

Central Intelligence Agency



Washington, D.C. 20505

31 July 2023

John Greenewald  
The Black Vault  
27305 West Live Oak Road  
Suite #1203  
Castaic, CA 91384

Reference: F-2014-01062

Dear Requester:

This letter is a final response to your 14 March 2014 Freedom of Information Act (FOIA) request for a **copy of communications, electronic or otherwise, between the office of Senator Dianne Feinstein (D-CA) and the Central Intelligence Agency from the dates of 1/1/14 to the date of processing this FOIA.** We processed your request in accordance with the FOIA (5 U.S.C. § 552, as amended, and the CIA Information Act, 50 U.S.C. § 3141, as amended).

We completed a thorough search for records responsive to your request and located the enclosed seven documents. We determined two documents can be released in their entirety and five documents may be released in segregable form with deletions made on the basis of FOIA exemptions (b)(3) and (b)(6). Copies of these documents are enclosed. Additional material was located and must be denied in its entirety on the basis of FOIA exemptions (b)(1), (b)(3), (b)(5), and/or (b)(6). Exemption (b)(3) pertains to information exempt from disclosure by statute. The relevant statutes are Section 6 of the Central Intelligence Agency Act of 1949, as amended, and Section 102A(i)(1) of the National Security Act of 1947, as amended.

As the Information and Privacy Coordinator, I am the CIA official responsible for this determination. You have the right to appeal this response to the Agency Release Panel, in my care, within 90 days from the date of this letter. Please explain the basis for your appeal.

Please be advised that you may also seek dispute-resolution services from the CIA FOIA Public Liaison or from the Office of Government Information Services (OGIS) of the National Archives and Records Administration. OGIS offers mediation services to help resolve disputes between FOIA requesters and Federal agencies.

To contact CIA directly with questions or to appeal the CIA's response to the Agency Release Panel:	To contact the <b>Office of Government Information Services (OGIS)</b> for mediation or with questions:
Information and Privacy Coordinator Central Intelligence Agency Washington, DC 20505 TEL: (703) 613-1287 FAX: (703) 613-3007 (Fax)	Office of Government Information Services National Archives and Records Administration 8601 Adelphi Road – OGIS College Park, MD 20740-6001 TEL: (202) 741-5770 FAX: (202) 741-5769 (Fax) / <a href="mailto:ogis@nara.gov">ogis@nara.gov</a>

Sincerely,


A handwritten signature in black ink, appearing to read "Anthony J. Capitos". The signature is written in a cursive style with a prominent initial "A" and a long horizontal stroke at the end.

Anthony J. Capitos  
Information and Privacy Coordinator

Enclosures

This document is made available through the declassification efforts  
and research of John Greenwald, Jr., creator of:

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THE DIRECTOR  
CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

27 January 2014

The Honorable Dianne Feinstein  
Select Committee on Intelligence  
United States Senate  
Washington, D.C. 20510

Dear Madam Chairman:

I am in receipt of your 23 January 2014 letter regarding our 15 January 2014 meeting. I wholeheartedly agree that the Executive and Legislative branches must respect the Constitution's separation of powers and that the events that led up to our meeting go not only to the heart of that respect, but also to the effectiveness and integrity of the oversight process. As I have noted in the past, I believe in and strongly support the necessity of effective Congressional oversight, while also desiring to protect the Executive branch's legitimate prerogatives. In order to give you a sense of my perspective on these developments, I have outlined them below and propose a possible path forward. In short, I believe your idea of some sort of independent review is worth exploring, as it is my hope that we can find a way to address these events in a mutually satisfactory way that respects the very separation of powers principles we both seek to uphold.

As I relayed to you and Vice Chairman Chambliss during our 15 January meeting, I recently received information suggesting that sensitive CIA documents that were the subject of a pending request from the Committee may have been improperly obtained and/or retained on the SSCI staff side of a CIA local area network, which was set up exclusively for the Committee's RDI review and which contains highly classified information. Consequently, I asked for a meeting with you and the Vice Chairman as soon as possible to share that information and to discuss the need for a review of the system in order to assess what happened. As we know, both branches have taken great care to establish an accommodation regarding the Committee's access to Executive branch information on the RDI program, and we need to ensure that what is shared is as agreed between the branches. At the same time, and most importantly, if the integrity of our network is flawed, we must address the security problem immediately.<sup>1</sup>

<sup>1</sup> To ensure we have a common understanding of the agreement governing the SSCI staff's access to and use of a portion of the relevant CIA facility's network, I will transmit under separate classified cover a copy of the agreed-upon Standard Operating Procedures, a copy of the materials used in

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The Honorable Dianne Feinstein

During our 15 January meeting, I explained how it came to our attention that these documents were on the SSCI staff side of the network. As I indicated, recent statements made by Committee staff suggested they had in their possession a document that you requested in a 26 November 2013 letter. In your correspondence, you asked for "several summary documents" from what you termed an "internal review" of the CIA RDI program initiated by Director Panetta that purportedly came to conclusions similar to those contained in the Committee's study on the RDI program. Senator Udall made a similar reference to, and a request for, these materials during the open hearing on Caroline Krass's nomination to be the CIA's General Counsel. Senator Udall repeated his request for these documents in a 6 January 2014 letter that he wrote to the President. In response, I explained to both you and Senator Udall that these requests raised significant Executive branch confidentiality interests and outlined the reasons why we could not turn over sensitive, deliberative, pre-decisional CIA material. These documents were not created as part of the program that is the subject of the Committee's oversight, but rather were written in connection with the CIA's response to the oversight inquiry. They include a banner making clear that they are privileged, deliberative, pre-decisional CIA documents, to include attorney-client and attorney work product. The Executive branch has long had substantial separation of powers concerns about congressional access to this kind of material.

