

THE MAY 10, 2005 OPINIONS WERE RETROSPECTIVE

I asked in my earlier post on the NYT leak of Jim Comey emails what the big rush was in May 2005 that Comey couldn't use a week to fix the "combined techniques" opinion.

The emails themselves explain the rush—and that rush should have been the NYT story. On April 28, 2005, Comey wrote:

[Alberto Gonzales's COS Ted Ulllyot] mentioned at one point that OLC didn't feel like it could accede to my request to make the opinion focused on one person because they don't give retrospective advice. I said I understood that, but that the treatment of that person had been the subject of oral advice, which OLC would simply be confirming in writing, something they do quite often.

In other words, the May 10, 2005 authorization to use combined techniques was designed to give legal cover for something that had already happened.

Now, the other memo mentioned Hassan Ghul several times—Ghul's interrogators were making requests to use torture in August 2004. Was this the torture they were authorizing after the fact?

And if so, why was it so critical to authorize, since Dan Levin had authorized even waterboarding the previous August? And did they use waterboarding, even though they claim not to have?

More importantly, where is Hassan Ghul? He has not surfaced at Gitmo. Are they trying to hide the reasons why?

Update: Corrected that Comey's conversation was with Ted Ulyot, and not with Gonzales directly.