

WARRANTLESS WIRETAP MEMOS TIMELINE

I laid out the OLC opinions described in the Steven Bradbury declaration to the ACLU. In this post, I'll add in the other significant documents he describes. Note, Bradbury names four documents—OLC 56, 57, and 58, and OIPR 138—which are documents created by the President or his immediate staff, and so are not agency documents; he provides no description of these documents. There are, of course, a great number of documents withheld, which therefore have no description or date.

Materials not included in Bradbury's memos are not bold.

October 4, 2001, from DAAG OLC to Alberto

Gonzales: OLC 132, which consists of two copies, one with handwritten comments and marginalia, of a 36-page memorandum, dated October 4, 2001, from a Deputy Assistant Attorney General in OLC to the Counsel to the President, created in response to a request from the White House for OLC's views regarding what legal standards might govern the use of certain intelligence methods to monitor communications by potential terrorists.

October 21, 2001, from Ashcroft to Mueller: FBI 7 is a one-page memorandum, dated October 20, 2001, from the Attorney General to the Director of the FBI, advising the Director that certain intelligence collection activities are legal and have been appropriately authorized. The memorandum is classified TOP SECRET.

October 23, 2001, from Yoo and Delahunty to Alberto Gonzales: OLC 146, which is a 37-page memorandum, dated October 23, 2001, from a Deputy Assistant Attorney General in OLC, and a Special Counsel, OLC, to the Counsel to the President, prepared in response to a request from the White House for OLC's views concerning the legality of potential responses to terrorist

activity.

November 2, 2001, from DAAG OLC to John

Ashcroft: OLC 131, which consists of two copies, both with underscoring and marginalia, of a 24-page memorandum, dated November 2, 2001, from a Deputy Assistant Attorney General in OLC to the Attorney General, prepared in response to a request from the Attorney General for OLC's opinion concerning the legality of certain communications intelligence activities.

January 9, 2002, from DAAG OLC to Ashcroft: OLC 115 is a two-page memorandum for the Attorney General from a Deputy Assistant Attorney General, OLC, dated January 9, 2002, which relates to the Attorney General's review of the legality of the President's order authorizing the TSP in the course of considering that program's reauthorization, which was done approximately every 45 days

February 8, 2002, from DAAG OLC to General Counsel of another agency: OLC 62, which consists of two copies, one with highlighting and marginalia by an OLC attorney, of a February 8, 2002, memorandum from a Deputy Assistant Attorney General in OLC to the General Counsel of another federal agency, prepared in response to a request for OLC views regarding the legality of certain hypothetical activities.

May 17, 2002: FISC revises DOJ's proposed information sharing procedures.

October 11, 2002, from DAAG OLC to John

Ashcroft: OLC 129, which consists of two copies, one with handwritten comments and marginalia, of a nine-page memorandum, dated October 11, 2002, from a Deputy Assistant Attorney General in OLC to the Attorney General, prepared in response to a request for OLC's views concerning the legality of certain communications intelligence activities.

February 25, 2003, from DAAG OLC to John

Ashcroft: OLC 16, which consists of four copies, one with handwritten marginalia, of a 12-page memorandum, dated February 25, 2003, for the

Attorney General from a Deputy Assistant Attorney General for OLC, prepared in response to a request from the Attorney General for legal advice concerning the potential use of certain information collected in the course of classified foreign intelligence activities.

March 13, 2003: Jay Bybee approved to Ninth Court. Addington and Gonzales try to appoint Yoo as his replacement, but Ashcroft refuses. Ed Whelan Acting AAG.

May 30, 2003, DAAG OLC to GC of another agency: ODAG 42 is a 19-page memorandum, dated May 30, 2003, from a Deputy Assistant Attorney General in OLC to the General Counsel of another Executive Branch agency.

June 2003: John Yoo leaves his position at OLC.

October 3, 2003: Jack Goldsmith confirmed as head of OLC.

December 11, 2003: Comey appointed Deputy AG.

March 3 or 4, 2004: Ashcroft and Comey agree they cannot recertify the NSA domestic spying program.

March 4, 2004: Ashcroft hospitalized with pancreatitis.

March 10 2004: The hospital confrontation between Comey and Gonzales and Card.

March 11, 2004: Bush reauthorizes the NSA domestic spying program without DOJ's certification of legality.

March 11, 2004, from Goldsmith to Gonzales: OIPR 140 is a one-page letter dated March 11, 2004, from the Assistant Attorney General for OLC, to the White House Counsel seeking clarification regarding advice that OLC had been requested to provide concerning classified foreign intelligence activities.

March 12, 2004, from Goldsmith to Comey: OIPR 139 is a one-page memorandum dated March 12, 2004, to the Deputy Attorney General from the Assistant Attorney General for OLC, which

provides legal advice concerning certain decisions relating to classified foreign intelligence activities.

