

# **LAWFARE DISAPPEARS DEMOCRATIC SUPPORT FOR CENTRIST FAILURES TO CLAIM A “SEA- CHANGE” BECAUSE OF RUSSIA**

Lawfare just made the craziest argument: that the center-left is only now embracing the Intelligence Community.

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## **DOES VICE PRESIDENT PENCE BELIEVE HE HAS DECLASSIFICATION AUTHORITY?**

Since 2003, the Vice President has had authority to classify information, which Dick Cheney may have believed gave him authority to declassify things like Valerie Plame’s identity. Has Mike Pence been using that authority?

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## **MCCAIN HAS ONE WAY TO PREVENT TORTURE UNDER TRUMP —**

# **OPPOSE POMPEO AND SESSIONS**

John McCain's getting cranky as fuck about answering questions about Trump, even while getting adoring press for his promises he'll make sure Trump doesn't resume torture again. But there's just one thing he can do to prevent torture: prevent Trump's pro-torture nominees Jeff Sessions and Mike Pompeo from being confirmed.

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## **FALSE REASSURANCES: ON PIXIE DUSTED EXECUTIVE ORDERS, APPENDIX M, AND PROXY DETENTION AND TORTURE**

People are too complacent about whether and how Trump can exercise his authority as President. This post looks at two examples of authorities left over from the Bush Administration Trump can use.

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## **"ONLY FACTS MATTER:" JIM COMEY IS NOT THE MASTER BUREAUCRAT**

# OF INTEGRITY HIS PR SELLS HIM AS

Since Jim Comey's showy press conference yesterday, the press has rehashed Jim Comey's carefully cultivated image as a Boy Scout, with outlet after outlet replaying the story of how he ran up some hospital steps once.

Sadly, even DOJ beat journalists seem unable to point out that that image has been carefully cultivated over years. Comey is a PR master.

But as I have written on several occasions, the story is more complicated. That's true, first of all, because the 2004 hospital confrontation, in which Comey and a bunch of other DOJ officials threatened to quit and therefore allegedly shut down some illegal wiretap programs, did not end in March 2004. On the contrary, for the main unlawful program we know about – the Internet dragnet – that confrontation ended in July 2004 when, after some serious arm-twisting, DOJ got FISC presiding judge Colleen Kollar-Kotelly to authorize substantially the same Internet dragnet they refused to authorize themselves.

The arguments they used to pull that off are fairly breath-taking.

## **The hospital confrontation only served to hide illegal surveillance under a new rock**

First, they told Kollar-Kotelly she had to reauthorize the dragnet because terrorists wanted to plan an election year plot; as I note below, that claim was largely based on a fabrication.

Then, they argued that the standard for approval of a bulk Pen Register/Trap and Trace order was the same (arguably lower) as any other PRTT order focused on an individual. Kollar-Kotelly,

DOJ argued, had no discretion over whether or how to approve this.

DOJ told Kollar-Kotelly she had no authority to do anything but approve their expansive plan to collect Internet data from telecom switches. "[T]he Court 'shall' authorize a pen register ... if an application brought before it complies with the requirements of the statute." Even though, by collecting Internet metadata in bulk, the government would take away FISC's authority to review whether the targets were agents of a foreign power, DOJ argued she had no authority to determine whether this bulk data – which she **deemed** an "enormous" amount – was "relevant" to the FBI's investigations into terrorism.

And that meaning – which the government expanded even further in 2006 to claim the phone records of every single American were "relevant" to the FBI's standing terrorism investigations – "requires no stretching of the ordinary meaning of the terms of the statute at all," they claimed, in apparent seriousness.

DOJ further argued that's the way the FISA court – which Congress created in 1978 to provide real judicial review while permitting the executive to keep its foreign spying secret – is supposed to work. Having FISC rubber-stamp the program they themselves had refused to authorize "promotes both of the twin goals of FISA," DOJ argued, "facilitating the foreign-intelligence collection needed to protect American lives while at the same time providing judicial oversight to safeguard American freedoms."