CIA maintains a log of all materials provided to the Committee through established protocols, and these documents do not appear in that log, nor were they found in an audit of CIA's side of the system for all materials provided to SSCI through established protocols. Because we were concerned that there may be a breach or vulnerability in the system for housing highly classified documents, CIA conducted a limited review to determine whether these files were located on the SSCI side of the CIA network<sup>2</sup> and reviewed audit data to determine whether anyone had accessed the files, which would have been unauthorized. The technical personnel conducting the audit review were asked to undertake it only if it could be done without searching audit data relating to other files on the SSCI side of CIA's network. That review by IT personnel determined that the documents that you and Senator Udall were

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the security briefing given to all Committee staff granted access to the CIA network, and other relevant documents.

<sup>2</sup> The system is designed to preclude looking for file names across the entire network, thus precluding a single "network wide" review. Thus, absent finding and exploiting a vulnerability, the CIA personnel working on the RDI review should not be able to access any information on the SSCI side, and the SSCI staff working on the RDI review should not be able to access any information on the CIA side of the network.

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The Honorable Dianne Feinstein

requesting appeared to already be on the SSCI staff side of CIA's local area network and had been accessed by staff. Only completion of the security review will answer how SSCI staff came into possession of the documents. After sharing this information with you and explaining that I did not know how the materials would have appeared on the SSCI staff side of the network, I requested that you return any copies of these highly sensitive CIA documents located either in the Committee reading room at the CIA facility or in the Committee's own offices. You instructed your staff director to collect and provide to you any copies of the documents. I informed you that I had directed CIA staff to suspend any further inquiry into this matter until I could speak with you.

I stated that I had asked for the meeting because I wanted Committee leadership to be fully aware of what had been brought to my attention before I directed the appropriate IT personnel to begin a full computer security review. I informed you that the staff who would conduct the security review would need to conduct computer forensics on the CIA documents that appear to be on the SSCI side of the system. I further informed you that the individuals assigned to conduct this security review would be "walled off" from the CIA personnel who have been involved in reviewing the Committee's study on the RDI program in order to protect the SSCI's legitimate equities in its deliberative materials and work product.

I made clear during our meeting that I wanted to conduct this security review with your consent and, furthermore, that I welcomed the participation of the Committee's Security Director in this effort. You informed me that you were not aware that the Committee staff already had access to the materials you had requested in your letter. Soon after our meeting, you requested by letter that I suspend any investigation or further access to the computers or computer networks until you could consider the matter further. You also pledged in your letter that SSCI staff would not access those computers or computer networks for this same period. I reached you by telephone the next day to inform you that the CIA would temporarily suspend the security review in light of your request. I trust that you continue to believe that Committee staff should not access any of the computers on CIA's local area network while we work through this matter.

As I stated in our meeting, the existence of these sensitive Executive branch documents on the SSCI side of the CIA facility network--all of which were created outside the agreed time period for document production--raises significant concerns about the integrity of a highly classified CIA computer system and whether the protocols developed between the SSCI and the CIA in relation to CIA files are being followed. You indicate in your most recent

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The Honorable Dianne Feinstein

letter that these documents were provided to Committee staff at the CIA-leased facility, but, as I noted above, we have no record of having done so under the process by which we have regularly provided documents.

As I noted at our meeting, this is a very serious matter, and it is important that both the CIA and the Committee get to the bottom of what happened. We should be able to do this in a way that preserves our institutional equities.

I renew my invitation to have the Committee's security officer fully participate with CIA security professionals in a security review of the local area network dedicated to the RDI study. Your 23 January letter indicates that an independent review of these events also may be appropriate. I would welcome an independent review that explores CIA's actions and how these documents came to reside on the Committee's side of the CIA facility network. If you are amenable, I will have my Acting General Counsel reach out to the Committee's Majority and Minority Counsel to discuss options for such an independent review.

However we proceed, the security review must be completed in a timely manner. It is imperative to learn whether or not a breach or vulnerability exists on this network and was exploited. I trust that you share my concerns and that we can work together to carry out a security review that answers these important questions while respecting the important separation of powers concerns of both branches.

Sincerely,



John O. Brennan

cc: Members, Senate Select Committee on Intelligence  
The Honorable Jim Clapper, Director of National  
Intelligence  
Ms. Kathryn Ruemmler, White House Counsel

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## United States Senate

SELECT COMMITTEE ON INTELLIGENCE  
WASHINGTON, DC 20510-6475

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January 23, 2014

The Honorable John Brennan  
Director  
Central Intelligence Agency  
Washington, D.C. 20505

Dear Director Brennan:

You informed Vice Chairman Chambliss and me on January 15, 2014, that, without prior consultation or approval from the Committee, CIA personnel had conducted one or more searches of the computer network at an offsite facility that the CIA had assigned exclusively to the staff of the Senate Select Committee on Intelligence (SSCI) for use in the Committee's Study on the CIA Detention and Interrogation Program. You also told Senator Chambliss and me that the CIA took this action to determine whether a particular document or set of documents (what we have called "the internal review" or "the Panetta review") was present on the Committee computer network.

