OBAMA & POST-CONSTITUTIONAL AMERICA

Actions that infringe on the Constitution and compromise civil liberties are now a troubling feature of American public life. Most derive from the collective terror psychosis; others are associated with the undue influence of financial interests. The overall weakening of the country's dedication to principle and the drifting attention of our political class are critical facilitating factors.

This essay examines incidents wherein the President of the United States, and his appointed officers, has committed acts that, I believe, are unconstitutional – and might be considered impeachable offenses. Yet, there has been little if any serious discussion of their implications or appropriate responses. The likelihood of their being addressed in any serious fashion is somewhere between No and Nothing – to use a Sicilian expression. That truth accents how far the ethical standards of our public life have fallen.

Public office-holders in our constitutional democracy are trustees. They are custodians who supposedly act in the collective interest of the citizenry who have a stake in how our institutions perform. Governmental bodies in the United States are not meant to be owned by those who lead them. They are not possessions to be disposed of according to the will and inclination of governors. It follows that officials are authorized to exercise their proper powers within a set of constraints. Empowerment together with accompanying limitations are designed to ensure that the functions of leadership are performed in a responsible manner. It is a fiduciary responsibility in a broad sense.

Custodianship in concept and practice is the antithesis to autocracy, to rule by diktat. Yet, today we observe the abuse of power in arbitrary action on a growing scale. High public officials, from the President on down, too often see no obligation to explain or justify why and how they do things that drastically affect the general welfare. In the more extreme cases we examine below, they act with

impunity in violation of constitutional or legal principles. That distain often is accompanied by deceit and outright lying - lying whose eventual revelation evokes a shrug of the proverbial shoulders rather than a *mea culpa* or repentance. It usually takes the form of a pro forma "I take responsibility" – an empty phrase that means "I want closure now – so shut up about this." The examples are legion. Moreover, each occurrence of illicit action that escapes condemnation lowers inhibitions on the commitment of subsequent abuses.

Theoretically, the checks on abuse of office in the American system are four-fold: socialization into a political culture whose norms are upheld communally by other participants, the media and the general public; enforcement of legal stipulations by the courts; periodic elections; and, ultimately, the resort to impeachment by the legislative branch of government in accordance with procedures embodied in law at every level of government. None is an absolute guarantee of fidelity to proper conduct.

Peer pressure or pressure from monitors of various kinds presupposes a strong consensus on the legitimacy of behavioral norms, a readiness to exert such pressure and a sensitivity to it on the part of the executive. These conditions do not exist today. We live in an era wherein careerist self-interest, often crudely partisan, rules thinking, the sense of citizenship is diluted, and an ethos of anything goes has become pervasive.

The judiciary has been corrupted by some of the same societal trends. Cavalier arrogation of personal prerogative by judges to impose their own standards and preferences is commonplace – most egregiously in the federal District, Appeals and Supreme Court. The last now satisfies itself with providing the thinnest veneer of legal exegesis to justify what manifestly are subjective convictions (the rewriting of the First, Second and Fourth Amendments in the Bill of Rights provide the outstanding examples). The Roberts Supreme Court's acts can have profound systemic consequences not only by virtue of their decisions in cases that they

hear – but in deciding which cases they will hear. Thus, Hobby Lobby is granted the Court's attention to consider a far-out claim of religious liberty while the Justice Department is denied that attention when a fundamental question of financial criminality is at issue (the Dewey insider trading case). Encouragement is thereby given lower courts to act in similarly cavalier fashion.

Competitive elections are frequently cited as the surest check on abusive executive behavior. They have intrinsic shortcomings, however. Voting preferences are formed in response to a multitude of an office-holders' action; attention spans are short – especially in the age of declining journalistic standards and trivial pursuits; and partisan loyalties are the main determinants of how candidates are appraised.

