

## CONFIDENTIAL

June 14, 2009

For: Hillary

From: Sid

Re: Latest articles on Iranian election fraud and CIA/torture

1. I've copied below texts of three articles you might not have seen. The first, by Juan Cole, leading expert from University of Michigan on Iraq/Iran, lays out evidence so far on the stolen election. Second, I've included the key graphs from Bill Keller's piece today in the Times on same. And, third, Jane Mayer's article in the new issue of The New Yorker, out tomorrow. (She sent me a digital copy.) The piece includes an interview with Panetta, who himself discloses the internal administration debate—he was initially for a commission but was overruled by Rahm and Axelrod.
2. On the Iranian election, the international press will obviously pursue the story of the rigging of the vote, which will damage the legitimacy of regime. It's clear from reports that even the Iranian man-on-the-street is affected by global public opinion and receives international news through a wide variety of media. Ahmadinejad post-election continues to ratchet up paranoia to consolidate support. After his statement and post-Bibi today, there may be a remark to be made to address and defuse paranoia. If anything, whatever the facts about the integrity of democracy in Iran, there is more reason than ever for all sides to dispense with the politics of paranoia and discover that there are overriding shared interests for peace, etc. But when to say anything depends upon how long to let internal bitterness over the aftermath in Iran to simmer and the pressure from press for a statement from you.
3. Jane Mayer's piece details the many moving and uncontrolled parts of the torture debate, which has become chronic and will flare up again and again. The "distraction" will not go away. I would avoid ever being drawn into commenting on any aspect.
4. One additional thought: The Iranian election points to the truism that things can potentially go awry. Building up "the brand" of the president as the solvent for entangled and often intractable diplomatic crises creates the basis for an opposite reaction. Raised expectations can foster even greater disillusionment. After Lebanon's election, the US press built up the magic of the brand as the new dynamic factor causing change. So there's a fine line here to be walked. I would attribute positive changes or movements to those people making them themselves, to the extent US commendation does not injure their causes, and underline that a new global community will serve those and their nation's interests who participate as active and responsible actors. But to reemphasize:

the danger of attributing any and all change in the world to presidential charisma is that the bad will get assigned as well as the good.

<http://www.truthout.org/061409Z>

## **Stealing the Iranian Election**

Saturday 13 June 2009

by: [Juan Cole](#) | [Visit article original @ Informed Comment](#)

### Top Pieces of Evidence that the Iranian Presidential Election Was Stolen

1. It is claimed that Ahmadinejad won the city of Tabriz with 57%. His main opponent, Mir Hossein Mousavi, is an Azeri from Azerbaijan province, of which Tabriz is the capital. Mousavi, according to such polls as exist in Iran and widespread anecdotal evidence, did better in cities and is popular in Azerbaijan. Certainly, his rallies there were very well attended. So for an Azeri urban center to go so heavily for Ahmadinejad just makes no sense. In past elections, Azeris voted disproportionately for even minor presidential candidates who hailed from that province.

2. Ahmadinejad is claimed to have taken Tehran by over 50%. Again, he is not popular in the cities, even, as he claims, in the poor neighborhoods, in part because his policies have produced high inflation and high unemployment. That he should have won Tehran is so unlikely as to raise real questions about these numbers. [Ahmadinejad is widely thought only to have won Tehran in 2005 because the pro-reform groups were discouraged and stayed home rather than voting.)

3. It is claimed that cleric Mehdi Karoubi, the other reformist candidate, received 320,000 votes, and that he did poorly in Iran's western provinces, even losing in Luristan. He is a Lur and is popular in the west, including in Kurdistan. Karoubi received 17 percent of the vote in the first round of presidential elections in 2005. While it is possible that his support has substantially declined since then, it is hard to believe that he would get less than one percent of the vote. Moreover, he should have at least done well in the west, which he did not.

4. Mohsen Rezaie, who polled very badly and seems not to have been at all popular, is alleged to have received 670,000 votes, twice as much as Karoubi.

5. Ahmadinejad's numbers were fairly standard across Iran's provinces. In past elections there have been substantial ethnic and provincial variations.

6. The Electoral Commission is supposed to wait three days before certifying the results of the election, at which point they are to inform Khamenei of the results, and he signs off on the

process. The three-day delay is intended to allow charges of irregularities to be adjudicated. In this case, Khamenei immediately approved the alleged results.

I am aware of the difficulties of catching history on the run. Some explanation may emerge for Ahmadinejad's upset that does not involve fraud. For instance, it is possible that he has gotten the credit for spreading around a lot of oil money in the form of favors to his constituencies, but somehow managed to escape the blame for the resultant high inflation.

But just as a first reaction, this post-election situation looks to me like a crime scene. And here is how I would reconstruct the crime.

As the real numbers started coming into the Interior Ministry late on Friday, it became clear that Mousavi was winning. Mousavi's spokesman abroad, filmmaker Mohsen Makhbalbaf, alleges > that the ministry even contacted Mousavi's camp and said it would begin preparing the population for this victory. The ministry must have informed Supreme Leader Ali Khamenei, who has had a feud with Mousavi for over 30 years, who found this outcome unsupportable. And, apparently, he and other top leaders had been so confident of an Ahmadinejad win that they had made no contingency plans for what to do if he looked as though he would lose.

They therefore sent blanket instructions to the Electoral Commission to falsify the vote counts.

This clumsy cover-up then produced the incredible result of an Ahmadinejad landslide in Tabriz and Isfahan and Tehran.

The reason for which Rezaie and Karoubi had to be assigned such implausibly low totals was to make sure Ahmadinejad got over 51% of the vote and thus avoid a run-off between him and Mousavi next Friday, which would have given the Mousavi camp a chance to attempt to rally the public and forestall further tampering with the election.

This scenario accounts for all known anomalies and is consistent with what we know of the major players.

More in my column, just out, in Salon.com: More in my column, just out, in Salon.com: "Ahmadinejad reelected under cloud of fraud," where I argue that the outcome of the presidential elections does not and should not affect Obama's policies toward that country - they are the right policies and should be followed through on regardless.

