

CIA'S TORTURE PUSHBACK GETS MORE ARTFUL

I well remember when Robert Grenier testified at Scooter Libby's trial. His performance – like most of the witness testimony – was a performance. But I was more intrigued by the response. Even the cynical old DC journalists were impressed by the smoothness of the performance. "You can tell he was a great briefer," one journalist who had written a book on the CIA said.

Today, he takes up the role of bogus pushback to the Senate torture report, complete with all the false claims about the report, including:

- SSCI should not have relied exclusively on documents – which, if true, is an admission that millions of CIA's cables are fraudulent and false
- The claim that members of the Gang of Four were briefed earlier and more accurately than even CIA's own documents show them to have been
- SSCI – and not CIA – made the decision that CIA officers should not testify to the committee
- That a report supported by John McCain and Susan Collins is a Democratic report (Grenier also claims all involved with it know

history from history books,
not – as McCain did – from
torture chambers)

- That the CIA cables exactly
matched the torture depicted
on the torture tapes (see
bullet 1!), and that CIA's
IG reported that, both of
which are false

But perhaps Grenier's most cynical assertion is
his claim – in a piece that falsely suggests
(though does not claim outright) that Congress
was adequately briefed that Congress' job, their
sole job, is to legislate, not oversee.

A second, related reason would be to
build support for comprehensive
legislation – that is what Congress is
supposed to concern itself with, after
all – to remove any of the interpretive
legal ambiguity which permitted coercive
interrogation to be considered in the
first place, and ensure it never happens
again.

It is a cynical move, but given the rest of his
argument, the part that I find compelling,
necessary.

Because Grenier warns Dianne Feinstein that her
attack on the Presidentially authorized
counterterrorism methods of the past will chill
President Obama's preferred presidentially
authorized counterterrorism methods – drone
strikes – going forward.

It is not just the past which is at
stake, but the present and the future as
well. Make no mistake – those currently
serving in CIA are watching these
developments closely.

Senator Feinstein, we are told, though
having great moral qualms about

vigorously interrogating terrorists, appears to have no particular compunction about killing them – so long as it is done remotely, with little direct contact with the gruesome details. As anyone reading the press will know, the current, Democratic administration has shown great enthusiasm for directed killings, employing drones in lethal operations around the world to an extent that might have shocked their Republican predecessors in the Bush administration. Death by video game has its attractions, particularly for those lacking intestinal fortitude. It enables them to avoid confronting the essential and unavoidable brutality of what they are doing.

Just as was the case with harsh interrogations during the last administration, the current resort to directed killings, including so-called “signature strikes,” in which the specific identities of those targeted are unknown, though remarkably uncontroversial at the outset of the current administration, has become anything but uncontroversial since. Should the perceived threat from various bits of ungoverned, terrorist-dominated geography around the globe diminish, the controversy involving drone strikes will only grow further. At some point soon, if they haven’t already, the tribunes of the people in the U.S. Congress will begin to wonder about the political wisdom of their association with directed killings.

They needn’t worry – they have already demonstrated their ability to avoid all responsibility – but those charged with carrying out such strikes should, and they know it. Those in both the White House and the Congress who have chosen

to comfort themselves by propagating the myths associated with drone strikes – that they are universally “surgical,” always precisely targeted, and that any civilian casualties associated with them are rare – will inevitably find themselves shocked – perhaps “chilled” is the word – by reality when political calculation dictates that they examine it more closely. Drone strikes, like any other aspect of war, are far more messy and imprecise than advertised, involving subjective judgments easily vulnerable to second-guessing and ex-post-facto recrimination. They benefit only by comparison with more primitive methods, including ground attacks and conventional air strikes, but those comparisons will no longer matter when political interest moves in the other direction. Some successor to Dianne Feinstein may well soon find political cover or political advantage, as the case may be, in a thorough, negative investigation of the drone program – we can watch for it.

I told you CIA would invoke Obama’s drone strikes to limit the damage of the torture report.

To be sure, there is already evidence CIA is lying to Congress about drone strikes, just as it lied about torture, particularly about the numbers of civilians it has killed. Yet DiFi has willfully continued to believe those lies, to believe the CIA’s purportedly better record on drone strikes stems from some inherent skill and not the preference of foreign partners to work with a malleable CIA rather than DOD.

Grenier is absolutely right that Congress and the White House want to be lied to on this point.

