

# CONCLUSION





# CONCLUSION

**CIA Torture Unredacted and its accompanying appendices** provide the most comprehensive account of the CIA torture programme to date. This work considerably advances previous findings on the scale and reach of the programme, and overcomes some of the most significant weaknesses of what has been, up until now, the most detailed account of CIA torture: the Executive Summary to the 'Committee Study of the CIA's Detention and Interrogation Program'. As we have set out here, the redacted version of the Executive Summary provided almost no detail on the majority of the prisoners held. It offered a patchwork account of the programme's overall architecture, withholding crucial details regarding the location and operation of the black sites and other detention facilities. It presented no real insights into the complex arrangements of outsourcing aspects of the programme to private companies in the hope of evading detection. With its reliance on CIA records only, which were incomplete through poor record-keeping practices and wilful destruction by the CIA, the Committee Study provides only a partial account. The Committee Study's findings, as published, were further diminished by the process of declassification, which severely hampered any real insights into where prisons were hosted and where prisoners were detained. Indeed, as Senator Feinstein indicates in her Foreword to the Committee Study, she opted to agree to non-disclosure of the full report because the process that would be required to negotiate declassification would be too lengthy and ran the risk of none of the findings ever seeing the light of day.<sup>1</sup>

It is lamentable that it has taken the painstaking work of a group of human rights investigators, litigators, investigative journalists and academics, over many years, to provide a more complete account. But this needs to be understood in context: whereas parliamentary efforts such as that by the Senate Committee in the US and the Intelligence and Security Committee (ISC) in the UK can significantly advance public knowledge of this shameful episode, those holding executive power have sought, at all turns, to shut down a full investigation. The Senate Committee's team, led by Daniel Jones, worked against significant resistance from the CIA, the White House, and other agencies – including, it transpired, the CIA's spying on their work. On publication of the Committee Study, and subsequently, key officials have campaigned to suppress the full report, perhaps for ever. A significant protagonist on this front has been Senator Richard Burr, appointed Chair of the SSCI in 2015, who considered the Committee Study to be

'shoddy' and 'excessively critical of the CIA and the administration of President George W. Bush'.<sup>2</sup> On taking up his new position, he wrote to President Obama to request that all copies of the full Committee Study be returned to the Committee, in an attempt to prevent its release through the Freedom of Information Act. Senator Feinstein was highly critical of Burr's move, arguing that insisting the US administration relinquish its copies would 'limit the ability to learn lessons from this sad chapter in America's history and omit from the record two years of work, including changes made to the Committee's 2012 report following extensive discussion with the CIA'.<sup>3</sup> Her protests made little difference to the Trump administration, and in June 2017 Congressional officials confirmed that the administration had been returning its copies in response to Burr's request. As The New York Times reported, this has raised the possibility that 'most of the copies could be locked in Senate vaults indefinitely or even destroyed – and increases the risk that future government officials, unable to read the report, will never learn its lessons'.<sup>4</sup>

Those who would halt further investigation and disclosure are, in part, seeking to prevent legal action against the perpetrators of torture and cruel, inhuman and degrading treatment. There has been very little political will to bring those responsible to justice. In fact, many of those in senior positions in the CIA and Department of Justice (DoJ) continue to hold office following publication of the Committee Study, and some have been elevated by the Trump administration. One example is Gina Haspel. Declassified CIA cables reveal she was directly involved in the torture of Abd al-Rahim al-Nashiri while he was held in Thailand, yet, despite considerable opposition, President Trump appointed her as CIA Director in May 2018.<sup>5</sup> No actions have been taken against Mitchell and Jessen, or the numerous CIA and DoJ officials who colluded in efforts to legitimise torture. Indeed, Mitchell and Jessen received \$81 million from the CIA prior to the programme's termination, and were subsequently offered protection through CIA-funded, multi-year indemnification agreements to protect their company and its employees from legal liability ensuing from the programme.<sup>6</sup>

Many of the same limitations that shaped the Committee Study have also hampered efforts to investigate the UK's role, despite the fact that it is now clear how deeply implicated UK intelligence agencies were. Indeed, attempts to hold UK authorities to account for their role in the RDI programme have been thwarted at every turn. Successive governments have repeatedly denied any involvement of UK security service or military personnel in torture or CIDT. Even as credible evidence mounted, officials were slow to fully investigate, were reticent about holding anyone to account, and have done very little to offer meaningful redress.

