Senate Intelligence head accuses CIA of undermining US “constitutional framework”

Barry Grey
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In an extraordinary speech delivered Tuesday on the floor of the US Senate, the chair of the Senate Intelligence Committee, Dianne Feinstein, accused the Central Intelligence Agency (CIA) of spying on committee staff members conducting an investigation into the agency’s program of detention, interrogation and torture under President George W. Bush.

Feinstein directly accused the CIA of violating the US Constitution, specifically its core principle of the separation of powers between the various branches of government. She warned that the agency’s actions “may have undermined the constitutional framework essential to effective congressional oversight of intelligence activities or any other government function.” She added that the CIA likely also breached the Fourth Amendment’s ban on arbitrary searches and seizures, the Computer Fraud and Abuse Act, and an executive order that prohibits the CIA from carrying out domestic searches or surveillance.

“I have asked for an apology and a recognition that this CIA search of computers used by its oversight committee was inappropriate,” she said. “I have received neither.”

There are few, if any, historical precedents for such a direct charge from the floor of the Senate of criminal behavior against the US spy agency. Moreover, such accusations against CIA Director John Brennan, one of President Obama’s closest associates, could have serious legal and political consequences for the White House. Tuesday’s remarks by Feinstein reflect a profound crisis within the American state.

Feinstein, a Democrat from California, spoke for an hour and reviewed in considerable detail the multi-year effort of the CIA to impede the committee’s investigation by withholding and removing access to documents, lying, and illegally penetrating and searching the computers of committee staffers working on the probe.

As Feinstein charged, these actions constitute grave violations of the US Constitution and existing law. She accused the CIA of attempting to intimidate the committee—and, by extension, Congress—and suggested that the US constitutional system of checks and balances was under dire threat, calling the present situation “a defining moment.”

Choosing her words carefully, Feinstein implied that the motive behind the CIA’s actions was a desire to cover up and block from public view the enormity of the crimes carried out during the Bush years in connection with secret CIA “black site” prisons and the abuse and torture of alleged terrorists detained in them. Brennan for a time headed up the CIA detention and interrogation program under Bush and was on record defending so-called “enhanced interrogation” techniques such as water-boarding.

Obama put off naming Brennan as head of the CIA during his first term because of concerns that his role in Bush torture programs would complicate his Senate confirmation. Instead, Obama made Brennan his chief counterterrorism adviser, at which post he oversaw the White House’s “kill lists” and drone assassination program. Obama nominated Brennan to take over the CIA after his reelection, and Brennan was handily confirmed, with lopsided Democratic Party support.

In her remarks Tuesday, Feinstein spoke of Intelligence Committee investigators “wading through the horrible details of a CIA program that never, never, never should have existed,” and “an un-American, brutal program of detention and interrogation.”

Feinstein’s speech was all the more remarkable since she is one of the most slavish defenders of the intelligence agencies and is herself, along with the congressional leadership of both parties and the Obama White House, complicit in the criminal and anti-democratic practices she claimed to be opposing. Feinstein has unreservedly defended mass spying by the National Security Agency and joined in the official witch-hunt against whistle-blowers such as Edward Snowden, Julian Assange and Bradley Manning.

The fact that she felt obliged to go to the floor of the Senate and charge CIA leaders with impeachable offenses testifies to the increasingly naked manner in which the US security agencies are dispensing with even the trappings of democracy and asserting dictatorial control.

Feinstein said that she was compelled to go public, after seeking for years to conceal tensions and conflicts between her committee and the CIA, because Brennan was responding to committee protests over spying and obstruction by seeking to bring criminal charges against intelligence committee staffers and possibly committee members for allegedly stealing classified CIA documents.

“Let me say up front,” Feinstein declared, “that I come to the Senate floor reluctantly. Since January 15, 2014, when I was informed of the CIA search of this committee’s network, I’ve been trying to resolve this dispute in a discreet and respectful way.”

According to Feinstein’s account, Brennan personally informed her on January 15 that CIA personnel had conducted a search of

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committee computers, including the work and communications of staffers involved in reviewing CIA documents and drafting the committee's oversight report. She said Brennan told her the CIA would continue to investigate the alleged unauthorized acquisition of classified documents by the committee.

