

# **DID ADDINGTON OPPOSE 9/11 COMMISSION QUESTIONS TO AVOID INDEPENDENT EVALUATION OF TORTURE PROGRAM?**

Shortly after news broke that CIA destroyed the torture tapes, the 9/11 Commission issued a letter complaining that they had not been told of—much less been allowed to review—the torture tapes.

The commission's mandate was sweeping and it explicitly included the intelligence agencies. But the recent revelations that the C.I.A. destroyed videotaped interrogations of Qaeda operatives leads us to conclude that the agency failed to respond to our lawful requests for information about the 9/11 plot. Those who knew about those videotapes — and did not tell us about them — obstructed our investigation.

They released a memo from Philip Zelikow describing how the Administration refused to allow the 9/11 Commission direct access to detainees in early 2004.

The full Commission considered this issue in a meeting on January 5, 2004 and decided the CIA responses were insufficient. It directed the staff to prepare a letter to administration officials that would make the dispute public. There were then discussions between Hamilton and White House counsel Alberto Gonzales and several meetings of CIA lawyers with Commission staff. The

Commission offered various compromises to avoid disrupting the interrogation process, including direction or observation of questioning in real-time using one-way glass, adjoining rooms, or similar techniques. In a January 15, 2004 memo to Gonzales, Muller, and Undersecretary of Defense Steve Cambone, Zelikow wrote, "We remain ready to work creatively with you on any option that can allow us to aid the intelligence community in cross-examining the conspirators on many critical details, clarify for us what the conspirators are actually saying, and allow us to evaluate the credibility of these replies."

But these negotiations made little progress. Hamilton and commissioner Fred Fielding then met with Gonzales, Tenet, Secretary of Defense Rumsfeld, and Chris Wray from the Department of Justice. The administration offered to take sets of written followup questions, pose them to detainees, relay answers back to the Commission, and take further questions. In a January 26, 2004 meeting the Commission accepted this proposal as the best information it could obtain to address its longstanding questions.

Today's document dump includes an interesting snapshot of the Administration response to the Commission request. (PDF 25-30)

It appears that David Addington took the lead on refusing the 9/11 Commission's request. It appears Addington got the draft of the letter from 9/11 Commission—which was addressed to Rummy and George Tenet. Tenet and Addington clearly had a conversation about how to respond. But it seems that Addington drafted the response, got Condi, Andy Card, and Alberto Gonzales to review it, and then sent it to Tenet (and, presumably, Rummy) to okay and sign the letter.

In other words, OVP had the lead in refusing the 9/11 Commission's request for more information from the detainees.

The document is also interesting for the underlining on the letter from the Commission. While it's not clear who made the markings (though it seems likely to be Addington since that version of the letter clearly came from him), whoever made them appears to have reacted strongly against the Commission's intention to independently evaluate the detainees and their interrogations. Here are the passages underlined:

We are prepared to work with you on procedures which will not supplant the role of the familiar interrogators, but which will allow our staff members to observe questioning in real time and then to put forward to the interrogators immediate, essential follow-up questioning, with the opportunity to independently evaluate the replies. We believe that one-way glass, adjoining rooms or similar techniques can accommodate our mutual concerns.

[snip]

The procedures we have proposed will enable the Commission to form its own independent evaluation of the credibility of the conspirators' statements.

In other words, it appears that whoever made these annotations appears to have been most worried that Commission staff members could make independent judgments about the detainees and the interrogations.

Addington—or whoever this was—didn't want anyone to independently evaluate the interrogations conducted in the torture program.

One more point: the Commission made it clear that they needed to view interrogations directly

because they had identified gaps in the narrative as early as the previous October, but in several rounds of clarifying questions the Administration hadn't been able to close those gaps.

In October we provided two memoranda detailing many specific anomalies and gaps in the reports, and listing certain questions we asked to be posed to the conspirators. The intelligence community answered as best it could in November, but only a few of our submitted questions have been addressed. The various substantive problems remain after analyzing even the most recent information we have received. We cannot detail these problems in this unclassified letter.

Particularly given that the 9/11 Commission used only 10 pieces of intelligence from Abu Zubaydah (and just 16 from Rahim al-Nashiri) you can imagine what would have looked like gaping holes. Here were al Qaeda's number 3 and the purported mastermind of the Cole bombing, and yet they provided little information about those subjects (or at least, little that Commission staffers found credible). Indeed, by the time the Commission made their request, most of the information they had received had to do with the popularity of different al Qaeda figures (the accuracy of some of which the Commission doubted), another doubted claim about KSM's plan on 9/11, and about Osama bin Laden's response to the Cole bombing. They were probably wondering why some of the only credible information unique to AZ pertained to a training camp—Khalden—that wasn't even formally affiliated with al Qaeda.

They were probably wondering why it looked like Abu Zubaydah wasn't really part of al Qaeda at all.

At the very least, letting Commission staffers view the interrogations would have showed that the interrogators were incompetent at what they

were doing (which, Zelikow has made clear, was already becoming apparent from the interrogation reports anyway).

But, too, there was another risk. If Commission staffers saw some of these detainees in person, it would become clear that they weren't who the Administration claimed them to be.