Impeachment as a deterrent threat and control fails for two reasons. For one thing, the frivolous approach taken by many in Congress in recent years has tarnished its dignity and seriousness. First we had the Clinton/Lewinsky farce. Then, the Tea Party inspired movements to get rid of Barack Obama for one nominal reason or another when, in fact, their base motives are that he is black or his attitude "un-American" in the lights of Bible Belt uber-patriots or because they need an outlet for their personal frustrations and insecurities. The other reason is that these acts of partisan bitchiness make it impossible even to broach a sober discussion of possible offenses against the Constitution.

Hence, high officers of the Republic feel less and less constrained about assuming an intrinsic authority to do things that border on, or enter into the realm of the illegal. The government, its policies, the country somehow are theirs to use as they see fit. "We the people" get their say at election time; otherwise the citizenry are identified as the lobbyists and media who are to be cajoled or spun or appeased so as to secure leaders' expansive prerogatives. That is the extent of the perceived commitment to a democratic polity and an informed citizenry. Yes,

there is constant reference to a national "conversation" on this or that or the other issue. But two-way communication of a meaningful nature is studiously avoided.

Consider *electronic monitoring of private communications*. The vast network of spying first was put in place by a small coterie of persons in the Bush administration and Congress (including the Democratic leadership) without any legal cover whatsoever. There was zero public discussion. Its elaboration then was justified on the basis of generous readings of the Patriot Act which accorded the executive powers equivalent to those of autocrats everywhere. Barack Obama, his successor, followed an analogous course. The public was kept in the dark until programs that raised grave legal issues were exposed by Edward Snowden. One key feature of the White House's mode of formulating the troubling surveillance question is telling. Its central element is the reiterated claim that "security must be balanced against civil liberties." This has been adopted by nearly all commentators- including distinguished law school professors.

So stated, the formula in effect affirms that government actions which violate constitutionally guaranteed privacy rights need only meet a standard of practical value in supposedly reducing some arbitrarily assessed security risk. But these are not considerations of the same order. The one is an explicit, constitutionally grounded right of citizens. The other is a subjective policy judgment based on a loose reading of inherently ambiguous legislation. The blurring of this fundamental distinction serves to expand radically the range of discretionary action by rulers while subordinating a principle inscribed in the Constitution for the very purpose of circumscribing that claimed prerogative. The Obama administration's systematic resistance to having the constitutional issues adjudicated in the courts is, in effect, a declaration that it "possesses" not only the Executive branch but the United States governmental system itself.

ARTICLES OF INDICTMENT

Many actions of dubious legality fall short of posing a danger to our constitutional system. They may be pernicious and corrosive of democratic institutions, yet not lethal and/or on the margins of what in principle might be an impeachable offense. Others do represent a threat of that magnitude and should be considered as violations of the Constitution. I believe that a persuasive case can be made that *five* actions by President Barack Obama meet this standard.

1. **Assassination of American Citizens Without Due Process**

President Obama asserts his right as President to order targeted killings of American citizens outside the territory of the United States based on his judgment that they pose a threat to the United States by their assumed intent to commit a terrorist act against the country or its citizens anywhere in the world. He claims that his personal deliberation, along with appraisals by senior members of the Intelligence community, meets the constitutional standard of due process. This is a legal travesty. Obama to date has ordered the assassination of one native born American citizen, Anwar al-Awlaki in Yemen. That drone strike also killed his teen-age son. Another drone strike targeting a Yemeni national killed a nephew who too was a United States citizen. These actions are a clear violation of the "due process" clause of the Constitution.

The ensuing discussion, such as it has been, is distorted by specious arguments that are a feature of the fearful atmospherics produced by the "war on terror. There are a lot of red herrings being trailed around Washington to distract from the dangerous path we are going down. They are being swallowed whole by the media as per usual. One is to raise the prospect of having to deal with another hi-jacked plane headed to a populous target a la 9/11 - as brought up by then Senate Majority Whip Dick Durbin. That vivid and scary picture obscures the cardinal

feature of the situation: the target in that instance is the terrorist hijacker and the weapon in his possession – the plane which happens to contain civilians including Americans. This is not at all the same as identifying an individual American in advance and making that person the object of arbitrary assassination. The decision whether to shoot down the plane is certainly harrowing. It raises a different order of ethical and legal issues, however, than does the Obama administration's premeditated kill list.

