

HIDING AL-NASHIRI'S TORTURE

Less than a month after the NYT first revealed the CIA had destroyed torture tapes, I suggested that Doug Jehl's November 9, 2005 story may have been the precipitating factor that led the CIA to destroy the torture tapes.

In other words, Helgerson and his staff reviewed the torture tapes sometime between early 2003 and late 2005, quite possibly close to the time of that May 2004 White House briefing.

Which is rather significant, since that earlier period (2003 to 2004) coincides with the period when Helgerson's office was also investigating the CIA's interrogation program. Here's a Doug Jehl story on the report **that was published (will coinkydinks never cease?!?!?) on November 9, 2005, within days of the torture tape destruction** and apparently one day after the CIA issued a statement denying they torture (though the statement doesn't appear in their collection of public statements from the period).

A classified report issued last year by the Central Intelligence Agency's inspector general warned that interrogation procedures approved by the C.I.A. after the Sept. 11 attacks might violate some provisions of the international Convention Against Torture, current and former intelligence officials say.

[snip]

The report, by John L. Helgerson, the C.I.A.'s inspector general, did not

conclude that the techniques constituted torture, which is also prohibited under American law, the officials said. But Mr. Helgerson did find, the officials said, that the techniques appeared to constitute cruel, inhuman and degrading treatment under the convention.

The agency said in a written statement in March that "all approved interrogation techniques, both past and present, are lawful and do not constitute torture." It reaffirmed that statement on Tuesday, but would not comment on any classified report issued by Mr. Helgerson. The statement in March did not specifically address techniques that could be labeled cruel, inhuman or degrading, and which are not explicitly prohibited in American law.

The officials who described the report said **it discussed particular techniques used by the C.I.A. against particular prisoners, including about three dozen terror suspects being held by the agency in secret locations around the world.** They said it referred in particular to the treatment of Khalid Sheikh Mohammed, who is said to have organized the Sept. 11 attacks and who has been detained in a secret location by the C.I.A. since he was captured in March 2003. Mr. Mohammed is among those believed to have been subjected to waterboarding, in which a prisoner is strapped

to a board and made to believe that he is drowning.

In his report, **Mr. Helgerson also raised concern about whether the use of the techniques could expose agency officers to legal liability**, the officials said. They said the report expressed skepticism about the Bush administration view that any ban on cruel, inhuman and degrading treatment under the treaty does not apply to C.I.A. interrogations because they take place overseas on people who are not citizens of the United States.

I've seen the report's publication date as either April or **May 2004**—but in any case, **at almost exactly the same time CIA briefed Addington, Gonzales, and Bellinger** on the torture tapes. Which makes Helgerson's claim that he "reviewed the tapes at issue" during that period particularly interesting. Helgerson's report—which focuses on the treatment of a number of named detainees—may have relied on those torture tapes to form the judgment that the CIA was engaged in cruel and inhuman treatment. In fact, it's even possible that the CIA briefing in May 2004 pertained not just to Abu Ghraib (which was, after all, a DOD operation, not a CIA one), but also to the fact that the CIA IG had just declared in a written report that the tactics used (and presumably shown in the tapes) amounted to illegal treatment of detainees.

From Hosenball and Isikoff's preview of Monday's IG Report, it sounds like I was right.

Nashiri's interrogators brandished the

gun in an effort to convince him that he was going to be shot. Interrogators also turned on a power drill and held it near him. "The purpose was to scare him into giving [information] up," said one of the sources. A federal law banning the use of torture expressly forbids threatening a detainee with "imminent death."

According to the sources, the report also says that a mock execution was staged in a room next to a detainee, during which a gunshot was fired in an effort to make the suspect believe that another prisoner had been killed. The inspector general's report alludes to more than one mock execution.

Before leaving office, Bush administration officials confirmed that Nashiri was one of three CIA detainees subjected to waterboarding. They also acknowledged that Nashiri was one of two al Qaeda detainees whose detentions and interrogations were documented at length in CIA videotapes. But senior officials of the agency's undercover operations branch, the National Clandestine Service, ordered that the tapes be destroyed, an action which has been under investigation for over a year by a federal prosecutor.

Not only did al-Nashiri's torturers laugh in his face, they wielded a drill and a gun to make him falsely confess that al Qaeda had nukes.

I can see why they couldn't let tapes of that lie on a shelf.