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24 and the Efficacy of Torture

By

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In the Fox Television Network program *24* a fictional counterterrorism agent named Jack Bauer uses extreme measures, including torture, to save the United States from catastrophic terrorist attacks. Bauer uses torture even though its efficacy is in question and it is illegal. Political leaders, including President George Bush, have endorsed the use of torture and Bauer's fictional success has reinforced that the idea these methods are both necessary and effective in obtaining actionable intelligence. This paper examines existing literature on military interrogations in the context of *24* and reviews empirical and descriptive evidence about existing practices. While researchers cannot ethically or legally test torture's effectiveness, more research is needed to study methods currently in use by the military.

Keywords: counterterrorism, television, 24, interrogations

INTRODUCTION

Counterterrorism agent Jack Bauer, the chief protagonist in the Fox Television Network series *24* rarely holds back when trying to extract information from a suspected or confirmed terrorist or to protect the United States from disaster (Surnow, 2003). Over the course of his television career, the fictional federal agent breaks a drug lord out of a federal prison, causing a riot and the death of at least one corrections officer. He assaults and seriously injures his partner to protect his undercover operation. He shoots and kills a known terrorist, even though she is no longer a threat. He interrogates a suspected terrorist while his partner cuts the suspect's wrist. He fights heroin addiction after using the drug to convince drug cartel members that he has joined them. Again, to protect his cover, he points a gun at his partner's head and squeezes the trigger, guessing, correctly, that the gun is not loaded. He tells a potential source of information that she will be sent to a foreign country for interrogation where her constitutional rights do not apply. He points a gun at a military pilot and orders the pilot to stay on course after the pilot has been given orders to turn the plane around. In an interrogation room, he fires a gun at an interrogation subject. All of these events occur in less than twenty-four hours during Season Three of the show.

Season after season, Bauer averts the country from disaster of apocalyptic proportions with derring-do and tactics that almost certainly violate U.S. and international law. And, he gets results, often electing to use torture as his primary method of interrogation despite the fact that torture violates U.S. and international law and its efficacy is in question. Instead of inspiring a national discussion about the most effective ways to gather intelligence, *24* and its fictional protagonist have become models of an effective counterterrorism strategy. It is not clear what

interrogation methods are effective to gather accurate and actionable intelligence. This paper will survey the extant research about military interrogations and examine what seems to be effective and ineffective in current practices. A lack of empirical knowledge has allowed shows like *24* to seduce viewers into believing that there is a simple and effective way to deal with the complex problem of fighting terror.

On *24* Bauer's success comes in several forms. When Bauer tortures or threatens suspects, he usually obtains at least some of the information he needs and, by the end of each season, the threatened catastrophic attack is averted. The show is a commercial hit. Millions of people watch *24*. The show has generated fan clubs and web sites devoted to arcane information about the character and the counterterrorism unit for which he works (e.g. www.24archive.com). The character "Jack Bauer" has seeped into the consciousness of many Americans. He has become a cultural icon and, in some cases, the model of an effective counterterrorism agent. The Heritage Foundation, a Washington D.C. think tank, sponsored a forum about the image of the United States in its fight against terrorism, featuring both the Secretary of Homeland Security and actors from *24* (Farhi, 2006). According to Farhi, the secretary "praised" Jack Bauer's "character" and "tenacity" and indicated that the "perseverance" displayed by both he and his fictional colleagues "will help America defeat terrorism." At other times, both former president Bill Clinton (McAuliff, 2007) and Associate Supreme Court Justice Antonin Scalia (Berlow, 2008) have referred approvingly to Bauer and his practices. For many Americans, including members of the political elite, Jack Bauer embodies the real men and women who toil anonymously in the nation's counterterrorism agencies.

Bauer's fictional success has not gone unnoticed. Some members of the military have expressed concern about its message. Brigadier General Patrick Finnegan, an instructor at the United States Military Academy at West Point, traveled to Hollywood to convince the producers of *24* to air a show where "torture backfires" (Regan, 2007; Mayer, 2007). According to Mayer, Joe Navarro, a Federal Bureau of Investigation (FBI) expert on interrogations who accompanied Finnegan on the trip, asserted that a federal agent like Bauer is the type of agent that should not be "in your organization."

