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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the combined third to fifth periodic reports of the United States of America

Addendum

Information received from the United States of America on follow-up to the concluding observations*

[Date received: 26 November 2015]

* The present document is being issued without formal editing.

One-Year Follow-up Response of the United States of America to Recommendations of the Committee Against Torture on its Combined Third to Fifth Periodic Reports on Implementation of the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

1. Pursuant to the Committee's request, the United States provides the following information pertaining to four of the Committee's recommendations (¶¶ 12(a), 14(c), 17, and 26(c-d) of its Concluding Observations adopted November 20, 2014), taking into consideration the Committee's follow-up guidelines.

2. The United States considers our exchanges with this Committee, and with other treaty bodies and human rights mechanisms, to be part of an important and comprehensive long-term dialogue as we continue our ongoing work to protect human rights and fundamental freedoms at all levels of our government. We welcome the Committee's observations and will continue to give thoughtful consideration to its ideas and recommendations. We wish to note that six interagency working groups, organized through the White House, will be reviewing the Committee's concluding observations and recommendations along with those received through other treaty bodies and recommendations supported during the Second U.S. Universal Periodic Review. The Working Groups will be holding civil society consultations to invite further dialogue on these recommendations.

3. Although there remain matters regarding the interpretation or application of the Convention on which the United States and members of the Committee may not be in full agreement, we have found the process of review and reflection useful as we work toward our mutual goal of a world free from torture and cruel, inhuman, or degrading treatment or punishment. It is in this spirit of cooperation that the United States provides the following information to address some of the Committee's recommendations, whether or not they bear directly on States Parties' obligations arising under the Convention.

4. As a preliminary note, we wish to remind the Committee that in preparation for our presentation last November, senior lawyers across the U.S. government considered questions posed by the Committee about important U.S. legal positions with respect to the Convention, and our delegation in November 2014 conveyed a number of changes and clarifications agreed upon in the course of that review process. The United States affirmed its understanding that where the text of the Convention provides that obligations apply to a State Party in "any territory under its jurisdiction," such obligations extend to certain places beyond the sovereign territory of the State Party, and more specifically, "territory under its jurisdiction" extends to "all places that the State Party controls as a governmental authority."

5. We have concluded that the United States currently exercises such control at the U.S. Naval Station at Guantanamo Bay, Cuba, and over all proceedings conducted there, and with respect to U.S.-registered ships and aircraft.

6. The delegation also clarified the United States' view that although the law of armed conflict is the controlling body of law with respect to the conduct of hostilities and the protection of war victims, a time of war does not suspend the operation of the Convention, which continues to apply even when a State is engaged in armed conflict. The obligations to prevent torture and cruel, inhuman, and degrading treatment or punishment in the

Convention remain applicable in times of armed conflict and are reinforced by complementary prohibitions in the law of armed conflict.

7. Additionally, we wish to note one development since our presentation last November. In 2014, the Senate Select Committee on Intelligence asked the White House to declassify the executive summary, findings, and conclusions of its report on the CIA's former detention and interrogation program. President Obama determined that the report should be declassified with appropriate redactions necessary to protect national security, and supported the Senate Committee's release of the declassified report. The Senate Committee released the declassified executive summary, findings, and conclusions to the public in December 2014.

8. The Senate Committee's report contains a review of a program that included interrogation methods used on terrorism suspects in secret facilities at locations outside the United States. In one of his first Executive Orders after taking office in 2009, President Obama prohibited the use of harsh interrogation techniques and ended the detention and interrogation program described in the report. On November 25, 2015, he signed the National Defense Authorization Act for Fiscal Year 2016, which includes provisions codifying these key interrogation-related reforms from that Executive Order into U.S. law.

9. The decisions following the attacks of September 11, 2001, relating to this former program are part of our history and are not representative of the way we deal with the threat from terrorism we still face today. One of the great aspects of our democracy is that we are willing to look at our past, identify where we could and should do better, and make important improvements, which we continue to do.

