

Torture's Time for Accountability

Exclusive: America's reputation for cognitive dissonance is being tested by the Senate report documenting the U.S. government's torture of detainees and the fact that nothing is happening to those responsible. Ex-CIA analyst Ray McGovern says the nation must choose between crossing the Delaware or the Rubicon.

By Ray McGovern

I trust I was not alone in seeing irony in President Barack Obama's public chiding of Sony on Friday for caving in to hacker demands to cancel distribution of its comedy "The Interview" about a fictional CIA plot to assassinate North Korea's real-life leader Kim Jong-Un after a retaliatory cyber attack blamed on North Korea.

Rather than questioning Sony's wisdom in producing a film that jokes about something as serious as assassinating a nation's leader, Obama upbraided Sony's producers for the decision to pull the movie from theaters. "I wish they had spoken to me first," said Obama, warning them not to "get into a pattern in which you're intimidated."

The irony that I saw was in Obama's "tough-guy" advice just after he had been so intimidated by the real-life CIA that he could not muster the courage to fire those who managed and carried out a quite-unfunny policy of torture on an industrial scale much less try to find some way to hold senior officials of the Bush/Cheney administration accountable. However great the financial loss to Sony's bottom line, the costs attributable to Obama's timidity are incalculably more damaging to the United States.

Of course, the common thread between assassinations and torture is Official Washington's disdain for international law at least as it pertains to the "exceptional" U.S. government. I suppose it might have been even more ironic if President Obama, who has overseen an actual targeted assassination program for six years, would have voiced concern about a movie making light of a made-up assassination plot.

(There was a time, especially after the 1960s, when Americans didn't find the notion of murdering political leaders very amusing.)

Anyway, veteran UPI editor Arnaud de Borchgrave had it right on Friday when he noted that the CIA torture abuses revealed in the report released by Senate Intelligence Committee chairwoman Dianne Feinstein on Dec. 9 have "given the U.S. a geopolitical black eye of worldwide dimensions. For the average Russian, Chinese, Indian, Pakistani, African, Arab, Iranian, or any other race or

nationality, America is now no better or worse than any other global scoundrel.”

Not amused by the U.S. government’s we’re-above-the-law arrogance, North Korea’s U.N. ambassador has called on the world body to investigate the CIA for subjecting captured al-Qaeda operatives to “brutal, medieval” forms of torture. (No, that is not a joke. North Korea is lecturing Washington on barbaric behavior.) It seems clear that the damage done by the CIA’s officially sanctioned torture and equally important Obama’s decision to hold the torturers harmless, leave an incalculably large, indelible stain on the U.S. reputation for defending human rights.

Crossing Our Delaware

So what happens next, after America now acknowledges having crossed the Rubicon into the practice of torture a decade ago? What to do after these abhorrent “techniques,” such as waterboarding and “rectal rehydration,” have been exposed in a redacted Senate Intelligence Committee report based on CIA cables, emails and other original documents? (I find myself wondering whether even more sadistic outrages would be detailed in the un-redacted text of the Senate report.)

The question remains: Will the top torture criminals and their obedient lackeys from George W. Bush and Dick Cheney down to those CIA personnel and contractors “just following orders” in the CIA’s secret prisons continue to escape accountability? As things now stand, the sad answer seems to be, “Yes, unless.”

At this point, those responsible will continue to enjoy de facto immunity unless (1) they travel abroad and are apprehended and brought to justice under the principle of “universal jurisdiction” by governments more committed to enforcing international law than our own; or (2) unless we citizens summon the kind of courage shown by the “winter soldiers” of George Washington’s army who crossed the Delaware and turned the tide of battle at Christmastime 1776, leading four cold Christmases later to American freedom from British rule.

Worth noting in this connection is that Gen. George Washington imposed strong strictures against abuse of captured British and Hessian prisoners, strictures not observed by the English forces who deemed the American soldiers “traitors” and often confined them to appalling conditions aboard prison ships and in other unsanitary locations where more than 10,000 died of neglect.

Thomas Paine, one of the stalwart soldiers in Washington’s army, famously wrote during that difficult winter of 1776-77: “The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country; but he that stands it now, deserves the love and thanks of all men and women.”

It might well be said of us that "Now is the winter of our discontent," a time when rock-ribbed American ideals have been trampled beneath the boot of thuggish behavior and all that seems left is a swaggering haughtiness more fitting the British officer corps than our courageous "rabble in arms."