March 14, 2004: OLC 125 is an undated two-page document entitled "Presentation: Where DOJ is on [REDACTED CLASSIFIED CODENAME]." OLC 126 consists of two copies of a five-page document, dated March 14, 2004, which consists of bullet points related to OLC 125. OLC 125 and OLC 126 were prepared for purposes of providing legal assistance and advice to other Executive Branch officials concerning DOJ's views about foreign intelligence activities

March 15, 2004, from Goldsmith to Comey: OLC 64 [the same as FBI 5] consists of four copies of a three-page memorandum dated March 15, 2004, for the Deputy Attorney General from the Assistant Attorney General for OLC, plus an electronic file, which outlines preliminary OLC views with respect to certain legal issues concerning classified foreign intelligence activities. The memorandum specifically notes that OLC's views have "not yet reached final conclusions" and that OLC is "not yet prepared to issue a final opinion."

March 16, 2004, from Comey to Gonzales, cc'ed to Card: OLC 63 [the same as FBI 4] is a two-page memorandum (and related electronic file) dated March 16, 2004, from the Acting Attorney General to the Counsel to the President, copied to the President's Chief of Staff, containing legal recommendations regarding classified foreign intelligence activities.

March 22, 2004. from Goldsmith to Comey: OLC 114 consists of two copies of a three-page memorandum dated March 22, 2004, to the Deputy Attorney General from the Assistant Attorney General for OLC, which confirms oral advice provided by OLC on a particular matter concerning classified foreign intelligence activities.

March 30, 2004, briefing from Comey to Ashcroft: OLC 65 is a five-page document (plus an

electronic file), dated March 30, 2004, entitled "Briefing for AG." This outline for a briefing to be provided to the Attorney General by the Deputy Attorney General prepared by Department staff includes a summary of preliminary OLC conclusions concerning the TSP and other intelligence activities; a discussion of issues for decision concerning these intelligence activities; a description of advice provided by OLC to other Executive Branch agencies and components concerning these activities; and an identification of legal issues requiring further discussion.

May 6, 2004, from Jack Goldsmith for John

Ashcroft: OLC 54 which consists of six copies, some with handwritten comments and marginalia, of a 108-page memorandum, dated May 6, 2004, from the Assistant Attorney General for OLC to the Attorney General, as well as four electronic files, one with highlighting, prepared in response to a request from the Attorney General that OLC perform a legal review of classified foreign intelligence activities.

June 17, 2004: Jack Goldsmith announces his resignation.

July 16, 2004, from Jack Goldsmith for Ashcroft:

OLC 85, which is a nine-page memorandum, with highlighting, dated July 16, 2004, from the Assistant Attorney General in OLC to the Attorney General, evaluating the implications of a recent Supreme Court decision for certain foreign intelligence activities.

Late July 2004?: Goldsmith leaves, Daniel Levin Acting AAG OLC.

August 9, 2004, to Comey: OLC 51 is a one-page memorandum, dated August 9, 2004, from the Acting Assistant Attorney General for OLC to the Deputy Attorney General entitled "Proposed Memorandum," which contains OLC's advice concerning a decision to be made by the Deputy Attorney General regarding an intelligence collection activity.

Late October 2004: Top Administration officials

convince NYT to spike the NSA domestic spying story.

November 17, 2004, memorandum "for the file":

OLC 59, which consists of four copies of an 18-page memorandum for the file, dated November 17, 2004, from the Acting Assistant Attorney General in OLC, plus an electronic file, prepared in response to a request for OLC views regarding the applicability of certain statutory requirements.

February 14, 2005: Gonzales sworn in.

June 23, 2005: Steven Bradbury nominated AAG OLC, becomes Acting AAG.

August 15, 2005: Comey's Farewell Address.

December 16, 2005: Risen and Lichtblau's first story on the NSA domestic spy program.

December 18, 2005: OLC 81 consists of 11 copies, some drafts and some with handwritten marginalia and notes, of four pages of briefing notes, dated December 18, 2005, which describe the TSP and other foreign intelligence activities and summarize various OLC legal opinions related to foreign intelligence collection activities. OLC 81 was created so that I could brief Department officials regarding foreign intelligence activities and OLC views following the publication of the article in The New York Times which divulged without authorization classified information concerning the TSP.

January 1, 2006, Lichtblau and Risen tell the story of the hospital visit.

January 6, 2006: OLC 82 consists of 20 copies, some drafts and some with handwritten edits and marginalia, plus eight related electronic files of a briefing outline, dated January 6, 2006, summarizing various topics related to foreign intelligence activities. OLC 82 was created as an outline for my use in the course of briefing members of the FISC.

February 17, 2006: WH refuses to allow Ashcroft, Comey, and Goldsmith to testify before SJC.