10. The United States upholds the bedrock principle that torture and cruel, inhuman, and degrading treatment or punishment are categorically and legally prohibited always and everywhere, violate U.S. and international law, and offend human dignity. Torture is contrary to the founding principles of our country and to the universal values to which we hold ourselves and the international community.

Response to Committee Recommendations ¶ 12(a) – Ensuring or Strengthening Legal Safeguards for Persons Detained

11. The United States has numerous laws in place that provide authority to conduct prompt, impartial, and effective investigations of credible allegations of torture or cruel, inhuman, or degrading treatment or punishment, whether committed within or outside the territory of the United States or when the alleged offender is present in the United States.

12. We refer the Committee to the U.S. Common Core Document, available at http://www.state.gov/j/drl/rls/179780.htm, for a full discussion of these authorities and highlight below several of these authorities related to unlawful overseas activities.

13. 18 U.S.C. §§ 2340 and 2340A (Torture Convention Implementation Act). Under these statutory provisions, the Department of Justice can prosecute any national of the United States and any person who is present in the United States, irrespective of the nationality of the victim or of the alleged offender, who, outside the United States, commits or attempts to commit the crime of torture, which is defined in the statute. For example, under this statute, Roy M. Belfast, Jr., son of former Liberian president Charles Taylor, was sentenced to 97 years in prison in 2009 after being convicted of torture and related crimes committed in Liberia between 1999 and 2003. In 2012, a federal grand jury charged Sulejman Mujagic, a Utica, New York, resident, with one count of physical and mental torture, for torturing a prisoner of war in the Bosnian conflict. In 2013, he was extradited to Bosnia and Herzegovina to stand trial for murder and torture, and he was subsequently convicted and imprisoned there.

Military Extraterritorial Jurisdiction Act (MEJA) and Special Maritime and Territorial Jurisdiction Act (SMTJ)

14. Under the MEJA, 18 U.S.C. §§ 3261-3267, persons employed by or accompanying the Armed Forces outside the United States may be prosecuted domestically if they commit a serious criminal offense overseas. The MEJA specifically covers all civilian employees and contractors directly employed by the Department of Defense and, as amended in October 2004, those employed by other U.S. government agencies, to the extent that such employment relates to supporting the mission of the Department of Defense overseas. For example, in September 2015, two men were convicted for the sexual assault of a woman in Germany in 2013 while the men were employees of the Army & Air Force Exchange Service on Ramstein Air Force Base in Ramstein, Germany, as well as dependents of civilian employees of the military. As another example, in July 2015, a man was convicted and sentenced to five years in prison for sexually assaulting a minor in Okinawa, Japan, while he was an employee of Kadena Air Base and a dependent of a member of the U.S. military.

15. U.S. nationals who are not currently covered by MEJA are still subject to prosecution in the United States for certain serious crimes committed overseas if the crime was committed within the special maritime and territorial jurisdiction of the United States, as defined in 18 U.S.C. § 7 (e.g., including, among others, U.S. diplomatic and military missions overseas, and the U.S. Naval Station at Guantanamo Bay). These crimes include murder, assault, and sexual abuse.

Prosecution Entities

16. The Department of Justice's Human Rights and Special Prosecutions Section and the United States Attorneys' Offices pursue prosecutions of civilian personnel and contractors employed by the United States and allegedly involved in criminal conduct. In addition to the convictions for unlawful killings and abuses committed by civilian personnel and contractors in Afghanistan and Iraq previously reported (see ¶ 131, 137 of the Third through Fifth Periodic Report):

- On October 22, 2014, four civilian contractors – Dustin L. Heard, Evan S. Liberty, Nicholas A. Slatten, and Paul A. Slough – were convicted in U.S. District Court in Washington, D.C., of charges that included murder, manslaughter, and weapons violations, in connection with the deaths of 14 civilians and the injuring of 20 others in Nisur Square in Baghdad, Iraq, in 2007 while the defendants were employed there by the former Blackwater USA. In April 2015, Slatten was sentenced to life in prison, and Heard, Liberty, and Slough were sentenced to 30 years in prison each.

