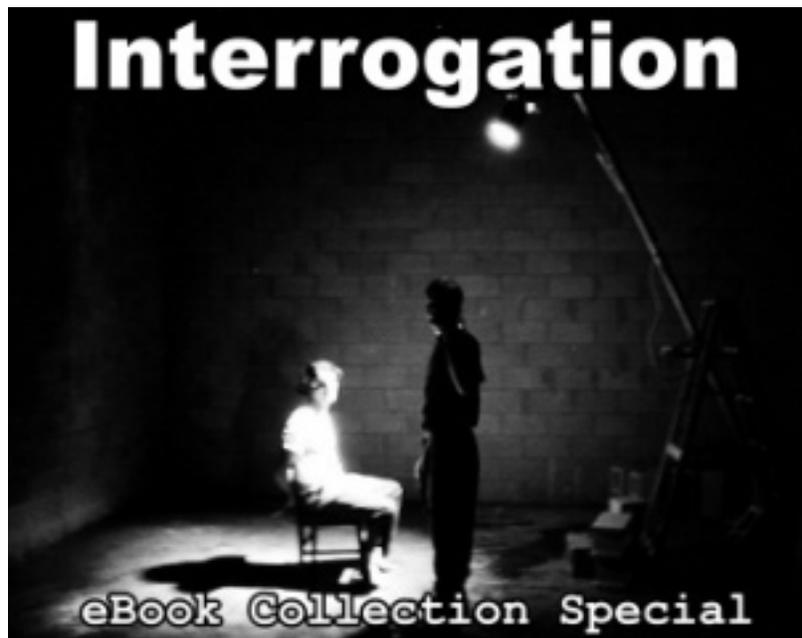


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Presents

**Approaches to Interrogation in the Struggle against
Terrorism: Considerations of Cost and Benefit**

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Introduction

Interrogation is a promising source of information to support the United States' struggle against terrorists. But there are difficult, competing values at stake in interrogation, and the tradeoffs among these values are at times discounted. One way to improve the choices that we make on interrogation is to understand the values at stake; that is, to be careful to identify all of the areas of cost and benefit that matter to us when interrogation choices are made. The discussion that follows explores areas of cost and benefit that have been the focus of contemporary decisions and debates. As a rule, for each of these objectives, "benefits" come from more effective performance in areas we care about, while "costs" generally reflect lesser performance.

The discussion is admittedly general in order to cover a relatively complete array of costs and benefits in a brief paper. These generalities necessarily mask many critical subtleties. Yet even this rudimentary summary suggests the complexity of our choices and the need for additional research to inform and to discipline how we think about these choices.

National Security

Obviously, the principal benefit of interrogation is to obtain information from suspects and others that will increase our understanding of terrorist adversaries (We focus on the process of obtaining information from suspects, but it should be understood that "interrogation" includes issues of how others — e.g., reluctant witnesses and intelligence sources — are treated. We also leave aside large questions of how information might be analyzed or synthesized to produce useful intelligence.), thereby helping to protect our own

population, support our allies, maintain civic order and stability, and preserve important institutions.

Given the character of terrorist operations and the capacities of the United States, human intelligence — information gained from people rather than from technical means, documents, and other non-human sources — is especially important in the struggle against terrorism. The U.S. government needs detailed information about its adversaries, as well as strategic and cultural understanding of how the information fits together. This information can help to forestall further attacks and weaken terrorist organizations. But U.S. intelligence networks are weak precisely in the regions where Al Qaeda and other terrorist cells play significant roles. Interrogation thus becomes an especially important way to find and elicit information.

The benefits of interrogation can be enormous (e.g., the prevention of a nuclear explosion), quite small (e.g., filling in a minor part of a much larger picture of terrorist activity, or merely showing that a suspect knows nothing of value), or somewhere in between those extremes. Poor performance in the interrogation function results in the loss of these benefits (a cost that with poor performance, we may not always recognize — we typically will be unaware of the information we fail to collect). Poor performance can also impose other costs, as described later in this paper.

Interrogation efforts might yield greater benefits if the United States used different ways to select, train, and organize interrogators, established different rules and leadership to govern interrogations, or used other approaches that might improve individual and

organizational performance. The problem in understanding the benefits of effective interrogations is that — unless the U.S. government has rigorous information we do not know about — there is little systematic knowledge available to tell us “what works” in interrogation. We do not know what systems, methods, or processes of interrogation best protect the nation’s security. For example, we lack systematic information to guide us as to who should perform interrogations. We do not know what benefits would result if we changed the way we recruit, train, and manage our interrogators.

