



# human rights *first*

American ideals. Universal values.

May 8, 2018

Dear Senator:

Even in times of crisis, the United States prides itself on remaining committed to American values and universal ideals. This means that our leaders and government officials should embody them as well. Unfortunately, Gina Haspel, through her participation in torture and the destruction of evidence, has done the exact opposite. Therefore, we strongly oppose her nomination to be director of the Central Intelligence Agency (CIA).

The majority of Haspel's 30 plus year career in the CIA remains classified and the Senate should demand full declassification of Haspel's role in all aspects of the CIA's rendition, detention, and interrogation (RDI) program before proceeding to consider her nomination. But what we do know about Haspel's role is more than enough to disqualify her from leading the CIA. She reportedly was chief of base of the CIA "black site" located in Thailand (referred to as Detention Site GREEN in the Senate Torture Report<sup>1</sup>). During her tenure there, Abd al-Rahim al-Nashiri was brutally tortured, including with at least three waterboarding sessions. Even though Haspel was reportedly the only person at the black site permitted to "interrupt or stop an interrogation in process," there is no indication that she took any steps to stop the torture. She also reportedly supported and facilitated the destruction of video tapes documenting the torture she oversaw at Detention Site GREEN.<sup>2</sup>

The use of torture or cruel, inhuman, or degrading treatment is not only illegal and immoral; it also harms our national security. As 109 retired flag officers wrote to the Senate on April 23, 2018, "the torture and cruel treatment of prisoners undermines our national security by increasing the risks to our troops, hindering cooperation with allies, alienating populations whose support the United States needs in the struggle against terrorism, and providing a propaganda tool for extremists who wish to do us harm."<sup>3</sup> There is no room for torture in the defense of the United States of America.

Since Haspel's nomination, some have insisted that her role in the now-defunct RDI program should not disqualify her from being confirmed. They argue that executive branch lawyers determined the program to be lawful at the time, and that she was simply 'following orders.' We firmly reject these arguments.

First, the United States has a long, bi-partisan history of opposing the kinds of torture and detainee abuse in which Ms. Haspel was reportedly directly involved. Our nation's founders, starting with George Washington, opposed torture, and in 1863, Abraham Lincoln signed the Lieber Code, prohibiting Union soldiers from torturing prisoners. After World War II, the United States convicted Japanese soldiers who engaged in torture, including waterboarding. President Ronald Reagan strongly supported the United Nations Convention Against Torture (CAT) and pressed the Senate to ratify it on a bipartisan basis, arguing that the United States should be a global leader to help "bring an end to the abhorrent practice of torture."<sup>4</sup> The CAT prohibits torture and cruel, inhuman, or degrading treatment in all circumstances, with no exceptions.<sup>5</sup>

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<sup>1</sup> [https://www.feinstein.senate.gov/public/\\_cache/files/7/c/7c85429a-ec38-4bb5-968f-289799bf6d0e/D87288C34A6D9FF736F9459ABCF83210.sscistudy1.pdf](https://www.feinstein.senate.gov/public/_cache/files/7/c/7c85429a-ec38-4bb5-968f-289799bf6d0e/D87288C34A6D9FF736F9459ABCF83210.sscistudy1.pdf)

<sup>2</sup> [https://www.buzzfeed.com/thomasfrank/all-the-bosses-in-the-bush-administration-wanted-the?utm\\_term=.bw1vVARNak#.wjYVzZG7eo](https://www.buzzfeed.com/thomasfrank/all-the-bosses-in-the-bush-administration-wanted-the?utm_term=.bw1vVARNak#.wjYVzZG7eo)

<sup>3</sup> <https://www.humanrightsfirst.org/sites/default/files/RMLSenateLetterOnHaspelNomination.pdf>

<sup>4</sup> <http://www.presidency.ucsb.edu/ws/?pid=35858>

<sup>5</sup> <http://www.ohchr.org/Documents/ProfessionalInterest/cat.pdf>

Second, while some lawyers within the executive branch determined that the CIA's torture program was lawful, that does not make it so as a matter of law, nor wise as a matter of policy. The Department of Justice memoranda justifying torture under the euphemism of "enhanced interrogation" are widely discredited and have been withdrawn. Even if one contends that the program was considered legal at the time within the executive branch, the law does not recognize 'following orders' as a legitimate defense.<sup>6</sup> We did not excuse others' crimes during World War II when they claimed to be following orders based on legal authorization, and we should not accept that excuse now.

Third, it is likely that Haspel was involved in torture and detainee abuse that went beyond the legal and policy guidance that governed at the time. In addition to Haspel's role in the torture of Nashiri, she reportedly held senior operational positions within the CIA's Counterterrorism Center and National Clandestine Service, which had supervisory and operational responsibilities for the RDI program. A former CIA operative involved with the interrogation program also described Haspel as "one of the architects, designers, implementers and one of the top two managers of the [Enhanced Interrogation Techniques program]."<sup>7</sup> Records show that the CIA in many interrogations used tactics that went far beyond what was authorized by executive branch lawyers, causing one detainee to lose an eye and another to freeze to death.<sup>8</sup> The Senate should not advance Haspel's nomination without determining the full extent of her involvement in these and all other cases of torture or cruel treatment.

Fourth, reports indicate that Haspel was instrumental in the decision to destroy more than 90 videotapes documenting the treatment and torture of Nashiri and another detainee, Abu Zubaydah. According to John Rizzo, former CIA general counsel, Haspel "persistently"<sup>9</sup> lobbied him to obtain authorization to destroy the tapes. When he refused, and in the face of objections from congressional leaders, the Director of National Intelligence, the Director of Central Intelligence, two successive White House counsels, Department of Justice officials, and the vice president's top lawyer, Haspel drafted a cable authorizing their destruction with an industrial-grade shredder.<sup>10</sup> That she was ordered by her direct supervisor to take this action to destroy the tapes does not excuse her behavior.

Gina Haspel's involvement in torture and the destruction of evidence of torture runs directly counter to the foundational values of the United States. Confirming her to lead our nation's top intelligence agency would send a terrible message to the American people, our allies, and our enemies at a time in which it is more important than ever that the United States stand up for human rights, the rule of law, and global security. We strongly urge you to vote against Haspel's nomination.

Sincerely,

Raha Wala  
Director for National Security Advocacy, Human Rights First

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<sup>6</sup> Principle IV of the Nuremberg Principles states that "the fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him."

<sup>7</sup> <https://www.thedailybeast.com/top-cia-lawyer-in-2014-haspel-ran-the-interrogation-program>

<sup>8</sup> <http://www.humanrightsfirst.org/uploads/pdfs/torture/sscistudy1.pdf>

<sup>9</sup> <http://thehill.com/blogs/congress-blog/politics/380236-the-argument-that-gina-haspel-was-just-doing-her-job-doesnt-work>

<sup>10</sup> <https://www.seattletimes.com/seattle-news/politics/key-omission-in-memo-to-destroy-cia-terror-tapes/>