

TORTURE

Obama's long arc on torture

He promised a 'reckoning' ... in 2008. What happened?

By **JOSH GERSTEIN** | 12/08/2014 08:11 PM EST | Updated 12/10/2014 06:34 AM EST



Soon after President Barack Obama took office, he publicly endorsed the idea of a truth commission to cover the CIA's harsh interrogation tactics before abandoning the approach within a matter of hours. Privately, he returned to the concept a few weeks later and dwelt on it for some time, before again being talked out of it by staffers, a former administration official said.

“There was a debate about what to do. He personally got into the idea,” said the former aide, who asked not to be named. “The problem was these issues have a tar-pit quality to them: you step foot in them and they have a way of becoming all consuming. The administration had a lot on its plate back then and the strategy of fighting on these issues could have pretty quickly consumed the entire public narrative.”

Now, some six years later, the White House says the torture report that's set to be released on Tuesday fulfills Obama's longstanding desire for public accountability for CIA abuses. But the president's claim on having been a driving force in exposing the history of CIA interrogation practices in the war on terror looks to be a weak one. Indeed, the release of the report, which was first commissioned by the Senate Intelligence Committee, is more reflective of the Obama administration's ambivalence about what once seemed like a clear-cut commitment to transparency.

Despite the White House's claim that Obama "strongly supports" making the report public, the CIA and Obama Chief of Staff Denis McDonough have been wrangling for months with Intelligence Committee chairwoman Sen. Dianne Feinstein (D-Calif.) to limit disclosure of details that Democratic senators say are crucial to understanding the narrative of the program.

(Also on POLITICO: White House: U.S. prepared for torture report release)

Some of those lawmakers say Obama's commitment to ending torture has been crystal clear, but his commitment to exposing the history was never as strong.

"One of his first executive orders banned torture, so there was no question that he was going to make a clean break with the past policies. When it comes to reporting on what occurred, though, it's been different. It's hard for me to explain this administration's position," Sen. Dick Durbin (D-Ill.) said Monday.

Asked whether Obama would have acted on his own to expose the details of the program, Durbin said emphatically: "Without the leadership of Sen. Feinstein and her determination and the support of Democrats on the committee, there's no chance that this would see the light of day."

Still, the White House insists the release of the so-called torture report set to be made public Tuesday is the culmination of President Barack Obama's longstanding support for a clean break with the harsh interrogation techniques his predecessor greenlighted as part of the war on terror.

"The president, on his first or second day in office, took the steps using executive action to put an end to the tactics that are described in the report and the president believes that, on principle, it's important to release that report so that people around the world and people here at home understand exactly what transpired," White House Spokesman Josh Earnest said Monday. "We believe as much of this information, as much of this story as possible,

should be told....That has been the posture of the White House from the beginning —for years.”

(Also on POLITICO: McCaskill: 'Gut check moment')

Nonetheless, the administration’s views on how to enforce accountability on interrogations see-sawed over the years. Some former officials say the shifting positions are part of a pattern: Like the issues of closing the prison at Guantanamo Bay and addressing racial disparities in criminal justice, Obama delved into the torture issue early on, publicly put it aside, and now seems to be returning to it as his presidency enters its final two years.

“It’s not unique to this issue,” said the former official. “His compass tugs him in one direction, but political reality and perceived political reality pull him in another.”

One former senior adviser to Obama on issues like torture said the appearances of a disconnect between Obama’s rhetoric on the issue and the administration’s actions often stem from the president’s preference for consensus.

“It’s the difference between reaching a consensus view in the the administration or directing that something happen even in view of some objections,” said former State Department legal adviser Harold Koh. “If you leave it to the consensus approach the president blesses, there’s always someone who doesn’t want to do it [but] if he realizes he’s the one who’s going to lose credibility if it doesn’t get released, then this is the time to do it.”

While the White House and the Senate panel squared off over access to some documents, White House aides say the administration is not responsible for the fact that six years that have transpired since the Senate inquiry began. However, Obama aides acknowledge that they decided early on not to devote the administration’s own resources to exposing the Bush-era program when more pressing issues beckoned such as policy choices on Iraq and Afghanistan.

