

Report indicates White House encouraged torture tape destruction

Administration demands retraction, calling news story “pernicious”

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At least four top White House lawyers knew about the existence of videotapes documenting the torture of prisoners held by the US Central Intelligence Agency, according to a report published Wednesday. One source has said that several officials strongly encouraged the destruction of the tapes to eliminate evidence of the interrogations.

The report, published in the *New York Times*, directly implicates leading figures in the Bush administration in the criminal destruction of evidence, in addition to the original crime of torture captured on the videotapes. In an indication of the extreme nervousness of the White House over the revelations, press secretary Dana Perino immediately issued a highly unusual statement condemning the article and demanding that the *Times* change its headline.

The videotapes in question recorded hundreds of hours of interrogations of at least two alleged members of Al Qaeda: Abu Zubaydah and Abd al-Rahim al-Nashiri. The prisoners had been subjected to torture, including water-boarding, after they were captured in 2002. The CIA destroyed the tapes in November 2005.

According to the *Times* article, which cites unnamed current and former administration and intelligence officials, the four lawyers involved took part in discussions “between 2003 and 2005 about whether to destroy” the videotapes.

The lawyers named were: Alberto Gonzales, a close Bush confidant who was White House counsel until early 2005, when he became attorney general; David Addington, then counsel and current chief of staff for Vice President Dick Cheney; Harriet Miers, White House counsel after Gonzales’ departure; and John Bellinger III, the top lawyer at the National Security Council.

The newspaper reports, “One former senior intelligence official with direct knowledge of the matter said there had been ‘vigorous sentiment’ among some top White House officials to destroy the tapes. The former official did not specify which White House officials took this position, but he said that some believed in 2005 that any disclosure of the tapes could have been particularly damaging after revelations a year earlier of abuses at Abu Ghraib prison in Iraq.

“Some other officials assert that no one at the White House advocated destroying the tapes. Those officials acknowledged, however, that no White House lawyer gave a direct order to preserve the tapes or advised that destroying them would be

illegal.”

It is likely that at least Addington and Gonzales—known for their support of unconstrained presidential power—advocated for the tapes’ destruction. Whatever the role of these individuals, it is now clear that the White House was heavily involved in the discussion leading up to the decision. At the very least, CIA officials were given a “wink and a nod,” with the tapes’ destruction tacitly encouraged through the failure to issue an order for their preservation.

This account contradicts previous attempts by the administration to suggest that the decision was made by the CIA in opposition to recommendations from White House officials. Current CIA director Michael Hayden, when he acknowledged the destruction of the tapes earlier this month, insisted that the decision “was made within CIA itself.”

The White House has refused to make any public comment on the tapes, other than to state that Bush himself had “no recollection” of the tapes or their destruction. However, the administration has not contradicted reports in the news media that Harriet Miers knew about the tapes and advised that they should be preserved.

The revelations also expose Hayden’s lie that the tapes were destroyed in order to protect the identities of the CIA interrogators involved. The main aim was to prevent evidence of US government torture policy from getting out. The tapes are evidence of criminality, and would further inflame opposition to Washington’s policy in the US and internationally.

The reaction from the White House was quick, and in its careful wording tends to confirm the *Times* account. Perino particularly objected to the sub-headline for the article, “White House Role Was Wider Than It Said,” and the statement in the article that the revelations indicated that White House involvement “was more extensive than Bush administration officials have acknowledged.”

Perino did not deny anything in the article. She simply insisted, “We have not publicly commented on facts relating to this issue.” The role of the White House is not “wider than it said,” because the White House has not said anything. “The *New York Times*’ inference that there is an effort to mislead in this matter is pernicious and troubling, and we are formally requesting that NYT correct the sub-headline of this story.”

The White House reaction is yet another expression of its

desperate attempt to bury the story and smother it in the administration's own joint investigation by the CIA and the Justice Department.

Administration officials have requested that Congressional committees halt their separate inquiries, and have instructed the CIA not to testify or turn over documents to Congress. The Justice Department has also sought to block a court hearing into possible obstruction of justice, claiming that any such hearing could hamper its investigation. Now, it is trying to block the limited media reports that have emerged so far. Its use of the word "pernicious" is clearly aimed at threatening or intimidating other news agencies.

