

RESPONSE TO ERIK JEN'S REVIEW OF ENHANCED INTERROGATION

James E. Mitchell, Ph.D.

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I recently became aware of a lengthy review¹ in *Studies on Intelligence* regarding my book *Enhanced Interrogation: Inside the Minds and Motives of the Islamic Terrorists Trying to Destroy America*. It is safe to say that the author of the essay, Erik Jens, was not a fan, and that's OK. I make clear in the book that I know that reasonable people can come to different conclusions than I do about the morality and efficacy of the CIA's program of enhanced interrogation used with a handful of senior terrorists to stop catastrophic terror attacks in the aftermath of 9/11. And, if Mr. Jen's objections were simply a matter of a different perspective, I would accept them without comment. But I am troubled because much of the critique is based on false assumptions and flawed logic. This is especially bothersome because Jen's review was contained in a respected publication like *Studies in Intelligence* carrying the imprimatur of the CIA.

While I could write (another) book about what Mr. Jens didn't quite understand, let me touch on just a few of the misconceptions in his review.

Jens dismisses² my complaint that Senator Feinstein and her Senate Intelligence Committee staff failed to interview me or anyone else involved in the interrogation program before publishing her disparaging report in December 2014. "Of course, she didn't!" Jens opines because Mitchell and others were under Justice Department investigation and no defense lawyer worth his or her salt would have allowed them to testify. Oddly, Jens himself notes on the next page of his lengthy review, that Attorney General Eric Holder announced in August of 2012 that he had dropped all detainee-related investigations³. What was stopping Senator Feinstein and her staff in the 28 months between that announcement and the release of her report to ask any of us to drop by for a chat? Nothing. And even Jens concedes there was nothing stopping the SSCI staffers from

¹ Erik Jens (Studies in Intelligence Vol 61, No. 3 (Extracts, September 2017))

² Ibid., 71

³ <https://www.justice.gov/opa/pr/statement-attorney-general-regarding-investigation-interrogation-certain-detainees>

interviewing CIA Directors, Deputies, General Counsels and the like who were never under investigation., but they didn't interview them either.

The SSCI, not unlike, Jens, relied on documents alone without talking to individuals referred to in them – and as a result misunderstood much of what they read.

Here is another example. Jens writes that I make the absurd and provably false argument that “indigenous guards” mistreated detainee Gul Rahman and that, “according to reports” he died of exposure after that. In my book, I wanted to convey what I believed then and still believe was the cause-in-fact (real cause) of Rahman’s death, not simply the proximate cause (the person officially responsible). There is no doubt that there were serious flaws in the performance of a junior CIA officer in charge of the detention site, as reflected by a CIA accountability board. But Attorney General Holder did not recommend prosecution for him or any other CIA personnel at the site¹.

But, the guards are not blameless. Their negligence was the cause-in-fact. They are the ones who put the chains on Rahman and they are the ones who stood by and did not take appropriate steps to prevent him from freezing to death during the night while he was in their care in the absence of Americans. The guards didn't have to do that. They had the authority to take proactive steps to protect the health and safety of the detainees they were guarding. Only the indigenous guards were present overnight when the prisoner froze to death. In spite of statements that they acted like professionals, reports show that he was in their care². It was through their negligence that Rahman died of exposure. My account in the book was and is correct.

Jens says I make an egregiously false claim that I and the CIA were not responsible for Abu Ghraib. The fact that I had never set foot in Abu Ghraib and that any CIA presence at the prison was unrelated to the terrible actions of a group of ungoverned reservist military police is apparently insufficient to convince him.

True, the Taguba³(p.17) Report notes that...*Military Intelligence (MI) interrogators and Other US Government Agency's (OGA) interrogators actively requested that MP guards set physical*

¹ <https://www.justice.gov/opa/pr/statement-attorney-general-regarding-investigation-interrogation-certain-detainees>

² CIA IG Report of Investigation. Death of a Detainee, 27 April 2005, p 47; Memorandum For: Deputy Director of Operations, Death Investigation Gul Rahman, p 28

³ Available at <http://news.findlaw.com/cnn/docs/iraq/tagubarpt.html#ThR1.8>

and mental conditions for favorable interrogation of witnesses. But there is a long way from an MI or OGA interrogator asking a guard to “keep detainees awake” and sticking a detainee in a box and attaching wires to his fingers, toes, and penis. It is ridiculous to argue that Dr. Jessen and I are somehow morally responsible for the bad acts of the rogue, ungoverned reservist military police who did those disgusting things because we exerted some spooky influence from a distance.

