

The whole point of giving the accused a trial is to sort the guilty from the innocent. While the effectiveness of torture is highly doubtful (American experts claimed it doesn't work but were ignored by the Bush administration), there's no denying that torture must include accidental torture of innocents if it is to be done in a timely manner. You simply can't wait for a trial before the torture commences.

Torture of detainees has gone hand-in-hand with indefinite detention of these same detainees without trial under the Bush administration. Our Constitution's Fifth Amendment requires that anyone apprehended be put on trial: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces...." In other words, everyone apprehended or detained by the U.S. government must either be charged under the criminal justice system and given a jury trial or tried under the military justice system (and therefore be accorded Geneva Convention military protections). That's the unequivocal requirement of our Constitution, but the Bush administration didn't follow the Constitution. The guilty detainees were never sorted from the innocent. Therefore, it's now common knowledge that innocent people were detained and tortured along with the guilty. The Obama administration appears ready to continue this legacy, so long as it is not carried out at Guantanamo.

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