

# GROWING SIGNS OF INTELLIGENCE FROM INTELLIGENCE COMMUNITY, OR JUST ANOTHER TURF WAR?

On Saturday, I wrote about a remarkable about-face taken by AP's George Jahn in his reporting on Iran's nuclear technology. Instead of following his usual routine of parroting leaks from US and Israeli sources meant to put Iranian intentions on nuclear technology in the worst possible light, Jahn instead wrote about how dependent the UN's IAEA is on US intelligence to develop its evaluation of what is happening in Iran. Further, Jahn highlighted how US credibility on WMD intelligence was forever harmed by the overstated evaluations of Iraqi WMD leading up the invasion of Iraq in 2003. My post was written from the point of view that somehow Jahn had realized how badly he has been played by the intelligence community over the years and has now decided to question the reliability of the information being fed to him.

In comments on the post, Marcy considered whether the reversal could be framed in a different way:

Not to get all 11-dimensional, but any chance his sources asked him to leak this? That is, more stenography, but to justify reversing course?

In what could be yet another framing of what is happening in the intelligence community, Lara Jakes of AP wrote an article published Monday in which she described what may be a movement within the intelligence community to promote what appears to be a healthy move toward reasoned debate among the various agencies within the intelligence community. Couching the opening of the article within the uncertainty

over whether Osama bin Laden really was at the compound in Abbottabad where he was eventually killed, Jakes describes what appears to be a new movement toward debate:

As the world now knows well, President Barack Obama ultimately decided to launch a May 2011 raid on the Abbottabad compound that killed bin Laden. But the level of widespread skepticism that Cardillo shared with other top-level officials – which nearly scuttled the raid – reflected a sea change within the U.S. spy community, one that embraces debate to avoid “slam-dunk” intelligence in tough national security decisions.

Wow. Here we have a second AP reporter making a reference to the failed Iraq intelligence in 2003 only two days after Jahn’s introspective that cited the same failure. But, when she finally revisits the “slam-dunk” reference many paragraphs later, Jakes elides the most important factor that led to the intelligence failure. Here is her description:

Congress demanded widespread intelligence reform after the Sept. 11, 2001, terror attacks, to fix a system where agencies hoarded threat information instead of routinely sharing it. Turf wars between the CIA and the FBI, in particular, were common. The CIA generally was considered the nation’s top intelligence agency, and its director was the president’s principal intelligence adviser.

The system was still in place in 2002, when the White House was weighing whether to invade Iraq. Intelligence officials widely – and wrongly – believed that then-dictator Saddam Hussein possessed weapons of mass destruction. By December 2002, the White House had decided to invade and was trying to outline its reasoning for

doing so when then-CIA Director George Tenet described it as “a slam-dunk case.”

The consequences were disastrous. There were no WMDs, but the U.S. wound up in a nearly nine-year war that killed nearly 5,000 American soldiers, left more than 117,000 Iraqis dead, and cost taxpayers at least \$767 billion. The war also damaged U.S. credibility throughout the Mideast and, to a lesser extent, the world. Tenet later described his “slam-dunk” comment as “the two dumbest words I ever said.”

This description of the developments in 2003 completely leaves out the way that Dick Cheney and Donald Rumsfeld gamed the intelligence community through their “Team B” program:

Over at the Pentagon, however, Rumsfeld was reprising Team B by creating his own intelligence shop. The Chalabi organization’s alarmist reports on Hussein’s nuclear weapons, which later proved to be false, bypassed the CIA and went directly to the White House.

“That’s why they set up an intelligence unit in [Undersecretary of Defense Douglas] Feith’s office,” said intelligence historian James Bamford. “The whole purpose was to get that kind of information and send it to Cheney.”

Jakes would have us believe that the intelligence community now relies on an open debate to get at the truth:

To prevent that from happening again, senior intelligence officials now encourage each of the spy agencies to debate information, and if they don’t agree, to object to their peers’ conclusions. Intelligence assessments spell out the view of the majority of

the agencies, and highlight any opposing opinions in a process similar to a Supreme Court ruling with a majority and minority opinion.

The closest Jakes comes to admitting that some players in the intelligence community have agendas that might lead them to slant their information in a particular way comes when she describes the Defense Intelligence Agency:

Also included is the DIA, which has increased its ability during the Iraq and Afghanistan wars to gather ground-level intelligence throughout much of the Mideast and southwest Asia. In an interview, DIA director Army Lt. Gen. Michael Flynn would not discuss his agency's debated assessment on North Korea, but described a typical intelligence community discussion about "ballistic missiles in name-that-country" during which officials weigh in on how confident they feel about the information they're seeing.

"In the intelligence community we should encourage, what I would call, good competition," Flynn said. He added: "The DIA, in general, is always going to be a little bit more aggressive. ...As a defense community, we're closer to the war-fighting commanders; it may be in that part of our DNA."

Somehow, Jakes has, within her article, a description of the DIA working to undermine the intelligence gathering and evaluation process in true Team B fashion and yet she fails to see it. The North Korea situation mentioned in the passage refers to a leaked assessment from DIA that North Korea has the capability of arming ballistic missiles with nuclear warheads. This was clearly a move by DIA to put their "more aggressive" view out front of all the others on the situation in North Korea, and yet Jakes

settles for the explanation that the DIA assessment was “mistakenly declassified” even though it was quickly touted by a Republican war hawk in a Congressional hearing.

In the end, what Jakes is describing, where we see an intelligence community being driven by “majority rule” may perhaps be a move toward a more intelligent process, but the key missing ingredient is that rather than the differing agencies simply being given votes by virtue of presenting their version of the intelligence, each agency’s view needs to be tested against all available information where that information is weighted by level at which it can be verified. In other words, until the DIA is forced to provide real, verifiable evidence for their aggressive views, those views should be discounted as coming from a predisposition in their DNA towards violence.

