

## Legal Sidebar

# Selected CRS Materials on Detention and Interrogation of Terrorist Suspects and Enemy Belligerents

12/16/2014

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The release of the executive summary of [the Senate Select Committee on Intelligence \(SSCI\) report on CIA detention and interrogation](#) practices in the years immediately following the 9/11 terrorist attacks, as well as the [minority review of the study](#), has reinvigorated the public debate about the legality of the program. Among the issues of contention include whether U.S. detention and interrogation practices were permissible under domestic and international law, and whether U.S. personnel who authorized or engaged in such practices could be subject to criminal liability. A look into CRS archives may shed light on some of the questions raised.

The United States is a party to a number of international agreements which prohibit parties from subjecting persons in their custody to torture or other forms of cruel treatment. Many of these requirements have been implemented or supplemented by domestic legislation. For discussion of developments in domestic law concerning the treatment and interrogation of detainees, including post-9/11 enactments restricting the use of some interrogation techniques not rising to the level of torture, see CRS Report RL3365, [Interrogation of Detainees: Requirements of the Detainee Treatment Act](#). An overview of the legal framework under international law applicable to the treatment of detainees held outside the United States is found in CRS Report RL33643 [Undisclosed U.S. Detention Sites Overseas: Background and Legal Issues](#). For an analysis of certain interrogation techniques and their compliance with the UN Convention against Torture and domestic implementing legislation, see CRS Report RL32438, [U.N. Convention Against Torture \(CAT\): Overview and Application to Interrogation Techniques](#). Examination of certain interrogation techniques' compliance with the 1949 Geneva Conventions is found in CRS Report RL32567, [Lawfulness of Interrogation Techniques under the Geneva Conventions](#). It should be noted that the Obama Administration may have altered the U.S. interpretation of the applicability of certain human rights treaties to U.S. activities abroad, as explained in a previous Legal Sidebar [post](#).

Another issue that has been the subject of scrutiny concerns the transfer of suspected terrorists or enemy belligerents by the United States to the custody of other governments for the purpose of detention and interrogation. For a discussion of the domestic and international legal restrictions applicable to the practice of extraordinary or irregular rendition, under which a person might be transferred from the custody of one country to another through an extrajudicial process, see CRS Report RL32890, [Renditions: Constraints Imposed by Laws on Torture](#).

Another long-standing issue of discussion has been whether U.S. personnel who ordered or participated in the harsh interrogation of terrorist suspects and enemy belligerents could potentially face criminal liability under U.S. law, or whether such persons could potentially face criminal prosecution before the International Criminal Court. Accountability for possible violations under applicable U.S. criminal statutes is covered by CRS Report RL33662, [The War Crimes Act: Current Issues](#), as well as [CRS Report RL3365, Interrogation of Detainees: Requirements of the Detainee Treatment Act](#). Further discussion of means of accountability and obligations for redress may be found in CRS Report RL32395, [U.S. Treatment of Prisoners in Iraq: Selected Legal Issues](#). For information about the jurisdiction of the International Criminal Court, see CRS Report R41116, [The International Criminal Court \(ICC\): Jurisdiction, Extradition, and U.S. Policy](#).