

WHO SIGNED THE EXPLICIT AUTHORIZATION TO TORTURE?

The WaPo reveals that in June 2003, and again in July 2004, the CIA sought and got a memo explicitly authorizing the torture methods used in interrogation.

The Bush administration issued a pair of secret memos to the CIA in 2003 and 2004 that explicitly endorsed the agency's use of interrogation techniques such as waterboarding against al-Qaeda suspects – documents prompted by worries among intelligence officials about a possible backlash if details of the program became public.

The article explains that Tenet felt he needed such memos to make sure the CIA had "top cover" for its actions.

The repeated requests for a paper trail reflected growing worries within the CIA that the administration might later distance itself from key decisions about the handling of captured al-Qaeda leaders, former intelligence officials said.

[snip]

A. John Radsan, a lawyer in the CIA general counsel's office until 2004, remembered the discussions but did not personally view the memos the agency received in response to its concerns. "The question was whether we had enough 'top cover,' " Radsan said.

[snip]

The CIA's anxiety was partly fueled by

the lack of explicit presidential authorization for the interrogation program.

[snip]

By the spring of 2004, the concerns among agency officials had multiplied, in part because of shifting views among administration lawyers about what acts might constitute torture, leading Tenet to ask a second time for written confirmation from the White House.

But at that point, the story gets all vague. What the CIA was seeking, obviously, was a document signed by someone other than John Yoo, someone whose ass would be on the line along with the CIA if the torture program became public. That document would presumably implicate at least top aides to Bush, if not Bush himself. But the WaPo doesn't describe who that person is.

Days later, he got what he wanted: a brief memo conveying the administration's approval for the CIA's interrogation methods, the officials said. Administration officials confirmed the existence of the memos, but neither they nor former intelligence officers would describe their contents in detail because they remain classified.

[snip]

Finally, in mid-July, a memo was forwarded to the CIA reaffirming the administration's backing for the interrogation program. Tenet had acquired the statement of support he sought.

I've updated the torture timeline, and the timing is fascinating (the second memo came, for example, just after Goldsmith and Olson left DOJ, as well as—as the story makes clear—at the

same time as Tenet's departure; plus, this correlates closely with the CIA IG's report on torture). But that doesn't really clarify the big question raised by the WaPo article, either.

Did George Bush sign a memo authorizing torture?

Update: See Marty Lederman's musings on the legal necessity (or not) of having the Commander-in-Chief's signature on a piece of paper. He provides one potential explanation of something I was wondering about: the claim that DOJ opposed issuing a memo in June 2004, when presumably Comey and Goldsmith were actively part of the discussion.