

Without objection, it is so ordered.

GOVERNMENT DESTRUCTION OF EVIDENCE

Mr. DURBIN. Mr. President, this morning, newspapers across America reported that the Central Intelligence Agency and other intelligence agencies have destroyed evidence, videotaped evidence of the interrogation of prisoners. It is a startling disclosure. The United States of America, a nation where the rule of law is venerated, has now been in the business of destroying evidence, evidence of a very sensitive nature, evidence which clearly should have been protected for legal and historic purposes.

The late historian Arthur Schlesinger said this about this administration's legal defense of torture:

No position taken has done more damage to the American reputation in the world—ever.

We have been tested since 9/11 as a nation, tested in our resolve to protect America, but also tested in our commitment to the values we hold dear.

A time of war and a time of insecurity is a time of the greatest testing. Many Presidents, even great Presidents in the past, have failed that test: President Abraham Lincoln during the Civil War suspending habeas; during World War I, serious questions were raised about the patriotism of those who did not agree with our Government; during World War II, under the administration of perhaps our greatest modern President, Franklin Roosevelt, Japanese internment camps that became a national embarrassment; during the Cold War, our enemies list and the McCarthy hearings; all things that we look back on now and realize do not reflect well on the United States and certainly do not reflect our values.

Now, this administration, this war on terror, this treatment of prisoners and detainees, it comes to our attention almost on a weekly basis that, sadly, some have crossed the line. Every week there is a new revelation about how the administration has engaged in activity that is not consistent with American laws or values when it comes to the issue of torture.

In this morning's paper, CIA officials disclosed they destroyed videotapes of detainees being subjected to so-called enhanced interrogation techniques. We do not know what those videotapes included.

There was a period of time when the Bush administration had decided to cast away the international standards of conduct, the Geneva Conventions that we have been held to and proudly displayed for decades. This administration redefined torture. Through a memo that has now been made public, we know they reached extremes, which eventually even they had to repudiate.

The CIA has also reportedly withheld information about these videotapes from a Federal court and from the bipartisan 9/11 Commission.

Today I am sending a letter to Attorney General Michael Mukasey calling on him to investigate whether CIA officials who covered up the existence of these videotapes violated the law.

In a statement yesterday, GEN Michael Hayden, the CIA Director, acknowledged the tapes were destroyed, and stated:

In 2002, during the initial stage of our terrorist detention program, CIA videotaped interrogations, and destroyed the tapes in 2005.

The New York Times reported today that:

The tapes were destroyed in part because officers were concerned that video showing harsh interrogation methods could expose agency officials to legal risks, several officials said.

Now, the defense of the CIA is that they wanted to protect the identity of those CIA employees who were engaged in the interrogation. That is not a credible defense. We know that it is possible and, in fact, easy to cover the identity and faces of those who were involved on any videotape. Something more was involved.

The CIA apparently withheld information about the existence of these videotapes from official proceedings, including the bipartisan Hamilton-Kean 9/11 Commission and a Federal court. According to Philip Zelikow, the Executive Director of the 9/11 Commission and formerly a high-ranking official in the Bush administration:

The Commission did formally request material of this kind from all relevant agencies, and the Commission was assured that we had received all of the material responsive to our request. No tapes were acknowledged or turned over, nor was the commission provided with any transcripts prepared from recordings.

CIA attorneys told the Federal court hearing the case of Zacarias Moussaoui that videotapes of detainee interrogations did not exist. This was a statement by our Government to a court involved a very sensitive and important case.

The Justice Department has now acknowledged in a letter to the court that this was not true. Courts of America were misled by the Justice Department about the existence of this evidence.

CIA Director Hayden asserts the videotapes were destroyed "in line with the law." But listen to what the Federal obstruction of justice statute says:

Whoever corruptly alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.

That is what the Federal criminal statute says. It is not my role or Mr. Hayden's role to determine whether the law was violated. That is the responsibility of the Department of Justice. That is the responsibility of the Attorney General, Michael Mukasey.

As Mr. Zelikow said:

The executive branch and Congress need to decide how much they care about this question. If they want to get to the bottom of it, it's pretty easy for people to dig up the relevant records and answer the questions that either officials of the executive branch or the Congress could pose.