Their claim this involved oversight is especially rich given that DOJ and FISC argued

then – and continued to argue at least through 2010 when John Bates would reauthorize and expand this dragnet – that the FISC had no authority to impose minimization procedures for bulk collected data, which has historically been the sole way FISC exercises any oversight. Then, during the period of the very first dragnet order, NSA “discovered” it was violating standards Kollar-Kotelly imposed on the collection (effectively, violating the minimization procedures). But in spite of the fact that she then imposed more requirements, including twice quarterly spot checks on the collection, those violations continued unabated until NSA’s Inspector General finally started, on Reggie Walton’s order, an (aborted) real review of the collection in 2009. At that point, OGC all of a sudden “discovered” that their twice-quarterly spot checks had failed to notice that *every single record* NSA had collected during that 5 year period had violated FISC standards.

In short, the program was never, ever, in legal compliance. That was the solution Comey achieved to the unlawful program he got shut down.

DOJ’s – Jim Comey’s – efforts to undercut FISC not only led to other really problematic FISC decisions based on this precedent (including, but not limited to, the phone dragnet in 2006 and upstream collection in 2007), but also gave illegal collection the patina of legality solely by making someone else authorize a program she couldn’t oversee.

## **DOJ deliberately bypassed Congress because they knew it wouldn’t approve the surveillance**

Along with radically changing the nature of FISC in the wake of the hospital confrontation, DOJ – Jim Comey – affirmatively bypassed Congress because they didn’t want to tell America it was spying on them in bulk.

DOJ pointed to language showing Congress intended pen registers to apply to the Internet; they pointed to the absence of language prohibiting a pen register from being used to collect data from more than a single user, as if that's the same as collecting from masses of people and as if that proved congressional intent to wiretap everyone.

And then they dismissed any potential constitutional conflict involved in such broad rereadings of statutes passed by Congress. "In almost all cases of potential constitutional conflict, if a statute is construed to restrict the executive, the executive has the option of seeking additional clarifying legislation from Congress," the heroes of the hospital confrontation admitted. The White House had, in fact, consulted Majority Leader Tom DeLay about doing just that, but he warned it would be too difficult to get new legislation. So two months later, DOJ argued Congress' prerogative as an independent branch of government would just have to give way to secrecy. "In this case, by contrast, the Government cannot pursue that route because seeking legislation would inevitably compromise the secrecy of the collection program the Government wishes to undertake."

This was a pretty big assault on separation of powers, and not one justified by the efficacy of the program or the needs of the collection.

While I won't go into it here, this is all about the best known part of the Stellar Wind program that was not so much "shut down" as "dumped into someone else's legal lap." There's another aspect of Stellar Wind – one I don't yet fully understand – that Comey reauthorized on his own, one that has gotten no reporting. I hope to return to this.

## **Comey's DOJ lets itself be manhandled into reauthorizing torture and surveillance**

There's an intimately related effort Comey gets some credit for which in fact led to fairly horrible conclusions: torture. Jack Goldsmith, with Comey's backing, also withdrew the shoddy John Yoo memo authorizing waterboarding and other torture (Goldsmith also prevented Yoo from retroactively authorizing more techniques).

But on July 2, 2004 – two weeks before Goldsmith left – the intelligence community found another detainee it just had to torture, Janat Gul, based on already questioned claims he wanted to plan an election year attack. They had a Principal's Committee meeting to discuss what to do. After Jim Comey and John Bellinger left the meeting, the PC agreed to engage in torture again (though not waterboarding). Five days later Goldsmith wrote to ensure the IC knew this meant they had to follow the guidelines laid out under the original Yoo memo. By September, after Gul and some associates had been tortured extensively – each time with Dan Levin writing what I'm sure he imagined to be a soundly reviewed approval for the torture – Levin had approved waterboarding again, along with the techniques Goldsmith had prevented Yoo from retroactively and unilaterally authorizing. OLC repeatedly promised a more fulsome memo laying out the approval offered, ostensibly in reaction to an immediate need, in 2004. Jim Comey initiated that process in fall and December 2004. But in the end, the technique memos completed by Steven Bradbury in May 2005 authorized both waterboarding, as well as all the other conditions (primarily techniques use in combination) Comey seems to have tried to have set to make them impossible to use again. Comey resigned right before these memos were finalized, so it's possible he made another –

failed – attempt to prevent the illegal program by threatening to quit; he did, however, stick around for another three months before he moved onto his sinecures at Lockheed and Bridgewater.

