

# IN DEFENDING DIANNE FEINSTEIN, RON WYDEN REMINDS THAT MICHAEL HAYDEN LIED TO CONGRESS

Like Harry Reid and Mark Udall, Ron Wyden has defended Dianne Feinstein against Michael Hayden's suggestion that she's too "emotional" to investigate torture.

But unlike Reid and Udall – who attack Hayden for being a sexist pig (though not in that language) – Wyden attacks Hayden for being a liar.

General Hayden's suggestion that Chairman Feinstein was motivated by 'emotion' rather than a focus on the facts is simply outrageous. Over the past five years I watched Chairman Feinstein manage this investigation in an extremely thorough and professional manner, and the result is an extraordinarily detailed report based on millions of pages of internal CIA records, including operational cables, internal memos, and interview transcripts.

General Hayden unfortunately has a long history of misleading the American public – he did it on domestic surveillance when he was the head of the NSA, and he did it on torture when he was the CIA Director. The best way to correct this culture of misinformation is to give the American people a chance to review the facts for themselves, and I'll be working with my colleagues and the administration to ensure that happens quickly.

Mind you, Wyden focuses on Hayden's lies to the American people.

But it's as good a time as any to recall the lies Hayden told the Senate Intelligence Committee on April 12, 2007, when he said the following:

While FBI and CIA continued unsuccessfully to try to glean information from Abu Zubaydah using established US Government interrogation techniques, all of those involved were mindful that the perpetrators of the 11 September attacks were still at large and, according to available intelligence reportedly, were actively working to attack the US Homeland again. CIA also knew from its intelligence holdings that Abu Zubaydah was withholding information that could help us track down al-Qa'ida leaders and prevent attacks. As a result, CIA began to develop its own interrogation program, keeping in mind at all times that any new interrogation techniques must comply with US law and US international obligations under the 1984 UN Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

A handful of techniques were developed for potential use; these techniques are effective, safe, and do not violate applicable US laws or treaty obligations. In August 2002, CIA began using these few and lawful interrogation techniques in the interrogation of Abu Zubaydah. As stated by the President in his speech on 6 September 2006, "It became clear that he (Abu Zubaydah) had received training on how to resist interrogation. And so the CIA used an alternative set of procedures ... the procedures were tough, and they were safe, and lawful, and necessary."

Prior to using any new technique on Abu

Zubaydah, CIA sought and obtained from the Department of Justice an opinion confirming that none of these new techniques violated US statutes prohibiting torture or US obligations under the UN Convention Against Torture.

As CIA's efforts to implement these authorities got underway in 2002, the majority and minority leaders of the Senate, the Speaker and the minority leader of the House, and the chairs and ranking members of the intelligence committees were fully briefed on the interrogation procedures.

After the use of these techniques, Abu Zubaydah became one of our most important sources of intelligence on al-Qa'ida. [my emphasis]

The lies here include:

- FBI was successful at getting intelligence from Abu Zubaydah
- CIA never considered the Convention against Torture until after the CIA IG Report in 2004
- CIA knew Abu Zubaydah had lied under torture in the past
- CIA did not receive DOJ authorization before starting the torture, which started before August 1
- CIA used techniques outside those approved by DOJ
- Only the Gang of Four got briefed on Abu Zubaydah's torture, and even then they

## were not fully briefed until February 2003

It is highly likely that Hayden knew that most of these were lies, but for most I can't prove that. I also doubt Zubaydah had information on the whereabouts of al Qaeda's leadership.

But as I showed in this post, I can prove that he did know only the Gang of Four got briefed on torture.

That's because the day before Hayden testified at the SSCI hearing, in a memo addressed to him entitled "Information for 12 April SSCI Hearing," CIA laid out all the briefings they had done on torture and rendition. And CIA's own records—records Hayden received the day before he made these statements in preparation for the hearing—show that:

- *Tom Daschle, Senate Majority Leader from the time the torture began until the end of 2002, and Minority Leader until the end of 2004, was never briefed on the torture program.*
- *Trent Lott, Senate Minority Leader until the end of 2003, was never briefed on the torture program while in leadership (though as a member of SSCI, he was briefed on the torture program on March 15, 2006).*
- *Denny Hastert, Speaker of the House through*

*the end of 2006, was not briefed on any aspect of the program until July 1, 2005.*

- *Dick Gephardt, House Minority Leader through the end of 2003 (and therefore, through the worst torture) was never briefed on the program.*
- *Harry Reid, Senate Minority Leader from 2005 until 2007 and Senate Majority Leader thereafter, was not briefed until September 6, 2006, when Bush made the program public.*
- *Though Nancy Pelosi had an (incomplete) briefing as House Intelligence Ranking Member in 2002, she did not have a briefing as House Minority Leader.*
- *Just Bill Frist, who was first briefed in July 2004, seven months after he took over as Senate Majority Leader, was briefed in timely fashion at all.*

The Intelligence Committee heads were briefed, however inadequately. But with the exception of Bill Frist, the CIA barely briefed Congressional Leadership

at all.

I had forgotten how blatantly Hayden lied, in what would have been one of the earliest briefings for the full Committee after they first got read into the program.

But it's clear he did lie. And he lied about information he had just been informed was a lie.

No wonder Hayden seems so desperate to defend his own manhood at this time.

He's about to be exposed.

Update: While we're talking about Michael Hayden lies, here's my new favorite NSA lie, when he had Paul Wolfowitz tell Colleen Kollar-Kotelly that NSA wasn't collecting content-as-metadata in the Internet dragnet program when they actually were.

The Court had specifically directed the government to explain whether this unauthorized collection involved the acquisition of information other than the approved Categories [redacted] Order at 7. In response, the Deputy Secretary of Defense [Paul Wolfowitz] stated that the "Director of NSA [Michael Hayden] has informed me that at no time did NSA collect any category of information ... other than the [redacted] categories of meta data" approved in the [redacted] Opinion, but also note that NSA's Inspector General [Joel Brenner] had not completed his assessment of this issue. [redacted] Decl. at 21.13 As discussed below, this assurance turned out to be untrue.

13 At a hearing on [redacted] Judge Kollar-Kotelly referred to this portion of the Deputy Secretary's declaration and asked: "Can we conclude that there wasn't content here?" [redacted] of NSA, replied, "There is not the physical possibility of our having [redacted] [my

**|** emphasis]