

When is it not a crime? When the state does it.

Targeted Killing - When the president (or the U.S. government as directed by the president) has ordered people outside the U.S. killed.

Assassination and extrajudicial execution

From: [Targeted Killings](#) (CQ Researcher)

Pioneered by Israel, the targeted killing of nonstate actors, such as members of militant or terrorist organizations, has become a more common tactic of warfare and security for the United States and other countries, including the United Kingdom, France and other democracies.

The rise of targeted killings, often with armed drones and other precision weapons, is changing the nature of warfare and military operations. States can now participate remotely in years-long operations against enemies. Thirty-nine militaries around the world have armed drones, and 12 countries have used these drones to target and kill individuals.

In drone strikes between 2010 and 2020, the United States killed up to 16,900 people — including as many as 2,200 presumably innocent civilians, according to the Bureau of Investigative Journalism, a U.K.-based nonprofit that is one of the few organizations that has tracked drone strikes in the absence of official government data.

The Trump administration carried out at least 340 drone strikes in Yemen, Somalia and Pakistan alone in the past four years. The Obama administration tallied 563 drone strikes in these countries in eight years, up from 57 strikes under the George W. Bush administration, according to the Bureau of Investigative Journalism.⁷ While the Trump administration reduced troop levels in Afghanistan, where the United States declared war against the Taliban and its allies in 2001, it carried out more than 11,000 drone strikes there since 2017.

Targeted killings are gaining public support in the United States. A 2019 poll by the Chicago Council on Global Affairs, for instance, found that 48 percent of Americans felt that drone strikes on targets abroad make the United States safer.

Top officials in the Bush, Obama and Trump administrations have said killing members and leaders of terrorist organizations overseas is legal, based on a document drawn up after 9/11 that declared the right to target those acting on behalf of al Qaeda and similar groups.

Going back to the George W. Bush administration, the United States has viewed such people as combatants who can be killed in self-defense under the laws of war rather than treated as civilian criminals, who would require arrest. But unclassified American documents also state conditions that need to be met for the United States to kill someone out of self-defense, mainly that they present an imminent threat and cannot be apprehended, and that civilian deaths are to be avoided.

“Lethal force outside of armed conflict violates international human rights law,” says Hina Shamsi, director of the National Security Project at the American Civil Liberties Union and a lecturer at Columbia University’s School of Law. Under the rules of self-defense, only someone who presents a direct and imminent threat — meaning timely and immediate — can be killed, she says. And most targeted killings do not meet these narrow criteria, Shamsi says, including that of Soleimani.

Yahli Shereshevsky, a postdoctoral researcher on international law at Hebrew University, says that the remote nature of drones and the fact that a pilot’s life is not at risk can help reduce civilian casualties because the drone will only fire at a well-defined target and does not need to fire out of self-defense.

“In the battlefield, fighters make mistakes because of pressure, so they sometimes kill out of fear,” he says. “But with drones you can say this is not the case, so you use less force, and it can be more precise.”

But others argue that targeted killings carried out with drones are more likely to kill or injure civilians than other methods, mainly because intelligence is sometimes wrong. For example, a U.N. report that analyzed classified information said drone attacks in Afghanistan in 2010 and 2011 were 10 times more likely to result in civilian casualties than airstrikes by planes or helicopters.²

“My work has not found convincing evidence that targeted killings carried out by the U.S. have reduced terrorism perpetrated by the global jihadist movement,” says Jennifer Carson, associate professor of criminal justice at the University of Central Missouri, who has conducted one of the few empirical studies about the effects of targeted killings of suspected terrorists in Iraq and Afghanistan by the United States.

...[M]ost experts expect targeted killings to continue. “The scope or rules of engagement may change slightly,” Byman says. “But this tactic is now ingrained in an entire generation of military intelligence officers.”

From: [Frequently Asked Questions About Targeting Killing \(ACLU\)](#)

The notion that the U.S. can execute its own citizens anywhere in the world, far from any battlefield, without a legal determination of guilt and without firm and public standards is repugnant to our democracy. Both the Constitution and international law prohibit the use of lethal force against civilians outside of armed conflict except in very narrow circumstances: as a last resort to prevent an imminent attack that is likely to cause death or serious physical injury. A targeted killing policy under which names are added to a “kill list” after a secret bureaucratic process and remain there for months at a time appears not to be limited to imminent threats.