The public demonstrations against the result don't appear to be that big. In the past decade, reformers have always backed down in Iran when challenged by hardliners, in part because no one wants to relive the horrible Great Terror of the 1980s after the revolution, when faction-fighting produced blood in the streets. Mousavi is still from that generation.

My own guess is that you have to get a leadership born after the revolution, who does not remember it and its sanguinary aftermath, before you get people willing to push back hard against the rightwingers.

So, there are protests against an allegedly stolen election. The Basij paramilitary thugs and the Iranian Revolutionary Guards will break some heads. Unless there has been a sea change in Iran, the theocrats may well get away with this soft coup for the moment. But the regime's legitimacy will take a critical hit, and its ultimate demise may have been hastened, over the next decade or two.

What I've said is full of speculation and informed guesses. I'd be glad to be proved wrong on several of these points. Maybe I will be.

PS: Here's the data:

So here is what Interior Minister Sadeq Mahsouli said Saturday about the outcome of the Iranian presidential elections:

"Of 39,165,191 votes counted (85 percent), Mahmoud Ahmadinejad won the election with 24,527,516 (62.63 percent)."

He announced that Mir-Hossein Mousavi came in second with 13,216,411 votes (33.75 percent).

Mohsen Rezaei got 678,240 votes (1.73 percent)

Mehdi Karroubi with 333,635 votes (0.85 percent).

He put the void ballots at 409,389 (1.04 percent).

[http://www.nytimes.com/2009/06/14/world/middleeast/14memo.html?\\_r=1&hp](http://www.nytimes.com/2009/06/14/world/middleeast/14memo.html?_r=1&hp)

Memo From Tehran

## **Reverberations as Door Slams on Hope of Change**

By Bill Keller

On the street, the speculation focused more on how the election was manipulated, as many voters insisted it must have been for Mr. Ahmadinejad to score such a preposterous margin of victory. One version (from somebody's brother who supposedly knew someone inside) had it that vote counters simply were ordered to doctor the numbers: "Make that 1,000 for Ahmadinejad a 3,000."

Others pointed out that the ballots seemed designed to lead opposition voters astray. Voters were obliged to choose a candidate and fill in a code. Though Mr. Mousavi was candidate No. 4, the code No. 44 signified Mr. Ahmadinejad.

One employee of the Interior Ministry, which carried out the vote count, said the government had been preparing its fraud for weeks, purging anyone of doubtful loyalty and importing pliable staff members from around the country.

“They didn’t rig the vote,” claimed the man, who showed his ministry identification card but pleaded not to be named. “They didn’t even look at the vote. They just wrote the name and put the number in front of it.”

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the political scene

## the secret history

*Can Leon Panetta move the C.I.A. forward without confronting its past?*

BY JANE MAYER

The Central Intelligence Agency typically fights distant enemies, but on May 21st its leaders were preoccupied with a local opponent. A few miles from the agency’s headquarters, which are in Langley, Virginia, former Vice-President Dick Cheney delivered an extraordinary attack on the Obama Administration’s emerging national-security policies. Cheney, speaking at the American Enterprise Institute, accused the new Administration of making “the American people less safe” by banning brutal C.I.A. interrogations of terrorism suspects that had been sanctioned by the Bush Administration. Ruling out such interrogations “is unwise in the extreme,” Cheney charged. “It is recklessness cloaked in righteousness.”

Leon Panetta, the C.I.A.’s new director—and the man who bears much of the responsibility for keeping the country safe—learned the details of Cheney’s speech when he arrived in his office, on the seventh floor of the agency’s headquarters. An hour earlier, he had been standing at the side of President Barack Obama, who was giving a speech at the National Archives, in which he argued that America could “fight terrorism while abiding by the rule of law.” In January, the Obama Administration banned the “enhanced” techniques that the Bush Administration had approved for the agency, including waterboarding and depriving prisoners of sleep for up to eleven days. Panetta, pouring a cup of coffee, responded to Cheney’s speech with surprising candor. “I think he smells some blood in the water on the national security

issue," he told me. "It's almost, a little bit, gallows politics. When you read behind it, it's almost as if he's wishing that this country would be attacked again, in order to make his point. I think that's dangerous politics."

Panetta was also absorbing criticism from the left. The day before, a group of progressive human-rights advocates had been given an off-the-record briefing with Obama, where they discussed his plans for handling terrorism suspects; some of the advocates were enraged at what they saw as a tacit continuation of the Bush approach. According to a participant, Obama warned the group that such comparisons were "not helpful." Nevertheless, Kenneth Roth, the executive director of Human Rights Watch, who also attended the briefing, went on to denounce the Administration for considering "preventive detention"—incarcerating certain terror suspects indefinitely, without trial. Obama's position, Roth said, "mimics the Bush Administration's abusive approach."

Since January, the C.I.A. has become the focus of almost daily struggle, as Obama attempts to restore the rule of law in America's fight against terrorism without sacrificing safety or losing the support of conservative Democratic and independent voters. So far, he has insisted on trying to recalibrate the agency's policies without investigating past mistakes or holding anyone responsible for them. Caught in the middle is Panetta, who is seventy years old and has virtually no experience in the intelligence field. Indeed, his credentials for running the world's foremost spy agency are so unlikely that when John Podesta, the head of Obama's transition team, asked him to take the job he responded, "Are you sure?" Podesta assured Panetta that his outsider status was actually an advantage: "He said, 'You don't carry the scars of the past eight years. Besides, the President wants somebody who will talk straight to him on these issues.'"

