

THE CIA SOLIDIFIES ITS TERROR TAPES STORY-OR TRIES TO

Mark Mazzetti and Scott Shane have done good reporting on the terror tape story. But their latest installment reads like an attempt on the part of the CIA to get its story straight. That attempt might work—so long as you don't read it too closely. (Update: Scott Horton thinks this is a transparent cover story too.)

The story as a whole is full of no-nonsense logical explanations for the CIA's actions with regards to the terror tapes. For example, Buzzy Krongard provides a very logical explanation for why the CIA took the tapes:

"You couldn't have more than one or two analysts in the room," said A. B. Krongard, the C.I.A.'s No. 3 official at the time the interrogations were taped. "You want people with spectacular language skills to watch the tapes. You want your top Al Qaeda experts to watch the tapes. You want psychologists to watch the tapes. You want interrogators in training to watch the tapes."

In addition, the NYT's sources claim the CIA took the tapes to document that they weren't killing Abu Zubaydah specifically, and because they had so rarely interrogated such high level detainees. But then, the risks of keeping the tapes increased, partly because the CIA was using torture and partly because detainees were dying in custody. So the CIA stopped taking tapes and started trying to get rid of those they already had.

This set off a big debate internally in the CIA. CIA General Counsel Scott Muller advised against the tapes destruction. Then CIA's IG John Helgorsen started investigating the CIA's

interrogation program; an April 2004 report concluded some of the CIA's methods amounted to cruel, inhuman, and degrading treatment. After Muller and Tenet left and Porter Goss and John Rizzo and Jose Rodriguez came in, those trying to protect the interrogators attempted to get approval for destroying the tapes again. Goss objected (the story says). But a year later, as Congress was passing the McCain Amendment banning torture, Rodriguez made the decision to destroy the tapes. And remarkably, Goss did not discipline Rodriguez, even though he claims to have opposed the tapes' destruction.

It's all a neat, logical story, isn't it? It all explains the whole chronology such that American taxpayers won't fault the CIA for trying to do the right thing, right?

Except it remains a vague story full of holes.

Why Tape Abu Zubaydah and Abd al-Rahim al-Nashiri, but not Ramzi bin al-Shibh or any others?

For example, the story gets really vague as it moves away from events related exclusively to Abu Zubaydah and to events covering other top Al Qaeda detainees. It suggests the taping was closely connected to Zubaydah's gunshot wounds when he was taken into custody, a way of documenting that, if he died, the interrogation wasn't responsible.

If Abu Zubaydah, a senior operative of Al Qaeda, died in American hands, Central Intelligence Agency officers pursuing the terrorist group knew that much of the world would believe they had killed him.

So in the spring of 2002, ... they set up video cameras to record his every moment: asleep in his cell, having his bandages changed, being interrogated.

But that doesn't explain their decision to tape interrogations—or not—with other Al Qaeda

detainees. The story admits that the CIA also taped interrogations with al-Nashiri.

the decision to begin taping Abu Zubaydah and another detainee suspected of being a Qaeda operative, Abd al-Rahim al-Nashiri, was made in the field

But it doesn't explain why they would tape interrogations of al-Nashiri. Was he, too, injured in his capture? Contemporary reports don't say he was. And if al-Nashiri's interrogations were taped, then why weren't Ramzi bin al-Shibh's interrogations (and note, bin al-Shibh was also taken in a gunfight)?

Why tape al-Nashiri after the tapes became risky?

The question of why and whom they taped becomes more curious when you consider the timing. The story provides a vague description of when taping started and when it ended, at first suggesting it started shortly after Zubaydah's capture and lasted just months.

... in the spring of 2002, ... they set up video cameras to record [Abu Zubaydah's] every moment:

[snip]

... worry drove the decision to begin taping interrogations – and to stop taping just months later, after the treatment of prisoners began to include waterboarding.

Stories elsewhere have reported that waterboarding started after the August 1 Bybee Memo authorized it. If so, that would suggest they started to reconsider keeping the tapes in August, because they were waterboarding.

But then the story connects the stop of taping with the deaths of some detainees in November and December 2002.