The Durham Investigation

17. As reported during the 1276-1277th session and in the Third through Fifth Periodic Report ¶ 135, the U.S. Attorney General announced on August 30, 2012 the closure of investigations into the death of two individuals in U.S. custody at overseas locations following review of the treatment of 101 persons alleged to have been mistreated in U.S. government custody after the 9/11 attacks. The Department of Justice ultimately declined these cases for prosecution consistent with the Principles of Federal Prosecution, which require that each case be evaluated for a clear violation of a federal criminal statute with provable facts that reflect evidence of guilt beyond a reasonable doubt and a reasonable probability of conviction.

18. This inquiry led by a long term career prosecutor considered all potentially applicable substantive criminal statutes as well as the statutes of limitations and jurisdictional provisions that govern prosecutions under those statutes. The Department and

the relevant law enforcement components approach cases involving allegations of torture or detainee abuse in the same manner that they approach all allegations of serious crimes: by conducting a thorough examination of the available facts, following those facts wherever they lead, and undertaking an impartial application of the law and the principles of federal prosecution.

Civil Remedies

19. U.S. law also provides various avenues for seeking civil redress in cases of torture and other violations of constitutional and statutory rights relevant to the Convention. The wide range of civil remedies available may include, where appropriate, injunctions, compensatory and/or punitive damages, and equitable relief.

20. Redress for inhabitants of foreign countries may be available under the Foreign Claims Act. As of February 2013, a total of 36 identified claimants by name alleging detainee abuse or maltreatment arising in Iraq had been filed with the U.S. Army Claims Service. As of 2013, compensation had been awarded for five substantiated allegations of detainee abuse or maltreatment in Iraq.

Uniform Code of Military Justice (UCMJ)

21. Department of Defense personnel may be subject to criminal prosecution under the UCMJ, codified at 10 U.S.C. §§ 801-940. The U.S. Armed Forces conduct prompt and independent investigations into all credible allegations concerning mistreatment of detainees. In 2006, the UCMJ was amended to provide court-martial jurisdiction over persons serving with or accompanying an armed force in the field not only in time of declared war, but during contingency operations. All courts-martial are a matter of public record and records can be viewed at http://www.justice.gov/sites/default/files/criminal-hrsp/legacy/2011/02/04/03-10-08dod-ucmj.pdf.

22. In addition, the U.S. Armed Forces have several independent criminal investigative agencies, whose function is to investigate allegations of criminal behavior. The U.S. government works to address credible allegations as quickly and as fully as possible.

23. Overall, successful prosecution, whether of civilian, military, or contract personnel, is dependent on the availability of evidence that will support conviction beyond a reasonable doubt. In addition, due process requires that the investigation and prosecution of these offenses must be conducted in accordance with the same legal standards applied to investigation and prosecution of other offenses. This is true for any prosecution in the United States, whether at the federal, state, or local level.

Investigations of Deaths in Custody

24. The Department of Defense performs investigations of deaths in custody to determine the cause and manner of death, regardless of the location or the status of the detained person. The Department has processes in place to refer the matter for independent criminal investigation where warranted. Additionally, the Department of Justice's Bureau of Prisons follows protocols in the event of an inmate's death, including protocols for assembling information. These protocols are publicly available at https://www.bop.gov/policy/progstat/5553_007.pdf.

25. The United States prohibits its personnel from engaging in acts of torture or cruel, inhuman, or degrading treatment of any person in its custody wherever they are held. The United States takes vigilant action to prevent any such unlawful conduct by its personnel and to hold accountable any persons responsible for such acts.

