

THE CIA OIG MADE FIVE CRIMINAL REFERRALS DURING ITS INVESTIGATION OF CIA INTERROGATION TECHNIQUES

In January 2003, the CIA's Inspector General started an investigation into the Agency's interrogation techniques. It wasn't—they claim—in response to any specific allegation of torture.

In January 2003, OIG initiated a special review of the CIA terrorist detention and interrogation program. This review was intended to evaluate CIA detention and interrogation activities, and was not initiated in response to an allegation of wrongdoing. [my emphasis]

The CIA OIG finalized their report on the investigation in May 2004. Over the course of the investigation, CIA's OIG referred five cases to the Criminal Division of DOJ.

[Alice Fisher] said she recalled there was an investigation based on a CIA referral that may have related to detainee treatment or interrogation techniques, and that she became aware of some facts relating to CIA interrogations. She did not say when DOJ received the CIA referral, though she noted that it was sometime "later." [Later than the late 2002-early 2003 time frame of a debate about al-Qahtani.] Documents reflect a total of five referrals by the CIA OIG to DOJ. These referrals were made between February 6, 2003 and March 30, 2004.

Here is the CIA's description of why they refer cases to DOJ pursuant to a CIA OIG investigation.

If OIG has a reasonable basis to believe a federal crime may have been committed, the IG reports the information to the Attorney General.

In other words, over the course of its investigation into the CIA's detainee treatment and interrogation methods, the CIA Office of Inspector General developed reasonable basis to believe that five incidents relating to detainee treatment and interrogation they had reviewed constituted a federal crime.

This is important, among other reasons, because in the same month CIA's OIG submitted its report, the CIA discussed with the White House destroying tapes—reviewed over the course of the OIG investigation—of Abu Zubaydah and al-Nashiri being water-boarded. Even before the CIA water-boarded Abu Zubaydah, an FBI interrogator reported, he witnessed activities he believed constituted "borderline torture." A year later, after the CIA OIG submitted a report that presumably described five events the CIA OIG believed to constitute a federal crime, the CIA ultimately destroyed the tapes of those Abu Zubaydah interrogations.