

UNEMPLOYED BUSH LAWYERS AND THE OPR REPORT

Let's do some math.

First, the NYT reports that, like Alberto Gonzales, David Addington is also facing some career challenges.

David S. Addington, a top aide to Vice President Dick Cheney who was a forceful voice in internal legal debates, is also said to still be looking for work.

Next, Scott Horton reports on the upcoming OPR report detailing John Yoo and Steven Bradbury's unethical conduct in craft OLC memos to justify torture. The report, apparently, focuses on contacts between the White House and OLC.

Sources at the department who have examined [the OPR] report state that it echoes some of the harshest criticisms that have appeared in the academic literature, but **the report's real bombshell, they say, will be its detailed disclosure of Yoo's dealings with the White House in connection with the preparation of the memos.** It is widely suspected that the Yoo memos were requested as after-the-fact legal cover for draconian policies that were already in place ("CYA memos"). If the Justice Department internal probe concludes this is the case, that could have clear consequences for the current debate surrounding the Bush administration's accountability for torture. [my emphasis]

Earlier reports had mentioned some surprise among observers that investigators had included the contents of emails, which makes me wonder

whether the White House's so-far success at eliminating emails from other periods—like September-October 2003—when they were breaking the law didn't extend as far back as 2001 and 2002. That is, I wonder whether the surprise had as much to do with the fact that OPR managed to get emails between the White House and Yoo, as with the emails themselves.

Now, right off the bat, I can think of some dates that might make this more interesting. The warrantless wiretap program started in early October. But they were still writing new memos to authorize it (and eliminate the Fourth Amendment) for several months after the fact (though the OPR investigation into wiretapping is separate). They started torturing Abu Zubaydah before August 1, 2002, when Yoo's first memos came out on it (I suspect the third still-classified memo may retroactively approve the earlier torture). And DOD started the torture regime before authorization for that went up the chain of command.

There are already a few memos where we know the illegal program started, only to be followed by a Yoo memo authorizing that program (there's an August 1, 2002 one that I suspect may retroactively approve of what they had been doing to Abu Zubaydah).

Is it possible that the private firms that refuse to employ Gonzales and (apparently) Addington already know their responsibility for illegal activity will come out?