Let’s hope that these public references to the Iraq WMD intelligence failure are the first steps toward that ideal process where each bit of information debated among the agencies is required to be provided within a context of the level at which it can be verified. Otherwise, we may just be seeing yet another round of turf wars among the various agencies, where the always shifting balance of power can lead to disastrous consequences when the wrong groups are allowed to dominate the discourse.

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## **WITH BRADBURY’S APPENDIX M OPINION AND 7TH CIRCUIT VANCE DECISION, THE**

# GOVERNMENT CAN TORTURE ANY OF US

Three years ago, I showed how Steven Bradbury wrote an OLC memo that approved in advance whatever techniques DOD wanted to put into the sometimes classified Appendix M of the Army Field Manual. At the time, DOJ implied to me that this memo was rescinded along with the rest of Bradbury and John Yoo's torture memos.

In a really important post yesterday, Jeff Kaye explained that the memo, in fact, remains operative.

LTC Bresseale explained in an email response to my query last year:

Executive Order (EO) 13491 did not withdraw “All executive directives, orders, and regulations... from September 11, 2001, to January 20, 2009, concerning detention or the interrogation of detained individuals.” It revoked all executive directives, orders, and regulations that were inconsistent with EO 13491, as determined by the Attorney General... [bold emphasis added]

One last point – you seem suggest below that EO 13491 somehow cancelled Steven Bradbury's legal review of the FM. EO 13491 did not cancel Mr. Bradbury's legal review of the FM.”

When I then asked the Department of Justice to confirm what Bresseale had said for a story on the Bradbury memo, spokesman Dean Boyd wrote to tell me, “We have no comment for your story.” The fact Boyd did not object to Bresseale's

statement seems to validate the DoD spokesman's statement.

Breasseale also described DoD's view that both the current AFM and Appendix M were "not inconsistent with EO 13491," which "expressly prohibits subjecting any individual in the custody of the U.S. Government to any interrogation technique or approach, or any treatment related to interrogation, that is not authorized by and listed in the FM. In addition, the Detainee Treatment Act of 2005 expressly prohibits subjecting any individual in the custody of the U.S. Department of Defense to any treatment or technique of interrogation that is not authorized by and listed in the FM. In short, both the President and the Congress have determined that the interrogation techniques listed in the FM are lawful," Breasseale said.

In his post, Kaye provides a lot of details for why the continued applicability of the memo, authorizing separation, is deeply troubling. I'd add that the particular structure of the memo, which of course allows the insertion of physical torture techniques previously abandoned under cover of classification, adds to the concern.

But there is a pending legal reason why it is important, too.

A few years ago, two contractors, Donald Vance and Nathan Ertel, sued Donald Rumsfeld and others for the torture they were subjected to at Camp Cropper after whistleblowing about Iraqi and US corruption.

The torture was, in large part, the "separation" permitted in Appendix M. As part of their case implicated Rummy personally, they described how, immediately after Congress passed the Detainee Treatment Act, Rummy invented Appendix M as a way to evade the law. At first, the 7th Circuit permitted their Bivens case to move forward. But

then the circuit reviewed the decision *en banc* and dismissed the case. The two have appealed that decision; it is pending a cert decision at SCOTUS as we speak.

As part of their petition for cert, Vance and Ertel describe how Rummy responded to passage of the Detainee Treatment Act by inventing Appendix M. (See PDF 340-341)

242. Further evidence that Defendant Rumsfeld made policy decisions to authorize and encourage the use of torture for interrogating detainees, including detained American citizens, occurred on December 30, 2005. On that day, Congress enacted the Detainee Treatment Act which *inter alia*, stated:

No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation. DTA Pub. L. 109-148, Div. A, Title X, § 1001 (a), 119 Stat. 2739-40 (Dec. 30, 2005).

Congress went on to state in the DTA that the U.S. shall not subject any detainees to “to cruel, inhuman, or degrading treatment or punishment.” *Id.* § 1003.

243. Congress thereby evidenced its intent to limit U.S. interrogation techniques to those permitted by the Field Manual when the DTA was drafted. The Field Manual at that time limited the allowable techniques to those consistent with international norms which forbid cruel, inhuman and degrading treatment. In other words, the Field Manual forbade the interrogation

techniques that Mr. Rumsfeld had authorized and to which Congress and the American people took exception.

244. In spite of this clear command, the same day Congress passed the DTA, Mr. Rumsfeld modified the Field Manual to include the cruel, inhuman and degrading techniques described above. He added ten pages of classified interrogation techniques that apparently authorized, condoned, and directed the very sort of violations that Plaintiffs suffered. To the best of Plaintiffs' knowledge, the December Field Manual was in operation during their detention. It was not replaced until September 2006, shortly before Mr. Rumsfeld resigned.

245. Numerous instances of abuse occurring since Defendant Rumsfeld changed the Field Manual in December 2005, including Plaintiffs' experiences and those documented by UNAMI, make clear that Mr. Rumsfeld did not take measures to conform the interrogation techniques to Congress' command.

As I noted in 2011, the Bradbury opinion is further proof that Rummy's top aides – in this case, DOD General Counsel Jim Haynes – were personally involved in inventing Appendix M to bypass DTA. The date on it, too, is important: it shows that Rummy's office was still making changes to Appendix M in secret two days before Vance was detained.