Jens accuses me of lying – in my assertion that some in the media lied about me. In the book I describe media allegations that I had been at Guantanamo Bay the night several prisoners had died of apparent suicide. On page 72 of Jens’ review he writes:

In support of his thesis that the media routinely lies about him, Mitchell quotes a “press account” that on the night of the suicides, “shrieks and wailings were heard coming out of [a Guantanamo facility] and one James Elmer Mitchell was seen entering it [italics in original].” (289) But this quote, for which Mitchell provides no source, appears to exist nowhere on the Internet—except in the online version of Mitchell’s own book. This “press account” thus appears to be either fabricated or appeared only in some media outlet so desperately obscure as to not even have a Web presence.

The reason Jens thinks that is a lie is because he couldn’t find the article when he Googled it.

Here is what I was talking about. There was a “Listserv” group of like-minded members of the legal community and journalists who had a penchant for writing about detainee matters.

Someone, who shall remain nameless, had access to that group and shared with me a posting from Scott Horton, a journalist who writes for Harpers which provided an update to an entire group on a story about three GITMO detainees who officials claimed had committed suicide by “stuffing rags down their throats.” Horton was claiming that their deaths were not suicide and that a government cover up was unraveling. In the third paragraph of Horton’s longer message he writes,

Ear-piercing shrieks and wailings were heard coming out of this facility, and one James Elmer Mitchell was seen entering it.

Horton clearly intended to link me to the deaths of the three Guantanamo prisoners with that sentence.

To be clear, I never heard of those detainees, had nothing to do with them, and wasn't even in that part of the world when they committed suicide. After I saw the account, I immediately emailed Harpers threatening to sue. Harpers left my name out of the piece¹ when they published it.

I do not consider Harpers a “desperately obscure” media outlet, and that’s where Horton intended to publish his story with my name in it. The fact that I was able to head that off before it happened, doesn’t mean that Horton didn’t intend to spread falsehoods about me. Furthermore, the fact that Horton made his libelous allegations to countless other members of the press and legal community using a restricted message board that they use to share information, coordinate stories and can keep each other abreast of their latest projects, doesn’t mean the account was published in a “desperately obscure” media outlet. Rather, the account was published in a secretive outlet intended to inform and influence like-minded journalists who are working on similar news stories and have access to multiple media outlets. In my mind, that makes it worse.

In hindsight, I should have been clear in my book about the source of the quote and what I did to get my name taken out of the story. One last thing on this topic, if Jens doubts that reporters are willing to lie in service of a larger truth, then he hasn’t talked to many liberal reporters.

But perhaps my biggest objection to Jens’ review is his focus on – and misunderstanding of the concept of “learned helplessness.” This is not a simple thing to explain – and therein lies the rub. Jens complains that my book does not discuss the fact that I aggressively pushed the CIA to adopt learned helplessness as their primary interrogation approach, which, he says has been cited in almost every account of the program. The reason I did not do so, is not (as he alleges) an effort to erase public awareness of the term from popular memory – but because it was NOT central to the work I and my colleague, Dr. Bruce Jessen did.

Many people inside CIA at the time the interrogation program was developed had a less-than-rudimentary understanding of the concept. When they wrote memos and emails to each other some of those misunderstandings were memorialized and these are what is often cited in other press accounts and books, misleading the public and people like Jens. It is something the SSCI could have cleared up had they bothered to interview to me.

¹ <https://harpers.org/archive/2014/06/the-guantanamo-suicides-revisited/>

Please bear with me as I try to explain. According to Mikulincer¹, the term “learned helplessness” has been indiscriminately used within the behavioral science community to mean at least three different things: 1) the motivational and attentional deficits that result from exposure to learned helplessness inducing procedures, 2) the operational procedures that induce these deficits, and 3) the underlying processes (emotions, attributions, beliefs) that mediate the deficits. Complicating the issue is that the attentional and motivational deficits produced by learned helplessness inducing procedures and the underlying emotional and attributional responses occur on a continuum—ranging from little to no effect to complete withdrawal and passivity brought on by profound feelings of helplessness, hopelessness and the belief that there is nothing that can be done to escape the situation. This same indiscriminate use of the term occurred within the CIA, as did a blurring of the continuum of graduated effects.