Here's the tragic thing about this unsuccessful effort to impose order on the torture program: it, like the Iraq War itself, was based on a fabricator.

CIA came to Comey and others, said, "this guy wants to attack the presidential elections so we need a dragnet and torture," to which DOJ said okay.

The CIA in March 2004 received reporting from a source the torture report calls "Asset Y," who said a known Al-Qaeda associate in Pakistan, Janat Gul – whom CIA at the time believed was a key facilitator – had set up a meeting between Asset Y and Al-Qaeda's finance chief, and was helping plan attacks inside the United States timed to coincide with the November 2004 elections. According to the report, CIA officers immediately expressed doubts about the veracity of the information they'd been given by Asset Y. A senior CIA officer called the report "vague" and "worthless in terms of actionable intelligence." He noted that Al Qaeda had already issued a statement "emphasizing a lack of desire to strike before the U.S. election" and suggested that since Al-Qaeda was aware that "threat reporting causes panic in Washington" and inevitably results in leaks, planting a false claim of an election season attack would be a good way for the network to test whether Asset Y was working for its enemies. Another officer, assigned to the group hunting Osama bin Laden, also expressed doubts.

[snip]



Nevertheless, the CIA took seriously Asset Y's claim that Gul was involved in an election plot and moved quickly to gain custody of him after his arrest by Pakistan in June 2004. Even before CIA rendered Gul to its custody, Tenet started lobbying to get torture techniques reapproved for his interrogation.

On June 29, Tenet wrote National Security Adviser Condoleezza Rice seeking approval to once again use some of the techniques whose use he suspended less than four weeks earlier, in the hope of gathering information on the election season plot. "Given the magnitude of the danger posed by the pre-election plot and Gul's almost certain knowledge of any intelligence about that plot" Tenet wrote, relying on Asset Y's claims, "I request the fastest possible resolution of the above issues."

[snip]

Soon after the reauthorization of the torture and the Internet dragnet, the CIA realized ASSET Y's story wasn't true. By September, an officer involved in Janat Gul's interrogation observed, "we lack credible information that ties him to pre-election threat information or direct operational planning against the United States, at home or abroad." In October, CIA reassessed ASSET Y, and found him to be deceptive. When pressured, ASSET Y admitted had had made up the story of a meeting set up by Gul. ASSET Y blamed his CIA handler for pressuring him for intelligence, leading him to lie about the meeting.

By 2005, CIA had concluded that ASSET Y was a fabricator, and Janat Gul was a "rather poorly educated village man [who is] quite lazy [who] was looking to make

some easy money for little work and he was easily persuaded to move people and run errands for folks on our target list" (though the Agency wasn't always forthright about the judgment to DOJ).

During Comey's entire effort – to put order to the dragnet, to put order to the torture – he was in fact being led by the nose by the CIA, once again using the report of a fabricator to authorize actions the US had no business engaging in.

If that were all, I'd consider this a tragic story: poor Jim Comey trying to ensure the US does good, only to be undermined by the dishonest folks at the CIA, using asymmetric information again to ensure their ass gets covered legally.

## **Jim Comey refuses to review what he did in 2004 and 2005**

But here's the part that, in my opinion, makes being snookered by the CIA unforgivable. Thus far, Comey has refused to read the full Torture Report to learn how badly he got snookered, even though he promised Dianne Feinstein to do so in his confirmation process.

I am specifically intrigued by Comey's apparent lack of curiosity about the full report because of his actions in 2005.

