

IS JOHN DURHAM FINALLY DONE?

While we're waiting to get the documents discussed in these NYT and WaPo and WSJ stories, in which (among other things) Dusty Foggo's Deputy records that Porter Goss "laughed and said that actually, it would be he, PG, who would take the heat" about the destruction of the torture tapes, I wanted to look at this passage from the NYT:

One American official familiar with the matter cautioned that the e-mail messages were merely the account of one unnamed C.I.A. official, not the results of a formal investigation.

"It's a little risky to draw cosmic conclusions from something like that," he said.

And this similar passage, from the WaPo:

"There may have been some people who thought precise procedure wasn't followed, but I haven't heard of anyone who believed at the time that any law had been broken," said a U.S. official familiar with the matter, speaking on the condition of anonymity to discuss the subject of an ongoing investigation. "That's quite a different thing."

I raise these quotes—dismissing the damning nature of the emails while suggesting they don't amount to criminal activity—because these emails look like they could be some of the 13 documents John Durham withheld in the ACLU's FOIA. For example, the documents described appear to be some of these documents.

Document 5, November 8, 2005, Request for approval to proceed w/authorization of tape destruction

This document is a one-page cable from the field to CIA Headquarters requesting permission to destroy 92 videotapes.

Document 2, November 9, 2005, Request approval to destroy field videotapes

This document is a fourteen-page email chain with six embedded cables. Three of the cables relate to the decision to destroy the 92 videotapes. The remaining cables discuss an unrelated counter-terrorism operation.

Document 4, November 9, 2005, Videotape destruction confirmation

This document is a one page cable from the field to CIA Headquarters, confirming the destruction of the videotapes.

Document 23, November 25, 2005, Short backgrounder of tape destruction

This is a three-page email chain that provides background information on the tape destruction.

I'm interested in whether these documents are the 13 documents, because Durham was withholding those until his investigation was finished. Which would sure suggest that Durham may be finished.

Now, Robert Bennett appears in all these stories talking about how Rodriguez should be treated as a hero for destroying these tapes. The quotes make Bennett sound almost desperate to defend his client. So maybe ... just maybe ... we'll get an indictment over this.

Or the two officials quoted (perhaps they're the same guy) are simply trying to tamp down expectations before John Durham announces all this was hunky dory.

One more thing. The WSJ version of the story notes that the CTC drafted the request to

destroy the tapes on November 4.

More than a year later, on Nov. 4, 2005, the CIA's Counterterrorism Center was asked to draft language requesting approval from Jose A. Rodriguez Jr., then chief of the agency's National Clandestine Service, to destroy the tapes, the memorandum says. Mr. Rodriguez authorized the tapes' destruction four days later, it says.

November 4 was the day after Leonie Brinkema asked the government whether it had any tapes of interrogations of various detainees, and the same day that a member of Congress wrote a letter to CIA's IG (I suspect this was one of Jay Rockefeller's requests to see the IG report on the tapes). It was just days after the Dana Priest article on the black sites. But I'm sure the timing is all a coinkydink.