The visual style of *24* where the action transpires in real time and a pounding digital timer marks commercial breaks, may make it difficult for some viewers to determine if they are watching "live," unfolding events or fiction, particularly children and adolescents. Each season portrays a march toward a potentially catastrophic terrorist attack, not unlike the attacks on the World Trade Center and the Pentagon. At the end of twenty-four hours of *24* however, the United States prevails, and it prevails in part because the fictionalized hero of the series, Jack Bauer, uses many of the same tactics as the bad guys, including torture. He uses torture in spite of the fact that its efficacy and its legality are in doubt. The message? We need more of "this type of agent."

Viewers of *24* may well reason that if Bauer uses it and the president authorizes it, torture must be effective at producing intelligence. During Season Three of *24* President David Palmer defers to Bauer's judgment when such hard decisions need to be made. Unlike the fictional president, Bauer does not equivocate or internally debate the choices he must make. Viewers learn that when extracting intelligence, torture is Bauer's method of choice. Torture proves itself

successful for Bauer under a variety of circumstances, regardless of the subject and despite its illegality and the absence of empirical support for its use.

MILITARY INVESTIGATIONS

While some policy makers and members of the public support the extreme measures used by Bauer, no empirical support exists to show they produce accurate intelligence. Social scientists cannot test harsh techniques or practices that amount to torture in an experimental setting; such an experiment would be both illegal and in violation of ethical constraints imposed on researchers. The only evidence about the effectiveness of torture, the act of inflicting severe mental or physical pain on someone to force them to do or say something, comes from those who were tortured and recount their experiences or from torturers themselves.

Studying techniques currently used by military intelligence and federal agents presents its own difficulties and challenges. These challenges include security issues, access to samples of interrogators, and the reliability and validity of the results obtained. The United States Army, the Central Intelligence Agency (CIA) and the Federal Bureau of Investigation are unlikely to formally allow researchers access to their personnel, both to protect both their agents and the interrogation techniques they use. Interrogators may also be reluctant to submit to surveys or interviews for fear of liability, or they may answer questions falsely for similar reasons, particularly at a time when human rights groups and others have accused the U.S. of using torture to gather intelligence (e.g. Malinowski, 2007), in violation of U.S. and international law (Its prohibition is implicit in the Military Code of Conduct.)

Methods employed by the United States to procure intelligence from human subjects have undergone increasing attention since the attacks of September 11, 2001, the year *24* debuted on network television. The process of obtaining intelligence from captured subjects is known in the military as human intelligence collection (HUMINT) and the practice has garnered unprecedented examination and review (Sappenfield, 2005). There is self-reported, official, and anecdotal evidence of practices and procedures approved for use by the United States military (e.g. U.S. Army Intelligence and Interrogation Handbook, 2005). There are also reports that describe techniques actually used in the field (e.g. Mackey & Miller, 2005), including torture (e.g. Lagouranis, T. & Mikaelian A., 2007). It is unclear how wide-spread the use of torture is in HUMINT. There are no published studies from open sources that empirically test the procedures currently approved by the United States military. There are also no studies that survey experts in the field to determine what they believe are the most effective methods for eliciting actionable intelligence. The National Defense Intelligence College (2006) drew the same conclusions. A thorough review of the literature since 2006 by this writer found the same result. While there is a substantial body of research about interrogations in the law enforcement setting, there is no empirical evidence that this research is valid in the military context.

The Army Handbook describes a number of approaches interrogators should employ when interrogating prisoners, although not specifically terrorists. It suggests a military variation on the "good cop-bad cop" routine as well as unique strategies such as "fear up harsh," which is designed to exploit a prisoner's fears and intimate that the interrogator is the "way out of a trap."

The "fear up harsh approach" also allows the interrogator to yell and throw items in the interrogation booth. The Handbook cites no empirical support for its methods.

DESCRIPTIVE EVIDENCE OF U.S. INTERROGATION TECHNIQUES

News reports and human rights organizations have reported practices that they argue are contrary to United States and international law. For example, in 2004, evidence surfaced that U.S. military police personnel had tortured, humiliated, and, in at least one case, murdered prisoners in their custody at the infamous Abu Ghraib prison in Bagdad. While the most notorious incidents were not committed during interrogations, some allege that U.S. personnel did use harsh interrogation techniques when questioning subjects at the prison (Conason, 2004), and it is possible that prisoners died later from injuries sustained during interrogations. Also in 2004, Human Rights Watch issued a report, "Enduring Freedom: Abuses by U.S. Forces in Afghanistan," that accuses American troops of routinely abusing detainees held in U.S. custody at Bagram Airbase and other facilities, sometimes during interrogations (Human Rights Watch, 2004).

