



11350 Random Hills Road, Suite 800, Fairfax, Virginia 22030 Phone (703) 934-6101 Fax (703) 352-3678

fff@fff.org www.fff.org

Ten Terrible Truths about the CIA Torture Memos, Part 2

by Andy Worthington

Andy Worthington, author of [The Guantánamo Files](#), analyzes ten particularly disturbing facts to emerge from the four memos, purporting to justify the use of torture by the CIA, which were issued by the Justice Department's Office of Legal Counsel (OLC) in August 2002 and May 2005, and released by the Obama administration last week.

The OLC, as the *New York Times* explained in September 2007, holds a uniquely influential position, as it “interprets all laws that bear on the powers of the executive branch. The opinions of the head of the office are binding, except on the rare occasions when they are reversed by the attorney general or the president.” The legal opinions were, therefore, regarded as a “golden shield” by the administration, although, as lawyer Peter Weiss noted [after I last wrote](#) about the Bush administration's war crimes, “it cannot be binding if it violates the constitution, or a *jus cogens* prohibition of international law, e.g. torture, or, perhaps, if it was made to order for the executive, as you demonstrate it was.”

3) The ticking time-bomb scenario

The Bradley memos are littered with fascinating snippets of information — “Careful records are kept of each interrogation,” for example — but one of the most revealing is the establishment that, although the array of techniques “are not used unless the CIA reasonably believes that the detainee is a senior member of al-Qaeda or [its affiliates], and the detainee has knowledge of imminent terrorist threats against the USA or has been directly involved in the planning of attacks,” use of the waterboard is “limited still further, requiring credible intelligence that a terrorist attack is imminent ... substantial and credible indicators that the subject has actionable intelligence that can prevent, disrupt or delay this attack; and [a determination that o]ther interrogation methods have failed to elicit the information [and that] other ... methods are unlikely to elicit this information *within the perceived time limit for preventing the attack*”; in other words, the ticking time-bomb scenario, which, outside the world of Jack Bauer, has never actually occurred.

4) The relentless waterboarding of Abu Zubaydah and Khalid Sheikh Mohammed

I find this distortion of reality disturbing enough, but, having decided that this was indeed the case with Abu Zubaydah, KSM and one other prisoner, [Abdul Rahim al-Nashiri](#), the CIA and its masters then decided that, in the case of Zubaydah, it was, as Bradley reveals in an extraordinarily telling passage, “necessary to use the waterboard ‘at least 83 times during August 2002,’” and “183 times during March 2003” in the interrogation of KSM.

These are mind-boggling figures, and, in addition, they seem to reveal not that each horrific round of near-drowning and panic, repeated over and over again, defused a single ticking time-bomb, but, instead, that it became a macabre compulsion on the part of the torturers, which led only to the countless false alarms reported by CIA and FBI officials who spoke to David Rose for [Vanity Fair](#) last December, or, as the author [Ron Suskind reported](#) in 2006, after Zubaydah “confessed” to all manner of supposed plots — against shopping malls, banks, supermarkets, water systems, nuclear plants, apartment buildings, the Brooklyn Bridge, and the Statue of Liberty — “thousands of uniformed men and women raced in a panic to each target ... The United States would torture a mentally disturbed man and then leap, screaming, at every word he uttered.”

One sign that this is indeed the case comes in a disturbing footnote, in which Bradbury noted,

This is not to say that the interrogation program has worked perfectly. According to the *IG Report* [a massive and unpublished internal report that was clearly critical of much of the program], the CIA, at least initially, could not always distinguish detainees who had information but were successfully resisting interrogation from those who did not actually have the information ... on at least one occasion, this may have resulted in what might be deemed in retrospect to have been the unnecessary use of enhanced techniques. On that occasion, although the on-scene interrogation team judged Zubaydah to be compliant, elements within CIA Headquarters still believed he was withholding information [passage redacted]. At the direction of CIA headquarters, interrogators therefore used the waterboard one more time on Zubaydah [passage redacted].

5) The crucial differences between SERE and CIA waterboarding

Furthermore, as another revealing footnote makes clear, the *IG Report* also noted that, “in some cases the waterboard was used with far greater frequency than initially indicated,” and also that it was “used in a different manner” than the technique described in the DoJ opinion and used in SERE training. As the report explained, “The difference was in the manner in which the detainees’ breathing was obstructed. At the SERE school and in the DoJ opinion, the subject’s airflow is disrupted by the firm application of a damp cloth over the air passages; the interrogator applies a small amount of water to the cloth in a controlled manner. By contrast, the Agency interrogator ... applied large volumes of water to a cloth that covered the detainee’s mouth and nose. One of the psychiatrist/interrogators acknowledged that the Agency’s use of the technique is different from that used in SERE training because it is ‘for real’ and is more poignant and convincing.”

Furthermore, the *IG Report* noted that the OMS, the CIA's Office of Medical Services, contended that "the experience of the SERE psychologist/interrogators on the waterboard was probably misrepresented at the time, as the SERE waterboard experience is so different from the subsequent Agency usage as to make it almost irrelevant." Chillingly, the report continued, "Consequently, according to OMS, there was no *a priori* reason to believe that applying the waterboard with the frequency and intensity with which it was used by the psychologist/interrogators was either efficacious or medically safe."

Andy Worthington is the author of [The Guantánamo Files: The Stories of the 774 Detainees in America's Illegal Prison](#) (published by Pluto Press) and serves as policy advisor to the Future of Freedom Foundation. Visit his website at: www.andyworthington.co.uk.

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