As these posts lay out (one, two), Comey was involved in the drafting of 2 new OLC memos in May 2005 (though he may have been ignorant about the third). The lies CIA told OLC in 2004 and then told OLC again in 2005 covering the same torture were among the worst, according to Mark Udall. Comey even tried to hold up the memo long enough to do fact gathering that would allow them to tie

the Combined memo more closely to the detainee whose treatment the memo was apparently supposed to retroactively reauthorize. But Alberto Gonzales' Chief of Staff Ted Ulyot told him that would not be possible.

Pat [Philbin] explained to me (as he had to [Steven Bradbury and Ted Ulyot]) that we couldn't make the change I thought necessary by Friday [April 29]. I told him to go back to them and reiterate that fact and the fact that I would oppose any opinion that was not significantly reshaped (which would involve fact gathering that we could not complete by Friday).

[snip]

[Ulyot] mentioned at one point that OLC didn't feel like it would accede to my request to make the opinion focused on one person because they don't give retrospective advice. I said I understood that, but that the treatment of that person had been the subject of oral advice, which OLC would simply be confirming in writing, something they do quite often.

At the end, he said that he just wanted me to know that it appeared the second opinion would go [Friday] and that he wanted to make sure I knew that and wanted to confirm that I felt I had been heard.

Presuming that memo really was meant to codify the oral authorization DOJ had given CIA (which might pertain to Hassan

Ghul or another detainee tortured in 2004), then further details of the detainee's torture would be available in the full report. Wouldn't Comey be interested in those details now?

But then, so would details of Janat Gul's torture, whose torture was retroactively authorized in an OLC memo Comey himself bought off on. Maybe Comey has good reason not to want to know what else is in the report.

Sure, he may be doing so to prevent Jason Leopold from liberating the report via FOIA. But in doing so, he is also refusing to examine his own actions, his own willingness to reauthorize the dragnet and torture he had just shut down in the service of a lie. He is refusing to consider whether the deals he made with the devil in 2004 were unsound.

Even here, I might just consider this a tragic story, of a morally just man bested by bureaucratic forces both more sinister and dishonest than Comey.

Except for Comey's Manichean view of the world.

His world is separated into the Good Guys who should have access to encryption and the Bad Guys who should not, the loyal people like Hillary who can be "extremely careless in their handling of very sensitive, highly classified information" with no legal consequences and the disloyal people like Thomas Drake who get prosecuted for doing the very same things.

That's not the world where self-proclaimed Boy Scout Jim Comey assents to the reauthorization of torture and dragnets based on a fabrication with no repercussions or even soul-searching.

I mean, I get it. There is no place for Boy Scouts in the top ranks of our national security state. I get that you're going to lose bureaucratic fights to really immoral causes and manipulative spooks. I get you're sometimes

going to get the so-called trade-off between liberty and security wrong, especially when you get lied to.

But given that reality, there is no place for pretend Boy Scouts. There is no place to pretend your world is as easy as running up some hospital steps, victory!, we've vanquished presidential abuses so let's go dismantle separation of powers! That's just naive, but in the service of the FBI Director, it legitimizes a really unjust – morally-rather-than-legally-based – method of policing.

Comey seems to believe his self-created myth at this point, and that's a very dangerous spot for a guy deigning to be the investigator and prosecutor of who is loyal and who disloyal.

Update: Matthew Miller wrote up his criticism of Comey's abuse of power here.

Update: Here's an interview I did for Pacifica on the email question generally.

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## **CIA LIED ABOUT LEAKING TO SCREW DAVID PASSARO AND PROTECT BUSH AND TENET**

In the SSCI Torture Report, it has two references to how press people were leaking details of the the torture program to the press even while lawyers were claiming that the program was top secret. In this document, someone notes "our Glomar fig leaf is getting pretty thin." In this one, a lawyer admits the declaration he had just written "about the secrecy of the interrogation program" was "a

work of fiction.”

This document explains why the CIA was playing such games: to screw over David Passaro, a CIA contractor who was being tried for assaulting a detainee.

I know there is an urgency about the 7th Floor to attempt to defend the CIA program in the public domain. However, we need to have the 7th Floor confront the inconsistency in filing a CIPA declaration in Passaro about how critical it is to keep this information secret and at the same time planning to reveal the darn near the [sic] entire program. These goals are not obviously compatible.