Today's question is whether we will be discontented enough to expose ourselves to the elements, as those "winter soldiers" were exposed, albeit "elements" of a different kind, risks to our reputations, impositions on our time, commitment of our talents and resources. But it may be our turn to repay the debt to those soldiers who overcame great odds and great hardships to create a nation based on the rule of law, not the whim of men.

Though the Founders were flawed individuals themselves and the early United States should not be idealized as a place without grave injustices there was wisdom in many of their principles, including a prohibition against "cruel and unusual punishments" in the Eighth Amendment to the U.S. Constitution.

They also made wise observations about America's proper place in the world as a beacon of liberty, not as the world's policeman. Recognizing the dangers and corruption that could come from excessive involvement in foreign conflicts, the first three presidents George Washington, John Adams and Thomas Jefferson all warned against "entangling alliances." And years later, President John Quincy Adams, who had watched the new nation from its birth, warned that America "goes not abroad seeking monsters to destroy."

In my view, we dishonor the memory of those courageous patriots if we leave it to other countries to do our justice for us regarding the torturers so vividly depicted in the CIA cables revealed by the Senate report. Rather, our generation is being called on to rise up against the practice of torture and other abuses drone killings, for example in such a way as to force a timid President to stop calling felons "patriots" and, instead, do his duty in holding them accountable. Stern enforcement of both U.S. and international law is the only deterrent against this kind of unconscionable abuse happening again.

During the Watergate scandal, senior officials went to jail for lying and obstructing justice. Many other politicians have faced stiff prison time for relatively petty corruption. So why should government leaders and their subordinates get a walk on such a severe crime of state as torture?

Presidential Timidity

Left to his own devices, President Obama is likely to keep putting the White House stamp on the stay-out-of-jail-free cards that he issued to the torturers when he came into office six years ago, wanting to "look forward, not backward."

I believed then as I do now that it was because he feared for his own hide (physically as well as politically) that he carved out an exemption for the torturers. So much for discharging his Constitutional duty to “take care that the laws are faithfully executed.”

Righting this wrong will require the kind of moral courage Obama seems to lack. True, his politically risky rapprochement with Cuba announced earlier this week provided a glimmer of hope that he can finally be his own man. But let’s take him at his word that his brand of leadership comes into play only when we citizens light a fire under him. Let us gather the kindling, start the fire, and respond to his challenge to make him do the right thing.

As is painfully obvious by this stage, the battle will be uphill, largely because our supine media provide such thin gruel that, as a result, most Americans are malnourished on the truth. I suppose one can get used to virtually any indignity. Nonetheless, for me it remains highly disturbing to watch “mainstream media” give the lion’s share of air time to charlatans like Dick Cheney who, 13 years after 9/11, continue to play on the trauma of that fateful day to elicit the kind of vengeful spirit that can in far too many minds justify the unspeakable.

No matter that ethicists have traditionally placed torture, like rape or slavery, in the moral category of intrinsic evil always wrong a premise embedded in the UN Convention Against Torture to which the United States is a signatory. No matter that torture does not yield reliable intelligence. No matter that CIA documents show how CIA directors Michael Hayden and Leon Panetta lied when they told us that information from “enhanced interrogation techniques” led to the finding and killing of Osama bin Laden. [See Gareth Porter’s [“How the CIA Covered Up Its Lie on Torture and bin Laden.”](#)]

The first (and, so far as I know, the last) time Obama showed any spine dealing with the CIA was just before he became president in January 2009, when he demonstrably dissed then-CIA Director Michael Hayden. Hayden had been going around town telling folks that he warned the president-elect “personally and forcefully” that if Obama authorized an investigation into controversial activities like waterboarding, “no one in Langley will ever take a risk again.” (My source for this is what we former intelligence officers used to call an “A-1 source” completely reliable with excellent access to the information).

Consequently, Hayden did not merit a mention on Jan. 9, 2009, when President-elect Obama formally introduced Leon Panetta as his choice to replace Hayden as CIA director and Dennis Blair as director of national intelligence. Obama did announce that Mike McConnell, whom Blair replaced, had been given a sinecure/consolation prize, a seat on the President’s Foreign Intelligence

Advisory Board. McConnell got the obligatory thank you; but not Hayden.

It was not only cheeky, but more than a little disingenuous that Hayden should think to advise Obama “personally and forcefully” against investigating the illegal activities authorized by President George W. Bush, since Hayden’s role in torture was already clear from publicly available information.

