



The
CENTER for
VICTIMS of
TORTURE



June 6, 2016

Dear Senator:

We write on behalf of the Bellevue/NYU Program for Survivors of Torture (PSOT), the Center for Victims of Torture (CVT), and Physicians for Human Rights (PHR) to call for an end to indefinite detention without charge or trial as Congress considers Guantánamo-related provisions in the National Defense Authorization Act for FY 2017 (NDAA). We urge Congress to discontinue indefinite detention without charge or trial and ensure that Guantánamo detainees are safely repatriated, resettled in third countries, or transferred to the United States for prosecution before Article III courts, in accordance with due process and humane treatment standards under domestic and international law.

Indefinite detention of detainees at Guantánamo constitutes ongoing inhumane treatment, undermines respect for the rule of law, and harms U.S. national security interests. Currently, 80 men are being held at the prison, most for over a decade. Of those, 70 have never been charged with any crime, including 30 who have been unanimously cleared for release by all U.S. national security and intelligence agencies, and 40 who await clearance. The remaining 10 men are in the military commissions system. Indefinite detention has created a continuing state of suffering and uncertainty for the men, superimposed on experiences of torture and ill-treatment in U.S. custody.

The current debate over Guantánamo focuses on the national security and economic implications of maintaining the detention facility. While the moral and practical costs of indefinitely detaining an aging and unwell population warrant closure of the prison, we believe that the serious medical repercussions of indefinite detention independently compel an end to this inhumane policy and practice.

Our concerns are based on over 30 years of experience evaluating and caring for thousands of torture survivors from all over the world. Medical knowledge and experience establish that the protracted uncertainty of indefinite detention inflicts profound psychological and physical trauma. Harmful effects include severe anxiety and dread, pathological levels of stress, dissociation, depression and suicidal thoughts, and post-traumatic stress disorder. Some individuals even manifest physical symptoms such as breathing difficulties, physical pain, and skin disorders. The mental and physical harms of indefinite detention are over and above the already substantial stressors of incarceration, and are exacerbated in individuals who have previously experienced torture and ill-treatment.¹

¹ Cheyette, C. *Punishment Before Justice: Indefinite Detention in the U.S.* Boston: Physicians for Human Rights. Jun. 2011.

Since we last wrote to Congress in 2009 on this matter,² the U.S. Senate Select Committee on Intelligence (SSCI) released portions of its report, *The Committee Study of the Central Intelligence Agency's Detention and Interrogation Program*, which details torture and other abusive techniques used on detainees held by the United States in various sites between 2001 and 2006. The executive summary documents extensive and brutal abuses, including waterboarding, mock executions, rectal rehydration without medical necessity, threats of death, permanently injuring and disfiguring abuse, extended sleep deprivation, and extended periods in stress positions. These torture tactics were enacted by systematic design and carried out in coordination with, and sometimes by, health professionals in these sites. Such techniques were also used on individuals held in Department of Defense custody.³

Many Guantánamo detainees have been subjected to the abusive interrogation techniques described in the SSCI report,⁴ which were calculated to induce a state of “learned helplessness,” or profound psychological trauma. Independent health professionals who conducted clinical evaluations of current and former Guantánamo detainees, including PSOT and PHR clinicians, found that these horrific techniques harmed detainees.⁵ At Guantánamo, prolonged deprivation of liberty induces psychological pain and suffering, on top of that caused by torture, and precludes the possibility of effective treatment as long as indefinite detention continues.

Lack of treatment for physical and mental symptoms and disabilities related to experiences of torture combined with prolonged incarceration in the place where many of these abuses took place, without due process or opportunity to address their confinement status, has dramatically intensified detainee suffering.⁶ According to PSOT and PHR clinical evaluations, uncertainty about the future, including lack of information about when or whether they would be released, was one of the factors that produced the greatest ongoing stress for detainees.⁷ Indefinite detention thus perpetuates states of physical and mental pain and disability, as it functions as both a form and continuation of ill-treatment.

² Bellevue/NYU Program for Survivors of Torture, The Center for Victims of Torture, and Physicians for Human Rights. Letter to U.S. Senators on the medical consequences of indefinite detention. July 2009, http://www.survivorsoftorture.org/files/Indefinite_Detention_Medical_Consequences_Letter.pdf.

³ S. Armed Services Comm., 110th Cong., Inquiry into Treatment of Detainees (Comm. Print 2008), http://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final_April-22-2009.pdf.

⁴ Constitution Project (Georgetown Public Policy Institute). Task Force on Detainee Treatment. Washington, DC: Constitution Project. Apr. 2013.

⁵ Apart from limited independent consultations, most detainees have never been examined or evaluated by clinicians outside of the medical staff of Joint Task Force Guantánamo. Based on what we know about the effects of torture and ill-treatment, it is reasonable to presume Guantánamo detainees currently suffer profound physical and psychological symptoms and disabilities that may last their entire lives.

⁶ Vincent Iacopino, Stephen N. Xenakis, Neglect of Medical Evidence of Torture in Guantánamo Bay: A Case Series, *PLoS Med* 8(4): e1001027. Apr. 2011.

⁷ In addition to our findings, research on other populations subjected to forms of indefinite detention, including asylum-seekers in Australia, Britain, and the United States and Japanese-Americans interned in camps during the Second World War, affirms the severe burden of suffering caused by open-ended detention, even absent the experiences of torture endured in custody at Guantánamo. See, e.g., Keller A et al. From Persecution to Prison: The Health Consequences of Immigration detention for Asylum Seekers in the U.S. Boston: Physicians for Human Rights, Bellevue/NYU Program for Survivors of Torture. June 2003; Katy R, Robbins I, Senior V. Psychological distress amongst Immigration detainees. *British Journal of Clinical Psychology*. Vol 48, No. 3. Sept. 2009. 275-286; Sheikh M., MacIntyre C, Perera S. Preventive Detention: The ethical Ground Where Politics and Health Meet. Focus on Asylum Seekers in Australia. *Journal of Epidemiology and Community Health*. 2008. 62 (6) 480-483; Potts M. Long-Term Effects of Trauma: Post-Traumatic Stress Among Civilian internees of the Japanese During World War II. *Journal of Clinical Psychology*. Sept. 1994. Vol 50, No. 5. 681.

We are encouraged by Congress' overwhelming bi-partisan support of last year's McCain-Feinstein anti-torture amendment, which strengthened the prohibition against torture and ill-treatment by extending the Detainee Treatment Act of 2005 to all U.S. agencies, in all circumstances. However, continuing the policy of indefinite detention at Guantánamo violates the prohibition against torture and cruel, inhuman, and degrading treatment under U.S. law and treaty obligations due to the severe physical and psychological harm it causes.⁸ We urge Congress to end the inhumane practice of indefinite detention and allow for the safe repatriation or resettlement of Guantánamo detainees in the NDAA or other legislation, in accordance with due process and humane treatment standards under domestic and international law.

Sincerely,

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⁸ UN Committee against Torture, Concluding observations on the third to fifth periodic reports of United States of America, November 20, 2014, (CAT/C/SR. 1276 and 1277).