Response to Committee Recommendation ¶ 14(c) – Conducting Prompt, Impartial, and Effective Investigations

26. The United States has mechanisms in place to investigate credible allegations of detainee abuse regardless of the location, including at Guantanamo Bay, and to prosecute or take other action against those responsible where warranted. Immediately upon taking office in 2009, President Obama issued Executive Order 13491 on ensuring lawful interrogations, which mandated that, consistent with the Convention Against Torture and Common Article 3 of the 1949 Geneva Conventions, any individual detained in armed conflict by the United States or within a facility owned, operated, or controlled by the United States, in all circumstances, must be treated humanely, and not be subjected to violence to life and person nor to outrages upon personal dignity. Additionally, the Detainee Treatment Act of 2005 prohibits cruel, inhuman, or degrading treatment or punishment of any "individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location," codified at 42 U.S.C. § 2000dd. Violations of the Detainee Treatment Act can be charged under existing statutes, such as felonies prosecuted under the United States' special maritime and territorial jurisdiction.

Writ of Habeas Corpus

27. Habeas corpus relief has been held to be available to those detained outside the United States in some situations. In *Boumediene v. Bush*, 553 U.S. 723 (2008), the Supreme Court held that constitutional habeas corpus review was available to those detained by the Department of Defense at Guantanamo Bay. In *Munaf v. Geren*, 553 U.S. 674 (2008), the Supreme Court held that the U.S. habeas corpus statute extends to U.S. citizens held overseas by U.S. forces, while also ruling that habeas relief is governed by equitable principles.

Department of Defense Policy

28. The Department of Defense has required that all its detention operations meet a high standard of humane care and custody, and its policy is to seek continually to exceed, when possible, international standards for conditions of detention. The Department of Defense does not tolerate the abuse of detainees, and credible allegations are thoroughly investigated, and appropriate disciplinary action taken if allegations are substantiated.

29. Department of Defense Directive 3115.09 (Department of Defense Intelligence Interrogations, Detainee Debriefings, and Tactical Questioning) provides that "[a]ll reportable incidents allegedly committed by any Department of Defense personnel or … contractor personnel shall be . . . [p]romptly reported . . . [p]romptly and thoroughly investigated by proper authorities . . . and . . .[r]emedied by disciplinary or administrative action, when appropriate" (para. 3b). A reportable incident in this directive is defined as "[a]ny suspected or alleged violation of Department of Defense policy, procedures, or applicable law relating to intelligence interrogations, detainee debriefings, or tactical questioning for which there is credible information."

30. Under Department of Defense Directive 2311.01E (Department of Defense Law of War Program), "[a]ll military and U.S. civilian employees, contractor personnel, and subcontractors assigned to or accompanying a Department of Defense Component shall report reportable incidents through their chain of command." Paragraph 6.3 of this Directive states that contracts shall require contractor employees to report reportable incidents to the commander of the unit they are accompanying or the installation to which they are assigned, or to the "Combatant Commander." Paragraph 3.2 of the Directive defines "reportable incident" as "[a] possible, suspected, or alleged violation of the law of war, for which there is credible information, or conduct during military operations other

than war that would constitute a violation of the law of war if it occurred during an armed conflict." Further, it is Department of Defense policy that "[a]ll reportable incidents committed by or against U.S. personnel, enemy persons, or any other individual are reported promptly, investigated thoroughly, and, where appropriate, remedied by corrective action" (para. 4.4).

31. The Department of Defense has conducted thousands of investigations since 2001, and it has prosecuted or disciplined hundreds of service members for misconduct, including mistreatment of detainees. For example, more than 70 investigations concerning allegations of detainee abuse by military personnel in Afghanistan conducted by the Department resulted in trial by courts-martial, close to 200 investigations of detainee abuse resulted in either non-judicial punishment or adverse administrative action, and many more were investigated and resulted in action at a lower level.

32. The United States wishes to take this opportunity to provide the following additional information in response to the Committee's discussion in ¶ 14, which provides context for this recommendation.

Closure of Guantanamo Bay Detention Facility

33. President Obama has repeatedly reaffirmed his commitment to close the Guantanamo Bay detention facility responsibly. The United States is taking all feasible steps to reduce the detainee population at Guantanamo and to close the detention facility in a manner that protects our national security.

