

US Justice Department closes CIA probe with no charges in torture, murder of detainees

By Bill Van Auken
1 September 2012

On Thursday US Attorney General Eric Holder shut down a more than three-year investigation into CIA torture and murder of detainees, with no charges being brought against anyone.

This final ignominious chapter in the Obama administration's protection of those responsible for the crimes carried out under the Bush administration concerned the CIA's torturing to death of two detainees, one in Afghanistan in 2002 and another in Iraq in 2003.

In a statement announcing that no one would be prosecuted, Attorney General Holder claimed, "admissible evidence would not be sufficient to obtain and sustain a conviction," adding that this conclusion had been reached following a review of "substantive criminal statutes as well as the statutes of limitations and jurisdictional provisions."

He did not say what charges had been contemplated and provided no concrete explanation of why they could not be brought.

He included in his statement an obsequious tribute to those responsible for the torture and murders carried out under the Bush administration: "I also appreciate and respect the work of and sacrifices made by the men and women in our intelligence community on behalf of this country. They perform an incredibly important service to our nation, and they often do so under difficult and dangerous circumstances. They deserve our respect and gratitude for the work they do."

Incredibly, Holder also praised the Justice Department's investigation: "I continue to believe that our Nation will be better for it," adding that the probe "was not intended to, and does not resolve, broader questions regarding the propriety of the examined conduct."

In other words, after three years of investigation, the Obama administration has not only granted full impunity to those involved in the crimes of rendition, torture and

murder carried out under Bush. It has failed to even issue a ruling on the "propriety" of torturing detainees to death. The clear implication is that the US government and legal system sanction such practices, and they will continue.

The American Civil Liberties Union issued a blistering criticism of Holder's announcement, summing up what it called the "shameful record" of the Obama administration in protecting those responsible for the crimes carried out in the so-called global war on terrorism.

"That the Justice Department will hold no one accountable for the killing of prisoners in CIA custody is nothing short of a scandal," ACLU deputy legal director Jameel Jaffer said in a statement. "The Justice Department has declined to bring charges against the officials who authorized torture, the lawyers who sought to legitimate it, and the interrogators who used it. It has successfully shut down every legal suit meant to hold officials civilly liable."

The action, Jaffer continued, "sends the dangerous signal to government officials that there will be no consequences for their use of torture and other cruelty."

Thursday's announcement is the final installment in the Obama administration's continuous retreat from any effort to hold anyone accountable for torture under the Bush administration.

This began with the granting of immunity to those who directed and oversaw torture from the White House—including Bush, Cheney, former CIA Director George Tenet, former National Security Advisor Condoleezza Rice, and ex-Justice Department officials, like Jay Bybee and John Yoo, who drafted memos arguing that torture was legal.

In June of last year, Holder announced that the investigation of CIA torture had been reduced to a probe involving the deaths of the two men, effectively ending any broader consideration of CIA crimes committed at its secret "black sites" and infamous prisons such as

Guantanamo, Abu Ghraib and Bagram.

While the Justice Department refused to name the two victims, their identity has been widely reported. The first was Gul Rahman, a young man abducted in Pakistan and dragged to a secret Afghan prison known as the “Salt Pit,” where he was beaten and chained to a concrete floor without blankets. He froze to death in 2002.

The second was Manadel al-Jamadi, who died in CIA custody in 2003 at the Abu Ghraib prison in Iraq after being beaten by Navy Seals and then hung crucifixion-style from a grated window with a sandbag on his head, resulting in his asphyxiation. His killing became widely known after a photograph of his corpse packed in ice and wrapped in plastic was released, together with the other images of torture at Abu Ghraib.

The Justice Department decided to focus on these two cases after previously restricting its investigation to so-called “rogue” CIA personnel, meaning only those whose brutality exceeded the guidelines set by the Bush administration’s Justice Department, which sanctioned a whole range of torture techniques, including waterboarding, in which a prisoner is subjected to induced drowning.

Holder took over a federal probe already initiated under the Bush administration, in which organized crime prosecutor John Durham investigated the CIA’s destruction of videotapes of the interrogation of a so-called “high-value detainee,” Abu Zubaydah, who was waterboarded 83 times in just one month. Federal courts had previously issued orders for the government to preserve all records of the so-called “enhanced interrogation” sessions.

In 2005, at the direction of Jose A. Rodriguez, Jr., the head of the CIA’s clandestine service, personnel at a CIA clandestine prison in Thailand destroyed 92 videotapes of the torture session.

In November of 2010, the Obama administration allowed the statute of limitations for prosecuting this cover-up and destruction of evidence to expire without bringing any charges. Earlier this year Rodriguez published a book bragging about his role in the crime, while defending the agency’s use of torture.

Meanwhile, the Obama administration Justice Department intervened repeatedly to quash lawsuits brought in connection with torture under its predecessor, invoking “state secrets.”

The only CIA agent to be prosecuted by the Obama administration in connection with torture is John Kiriakou, a 14-year veteran of the intelligence agency,

who was indicted under the Espionage Act for talking to journalists about Abu Zubaydah’s waterboarding. In a television interview in 2007, he became the first CIA official to publicly confirm the use of waterboarding, describing it as torture.

In the meantime, the government, which previously described Zubaydah as Al Qaeda’s chief of operations and one of the masterminds of the 9/11 plot, acknowledged last year that he had no advance knowledge of, or participation in September 11, and indeed had no affiliation with Al Qaeda. Nonetheless, it refuses to either release or try him, as there is no evidence to prosecute him and his case only exposes the crimes of the CIA itself.

Described by his attorneys as mentally and physically shattered by years of torture, Zubaydah is imprisoned at Guantanamo, selected by the Obama administration for indefinite detention without charges.

The *New York Times* observed in its report on Thursday’s decision that Holder’s announcement was designed to “remove a possible target for Republicans during the presidential election.”

No doubt, the Obama administration has no intention of invoking opposition to torture as a campaign theme. Since taking office, Obama has continuously backpedaled from his condemnations of torture in 2008, insisting that he would “look forward, not backward” and declaring his opposition to any “witch-hunt,” while reneging on his promise to shut down the Guantanamo prison camp.

More fundamentally, however, the decision to end the CIA probe and provide impunity for torturers is in line with the administration’s own policies, which have gone beyond those of the Bush administration itself in their assault on core democratic and constitutional rights. These have included the Obama White House arrogating to itself the power to condemn alleged enemies of the state to indefinite military detention without charges, as well as the “right” of the president to order the assassination of American citizens alleged to be involved in “hostilities” towards the US government.

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