



May 7, 2004

The Honorable George W. Bush
The White House
Washington, DC 20500



Dear Mr. President:



We are deeply disturbed by the photos of the treatment of prisoners by U.S. soldiers and interrogators and welcome your public condemnation of those acts. But more than statements are required. We write to urge you to take decisive and immediate action to address a problem that we believe is not an isolated incident, but rather illustrates a dangerous and illegal system of interrogation and detention in use by the United States in many places around the world. As representatives of a number of major human rights organizations we request a meeting with you on an urgent basis to discuss our recommendations for dealing with this problem.



Jacob Blaustein Institute
for the Advancement of Human Rights



For the past year and a half, *The Wall Street Journal*, *Washington Post*, *USA Today*, *Newsday*, *New York Times*, *Los Angeles Times*, *Christian Science Monitor*, and other leading newspapers have repeatedly quoted unnamed U.S. intelligence officials boasting about the use of torture and other ill-treatment of prisoners. Numerous detainees have been killed or attempted suicide in custody in Afghanistan, Iraq and Guantanamo Bay prompting unprecedented expressions of concern by the International Committee of the Red Cross; suspects have been turned over to the foreign intelligence services of countries, such as Syria, with records of brutal torture; the ICRC has also specifically expressed concern about conditions at Abu Ghraib prison in Iraq; and now, the US military's own inquiry has found "systemic and illegal abuse of detainees" at Abu Ghraib.



These incidents occurred across continents and over many months, but they are nevertheless linked. As Cofer Black, the head of the CIA's Counterterrorism Center, told Congress in September 2002: "There was a before 9/11, and there was an after 9/11 After 9/11 the gloves come off." Since then, intelligence officials have said repeatedly that they have a mandate to obtain information by "breaking" prisoners through a combination of pain and humiliation, if not outright torture. The sexual humiliation of prisoners now documented at Abu Ghraib was extreme, but not new. More than a



RFK Memorial
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Contact: John Bradshaw, Coordinator

year ago, *The New York Times* quoted prisoners held in Afghanistan saying that they were kept naked most of the time. Likewise, there have been numerous reports of female guards and interrogators used in a deliberate attempt to humiliate and degrade prisoners.

For over a year, the undersigned organizations and others have repeatedly asked you and senior officials in your Administration to act promptly and forcefully to publicly repudiate the statements of intelligence officials and to assure that the treatment of detainees is consistent with international humanitarian law. We particularly asked that you provide access to detention centers, release the results of investigations and take other steps to ensure greater transparency of the detention process

Last June, human rights groups welcomed your pledge that the United States would lead by example in the fight against torture. Yet whatever steps your administration may have taken to implement that pledge have been inadequate to end torture and inhuman treatment of prisoners and to dispel the apparent belief among U.S. interrogators and guards that brutality and degradation are acceptable in the quest for information. The events at Abu Ghraib now in the headlines are the latest evidence of an interrogation and detention system that appears to be out of control and of inadequate action to match your pledges, not the isolated misdeeds of a few individuals allegedly acting without authorization.

This pattern of conduct has caused extraordinary damage to the cause of human rights around the world, as well as to the United States and to its ability to conduct foreign policy successfully, from Iraq to the global campaign against terrorism.

Extraordinary action on your part is now required to begin to repair this damage and, at long last, bring an end to this pattern of torture and cruel treatment. You have stated in eloquent terms that “human dignity is non-negotiable,” but you have tolerated a U.S. system of interrogation that is specifically designed to degrade, humiliate and destroy the human dignity of prisoners to obtain information. In recent days, U.S. officials in Iraq have announced a welcome prohibition on the use of a number of “stress” interrogation tactics. You should follow through on these announcements by completely banning the use of the “stress and duress” tactics and incommunicado detention throughout the world.

The choice is not about whether to express your abhorrence over the events at Abu Ghraib and to investigate them. The choice is whether you dismiss them as the actions of “a few bad apples” while continuing an interrogation and detention system that is cruel and illegal, or act forcefully to end the “stress and duress” system of incommunicado interrogation in Iraq, Afghanistan, Guantanamo Bay, or anywhere that people are held in U.S. custody. This system violates both the Constitution and international law, including the solemn pledges your father made when he sought Senate approval of the Convention Against Torture.

