



VOTE "YES" ON THE HOLT/TAUSCHER/ GRIJALVA/SCHAKOWSKY VIDEO RECORDING AMENDMENT TODAY

SUPPORT BEST PRACTICES FOR INTERROGATIONS

BOLSTER ACCOUNTABILITY FOR COMPLIANCE WITH THE MCCAIN ANTI-TORTURE AMENDMENT AND OTHER FEDERAL ANTI-TORTURE LAWS

AMERICAN CIVIL
LIBERTIES UNION
WASHINGTON
LEGISLATIVE OFFICE
915 15th STREET, NW
WASHINGTON, DC 20005
T/202.544.1681
F/202.546.0738
WWW.ACLU.ORG

CAROLINE FREDRICKSON
DIRECTOR

NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
NEW YORK, NY 10004-2400
T/212.549.2500

OFFICERS AND DIRECTORS
NADINE STROSSEN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

KENNETH B. CLARK
CHAIR, NATIONAL
ADVISORY COUNCIL

RICHARD ZACKS
TREASURER

May 22, 2008

RE: The Holt/Tauscher/Grijalva/Schakowsky Amendment to the Duncan Hunter National Defense Authorization Act will support best practices for interrogations, and increase accountability for compliance with the McCain Anti-Torture Amendment and other federal anti-torture laws

Dear Representative:

The American Civil Liberties Union strongly urges you to support the video recording amendment that Representatives Rush Holt, Ellen Tauscher, Raul Grijalva, and Janice Schakowsky will offer during consideration of the defense authorization bill this afternoon.¹ The amendment would make an important--and extraordinarily practical--change to Defense Department interrogation practices by requiring the recording and retention of videos of strategic interrogations of persons under the custody or control of the Defense Department. The amendment would bring these interrogations into conformity with recommended best practices for military and law enforcement interrogations, and increase accountability for compliance with the McCain Anti-Torture Amendment and other anti-torture laws.

¹ **NOTE:** The Holt/Tauscher/Grijalva/Schakowsky Amendment is **significantly narrower** than the Holt Video Recording Amendment offered on the floor last year. The amendment offered today focuses solely on video recording of interrogations. Unlike last year, the amendment does not include any provisions related to United Nations human rights officials or any other visitation or inspection requirements.

**The Holt/Tauscher/Grijalva/Schakowsky Video Recording Amendment
Conforms to Best Practices for Military and Law Enforcement
Interrogations**

The amendment would apply to the Defense Department the recommendation made by the United States Army's Inspector General that

because interrogations are confrontational, a monitored video recording of the process can be an effective check against breaches of the laws of land warfare and Army policy. It further protects the interrogator against allegations of mistreatment by detainees and provides a permanent record of the encounter that can be reviewed to improve the accuracy of intelligence collection. All facilities conducting interrogations would benefit from routine use of video recording equipment.

In addition, the U.S. Army Field Manual on Human Intelligence Collector Operations states that

video recording is possibly the most accurate method of recording a questioning session since it records not only the voices but also can be examined for details of body language and source and collector interaction.

The Holt/Tauscher/Grijalva/Schakowsky Amendment would give the force of law to these recommendations for the video recording of military interrogations.

Video recording of interrogations by domestic law enforcement is now routine across the country. The Justice Project reported in 2007 that more than 450 individual police departments or law enforcement agencies require video recording of interrogations. This practice is consistent with the unanimously approved recommendation of the American Bar Association that

all law enforcement agencies [should] videotape the entirety of custodial interrogations of crime suspects at police precincts, courthouses, detention centers, or other places where suspects are held for questioning, or, where videotaping is impractical, to audiotape the entirety of such custodial interrogations.

The committee should apply this same best practices standard to the Defense Department.

**The Holt/Tauscher/Grijalva/Schakowsky Video Recording Amendment
Would Bolster Accountability for Compliance with the McCain Anti-
Torture Amendment and Other Federal Anti-Torture Laws**

During consideration of the Defense Department authorization bill for Fiscal Year 2006, an overwhelming bipartisan majority of the House of Representatives voted to support the McCain Anti-Torture Amendment. As passed by Congress and signed by President Bush, the McCain Amendment reinforces the long-standing ban on the use of torture or cruel, inhuman, and degrading treatment across the entire government. The McCain Amendment was an important step to returning the rule of law to the federal government's interrogation and detention policies.

The Holt/Tauscher/Grijalva/Schakowsky Amendment builds on the McCain Amendment and other federal anti-torture laws by requiring an additional layer of accountability. While these videotapes could be classified for the protection of national security or privacy, consistent use of videotaping will be a strong deterrent against abuse. It will provide an additional reason for interrogators to ensure that they remain in compliance with the McCain Amendment. Of course, videotaping will also have the additional benefit to Defense Department personnel of protecting against any false accusations of misconduct and it creates an improved record of intelligence for the government. This very practical provision benefits everyone during interrogations.

We strongly urge you to apply military and law enforcement best practices to these Defense Department interrogations--and bolster accountability for compliance with the McCain Anti-Torture Amendment and other federal anti-torture laws--by voting "YES" on the Holt/Tauscher/Grijalva/Schakowsky Amendment tomorrow. Please do not hesitate to call us at 202-675-2308 if you have any questions regarding this issue.

Sincerely,



Caroline Fredrickson
Director



Christopher E. Anders
Legislative Counsel