

Statement of

# The Honorable Dianne Feinstein

United States Senator  
California  
June 10, 2008

"Coercive Interrogation Techniques:  
Do They Work, Are They Reliable, and What Did the FBI Know About Them?"  
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"For me, this is a very important hearing. I serve on the Intelligence Committee, so I am well-aware of enhanced interrogation techniques. The question before us is a very difficult and important subject: Coercive interrogations and torture.

Historically, the United States has been steadfast in its resolve that torture is unnecessary, unreliable, and un-American. Without torture, we succeeded in conflicts that threatened the very existence of our country, including a Civil War, a World War, and numerous other conflicts and enemies.

Despite President Bush's promise that the United States would fight the war on terror consistent with American values and 'in the finest traditions of valor,' the Administration decided, as the Vice President said in 2001, to 'go to the dark side' - to use coercive interrogation.

This decision by the Bush Administration has had profound effects.

Cruel, inhuman, and degrading treatment of prisoners under American control violates our Nation's laws and values. It damages America's reputation in the world and serves as a recruitment tool for our enemies. Perhaps most importantly, it has also limited our ability to obtain reliable and usable intelligence to help combat the war on terror, prevent additional threats, and bring to justice those who have sought to harm our country.

I have listened to the experts, such as FBI Director Mueller, DIA Director General Maples, and General David Petraeus. All insist that even with hardened terrorists, you get more and better intelligence without resorting to coercive interrogations and torture.

The bottom line is that there are many interrogation techniques that work, even against al Qaeda, without resorting to torture. One of today's witnesses, former FBI Special Agent Jack Cloonan, has personally interrogated members of al Qaeda within the confines of the Geneva Conventions and obtained valuable, reliable, and useable intelligence.

Mr. Cloonan was involved in the interrogation of Ibn al-Sheik al-Libi, the first high-profile al Qaeda member captured after September 11th, and Ali Abdul Saud Mohammed, one of Osama Bin Laden's trainers. In both cases, the FBI used non-coercive interrogations to obtain valuable information about al Qaeda. I look forward to Mr. Cloonan's testimony about how the non-coercive interrogation techniques used by the FBI work to provide reliable and useable intelligence.

The FBI has long recognized the unreliability of information obtained from coercion and torture. It has based its belief on years of experience and behavioral science. This hearing will examine how non-coercive interrogation techniques can be used effectively, and why coercive interrogations and torture do not yield reliable and useful intelligence for the most part.

The hearing will also review the recently released Department of Justice Inspector General's report detailing the FBI's knowledge and involvement in the coercive interrogation techniques and torture that occurred in Guantanamo, Afghanistan, and Iraq after September 11, 2001.

Both Senator Specter, our ranking member today, and I have heard the Inspector General report numerous times on the FBI, and let me just say I believe he is a very square shooter and one of our finest Inspector Generals.

To its credit, the FBI was steadfast in its unwillingness to use coercion and torture as a means to obtain information. FBI agents on the ground at Guantanamo and other sites repeatedly voiced concerns about the harsh interrogations being conducted by military and DOD interrogators. In total, over 200 FBI agents raised these concerns. For that, the FBI should be commended.

Questions remain, however, about why FBI leadership wasn't notified more quickly about the agents' concerns at Guantanamo and why formal guidance wasn't provided to FBI agents in the field until May of 2004 - two years after the first complaints were received at FBI Headquarters about coercive interrogations. I hope Mr. Fine and Ms. Caproni, the legal counsel of the FBI, can address those issues.

The FBI should also be credited for raising the alarm to the Department of Defense about what was happening at Guantanamo. We now know that as early as October 2002, FBI agents at Guantanamo alerted Marion Bowman, the FBI's Deputy General Counsel in charge of national security, about coercive interrogations occurring at Guantanamo. On November 27, 2002, an FBI agent at Guantanamo sent a written legal analysis questioning the legality of coercive interrogations and noting that these techniques appeared to violate the U.S. torture statute. In November and December 2002, Mr. Bowman personally contacted officials in the DOD General Counsel's office, including General Counsel Jim Haynes, about the FBI's concerns. According to Mr. Bowman, Haynes claimed he didn't know anything about the coercive interrogation techniques that were occurring at Guantanamo, despite the fact that he recommended on November 27, 2002, that Secretary Rumsfeld formally approve the very techniques that were being used at Guantanamo.

Clearly, there are questions that need to be answered regarding how the interrogation policies at Guantanamo were formulated and authorized. Whether they were from the bottom up, as the Administration has stated, or from the top down, as the evidence is beginning to show. Whose idea was it? Who was consulted? And when complaints were raised about what was happening at Guantanamo, what was done?

Historically, the Bush Administration has argued that the military commanders and JAG lawyers on the ground requested the initial authorization and provided the legal justification to use coercive interrogation techniques against detainees. In June 2006, in testimony before this Committee, then-DOD General Counsel Jim Haynes said that the request to use these harsh interrogation techniques was made by the commanding general at Guantanamo, and that the request 'came with a concurring legal opinion of his Judge Advocate.'

Yet, as time goes by and more facts come out, the Administration's explanation has become increasingly discredited. More and more evidence shows that the decision to use coercive interrogation techniques was made at the highest levels of the Bush Administration.

Just a moment on the timeline:

? On August 1, 2002, the DOJ Office of Legal Counsel completed the so-called Yoo-Bybee memos providing a legal justification for coercive interrogation techniques and torture.

? On September 25 and 26, 2002, DOD General Counsel Haynes, White House Counsel Alberto Gonzalez, and Vice Presidential Counsel David Addington visited Guantanamo and witnessed detainee interrogations.

? On November 23, 2002, Secretary of Defense Rumsfeld verbally authorized harsh interrogations of Mohammed al-Qhatani, a high-value detainee at Guantanamo.

? On November 27, 2002, Haynes recommended that Secretary Rumsfeld formally authorize coercive interrogation techniques at Guantanamo.

? On December 2, 2002, Secretary Rumsfeld approved, in writing, the coercive interrogations at Guantanamo.

Philippe Sands, who is testifying today - and I very much appreciate the fact he has come from London to provide this testimony -- has interviewed many of the Bush Administration officials involved in the authorization to use coercive interrogation techniques at Guantanamo, including former DOD General Counsel Jim Haynes.

He has asked to take the oath, because he wants to be sure that everybody knows he will be telling us the truth as he knows it.

I look forward to hearing what he has learned about how the decision to use coercive interrogations and torture was made in the Bush Administration.

It is absolutely essential that we obtain reliable and useable intelligence to successfully fight the war on terror. I believe it is wrong to use coercive interrogation and torture to try to accomplish that goal. I believe we must stop it, and as a member of the Intelligence Committee I am doing everything I can think of to do just that.

It is also imperative, however, that we examine how complaints about coercive interrogations were handled by the FBI, and how those harsh interrogation techniques were first authorized. I would n