

**STATEMENT FOR THE RECORD
FROM PHYSICIANS FOR HUMAN RIGHTS**

Senate Judiciary Committee

Senator Patrick J. Leahy, Vermont,
Chairman of the Committee, Presiding*“Getting to the Truth Through a Nonpartisan Commission of Inquiry”*

March 4, 2009

Physicians for Human Rights (PHR) commends Judiciary Chairman Leahy for his initiative in holding this hearing to define the scope and goals of the planned non-partisan Commission of Inquiry to examine policies and practices which have resulted in tremendous damage to our nation’s standing, to the historic struggle to end torture, longstanding standards of medical ethics, and to individual torture victims and their families.

Commission Mandate

PHR encourages the Committee to work toward the establishment of an independent Commission which will rigorously investigate all aspects of U.S. interrogation and detention policy in recent years. The Commission should have access to all relevant documents and make every effort to declassify and release to the public as many documents as possible. The Commission should take testimony from a full range of officials from both the operational and policy level and should have subpoena power to facilitate the appearance of witnesses. If the Commission uncovers information which demonstrates that crimes, including torture, have been committed, it should have the power to recommend appropriate prosecutions. Such a Commission, by determining how our nation abandoned its core values and by making recommendations on how to prevent future abuses, would go a long way toward restoring America’s global standing as a nation that respects the rule of law and does not torture.

Examining Health Professional Complicity

As part of the Commission’s broad investigation, PHR believes it is vital that two important aspects of the regime of torture and abuse receive special attention:

First, PHR urges the Commission to scrutinize the role of health professionals and their complicity in facilitating the torture regime. When Bush Administration officials decided to ignore the Geneva Conventions and institute a program of “enhanced” interrogation they turned first to psychologists, not lawyers. As the recent report by the Senate Armed

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Services Committee describes, one of the first steps Defense Department officials took in early 2002 was to contact psychologists from the military's Survival, Evasion, Resistance and Escape program (SERE), to find methods of psychological coercion that they could "re-purpose" against detained terrorist suspects. Some psychologists turned out to be all too willing to cooperate with the Defense department, setting in motion a process that eventually pulled in psychiatrists and other health professionals and led to ethical and perhaps criminal violations that have stained the reputation of the health professions.

Health professionals, who are collectively held in the highest regard by the American public, had the power to stop the torture regime before it started. If those who were recruited by the Defense Department and other government agencies had refused to lend their expertise to constructing a system of harsh psychological abuse, the program would not have been able to move forward quickly toward its goal of "breaking" detainees. Once the psychological basis for the "enhanced" interrogation program had been established, psychologists, psychiatrists and other doctors were enlisted to monitor and help implement the program. This misuse of knowledge represented a fundamental perversion of the healing and therapeutic function of the health professions, violating medical ethics and the overriding ethical duty to "do no harm."

An independent, non-partisan Commission, of the type Chairman Leahy and others have proposed, must specifically shine a light on the role of health professionals in this process. The Commission should look at the role health professionals played in the design of abusive interrogation techniques, their failure to document evidence of harm perpetrated against detainees and violations of doctor-patient confidentiality that enabled the use of information gathered in the course of treatment for intelligence purposes. By officially investigating the behavior of medical and psychological personnel, the wrongs of the past can be uncovered, addressed and prevented from recurring. Appropriate discipline for ethical misconduct should be handled by state licensing boards; if the commission discovers evidence that crimes have been committed, that information should be pursued by the proper law enforcement authority.

Upholding Ethical Standards

In addition to determining how health professionals came to be placed in harmful roles, the Commission needs to recommend that effective guidelines be put in place to ensure that such a gross subversion of medical ethics cannot be repeated. The Defense Department continues to mandate that health professionals play a major role in interrogations, through its Behavioral Science Consultant teams. This is ethically inappropriate. By helping interrogators determine when to push harder to get detainees to reveal information, health professionals abandon their role as healers and become instead advisors on calibrating harm. Psychologists and psychiatrists should be limited to training personnel in non-coercive rapport-building interrogation techniques. Health professionals should also be removed from participation in the brutal and inhumane force-feeding tactics currently used against hunger-striking detainees. According to widely accepted guidelines from the World Medical Association, adopted by the American Medical Association, force feeding a competent and informed patient is never justified. The patient's autonomy and right to refuse an invasive medical procedure must be protected. It is also vital for the new Administration to implement safeguards for health

professionals in detention settings to ensure that they remain outside the intelligence chain of command. Safeguards must also be put in place to prevent information gathered in the course of the doctor-patient relationship from being used in intelligence collection. The traditional autonomy of health professionals in the military chain of command must be respected on all clinical matters.

The enormous prestige of the health professions in this country was earned over many decades, in part by adherence to a strict set of ethical standards. The participation of some health professionals in ethically disturbing and even criminal behavior while engaged with the national security apparatus serve to erode that high standing, especially if their actions are not investigated and corrected. The medical and health professions as a whole have a responsibility to support a national commission that will move toward a restoration of the highest moral and ethical standards, rooted in the respect for human dignity.

Examining the Human Consequences of Torture

Second, the Commission needs to bring to public attention the plight of the victims of U.S. torture, many of whom were never charged with a crime, and subsequently released. As PHR detailed in our report, *Broken Laws, Broken Lives* (BLBL), these victims have suffered severe, long-term physical and psychological consequences that resulted directly from the torture and ill-treatment they experienced. Our report demonstrated that the permissive environment created by the implicit and explicit authorizations by senior U.S. officials encouraged forms of torture even beyond the harsh methods that were officially approved. The detainees were held in an environment of moral disengagement that tolerated techniques designed to humiliate and dehumanize detainees, and unsurprisingly, other forms of human cruelty such as physical and sexual assault were practiced. The detainees suffer lasting harm, enduring severe physical and psychological effects including persistent pain from being beaten or kept in stress positions, severe anxiety and post-traumatic stress disorder. Their torment continues and their livelihoods remain impaired.

The U.S. government should issue a formal apology to detainees who were subjected to torture and/or ill-treatment as part of U.S. military and intelligence operations since Fall 2001 in Afghanistan, Iran, Guantánamo Bay, and elsewhere. Reparations are a critical element of justice provided for under international and domestic law. The government should establish a fair process for compensation and victim assistance, including access to rehabilitation and re-integration services for these individuals. The victims of abuse deserve a public acknowledgement of the facts and require monetary compensation to ensure rehabilitation for the long-term health consequences of ill-treatment.

As Major General Antonio Taguba (U.S. Army, Ret.) wrote in the preface to our report: *“The former detainees in this report, each of whom is fighting a lonely and difficult battle to rebuild his life, require reparations for what they endured, comprehensive psycho-social and medical assistance, and even an official apology from our government. But most of all, these men deserve justice as required under the tenets of international law and the United States Constitution. And so do the American people.”*

Conclusion

On the issues of health professional complicity and damage to the health of detainees, the Commission can serve a crucial public function in informing the American people of the shameful deeds that were done in their name. Only a full airing of the facts will provide Americans with confidence that we are a nation of laws and that we have entered an era of responsibility. We must take a clear-eyed view of the horrific institutional and personal consequences of torture and ensure that it never happens again.