

November 28, 2018

Dear Senators:

We are a group of non-governmental organizations that advocate for human rights, civil rights, and government accountability. We are writing to share our serious concerns about President Trump's nomination of Marshall Billingslea to be Under Secretary for Civilian Security, Democracy, and Human Rights at the Department of State, given Mr. Billingslea's well-documented history of advocating for the use of torture and other unlawful interrogation practices.

The Under Secretary for Civilian Security, Democracy, and Human Rights is the senior-most executive branch official directly responsible for forming and implementing U.S. government policy on promoting universal human rights, preventing mass atrocities, aiding refugees and victims of conflict, fighting corruption, combatting human trafficking, and countering terrorism, among other tasks.¹ He or she routinely and directly engages with foreign governments, civil society, media, and victims of human rights violations on these topics and is expected to explain to these audiences why the U.S. government rejects torture and other forms of ill-treatment as a matter of law and policy. He or she also maintains oversight of many hundreds of millions of dollars' worth of foreign assistance aimed at aiding refugees, protecting human rights defenders, supporting torture survivors, assisting survivors of human trafficking, and otherwise helping civilians exposed to the ravages of war and government abuse. Accordingly, he or she must be a strong advocate for policies and assistance accounts that seek to protect and promote human rights within the interagency policy and budgetary formulation processes.

Mr. Billingslea lacks relevant background and experience concerning the vast majority of tasks that fall under the purview of the Under Secretary for Civilian Security, Democracy, and Human Rights,² a position into which recent Democratic and Republican administrations have appointed senior officials with extensive backgrounds in human rights, development, and refugee policy. Moreover, and most importantly, we are deeply troubled at the possibility that someone with a [record of endorsing torture](#) and other ill-treatment will be the face of American efforts to advance justice and human rights abroad.³

According to a bi-partisan report on detainee treatment unanimously adopted by the [Senate Armed Services Committee](#) ("SASC Report"), Mr. Billingslea encouraged the use of interrogation methods that amounted to torture or other cruel, inhuman, or degrading treatment while he served as the Principal Deputy Assistant Secretary of Defense for Special

¹ The holder of the office oversees seven State Department bureaus and offices, including, but not limited to, the Bureau of Democracy, Human Rights, and Labor (DRL), Bureau of Conflict and Stabilization Operations (CSO), Bureau of Population, Refugees, and Migration (PRM), and Bureau of International Narcotics and Law Enforcement Affairs (INL). The holder of the office has also recently been tasked with jointly serving as the Special Coordinator for Tibetan Issues.

² "U.S. Department of the Treasury," Marshall Billingslea, https://www.treasury.gov/about/organizational-structure/Pages/marshall_billingslea.aspx

³ Human Rights First, "Marshall Billingslea, Nominee for Under Secretary of State for Civilian Security, Democracy, and Human Rights, Linked to Torture," https://www.humanrightsfirst.org/sites/default/files/Billingslea_Fact_Sheet.pdf (October 2018).

Operations/Low-Intensity Conflict Under Defense Secretary Donald Rumsfeld during the administration of President George W. Bush.⁴

To support their use, Billingslea falsely claimed, in a memo addressed to the Secretary of Defense, that a defense department working group, of which he was a member, “endorsed” the use of a number of techniques amounting to torture or other ill-treatment.⁵ In fact, the working group report included senior civilian and military lawyers who opposed torture⁶, and the final report had been completed without the knowledge of the working group’s dissenting members.⁷

Mr. Billingslea also pushed for additional torture techniques to be used on a specific detainee, Mohamedou Ould Slahi.⁸ Slahi was a Mauritanian man detained at the Guantánamo Bay detention camp without charge from 2002 until his release on October 17, 2016. According to the SASC report, Mr. Billingslea forwarded a memo notifying Secretary Rumsfeld that JTF-GTMO intended to isolate Slahi and recommending that he approve the use of "sleep deprivation" and "sound modulation at decibel levels not harmful to hearing,"⁹ both of which amount to a breach of the absolute prohibition on torture and other ill-treatment.¹⁰ Secretary Rumsfeld approved the techniques, which were subsequently used on Slahi. In 2004, the Marine officer charged with prosecuting Slahi in a military commission determined that statements elicited from Slahi were obtained under torture and resigned his position so as not to participate in the proceedings.¹¹

All the undersigned organizations have serious concerns about Mr. Billingslea’s record,¹² his possible involvement in violations of U.S. and international law, and how this will affect his ability to perform the duties he would be tasked with in this position. Before holding a confirmation hearing on his nomination, the Senate Foreign Relations Committee should insist

⁴ Committee on Armed Services United States Senate, “Inquiry into the Treatment of Detainees in U.S. Custody,” (“SASC Detainee Treatment Report”) (2008), https://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final_April-22-2009.pdf.

⁵ SASC Detainee Treatment Report, p. 131.

⁶ Throughout the working group’s deliberations of the working group, several of its members, including top lawyers for the Army, Navy, Air Force, and Marine Corps, had raised objections to the its draft report. Then-General Counsel of the Navy Alberto Mora described the legal standard the group was using to determine the legality of the interrogation techniques as a “travesty of the applicable law.” SASC Detainee Treatment Report, p. 138. And in a statement backed by several other top military lawyers, then- Deputy Judge Advocate General of the Air Force Major General Jack Rives objected that “[s]everal of the more extreme interrogation techniques, on their face, amount to violations of domestic criminal law and [the Uniform Code of Military Justice].” Memorandum for SAF/GC, Feb. 5, 2003, available at: <https://balkin.blogspot.com/jag.memos.pdf>

⁷ SASC Detainee Treatment Report, p. 131.

⁸ Ibid, p. 137.

⁹ A handwritten note on the memo Mr. Billingslea forwarded stated that "OGC concurs that this is legal. We don't see any policy issues with these interrogation techniques. Recommend you authorize." SASC Detainee Treatment Report, p. 138.

¹⁰ The Army Field Manual in use at the time described sleep deprivation as “mental torture.” DEP’T OF THE ARMY, FM 34-52 INTELLIGENCE INTERROGATION (1992), 1-8. The technique of “sound modulation,” which included s playing harsh music loudly and on repeat for long periods of time in order to mentally “break” a detainee and to prevent him from sleeping. Kelsey McKinney, “How the CIA used music to ‘break’ detainees” Vox, www.vox.com (December 11, 2014).

¹¹ Jess Bravin, *The Terror Courts, Rough Justice at Guantanamo Bay*, (Yale University Press, 2013) p. 152

¹² Many of the undersigned organizations do not as a matter of policy take positions for or against political nominees.

that the Trump administration declassify and release publicly all memos, e-mails, notes, and other documents, including those Mr. Billingslea authored or approved, that could provide additional information regarding his involvement in the approval, authorization, or use of torture or other cruel, inhuman, or degrading treatment.

Even if such documents are not released publicly in full, the Senate's own public report, as highlighted above, does in and of itself raise significant and compelling concerns. We urge you to take these particularly troubling elements into account during the confirmation process.

Sincerely,

Alianza Americas
American Civil Liberties Union
American Jewish World Service
Amnesty International USA
Center for Gender and Refugee Studies
Center for Victims of Torture
Charity & Security Network
Defending Rights & Dissent
Demand Progress Education Fund
Grassroots International
Human Rights First
Human Rights Watch
Latin America Working Group
National Immigrant Justice Center
National Religious Campaign Against Torture
Open Society Policy Center
Physicians for Human Rights
Project On Government Oversight
South East Asia Faith Initiatives
Washington Office on Latin America
Win Without War