We ask you to take immediate actions to establish clear prohibitions on illegal and inappropriate interrogation and detention methods backed by strong penalties; mandate strong enforcement mechanisms, including access for independent monitors; and provide for public review and full disclosure of interrogation practices and the records of investigations. Our specific recommendations for accomplishing these goals are attached.

We appreciate your interest in our concerns and your consideration of our recommendations. We hope that we will be able to arrange a meeting with you as soon as possible.

Sincerely,



William Schulz
Amnesty International USA



Gay McDougall
Global Rights



Michael Posner
Human Rights First



Ken Roth
Human Rights Watch



Louise Kantrow
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Felice D. Gaer
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Human Rights Groups’ Recommendations

Establish Clear Prohibitions Backed by Adequate Penalties

Immediately ban “stress and duress” interrogation and take immediate action to insure that all interrogation and detention practices are fully consistent with international human rights and humanitarian law.

Immediately ban any action taken anywhere in the world that would violate the prohibition on “cruel and unusual” punishment if conducted in the United States; this is the pledge that your Administration made to the Congress in June 2003 that was apparently never implemented.

Immediately ban secret and incommunicado detention; specifically, mandate that the names of all detainees be published.

Immediately ban the transfer of prisoners to countries with a pattern of using torture in interrogation;

Immediately ban the use of civilian contractors in conducting interrogations;

Ensure that appropriate criminal penalties exist for any person involved in torturing or otherwise abusing detainees – no matter where in the world the conduct occurs;

Mandate Strong Enforcement

Permit immediate access to every prisoner to independent monitors, including the ICRC, appropriate UN officials and human rights organizations, including the ability to interview prisoners in private, and conduct medical evaluations in accordance with the Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman and Degrading Treatment or Punishment;

Permit all detainees to have access to family members and physicians, based on a recognition that secret and incommunicado detention is at the root of much of the prisoner abuse;

Ensure that there is a record available to determine whether any abuses occurred by videotaping all interrogations and other interaction by military and intelligence personnel with detainees;

Request significant increases in funding for the Inspector General offices in every agency involved in any form of interrogation or detention of prisoners, and issue an explicit mandate to each such office to monitor interrogations and detention;

Pay restitution. Follow the lead of the United Kingdom in its response to findings of prisoner abuse in Northern Ireland prior to 1972, by providing redress and compensation, including paying restitution to those detainees found to have been victims of torture or inhumane treatment;

Provide Public Review and Full Disclosure

Release the results of investigation into the abuse of detainees, including the Department of Defense investigation into deaths at Bagram Air Base, Afghanistan in December, 2002, and investigations concerning interrogation and detention methods and procedures.

Work with the Congress to appoint an investigation commission of persons of unquestioned integrity and independence to examine all aspects of U.S. interrogation practices, including the transfer of detainees to other countries; and

Disclose publicly all interrogation manuals, instructions and guidance governing the conduct of detention and interrogation.

“Stress and Duress” Techniques Have Been Rejected by the Israeli Supreme Court, the United Kingdom and the US Supreme Court

Some Administration officials have argued that the “stress and duress” techniques being used by the US are not so severe as to be illegal. While some interrogation techniques are unpleasant but not illegal, the US interrogation techniques described in repeated media reports are clearly illegal.

The Israeli Supreme Court – These techniques are, for all intents and purposes, the same techniques that were at issue in a 1999 Israeli Supreme Court decision which unanimously found them to be illegal. Indeed, the Israeli Court commented that while deciding how to respond to terrorism was hard, finding these techniques illegal was not (“from the legal perspective, the road before us is smooth”).

The United Kingdom – These techniques are also, for all intents and purposes, exactly the same techniques that were used by the United Kingdom in Northern Ireland prior to 1972 and which the UK unequivocally found to be illegal and abandoned (see the attached chart describing the techniques at issue in Israel and Northern Ireland). The Government of the United Kingdom voluntarily agreed to pay compensation to abused detainees and pledged to prosecute any official using these techniques in the future. The European Court of Human Rights found the techniques “cruel, inhuman and degrading” but the United Kingdom had already unequivocally rejected them.