Grenier then launches a more interesting implicit threat – that CIA will stop doing what

the President demands under Article II.

In my own time in CIA, as perhaps in all times, there were those inside the organization who preached that the Agency should steadfastly avoid presidential directives to affect or shape events, rather than just report on them. "Stick to traditional intelligence collection," they'd say. We hear similar voices now. But presidents always feel otherwise. Every president confronts foreign policy challenges for which a cheap, clandestine solution appears tempting. Given CIA's unique capabilities, it's often the right thing to do. But the opportunities to frustrate the president's wishes and avoid such entanglements are rife for those who are so inclined. There is even a term for it: "slow rolling." Current events, and the anticipated Senate report, will greatly strengthen the hand of the slow-rollers. It's hard to disagree with them now.

[snip]

Rather than taking responsibility for changes in counterterrorism policy on itself, it is a far safer, if more insidious course – one instinctive to Congress – to abuse the CIA to the point where it self-regulates. But as noted above, there are serious downsides to that approach. U.S. national security will not be served by fostering a culture within CIA in which the organization decides for itself which of its lawful orders it will choose to follow, and makes those judgments based on what CIA officers consider best for themselves and their institution, rather than on what their elected masters deem best for the country. That is not the way the system is supposed to work. The federal bureaucracy is supposed to

follow legal orders. That is what CIA has always done, frequently to its cost, and that is what the American people need it to do. If they don't like what their elected leaders have done, they can throw them out. They shouldn't look to CIA to make these decisions for them – on their own, and for their own purposes.

Ostensibly, this talk about slow rolling the President's Findings is about drone strikes. Except that the President is re-launching the war in Iraq even as we speak, based solely on Article II authority (I presume JSOC features as prominently as CIA, but CIA clearly has been on the ground for some time).

The implicit threat: if SSCI continues to push, both the President and the Democrats who want to respond to ISIS without declaring war will regret it.

Even here, Grenier is full of shit. He makes no mention of the structure of the September 17, 2001 Gloves Come Off Finding, which itself outsourced most substantive decisions to CIA. It's one thing to demand Congress do something about that – and they should – and yet another to suggest the rest of Obama's covert operations employ such structure (though I wouldn't put it beyond the National Security establishment). Moreover, the abundant evidence (in CIA's own records, which Grenier treats both as accurate and as inaccurate!) that CIA ignored even the limits imposed by DOJ makes their actions illegal, regardless of what order Bush originally gave.

The problem is the orders – both to torture and to drone strike. But it is also the type of relationship Cofer Black and Dick Cheney embraced (and Obama has retained, at least with respect to the Gloves Come Off MON).

Which is why this is my favorite line from Grenier's piece.

Goodness. If even a substantial portion of this were true, I would be among the first to advise that CIA be razed to the ground and begun all over again.

This is coming (as Grenier alludes to but doesn't fully lay out, just as he lays out the suggestion that CIA resumed torture after he refused in early 2006) from a guy who tried to stay within the law, stopped torturing after the Detainee Treatment Act forbade it. It is, perhaps, the best line, given the impasse we're at.

CIA has become the instrument of illegal actions, an arm of the Executive that evades all law, precisely because of its corrupted relationships with both the Executive and Legislative branch.

So, I take you up on the suggestion, Robert Grenier. Let's raze the damn thing and – if a thorough assessment says a democracy really needs such an agency, which it may not – start over.

ALL THE TORTURE'S THAT FIT TO CALL TORTURE NOW INCLUDES US TORTURE

On Monday in Salon, I said (in part),

[T]he recent history of America's torture also damns the conventions of journalism that strive so hard for some kind of fake balance that still prefers a term that obscures the truth over one that accurately describes it.

Don't get me wrong: We owe our knowledge of torture to some of the best journalists in the business, people like Jane Mayer and Dana Priest and Adam Goldman.

But as soon as coverage moved beyond that superb investigative work to coverage of the politics of torture – to the journalists who should hold those who implemented torture accountable – we remain mired in obscurantist language.

Which brings us to the torture report result the press might take most seriously.

According to McClatchy, in addition to misleading Congress, DOJ and the White House, the torture report concludes that the CIA also fed misleading information to the press: “[T]he news media were manipulated with leaks that tended to blunt criticism of the agency.”

Part of this manipulation (one the White House participated in) involved convincing the press to call torture something else, something it's not. Enhanced interrogation. Harsh treatment.

Anything but torture.

