

DEPRIVATION AND DESPAIR:

The Crisis of Medical Care at Guantánamo

EXECUTIVE SUMMARY

From the inception more than 17 years ago of the Guantánamo Bay detention center located on the U.S. naval base in Guantánamo Bay, Cuba, senior detention facility personnel have consistently lauded the quality of medical care provided to detainees there. For example, in 2005, Joint Task Force (JTF) Guantánamo's then-commander said the care was "as good as or better than anything we would offer our own soldiers, sailors, airmen or Marines." In 2011, a Navy nurse and then deputy command surgeon for JTF Guantánamo made a similar claim: "The standard of care here is the best possible standard of care (the detainees) could get." In late 2017, Guantánamo's senior medical officer again echoed those sentiments: "Detainees receive timely, compassionate, quality healthcare...[which is]...comparable to that afforded our active duty service members on island."

There have been many more such assertions in the intervening years and since. Following an in-depth review of publicly available information related to medical care at Guantánamo—both past and present—as well as consultations with independent civilian medical experts and detainees' lawyers, the Center for Victims of Torture and Physicians for Human Rights have determined that none of those assertions is accurate.

To the contrary, notwithstanding Guantánamo's general inaccessibility to independent civilian medical professionals, over the years a handful of them have managed to access detainees, review medical records, and interface with Guantánamo's medical care system to a degree sufficient to document a host of systemic and longstanding deficiencies in care. Described in detail in *Deprivation and Despair: The Crisis of Medical Care at Guantánamo*, a new report by the Center for Victims of Torture and Physicians for Human Rights, the deficiencies include:

- Medical needs are subordinated to security functions. For example, prosecutors in a military commission case told the judge explicitly that the commander of Guantánamo's detention operations is free to disregard recommendations of Guantánamo's senior medical officer.
- Detainees' medical records are devoid of physical and psychological trauma histories. This is largely a function of medical professionals' inability or unwillingness to ask detainees about torture or other traumatic experiences during their time in the CIA's rendition, detention, and interrogation program, or otherwise with respect to interrogations by U.S. forces – which has led to misdiagnoses and improper treatment.
- In large part due to a history of medical complicity in torture, many detainees distrust military medical professionals which has led repeatedly to detainees reasonably refusing care that they need.
- Guantánamo officials withhold from detainees their own medical records, including through improper classification.
- Both expertise and equipment are increasingly insufficient to address detainees' health needs. For example, a military cardiologist concluded that an obese detainee required testing for coronary artery disease, but that Guantánamo did not have the "means to test" him, and so the testing was not performed. With regard to mental health, effective torture rehabilitation services are not, and cannot be made, available at Guantánamo.

- Detainees have been subjected to neglect. One detainee urgently required surgery for a condition he disclosed to Guantánamo medical personnel in 2007—and they diagnosed independently in 2010—but he did not receive surgery until 2018 and appears permanently damaged as a result.
- Military medical professionals rotate rapidly in and out of Guantánamo, which has caused discontinuity of care. For example, one detainee recently had three primary care physicians in the course of three months.
- Detainees' access to medical care and, in some cases, their exposure to medical harm, turn substantially on their involvement in litigation. For example, it appears extremely difficult, if not impossible, for detainees who are not in active litigation to access independent civilian medical professionals, and for those who are to address a medical need that is not related to the litigation. For detainees charged before the military commissions, prosecution interests have superseded medical interests, as with a detainee who was forced to attend court proceedings on a gurney writhing in pain while recovering from surgery.
- Maintain a health care service with adequate equipment and sufficiently qualified personnel—including necessary expertise in psychology and psychiatry—who act with full clinical independence and who have final decision-making authority over clinical decisions.
- Provide consistent, prompt access to medical attention in urgent cases and transfer detainees to civilian hospitals for treatment that cannot adequately be provided at Guantánamo.
- Ensure continuity of treatment and care.
- Allow those detainees who understandably distrust military medical providers to access independent civilian physicians—or other qualified medical personnel that detainees trust—in a meaningful, ongoing fashion.
- Prohibit the use of inherently degrading or painful instruments of restraint, and limit the use of all forms of restraint to circumstances where there is a legitimate risk of escape, or—after exhausting other less severe forms of control—of a detainee injuring himself or damaging property.

Each of these deficiencies is exacerbated by, if not a direct result of, the profound health consequences—both psychological and physical—that the men have endured, and continue to endure, from torture and prolonged indefinite detention.

The experiences of detainees and independent civilian medical experts with medical care at Guantánamo broadly refute the claim that detainees receive care equivalent to that of U.S. service members and also evidence specific violations of the Nelson Mandela Rules, the universally recognized UN standard minimum rules for the treatment of prisoners, which the United States has championed. These include obligations to:

- Prepare and maintain accurate, up-to-date medical files on all detainees—including documenting and reporting any signs of torture or cruel, inhuman or degrading treatment or punishment; grant all detainees access to their own medical records; and protect confidentiality of those records.
- Lift the legal ban on transferring detainees to the United States and mandate such transfers when detainees

It is long past time that the medical care deficiencies *Deprivation and Despair* describes were acknowledged and addressed. Systemic change is necessary; these are not problems that well-intentioned military medical professionals—of which no doubt there are many, working now to the best of their ability under nearly impossible circumstances—can resolve absent structural, operational, and cultural reform. Nor, in many respects, are they problems that can be fully resolved as long as the detention facility remains open.

Guantánamo should be closed. Unless and until that happens, the Center for Victims of Torture and Physicians for Human Rights call upon Congress, the executive branch, and the courts to adopt a series of recommendations aimed at meaningfully improving the status quo. These include, but are not limited to:

present with medical conditions that cannot be adequately evaluated and treated at Guantánamo.

- Ensure detainees have timely and full access to all of their medical records upon request, including when requested through counsel or another authorized representative, while otherwise maintaining confidentiality of those records (especially with regard to access by prosecutors).
- Create the new role of chief medical officer at Guantánamo—a senior civilian physician who would oversee the provision of medical care to detainees, report outside the Guantánamo chain of command, and have final decision-making authority over any decision related to medical care for detainees and medical accommodations to detention conditions of confinement and operating procedures.

- Allow meaningful and regular access to Guantánamo by civilian medical experts, including permitting such experts to evaluate detainees in an appropriate setting.

If the United States declines to take the steps that Deprivation and Despair recommends, complex medical conditions that cannot be managed at Guantánamo should be expected to accelerate in frequency and escalate in severity.

Deprivation and Despair: The Crisis of Medical Care at Guantánamo

is a joint report produced by
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