Coercion and Knowledge

Of particular concern, we do not fully understand a complex of issues surrounding the use of coercion. Coercion is an important issue in all types of interrogations — from local police precincts and petty crimes to distant centers of detention and serious terrorist threats. The costs of coercion in human, ethical, political, and other terms vary, but can be enormous. Even when these costs are acknowledged, contemporary discussions often assume that torture, physical coercion, and psychological coercion are effective ways to obtain information, especially in emergencies (e.g., when there is little time, as with “ticking bombs”). Torture and many forms of physical and psychological coercion have been used for centuries. Whether we like it or not, coercion might be more “effective” than other methods in some circumstances. Unfortunately, much of the current debate in this area proceeds as if we actually knew what those circumstances were. In fact, we do not, beyond anecdotal evidence adduced ad hoc.

This lack of understanding presents a troubling difficulty. Coercion may be the “lesser evil” when it can prevent imminent assaults on national security that are substantially out of proportion to the costs of using coercion. But if other interrogation approaches are available that would more effectively obtain needed information — e.g., more informed or skillful methods — then we are descending into an ethical and security abyss if we use coercion in ignorance of all its implications. While our understanding will never be so complete as to make any of these choices easy or simple, we face a compelling security imperative to expand our knowledge about interrogation approaches. We should not simply assume that greater use of coercion will make interrogations more effective.

We can imagine at least four sources of information that might give us firmer empirical guidance:

History – To inform current choices, we might look to the benefits and costs of interrogation methods used in past conflicts. As of 11 September 2001, the United States had not mounted “strategic” interrogation efforts in decades, so the relevant U.S. history is old — arguably going back to World War II.

(“Strategic interrogation” is commonly distinguished from “tactical interrogation.” The latter is the kind of real-time interrogation that occurs in the midst of a conflict or battlefield. U.S. forces have long been familiar with tactical interrogation. Strategic interrogation concerns broader knowledge about enemy forces — in the present context, knowledge about the membership, organization, communication, finances, and plans of terrorist organizations. For an excellent study of strategic interrogation methods in World War II, see Steven M. Kleinman, “The History of MIS-Y: U.S. Strategic Interrogation During World War II,” unpublished master’s thesis, Joint Military Intelligence College, August 2002.)

Comparative practices – We also might look to the experience of other democratic countries that have a much longer history of conducting interrogations in the context of substantial and often imminent threats to their internal security. This source of knowledge includes the contemporary experience of other countries as well as their historical experience.

Social science – The tools of social science have not been applied to the problems of interrogation in any substantial way, yet such an effort could obviously be undertaken and might produce substantial benefits. This is especially true as the United States accumulates experience in interrogating suspected terrorists, and producing data that could be systematically analyzed. It is also clear that ongoing interrogation efforts present opportunities to evaluate methods with unprecedented rigor. For example, what kinds of interrogation systems, approaches, or methods might yield accurate and useful information with which sources in which contexts?

Casual empiricism and experience – Fourth, we might inform current policy choices on interrogation by drawing upon casual empiricism and the kind of expertise gained diffusely from experience. This type of information often guides policy choices in areas where there is little rigorous information — a situation that has long characterized the debate over methods and processes of interrogation.

The fourth source of instruction has been our primary guide to date (again, allowing for the possibility that more rigorous classified information exists, but has not been revealed to the public). That is an unnecessarily weak foundation to support the choices that we must

make. In essence, we do not know enough to be able to calibrate the costs and benefits of different methods or processes.

The best we can do now is to recognize categories of benefits and costs at relatively general levels and subjectively weigh the results. We might also undertake some kind of effort to verify empirical relationships that are being casually inferred.

Intimidation of Terrorists and Their Supporters

To judge from the ways governments have used interrogation, there is a pervasive belief that coercive interrogation can intimidate terrorists and their supporters in ways that enhance the effectiveness of interrogations and perhaps even reduce the underlying terrorist threat. For example, a country that insists it will observe no limits on interrogation methods — that it will “take the gloves off ”— may believe that this communicates resolve and will deter potential adversaries.

It is difficult to evaluate whether and how much coercive interrogation actually affects terrorists and their support. Moreover, decision makers must be careful about assuming that tough interrogation techniques impress our adversaries. For example, would terrorists respect coercive interrogation more than they would respect less coercive, but more effective, interrogation? Or would they respect any other approach that more substantially undermined terrorist networks? While it may well be useful to intimidate terrorists, “intimidation” can mean far more than “being tough” and simply asserting physical dominance in interrogations. Indeed, some of the most critical actions

that might truly intimidate terrorists are “boringly bureaucratic, achingly administrative” and have nothing to do with coercion. A skilled interrogation — which encompasses far more than an exchange of questions and answers — might well elicit more information by using other methods.