Critics of U.S. policy charge that the CIA had secret prisons called "black sites" where prisoners were tortured in order to extract information (Benjamin, 2007; Grey, 2007). At the United States Naval Base in Guantanamo Bay, Cuba, some prisoners held there and classified as "unlawful combatants" accuse American interrogators of using techniques to gather information that violate U.S. and international law (Beeg, 2006; Kurnaz, 2008). Beeg and Kurnaz also document abuses of other prisoners they observed while held at Guantanamo. Private interrogators, hired in contravention of U.S. military policy, have also been accused of abuses at Abu Ghraib and elsewhere (Cushman, 2004). (See AR 15-6 Investigation of the Abu Ghraib Prison and 205th Military Intelligence Brigade and AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade, 2004, collectively entitled Investigation of Intelligence Activities at Abu Ghraib, both report the result of investigations into the incidents at Abu Ghraib conducted by the United States military. See also the Independent Panel to Review Department of Defense Detention Operations, 2004, the published results of an independent review.)

In conjunction with the advent of military operations in Afghanistan and Iraq, the opening of Guantanamo Bay prison and increased covert action by the CIA, there are now a number of sources for descriptive evidence of interrogation techniques used after the attacks of September 11, 2001. Mackey and Miller (2004) write about Mackey's service as a military interrogator in Afghanistan, Saar (2005) describes his tenure as military interpreter and intelligence soldier at Guantanamo Bay, Holton (2005) discusses his role as a military interrogator in Iraq, and Lagouranis (2007) also writes about his service as a military interrogator, in Iraq. Mackey's recounting is relatively benign while Saar, McKelvey (2007), and Lagouranis tell of questionable practices, including torture, that they insist were the norm, not the exception. Holton does not give an in depth account of his role as an interrogator but generally characterizes his activities as in accordance with appropriate guidelines and methods. With the exception of McKelvey, the other books are first-person accounts of military interrogators; McKelvey interviewed military personnel as well as former prisoners and their families.

McKelvey's book, *Monstering*, takes its name from a technique used by military interrogators to "break" an uncooperative subject and Mackey (2004) describes the practice in detail. He and other interrogators believed that if interrogator and prisoner were subject to the same conditions, including sleep deprivation, a marathon interrogation session would not run afoul of army regulations, U.S., or international law. The practice was used sparingly, according to Mackey, and required interrogator and subject to remain awake in the interrogation booth until the subject began to cooperate; one session lasted 29 hours. McKelvey describes monstering, as practiced in Iraq, to be a form of torture that used teams of interrogators, loud noises, and environmental controls, among other things. While interrogators needed to formally request the ability to use these "harsh" techniques, she quotes one soldier who said "I never saw a sheet unsigned." (160)

Begg (2006), a British citizen of Pakistani descent, describes his imprisonment and interrogations in Afghanistan and at Guantanamo Bay, which included torture. Kurnaz (2008), a Turkish citizen, recounts his five years at Guantanamo where he also says he was subjected to torture. Maher Arar, a Canadian citizen of Syrian descent, has widely described how he was arrested by American authorities and sent to Syria where he was tortured, (e.g. Feuer, 2007), and numerous newspaper and magazine articles published similar allegations. (e.g. Shane, Johnston, & Risen, 2007; Human Rights Watch, 2004; Schmitt, 2006.)

A number of anecdotal reports describe the interrogations of Al Qaeda lieutenant Abu Zabaydah. Posner (2003) writes that FBI officials believed their more humane efforts yielded good information while more aggressive questioning by CIA operatives did not. Posner recounts some of the details of the Zabaydah interrogation, which included the use of sodium pentathol, to loosen up the Bin Laden aide. The tapes of the interrogation and their destruction are now the subject of investigations by Congress and a federal prosecutor (Mazzetti & Johnston, 2008) According to Eban (2007), when Zabaydah was captured after a "firefight," he was a "mess," having been shot in the groin. When Zabaydah was medically stabilized, FBI agents began their "rapport building" approach with the prisoner and were beginning to gather useful information. The CIA then took custody of Zabaydah and instituted "harsh" techniques authorized by the president (e.g. Eggen & Pincus, 2007; Johnston, 2008).