The most extreme situation is the one that has captured the frightened imagination via endless TV thrillers: the diabolical terrorist, perhaps an American citizen, hunched over a nuclear bomb that he is about to detonate. The stakes may be dire but the situational logic is pretty mundane. You don't need extraordinary presidential authority that infringes on constitutional protections to deal with this situation. It is the same in kind as the apprehension of a criminal with a gun or any other weapon who raises it to shoot a hostage or a policeman. A violent response is permissible since the authority to act is inherent in the police function.

Anyway, al-Awlaki posed no manifestly imminent, direct threat to the United States. He was as much legend as fact. The turning point was the botched attempt by that youthful jihadi wannabe, Umar Abdulmutallab, who tried to blow up a plane by torching his underpants in December 2009. Under protracted and intense interrogation while recovering, he stated that he had met Awlaki in Yemen. The story of the Arabian Svengali spread like wildfire. The White House panicked in the face of public fright fanned by the Republicans and the media. Al-Awlaki had become a pebble in Obama's political shoe – so he eliminated the guy.

The Fifth Amendment to the United States Constitution provides:

> [N]or shall any person . . . be deprived of life, liberty, or property, without due process of law . . . .[5]

2. INTERFERENCE WITH THE SENATE'S PERFORMANCE OF ITS CONSTITUTIONALLY PRESSCRIBED DUTIES – INCLUDING THE CRIMINEL BREAK-IN OF COMPUTERS

This article of indictment concerns President Obama's complicity in the Central Intelligence Agency's violation of its Constitutionally prescribed duty to respect the Congress' oversight of its activities. This duty is reinforced by explicit stipulations of the CIA's enabling statutes. There is no exemption or qualification. Responsibility for the conduct of the CIA lies with the Office of the President as head of the Executive Branch of which the CIA is a constituent part. Its Director, currently John Brennan, is appointed by the President and accountable to him. On March 10 of 2014, Senator Diane Feinstein, Chair of the Senate Intelligence Committee, spoke on the floor of the Senate to condemn the CIA for undertaking extensive electronic spying on the Committee and its staff by hacking its computers. The motive for doing so was to determine when and how the Committee had read a report prepared three years earlier during the tenure of then Director Leon Panetta that critically examined the Agency's record in conducting interrogations as part of the Global War On Terror (GWOT). That report had been concealed from the Committee in violation of law and practice.

The episodes encompass several phases; its main features can be summarized as follows. In 2009, the Intelligence Committee undertook a review of the CIA's interrogation methods so as to determine exactly what techniques were used, whether they constituted prohibited torture under American and international law, and the value of the intelligence obtained. Their task was complicated by the Agency's willful destruction of video tapes and recordings made at the time those questionable actions were occurring. Upon entering office, President Barack

Obama refused to investigate who had ordered and carried out that violation of the law. At the time, John Brennan was making the transition from a senior executive officer at the CIA to being appointed as Obama's Homeland Security and Counter Terrorism advisor (after having been considered for appointment as CIA Director). He previously had been George Tenet's Chief of Staff.

Independently, a parallel investigation had been undertaken at the CIA involving the Inspector General's office. The conclusions of the report, known as the "Panetta Report" and completed in 2010, apparently contradicts the official CIA position as to the kind of interrogation methods employed, their value, and the legal authority under which they were conducted. That is the report which had been requested by the Senate Intelligence Committee - the request repeatedly denied by John Brennan and his predecessors David Petraeus and Michael Morrell. This obstruction resulted in the delayed release of the Senate's own report which was completed and scheduled to be officially deposited in December of 2012 with an abridged, sanitized summary to be made public.