Allowing the use of warlike tactics far from any battlefield — using drones or other means — turns the whole world into a war zone...

There is very little information available to the public about the U.S. targeting of people far from any battlefield, so we don’t know when, where and against whom targeted killing can be authorized. According to news reports, names are added to a “kill list,” sometimes for months at a time, after a secret internal process. In effect, U.S. citizens and others are placed on “kill lists” on the basis of a secret determination, based on secret evidence, that a person meets a secret definition of threat.

No one knows what the standards are for being placed on the list because the government has not disclosed them. We do know that people on the list are suspects who have not been found guilty of any crimes.

The secrecy and lack of standards for sentencing people to death, resulting in a startling lack of oversight and safeguards, is one of our prime concerns with this program. We don’t know how many people are on the government’s kill lists — we don’t even know how many Americans are on the lists. And equally troubling, we don’t know on what basis people are added to the list. How much evidence does the government have before it adds a name to the kill list? Who reviews that evidence? The government should not be imposing the death penalty on the basis of standards that are secret.

Extraordinary Rendition - When the president (or the U.S. government as directed by the president) has abducted people around the world.

Extra-judicial abduction or seizure and transfer of persons to select friendly nations for the purposes of interrogation and detention that circumvent legal protections.

From: [Fact Sheet: Extraordinary Rendition](#) (ACLU)

Beginning in the early 1990s and continuing to this day, the Central Intelligence Agency, together with other U.S. government agencies, has utilized an intelligence-gathering program involving the transfer of foreign nationals suspected of involvement in terrorism to detention and interrogation in countries where -- in the CIA's view -- federal and international legal safeguards do not apply. Suspects are detained and interrogated either by U.S. personnel at U.S.-run detention facilities outside U.S. sovereign territory or, alternatively, are handed over to the custody of foreign agents for interrogation. In both instances, interrogation methods are employed that do not comport with federal and internationally recognized standards.

Administration officials, backed by Department of Justice legal memoranda, have consistently advanced the position that foreign nationals held at such facilities, outside U.S. sovereign territory, are unprotected by federal or international laws. Thus, the rendition program has allowed agents of the United States to detain foreign nationals without any legal process and, primarily through counterparts in foreign intelligence agencies, to employ brutal interrogation methods that would be impermissible under federal or international law, as a means of obtaining information from suspects.

In the words of former CIA agent Robert Baer: "If you want a serious interrogation, you send a prisoner to Jordan. If you want them to be tortured, you send them to Syria. If you want someone to disappear -- never to see them again -- you send them to Egypt."

From: [20 Extraordinary Facts about CIA Extraordinary Rendition and Secret Detention](#) (Open Society Justice Initiative)

After the attacks against the United States of September 11, 2001, the Central Intelligence Agency conspired with dozens of governments to build a secret extraordinary rendition and detention program that spanned the globe. Extraordinary rendition is the transfer—without legal process—of a detainee to the custody of a foreign government for purposes of detention and interrogation.

The program was intended to protect America. But, as described in the Open Society Justice Initiative's [new report](#), it stripped people of their most basic rights,

facilitated gruesome forms of torture, at times captured the wrong people, and debased the United States' human rights reputation world-wide.

At least 136 individuals were reportedly extraordinarily rendered or secretly detained by the CIA and at least 54 governments reportedly participated in the CIA's secret detention and extraordinary rendition program; classified government documents may reveal many more.

The CIA's Office of Inspector General has reportedly investigated a number of "erroneous renditions" in which the CIA had abducted and detained the wrong people. A CIA officer told the Washington Post: "They picked up the wrong people, who had no information.

In many, many cases there was only some vague association" with terrorism.

Syria was one of the "most common destinations for rendered suspects," as were Egypt and Jordan. One Syrian prison facility contained individual cells that were roughly the size of coffins.

Known black sites—secret prisons run by the CIA on foreign soil—existed in Afghanistan, Lithuania, Morocco, Poland, Romania, and Thailand.