Heightening the worries about the tapes was word of the first deaths of prisoners in American custody. In November 2002, an Afghan man froze to death overnight while chained in a cell at a C.I.A. site in Afghanistan, north of Kabul, the capital. Two more prisoners died in December 2002 in American military custody at Bagram Air Base in Afghanistan.

And it suggests that, by this point, the CIA had already stopped keeping tapes.

By late 2002, interrogators were recycling videotapes, preserving only two days of tapes before recording over them, one C.I.A. officer said. Finally, senior agency officials decided that written summaries of prisoners' answers would suffice.

But this is precisely the timeframe when al-Nashiri was captured and turned over to the US, which is reported (even to the 9/11 Commission) as occurring in early November (the "two weeks ago") would be November 9.

Abd al-Rahim al-Nashiri, a Saudi in his mid-thirties who is suspected of being the mastermind behind the USS Cole bombing in Oct. 2000, was captured nearly two weeks ago, Fox News has learned, by an unidentified foreign government which turned him over to the United States.

So the CIA would have you believe that they reconsidered taping interrogations as soon as the waterboarding started in August 2002. So why did they tape al-Nashiri's interrogations, which didn't start until at least three months after they started reconsidering the taping, at a time when the CIA seemed to be moving toward over-writing the tapes?

Note, the NYT's handy graphic timeline hides this issue, by suggesting that al-Nashiri was captured at the same time as Zubaydah. I guess the story wouldn't look so logical and innocent if you saw that al-Nashiri's interrogations started in the same month a detainee died in CIA custody, huh?

What connection is there between the detainee deaths and the decision to stop taping?

Which raises another question. We know the CIA was still taping—at least some detainees—in November 2002 because the CIA taped al-Nashiri, who wasn't captured until November. So did they tape the CIA detainee who died in custody in November? And if so, did they destroy **that** tape?

The story suggests a vague relationship between the start of torture and the deaths in custody.

More significant, interrogations of Abu Zubaydah had gotten rougher, with each new tactic approved by cable from headquarters. American officials have said that Abu Zubaydah was the first Qaeda prisoner to be waterboarded, a procedure during which water is poured over the prisoner's mouth and nose to create a feeling of drowning. Officials said they felt they could not risk a public leak of a videotape showing Americans giving such harsh treatment to bound prisoners.

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Using their original stated logic for taping the interrogations (that is, you tape the interrogations to prove the interrogations didn't kill a detainee), it seems that this coincidence of events would **raise** the importance

of taping interrogations. You'd want to tape all interrogations, to prove that any deaths occurred for some other reason.

Though, the exposure to extreme cold **is** one of the interrogation methods that has been approved by the CIA. So that November death may well have been caused by what was considered a legal interrogation method.

Which might explain things: the CIA stopped taping interrogations because those tapes included proof that approved interrogation methods were killing people.

What did Scott Muller advise when and did he include the White House in these discussions?

The timing of the story is also vague as it pertains to then CIA General Counsel Scott Muller's role. It explains that Scott Muller advised against destroying the torture tapes; the implication is that that happened in late 2002 or early 2003.

Clandestine service officers who had overseen the interrogations began pushing hard to destroy the tapes. But George J. Tenet, then the director of central intelligence, was wary, in part because the agency's top lawyer, Scott W. Muller, advised against it, current and former officials said.

But the story also describes how, in a bid to get political cover for destroying the tapes, Muller briefed "members of the House and Senate oversight committees" on the tapes in February 2003.

Yet agency officials decided to float the idea of eliminating the tapes on Capitol Hill, hoping for political cover. In February 2003, Mr. Muller told members of the House and Senate oversight committees about the C.I.A.'s interest in destroying the tapes for security reasons.

Now, first of all, that part of the story still conflicts with Jello Jay Rockefeller's story—and presumably SSCI as a whole.

Last night, the CIA informed me that it believes that the leadership of the Senate Intelligence Committee was **told of the decision to destroy the tapes** in February 2003 but was not told of their actual destruction until a closed committee hearing held in November 2006.

The committee has located no record of either being informed of the 2003 CIA decision or being notified late last year of the tapes having being destroyed. [my emphasis]

That is, Jello Jay claims that the CIA claims that SSCI **was informed** of the torture tape decision, not that the CIA "floated the idea" of destroying the tapes. But SSCI has no record such a briefing occurred.

