

WHEN NYT ACCUSED JIM COMEY OF APPROVING TORTURE

As you've likely heard already, NPR and others have [reported](#) that President Obama will nominate Jim Comey to lead the FBI.

I think Comey is a decent choice.

Much of the attention since this news broke has focused on Comey's role in the hospital confrontation, where he [threatened to resign](#) unless the Bush Administration fixed the illegal wiretap program. That will clearly be a highlight of Comey's confirmation discussion.

But just as much as Comey's [unsent resignation letter](#), I'm curious how [these emails](#) will play in his confirmation process.

They were similar Comey CYA, from the period in May 2005 when Dick Cheney was pushing Alberto Gonzales to reauthorize all the torture CIA had been doing since Jack Goldsmith had withdrawn the Bybee Two memo in 2004. While Comey did buy off on approving the waterboarding that had already been done (he unsuccessfully tried to limit it to one detainee whose treatment occurred after the Bybee Two memo was withdrawn), he also pushed hard – and failed – to get Alberto Gonzales to refuse to approve the techniques in combination, as they had reportedly always been used.

In the emails, he talks about when news of what was being approved broke (details of what freaked Comey out so much still haven't become public), those pushing for torture would be gone. He regretted how much weaker Gonzales was than John Ashcroft, recalling that hospital bed scene.

I told him the people who were applying pressure now would not be there when the shit hit the fan. Rather they would

simply say they had only asked for an opinion.

[snip]

It leaves me feeling sad for the Department and the AG.

[snip]

I just hope that when this all comes out, this institution doesn't take the hit, but rather the hit is taken by those individuals who occupied positions at OLC and OAG and were too weak to stand up for the principles that undergird the rest of this great institution.

[snip]

People may think it strange to hear me say I miss John Ashcroft, but as intimidated as he could be by the WH, when it came to crunch-time, he stood up, even from an intensive care hospital bed. That backbone is gone.

Comey even tried to scare the torturers with warnings that the torture videos would one day become public – just six months before the torturers destroyed those videos.

There's far more, which I laid out in [this post](#) and [this post](#).

But what's just as interesting as the actual content of the emails is the spin that NYT reporters [Scott Shane and David Johnston gave it](#), presumably at the behest of the torturers who leaked it to them. They chose to ignore all the details about people like Cheney and Condi Rice pushing for more more more, immediately, and instead to focus on Comey's assent to the memo effectively approving of the torture – including waterboarding – that had already been done.

Previously undisclosed Justice

Department e-mail messages, interviews and newly declassified documents show that some of the lawyers, including James B. Comey, the deputy attorney general who argued repeatedly that the United States would regret using harsh methods, went along with a 2005 legal opinion asserting that the techniques used by the Central Intelligence Agency were lawful.

That opinion, giving the green light for the C.I.A. to use all 13 methods in interrogating terrorism suspects, including waterboarding and up to 180 hours of sleep deprivation, "was ready to go out and I concurred," Mr. Comey wrote to a colleague in an April 27, 2005, e-mail message obtained by The New York Times.

It's true. Comey did buy off on [that memo](#). He did buy off on a memo approving 7.5 days of sleep deprivation and waterboarding (though not, as Cheney was pushing so hard to do, together).

During John Brennan's confirmation hearing, Saxby Chambliss made sure to get John Brennan's much more complacent involvement in torture into the record. He made sure to get Brennan to admit to having submitted FISA warrant applications that relied on tortured information. Those efforts, I suspect, were designed to make it a lot harder for Brennan to separate the CIA from torture going forward.

The evidence in these emails is in some ways more damning, but in most ways far, far less, than what we know of Brennan's role in torture.

But I expect the same people who leaked these emails to NYT's remarkably obedient reporters will try the line again.

And why not? At least one of those credulous reporters is still [parrotting](#) his [sources' spin](#).