Bowden (2003) discusses the interrogation of Khalid Sheik Mohammed, the alleged mastermind of the September 11th 2001 attacks and another of Al Qaeda's key members. According to Bowden, the CIA subjected Mohammed to waterboarding, isolation, environmental manipulation, loud noises, continual light, stress positions, drugs, sleep deprivation, hooding, and hunger, among other methods. He was told that his family was in custody and their status and safety depended upon his cooperation, a tactic used by Jack Bauer during an interrogation. In Bauer's case, however, he stages the execution of the subject's child to secure cooperation. Unnamed CIA officials said Mohammed began to talk after 90 seconds of waterboarding, (White, 2007), although some in the FBI doubt the value of the information he may have provided or that he could survive that length of time under such conditions (White). In 90 seconds, about 1.2 gallons of water would have been poured down Mohammed's throat (White, 2007).

LESSONS FROM LAW ENFORCEMENT: ISOLATION, RAPPORT, AND FEAR

Although no significant social science research has tested military and counterterrorism interrogation techniques, social scientists have studied law enforcement techniques for a number of years and a large body of empirical and descriptive literature exists (e.g. Gudjonsson, 2003; Kassin, 2007; Leo, 1992; Virj, 2000). The law enforcement literature has dispelled many myths about police interrogation techniques, such as police officers' confidence in their ability to detect deception. It has helped to highlight more reliable practices. While the goal of counterterrorism interrogations differ from those in law enforcement, military techniques and those of other agencies are based in part on a law enforcement model and personnel may be subject to the same myths that affect police interrogators. One set of myths is the efficacy of the practices used by a fictionalized counterterrorism agent on a television series.

Despite the differences between law enforcement and the military, there is some overlap in techniques and beliefs. Three methods currently endorsed by the military as effective share themes with law enforcement practices: isolation, fear, and rapport. These three practices are also endorsed by much of the current descriptive literature (Lagouranis, 2007; Mackey & Miller 2004).

Both military interrogators and those from law enforcement advance the idea that some form of isolation can induce cooperation in a subject. Police officers generally have sought to isolate a suspect from family, friends, and lawyers in the belief that outside parties will convince the suspect not to talk. Military interrogators use more extreme forms of isolation, sometimes reducing the prisoner's human contact and environmental stimulation to almost zero. They hope that the interrogator will become the focus for the prisoner's desire for human interaction. Law enforcement officers generate fear or anxiety in a suspect by subtly implying they know more about the case than they actually do or by overstating the quantity and quality of the evidence. A POW's fear of the unknown, based on his ignorance about his captors or worry about his treatment, is believed to increase his anxiety and, as a result, lead to his cooperation, especially if he believes he might be transferred to another country for questioning. Perhaps most importantly, both police and military interrogations accept the idea, even if in differing degrees, that connecting with a subject in some way and building rapport make for a successful result (e.g. Eban, 2007; Richey, 2007).

In their survey of the law enforcement literature to date, Neuman and Serrano (2005) find that there is no empirical support for these three common techniques in spite of their wide-spread use by police officers and military interrogators. According to Neuman and Serrano, the only factor positively correlated with obtaining a confession is the length of an interrogation: the longer the questioning, the more likely police will wear down the suspect and extract a confession or inculpatory information. In *24* where time is always of the essence, torture or the threat of torture often produces quick results.

The fictional Jack Bauer's primary weapon is fear: fear of death or great bodily injury unless the prisoner cooperates and provides information. The show's conceit, real time action

with a favorable resolution in twenty-four hours, adds to its seeming authenticity. In turn, policy makers, presidential candidates, and politicians refer to the fictional Jack Bauer (and his tactics) with admiration. Political leaders connect the fiction of *24* with the reality of the global battle against terrorism, a reality that offers no easy answers and is not resolved in twenty-four hours. This precarious, ever-evolving relationship between torture as depicted by Hollywood and the actual horrors of an Abu Ghraib neutralizes torture's possible costs and falsely offers it as an antidote to the fear and helplessness set in motion by the attacks of September 11, 2001. Unleash Bauer and all that he stands for, the show and some political leaders tell us, surrender to "the dark side" and the battle will be won, in twenty-four hours, minus commercials.