However, critics of the Enhanced Interrogation program would have you believe that every time someone at the CIA used the term learned helplessness that person meant one thing and one thing only—the worse-case subjective feelings of profound hopelessness, depression, passivity and withdrawal brought on by inescapable, repeated exposure to aversive uncontrollable events. They contend that the very aim of using Enhanced Interrogation Techniques (EITs) was to produce this form of profound debilitating learned helplessness. But that is not accurate.

The idea² behind using learned helplessness in the procedural sense as an interrogation approach was to use EITs to put captured senior terrorists in a difficult situation, trigger emotions that motivated them to seek a solution, then cut off all avenues of escape except answering questions. Interrogators could reinforce cooperation by allowing detainees to avoid EITs in the future. It differs from the operational procedures used for profound learned helplessness induction in that there is a built-in way to avoid failure and escape the unpleasant situation³. There are two important components to this approach: the operational procedures used to induce an emerging

¹ See, Mario Mikulincer, *Human Learned Helplessness; A Coping Perspective*, (Springer + Business Media, New York, 1994), for a definitive review of the learned helplessness literature. Page 13 addresses the ways in which the term has been used. Available at <https://www.springer.com/us/book/9780306447433>.

² This approach is similar to how the use of helplessness as an interrogation approach is discussed in the so-called Army Field Manual for Interrogation (FM-2-22-3, page 8-13), albeit the manual prohibits the use of physical pressures.

³ This approach has more in common with learned helplessness research control groups where subjects are allowed to escape from unpleasant situations, than it does continuous exposure to inescapable, failure.

sense of helplessness; and, more importantly, allowing the detainees to escape EITs by answering questions. On those infrequent occasions when Dr. Jessen and I discussed the use of learned helplessness as an interrogation approach, we discussed it in this way. It is the same templet we used to discuss other emotion focused interrogation approaches, such as fear.

Let's set aside, for the moment, quibbling about what we did or did not mean by the term learned helplessness. Let's assume Jens is correct (although he's not) in his assertion that Dr. Jessen and I advocated inducing profound learned helplessness. Let's simply examine the accuracy of the Jens' claim that it was something that we "*constantly, even aggressively, emphasized as a critical element of breaking the will of detainees to resist questioning.*"

Jens is right when he says, "*Media accounts of Mitchell's work with the CIA often highlight his alleged single-minded pursuit of inducing "learned helplessness" as a necessary precondition for effective interrogation.*" It's one of my complaints about the media.

But, Jens is wrong when he alleges that I tried to bully the CIA into adopting learned helplessness as their primary interrogation approach. If—as Jens contends—our mission statement, our very purpose, the very essence, of what we wanted to accomplish was to push CIA into adopting inducing learned helplessness as a critical and necessary element to effective interrogations, then you should see us make that pitch in contemporaneous documents that Dr. Jessen and I wrote for the CIA.

These documents were not available when I wrote my book, so I couldn't cite them. Nor were they available during the decade when the liberal media's narrative concerning our alleged obsession with learned helplessness spread like a virus. But they were recently declassified for public release. Examining them takes the argument out of the realm of allegations from a disgruntled former FBI agent and fictive media speculation. The documents provide the best evidence of what Dr. Jessen and I were actually advising the CIA.

After all, we wrote the documents to help CIA interrogate captured senior terrorists. So, it follows, that if—as Jens contends—we actually aggressively pushed learned helplessness, in whatever sense one uses the term, as the most critical element for effective interrogations, then we will have emphasized it in our early writings for the interrogation program. Not doing so would have been counter-productive to what Jens alleges we were trying to do. We had every

reason to present our ideas plainly and directly to the CIA, because we never expected the documents to be released to the general public.

As a smoking gun to prove that I aggressively pressed the CIA to use learned helplessness as their primary approach to interrogation, Jens references a memo¹ that I wrote in 2003. I wrote the memo at the request of the CIA after they asked me to outline what I believed my qualifications were to continue to support the CIA Counter Terrorist Center interrogation efforts. I was not alone in this task, others involved in interrogations did the same. Jens calls it a *pitch memo* in the paragraph quoted above. From his use of the phrase—*pitch memo*—you would expect that I would actually *pitch* the use of learned helplessness to the exclusion of other approaches. That’s what Jens insinuates. But that’s not the case.