In 2010, the incoming UK Coalition government led by David Cameron finally launched a judge-led inquiry chaired by Peter Gibson, the purpose of which was to examine whether Britain was implicated in the improper treatment of detainees, held by other countries, that may have occurred in the aftermath of 9/11. Yet the Gibson Inquiry was closed down before witnesses were even called, in part because of the considerable constraints placed on the Inquiry by government. Leading human rights organisations and litigators representing victims boycotted the Inquiry because of concerns about transparency, and because they were to be denied the right to question intelligence officials about mistreatment.<sup>7</sup>

Similar constraints were placed on the scope of the subsequent investigation by the UK Parliament's ISC, which was denied access to key intelligence officers with knowledge of British involvement.<sup>8</sup> This meant that, despite providing the most detailed account to date of UK complicity in this programme, the ISC's work was unavoidably hamstrung. Indeed, successive UK governments have gone to great lengths to suppress vital evidence, including passing legislation precisely for this purpose. At the time of writing, the current UK government continues to resist repeated calls for a judge-led inquiry, following the damning findings of the ISC. This posture must change, if we are to have true accountability for the violations which took place in the 'War on Terror'.

The absence of any kind of government effort, both in the US and UK, to hold specific individuals to account for their roles in torture has two implications. First, it emphasises the unwillingness of both states to totally outlaw torture and prevent it from happening in the future. Second, it accelerates the decline of the global governance of human rights. The US and UK pride themselves on their human rights records and play significant roles in holding other states to account, including making the delivery of aid contingent on compliance with international human rights treaties. Yet both states have severely undermined their international reputations, and have contributed to increases in torture and human rights violations by other state and non-state actors, as a direct result of the CIA's torture programme.

Persistent efforts by litigators, human rights organisations and some dedicated parliamentarians in the US and the UK have attempted to hold executive power to account for torture in the 'War on Terror', making it impossible for the US or UK governments to continue to deny how far-reaching the torture programme was, or how devastating its effects. The need to publicise state perpetrated human rights abuses, and to pursue justice against those responsible, is also more urgent than ever. In this light, we hope that CIA Torture Unredacted will play a meaningful role in facilitating efforts to seek redress and reparation for victims. We also hope that it can contribute to holding executive power to account, and to bringing about reform in the security practices of powerful liberal democratic states, including through reinstating the absolute prohibition of torture and cruel, inhuman and degrading treatment at all times and in all circumstances.

## Endnotes

1. SSCI, Foreword to the Committee Study, 9 December 2014, p. 3.
2. Mark Mazzetti, Matthew Rosenberg, and Charlie Savage, Trump Administration Returns Copies of Report on CIA Torture to Congress, The New York Times, 2 June 2017.
3. Steven Aftergood, SSCI Wants Copies of Full Torture Report Returned, Federation of American Scientists, 21 January 2015.
4. Mark Mazzetti, Matthew Rosenberg, and Charlie Savage, Trump Administration Returns Copies of Report on CIA Torture to Congress, The New York Times, 2 June 2017.
5. Andrew Buncombe, Torture of Terror Suspect at CIA Black Site Operated by Current Director Gina Haspel Detailed in Newly Declassified Cables, The Independent, 10 August 2018.
6. SSCI, Findings and Conclusions of the Committee Study, 9 December 2014, p. 11.
7. James Meikle, Human Rights Groups to Boycott Inquiry into British Torture and Rendition, The Guardian, 4 August 2011.
8. ISC, Detainee Mistreatment and Rendition: 2001-2010, UK Parliament, 28 June 2018, pp. 1-3.