But consider what all this means going forward. Several of the 7th Circuit Judges agreed that the separation techniques used on Vance and Ertel are torture that violates the DTA. In an opinion that concurred that Rummy had qualified immunity in this case, Diane Wood nevertheless agreed that the techniques Vance and Ertel were subjected to, "easily qualify as 'torture.'" Ann Claire Williams said of their treatment,

Congress has already directly addressed and outlawed the detention practices inflicted on these plaintiffs. Instead, the allegation before us is willful, directed non-compliance with the law.

David Hamilton, more narrowly relying on the assumptions necessary in decision to dismiss a case, describes, "All members of this court agree that plaintiffs Vance and Ertel have alleged that members of the United States military tortured them in violation of the United States Constitution." (The majority decision avoids stating one way or another whether their treatment constitutes torture.)

And yet, the majority opinion, which virtually ignored Rummy's actions in establishing Appendix M, nevertheless found that everyone in the chain-of-command had immunity for the torture they subjected Vance and Ertel to. As Williams noted in her dissent,

in the effort to wall off high officials' bank accounts, the majority appears to have erected a sweeping, unprecedented exemption from Bivens for military officers. No case from our highest court or our sister circuits has approached such a sweeping conclusion. The vagueness of the majority's analysis makes the actual scope of the exemption unclear. Does the new immunity apply only to the highest officials in the chain of command?

That is, the 7th Circuit opinion holds that Rummy specifically, and anyone who comes after him, is immune from suit for violating someone's constitutional rights, up to and including illegal detention and torture. As Steve Vladeck and James Pfander said in an amicus brief on this case to SCOTUS,

The Seventh Circuit's decision in this case contravenes nearly 300 years of

established tradition, this Court's well-settled precedents, and the United States' international obligations under the CAT. Operating under the assumption that it was being asked to "create" a new cause of action, the en banc majority took the unprecedented step of conferring, in effect, absolute immunity from liability on U.S. officials who torture citizens abroad.

The opinion is bad enough. Now add in Bradbury's still extant memo, which permits DOD to stick whatever torture techniques they want in Appendix M and have his sanction for it. The two together allow the government to continue to engage in torture with, as Vladeck puts it, absolute immunity, so long as it happens overseas.

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## **MOHAMEDOU OULD SLAHI'S GITMO MEMOIR: A SLOW DEATH**

Slate has a remarkable three part excerpt from the memoir of Mouhamedou Ould Slahi, a Mauritanian Gitmo detainee subjected to some of the worst torture. The intro, by Larry Siems, is [here](#). (Some posts on his still-ongoing habeas fight are [here](#), [here](#), and [here](#).) The whole thing reflects a remarkable, chilling, understanding of the Americans who kept him captive, even as he succumbs to his torture and starts lying to make the torture stop.

Reading the memoir, even as over a hundred detainees continue their hunger strike, I'm struck by the repeated theme of slow death, both in what Americans say to him, and in how he processes his own torture.

In Slahi's story of Bagram, he tells of a "cowboy," believing he doesn't speak English, wishing he'll die slowly.

Now I am sitting in front of a bunch of dead-regular U.S. citizens; my first impression, when I saw them chewing without a break: "What's wrong with these guys, do they have to eat so much?" Most of the guards are tall, and overweight. Some of them were friendly and some very hostile. Whenever I realized that a guard [was hostile], I pretended that I understood no English. I remember one cowboy coming to me with an ugly frown on his face.

"You speak English?" he asked.

"No English," I replied.

"We don't like you to speak English, we want you to die slowly," he said.

"No English," I kept replying. I didn't want to give him the satisfaction that his message arrived. People with hatred have always something to get off their chests, but I wasn't ready to be that drain.

Slahi thinks about slow death as he recounts the fake rendition staged with Donald Rumsfeld's authorization, in which a Jordanian and Egyptian took Slahi on a boat trip to make him think he might be rendered to Egypt. After hours a beating, they wrapped him in ice.

The order went as follows: They stuffed the air between my clothes and me with ice cubes from my neck to my ankles, and whenever the ice melted they put in new hard ice cubes. Moreover, every once in a while, one of the guards smashed me, most of the time in the face. The ice served both for pain and for wiping out the bruises I had from that afternoon. Everything seemed to be perfectly

prepared. Historically, dictators during medieval and pre-medieval times used this method to let the victim die slowly. The other method of hitting the victim while blindfolded in inconsistent intervals of time was used by Nazis during WWII. There is nothing more terrorizing than making somebody expect a smash every single heartbeat.

"I am from Hasi Matruh, where are you from?" said the Egyptian, addressing his Jordanian colleague. He was speaking as if nothing was happening. You could tell he was used to torturing people.

"I am from the south," answered the Jordanian.

What would it be like if I landed in Egypt after about 25 hours of torture? What would the interrogation look like?

And even after they break Slahi and he begins to invent lies for them, guards kept repeating the theme of endless death.

"You know who you are?" said [redacted guard name].

"Uh."

"You are a terrorist," he continued.

"Yes, sir!"

"If we kill you once, it wouldn't do. We must kill you 3,000 times. But instead, we feed you!"

"Yes, sir."

Remember, Slahi, because he broke down and made up lies for his captors, is treated better than most other compliant detainees.

Yet it seems, like them, Slahi experiences just slow death.

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# THE PERILS OF “STRATEGIC MESSAGING”

“We’re an empire now, and when we act, we create our own reality.” Senior Bush aide, quoted by Ron Suskind

The WSJ has a fascinating account of how President Obama’s efforts to extend our will without military intervention failed in Syria.

Early in the article, it describes that, as the Administration was debating intervening directly last summer, senior officials “misjudged” the situation because rebels “appeared” to be getting close to killing Bashar al-Assad.

Just as pressure to intervene grew last summer, White House officials were buoyed by a series of attacks where rebels appeared to be getting close to killing Mr. Assad. Several senior officials now acknowledge the U.S. misjudged how long Mr. Assad could hold on.

