

# WITHHOLDING TORTURE TIMELINES

**Update 7/20: According to the CIA, those timelines are permissibly excluded "derivative" works. See this post for an explanation.**

It should not surprise you that I perk up whenever I see others discussing timelines. And so it should not surprise you, either, that I noted a little detail about the CIA so-called disclosure on its torture FOIAs.

The CIA is, apparently consistently, withholding timelines. In fact, it may be withholding different iterations the very same timelines.

As I pointed out several weeks ago, the CIA is being rather choosy about the stuff it includes in its Vaughn Index; whether by chance or plan, it has hidden any documents that might reveal discussions and approvals for torture that precede the OLC's torture opinions in late July 2002. For example, they sampled more than the required one out of ten documents from among their sixteen undated documents relating to the torture tapes—they picked two. But both are uncontextualized descriptions of waterboarding (documents, frankly, it's hard to believe they still claim are classified after the OLC memos). So they picked two almost identical documents, and avoided picking any of the six "Notes/Outlines" listed or, more interesting for me, any of the four "Draft Preliminary Timelines," which are described to be 10, 29, 28, and 29 pages in length.

Boy would I like to get my hands on the CIA's timeline of the torture program to match it up against my own!

Now, I have for some time speculated that most of these undated materials were working papers from the IG Report given the legal import of everything else, it's hard to believe they'd be undated). And while that may or may not be the case, lo and behold, the IG Report happens to

have a timeline!

In the Report's table of contents, it lists an "Appendix B, Chronology of Significant Events." It's one of the only two appendices the titles of which are not redacted in the TOC. Yet in the actual pages included in the FOIAed document, it not only doesn't include the timeline, but it doesn't even include the withholding page included for Appendices C through F, which at least provide a page count for the appendix in question. (Note, I believe there to be four or five more appendices the very existence of which the CIA is hiding, given the size of the redaction in the TOC.)

So not only won't they give us the timeline (or wouldn't as of this release, but I suspect they won't give it to us on Friday, either), but they won't even tell use how long the timeline is (we timeline geeks are sort of interested in such details).

Now, I have no idea whether the CIA IG's timeline reveals what mine does—that the CIA brought out the small box and used harsh techniques long before the OLC memos got written. What details we have, thus far, from the section on Abu Zubaydah and the development of the torture techniques only include the date of Abu Zubaydah's capture, not any dates on the experimentation with particular techniques. We know the discussion on when and who got briefed is pointedly vague and inaccurate as to the content of the briefing to Congress.

The DCI briefed appropriate senior national security and legal officials on the proposed EITs. In the fall of 2002, the Agency briefed the leadership of the Congressional Intelligence Oversight Committees on the use of both standard techniques and EITs.

In the section on DOJ legal analysis, the CIA redacted two-plus lines before this sentence:

The ensuing legal opinions focus on the Convention Against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment (Torture Convention), especially as implemented in the U.S. criminal code, 18 USC 2340-2340A.

The preceding sentence or two must describe the process by which OLC came to draft the torture opinions, but it does not necessarily tell us about the timing of it.

So we have no idea whether the CIA IG had (or presented) an accurate timeline. We don't know whether the CIA IG noted the legal problems surrounding the torture that happened before the OLC opinions were written, not to mention the statutory non-compliance in briefing Congress and the period of time in during which Abu Zubaydah cooperated with FBI interrogators before the torture started, or whether it portrayed the same deceptive timeline the CIA has always presented, in which Abu Zubaydah never cooperated, legal opinion preceded torture, and briefing of Congress was not far off timely and complete.

And if the additional timelines in the Vaughn Index pertain to the torture tape destruction, and not the torture program itself, we have no idea whether the timeline details all the warnings not to destroy the torture tapes before they were destroyed.

Timelines, you see, can be very revealing, whether they are accurate or not.

Which is probably why the CIA is refusing to hand over any of its own timelines pertaining to its own torture program.