TORTURE'S EFFECTIVENESS

It is unlikely that leaders of democratic countries, like President Bush, would authorize harsh practices and torture unless they believed such practices work and are appropriate, at least for some prisoners. The judiciary of one democratic country, Israel, decided that the effectiveness issue was moot in light of the high cost of using questionable practices. In 1999, the Israeli Supreme Court issued an opinion that outlawed torture even in the "ticking time bomb" scenario (Judgment on the interrogation methods applied by the GSS, 1999). In that opinion, Justice Aharon Barak wrote that while a "democracy must sometimes fight with one hand tied behind its back, it none-the-less has the upper hand" (23). This decision was probably, in part, a response to sharp international criticism of Israel's security agencies. It also likely reflected soul-searching on the part of Israeli political leaders that the value of information obtained by torture was not worth international opprobrium.

There is a wide range of positions on the efficacy of torture or its use in general. Greenberg (2006) reviews a number of positions from support to limited use to total ban. Debate about the use of torture still avoids or ignores threshold issues that should be of concern to social scientists and interrogators who operate in the field. These questions include: Does torture work? Do harsh interrogation methods extract reliable actionable intelligence that could not be obtained without it? Do the techniques currently authorized by the United States military and federal agencies succeed in producing accurate, actionable information? What do the experts in the field believe are the most effective methods for getting information? Is torture one of them?

The question of torture's efficacy may be hypothetically answered in a number of ways: it works; it does not work; it only works with specific personality types; only certain types of torture work. The use of what are called "harsh" techniques deepens the problem. To some, the term "harsh methods" is a euphemism for torture (e.g. Claude & Weston, 2005). To others, the term appears to describe practices that fall somewhere between torture and techniques formally authorized for use by the United States military and other federal agencies such as the FBI or the CIA. For example, Ross and Esposito (2005) write that the CIA exposed detainees to repeated listenings of "The Slim Shady" album by Eminem, which made many nervous and anxious. Is this torture?

LAWS GOVERNING TORTURE

Torture has a number of definitions under U.S. and international law, and treaties to which the United States is a signatory. In addition, all members of the United Nations, by virtue of their membership, are bound by the United Nations Charter (Byers, 2005), including the United States. The United Nations Charter does not specifically ban torture but implies its prohibition in the document's Preamble. Byers argues that special, *jus cogens* rules, internationally accepted principles of fundamental human rights, overrule conflicting treaty provisions and include a ban on torture. The most universally accepted definition comes from the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Leavitt, 2004). The treaty, which has not been ratified by the United States Senate, defines torture as follows:

[A]ny act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions (1).

A number of federal laws also codify a definition of torture. For example, United States Code, Title 18, chapter 113c, section 2340, (2004), makes it a federal crime to torture outside of the U.S. and applies to citizens of the U.S. as well as torturers “present” on U.S. soil. Section 2340 defines torture as “an act committed under the color of law specifically designed to inflict severe physical or mental pain or suffering...” The law goes on to define “severe mental or physical suffering” as prolonged mental harm caused by or resulting from...the intentional infliction or threatened infliction of severe physical pain or suffering.” The use of drugs and threats are also covered under the statute, as are “procedures calculated to disrupt profoundly the senses or personality...” According to a legal memo prepared for the White House, (Bybee, 2002) the law had not been applied in the context of interrogations, either military or law enforcement. It is noteworthy that the federal law on torture requires that the action be “specifically designed” to inflict the harm, which is not necessarily the case when questioning a suspected terrorist.

Military personnel are subject to the Uniform Code of Military Justice (2006) and, although no specific provision of the code prohibits torture, a number of sections are applicable to the use of violence during an interrogation. For example, Article 93 of the code sanctions “cruelty and maltreatment” and Article 128 punishes “assault.” Article 93 states anyone who is “guilty of cruelty toward, or oppression, or maltreatment of any person” is subject to court-martial.

TORTURE & RECENT LEGISLATION

After signing the Detainee Treatment Act of 2005, Title X of the Department of Defense Authorization Bill, the president issued a signing statement, offering his interpretation of the act. In that signing statement, the president wrote:

[T]he executive branch shall construe Title X in Division A of the act, relating to detainees, in a manner consistent with the constitutional authority of the President to supervise the unitary executive branch and as Commander in Chief and consistent with the constitutional limitations on the judicial power which will assist in achieving the shared objective of the Congress and the President, evidenced in Title X, of protecting the American people from further terrorist attacks (1).