Many paragraphs later, the article elaborates on what caused this “misjudgment” about Assad’s resilience. It describes how in this period last summer, the Obama Administration was focused on post-Assad planning, rather than on getting rid of Assad, because the intelligence had “created a sense” that Assad would be ousted by the rebels acting alone.

The administration committee charged with Syria policy was kept on a tight leash by Mr. McDonough, then the deputy national security adviser and a close confidante to Mr. Obama, participants

say. They said Mr. McDonough made clear that Mr. Obama wasn't interested in proposals that could lead the U.S. down a slippery slope to military intervention; instead, he had the committee focus mostly on post-Assad planning.

"It was clear to all participants that this was what the White House wanted, as opposed to really focusing on key questions of how do you get to the post-Assad period," one participant said.

Administration officials said one of the reasons the committee was told to focus on post-Assad planning was because intelligence at the time created "a sense" in the White House that Mr. Assad could be killed by rebels or his own people, eliminating the need for riskier measures to support the rebel campaign.

"Appeared to be getting close" ... "created a sense."

The article doesn't say it explicitly, but either the intelligence the White House was getting about Syria was faulty, or the White House was reading into the intelligence what it wanted to hear (perhaps in their hopes that the "Obama Doctrine" would work better than Donald Rumsfeld's fetish for a light footprint).

That passage on how problematic intelligence led the Administration to assume Assad's downfall is almost immediately followed by the airing of a dispute about whether or not the Administration was also focused on "strategic messaging."

Likewise, high-level White House national security meetings on Syria focused on what participants called "strategic messaging," how administration policy should be presented to the public, according to current and former officials who took part in the meetings.

Another administration official disputed that account, saying there were multiple cabinet-level meetings “with extensive and rigorous analysis presented” and that he didn’t recall strategic messaging ever being a “central topic of discussion at senior levels.” [my emphasis]

I find it telling that WSJ so closely follows a description of some kind of problem with intelligence with the (disputed) suggestion that even as the Administration was acting on faulty intelligence, it was focusing on its own “strategic messaging.”

Go skim Moon of Alabama’s archive from last July. It’s a very good read not only of the abundant open source evidence Assad might not be ousted so easily (and if he was, the problems that would create), but also of how much western propaganda was spinning what was going on in Syria.

That’s the thing: much of what was being reported – in public western reports, at least – was propaganda. Perhaps Israeli, perhaps rebel, perhaps Turkish, perhaps American. But obviously propaganda.

Now, the article presents a different chronology: the Administration got faulty intelligence (or misread what it got), and in response moved onto spinning what they were doing in Syria.

But I can’t help but wonder whether the Administration fell for its own propaganda about what it was doing in Syria?

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# GUARDIAN LAYS OUT DETAILS OF HOW PETRAEUS ORGANIZED DEATH SQUADS IN IRAQ



Petraeus salutes the death squads that advanced his career

Yesterday, the Guardian published an article detailing how the US turned to the use of death squads in Iraq to quell the rise of Sunni militias. The article provides convincing evidence that this was an intentional policy and was in fact a central tenet of David Petraeus' often-praised counterinsurgency, or COIN, strategy. The key person in the Guardian's reporting is James Steele, who was a veteran in organizing Central American death squads on behalf of the US during the Reagan years.

In reading the material from the Guardian, however, it should be kept in mind that Petraeus did not institute his COIN strategy only in Iraq. He put it into place in Afghanistan as well, and the fact that it led to widespread allegations of torture and murder there demonstrates that the atrocities committed by these militias is a feature of the funding and training provided to them and not an unfortunate outgrowth, because this practice has now produced death squads in Central America, Iraq and Afghanistan. Recall that less than two weeks ago, Hamid Karzai called for the expulsion of US Special Operations forces from Maidan Wardak province due to allegations of abuse by the

Afghan Local Police there. The Afghan Local Police are in reality groups of local militias trained and funded by US Special Operations forces and operating separately from the Karzai government. The ALP became one of the primary features of Petraeus' COIN strategy when he moved it to Afghanistan.

Here's the opening of the Guardian article:

The Pentagon sent a US veteran of the "dirty wars" in Central America to oversee sectarian police commando units in Iraq that set up secret detention and torture centres to get information from insurgents. These units conducted some of the worst acts of torture during the US occupation and accelerated the country's descent into full-scale civil war.

Colonel James Steele was a 58-year-old retired special forces veteran when he was nominated by Donald Rumsfeld to help organise the paramilitaries in an attempt to quell a Sunni insurgency, an investigation by the Guardian and BBC Arabic shows.

Via email, my friend Kirk pointed out this report from Newsweek back in early 2005 where the concept of the Salvador option was floated openly by the Bush administration:

What to do about the deepening quagmire of Iraq? The Pentagon's latest approach is being called "the Salvador option"—and the fact that it is being discussed at all is a measure of just how worried Donald Rumsfeld really is. "What everyone agrees is that we can't just go on as we are," one senior military officer told NEWSWEEK. "We have to find a way to take the offensive against the insurgents. Right now, we are playing defense. And we are losing." Last November's operation in Fallujah,

most analysts agree, succeeded less in breaking “the back” of the insurgency—as Marine Gen. John Sattler optimistically declared at the time—than in spreading it out.