Nevertheless, many believe that at a strictly operational level a general reputation for ruthlessness might make suspects more responsive in an interrogation setting, even if brutality in fact is never used. To our knowledge this belief rests on casual empiricism and has never been rigorously tested. The absence of such tests is one reason for the continuing debate over whether suspects (a) give useful information when they fear coercion, (b) to avoid coercion, simply tell interrogators what they think the interrogators want to hear, or (c) exhibit a mix of responses, depending on a variety of factors (e.g., personality, context, training, skill of the interrogator, and others). Examination of historical data might provide some indications of how suspects actually behave.

Ethical Concerns and the Rule of Law

Given the compelling need to protect the nation’s security, governments experience considerable pressure to place the interrogation of suspected terrorists in “the twilight shadows of the law” — especially given terrorists’ propensities, much demonstrated, to exploit the laws and sensitivities of others but to observe few limits on their own behavior. The United States must consider the nuances of the Geneva Conventions as applied to suspected terrorists; terrorists demonstrate few such concerns.

In a democracy the legitimacy of government action is important to maintain support for what the government does in this struggle. Ethical concerns and the rule of law are cornerstones of that legitimacy, and the primary reason for conducting interrogations according to a high standard of ethics may be simply that it is widely believed to be the right thing to do. These are important benefits to address in making choices about interrogation policy. As summarized by Israel's High Court of Justice in its ruling against the interrogation practices of that country's internal security service:

This is the destiny of a democracy—it does not see all means as acceptable, and the ways of its enemies are not always open before it. A democracy must sometimes fight with one hand tied behind its back. Even so, a democracy has the upper hand. The rule of law and the liberty of an individual constitute important components in its understanding of security. At the end of the day, they strengthen its spirit and this strength allows it to overcome its difficulties.

Thus, it is not enough to know whether “coercion works” in interrogation. Interrogation practices that offend ethical concerns and skirt the rule of law may indeed have narrow utilitarian value: It is possible that methods that “shock the conscience” and/or violate international or domestic law are effective in eliciting information in some situations. But costs must be recognized: such practices may undermine the legitimacy of government action, weaken domestic support for the long struggle against terrorism, and eventually limit the government's ability to act. Of course, decision makers may believe that they can avoid this cost by keeping coercive interrogation practices secret. However, at least in the U.S. context, that strategy is

questionable: Much of the secret effort (although we cannot know how much) will in due course become publicly known. More indirectly, such practices run the risk of undermining the democratic institutions that the struggle against terrorism is meant to defend. It is therefore costly if interrogation practices appear to violate our treaty obligations and domestic laws or offend ethical concerns, and instead follow selective policy imperatives or beliefs.

It is again difficult to evaluate how costly such behavior is. If interrogation practices undermine legitimacy, the effects will influence the behavior and beliefs of the populace in diffuse, and often indirect, ways. Obviously, behavior and beliefs are subject to many influences, not only the effects of our interrogation methods. But beliefs about ethical behavior and the rule of law are powerful. For example, overwhelming majorities of both parties in Congress supported the McCain Amendment. This vote demonstrated the firm belief that U.S. interrogation methods should respect the law, avoid gross abuses, and adhere to a general sense of decency. It represents a collective resolve to assert the standard of law and humane behavior against pressures to use coercion and abuse.

International Support to Wage the Struggle against Terrorism

Domestic concerns about ethics and upholding the rule of law have an important international corollary. Interrogation methods that preserve the country's position as a moral leader in the struggle against terrorism enhance the ability of the United States to enlist international cooperation. This is not a unilateral struggle. The United

States requires allied support for much of what needs to be done, including:

Intelligence.— The vital role of strategic intelligence in combating terrorism demands unprecedented levels of cooperation between the intelligence agencies of the United States and other countries. We must encourage other countries to intensify their efforts to obtain intelligence that prevents attacks, share intelligence data that in the past might have been closely held, gather and share more comprehensive information on the movement of suspect funds and people, and act together against the common enemy.

Diplomacy.— All of these added intelligence requirements — along with law enforcement, military, and other needs — translate into a much larger agenda for diplomacy, including expanded diplomatic cooperation in law enforcement, telecommunications, commerce (e.g., banking and financial information), and other areas.

It is more difficult to make progress in needed areas of diplomacy and intelligence if U.S. interrogation methods provoke strong international reactions.

Danger to Troops and Others at Risk of Capture

One key benefit that interrogation policy must address is the protection of our troops (and others, such as aid workers and contractors). This benefit derives from notions of reciprocity: specifically, the expectation that if our troops are captured they will receive more humane treatment if the United States treats its captives

humanely. This concern over reciprocity has long been an important factor in international agreements on the treatment of detainees.

Concern about reciprocity is based on the empirical assumption that terrorists will observe fewer rules if we observe fewer rules. This assumption may not be true. In a world where terrorist (and insurgent) adversaries behead captives, it is at least arguable that terrorists assume they will receive harsh treatment no matter what we do, within some range at least. But it is also arguable that more humane treatment would have some positive effect on our adversaries. This is another area where it would be useful, where possible, to test widely held assumptions against available evidence.