Although Panetta served briefly in the military, half a century ago, his reputation has been built almost entirely on his

mastery of domestic policy. For sixteen years, he was a Democratic congressman from his home town, Monterey, California. In 1989, he became the chairman of the House Budget Committee, making him a natural choice as President Bill Clinton's first budget director. In 1994, he became Clinton's chief of staff. Panetta, the son of Italian immigrants, grew up washing dishes in his parents' restaurant. He is disarmingly forthright, with an easy laugh; he is also a stern disciplinarian and a workaholic. Colleagues say that Panetta, who attends Mass regularly, can be principled to the point of rigidity. It was partly Panetta's rectitude that got him the C.I.A. job. During the Bush years, he decried the country's loss of moral authority; in a blunt essay for *Washington Monthly* last year, he declared that Americans had been transformed "from champions of human dignity and individual rights into a nation of armchair torturers." He concluded, "We either believe in the dignity of the individual, the rule of law, and the prohibition of cruel and unusual punishment, or we don't. There is no middle ground." Panetta's impassioned essay unexpectedly became an asset during the Obama transition, after John Brennan—the initial candidate for C.I.A. director—was pressured to withdraw. Critics accused Brennan, who had been a top agency official during the Bush years, of complicity with the torture program. (A friend of Brennan's from his C.I.A. days complained to me, "After a few Cheeto-eating people in the basement working in their underwear who write blogs voiced objections to Brennan, the Obama Administration pulled his name at the first sign of smoke, and then ruled out a whole class of people: anyone who had been at the agency during the past ten years couldn't pass the blogger test.") Panetta had one other strong qualification: he was close to Rahm Emanuel, the new chief of staff. During the Clinton Administration, Emanuel, serving as the White House political director, was suspected by former First Lady

Hillary Clinton and others of leaking

steve brodner

*Panetta has no C.I.A. experience, but, an ex-officer says, it's not "a bad thing to have a powerful guy with access to the President."*

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information, and was very nearly fired.

Emanuel entered what he calls his "wilderness period." When Panetta became chief of staff, however, he reinstated Emanuel as a top aide. "I thought he had a lot of street smarts and good political sense," Panetta told me.

In 1994, Panetta discovered, to his dismay, that the President had quietly turned to Dick Morris, a political consultant with a dubious ethical reputation.

Harold Ickes, a former White House aide, recalls Panetta walking the halls late one night and saying that he needed a shower after attending a meeting with Morris. Later, a tabloid newspaper reported that Morris had been meeting with a prostitute in a nearby Washington hotel. In 1997, Panetta left the White House, by mutual agreement; he and his wife, Sylvia, founded the nonpartisan Panetta Institute for Public Policy, in Northern California. In January, 1998, it was revealed that Clinton had conducted an extramarital affair with Monica Lewinsky—Panetta's former intern. An associate described Panetta then as "very disappointed in Bill Clinton, because of Monica Lewinsky. He saw him as a man with no personal discipline."

Eleven years later, Barack Obama called Panetta for advice on who might make a good chief of staff. Panetta recommended

Emanuel, telling him that

"Rahm knows the Hill, he certainly knows the White House, and he's got the tough side" necessary for the job. In January, Emanuel recommended Panetta for the C.I.A. post. Emanuel said of Panetta, "Leon has great judgment, a great compass. He's a great manager, and he's trusted by both parties." (Panetta was a Republican until 1971.) Some former C.I.A. officers, such as Tyler Drumheller, who retired in 2005 as the head of clandestine operations in Europe, welcome the choice. "It's not such a bad thing to have a powerful guy with access



to the President," he told me. Panetta, he predicted, "will restore the integrity of the intelligence process. After what we've been through on Iraq and torture allegations, that's a big deal."

Michael Waldman, who was President Clinton's chief speechwriter, and who now runs the Brennan Center for Justice, at the New York University School of Law, describes Panetta as "one of the more honorable, decent, and principled people in government," but considers it "amazing that he was such an outspoken critic" of the agency. Given Panetta's reputation for integrity, and the C.I.A.'s central role in the interrogations scandal, Waldman wondered, "can he ride the tiger without being eaten?" He added, "An agency like that can turn on a director. That's the challenge: he's got to both lead it and reform it."

**T**he record of outsiders taking over the C.I.A. is mixed. John McCone, a California shipping magnate who ran the agency in the Kennedy and Johnson years, is often cited as being among the most successful directors; having been trained as a mechanical engineer, he was skilled at assessing threats posed by both conventional and nuclear weapons. But other outsiders have been met with intense hostility. James Schlesinger was named C.I.A. director by President Richard Nixon after heading the Atomic Energy Commission. Given instructions to "get rid of the clowns," Schlesinger dismissed or forced into retirement more than five hundred analysts and a thousand clandestine officers. He faced death threats, and his tenure lasted six months. In 1995, President Clinton appointed John Deutch, who had previously served at the Pentagon. Deutch tried to improve the oversight of clandestine operatives after evidence surfaced that an agent in Guatemala had covered up two murders. Deutch was reviled by many operatives, and he left the agency after eighteen months. Eventually, he was accused of mishandling classified documents and stripped of his security clearance. "You pick on the C.I.A. at your

own peril,” Michael Waldman says. Nevertheless, many critics believe that the agency must reckon with the legacy of the Bush era. In the past few years, irrefutable evidence has emerged that after 9/11 the agency lost its moral bearings. A confidential Red Cross report has come into public view, along with formerly classified government documents, leaving no doubt that the agency subjected scores of terror suspects to prolonged physical and psychological cruelty. Officers shackled prisoners for weeks in contorted positions; chained them to the ceiling wearing only diapers; exploited their phobias; propelled them head first into walls. At least three prisoners died.

Torture is a felony, and is sometimes treated as a capital crime. The Convention Against Torture, which America ratified in 1994, requires a government to prosecute all acts of torture; failure to do so is considered a breach of international law. The issue of torture assumed symbolic im-  
*“For God’s sake, have some populist rage.”*