34. Individuals at Guantanamo who were captured as enemy belligerents are detained lawfully under the Authorization for Use of Military Force (AUMF) (U.S. Public Law 107-40), as informed by the laws of war, in the ongoing conflict with al-Qaida, the Taliban, and associated forces. This law authorizes the President of the United States to "use all necessary and appropriate force against those … organizations[] or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001," including the authority to detain persons who are part of al-Qaida, the Taliban, or associated forces.

35. More than 80 percent of those at one time held at the Guantanamo Bay detention facility have been repatriated or resettled, including all detainees subject to court orders directing their release. Of the 242 detainees at Guantanamo at the beginning of 2009, 131 have been transferred out of the facility, including 36 since November 20, 2014. More detainees were transferred out of the facility in 2014 (28 total in 2014) than in any year since 2009, and the detainee population now stands at its lowest since 2002. Of the 107 who remain at Guantanamo, 48 are designated for transfer. Of the 59 others, 10 are currently facing charges, awaiting sentencing, or serving criminal sentences. Periodic Review Board (PRB) reviews are ongoing.

36. The PRB process commenced in October 2013. The PRB is a discretionary, administrative interagency process to review whether continued detention of individuals detained at Guantanamo remains necessary to protect against a continuing significant threat to the security of the United States. As of October 2, 2015, the PRB has conducted 22 full hearings and six 6-month file reviews, in which detainees participated with assistance from their personal representatives and, in some cases, private counsel. The PRB has determined that continued detention of 15 of the detainees reviewed is no longer necessary to protect against a continuing significant threat to the United States. Three of these detainees were subsequently transferred to their countries of origin and the remaining 12 are eligible for transfer subject to appropriate security assurances and consistent with our humane transfer policy.

Habeas Relief

37. As noted above at ¶ 27, the U.S. Supreme Court ruled in *Boumediene v. Bush* that Guantanamo detainees have the right to challenge the legality of their detention through a petition for writ of habeas corpus. Detainees have access to counsel and to appropriate evidence to mount such a challenge before an independent court. The United States has the burden in these cases to establish its legal authority to hold the detainees. Detainees whose habeas petitions have been denied or dismissed continue to have access to counsel pursuant to the same terms applicable during the pendency of proceedings.

38. Many of the detainees at Guantanamo today have challenged their detention through habeas petitions in U.S. federal courts. All of the detainees at Guantanamo who have prevailed in habeas proceedings under orders that are no longer subject to appeal have been either repatriated or resettled. To date, 32 detainees have been ordered released as a result of habeas proceedings in federal court. In each of those cases, the United States relinquished custody of the detainees, and they were repatriated or resettled as appropriate.

Response to Committee Recommendation ¶ 17 – Ensuring Lawful and Humane Interrogations

39. The United States is fully committed to ensuring that individuals it detains in any armed conflict are treated humanely in all circumstances, consistent with applicable U.S. treaty obligations, U.S. domestic law, and U.S. policy. Executive Order 13491 directs that no individual in U.S. custody in any armed conflict "shall . . . be subjected to any interrogation technique or approach, or any treatment related to interrogation, that is not authorized by and listed in [the] Army Field Manual." The Manual explicitly prohibits threats, coercion, and physical abuse, and certain specific actions. Interrogations undertaken in compliance with the Army Field Manual must comply with applicable domestic and international legal obligations.

40. The interrogation techniques in the Army Field Manual are binding on the U.S. military, as well as all federal government agencies, including the intelligence agencies, with respect to individuals in U.S. custody or under U.S. effective control in any armed conflict, without prejudice to authorized non-coercive techniques of federal law enforcement agencies.

Regular Review of the Army Field Manual

41. The Department of the Army conducts yearly reviews of the Army Field Manual to ensure its provisions remain consistent with current U.S. law, policy, and practice and to assess whether updates are needed due to evolving operational circumstances and lessons-learned.

Physical Separation and Field Expedient Separation

42. Provisions of the Army Field Manual, including those related to "physical separation" and "field expedient separation," must be applied consistently with the Manual's generally applicable legal, regulatory, and policy principles and guidelines – including pages 5-17 through 5-23, which provide that all prisoners and detainees, regardless of status, will be treated humanely and explicitly prohibit cruel, inhuman, or degrading treatment.