I’ve written about Passaro at length before. Here’s a summary of what happened, which is basically that an insurgent suspect was brought into a remote base and – after being interrogated by 4 different people – died. Passaro was indicted just as the (and probably because) the Abu Ghraib scandal was breaking. Before he was indicted, he had a period working at Fort Bragg, during which he put together a bunch of documents to defend himself, which was then confiscated. But he clearly intended to expose details about the torture program and the Gloves Come Off Memorandum of Notification (Passaro was working under a separate program authorized by the MON, the Counterterrorism Pursuit Teams). Of particular note, he asked for documents pertaining to CIA torture that would have clearly implicated George Tenet and George Bush (because, effectively, Passaro’s activities were directly authorized by that same MON).

In response, Passaro got bullshit discovery, some document that had been superseded by the ones that would have implicated the two Georges, rather than the one that would have made it clear techniques he was accused of using against the detainee had been approved, indirectly in that MON, by the President.

There are, in my opinion, several other reasons (witnesses and other information withheld) why Passaro did not get a fair trial. So I don't actually know whether we know what happened and who should have been found guilty for it.

But one thing is now clear.

Even while CIA was leaking information to the press in an effort to spin their torture program, they were at the same time submitting sworn declarations in Passaro's case designed to ensure he wouldn't get the documents proving that George Tenet and George Bush had ordered precisely the kinds of things he was being tried for doing. The CIA was lying to protect the muckety-mucks, to include the President, while fucking the scapegoat, the one guy the government still points to to pretend they can prosecute torture.

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## **CIA FINALLY DECLASSIFIES "GLOVES COME OFF" MEMORANDUM OF NOTIFICATION REFERENCE**

**Guidelines on Interrogations Conducted Pursuant to the  
Presidential Memorandum of Notification of 17 September 2001**

Back in 2012, I wrote a series of posts on the Obama Administration's extraordinary efforts to censor this title. (post 1, post 2, post 3, post 4, post 5, post 6, post 7, post 8)

The title was part of some smart CYA on the part of George Tenet. When things started to go south with the torture program in 2003, he wrote this

document, ostensibly putting order to the torture program, but also making it clear the whole thing operated on Presidential authority. (The document, which should have been released to David Passaro in his criminal trial for torturing a detainee who subsequently died, was withheld, which prevented him from pointing out anything he did, he did with Presidential approval, so Tenet's CYA didn't help him at all.)

The judge in ACLU's lawsuit to liberate torture documents, Alvin Hellerstein, decided the language should not be censored, and ordered the government release it. Then National Security Advisor Jim Jones wrote a secret declaration stating that it could not be disclosed. All the while, ACLU thought they were fighting to release a description of waterboarding, when in fact Hellerstein was trying to force the Administration to release the single detail that torture had been done on the President's order.

But the Second Circuit overruled Hellerstein, declaring these 8 words a source and method (for the record, I guessed exactly what was behind the redaction so their secret was only useful for legal challenges).

That the torture program operated pursuant to a Finding (that is, as a covert op) had long been known thanks to blabby CIA types like John Rizzo. But it was formally declassified as part of the Torture Report. It got released today as part of a Jason Leopold lawsuit.

So there you have it. "Presidential Memorandum of Notification of 17 September 2001." A secret Obama fought to the circuit court, now public for all the world to see.

It doesn't feel so momentous, does it?

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# LAWYER WHO FILED CRIME REPORT AGAINST SSCI STAFFER, ROBERT EATINGER, COMPLAINS ABOUT LACK OF TRUST

Robert Eateringer, whose name was redacted 1,600 times in the Senate Torture report, and who went on to file a crime report against Senate staffers for using materials provided to them by CIA, is complaining about lack of trust in this summary of Edward Snowden's role in surveillance debates.

