

STEVEN BRADBURY DIDN'T DISCLOSE HIS APPENDIX M OPINION TO CONGRESS

As I posted a week ago, in April 2006 Steven Bradbury wrote one of the most egregious of all the egregious torture memos, one approving the new Army Field Manual, including its Appendix M laying out more intense interrogation methods. While the legal analysis of the memo was, itself, fairly nondescript, the analysis in the memo was written to the file rather than to the client, DOD. This separated Bradbury's actual approval of the new document for DOD from any analysis or caveats. Approving the memo in such a way allowed DOD to change the content of Appendix M (which they did do), while still maintaining a letter saying whatever was in Appendix M had been approved by OLC.

Which is why I find it so interesting that, in response to a direct Question for the Record from John Conyers in 2008, Bradbury didn't reveal the memo.

(D) Please identify any other legal opinions or memoranda you have authored or assisted in drafting regarding the interrogation of detainees by U.S. personnel or contractors.

ANSWER: In addition to the three opinions issued by OLC in May 2005, I assisted in preparing the public December 30, 2004 opinion interpreting the federal anti-torture statute. In addition, I authored two opinions related to the CIA program in 2006 and one in 2007. The latter opinion was provided in conjunction with the President's issuance of Executive Order 13440 setting forth the legal requirements for the CIA program in

accordance with the Military Commissions Act of 2006. I also provided or participated in providing other legal advice relevant to the CIA program, either orally or by letter, from time to time in the period from 2004 to the present, and also presented testimony or briefings or participated in preparing letters on the subject to Committees of Congress and their Members and staffs. Finally, I assisted in drafting legal advice and testimony concerning Department of Defense interrogation policies during the tenure of Assistant Attorney General Jack Goldsmith in 2004.

Here's what Bradbury admits to being involved with:

- May 10, 2005 Techniques Memo
- May 10, 2005 Combined Memo
- May 30, 2005 CAT Memo
- August 31, 2006 Conditions of Confinement Memo
- August 31, 2006 DTA Memo
- July 20, 2007 EO 13440 Memo
- Written and oral advice to CIA between 2004 and 2008
- Briefings or letters to Congress
- Drafting advice and testimony on DOD program in 2004

The only advice he admits being involved with for DOD is limited to the aborted effort to draft a replacement for the Yoo Memo in 2004. And he clearly limits that activity to 2004.

Which means that, when John Conyers asked Bradbury to list every opinion he had written on interrogation, Bradbury did not do so. He hid at least this memo.

I find that interesting not just because Bradbury provided an incomplete answer to Congress on the torture program. But since we still have no idea what authorization DOD used from 2004 until 2006, when Bradbury wrote this memo, Bradbury's non-disclosure raises the question of what else Bradbury and the Bush Administration may have hidden about OLC approvals for DOD's torture program.