Muhammed al-Zery and Ahmed Agiza, while seeking asylum in Sweden, were extraordinarily rendered to Egypt where they were tortured with shocks to their genitals. Al-Zery was also forced to lie on an electrified bed frame.

Abu Omar, an Italian resident, was abducted from the streets of Milan, extraordinarily rendered to Egypt, and secretly detained for fourteen months while Egyptian agents interrogated and tortured him by subjecting him to electric shocks. An Italian court convicted in absentia 22 CIA agents and one Air Force pilot for their roles in the extraordinary rendition of Abu Omar.

President Obama's 2009 Executive Order repudiating torture does not repudiate the CIA extraordinary rendition program. It was specifically crafted to preserve the CIA's authority to detain terrorist suspects on a short-term, transitory basis prior to rendering them to another country for interrogation or trial.

Indefinite Detention — When the president (or the U.S. government as directed by the president) has imprisoned — possibly forever — people it has abducted around the world.

No Charges. No Trials. Imprisoned.

From: [The Guantánamo Docket](#) (New York Times)

Since 2002, roughly 780 detainees have been held at the American military prison at Guantánamo Bay, Cuba. Now, 30 remain. Of those, 11 have been charged with war crimes in the military commissions system — 10 are awaiting trial and one has been convicted. In addition, three detainees are held in indefinite law-of-war detention and are neither facing tribunal charges nor being recommended for release. And 16 are held in law-of-war detention but have been recommended for transfer with security arrangements to another country.

From: [Guantanamo Bay: Twenty Years of Counterterrorism and Controversy](#) (Council on Foreign Relations)

To its supporters, Guantanamo is a fitting warehouse for the “worst of the worst” in the war on terrorism (WOT). They say it has kept some of the world’s most dangerous men from waging war on the United States while providing essential counterterrorism intelligence and helping bring war criminals to justice, including the alleged 9/11 plotters.

To its critics, however, it stands as a haunting monument to human rights violations perpetrated by the United States in the name of national security. Over the years, many detainees have claimed that they were detained unlawfully, denied due process, and subjected to grave physical and psychological abuses—some amounting to torture—by their American captors. As a result, critics say, Guantanamo has undermined U.S. influence and moral authority in many parts of the world.

[T]he George W. Bush administration made two decisions that are core to Guantanamo’s controversies: the first was the selection of the site itself; the second was the determination that the Geneva Conventions did not apply to the detention of al-Qaeda and Taliban prisoners. Much of the legal thinking behind those decisions was rebuffed by the U.S. Supreme Court years later.

Guantanamo [Bay] was the only one that fit several criteria set by administration officials: the U.S. naval base in Cuba

was large enough, secure enough, and—most importantly—on foreign soil, and therefore beyond the reach of any U.S. court. It was also a short flight from Washington, DC, allowing U.S. officials to travel back and forth with relative ease.

From: [The Face of Indefinite Detention](#) (New York Times)

BEFORE he [died](#) on Sept. 8, [Adnan Farhan Abdul Latif](#) had spent close to 4,000 days and nights in the American prison at Guantánamo Bay, Cuba. He was found unconscious, alone in his cell, thousands of miles from home and family in Yemen.

Eleven years ago, he found himself in Afghanistan at the wrong place and the wrong time. It was an unusual set of events that took him there. Years earlier Mr. Latif had been badly injured in a car accident in Yemen. His skull was fractured; his hearing never quite recovered. He traveled to Jordan, seeking medical treatment at a hospital in Amman; then, following the promise of free medical care from a man he met there, journeyed to Pakistan, and eventually to Afghanistan.

Like so many men still imprisoned at Guantánamo, Mr. Latif was fleeing American bombing — not fighting — when he was apprehended by the Pakistani police near the Afghan border and turned over to the United States military. It was at a time when the United States was paying substantial bounties for prisoners. Mr. Latif, a stranger in a strange land, fit the bill. He was never charged with a crime.

The United States government claims the legal authority to hold men like Mr. Latif until the “war on terror” ends, which is to say, forever. Setting aside this troubling legal proposition, his death and the despair he endured in the years preceding it remind us of the toll Guantánamo takes on human beings

Enhanced Interrogation – When the president (or the U.S. government as directed by the president) has ordered people detained to be tortured for intelligence.