"The loss in trust with the U.S. public and businesses has a real operational effect. Despite Hollywood portrayals, U.S. intelligence has limited authorities, personnel, and resources," Robert Eateringer, former senior deputy general counsel at the CIA, said. "Our intelligence agencies depend on the willingness of U.S. persons and companies to provide information and assistance, either voluntarily or through a contract mechanism. A loss in trust reduces the number of Americans willing to assist our intelligence agencies. It reduces not only voluntary assistance but also the number of companies willing to enter into contracts."

"We have seen recent examples of major U.S. companies not only declining to help U.S. intelligence, but activity seeking to frustrate it. Perhaps the most obvious is Twitter, Inc.'s recent directive to the data analytics company Dataminr to cease selling data, not precisely defined in the press reporting, to U.S. intelligence agencies," Eateringer added.

At least according to Twitter, this is a false representation of what has happened. Twitter says that its policy on Dataminr selling data to the intelligence community is longstanding, not a recent change.

Constitution Project's Katherine Hawkins actually tried to have Eater's name unredacted in the released summary via the formal process to do so, with no luck.

I can think of few things that have eroded trust in recent years than the serial coverups of CIA's torture, in which Eater has had a central role.

So I guess they went to the expert in eroding trust.

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## HILLARY PROMISES NOT TO ORDER THE MILITARY (!?!) TO TORTURE

Though I agree with the general sentiment that Donald Trump should not be trusted with America's nuclear codes, there's a lot I loathed in Hillary's foreign policy speech yesterday.

Her neat espousal of American exceptionalism, with the specter that another country could make decisions about our lives and jobs and safety, is especially rich coming from a woman who has negotiated several trade deals that give corporations the power to make decisions about our lives and jobs and safety.

I believe with all my heart that America is an exceptional country – that we're still, in Lincoln's words, the last, best hope of earth. We are not a country that cowers behind walls. We lead with purpose, and we prevail.

And if America doesn't lead, we leave a vacuum – and that will either cause chaos, or other countries will rush in to fill the void. Then they'll be the ones making the decisions about your lives and jobs and safety – and trust me, the choices they make will not be to our benefit.

That is not an outcome we can live with.

The rest of her riff on American exceptionalism – with weird claims like, “America's network of allies is part of what makes us exceptional” and “Allies provide staging areas for our military” – is worth an entirely separate post.

Her cavalier invocation of dead bodies and prolonging depressions exhibits a lack of self-awareness.

I'm frankly baffled by her description of her plan to defeat ISIS, as well as her warnings elsewhere about allowing terrorists in Syria or emboldening ISIS, both of which past Hillary actions have done.

We need to lash up with our allies, and ensure our intelligence services are working hand-in-hand to dismantle the global network that supplies money, arms, propaganda and fighters to the terrorists. We need to win the battle in cyberspace.

[Applause]

And of course we need to strengthen our defenses here at home.

That – in a nutshell – is my plan for defeating ISIS.

Hillary never talks about how she'll get the Saudis – one of those allies she wants to “lash up with” – to stop fostering terrorism. That seems like a first step.

I'm even more curious what she intends with "strengthening our defenses here at home," especially coming just lines after she falsely claimed San Bernardino was an ISIS attack? We already arrest scores of people for their support for ISIS, for doing things like RTing ISIS propaganda. To do much more – and to find the San Bernardino couple before they attacked – would have required far more domestic spying. Is that what Hillary has planned?

But here's the thing that most disturbs me about her hawkish speech. Note how she attacked Trump for his embrace of torture.

He has said that he would order our military to carry out torture and the murder of civilians who are related to suspected terrorists – even though those are war crimes.

[snip]

So it really matters that Donald Trump says things that go against our deepest-held values. It matters when he says he'll order our military to murder the families of suspected terrorists. During the raid to kill bin Laden, when every second counted, our SEALs took the time to move the women and children in the compound to safety. Donald Trump may not get it, but that's what honor looks like.

