

# RECYCLING TORTURE TIMELINES

Per Jeff's suggestion, I took a closer look at Zelikow's memo on how the CIA stiffed the 9/11 Commission on evidence relating to interrogations of Abu Zubaydah and al-Nashiri. I'll come back and comment on it in more detail—but I was struck by how closely the requests coincided with the beginnings of the Abu Ghraib scandal and Tenet's resignation. So for now, I'm just adding some dates to this timeline (which I've integrated my torture tapes timeline). Look closely at the roles of Rummy, Cambone, Tenet, and McLaughlin.

August 1, 2002: Bybee Memo on torture governing interrogations by CIA

March 2003: Second John Yoo opinion on torture, governing interrogations by DOD

June 6, 2003: 9/11 Commission requests "all TDs and other reports of intelligence information obtained from interrogations' of forty named individuals from CIA, DOD, and FBI

August 31 to September 9, 2003: Major General Geoffrey Miller ordered to Abu Ghraib from Gitmo

September 22 and September 25, 2003: 9/11 discussions with CIA about interrogation process

October 1, 2003: Hamdi petition filed with SCOTUS

October 14 and 16, 2003: 9/11 Commission sends questions to CIA General Counsel Scott Muller on interrogations

October 31 and November 7, 2003: Response to 9/11 Commission with little new information

Fall 2003: General Sanchez visits Abu

Ghraib regularly

December 2003: Jack Goldsmith tells Rummy he will withdraw March 2003 opinion on torture

December 23, 2003: 9/11 Commission requests access from Tenet to seven detainees; Tenet says no; Lee Hamilton asks for any responsive documents

January 5, 2004: 9/11 Commission decides CIA responses inadequate

January 9, 2004: SCOTUS **agrees** to hear Hamdi

January 13, 2004: Joseph Darby gives CID a CD of images of abuse

January 15, 2004: Memo to Gonzales, Muller, and Steve Cambone asking for more information

January 15, 2004: General Craddick **receives** email summary of story

January 19, 2004: General Sanchez **requests** investigation of allegations of abuse

January 20, 2004: Craddick and Admiral Keating receive another notice of abuse

January 2004: General Myers learns of abuse

January 26, 2004: After negotiations with Gonzales, Tenet, Rummy, and Christopher Wray from DOJ, 9/11 Commission accepts asking questions through intermediary

January 31, 2004: Taguba **appointed** to conduct investigation

February 9, 2004: 9/11 Commission requests "all TDs and reports related to the attack on the USS Cole, including intelligence information obtained from the interrogations of Abd al Rashim al

Nashiri" from CIA

February 2 to 29, 2004: Taguba's team in Iraq, conducting investigation

March 9, 2004: Taguba **submits** his report

Late March, 2004: 60 Minutes II starts on story

April 2004: General Miller ordered to Abu Ghraib to fix problems

April 7, 2004 (approximately): 60 Minutes II acquires photos authenticating Abu Ghraib story

Mid-April, 2004: General Myers calls Dan Rather to ask him to delay story

Mid-April, 2004: Taguba **begins** to brief officers on his report ("weeks" before his May 6 meeting with Rummy)

April 28, 2004: Hamdi v. Rumsfeld argued before SCOTUS; Paul Clement **assures** SCOTUS that the Administration doesn't torture

QUESTION: May I ask just one other question, I think it's just relevant. But do you think there is anything in the law that curtails the method of interrogation that may be employed?

MR. CLEMENT: Well, I think there is, Justice Stevens. I mean -

QUESTION: And what is that?

MR. CLEMENT: Well, just to give one example, I think that the United States is signatory to conventions that prohibit torture and that sort of thing. And the United States is going to honor its treaty obligations. The other thing that's worth mentioning of course -

QUESTION: But you said something about self-executing. In connection with the Geneva Convention, you said, well, it's not self-executing. Would you say the same thing about the torture convention?

MR. CLEMENT: Justice Ginsburg, I actually have the sense that the torture victims – you have the Torture Victim Protection Act, of course, which I think doesn't actually apply to the United States. So I'm not sure that there would be any other basis for bringing a private cause of action against the United States. But as this Court noted in footnote 14 of the Eisentrager opinion, the idea that a treaty is going to be enforced through means other than a private cause of action doesn't mean that it's not a binding treaty, doesn't mean that it's not going to constrain the actions of the executive branch. Just to finish up my answer to Justice Stevens' question, I wouldn't want there to be any misunderstanding about this. It's also the judgment of those involved in this process that the last thing you want to do is torture somebody or try to do something along those lines.

April 28, 2004: Abu Ghraib story **airs** on 60 Minutes II

May 2004: CIA briefing for Addington, Bellinger, and Gonzales on torture tapes

May 6, 2004: Taguba **meets** with Rummy, Wolfowitz, Cambone, Myers, and others

In the meeting, the officials professed ignorance about Abu Ghraib. "Could you tell us what happened?" Wolfowitz asked.

[snip]

"Here I am," Taguba recalled Rumsfeld saying, "just a Secretary of Defense, and we have not seen a copy of your report. I have not seen the photographs, and I have to testify to Congress tomorrow and talk about this."

May 7, 2004: Rummy testifies before Congress on Abu Ghraib

May 20, 2004: 9/11 Commission asks about Abu Zubaydah reference to Saudi prince; they get no response

June 3, 2004: Tenet announces his resignation; John McLaughlin resigns as well

June 7, 2004: WSJ refers to March 2003 OLC opinion

June 8, 2004: WaPo refers to Bybee Memo

June 15, 2004: Goldsmith informs Ashcroft he will withdraw Bybee Memo and resigns

June 28, 2004: Hamdi decision

June 29, 2004: John McLaughlin confirms that CIA "has taken and completed all reasonable steps necessary to find the documents in its possession, custody, or control responsive" to the 9/11 Commission's formal requests and "has produced or made available for review" all such documents

July 11, 2004: Tenet's resignation effective

I'm struck by three things.

First, Rummy and Cambone almost certainly knew of the Abu Ghraib scandal when they were negotiating with the 9/11 Commission about getting testimony from Abu Zubaydah, among others.

Second, one of the last things McLaughlin did before he resigned as DDCI was to assure the 9/11 Commission they had handed over all the documents relating to the interrogations in question.

Third, look at the context of that CIA briefing for Addington, Gonzales, and Bellinger in May 2004. Not only was the Administration dealing with the aftermath of the Abu Ghraib story, but it was also facing Goldsmith's reconsideration of John Yoo's torture guidance.