For 10 years, journalists have willingly perpetuated this linguistic absurdity, even as more evidence came out proving the CIA used torture and not some fluffed up interrogation process, even as more and more neutral arbiters judged our torture torture.

The Senate Intelligence Committee has spent five years trying to understand and come to grips with the torture done in our name. Isn't it time for journalists to do the same?

While I don't flatter myself that my column was

needed at this point – or even would have been influential –the NYT did just announce that it would henceforth call torture, including US torture, torture.

Over the past few months, reporters and editors of The Times have debated a subject that has come up regularly ever since the world learned of the C.I.A.'s brutal questioning of terrorism suspects: whether to call the practices torture.

[snip]

Given [changes that have taken place in recent years, including with the legal status of torture], reporters urged that The Times recalibrate its language. I agreed. So from now on, The Times will use the word "torture" to describe incidents in which we know for sure that interrogators inflicted pain on a prisoner in an effort to get information.

I may have more to say about the substance of the statement down the road. But for now two things are important: The most prestigious newspaper in the country has formally given up Bush's euphemism. And this change came from the reporters.

May other outlets follow the Gray Lady's lead.

THE PRESIDENT WHO DEMANDED STANLEY MCCHRYSTAL'S

RESIGNATION IS NOT SHELTERING THE NATSEC BUREAUCRACY

As I have repeatedly noted, I think President Obama will protect John Brennan – and the CIA more generally – because of the mutual complicity built in between CIA and the White House over covert ops.

It's not just that CIA knows the full details of the drone killings Obama authorized on his sole authority. It's also that the CIA is still protecting the Office of the Presidency's role in torture by withholding from the Senate documents over which the White House might – but did not formally – claim Executive Privilege. Obama did the same thing when he went to some lengths to prevent a very short phrase making it clear torture was Presidentially-authorized from being released in 2009; it wasn't just the Finding that still authorized his drone strikes the President was protecting, but the Office that George Bush sullied by approving torture.

I also think Obama will stand by Brennan because they have worked closely so long Brennan is one of Obama's guys.

Bloomberg View's Jonathan Bernstein doesn't agree, however. After dismissing Conor Friedersdorf's version of the mutual incrimination argument, he suggests Obama is simply demonstrating to the national security bureaucracy he's on their side.

Obama is concerned -- in my view, overly so -- with demonstrating to the intelligence bureaucracy, the broader national security bureaucracy, and the bureaucracy in general, that he is on their side. The basic impulse to stand up for the people he appointed isn't a bad one; nor is the impulse to demonstrate to the intelligence community that he is no wild-eyed

peacenik softie who opposes the work they do. For one thing, he's more likely to effect change in national security areas if experts in the government believe he's at least sympathetic to them as individuals and to their basic goals, even if he questions some of the George W.Bush-era (or earlier) methods. For another, the ability of bureaucrats to hurt the president with leaks doesn't depend on the existence of deep dark secrets. Every president is vulnerable to selective leaks and a drumbeat of steady negative interpretations from the bureaucracy.

And yet, overdoing support for the bureaucracy can have severe costs. On torture, for example, emphasizing the good intentions of those faced with difficult choices during the last decade makes sense. But failing to take action, and leaving bureaucrats with serious liabilities because the status of their past actions is unresolved, only may have made reassuring them of presidential support increasingly necessary. That's not a healthy situation.

Again: some of the incentive to (at least at first) stand up for presidential appointees is inherent in the presidency, and a healthy thing to do even when the president believes people have misbehaved and should go. But throughout his presidency, *Obama has been overly skittish when it comes to potentially crossing his national security bureaucracy*, and I strongly suspect that torture and other Bush-era abuses are both part of the original cause and will cause more of that timidity down the road.

Obama has been overly skittish when it comes to crossing his NatSec bureaucracy?

First, as I have already noted, Obama was perfectly happy demanding David Petraeus' resignation for fucking his biographer. While I have my doubts whether that was really the reason – and while by firing him, Obama undercut a potential 2012 rival – he didn't shy away from firing a man with some of the best PR in DC.

You might also ask the 19 top Generals and Admirals Obama has fired (most with the help of Bob Gates; also note the 20th on this list is Petraeus) – so many that conservatives accuse him of “purging” – whether he's squeamish about crossing the NatSec bureaucracy. And while Micah Zenko's comment on Twitter is correct that intelligence officials have largely escaped this treatment, Obama seemed happy to use Michael Leiter's National Counterterrorism Center's failure to stop the UndieBomb attack to fire then Director of National Intelligence Dennis Blair.