The Senate Committee continually made known to the CIA the progress of its investigation and has shown Brennan and his colleagues drafts. Brennan wrote a 122 page rebuttal to what was designated the final draft, but he claimed not to have consulted the long completed internal Panetta review. Senate Committee staff did gain access to the "Panetta" report when it appeared among the CIA materials they were reviewing while working at secure Agency premises near Langley. They recognized that its conclusions and those in the Senate Committee draft coincided and that they directly contradicted most of what Brennan's rebuttal had asserted. But CIA officials breached the committee's network in 2010 to remove documents the Agency had included in the files seen by Committee staffers. They included the "Panetta Review" that, according to Feinstein, found "significant CIA wrongdoing," and corroborated the still-classified Senate report.

It was that exposure that led Brennan to hack the Committee staff computers. His later decision to charge the Committee with purloining classified CIA internal documents seems aimed at diverting attention from those embarrassing contradictions, and his own suppression of the internal Agency report, by charging the Senate Committee with having illegally obtained the document. In other words, his illegal and unconstitutional denial of the Committee's access to a critical document to which they should be entitled, was to be masked by accusing the Senate staff of criminal behavior. The CIA's acting General Counsel, Robert Eatinger, made a formal submission to Attorney General Holder that the Department of Justice investigate the matter – an action that Feinstein calls "a potential effort to intimidate this staff." The formal "crimes report" he filed suggested that Congressional staffers had *stolen* the "Panetta" review.

Eatinger, who previously had been the Agency's chief legal adviser, had signed off on the supposed questionable practices that are at the heart of the Senate's probe. He was the top lawyer for the CIA's Detention and Interrogation Unit from mid-2004 until January 2009, when Obama shuttered the CIA's black sites abroad – and it was Eatinger who counseled that it was legal to destroy the video tapes of what was done at those black sites. That is why he reportedly is cited 1,600 times in the Committee draft report. In another incident, Eatinger was among CIA lawyers and officers chastised by a senior federal judge in 2009 for withholding critical information in court proceedings about the status of an Agency operative who was accused of bugging a former federal narcotics agent's home.

White House complicity centers on three issues. First is its role in removing the "Panetta" documents from the CIA materials made accessible to the Senate Committee. Second is its approval of the CIA's breaking into the Senate Committee computers. The third is its role in supporting Brennan's request to the DOJ for an investigation of possible criminal behavior by Committee staff.

As to disappearance of Agency documents, Senator Feinstein, in her Senate speech, asserted that she had been told by the CIA at one point that "the removal of the documents was ordered by the White House." Subsequently, the "Panetta" report too was removed by the CIA hackers. In the first instance, the White House denied giving the order. Since then neither the President nor his Press Secretary Jay Carney has denied Feinstein's assertion.* If Obama ordered their removal, it would accord with the draconian measures that his administration has taken to enforce absolute secrecy on the questionable practices of the United States' intelligence agencies past, present and future.

As to the White House's prior knowledge of the CIA's hacking of Senate Committee computers, evidence of White House complicity comes from a letter that Senator Mark Udall (D – Colorado) to president Obama on March 4 protesting the CIA's behavior. In it, Udall wrote: "*As you are aware*, the CIA has recently taken unprecedented action against the committee in relation to the internal CIA review and I find these actions to be incredibly troubling for the Committee's oversight powers and for our democracy." This declaration that Obama knew of the hacking has not been questioned by the White House. Brennan's readiness to spy on the Senate staff doubtless was encouraged by his having received at least tacit approval from the President. Indeed, he went so far as to tell Senator Feinstein personally, by her testimony, that the surveillance of Committee staff computers will continue.

As to the President's approval of the CIA's "crimes report" to the Attorney General, White House spokesman Carney said that Brennan and Eatinger informed the White House before making the referral. He went on to say that the President has "great confidence" in John Brennan."** It is inconceivable that Brennan, however aggressive his manner, would be so rash as to suggest that Senate staffers committed a crime unless he had a green light from the White House and understood that Barack Obama, to whom he was a long-time close advisor, "had his back."