Now, NEWSWEEK has learned, the Pentagon is intensively debating an option that dates back to a still-secret strategy in the Reagan administration’s battle against the leftist guerrilla insurgency in El Salvador in the early 1980s. Then, faced with a losing war against Salvadoran rebels, the U.S. government funded or supported “nationalist” forces that allegedly included so-called death squads directed to hunt down and kill rebel leaders and sympathizers. Eventually the insurgency was quelled, and many U.S. conservatives consider the policy to have been a success—despite the deaths of innocent civilians and the subsequent Iran-Contra arms-for-hostages scandal. (Among the current administration officials who dealt with Central America back then is John Negroponte, who is today the U.S. ambassador to Iraq. Under Reagan, he was ambassador to Honduras. There is no evidence, however, that Negroponte knew anything about the Salvadoran death squads or the Iran-Contra scandal at the time. The Iraq ambassador, in a phone call to NEWSWEEK on Jan. 10, said he was not involved in military strategy in Iraq. He called the insertion of his name into this report “utterly gratuitous.”)

The most disgusting aspect of this apparent “trial balloon” floated by the Bush administration is that the program quite possibly was already underway when the Newsweek article came out. The Guardian article reminds us that Petraeus, the architect of this program, was sent to Iraq in June of 2004 (this was his

second deployment to Iraq) to begin training Iraqis, and the Newsweek article wasn't published until January of 2005. Steele, who was reporting directly to Rumsfeld, first went to Iraq in 2003 (Rumsfeld delighted in running his own people separately from the chain of command; he did this at times with McChrystal as well).

More evidence that the program was entirely intentional comes from the role of torture in the program and the moves the US made to ignore torture just as the program was put into place.

A little over two years ago, the Guardian analyzed a number of documents from Wikileaks and assembled a huge number of reports of torture carried out by the militias the US trained and supported under this program. Most devastating within this cache of information, however, is that the US issued an order to ignore reports of torture carried out by these Iraqi groups. From a 2010 report by the Guardian:

This is the impact of Frago 242. A frago is a "fragmentary order" which summarises a complex requirement. This one, issued in June 2004, about a year after the invasion of Iraq, orders coalition troops not to investigate any breach of the laws of armed conflict, such as the abuse of detainees, unless it directly involves members of the coalition. Where the alleged abuse is committed by Iraqi on Iraqi, "only an initial report will be made ... No further investigation will be required unless directed by HQ".

Did you notice that date? Yes, Frago 242, ordering US forces to ignore torture by Iraqi militias, was issued the same month as when Petraeus was sent to Iraq to institute his training program. Hardly a coincidence, if you ask me.

Here's a video the Guardian put together in 2010 based on what they found in the Wikileaks

documents and other investigations:

[youtuber  
youtube='http://www.youtube.com/watch?v=7t6l0HCy  
XMU']

In conjunction with yesterday's article, the Guardian also released a video documentary that is nearly an hour long. It can be viewed here.

Oh, and just in case you try to say that Petraeus' COIN strategy exited the US government with Petraeus' resignation after it was learned he was boinking his biographer, think again. Yes, his primary aide in instituting the policy (and overseeing US torture), Stanley McChrystal, also has resigned in disgrace, but key aides William McRaven and Michael Flynn have advanced their careers on the basis of these war crimes. McRaven now heads Special Operations Command, and so he would be in charge of training the death squads in the next country where the US decides to institute them. Where will it be? Libya? Syria? Mali? And Michael Flynn heads the Defense Intelligence Agency. Flynn was responsible for turning the "intelligence" gained by torture, whether it was carried out by the US or Iraq, into actions such as night raids, thereby producing more insurgents and fueling the cycle of violence.

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**PRAISING BY DAMNED  
FAINTNESS: THE NSAS,  
SOSS, AND SODS WHO  
DIDN'T ENDORSE CHUCK**

# HAGEL

Ever since this letter, in which a bunch of former Directors of Central Intelligence—but not Poppy Bush—came out against torture investigations, I've been more interested in who doesn't sign these endorsement letters than who does.

For example, did you notice that Harold Koh did not vouch for John Brennan's respect for the rule of law the other day, even though his counterpart at DOD, Jeh Johnson, did?

The same is true of this letter—signed by a bunch of former National Security Advisors and Secretaries of Defense and State in support of Chuck Hagel's nomination to be Defense Secretary.

Here's who did endorse:

Hon. Madeleine Albright, former Secretary of State

Hon. Samuel Berger, former National Security Advisor

Hon. Harold Brown, former Secretary of Defense

Hon. Zbigniew Brzezinski, former National Security Advisor

Hon. William Cohen, former Secretary of Defense

Hon. Robert Gates, former Secretary of Defense

Hon. James Jones, former National Security Advisor

Hon. Melvin Laird, former Secretary of Defense

Hon. Robert McFarlane, former National Security Advisor

Hon. William Perry, former Secretary of Defense

Hon. Colin Powell, former Secretary of State and National Security Advisor

Hon. George Shultz, former Secretary of State

Hon. Brent Scowcroft, former National Security Advisor

Which leaves—in addition to currently serving Tom Donilon, Leon Panetta, and Hillary Clinton—these non-endorsers:

Stephen Hadley

Condi Rice (both NSA and State)

Anthony Lake (Lake directs UNICEF right now, which may preclude such endorsements)

~~Frank Carlucci (both NSA and Defense Secretary)~~ [Update: Thanks to Justin Raimundo for correcting me—while Carlucci did not sign this letter, he did sign a LTE in support of Hagel]

John Poindexter

William Clark (NSA for Reagan)

Richard Allen (NSA for Reagan)

Henry Kissinger (both NSA and State)

Donald Rumsfeld

Dick Cheney

James Schlesinger

James Baker III

Jeebus, White House, get on your game! You want people to vote for Hagel? Release the list of all the corporatist warmongers who didn't endorse Chuck Hagel. Hagel may not be my first choice, but there is no clearer praise than the list of non-endorsers Hagel has racked up.