43. The Manual contains detailed procedural requirements that must be followed prior to the use of Appendix M techniques, including the development and approval of a plan that includes both safeguards and a legal review, to ensure that nothing in Appendix M could be read or used in such a way as to be inconsistent with those generally applicable principles and guidelines.

44. For example, the Manual states:

> "[i]n attempting to determine if a contemplated approach or technique should be considered prohibited . . . consider these two tests before submitting the plan for approval:
>
> • If the proposed approach or technique were used by the enemy against one of your fellow soldiers, would you believe the soldier had been abused?
>
> • Could your conduct in carrying out the proposed technique violate a law or regulation? Keep in mind that even if you personally would not consider your actions to constitute abuse, the law may be more restrictive.
>
> If you answer yes to either of these tests, the contemplated action should not be conducted."

45. Specifically, with regard to separation, the Army Field Manual states that "use of separation must not preclude the detainee getting four hours of continuous sleep every 24 hours." Army Field Manual Section 2-22.3, M-30. This section must, of course, be applied consistently with the Field Manual's generally applicable legal, regulatory, and policy principles and guidelines, which provide that all prisoners and detainees, regardless of status, will be treated humanely. The four-hour standard is a minimum standard, and it would not allow, for example, 40 continuous hours of interrogation with only four hours of sleep on either end. Nothing in the Army Field Manual, including Appendix M, authorizes or condones the use of sleep manipulation or sensory deprivation.

Response to Committee Recommendation ¶ 26(c-d) – Remedies and Redress to Victims

46. The Department of Justice has both civil and criminal authorities to investigate allegations of use of excessive force by law enforcement at all levels of government, and uses them effectively.

Effective Remedies (Civil)

47. The Civil Rights Division of the Department of Justice continues to institute civil suits for equitable and declaratory relief pursuant to the Pattern or Practice of Police Misconduct provision of the Crime Bill of 1994, 42 U.S.C. § 14141. Cases pursued since the 1276-1277th session include:

- On March 4, 2015, the Department of Justice announced that its civil rights investigation into the Ferguson, Missouri, Police Department had found a pattern or practice of excessive force and discriminatory policing, among other violations. The Department is in negotiations with the City of Ferguson to address those violations. The Department also announced that it did not find sufficient evidence to bring federal criminal civil rights charges against Officer Darren Wilson in the death of Michael Brown in Ferguson.
- Following the death of Freddie Gray, the Department of Justice announced on May 8, 2015 the opening of a civil pattern or practice investigation into the Baltimore, Maryland, Police Department, focusing on the use of force; stops, searches, and arrests, and whether there is a pattern of discriminatory policing. The Department's Office of Community Oriented Policing Services and Community Relations Service will provide technical assistance to Baltimore to promote changes and improvements even as the investigation proceeds.
- On May 26, 2015, the Department of Justice announced that it had entered into an agreement with the City of Cleveland to reform the Cleveland Division of Police

following the Department's finding that the police department engages in a pattern or practice of using excessive force in violation of the Fourth Amendment to the U.S. Constitution. The agreement requires the City of Cleveland to implement widespread reforms and changes, focused on building community trust, creating a culture of community and problem-oriented policing, officer safety and training, and officer accountability. Under the agreement, the parties will jointly select an independent monitor to assess and report whether the requirements of the agreement have been implemented for a term of at least five years.

- On July 17, 2015, the Department of Justice reached a partial settlement in its lawsuit against Maricopa County, Arizona, and Maricopa County Sheriff Joseph M. Arpaio. The settlement resolves the United States' claims that the Maricopa County Sheriff's Office conducted unlawful detentions of Hispanics during worksite raids of local businesses in violation of the Fourth and Fourteenth Amendments to the U.S. Constitution, and retaliated against critics in violation of the First Amendment.

