



Revisiting America's torture legacy

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March 20, 2018

President Trump's decision to nominate CIA Deputy Director Gina Haspel to replace outgoing Director Mike Pompeo should represent another chance to confront what Sen. John McCain (R-Ariz.) has so rightly called "one of the darkest chapters in American history." Instead, some prominent conservative commentators and former senior CIA officials are using Haspel's nomination to simultaneously try to rewrite that history and attack Haspel's critics.

The nonprofit news organization *ProPublica* gave Haspel supporters an opening when the organization published a correction to a February 2017 story on the CIA torture program and Haspel's role in it.

Simply stated, Haspel allegedly did not arrive at the particular "black site" in question until after al Qaeda operative Abu Zubaydah's torture sessions were over. I say "allegedly" because even the *ProPublica* correction is based largely on the claims of anonymous ex-CIA officials, not actual CIA travel or personnel records.

What *ProPublica* got wrong was the *timeline* of Haspel's tenure at the particular "black site"—she was still in charge when al Qaeda operative 'Abd al-Rahim al-Nashiri was waterboarded multiple times. Later, she was involved in the CIA's destruction of the videotapes of detainee interrogations.

National Review editor Rich Lowry was quick to pounce on the *ProPublica* correction, in his own publication and in *POLITICO Magazine*, and to attack Senator Rand Paul (R-Ky.) for relying, in part, on the *ProPublica* piece in his decision to oppose Haspel's nomination.

In his *POLITICO Magazine* piece, Lowry states of Haspel, "She has the endorsement of Obama's director of national intelligence, James Clapper, and of Mike Morell, who served as acting director of the CIA twice under Obama."

This is the same James Clapper who lied under oath to the Senate Intelligence Committee about the scope of NSA's domestic surveillance against Americans. This is the same Mike Morell who wrote a memoir that tried to whitewash the entire history of the CIA torture program.

Paul's "sin" was in drawing on the work of a normally highly reliable, Pulitzer Prize-winning news organization whose underlying story—that Haspel had a leadership role in the torture

program—remains valid. Lowry’s sin is relying on former Intelligence Community officials with a demonstrated public track record of misleading or outright lying about the legality and effectiveness of intelligence community programs and activities. Paul deserves praise, not ideological attacks, for embracing George Washington’s wisdom that torture is antithetical to American values.

The reaction of Lowry and others in the conservative commentariat is a replay of the reaction to the release of the Senate Select Committee on Intelligence (SSCI) torture report summary in late 2014. Then, as now, politicians and ex-CIA officials involved in the program mounted an almost Putin-style “fake news” campaign to discredit the SSCI report and its authors.

Indeed, pp. 401-409 of the SSCI torture report summary are devoted to CIA’s activities to mislead the Congress and the press about the level of brutality involved in the interrogations (high) and the usefulness of information gleaned via torture (none). Every journalist covering this story would do well to review those pages of the report summary.

Because the full SSCI report on the CIA torture program remains classified, the public still doesn’t know exactly how extensively Morell, Haspel, and a host of other former (and possibly current) CIA employees were involved in the torture program. What we do know is that more than a year ago, SSCI members Ron Wyden (D-Ore.) and Martin Heinrich (D-N.M.) wrote a classified letter to President Trump about Haspel’s elevation to the Agency’s deputy director position. Wyden has called for the classified letter to be made public before Haspel’s confirmation hearing.

We need that, but much more.

The full SSCI torture report should be released, especially those portions that deal with Haspel and any others who were involved in the torture program.

Why? To preempt any attempt by Mr. Trump or his successors to restart a torture program.

Before the 9/11 attacks, torture was already a felony under U.S. law. Despite that fact, bogus Bush-era legal opinions cooked up by Office of Legal Counsel attorneys provided a legal shield precluding the prosecution of anyone involved in the torture program. That entire episode provides a potential template, no matter how hazardous, that a determined and unscrupulous president could try to replicate.

The risk remains that, if so directed by this or a future president, whoever is charged with creating a new torture program will try to tap those with experience running the last one. Laying out the full, ugly history of that program and the roles of all involved in it is a critical step in what should be a renewed campaign of vigilance to ensure that no president can create new “black site” torture chambers in the name of “national security.”

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