In the absence of real evidence, we can say only that a cost of more coercive interrogations might be the harsher treatment of our troops and others. Also, to the degree that international law on the treatment of detainees rests on widespread reciprocity over time, we undermine that fabric for this and future conflicts if we fail to observe certain limits in how we interrogate others.

Legal Problems for U.S. Troops and Officials

If other countries suspect the United States of using unacceptably coercive methods in interrogations, the U.S. may encounter legal problems in efforts to capture or extradite terrorists. For example, given obligations under the 1987 Convention against Torture, allied countries might be unwilling to extradite suspected terrorists — even Bin Laden himself — if they believe there is a substantial likelihood that these suspects will be tortured in U.S. hands.

(A foretaste of this difficulty occurred shortly after 11 September 2001, a time when allies were giving the United States enormous latitude to respond to the attacks. At this time, Britain was closely allied to the United States in all of the U.S. responses. But Britain put the United States on notice that— if British soldiers captured bin Laden — Britain would not extradite him to the United States unless the United States waived the death penalty. Germany declined to turn over an alleged top aide to bin Laden until the United States waived the death penalty.)

More ominously, foreign prosecutors could bring charges against U.S. officials and troops before international tribunals (e.g., charges of war crimes for U.S. conduct in third countries) or before their domestic tribunals (for U.S. behavior within those countries — for example, if U.S. agents break local laws by seizing or detaining terrorist suspects on foreign soil and subject them to abuse or maltreatment). Conversely, if the United States has a record of treating captives — even suspected terrorists — humanely, other nations might be more willing to accede to U.S. requests for extradition, and U.S. troops might run less risk of being prosecuted for practices that, to their knowledge, are acceptable.

U.S. Leadership on Human Rights

The proper place of human rights among overall foreign policy objectives is a matter of debate. But there is little debate that the United States has been a leader in the human rights movement internationally for decades, and that this leadership has had some effect on the behavior of other countries. Upholding high standards even in its interrogation practices would further strengthen the U.S. reputation for respecting human dignity. By contrast, if the United States is seen as a country that tortures prisoners, it loses the moral

standing that would allow it to press others to observe a higher standard of behavior. For example, when a recent State Department annual report on human rights criticized China and other countries for human rights violations, China peremptorily dismissed the criticisms, taking the United States to task for using a “double standard” in judging other countries’ behavior.

Creation of More Enemies

We do not fully understand the social, political, religious, and other dynamics that give rise to terrorist activities. We also do not know the extent to which specific actions by the United States and its allies actually change perceptions of the United States in Muslim and other countries. It is possible, for example, that America’s culture, economy, and foreign policy (e.g., enduring support of Israel) already place the country beyond the pale for much of the radical Muslim audience. But an accumulation of specific actions that appear to show contempt for Muslim people might well affect how we are viewed especially among moderate Muslims whose opinion we seek to influence as part of our longer term struggle against terrorism.

Integrity of the Military

The U.S. military has a long tradition of adhering to the laws of war, including observance of conventions about the treatment of detainees. Part of this stems from self-interest (based on beliefs about how our troops will be treated in turn, as described earlier). Quite apart from concerns for reciprocity are questions about the integrity of military units and the values of military ethics. Interrogation that treats

fighters from other countries in the same way U.S. troops hope to be treated might strengthen a sense of pride in the military profession. By contrast, interrogation that is unbounded by rules or becomes a form of sadism, for example, can erode military discipline and undermine the integrity and higher purposes of military units.

Resources

The last area of concern to note is perhaps the most conspicuous and quantifiable: financial and other resources. We will not discuss this aspect of costs and benefits at length, but it should at least be noted that different approaches to interrogation have different implications for scarce resources (money, skilled personnel, language capacity) and will not fit the existing capacities of all organizations equally well. In some contexts, those differences are important.

Conclusion

Given a continuing terrorist threat, the United States must obtain information through interrogations, but it must do so without undermining the purposes of the very effort that interrogations are supposed to serve. The country thus needs to understand the relative costs and benefits of alternative interrogation strategies and programs. While it is relatively easy to imagine the costs and benefits of alternative programs and strategies in the most general terms, it is not easy to estimate the magnitude of these costs and benefits or to weigh them carefully against each other, primarily because we have little systematic empirical knowledge about the most important relationships at stake.

Moreover, there is a trap in thinking in isolation about benefits and costs of any interrogation approach. The critical issue is always: "compared to what?" Decisions might be improved simply by paying explicit attention to the full range of costs and benefits at stake in decisions on interrogation and attempting to weigh them against each other, however imperfectly. Better results will require improved understanding, so that we can have greater confidence in making the difficult tradeoffs that are, in any event, certain to be required.

THE END

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