President Obama is not a man afraid to fire members of the national security bureaucracy.

The starkest contrast with Brennan's treatment comes from the case of Stanley McChrystal.

Obama demanded McChrystal's resignation not because his night raids were exacerbating extremism in Afghanistan. Not because many service members felt he had left them exposed. Not because, even then, it was clear the surge in Afghanistan was going to fail.

Obama demanded McChrystal's resignation because Michael Hastings exposed McChrystal and his top aides (including Michael Flynn, who quit in April because of differences on policy) being insubordinate. Obama demanded McChrystal's resignation because doing so was necessary to maintain the primacy of civilian control – like separation of powers, one of the bedrocks ensuring national security doesn't trump democracy.

That, to me, is the important takeaway from comparing McChrystal's fate with Brennan's.

When a top member of the national security bureaucracy challenged the control of the civilian executive, he got canned, appropriately, in my opinion.

But when the Director of the CIA permitted his Agency to strike at the core of the separation of powers by investigating its overseers, Obama offered his support. Obama may have fired a top general for threatening Executive authority, but he has supported a top aide after he threatened Legislative authority.

You can come up with any number of explanations why Obama did that. But being afraid of taking on his National Security bureaucracy – as distinct from taking on the intelligence agencies, as Obama chose not to do when Clapper lied or when Keith Alexander oversaw the leaking of the family jewels even while getting pwned in his core cyberdefense capacity – is not the explanation.

Obama has proven to have no qualms about upsetting his national security bureaucracy. Just that part of it run covertly.

THE MOST TRANSPARENT ADMIN EVAH™ BOASTS OF DECLASSIFYING 6.2% OF TORTURE REPORT

As you likely know, when the White House delivered the torture report back to the Senate Intelligence Committee, they discovered that the Intelligence Community had redacted big chunks of the summary. McClatchy's latest report reveals the CIA blacked out the pseudonyms of torturers that SSCI had used to hide their real

names.

Tom Mentzer, a spokesman for the committee's chairwoman, Sen. Dianne Feinstein, D-Calif., told McClatchy on Monday that the blackouts _ officially known as redactions _ were made to pseudonyms used for both covert CIA officers and foreign countries.

"No covert CIA personnel or foreign countries are named in the report," he said. "Only pseudonyms were used, precisely to protect this kind of information. Those pseudonyms were redacted (by the administration)."

All of the pseudonyms were excised from the version of the executive summary that the White House returned to the committee on Friday, a person familiar with the issue said.

I presume CIA felt they had to do this because the names of the torturers are not, in fact secret. We know that Bruce Jessen reverse engineered the torture and Alfreda Bikowsky ordered the rendition of Khalid el-Masri. Keeping the pseudonyms the SSCI used for each secret prevents us from developing a more complete list of the things each did, including the legally actionable things.

In other words, the CIA is redacting things to hide evidence of crimes.

Behind this spat is a more general question: whether redacting 15% of an executive summary is excessive or not. Martin Heinrich says it makes the report unreadable.

"Redactions are supposed to remove names or anything that could compromise sources and methods, not to undermine the source material so that it is impossible to understand," Sen. Martin Heinrich, D-N.M., a member of the committee, said Sunday in a statement.

“Try reading a novel with 15 percent of the words blacked out. It can’t be done properly.”

James Clapper and White House spokesperson Josh Earnest say leaving 85% of the summary is very “transparent.”

Josh Earnest justified the redactions, telling reporters: “We’re talking about very sensitive information here. And it’s important that a declassification process be carried out that protects sources and methods and other information that is critical to our national security.”

He noted that more than 85 percent of the executive summary wasn’t blacked out.

But as Katherine Hawkins noted on Twitter, that’s doing the math wrong. The Executive Branch has already decided that the overwhelming majority of the report – the more detailed chapters – will not be released at all right now. The roughly 408 pages the Administration has decided we can see represents just 6.2% of the report – 408 pages out of 6,600.

SSCI wrote the summary so that it could be released, with the perhaps futile expectation that the rest of the report will be released after Bikowsky and others are no longer still working (!!) for the Agency. And yet the Most Transparent Administration Evah™ believes that even releasing that much is too much transparency and democracy for us.

