

March 16, 2018

Dear Senator,

We write to express our grave concerns regarding the nomination of Gina Haspel for Director of the Central Intelligence Agency (CIA), and to ask that you not advance her nomination until all of the records on her past involvement in the CIA torture program are declassified and released to the public. Senators should be concerned not only by Ms. Haspel's reported role overseeing the torture of detainees at a secret CIA detention site in Thailand, but also by her participation in a deliberate attempt to avoid accountability by destroying video evidence of CIA torture.

Ms. Haspel joined the CIA in 1985, and has held several leadership roles in the agency's clandestine operations. She was named Deputy Director of the CIA in 2017, despite the objections of senators who urged President Trump to reconsider her nomination in light of her past connection to torture.¹ Amid similar controversy in 2013, Haspel was denied a promotion to lead the CIA's National Clandestine Service.²

We have strong concerns about Ms. Haspel's reported role overseeing the torture of detainees at a clandestine detention site in Thailand, and her subsequent role in the destruction of evidence of those torture crimes. Detainees at the Thailand "black site" were waterboarded, slammed against walls, subjected to enforced sleeplessness, and confined to coffin-shaped boxes, among other criminal practices.³ Ms. Haspel reportedly was in a supervisory position over the Thailand "black site" during this period—including an on-site leadership role when at least one detainee was brutally tortured—and knew about, reported on, and was otherwise involved in other cases of torture and detainee abuse.⁴ But the full extent of her involvement is impossible to confirm because the CIA continues to insist that information about the full extent of her role remain classified. Executive Order 13526 prohibits the classification of records to "conceal violations of law, inefficiency, or administrative error" or "prevent embarrassment to a person, organization, or agency," so there is no reason for the torture program, or

¹ See: "Wyden, Heinrich Express Concern on Selection of Gina Haspel to be Deputy Director of the CIA," February 2, 2017, *available at*:

<https://www.wyden.senate.gov/news/press-releases/wyden-heinrich-express-concern-on-selection-of-gina-haspel-to-be-deputy-director-of-the-cia>

² Greg Miller, "CIA selects new head of clandestine service, passing over female officer," Washington Post, May 7, 2013, *available at*:

https://www.washingtonpost.com/world/national-security/cia-selects-new-head-of-clandestine-service-passing-over-female-officer-tied-to-interrogation-program/2013/05/07/c43e5f94-b727-11e2-92f3-f291801936b8_story.htm

³ Senate Select Committee on Intelligence, "Committee Study of the Central Intelligence Agency's Detention and Interrogation Program," Executive Summary, December 13, 2012, *available at*:

https://www.feinstein.senate.gov/public/_cache/files/7/c/7c85429a-ec38-4bb5-968f-289799bf6d0e/D87288C34A6D9FF736F9459ABCF83210.sscistudy1.pdf

⁴ Adam Goldman, "Gina Haspel, Trump's Choice for C.I.A., Played Role in Torture Program," New York Times, March 13, 2018, *available at*:

<https://www.nytimes.com/2018/03/13/us/politics/gina-haspel-cia-director-nominee-trump-torture-waterboardin.html?smid=tw-share>

Ms. Haspel's role in it, to remain classified. Senators and the American people must be able to read these documents in assessing her nomination to be CIA Director.⁵

In addition to her role overseeing the use of torture, Ms. Haspel's participation in the destruction of videotapes of the torture program, over objections of White House counsel and CIA General Counsel among others, is alarming. In November 2005, amid increasing public outrage over revelations of torture at the Guantanamo Bay, Cuba detention facility, the CIA destroyed 92 videotapes of interrogations at clandestine facilities elsewhere.⁶ While the CIA maintains that the decision to destroy the tapes was made by then-Director of the National Clandestine Service Jose Rodriguez, Rodriguez says in his 2013 book that Haspel drafted the order herself.⁷ Former CIA Acting General Counsel John Rizzo says Haspel and Rodriguez were the "staunchest advocates inside the building for destroying the tapes."⁸

Destruction of the tapes appears to constitute a concerted effort to escape embarrassment and legal consequences. In 2004, in a Freedom of Information Act suit filed by the ACLU, a judge had ordered the government to preserve all records related to abuse of detainees overseas, which clearly applied to the videotapes.⁹ The incident was also a clear violation of the Federal Records Act, and indicates that Ms. Haspel does not believe she has an obligation to follow the law or a court order.¹⁰ The destruction of the videotapes even prompted then-Attorney General Michael Mukasey to appoint a prosecutor to investigate the destruction.

The Senate's constitutional obligation to "advise and consent" on any nomination requires that it have full access to relevant information on the nominees before it. In Ms. Haspel's case, the precise details of her role in the torture program remain classified. All senators should demand that those records be declassified and made public—before her nomination moves any further—so that they can actually discuss Ms. Haspel's deeply disturbing background in open session, and so that the public can glean a more detailed picture of her role in one of the darkest chapters in U.S. history.

Ms. Haspel was a central figure in the torture program and the destruction of evidence of torture. Based on already available records and public reporting, it is clear by her wrongdoing that she demonstrated disregard for the rule of law and fundamental human rights.

Sincerely,

American-Arab Anti-Discrimination Committee
American Civil Liberties Union
Arab American Institute

⁵ See: "Heinrich, Wyden Urge CIA to Declassify Information About Deputy Director Haspel's Background," February 23, 2017, *available at*: <https://www.heinrich.senate.gov/press-releases/heinrich-wyden-urge-cia-to-declassify-information-about-deputy-director-haspels-background>

⁶ Mark Mazetti, "U.S. Says C.I.A. Destroyed 92 Tapes of Interrogations," *New York Times*, March 2, 2009, *available at*: <http://www.nytimes.com/2009/03/03/washington/03web-intel.html>

⁷ Jose A. Rodriguez Jr., *Hard Measures: How Aggressive CIA Actions After 9/11 Saved American Lives*, Threshold Editions, 2013, pg. 193.

⁸ John Rizzo, *Company Man: 30 Years of Controversy and Crisis in the CIA*, Scribner, 2014, pg. 14.

⁹ See: *ACLU v. Department of Defense*, *available at*: <https://www.aclu.org/cases/aclu-v-department-defense>

¹⁰ Federal Records Act, 44 U.S.C. Chapter 31.

Brennan Center for Justice
Campaign for Liberty
Center for Constitutional Rights
Center for Victims of Torture
Citizens for Responsibility and Ethics in Washington
Defending Rights & Dissent
Demand Progress Action
Free Press
Government Accountability Project
Government Information Watch
Herd on the Hill
Human Rights First
Human Rights Watch
Indivisible
National Religious Campaign Against Torture
National Security Archive
No More Guantánamos
North Carolina Stop Torture Now
Open the Government
PEN America
Physicians for Human Rights
Project On Government Oversight
Reprieve
Restore The Fourth
Sunlight Foundation
Win Without War