As you know, I am very concerned by these actions. First, after consultation with other Senators and with the Senate Legal Counsel, I believe that depending on the facts involved, this search may have been inconsistent with the separation of powers principles embodied in the Constitution and essential to effective congressional oversight of intelligence activities. Second, the search may have violated the Fourth Amendment, the Speech and Debate Clause of the Constitution, various statutes (including federal criminal statutes, such as the Computer Fraud and Abuse Act), and Executive Order 12333. Third, the search violates a written agreement between the CIA and the Committee that was reached at the outset of the Study in 2009 to create a "walled-off" computer network for Committee use at the offsite facility.

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I understand that, following my letter to you of January 17, 2014, asking you to suspend all searches of the Committee network, you agreed that the CIA would suspend any further searches, as per our prior written agreements.

The computer network in question was, according to the written agreement between the CIA and the Committee in 2009, to be "walled-off" from CIA personnel except for narrow cases involving technical support and assistance. The network was recognized to contain SSCI work product, and was not to be accessed or affected by CIA personnel without prior approval of the Committee.

The fact that the computers and the computer network were provided to the SSCI by the CIA at a CIA-leased facility does not affect the SSCI's exclusive rights with regard to the network. In fact, the Committee's strong preference in 2009 was to have the CIA provide all information relevant to the Study to the Committee at its offices in the Hart Senate Office Building, as is standard procedure for Committee oversight work. It was only because of the written agreement between the Committee and the CIA, that assured the Committee of the protections for SSCI information and materials at the CIA facility, that we agreed to the present arrangement.

I have the following initial questions about the CIA breach of this agreement and the CIA search of the Committee network. The Committee may also seek an independent review of this action.

1. Who first suggested the search? Was it personally approved by you? If not, who approved the search?
2. For what specific purpose or purposes was the search conducted?
3. Was legal guidance sought and provided prior to the approval? Did that legal guidance take into account the written agreements with the Committee prohibiting such a search without the Committee's approval?
4. What was the legal basis for the search of the Committee computer network? Did CIA seek and obtain legal process in advance of conducting this search?
5. When did the search of the Committee network take place, where, and by whom? Did the search involve any contractors? Was the search a one-time event, or were there multiple searches of the Committee network? If the latter, when did they occur, when did they end, and why did they end?

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6. What were the directions provided to the individuals who conducted the search? How, specifically, was the search conducted?
7. What materials were searched and reviewed by CIA personnel or CIA contractors. What parts of the Committee computer network were searched? Did this search include internal communications between Committee staff or personal notes or other work-product of Committee staff? Was any process used to minimize the extent of the search of such sensitive materials? Was the search limited to the majority staff's network?
8. Did the CIA physically enter either of the two combination-locked secure rooms where the Committee computer network and the Committee's research materials and work product are located? If so, were any hard copy documents in those rooms reviewed or searched?
9. Did the CIA alter or remove any data from the Committee network? If so, what specifically was altered or removed?
10. Does the CIA have any materials reviewed during the search in its possession? If so, who has custody of these records and materials?
11. Who, if anyone, outside of the CIA was aware of the possibility or plans to search the Committee network prior to the search occurring?
12. Who, if anyone, outside of the CIA, has the CIA consulted since the search? Specifically, have CIA personnel informed the Director of National Intelligence, the Department of Justice, the Federal Bureau of Investigation, the White House, or the President's Intelligence Advisory Board and its Intelligence Oversight Board?

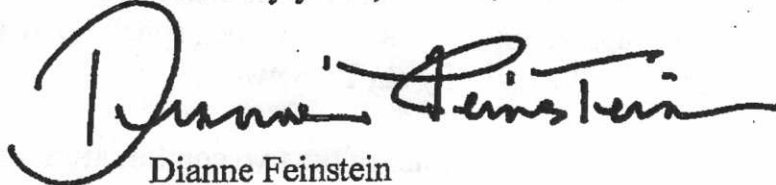
Finally, at our January 15, 2014, meeting, you raised concerns about the security of the CIA's classified computer systems, alleging the possibility that Committee staff had obtained the internal review by working to gain unauthorized access to CIA computers or databases. They did not. The internal review was provided to Committee staff at the CIA-leased facility where the Committee Study work was conducted. Due to the nature of the computer systems at the facility, the Committee has no way to determine who provided the documents and for what purpose.

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As I noted before, I view the CIA's actions with significant concern. I intend to brief the full SSCI membership of this matter shortly and would appreciate your answers to my questions as soon as can possibly be provided, and no later than Monday, January 27, 2014.

Sincerely yours,

A handwritten signature in black ink, reading "Dianne Feinstein". The signature is written in a cursive style with a large initial "D".

Dianne Feinstein  
Chairman

cc: Members, Senate Select Committee on Intelligence  
The Honorable Jim Clapper, Director of National Intelligence  
Ms. Kathryn Ruemmler, White House Counsel

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## United States Senate

SELECT COMMITTEE ON INTELLIGENCE  
WASHINGTON, DC 20510-6475

March 27, 2014

The Honorable John Brennan  
Director  
Central Intelligence Agency  
Washington, DC 20505

Dear Director Brennan:

The Senate Select Committee on Intelligence (“SSCI” or “the Committee”) voted on March 13, 2014 to request responses from you to a number of questions related to the CIA’s search of the computer network at the CIA-leased facility where the Committee has been conducting its research for its Study of the CIA’s Detention and Interrogation Program.