It follows that Obama's statements that he was neutral about the issue are not to be credited. The President told reporters that "with respect to the issues that are going back and forth between the Senate committee and the CIA, John Brennan has referred them to the appropriate authorities and they are looking into it." (March 11) He went on to distance himself from the matter: "that's not something that is an appropriate role for me and the White House to wade into at this point." Against the backdrop of the White House's previous actions, this is disingenuous. It is vintage Obama casting himself as above the fray when in fact he has been personally involved in controversial decisions. First, he takes an illegal and/or illiberal initiative – behind the scenes; then when a ruckus erupts it's the pious "we're all well-intentioned; let's try to get along." Moreover, the claim that the referral is "appropriate" is itself a defense of the CIA in its campaign to undercut the Senate Committee's performance of its constitutional function. In other words, on the constitutional issue the President's position is that one Department of the Executive Branch, headed by his close friend and handpicked appointee, will judge the actions of another Executive Agency also headed by handpicked Obama appointee who worked in the White House for four years – those actions having been taken with the President's prior knowledge and apparent approval. It also is noteworthy that, independent of the above, President Obama's team has withheld about 9,400 documents that the Intelligence Committee requested as part of its review of the CIA's detention and interrogation program. Since 2009, the White House has ignored or rejected multiple requests from the committee to review the documents. (McClatchy News March 12).

Conclusion. **In respect to all three issues, the CIA under John Brennan's direction did not act as a rogue organization. The removal of the "Panetta" report and other documents from the Senate Committee computers, the hacking of the staff files, and the sending of a "crime report" to the Department of Justice occurred with the knowledge and approval of President Barack Obama.**

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Some may say that adjudication of the dispute ultimately rests with the Judicial Branch, i.e. the Supreme Court. That possibility in itself does not resolve the question of the President's accountability for conduct by an Executive Branch agency that flies in the face of specific legal stipulations and Constitutional principles. To accept that argument is to say that the President can do whatever he pleases so long as he does not move to prevent a judicial determination. And, indeed, there is the possibility that the Chief Executive would move to deny the jurisdiction and authority of the Supreme Court on the grounds of Executive privilege as it already has done on several cases involving claims of illegal detention, torture and spying.

The issue of the CIA's spying on the Senate Intelligence Committee stands out from other abuses by the United States' Intelligence agencies directed at private citizens and groups insofar as the core Constitutional principle of separation of powers is at stake. The Executive's disingenuous legal arguments used to justify mass surveillance and spying cannot apply in this case. Therefore, the President's approval of the CIA's behavior constitutes a defiance of the Constitution itself.

4.**VIOLATION OF EQUAL PROTECTION OF THE LAWS PROVISION**

The Obama administration on a number of instances has assumed prerogatives to decide when the law applies and when it does not. This is ***the third article of indictment***. President Obama has taken an oath to uphold the laws of the land. That pledge does not allow him personal discretion as to whom it applies. Yet he has agreed with Attorney General Eric Holder's publicly stated view that he, the Justice Department and the Executive Branch generally have a right to exempt financial institutions from criminal prosecution when they believe that doing so would cause “unacceptable” damage to the national economy.

Eric Holder made this startling confession in testimony before the Senate Judiciary Committee on March 5, 2011. (The Hill March 7) "I am concerned that the size of some of these institutions becomes so large that it does become difficult for us to prosecute them when we are hit with indications that if you do prosecute, if you do bring a criminal charge, it will have a negative impact on the national economy, perhaps even the world economy," Holder said, according to The Hill. Holder's comments don't come as a total surprise. His underlings had already made similar confessions to *The New York Times* the previous year, after they declined to prosecute HSBC for flagrant, years-long violations of money-laundering laws, out of fear that doing so would hurt the global economy. Lanny Breuer, formerly in charge of doling out the Justice Department's wrist slaps to banks, told Frontline as much in the documentary "The Untouchables" which aired in January 2011.

Let us be clear; Holder is not referring to the interpretation and application of any legal standard. He is referring to a purely subjective standard that has nothing to do with the law.

