

Human Rights First Media Briefing Call

Subject: Senate Intelligence Committee's CIA Torture Report

Moderator:

Raha Wala,

**Senior Counsel for Defense and Intelligence,
Human Rights First**

Speakers:

Mark Fallon,

Former NCIS Special Agent

Brigadier General David Irvine (Ret.)

Air Force Colonel Steven Kleinman

Alberto Mora,

**Advanced Leadership Fellow,
Harvard University**

Thomas Pickering,

**Vice Chairman,
Hills & Company**

Date: Tuesday, December 9, 2014

*Transcript by
Federal News Service
Washington, D.C.*

OPERATOR: Good day, everyone, and welcome to today's program. At this time, all participants are in a listen-only mode. Later you will have the opportunity to ask questions during our Q&A session. You may register to ask a question at any time by pressing the * and 1 on your touchtone phone. Please note, today's call is being recorded.

It is now my pleasure to turn the program over to Raha Wala. Please go ahead.

RAHA WALA: Thank you so much. I just wanted to welcome everyone to the press call. I know a lot's going on today, and we appreciate you taking some time out to hear the point of view of our very experienced and thoughtful panelists.

So Human Rights First is very pleased to host this call. You know, the members of our – the discussants have a lot of experience in intelligence, military, diplomatic, based on their careers in government, and have come to discuss the importance of the Senate Intelligence Committee's report on the post-9/11 CIA interrogation program.

I just want to say a couple of words of context, and then I'm just going to quickly transfer the call over to our panelists, who will share their point of view on the importance of the report and some of the initial thoughts after reviewing some of the report's findings.

It's important to note that this report was kicked off by an investigation on a 14-to-1 bipartisan vote in the Senate Intelligence Committee. It was adopted in a bipartisan vote, and then earlier this year voted for declassification with an 11-to-3 vote in the Intelligence Committee.

As many of you know, Senator John McCain took to the floor to support the report's key findings. And the report has significant support from other Republican members of the Senate as well.

The report's key findings are pretty damning with respect to the CIA enhanced interrogation program. The report finds that the CIA program was significantly more widespread and brutal than was previously thought and exposes new details about the cruelty of the program and enhanced interrogation techniques. And it also documents how the program provided substantially less intelligence and, in fact, contributed no intelligence of value to stop imminent terrorist threats, which was, of course, the main justification for establishing the program in the first place.

The report also documents how the CIA systematically misled the White House, the Department of Justice, the Congress and the American people about the impacts of the program itself.

So I have with me a very distinguished panel of experts to discuss these findings and put them in context. And I'm just going to briefly introduce them, because I know you have their biographies already.

With me is Mark Fallon, who served more than 30 years in federal law enforcement and counterintelligence, including as an NCIS special agent with the Department of – within the Department of Homeland Security. He has been involved in interrogations of high-level terrorism suspects and has a lot to say about whether and to what extent these enhanced interrogations were effective and useful in advance our intelligence-gathering capacity.

I also have with me Brigadier General David Irvine, retired; enlisted in the 96th Infantry Division, United States Army Reserve, in 1962; also taught prisoner-of-war interrogation and military law for 18 years at the 6th U.S. Army Intelligence School.

I have with me Colonel Steve Kleinman, United States Air Force, as a senior adviser and strategist of the national security program for the Soufon Group as well right now. He is a career intelligence officer with more than 26 years of operational and leadership experience in worldwide assignments and providing support to Special Operations forces and in human intelligence-gathering.

I also have with me Alberto Mora. He is the former general counsel of the Department of the Navy and was one of the lead individuals in government at the time after 9/11 advocating against the use of enhanced interrogation techniques from his view regarding the legality of the program.

I also, finally, have with me Ambassador Tom Pickering, who is vice chairman of Hills & Company, international consulting firm that provides advice to U.S. businesses on investment, trade and risk assessments abroad. He is a career that spans five decades as a U.S. diplomat; extremely accomplished in a variety of posts around the world, and I think has some particularly useful experience to put the report in context, especially given claims that, you know, the report could end up inciting violence overseas.

