Obama Urged to Fire DNI Clapper

Last March before Edward Snowden revealed the NSA’s sweeping collection of phone and other data Director of National Intelligence James Clapper said no such operation existed. Now, a group of ex-national security officials urge President Obama to fire Clapper.

MEMORANDUM FOR: The President

FROM: Veteran Intelligence Professionals for Sanity (VIPS)

SUBJECT: Fire James Clapper

We wish to endorse the call by Rep. James Sensenbrenner Jr., Chair of the Subcommittee on Crime, Terrorism, and Homeland Security, Committee on the Judiciary, that Director of National Intelligence James Clapper should be removed and prosecuted for lying to Congress. “Lying to Congress is a federal offense, and Clapper ought to be fired and prosecuted for it,” the Wisconsin Republican said in an interview with The Hill. “The only way laws are effective is if they’re enforced.”

Sensenbrenner added, “If it’s a criminal offense, and I believe Mr. Clapper has committed a criminal offense, then the Justice Department ought to do its job.”

This brief Memorandum is to inform you that we agree that no intelligence director should be able to deceive Congress and suffer no consequences. No democracy that condones such deceit at the hands of powerful, secretive intelligence directors can long endure.

It seems clear that you can expect no help from Sen. Dianne Feinstein, chair of the Senate Intelligence Committee, to which Clapper has apologized for giving “clearly erroneous” testimony, and who, at the height of the controversy over his credibility, defended him as a “direct and honest” person.

You must be well aware that few amendments to the U.S. Constitution are as clear as the fourth:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

Even the cleverest lawyers cannot square with the Fourth Amendment many of the NSA activities that Clapper and Feinstein have defended, winked at, or lied
Only you can get rid of James Clapper. We suspect that a certain awkwardness—and perhaps also a misguided sense of loyalty to a colleague—militate against your senior staff giving you an unvarnished critique of how badly you have been served by Clapper. And so we decided to give you a candid reminder from us former intelligence and national security officials with a total of hundreds of years of experience, much of it at senior levels, in the hope you will find it helpful.

Statements by DNI Clapper re Eavesdropping on Americans

March 12, 2013

Sen. Ron Wyden: “Does the NSA collect any type of data at all on millions or hundreds of millions of Americans?”

Clapper: “No, Sir.”

Wyden: “It does not?”

Clapper: “Not wittingly. There are cases where they could inadvertently, perhaps, collect but not, not wittingly.”

(7-minute segment of Clapper testimony; link below)
http://www.youtube.com/watch?v=QwiUVUJmGjs

June 6, 2013

In a telephone interview with Michael Hirsh of the National Journal:

Clapper: “What I said [to the Senate Intelligence Committee on March 12] was, the NSA does not voyeuristically pore through U.S. citizens’ e-mails. I stand by that.”

June 8, 2013

Excerpt of interview with NBC’s Andrea Mitchell:

Mitchell: “Senator Wyden made quite a lot out of your exchange with him last March during the hearings. Can you explain what you meant when you said that there was not data collection on millions of Americans?”

Clapper: “… in retrospect, I was asked ‘When are you going to start– stop
beating your wife’ kind of question, which is meaning not – answerable necessarily by a simple yes or no. So I responded in what I thought was the most truthful, or least untruthful manner by saying No. …

“And this has to do with of course somewhat of a semantic, perhaps some would say too too cute by half. But it is – there are honest differences on the semantics of what when someone says ‘collection’ to me, that has a specific meaning, which may have a different meaning to him.”

(See link below to full NBC transcript)


(Full video 27 min.) http://www.nbcnews.com/video/nightly-news/52158136 (27 min.)

(Most relevant segment) http://www.youtube.com/watch?v=ZbZt1zLQi1E

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June 9, 2013

Sen. Dianne Feinstein, chair of Senate Intelligence Committee on “This Week” with George Stephanopoulos (after he showed video of Clapper testimony on March 12, 2013, denying that NSA collects “any type of data” on Americans):

Stephanopoulos: “Senator Feinstein, I have to confess, I have a hard time squaring that answer with what we learned [from the Snowden disclosures] this week.”

Feinstein: “Well, I think this is very hard. There is no more direct or honest person than Jim Clapper. … You can misunderstand the question.”


