

# THE CIA'S LATEST VAUGHN FOLLIES

The CIA has released another Vaughn Index listing all the documents it refuses to hand over to the ACLU.

Some highlights are:

*Other-3, June 17, 2004: This is an eight page document, including a routing slip, requesting continued legal and policy support for the CIA's interrogation program.*

This document must be a response to Jack Goldsmith's June 10, 2004 letter to Scott Muller, stating that if he wanted the torture program re-approved, he would have to spell out what the program entailed.

*Other-5, February 24, 2004: This is a 129 page draft document, regarding the review of the CIA's interrogation program, with comments and suggestions from a CIA attorney on how the document could be improved.*

This must be a draft of the IG Report itself (the final length of which is 109 pages, without appendices). I find this interesting largely because it suggests the report itself was drafted six weeks before it was ultimately released. Presumably, the lawyer in question is someone in OGC, probably Scott Muller or John Rizzo. Other-7 also appears to be a much earlier (January 13, 2004), much shorter (44-pages) draft.

*Other-19, July 29, 2003: This is a 19-page Powerpoint presentation regarding the CIA's interrogation program, as it relates to high value detainees.*

This must be the PowerPoint used at the meeting at which John Ashcroft is alleged to have approved of the massive numbers of waterboarding sessions. By withholding it, CIA is preventing independent review of what they planned to say.

*Other-23, June 16, 2003: This is a 4-page document, including a router page, that summarizes the applicable law to the CIA's detention and interrogation program.*

*Other-25, June 16, 2003: This is an 8-page document, including two routing slips and a classification cover sheet. The document summarizes the law applicable to the CIA's detention and interrogation program of captured detainees.*

These must be versions of the Vaughn #19 document of the same date and content released in last week's document dump (the 4-page document must not have a fax cover-sheet and the 8-page one must have several). Given that they've withheld Other-23 and Other-25 but released Vaughn 19, they must be protecting the content of the cover sheets on Other-25 and possibly earlier draft details from Other-23. Their exemption for Other-23 explains:

This document contains pre-decisional deliberative process information and confidential communications between a CIA attorney and CIA officers relating to a matter for which the officers sought legal advice. It was prepared by the CIA attorney or employee with the joint expectation of the attorney and employee that it would be held in confidence, and it has been held in confidence. In addition, the information was produced by a CIA attorney in anticipation of litigation.

(The Other-25 exemption does not use the term "pre-decisional," which is why I think Other-23 might be still a draft.) This suggests the cover letter includes communication between lawyers and others, almost certainly at CTC, since that's who sent Patrick Philbin the document. It's interesting that the exemption claims the document was written "in anticipation of litigation."

*Other-41, January 28, 2003: This is a 2-page document, with a 7-page attachment, from an OGC attorney, informing the Office of General Counsel of an OIG review of Agency practices and an OIG request for documents.*

This is presumably Scott Muller's or John Rizzo's informing the rest of OGC of the OIG review. It provides the best starting date for the OIG review (and coincides with George Tenet's issuing of new guidelines for the torture program).

*Other-49, January 13, 2003: This is a 2-page memo with 5 pages of photos and a 1-page routing sheet attached. The memo was written by a CIA officer for a CIA attorney and discuss the interrogation of Abu Zubaydah.*

Five pages of photos? Five??? We knew there was one photo of Abu Zubaydah, extant, from October 2002. But there are now five pages of photos?

*Other-55, undated: This document contains 26 pages of photos and a handwritten coversheet detailing a classified intelligence method.*

Um, 26 pages of photos? So 31 pages thus far of photos of torture?

*Other-65, November 2, 2002: This is a 38-page document, outlining the need for and proposing a more intense counterterrorism program, for detained unlawful combatants. It discusses certain proposed interrogation techniques, medical information, and operational intelligence.*

Note the description refers to "a more intense counterterrorism program for unlawful combatants," plural. That means this is probably a request for torture techniques in Afghanistan, for a wide range of detainees, rather than just harsher methods for al-Nashiri. Which would date the request to roughly the same time as Gitmo was requesting harsher methods for its detainees.

*Other-69, September 10, 2002: This document is a*

*3-page memo dated September 10, 2002 from a CIA officer to other CIA officers discussing a counter-terrorism operation and proposing improvements to that operation.*

This is presumably a memo about how to improve torture—or maybe waterboarding itself. What's interesting about it is the date: less than a week after they first briefed Pelosi and Goss on interrogation methods, including the prospective use of waterboarding.

*Other-73, July 24, 2002: This 1-page of handwritten notes dated July 24, 2002 from a CIA officer describing proposed interrogation techniques that could be considered for use on detainees.*

I bet you a quarter these are notes John Rizzo took as John Yoo gave him the oral authorization to torture.