Hayden had loudly defended what he liked to call “high-end” interrogation techniques like waterboarding. (And last week, just three days after the Senate report was released, Georgetown law professor David Cole drew from it to recount “just three examples” of false and unsupported testimony” by Hayden.)

It was for services rendered that Bush and Cheney picked Hayden to head the CIA. As Director of NSA (1999 to 2005) he saluted sharply when Cheney told him to redact the words “probable cause” from the Fourth Amendment.

In sum, Hayden’s transgressions are book-length, but as with Professor Cole’s article space limitations prevent anything close to a complete rendering, so to speak. Apparently fearful of going beyond sending Hayden to the showers, Obama hired Leon Panetta to replace Hayden to be nominally CIA director but, in actuality, its well-connected protector.

Initially, with Panetta there seemed to be reason to expect hope and change; that expectation was short-lived. A year before Obama picked him, Panetta had written:

“We cannot simply suspend [American ideals of human rights] in the name of national security. Those who support torture may believe that we can abuse captives in certain select circumstances and still be true to our values. But that is a false compromise.

“We either believe in the dignity of the individual, the rule of law, and the prohibition of cruel and unusual punishment, or we don’t. There is no middle ground. We cannot and we must not use torture under any circumstances. We are better than that.”

Sadly, it turns out we were not, in fact, “better than that” and neither was Panetta. For his part, Panetta discharged his assigned role to defend CIA torturers with enthusiasm even overreaching in making false claims about the efficacy of “enhanced interrogation techniques.”

On that key issue, CIA Director John Brennan, speaking on Dec. 11, 2014, was more cautious, claiming the effectiveness of “enhanced interrogation techniques” was “unknowable.” At which point Sen. Feinstein moved immediately to set the record straight, tweeting that, on the contrary, it was well known that the

useful intelligence from interrogation was gained from traditional interrogation approaches, well BEFORE “enhancements” were applied.

On the day after the Senate Intelligence Community report was released, lame-duck committee member Mark Udall sharply criticized Brennan for “lying” about the efficacy of torture. Udall’s parting shot was to decry the President for his permissive attitude toward Brennan and the CIA and for “making no effort at all to rein it in.”

This appraisal has been seconded by Sen. Carl Levin, D-Michigan, who openly complained last Saturday that “Brennan has gotten away with frustrating congressional oversight. He shouldn’t have gotten away with it, but so far he has.”

Obama Agonistes

Will the President continue to do his best to hold harmless those involved in torture? I expect he will out of the fear for the consequences if he tried to “rein in” the CIA. In other words, although Obama came into office determined not to allow himself to be intimidated by Hayden, he nonetheless seem to have taken Hayden’s threat seriously.

Whether Obama’s fateful decision only to “look forward” on the issue of torture was the result of simple cowardice or a naive calculation that shoving torture under the rug would help him work out a modus vivendi with Republican leaders is, at this point, academic.

The reality is that Obama blew his chance to deal with this profoundly moral, as well as legal, issue of torture at a time when this was widely expected of him. As for the Republicans whose cooperation he so patently craved, they appear to have seen in his unmistakable reluctance to expose and pursue the major crimes of Bush and Cheney a welcome sign of weakness.

Now, despite his transparent attempts to keep his distance from the horrid disclosures in the Senate committee report, Obama is enmeshed in a wide web of consequential lies. He is, ipso facto, part of a cover-up that is poisoning the minds of too-trusting Americans, while putting a big hole in what’s left of America’s reputation as a force for good in the world. He could not do this without the help of an enabling media.

What are we to make of the media? Decades ago, in an unusual moment of candor, former CIA Director William Colby was quoted as saying the CIA “owns everyone of any significance in the major media.” How much truth continues to lie beneath Colby’s hyperbole? Why is it so easy to simply mention 9/11 to evoke an attitude of vengeance? Why does that include acquiescence in horrid torture techniques,

and a predisposition to believe Cheney's lies, rather than accept the reality that our leaders ordered and conducted heinous crimes?

In my view, the polls show an acceptance on the part of most Americans for torture mostly because so many Americans simply do not read. And this is precisely why Sen. Feinstein and Sen. John McCain both appealed plaintively for us to "just read the report."