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 portance during the 2008 campaign, and when Obama took office many of his liberal supporters expected him to hold the perpetrators of abuse accountable. Democratic leaders in Congress pushed particularly hard for action. Senator Carl Levin, the chairman of the Armed Services Committee, had investigated the military’s role in detention and interrogation abuse but was kept by his committee’s limited jurisdiction from investigating the C.I.A.; he urged the new Attorney General, Eric Holder, to open an inquiry, saying, “There needs to be an accounting of torture in this country.” Senator Patrick Leahy, the chairman of the Judiciary Committee, argued for the creation of an independent “truth commission,” which could grant immunity to witnesses—thus helping to insulate the Obama Administration from charges that it was exploiting the torture issue for partisan gain.  
 The C.I.A.’s role in providing misleading intelligence about the presence of weapons of mass destruction in Iraq

has also provoked calls for reform. Senator Dianne Feinstein, the new chairman of the Intelligence Committee, told me, "There's no vote that I regret more than the vote to authorize war with Iraq"; her vote was based on intelligence that she describes as "flat wrong." Feinstein went on, "I am absolutely determined to reform the process of gathering and analyzing intelligence." As soon as Obama took office, he overturned most aspects of the Bush Administration's interrogation policy. He issued an executive order banning inhumane treatment of prisoners by any government officials, and one closing the C.I.A.'s network of secret "black site" prisons, which stretched from Poland to Thailand. He also vowed to close the military prison in Guantánamo Bay, Cuba, where fourteen former C.I.A. prisoners are being held. But Obama's message has been uncharacteristically muddled on the question of accountability. He has said that Attorney General Holder should be the one to decide whether to take criminal action; he has also said that he would support further congressional investigation, as long as it was done in a bipartisan fashion. At the same time, he has signalled that he has no appetite for "looking backwards," and in late April, during a private White House meeting with congressional leaders, he rejected the idea of an outside truth commission. In the meantime, Republicans have seized the political initiative, expressing grave concern about the plans to close Guantánamo and transfer the prisoners to U.S. facilities. Tim Weiner, the author of "Legacy of Ashes," a recent history of the C.I.A., says that Panetta is facing a series of "unappetizing choices." Weiner believes that the country is in a period similar to the Watergate era, when a series of disturbing state secrets—such as the existence of the Phoenix Program, a C.I.A.-supported initiative, in which the South Vietnamese were alleged to have tortured civilians—spilled out. Speaking of Panetta, he said, "It can't be comfortable for a man who said, 'This is un-American,' to be put in the position of saying,

'Well, we hold no one accountable.' "

**P**anetta, whose conversation with me at C.I.A. headquarters was his first lengthy interview on the topic of abusive interrogations, said that when he took over the agency he "wanted to be damn sure" that there was nobody on the payroll who should be prosecuted for torture or related crimes. He asked John Helgerson, then the C.I.A.'s inspector general, to conduct a review. In theory, the inspector general is politically independent, and therefore able to render unbiased judgments. In 2004, Helgerson had written a classified report on the C.I.A.'s secret detention-and-interrogation program, in which he questioned both the legality and the effectiveness of the agency's brutally coercive techniques. Panetta cited Helgerson's "credibility" as a reason to trust his assessment. According to Panetta, Helgerson, who is not a lawyer, assured him that no officer still at the agency had engaged in actions that went beyond the legal boundaries as they were understood during the Bush years. Helgerson, who retired from the agency in May, says he told Panetta only that he was not aware of any cases that merited prosecution, though "continuing work was being done." Panetta told me, "I'm going to give people the benefit of the doubt. . . . If they do the job that they're paid to do, I can't ask for a hell of a lot more." His words echo those of President Obama, who on April 16th promised immunity from prosecution to any C.I.A. officer who relied on the advice of legal counsel during the Bush years. Jeffrey H. Smith, a former general counsel to the C.I.A., points out that this is a low standard, given that "what the Justice Department approved was outrageous." For example, for more than a century the U.S. had prosecuted waterboarding as a serious crime, and a ten-year prison sentence was issued as recently as 1983. Indeed, the memos authorizing interrogators to torment prisoners clashed so glaringly with international and U.S. law that some of them were later withdrawn by lawyers in Bush's own Justice Department. Smith, who has advised Obama informally

on how to handle the C.I.A.'s legacy of abuse, thinks that prosecutions are not politically viable at this point, and would in any case be unfair to officers who thought they were adhering to the law. And many Republicans, from Newt Gingrich to John McCain, have argued that pressing charges against government officials would threaten morale and inhibit risk-taking at a time when the agency faces wars on two fronts and a continuing threat from Al Qaeda. The Harvard law professor Laurence Tribe disagrees. "It's hard not to do *something* to those who performed the act," he says. "It's not beyond the pale to imagine that even people armed with legal opinions might be held legally responsible for violating the criminal law in the area of torture."

Panetta told me, "Frankly, I didn't support these methods that were used, or the legal justification for why they did it. . . . I also believed if I were to take this job it was about dealing with the threats that are out there, and trying to really bring the C.I.A. into a new chapter." He said that once he felt confident that there was no criminal liability inside the agency he "didn't want to spend a lot of time dealing with the past and what mistakes were made."

It turns out, however, that Panetta initially supported the creation of a truth commission. "I'm not big on commissions," Panetta told me. "On the other hand, I could see that it might make some sense, frankly, to appoint a high-level 54 THE NEW YORKER, JUNE 22, 2009 commission, with somebody like Sandra Day O'Connor, Lee Hamilton—people like that." The appeal was that Obama could delegate to others the legal problems stemming from Bush Administration actions, allowing him to focus on his ambitious political agenda. "In the discussion phase"—early in the spring, before Obama decided the issue—"I was for it," Panetta said. "Because every time a question came up, you could basically say, 'The commission, hopefully, is looking at this.'" But by late April Obama had vetoed the idea, fearing that it would look vindictive and, possibly, inflame his predecessor. "It was the President who basically said, 'If I do

this, it will look like I'm trying to go after Cheney and Bush,' " Panetta said. "He just didn't think it made sense. And then everybody kind of backed away from it."

Ken Gude, an associate director at the Center for American Progress, who specializes in national-security issues, and who has close ties to the White House, believes that Obama's instinct, like Panetta's, was to set up a truth commission of some sort. "I think the political staff walked it back," he says. "They said it would be a distraction." Obama's political advisers dread any issue that could trigger a culture war and diminish his support among independent voters. They also see little advantage in picking a fight with the C.I.A. But the decision to discourage an accountability process, Gude says, has backfired. The Administration has lost control of the story, as revelations about C.I.A. misdeeds have continued to emerge through lawsuits and the press. "It's now become the distraction they wanted to avoid," Gude says. "The White House briefings have been dominated by questions about releasing documents and photos." It's understandable, he says, that Obama wouldn't want to spend his energy on Bush's mistakes. But, he warns, "they can't leave the impression that they're trying to cover it up."

