

Obama administration drops investigation into CIA spying on US Senate

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12 July 2014

The US Department of Justice announced Thursday that it would not investigate charges that the CIA had spied on members of the staff of the Senate Intelligence Committee, whitewashing the brazenly illegal actions of the US intelligence apparatus. “The department carefully reviewed the matters referred to us and did not find sufficient evidence to warrant a criminal investigation,” read the Justice Department statement.

The department will also not investigate countercharges by the CIA that Senate staffers had gained unauthorized access to CIA documents, effectively equating the two and prompting the corporate-controlled media (which has largely buried the story) to portray the action as a neutral, “hands-off” position in a murky dispute between the Senate and the CIA.

The CIA surveillance of the activities of the Senate committee—which is charged by law with oversight of the CIA—was such a flagrant violation of the constitutional separation of powers that the panel’s chairman, Senator Dianne Feinstein of California, took the extraordinary step of denouncing the agency in an hour-long speech on the Senate floor on March 11.

A longtime hardline defender of the intelligence apparatus, Feinstein was visibly disturbed by what she had learned of the CIA’s actions, which she said “may well have violated the separation-of-powers principle embodied in the United States Constitution,” and also “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.”

The conflict arose over the four-year campaign by the CIA to stall the Senate committee’s inquiry into torture of prisoners at secret CIA-run prisons (“black sites”) between 2002 and 2006 under the Bush administration. Dozens of prisoners captured in Afghanistan, Iraq and other countries were taken to these secret prisons in a half

dozen countries—Thailand, Romania and Poland among them—and subjected to waterboarding and other forms of torture.

Bush ordered the “black sites” shut down and most of their prisoners transferred to Guantanamo in 2006, after the existence of the secret prisons became public knowledge. The Senate Intelligence Committee began an investigation in 2009 and has drafted a voluminous report, comprising more than 6,300 pages, including extensive details of both the torture operation and the efforts by the CIA to cover it up and lie to Congress and the American people.

The report was completed in 2012, but its publication has been repeatedly delayed by CIA stonewalling. At some point in 2013, staff members of the Senate committee became aware of an internal CIA document, dubbed the “Panetta review” after Leon Panetta, the CIA director who commissioned it, giving a summary of the evidence of torture. The review contradicted the official CIA position that the operations at the black sites conformed to international and US law.

When the Senate committee pressed for official release of the “Panetta review,” they were told that the document was privileged material for executive branch use only. CIA Director John Brennan told Feinstein in January 2014 that the CIA had conducted a search of the Senate committee’s computers in an effort to determine how the staff had obtained the document.

This search was a flagrant violation of the separation of powers set down in the US Constitution, which bars the executive branch from interfering in the internal operations and deliberations of the legislative branch.

Even more ominously, after the CIA inspector general filed a criminal referral to the Justice Department over the surveillance of the Senate committee staff, the CIA general counsel retaliated with its own criminal referral, seeking federal prosecution of the Senate staff members

for alleged illegal access to classified documents. In other words, the CIA sought to criminalize any effort by Congress to supervise the CIA's own operations.

Feinstein's March 11 speech was a protest against this second referral, but it has been followed by four months of silence, both from congressional leaders, Democratic and Republican, and from the Obama administration. The Senate Intelligence Committee voted to declassify its torture report, but the White House handed over responsibility for declassification to the CIA itself—allowing the agency to decide what portions of the report criticizing its actions should be made public. No date has yet been set for final publication of what will be a severely redacted document.

Even the way the Justice Department announced its decision underscores the supremacy of the intelligence apparatus over the elected institutions that nominally hold sway in Washington. The department informed the CIA Wednesday that it would not investigate either criminal referral, but it waited to tell the Senate committee until Thursday.

The response of leading Senate Democrats was a further demonstration of their prostration before the intelligence agencies. Senate Majority Leader Harry Reid declared, "I think what the CIA did to my senators is wrong. I'm going to drop it at that."

Feinstein issued no official statement, but commented briefly to reporters, calling the Justice Department decision "good," because it ended the possibility of prosecution of her staff: "We have a lot of young people, with families, and with this it's a very hard thing to have hanging over your head. And they've done a very good job. It's just a good day."

The California senator said nothing about the whitewash of the constitutional issues involved in the CIA spying on the Senate committee, which she had made the axis of her Senate speech four months before.

The two leading "critics" of the CIA on the Senate panel did address that issue, although in terms that indicated they accepted the refusal of the Obama administration to investigate.

Senator Ron Wyden of Oregon said the CIA "still has some very serious questions to answer about the unauthorized search of Senate files and whether CIA officials believe they have the authority to do this again."

Senator Mark Udall of Colorado said, "The Justice Department's decision is troubling and draws a false equivalency between congressional staff fulfilling their constitutional obligations and an executive branch agency

potentially breaking the law."

However, Udall made it clear that his concern was to restore credibility to the CIA torturers, assassins and spymasters, not to hold them accountable for their crimes. "Independent oversight of our intelligence agencies is essential for the American people to trust what they're doing to protect our national security," he concluded.

The Justice Department action was greeted by most of the press with a yawn. There were perfunctory accounts published Friday by the *New York Times* (on page 8) and the *Washington Post* (a four-paragraph wire service story). The television networks ignored the issue.

When Feinstein made her speech on the Senate floor, the *World Socialist Web Site* pointed to the significance of the fundamental constitutional issues raised. We wrote: "The trajectory of this conflict is an ominous warning: the criminality of the military-intelligence apparatus is metastasizing into an open onslaught on constitutional principles, including such fundamental precepts as the separation of powers."

But we warned, "Neither Feinstein nor any other capitalist politician in Washington, Democratic or Republican, is capable of serious resistance to the emergence of a police state in the United States... democratic rights are increasingly incompatible with the capitalist profit system, characterized by rampant social inequality and deepening economic crisis."

This warning has been amply vindicated in the whitewash announced by the Obama administration, and the virtual silence that has followed it. The defense of democratic rights, abandoned by every representative and faction of big business politics, must be taken up by the working class, fighting in its own class and social interests.

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