But speaking before the Council on Foreign Relations Tuesday, Brennan flatly denied Feinstein's charges. "As far as the allegation of CIA hacking into Senate computers," he said, "nothing could be further from the truth. That's just beyond the scope of reason."

Then, in what appeared to be a thinly veiled threat, he said, "I would just encourage members of the Senate to take their time to make sure that they don't overstate what they claim and what they probably believe to be the truth. These are some complicated matters."

The White House leapt to Brennan's defense. At a news briefing, White House Press Secretary Jay Carney said Obama had "great confidence" in the CIA director. He added, "You saw the CIA director say today that if there was any inappropriate activity by CIA or by staff, he would, of course, want to get to the bottom of it and certainly the president would agree with that."

The conflict between the Senate committee and the CIA centers on a 6,300-page report drafted by the committee on the agency's detention and interrogation practices during the Bush years. Work on the mammoth report began in 2009 and was completed in December of 2012.

The document evidently contains damning information on the criminal practices of the CIA, and the agency has refused to provide clearance for the committee to release an unclassified version to the public. In June 2013, Brennan submitted a 122-page rebuttal denying many of the charges in the Senate report. Brennan's rejoinder also remains classified.

In the course of the committee's investigation, the CIA supplied committee staffers with millions of pages of documents, including parts of an internal review of the Bush-era practices commissioned by Brennan's predecessor, Leon Panetta, known as the "Panetta review." According to members of the Senate committee, the Panetta review documents confirm the findings in the committee's report and expose Brennan's denials as dishonest and false.

It appears that the CIA search of committee computers in January was aimed at determining how staffers obtained the Panetta documents, which the CIA claims are privileged and Feinstein insists were made available to committee investigators as part of the document "dump" provided by the agency.

In her Senate remarks Tuesday, Feinstein said that in late 2013 she requested in writing that the CIA provide the committee with a final and complete version of the internal Panetta review. In early 2014, the agency formally rejected the committee's request, and shortly thereafter Brennan informed Feinstein and the Republican vice chairman of the committee, Saxby Chambliss, of the CIA search of committee computers.

Feinstein said that two days after the January 15 meeting with Brennan, she wrote a letter to the director objecting to any further CIA probe of the committee on constitutional grounds. She followed that up on January 23 with a letter asking 12 questions regarding the CIA spying on the committee. She has received no reply to either letter, she told the Senate.

Clearly, the CIA is determined to suppress the Panetta review documents and is using intimidation tactics against the Senate to do so.

In her remarks on the Senate floor, Feinstein charged that the CIA illegally removed documents from committee computers several times in the course of the investigation. In 2010, she reported, the White House counsel intervened and assured the committee that there would be no repetition of CIA obstruction of its investigation, a pledge that was quickly broken. Feinstein's revelation of White House involvement in the disputes between her committee and the CIA strongly implies that Obama was personally aware of what was taking place.

This would be entirely consistent with the policies of the Obama administration, which has seamlessly continued and expanded the illegal and anti-democratic practices of the Bush administration. In her remarks, Feinstein noted that the CIA general counsel who referred alleged Senate theft of classified CIA documents to the Justice Department for possible criminal prosecution was the chief lawyer for the CIA detention and interrogation program under Bush. "His name is mentioned 1,600 times in our study," she said.

The massive buildup of the powers of the US intelligence complex, which has reached the point where agencies such as the CIA and NSA operate with impunity and beyond even the nominal control of Congress, is the result of cover-up and complicity by Congress itself, both political parties, and the Obama White House. In her remarks, Feinstein pointed to the 2005 destruction by CIA officials of torture videotapes to explain why the committee felt it was "so important … to protect" its Panetta review documents (from the grasp of the CIA).

What Feinstein did not mention was the Obama administration's exoneration in 2012 of CIA officials responsible for destroying the tapes. Nor did she note the suppression in 2004 of Abu Ghraib photos by the Pentagon, with the support of both parties in Congress; Obama's reneging in 2009 on his pledge to release the suppressed photos; or her own refusal to pursue charges against Director of National Intelligence James Clapper for lying to her committee last March when he was asked if the NSA was collecting private data on millions of Americans.

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