

Psychologists collude with torture, then distance themselves from it – and long delays in the administration of justice

Sadly, we've been here before. In Briefing number 44 (January 2015) we dealt with the Senate Intelligence Committee Report on the use of torture by the CIA. In Briefing number 46 (July 2015) we examined the complicity of the American Psychological Association (APA) in torture at Guantanamo Bay and elsewhere. These and other previous Briefings can be found on our Q-CAT website.

Key witnesses finally give evidence

In January 2020, more than 17 years after the event, James Mitchell and Bruce Jessen (1), two of the psychologists who designed and helped to implement the US programme of “enhanced interrogation”, gave evidence for the first time – to pre-trial hearings before a military tribunal in Guantanamo Bay relating to the case against suspected 9/11 plotters. The defendants are amongst 40 detainees still held at Guantanamo Bay.

Mitchell and Jessen were contracted in 2002 to establish a programme of severe interrogation techniques (2). The techniques they designed included waterboarding and other techniques later officially admitted to constitute torture (though that was denied at the time). The third member of the team was a CIA officer still not identified, and only referred to in court as NZ7 or “the Preacher” (3). Mitchell and Jessen both insist that they have done nothing wrong; indeed, they argue, they only did what the George W Bush administration declared legal – and they actually helped to prevent the commission of worse excesses by others.

In evidence to the pre-trial hearing Mitchell described in detail the decision, in 2002, to use waterboarding and other techniques later admitted to be torture in the interrogation of alleged al-Qaida leaders (4). Mitchell told the hearing that he and his colleague had wanted to stop using waterboarding against suspect Abu Zubaydah, captured in Pakistan in April 2002, because he was being cooperative, and was unlikely to produce further evidence, but, on 11 August, were ordered by CIA headquarters to “stay the course”. In 2009 Zubaydah's then lawyer disputed that his client had ever even been a member of al-Qaida, much less a key figure (5).

Mitchell told the hearing that, when Zubaydah had been captured, he (Mitchell) had been sent on to a secret CIA “black site”, now believed to have been in Thailand, to observe CIA officers and FBI agents interrogating Zubaydah. He was later asked to carry out the “enhanced interrogations” himself, and reluctantly agreed, as there was widespread fear of further attacks. He told the court that he felt that “my moral obligation to protect American lives outweighed the temporary discomfort of terrorists who had taken up arms against America.” Abu Zubaydah was again waterboarded on 17 August by Mitchell himself, purely as a demonstration for CIA officials. By now Zubaydah had deteriorated to the point where

he was “unable to effectively communicate or engage with the team”. He went into spasm as a result of the “demonstration”; the observers were stunned by what they witnessed.

Mitchell said that the techniques, including waterboarding, which he had recommended and subsequently used himself, were based on training given to US armed service personnel at SERE (Survival, evasion, resistance and escape) schools to enable them to withstand enemy interrogation, and that they were within the limits of what was then considered legal. (It may be noted here that Mitchell and Jessen were involved as psychologists in developing the SERE training, and indeed identified by witnesses as a “driving force” behind it.)

Mitchell, Jessen and “the Preacher” together waterboarded Abu Zubaydah 83 times, and another suspect, Khalid Sheikh Mohammed – the self-styled mastermind behind the 9/11 attacks - 183 times. Mitchell was paid \$1,800 a day for his services, and in all Mitchell and Jessen’s consultancy received \$81m for their work.

Mitchell said in his evidence to the pre-trial hearing that, although he had been told that the CIA wanted to “get tough”, he was concerned that this should be within limits. However, he had been unable to prevent other interrogators from exceeding the guidelines, or, as he put it, “abusive drift”. He said that he had tried to stop several interrogations that had got out of hand, particularly by the newly appointed head of interrogations (Charlie Wise, who died in 2003, after leaving the service). Interestingly, Wise is also on record as describing the programme of interrogations as getting out of hand – or, as he (Wise) described it “a train wreck waiting to happen”. In a declassified memo Wise wrote “I intend to get the hell off the train before it happens”. It seems clear that there was intense internal rivalry going on, and that the detainees had effectively become pawns in this power game.