UNDER CLAPPER’S

CONTINUOUS MONITORING CIA COULD CONTINUOUSLY MONITOR SSCI ON CIA NETWORK

As I pointed out the other day, the CIA IG Report on spying on the Senate Intelligence Committee appears to say the egregious spying happened after John Brennan told Dianne Feinstein and Saxby Chambliss on January 15 CIA had been spying on SSCI.

Agency Access to Files on the SSCI RDINet:

Five Agency employees, two attorneys and three information technology (IT) staff members, improperly accessed or caused access to the SSCI Majority staff shared drives on the RDINet.

Agency Crimes Report on Alleged Misconduct by SSCI Staff:

The Agency filed a crimes report with the DOJ, as required by Executive Order 12333 and the 1995 Crimes Reporting Memorandum between the DOJ and the Intelligence Community, reporting that SSCI staff members may have improperly accessed Agency information on the RDINet. However, the factual basis for the referral was not supported, as the author of the referral had been provided inaccurate information on which the letter was based. After review, the DOJ declined to open a criminal investigation of the matter alleged in the crimes report.

Office of Security Review of SSCI Staff Activity:

Subsequent to directive by the D/CIA to

halt the Agency review of SSCI staff access to the RDINet, and unaware of the D/CIA's direction, the Office of Security conducted a limited investigation of SSCI activities on the RDINet. That effort included a keyword search of all and a review of some of the emails of SSCI Majority staff members on the RDINet system.

With that in mind, consider this passage of James Clapper's July 25, 2014 response to Chuck Grassley and Ron Wyden's concerns about Clapper's new ongoing spying on clearance holders.

With respect to your second question about monitoring of Members of Congress and Legislative Branch employees, in general those individuals will not be subject to [User Activity Monitoring] because their classified networks are not included in the definition of national security systems (NSS) for which monitoring is required.

[snip]

Because no internally owned or operated Legislative branch network qualifies as a national security system, UAM by the Executive Branch is accordingly neither required nor conducted. To be clear, however, when Legislative Branch personnel access a national security system used or operated by the Executive Branch, they are of course subject to UAM on that particular system.

CIA's spying on SSCI took place on CIA's RDI network, not on the SSCI one. SSCI had originally demanded they be given the documents pertaining to the torture program, but ultimately Leon Panetta required them to work on a CIA network, as Dianne Feinstein explained earlier this year.

The committee's preference was for the CIA to turn over all responsive documents to the committee's office, as had been done in previous committee investigations.

Director Panetta proposed an alternative arrangement: to provide literally millions of pages of operational cables, internal emails, memos, and other documents pursuant to the committee's document requests at a secure location in Northern Virginia. We agreed, but insisted on several conditions and protections to ensure the integrity of this congressional investigation.

Per an exchange of letters in 2009, then-Vice Chairman Bond, then-Director Panetta, and I agreed in an exchange of letters that the CIA was to provide a "stand-alone computer system" with a "network drive" "segregated from CIA networks" for the committee that would only be accessed by information technology personnel at the CIA—who would "not be permitted to" "share information from the system with other [CIA] personnel, except as otherwise authorized by the committee."

It was this computer network that, notwithstanding our agreement with Director Panetta, was searched by the CIA this past January,

Presumably, those limits on access should have prevented CIA's IT guys from sharing information about what SSCI was doing on the network. But it's not clear they would override Clapper's UAM.

Remember, too, when Brennan first explained how this spying didn't qualify as a violation of the Computer Fraud and Abuse Act, he said CIA could conduct "lawfully authorized ... protective ... activity" in the US. Presumably like UAM.

I have no idea whether this explains why CIA's IG retracted what Feinstein said had been his own criminal referral or not. But I do wonder whether the CIA has self-excused some of its spying on SSCI in the interest of continuous user monitoring?

If so, it would be the height of irony, as UAM did not discover either Chelsea Manning's or Edward Snowden's leaks. Imagine if the only leakers the Intelligence Community ever found were their own overseers?

SAY, WHY SHOULD MIKEY HAYDEN GET A SAY ON TORTURE THAT PURPORTEDLY PRECEDED HIM?

My favorite call for John Brennan's head thus far comes from Fred Fleitz, who helped John Bolton sex up WMD claims leading into the Iraq War. He says John Brennan has to resign not just to shore up CIA's relations with Congress, but also NSA's.

