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EDITORIAL

The Torturers' Manifesto

To read the four newly released memos on prisoner interrogation written by George W. Bush's Justice Department is to take a journey into depravity.

Their language is the precise bureaucratese favored by dungeon masters throughout history. They detail how to fashion a collar for slamming a prisoner against a wall, exactly how many days he can be kept without sleep (11), and what, specifically, he should be told before being locked in a box with an insect — all to stop just short of having a jury decide that these acts violate the laws against torture and abusive treatment of prisoners.

In one of the more nauseating passages, Jay Bybee, then an assistant attorney general and now a federal judge, wrote admiringly about a contraption for waterboarding that would lurch a prisoner upright if he stopped breathing while water was poured over his face. He praised the Central Intelligence Agency for having doctors ready to perform an emergency tracheotomy if necessary.

These memos are not an honest attempt to set the legal limits on interrogations, which was the authors' statutory obligation. They were written to provide legal immunity for acts that are clearly illegal, immoral and a violation of this country's most basic values.

It sounds like the plot of a mob film, except the lawyers asking how much their clients can get away with are from the C.I.A. and the lawyers coaching them on how to commit the abuses are from the Justice Department. And it all played out with the blessing of the defense secretary, the attorney general, the intelligence director and, most likely, President Bush and Vice President Dick Cheney.

The Americans Civil Liberties Union deserves credit for suing for the memos' release. And President Obama deserves credit for overruling his own C.I.A. director and ordering that the memos be made public. It is hard to think of another case in which documents stamped "Top Secret" were released with hardly any deletions.

But this cannot be the end of the scrutiny for these and other decisions by the Bush administration.

Until Americans and their leaders fully understand the rules the Bush administration concocted to justify such abuses — and who set the rules and who approved them — there is

no hope of fixing a profoundly broken system of justice and ensuring that that these acts are never repeated.

The abuses and the dangers do not end with the torture memos. Americans still know far too little about President Bush's decision to illegally eavesdrop on Americans — a program that has since been given legal cover by the Congress.

Last week, The Times reported that the nation's intelligence agencies have been collecting private e-mail messages and phone calls of Americans on a scale that went beyond the broad limits established in legislation last year. The article quoted the Justice Department as saying there had been problems in the surveillance program that had been resolved. But Justice did not say what those problems were or what the resolution was.

That is the heart of the matter: nobody really knows what any of the rules were. Mr. Bush never offered the slightest explanation of what he found lacking in the 1978 Foreign Intelligence Surveillance Act when he decided to ignore the law after 9/11 and ordered the warrantless wiretapping of Americans' overseas calls and e-mail. He said he was president and could do what he wanted.

The Bush administration also never explained how it interpreted laws that were later passed to expand the government's powers to eavesdrop. And the Obama administration argued in a recent court filing that everything associated with electronic eavesdropping, including what is allowed and what is not, is a state secret.

We do not think Mr. Obama will violate Americans' rights as Mr. Bush did. But if Americans do not know the rules, they cannot judge whether this government or any one that follows is abiding by the rules.

In the case of detainee abuse, Mr. Obama assured C.I.A. operatives that they would not be prosecuted for actions that their superiors told them were legal. We have never been comfortable with the "only following orders" excuse, especially because Americans still do not know what was actually done or who was giving the orders.

After all, as far as Mr. Bush's lawyers were concerned, it was not really torture unless it involved breaking bones, burning flesh or pulling teeth. That, Mr. Bybee kept noting, was what the Libyan secret police did to one prisoner. The standard for American behavior should be a lot higher than that of the Libyan secret police.

At least Mr. Obama is not following Mr. Bush's example of showy trials for the small fry — like Lynndie England of Abu Ghraib notoriety. But he has an obligation to pursue what is clear evidence of a government policy sanctioning the torture and abuse of prisoners — in violation of international law and the Constitution.

That investigation should start with the lawyers who wrote these sickening memos, including

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John Yoo, who now teaches law in California; Steven Bradbury, who was job-hunting when we last heard; and Mr. Bybee, who holds the lifetime seat on the federal appeals court that Mr. Bush rewarded him with.

These memos make it clear that Mr. Bybee is unfit for a job that requires legal judgment and a respect for the Constitution. Congress should impeach him. And if the administration will not conduct a thorough investigation of these issues, then Congress has a constitutional duty to hold the executive branch accountable. If that means putting Donald Rumsfeld and Alberto Gonzales on the stand, even Dick Cheney, we are sure Americans can handle it.

After eight years without transparency or accountability, Mr. Obama promised the American people both. His decision to release these memos was another sign of his commitment to transparency. We are waiting to see an equal commitment to accountability.

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