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## CIA's Torturous Maneuvers on Torture

By Ray McGovern

November 21, 2014

“CIA may revamp how it is organized” announced a front-page Washington Post headline leading into an article based on remarks by unnamed “U.S intelligence officials” to the Post’s Greg Miller. The anonymous officials were authorized to share some of the contents of a Sept. 24 letter from CIA Director John Brennan to CIA staff, in which Brennan says, “The time has come to take a fresh look at how we are organized as an agency.”

On Brennan’s orders, senior agency officials were put to work on what Miller reported would be “among the most ambitious [reorganizations] in CIA history.” But Miller’s sources emphasized that the activity was in its preliminary stages and that no final decisions had been made; the proposed changes might be scaled back or even discarded.

But the reorganization story on Thursday – with its suggestion of CIA “reform” – came at an opportune time to possibly distract attention from another behind-the-scenes battle that is raging over how – and indeed whether – to release the findings of a five-year Senate Intelligence Committee investigation into the CIA’s use of torture during George W. Bush’s administration and how the agency lied to Congress about the efficacy of torture techniques – and their humaneness.

A New York Times article on Friday by Mark Mazzetti and Carl Hulse described a Donnybrook at the White House on Thursday, with Senate Democrats accusing White House Chief of Staff

Denis McDonough of acquiescing in CIA attempts to redact the report so thoroughly that its conclusions would be undermined.

The Democratic members of the Senate intelligence Committee are said to be in high dudgeon. But some may have mixed feelings about release of the report because it would surely reflect poorly on their own failures as congressional “overseers” of the CIA.

Recent press reporting would have us believe that the main bone of contention revolves around if and how to use pseudonyms of CIA officers involved in torture, though that seems implausible since there are obvious workarounds to that concern. In past cases, for instance the Iran-Contra report, numbers were used to conceal actual identities of entities that were deemed to need protection.

### **Ex-CIA General Counsel Spilled the Beans**

Hat tip to the New Yorker’s Jane Mayer, who took the trouble to read the play-by-play of testimony to the Senate Intelligence Committee by former CIA General Counsel (2009-2013) Stephen W. Preston, nominated (and now confirmed) to be general counsel at the Department of Defense.

Under questioning by Sen. Mark Udall, D-Colorado, Preston admitted outright that, contrary to the CIA’s insistence that it did not actively impede congressional oversight of its detention and interrogation program, “briefings to the committee included inaccurate information related to aspects of the program of express interest to Members.”

That “inaccurate information” apparently is thoroughly documented in the Senate Intelligence Committee report, which, largely because of the CIA’s imaginative foot-dragging, cost taxpayers \$40 million. Udall has revealed that the report (which includes 35,000 footnotes) contains a very long section titled “CIA Representations on the CIA Interrogation Program and the Effectiveness of the CIA’s Enhanced Interrogation Techniques to Congress.”

Preston also acknowledged that the CIA inadequately informed the Justice Department on interrogation and detention. He said, “CIA’s efforts fell well short of our current practices when it comes to providing information relevant to [the Office of Legal Counsel]’s legal analysis.”

As Katherine Hawkins, the senior investigator for last April’s bipartisan, independent report by the Constitution Project’s Task Force on Detainee Treatment, noted in an Oct. 18, 2013 posting, the memos from acting OLC chief, Steven Bradbury, relied very heavily on now-discredited CIA claims that “enhanced interrogation” saved lives, and that the sessions were carefully monitored by medical and psychological personnel to ensure that detainees’ suffering would not rise to the level of torture.

There’s more. According to the Constitution Project’s Hawkins, Udall complained – and Preston admitted – that, in providing the materials requested by the committee, “the CIA removed several thousand CIA documents that the agency thought could be subjected to executive

privilege claims by the President, without any decision by [Barack] Obama to invoke the privilege.”

Worse still for the CIA, the Senate Intelligence Committee report apparently destroys the agency’s argument justifying torture on the grounds that there was no other way to acquire the needed information save through brutalization. In his answers to Udall, Preston concedes that, contrary to what the agency has argued, it can and has been established that legal methods of interrogation would have yielded the same intelligence.

Sen. Udall has been persistent in trying to elicit the truth about CIA torture, but has failed. Now that he has lost his Senate seat in the November elections, he has the opportunity to do what Sen. Feinstein is too afraid to do – invoke a senator’s Constitutional right to immunity by taking advantage of the “speech or debate clause” to read the torture report findings into the record, a tactic used most famously by Sen. Mike Gravel in 1971 when he publicly read portions of the Pentagon Papers.

Sen. Udall has said he would consider doing something along those lines with the torture report, and that is precisely what is needed at this point. It remains to be seen whether Udall will rise to the occasion or yield to the fear of ostracism from the Establishment.

### **A Terrible Idea**

One of the issues to be addressed by the reorganization group that Brennan has set up reportedly is whether or not the agency should be restructured into subject matter divisions in which analysts and clandestine operators work together.