The Detainee Treatment Act of 2005 outlaws torture and requires that all interrogations comply with the new Army Field Manual 2-22.3 (FM), Human Intelligence Collector Operations (2006), even those conducted at Guantanamo Bay, Cuba, and by the CIA. It became a certainty when Congressional sponsors enlisted enough lawmakers to override a threatened presidential veto (Savage, 2006). However, the signing statement also appears to free the president's hand to authorize more harsh techniques. An unnamed senior White House official seemed to confirm this in comments to the Boston Globe.

Of course the president has the obligation to follow this law, [but] he also has the obligation to defend and protect the country as the commander in chief, and he will have to square those two responsibilities in each case... We are not expecting that those two responsibilities will come into conflict, but it's possible that they will (1).

If there were any doubt that many in the federal government wanted the president to have the discretion to approve techniques he believes are necessary to protect the United States, that doubt was erased when Congress passed the Military Commissions Act of 2006 (2006). The Military Commissions Act of 2006 states that individuals whom the president designates as "enemy combatants" do not fall within the protections of Article III of the Geneva Conventions, Relative to the Treatment of Prisoners of War (1950), and, therefore, are subject to interrogation techniques deemed appropriate by the president, including conceivably, torture (The New York Times, editorial, September 28, 2006). The New York Times called the law "our generation's version of the Alien and Sedition Acts."

It is tempting to think that in today's conflicts, some of which are perceived to be without rules, fictional characters such as Bauer, who on television saves the United States each season in twenty-four hours, are models of how to protect us. Bauer's frequent success on television using extreme measures can create an illusion that such measures are appropriate and that they work better or more quickly than practices that fall within the constraints U.S. and international law. As Mayer (2007) writes:

[F]or all its fictional liberties, '24' depicts the fight against Islamist extremism much as the Bush Administration has defined it: as an all-consuming struggle for America's survival that demands the toughest of tactics. Not long after September 11th, Vice-President Dick Cheney alluded vaguely to the fact that America must begin working through the 'dark side' in countering terrorism. On '24,' the dark side is on full view... [Joel] Surnow, the show's executive producer and co-creator, who has jokingly called himself a 'right-wing nut job,' shares his show's hard-line perspective. Speaking of torture, he said, "Isn't it obvious that if there was a nuke in New York City that was about to blow—or any other city in this country—that, even if you were going to go to jail, it would be the right thing to do (1)?"

Mayer adds that according to David Danzig, the project director of Human Rights First, the "torturers have changed. It used to be almost exclusively the villains who tortured. Today torture is often perpetrated by the heroes," including fictional heroes like Jack Bauer. It is also the case that real policy makers are publically endorsing counterterrorism practices created in Hollywood and used by an actor who assumes the role of a fictitious government agent on television.

HARSH TECHNIQUES

It is difficult to determine what constitutes a "harsh," "high pressure," or "enhanced" technique. All of these terms have been used by political leaders when they have discussed how to interrogate suspected terrorists, with perhaps "harsh" the most frequent term. For example, in 2004 the CIA suspended self-described "enhanced interrogation techniques" (Priest, 2004). "Enhanced interrogation techniques," according to an unnamed CIA official, are "stress positions," "light and noise bombardment," "sleep deprivation," denial of pain medication," and what Priest called "feigned drowning" or what has become known as waterboarding (Priest). All of these techniques are currently prohibited by the U.S. military.

Human Rights First and Physicians Against Torture co-authored a report about the use of enhanced by the CIA (2007) but their report did not specifically define the term. Despite this, the report gives examples of "enhanced" techniques that include "water-boarding (sic), hitting, induced hypothermia, and stress positions, total and long-term isolation, and constant bombardment with loud music and flashing lights." Their report emphasizes that tactics that do not leave physical marks, like many of the "enhanced" techniques, are none-the-less torture and in violation of U.S. and international law. Rejali (2007) calls this "clean torture" because of the absence of marks and the fact that this treatment does not "fit" commonly held ideas about what constitutes torture. Sullivan (2007) finds that the term "enhanced interrogation" comes from the German *Verscharfe Vernehmung*, a phrase used in a 1937 Nazi interrogation methods memo that suggests practices, similar to those endorsed by the CIA, to break uncooperative subjects.