This is the first real test of Attorney General Michael Mukasey. I hope he will do the right thing.

What is at stake goes to the heart of the rule of law and justice in America. If our Government can destroy evidence, can misrepresent to our courts whether that evidence ever existed, if it can attempt to cover up wrongdoing, that goes way beyond the standards of justice and the values of America.

This disclosure of the destruction of those videotapes goes to the heart of who we are as a people. I do not know what was on those tapes. It was clearly something very troubling or they would not have been destroyed. I do not even know if it was incriminating, but we have a right to know. In America, everyone is held accountable, including officials at the highest levels of our Government.

It is time for this Department of Justice to turn the page from an era when we were engaged in a new definition of torture, a new definition of whether the Geneva Conventions were applicable, and bring us back into the rule of law, into those standards of conduct which have made America proud for so many generations.

Today I will be sending a letter to Attorney General Mukasey calling for an official investigation of whether there was destruction of evidence and obstruction of justice in the destruction of those videotapes on the interrogation of detainees. This is not an issue that can be ignored.

TRIBUTE TO REYNALDO P. GLOVER

Mr. DURBIN. Mr. President, I come to the floor today to pay tribute to a champion of African-American advancement, Reynaldo Glover.

A lawyer by training, Glover had a knack for business. In 1994, he became general counsel of TLC Beatrice International Holdings, later known as TLC-LC, Inc., a multinational food company started by Glover's friend and Harvard Law classmate Reginald Lewis in 1987.

Glover soon took over the role of executive vice president, and it was under his leadership that, in 1996, TLC-LC posted sales of \$2.2 billion. With operations in more than 30 countries, the company became widely recognized as the Nation's largest African-American-owned business.

While Reynaldo Glover's accomplishments in the business world are unquestionably impressive, he is probably better known for his passionate work to provide access to high-quality education to young men and women from low-income families.

Glover grew up in a low-income neighborhood in Gary, IN. After high

school, he went to Nashville, TN, to attend Fisk University one of the Nation's pre-eminent historically black universities. A dedicated student, Glover went on to graduate from Harvard Law School in 1968.

Devoted to furthering the advancement of African Americans and other racial minorities, Reynaldo Glover became national director of the Law Student Civil Rights Research Council in New York.

Later, he came to Chicago to practice law. He served as partner at several Chicago law firms before joining TLC Beatrice as an attorney with the firm DLA Piper.

While in Chicago, Glover also served as chairman of the City Colleges of Chicago's Board of Trustees. Established in 1911, the City Colleges of Chicago is a system of seven community colleges that provide educational opportunities to Chicago students. During his tenure as board chairman, Glover was instrumental in launching a campaign to recruit students from the city's low-income housing developments.

In 2003, he was appointed chairman of the Fisk University Board of Trustees. He welcomed the opportunity to serve his alma mater and did so with great pride. The success he achieved in academia and corporate America helped him to serve as a positive example to the students at Fisk.

Reynaldo Glover's life reflected the words of another distinguished Fisk alum, W.E.B. DuBois, who said, "Education is the whole system of human training within and without the schoolhouse walls, which molds and develops men."

This Sunday, December 9, Reynaldo Glover's friends and family will gather at a memorial service in Chicago to remember and honor his remarkable life. His tireless efforts to expand educational opportunities for low-income students and to encourage African-American achievement will be felt for generations to come.

Those who knew him recall him not only with fondness but with great admiration.

Our thoughts and prayers are with his family, especially his wife Pamela and children, Reynaldo, Jr., Brian, Jhareth Brantley, Ryan, and Shea.

THE DESTRUCTION OF CIA TAPES

Mr. KENNEDY. Mr. President, the torture debate took another deeply troubling turn yesterday. The Nation learned the CIA had destroyed videotapes of its employees in the act of using torture or other harsh interrogation techniques on detainees.

Those tapes were not shown to Congress. They were not shown to any court. They were not shown to the bipartisan 9-11 Commission. Instead, they were destroyed.