**P**anetta may not have scars from the past eight years, but he is surrounded by people who do. Some of his closest advisers have connections to the torture program. Panetta brought only one person with him to the agency: Jeremy Bash, the well-regarded former chief counsel to the House Intelligence Committee, who now serves as his chief of staff. Phil Trounstine, a California-based political consultant and analyst who has known Panetta for years, says of him, "Here's a guy who has been very critical of the Bush world view, who has to enforce a new set of guidelines and policies by leading the same agency and the same people as in the past."

Several of Panetta's top deputies worked closely with George Tenet, the agency's director from 1997 until 2004. Under Tenet, the C.I.A. took the lead role in

fighting terrorism, and its officers became the jailers, and sometimes the tormentors, of many U.S.-held detainees. Tenet, who is now a managing director of the investment bank Allen & Company, has all but disappeared from public sight in Washington. He recently cancelled an appearance scheduled at the Panetta Institute this month. ("George has not wanted to do stuff in front of a camera," Panetta noted.) But in his 2007 memoir, "At the Center of the Storm," Tenet defended the use of "enhanced" interrogation techniques on terror suspects, claiming that the information they elicited had prevented other attacks and saved American lives. (He also assured President Bush that the case for going to war in Iraq was "a slam dunk.") But a former senior agency official who worked with many of Tenet's top team members says, "These people carried out this policy . . . but they'll muddy the waters by explaining why what they did was O.K. They will say that 'Bush was bad' but they weren't. A lot of it is just to protect their own positions. It's amazing to me that all these Tenet people survived!"

Behind Panetta's desk—next to a framed, tattered American flag that was rescued from the ruins of the World Trade Center—is a door leading to the office of Stephen Kappes, whom Panetta has kept on as the agency's second-incommand. Kappes, a former U.S. marine, is widely admired within the agency, in particular for his role in persuading the Libyan leader Muammar Qaddafi to abandon his nuclear-weapons program, in 2003. "Kappes is the case officer's case officer," John Radsan, who was a lawyer at the C.I.A. during President Bush's first term, says. Intense, serious, and fluent in Russian and Farsi, Kappes has served as a station chief in Moscow, New Delhi, and Frankfurt, and has supervised many clandestine operations. In April, President Obama paid a visit to C.I.A. headquarters and singled out Kappes as the wise "graybeard" in the building. Senator Feinstein insisted to Obama Administration officials privately that Kappes continue as deputy director; it was a condition of her support for Panetta, whose lack of experience

in covert operations she questioned. During the first term of the Bush Administration, Kappes was a top official in the Directorate of Operations. This group oversaw the agency's Counterterrorist Center, which, in turn, managed the secret detention-and-interrogation program. Few doubt that he was aware that the C.I.A. was engaging in brutality. One former officer recalls that Kappes voiced qualms, warning that the program amounted to "torture." According to the former officer, once Kappes was overruled he went along; Kappes was "the brains" of the directorate, the former officer says. (Kappes, through a spokesman, denied having had a direct role in the interrogation program, or having called its tactics torture.) Another former C.I.A. operative says, "It would be hard to say someone so involved could be robustly objective" in advising Panetta.

Panetta says that most of the individuals who managed the secret interrogation program have since left the agency. One of the holdovers is Jonathan Fredman, who was formerly the chief counsel to the division that ran the interrogation program; he is now on temporary assignment with the director of National Intelligence. According to notes from a 2002 meeting, which were disclosed at a recent Senate hearing, Fredman advised that torture "is basically subject to perception. If the detainee dies, you're doing it wrong." The notes, whose accuracy Fredman has disputed, describe him saying that videotapes of interrogations would look "ugly." Fredman's former boss is John A. Rizzo, the C.I.A.'s acting general counsel, who was the recipient of many of the Justice Department's torture memos. (Rizzo is scheduled to leave the agency once a replacement has been confirmed.) And the current head of the Counterterrorist Center—the officer, who is undercover, cannot be identified—ran the interrogation program for part of Bush's second term. Several current station chiefs and division chiefs were also deeply involved in brutal interrogations, as were pilots, logistical experts, medical personnel, and others. Meanwhile, John Brennan—the man



who was considered too politically toxic for the top C.I.A. job—has become a senior official on the National Security Council. Brennan, who, as one former C.I.A. officer puts it, was once “joined to George Tenet at the hip”—he served as Tenet’s chief of staff—now advises Obama on terrorism and other national-security issues. He has reportedly lobbied hard to maintain secrecy on past abuses. According to *Newsweek*, Brennan recently persuaded Panetta to join him in protesting Obama’s plan to release four shocking Justice Department memos about the interrogation program. The documents, written by lawyers in the Office of Legal Counsel, showed that the C.I.A. had waterboarded one suspect at least a hundred and eighty-three times and subjected many others to harrowing mistreatment. Opponents have argued that exposing such details could spark an anti-American backlash. Panetta also argued forcefully in favor of indemnifying any C.I.A. officers whose actions, as described in the memos, might have opened them up to criminal charges. Several well-respected former C.I.A. officials—including Fred Hitz, a former inspector general, and Paul Pillar, a former Middle East analyst—told me that they saw no harm in releasing the documents. Dennis C. Blair, the director of National Intelligence, who oversees the U.S. intelligence establishment, including the C.I.A., also supported the release of the documents, after his staff concluded that the disclosures would likely do no damage. After intense consideration, and a latenight meeting in Rahm Emanuel’s office, Obama rejected Panetta’s arguments for secrecy, deciding that it was in the public interest to release the memos. But Obama also endorsed the notion of giving blanket amnesty to any C.I.A. officers performing authorized work. Panetta’s resistance to public disclosure seemed out of character to some longtime colleagues. “I was surprised by Leon’s position on the O.L.C. memos,” Phil Trounstine told me. “It’s tough to maintain your principles when you’re head of the C.I.A., because you need to be seen as

someone that the people inside the agency want to follow.” Panetta had become an advocate for secrecy so quickly, a White House official joked, that “it’s like ‘Invasion of the Body Snatchers.’ ”

