



February 6, 2013

## Questions for CIA Nominee Brennan

John Brennan currently serves as President Obama's lead adviser for counterterrorism and homeland security. Prior to that, he was a 25-year veteran of the Central Intelligence Agency, the agency he has now been nominated to lead. Below are questions concerning intelligence matters relevant to his nomination.

### **Alien Terrorists Deprived of Liberty Receive Greater Rights than Citizen Terrorists Deprived of Life?**

Then-Senator Obama consistently held the position that alien al Qaeda terrorists should have the right to contest the lawfulness of their detention before an Article III judge. On September 27, 2006, Senator Obama spoke on the floor in favor of an amendment to grant alien al Qaeda terrorists the right to file a habeas petition to contest the lawfulness of their detention at Guantanamo. He argued alien terrorists should have a chance "to challenge the terms of their detention in court, to have a judge confirm that the government has detained the right person." He said this was necessary to preserve "all the great traditions of our legal system and our way of life." He then [voted](#) for this amendment. Senator Obama then voted against the Military Commissions Act of 2006. He said on the floor on September 28, 2006, that the final bill not including habeas rights for enemy aliens was a "betrayal of American values." In 2007, Senator Obama co-sponsored two bills, S. 185 and S. 576, to provide such rights to alien terrorists—non-U.S. citizens.

In contrast, the recently leaked Department of Justice white paper on drone strikes makes clear President Obama asserts a U.S. citizen who has cast his lot with al Qaeda as an operational leader will have no recourse to contest before an Article III judge a decision to kill him.

- Do you see any inconsistency between the position that an alien al Qaeda terrorist should have the right to contest the deprivation of his liberty before an Article III judge but that a U.S. citizen al Qaeda terrorist shall have no such right to contest the deprivation of his life?

## CIA Interrogation Program

During the time of the CIA enhanced interrogation program, while you were in a senior management position there, it was the position of the [CIA](#) that “the intelligence acquired from these interrogations has been a key reason why al-Qa’ida has failed to launch a spectacular attack in the West since 11 September 2001.” CIA further assessed it “would have been unable to obtain critical information from numerous detainees, including [Khalid Sheikh Mohammad] and Abu Zubaydah, without these enhanced techniques.” You [said](#) in 2007 the program “saved lives.”

- Do you agree with those assessments, and the following assessments by other intelligence professionals as to the value of the CIA interrogation program?
  - “[T]here was overall agreement that these techniques would work. And they did. Now, honest men can differ about whether or not they wanted to do this or not, but you can’t dismiss the fact that the techniques worked and led to critical, life-saving information.” – General Michael [Hayden](#)
  - “[H]igh value information came from interrogations in which [enhanced interrogation] methods were used and provided a deeper understanding of the al Qa’ida organization that was attacking this country.” – Admiral Dennis [Blair](#)
  - “It is nearly impossible for me to imagine any operation like the May 2 assault on bin Laden’s compound in Abbottabad, Pakistan, that would not have made substantial use of the trove of information derived from CIA detainees, including those on whom enhanced techniques had been used.” – General Michael [Hayden](#)
  - “[M]ultiple streams of intelligence led CIA analysts to conclude that Bin Ladin was hiding in Abbottabad. Some came from detainees subjected to enhanced techniques, but there were many other sources as well.” – Michael [Morell](#), acting CIA director

As the President’s top counterterrorism adviser for the past four years, you were instrumental in his executive orders terminating the CIA interrogation program and ordering the closure of Guantanamo by January 2010.

- What would we do if we captured Ayman al-Zawahri (head of al Qaeda) or Mullah Omar (head of the Taliban) tomorrow?

## Leaks

During the 2012 presidential campaign, there were numerous leaks of sensitive information about: the bin Laden operation, leading to the imprisonment of an informant in Pakistan (Shakil Afridi); cyberattacks on Iran nuclear facilities; a “secret kill list” of terrorists targeted for death or capture; covert support for Syrian rebels; and the disruption of an al Qaeda plot to blow up airplanes using an explosive device concealed in a terrorist’s underwear. In an interview with CNN on June 6, 2012, discussing the leaking of sensitive national security information, the chairman of the Senate Select Committee on Intelligence, Dianne Feinstein, said she has “been on the Intelligence Committee for 11 years and ... never seen it worse.”

- Sitting U.S. attorneys who report to the President's Attorney General were tasked with investigating these latest leaks. Why wasn't an independent special counsel appointed to investigate any of these leaks?
- In a conference call with surrogates and media analysts, you reportedly leaked sensitive information concerning intelligence sources and methods of how the underwear bomb plot was foiled, which may have compromised ongoing operations. What did you say in that conference call? Did it lead to the termination of any ongoing operations?
- You appear quite prominently in the New York Times secret kill list [article](#). What did you tell the reporters for that article?

One of the criticisms leveled against the Obama Administration's counterterrorism policies is the lack of transparency regarding some of the operational tools employed in the fight against terrorists. You sought to address those concerns in a high-profile speech to the Woodrow Wilson Center around the first anniversary of the bin Laden operation. In that speech, you confirmed we use remotely piloted aircraft—drones—to target al Qaeda terrorists for lethal action, and then extensively discussed the use of that tool. Forty-eight hours prior to your confirmation hearing, a Department of Justice white paper concerning the legality of lethal action directed at U.S. citizens serving as senior al Qaeda leaders made its way into the public domain.

- Did you play any role in making that paper public?
- Can you explain why this paper was leaked rather than formally released or published?