48. The Department of Justice has taken similar action in the past six years, opening 22 investigations into police departments in every corner of the nation, and has reached 19 agreements to correct unconstitutional policing. These efforts reflect the input of city officials, police officers, unions, and the community, providing blueprints for reform around the country. The Department is also working to strengthen police-community relations. For example, in Ferguson, Missouri, in addition to opening civil and criminal investigations after the August 2014 shooting of Michael Brown, the Department sent mediators to facilitate a dialogue between police, city officials, and residents to reduce tension in the community. In addition, the Department is involved in a voluntary, independent, and objective assessment of the St. Louis County (Missouri) Police Department, looking at training, use of force, handling mass demonstrations, and other areas where reform may be needed.

Effective Remedies (Criminal)

49. The following examples of federal prosecutions since the 1276-1277th meeting of the Committee demonstrate the scope of punishments available under U.S. law for criminal conduct by government personnel and contractors domestically:

- On January 8, 2015, the U.S. District Court for the Middle District of Louisiana sentenced three former correctional officers with the Louisiana State Penitentiary in Angola, Louisiana, in connection with the assault of an inmate and a subsequent cover-up. One officer received 73 months in prison. A second officer was sentenced to one year of probation and a $500 fine. A third officer received two years' probation and a $3,000 fine. According to court documents, during transport, the first officer repeatedly struck the inmate with a baton and in the ensuing investigation, and the other two officers engaged in conduct to cover up the assault.

- On January 21, 2015, the U.S. District Court for the District of New Mexico sentenced the former Rio Arriba County (New Mexico) Sheriff to 121 months in prison for his conviction on criminal civil rights and firearms charges. Evidence at trial established that he and his son engaged in an unjustified high-speed pursuit of the victim. The former sheriff, who was not in uniform and was driving his personal vehicle, entered the victim's vehicle and assaulted him with a firearm. His son dragged the victim out of his vehicle and when the victim requested to see the former sheriff's badge, the former sheriff pulled the victim's head up by his hair and slammed his badge into the victim's face. The victim suffered injuries to his face, and also injuries to his hand that required surgical repair.

- On May 1, 2015, two former Puerto Rico police officers were sentenced for civil rights and obstruction of justice violations related to the fatal beating of a 19-year-old male in 2008. One officer was sentenced to serve 33 months in prison for violating the victim's civil rights by striking him with a police baton during the incident, and the second was sentenced to serve 24 months for making false statements to a Special Agent of the Federal Bureau of Investigation (FBI) and to the federal grand jury during the federal civil rights investigation. All six former Puerto Rico police officers who pleaded guilty for their roles in the beating and obstruction of the subsequent civil rights investigation now have been sentenced.
- On June 23, 2015, a former Des Moines, Iowa, Police Department officer was sentenced to serve 63 months in federal prison for using unreasonable force during an arrest in 2013. During the incident, the former officer arrived at a scene where three fellow Des Moines police officers were holding an individual on the ground and a fourth officer was standing over the group. The defendant kicked the victim in the face, knocking out two of his teeth and breaking his nose.
- On July 31, 2015, a federal jury in Huntsville, Alabama, convicted a Huntsville Police Department officer of deprivation of rights under color of law for assaulting and injuring a detainee, as well as obstruction of justice for filing a false police report regarding this incident.

Effective Remedies (State Level)

50. The following are examples of compensation or other effective remedy for victims of abuse pursued at the state level since the Committee's 1276-1277th session:

51. California:

- In October 2015, the City of Los Angeles agreed to pay $2.5 million to the children of Alesia Thomas, who died at a hospital after being hit and kicked by a police officer.
- In December 2014, a jury awarded $8 million to the family of Darren Burley, who died 12 days after a struggle with Los Angeles County Sheriff's deputies. The deputies acknowledged that they had punched Burley and used a stun gun on him in attempting to handcuff him.

52. Maryland:

- In September 2015, the City of Baltimore agreed to pay $6.8 million to the family of Freddie Gray in anticipation of a civil suit for wrongful death. Gray died of a spinal cord injury after he was improperly arrested, shackled, and loaded into a police van without safety constraints.

