



J. SCOTT APPLEWHITE/AP

Senate Intelligence Committee Chairwoman Dianne Feinstein, D-Calif., declined to comment while speaking to reporters on Capitol Hill except to confirm that CIA Inspector General David Buckley was looking into whether the agency had monitored her staff's computers.

MARCH 11, 2014

Feinstein: CIA may have violated Constitution with monitoring of Senate staffers

BY ALI WATKINS, JONATHAN S. LANDAY AND MARISA TAYLOR

McCLATCHY WASHINGTON BUREAU

WASHINGTON — The chairwoman of the Senate Intelligence Committee charged Tuesday that the CIA may have broken the law and violated the Constitution by secretly infiltrating computers used by her staff to assemble a scathing report on the spy agency's now-defunct de-

tention and interrogation program.

"The CIA just went and searched the committee's computers," asserted Sen. Dianne Feinstein, D-Calif.

Feinstein unleashed her stunning charges in an address on the Senate floor that lifted the veil

on an extraordinary power struggle that has been raging behind the scenes for months between the CIA and the panel created in 1976 to oversee U.S. intelligence organizations after a series of domestic spying scandals.

"The CIA's search may well have violated the separation of powers principles embodied in the United States Constitution," Feinstein declared. "It may have undermined the constitutional framework essential to effective congressional oversight of intelligence activities."

In addition, she said CIA intrusions into her staff's computers also may have breached the Fourth Amendment's bar on illegal searches, a law prohibiting computer fraud and a 1981 presidential order that greatly restricts the agency's authority to spy on American citizens.

Denouncing the CIA's use of water-boarding and other harsh interrogation techniques as an "un-American, brutal program," Feinstein said the resolution of the battle would determine the ability of her committee to be an effective watchdog over the CIA and other U.S. intelligence agencies.

"The recent actions that I have just laid out make this a defining moment for the oversight (powers) of our intelligence committee," Feinstein said. "How this will be resolved will show whether the intelligence committee will be effective in monitoring and investigating our nation's intelligence activities."

Many experts, including former U.S. military commanders and officials, have condemned as torture the use of the harsh techniques in the interrogations of suspected terrorists in secret CIA "black site" prisons overseas. The Bush administration and the agency contend the methods were legal, although it has emerged that the CIA used some techniques before the program underwent a Justice Department legal review.

CIA Director John Brennan denied Feinstein's allegations after a speech to the Council on Foreign Relations marking his first year at the helm of the spy agency.

"Nothing could be further from the truth. I mean we wouldn't do that," Brennan said. "That's just beyond . . . the scope of reason in terms of what we'd do."

He also denied that the CIA was trying to impede the release of the committee study, contending that 15 months after the panel approved the report, it still hasn't been given to the agency to vet before a public release.

"We are not in any way, shape or form trying to thwart this report's . . . release," he said.

U.S. officials have said that the CIA didn't actively monitor the computers, but instead went back and scoured three years' worth of logs in determining what they claimed was the unauthorized removal of highly classified materials from a secret CIA electronic reading room by the committee staff.

White House spokesman Jay Carney declined to discuss the dispute in any detail.

"What I can say is that you saw the CIA director say today that if there was any inappropriate activity by CIA, he would, of course, want to get to the bottom of it, and certainly the president would agree with that," Carney said.

In her speech, Feinstein revealed that at one point in 2010, CIA officials misled the committee in claiming that the White House had ordered them to block her staff's access to top-secret documents that they'd been permission to review.

"When the committee approached the White House, the White House denied giving the CIA any such order," she alleged.

Feinstein leveled her charges a week after McClatchy first reported the allegations that the CIA secretly monitored computers used in researching and compiling the committee's 6,300-page study of the agency's detention and interrogation program at a secret CIA-leased facility in northern Virginia.

In a separate report also confirmed by Feinstein, McClatchy disclosed that Democratic staffers printed out and took back to their secure space

on Capitol Hill a copy of an internal CIA review. She and other Democratic senators assert the internal review proves that the CIA misled the committee in disputing key findings of the study.

“To say the least, this is puzzling,” said Feinstein. “How can the CIA’s official response to our study stand factually in conflict with its own internal review?”

Feinstein said that CIA Inspector General David Buckley had referred the CIA’s computer searches to the Justice Department “given the possibility of a criminal violation by CIA personnel.”

Shortly after the referral was made, she said, the acting CIA general counsel filed a “crime report” with the Justice Department “concerning the committee’s staff’s actions,” which she decried as a “potential effort” at intimidation.

