

# OUT OF SCOPE: THE DOJ IG REPORT

I've just now finished reading the conclusion of the Department of Justice Inspector General's report on torture. I gotta say, I'm not surprised Alice Fisher chose this week to quit, nor am I surprised that Gitmo's Convening Authority decided not to charge al-Qahtani, as both Fisher and Qahtani figure prominently in the report.

The other general comment I have about the report is about its scope: it was designed to protect the Administration and its method of legalizing torture. For example, the report notes:

We did not examine issues related to DOJ Office of Legal Counsel opinions concerning the legality of several interrogation techniques the CIA sought to use on certain high value detainees. While senior FBI and DOJ officials were aware of these opinions, an assessment of the validity of the OLC legal opinions was beyond the scope of this review.

Similarly, the IG report apparently did not review what happened to complaints about torture once they got to Bush's top aides (though the report doesn't actually say whether this was because of a scope issue or because Bush's aides refused to cooperate).

On a broader level, we were unable to determine definitively whether the concerns of the FBI and DOJ about DOD interrogation techniques were ever addressed by any of the structures created for resolving inter-agency disputes about antiterrorism issues. These structures included the Policy Coordinating Committee, the "Principals" Committee, and the "Deputies" Committee,

all chaired by the National Security Council (NSC). Several senior DOJ Criminal Division officials also told us that they raised concerns about particular DOD detainee practices in 2003 with the National Security Council, but they did not recall learning that any changes were made at GTMO as a result. Several witnesses told us that they believed that Attorney General Ashcroft spoke with the NSC or the DOD about these concerns, but former Attorney General Ashcroft declined our request for an interview in connection with this report.

Of course, there is no Inspector General function for the NSC—it's one big executive privilege black hole in which complaints about torture can be buried. Make no mistake, though, the implication is that Condi Rice, Stephen Hadley, Dick Cheney, and Rummy did nothing apparent to resolve the inter-Agency tensions about torture.

But John Ashcroft? Refusing to meet with DOJ's own Inspector General to talk about torture? Keep in mind, the Inspectors General Offices are supposed to have some independence from the heads of their agencies—in the case of DOJ's IG, the Attorney General—specifically so they can include a review of the Attorney General's behaviors in matters of concern.

But I guess John Ashcroft would rather help the Administration bury the concerns about torture by refusing to cooperate.

Well, I've got about 350 pages of the report left to read. Better, I guess, to walk into it knowing that the report skirts three big black holes that hide the most important discussions about torture. If nothing else, the way in which this report does not and cannot discuss the issues that OLC, Condi Rice, and John Ashcroft apparently faced tells you what we need to know about torture.

Update: In somewhat related news, the Center for Constitutional Rights, which represents Qahtani, reveals that Qahtani tried to commit suicide last month after he was charged. Neither CCR nor Qahtani's family were informed of the suicide attempt.

Newly declassified notes from Center for Constitutional Rights (CCR) attorney Gitanjali Gutierrez's meetings with her client, Mohammed al Qahtani, earlier this month reveal that he attempted suicide in early April after he learned death penalty charges were referred against him by the government to the Military Commissions at Guantanamo. Mr. al Qahtani cut himself a series of times with escalating severity. His third cut resulted in a deep wound, profuse bleeding and hospitalization.

Mr. al Qahtani told his attorney, "I cannot accept this injustice. If I have to stay in this jail I want to put an end to this suffering."

Neither his lawyers nor his family were notified of his attempted suicide or his hospitalization following the attempt at taking his life.

When Ms. Gutierrez met with her client the week of April 28, 2008, she noticed the scars immediately: "I was shocked because, except for a period during his torture in 2002, Mohammed has not been suicidal or self-injurious at Guantanamo."