I believe CIA director John Brennan and agency officials involved in the monitoring of computers used by the SSCI staff must resign to help mend the CIA's relationship with Congress. Such resignations would go a long way toward restoring the confidence of the SSCI in the CIA and, it is to be hoped, would win the agency and the National Security Agency some crucial allies in both houses of Congress to fend off several ill-advised intelligence-reform proposals currently under discussion

there.

But that's not my favorite part. Nor is where this "intelligence" professional says a report voted out with support from John McCain (in the first vote) and Susan Collins (in the second) is a Democratic vote. Nor is the bit where Fleitz claims the program was properly briefed, which it wasn't.

My favorite part is Fleitz' conflicting claims about Michael Hayden.

The main focus of the SSCI probe reportedly is to prove Democratic claims that the effectiveness of the enhanced-interrogation program has been exaggerated. Former CIA director Michael Hayden and other former senior CIA officials involved in the enhanced-interrogation program dispute this. According to Hayden, as late as 2006 fully half of the government's knowledge about the structure and activities of al-Qaeda came from harsh interrogations.

Despite their firsthand knowledge of the enhanced-interrogation program, there is no input in the SSCI report from Hayden, former CIA general counsel John Rizzo, or other CIA officials, since the report is based solely on an examination of documents.

Assertion 1) Michael Hayden claims half of the government's knowledge about al Qaeda came from torture, meaning no more than half came from the illegal torture he was conducting at the time over at NSA (and also meaning that relatively more intelligence has come in from SIGINT since Hayden left).

Assertion 2) Michael Hayden, whose entire CIA tenure post-dated the Detainee Treatment Act that made the torture program illegal, should have some say in a torture report.

Maybe Hayden was spying on the CIA while he was in charge of NSA. Or maybe (ok, in fact) Hayden continued torture after such time as Congress made it doubly illegal.

But in the same way that Cofer Black should not need to have a say in torture if the CIA's false narrative were not false, Michael Hayden shouldn't either.

Man, as much as this report is demonstrating how much CIA lies and how useless their torture program was, it also demonstrates the misnomer of the whole "intelligence" label.

BUT BRENNAN DIDN'T FUCK HIS BIOGRAPHER!

President
Obama
made a
bunch
of
news
today
with
the
following.



On Brennan and the CIA, the RDI report has been transmitted, the declassified version that will be released at the pleasure of the Senate committee.

I have full confidence in John Brennan. I think he has acknowledged and directly apologized to Senator Feinstein that CIA personnel did not properly handle an investigation as to how certain documents that were not authorized to be released to the Senate staff got somehow into the hands of the Senate staff. And

it's clear from the IG report that some very poor judgment was shown in terms of how that was handled. Keep in mind, though, that John Brennan was the person who called for the IG report, and he's already stood up a task force to make sure that lessons are learned and mistakes are resolved.

With respect to the larger point of the RDI report itself, even before I came into office I was very clear that in the immediate aftermath of 9/11 we did some things that were wrong. We did a whole lot of things that were right, but we tortured some folks. We did some things that were contrary to our values.

I understand why it happened. I think it's important when we look back to recall how afraid people were after the Twin Towers fell and the Pentagon had been hit and the plane in Pennsylvania had fallen, and people did not know whether more attacks were imminent, and there was enormous pressure on our law enforcement and our national security teams to try to deal with this. And it's important for us not to feel too sanctimonious in retrospect about the tough job that those folks had. And a lot of those folks were working hard under enormous pressure and are real patriots.

But having said all that, we did some things that were wrong. And that's what that report reflects.

Amidst calls for Brennan's firing, Obama basically responded, "Sure, we tortured some folks, but I still have confidence in the guy who found the waterboard and black sites at which to torture."

But I'm not sure why folks are so surprised by Obama's reluctance to criticize Brennan for

lying about hacking the SSCI. Aside from the mutual complicity – Brennan was personal witness to each and every drone strike Obama approved that violated international law, after all – CIA Directors don't get fired for lying.

They get fired for fucking their biographer.

IS CIA'S ADMISSION OF SPYING AN EFFORT TO UNDERCUT WHISTLEBLOWERS?

The CIA spied on Congress! The headlines yesterday read.

By the end of the day, the CIA shared the unclassified summary of Inspector General David Buckley's conclusions.

But the conclusions are a muddle:

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Lack of Candor:

The three IT staff members demonstrated a lack of candor about their activities during interviews by the OIG.