We are particularly interested in any search of the computers, hard drives, “shared drives,” and other parts of the computer system dedicated for use by the SSCI (hereafter “SSCI-dedicated computer system”).

As you know, Chairman Feinstein sent a similar list of twelve questions to you on January 23, 2014, following our meeting on January 15, but has not received a response. The full Committee now requests your prompt response to the following questions.

1. Who first suggested the search of the SSCI-dedicated computer system? Did you approve the search(es)? If not, who approved the action?
2. What was the specific purpose(s) of conducting such a search?
3. Did the CIA seek or receive legal guidance prior to the approval of the search, either from its own Office of General Counsel or from other parts of the U.S. Government? If so, did that legal guidance take into account the written understandings reached between the SSCI and CIA designed to protect the confidentiality of the Committee’s oversight activities—to include research and writing—on the SSCI-dedicated computer system?

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4. What was the legal basis for the search of the SSCI-dedicated computer system? Did the CIA seek and obtain prior legal authorization (e.g., a search warrant) to conduct the search(es)?
5. Was the search a one-time event, or were there multiple searches of the SSCI-dedicated computer system? Please specify for each search that was conducted: (1) the date and time that such search was initiated; (2) the physical location from which the search was conducted; (3) the parts of the computers, computer networks, drives, and SSCI-dedicated computer system that were searched; (4) the names and position titles of the individuals who conducted such search (please specify which of these individuals, if any, were government contractors); (5) the date and time that each search was terminated; and (6) the reason why such search was terminated.
6. What were the directions provided to the individuals who conducted the search(es) of the SSCI-dedicated computer system? How, specifically, were such searches conducted?
7. What materials on the SSCI-dedicated computer system were searched and reviewed by CIA personnel, CIA contractors, and, if applicable, any other federal government employees? Did such searches include internal communications between Committee staff or personal notes or other work-product of Committee staff? Was any process used to minimize the extent of the search of such sensitive "walled-off" materials?
8. Please explain how the search of the SSCI-dedicated computer system resulted in the discovery of material the "SSCI majority staff had accessed" on "the majority staff shared drive" as noted in your talking points from January 15, 2014. Was additional information obtained on the activities of staff at the facility? Has the CIA conducted any other electronic or other monitoring of the Committee majority or minority staff at the facility? If so, please describe the monitoring.
9. Has a CIA employee or contractor at any time physically entered the SSCI majority staff office space (which was secured by a combination lock) or the SSCI minority staff office space (which was secured by a door lock), where the Committee's network workstations, work-product, and other materials were located? If so, when did these entries occur and who entered the rooms? Were

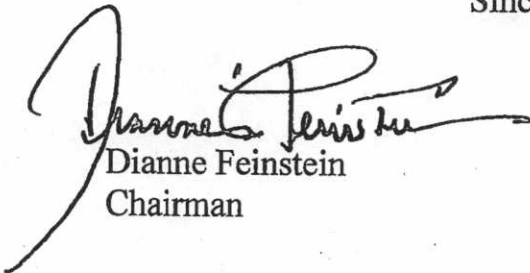
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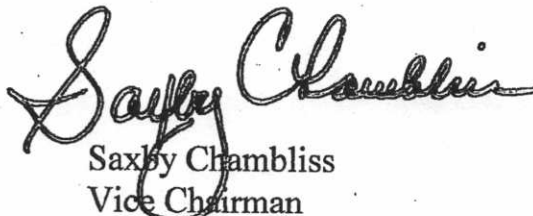
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- any hard copy documents in those rooms reviewed, searched, copied, or removed?
10. Did the CIA alter, copy, delete, or destroy any data from the SSCI-dedicated computer system? If so, what?
  11. Does the CIA have in its possession any materials reviewed during any search of the SSCI-dedicated computer system? If so, who has custody of the records and materials?
  12. Who, if anyone, outside of the CIA was aware of the possibility or plans to search the SSCI-dedicated computer system prior to the search occurring?
  13. Who, if anyone, outside of the CIA, did the CIA consult or inform after the search(es) and before Chairman Feinstein's letter of January 23, 2014? Specifically, did CIA personnel inform the Director of National Intelligence, the Department of Justice, the Federal Bureau of Investigation, the White House, or the President's Intelligence Advisory Board and its Intelligence Oversight Board, and if so, when?
  14. What means did the CIA have for determining the location of the Panetta internal review documents other than by searching the SSCI-dedicated computer system? Please describe any such alternatives and whether any were considered or utilized in coordination with the search of the SSCI-dedicated computer system.

We appreciate your prompt answers to these important oversight questions.

Sincerely,

  
Dianne Feinstein  
Chairman

  
Saxby Chambliss  
Vice Chairman

cc: Members, Senate Select Committee on Intelligence  
The Honorable Jim Clapper, Director of National Intelligence  
Ms. Kathryn Ruemmler, White House Counsel

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JAN. 17. 2014 10:27AM

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## United States Senate

SELECT COMMITTEE ON INTELLIGENCE

WASHINGTON, DC 20510-6475

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January 17, 2014

The Honorable John Brennan  
Director  
Central Intelligence Agency  
Washington, D.C. 20505

Dear Director Brennan:

I am writing with regard to our meeting Wednesday about the acquisition of a particular CIA document. You stated at the meeting your intent to launch a full "forensic investigation" on the computers and computer networks used by the Senate Select Committee on Intelligence (SSCI) staff at the CIA facility in question. I request that you suspend any such investigation or further access to the computers or computer networks until I can consider this matter further. I will likewise pledge that SSCI staff will not access those computers or computer networks for this same period. Until that time, you do not have my agreement for any investigative activity to take place.