53. Michigan:

- In May 2015, the City of Inkster agreed to pay $1.4 million to Floyd Dent for injuries he suffered while in police custody. Police officers punched, kicked, and used a Taser on Dent after they pulled him over for a minor traffic violation.

54. Minnesota:

- In July 2015, the City of Brooklyn Park agreed to pay $2.8 million to Shoua Yang. Police officers shot Yang in the back and neck three times when called to break up a fight at a party. Yang was leaving the party when he was shot.

55. New York:

- In July 2015, the City of New York agreed to pay $5.9 million to the family of Eric Garner to settle a wrongful death and excessive use of force suit. Garner died after a New York police officer held him in a chokehold while arresting Garner for allegedly selling untaxed cigarettes, despite Garner's cries that he could not breathe.
- In January 2015, the City of New York agreed to pay $3.9 million to the family of Ramarley Graham, who died after being chased by an officer and shot inside his home.

56. Ohio:

- In October 2015, the City of Painesville agreed to pay $2.25 million to settle a lawsuit filed on behalf of a couple, David and Becky Nall, alleging excessive force. The lawsuit claimed that David Nall suffered a severe and debilitating brain injury after police used a Taser on him.
- In September 2015, a federal jury awarded $5.5 million to the family of Kenneth Smith to settle an excessive force lawsuit. Smith was shot in the head by a Cleveland police officer.
- In November 2014, the City of Cleveland agreed to pay $1.5 million each to the families of Timothy Russell and Malissa Williams, who died after a car chase during which police fired more than 100 shots at Russell's vehicle.

Chicago Police Department

57. In May 2015, the Chicago City Council unanimously approved a $5.5 million reparations fund for victims of torture by the Chicago Police Department under former Commander Jon Burge in the 1970s, 80s, and 90s. Mayor Rahm Emanuel described the fund as "an essential step in righting a wrong." The City of Chicago has already paid more than $100 million in judgments and legal settlements to some victims, and the reparations fund will compensate up to 80 others and will provide counseling, education, and job training to the victims. The fund will provide up to $100,000 to each victim with credible torture claims who have not already received settlements.

58. The City of Chicago has also issued a formal apology to torture victims.

59. Although special prosecutors appointed in 2002 concluded that the statute of limitations prevented prosecution of former Commander Burge for torture-related crimes, the U.S. Attorney in the Northern District of Illinois filed federal perjury and obstruction of justice charges against former Commander Burge in 2010, which resulted in a conviction and a prison sentence of 4 ½ years.

60. The United States takes this opportunity to provide the following additional information in response to the Committee's discussion in ¶ 26, regarding the lack of statistical data on allegations of excessive use of force by law enforcement.

61. According to the Bureau of Justice Statistics' survey in 2011, more than 62.9 million residents aged 16 or older, or 26 percent of the population, had one or more contacts with police during the prior 12 months. Contacts could be voluntary, as when a victim reports a crime or calls for police service, or involuntary, such as street or traffic stops. Surveyed residents are asked about their perceptions of police behavior during the contact. A larger percentage of persons involved in street stops (25 percent) than those pulled over in traffic stops (10 percent) believed the police had not behaved properly. Regardless of the reason for the stop, less than 5 percent of persons who believed the police had not behaved properly filed a complaint.

62. From 2002-2011, about 1.6 percent of the 44 million residents with one or more face-to-face police contacts annually experienced the threat or use of force by police. Given a contact, blacks were more likely to report a use of or threat of use of nonfatal force than were whites or Hispanics (3.5 percent of blacks as compared to 1.4 percent of whites and 2. percent of Hispanics). Moreover, blacks were twice as likely as whites to report that the use of force or threat of force was excessive (2.8 percent vs. 1.4 percent). Overall, about 75 percent of those who experienced force (1.2 percent of persons with police contact) perceived the force as excessive. More information is available on the Bureau's website, at www.bjs.gov.