Now, let's even presume that Jello Jay forgot (or that the Vice Chair of SSCI somehow wasn't among those "members of the House and Senate oversight committees" who were briefed). It still raises interesting timing questions. The story seems to suggest the Muller opposed the destruction for legal reasons, but that in spite of his opposition to the destruction, he was still recruited to go tell Congress they were destroying the tapes, that then Congress opposed the idea, and only then did CIA agree with Muller's advice not to destroy them.

Also what do you think the chances are that Muller was off briefing Congress but had not yet already discussed the issue with the White House? Did White House involvement lead to the CIA's decision—over Muller's claimed opposition—that they were going to inform Congress they were destroying the tapes? And what happened to Nancy Pelosi's briefing, the one that occurred in 2002 when she was still part of the Gang of Four? The description of

when Muller's advice and the briefing of Congress occurred seems designed to account for a known piece of paperwork—Jane Harman's letter objecting to the tapes' destruction—but it ignores a whole lot of other discussions that certainly took place.

In addition to these big questions, the story has some of the familiar questions we've been looking at for years: How is it that officers came to Porter Goss and asked for "a firm decision" about the tapes, but walked away believing they could still destroy them? Why is it that, after the CIA decided in 2004 they needed to destroy the tapes, they waited until 2005 to do so.

But there are three more details worth noting in the story.

First, the story backs off earlier claims that Abu Gonzales opposed the destruction of the tapes in the May 2004 briefing that appears to be documented.

The positions Mr. Gonzales and Mr. Addington took are unknown.

Of course, no one has every claimed that Addington opposed the destruction of the tapes.

Second, the article describes Bush as having compartmented himself off from the program.

The tapes documented a program so closely guarded that President Bush himself had agreed with the advice of intelligence officials that he not be told the locations of the secret C.I.A. prisons.

The story makes it sounds as if Bush was not told of the locations of the secret prisons because the program was so secret that even the President could not be told. Whaaaaa?!?!?! I mean, I know the White House (and particularly the Fourth Branch section of it) leaks like a sieve, but this information was not going to be

leaked out of the White House. If they didn't tell Bush about the secret prisons, it was to insulate him from legal responsibility for them. But therein lies the problem: there's a long history of acceptance of the CIA's excesses, if the President signs off on it. But in this matter, they specifically prevented Bush from signing off on one aspect of it—no doubt because it was so politically and legally fraught with risk, they didn't want to expose the President.

Now couple that claim with what I consider—by far—the most revealing part of this story:

Yet in November 2005, Congress already was moving to outlaw “cruel, inhuman and degrading” treatment of prisoners, and The Washington Post reported that some C.I.A. prisoners were being held in Eastern Europe. **As the agency scrambled to move the prisoners to new locations,** Mr. Rodriguez and his aides decided to use their own authority to destroy the tapes, officials said.

I've never understood the claim that Dana Priest's story on the black sites somehow precipitated the destruction of the torture tapes. But this story seems to inadvertantly explain the connection. When her story came out, **they moved the detainees.**

Now, the NYT has already reported that the tapes were always stored in the same country where the interrogations took place.

The NYT's article has one more detail of note—again, reporting something that is intuitive, but not something that had been confirmed before, AFAIK. The torture tapes were stored in the country—singular—where the interrogations of Abu Zubaydah and al-Nashiri took place.

Until their destruction, the tapes were stored in a safe in the C.I.A. station in the

country where the interrogations took place, current and former officials said. According to one former senior intelligence official, the tapes were never sent back to C.I.A. headquarters, despite what the official described as concern about keeping such highly classified material overseas.

If the CIA scrambled after Priest's story to 1) move detainees out of ~~Poland or Romania~~ the Eastern European country in question and 2) to hide any evidence that the US had been torturing detainees on European soil, it would make sense that they would destroy the tapes at the same time (particularly if they were stored at the prison in question). Particularly if the CIA was trying to compartment details about this prison so as to protect the President.

In other words, this strongly suggests they destroyed the tapes—among other reasons—to hide the fact that a European ally was complicit in the torture.