So I think, with that, I am going to pass the baton off to Colonel Steve Kleinman, who will provide some of his thoughts on the significance of this report being released.

Steve?

COLONEL STEVE KLEINMAN: Thank you, Raha.

Thank you to the listeners.

I'd like to begin by presenting this issue, framing it (as ?) a national security and intelligence concept or issue, as opposed to a partisan one, and certainly not an emotional one. Emotions, obviously, are at their height after the release of the report from the Senate Select Committee on Intelligence.

But I think it's important for us to approach this as objectively as possible. And I make the argument that, just as there's no liberal or conservative chemistry or physics, there is no liberal or conservative understanding of what works and what doesn't work in the context of interrogation. There's a science that undergirds it.

And the more we understand that, the more we move forward, the more we recognize very clear what doesn't work. And my colleagues and I would contend that what doesn't work is, (of course ?), the forms of interrogation, as outlined in this report. They simply (produce ?) unreliable information. And any country's statecraft, its national security policy, it either thrives or it fails based on the quality of the information. And torture is almost guaranteed to provide information of dubious value.

The other question, too, is we have to keep in mind all warfare throughout history is really based on moral issues, on beliefs, on interests and on values. And so we have to ask ourselves, when we conduct a war of any type - whether it's conventional war or asymmetric environment, we have to ask ourselves, what are our values? And how are those values manifested in how we carry out that conflict, including how we collect intelligence, and specifically how we treat detainees in our custody during a conflict?

The points I want to make are these. Number one, I've had the opportunity to work with behavioral scientists literally around the world over the last nine years in interrogation-released research, and we're understanding the causal relationships between action and outcome.

Unfortunately, interrogation to this point has never been subjected to any sort of objective scrutiny. The Army Field Manual, for example, and certainly the enhanced interrogation program, is not based on validated, evidence-based approaches to eliciting reliable information. Can it force people to talk? Yes. But can it force people to tell the truth? Absolutely not.

The other question we have to ask ourselves from a moral perspective is, as Napoleon once said, that in conflict, the moral is to the physical as three is to one. How we treat those in our detention will impact how not just our potential and real adversaries might treat our individuals if they would take them into detention, but also our allies. Do they bring it closer to us? And alliances in this globalized world are absolutely essential. Torture has an impact way outside – (inaudible) – on a geopolitical scale.

Finally, it is all about national standing. It's not just prestige. But we talk about American exceptionalism. Prior to 9/11, I think America would be on the short list of countries least likely to torture in the view of the world. Post-9/11, now we're at the bottom of that list.

And our strategic interests are definitely based, going forward, on how we're viewed in the world. There's a reciprocity concept and there's the geopolitical interest. So what we cannot do is lead the race to the bottom. We diminish ourselves in any war - when we accede to the values of the enemy that must be lower than ours, then we've lost.

Thank you, Raha.

MR. WALA: Thank you, Steve.

I now want to pass it off to Brigadier General David Irvine, who is one of about 50 retired generals and admirals who Human Rights First works with on the issue of detainee

treatment and has a lot of relevant experience of his own right; served on the Constitution Project's detainee task force that produced a report as well.

So General Irvine, why don't you take it off?

BRIGADIER GENERAL DAVID IRVINE (Ret.): Thank you.

I was commissioned as an Army strategic intelligence officer, and I spent 18 years teaching prisoner-of-war interrogation and military law to soldiers, Marines, airmen. (It isn't?) that on September 11th (we?) didn't know how to do strategic interrogation of resistant prisoners. It's that afterwards, too many people who should have known better bought into a theory that coercive interrogation would be a shortcut to truth.

The real experts in our federal agencies were pushed aside in favor of the brutality used by totalitarian regimes to extract false confessions. The enormous value of the Senate report is that we now know, from a comprehensive review of the CIA's classified interrogation records, that brutality did not produce useful intelligence that had not already been gained through lawful and non-coerce means.

This really changes the debate, because the argument has always been, well, if you knew what I know, you'd understand that the program saves lives. We now know that these claims cannot be substantiated. And this is huge. We've forgotten who we are and what our history means.

