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## Prosecute Torturers and Their Bosses

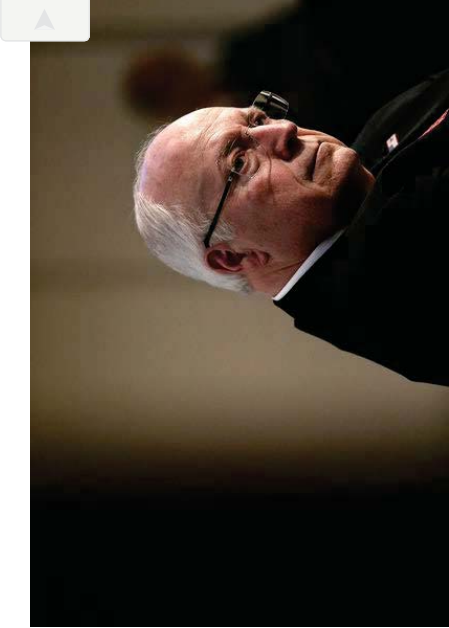
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Since the day President Obama took office, he has failed to bring to justice anyone responsible for the torture of terrorism suspects — an official government program conceived and carried out in the years after the attacks of Sept. 11, 2001.

He did allow his Justice Department to investigate the C.I.A.'s destruction of videotapes of torture sessions and those who may have gone beyond the torture techniques authorized by President George W. Bush. But the investigation did not lead to any charges being filed, or even any accounting of why they were not filed.

Mr. Obama has said multiple times that “we need to look forward as opposed to looking backwards,” as though the two were incompatible. They are not. The nation cannot move forward in any meaningful way without



Win McNamee/Getty  
Dick Cheney. Images

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TO NEW REVELATIONS OF SADISTIC TACTICS LIKE “ICEBERG TAPPING,” SCORES OF detainees were waterboarded, hung by their wrists, confined in coffins, sleep-deprived, threatened with death or brutally beaten. In November 2002, one detainee who was chained to a concrete floor died of “suspected hypothermia.”

These are, simply, crimes. They are prohibited by federal law, which defines torture as the intentional infliction of “severe physical or mental pain or suffering.” They are also banned by the Convention Against

[Torture](#), the international treaty that the United States ratified in 1994 and that requires prosecution of any acts of torture.

So it is no wonder that today's [blinkered apologists](#) are desperate to call these acts anything but torture, which they clearly were. As the report reveals, these claims fail for a simple reason: C.I.A. officials [admitted](#) at the time that what they intended to do was illegal.

In July 2002, C.I.A. lawyers told the Justice Department that the agency needed to use "more aggressive methods" of interrogation that would "otherwise be prohibited by the torture statute." They asked the department to promise not to prosecute those who used these methods. When the department refused, they shopped around for the answer they wanted. They got it from the ideologically driven lawyers in the Office of Legal Counsel, who wrote memos fabricating a legal foundation for the methods. Government officials now rely on the memos as proof that they sought and received legal clearance for their actions. But the report changes the game: We now know that this reliance was not made in good faith.

No amount of legal pretzel logic can justify the behavior detailed in the report. Indeed, it is impossible to read it and conclude that no one can be held accountable. At the very least, Mr. Obama needs to authorize a full and independent criminal investigation.

The American Civil Liberties Union and Human Rights Watch are to give Attorney General Eric Holder Jr. a letter Monday calling for appointment of a special prosecutor to investigate what appears increasingly to be "a vast criminal conspiracy, under color of law, to commit torture and other serious crimes."

The question everyone will want answered, of course, is: Who should be held accountable? That will depend on what an investigation finds, and as hard as it is to imagine Mr. Obama having the political courage to order a new investigation, it is harder to imagine a criminal probe of the actions of a former president.

But any credible investigation should include former Vice President Dick Cheney; Mr. Cheney's chief of staff, David Addington; the former C.I.A. director George Tenet; and John Yoo and Jay Bybee, the Office of Legal Counsel lawyers who drafted what became known as [the torture memos](#). There are many more names that could be considered, including Jose Rodriguez Jr., the C.I.A. official who [ordered](#) the destruction of the videotapes; the [psychologists who devised](#) the torture regimen; and the C.I.A. employees who carried out that regimen.

One would expect Republicans who have gone hoarse braying about Mr. Obama's executive overreach to be the first to demand accountability, but with [one notable exception](#), Senator John McCain, they have either fallen silent or [actively defended the indefensible](#). They cannot even point to [any results](#): Contrary to repeated claims by the C.I.A., the report concluded that "at no time" did any of these techniques yield intelligence that averted a terror attack. And at least 26 detainees were later determined to have been "[wrongfully held](#)."

Starting a criminal investigation is not about payback; it is about ensuring that this never happens again and regaining the moral credibility to rebuke torture by other governments. Because of the Senate's report, we now

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know the distance officials in the executive branch went to rationalize, and conceal, the crimes they wanted to commit. The question is whether the nation will stand by and allow the perpetrators of torture to have perpetual immunity for their actions.

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A version of this editorial appears in print on December 22, 2014, on page A26 of the New York edition with the headline: Prosecute Torturers and Their Bosses, Order Reprints | Today's Paper | Subscribe

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FRANK BRUNI

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