(From POLITICO Magazine: Dick Cheney was lying about torture)

Indeed, hints that President Obama’s stance on the Bush-era practices would be more complicated than it appeared during the 2008 campaign came before he ever took office. In a TV interview 10 days before his inauguration, Obama seemed to have lost some interest in the “reckoning” for “torture” promised in a speech future Attorney General Eric Holder gave when the campaign was in full swing.

“I don’t believe that anybody is above the law,” Obama told ABC. “On the other hand, I also have a belief that we need to look forward as opposed to looking backwards. ... My orientation is going to be moving forward.”

The administration did take some early steps towards transparency about the interrogation program. The most notable was the release in April 2009 of Justice Department legal opinions detailing many of the techniques and the legal rationales used to approve them.

But, even then, Obama hedged and suggested that the disclosure was a one-time event.

“The exceptional circumstances surrounding these memos should not be viewed as an erosion of the strong legal basis for maintaining the classified nature of secret activities,” Obama said. “This is a time for reflection, not retribution. I respect the strong views and emotions that these issues evoke. We have been through a dark and painful chapter in our history. But at a time of great challenges and disturbing disunity, nothing will be gained by spending our time and energy laying blame for the past.”

Little was heard on the issue for the following five years. Attorney General Eric Holder launched a probe of CIA abuses, but it petered out without any cases being brought. By this summer, however, the president seemed open to further disclosures on the issue.

“We tortured some folks,” he said bluntly. “My hope is....that this report reminds us once again that the character of our country has to be measured in part not by what we do when things are easy, but what we do when things are hard. And when we engaged in some of these enhanced interrogation techniques, techniques that I believe and I think any fair-minded person would believe were torture, we crossed a line.”

“That needs to be understood and accepted,” Obama said, seeming to again support the idea of a public accounting. “And we have to, as a country, take responsibility for that so that, hopefully, we don’t do it again in the future.”

“It’s a warped, dishonest piece of work”

— Former CIA Deputy Director John McConnell

Some former officials say the staff’s early inclination to talk Obama out of investing political capital in exposing the Bush-era tactics was driven by powerful figures such as Obama’s first White House Chief of Staff Rahm Emanuel.

Former Defense Secretary and CIA Director Leon Panetta claimed in his recent book that he was chewed out by Emanuel for pledging to cooperate with Feinstein's investigation.

"I was summoned to a meeting in the Situation Room, where I was told I would have to 'explain' this deal to Rahm ... It did not take long to get ugly," Panetta wrote in "Worthy Fights." "The president wants to know who the f**k authorized this to the committees,' Rahm said, slamming his hand down on the table. "I have a president with his hair on fire and I want to know what the f**k you did to f**k this up so bad."

Other officials, Panetta noted, immediately wondered whether Obama himself was fuming over the disclosure or whether Emanuel was actually the one enraged.

Now, Obama is approving the declassification of hundreds of pages of new details about how the interrogation program was carried out, notwithstanding loud objections from former officials.

"It's a warped, dishonest piece of work," former CIA Deputy Director John McLaughlin said. "It will be insulting for the foreign government who helped us....And it will be a recruiting tool for folks like ISIS."

Some advocates say the administration has been too deferential to such concerns, deleting portions of the public report at the request of CIA Director John Brennan, who is close to the president and many senior White House aides.

Current and former Obama aides acknowledge that the president's current willingness to embrace greater transparency for the Bush-era program is due to a perception that the political fallout of doing so will be less severe than it would have been years ago.

However, even some who favored postponing the so-called reckoning amid the economic crisis and other legislative priorities, now say it was the wrong call.

"The experience of the last six years tells me this was a mistake," said Ken Gude of the Center for American Progress. "What it really amounted to was a unilateral surrender. Those who wanted to abolish these policies ceded territory and were beaten by those who were advocating for torture. so here we are six years later getting the first real account, the transparency moment the president wanted, yet not closer to having a consensus view about these things we should have long ago put behind us."

Koh also welcomed the imminent release of the Senate report, but said it was too long in coming.

“I think there were probably missed opportunities to do it before,” he said. “Some people say don’t pick at the scab, but my experience here and in other countries is that it never heals until you acknowledge what went on.”

Burgess Everett contributed reporting to this story.

CORRECTION: A previous version of this story misstated the name of CIA Deputy Director John McLaughlin.