In her trademark perceptive way, the New Yorker's Jane Mayer laments that, when the awful facts about CIA torture came out last week, President Obama shied away from the chance given him to set the record straight. She explained it this way:

"It appeared that Obama and Brennan had a single purpose, which was to not 'lose Langley,' ... meaning that they didn't want to alienate those still working at the C.I.A. This calculation that C.I.A. officers ... are too fragile for criticism, too valuable to fire, and too patriotic to prosecute somehow tied the Obama Administration in knots." Mayer might have added that CIA operatives seem to be, in Obama's ken, "too dangerous to get crosswise with."

Similar insights jump out of a Dec. 15 article by Peter Baker and Mark Mazzetti of the New York Times. They write that when Brennan was working at the White House, neither Obama nor Brennan was eager to take on the C.I.A. very often. "The C.I.A. gets what it needs," Obama declared at one early meeting, according to people there. "He didn't want them to feel like he was an enemy," said a former aide.

Brennan, for his part, was protective of CIA interests. When Panetta negotiated an agreement with the Senate Intelligence Committee for an inquiry into torture, Brennan erupted. "It did not take long to get ugly," Panetta recalled in his memoir. "Brennan and I even exchanged sharp words."

Brennan recognized at once that such an inquiry could well become a very large fly in the ointment. He was right about that, but he was unable to renege on the deal. After becoming CIA director last year, though, Brennan fought constantly with Democrats on the committee over the torture report and attempted to redact it to a fare-thee-well.

Relations worsened when senators accused the CIA of penetrating a computer network designated for the committee's use, a charge that Brennan initially denied. In the end, though, the CIA inspector general admonished five agency officers and Brennan apologized. Relations remained raw; Obama stayed above the fray.

On Saturday, the New York Times reported that the panel appointed by Brennan to investigate the CIA's search of a computer network used by the Senate staffers

investigating CIA's use of torture will (surprise, surprise) return a verdict of not guilty. Brennan's panel reportedly has decided to defend the CIA searchers' actions as lawful and, in some cases, done at Brennan's behest, in effect reversing the most significant conclusions of an earlier investigation by CIA's own inspector general.

On the issue of torture's effectiveness, according to Baker and Mazzetti, the President's advisers doubt that he believes the interrogation program yielded useful intelligence, but that he was unwilling to contradict Brennan.

A Natural Ally in McCain

Does the fact that Sen. John McCain was tortured as a POW, after his aircraft was downed over North Vietnam, give him unusual credibility on the issue of torture? You bet it does. Breaking ranks with fellow Republicans, defensive CIA directors and a media (including Hollywood) enamored of "enhanced interrogation techniques," McCain followed Sen. Feinstein to the Senate floor after she introduced and distributed the report on CIA torture. He was very supportive.

More in sorrow than in anger, he conceded, "The truth is sometimes a hard pill to swallow. It sometimes causes us difficulties at home and abroad. ... But the American people are entitled to it, nonetheless. ...

"There was considerable misinformation ... about what was and wasn't achieved using these [enhanced interrogation] methods ... There was a good amount of misinformation used in 2011 to credit the use of these methods with the death of Osama bin Laden. And there is, I fear, misinformation being used today to prevent the release of this report, disputing its findings and warning about the security consequences of their public disclosure. ...

"What might come as a surprise ... is how little these practices did to aid our efforts to bring 9/11 culprits to justice and to find and prevent terrorist attacks today and tomorrow. That could be a real surprise, since it contradicts the many assurances provided by intelligence officials on the record and in private that enhanced interrogation techniques were indispensable in the war against terrorism. And I suspect the objection of those same officials to the release of this report is really focused on that disclosure torture's ineffectiveness because we gave up much in the expectation that torture would make us safer. Too much.

"Obviously, we need intelligence to defeat our enemies, but we need reliable intelligence. Torture produces more misleading information than actionable intelligence. And what the advocates of harsh and cruel interrogation methods have never established is that we couldn't have gathered as good or more

reliable intelligence from using humane methods.

“The most important lead we got in the search for bin Laden came from using conventional interrogation methods. I think it is an insult to the many intelligence officers who have acquired good intelligence without hurting or degrading prisoners to assert we can’t win this war without such methods. Yes, we can and we will.”

Thus, Obama would not be without powerful allies were he to summon the courage to bring CIA torturers to account. It appears, however, that the President still lives in fear of the shady characters at Langley.

Hence, it is up to us to mobilize the kind of action needed to change Obama’s mind. Op-eds, speeches, interviews are fine, but without action, nothing is going to happen. We need to figure out how best to confront this issue and what action(s) seem appropriate. And then we must act like winter soldiers.

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