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## The CIA and Its Torturers

By Andrew P. Napolitano

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When the head of the CIA's torture unit decided to destroy videotapes of his team's horrific work, he unwittingly set in motion a series of events that led to the release this week of the most massive, detailed documentation of unlawful behavior by high-ranking government officials and intentional infliction of pain on noncombatants by the United States government since the Civil War era. Here is the backstory.

One of the reasons repeatedly stated by President George W. Bush for the American invasion of Iraq in 2003 was the maintenance of "torture rooms" by Saddam Hussein. While making this very argument, Bush was secretly authorizing CIA agents to engage in similar unlawful behavior for similar purposes: intelligence and deterrence. Bush sounded credible when he claimed that his administration adhered to federal and international legal standards.

He knew he could make that claim because the torturers were sworn to secrecy, as were their congressional regulators. The CIA charter permits Congress to regulate the CIA in secret. Congress has established two secret congressional committees, one from the Senate and one from the House, to serve as monitors and regulators of CIA activities. The stated reason for the secrecy is to keep our enemies from knowing what the CIA is doing. The effect of the secrecy has been a muzzled Congress, lied to by law-breaking and rogue CIA officials.

Until now.

When the Senate Intelligence Committee staff learned of the destroyed videotapes (a federal crime the Justice Department declined to prosecute) and reported that destruction to Sen. Dianne Feinstein, D-Calif., the committee chair, she ordered an investigation to determine whether the CIA officials who had briefed her committee had told the truth. If they had been truthful, she reasoned, why destroy the tapes? In order to conduct that investigation, Feinstein ordered the CIA to make available to her committee's investigators whatever documents and digital data the investigators sought.

During the course of the investigation, Senate investigators suspected their computers had been hacked. When they brought those suspicions to Feinstein, she ordered another investigation, this one aimed at identifying the hackers. That investigation revealed that the CIA itself was spying on its own Senate investigators. When she approached CIA Director John Brennan about this, he denied it. When she went to the floor of the Senate – where her vow of secrecy may lawfully be disregarded – to reveal that the CIA had spied on her and her fellow Senators and their investigators, the CIA denied it. When she released incontrovertible evidence of CIA domestic spying, Brennan admitted that his agents had spied on their regulators (another federal crime the feds declined to prosecute), but claimed it was needed because the regulators had exceeded their authority in examining CIA documents.

All this put the original investigation of why the tapes of the torture had been destroyed and whether the CIA had been truthful to the White House and its congressional regulators into high gear. When the investigators' final report – all 6,000 pages of it, much in lurid detail – was completed, it was sent to the White House, which decided to release the 600-page summary. The CIA begged for redactions of agents' names and other identifiers, and a long process of negotiation ensued between the White House, the State Department, the CIA and the Senate. This week, Feinstein had had enough and decided to release the report summary with the then-agreed-upon redactions.

The report is damning in the extreme to the Bush administration and to the CIA leadership. It offers proof that the CIA engaged in physical and psychological torture, some of which was authorized – unlawfully, yet authorized – most of which was not. The report also demonstrates that CIA officials repeatedly lied to the White House and to Senate regulators about what they were doing, and they lied about the effectiveness of their torture.

If the allegations in the report are true, we have war criminals, perjurers, computer hackers and thugs on the government payroll. We also have dupes. The most politically successful argument the torture lobby has made is that we are all safer because of these dirty deeds. This Senate report refutes that argument by demonstrating that no serious actionable intelligence came from the torture.

All torture is criminal under all circumstances – under treaties to which the U.S. is a party, under the Constitution that governs the government wherever it goes, and under federal law. Torture degrades the victim and the perpetrator. It undermines the moral authority of a country whose government condones it. It destroys the rule of law. It exposes our own folks to the awful retaliatory beheadings we have all seen. It is slow, inefficient, morbid and ineffective. It is a recruiting tool for those who have come to cause us harm. All human beings possess basic

inalienable rights derived from the natural law and protected by the Constitution the CIA has sworn to uphold. Torture violates all of those rights.

What should we make of this report on government torture? In a free society in which the government works for us, we have a right to know what it is doing in our names, and we have a reasonable expectation that the laws the government enforces against us it will enforce against itself. But don't hold your breath waiting for that to happen.