

# GHOST DETAINEE FOIA RELEASE

In the midst of all the excitement over the OPR release, there's an equally revealing FOIA release in CCR and Amnesty International's Ghost Detainee FOIA. I will do very detailed posts on each of the Memoranda for the Record included in this release. But here's a general overview of what is included in the release:

## **A list of written Congressional Notifications**

While many of these are redacted, a number of them show when Congress learned about key issues. For example:

10/03/01: Delegation of Authority. This may refer to the Presidential Finding signed on September 17, 2001, authorizing the CIA to capture and detain al Qaeda personnel.

4/15/02: Capture of Abu Zubaydah. It took them over two weeks to inform Congress that they had captured AZ. The delay is interesting, among other reasons, because we know that CIA had already started to push FBI out of the interrogation process (even though FBI was making progress) and, more importantly, John Yoo started the opinion to authorize torture four days before this point, on April 11. They had already decided they were going to torture Abu Zubaydah before they officially informed Congress they had captured him (which was weeks after it had already been reported). So this was an opportunity when CIA should have told Congress they were going to get into the torture business, but did not.

11/22/02: Key al-Qa'ida Operative al-Nashiri in Custody: The OPR report makes it clear that we got al-Nashiri in custody on November 15. We waterboarded him 12 days later, so roughly November 27. Yet Congress still had not been briefed that CIA was using waterboarding on detainees. As with the earlier Abu Zubaydah notice, this was another point when CIA should

have, but did not, tell Congress they were in the process of torturing someone.

4/1/05: Detention History, Claims of Links to Iraq, and Recantations. This presumably would have focused on Ibn Sheikh al-Libi's claim, under torture, that he knew of ties between al Qaeda and Iraq. I'm curious why CIA chose this date to let Congress know about that?

#### **More CIA briefing lists**

There appear to be two separate versions of briefings CIA did for Congress here (one is titled "Interrogation Briefings to the Hill" and the other is described as listing rendition briefings in the cover letter). Note these are not the same as the list CIA made available last year. Rather, these seem to be the underlying lists which had already been partly debunked by the time CIA released its new list last year (this appears to have been collected for Michael Hayden in anticipation of his April 12, 2007 SSCI hearing, at which he would publicly admit CIA had engaged in torture).

Some comments:

These new lists start earlier than last year's list; the second one (with the redacted title) even begins before 9/11. Since the topic on these may refer to renditions, it is possible the second list (with redacted title) pertains to renditions. Also note the reference on March 7, 2006 that makes a distinction between "detainees" and someone else (ghost prisoners?).

These lists include some of the briefings contested by others, for example:

- The 9/9/02 briefing that Bob Graham successfully refuted (raising the question—was Shelby briefed?)
- The March 8, 2005 briefing which, on last year's list, included Goss as a

participant (he was DCI by that point, so if he attended, it would have been as briefer); it doesn't list Harman as attending though last year's list does (see below—it's clear this is another Cheney briefing)

These lists also include briefings for Intell Leaders not noted on last year's briefing list, including:

- An extra 2/4/03 briefing for Harman and Goss (which likely didn't occur since it wasn't mentioned in Harman's letter)
- A "Summer 2003" briefing for the Gang of Four (note, it is unclear whether this appears in the SSCI narrative or not)
- A 1/28/04 briefing for Goss and Harman
- A 3/16/05 briefing for Hoekstra and Harman
- A 6/30/05 briefing for Rockefeller (note, these June 2005 briefings are where, supposedly, a CIA officer lied about the program, and this was when Rockefeller was asking to see the report on the torture tapes)
- A 7/1/05 briefing for Hoekstra—the Majority Leader

Denny Hastert attended this one

There are briefings for committees outside of the Intelligence Committees

- Briefings on 10/31/2003, 2/4/04, 5/8/04, 5/11/2004, 6/4/2004, 8/6/2004, 5/4/05, 6/35/05 for some sort of Appropriations Committee; there are two more shown that were included on last year's list
- A 3/9/06 briefing for Biden and Lugar, as Ranking members of the SFRC
- A 3/17/05 Open Hearing for SASC

And several briefings for Bill Frist, without his Democratic Counterpart (one of which appears on last year's list)

- A 7/15/04 breifing on the same schedule that Intell leaders got briefed on the CIA IG report, a 4/4/06 briefing that specified "no EITs," and a 6/17/06 briefing on CTC Detainee program; Frist also had a 11/1/05 briefing noted on last year's list
- Also note that Denny Hastert attended the 7/1/05 breifing for Hoekstra (Harman was not in attendance; this was the period when CIA was

considering destroying the torture tapes)

- Jon Cornyn got a briefing (subject redacted) on 1/23/06

In general, these two lists show how crappy CIA's record-keeping is, the degree to which Republicans at times got briefed without Democrats, and the degree to which appropriators were getting briefed on the same schedule or before intelligence committees were.

#### **Memoranda for the Record**

This release includes the CIA's memoranda for the record from briefings from the following dates:

- 2/4/03 briefing of Goss and Harman
- 5/6/04 briefing of the full HPSCI (on Iraqi abuse): Note the very special speech Randall Cunningham made about "the stain on the US" scandals cause
- 5/6/04 briefing of SAC/DEF staffers (on Iraqi abuse)
- 5/10/04 briefing of SAC/DEF staffers
- 7/13/04 briefing of Roberts

I'll deal with the 2/4/03 and the 7/13/04 MFRs in separate posts.

#### **Miscellaneous other documents**

In addition this document dump includes:

- A CTC note from February 14, 2005 panicking that SSCI might hold hearings on

detainees (interestingly, it references Dan Levin in his brand new job at NSC at the White House); this sets off the panic that would add pressure to the production of the Bradbury Memos

- A note from March 7, 2005 making clear that a briefing w/Cheney scheduled for that day was postponed to the following day; this suggests that the erroneous reference to Porter Goss from the following day almost certainly means he briefed with Cheney (Note, there is reason to doubt Jane Harman was present, contrary to what last year's list indicates)
- Heavily redacted CFRs from June 2005
- 2 versions (one incomplete and both redacted) of Michael Hayden's April 12, 2005 briefing to SSCI)

Update: fixed error in date of Abu Zubaydah notice.