because they are morally wrong and because they produce highly unreliable information and are, in fact, damaging to U.S. national security. Since the launch we have continued to add to the list of high level endorsers. Updates to the endorser list and other Campaign activities can be found at www.CampaignToBanTorture.org).

An Executive Order

An Executive Order would end the ambiguity, confusion and doubt that have clouded U.S. treatment of detainees. By adopting six core principles grounded to serve as guideposts for the conduct of counterterrorism efforts as they related to detention and prisoner treatment, we can make a clean break from torture and cruelty.

The Executive Order will not only address many of the most egregious problems created by this Administration's counterterrorism policy, but it could also serve as the basis for legislative efforts aimed at creating reinforcing solutions (so that another President cannot reverse the policies by rescinding this Executive Order). The Executive Order will also help to create the conditions necessary for conducting effective accountability activities related to possible crimes committed by members of the current Administration if the next President decides to pursue such activities.

Some may ask with both candidates for the Presidency signaling a significant difference from the Bush Administration on this issue, is it still necessary to pursue an Executive Order? We assert that it is essential, for several reasons.

First,, in an increasingly interconnected world, for the U.S. to make progress on a variety of issues (human rights, climate change, peace and security, Iraq, and others) we will need to regain the confidence of key allies, and in particular European nations. Foreign policy experts have asserted that in order for this to happen, the U.S. needs to make a forceful statement announcing a dramatic break with the policies of the Bush Administration. A number of these experts have advocated that the single most significant statement a new President could make would be a repudiation of this Administration's torture policy for it, more than any other issue, has deeply offended our allies and the world.

Second, and perhaps most important, our military and security policy endorsers discuss counterterrorism policy and the likelihood of another attack within this country in the context of "when," not "if." They call for urgent action in pursuing this Executive Order because they understand how difficult it will be to reverse the current torture policy if we try to do it in the wake of the next attack. Witness Secretary of State Rice's comments in response to revelations that the torture of prisoners was discussed and planned in White House meetings: "There was a climate of fear....we were all worried about the next attack....we thought they had information...." If anyone thinks that the next Administration would not face these same pressures when the next attack occurs—despite their current positions on torture and prisoner treatment—they are misleading themselves.

The Campaign is currently in the process of assembling a team of lawyers to draft the Executive Order based upon the six principles in the Declaration. Harry McPherson, senior counsel at the international law firm DLA Piper and former special counsel to President Lyndon B. Johnson, has agreed to co-chair the drafting committee and will seek a Republican co-chair. Alberto Mora and Admiral John Hutson have also agreed to serve on the drafting committee and we are asking other endorsers and legal experts to join us. We will offer the final Executive Order to the President-elect as technical assistance.

Conclusion

We hope the Judiciary Committee will agree that we need to restore the rule of law by renouncing policies that have facilitated the use of torture and other forms of cruel, inhuman and degrading treatment of detainees in this country's counterterrorism efforts. To begin this process a critical first step will be for the next President to issue an Executive Order based upon the six principles in the Declaration.

Attachments

- Declaration of Principles
- List of Declaration Endorsers
- News Articles

The Center for Victims of Torture

The Center for Victims of Torture (CVT) (www.cvt.org) was founded in 1985 as the first organization in the U.S., and the third in the world, created to provide care and rehabilitative services to survivors of politically motivated torture. CVT's mission is to heal the wounds of torture on individuals, their families and their communities, and to stop torture worldwide. The organization works toward this mission by providing comprehensive care to torture survivors and members of their families; conducting ongoing research on the long term effects of torture and effective treatment and rehabilitation models; providing professional training to care providers and others who engage with torture survivors in the course of their work; and contributing to the prevention of torture through public education initiatives and cooperative advocacy efforts with national and international human rights, health care, religious, and civic organizations. In Minnesota, where the organization is headquartered, CVT extends these services to about 250 torture survivors annually.

During the past decade CVT has invested heavily in capacity-building initiatives aimed at supporting the emerging domestic and international torture survivor rehabilitation movement. CVT has launched healing and training centers in Africa that each year care for more than 2000 survivors of torture perpetrated during the civil conflicts in Liberia, Sierra Leone and the Democratic Republic of Congo—while at the same time training 150 African nationals to serve as mental health and human rights workers. CVT has also just received funding to establish a rehabilitation center that will extend care to Iraqi torture survivors.

CVT also organizes technical assistance and training for 35 domestic healing centers and 16 centers in other countries, focusing on building clinical capacities; strengthening organizational development efforts; and promoting public education, advocacy, and constituency-building initiatives.

Through its New Tactics in Human Rights Project, CVT promotes enhanced strategic thinking among the human rights community through research and dissemination of innovative approaches to human rights work, development of tools and resource materials, and sponsorship of cross-training opportunities. (More information on the New Tactics project is available at www.newtactics.org.)