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CIA Torturers Running Scared

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For the CIA supervisors and operatives responsible for torture, the chickens are coming home to roost; that is, if President Barack Obama and Attorney General Eric Holder mean it when they say no one is above the law – and if they don't fall victim to brazen intimidation.

Unable to prevent Holder from starting an investigation of torture and other war crimes that implicate CIA officials past and present, those same CIA officials, together with what those in the intelligence trade call "agents of influence" in the media, are pulling out all the stops to quash the Justice Department's preliminary investigation.

In what should be seen as a bizarre twist, seven CIA directors — including three who are themselves implicated in planning and conducting torture and assassination — have asked the President to call off Holder.

Please, tell me how could the whole thing be more transparent?

The most vulnerable of the Gang of Seven, George Tenet, is not the brightest star in the heavens, but even he was able to figure out years ago that he and his accomplices might end up having to pay a heavy price for violating international and U.S. criminal law.

In his memoir, *At the Center of the Storm*, Tenet notes that what the CIA needed were "the right authorities" and policy determination to do the bidding of President George W. Bush:

"Sure, it was a risky proposition when you looked at it from a policy maker's point of view. We were asking for and we would be given as many authorities as CIA had ever had. Things could blow up. People, me among them, could end up spending some of the worst days of our lives justifying before congressional overseers our new freedom to act." (p. 178)

Tenet and his masters assumed, correctly, that given the mood of the times and the lack of spine among lawmakers, congressional "overseers" would relax into their accustomed role as congressional overlookers.

Unfortunately for him, Tenet seems to have confined his concern at the time to the invertebrates in Congress, not anticipating a rejuvenated Justice Department that might take its role in enforcing the law seriously.

Tenet proudly quotes his former counterterrorism chief, Cofer Black (now a senior official at Blackwater): "As Cofer Black later told Congress, 'The gloves came off that day.'" That day was Sept. 17, 2001, when "the president approved our recommendations and provided us broad authorities to engage al-Qa'ida." (p. 208)

Presumably, it was not lost on Tenet that no lawmaker dared ask exactly what Cofer Black

meant when he said “the gloves came off.” Had they thought to ask Richard Clarke, former director of the counterterrorist operation at the White House, he could have told them what he wrote in his book, *Against All Enemies*.

Clarke describes a meeting in which he took part with President George W. Bush in the White House bunker just minutes after Bush’s TV address to the nation on the evening of 9/11.

When the subject of international law was raised, Clarke writes that the president responded vehemently: “I don’t care what the international lawyers say, we are going to kick some ass.” [p. 24]

It only took Bush six days to grant the CIA the “broad authorities” the agency had recommended.

It then took White House counsel Alberto Gonzales, Vice President Dick Cheney’s lawyer David Addington, and William J. Haynes II, Defense Secretary Donald Rumsfeld’s lawyer, four more months to advise the president formally that, by fiat, he could ignore the Geneva Conventions on the treatment of prisoners of war.

This gang of lawyers so advised at the turn of 2001-2002, beating down objections by William Howard Taft IV, Secretary of State Colin Powell’s lawyer. Bush chose to follow the dubious advice of imaginative lawyers in his and Dick Cheney’s employ; namely, that 9/11 ushered in a “new paradigm” rendering the Geneva protections “quaint” and “obsolete.”

Prosecutorial Warning

Addington and Gonzales did take care to warn the president, by memorandum of Jan. 25, 2002, of the risk of criminal prosecution under 18 U.S.C. 2441, the War Crimes Act of 1996. Their memo said:

“That statute, enacted in 1996, prohibits the commission of a ‘war crime’ by or against a U.S. person, including U.S. officials. ‘War crime’…is defined to include any grave breach of the GPW [Geneva] or any violation of Article 3 thereof (such as outrages against personal dignity)…Punishments for violations of Section 2441 include the death penalty….

“…it is difficult to predict the motives of prosecutors or independent counsels who may in the future decide to pursue unwarranted charges based on Section 2441. Your determination [that Geneva does not apply] would create a reasonable basis in law that Section 2441 does not apply, which would provide a solid defense to any future prosecution.”

With that kind of pre-ordered reassurance, President Bush issued a two-page executive directive in which he states, “I accept the legal conclusion of the Department of Justice and determine that common Article 3 of Geneva does not apply to either al Qaeda or Taliban detainees…”

This is the smoking gun on Bush’s key role in the subsequent torture of “war on terror” prisoners. The Senate Armed Services Committee issued a report last December stating that that Feb. 7 memorandum “opened the door” to abusive interrogation practices.