The *Times* announced Wednesday that it would issue a correction both online and in its Thursday edition, but noted in a statement that the "White House has not challenged the contents of our story," only the second "deck" in its headline.

These attempts at cover-up may fail, though the administration is counting on Congressional Democrats—themselves complicit in the torture and cover-up—to contain the damage.

On Tuesday, US District Court Judge Henry Kennedy ignored the administration's request and scheduled a court hearing for Friday to investigate whether the destruction of the videotapes violated a court order. In June 2005, Kennedy ordered the administration to preserve "all evidence and information regarding the torture, mistreatment, and abuse of detainees now at the United States Naval Base at Guantánamo Bay."

The prisoners interrogated on the videotapes were not at Guantánamo Bay at the time. However, the destruction of the tapes is still obstruction of justice if the tapes are relevant to the court case.

"Obviously, if accusations against our clients have been obtained by torture, their credibility would be seriously undermined," said David Remes, a lawyer for the defendants in the case before Kennedy. "The government has shown here, with the destruction of the CIA tapes, that it is prepared to destroy evidence of its own misconduct, and where there is smoke, there is fire."

The *Los Angeles Times* notes that in a 2005 court filing in the case, the government insisted that it was "well aware of their obligation not to destroy evidence that may be relevant in pending litigation." They made this statement as part of an argument that the court order for preservation was not necessary.

In a separate case, the American Civil Liberties Union has asked a judge to find the CIA in contempt for violating an order to turn over or account for all documents relating to the interrogation of prisoners in US custody, not just in Guantánamo Bay.

The videotapes were also withheld from the trial of Zacarias Moussaoui, despite a court order, issued shortly before the destruction of the tapes, for the government to turn over videotaped interrogations. They were withheld from the 9/11 Commission. The commission received neither a transcript nor the video of the interrogation of Zubaydah, who was allegedly closely involved in the 9/11 terrorist attacks.

On Wednesday, the House Intelligence Committee said that it had prepared subpoenas to compel testimony from some CIA officials. If the subpoenas are issued, it could provoke a direct conflict with the White House, which might insist that the

subpoenas be ignored.

Several crimes are involved in this incident alone, which comes on top of a long list of criminal actions by the Bush administration. It was a crime to authorize water-boarding and other forms of torture. It was a crime to know about this torture and not to say anything (as was the case with several leading Democratic congressmen, including current House Minority Leader Nancy Pelosi, beginning in 2002). It was a crime to destroy evidence of the torture, and it was a crime to know of the destruction of this evidence and not say anything.

For the Democratic Party, the revelation of the tapes' existence and destruction is entirely unwelcome. They knew about the CIA torture program for years before its existence was leaked to the media, and leading Democrats knew the tapes were destroyed at least as early as November 2006. The nominal opposition party was content to let the story remain buried in secret intelligence committee hearings, where it could be kept from the American and international public.

Since assuming the leadership of Congress in January, the Democratic Party has organized no serious investigation into any aspect of the administration's policy. There have been no hearings into the program of "extraordinary rendition," despite evidence gathered by other sources, including CIA flight logs showing transfers to countries that practice torture. There have been no hearings into government policy preceding and leading up to the torture of Iraqi prisoners at Abu Ghraib. There has been no investigation into the evidence that CIA officials were involved in the interrogation of these prisoners.

There have been no investigations into the conditions faced by hundreds of prisoners at Guantánamo Bay, some of whom have stated that they have been systematically tortured. There have been no hearings into the conditions faced by the tens of thousands of prisoners held by the United States in Iraq, Afghanistan, and other countries.

There have been no investigations because the Democrats have no interest in revealing to the American people the nature of the actions carried out by the US government, actions that the Democrats support. While the revelation of the destruction of the videotapes has compelled Democrats to initiate hearings—with a House Judiciary Committee hearing scheduled to begin on Thursday—these are intended only as another means of whitewashing the crimes and preventing any real accountability.



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