In the exact section that Jens cites, the summary section of the memo, starting on page 3, I write,

Interrogation and exploitation are primarily about producing a mental state that facilitates obtaining desired intelligence information. That mental state will be different for each person depending on circumstances, abilities, past experiences and temperament. Enhanced measures are used only in service of producing the appropriate mental state. Sometimes the appropriate state is fear, sometimes it’s a sense of learned helplessness for using resistance techniques, sometimes it’s compliancy, sometimes it’s an affinity for the exploiter, sometimes it’s a sense of false hope, etc. The appropriate mental state varies. Being able to read the person being exploited and craft the desired mental state is critical to the success of the mission. Being able to recognize when enhanced measures are going too far, reduces the risk of producing prolonged and profound mental harm.

It baffles me how someone with honest intentions could read that paragraph—one specifically written for the leadership of the CIA’s interrogation program—and conclude it was evidence that I was *aggressively* and *single-mindedly* in pursuit of convincing the CIA that the induction of learned helplessness was a necessary precondition for effective interrogations.

It does nothing of the sort. And yet, that is what Jens would have you believe. I specifically said the mental state would be different for each person and then listed a number of potential

¹ James E. Mitchell, Memorandum: Qualifications to provide special mission interrogation consultation. (2003). Declassified for public release on 12/20/2016.

emotional approaches, some of which were even positive, like affinity! If the mere appearance of the term, *learned helplessness* in a list is evidence that I “single-mindedly” and “aggressively” advocated for its exclusive use, then the same can be said for compliancy or affinity or fear or false hope, all of which are also listed, along with all the mental states I did not list subsumed in the abbreviation, etc. Such an argument is absurd. And yet, Jens makes it for learned helplessness.

Not so fast, you say. Perhaps, the smoking gun can be found in earlier documents that Dr. Jessen and I wrote for the CIA? Again, not so. The earliest document¹ we wrote was in December 2001 before the Enhanced Interrogation program even existed. It is entitled, *Recognizing and Developing Countermeasures to Al Qaeda Resistance to Interrogation Techniques: A Resistance Training Perspective*. It doesn't mention learned helplessness, at all. It characterizes the point of using resistance to interrogation countermeasures this way,

The point of using countermeasures is to distract captives from the primary focus of the interrogation, lead them to believe that it is futile to continue resisting, or gradually shape compliance.

It is hard to call this a single-minded focus on learned helplessness. The phrase learned helplessness doesn't even appear.

Another contemporaneous document is the memo² I wrote in July 2002 listing the SERE techniques the CIA might consider employing if they intended to use physical pressures against Abu Zubaydah. It was the first document I wrote to help the CIA develop their Enhanced Interrogation program. It was the source for the SERE techniques CIA sought Department of Justice clearance to use. Surely, if I was aggressively pushing for the use of learned helplessness as a necessary prerequisite for effective interrogations, it would be in this seminal document. But it is not there. Here is what the memo says:

¹ James E. Mitchell & John B. Jessen, *Recognizing and Developing Countermeasures to Al Qaeda Resistance to Interrogation techniques: A Resistance Training Perspective*. (White Paper for CIA, 2001), Declassified for public release on 02/14/2017.

² James E. Mitchell, *Memorandum For: CTC/UBL, Description of Physical Pressures*. (2002). Declassified for public release on 09/20/2016. See paragraph 1.

The intent is to dislocate the subject's expectations concerning how he is apt to be treated and instill fear and despair. The intent is to elicit compliance by motivating him to provide the required information, while avoiding permanent physical harm or profound and pervasive personality change."

Not only is learned helplessness not emphasized, it's not even mentioned. How can it be that Dr. Jessen and I were aggressively engaged, as Jens alleges, from the start of the program in the "single-minded pursuit of inducing "learned helplessness" as a necessary precondition for effective interrogation" and not even mention it in the document that allegedly served as the starting point for the use of SERE techniques in CIA interrogations? The charge makes no sense when the actual wording of the documents is fairly examined.