Panetta’s advisers may have had a personal stake in opposing transparency. Another former C.I.A. official, who knows Brennan well, noted that, if the Bush torture program were to be further investigated, “potentially, both Brennan and Kappes could have a lot to lose.” Brennan’s supporters have argued that he had no operational control over the interrogation program, and point out that his tenure as Tenet’s chief of staff ended in March, 2001, before the Al Qaeda attacks. But he was subsequently named deputy executive director, and served in that position until March, 2003—the period when the most brutal detainee treatment occurred. In addition, Brennan often briefed President Bush about daily developments in the war on terror. Brennan has described himself as an internal critic of waterboarding—a position that friends, such as Emile Nakhleh, a former senior officer, confirm. Yet, in an interview with me two years ago, Brennan defended the use of “enhanced” interrogation techniques and extraordinary renditions, in which the C.I.A. abducted terror suspects around the globe and transported them to other countries to be jailed and interrogated; many of those countries had execrable human-rights records. He also questioned some people’s definition of “torture.” “I think it’s torture when I have to ride in the car with my kids and they have loud rap music on,” he said. Asked if “enhanced” interrogation techniques were necessary to keep America safe, he replied, “Would the U.S. be handicapped if the C.I.A. was not, in fact, able to carry out these types of detention and debriefing activities? I would say yes.” Anthony Lake, who was the national-security adviser under Clinton, said of Brennan, “I’ve known John a long time, and he’s a really good guy. I would argue, you can’t throw out the whole agency.” Lake, in fact, recommended Brennan to the Obama campaign when

it was looking for intelligence advisers—after consulting with their mutual friend George Tenet. America's intelligence community is an incestuous one, making it difficult for a President to break with old ways of thinking. Indeed, a well-informed analyst with close ties to the White House says that the C.I.A. has been lobbying hard to get Obama to support some form of preventive detention for terror suspects. An agency spokesman denies this. But the analyst

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says, "They definitely want the flexibility to hold people in some form of detention. They have been saying, 'We need deep authorities.' They've been presenting the President with nightmare scenarios." Panetta, for his part, has been persuaded that renditions are a tool worth keeping. The rendition program began, in a more carefully monitored form, during the Clinton Administration, but in the Bush years it was transformed into what John Radsan, the former C.I.A. lawyer, called "an abomination." As many as seven detainees were misidentified and abducted by mistake; many other suspects have alleged that they were hideously tortured by foreign governments. Panetta told me, "The worst part of rendition was rendition to a black site. That will not be the case anymore. If we render someone, it will be to a country with jurisdiction over that individual." During the Bush years, however, some of the most horrific allegations of abuse were made by detainees rendered not to black sites but to Egypt, Syria, and Morocco. The Obama Administration, Panetta says, will take precautions to insure that rendered suspects are treated humanely, as the law requires. "I've talked to the State Department, and our people have to make very sure that people won't be mistreated," Panetta said. "Some places, obviously, it's more difficult to do. But we're going to have to press to make sure it doesn't happen, because it would fly in the face of everything the President has said we stand for." The Bush Administration professed to be taking similar precautions. The C.I.A. has apparently done nothing to penalize the officer who oversaw one

of the most notorious renditions—that of a German car salesman named Khaled el-Masri. He was abducted while on a holiday in Macedonia, and flown by the agency to Afghanistan, where he was detained in a dungeon for five months without charges, before being released. From the start, the rendition team suspected that his case was one of mistaken identity. But the C.I.A. officer in charge at Langley—the agency asked that the officer’s name be withheld—insisted that Masri be further interrogated. “She just looked in her crystal ball and it said that he was bad,” a colleague recalls. Masri says that he was chained in a freezing cell with no bed, and given water so putrid that he could smell it across the room. He was threatened and stripped, and could hear other detainees crying all around him. After several weeks, the C.I.A. officer in charge learned that Masri’s German passport was not a forgery, as was originally suspected, and that he was not the terror suspect the agency thought he was. (The names were similar.) Even so, the officer in charge refused to release him. Eventually, Masri went on a hunger strike, losing sixty pounds. Skeptics in the agency went directly over the officer’s head to Tenet, who realized that his agency had been brutalizing an innocent man. Masri was released after a hundred and forty-nine days. But the officer in charge was not disciplined; in fact, a former colleague says, “she’s been promoted—twice.” Masri, meanwhile, has been unable to sue the U.S. government for either an apology or damages, because the courts consider the very existence of rendition a state secret—a position that the Obama Justice Department has so far supported. No criminal charges have ever been brought against any C.I.A. officer involved in the torture program, despite the fact that at least three prisoners interrogated by agency personnel died as the result of mistreatment. In the first case, an unnamed detainee under C.I.A. supervision in Afghanistan froze to death after having been chained, naked, to a concrete floor overnight. The body was buried in an unmarked grave. In the second case, an Iraqi prisoner named Manadel al-Jamadi

died on November 4, 2003, while being  
Bere avement  
Behind his house, my father's dogs  
sleep in kennels, beautiful,  
he built just for them.  
They do not bark.  
Do they know he is dead?  
They wag their tails  
& head. They beg  
& are fed.  
Their grief is colossal  
& forgetful.  
Each day they wake  
seeking his voice,  
their names.  
By dusk they seem  
to unremember everything—  
to them even hunger  
is a game. For that, I envy.  
For that, I cannot bear to watch them  
pacing their cage. I try to remember  
they love best confined space  
to feel safe. Each day  
a saint comes by to feed the pair  
& I draw closer  
the shades.  
I've begun to think of them  
as my father's other sons,  
as kin. Brothers-in-paw.  
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interrogated by the C.I.A. at Abu Ghraib  
prison, outside Baghdad. A forensic examiner  
found that he had essentially been  
crucified; he died from asphyxiation after  
having been hung by his arms, in a hood,  
and suffering broken ribs. Military pathologists  
classified the case a homicide.  
A third prisoner died after an interrogation  
in which a C.I.A. officer participated,  
though the officer evidently did not cause  
the death. (Several other detainees have  
disappeared and remain unaccounted for,  
according to Human Rights Watch.)  
During his tenure at the C.I.A., John  
Helgeson, the former inspector general,  
forwarded the crucifixion case, along with  
an estimated half-dozen other incidents, to  
the Justice Department, for possible prosecution.  
But the case files have languished.  
An official familiar with the cases told me  
that the agency has deflected inquiries by  
the Senate Intelligence Committee seeking

information about any internal disciplinary action. (Helgerson told me, "Some individuals have been disciplined. And others no longer work at the agency.") Panetta acknowledges that there are some people still at the C.I.A. who may be tainted by the torture program. Nevertheless, he says, "I really respect the people who say we shouldn't have gotten involved in the interrogation business but we had to do our jobs. I don't think I should penalize people who were doing their duty. If you have a President who exercises bad judgment, the C.I.A. pays the price."