Compare the suggested chronology of these bullets with some of the details Dianne Feinstein provided in March.

[0]n January 15, 2014, CIA Director Brennan requested an emergency meeting to inform me and Vice Chairman Chambliss that without prior notification or approval, CIA personnel had conducted a "search"—that was John Brennan's word—of the committee computers at the offsite facility. This search involved not only a search of documents provided to the committee by the CIA, but also a search of the "stand alone" and "walled-off" committee network drive containing the committee's own internal work product and communications.

According to Brennan, the computer

search was conducted in response to indications that some members of the committee staff might already have had access to the Internal Panetta Review. The CIA did not ask the committee or its staff if the committee had access to the Internal Review, or how we obtained it.

Instead, the CIA just went and searched the committee's computers.

[snip]

Days after the meeting with Director Brennan, the CIA inspector general, David Buckley, learned of the CIA search and began an investigation into CIA's activities. I have been informed that Mr. Buckley has referred the matter to the Department of Justice given the possibility of a criminal violation by CIA personnel.

[snip]

Weeks later, I was also told that after the inspector general referred the CIA's activities to the Department of Justice, the acting general counsel of the CIA filed a crimes report with the Department of Justice concerning the committee staff's actions.

According to DiFi, CIA had already accessed the servers by January 15. Buckley says that at least some of the searches – the ones by the Office of Security – happened *after* that point, after Brennan ordered them to stop.

This limited hangout is not just an admission that CIA spied on SSCI, but that they spied and continued spying.

Buckley also appears to be saying that what DiFi described as his *own* referral (though he doesn't refer to it as such) – made sometime before March – was based off erroneous information. The implication is DOJ didn't pursue charges because they were told the original allegations – which

Buckley passed on, according to DiFi – were incorrect.

That's all very fishy, particularly when you recall this story, about the CIA spying on its own whistleblower in the matter.

The CIA obtained a confidential email to Congress about alleged whistleblower retaliation related to the Senate's classified report on the agency's harsh interrogation program, triggering fears that the CIA has been intercepting the communications of officials who handle whistleblower cases.

[snip]

Buckley obtained the email, which was written by Daniel Meyer, the intelligence community's top official for whistleblower cases, to the office of Sen. Chuck Grassley, R-Iowa, a leading whistleblower-protection advocate. The Senate Intelligence Committee also learned of the matter, said the knowledgeable people.

After obtaining the email, Buckley approached Meyer's boss, I. Charles McCullough III, the inspector general for the 17-agency U.S. intelligence community, in what may have constituted a violation of the confidentiality of the whistleblowing process, they said.

[snip]

Meyer's email concerned allegations that Buckley failed to thoroughly investigate a whistleblower retaliation claim, McClatchy has learned. The retaliation allegedly involved delays by the CIA in paying the legal fees of CIA officials who cooperated with the Senate committee. An indemnification agreement required the agency to cover those costs – which it eventually did – as long as the officers weren't found to have

committed any wrongdoing.

We know David Buckley has been treating whistleblowers inappropriately. Yet he's the guy who apparently reneged on his claims that CIA illegally spied. Even though they spied after the time John Brennan told them (heh) to stop.

STATE'S FUNNY VIEW OF OUR DEMOCRACY

In addition to its story about the State Department talking points it "accidentally" got (see my post on that), the AP included the talking points themselves.

The talking points are particularly pathetic for the way they try to turn the torture report – and our treatment of torture more generally – as proof of functional democracy.

The TPs claim the report is evidence of the government's transparency...

The fundamental facts about this program have been known for some time. The U.S. government is committed to transparency and has released much of this information to the public before. This report adds additional details which confirm the wisdom of our national decision not to use such interrogation methods again.

... of our vibrant democracy...

America's democratic system worked just as it was designed to work in bringing an end to actions inconsistent with our democratic values.

[snip]

America can champion democracy and human rights around the world not because we are perfect, but because we can say that our democratic system enables us to confront and resolve our problems through open and honest debate. Our Congress issued this report, and the Obama administration strongly supported its declassification, in that spirit.

... and the separation of powers ...

These interrogation methods were debated in our free media, challenged in our independent courts, and, just two years after their introduction, restricted by an act of our Congress sponsored by Senator John McCain and overwhelmingly backed by members of both of our political parties.