As you noted in our meeting, there are significant separation of powers issues involved here, and those must be properly considered.

In addition, the Committee and the CIA entered into an agreement at the outset of this Study that should, until decided otherwise, be upheld. Specifically, on June 2, 2009, Vice Chairman Bond and I wrote to Director Panetta our understanding that "... [t]he only CIA employees or contractors with access to this computer system [the SSCI system] will be CIA information technology personnel who will not be permitted to copy or otherwise share information from the system with other personnel, except as otherwise authorized by the Committee." In response, Director Panetta wrote a letter to Senator Bond and to me on June 4, 2009 agreeing, and further stating that "... CIA also recognizes the Committee's need to create work product on a walled-off network share-drive as discussed in paragraph 5 of your letter [of June 2, 2009]. Therefore, CIA access to the walled-off network share-drive will be limited to CIA information technology staff, except as otherwise authorized by the Committee or its staff."

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The Honorable John Brennan  
January 17, 2014  
Page Two

I believe that no further action should be taken on either side until we can both consider the proper next steps to assure the protection of all relevant equities.

Sincerely yours,



Dianne Feinstein  
Chairman

cc: Vice Chairman Saxby Chambliss

**CONFIDENTIAL**

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**FACSIMILE**

**United States Senate  
SELECT COMMITTEE ON INTELLIGENCE**

**Dianne Feinstein, California, Chairman  
Saxby Chambliss, Georgia, Vice Chairman**

**TO: CIA Director John Brennan  
Attention: Neal Higgins**

**PHONE #:  
FAX #:**

[Redacted]

(b)(3)

**FROM: Chairman Dianne Feinstein**

**PHONE #:  
FAX #:**

[Redacted]

(b)(6)

**DATE: January 17, 2014**

**NUMBER OF PAGES: 3 (including cover page)**

**COMMENTS: Letter to CIA Director John Brennan from Chairman Feinstein, dated January 17, 2014, regarding a follow-up to the Wednesday, January 15, 2014, meeting about the acquisition of a particular CIA document.**

**Please provide this letter to Director Brennan and confirm receipt.**

**Please contact James Wolfe, SSCI Security Director, at [Redacted] if this facsimile is not complete.**

(b)(6)

**CONFIDENTIAL**









The Honorable Dianne Feinstein, Chairman  
The Honorable Saxby Chambliss, Vice Chairman

(b)(3)

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Washington, D.C. 20505

Inspector General  

(b)(3)

4 February 2014

The Honorable Dianne Feinstein  
Chairman  
Select Committee on Intelligence  
United States Senate  
Washington, D.C. 20510

The Honorable Saxby Chambliss  
Vice Chairman  
Select Committee on Intelligence  
United States Senate  
Washington, D.C. 20510

Dear Chairman Feinstein and Vice Chairman Chambliss:

1. (U//FOUO) The purpose of this notification is to inform you that the Office of Inspector General has opened a preliminary investigation into alleged misconduct by CIA employees relating to access to and review of the computers and computer files located at a CIA facility, which were used by certain non-CIA personnel. As required by Section 17 of the CIA Act, these allegations have been notified to the Department of Justice. The Director of CIA had requested my review of this matter and I have informed him of my decision.

(b)(3)

2. (U//FOUO) If you have any questions, please contact me at . An original letter is also being sent to the Chairman and Ranking Member of the House Permanent Select Committee on Intelligence regarding this investigation.