To add to the confusion, a Washington Post article recounts the destruction of CIA interrogation tapes depicting the questioning of two of Osama Bin Laden's reputed lieutenants and the use of "harsh" interrogation methods (Pincus 2007). During the Republican presidential candidate debate in South Carolina (Council on Foreign Relations, Republican Debate Transcript, 2007), the candidates used a number of terms when discussing techniques that go

beyond those formally authorized for use in interrogations, including “every method but torture,” “enhanced interrogation techniques, “very high pressure techniques,” and, to “respond in a way to make them [terrorists] fearful.” In response to the remarks of the other candidates, Representative Ron Paul of Texas stated, “it’s interesting talking about torture here in that it’s become enhanced interrogation techniques. It sounds like Newspeak (sic).” To Paul and many others, the words “enhanced techniques” mean torture.

POLITICAL SUPPORT FOR HARSH TECHNIQUES

During the Republican presidential candidate debate referenced above, one of the debate moderators, Brit Hume, posed the “ticking time bomb” scenario to the debaters, one he described as “plausible.” (Council on Foreign Relations, South Carolina Republican Debate Transcript, 2007). He asked the panelists “how aggressively would you [sic] interrogate those being held at Guantanamo Bay for information about where the next attack might occur?” This hypothetical conundrum is offered by some as a situation in which even those opposed to torture would concede that all necessary means must be used to gain information that could save thousands or more from a catastrophic attack (Greenberg, 2006). Dershowitz (2002) describes the hypothetical as one in which a captured terrorist holds information about an “imminent attack” but refuses to provide the information “necessary to prevent it.” Experts consider it an unlikely series of events (Greenberg).

At the debate, McCain responded to Hume's question first. The Arizona senator spent over five years as a prisoner of the North Vietnamese and has acknowledged that he was tortured (Santora, 2007). McCain said the hypothetical was unlikely, a “million-to-one,” and he ruled out the use of torture in “999,999 of cases” (Council on Foreign Relations, Republican Debate Transcript, 2007). Former New York City mayor Rudolph Giuliani, who later ended his campaign, responded “I would tell the [interrogators] to use every method...It shouldn’t be torture, but every method they can think of” (Brooks, 2007).

“Waterboarding” is a technique that is sometimes described as pouring water over the face of a person who is restrained (Rejali, 2007) and was used by the CIA when agents interrogated high level captives (e.g. Mazzetti; Mazzetti & Johnston). According to Rejali, “waterboarding”, no matter how defined, is universally considered torture under U.S. and international law. Recently, the United Nations High Commissioner for Human Rights declared waterboarding a form of torture (Rosenberg, 2008). When asked at the debate if this was permissible, Giuliani answered “I would – and I would – well, I’d say every method they can think of” (Brooks). Former Massachusetts governor Mitt Romney, who is no longer a candidate for president, answered “not torture but enhanced interrogation techniques, yes” (Council on Foreign Relations, Republican Debate Transcript, 2007). California Congressman Duncan Hunter, a Vietnam combat veteran, said “I would say to [the Secretary of Defense], in terms of getting information that would save American lives, even if it involves very high-pressure techniques, one sentence: Get the information. Have it back within an hour, and let's act on it” (Council on Foreign Relations, Republican Debate Transcript, 2007). Duncan has also ended his campaign. Brooks writes that Colorado Congressman Tom Tancredo drew the largest applause with his answer. “We’re wondering about whether water-boarding would be a - a bad thing to

do? I'm looking for a Jack Bauer at that time, let me tell you" (Council on Foreign Relations, Republican Debate Transcript, 2007).

When Tancredo endorsed the practices of a fictional counterterrorism agent as appropriate policy, he illustrated how deeply *24* has penetrated the consciousness of Americans. Nearly six years after the attacks on the World Trade Center and the Pentagon, strategies to fight terrorism are created in Hollywood and sold to a public who may be unable to separate truth from fiction or is too traumatized to care.

Bauer is a model counterterrorism agent to Tancredo and many other Americans, in part, because he never agonizes over his decision to torture or break the rules. He acts decisively with a clear goal: to save the United States from a catastrophic terrorist attack.

In the national debate over interrogation methods, *24* and its fictional protagonist have convinced many viewers, including political leaders, that torture is a quick and efficient way to gather intelligence, without moral ambiguity. In the end, Bauer's apparent success using torture during interrogations distorts the available evidence from the field and offers a false paradigm for a complex problem.

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