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CIA: The Gina Haspel controversy runs deeper than her appointment

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On the surface the issue sounds simple: Does Gina Haspel's involvement in the CIA's post-9/11 rendition program prevent her from becoming the agency's new director?

Haspel, currently the acting director, would not only be the first woman, but also the first career officer to head the CIA in more than 50 years. But her long history with the agency, for which she reportedly began working in 1985, is now also part of the problem.

That's because Haspel spent years undercover at various CIA stations around the world. The fact that little is publicly known about her clandestine duties is par for the course, but the lack of a detailed, openly accessible record poses obvious challenges for legislators having to decide whether to confirm her or not.

Especially her reported involvement in the CIA's post-9/11 so-called rendition, detention and interrogation program raises questions. The program included the abduction and transfer of terror suspects from one country to another where they could also be exposed to so-called enhanced interrogation methods like waterboarding which are widely viewed as torture.

Over the weekend, Haspel reportedly offered to withdraw her nomination over the ongoing concerns regarding her alleged involvement in torture programs.

Two main charges raised by Haspel's opponents are that she reportedly headed a secret CIA prison in Thailand where inmates were subjected to torture and that in 2005 she signed a cable on behalf of her boss ordering the destruction of videotapes capturing the interrogations of key terror suspects. Both charges have been widely reported and documented — as much as possible under the circumstances — by various media organizations and human rights groups.

Cog in the machine

Still, Haspel's nomination enjoys the broad support of former intelligence community leaders who published an open letter backing her as well as from many lawmakers.

They argue that her experience makes her uniquely qualified to lead the agency. As to her role in destruction of the videotapes, they claim, Haspel simply followed what she viewed as legal orders by higher ups, and that therefore she should not be held accountable. They also point to an Obama administration 2010 probe that concluded that no criminal charges would be filed over the destruction of the tapes and to the fact that the Obama administration later determined that no CIA official should be prosecuted for the post-9/11 abuses.

Haspel, who would be the first female CIA chief, draws large support from intelligence professionals

But for Haspel's opponents, who include more than 100 former military leaders who drafted an open letter against her nomination, that rationale is not good enough.

"I think we need to get the facts and all of the facts on the table at this hearing," said Karen Greenberg, director of the Center on National Security at Fordham University Law School. "Until we know more about this, there is no way this nomination can go through."

Rebecca Ingber, an international law scholar at Boston University, who previously worked in the State Department's office of the legal adviser, agreed. She wrote in an email, that "it is impossible to take a fair vote on Haspel's nomination without a full accounting of her involvement in the mistreatment of detainees during her tenure at the CIA, and her current views on the interrogation techniques employed then."

While the scholars expressed hope that the Senate hearing would shed light on Haspel's murky past, which would have to include publishing previously classified information, they are not overly optimistic.

Unresolved issue

"I am worried about it, especially given these little drips and drops we have seen," said Greenberg. "I hope nobody thinks that that is sufficient. I am worried."

More importantly, noted the national security analysts, the fight over details about Haspel's role in the CIA's rendition program more than two decades after 9/11 obscures a larger, more than significant issue: accountability.

"How do we get to this place where we still have not held anybody accountable for the policy of torture in the post-9/11 years," said Greenberg. "Haspel's nomination is a reminder to us that we still haven't cleared the air over this."

Haspel's alleged role in the CIA's so called enhanced interrogations is under scrutiny

"The fight over Haspel's nomination reflects a struggle over the willingness of some members of America's political elite to give the CIA, the Pentagon, and other security agencies a blank check regarding tactics," said Ted Galen Carpenter, a senior fellow in defense and foreign policy studies at the Cato Institute.

Given the lack of transparency and accountability about the post 9/11 period, Ingber, the former State Department official, has described the concerns Haspel's defenders have raised about unfairly punishing CIA career officials who were only doing their jobs as "inapposite."

"There has been very little accountability, and no one is currently talking about Haspel facing criminal liability or even losing her job", Ingber added.

Legal threat in Europe?

While she is not facing criminal liability in the US, the Berlin-based European Center for Constitutional and Human Rights (ECCHR) last year relayed a dossier on Gina Haspel to the German Federal Public Prosecutor. This dossier, ECCR told DW in a statement, is still part of an ongoing preliminary investigation process initiated by the prosecutor after the US Senate's torture report and an ECCHR complaint in 2014.

"We will continue feeding in information to the German Prosecutor, but also other European prosecution services or investigative judges as well as the International Criminal Court about the entire torture program including individuals involved," ECCR said.