

White House withholding documents from CIA torture probe

Patrick Martin
15 March 2014

White House officials admitted Thursday that the Obama administration is blocking the release of thousands of documents relating to the torture of prisoners at secret CIA prisons during the Bush administration. These documents apparently include the initial presidential authorization for torture and other illegal acts by US military/intelligence agencies.

McClatchy News Service first reported the withholding of more than 9,000 documents from the Senate Intelligence Committee, which has drafted a massive report on the CIA torture program. According to the McClatchy report, “The dispute indicates that the White House is more involved than it has acknowledged in the unprecedented power struggle between the [Senate Intelligence] committee and the CIA, which has triggered charges that the agency searched the panel’s computers without authorization and has led to requests to the Justice Department for criminal investigations of CIA personnel and Senate aides.

White House Press Secretary Jay Carney confirmed the McClatchy report at a news briefing Thursday afternoon. Carney sought to dismiss the significance of the withholding of documents, claiming that they were only a small portion of the six million pages of material turned over by the CIA to the Intelligence Committee. But it is clear that the documents concern a critical issue: direct presidential responsibility for the torture of prisoners, in violation of international law and the Geneva Conventions.

“This is about precedent and the need institutionally to protect some of the prerogatives of the executive branch and the office of the presidency,” Carney said. “All of these documents pertain to and come from a previous administration. They have nothing to do with this administration, but these are matters that need to be reviewed in light of long recognized executive prerogatives and confidentiality interests.”

Carney said he did not know whether Obama had consulted with former Bush administration officials or Bush himself over whether to release the documents. Obama has not invoked executive privilege, but the White House has

engaged in a different form of stonewalling, delaying the release of the documents while taking part in “ongoing discussions” with the Senate Intelligence Committee.

According to a report in the *Intercept*, the web publication edited by Glenn Greenwald, one of the documents being withheld from the Senate is the official “finding” signed by Bush on September 17, 2001 to authorize CIA covert operations against Al Qaeda, which included provisions for rendition, detention and interrogation of suspected Al Qaeda members.

These measures were given the acronym RDI, which became a synonym for torture during the six years (2001-2006) of the program’s official existence. Although Bush shut down the secret prisons in 2006 and Obama officially ended the torture program in 2009, there is little doubt that the US intelligence apparatus continues in the business of kidnapping, imprisoning and torturing, albeit using a different acronym.

Marcy Wheeler of the *Intercept* suggests that the September 17, 2001 Bush finding also provides the basis for the CIA assassination program using drone-fired missiles, which Obama has greatly expanded since taking office. She notes that the Obama administration has fought in court to keep secret both the finding and references to it in other documents.

A court ruling upholding the administration noted that the finding “pertains to intelligence activities unrelated to the discontinued program” of torture. Wheeler adds, “Given what we know about the September 17, 2001 finding, that may well refer to President Obama’s still active drone program.”

The revelation of the White House role in the cover-up of CIA torture puts Obama at the center of the conspiracy brought to light earlier this week when Senate Intelligence Committee Chair Dianne Feinstein spoke for nearly an hour on the Senate floor about illegal CIA spying on the activities of her committee.

Senator Feinstein declared that the CIA actions “may well have violated the separation of powers principles embodied

in the United States Constitution” and “may also have violated the Fourth Amendment, the Computer Fraud and Abuse Act, as well as Executive Order 12333, which prohibits the CIA from conducting domestic searches or surveillance.”

Feinstein was responding to an effort by CIA Director John Brennan to criminalize the exposure of CIA torture. The acting general counsel of the CIA, Robert EATINGER, filed a criminal referral earlier this year with the Justice Department charging staff members of the Senate committee with unauthorized access to a CIA internal report, dubbed the “Panetta review,” which largely confirms the criticism of the torture program in the draft Senate report.

Brennan admitted that CIA operatives had monitored computer systems that were supposed to be reserved to the Senate committee in the course of their investigation into the alleged unauthorized access. In other words, the CIA spied on those who were investigating CIA torture, and then brought charges of illegal spying against them.

The Obama White House has fully backed the CIA in its flagrant breach of constitutional norms. Press Secretary Jay Carney admitted Wednesday that the CIA had given advance notice to the White House of its intention to refer the Senate committee staffers to the Justice Department for possible prosecution, and that Obama had raised no objection.

As with the withholding of documents, the White House spokesman sought to obscure the fundamental constitutional issues behind a fog of double-talk. “The president has been aware in general about the protocols and the discussions and occasional disputes about the protocols involved in the provision of an unprecedented number of documents from CIA to the committee,” he said, adding that he could not address any of the specifics “because they’re under review both by the independent inspector general and by the Department of Justice.”

The White House stonewalling has been aided and abetted by a compliant media, which portrays the unconstitutional activities of the CIA as a minor Washington dust-up, a turf war between Feinstein and Brennan, or even, as one headline put it, a “constitutional muddle,” as though the issues were not both monumental and crystal clear.

The chairman of the Senate committee charged with responsibility for oversight of the CIA—a longtime defender and apologist for the agency—charges that the CIA has engaged in torture, cover-up and intimidation of those who have sought to expose its actions, and in spying on the legislative branch of government. This is not a trifling bureaucratic conflict, but a major constitutional crisis, in which Obama and his closest aides, like Brennan, are implicated in impeachable offenses.

A leading House Republican has sent a letter to the Justice

Department demanding a response by March 28 to questions about intelligence agency spying on congressmen, senators and their staffs. Congressman James Sensenbrenner of Wisconsin, the author of the Patriot Act in 2001, reiterated a previous request sparked by the revelations of Edward Snowden about widespread NSA spying and by the confirmation of one of Snowden’s charges by James Cole, the deputy attorney general. Last month, Cole told the House Judiciary Committee that the NSA “probably” collected information about members of Congress.

Sensenbrenner’s letter cited the charges by Feinstein in her Senate speech. “Tapping into computers used by members of Congress and attempts to use the Justice Department to intimidate Congressional staff is a gross violation of the Constitutional principles of separation of powers,” he wrote. “It paints an almost-Nixonian picture of an administration that believes it can act with impunity behind a veil of secrecy.”

In a related action, the Senate voted 95-4 Thursday to confirm a new general counsel for the CIA, Caroline Krass. The action came after Senator Mark Udall, Democrat from Colorado, dropped the “hold” he had placed on the nomination because Krass opposed the release to Congress of legal opinions drafted by the Office of Legal Counsel, an arm of the Justice Department. The most notorious of such opinions are those that justified the torture program and Obama’s drone-missile assassination campaign.

Udall dropped the hold so that Krass would replace Robert EATINGER, the acting CIA general counsel who filed the criminal referral against the Senate Intelligence Committee staffers. As both Feinstein and Udall noted in separate statements, EATINGER has a flagrant conflict of interest in investigating the committee’s actions in preparing the torture report, since he is named in that report more than 1,600 times in his capacity as a legal apologist for the actions of CIA agents overseas.



To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact