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OP-ED CONTRIBUTORS

Stonewalled by the C.I.A.

By THOMAS H. KEAN and LEE H. HAMILTON

Washington

MORE than five years ago, Congress and President Bush created the 9/11 commission. The goal was to provide the American people with the fullest possible account of the “facts and circumstances relating to the terrorist attacks of Sept. 11, 2001” — and to offer recommendations to prevent future attacks. Soon after its creation, the president’s chief of staff directed all executive branch agencies to cooperate with the commission.

The commission’s mandate was sweeping and it explicitly included the intelligence agencies. But the recent revelations that the C.I.A. destroyed videotaped interrogations of Qaeda operatives leads us to conclude that the agency failed to respond to our lawful requests for information about the 9/11 plot. Those who knew about those videotapes — and did not tell us about them — obstructed our investigation.

There could have been absolutely no doubt in the mind of anyone at the C.I.A. — or the White House — of the commission’s interest in any and all information related to Qaeda detainees involved in the 9/11 plot. Yet no one in the administration ever told the commission of the existence of videotapes of detainee interrogations.

When the press reported that, in 2002 and maybe at other times, the C.I.A. had recorded hundreds of hours of interrogations of at least two Qaeda detainees, we went back to check our records. We found that we did ask, repeatedly, for the kind of information that would have been contained in such videotapes.

The commission did not have a mandate to investigate how detainees were treated; our role was to investigate the history and evolution of Al Qaeda and the 9/11 plot. Beginning in June 2003, we requested all reports of intelligence information on these broad topics that had been gleaned from the interrogations of 118 named individuals, including both Abu Zubaydah and Abd al Rahim al-Nashiri, two senior Qaeda operatives, portions of whose interrogations were apparently recorded and then destroyed.

The C.I.A. gave us many reports summarizing information gained in the interrogations. But the reports raised almost as many questions as they answered. Agency officials assured us that, if we posed specific questions, they would do all they could to answer them.

So, in October 2003, we sent another wave of questions to the C.I.A.’s general counsel. One set posed dozens of specific questions about the reports, including those about Abu Zubaydah. A second set, even more important in our view, asked for details about the translation process in the interrogations; the background of the interrogators; the way the interrogators handled inconsistencies in the detainees’ stories; the particular questions that had been asked to elicit reported information; the way interrogators had followed up on certain lines of questioning; the

context of the interrogations so we could assess the credibility and demeanor of the detainees when they made the reported statements; and the views or assessments of the interrogators themselves.

The general counsel responded in writing with non-specific replies. The agency did not disclose that any interrogations had ever been recorded or that it had held any further relevant information, in any form. Not satisfied with this response, we decided that we needed to question the detainees directly, including Abu Zubaydah and a few other key captives.

In a lunch meeting on Dec. 23, 2003, George Tenet, the C.I.A. director, told us point blank that we would have no such access. During the meeting, we emphasized to him that the C.I.A. should provide any documents responsive to our requests, even if the commission had not specifically asked for them. Mr. Tenet replied by alluding to several documents he thought would be helpful to us, but neither he, nor anyone else in the meeting, mentioned videotapes.

A meeting on Jan. 21, 2004, with Mr. Tenet, the White House counsel, the secretary of defense and a representative from the Justice Department also resulted in the denial of commission access to the detainees. Once again, videotapes were not mentioned.

As a result of this January meeting, the C.I.A. agreed to pose some of our questions to detainees and report back to us. The commission concluded this was all the administration could give us. But the commission never felt that its earlier questions had been satisfactorily answered. So the public would be aware of our concerns, we highlighted our caveats on page 146 in the commission report.

As a legal matter, it is not up to us to examine the C.I.A.'s failure to disclose the existence of these tapes. That is for others. What we do know is that government officials decided not to inform a lawfully constituted body, created by Congress and the president, to investigate one the greatest tragedies to confront this country. We call that obstruction.

Thomas H. Kean and Lee H. Hamilton served as chairman and vice chairman, respectively, of the 9/11 commission.

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