What would cause the CIA to take this action? The answer is obvious—cover up. The agency was desperate to

cover up damning evidence of their practices. In a letter to agency employees yesterday, CIA Director Michael Hayden claimed that the tapes were a security risk because they might someday "leak" and thereby identify the CIA employees who engaged in these practices.

But that excuse won't wash. I am second to no one in wanting to protect the brave men and women of the CIA. But how is it possible that the director of the CIA has so little faith in his own agency?

Does the director believe the CIA's buildings are not secure?

Would it be beyond the agency's technical expertise to preserve the tapes while hiding the identity of its employees?

Does the director believe that the CIA's employees cannot be trusted not to leak materials that might harm the agency?

Or does he know that the interrogation techniques are so abhorrent that they could not remain unknown much longer?

It is particularly difficult to take the director's explanation at face value when the news that these CIA tapes were destroyed came the very same week that we learned that as many as 10 million White House emails have not been preserved, despite a law that requires their retention. At the same time, the President continued to insist that we grant immunity to the phone companies for their role in the illegal wiretapping of American citizens.

The pattern is unmistakable. The past 6 years, the Bush administration has run roughshod over our ideals and the rule of law. For 4 of those 6 years, the Republican Congress did little to hold the administration accountable. Now, when the new Democratic Congress is demanding answers, the administration is feverishly covering up its tracks. We haven't seen anything like this since the 18½-minute gap in the tapes of President Richard Nixon.

These efforts are wrong, and they must be stopped. I and other concerned Senators will today call upon Attorney General Mukasey to immediately begin an investigation into whether the CIA's handling and destruction of these tapes violated the law.

We also must redouble our efforts to make sure that future interrogations by the CIA conform to our laws and values. No part of our Government should engage in practices that are so horrific that we cannot bear to see them on tape. To that end, I introduced legislation to require that all Government agencies, including the CIA, follow the standards of the Army Field Manual. Language that would take that important step was recently included in the conference report on the Intelligence authorization bill, and we must act to adopt it as soon as possible.

As founder John Adams said, our Nation is "a Nation of laws, not men." That basic principle is at risk today

from an administration that is engaging in a coverup—systematically destroying records, commuting sentences, and stonewalling congressional investigations. The CIA's role in this coverup is only the latest reminder that Congress must fight harder to prevent this administration from making a mockery of the rule of law, and to preserve the right of the American people to know what the Government has been doing in their name.

Mr. OBAMA. Mr. President, I wish to express my serious concern over the Central Intelligence Agency's confirmation that videotapes depicting brutal interrogation techniques were destroyed.

First, it is important that we note the broader context of this debate. The United States of America is a nation born out of a struggle against tyranny, and our founding legal document asserts that the rule of law applies to all men and women, and all branches and agencies of government. We are not a perfect Nation, but our national greatness is marked by our ability to rise above our imperfections through our allegiance to our values and to the rule of law. Time and again, America has triumphed because of the contrast we draw to tyranny. We are a nation that set captives free, shut down torture chambers, and extended freedom and international law to more of humanity.

Now, we are engaged in a new kind of conflict. And the question that we have faced since September 11, 2001, is how we are going to respond to the shadowy, stateless, terrorist enemies of the 21st century.

Tragically, the Bush administration has too often chosen to respond to this enemy by abandoning our values and ignoring laws that it deems inconvenient. So we have seen excessive secrecy, indefinite detention, warrantless wire-tapping, and 'enhanced interrogation techniques' like simulated drowning that qualify as torture through any careful measure of the law or appeal to human decency. For each of these new policies, we have seen dubious legal reasoning that does not stand up to the harsh light of review or the sound judgment of our Constitution.

Yesterday, we learned that in November 2005, the CIA destroyed videotapes of its interrogations of two prominent al-Qaida suspects, including a close Osama bin Laden associate Abu Zubaydah. Media reports suggest that these videotapes depict brutal interrogation techniques, and could certainly be relevant to ongoing investigations and inquiries. Furthermore, these videotapes were not provided to the 9/11 Commission, which made a broad set of requests for classified documents—including interrogation tapes and transcripts—that would have included information about the 9/11 attacks.

The CIA has argued that these tapes needed to be destroyed to protect the identities of the interrogators. Our government must go to any length necessary to protect the identities of those