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# WHY IS JOSE RODRIGUEZ HANGING OUT JOHN BRENNAN NOW?

I'm no fan of either Jose Rodriguez or John Brennan. So I take no pleasure that the former is blaming the latter for a big intelligence scam carried out against the CIA back in the day.

As head of the multi-agency Terrorist Threat Integration Center in 2003 and 2004, Brennan disseminated to the Bush White House a stream of CIA intelligence from a bogus source, former CIA officials say. Ridiculed by some within the CIA, the bogus intelligence nevertheless led to disruption in the U.S. and abroad, including an orange terror alert and the cancellation of dozens of international flights.

[snip]

At the CIA, the information was controversial from the beginning, and many agency officials said at the time that it should not have been distributed. Jose Rodriguez, who was directing the CIA's Counterterrorism Center, said the CTC viewed the intelligence as "crazy."

"We were very skeptical," Rodriguez recalled.

[snip]

"It was briefed by John. He was the guy who was bringing it there," said Rodriguez, who added that he believes Brennan was trying to build up his own profile. "My own view is he saw this, he

took this, as a way to have relevance, to take something important to the White House.”

But I am interested in why Rodriguez is doing this now—particularly since, as Defense News points out, he chose not to do so in his own book.

I can think of three possible reasons this is coming out now—they’re all wildarsed guesses. It’s possible that Brennan’s star is fading, so he’s vulnerable now in a way he wasn’t before.

It’s possible that some story behind the underlying scam this guy—Dennis Montgomery—carried out against the government is about to unfold. As the video above and the rest of the Democracy Now report makes clear (the original Playboy article is unavailable), part of Montgomery’s scam consisted of high level financial contacts. Part of it involved targeting Al Jazeera and old Europe.

AMY GOODMAN: And how did he get these contracts? And what exactly did he say? I mean, explain what you’re saying, because, I mean, this is not just the crazy fantasizing of one guy. You have Donald Rumsfeld, the Secretary of Defense, talking about, you know, Al Jazeera being a terrorist network.

ARAM ROSTON: That’s very true. So people were – people saw Al Jazeera in this light, this negative light. The administration did already, perhaps. But what he was saying is it had no – it didn’t matter what the content was. He was saying in the electronic feed from Al Jazeera, there was little secret bits of information injected in it technologically, just little technologic – little bits and so forth. Perhaps the pixels were rearranged. And he was able to decode it all. He was able to decode it all and translate it into numbers.

Those numbers, he said, were latitudes and longitudes. In other words, it was a stream of video, and he was finding these latitudes and longitudes, times, flight numbers. And he would just churn that out. As he would call it, "This is my output." This is the Al Jazeera output. And he had figured out a way that somehow Al Jazeera was al-Qaeda's method of transmitting this data secretly. What it would have required, of course, is all these terrorists around the world to have some sort of decoding equipment that could have unscrambled it, which was, I think --

AMY GOODMAN: And these longitudes and latitudes were supposedly of attacks?

ARAM ROSTON: Yeah. Sometimes it wasn't even a latitude and longitude; sometimes it was just a latitude, just one number. And he was like, "It's somewhere around here." And he would just work and say, "It's here." And then, you know, you'd have scares like Tappahannock, Virginia was one place, a little town of Virginia, or, you know, somewhere in Seattle or Galveston, Texas, near the fuel tanks. And they would react.

AMY GOODMAN: And they would cancel planes, for example, around the holidays, like the French airlines.

It's possible, then, that the scam was deliberately fed intelligence, another form of yellowcake, and the people who planted it know that's going to become clear shortly, so they're trying to blame Brennan for magnifying it.

But there is one other variant possibility of that.

Back before the whole intelligence scam became clear, Montgomery accused then Congressman and future NV governor Jim Gibbons of accepting bribes to get eTrepid contracts (note, this

investigation was revealed in the wake of the US Attorney firings, as the scope of the Duke Cunningham bribery was becoming clear).

Software designer Dennis Montgomery was also on that cruise with Gibbons. He estimates the trip cost “probably \$20,000 a person,” claiming he saw the invoice. Montgomery says his former business partner Trepp chartered a 727 to fly guests from Nevada to Florida and back and picked up the tab for penthouse rooms, private meals and expensive wines.

In an exclusive interview with NBC, Montgomery – who’s now at war with his former partner – makes an explosive charge. He says that near the end of the cruise, he saw Trepp pass money to the congressman.

Dennis Montgomery: There was a lot of alcohol and a lot of drinking. And that’s when I first saw Warren give Jim Gibbons money.

Lisa Myers: How much?

Montgomery: Close to \$100,000.

Myers: How can you know?

Montgomery: Because he gave him casino chips and cash.

Myers: Are you sure about what you saw?

Montgomery: I’m absolutely, positively sure.

Gibbons was ultimately not charged. But there were also a series of law suits in which the US declared state secrets to hide details about what eTreppid was doing for the government.

After a bitter falling out between Mr. Montgomery and Mr. Trepp in 2006 led to a series of lawsuits, the F.B.I. and the Air Force sent investigators to eTreppid

to look into accusations that Mr. Montgomery had stolen digital data from the company's systems. In interviews, several employees claimed that Mr. Montgomery had manipulated tests in demonstrations with military officials to make it appear that his video recognition software had worked, according to government memorandums. The investigation collapsed, though, when a judge ruled that the F.B.I. had conducted an improper search of his home.

#### Software and Secrets

The litigation worried intelligence officials. The Bush administration declared that some classified details about the use of Mr. Montgomery's software were a "state secret" that could cause grave harm if disclosed in court. In 2008, the government spent three days "scrubbing" the home computers of Mr. Montgomery's lawyer of all references to the technology. And this past fall, federal judges in Montana and Nevada who are overseeing several of the lawsuits issued protective orders shielding certain classified material.