She went on to point out that from mid-2004 until former President George W. Bush halted the interrogation program in 2009, the same CIA lawyer was the main legal counsel to the agency unit that oversaw the operation.

Feinstein apparently was referring to the agency’s senior deputy general counsel, Robert Eatinger. The CIA declined to confirm the identity of the individual to whom Feinstein was referring.

The CIA lawyer “is mentioned by name more than 1,600 times in our study and now this individual is sending a crimes report to the Department of Justice,” she said. “The acting general counsel himself provided inaccurate information to the Department of Justice about the program.”

Feinstein defended her staff, saying they’d broken no laws in printing out and taking the Panetta review document out of the CIA facility and placing it in a safe in their high-security office in at the Senate.

“The staff members who have been working on this study . . . have devoted years of their lives to it, wading through the horrible details of the CIA program that never, never, never should have existed,” she said.

The study, which cost \$40 million, took four

years to complete and entailed a review of 6.2 million pages of top- secret CIA operational cables, reports and other documents, concluded that the agency’s use of harsh interrogation technique produced very little intelligence of any value, according to lawmakers who’ve read it.

The program didn’t reveal the information that enabled the CIA to pinpoint Osama bin Laden’s suspected hideout in Pakistan in which the al Qaeda leader was killed by Navy SEALs in May 2011, they’ve said.

Moreover, the study found that the agency misled Congress, the Bush administration and the public about the usefulness of the interrogation techniques, they’ve said.

Under an arrangement with the CIA, the committee staff was provided with “a stand-alone computer system” to review CIA-approved documents to which only agency technicians would have access. They were barred from sharing any information from the network with other CIA officials without the committee’s permission, she said.

The blocking of the staff’s access in 2010 to documents that they’d already been given constituted the first of what Feinstein said were two secret searches of their computers by the CIA.

The matter was settled when the committee received assurances from the CIA and the White House that “there would be no further unauthorized access to the committee’s network or removal of access to CIA documents already provided to the committee,” she said.

Later in 2010, the staff found a draft summary of the Panetta review using a search engine provided by the CIA to scour a database into which contractors dumped millions of top-secret documents after reviewing them numerous times to ensure that they were related to the study and weren’t covered by executive privilege, she said.

How the draft summary of the draft summary got into the database remains unknown, although Feinstein suggested they may have been put there



by a whistleblower.

She denied news reports in some publications that quoted unidentified U.S. officials who suggested that committee staffers “hacked” through a firewall into a CIA network to obtain the draft Panetta review. She also rejected contentions that the committee wasn’t entitled to some parts of the draft even though they were marked “privileged” and “deliberative.”

The Senate’s top legal adviser determined that “Congress does not recognize these claims of privilege when it comes to documents provided to Congress for our oversight duties,” she said. “So we believe we had every right to review and keep the documents.”

The Panetta review consisted of summaries of the documents provided to the committee compiled by a separate team of CIA officials, some of whom also included their own analyses of the contents of the materials.

“What was unique and interesting about the internal documents was not their classification level but rather their analysis and acknowledgment of significant CIA wrongdoing,” Feinstein asserted.

Former CIA Director Leon Panetta ordered the review after determining that no records were being kept of the contents of the documents, U.S. officials have said. They’ve denied that the review represented a formal examination of the program, downplayed its importance, and said that the reviewers’ analyses were personal observations that weren’t subjected to the agency’s formal evaluation procedures.

The staff decided to print the draft Panetta review out and take it to Capitol Hill because the

CIA had “previously withheld and destroyed information about its detention and interrogation program,” she said, referring to the agency’s destruction over the objections of the Bush administration of videotapes of interrogation sessions.

“There was a need to preserve and protect the Panetta review in the committee’s own secure spaces,” she said. “The relocation of the internal Panetta review was lawful.”

On Jan. 15, she said, Brennan requested an emergency meeting with her and Sen. Saxby Chambliss, R-Ga., the committee vice chairman, to inform them that “without prior notification or approval, CIA personnel had conducted a search — that was John Brennan’s word — of the committee’s computers.”

Feinstein was roundly praised by Democratic senators and prominent human rights and civil liberty groups for her speech. It was a marked contrast to criticism of her defense of the National Security Agency’s bulk collection of Americans’ communications data.

“I commend Chairman Feinstein for speaking so forcefully in defend of the indispensable role that Congress plays under our Constitution in overseeing the executive branch and in particular the intelligence community,” said Sen. Patrick Leahy, D-Vt., the chairman of the Senate Judiciary Committee. “Chairman Feinstein described a troubling pattern of interference and intimidation by the CIA that raises serious questions about possible violations of the Constitution and our criminal laws.”

