

**Senate Intelligence Committee Chairman Dianne Feinstein
Remarks on Committee Report on CIA Detention, Interrogation Program
March 11, 2014**

Over the past week, there have been numerous press articles written about the Intelligence Committee's oversight review of the Detention and Interrogation Program of the CIA, specifically press attention has focused on the CIA's intrusion and search of the Senate Select Committee's computers as well as the committee's acquisition of a certain internal CIA document known as the Panetta Review.

I rise today to set the record straight and to provide a full accounting of the facts and history.

Let me say up front that I come to the Senate Floor reluctantly. Since January 15, 2014, when I was informed of the CIA's search of this committee's network, I have been trying to resolve this dispute in a discreet and respectful way. I have not commented in response to media requests for additional information on this matter. However, the increasing amount of inaccurate information circulating now cannot be allowed to stand unanswered.

The origin of this study: The CIA's detention and interrogation program began operations in 2002, though it was not until September 2006, that Members of the Intelligence Committee, other than the Chairman and Vice Chairman, were briefed. In fact, we were briefed by then-CIA Director Hayden only hours before President Bush disclosed the program to the public.

A little more than a year later, on December 6, 2007, a New York Times article revealed the troubling fact that the CIA had destroyed videotapes of some of the CIA's first interrogations using so-called "enhanced techniques." We learned that this destruction was over the objections of President Bush's White House Counsel and the Director of National Intelligence.

After we read about the tapes' destruction in the newspapers, Director Hayden briefed the Senate Intelligence Committee. He assured us that this was not destruction of evidence, as detailed records of the interrogations existed on paper in the form of CIA operational cables describing the detention conditions and the day-to-day CIA interrogations.

The CIA director stated that these cables were “a more than adequate representation” of what would have been on the destroyed tapes. Director Hayden offered at that time, during Senator Jay Rockefeller’s chairmanship of the committee, to allow Members or staff to review these sensitive CIA operational cables given that the videotapes had been destroyed.

Chairman Rockefeller sent two of his committee staffers out to the CIA on nights and weekends to review thousands of these cables, which took many months. By the time the two staffers completed their review into the CIA’s early interrogations in early 2009, I had become chairman of the committee and President Obama had been sworn into office.

The resulting staff report was chilling. The interrogations and the conditions of confinement at the CIA detention sites were far different and far more harsh than the way the CIA had described them to us. As result of the staff’s initial report, I proposed, and then-Vice Chairman Bond agreed, and the committee overwhelmingly approved, that the committee conduct an expansive and full review of CIA’s detention and interrogation program.

On March 5, 2009, the committee voted 14-1 to initiate a comprehensive review of the CIA Detention and Interrogation Program. Immediately, we sent a request for documents to all relevant executive branch agencies, chiefly among them the CIA.

The committee’s preference was for the CIA to turn over all responsive documents to the committee’s office, as had been done in previous committee investigations.

Director Panetta proposed an alternative arrangement: to provide literally millions of pages of operational cables, internal emails, memos, and other documents pursuant to the committee’s document requests at a secure location in Northern Virginia. We agreed, but insisted on several conditions and protections to ensure the integrity of this congressional investigation.

Per an exchange of letters in 2009, then-Vice Chairman Bond, then-Director Panetta, and I agreed in an exchange of letters that the CIA was to provide a “stand-alone computer system” with a “network drive” “segregated from CIA networks” for the committee that would only be accessed by information technology personnel at the CIA—who would “not be permitted to” “share

information from the system with other [CIA] personnel, except as otherwise authorized by the committee.”

It was this computer network that, notwithstanding our agreement with Director Panetta, was searched by the CIA this past January, and once before which I will later describe.

In addition to demanding that the documents produced for the committee be reviewed at a CIA facility, the CIA also insisted on conducting a multi-layered review of every responsive document before providing the document to the committee. This was to ensure the CIA did not mistakenly provide documents unrelated to the CIA’s Detention and Interrogation Program or provide documents that the president could potentially claim to be covered by executive privilege.

While we viewed this as unnecessary and raised concerns that it would delay our investigation, the CIA hired a team of outside contractors—who otherwise would not have had access to these sensitive documents—to read, multiple times, each of the 6.2 million pages of documents produced, before providing them to fully-cleared committee staff conducting the committee’s oversight work. This proved to be a slow and very expensive process.

The CIA started making documents available electronically to the committee staff at the CIA leased facility in mid-2009. The number of pages ran quickly to the thousands, tens of thousands, the hundreds of thousands, and then into the millions. The documents that were provided came without any index, without organizational structure. It was a true “document dump” that our committee staff had to go through and make sense of.

In order to piece together the story of the CIA’s detention and interrogation program, the committee staff did two things that will be important as I go on:

First, they asked the CIA to provide an electronic search tool so they could locate specific relevant documents for their search among the CIA-produced documents—just like you would use a search tool on the Internet to locate information.

