

ABSENCE OF TORTURE TAPE LIBRARIAN A FEATURE, NOT A BUG

I joked a few weeks ago, that the CIA needed a dedicated torture tape librarian. Well, it was no laughing matter. The NYT reports that the CIA intentionally destroyed the torture tapes of top Al Qaeda operatives.

The Central Intelligence Agency in 2005 destroyed at least two videotapes documenting the interrogation of two Al Qaeda operatives in the agency's custody, a step it took in the midst of Congressional and legal scrutiny about the C.I.A.'s secret detention program, according to current and former government officials.

The videotapes showed agency operatives in 2002 subjecting terror suspects – including Abu Zubaydah, the first detainee in C.I.A. custody – to severe interrogation techniques. They were destroyed in part because officers were concerned that tapes documenting controversial interrogation methods could expose agency officials to greater risk of legal jeopardy, several officials said. The C.I.A. said today that the decision to destroy the tapes had been made “within the C.I.A. itself,” and they were destroyed to protect the safety of undercover officers and because they no longer had intelligence value. The agency was headed at the time by Porter J. Goss. Through a spokeswoman, Mr. Goss declined this afternoon to comment on the destruction of the tapes.

Hmmm. Porter Goss. A partisan hack brought into CIA to destroy evidence. So he wasn't tasked

just to dismantle the agency?

I'm going to just throw some points out that you can think about when you read the article yourself—you really need to read the whole thing because it is breathtaking in its implications.

- The timing of this leak was clearly intended to have one effect: to make it impossible for Bush to veto the bill prohibiting the CIA from torturing. Now let's see if it accomplishes that goal.
- Another note on timing? Paul Clement's statements at SCOTUS yesterday were not proved wrong within 24 hours, as they were when he claimed, during the Padilla hearing, that we don't torture. But this works about as well, I think, to make sure the Justices think long and hard about our gulag in Cuba.
- The Judge in Moussaoui's case, Leonie Brinkema, is not going to like this one bit; these are some of the tapes government lawyers claimed didn't exist, and she's already steaming mad that they misled her once.
- General Hayden claims the leaders of Congressional Oversight committees were briefed. Who? Assuming they

were briefed in 2005, it would be Pat Roberts and Crazy Pete Hoekstra, both up for re-election next year. Were Jello Jay and Jane Harman also briefed? Also—I presume they briefed these folks on the destroyed evidence in 2005, right in the middle of debates on torture. Any wonder why they didn't brief Congress as a whole?

- General Hayden claims the CIA stopped videotaping interrogations in 2002. Given the big to-do over declassifying their change in policy on photographing detainees, consider me skeptical.
- Guess what? AG Mukasey has a mighty big headache on his hands, a clear case of obstruction of justice involving Goss and a bunch of other people. I guess we won't have long to wait to see whether he's willing to spike investigations for the Unitary Executive.

[Note, I've been making running updates, so this has changed.]