Bad Science Used to Support Torture and Human Experimentation

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I
t the wake of the September 11, 2001, attacks, the U.S. government authorized “enhanced interrogation” techniques (EITs) (i.e., prolonged sleep, sensory deprivation, forced nudity, and painful body positions) that were routinely applied to detainees in U.S. custody in at least three theaters of operation and an unknown number of secret “black sites” operated by the Central Intelligence Agency (CIA). They did this despite the fact that each EIT was considered torture by the United Nations (1), and the United States recognized them as such in its reports on human rights practices (2). Although legal sources and trained interrogation experts warned of the unreliability and questionable legality of coerced confessions (3), EITs were authorized by the CIA in January 2003 (4) and the Department of Defense (DoD) in April 2003 (3).

U.S. torture and the complicity of scientists and health professionals were enabled in part by the Department of Justice’s (DOJ’s) revised definition of torture in the Bybee memo (5), which raised the physical and mental pain thresholds for torture (6). Critically, mental pain or suffering was defined as “significant psychological harm of significant duration, e.g., lasting for months or even years” (6). Even if these thresholds were exceeded, infliction of severe physical pain and severe and prolonged mental pain had to be the interrogator’s “precise objective” to constitute torture. The Bybee language of “specific intent” (7) undermined any meaningful definition of torture for medical personnel charged with recognizing it.

Science Used to Justify Torture

After being used by the Chinese and North Koreans to extract false confessions from U.S. soldiers during the Korean War, these EIT methods were included in the survival, evasion, resistance, and escape (SERE) training of U.S. soldiers to resist torture if captured by an enemy (3). Studies on U.S. military personnel undergoing SERE training before September 11 were cited to justify the EITs as “safe, legal and effective” (8). SERE medical personnel advised DoD that “if there are any long-term negative psychological effects of [U.S. Air Force Resistance Training], they are certainly minimal” (3). But the SERE studies did not include any long-term psychological measures [such as detailed in (9)], depending instead on acute monitoring, which limited use of these studies in informing assessments of mental pain or suffering, particularly with respect to Bybee’s significant-duration standards. The studies also demonstrated marked increases in stress hormone levels and measures of psychological stress and dissociation symptoms (96% of subjects), a symptom of post-traumatic stress disorder (8). Moreover, the studies were conducted on subjects who were exposed to only limited forms of EITs, provided their consent for the study, and were able to stop their participation at any time (8)—all conditions that may limit studies’ usefulness in informing use of EITs in actual detainee interrogations.

Given prior U.S. recognition of each EIT method as torture (2) and literature on the harmful physical, psychological, and social health consequences associated with such abuse (1, 8, 9), one would expect that a “good faith” effort to ensure safe, legal, and effective interrogations would include effective medical assessments (9) of possible torture. This was not the case. Although declassified documents refer to psychological evaluations of detainees (10, 11), such assessments of detainees made available as a result of Freedom of Information Act litigation consist primarily of identification of psychological vulnerabilities, without any assessment of possible physical or mental harm (4, 10). The CIA’s “Draft OMS [Office of Medical Services] Guidelines on Medical and Psychological Support to Detainee Interrogations” [Appendix F (4)] do not contain guidelines for any form of psychological assessment, not even those assessments used in the SERE studies (4).

In 2005, the DOJ’s Bradbury memos referred to research findings to justify EIT practices on detainees (8, 11). The research findings are not publicly available, thus there is insufficient information to judge scientific merit, but they appear to constitute unethical, illegal human-subject research conducted on detainees without their consent (8). For example, the memo justifies certain EIT practices to be used in combination by referring to cursory psychological observations during interrogations by OMS personnel when EITs were applied to 25 detainees (8). Such psychological assessments are not consistent with standards for assessing torture (9). Rather, the studies appear to have served the predetermined conclusion that EITs were safe, legal, and effective because they were used to justify EITs without assessing legally relevant, long-term psychological harm as defined by Bybee. The studies also failed to recognize decades of scientific literature on the harmful physical, psychological, and social health consequences of EITs and other forms of torture (1, 8, 9).