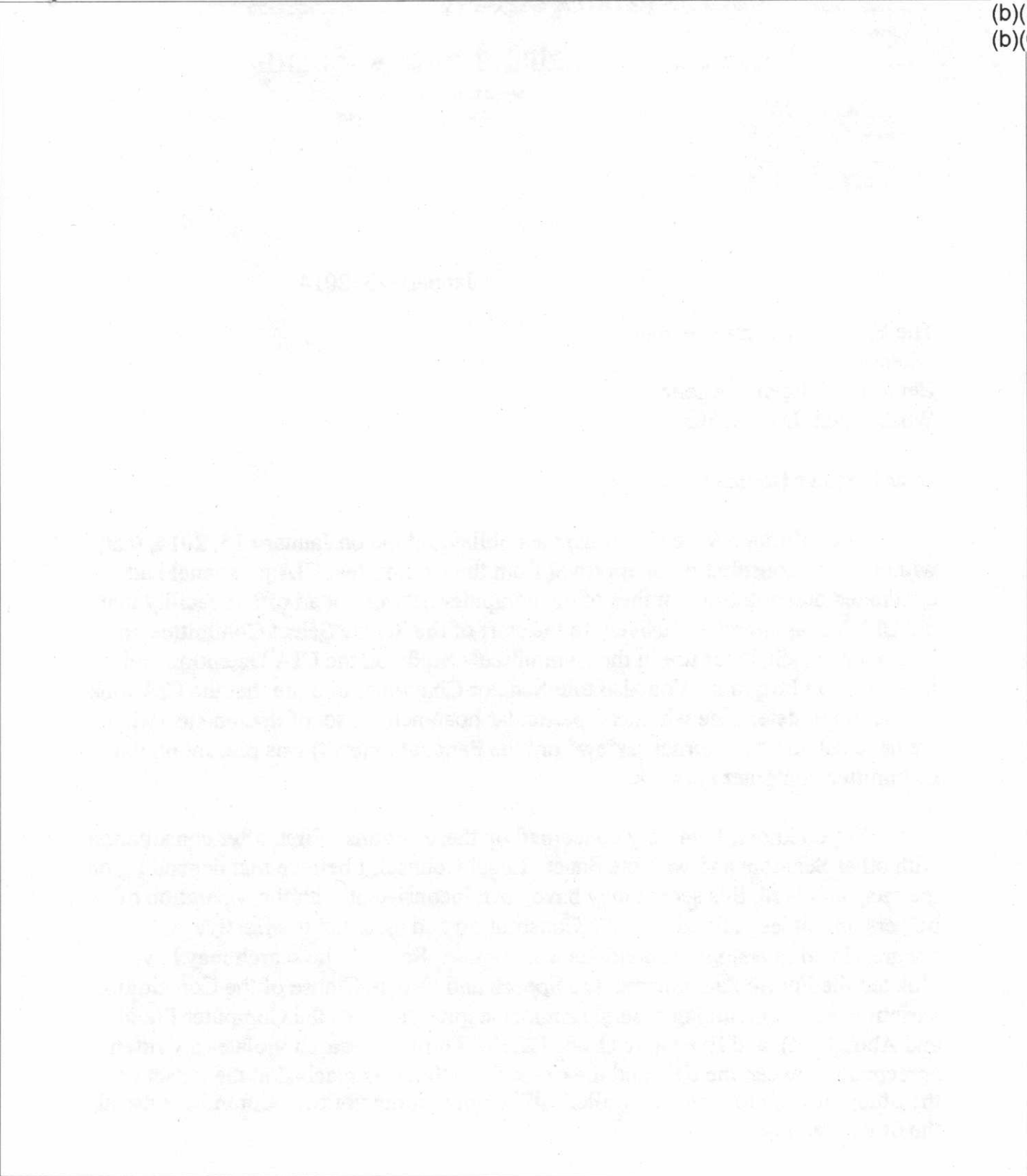
Sincerely,

David B. Buckley

(b)(6)

UNCLASSIFIED//FOUO

(b)(3)  
(b)(6)



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# United States Senate

SELECT COMMITTEE ON INTELLIGENCE

WASHINGTON, DC 20510-6475

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 DESIREE THOMPSON SAYLE, CHIEF CLERK

January 23, 2014

The Honorable John Brennan  
 Director  
 Central Intelligence Agency  
 Washington, D.C. 20505

Dear Director Brennan:

You informed Vice Chairman Chambliss and me on January 15, 2014, that, without prior consultation or approval from the Committee, CIA personnel had conducted one or more searches of the computer network at an offsite facility that the CIA had assigned exclusively to the staff of the Senate Select Committee on Intelligence (SSCI) for use in the Committee's Study on the CIA Detention and Interrogation Program. You also told Senator Chambliss and me that the CIA took this action to determine whether a particular document or set of documents (what we have called "the internal review" or "the Panetta review") was present on the Committee computer network.

As you know, I am very concerned by these actions. First, after consultation with other Senators and with the Senate Legal Counsel, I believe that depending on the facts involved, this search may have been inconsistent with the separation of powers principles embodied in the Constitution and essential to effective congressional oversight of intelligence activities. Second, the search may have violated the Fourth Amendment, the Speech and Debate Clause of the Constitution, various statutes (including federal criminal statutes, such as the Computer Fraud and Abuse Act), and Executive Order 12333. Third, the search violates a written agreement between the CIA and the Committee that was reached at the outset of the Study in 2009 to create a "walled-off" computer network for Committee use at the offsite facility.

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I understand that, following my letter to you of January 17, 2014, asking you to suspend all searches of the Committee network, you agreed that the CIA would suspend any further searches, as per our prior written agreements.

The computer network in question was, according to the written agreement between the CIA and the Committee in 2009, to be "walled-off" from CIA personnel except for narrow cases involving technical support and assistance. The network was recognized to contain SSCI work product, and was not to be accessed or affected by CIA personnel without prior approval of the Committee.

The fact that the computers and the computer network were provided to the SSCI by the CIA at a CIA-leased facility does not affect the SSCI's exclusive rights with regard to the network. In fact, the Committee's strong preference in 2009 was to have the CIA provide all information relevant to the Study to the Committee at its offices in the Hart Senate Office Building, as is standard procedure for Committee oversight work. It was only because of the written agreement between the Committee and the CIA, that assured the Committee of the protections for SSCI information and materials at the CIA facility, that we agreed to the present arrangement.

I have the following initial questions about the CIA breach of this agreement and the CIA search of the Committee network. The Committee may also seek an independent review of this action.

1. Who first suggested the search? Was it personally approved by you? If not, who approved the search?
2. For what specific purpose or purposes was the search conducted?
3. Was legal guidance sought and provided prior to the approval? Did that legal guidance take into account the written agreements with the Committee prohibiting such a search without the Committee's approval?
4. What was the legal basis for the search of the Committee computer network? Did CIA seek and obtain legal process in advance of conducting this search?
5. When did the search of the Committee network take place, where, and by whom? Did the search involve any contractors? Was the search a one-time event, or were there multiple searches of the Committee network? If the latter, when did they occur, when did they end, and why did they end?