I'm a lawyer in private practice. If torture is a shortcut to truth, why would we not be insisting that it be used in kidnapping, rape and homicide investigations? It's not that judges are wusses. It's that 500 years of history teach us that torture produces false confessions. And it is absolutely anathema to democracy.

If you're looking for truth, why adopt a strategy that renders a suspect catatonic? It isn't that torture doesn't sometimes work. It's that the costs and the tradeoffs, as Colonel Kleinman described, make us less safe and just are not worth it. We will be paying for the mistakes of the last 10 years for decades to come.

Thank you.

MR. WALA: Thanks so much, General Irvine.

Now I want to introduce Mark Fallon, who has a variety of relevant experience, including being privy to intelligence gained through interrogations of Khalid Sheikh Mohammed. So I think he has a really interesting point of view on this issue.

Mark, why don't you share some of your thoughts?

MARK FALLON: Sure.

Good afternoon, everyone, and thanks for the opportunity to talk with you today.

I'm currently a national security consultant, and I have three decades of experience in the national security community as a special agent with the Naval Criminal Investigative Service as a criminal investigator, as a counterintelligence case officer. And I've overseen probably over 10,000 interrogations of detained suspects.

And what I know, based on my experience, based on my training, based on the evidence-based research projects I've been involved in, legal reportability and interrogation technique are absolutely the best way to obtain accurate and reliable information from a suspect.

Torture tends to elicit unreliable information. It sets back investigations. It produces faulty intelligence. It sends you on wild goose chases tracking down false leads, and it wastes valuable resources doing so.

Yeah, I agree that torture can make people talk. But what they say is often untrue and misleading. And if you look at the genesis of the EIT programs, it was really based and designed by our adversaries to obtain propaganda information. It was not designed to obtain lawful, accurate information, and it has not done so.

The victim of torture will say whatever he or she thinks will make the pain stop. It may not (be ?) the truth, but very likely it will be whatever they can do to get out of the situation.

A few months ago I came here to Washington and I joined a group of seasoned interrogators and intelligence professionals. And we reaffirmed our opposition to torture. We were greatly concerned that, in the national security debate, people were claiming to be patriots because they tortured. And we actually opposed that. We were national security professionals who understood the danger and damage that could do to our national security.

So torture, we said in our statement, not only undermines the interrogator's ability to elicit useful information. It also undermines our nation's ability to counter threats to its security. Torture makes our nation less safe.

For our adversary, torture was a public relations bonanza. They were able to propagate recruits, obtain finances, and they were really able to get sympathizers to turn against us and actually enable their operations.

Committing to torture jeopardizes our national security. And any attempts to further cover up our past mistakes continue to play into the hands of our enemies. It's time to restore our values and commit to the rule of law. We are the land of the free and the home of the brave, and we need to have the courage now to say we did wrong. And we need to move on and make sure this never happens again.

MR. WALA: Thanks, Mark.

At this time I'll turn it over to Alberto Mora, who, as I mentioned, was general counsel at the Navy after 9/11 during the genesis of the so-called enhanced interrogation program.

Alberto, why don't you share some of your thoughts?

ALBERTO MORA: Thank you, Raha.

And hello, everybody. Thanks to you for being here.

I have a number of observations about this. And, first of all, I must say that the overwhelming emotion that I feel today is a sense of pride at what is a successful and important contribution by the Senate discharging its oversight function. I think, as has been the case in similar investigations in the past, we will find out that we are better and stronger as a country as a result of this very painful process. I think this will be true here.

What do I take away from the findings of the report? First of all, I'm impressed again by the astonishing degree of cruelty that this program represented. And this is important, because so often during the last 12 years, in which we engaged in this national debate, the words we have used to talk about this program have masked the reality of the brutality inflicted on its victims.

Even the euphemism of enhanced interrogation, almost Orwellian and cynical in its depiction of the program, served to mask the truth. And, for that matter, what has been almost a consistent pattern on the part of the media not to use the word torture, which accurately describes the degree of pain inflicted, has also served to mask from the American public the reality of this program.