Don't get me wrong, Dr. Jessen and I have referenced learned helplessness in documents. We did so in a document¹ declassified for public release entitled, Interrogation and Coercive Pressures: A Quick Overview. But we didn't mention it to push the CIA to use learned helplessness as an interrogation technique. We mentioned it to explain why interrogation techniques are tools to be used within a relationship, and not a silver bullet. Here is that paragraph in context of the paragraph before and after it.

The relationship an interrogator establishes with a detainee allows him or her to exploit the preconscious effects of emotions that can act as a back door to a detainee's decision-making processes so that the apparent facts of the situation, options for decisions, and representations of future outcomes favor operationally exploitable courses of action, and exposes the detainee to ideas and beliefs that have a contagious effect. In short, it is the relationship with the interrogator that is critical. The interrogation techniques are tools to be used within that relationship; but in and of themselves they provide no silver bullet.

For example, experimental research² on the induction of learned helplessness indicates that approximately 15 to 20 percent of animals and human subjects will not develop learned

¹ James E. Mitchell & John B. Jessen, Interrogation and Coercive Pressures: A quick Overview. (White Paper for CIA, 2005), Declassified for public release on 02/14/2017

² Reference for "no technique functions as a silver bullet. For discussion of incident rates and factors affecting the induction of learned helplessness, in addition to Mikulincer, see C. Peterson, S. Maier, and M. Seligman, Learned Helplessness: A Theory for the Age of Personal Control. (Oxford University Press, 1993). M. Seligman, Learned Optimism. (Knopf and Garber, 1990).

helplessness even under repeated exposure to helpless inducing procedures. Similarly, 15 to 20 percent of animals and human subjects showed signs of helplessness even when no helpless inducing techniques had been applied.

It is more accurate to say that “most people will talk and usually reveal some information they might not have revealed otherwise (¹p.44),” but the use of coercive pressure is no guarantee that a detainee will provide a specific item of information he possesses.

Read fairly and in context, it's clear we're telling readers that it is the relationship with a detainee that is critical and to not expect coercive pressure to work on everyone or even to be necessary. Why would we write that if we were trying to convince the CIA that inducing learned helplessness was a required prerequisite for effective interrogation of all detainees? We wouldn't. No one else would either.

In that same document, we warn against inducing profound hopelessness, one of the emotional reactions that underlie extreme helplessness induced deficits, such as complete withdrawal and passivity. In the main body of the paper starting with the last paragraph on page 4, we write,

Certainly, it is the case that people can be induced to fabricate information to stop aversive treatment, particularly if they are asked leading questions and led to believe that the only way to stop the harsh treatment is to tell those asking the questions what they want to hear. But, in our view, this is an amateurish, misguided use of coercive pressure.

Moreover, when titrated improperly and administered in an unpredictable relationship, coercive interrogation techniques may induce a severe sense of hopelessness, conditioned neurosis or disturbance of brain function that can undermine efforts to obtain intelligence.

We follow up in an endnote linked to the term conditioned neurosis² with the following observation.

*... in our view, carrying procedures to such lengths, **even if it were legal**, (emphasis in original) is inappropriate and counterproductive since the goal is to gather information, rather than leave*

¹L.W. Hinkle, The physiological state of the interrogation subject as it affects brain function. In Albert D. Biderman and Herbert Zimmer (Eds.) The Manipulation of Human Behavior. (John Wiley & Sons, 1961)

² Dr. Seligman coined the term *learned helplessness* and became interested in studying its effects after becoming familiar with Pavlov's research on conditioned neurosis.

a subject broken and non-functional, and such activities may directly interfere with obtaining accurate intelligence.

The above is hardly an “aggressive” and “overbearing” insistence on inducing the kind of learned helplessness critics accuse us of crusading for. One document¹ we wrote, *Five Things Interrogators and Debriefers Must Know About Human Memory*, describes strategies for obtaining accurate answers from detainees without the use of coercion by understanding how human memory works.

By now, it should be clear from reading relevant sections of the documents that Dr. Jessen and I wrote in the first years of the CIA’s interrogation program that we were not claiming that it was necessary to induce inescapable learned helplessness for interrogations to be effective. Nor were we asserting that helplessness, in the escapable sense, should be induced in all detainees. We were, instead, recommending a multifaceted approach centered in the relationship the detainee had with the interrogator. In fact, Dr. Jessen and I wrote an unclassified interrogation manual² and associated workbooks advocating no physical coercion at all. These were delivered to, but never formally adopted by the CIA, although many of the non-coercive approaches in the manual were social influence strategies that Dr. Jessen and I and other CIA interrogators had been using for years with success.