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6. What were the directions provided to the individuals who conducted the search? How, specifically, was the search conducted?
7. What materials were searched and reviewed by CIA personnel or CIA contractors. What parts of the Committee computer network were searched? Did this search include internal communications between Committee staff or personal notes or other work-product of Committee staff? Was any process used to minimize the extent of the search of such sensitive materials? Was the search limited to the majority staff's network?
8. Did the CIA physically enter either of the two combination-locked secure rooms where the Committee computer network and the Committee's research materials and work product are located? If so, were any hard copy documents in those rooms reviewed or searched?
9. Did the CIA alter or remove any data from the Committee network? If so, what specifically was altered or removed?
10. Does the CIA have any materials reviewed during the search in its possession? If so, who has custody of these records and materials?
11. Who, if anyone, outside of the CIA was aware of the possibility or plans to search the Committee network prior to the search occurring?
12. Who, if anyone, outside of the CIA, has the CIA consulted since the search? Specifically, have CIA personnel informed the Director of National Intelligence, the Department of Justice, the Federal Bureau of Investigation, the White House, or the President's Intelligence Advisory Board and its Intelligence Oversight Board?

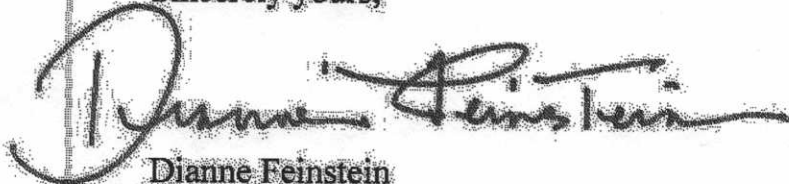
Finally, at our January 15, 2014, meeting, you raised concerns about the security of the CIA's classified computer systems, alleging the possibility that Committee staff had obtained the internal review by working to gain unauthorized access to CIA computers or databases. They did not. The internal review was provided to Committee staff at the CIA-leased facility where the Committee Study work was conducted. Due to the nature of the computer systems at the facility, the Committee has no way to determine who provided the documents and for what purpose.

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As I noted before, I view the CIA's actions with significant concern. I intend to brief the full SSCI membership of this matter shortly and would appreciate your answers to my questions as soon as can possibly be provided, and no later than Monday, January 27, 2014.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Dianne Feinstein". The signature is fluid and cursive, with a large initial "D".

Dianne Feinstein  
Chairman

cc: Members, Senate Select Committee on Intelligence  
The Honorable Jim Clapper, Director of National Intelligence  
Ms. Kathryn Ruemmler, White House Counsel

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**From:**

[Redacted]

(b)(3)  
(b)(6)

**To:**

**Cc:**

**Subject:**

SSCI# 2014-0339 - Letter to Caroline Krass - Follow-up QFRs from confirmation hearing

**Date:**

Monday, January 06, 2014 6:08:58 PM

**Attachments:**

SSCI# 2014-0339 - Letter to Caroline Krass Follow-up OFRs from confirmation hearing.pdf

(b)(3)

(b)(6)

[Redacted] Attached is a letter to Ms. Caroline Krass from Chairman Feinstein and Vice Chairman Chambliss dated January 6, 2014, transmitting Questions for the Record arising from her confirmation hearing.

Please confirm receipt of this message.

Sincerely,

[Redacted]

(b)(6)

Director of Security

U.S. Senate Select Committee on Intelligence

[Redacted]

(b)(6)

DIANNE FEINSTEIN, CALIFORNIA; SAXBY CHAMBLISS, GEORGIA  
Approved for Release: 2023/07/24 C06874924

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# United States Senate

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 SCOTTLEIGH P. McGRIFE, CHIEF CLERK

January 6, 2014

Ms. Caroline Diane Krass  
c/o Central Intelligence Agency  
Washington, DC 20505

Dear Ms. Krass:

Please find enclosed the Questions for the Record to follow up on your confirmation hearing. We ask that your responses be submitted to the Committee as soon as possible.

(b)(6) Please contact the Committee Staff Director, Mr. David Grannis, at [redacted] with any questions.

Sincerely,

Dianne Feinstein  
Chairman

Saxby Chambliss  
Vice Chairman

Enclosure



**QUESTIONS FOR THE RECORD**  
**CAROLINE D. KRASS**

**Covert Action v. Traditional Military Activities**

In an interview conducted shortly after the raid that killed Osama bin Laden, then-CIA Director Leon Panetta acknowledged that the operation was a CIA "covert operation," yet it was carried out by DOD personnel using DOD helicopters and other equipment and, because it was acknowledged, it was not "covert." By contrast, until recently, DOD's use of unmanned aerial vehicles to conduct targeted strikes outside of the "hot" battlefields of Afghanistan and Iraq was a secret.

When asked about the difference between "covert actions" conducted by CIA and clandestine military activities conducted by DOD in the prehearing questions provided by this Committee you wrote, *"the President selects which element is best suited for the particular mission based on his assessment of how best to further the national interest."* Historically speaking, however, Congress sought to impose a higher standard of oversight on "covert action," at least in part, because of the unique foreign policy implications of unacknowledged paramilitary operations.