There are far more minuses than plusses in that kind of structure. Greg Miller cites the concerns expressed by his sources over the potential for analysts’ judgments to be clouded by working too closely with the operators. Miller quotes one officer who worked in the Counter-Terrorism Center, which is being cited as the template for reorganizing the rest of the CIA.

The former CTC officer – speaking from personal experience – said, “The potential for corruption is much greater if you have analysts directly involved in helping to guide operations. There is the possibility for them to get too close to the issue and to be too focused on trying to achieve a certain outcome.” Like targeting/killing suspected “militants” by Hellfire missiles from drones, rather than pausing long enough to try to discern what has made them “militants” in the first place – and whether killing them is a major fillip to recruitment of more and more “militants.”

Or take Iran, for example. If the leaders of a new Iran “issues center” are focused on sabotaging Tehran’s nuclear development program, how much visibility will be given to analysts who are trying to discern whether there is enough evidence to conclude that Iran is actually working toward a nuclear weapon.

As some may recall, in November 2007 an honest National Intelligence Estimate concluded unanimously and “with high confidence” that Iran had stopped working on a nuclear weapon four years earlier – in the fall of 2003 – and had not resumed work on a nuclear warhead.

The importance of such independent analysis cannot be overestimated. In that particular case, the Estimate played a huge role in preventing the war with Iran planned by Bush and Cheney for their last year in office. Read what Bush himself writes in his *Decision Points* about how that “eye-popping” NIE deprived him of the military option:

“But after the NIE, how could I possibly explain using the military to destroy the nuclear facilities of a country the intelligence community said had no active nuclear weapons program?” (*Decision Points*, p. 419)

### **Split the CIA in Two**

There are examples galore of the important value of keeping analysts free from leaders and pressures more in favor of operations than cogent intelligence analysis. Indeed, there is a strong argument to split the CIA in half and let the covert operations part, which President Harry Truman said he never intended to be joined with the analysis part of the agency, go its own way

The Defense Department and Air Force can surely find extra chairs for those CIA killing-by-drone aficionados not already at the Pentagon. And “regime change” specialists could likely find space with others engaged in similar work at the National Endowment for Democracy or the State Department.

It is of transcendent importance to insulate the serious analysts from politically motivated managers and directors or other easy-to-manipulate bureaucrats who are enmeshed in covert operations. Harry Truman, who established the CIA, had very strong thoughts about this – for very good reason.

### **Truman’s Edict**

On Dec. 22, 1963, exactly one month after President John Kennedy was assassinated, former President Truman published an op-ed in the Washington Post titled “Limit CIA Role to Intelligence.” The timing was no coincidence. Documents in the Truman library show that nine days after Kennedy was murdered, Truman sketched out in handwritten notes what he wanted to say.

The op-ed itself reflected Truman’s concern that he had inadvertently helped create a Frankenstein monster, lamenting that the agency had “become removed from its intended role. ... It has become an operational and at times a policy-making arm of the government.” Truman complained that the CIA was shaping policy through its control of intelligence and “cloak and dagger” operations.

Truman appealed for the agency to be “restored to its original assignment as the intelligence arm of the President ... and that its operational duties be terminated or properly used elsewhere.”

Five days after Truman's op-ed appeared, retired Admiral Sidney Souers, whom Truman has appointed to lead his first central intelligence group, sent a "Dear Boss" letter blaming former CIA Director Allen Dulles for making the CIA "a different animal than the one I tried to set up for you."

Souers was particularly sour on Dulles's attempt "to conduct a 'war' by invading Cuba with a handful of men and no air cover." He also lamented the fact that the agency's "principal effort" had evolved into arranging "revolutions in smaller countries around the globe," adding, "With so much emphasis on operations, it would not surprise me to find that the matter of collecting and processing intelligence has suffered some."

Souers and Truman both felt that the CIA's operational tail had been wagging the analytical dog – a serious problem that persists today.

Five years ago, on the anniversary of Truman's Washington Post op-ed, I posted a piece titled "Break the CIA in Two," demonstrating that it is indeed time that the agency's operational duties be, as Truman had suggested, "terminated or properly used elsewhere." In another piece, posted on the 50<sup>th</sup> anniversary of Truman's prescient op-ed, I went into more detail not only on Truman's article, but also on fresh signs of corruption and lying to Congress on the part of senior CIA officials.

The coin of the realm in intelligence analysis is truth and the trust that comes of consistently speaking truth to power. For intelligence analysts to have a decent chance at being taken seriously, there has to be some space between them and the self-licking ice cream cone of covert action.

Surely, there is no better way to create a steadily increasing supply of jihadists than by ignoring clear-headed analysis about why young Muslims are angry enough to strap bombs to themselves and instead dreaming up new covert operations that will have that inevitable effect of creating more jihadists.