

Bush CIA head agreed to destruction of torture videotapes

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According to a formerly secret email message made public Thursday, Porter J. Goss, appointed by President George W. Bush in 2004 to head the CIA, agreed to the November 2005 destruction of about 100 videos depicting the repeated waterboarding and other torture of two alleged Al Qaeda prisoners at a secret Thailand prison.

The email was among several documents recently released to the American Civil Liberties Union (ACLU) in the course of Freedom of Information Act litigation initiated in 2003. To date, the ACLU has made available over 100,000 pages of heavily redacted government documents detailing various aspects of the Bush administration's torture program.

The latest batch of documents reveals disputes between the CIA and Bush administration lawyers over the retention of video recordings depicting the 2002 torture of Abu Zubaydah and Abd al-Rahim al-Nashiri.

Other documents confirm that CIA interrogators exceeded the generous limits on "enhanced interrogation techniques"—the Bush administration euphemism for torture—set out in the infamous torture memoranda prepared by White House counsel.

The recent cache of documents can be downloaded from the ACLU's web site.

One document reveals that a CIA official assured then-White House counsel Jay Bybee (now a judge on the United States Court of Appeals for the Ninth Circuit) that although waterboarding "may be used more than once, that repetition will not be substantial because the techniques generally lose their effectiveness after several repetitions," and that "these acts will not be used with substantial repetition, so that there is no possibility that severe physical pain could arise from such repetition."

Yet, according to the same document, Abu Zubaydah

was subjected to "at least 83 [waterboard] exposures."

"In addition to the disparity in numbers," the document continues, "the method of water application as recorded on the tapes was at odds with the Bybee opinion." What the differences were between the torture methods sanctioned by Bybee and those actually employed on Abu Zubaydah appears to have been redacted.

Another document, "The CIA Interrogation of Abu Zubaydah," explains that although "24-48 hours of sleep deprivation" were approved, "due to a misunderstanding that time frame had been exceeded."

The document continues: "However...since the process did not have adverse medical effects or result in hallucination (thereby disrupting profoundly Abu Zubaydah's senses or personality) it was within legal parameters."

The report goes on to assure the reader: "It is not and has never been the Agency's intent to permit Abu Zubaydah to die in the course of interrogation and appropriately trained medical personnel have been on-site in the event an emergency medical situation arises."

Other documents detail the rationalization for destroying the tapes—the supposed protection of the agents doing the torturing—and instruct that future torture sessions be recorded on a single tape which can be reviewed at the end of the day's session and then reused the next day, erasing the prior recording "for the protection and safety of officers."

The emails reveal, however, that the real reason was concern that the recordings would someday become public and reveal the war crimes being perpetrated by CIA officials.

Two emails were sent on November 10, 2005 from an unidentified CIA official to Dusty Foggo, then the

number three official in the CIA (now a federal prisoner serving a 37-month sentence for accepting bribes). Just the day before, the tapes were destroyed on the orders of Jose A. Rodriguez Jr., the head of the CIA's clandestine service.

The emails confirm not only that all involved were fully aware that the torture sessions violated the law, they reveal a criminal cover-up, and then a cover-up of the cover-up.

“On the Zubaydah tapes,” the first email begins, “I am no longer feeling comfortable. While I understand Jose’s ‘decision’ (and believe the tapes were bad news) I was just told by [CIA lawyer John] Rizzo that [name redacted] DID NOT concur on the cable—it was never discussed with him (this is perhaps worse news, in that we may have ‘improperly’ destroyed something).”

The email continues: “Either [name redacted] lied to Jose about ‘clearing’ with [name redacted]...(my bet) or Jose misstated the facts. (It is not without relevance that [name redacted] figured prominently in the tapes as [name redacted] was in charge of [name redacted] at the time and clearly would want the tapes destroyed.) Rizzo is clearly upset because he was on the hook to notify [White House counsel] Harriet Miers of the status of the tapes because it was she who had asked to be advised before any action was taken. Apparently Rizzo called Harriet this afternoon and she was livid, which he said was actually unusual for her. Rizzo does not think is likely to just go away.”

The second email is the one implicating CIA Chief Goss. “Jose raised with Porter...and explained that he (Jose) felt it was extremely important to destroy the tapes and that if there was any heat he would take it. (PG [Porter Goss] laughed and said that actually, it would be he, PG, who would take the heat.) PG, however, agreed with the decision.

“As Jose said, the heat from destroying is nothing compared to what it would be if the tapes ever got into the public domain—he said that out of context, they would make us look terrible; it would be ‘devastating’ to us.”

Although the *New York Times* cites unnamed “current and former intelligence officials” as stating that Goss “did not approve the destruction before it happened,” the email strongly suggests that he did so, stating that the “issue of the Abu Zubaydah tapes were discussed”

right after the G-7 Meeting, which occurred nine months earlier.

The CIA had been ordered the previous year to preserve all documents that might respond to the ACLU lawsuit. The destruction of the tapes, which violated that order as well as various criminal statutes, has been investigated for more than two years by a special Justice Department prosecutor, John Durham, an assistant US attorney from Connecticut.

Robert Bennett, the lawyer representing Rodriguez in that investigation, said, “Jose did not in the dark of night destroy these things; it was discussed within the agency and with Congress.” His client, Bennett added, “was protecting his people and the national security of the country. He deserves a medal not an investigation.”

Bennett did not elaborate on how destroying evidence of war crimes helps national security or warrants a decoration.

Jameel Jaffer, director of the American Civil Liberties Union’s national security project, said the documents “make pretty clear the CIA was willing to commit the crime of destroying the tapes in order to cover up the crime of torture.” He could have added that officials in both the Bush and Obama administrations are complicit in the crime of covering up for those responsible for the tapes’ destruction.



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