

Editorial

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Any remaining hope for imposing meaningful accountability for torture and other abuses committed against prisoners under President George W. Bush has ended, for all practical purposes.

On Thursday, Attorney General Eric Holder Jr. [announced that no one would be prosecuted](#) for the brutal deaths of two prisoners held in C.I.A. custody.

One of the prisoners, a suspected militant named Gul Rahman, died in 2002 after being shackled to a concrete wall in near-freezing temperatures in a secret C.I.A. prison in Afghanistan. The other, Manadel al-Jamadi, died in C.I.A. custody in 2003 at Abu Ghraib prison in Iraq, where his corpse was photographed wrapped in plastic.

In [his statement](#), Mr. Holder suggested that the decision not to bring prosecutions should not be seen as a moral exoneration but a sign that the record was not “sufficient to obtain and sustain a conviction.”

The public deserves a more detailed explanation of why charges could not be brought. In these egregious cases, it appears as though the C.I.A. interrogators tortured prisoners to death, going beyond even the harsh techniques authorized by the infamous torture memos cooked up by Justice Department lawyers to try to justify the unjustifiable. Not pursuing criminal charges may remove an avenue of attack against the Obama administration by Republicans, who continue to defend the use of torture. But absent a more persuasive explanation, the implications for the rule of law are deeply troubling.

In June 2011, Mr. Holder said that about 100 cases of detainee treatment had been reviewed and none warranted further investigation. The decision not to bring charges on these last two

cases puts into sharp and shameful focus the Obama administration's overall record of trying to avoid legal scrutiny of Bush-era abuses.

Not only have those responsible escaped criminal liability, but the administration has succeeded in denying victims of the harsh methods any day in court, using exaggerated claims of secrecy and executive power to get federal judges, who should know better, to toss out claims for civil relief. The broad denial of justice to victims disgraces both the administration and the courts.

At the start of his administration, President Obama said he wanted to "look forward," not back, on the actions of C.I.A. interrogators. In practice, the administration has chosen to look back selectively, eschewing prosecutions and civil relief for victims while pursuing criminal charges against a former C.I.A. officer, John Kiriakou, on charges he disclosed the identity of other C.I.A. officers who participated in the interrogations.

These are not old, musty issues that the nation has moved beyond and the public can afford to ignore. Just a few months ago, during the Republican primary campaign, Mitt Romney expressed support for the use of waterboarding as a counterterrorism method, and he even denied that it amounts to torture. In the absence of any sort of legal accountability, there is no assurance that this lawless practice would not happen again.