Unhappily for Bush and those who carried out his instructions, on June 29, 2006, in Hamdan v. Rumsfeld, the U.S. Supreme Court ruled that Geneva DOES apply to al-Qaeda and Taliban detainees.

One senior Bush administration official is reported to have gone quite pale at the time, when Justice Anthony M. Kennedy raised the ante, warning that "violations of Common Article 3 are considered 'war crimes,' punishable as federal offenses."

What about U.S. criminal law? Despite the almost laughable attempts by lawyers like Addington and John Yoo to get around the War Crimes Act by advising that only the kind of pain accompanying major organ failure or death can be considered torture, those involved are now in a cold sweat — the more so, since those dubious opinions have now been publicly released.

Evidence of Torture

In releasing the sordid, torture-approving memoranda written by Justice Department lawyers and a critical "Special Review" by the CIA's own horse's-mouth Inspector General, Obama and Holder had to face down very strong pressure from those with the most to lose — former CIA directors and the functionaries (some of them in senior CIA positions to this very day) who were responsible for seeing to it that "the gloves came off."

Now, out in the public domain is all the evidence needed to show that war crimes were committed — "authorized" as legal by Justice Department Mafia-type lawyers recruited for that express purpose — but war crimes nonetheless.

Torture, kidnapping, illegal detention — not to mention blatant violations of the Foreign Intelligence Surveillance Act (FISA) outlawing eavesdropping on Americans without a court warrant.

The stakes are incredibly high. No wonder the CIA and its "agents of influence" (see Saturday's lead story in the *Washington Post*) are going all out.

According to the story, seven former CIA directors wrote a letter to Obama on Sept. 18 asking him to "reverse Attorney General Holder's August 24 decision to re-open the criminal investigation of CIA interrogations that took place following the attacks of September 11."

This is the saddest commentary on CIA covert action operatives' disdain for the law since their predecessors loudly applauded former Director Richard Helms for lying to Congress about the CIA role in the overthrow of Salvador Allende on 9/11/73.

The largest CIA cafeteria was bulging with welcoming supporters of Helms, when the court got finished with him. They then took up a collection on the spot to pay the fine the court had imposed after he was allowed to plead *nolo contendere*.

Among the most transparent parts of the letter from the Gang of Seven is their corporate worry that "there is no reason to expect that the re-opened criminal investigation will remain narrowly focused."

Their worry is all too real. Evidence already on the public record shows that the first three listed – Michael Hayden, Porter Goss and George Tenet – could readily be indicted for crimes under U.S. and international law, including:

–Illegal eavesdropping by the National Security Agency (Hayden was NSA director when he ordered his employees to violate the Foreign Intelligence Surveillance Act, which requires warrants from a special court before wiretaps are undertaken.)

–assassination planning without notification to Congress (Goss, whose uncommonly abrupt departure in May 2006 was never looked into by the Fawning Corporate Media [FCM]); and Tenet (who turned out to be right about at least one thing — that "things could blow up.")

The other "distinguished signatories" were:

John Deutch, arrogant to the point of criminality, Deutch disregarded the most elementary rules governing protection of classified information, and had to be given a last-minute pardon by President Bill Clinton.

R. James Woolsey, the man who outdid himself in trying to tie Saddam Hussein to 9/11, and in pushing into the limelight spurious intelligence from the fabricator known as "Curveball." (Remember those fictitious biological weapons labs for which Colin Powell displayed "artist renderings" to the U.N. on Feb. 5, 2003?)

William Webster, known mostly at Langley for his handsome face and his devotion to his late-afternoon matches with socialite tennis partners. (Folks like Webster should recognize that, once they have reached what my lawyer father used to call "the age of statutory senility," they should be more careful regarding what they let themselves be dragged into.)

James R. Schlesinger, "Big Jim" launched his brief stint as CIA director by warning us CIA employees that his instructions were "to ensure that you guys do not screw Richard Nixon." To give substance to this assertion, he told us that the White House had said he was to report to political henchman Bob Haldeman — not Henry Kissinger, the national security advisor. More recently, Schlesinger led one of the see-no-evil Defense Department "investigations" of the abuses of Abu Ghraib.

Quite a group, this Gang of Seven.

Their letter also is condescending toward President Obama: "As President you have the authority to make decisions restricting substantive interrogation… But the administration must be mindful that public disclosure about past intelligence operations can only help al-Qaeda elude US intelligence and plan future operations."

The seven then proceed to repeat the canard alleging that such collection "have saved lives and helped protect America from further attacks."

It reads as though Dick Cheney did their first draft. Actually, that would not be all that surprising, given his record of doing quite a lot of CIA's drafting for eight long years.

Hold firm Holder.

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