

CIA'S LAWYER DID NOT FIND ALTERATION OF TORTURE TAPES "NOTEWORTHY"

As I noted in my last thread, the latest ACLU document dump is here. And this is, indeed, the set of documents John Durham was withholding for his investigation.

I've long been interested in the role of the earlier destruction of the torture tapes in Durham's investigation. As you recall, in December 2002, when the interrogators were getting antsy to destroy the torture tape, a CIA Office of General Counsel lawyer, John McPherson, reviewed the torture tapes to make sure they matched the cables. He reportedly said the tapes matched the logbooks and the direction the interrogators received. But when CIA's Inspector General reviewed the tapes in May 2003, they discovered that 15 of the tapes were largely or completely blank and or damaged.

OIG found 11 interrogation tapes to be blank. Two others were blank except for one or two minutes of recording. Two others were broken and could not be reviewed. OIG compared the videotapes to logs and cables and identified a 21-hour period of time" which included two waterboard sessions" that was not captured on the videotapes.

I've long wondered whether one of the reasons the CIA destroyed the torture tapes is because a review of the tapes would have revealed that the torturers altered the tapes to avoid capturing certain activities on video. The latest dump appears to confirm this happened before December 2002.

On January 9, 2003, McPherson did a report on his review of the tapes (PDF 24-28). Though it

is heavily redacted, it appears that he reviewed the log book and the video, claimed to have watched every minute of the video, and declared that the video accurately reflected what had been recorded in the logbook.

Note, it is not clear from the unredacted materials whether he reviewed the guidance to the interrogators as to what they were supposed to be doing—even though that was purportedly one of the reasons he conducted the review.

It appears that PDF 33-37 is the interview report the Inspector General did with McPherson on June 17, 2003, after they had reviewed the torture tapes themselves in May 2003. This report appears to show McPherson admitting that he saw some of the tapes were partially blank, or had snow on them.

[Redacted] for many of the tapes one 1/2 or 3/4 of the tape “there was nothing.” [Redacted] on some tapes it was apparent that the VCR had been turned off and then turned back on right away. [Redacted] on other tapes the video quality was poor and on others the tape had been reused (taped over) or not recorded at all. [Redacted] The label on some tapes read “interrogation session,” but when viewed there was just snow. [Redaction] did not make note of this in [redaction] report. [Redaction] estimated that “half a dozen” videotapes had been taped over or were “snowy.”

Though he claims not to have noticed that two of the tapes were broken (though perhaps they were broken later). When asked why he had not reported the blank tapes in his report, McPherson said he didn’t find that “noteworthy.”

Furthermore, it appears to indicate that McPherson had not reviewed the guidelines given to the interrogators when he did his review.

When asked if it was consistent with guidance [redacted] would have to check

guidance before answering.

In other words, his review did not do what it was purported to do. It did not review whether the interrogators were following guidelines.

After the initial December 2002 review, CIA gave clear instructions to the interrogators not to destroy or edit the tapes. However, it appears that the review—inasmuch as it didn't reveal glaring concerns with the tapes and didn't actually review whether the interrogators were following instructions—was largely a whitewash of the original tapes in an effort to green light their destruction.