

CONYERS (ET AL) TO ARCHIVIST: HOW SUCCESSFUL WERE THEY AT DESTROYING EVIDENCE?

I'm unsurprised that John Conyers, Howard Berman, Jerry Nadler, and Bill Delahunt have written to Hillary Clinton asking for copies of Philip Zelikow's dissent to Steven Bradbury's torture memo.

Despite the reported effort he describes to destroy all copies of the memorandum, Professor Zelikow nevertheless believes that "one or two [copies] are still at least in the State Department's archives."

Of course one of the Committees was going to get this document.

I'm a lot more interested in their letter to the acting Archivist, asking for any copies in the George W Bush archives.

While we have requested this memorandum from the State Department archives, any copies available from the George W. Bush records are also necessary to determine as completely as possible the full circulation of this important document.

That's because if the memo isn't there, then not only is it suggestive of criminal intent, but it also violates the Presidential Records Act. In addition to the memo itself, they ask for:

(2) Copies of any "documentary materials" as defined in the President Records Act, that are related to or reflect any effort by an official of the Bush Administration to collect, destroy,

or impede the preservation or retention of this memorandum, including records of any National Security Council meetings or National Security Council Deputies meetings at which the memorandum was discussed.

As you know, the National Security Council is a component of the Executive Office of the President, and its records are in almost all cases President Records which the Act requires to be preserved. Thus, depending on the precise circulation of Professor Zelikow's dissenting memorandum, the effort he describes to "collect and destroy all copies" of the memorandum raises serious questions of a possible violation of, or conspiracy to violate, the Act, or another breach of federal law.

(3) Copies of any "documentary materials," as defined in the Presidential Records Act, that mention or refer to the Zelikow memorandum.

[snip]

... the requested documents may shed light on the adequacy and completeness of the former Administration's consideration of these issues over time. [my emphasis]

Well, the normally careful David Addington (if that's who told Zelikow to destroy the memo) got himself into a pickle with this one.