

# Torture Crimes Officially, Permanently Shielded

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In August, 2009, Attorney General Eric Holder — under [continuous, aggressive prodding](#) by the Obama White House — [announced](#) that three categories of individuals responsible for Bush-era torture crimes would be fully immunized from any form of criminal investigation and prosecution:

(1) [Bush officials who ordered the torture](#) (Bush, Cheney, Rice, Powell, Ashcroft, Rumsfeld);

(2) [Bush lawyers who legally approved it](#) (Yoo, Bybee, Levin), and

(3) those in the CIA and the military who tortured within the confines of the permission slips they were given by those officials and lawyers (i.e., “good-faith” torturers).

The one exception to this sweeping immunity was that low-level CIA agents and servicemembers who went so far beyond the torture permission slips as to basically commit brutal, unauthorized murder would be [subject to a “preliminary review” to determine if a full investigation was warranted](#) — in other words, the Abu Ghraib model of justice was being applied, where only low-ranking scapegoats would be subject to possible punishment while high-level officials would be protected.

Yesterday, it [was announced](#) that this “preliminary review” by the prosecutor assigned to conduct it, U.S. Attorney John Durham, is now complete, and — exactly as one would expect — even this category of criminals has been almost entirely protected, meaning a total legal whitewash for the Bush torture regime:

The Justice Department has opened full criminal investigations of the deaths in CIA custody of **two detainees**, including one who perished at Iraq’s notorious Abu Ghraib prison, U.S. officials said Thursday.

The decision, announced by Attorney General Eric H. Holder Jr., means continued legal jeopardy for several CIA operatives but at the same time **closes the book on inquiries that potentially threatened many others**. A federal prosecutor reviewed **101 cases** in which agency officers and contractors interrogated suspected terrorists during years of military action after the Sept. 11, 2001, attacks but found cause to pursue criminal cases **in only two**. . . .

The two token cases to be investigated involve the most grotesque brutality imaginable: they apparently are (1) a detainee who froze to death in an American secret prison in Afghanistan in 2002 after being ordered stripped and chained to a concrete floor, and (2) the 2003 death of a detainee at Abu Ghraib whose body was infamously photographed by guards giving a thumbs-up sign. All other crimes in the Bush torture era will be fully

protected. Lest there be any doubt about what a profound victory this is for those responsible for the torture regime, consider the reaction of the CIA:

“On this, my last day as director, **I welcome the news that the broader inquiries are behind us,**” said a statement from CIA Director Leon Panetta, who will take over as defense secretary on Friday. **“We are now finally about to close this chapter of our agency’s history”** . . . . At CIA headquarters on Thursday, Holder’s announcement was **greeted with relief.** .

Consider what’s being permanently shielded from legal accountability. The Bush torture regime extended to numerous prisons around the world, in which tens of thousands of mostly Muslim men were indefinitely imprisoned without a whiff of due process, and included a network of secret prisons — “black sites” — purposely placed beyond the monitoring reach of even international human rights groups, such as the International Red Cross.

Over [100 detainees died](#) during U.S. interrogations, [dozens due directly to interrogation abuse](#). [Gen. Barry McCaffrey said](#): “We tortured people unmercifully. We probably **murdered dozens** of them during the course of that, both the armed forces and the C.I.A.” Maj. Gen. Antonio Taguba, who oversaw the official investigation into detainee abuse, [wrote](#): **“there is no longer any doubt as to whether the current administration has committed war crimes. The only question that remains to be answered is whether those who ordered the use of torture will be held to account.”**

Thanks to the Obama DOJ, that is no longer in question. The answer is resoundingly clear: American war criminals, responsible for some of the most shameful and inexcusable crimes in the nation’s history — the systematic, deliberate legalization of a worldwide torture regime — will be fully immunized for those crimes. And, of course, the Obama administration has spent years just as aggressively shielding those war criminals from all other forms of accountability beyond the criminal realm: invoking [secrecy](#) and [immunity](#) doctrines to prevent their victims from imposing civil liability, [exploiting their party’s control of Congress to suppress formal inquiries](#), and [pressuring and coercing other nations](#) not to investigate their own citizens’ torture at American hands.

All of those efforts, culminating in yesterday’s entirely unsurprising announcement, means that the U.S. Government has effectively shielded itself from even minimal accountability for its vast torture crimes of the last decade. Without a doubt, that will be one of the most significant, enduring and consequential legacies of the Obama presidency.

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