- *Has the distinction between covert action and clandestine military activities become a legal technicality left entirely to the discretion of the President?*
- *What types of paramilitary operations, if any, would be lawful only if carried out as a "covert action" pursuant to a Presidential finding?*

### Covert Action and the UN Charter and Geneva Conventions

In your answers to the Committee's pre-hearing questions about the UN Charter and the Geneva Conventions, you wrote, "*As a general matter, and including with respect to the use of force, the United States respects international law and complies with it to the extent possible in the execution of covert action activities.*"

You also wrote that the U.N. Charter and the Geneva Conventions are NOT self-executing treaties, and therefore they are NOT legally binding upon actions carried out by the U.S. government, including covert actions.

- *If, as you wrote in your answers to the Committee's pre-hearing questions, the U.S. respects international law and complies with it to the extent possible in the execution of covert action activities, how does the U.S. decide when to abide by international law and when it does not apply?*
- *Should there be, and is there, special consideration when debating and approving a covert action, if that action would violate non-self-executing treaties or customary international law?*

**QUESTIONS FROM SENATOR WYDEN**

- 1) On March 18, 2011, the Justice Department released a redacted version of a May 6, 2004, Office of Legal Counsel (OLC) opinion written by Assistant Attorney General Jack Goldsmith in response to a Freedom of Information Act action. As described in the public listing on the Justice Department's online FOIA reading room, this opinion was a "Memorandum Regarding Review of the Legality of the [President's Surveillance] Program."
- Did any of the redacted portions of the May 2004 OLC opinion address bulk telephony metadata collection?
  - If so, did the OLC rely at that time on a statutory basis other than the Foreign Intelligence Surveillance Act for the authority to conduct bulk telephony metadata collection? If so, please describe this statutory basis.
  - Has the OLC taken any action to withdraw this opinion?
  - In light of the recent declassification of information regarding various domestic surveillance programs, do you agree that the redactions of the May 2004 opinion should be reviewed, and that an updated version should be publicly released?

**QUESTIONS FROM SENATOR UDALL**

- 1) Other than the AUMF, are you aware of any existing authorities—legal, policy, or other authorities—that allow the President to use "all necessary and appropriate force" against "those nations, organizations, or persons" determined to plan authorize, commit or aide terrorist attacks against the United States?
- 2) Are you aware of any existing authorities—legal, policy, or other authorities—that allow the President to use "all necessary and appropriate force" against groups or individuals that haven't been designated "associated forces," e.g., affiliates or those who adhere to the beliefs of any terrorist organization that pose a significant threat to U.S. interests?
- 3) Who determines whether such "nations, organizations or persons" are designated "associated forces"? Into which nations may the President or other authority send military forces to use "all necessary and appropriate force" against "those nations, organizations, or persons" determined to plan authorize, commit or aid terrorist attacks against the United States?
- 4) What is the process for identifying "associated forces"? Is this process in writing? What is the notification and approval process prior to action being taken against those "nations, organizations, or persons"?
- 5) Are operations against these forces dependent upon notification to the President before they are conducted under AUMF or any other authorities?

- 6) Article II of the U.S. Constitution states that President shall "shall take Care that the Laws be faithfully executed." Article VI of the U.S. Constitution, known as the "Supremacy Clause," states that "this Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."
- If you learned of a covert action that, in your opinion, violated the Convention Against Torture or the Geneva Conventions, but did not necessarily violate a particular statute such as the Anti-Torture Act or the War Crimes Act, would you advise the Director of Central Intelligence that the action was unlawful?
  - If the Director of Central Intelligence decided to proceed with such an action against your advice, would you inform this committee?
- 7) How do you see the role of the General Counsel's office, if any, in determining whether information has been properly classified?
- 8) In 2007, after the passage of the 2006 Military Commissions Act and the 2005 Detainee Treatment Act and the Supreme Court's decision in *Hamdan v. Rumsfeld*, the Office of Legal Counsel concluded that a number of "enhanced interrogation" techniques remained lawful. The harshest of these was "sleep deprivation," carried out by shackling naked, diapered detainees to the ceiling for up to 96 consecutive hours. As you noted during your testimony in 2009, President Obama forbade the CIA from using these techniques, or any interrogation technique outlined in the Army Field Manual—but that prohibition is an Executive Order, which a future President could rescind. If President Obama's Executive Orders on CIA interrogation and detention were overturned, what binding legal authorities would prevent the CIA from engaging in the techniques authorized by the 2007 OLC memos?

**QUESTIONS FROM SENATOR HEINRICH**

- 1) What is your legal opinion on the participation of CIA officers in the interrogations of detainees in liaison custody in which harsh or extreme interrogation techniques are used? In your opinion, is it legal for CIA officers to continue their participation in these interrogations when they witness, know, or otherwise suspect that a detainee has been tortured by a liaison service?
  - In such a circumstance, is there any requirement—legal or policy—that the CIA officer involved report these activities either to the CIA Office of Inspector General, or to anybody?
- 2) How do you see the role of the General Counsel's office, if any, in determining whether information has been properly classified?

**QUESTION FROM SENATOR LEVIN**

- 1) At your confirmation hearing, you stated that, if confirmed, you would ensure that the Committee had access to information "as appropriate." Please identify any types of documents that you believe is appropriate for the Intelligence Community to withhold from the committee.