Second, when the staff found a document that was particularly important or that might be referenced in our final report, they would often print it or make a copy of the file on their computer so they could easily find it again. There are thousands of such documents in the committee’s secure spaces at the CIA facility.

Now, prior removal of documents by CIA. In early 2010, the CIA was continuing to provide documents, and the committee staff was gaining familiarity with the information it had already received.

In May of 2010, the committee staff noticed that [certain] documents that had been provided for the committee's review were no longer accessible. Staff approached the CIA personnel at the offsite location, who initially denied that documents had been removed. CIA personnel then blamed information technology personnel, who were almost all contractors, for removing the documents themselves without direction or authority. And then the CIA stated that the removal of the documents was ordered by the White House. When the committee approached the White House, the White House denied giving the CIA any such order.

After a series of meetings, I learned that on two occasions, CIA personnel electronically removed committee access to CIA documents after providing them to the committee. This included roughly 870 documents or pages of documents that were removed in February 2010, and secondly roughly another 50 were removed in mid-May 2010.

This was done without the knowledge or approval of committee members or staff, and in violation of our written agreements. Further, this type of behavior would not have been possible had the CIA allowed the committee to conduct the review of documents here in the Senate. In short, this was the exact sort of CIA interference in our investigation that we sought to avoid at the outset.

I went up to the White House to raise this issue with the then-White House Counsel, in May 2010. He recognized the severity of the situation, and the grave implications of Executive Branch personnel interfering with an official congressional investigation. The matter was resolved with a renewed commitment from the White House Counsel, and the CIA, that there would be no further unauthorized access to the committee's network or removal of access to CIA documents already provided to the committee.

On May 17, 2010, the CIA's then-director of congressional affairs apologized on behalf of the CIA for removing the documents. And that, as far as I was concerned, put the incident aside.

This event was separate from the documents provided that were part of the “Internal Panetta Review,” which occurred later and which I will describe next.

At some point in 2010, committee staff searching the documents that had been made available found draft versions of what is now called the “Internal Panetta Review.”

We believe these documents were written by CIA personnel to summarize and analyze the materials that had been provided to the committee for its review. The Panetta review documents were no more highly classified than other information we had received for our investigation—in fact, the documents appeared to be based on the same information already provided to the committee.

What was unique and interesting about the internal documents was not their classification level, but rather their analysis and acknowledgement of significant CIA wrongdoing.

To be clear, the committee staff did not “hack” into CIA computers to obtain these documents as has been suggested in the press. The documents were identified using the search tool provided by the CIA to search the documents provided to the committee.

We have no way to determine who made the Internal Panetta Review documents available to the committee. Further, we don’t know whether the documents were provided intentionally by the CIA, unintentionally by the CIA, or intentionally by a whistle-blower.

In fact, we know that over the years—on multiple occasions—the staff have asked the CIA about documents made available for our investigation. At times, the CIA has simply been unaware that these specific documents were provided to the committee. And while this is alarming, it is also important to note that more than 6.2 million pages of documents have been provided. This is simply a massive amount of records.

As I described earlier, as part of its standard process for reviewing records, the committee staff printed copies of the Internal Panetta Review and made electronic copies of the committee’s computers at the facility.

The staff did not rely on these Internal Panetta Review documents when drafting the final 6,300-page committee study. But it was significant that the

Internal Panetta Review had documented at least some of the very same troubling matters already uncovered by the committee staff – which is not surprising, in that they were looking at the same information.

There is a claim in the press and elsewhere that the markings on these documents should have caused the staff to stop reading them and turn them over to the CIA. I reject that claim completely.

As with many other documents provided to the committee at the CIA facility, some of the Internal Panetta Review documents—some—contained markings indicating that they were “deliberative” and/or “privileged.” This was not especially noteworthy to staff. In fact, CIA has provided thousands of internal documents, to include CIA legal guidance and talking points prepared for the CIA director, some of which were marked as being deliberative or privileged.

Moreover, the CIA has officially provided such documents to the committee here in the Senate. In fact, the CIA’s official June 27, 2013, response to the committee study, which Director Brennan delivered to me personally, is labeled “Deliberative Process Privileged Document.”

We have discussed this with the Senate Legal Counsel who has confirmed that Congress does not recognize these claims of privilege when it comes to documents provided to Congress for our oversight duties.

These were documents provided by the executive branch pursuant to an authorized congressional oversight investigation. So we believe we had every right to review and keep the documents.

There are also claims in the press that the Internal Panetta Review documents, having been created in 2009 and 2010, were outside the date range of the committee’s document request or the terms of the committee study. This too is inaccurate.