And yet, Jens accuses me and Dr. Jessen of bullying the CIA into exclusively adopting inescapable learned helplessness as an essential prerequisite for effective interrogation. He cites page 23 of my book and writes,

...multiple other memoirs depict Mitchell as aggressive and overbearing in his insistence on applying his own theories to break detainees’ resistance, he tells us that he merely provided his “observations” in post-interrogation “hot washes,” the better to prepare the team for the next day’s session.

And that is exactly what I was doing during the period that page addresses. “Merely” is his word. I was not “merely” doing anything. In fact, that page describes my actions during the brief time

¹ James E. Mitchell & John B. Jessen, *Five Things Interrogators and Debriefers Must Know About Human Memory*. (White Paper for CIA, 2004) Declassified for public release on 12/20/2016.

² James E. Mitchell & John B. Jessen, *Shifting Priorities and Changing Intentions: Interrogation Planning Using the Adaptive Processes Method*. (Unclassified White Paper for CIA, 2006).

Zubaydah was hospitalized. I repeat, hospitalized, and I tried to faithfully summarize the events I participated in. But let's not kid ourselves, Jens choice to include the word "merely" is an effort to make it seem like I am downplaying my role.

In the rest of that chapter, I describe a variety of things beyond offering my observations during meetings that I did in support of the early interrogations of Abu Zubaydah. But, if Jens thinks I was manipulating the thermostat in the cell or cranking up the volume on the loud music or aggressively badgering the CIA officers and FBI agents doing the interrogations to beat Zubaydah, as Jens seems to imply, then he is wrong.

Jens implies that multiple other people with direct knowledge of the day-to-day activities at the black site where Abu Zubaydah was being held in the spring of 2002 have written memoirs contradicting my account. If so, where are they? I am keen to read them. And if that is not what he means, why is he implying it?

To be sure, there were multiple other people at that black site and they do know the truth of what happened, but they haven't had a chance to tell their stories. The democrats on the SSCI could have accessed the ground truth if had they bothered to question even one CIA officer involved Zubaydah's interrogations.

But, as far as I know, the only two people who were actually stationed at that black site that have written memoirs are me and Ali Soufan. Ali Soufan has made false claims for over a decade for his own reasons, and Jane Meyer echoed them because seemingly she used Soufan as a primary source when writing her book¹, as did many other media types who wrote exposés and memoirs. It is misleading and inaccurate to imply that Soufan's description of events, as echoed by multiple journalists, has more credibility than mine simply because there are more stories promoting his account. For over a decade, he was the primary source for a wheelbarrow full of critical and often inaccurate stories mouthing his allegations, while the rest of us who were actually there were prohibited by our non-disclosure agreements from defending ourselves.

Jens accuses me of being self-serving, but seemingly accepts without question the self-serving claims of a former FBI Special Agent with an axe to grind. Also, Jens seems to accept as fact the

¹ Jane Mayer, *The Dark Side: The Inside Story of How the War on Terror Turned Into a War on American Ideals* (Doubleday, 2008).

one-sided SSCI Majority Report. He writes as if it is a report released by full committee—it is not. The Republicans on the SSCI issued a rebuttal in the SSCI Minority Report¹. As did former CIA Directors and senior leaders².

As I said at the top, I have no problem with observers coming to different conclusions than mine about whether the CIA's enhanced interrogation program was justified or produced results that saved many American and allied lives (although just about every senior CIA official involved with the program at the time believes that it was – and it did.) But I do object to people suggesting that I lied about my role or that I tried to distance myself from any responsibility for its impact. Nothing could be further from the truth.

¹ Senate Select Committee on Intelligence. Minority Views of Vice Chairman Chambliss Joined by Senators Burr, Risch, Coats, Rubio, and Coburn (June 20, 2014)

² Bill Harlow, ed., *Rebuttal: The CIA Responds to the Senate Intelligence Committee's Study of Its Detention and Interrogation Program* (Naval Institute Press, 2015).