The secrecy was so great that at a deposition Mr. Montgomery gave in November, two government officials showed up to monitor the questioning but refused to give their full names or the agencies they worked for.

And Montgomery also got charged with writing bad checks to Las Vegas casinos.

Now, I will need to dig deeper. But it's possible some of the stuff that the government did so well hiding has seeped out (note the Obama Administration has started looking more closely at money laundering in casinos in

connection with its HSBC and Sheldon Adelson investigations).

That is, this intelligence scam may still not be what it seems. And it may be that Rodriguez is trying to pre-spin some new news on this front.

Cause when Jose Rodriguez is involved, it's usually smart to assume a cover-up.

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## **DIA FAILED TO PROTECT JOSE PADILLA'S WELFARE**

On June 11, SCOTUS denied cert in Jose Padilla's suit against Donald Rumsfeld, former DIA Director Lowell Jacoby, and others at DOD for his denial of habeas corpus and abusive detention. On June 28, DOD responded to a FOIA Jeff Kaye submitted on September 8, 2010.

There's a lot in the IG Report Jeff received in response—on whether detainees at Gitmo or other non-SOCOM facilities were administered drugs as part of interrogation (the report concludes they were not)—of import that Jeff and Jason Leopold report on here.

In this post, though, I want to look at why DOD may have held off on responding to Jeff's FOIA until after SCOTUS rejected Padilla's suit.

As Jeff and Jason report, one of the more inflammatory things revealed in the unredacted parts of the report is that when "they" gave Padilla a flu shot on December 5, 2002 (the report doesn't say who administered the shot), he asked (following up on earlier comments made by an interrogator) whether they had given him truth serum.

What happened next is redacted—one of just about 5 redacted paragraphs in the entire report. DOD

cited exemptions 1 (properly classified), 3 (protected by statute, including any function of the DIA), 6 (personal privacy) and 7c (law enforcement personal privacy) in withholding this information.

The following paragraph reads,

(U/FOUO) We concluded from the interrogation recordings and interviews with the interrogator and brig personnel present on December 5, 2002, that [redacted–Padilla] was not administered a mind-altering drug during his confinement at the U.S. Naval Consolidated Brig, Charleston, South Carolina. We further concluded that the [3-letter redaction] failed to follow legal review procedures established by U.S. Joint Forces Command to ensure that [redacted–Jose Padilla’s] welfare was protected in accordance with guidance issued by the President. [my emphasis]

Then, the subsequent two paragraphs—which provide “Client Comment” and DOD IG’s response—are redacted.

We can be almost certain that DIA (headed at the time of Padilla’s detention by Jacoby) was the redacted rebuked entity because their response to this report is the only other section of the report that is substantially redacted and no other respondents to the report had any complaints about it, meaning the redacted response in the Padilla section must be a discussion of DIA’s response. The unredacted section of their response, however, makes it clear their own IG investigated the problem (albeit at the same time as DOD IG was doing so).

The DIA Inspector General (IG) investigated the information gap cited in Appendix II. The DIA IG report was provided on 12 August 2009. [my emphasis]

Still, we don't know what DIA did that drew a rebuke from DOD's Inspector General. It may be no more than misleading Padilla into believing he had gotten a truth serum, without prior approval for doing so by lawyers. (The paragraphs in question are only classified Secret, so they can't be that significant.)

Or, it may be that the conclusion served to protect the President and Rummy.

Nevertheless, it is fairly clear that DOD's IG found that DIA didn't do what they needed to do to protect Padilla's welfare. And it sure looks like DOD sat on that information until SCOTUS ensured that Padilla would never have legal recourse for the abuse done to him.

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## **LINKS, 4/22/12**

I was never able to keep up with my goal of doing daily link posts last year. That said, there's so much out today that I want to at least note that I can't keep up with my own posting unless I dump all these here.

Steven Aftergood notes that your elected representatives are clarmoring for more leak prosecutions.

The EU just caved to US demands for EU passenger data. With Israel dictating no fly lists to Europe and Julian Assange's lawyer being placed on an "inhibited" list with no explanation, this probably will lead to the US unilaterally dictating who can fly where in this world.

The Guardian asked pastor Terry Jones whether he bears any responsibility for the deaths he may cause if he insists on conducting another Quran burning. The Guardian doesn't appear to have asked DOD, which is trying to convince Jones not to conduct the burning, why it doesn't first take responsibility for ending the anti-Muslim

abuses and the Quran burning committed by some troops.

In addition to the cooperation with Libya in exposing refugees in the UK, the documents liberated in Libya last year also describe how MI6 collaborated with Moammar Qaddafi to set up a radical mosque in some Western European country to use as bait for Islamic extremists.

Obama just issued an Executive Order basically saying that Syria and Iran should not be able to use tech to crack down on the opposition in the same we the US does.

Apparently we don't have enough spies so now DOD is rolling out a new (actually, newly renamed) Clandestine Service.

Micah Zenko addresses the stupidity behind refusing to acknowledge our Third War—the drone one—publicly.

As Jack Goldsmith notes in Charlie Savage's piece describing Obama's increasing reliance on executive orders to do the work of business, "This is what Presidents do." Congress has, with its capitulation to big money and greed, basically turned itself into a rump institution doing no more than channeling money into DC's main industry. I think Obama, with his congressional majority in 2008, might have been able to begin to reverse that if he had actually used his majority rather than pissing it away in a bid for bipartisan crap rather than effective legislation. But he didn't.