In a similar vein, it is reported that the Obama administration has instructed the Department of Justice and the FBI to make mortgage fraud its lowest priority and, indeed, to dismiss hundreds of cases without any investigation whatsoever. (Report of the Inspector General, Department of Justice March 11, 2014). It also improperly has diverted funds appropriated for this specific purpose to other areas. This arbitrary exclusion from investigation of the largest category of financial crime has been made in the face of well publicized and solemn undertaking by both President Obama and Attorney General Holder to take bold and expeditious action.

"Equal protection of the laws" is a principle enshrined in the Constitution. There is no allowance for the President or the Attorney General, who serves at the President's pleasure, to establish special classes of persons who are exempt from the laws' stipulations – either to make them immune or to deny them due process. Yet, that is what they explicitly have done.

5. VIOLATION OF HABEUS CORPUS PROVISIONS

President Obama has signed and thereby accepted the constitutionality of legislation that requires him to imprison without legal recourse American citizens here at home who are believed, at the President's discretion, to constitute a danger to the public safety. (National Defense Authorization Act 2011) The charges would be kept secret as would the very fact of their incarceration. The President could and should have vetoed that legislation. He could and should have challenged it in the federal courts. Instead, he gave it his official imprimatur.

6 .ABROGATING SECTIONS OF THE CONSTITUTION

The Trans Pacific Partnership (TPP) signed by President Obama last week with ten other countries is the most radical international agreement the United States ever has attached itself to. There is no precedent; indeed, there is no approximation. For it (1) entails the transfer of entire segments of national sovereignty to panels of multinational arbitrators, and (2) accords business corporations a legal status equal to that of the signatory states. In summary, its central provisions empower private parties to challenge laws and regulations promulgated by governments on the grounds that they in some manner curtail or obviate the privileges and prerogatives of investment institutions written into the 5,400 pages of the TPP treaty.

The obligatory dispute resolution mechanism is the constitution of *ad hoc*, three person panels which are endowed with final power of judgment. One of the three will be appointed by the plaintiff corporation, one by the defendant state and the third agreed mutually between the two parties. Their decision permits of no appeal. The purview of the panels, as derived from the comprehensive provisions

of the treaty, cover *inter alia* safety regulations, environmental regulations, repatriation of funds rules, alterations in taxes and fees, and legislation/rule that allegedly favors domestic business over foreign business. ***

The terms of the negotiations, including the positions of the United States, were kept secret from the Congress and the public. Business and financial interests participated directly in the preparation of the United states' proposals and in the negotiations throughout the multi-year negotiations. At the insistence of President Obama, Congress was forced to vote on according the administration fast-track authority that allows him to present the treaty as a package with no amendment possible. Despite immense lobbying pressure from business interests, the resolution that set "fast track" in motion failed in the Senate only to be rescued by some devious maneuvering by the White House. On no previous occasion had the President made anything like the exertions that he did on TPP.

This is the great underreported story of our times. The draft proposals are the most radical move in the direction of an unregulated world market place in history. In effect, states would relinquish a large slice of their sovereign authority to set standards in a variety of areas: environment, working conditions, etc. That authority would not be transferred to a supranational authority a la the European Union but to the market itself whose rules would be applied by a pro-business corps of private persons. In effect, the authority to control would cease to exist.

The issue here is less unconstitutional conduct than the vitiating of the Constitution itself.

CONCLUSION

The President of the United States has one overarching obligation: to uphold the Constitution and to enforce the laws of the land. That is the oath he swears on Inauguration Day. Failure to meet fully that obligation breaks the contract between him and the citizenry from whom he derives his authority and on whose behalf he acts. The consequence is to jeopardize the well-being of the Republic.

Barack Obama has violated his oath. The reasons why he has done so are immaterial to the issue of that violation and broken trust - however noteworthy they may be. It may be his misconstruing the responsibilities of office; it may be a lack of conviction about anything under the Heavens except his own singularity; it may be an ingrained sense of exceptionalism that transcends formal rules; it may be extreme deference to the powers of the land who awe him. It likely is a combination of all these.

