DURHAM'S INVESTIGATION AND THE NON-EXEMPT IG FILES

This is rather interesting.

Remember that the ACLU FOIA on the torture tapes covered several things: documents describing what the torture tapes originally depicted and documents discussing the torture tapes, both of which Judge Hellerstein recently said could be withheld to protect the CIA's torture methods. (Well, okay, he said it protected sources and methods.)

Then there were the documents that discussed the actual destruction of the torture tapes. And the CIA has just determined that parts of 100 Inspector General documents are not exempt from FOIA—but cannot be released because doing so would hinder John Durham's investigation into the torture tapes.

> As required by this Court's order of September 2, 2009, the CIA has conducted a line-by-line review of approximately 100 responsive OIG documents and processed these documents to identify any non-exempt information for release. The CIA has determined that certain of these 100 documents contain information that is not covered by any FOIA exemptions that may be asserted by the CIA. The CIA has been informed, however, that release of the information in question from the OIG documents would interfere with the ongoing criminal investigation of Special Prosecutor John Durham into the destruction of the videotapes.

This information must be fairly innocuous—if it described the actual content of the videotapes or could be claimed to be pre-decisional or attorney work product, the CIA would claim a

FOIA exemption. But the information is either directly relevant to Durham's investigation or the CIA is making shite up again.

I'm interested in this because of the OIG's review of the Office of General Counsel's review of the torture tapes—and because of Jay Rockefeller's attempts to get more information on precisely that subject. After all, Jay Rock's request for that information would be non-exempt, as would discussions within OIG of whether or not to respond to him. And those discussions would have taken place in 2005, just before the torture tapes were destroyed.