

THE PUSH TO PUBLISH THE OPR REPORT

Mike wants Yoo
(photo by Emilyschneider)

I was wondering when this would come out. After all, one of the advantages of having an easily-used journalist like Mikey Isikoff around is that when someone needs to leak something to increase political pressure, they know whom to go to.

So, those who want to make sure the OPR report damning John Yoo and Steven Bradbury is published in its current "very harsh" form will go to Mikey to make sure the report's conclusions become public.

According to two knowledgeable sources who asked not to be identified discussing sensitive matters, a draft of the report was submitted in the final weeks of the Bush administration. It sharply criticized the legal work of two former top officials—Jay Bybee and John Yoo—as well as that of Steven Bradbury, who was chief of the Office of Legal Counsel (OLC) at the time the report was

submitted, the sources said. (Bybee, Yoo and Bradbury did not respond to multiple requests for comment.)

But then—Attorney General Michael Mukasey and his deputy, Mark Filip, strongly objected to the draft, according to the sources. Filip wanted the report to include responses from all three principals, said one of the sources, a former top Bush administration lawyer. (Mukasey could not be reached; his former chief of staff did not respond to requests for comment. Filip also did not return a phone message.) OPR is now seeking to include the responses before a final version is presented to Attorney General Eric Holder Jr. "The matter is under review," said Justice spokesman Matthew Miller.

[snip]

OPR investigators focused on whether the memo's authors deliberately slanted their legal advice to provide the White House with the conclusions it wanted, according to three former Bush lawyers who asked not to be identified discussing an ongoing probe. One of the lawyers said he was stunned to discover how much material the investigators had gathered, including internal e-mails and multiple drafts that allowed OPR to reconstruct how the memos were crafted.

And in addition to those pushing to make the report public, there are those—speaking in a voice that sounds remarkably like certain lawyers associated with Dick Cheney—attacking the legitimacy of the report.

"OPR is not competent to judge [the opinions by Justice attorneys]. They're not constitutional scholars," said the former Bush lawyer.

David! How've you been now that you've been separated from your man-sized safe?

There is something downright odd about Mikey's report. First, he suggests the report started in response to Jack Goldsmith's complaints about the OLC opinions he was seeing. This, about a report that includes Steven Bradbury, whose key opinions were written in 2005, well after Goldsmith was gone.

Also, Mikey suggests that it would be very unusual for the OPR report conclusions to be shared with the Senate—and potentially, to be made public.

In a departure from the norm, Jarrett also told members of the Senate Judiciary Committee last year he would inform them of his findings and would "consider" releasing a public version.

Except of course, as Mukasey explained to the Senate last year, when Senators request an investigation—which is actually how this report expanded to include the torture opinions—then they get to see its conclusions, under normal procedures.

Of course making it public **would** be remarkable (though the Senate has been asking for that for some time). Which is why Mikey Isikoff—whose work may increase the pressure to make the report public—is so useful.