

RICE AND GOSS TURN ON CHENEY

Keep in mind that this article seems to be at least partly the product of two entities—the Bellinger/Condi- and the Goss-reputation protection entities—that have been working overtime lately. (h/t Loo Hoo) In fact, the article references the YouTube of Condi proclaiming, "By definition, if it was authorized by the President, it did not violate our obligations in the Convention Against Torture," without explicitly telling NYT's readers what Condi said. I guess that part—the part where Condi continues to defend the program by channeling Nixon—isn't important.

Nevertheless, the article provides a few more data points on the torture plan.

June 2003 Statement of Support Was a Response to Shrub's Speech

First, the article explains why CIA chose June 2003—of all times—to insist the White House write up a policy statement supporting torture with Bush's name on it.

The proclamation that President George W. Bush issued on June 26, 2003, to mark the United Nations International Day in Support of Victims of Torture seemed innocuous, one of dozens of high-minded statements published and duly ignored each year.

The United States is "committed to the worldwide elimination of torture and we are leading this fight by example," Mr. Bush declared, vowing to prosecute torture and to prevent "other cruel and unusual punishment."

Uh, yeah, I can see why that would make the CIA squirmy about doing Bush's cruel and unusual punishment for him.

If this were a just world, the statement CIA forced Bush to write after he proclaimed we will prosecute torture and prevent cruel and unusual punishment, the statement basically endorsing torture as our country's policy, will be the piece of evidence that leads to his prosecution. Alas, this is not usually a just world.

Porter Goss CYAed Himself in December 2005

And then there's the bit where Porter Goss protects himself by saying White House was pushing for torture at the end of 2005, but Goss was refusing without further cover from DOJ.

Acutely aware that the agency would be blamed if the policies lost political support, nervous C.I.A. officials began to curb its practices much earlier than most Americans know: no one was waterboarded after March 2003, and coercive interrogation methods were shelved altogether in 2005.

[snip]

Provoked by the abuse scandal at the Abu Ghraib prison in Iraq and pushed by Senator John McCain of Arizona, who had been tortured by the North Vietnamese, the 2005 bill banned cruel, inhuman and degrading treatment.

Top C.I.A. officials then feared that the agency's methods could actually be illegal. Mr. Goss, who had succeeded Mr. Tenet at the C.I.A., wrote a memorandum to the White House saying the agency would carry out no harsh interrogations without new Justice Department approval.

The national security advisor, Mr. Hadley, was angered by the C.I.A.'s response. He called Mr. Goss at home over the Christmas holidays to complain; Mr. Goss, backed by his lawyers, would not budge. Mr. Hadley decided he could not push the C.I.A. to do what it thought might be illegal.

Now, there are reasons to doubt this narrative (aside from the fact that it comes from Porter Goss). McCain's bill left wiggleroom for the CIA. And CIA already had an opinion from DOJ—the May 30, 2005 memo published earlier that year—purporting to discuss cruel and unusual treatment. So the concern of the lawyers at CIA had to have been as much about how crappy Bradbury's opinion was as it was about anything in the McCain Amendment.

It's also rather nice, don't you think, that Goss doesn't mention his role in not preventing the destruction of the torture tapes right in the middle of the debate on the McCain amendment? I guess that—like Condi's "by definition" statement—isn't relevant to this story. Yet it suggests a number of other possible motives behind Goss' refusal to continue torturing—particularly as Congress continued to look more closely at the CIA's torture program. Of course, if Goss admitted that, then it would ruin his whole narrative about how Congress never complained, wouldn't it? But perhaps he's moving on from that narrative to one that claims that "Dick made me do it."

Condi Triumphant Over Dick

And then the story tells about how Condi triumphed over Cheney in insisting that the high value detainees be brought to Gitmo in September 2006 (click through—there's a part about everyone laughing at Gonzales' stupid solution for the detainee problem).

But this part of the narrative may be a limited reveal of upcoming Bradbury horrors as much as anything else. Apparently, after SCOTUS told the Administration that detainees qualified for Article 3 of the Geneva Conventions, Cheney had Bradbury write a memo that tried to say, "Lalalalalalalalala I can't hear you."

Still, Mr. Cheney and top Justice Department officials fought to revive the program. Steven G. Bradbury, the

head of the department's Office of Legal Counsel and author of the recently declassified 2005 memorandums authorizing harsh C.I.A interrogations, began drafting another memorandum in late 2006 to restore legal approval for harsh interrogation. Mr. Bradbury noted that Congress, despite the public controversy, had left it to the White House to set the limits.

Early drafts of the memorandum, circulated through the White House, the C.I.A. and the State Department, stunned some officials. Just months after the Supreme Court had declared that the Geneva Convention applied to Al Qaeda, the new Bradbury memorandum gave its blessing to almost every technique, except waterboarding, that the C.I.A. had used since 2002.

Forced as secretary of state to defend the C.I.A. program before angry European allies, Ms. Rice and her aides argued that it had outlived its usefulness.

In February 2007, Mr. Bellinger wrote to the Justice Department challenging Mr. Bradbury's position. He called Mr. Bradbury's memorandum a "work of advocacy" that gave a twisted interpretation of the Geneva Conventions, and told colleagues he might resign.

When Mr. Bush finally reauthorized C.I.A. interrogations with an executive order in July 2007, it reflected the yearlong lobbying of Mr. Bellinger and Ms. Rice: Forced nudity was banned and guidelines for sleep deprivation were tighter.

Note the "outlived its usefulness" line? That's not going to be much of a help in suppressing the "by definition" comment.

As I said, though, some of this may be a pre-emptive reveal on Bradbury's part. We know OPR may have looked at emails exchange regarding the opinions Bradbury and Yoo wrote. Imagine what those early emails must have looked like, responding to Bradbury deliberately ignoring a SCOTUS ruling?

Though there's one thing that's odd about this narrative. Bradbury (presumably) also wrote two 2006 memos; but the one referred to in this story seems to be the 2007 memo. The SSCI Narrative describes the memos Bradbury wrote in this period this way.

In August 2006, OLC issued two documents considering the legality of the conditions of confinement in CIA facilities. One of the documents was an opinion interpreting the Detainee Treatment Act; the other document was a letter interpreting Common Article 3 of the Geneva Conventions, as enforced by the War Crimes Act. These documents included consideration of U.S. constitutional law and the legal decisions of international tribunals and other countries.

[snip]

In July 2007, the President issued Executive Order 13440, which interpreted the additional obligations of the United States imposed by Common Article 3 of the Geneva Conventions. In conjunction with release of that Executive Order, OLC issued a legal opinion analyzing the legality of the interrogation techniques currently authorized for use in the CIA program under Common Article 3 of the Geneva Conventions, the Detainee Treatment Act, and the War Crimes Act.

While the confusion over which of these memos this pertains to doesn't change the audacity of Cheney and friends telling SCOTUS to fuck off,

it does raise questions about the reaction to those earlier memos.

I guess the biggest conclusion we can draw from this article is that the torture apologists are going to continue turning on each other to try to exonerate their own roles in this process. And heck, if Dick Cheney and David Addington and Steven Bradbury end up holding the bag, I can live with that.