On June 1st, former Vice-President Cheney asserted in a speech that the C.I.A., rather than the White House, first proposed hurting prisoners during interrogations. "It was their initiative," he said. "They had a couple of cases where they thought enhanced interrogation techniques would provide information." Panetta has a different view. "There is no question in my mind," he said. "The interrogation thing, to some extent, was cast upon us, because the military walked away from it, and the F.B.I. walked away from it, and so everybody came down on the C.I.A.," he said. This is technically true, although the F.B.I. "walked away" from interrogations of terrorism suspects after its director, Bob Mueller, heard complaints from an agent, Ali Soufan, that the C.I.A.'s interrogation methods amounted to "borderline torture." John Helgerson told me that he holds the C.I.A., the Pentagon, and the White House equally responsible: "They went arm in arm into it." Without a thorough public investigation, it's difficult to assess the truth behind such contradictory accusations. "Everyone says, 'It's over, it's known,'" Nathaniel Raymond, who works with the advocacy group Physicians for Human Rights, told me. "But what *is* known? We still don't know how many detainees were in the black sites, or who they were. We don't fully know the White House's role, or the C.I.A.'s role. We need a full accounting, especially as it relates to health professionals." The recently released Justice Department memos, he noted, contain numerous

references to C.I.A. medical personnel participating in coercive interrogation sessions. "They were the designers, the legitimizers, and the implementers," Raymond said. "This is arguably the single greatest medical-ethics scandal in American history. We need answers."

Some conservatives are also calling for greater openness. Will Taft, the general counsel to the State Department in the Bush Administration, told me, "There are some twenty or thirty people whom the My eyes each day thaw.

One day the water cuts off.

Then back on.

They are outside dogs—  
which is to say, healthy  
& victorious, purposeful  
& one giant muscle

like the heart. Dad taught  
them not to bark, to point  
out their prey. To stay.

Were they there that day?

They call me

like witnesses & will not say.

I ask for their care

& their carelessness—

wish of them forgiveness.

I must give them away.

I must find for them homes,  
sleep restless in his.

All night I expect they pace  
as I do, each dog like an eye  
roaming with the dead  
beneath an unlocked lid.

—*Kevin Young*

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C.I.A. said it formerly held but no longer  
does. Those names have never been released.

The government should identify  
all the people in the program and account  
for them."

The Senate Intelligence Committee recently embarked on its own, closed-door investigation of the torture program; Panetta told me that he has been assured that the committee members' work "would be about lessons learned, as opposed to going after people." So the C.I.A. is "cooperating with them, giving them whatever information they need to try to conduct their review." He says that the committee has

already identified some ten million relevant documents. "It's going to take a while," he said.

The Senate investigation will, among other things, probe the question of torture's efficacy. Dick Cheney has repeatedly claimed that "enhanced" interrogations yield results. Opponents say that torture is counterproductive. Panetta is more agnostic.

He told me, "The bottom line would be this: Yes, important information was gathered from these detainees. It provided information that in fact was acted upon.

Was this the only way to obtain this information?

I think that will always be an open question." But he is certain that "we did pay a price for using those methods."

A number of recently released documents call into question the notion that the C.I.A. played a passive role in relation to torture policy. A 2008 report by the Senate Armed Services Committee indicates that the agency hired contract psychologists who went on to design and implement specific forms of abuse—such as locking a detainee, doubled up, in a tiny, airless cage—months before August, 2002, when the Justice Department granted legal authorization with its infamous "torture memo." More troublingly, footnotes in the Office of Legal Counsel memos suggest that some C.I.A. interrogators may have egregiously exceeded the legal boundaries set down by the Justice Department and the White House—which seemingly puts them outside the legal safety zone demarcated by Obama and Panetta. In 2002, the Bush Administration authorized interrogators to re-create the ostensibly safe waterboarding techniques used in military training. But, instead of limiting the sessions to a maximum of two twenty-second bouts of controlled drowning, as prescribed in military training, the C.I.A. interrogators forced one detainee to undergo at least a hundred and eighty-three sessions, and another at least eighty-three. And, instead of using a very small amount of water, as the Justice Department stipulated, the C.I.A. interrogators subjected the detainees to "large volumes" of water. The memos quote Inspector General Helgeson's finding, in his secret 2004 report on coercive



techniques, that the interrogators amplified the pain deliberately, in order to make the sensation of drowning “more poignant and convincing.” Helgeson also found that the psychologists and interrogators who designed the agency’s protocols—and who claimed that their judgments were based on knowledge of military standards—had “probably misrepresented” their “expertise.” In addition, the C.I.A.’s Office of Medical Services found that there was “no reason to believe that applying the waterboard with the frequency and intensity with which it was used by the psychologist/interrogators . . . was either efficacious or medically safe.”

In April, Panetta fired all the C.I.A.’s contract interrogators, including the former military psychologists who appear to have designed the most brutal interrogation techniques: James Mitchell and Bruce Jessen. The two men, who ran a consulting company, Mitchell, Jessen & Associates, had recommended that interrogators apply to detainees theories of

“learned helplessness” that were based on experiments with abused dogs. The firm’s principals reportedly billed the agency a thousand dollars a day for their services.

“We saved some money in the deal, too!” Panetta said. (Remarkably, a month after Obama took office the C.I.A. had signed a fresh contract with the firm.)

According to ProPublica, the investigative reporting group, Mitchell and Jessen’s firm, which in 2007 had a hundred and twenty people on its staff, recently closed its offices, in Spokane, Washington.