*Other-75, May 15, 2002: This document is a two page memo from one CIA officer to another CIA officer discussing information, provided by Abu Zubaydah, relating to a classified counter-terrorism operation.*

So right in the middle of the period when FBI and CIA are fighting over how to interrogate Abu Zubaydah, this document goes out. It may relate just to one of the pieces of intelligence Abu Zubaydah gave. Or it might record his response to one of the earlier abuses.

*Other-77, April 16, 2002: This document is a 4-page Memorandum for the Record by two CIA officers dated April 16, 2002 that outlines pre-decisional discussions among CIA attorneys and officers, as well as attorneys from other government agencies that occurred in anticipation of a counter-terrorism operation.*

This is the day Bruce Jessen started circulating his planned interrogation plan around JPRA. So that's probably what this document is—and the "other agencies" are probably DOD.

*Other-79, April 3, 2002: This is 4-pages of*

*handwritten notes, dated April 3, 2002, by a CIA officer regarding the interrogation of Abu Zubaydah.*

This has the CIA making notes on Abu Zubaydah's interrogation 10 days before the torture index does.

*Other-81, March 16, 2002: This document is a 4-page draft plan dated March 16, 2002 from two CIA officers detailing proposed enhanced interrogation techniques.*

Note that this is the same length as the April 16 document, so it may be a first draft of Jessen's torture plan.

*Other-101, February 7, 2002: This document is a four page memo and a two page memo that is undated and a one page email dated February 7, 2002. The email is informing a CIA officer that the writer of the email has been tasked by OGC to review memos. The emailer also mentions they need to follow up in the issue of whether paws could be tried in the U.S. criminal court.*

This came during the lead-up to Bush issuing a memo on February 7 saying al Qaeda was not eligible for treatment under the Geneva Convention. Jonathan Fredman of CTC was heavily involved in these discussions, and is credited with carving out space such that CIA's operations wouldn't even have to be treated as if GC applied.

*Other-131, undated: This is a 10-page undated document providing an chronology of events relating to the interrogation of Abu Zubaydah.*

Ah, if they can't release this timeline, it suggests they have a temporal problem. Which we knew.

*Other-189, undated: This document is seventeen pages of undated photos of a particular detainee and a covert field station.*

So 48 pages of photos.

*Interview Report-3, December 6, 2002: This*

*document is a 3-page memorandum for the record dated December 6, 2002 from a CIA officer relating to an investigation pertaining to a prisoner.*

Recall that the IG Report purportedly arose in response to complaints about al-Nashiri's torture and other problems—almost certainly the deaths in Afghanistan. So this is probably an interview pertaining to one of those deaths.

*Interview Report-103, September 5, 2003: This document is an interview report of a senior CIA attorney by the Office of the Inspector General, with the Attorney's comments on the report attached.*

A couple of points about this. First this interview was with a senior CIA attorney. And this interview was classified at Top Secret SCI, whereas others were just Top Secret. So this was a higher level interview than the others listed.

*Cable-63, March,5, 2003: This document is a three page cable with handwritten marginalia from the field to CIA Headquarters. The cable contains information relating to a detainee.*

The detainee here is probably KSM.

*Cable-183, November 21, 2002: This document is a five page cable from the field to CIA Headquarters. The cable contains information relating to the interrogation of al-Nashiri.*

This was from the day after the email about al-Nashiri's interrogation that appears to have sparked the IG Report.

*Cable-213, November 9, 2002: This document is a one page cable from CIA Headquarters to the field. The cable contains information relating to the detention of al-Nashiri.*

Note the interrogation index does not mention an HQ to field cable on this date.

*Email-394, November 12, 2002: This document is a one page email chain between CIA officers with a*

*one page cable attached. The document relates to the interrogation of a terrorist suspect conducted within the CIA's counter-terrorism program.*

Note the reference to a "terrorist suspect" here. This would have been written just after the first of the CIA detainees died in custody.

*Email-591, July 10, 2002: This document is a 2-page email chain between CIA attorneys. The document contains the attorneys' legal analysis as it relates to a specific issue that arose in the context of the CIA's counter-terrorism program, which was created in anticipation of litigation.*

This email chain was written three days before John Yoo gave John Rizzo information about how to avoid criminal liability for torture.

*Email-690, April 5, 2002: This is a 1-page email with an attached two page cable from a CIA attorney to a CIA officer regarding the interrogation of Abu Zubaydah.*

Again, this is one of the earliest dates when we've got CIA involved in Abu Zubaydah's interrogation.

*Email-738, October 15, 2001: This is a 2-page email, from a CIA attorney to herself, explaining the rules in which CIA officers may participate in the interviewing or debriefing of detainees.*

A CIA attorney to herself? Does anyone sniff a bcc?