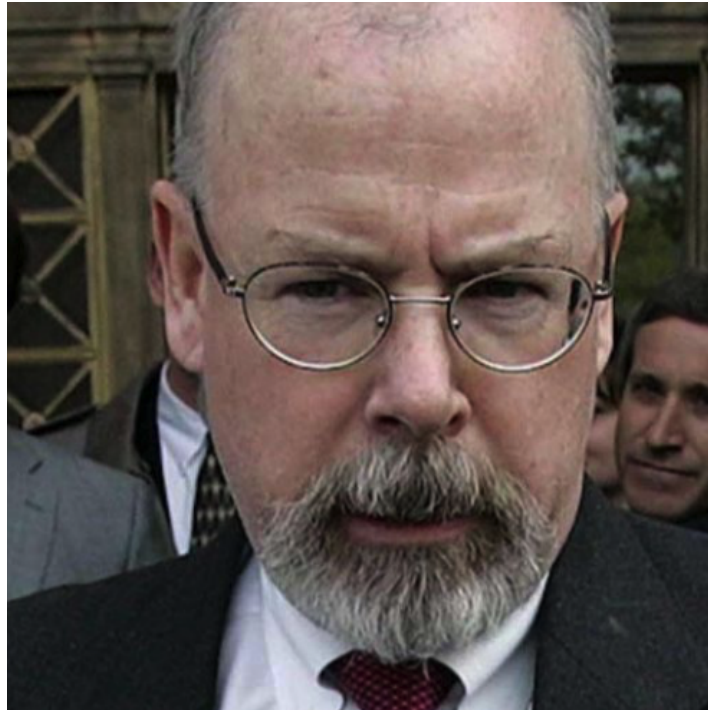


# LETTER TO DOJ AND JOHN DURHAM RE: TORTURE TAPE CRIMES EXPIRING

A  
s  
y  
o  
u  
m  
a  
y  
k  
n  
o  
w  
,  
i  
n  
e  
a  
r



ly November of 2005, agents of the United States government destroyed at least ninety two videotapes containing direct evidence of the interrogation and, upon admission and belief, torture of Abu Zubaydah and Abd al-Rahim al-Nashiri (see: [here](#), [here](#), [here](#), [here](#) and [here](#)). The statute of limitations, for the criminal destruction of said taped evidence in the cases of Abu Zubaydah and al-Nashiri will expire on Sunday November 7 (since the last day falls on a weekend, the statute should maintain through the next business day, which is Monday November 8). As we have heard absolutely nothing from Eric Holder, John Durham, the DOJ or the Obama Administration in relation to indictments or other results of the investigation Mr. Durham has been conducting since January 8, 2008, nearly three years, I thought a letter was in order asking just exactly what their status was. Said letter was addressed to Dean Boyd and Tracy

Schmalzer, official representatives and spokesmen for the Department of Justice, and reads as follows:

Dean and Tracy,

As I believe you are already aware, the statute of limitation on criminal charges including, notably, obstruction of justice for the destruction of evidence, are about to expire. The destruction appears to have occurred on or about November 8, 2005 and there is a five year statute on most all of the general crimes that could possibly be under investigation by John Durham. No competent prosecutor would have waited this long to file charges if he intended to do so, but there are still a couple of days left; what is the status?

Secondly, I would like to point out that should you be thinking about relying on some rhetoric that Mr. Durham simply cannot find any crimes to prosecute and/or that there were no proceedings obstructed, it is intellectually and legally impossible to not consider the tapes to be evidence, and as they almost certainly exhibit torture to some degree and to some part they would almost certainly be exculpatory evidence, in the cases of Abu Zubaydah and al-Nashiri themselves. The United States government continues to detain these individuals and they have charges that will putatively be brought against them in some forum (civil or tribunal), Habeas rights and/or indefinite detention review processes that will occur in the future.

In short, there exist not just the potential, but the necessity, of future proceedings, and agents of, or on behalf of, the United States government have destroyed material, and almost certainly exculpatory, evidence. Crimes have been

committed. At a bare root minimum, it is crystal clear Jose Rodriquez has clear criminal liability; there are, without question, others culpable too. What is the status?

If the DOJ does not intend to proceed in any fashion on these clear crimes, please provide me with some intellectually consistent explanation for why the US government is covering up, and refusing to prosecute, the criminal acts of its own employees and agents.

Thank you.

bmaz

emptywheel.com

If there is any worthwhile or meaningful response, I will advise.