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June 11, 2013

Sen. Ron Wyden issued the following statement regarding statements made by Clapper about collection on Americans:

“One of the most important responsibilities a Senator has is oversight of the intelligence community. This job cannot be done responsibly if Senators aren’t getting straight answers to direct questions.
“When NSA Director Alexander failed to clarify previous public statements about domestic surveillance, it was necessary to put the question to the Director of National Intelligence. So that he would be prepared to answer [in his testimony on March 12], I sent the question to Director Clapper’s office a day in advance.

“After the hearing was over my staff and I gave his office a chance to amend his answer. Now public hearings are needed to address the recent disclosures and the American people have the right to expect straight answers from the intelligence leadership to the questions asked by their representatives.”


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July 2, 2013

Clapper sends a letter to Senate Intelligence Committee Chair Dianne Feinstein, in which he refers to his March 12 testimony denying that NSA collects “any type of data at all on millions or hundreds of millions of Americans.”

Clapper: “My response was clearly erroneous for which I apologize.”

A spokesman for Wyden, Tom Catiazza, said that a staff member in the Senator’s office had asked Clapper to correct the public record after the March hearing, which he “refused” to do. Catiazza explained:

“Senator Wyden had a staff member contact the Office of the Director of National Intelligence on a secure phone line soon after the March hearing to address the inaccurate statement regarding bulk collection on Americans.

“The ODNI acknowledged that the statement was inaccurate but refused to correct the public record when given the opportunity. Senator Wyden’s staff informed the ODNI that this was a serious concern. Senator Wyden is deeply troubled by a number of misleading statements senior officials have made about domestic surveillance in the past several years.”

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Mr. President, are you not also troubled by those misleading statements? We strongly believe you must fire Jim Clapper for his lies to the Congress and the American people and that you must appoint someone who will tell the truth.

For the Steering Group, Veteran Intelligence Professionals for Sanity

Coleen Rowley, retired FBI agent and former Minneapolis Division legal counsel
Daniel Ellsberg, former State and Defense Department official

Ray McGovern, retired CIA analyst

David MacMichael, Ph.D., former senior estimates officer, National Intelligence Council

Todd Pierce, MAJ, U.S. Army, Judge Advocate (ret.), Military Commissions Defense Counsel

Thomas Drake, Senior Executive, NSA (former)

William Binney, former technical director at NSA

Larry Johnson, CIA and State Department (ret.)

Elizabeth Murray, former Deputy NIO for the Near East, National Intelligence Council (ret.)

Philip Giraldi, CIA, Operations Officer (ret.)

Ann Wright, Retired US Army Reserve Colonel and former US Diplomat

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**Neocons Twist Iran’s Anti-Nuke Fatwa**

Washington Post “fact checker” Glenn Kessler is infamous for palming off his political bias as a dispassionate look at the evidence, a trick that he tried again by promoting a neocon distortion of Iran’s religious renunciation of nuclear weapons, as Gareth Porter explains.

By Gareth Porter

In the wake of the preliminary nuclear deal with Iran, the Washington Post’s “fact checker,” Glenn Kessler, has questioned whether Obama administration officials should have taken the anti-nuclear fatwa by Iran’s Supreme Leader Ayatollah Ali Khamenei seriously. But the column is less a disinterested investigation of the truth about the issue than a polemic that leans clearly toward the related position of Israel, AIPAC and their congressional supporters.

After quoting Secretary of State John Kerry’s acknowledgment in November of Khamenei’s fatwa against the possession or use of nuclear weapons, Kessler referred to it as “the alleged fatwa” and as a “diplomatic MacGuffin”. A “McGuffin” is a device that moves the plot forward but, as Kessler put it, is
Kessler argued that the fatwa “gives the Americans a reason to begin to trust the Iranians and the Iranians a reason to make a deal”. But he asserted that U.S. officials were wrong to suggest that the fatwa “prohibits the development of nuclear weapons”.

While acknowledging that Khamenei may have issued a fatwa against nuclear weapons, he cited three reasons why greater skepticism by these officials about the fatwa is called for. In all three cases, however, Kessler failed to examine the available evidence carefully and offered conclusions that are clearly contradicted by that evidence.

Kessler noted that Khamenei’s fatwa, first issued in 2003, linked the ban on nuclear weapons to an earlier fatwa by the first Supreme Leader of the Islamic Republic, Ayatollah Ruhollah Khomeini, that banned the production of chemical weapons during the Iran-Iraq war. But according to Kessler, there was no such chemical weapons ban, and thus Khamenei’s fatwa against nuclear weapons should not be trusted. He wrote:

“Iran admitted to chemical weapons production after it ratified the Chemical Weapons Convention (CWC) in 1997, and U.S. intelligence agencies suspected Iran of maintaining a chemical weapons stockpile at least until 2003. So what does it say if the origin of the supposed fatwa is based on a misleading statement?”