The committee’s document requests were not limited in time. In fact, as I have previously announced, the committee study includes significant information on the May 2011 Osama bin Laden operation, which obviously postdated the detention and interrogation program.

At some time after the committee staff identified and reviewed the Internal Panetta Review documents, access to the vast majority of them was removed by

the CIA. We believe this happened in 2010 but we have no way of knowing the specifics. Nor do we know why the documents were removed. The staff was focused on reviewing the tens of thousands of new documents that continued to arrive on a regular basis.

Our work continued until December 2012, when the Intelligence Committee approved a 6,300-page committee study of the CIA's Detention and Interrogation Program and sent the report to the executive branch for comment. The CIA provided its response to the study on June 27, 2013.

As CIA Director Brennan has stated, the CIA officially agrees with some of our study. But, as has been reported, the CIA disagrees and disputes important parts of it. And this is important: Some of these important parts that the CIA now disputes in our committee study are clearly acknowledged in the CIA's own Internal Panetta Review.

To say the least, this is puzzling. How can the CIA's official response to our study stand factually in conflict with its own Internal Review?

Now, after noting the disparity between the official CIA response to the committee study and the Internal Panetta Review, the committee staff securely transported a printed portion of the draft Internal Panetta Review from the committee's secure room at the CIA-leased facility to the secure committee spaces in the Hart Senate Office Building.

And let me be clear about this: I mentioned earlier the exchange of letters that Senator Bond and I had with Director Panetta in 2009 over the handling of information for this review. The letters set out a process whereby the committee would provide specific CIA documents to CIA reviewers before bringing them back to our secure offices here on Capitol Hill.

The CIA review was designed specifically to make sure that committee documents available to all staff and members did not include certain kinds of information, most importantly the true names of non-supervisory CIA personnel and the names of specific countries in which the CIA operated detention sites.

We had agreed up front that our report didn't need to include this information, and so we agreed to redact it from materials leaving the CIA's facility.

Keeping with the spirit of the agreements, the portion of the Internal Panetta Review at the Hart Building in our safe has been redacted. It does not contain names of non-supervisory CIA personnel or information identifying detention site locations. In other words, our staff did just what the CIA personnel would have done had they reviewed the document.

There are several reasons why the draft summary of the Panetta Review was brought to our secure spaces at the Hart Building.

Let me list them:

The significance of the Internal Review given disparities between it and the June 2013 CIA response to the committee study. The Internal Panetta Review summary now at the secure committee office in the Hart Building is an especially significant document as it corroborates critical information in the committee's 6,300-page Study that the CIA's official response either objects to, denies, minimizes, or ignores.

Unlike the official response, these Panetta Review documents were in agreement with the committee's findings. That's what makes them so significant and important to protect.

When the Internal Panetta Review documents disappeared from the committee's computer system, this suggested once again that the CIA had removed documents already provided to the committee, in violation of CIA agreements and White House assurances that the CIA would cease such activities.

As I have detailed, the CIA has previously withheld and destroyed information about its Detention and Interrogation Program, including its decision in 2005 to destroy interrogation videotapes over the objections of the Bush White House and the Director of National Intelligence. Based on the information described above, there was a need to preserve and protect the Internal Panetta Review in the committee's own secure spaces.

Now, the Relocation of the Internal Panetta Review was lawful and handled in a manner consistent with its classification. No law prevents the relocation of a document in the committee's possession from a CIA facility to secure committee offices on Capitol Hill. As I mentioned before, the document was handled and transported in a manner consistent with its classification, redacted appropriately, and it remains secured—with restricted access—in committee spaces.

In late 2013, I requested in writing that the CIA provide a final and complete version of the Internal Panetta Review to the committee, as opposed to the partial document the committee currently possesses.

In December, during an open committee hearing, Senator Mark Udall echoed this request. In early January 2014, the CIA informed the committee it would not provide the Internal Panetta Review to the committee, citing the deliberative nature of the document.

Shortly thereafter, on January 15, 2014, CIA Director Brennan requested an emergency meeting to inform me and Vice Chairman Chambliss that without prior notification or approval, CIA personnel had conducted a “search”—that was John Brennan’s word—of the committee computers at the offsite facility. This search involved not only a search of documents provided to the committee by the CIA, but also a search of the “stand alone” and “walled-off” committee network drive containing the committee’s own internal work product and communications.

According to Brennan, the computer search was conducted in response to indications that some members of the committee staff might already have had access to the Internal Panetta Review. The CIA did not ask the committee or its staff if the committee had access to the Internal Review, or how we obtained it.

Instead, the CIA just went and searched the committee’s computers. The CIA has still not asked the committee any questions about how the committee acquired the Panetta Review. In place of asking any questions, the CIA’s unauthorized search of the committee computers was followed by an allegation—which we have now seen repeated anonymously in the press—that the committee staff had somehow obtained the document through unauthorized or criminal means, perhaps to include hacking into the CIA’s computer network.