Science, Ethics, and the Government

Because the “science” referred to in the Bradbury memos appears to have neglected long-term psychological harm, and given
concerns about how the Bybee memo may make it difficult or impossible to assess mental pain or suffering, doubts may be raised about whether any actual science was conducted. But in terms of standards of human subjects research, such systematic medical monitoring of detainee enhanced interrogations and the collection of generalizable medical knowledge do indeed constitute research. Such research, although unethical and illegal, was not only instrumental in the authorization and implementation of torture, it also facilitated complicity of health professionals and scientists in criminal acts of torture that they were responsible for recognizing. The health professionals who were charged with ensuring detainees’ safety were instead, in light of Bybee’s specific intent language and unmeasured states of mental pain or suffering, calibrating the harm inflicted upon them.

Any scientist or clinician should know that intentional infliction of harm without consent of and/or direct benefit to the individual cannot be construed as “ensuring safety” and that complicity in torture and ill treatment, including by military personnel, can never be justified (12). As the Declaration of Tokyo states, “the physician’s fundamental role is to alleviate the distress of his or her fellow men, and no motive whether personal, collective or political shall prevail against this higher purpose” (12).

It seems highly unlikely that a monitoring clinician would not be able to recognize severe physical and mental pain caused by EITs. DETAINEES who have been evaluated by independent forensic medical experts using international standards for the medical documentation of torture (9) have consistently demonstrated evidence of torture (13). Also, there is evidence in official detainee medical records that medical doctors and mental health personnel assigned to the DoD neglected and/or concealed medical evidence of intentional harm (13).

Policy-makers, scientists, and clinicians who may have rationalized torture and human experimentation in the name of “national security,” regardless of their intent, may have made a grave miscalculation. Not only is torture always immoral and illegal, it may undermine security, for example, if policies and actions are based on information of questionable reliability elicited by confession during torture. The consequences of this can be profound. For example, Ibn al-Shaykh al-Libi, a Libyan paramilitary trainer for Al-Qaeda, was interrogated by U.S. forces in 2001. Under pain of torture in Egypt, he confessed to knowledge of weapons of mass destruction (WMD) in Iraq. Although such WMDs were never found, this statement was a key influence on the U.S. decision to invade Iraq (14).

Conclusion and Recommendations

The science used to justify torture was bad because it repeatedly failed to assess important long-term physical and mental health outcomes, even though Bybee definitions explicitly referred to long-term impacts, and thus appears to have been inappropriately used to justify a predetermined conclusion that torture could be safe, legal, and effective. The science was also bad because it violated the most basic tenet of medical ethics and scientific inquiry—primum non nocere—first, do no harm. Scientists and health professionals must hold themselves to the highest professional standards of commitment to the human rights and dignity of the people whose lives they have the privilege of serving. To that end, we make the following recommendations.

Independence and accountability:

- Independence from the security chain of command for all government scientists, particularly those working in national security settings, and for forensic evaluators of alleged abuse in custody.
- Military medical personnel compliance with all civilian medical ethics standards.
- Independent and thorough investigation of the role of health professionals in torture and unethical human experimentation.
- Accountability measures, including punitive sanctions, such as federal and state regulations, should link licensing to compliance with the Nuremberg Code, the Geneva Conventions, the Common Rule (15), and the United Nations Convention Against Torture.

Peer review and monitoring:

- Monitoring of government health professionals in national security settings by peers from outside of the security chain of command.
- Documentation and reporting of torture and other human rights violations in accordance with international standards (9).
- Appeals and protective mechanisms for third parties who document/report abuses.

Training and education:

- Compulsory training for government scientists and health professionals, particularly those in national security settings, including professional ethics, human rights standards, and medical documentation of torture and ill treatment in accordance with international standards (9).

Governmental accountability:

- Independent investigation of all officials involved in the authorization and implementation of possible torture and unethical human experimentation. This includes investigation of all relevant classified information.
- Punitive sanctions in accordance with the law.

References and Notes

8. The Bybee memo stated that in order “for a defendant to have acted with specific intent, he must expressly intend to achieve the forbidden act.” Under that interpretation, to violate the law, a person must expressly intend to commit torture and the memo stated that “knowledge alone that a particular result is certain to occur does not constitute specific intent” (5).
14. Select Committee on Intelligence, U.S. Senate, Postwar Findings About Iraq’s WMD Programs and Links to Terrorism and How They Compare with Prewar Assessments (Select Committee on Intelligence, Washington, DC, 2006); http://intelligence.senate.gov/phsetracuracy.pdf.