One employee was Deuce Martinez, a former C.I.A. interrogator in the blacksite program; Joseph Matarazzo, a former president of the American Psychological Association, was on the company’s board. (According to Kirk Hubbard, the former head of the C.I.A.’s research and analysis

*“I’ve put everything in your name in case my creditors come after me.”*

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division, Matarazzo served on an agency professional-standards board during the time the interrogation program was set up, but was not consulted about the interrogations.)

Lawsuits against abusive contractors remain a possibility, and any one of them could expose a line of authorizations leading directly up the chain of command at the C.I.A., and into the Bush White House. George Brent Mickum IV, a lawyer representing Abu Zubaydah, a C.I.A. prisoner who was repeatedly waterboarded, said, "I'd like to sue Mitchell and Jessen in a minute." (Mitchell was an adviser on Zubaydah's interrogation.) After Zubaydah was waterboarded, his lawyers say, his mental state deteriorated, and he has since been prescribed the antipsychotic drug Haldol.

Few activists expect lawsuits against the C.I.A. or its contractors to succeed. But John Sifton, an attorney who specializes in human-rights law, and who is part of Zubaydah's legal team, notes that there are other ways for the detainees' grievances to become public. "The act of prosecuting the high-value detainees will be the accountability process," Sifton said. "It's impossible to try these detainees without allowing them to air all the information about their torture."

Other legal actions threaten to expose yet more secrets of the C.I.A.'s torture program. A prosecutor appointed by the Justice Department, John Durham, has convened a grand jury in Washington to weigh potential criminal charges against C.I.A. officers who were involved in the destruction of ninety-two videotapes documenting the interrogations of Abu Zubaydah and other detainees. Mickum told me that he has met several times with Durham, and believes that the scope of his inquiry may have expanded to include a review of whether the C.I.A. began using brutal methods on Zubaydah before it received written authorization from the Justice Department. (This would provide an extra motive for destroying the videotapes.) Mickum said, "I got the sense he was very serious." (Durham declined to comment.) The A.C.L.U., meanwhile, is suing to get access to classified descriptions of what was on the destroyed videotapes. Last week, Panetta filed an affidavit opposing the disclosure, which he said "could be expected

to result in exceptionally grave damage to the national security." Once again, he was protecting Bush-era interrogation secrets. Pressure is also coming from abroad. In Italy, two dozen C.I.A. officers are on trial in absentia for participating in a 2003 rendition. Robert Seldon Lady, the agency's station chief in Milan at the time, can no longer travel to Italy without danger of arrest, nor can the other C.I.A. officers named in the case. Spain has opened a criminal investigation of six Bush Administration officials in connection with torture. And in London a former rendition victim is suing the British authorities. After a British judge ruled that the plaintiff, Binyam Mohammed, should be given access to C.I.A. intelligence documents that the agency shared with British authorities, the Obama Administration surprised liberals by pressuring the British government to stop the disclosures. Several other legal challenges to the agency's interrogation program are working their way through the U.S. court system. A judge in California recently rejected the Justice Department's claims of blanket state secrecy in a case brought by five rendition victims against Jeppesen Dataplan, a subsidiary of Boeing, which provided the flight plans for the C.I.A.'s renditions. In a press conference in April, Obama indicated that he had had second thoughts about the Justice Department's assertion of blanket state secrecy in the case, but on June 12th the Administration reasserted its original claim. Earlier this month, Philip Mudd, Obama's nominee for a top Homeland Security post, withdrew from consideration after it became clear that his Senate confirmation would turn into a fight over his previous role in the C.I.A.'s interrogation program. Rahm Emanuel, speaking of the many challenges posed by the torture scandal, told me, "It's a day-to-day—I won't say struggle—but problem. There are a lot of cases in the queue that require response. Many of them. But I've seen the President in the Situation Room, and I know he wants to move forward." Panetta is already forging ahead on one important reform: he plans to replace the

abusive interrogation program with a legally acceptable, non-coercive alternative.

A task force led by the Harvard Law School professor Philip Heymann has been advising him on a proposal to create an elite U.S. government interrogation team, staffed by some of the best C.I.A., F.B.I., and military officers in the country, and drawing on the advice of social scientists, linguists, and other scholars. "What I'm pushing for is to establish a facility where we develop a team of interrogators trained in the latest techniques," Panetta said. "That's the one thing I'm worried about, frankly. There just aren't that many people who have the interrogation abilities we're going to need." Heymann describes the effort to create "the best non-coercive interrogation team in the world" as the equivalent of "a NASA-like, man-on-themoon effort" for human-intelligence gathering. He said that members of his task force have travelled to France, England, Japan, Australia, and Israel, in order to compile comparative information on what interrogators do. "We also went to the best people in the U.S.," he added.

Panetta has many ambitions for his tenure at the agency. He spoke to me of the need for the C.I.A. to increase its foreignlanguage skills, and to recruit officers of more diverse backgrounds, who can more easily infiltrate hostile parts of the world. But, as Panetta sees it, the C.I.A.'s effort to "disrupt, destroy, and dismantle" Al Qaeda remains its top priority. The agency continues to acquire intelligence suggesting that Al Qaeda is planning attacks on America, he told me. "We're conducting pretty robust operations in Pakistan, and I think we're doing a good job of trying to disrupt Al Qaeda. But, clearly, that is a threat." The greatest danger, he said, is that Al Qaeda will "find other safe havens to go to," in states such as Somalia and Yemen. "Our mission is to make sure they can't find a place to hide." Finding and bringing to justice Al Qaeda's leaders—in particular, Osama bin Laden and Ayman al-Zawahiri—"remains a focal point," Panetta said. "It's not easy, as you can imagine." Last week, the *Times* reported on escalating

friction over jurisdiction between Panetta and Dennis Blair, the National Intelligence director. "I'm surprised at the number of challenges you have to confront in this job," Panetta confided. "You're a traffic cop, in many ways." When he was the White House chief of staff, Panetta said, he could delegate the big decisions to the President. "Here, though," he said, gazing out over the C.I.A.'s serene grounds, "the decisions come to me. And a lot of them involve life and death." Sometimes, he added, all he can do is "say a lot of Hail Marys." □