

# DIANNE FEINSTEIN INVOKES TORTURE'S COVERT STATUS ON DECLASSIFICATION

Five years ago, I reported (BREAKING) that the Bush Administration (aka Dick Cheney) made the torture program a Special Access Program in unusual fashion. Rather than CIA Director George Tenet make torture a SAP, as mandated by the Executive Order governing such things, unnamed people in the National Security Council did so.

Panetta tells a funny story about how (but not when) the torture program became a special access program.

Section 6.1(kk) of the Executive Order defines a "special access program" as "a program established for a special class of classified information that imposes safeguarding and access requirements that exceed those normally required for information at the same classification level." Section 4.5 of the Order specifies the U.S. Government officials who may create a special access program. This section further provides that for special access programs pertaining to intelligence activities (including special activities, but not including military operations, strategic, and tactical programs), or intelligence sources or methods, this function **shall** be exercised by the Director of the CIA.

[snip]

Officials at the National

Security Council, (NSC) determined that in light of the extraordinary circumstances affecting the vital interests of the United States and the sensitivity of the activities contemplated in the CIA terrorist detention and interrogation program, it was essential to limit access to the information in the program. NSC officials established a special access program governing access to information relating to the CIA terrorist detention and interrogation program. As the executive agent for implementing the terrorist detention and interrogation program, the CIA is responsible for limiting access to such information in accordance with the NSC's direction. [my emphasis]

See the funny bit? The first paragraph says the Director of the CIA "shall" "exercise" the function of creating special access programs pertaining to intelligence. But then the very next paragraph says "NSC officials established a special access program." One paragraph says the Director of CIA has to do it, but the next paragraph admits someone else did it.

Since that time, I've asked experts in classification and they agree that something funky went down (note, too, that torture wasn't a SAP at the very beginning).

I believe torture's odd SAP status is one of the things that has implicated the Presidency, which the Obama Administration went to some lengths to cover up.

But it also should dictate the White House take

the lead on declassification of the torture program.

Don't take my word for it – take Dianne Feinstein's word. In a letter to the White House, she invoked torture's status as a "covert action program under the authority of the President and National Security Council" to call for the White House to lead declassification.

In a letter to the President dated April 7 and obtained by McClatchy, Dianne Feinstein, D-Calif., called for swift action on the summary and the findings and conclusions of the report, which members voted last week to declassify. The summary, Feinstein said, should be released "quickly and with minimal redactions."

"As this report covers a covert action program under the authority of the President and National Security Council, I respectfully request that the White House take the lead in the declassification process," the letter reads.

Note, Dianne Feinstein has just formally confirmed the same detail the Obama Administration appealed to keep secret: torture was authorized by the President, not by OLC, not by George Tenet, not by John Rizzo. The President.

Which is why the President should take responsibility for releasing the report.