Torture

From: [“Enhanced Interrogation” Explained](#) (Human Rights First)

The CIA’s Detention and Interrogation Program allowed the use of so-called “enhanced interrogation techniques” on detainees captured after 9/11. It was conducted between 2002 and 2009, with the authorization of officials in the Bush Administration’s White House and the Department of Justice. During that time, 119 detainees were held in CIA custody, and at least 39 were subjected to these techniques....

Waterboarding. A well-known torture tactic, waterboarding creates the sensation of asphyxiation or drowning. The detainee is immobilized on his back and water is poured over a cloth covering his face. Far from the “dunk in the water” that Dick Cheney has referred to, internal CIA reports describe instances of waterboarding as “near drownings.”

Walling. This technique involves encircling the detainee’s neck with a collar or towel, and slamming him against a wall.

Sleep deprivation. The detainees were kept awake by being shackled, forced to stand, or kept in stress positions in an attempt to destroy their capacity for psychological resistance.

Standing on broken feet. As an extreme form of sleep deprivation, two detainees, Abu Hazim and Abd al-Karim, were forced to stand for hours with broken feet.

Solitary confinement. Detainees were regularly confined with no opportunity for social interaction. This was often combined with nudity, sensory deprivation, total darkness or constant light, and shackling

Stress positions. These positions are designed to cause pain and discomfort for extended periods of time, and were often used in combination with sleep deprivation.

Rectal feeding and rectal exams. Rectal feeding was used for prisoners who refused food and entails the insertion of a tube containing pureed food into the detainee’s anal passage.

Nudity. This form of sexual humiliation relies on cultural and religious taboos, and required detainees to be fully or partially naked during interrogations or when shackled.

Threats. Detainees were threatened with further physical torture as well as violence, death or sexual abuse against their family.

These techniques constitute torture, or cruel, inhuman or degrading treatment—both illegal under U.S. and international law. 18 U.S. Code § 2340(1) defines torture as “an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.” The severity of harm caused by an interrogation technique is key in determining whether it constitutes torture.

From: [The Most Gruesome Moments in the CIA Torture Report](#) (The Daily Beast)

Interrogations that lasted for days on end. Detainees forced to stand on broken legs, or go 180 hours in a row without sleep. A prison so cold, one suspect essentially froze to death. The Senate Intelligence Committee is finally releasing its review of the CIA’s detention and interrogation programs. And it is brutal.

The report will conclude that the CIA’s interrogation techniques never yielded any intelligence about imminent terrorist attacks. Investigators didn’t conclude that no information came from the program at all. Rather, the committee rejects the CIA’s contention that information came from the program that couldn’t have been obtained through other means.
No Blockbuster Intelligence

The report will conclude that the CIA’s interrogation techniques never yielded any intelligence about imminent terrorist attacks. Investigators didn’t conclude that no information came from the program at all. Rather, the committee rejects the CIA’s contention that information came from the program that couldn’t have been obtained through other means.

In developing the enhanced interrogation techniques, the report said, the CIA failed to review the historical use of coercive interrogations. The resulting techniques were described as “discredited coercive interrogation techniques such as those used by torturous regimes during the Cold War to elicit false confessions,” according to the committee. The CIA acknowledged that it never properly reviewed the effectiveness of these techniques, despite the urging of the CIA inspector general, congressional leadership, and National Security Adviser Condoleezza Rice.

The CIA relied on two outside contractors who were psychologists with experience at the Air Force’s Survival, Evasion, Resistance and Escape school to help develop, run, and assess the interrogation program. Neither had experience as an interrogator, nor any specialized knowledge of al Qaeda, counterterrorism, or relevant linguistic expertise, the committee found. In 2005, these two psychologists formed a company, and following this the CIA outsourced virtually all aspects of the interrogation program to them. The company was paid more than \$80 million by the CIA.

Officers in the CIA’s Detention and Interrogation Program [included](#) individuals who the committee said, “among other things, had engaged in inappropriate detainee interrogations, had workplace anger management issues, and had reportedly admitted to sexual assault.”