The US Supreme Court – Furthermore, when President Bush’s father pushed the Convention Against Torture through the United States Senate, he pledged to interpret the phrase “cruel, inhuman and degrading” consistent with the constitutional caselaw interpreting the phrase “cruel and unusual punishment” under the Constitution. It is simply beyond dispute that the “not quite torture” techniques described by anonymous US officials – beatings, prolonged sleep deprivation, binding in painful positions, extreme heat and cold, denial of food and water – violate the US constitution. In 2002, in Hope v. Pelzer the US Supreme Court held that when officials allegedly handcuffed an Alabama prison inmate to a “hitching post” for seven hours “the Eighth Amendment violation is obvious” (emphasis added):

The obvious cruelty inherent in this practice should have provided respondents with some notice that their alleged conduct violated Hope’s constitutional protection against cruel and unusual punishment. Hope was treated in a way antithetical to human dignity – he was hitched to a post for an extended period of time in a position that was painful, and under circumstances that were both degrading and dangerous.

Indeed, in an amicus brief submitted to the Supreme Court on February 19, 2002 the Bush Justice Department argued forcefully that this conduct was clearly unconstitutional. In other words, the Bush Administration is already on record stating that some of the basic “stress and duress” techniques being used by U.S. interrogators constitute “cruel and unusual punishment.”

**Interrogation Techniques Determined to be Illegal
Under the Convention Against Torture**

<u>Israel</u>	<u>United Kingdom</u>
Forceful shaking of the upper torso in a manner which causes the neck and head to dangle and vacillate rapidly	Wall standing: forcing prisoner to stand on toes spread eagled against a wall, hands high above the head, with weight of the body mainly on the fingertips
Waiting in the “shabach” position: hands tied behind the back of a chair in a painful position with a dark hood thrown over the head	Hooding: putting a opaque bag over the prisoner’s head
Forcing the prisoner to crouch on toes with his hands tied behind his back for prolonged periods	Subjecting prisoner to noise: holding prisoner in a room filled with continuous loud and hissing noise
Excessive tightening of handcuffs	Deprivation of food and drink
Sleep deprivation	Sleep deprivation: collectively, “sensory deprivation”
<u>Israeli Supreme Court Decision</u>	<u>European Court of Human Rights Northern Ireland Decision</u>
<p>“The rules pertaining to investigations are important to a democratic state. They reflect its character. An illegal investigation harms the suspect’s human dignity. It equally harms society’s fabric.”</p> <p>“These prohibitions are ‘absolute’. There are no exceptions to them and there is no room for balancing.”</p> <p>“We are aware that this decision does not erase dealing with that reality [terrorism]. This is the destiny of democracy, as not all means are acceptable to it, and not all practices employed by its enemies are open before it...from the legal perspective, the road before us is smooth.”</p>	<p>“The United Kingdom Government [does not] contest ... the breaches of Article 3 as found by the Commission.... [F]or them the subject-matter of those findings now belongs to past history in view of the abandonment of the five techniques (1972), the solemn and unqualified undertaking not to reintroduce these techniques (8 February 1977) and the other measures taken by the United Kingdom to remedy, impose punishment for, and prevent the recurrence of, the various violations found by the Commission.”</p>

The Inadequacy of the Administration's Response to Date

“The Administration’s response to the outrageous statements made by numerous unnamed officials to the [Washington] Post’s reporters has thus far been wholly inadequate.... [W]ithout a more authoritative response to this high-profile story the world will conclude that the United States is not practicing what it preaches.”

Human Rights Executive Directors to Deputy Secretary of Defense Paul Wolfowitz, January 14, 2003

“What is clearly needed in this instance are unequivocal statements by you and your Cabinet officers that torture in any form or manner will not be tolerated by this Administration, that any US official found to have used or condoned torture will be held accountable.... These statements need to be accompanied by clear written guidance applicable to everyone engaged in the interrogation and rendition of prisoners....”

Human Rights Executive Directors to President George W. Bush, January 31, 2003

“Providing access by human rights monitors to all prisoners and detention facilities would have many benefits. First, it will allow the US to offer independent, credible proof to a frankly skeptical world about the conditions of detention and the means of interrogating prisoners in US custody.... [I]n every detention situation, no matter how well supervised, there is the potential for abuse.”

Human Rights Executive Directors to National Security Advisor Condoleezza Rice, June 24, 2003

“The repeated claims of unnamed Bush Administration officials involved in actual cases raise serious questions about whether the President’s policy against torture is being violated in practice. Those concerns are bolstered by the comments of former US intelligence officials, such as Vincent Cannistrano and Robert Baer, who have said publicly that they believe that transferred suspects are being tortured.”

Human Rights Executive Directors to Secretary of State Colin Powell, November 17, 2003