It has indeed been the official position of the U.S. intelligence community, and has been repeated many times by secondary sources over the years, that Iran admitted to the CWC’s governing body in 1997 that it had produced chemical weapons during the war. But Kessler apparently did not check the original text of the supposed Iranian “admission.” He relied instead on a secondary source that only cited the reference to the Iranian statement, along with an Israeli press article claiming that Iran had admitted to having had chemical weapons.

But the full text of the statement in question, submitted to the Conference of States Parties to the Chemical Weapons Convention (CWC) by Iranian Ambassador Mohammad R. Alborzi in November 1998, is available on the Internet. Had Kessler looked it up, he would have learned that Alborzi did not in fact say that Iran had produced chemical weapons.

What Alborzi actually said is that, confronted with repeated chemical attacks by Iraq over several years, “Iran was left with no alternative but to seek an effective means of deterrence in the hope that it could halt or at least limit the barrage of these barbarous weapons on its people. In this context, the
decision was made that, on a strictly limited scale, capability should be developed to challenge the imminent threat particularly against the civilian populated centers.

“We declared, at the time, that Iran had chemical weapons capability, while maintaining the policy not to resort to these weapons and rely on diplomacy as the sole mechanism to stop their use by its adversary. The war ended soon after. Following the establishment of ceasefire, the decision to develop chemical weapons capabilities was reversed and the process was terminated.”

Moreover, Alborzi’s statement was fully consistent with what Iran had said during the war. On Dec. 29, 1987, Prime Minister Mir Hossein Mousavi said, “The Islamic Republic is capable of manufacturing chemical weapons and possesses the technology.” But he also said, “[W]e will produce them only when Islam allows us and when we are compelled to do so.”

The Iranians were clearly engaging in an effort to deter Iraq’s use of chemical weapons by letting it be known that it could produce such weapons if the Iraqi chemical attacks did not cease. The State Department actually commented publicly in April 1985 that Iran was “developing a chemical weapons capability.” And the CIA had repeatedly made the same distinction between developing the “capability” for making unconventional weapons and actually manufacturing them in its reports on Iran’s WMD programs to Congress in the late 1990s.

The published record on Iran’s policy toward chemical weapons has been distorted by the general acceptance of the idea that both Iraq and Iran had used chemical weapons in 1988 against the Iraqi Kurdish city of Halabja. That belief had been actively promoted by officials of the Defense Intelligence Agency who had also been involved in assisting the Iraqi military in its air offensive against Iranian forces, as former Washington Post correspondent Patrick Tyler later revealed.

But a 2007 book by Joost Hiltermann, the International Crisis Group’s former deputy director for the Middle East and North and its current chief operating officer, on the Halabja attack definitively refuted the idea that Iran had used chemical weapons on that occasion or at any other time or place during the Iran-Iraq War.

Contrary to Kessler’s claim, therefore, Khamenei was not lying when he said in a 2003 speech, “Even when Iraq attacked us by chemical weapons, we did not produce chemical weapons.”

Moreover, the reason for Iran’s decision to forgo producing, let alone using chemical weapons in retaliation was not that it lacked the ability to do so.
Iran’s chemical sector was at least equal to, if not more advanced than that of Saddam Hussein’s Iraq, according to a study for the Harvard Sussex Program.

What U.S. officials and the news media have been loathe to acknowledge is that Khomeini considered chemical weapons illegal under Islam, and that his judgment was binding on the Iranian government, just as Khamenei noted in the speech declaring nuclear weapons likewise illegal.

[In an update, Kessler admitted that Porter was correct in his distinction between the production of chemical weapons and the capability to produce chemical weapons. “He is certainly correct we should have linked to an original document, but we could not find one, and are pleased to do so now,” Kessler wrote.]

Kessler’s second and third arguments were based entirely on the opinions of Mehdi Khalaji, whom he appears to regard as the ultimate source on the subject of Iranian fatwas in general and the “alleged fatwa” against nuclear weapons in particular. What Kessler did not tell his readers, however, is that Khalaji’s employer, the Washington Institute for Near East Policy (WINEP), a pro-Israel think tank spun off from AIPAC itself, can hardly be considered a disinterested or objective source on the issue of Khamenei’s anti-nuclear fatwa.

