

The Torture Report's Long, Winding Road

Any encouragement that torture opponents may take from an initial step toward releasing part of a long Senate report on CIA abuses during the Bush-43 years is tempered by the fact that the declassification process may be glacially slow and still leave much hidden, writes Nat Parry.

By Nat Parry

The Senate committee vote to release part of a 6,300-page report on the CIA's now-defunct rendition and torture program is something of a mixed blessing.

On one hand, it is significant that the Senate Select Committee on Intelligence voted overwhelmingly (11-3) on Thursday to release the findings of the five-year study, which reportedly include details on how much more extensive and brutal this torture program was than has previously been acknowledged including tragic cases in which detainees were tortured to death as well as the fact that the CIA has lied about the program's effectiveness, claiming that it led to useful intelligence when in reality that was not the case.

The vote, in this sense, is an important message regarding the role of congressional oversight of U.S. intelligence agencies, especially in the context of the legally and morally murky universe of the "war on terror."

On the other hand, it should be pointed out that the vote does not necessarily mean that the report will ever see the light of day, much less lead to any real accountability for those who ordered or committed torture in violation of international and domestic law.

For one thing, what the Senate committee actually voted to release was not the full report, but rather the executive summary. While this portion of the report may be relatively comprehensive (apparently running 480 pages), by withholding the other several thousand pages of detailed accounts regarding individual cases, the stage is being set for CIA apologists to offer justifications, obfuscations and repudiations based of course on the old adage of "plausible deniability."

Already, we are seeing this play out with leading Republicans dismissing the report as biased and potentially damaging to national security. In a joint statement, Sens. Marco Rubio of Florida and Jim Risch of Idaho called it "a one-sided, partisan report to the CIA and White House for declassification despite warnings from the State Department and our allies indicating that declassification of this report could endanger the lives of American diplomats and citizens overseas and jeopardize U.S. relations with other countries."

Sen. Richard Burr, R-North Carolina, said he was “extremely disappointed in the flawed and biased results” of the report.

In order to counter these charges of bias, it would be useful to have access to the full report in order to independently judge its full scope and methodology. As blogger Marcy Wheeler pointed out, “Because we’ll get just the Executive Summary, we won’t get much hard detail, aside from that which has been public for years , about the allegations that will appear in the Executive Summary, which will make it harder to rebut any claims CIA’s defenders make.”

Unless the CIA’s critics show more aggressiveness, Wheeler argues, in countering the inevitable torture apologia, the release of the report’s executive summary may not have much effect at all.

And this is assuming that even the executive summary is released in its entirety. After all, the SSCI did not actually declassify anything; it simply voted to send the report to the CIA for redactions and then to the President for declassification review and possible eventual public release. Until the declassification process is complete and that portion of the report is released (which could take months or even years), it will remain under wraps.

With these concerns in mind, a coalition of human rights groups sent a letter to the White House calling for President Obama’s staff to expeditiously lead the declassification of the report, rather than leaving it to the CIA. The groups welcomed CIA Director John Brennan’s pledge “not to stand in the way” of the report’s release, but noted that the agency has an inherent conflict of interest that cannot be overlooked.

“The recent allegations that the CIA searched computers made available to the SSCI, removed documents from them, triggered potential criminal proceedings against congressional staff and took other troubling steps make this inherent conflict of interest very vivid,” the letter says.

This conflict of interest is even more vivid considering that what is at stake is not simply a policy dispute, but clear violations of the law. As media reports based on leaked sections of the report have indicated, CIA agents had illegally detained 26 of the 119 individuals in CIA custody, and the interrogation techniques used on detainees went beyond the methods that had been approved by the Bush Justice Department or CIA’s headquarters (guidelines that were likely overly permissive in the first place).

Also at issue are potential crimes committed including murder and obstruction of justice. As McClatchy reported on April 1, “In the case of the death of Gul Rahman, an Afghan who was shackled, doused with cold water and left in a cold

cell partially clothed until he died of hypothermia, the CIA's internal documents reviewed by the Senate confirm the agency's culpability."

A Department of Justice inquiry concluded in August 2012 that there was insufficient evidence to push for the prosecution of individuals in Rahman's death. As Attorney General Eric Holder said at the time, "Based on the fully developed factual record the Department has declined prosecution because the admissible evidence would not be sufficient to obtain and sustain a conviction beyond a reasonable doubt."

But according to evidence uncovered by the SSCI, the agency may have tried to "minimize or sanitize that case" in other words, to obstruct justice. "The documents initially make it seem like it was an accident," a former official told McClatchy. "However, evidence pointed to what it actually was: willful negligence or even negligent homicide."

So, despite the fact that possible criminal charges including homicide are at stake, potentially implicating individual interrogators as well as their superiors, the CIA is being offered the opportunity to redact any sections of the executive summary that it considers too damaging. The term "conflict of interest" is probably an understatement.

As the human rights coalition put it in its letter to the White House, "It seems obviously inappropriate to permit the agency assessed in the report to decide what parts of it your Administration believes the American people should see."

Nat Parry is the co-author of *Neck Deep: The Disastrous Presidency of George W. Bush*. [This story is cross-posted at Essential Opinion.]