From what I've seen of the report preliminarily, there is a wealth of detail to understand better the torment inflicted on the victims and to allow each of us as citizens to understand better what the program actually consisted of.

Now, this is important, because, as I mentioned, words tend to mask the reality of the pain. And it's better that we try to grasp that reality better than we have in the past. But, second of all, I think the word torture is an important one, because, of course, it has legal connotation. Even during the Bush administration, the administration always agreed that the infliction of torture is per se a criminal act.

The quantum of cruelty inflicted, as documented by the report, clearly documents that in a variety of the treatments inflicted on a variety of the subjects, that threshold was crossed and we committed the crime of torture, which is an important legal fact for us to bear in mind as we contemplate the consequences of this report.

As the previous speakers here have said, the use of cruelty has been a strategic failure for the United States. Strategically, as we have domestically, we seek to foster a world that is less cruel, not more cruel. And America's embrace of waterboarding is one that went opposite to this strategic interest.

The policy results of this have been significant in the sense that, although, as we know now through the report, the use of these techniques did not produce much actionable intelligence, what the report didn't get into and which I'm finding now at the Carr Center for Human Rights Policy at Harvard, as we look into the policy consequences of these activities, is that the use of these techniques did not produce much actionable intelligence.

What the report didn't get into, and which I'm finding now at the Carr Center for Human Rights Policy at Harvard as we look into the policy consequences of these activities, is that the use of torture actively damaged our effort in the war against terror and damaged the alliances we had sought to build. It damaged the bilateral relationship with our key allies and it damaged military intelligence cooperation with many of these critical allies. It made us weaker, not stronger, in the war on terror. And even in this respect, it damaged our overriding national interests.

One last word I'll say about this report. I am struck by the documented difficulties which both the executive and the Congress had in exercising effective oversight over the CIA and this program. The report paints a very convincing picture that the CIA repeatedly misrepresented critical elements of the program to the White House, to the Department of Justice and then repeatedly to various senatorial oversight committees, not to mention the press and the American public.

This represents a major finding of the report and should lead to a rethinking of how we exercise effective congressional oversight over these kinds of difficult -- programs. As is often the case, though, what I think we find here and the lesson we need to take away is that more transparency, not less, is more effective and in the end works to serve the national interest.

Thanks.

MR. WALA: Thank you, Alberto. And finally, I want to turn the call over to Ambassador Tom Pickering, who has a wealth of diplomatic experience in a variety of different posts around the world.

Ambassador Pickering, why don't you share your thoughts on the significance of the release of this report and some of the context around that?

AMBASSADOR THOMAS PICKERING: Thank you, Raha, very much. It's a pleasure to join this very knowledgeable and distinguished group.

I want to address a factor that is now almost past, but we'll still await to see the results. Would the release of the report do major harm, or material harm, to Americans or diplomatic posts and military abroad? My own sense is that while there is no perfect guarantee, there are many strong reasons for the release of the report. Let me just mention a few.

I want to key off first what Alberto Mora just said. The purpose of the report, I believe, is to prevent future harm. It cannot really be effective without conveying to the American public

the details and, indeed, the information, particularly the information that seemingly forced coercion did very little good in providing us with actionable intelligence.

Secondly, it is, in my view, the policy of the United States that we should not allow hostage takers and terrorists to determine our foreign policy. The delay of the report to meet their threat is bowing to that particular activity and something I believe we should not be engaged in doing.

It is true that the information, much of it, is already out there. But the report is a report of a branch of the American government with full access to thousands and maybe millions of pages of classified documents with an opportunity to verify, from the point of view of a reliable staff work and keen and knowledgeable and intelligent senators, exactly what happened -- something we haven't had before.

Finally, we have had up to four years to prepare for the release of this report. There's no question in my mind at all that our military intelligence and diplomatic establishment is well protected in its efforts to assure that the effects of the report which might be negative are not worked out on them, and certainly I hope that that will be the case. We of course await any information of that sort.