Kessler cited Khalaji as asserting that Khomeini had abruptly shifted course on various issues, such as woman’s suffrage and the eating of sturgeon. (“He was also against the eating of sturgeon, until he was for it,” Kessler commented tartly.) The implication the reader is invited to draw from those comments is that Khomeini’s fatwas were arbitrary, changeable and therefore could not have been the definitive factor in anything so weighty as weapons of mass destruction.

But as can be seen from detailed account of what actually transpired in regard to Khomeini’s fatwa making sturgeon halal (allowed) rather than haram (forbidden) under Islam makes it clear that Khalaji’s cavalier dismissal of Khomeini’a fatwas as “abruptly shifting course” is grossly inaccurate.

Khalaji is also Kessler’s source for the more serious claim that Khamenei’s fatwa no longer applies to the possession of nuclear weapons as distinct from their use. “Whereas in 2005 Khamenei said that the ‘production of an atomic bomb is not on our agenda’, wrote Kessler, “more recent statements have focused on use of nuclear weapons, often dropping references to the ‘development’ of such weapons.”

But Khamenei’s 2005 statement was not about the “development” of nuclear weapons...
but about their “production”. As Khalaji himself reported in a 2011 article, what Khamenei actually said was, “Islam does not allow us [to produce the atomic bomb]”. The crucial bracketed phrase was added by Khalaji himself.

The only question, therefore, is whether Khamenei has indeed stopped referring to the “production” of nuclear weapons. Kessler quoted from a 2012 Khamenei speech in which Khamenei clearly indicates that his fatwa bans the production of nuclear weapons. Here is the English-language translation that Kessler quoted:

“We do not pursue to build nuclear weapons. In reality, having nuclear weapons is not to our benefit. From the viewpoint of ideology, theory, and the Islamic jurisprudence, we consider this as forbidden and proliferation of nuclear weapons as a wrong decision.”

The quote provided by Kessler himself thus directly contradicts his own claim that Khamenei had begun to focus only on the “use of nuclear weapons” and had backed off on his ban on the building and possession of nuclear weapons.

Clearly recognizing the contradiction, Kessler then suggested there is something wrong with the English-language translation. He cited an alternative translation of the same 2012 Khamenei statement quoted above by Khalaji (who, of course, had inserted the bracketed material in the original):

“In fact, nuclear weapon is not economically useful for us. Furthermore, intellectually, theoretically and juridically [from Sharia point of view] we consider it wrong and consider this action wrong.”

Kessler claimed that there is “quite a difference” between the two translations. But even a quick comparison of the two reveals that there is no substantive difference between them. The reference in Khalaji’s translation to “this action” in the second sentence clearly implies that Khamenei had included an active verb in the first sentence, which the official version had translated as “pursue to build a nuclear weapon”. Otherwise, the phrase “this action” makes no sense.

Khalaji thus appears to have bowdlerized the sentence in his translation so as to make it appear that Khamenei had not said that Iran considered the pursuit of building a nuclear weapon juridically “wrong”.

Kessler’s column uses the gimmick of assigning “Pinocchios” to those whose political pronouncements turn out to be untrue, with the number of such long noses indicating the seriousness of the untruth. In this case, Kessler chose not to give the Obama administration any such bad marks, concluding that Kerry’s statements “do not quite rise to the level of earning Pinocchios”.

But Kessler’s column itself would seem to warrant three “Pinocchios”, one for
each of the three false claims that appeared therein. Kessler’s failure to check primary sources, his exclusive reliance on a researcher from a pro-Israeli think tank, his introduction of a false criterion for judging whether Khamenei has retreated from the fatwa and his unwarranted suggestion that an official translation of Khamenei’s statement had somehow been altered to change Khamanei’s meaning all raises serious questions about the objectivity and thoroughness of his fact-checking on this issue.

Kessler’s failure in fact-checking on the Khamenei fatwa is symptomatic of a much larger problem. For many years, news media have systematically failed to check the facts in regard to one claim after another about alleged Iranian ambitions to acquire nuclear weapons. The result is a narrative about the Iranian nuclear program that is highly distorted and needs to corrected in order to have a rational discussion of the issue.

Gareth Porter, an investigative historian and journalist specialising in U.S. national security policy, received the UK-based Gellhorn Prize for journalism for 2011 for articles on the U.S. war in Afghanistan. [Link to the original article: http://www.lobelog.com/wapo-fact-checker-fails-on-iran-nuclear-fatwa/]