

Closing the book on CIA torture

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The following editorial appeared in the Los Angeles Times on Friday, Sept. 14:

LOS ANGELES – Thanks to the Obama administration and belated action by Congress, the Central Intelligence Agency is no longer in the business of torturing suspected terrorists in order to obtain information. But the United States still hasn't fully come to terms with what President Obama called a "dark and painful chapter in our history."

It's increasingly clear that such a reckoning will not come in a court of law. U.S. Attorney General Eric H. Holder Jr. has accepted a career prosecutor's recommendation that criminal charges not be filed in the deaths of two suspected terrorists in U.S. custody. Earlier, the prosecutor, John Durham, had recommended closing the investigation of other allegations that CIA employees had violated Justice Department interrogation guidelines, which themselves were shockingly tolerant of cruel and degrading treatment, including waterboarding.

In the case of the two deaths, Holder explained that "the department has declined prosecution because the admissible evidence would not be sufficient to obtain and sustain a conviction beyond a reasonable doubt." We're in no position to argue with that conclusion, and we recognize that prosecutions shouldn't be brought simply for purposes of political closure. But Holder's decision is only the latest dismaying example of the inability or unwillingness of the legal system to hold accountable those who engaged in torture or provided a legal rationale for it.

That pattern may persist if there is a criminal investigation of a new report by Human Rights Watch that the U.S. during the George W. Bush administration tortured members of an Islamist group seeking to overthrow then-Libyan leader Moammar Gadhafi. (That doesn't mean the report shouldn't be investigated by the Justice Department.)

The fact that allegations of torture haven't produced criminal charges makes it easier, in Obama's words, to "look forward, not backward." So does the fact that revelations about "enhanced interrogation" techniques led to changes in the way the CIA and the military interrogate terrorism suspects. In 2005, Congress passed the Detainee Treatment Act, which prohibits the "cruel, inhuman, or degrading treatment or punishment" of detainees. For his

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part, Obama ordered the CIA to abide by the provisions of the Army Field Manual, which bans waterboarding, extended solitary confinement, the use of dogs to intimidate prisoners and the placing of hoods over inmates' heads.

Yet neither the inconclusiveness of criminal investigations nor changes in the law justify official amnesia about torture. Although much is known about how, in the panic after 9/11, the Bush administration resorted to tactics impossible to reconcile with the Geneva Convention and alien to American values, a complete picture has yet to emerge. That is why it is essential that the Senate Intelligence Committee make public the results of its investigation of the CIA's interrogation program.

It is also why Obama should support the creation of a public commission that would examine the torture policies of the Bush era with the same rigor and access to information that informed the report of the 9/11 Commission. By illuminating the past, such a national inquest could make it less likely that a future administration would succumb to the temptation to pursue security at the cost of humanity.

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