The report is in every sense of the word how a functioning democracy takes stock if its mistake and owns up to it. It is important that it's been released now, and I believe that whatever dangers are posed, in my view, are fully outweighed by the purpose, the nature and indeed the importance of this report.

MR. WALA: Thank you so much, Ambassador Pickering.

Now we're going to turn the call open to questions, but before I do that, I do just want to share a couple of thoughts about information that's in the report. We were told for a long time and we're being told today, particularly by the architects of the enhanced interrogation program, that this was a safe, clinical, effective, legal program. And I think this report is going to definitively refute that, and I just want to read a couple of findings from the report that I think will shock any American of reasonable disposition.

The report talks about interrogators threatening children and mothers of detainees. I don't think any American stands for that, or should stand for that -- threatening to cut a detainee's mother's throat. We all remember the abuses of the Abu Ghraib scandal, and I think that everyone agrees that that was a disaster for our national security policy. The CIA programs and those who've authorized it, they've sought to distance the program from Abu Ghraib, but I think what we're seeing in the report is that a lot of what went on here was very similar to what happened at Abu Ghraib.

The CIA's -- for example, at one detention facility that was described as a dungeon, kept detainees in complete darkness, constantly shackled in isolated cells with loud noise and music and only a bucket for the use of human waste. Lack of heat in the facility likely contributed to the death of a detainee.

At times, detainees were walked around naked and shackled with their hands above their heads. At other times, detainees were hooded and dragged up and down corridors while being slapped and punched. Is that what we stand for as Americans? I think that -- I don't think that anyone would agree with that.

The CIA is thought to have excluded -- asked for Secretary of State Colin Powell to be excluded from information about the program because they knew he would object to it. Is that how we make policy in this country, (reasons ?) national security policy? Clearly that does not seem to comport with how we want to be making sound policy going forward.

So we ought to take a look at the findings of the report. We ought to learn from it moving forward. But let me just stop there, and why don't we open it up to questions now?

OPERATOR: And at this time if you would like to ask a question, please press the star and one on your touch-tone phone. You may remove your question from the queue at any time by pressing the pound key.

Again, if you'd like to ask a question, please press the star and one keys now.

Our first question comes from Warren Strobel, with Reuters. Please go ahead. Your line is open.

Q: Thank you. Can everybody hear me? Thanks for doing the call.

This question, I guess, is particular for Mr. Mora and for Ambassador Pickering. But do you think this report will or should lead to accountability, legal accountability for both those who implemented the program and perhaps for those in the political sphere at the White House who authorized it, or is it too late for that?

Thanks.

MR. MORA: Tom, shall I try first?

MR. PICKERING: Yes, please, Alberto.

MR. MORA: Well, I think it reopens the issue of accountability. Up to now, while it's been legally unthinkable that individuals who commit torture, regardless of their rank, not be held accountable for torture, at the same time I think we all recognize that it's equally politically unthinkable to hold some of the highest -- well, the president and some of other highest officials in the past administration accountable for those kinds of acts.

This report may change some of that calculation, because it's clear that the torture that was inflicted on these victims went beyond the authorized scope by those very plastic and flexible Department of Justice legal memoranda that created the legal structure for the report. It

also -- it documents that in fact the Justice Department received misrepresented statements concerning the nature of the actual techniques that were applied to the victims.

So I think the shield that has been provided to those individuals who engaged in the practices within the confines of the reports now may no longer be as effective as it was, as it was before.

So I think, as with any criminal law, the law is ineffective unless you have accountability for its violation, and the issue of accountability for violating the torture laws is a matter that is still very much on the national agenda.

MR. PICKERING: I would just add to what Alberto said, it's the Department of Justice that has primary responsibility. They've all taken an oath under the Constitution to take care that they carry out the laws of the United States. They will have to look at that responsibility.

Politically I agree with Alberto that there has been a serious concern that one president, in Latin American style, should not take former president to task, even lightly, that impeachment is the way of dealing with offenses committed by presidents in service. I don't think we've ever had a serving president -- I'm sorry, a post-serving president -- taken to court or prosecuted under the law.

