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ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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December 11, 2007

The Honorable Allen Weinstein
Archivist of the United States
National Archives and Records Administration
700 Pennsylvania Avenue, NW
Washington, DC 20408

Dear Dr. Weinstein:

In light of last week's disclosure by the CIA that it destroyed at least two videotapes of interrogations of terrorism suspects, I am writing to ask whether the CIA's actions violated the Federal Records Act and to request information about records management at the CIA.

The Federal Records Act, which was first enacted by Congress in 1950, requires the preservation of official government "records," regardless of format. Records are defined in the Act as any documentary materials made or received by a federal agency that are appropriate for preservation "as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the Government or because of the informational value of the data in them."¹ To comply with the Act, Congress required agencies to request authority from the National Archives and Records Administration prior to disposing of any permanent or temporary records. The National Archives have given agencies permission to destroy some audiovisual records without prior authorization, but this permission extends only to routine materials such as training videos, recordings of award presentations, and other similar materials.²

I would like your opinion on whether the CIA's destruction of these videotapes was in accordance with the Federal Records Act and your implementing regulations. According to press accounts, CIA Director Michael Hayden claimed last week that the CIA destroyed videotapes of secret interrogations "only after it was determined they were no longer of intelligence value and not relevant to any internal, legislative, or judicial inquiries."³ He was

¹ 44 U.S.C. §2901.

² National Archives and Records Administration, *General Records Schedule 21 Audiovisual Records* (Dec. 1998).

³ *CIA Says Interrogation Tapes were Destroyed*, Los Angeles Times (Dec. 7, 2007).

also quoted as telling CIA employees that the agency acted “in line with the law.”⁴ There has been no public discussion to date about whether these videotapes are considered records under the Federal Records Act that must be preserved or whether the CIA sought permission from the Archives before destroying them.

I also request information about CIA management of federal records to date. In 2000, the National Archives conducted an inspection of the CIA’s records management systems. While the Archive’s report found that the “CIA already has many elements of a good records management program,” it also found weaknesses in a number of areas.⁵ The report found particular weaknesses related to the preservation of nontextual records, including videotapes. The 2000 report called on the CIA to submit an action plan to the National Archives within 90 days of the release of the report, and then to follow-up with progress reports every 60 days. The Archives was to “analyze the adequacy of the CIA’s action plan; provide comments to the CIA on the action plan within 60 calendar days from receipt; assist the CIA in implementing recommendations; and inform the CIA when progress reports are no longer needed.”⁶

To provide the Committee with a clear understanding of the CIA’s management of federal records, I request that you provide the following documents to the Committee by December 17, 2007:

1. all communications between the Archives and the CIA relating to the 2000 evaluation and its recommendations, including any action plan, progress reports, comments on the action plan, and memoranda or other communications relating to implementation of the action plan;
2. copies of all CIA policies and regulations regarding federal records preservation that are in the Archive’s possession;
3. communications between the Archives and the CIA regarding the preservation or destruction of videotapes of interrogations, including any request from the CIA for authorization to dispose of such materials; and
4. any internal or external communications regarding potential violations of the Federal Records Act due to the destruction of these tapes.

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. An attachment to this letter provides additional information about how to respond to the Committee’s request.

⁴ *CIA Destroyed 2 Tapes Showing Interrogations*, New York Times (Dec. 7, 2007).

⁵ National Archives and Records Administration, *Records Management in the Central Intelligence Agency: A NARA Evaluation* (March 2000).

⁶ *Id.*

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If you have any questions about this request, please contact Anna Laitin with the Committee staff at (202) 225-5420.

Sincerely,

A handwritten signature in black ink that reads "Henry A. Waxman". The signature is written in a cursive style with a prominent "H" and "W".

Henry A. Waxman
Chairman

Enclosure

cc: Tom Davis
Ranking Minority Member