

IT'S NOT JUST THAT LEVIN WAS OUSTED-IT'S BRADBURY'S TRIAL RUN ON TORTURE

ABC reports something that had been somewhat clear for some time. Daniel Levin was ousted from the Office of Legal Counsel after he wrote a memo that limited the use of torture.

Former Attorney General Alberto Gonzales, now under investigation for allegedly politicizing the Justice Department, ousted a top lawyer for failing to adopt the administration's position on torture and then promised him a position as a U.S. attorney to placate him, highly placed sources tell ABC News.

Gonzales, who was just taking over as attorney general, asked Justice Department lawyer Daniel Levin to leave in early 2005, shortly after Levin wrote a legal opinion that declared "torture is abhorrent" and limited the administration's use of harsh interrogation techniques.

At the time, Levin was in the middle of drafting a second, critical memo that analyzed the legality of specific interrogation techniques, like waterboarding.

Gonzales, however, was concerned about how it would be perceived if Levin were ousted immediately after issuing the opinion – and just before he finished another – so he offered Levin a less significant job outside the Department of Justice at the National Security Council, sources tell ABC News.

[snip]

Levin took the NSC job in March 2005. The U.S. attorney position never materialized, and sources close to Levin say he never believed Gonzales was serious.

As ABC points out, Kyle Sampson floated Levin's name to replace Kevin Ryan in San Francisco.

But what ABC only hints at is what happened next: the trial run of Stephen Bradbury for the position of OLC head. Within months after Levin was ousted, we know, Bradbury wrote three new memos on torture, endorsing the combined use of harsh techniques.

When the Justice Department publicly declared torture "abhorrent" in a legal opinion in December 2004, the Bush administration appeared to have abandoned its assertion of nearly unlimited presidential authority to order brutal interrogations.

But soon after Alberto R. Gonzales's arrival as attorney general in February 2005, the Justice Department issued another opinion, this one in secret. It was a very different document, according to officials briefed on it, an expansive endorsement of the harshest interrogation techniques ever used by the Central Intelligence Agency.

The new opinion, the officials said, for the first time provided explicit authorization to barrage terror suspects with a combination of painful physical and psychological tactics, including head-slapping, simulated drowning and frigid temperatures.

Mr. Gonzales approved the legal memorandum on "combined effects" over the objections of James B. Comey, the deputy attorney general, who was leaving his job after bruising clashes with the White House. Disagreeing with what he

viewed as the opinion's overreaching legal reasoning, Mr. Comey told colleagues at the department that they would all be "ashamed" when the world eventually learned of it. [my emphasis]

And see here for another of Bradbury's early torture opinions.

As the NYT points out, Bradbury wrote these memos during a period that Harriet Miers considered a trial run for Bradbury, basically to see whether Bradbury would give the Administration precisely the opinions it wanted.

Among his first tasks at the Justice Department was to find a trusted chief for the Office of Legal Counsel. First he informed Daniel Levin, the acting head who had backed Mr. Goldsmith's dissents and signed the new opinion renouncing torture, that he would not get the job. He encouraged Mr. Levin to take a position at the National Security Council, in effect sidelining him.

Mr. Bradbury soon emerged as the presumed favorite. But White House officials, still smarting from Mr. Goldsmith's rebuffs, chose to delay his nomination. Harriet E. Miers, the new White House counsel, "decided to watch Bradbury for a month or two. He was sort of on trial," one Justice Department official recalled.

So not only did the Administration oust Daniel Levin, knowing that he wouldn't authorize torture for them, they held out a kind of quid pro quo to Bradbury, dangling the OLC nomination contingent on these new opinions authorizing inhumane treatment.