



## PUBLIC STATEMENT

# USA: SHAMEFUL LACK OF ACTION ON TORTURE PAVES THE WAY FOR FUTURE CRIMES

The US administration's lack of action on accountability up to and following publication of the Senate summary report on the secret detention programme operated by the Central Intelligence Agency (CIA) is tantamount to declaring a de facto amnesty for torture and enforced disappearance and leaves scores of victims without justice and the USA in violation of its international legal obligations.

It is now more than a year since the US Senate Select Committee on Intelligence (Senate Committee) voted to submit for declassification the 500-page Executive Summary of its report on the CIA programme. The summary was finally published on 9 December 2014 and, despite redactions and coding used to conceal the location of secret detention facilities and other information, supplemented or confirmed existing details about the torture of detainees and those involved in it.

Amnesty International returns to the Senate Committee summary four months after it was published, with its own report in order to remind the USA of its obligations on truth, remedy and accountability.

The US administration has yet to take any steps towards ending the impunity that has become a hallmark of this programme. The US Department of Justice has apparently not even read the still-classified full Senate Committee report, instead leaving its CD copies of it unread in a secure facility.

It is not enough to admit that 'We tortured some folks' as President Barack Obama did last August, and then move on. Unless the authorities end the impunity associated with this secret detention programme, the USA is not only perpetuating gross injustices it is effectively increasing the risk of their recurrence if and when another President deems it necessary to turn to torture and enforced disappearance in the name of national security.

This was not some rogue operation. This was a programme, calculated in its construction and unlawful from day one, in which the go-ahead was given to CIA personnel to engage in acts amounting to the crimes under international law of torture and enforced disappearance, and for which impunity was envisaged early on and continues to this day.

The US Department of Justice should reopen and expand the limited review of CIA interrogations it closed down in 2012 without anyone being charged. This time it must ensure a thorough investigation into the CIA secret detention, rendition and interrogation programmes with a view to bringing to justice all those suspected of being involved in torture and enforced disappearance.

Amnesty International will call on the new Attorney General, as soon as he or she is in post, to seize the opportunity to show the world that the USA is serious when it talks about accountability for human rights violations.

### **Full Senate Committee report still classified**

The Senate Committee summary report provided more details about the CIA's use of torture and other cruel, inhuman or degrading treatment against detainees who had been forcibly disappeared. However, what has been released by the Committee is far from being all it found.

The full "excruciating" details on the treatment of each of the 119 individuals who the Senate Committee listed as having been held in CIA custody are contained in Volume III of the full report, which runs to some 6,700 pages and remains classified Top Secret. This on-going secrecy blocks the individual and collective right to truth.

Amnesty International is pushing for declassification and publication of the full Senate Committee report in the name of transparency and accountability. But even then, it must be noted that the White House denied the

Committee access to some 9,400 CIA documents relating to the secret detention programme. Moreover, the Committee did not review the treatment of detainees rendered by the CIA to the custody of other governments.

### **Call for full accountability**

The Senate Committee's summary report serves as a reminder of the large number of people involved in setting the CIA's programme up and running it, or turning a blind eye to it as evidence of abuses emerged – from senior politicians and intelligence officials, to legislators and lawyers, to doctors and psychologists, to interrogators and guards, in the USA and elsewhere.

The USA must confront the fact that the Senate Committee report is not just about the CIA. This was a programme of enforced disappearance, torture and other ill-treatment run with the approval, tacit or otherwise, of a multitude of senior officials. There is clearly a profound human rights deficit at the heart of government when even the country's most senior law officers, the Attorney General and Solicitor General, actively support their country's systematic use of secret detention, as the Senate Committee report once again illustrates.

Since 2011 Amnesty International has called on states to investigate former President George W. Bush for his alleged involvement in crimes under international law, including in the CIA programme operated under his authority, in the event he travels to their territory. The Senate Committee summary report adds more weight to the already publicly available evidence against the former President, including his approval of the transfer to secret detention of Abu Zubaydah, who was then subjected to four and a half years of enforced disappearance and the full range of the CIA's "enhanced interrogation techniques", including being subjected to water-boarding more than 80 times. Among other things, the Senate Committee confirmed that he was repeatedly slammed into walls, forced into stress positions and placed in a coffin-shaped box for hours.

The Office of Legal Counsel (OLC) at the US Department of Justice gave legal approval for these and other "enhanced" techniques, which constitute acts of torture or other forms of ill-treatment, and policy approval was given by senior administration officials. The Senate Committee points to documentary evidence that officials were aware that what they were engaging in was potentially criminal and had sought to build in immunity for those involved.

The culture of impunity continues to this day. In his fourth month in office, President Obama wrote to CIA employees to assure them that anyone who followed Department of Justice advice in using "enhanced" interrogation techniques would not face prosecution.

### **Justice denied**

Access to justice for those subjected to the CIA programme has been systematically blocked by the US authorities, including on the grounds of state secrecy. There is no sign yet that this is going to change in the wake of publication of the Senate Committee summary report.

Amnesty International is calling on the US administration to end the invocation of the state secrets privilege or other measures that serve to block access to genuine remedy by victims of human rights violations and their families.

When will the USA end the festering injustices associated with its programme of secret rendition, detention and interrogation? Perpetrators must be brought to justice, victims must be provided with effective redress, and the full truth about the human rights violations must be revealed.

Under international law, there is no equivocation. Torture and other cruel, inhuman or degrading treatment are always illegal in all circumstances. The same is true of enforced disappearance.

"America is a nation of law", President George W. Bush said in a 6 September 2006 speech confirming publicly for the first time the existence of the secret detention programme. As long as the USA fails to ensure accountability and remedy for the crimes under international law committed in the programme, whether those acts were "authorized" or "unauthorized", or whether they were committed in "good faith" or not, the USA could legitimately be branded as a "nation of law unto itself".

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For more information see Amnesty International report, *USA: CRIMES AND IMPUNITY. FULL SENATE COMMITTEE REPORT ON CIA SECRET DETENTIONS MUST BE RELEASED, AND ACCOUNTABILITY FOR CRIMES UNDER INTERNATIONAL LAW ENSURED*, 21 April 2015, <https://www.amnesty.org/en/documents/amr51/1432/2015/en>