

UNITED STATES OF AMERICA

Amnesty International's position on the nomination of Gina Haspel to be Director of the Central Intelligence Agency

*Gina Haspel will become the new Director of the CIA
US President Donald Trump, Twitter, 13 March 2018*

Amnesty International calls upon President Donald Trump to withdraw his nomination of Gina Haspel to the post of Director of the Central Intelligence Agency (CIA), for the reasons outlined below.

At the same time, the organization calls upon the US Department of Justice to initiate investigations into Gina Haspel's alleged activities in the context of the program of secret detention operated by the CIA, a program in which the crimes under international law of torture and enforced disappearance were committed. The investigation should include any role she may have had in the destruction of evidence of such crimes.

Finally, Amnesty International calls upon members of the US Senate, if the nomination of Gina Haspel remains in place and the above investigation is not initiated, not to hold a confirmation hearing. In any event, as explained below, it should not hold a confirmation hearing unless and until the necessary declassification of materials relevant to any such hearing is completed. If the confirmation hearing were to go ahead without the necessary prerequisites for establishing facts, the Senate should vote against Gina Haspel's appointment as CIA Director.

Amnesty International takes no position on the appointment of particular individuals to government positions, unless they are reasonably suspected of crimes under international law and could use their appointment to the position in question to either prevent accountability for these crimes or to continue perpetration. At the same time, the organization calls on governments to thoroughly vet candidates in regard to any human rights concerns arising from their prior conduct. Anyone against whom there is admissible evidence of involvement in crimes under international law should be brought to trial in proceedings that fully comply with international fair trial standards, without recourse to the death penalty.

Enforced disappearance and torture are crimes under international law. No president can render them lawful; no politician, legislator, judge, soldier, police officer, prison guard, medical professional, interrogator, lawyer or any other official can override this prohibition. Neither war, nor threat of war, nor national emergency that threatens the life of the nation can justify such crimes. Governments are required by international law to thoroughly investigate these crimes, to make their findings public, and to bring perpetrators to justice in fair trials, no matter their level of office or former level of office. Victims of human rights violations have the right under international law to effective access to remedy and reparation. In addition, there is a collective and individual right to the truth about violations.

Enforced disappearances and other forms of torture and other cruel, inhuman or degrading treatment were committed at multiple locations in a secret detention program operated by the USA's Central Intelligence Agency. The program was operated under authority granted to the CIA by President George W. Bush in September 2001 and was not "de-authorized" until January 2009 by President Barack Obama. Under US law only the President

can authorize the CIA to conduct a covert action.¹ President Donald Trump has publicly expressed his support for the use of torture.

Impunity for these crimes committed in the context of the CIA program remains all but total. The use of classification and other forms of state secrecy continue to block truth, accountability and remedy.

Amnesty International has long called for declassification of any documents or other materials depicting or describing enforced disappearance, torture or other cruel, inhuman or degrading treatment or other human rights violations, including acts of abduction and rendition, by US or non-US personnel in the context of the CIA detention program. This includes the full 2014 report of the Senate Select Committee on Intelligence of its review of the detention program, and the country locations of all 'black sites' operated by the CIA between 2002 and 2009.²

In December 2017, the UN Special Rapporteur on torture called on the USA to end this "pervasive policy of impunity for crimes of torture committed by US officials" under which "the perpetrators and policymakers responsible for years of gruesome abuse have not been brought to justice". The Rapporteur continued: "By failing to prosecute the crime of torture in CIA custody, the US is in clear violation of the Convention against Torture and is sending a dangerous message of complacency and impunity to officials in the US and around the world."³

It is against this backdrop that President Trump has nominated Gina Haspel to become the next Director of the CIA. While, again, the use of classification renders it impossible to get at the full truth, there are serious and credible allegations that Gina Haspel was closely involved in aspects of the CIA secret detention program, including at an alleged CIA "black site" in Thailand where at least two detainees were subjected to torture and enforced disappearance in 2002. In addition she is alleged to have played a leading role in the destruction in 2005 of videotaped evidence of torture committed against these two detainees being simultaneously subjected to enforced disappearance. Concealing evidence of a crime may constitute criminal complicity. Complicity in torture is expressly recognised as a crime under international law.

Amnesty International considers that Gina Haspel should be subject to investigation, and the findings should be made public. If there is sufficient admissible evidence that she is criminally responsible for crimes under international law, including torture or complicity in torture, she must be brought to trial. Her nomination to head the very agency which has a festering impunity scandal at its heart – which she may have an interest in perpetuating – should be withdrawn pending this investigation.

If the President does not withdraw the nomination, which has to be considered likely given his endorsement of torture and other human rights violations, the Senate should not hold a confirmation hearing pending the necessary investigation into the allegations against this nominee. Failing that, at a minimum, the Senate should not hold a confirmation hearing unless and until there is full declassification of any information possibly disclosing evidence of Gina Haspel's involvement in human rights violations, including relating to any allegations about her participation in the CIA secret detention program and the destruction of related evidence.

If a confirmation hearing does go ahead without the necessary information to ensure political and public confidence in the decision-making process, Senators should vote down her nomination. If the hearing goes ahead with or without the necessary declassification, Senators must pose all necessary and searching questions about her prior role in the CIA program, to not take any form of obfuscation as an answer, and in the absence of genuinely and fully satisfactory responses showing that the allegations against her are in fact not credible, should vote down her nomination.

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¹ See also USA: Bringing George W. Bush to justice. International obligations of states to which former US President George W. Bush may travel, November 2011, <https://www.amnesty.org/en/documents/amr51/097/2011/en/>

² See also USA: Crimes and Impunity: Full Senate Committee report on CIA secret detentions must be released, and accountability for crimes under international law ensured, April 2015, <https://www.amnesty.org/en/documents/amr51/1432/2015/en/>. For summary sheet, see, <https://www.amnesty.org/en/documents/amr51/1461/2015/en/>

³ 'US must stop policy of impunity for the crime of torture' - UN rights expert. UN News Release, 13 December 2017, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22532&LangID=E>