APA changes its stance

To its credit, the APA eventually changed its guidelines on interrogation techniques in 2013, and has now disowned Mitchell and Jessen for “violating the ethics of their profession and leaving a stain on the discipline of psychology”. As we mentioned in Briefing 46, the APA commissioned the Hoffman Report, an independent review of concerns relating to the role of psychologists in designing and implementing the programme of “enhanced interrogation”, with freedom to go where its investigations led it. The Hoffman team did a thorough job, publishing a detailed report in 2014 (and updated in 2015). They found that the APA had indeed colluded with the US Department of Defense and the CIA in 2002 and 2005 in loosening professional ethics so that psychologists could take part in torture (6).

It is certainly the case that concerns had been raised early on relating to the dual roles of Mitchell and Jessen as both interrogators and psychological evaluators. This is well established from evidence gathered by the Hoffman enquiry team. One of the very few individuals who did not respond to their requests was Bruce Jessen.

What did the CIA and the FBI know?

One of the important considerations will now be to uncover the degree of complicity of the CIA and FBI. Defence lawyers say that FBI agents were present at the black sites during the “enhanced interrogations” and knew that torture was being used. The US government contends that a set of statements made by the defendants to FBI investigators in 2007 were made to a “clean team” of investigators uninvolved in the torture, and are therefore admissible in evidence.

Moving the goalposts

A new set of secrecy rules introduced by the prosecution only just before Mitchell and

Jessen were due to give evidence prevents defence lawyers from citing published references to the interrogations even though they had been cleared for publication by the CIA. On the other hand, the defence will be able to give further details of dates, times and places of alleged torture. It seems increasingly unlikely that many of those involved will ever be asked to testify. Defence lawyers have asked to examine 52 witnesses and so far have only been allowed to question Mitchell and Jessen – so their evidence becomes very crucial indeed.

Torture doesn't work...

The Hoffman report runs to over 500 pages and goes far beyond 9/11 and the roles played by Mitchell and Jessen. One of the ironies of the situation is that a report by the Senate Intelligence Committee found that the interrogations produced no actionable intelligence.

... and only makes it more difficult to arrive at the truth

Terry Rockefeller, who lost her sister in the twin towers attack, watched from the public gallery as Mitchell gave evidence. In her view the use of torture against the defendants has only served to complicate the process of putting them on trial. "I do think that everyone involved in the ... enhanced interrogation programmes is probably going to die [before the legal process ends] – everyone who suffered from it; everyone who was complicit in it - and there will be this eternally lost opportunity to reckon with it."

The fall-out from the Guantanamo interrogations continues to affect American policy

Marshall Billingslea (7), an experienced American government official currently serves as the Treasury Department's assistant secretary for terrorist financing – effectively the top US official dealing with the problems of illicit finance and the spread of WMD. In 2018 he was nominated by the Trump administration to be the next Under Secretary of State for Civilian Security, Democracy and Human Rights. His nomination was opposed by 21 human rights groups, including the American Civil Liberties Union, Amnesty International, and Human Rights Watch, on the grounds that he had a "well documented history of advocating for the use of torture and other unlawful interrogation practices". Freedom from Torture expressed their alarm at the nomination. (8)

During the George W Bush administration Billingslea was in charge of special operations efforts against al-Qaida following 9/11. According to a Senate report of 2008, he acted from 2002 to 2003 as the Pentagon's point man on military detainees at Guantanamo Bay, in which capacity he played a role in promoting the interrogation techniques which Congress eventually banned as torture. The Trump administration and key republicans have denied or sought to downplay his role in this respect, although there continues to be bipartisan unease on the matter. At the time of writing the matter remained unresolved.