I am concerned about this issue, but as I said in my remarks, I'm much more concerned that this never happen again. There are concerns on the part of a number of people that they were misled by legal briefs which were prepared in seemingly a fairly slipshod manner and ordered to try to justify something that was clearly not in keeping with the law.

The final point is I think all federal law officers are on notice that they have to obey the law, that there are questions of unlawful orders and that has to be kept in mind as they go ahead for the future.

Q: Thank you very much.

OPERATOR: And once again, if you would like to ask a question, please press the star and one on your touchtone phone. We'll pause one moment to allow questions to enter the queue. Again, please press the star and one on your touchtone phone if you'd like to ask a question.

And our next question comes from Jordan Bryant with Military.com. Please go ahead; your line is open.

Q: Hi. Thank you for doing this. It's Bryant Jordan, for Military.com. And I'd ask about former CIA officer John Kiriakou, as far as I know, the only person in any way, shape or form related to these programs who's actually in jail. And of course he's there because he blew the whistle on these practices. Any thoughts on the -- whether he should be let go with time served? Does he deserve a pardon?

COL. KLEINMAN: Mr. Jordan, this is Steve Kleinman. Just to clarify that issue, John Kiriakou is not in prison because he blew the whistle on waterboarding. In fact, I debated with him once for Georgetown University, and he was -- he thought it was a necessary part. He's in jail because he revealed an individual who was undercover. That was specifically. Now, whether -- none of us can know whether there was any other impetus behind it, but certainly from a legal perspective, that's why he's there. You're making -- your point is still good, though, in terms of accountability, this one individual -- and perhaps for reasons we can't quite understand.

Q: I don't know -- is anybody else waiting in the queue for a question? Otherwise, I'd throw another one out there.

COL. KLEINMAN: Please continue.

Q: Sure. I've been listening to Senator Feinstein and McCain and Lindsey Graham behind you here, during their floor presentation. And in going through the report that the executive -- (inaudible) -- this morning, there's a lot of emphasis on what the CIA did, didn't do, claims, failed to claim or misled on. What I don't see anywhere is any responsibility on the part of political leaders.

And I know you -- I missed it, who was saying it, addressed the idea that one president doesn't bring another one to task and make them stand trial, as some other countries do. Whether that's good or not, I don't know, but I'm -- avoiding that question for now.

There seems to be no -- nothing in the report indicating blame on the political leadership. Is that your sense of it, or am I just missing that?

MR. WALA: Well, let me take -- this is Raha, with Human Rights First. Let me take that one.

So the terms of reference for this study were relatively narrow and restricted to the mandate of the Intelligence Committee. So the Intelligence Committee looked specifically at the CIA and the CIA's program, what CIA officials represented or did not represent. It did not purport to examine the White House and the White House's responsibility for this program.

I think there -- it's pretty clear from the historical record, from documents that have been released since 2001 that the White House was in substantial support of this program and in fact originated it. So that is fairly clear, that this -- came from the highest levels of government, but it wasn't the report's mandate to look specifically at the White House.

Q: Thank you much.

MR. MORA: This is Alberto. And also add that as another example of the narrow mandate of the study is the fact that the performance of the Justice Department was not covered at all in the report. And as we know, the lack of leadership and utter lack of professionalism on

the part of the Justice Department is a big cause why these practices were engaged in in the first place.

Q: Very good. Thank you, sir.

OPERATOR: And once again, if you would like to ask a question, please press the star and one on your touchtone phone at this time. (Pause.) And it appears we have no further questions at this time.

MR. WALA: Well, I just want to thank everyone for participating on this call and in particular our panelists, who share such a wide range of depth and experience in government service, military intelligence, diplomatic, and the reporters who called in and took some of their time out of their day.

If you want more information about the SSCI report and its -- and the context surrounding its release, please do visit our website, www.humanrightsfirst.org. Tomorrow we will be honoring Senators Feinstein and McCain with our annual Beacon Prize, which celebrates American leadership on critical human rights issues.

Thank you so much for joining the call, and please don't hesitate to get in touch with us if we can provide additional information to you.

(END)