As I have described, this is not true. The document was made available to the staff at the offsite facility, and it was located using a CIA-provided search tool running a query of the information provided to the committee pursuant to its investigation.

Director Brennan stated that the CIA’s search had determined that the committee staff had copies of the Internal Panetta Review on the committee’s “staff shared drive” and had accessed them numerous times. He indicated at the meeting that he was going to order further “forensic” investigation of the

committee network to learn more about activities of the committee's oversight staff.

Two days after the meeting, on January 17, I wrote a letter to Director Brennan objecting to any further CIA investigation due to the separation of powers constitutional issues that the search raised. I followed this with a second letter on January 23 to the director, asking 12 specific questions about the CIA's actions—questions that the CIA has refused to answer.

Some of the questions in my letter related to the full scope of the CIA's search of our computer network. Other questions related to who had authorized and conducted the search, and what legal basis the CIA claimed gave it authority to conduct the search. Again, the CIA has not provided answers to any of my questions.

My letter also laid out my concern about the legal and constitutional implications of the CIA's actions. Based on what Director Brennan has informed us, I have grave concerns that the CIA's search may well have violated the separation of powers principles embodied in the United States Constitution, including the Speech and Debate clause. It may have undermined the constitutional framework essential to effective congressional oversight of intelligence activities or any other government function.

I have asked for an apology and a recognition that this CIA search of computers used by its oversight committee was inappropriate. I have received neither.

Besides the constitutional implications, the CIA's search may also have violated 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.

Days after the meeting with Director Brennan, the CIA inspector general, David Buckley, learned of the CIA search and began an investigation into CIA's activities. I have been informed that Mr. Buckley has referred the matter to the Department of Justice given the possibility of a criminal violation by CIA personnel.

Let me note: because the CIA has refused to answer the questions in my January 23 letter, and the CIA inspector general review is ongoing, I have limited information about exactly what the CIA did in conducting its search.

Weeks later, I was also told that after the inspector general referred the CIA's activities to the Department of Justice, the acting general counsel of the CIA filed a crimes report with the Department of Justice concerning the committee staff's actions. I have not been provided the specifics of these allegations or been told whether the department has initiated a criminal investigation based on the allegations of the CIA's acting general counsel.

As I mentioned before, our staff involved in this matter have the appropriate clearances, handled this sensitive material according to established procedures and practice to protect classified information, and were provided access to the Panetta Review by the CIA itself. As a result, there is no legitimate reason to allege to the Justice Department that Senate staff may have committed a crime. I view the acting general counsel's referral as a potential effort to intimidate this staff—and I am not taking it lightly.

I should note that for most, if not all, of the CIA's Detention and Interrogation Program, the now acting general counsel was a lawyer in the CIA's Counterterrorism Center—the unit within which the CIA managed and carried out this program. From mid-2004 until the official termination of the detention and interrogation program in January 2009, he was the unit's chief lawyer. He is mentioned by name more than 1,600 times in our study.

And now this individual is sending a crimes report to the Department of Justice on the actions of congressional staff—the same congressional staff who researched and drafted a report that details how CIA officers—including the acting general counsel himself—provided inaccurate information to the Department of Justice about the program.

Mr. President, let me say this. All Senators rely on their staff to be their eyes and ears and to carry out our duties. The staff members of the Intelligence Committee are dedicated professionals who are motivated to do what is best for our nation.

The staff members who have been working on this study and this report have devoted years of their lives to it—wading through the horrible details of a CIA program that never, never, never should have existed. They have worked long

hours and produced a report unprecedented in its comprehensive attention to detail in the history of the Senate.

They are now being threatened with legal jeopardy, just as the final revisions to the report are being made so that parts of it can be declassified and released to the American people.

Mr. President, I felt that I needed to come to the floor today, to correct the public record and to give the American people the facts about what the dedicated committee staff have been working so hard for the last several years as part of the committee's investigation.

I also want to reiterate to my colleagues my desire to have all updates to the committee report completed this month and approved for declassification. We're not going to stop. I intend to move to have the findings, conclusions and the executive summary of the report sent to the president for declassification and release to the American people. The White House has indicated publicly and to me personally that it supports declassification and release.

If the Senate can declassify this report, we will be able to ensure that an un-American, brutal program of detention and interrogation will never again be considered or permitted.

But Mr. President, the recent actions that I have just laid out make this a defining moment for the oversight of our Intelligence Community. How Congress responds and how this is resolved will show whether the Intelligence Committee can be effective in monitoring and investigating our nation's intelligence activities, or whether our work can be thwarted by those we oversee.

I believe it is critical that the committee and the Senate reaffirm our oversight role and our independence under the Constitution of the United States.