Evgeny Morozov explains why Anonymous' structure and disparate goals has led to increased surveillance rather than less. I think his analysis suffers from the classic chicken-and-egg fallacy, and fails to account for the degree to which these choices are probably being dictated by FBI-directed double agents. But it worthwhile analysis.

File this news—that half of Iran's super-tanker capacity is sitting anchored in the gulf with no place to go—in the "whatever could go wrong?"

file. If we're lucky it will involve nothing more than pirates and not fully-laden tankers sunk and draining into the gulf.

Jose Padilla's mom has appealed her suit against Donald Rumsfeld for torture to SCOTUS. This case is the best set of facts—but the least empathetic plaintiff—of several suits trying to hold the government accountable for torturing American citizens.

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## **“QUIET LOBBYING CAMPAIGN” FOR SOCOM: HOLLYWOOD MOVIE, PRESIDENT’S CAMPAIGN SLOGAN**

[youtube]<http://www.youtube.com/watch?v=ZnlPgo9TaGo>[/youtube]

Coming so quickly on the heels of Lt. Col. Daniel Davis documenting the depraved level of lying that characterizes the primary mode of action for many at the top levels in our military, it's galling that Admiral William McRaven would take to the front page of today's New York Times to advance his efforts—hilariously and tragically labeled by the Times as a “quiet lobbying campaign”—to gain an even freer hand for the Special Operations Command, which he heads.

Never forget that it was from within Special Operations that Stanley McChrystal shielded Camp NAMA, where torture occurred, from the International Committee of the Red Cross. Never forget that it was Special Operations who instituted the dark side of the COIN (counterinsurgency) campaign in Afghanistan that relied on poorly targeted night raids that

imprisoned and tortured many innocent civilians. Never forget that Dick Cheney and Donald Rumsfeld bypassed the normal chain of command to work directly with Stanley McChrystal when he headed JSOC, sending McChrystal on missions not reported to area command. This relationship with Cheney and Rumsfeld had a strong effect on JSOC, as noted by Jeremy Scahill:

Wilkerson said that almost immediately after assuming his role at the State Department under Colin Powell, he saw JSOC being politicized and developing a close relationship with the executive branch.

Among the military commanders being bypassed by Cheney and Rumsfeld was the head of SOCOM, the position that McRaven (who was McChrystal's deputy when most of McChrystal's war crimes were carried out) now occupies, but this same attitude of teaming with the executive branch to bypass the regular defense chain of command has survived intact.

Today's article in the Times opens this way:

As the United States turns increasingly to Special Operations forces to confront developing threats scattered around the world, the nation's top Special Operations officer, a member of the Navy Seals who oversaw the raid that killed Osama bin Laden, is seeking new authority to move his forces faster and outside of normal Pentagon deployment channels.

The officer, Adm. William H. McRaven, who leads the Special Operations Command, is pushing for a larger role for his elite units who have traditionally operated in the dark corners of American foreign policy. The plan would give him more autonomy to position his forces and their war-fighting equipment where intelligence

and global events indicate they are most needed.

At least the Times does pay a short homage to the quaint, old way of the chain of command as it currently exists:

While President Obama and his Pentagon's leadership have increasingly made Special Operations forces their military tool of choice, similar plans in the past have foundered because of opposition from regional commanders and the State Department. The military's regional combatant commanders have feared a decrease of their authority, and some ambassadors in crisis zones have voiced concerns that commandos may carry out missions that are perceived to tread on a host country's sovereignty, like the rift in ties with Pakistan after the Bin Laden raid.

See that? We're only four paragraphs into the story, and we have two Osama bin Laden references and an admission that the Obama administration has decided that Special Operations comprises their "tool of choice".

But in the end, the real reason that dark JSOC missions are now favored is that they are not subject to Congressional oversight. Going back to the Scahill article linked above:

The military intelligence source said that when Rumsfeld was defense secretary, JSOC was deployed to commit some of the "darkest acts" in part to keep them concealed from Congress. "Everything can be justified as a military operation versus a clandestine intelligence performed by the CIA, which has to be informed to Congress," said the source. "They were aware of that and they knew that, and they would exploit it at every turn and they took full

advantage of it. They knew they could act extra-legally and nothing would happen because A, it was sanctioned by DoD at the highest levels, and B, who was going to stop them? They were preparing the battlefield, which was on all of the PowerPoints: 'Preparing the Battlefield.'"

The significance of the flexibility of JSOC's operations inside Pakistan versus the CIA's is best summed up by Senator Dianne Feinstein, chair of the Senate Select Committee on Intelligence. "Every single intelligence operation and covert action must be briefed to the Congress," she said. "If they are not, that is a violation of the law."

So make no mistake that in asking for a freer hand, McRaven is seeking to institutionalize within SOCOM the free-wheeling, law-free sort of action that has characterized JSOC since McChrystal ran it as Cheney and Rumsfelds' secret dark army.

With all that as background, now we can see how tragically funny the description from the Times of McRaven's lobbying campaign is. Yeah, a "quiet" campaign relies on a Hollywood movie (opening in only 11 days!) starring active duty Special Operations forces. When I tweeted about that point last night, Marcy added that one of the Obama campaign's re-election slogans also will rely on Special Operations:

Vice President Joe Biden today told a crowd of re-election campaign donors in Ft. Worth, Texas, that the best way to sum up President Obama's first term in "shorthand" is with nine succinct words: "Osama bin Laden is dead and General Motors is alive."

There can be no doubt that this quiet little campaign will succeed. The Obama administration

and Congress have both demonstrated that the last thing they want is public oversight of the darkest missions in our Great War on Terror. What's probably the most remarkable thing here is that there is even any public notice of giving SOCOM a freer hand. Move along, the public has no part in this discussion.