British complicity

In March 2019 Scotland Yard began an investigation into how much MI5 and MI6 knew about the torture of Abu Zubaydah. To date Zubaydah has not been charged by the US government with any offence, and in the meantime the governments of Poland and Lithuania have both been ordered by the European Court of Human Rights to pay him €100,000 in compensation for violation of his rights.

In July 2019 one of Boris Johnson's first acts as Prime Minister was to cancel an enquiry, promised 9 years earlier by David Cameron, into British complicity in extraordinary rendition to Iraq, Afghanistan and Guantanamo Bay. In December 2019 permission was granted by a High Court judge for lawyers representing David Davis, Labour politician Dan Jarvis and Reprieve to launch a judicial review of this refusal.

Reaction to the Hoffman Report and the hearings at Guantanamo Bay. How might we respond?

When the Hoffman Report laid open the extent of APA collusion in torture the Association fully accepted this, describing the situation as “a time of crisis, opportunity and growth” and an “unprecedented crisis for our association”. The APA Council of Representatives agreed to prohibit psychologists from participating in national security interrogations. It is fair to say that not everyone is completely happy with the response of the APA, but at least they've tried to do something about it. By contrast the US authorities seem intent on prolonging the Guantanamo process for as long as possible. The publication, in at least some organs of the British press, of reports on the situation when, after years of delay, two of the main witnesses were finally allowed to give evidence (although 50 others were not) brings the matter to our attention. This creates an opportunity to make this more widely known. Whilst we may be pleased that the APA have, however belatedly, come “clean” on the matter, the continued twisting, turning and prevarication of the American administration, the bringing in of a “clean team” of FBI investigators in 2007 to try to secure admissible evidence, and the fact that the interrogations produced no actionable intelligence underscores our argument that torture doesn't work. Draw that to people's attention.

Write to your MP about the investigation into British complicity. In particular, challenge Johnson's cancellation of the inquiry. Follow the progress of the promised judicial review. Write to Reprieve and the others involved in seeking this review expressing your support for their action.

Sources of information

(1) This section refers principally to the testimony of James Mitchell. A brief article on Bruce Jessen can be found on Wikipedia.

(2) see Guantanamo: psychologists who designed CIA torture program to testify. The Guardian 20 January 2020

(3) see Chilling role of 'the Preacher' confirmed at CIA waterboarding hearing in Guantanamo. The Guardian 25 January 2020

(4) see Guantanamo: psychologist tells of 'abusive drift' in treatment of terror suspects. The Guardian 22 January 2020

(5) see Police investigating role of UK officers in torture of al-Qaida suspect The Guardian 31 March 2019

(6) the full text of Hoffman Report, and an executive summary, can be found on line. If you go to the Psychcentral website and enter Hoffman Report as a search item you will find the full text, plus comment on the reaction of the APA. The APA's own website has comment on the report and the reaction of the APA itself, but is difficult to navigate; you could, of course, enter Hoffman Report as a search item on the APA website, but it is still worth going to the Psychcentral website to find more independent comment. NB Do not confuse either of these with another site you may find on line listed as <https://www.hoffmanreport.com>, which is a general newsgathering site and does not appear to include any reference to the Hoffman Report on APA complicity in torture.

(7) A brief summary of the career of Marshall Billingslea, including the present controversy, can be found on Wikipedia, with a good bibliography if you wish to investigate further

(8) see <https://www.freedomfromtorture.org/news/marshall-billingsea-donald-trumps-terrifying-nomination-for-a-top-human-rights-position>. (This should be much easier than trying to find the article on FfT's own website!)

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A KNOCK ON THE DOOR a new work for amateur choirs

Q-CAT has commissioned this work which should be ready for its first performance and available to choirs in 2022. It's our latest way of trying to witness against torture. At the moment we are at the stage of fundraising to cover up-front costs and a leaflet about this has gone out to all Quaker local meetings. It is circulated with email versions of this newsletter and as a printed copy with the postal version. See also an article in The Friend for 21st February which will be put on our website.

Note, for Website version:

The Appeal Leaflet is to be found under the heading "Get Informed"