Two times in a formal, pre-written speech, delivered with tele-prompters, Hillary claimed Trump had said he'd order *our military* to carry out torture and murder of civilians. But that's not what he said. He spoke generally, and when speaking of torture he has talked about "interrogators," without reference to agency. Sure, that could mean DOD (and some DOD interrogators did torture under George Bush). It could also mean the FBI, the agency which currently leads high value interrogations and which John Brennan has said must have its "own

processes and procedures and laws that govern its activities,” separate from the techniques permitted in the Army Field Manual.

But the assumption of everyone listening to Donald Trump’s promise to torture was that he’d ask CIA to do the business. Both former CIA Director Michael Hayden and current CIA Director John Brennan thought that’s what he meant, anyway.

While Hillary was Secretary of State, the government killed the son of Anwar al-Awlaki, effectively murdering the family of a suspected (dead) terrorist.

It’s bad enough that she’s lecturing Trump about our deepest-held values. But she’s also not promising to the one thing she appears to be promising: refusing to order the CIA – not the military – not to torture.

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## CIA ACHIEVES A WHOLE NEW SCALE OF TORTURE EVIDENCE DESTRUCTION

I once made a list of all the evidence of torture the CIA or others in the Executive Branch destroyed.

I thought it time to start cataloging them, to keep them all straight.

- *Before May 2003: 15 of 92 torture tapes erased or damaged*
- *Early 2003: Dunlavey’s paper trail “lost”*
- *Before August 2004: John Yoo and Patrick*

*Philbin's torture memo  
emails deleted*

- *June 2005: most copies  
of Philip Zelikow's  
dissent to the May 2005  
CAT memo destroyed*
- *November 8-9, 2005: 92  
torture tapes destroyed*
- *July 2007 (probably):  
10 documents from OLC  
SCIF disappear*
- *December 19, 2007: Fire  
breaks out in Cheney's  
office*

(I put in the Cheney fire because it  
happened right after DOJ started  
investigating the torture tape  
destruction.)

Since that time, there have been at least two  
more:

- CIA stealing back copies of  
cables implicating the  
President from SSCI servers
- Someone modifying one of the  
black sites at which the  
9/11 defendants were  
tortured, with Gitmo  
approval

But apparently, last summer, CIA's Inspector  
General destroyed something else: both his disk-  
based and server based copies of the Torture  
Report.

But last August, a chagrined Christopher  
R. Sharpley, the CIA's acting inspector  
general, alerted the Senate intelligence  
panel that his office's copy of the

report had vanished. According to sources familiar with Sharpley's account, he explained it this way: When it received its disk, the inspector general's office uploaded the contents onto its internal classified computer system and destroyed the disk in what Sharpley described as "the normal course of business." Meanwhile someone in the IG office interpreted the Justice Department's instructions not to open the file to mean it should be deleted from the server – so that both the original and the copy were gone.

At some point, it is not clear when, after being informed by CIA general counsel Caroline Krass that the Justice Department wanted all copies of the document preserved, officials in the inspector general's office undertook a search to find its copy of the report. They discovered, "S\*\*\*, we don't have one," said one of the sources briefed on Sharpley's account.

Sharpley was apologetic about the destruction and promised to ask CIA director Brennan for another copy. But as of last week, he seems not to have received it; after Yahoo News began asking about the matter, he called intelligence committee staffers to ask if he could get a new copy from them.

Sharpley also told Senate committee aides he had reported the destruction of the disk to the CIA's general counsel's office, and Krass passed that information along to the Justice Department. But there is no record in court filings that department lawyers ever informed the judge overseeing the case that the inspector general's office had destroyed its copy of the report.

Two key parts of this story: Sharpley appears to

have no idea who decided to nuke the report off the IG server. Hmmm.

And DOJ has been suppressing this detail in filings in the FOIAs for the Torture Report itself (which may be what led Dianne Feinstein to make an issue of it last week).

Click through if you want a really depressing list of all the ways Richard Burr is trying to disappear the report.

I guess I shouldn't be surprised that the entire report got disappeared. But destroying the whole thing is rather impressive.

Update: Katherine Hawkins reminds of of another one: the hood Manadel al-Jamadi wore when he suffocated to death while being tortured disappeared under circumstances the CIA IG considered non-credible.