The last talking point is particularly neat given that 1) it gets the timing of the Detainee Treatment Act (passed in late 2005, and therefore over 3.5 years after torture started, not 2) wrong – not to mention its efficacy at ending torture, and 2) the Executive, including this President, has prevented any court challenge to torture by claiming state secrets and immunity, and as recently as this month claimed the victims of our torture cannot describe their own torture before the Gitmo Kangaroo Court. John Kiriakou, in particular, will likely find this talking point curious.

I'm just as interested in how aggressively State prepares to answer questions posed on CIA's behalf in these questions:

4. Is the White House in a position to say that no useful information was obtained?
5. Isn't the CIA in a better position to assess this?
6. Does the CIA believe useful information was obtained?

[snip]

13. Does the CIA still stand by its response to the SSCI, or did the SSCI address the CIA's concerns when it revised its report?

Perhaps that's just State doing its best to prep the questions that CIA will cue compliant journalists to ask. And admittedly, State is going to have to do some of the damage control with countries like UK and Poland, which will be embarrassed by the report.

Still, I can't help but remember that Maria Harf was CIA spokesperson before she moved over to State – indeed, actually started on the analytical side of the house.

In any case, it's nice to know that State thinks impunity for torture is a sign of a vibrant democracy.

TORTURED DIPLOMACY

The AP has a story reporting (something that was public) that Colin Powell was not briefed on torture from the start, which meant in several cases Ambassadors to affected countries got briefed and instructed not to tell their superiors.

A Senate report on the CIA's interrogation and detention practices after the 9/11 attacks concludes that the agency initially kept the secretary of state and some U.S. ambassadors in the dark about harsh techniques and secret prisons, according to a document circulating among White House staff.

The still-classified report also says some ambassadors who were informed about interrogations of al-Qaida detainees at

so-called black sites in their countries were instructed not to tell their superiors at the State Department, the document says.

[snip]

A former senior CIA official said the secretary of state at the time, Colin Powell, eventually was informed about the program and sat in meetings in which harsh interrogation techniques were discussed. But Powell may not have been informed when the techniques were first used in 2002, the official said.

[snip]

The former CIA official said it would be standard practice for ambassadors informed about a covert operation to be instructed not to share it with others who did not have a "need to know," as determined by the National Security Agency. Ambassadors in countries in which the CIA set up black sites to interrogate prisoners were usually told about it, said the official, who, like others interviewed for this story, would not be quoted by name because some of the information remains classified.

This narrative – developed as part of the initial Senate Intelligence Committee effort to study torture which ultimately became the torture report – suggests Colin Powell may not have briefed on torture techniques until September 16, 2003.

According to CIA records, pursuant to a request from the National Security Adviser, the Director of Central Intelligence subsequently briefed the Secretary of State and the Secretary of Defense on the CIA's interrogation techniques on September 16, 2003.

That seems very late – but he was apparently specifically not invited to a July 2003 meeting at which Principals reauthorized torture even in light of Khalid Sheikh Mohammed's treatment. And these two comments from 2009 were awfully vague.

Remember, in January 2002, Powell and others at State tried very hard to get Bush to adhere to the Geneva Conventions they failed. Which is probably why he didn't find out for a long time.

In any case, the implication is that Powell's Ambassadors knew, but Powell did not.

I've just started looking at who the Ambassadors in question might be – especially with AP's anonymous and probably lying CIA source claiming Ambassadors did get told (which the CIA often doesn't do but which is a violation of protocol) but two stick out right away.

First, there's Darryl Johnson, Ambassador to Thailand while Abu Zubaydah was being tortured. I don't know anything about him, but note he presented his credentials on March 29, literally the day after Zubaydah was captured in Pakistan. Imagine asking your hosts to use their military base to torture people on on your second day officially on the job!

Even more interesting is Chris Hill, the lifetime diplomat who was Ambassador to Poland from 2000 through 2004, spanning the period when a number of detainees were being tortured. Hill went on to serve as Ambassador to South Korea immediately thereafter, then became Assistant Secretary of State for East Asia. In the latter two roles he played a key role in the 6-party talks with North Korea and had very significant disagreements with Dick Cheney. Hill then went on to serve as Ambassador to Iraq. I find it interesting to imagine how knowledge of Cheney's torture might have made their principled disagreements even worse.

Of course, it's possible AP's source is lying and none of these men – or the other Ambassadors in the black site countries – really were briefed.

Update: Here's a 2008 story (there were many similar ones at the time) that insinuates Powell was at the torture meetings. I think it's meant to deceive.