In the absence of any other remedies, there remains the option of his **resignation.**

Precedent? The person, the behavior, and the circumstances are unprecedented. We do have one analogous instance. Pope Benedict voluntarily retired as Christ's vicar of the Holy See upon realization that he could not perform the duties of his exalted priestly office - and doubtless was encouraged to do so by the near lethal blow he had inflicted on the universal Catholic Church by his laxity in regard to the great pedophile scandal. If Joseph Ratzinger could pass the Keys of Saint Peter into the hands of someone better suited to be their custodian, Barack Obama can pass into other hands the keys to the White House. He thereby would depart the Presidency with a measure of honor and integrity intact. Moreover, his premature departure would send an exemplary message to his successors.

*Here are Senator Feinstein's remarks on the matter: "In May of 2010, the committee staff noticed that [certain] documents that had been provided for the committee's review were no longer accessible. Staff approached the CIA personnel at the offsite location, who initially denied that documents had been removed. CIA personnel then blamed information technology personnel, who were almost all contractors, for removing the documents themselves without direction or authority. **And then the CIA stated that the removal of the documents was ordered by the White House.** When the committee approached the White House, the White House denied giving the CIA any such order…When the Internal Panetta Review documents disappeared from the committee's computer system, this suggested once again that the CIA had removed documents already provided to the committee, in violation of CIA agreements and White House assurances that the CIA would cease such activities…"

** John Brennan is a person who lacks credibility. He has a long record of playing fast and loose and with the truth. To cite the most egregious examples: this is the man who testified in March 2012 that there has not been a single civilian death in Afghanistan due to American airstrikes. Brennan denied that drone strikes result in civilian deaths, in part by relying on a metric that considers every military-age male to be a combatant unless definitively proven otherwise. "Fortunately, for more than a year, due to our discretion and precision, the U.S. government has not found credible evidence of collateral deaths resulting from U.S. counterterrorism operations outside of Afghanistan or Iraq," Brennan told *The New York Times* in 2011, in response to a story about the drone program.

It should not be forgotten that, during the George Tenet era at CIA, Brennan was his Chief of Staff and Deputy Executive Director. He was a main player in the decisions to conduct torture and abuse of suspected terrorists, and to render suspected individuals to foreign intelligence services that conducted their own torture and abuse. Those outsourcing allies included Syria, Morocco, Egypt and Jordan. The United States itself ran "black sites" located in Poland, Romania, Bulgaria, Lithuania, Macedonia, Ethiopia. Thailand, Diego Garcia – among other locations. Torture also was conducted at several locations in Iraq and at Bagram in Afghanistan. The Senate Intelligence Committee's report on the "black sites' has been prevented from being released by Attorney-General Lynch.

Brennan is the man who Obama prized as tutor and mentor on all matters concerning the GWOT – and who remains so to this day. He did not brainwash the President; given Obama's deference and predisposition, all that was needed was a quick rinse.

***Under the TPP, corporations will be able to appeal the laws of nations to 3-member panels of arbitrators, with one arbitrator chosen by them and a second agreed to by both them and the nation whose laws they are seeking to overturn. See the chapter on "investment," for how this works. It means that a foreign oil or mining corporation, for example, could overrule a U.S. environmental law by appealing to 2 out of 3 corporate lawyers on a secret panel.

The TPP puts a large number of disastrous policies in place without waiting for corporate arbitration. For example, the U.S. Department of Energy would be required to approve any applications to export liquefied "natural" gas -- meaning more fracking, more destruction of the earth's climate, more profits for those who've been writing this treaty in secret for years, but not more sustainability, environmental protection, or even U.S. energy "independence."

The TPP could require the United States to import food that doesn't meet U.S. safety standards. Any U.S. food safety rule on pesticides, labeling, or additives that is higher than international standards could be challenged as an "illegal trade barrier."

The TPP would threaten provisions included in Medicare, Medicaid, and veterans' health programs to make medicines more affordable, as well as domestic patent and drug-pricing laws.