



Who's Behind the Torture Memos?

Principal Torture Memo Authors and Policymakers

The Office of Legal Counsel

The Office of Legal Counsel (OLC) in the Department of Justice provides authoritative legal advice to the President and executive branch agencies. OLC provides written legal opinions and oral advice in response to requests from the White House, executive branch agencies, and offices within DOJ. The OLC's role is not to serve as any one official's personal lawyer, but to issue authoritative, independent opinions on complex and important legal matters about which agencies may disagree. OLC's interpretations of law are considered definitive within the executive branch. Walter Dellinger, former Assistant Attorney General and head of OLC, said, "Its responsibility is no less than assisting the President and the Attorney General in insuring that the Constitution is obeyed and the laws of the United States are faithfully executed." As such, OLC has a long tradition of excellence and of deciding legal issues free from political influence.

Jay Bybee

From 2001 to 2003, Jay Bybee served as Assistant Attorney General in OLC, where he signed several "torture memos" authorizing a dozen so-called "enhanced interrogation" techniques. Earlier in his career, Bybee held prestigious posts in the Reagan Justice Department and the first Bush White House, and taught law at Louisiana State University and University of Nevada. Following his tenure in OLC – but before the existence of the "torture memos" was revealed to the public – President Bush nominated Bybee, and the Senate confirmed him, to a life-tenured seat on the Ninth Circuit Court of Appeals. Since the "torture memos" have been released, Senator Leahy, chair of the Senate Judiciary Committee, has called for Judge Bybee's resignation, and other members of Congress have advocated for his impeachment.

John Yoo

The author of perhaps the most infamous of the "torture memos," John Yoo served as Deputy Assistant Attorney General in the OLC from 2001 to 2003. Guided by his expansive view of presidential power, Yoo reportedly had a close relationship with the Vice-President's office and was enormously influential in the "War Council," the informal cohort of White House and senior administration officials who met monthly to develop counterterrorism policy. In numerous OLC opinions, Yoo argued that the Geneva Conventions do not apply to "enemy combatants" caught during the war in Afghanistan and detained at Guantanamo, that the president is not bound by the War Crimes Act, that Bush's warrantless wiretapping program was legal, and that interrogation is not torture unless it causes organ failure or death. Upon leaving the Bush Justice Department, Yoo returned to his tenured professorship at University of California, Berkeley's School of Law, where he has taught since 1993. Professor Yoo formerly served as law clerk to Supreme Court Justice Clarence Thomas and general counsel to the Senate Judiciary Committee.

Steven Bradbury

Steven Bradbury authored several "torture memos" in 2005 while serving as acting head of OLC. Former law clerk to Supreme Court Justice Clarence Thomas and attorney-advisor in the first Bush Administration OLC, he practiced antitrust and other commercial litigation in private practice before rejoining OLC in 2004 as Principal Deputy Assistant Attorney General. When OLC head Jack Goldsmith resigned in 2005 over his disagreement with the legitimacy of the torture memos, Bradbury became Acting Assistant Attorney General in charge of OLC. Even though the Senate never voted to confirm his nomination by President Bush to become the head of OLC, Bradbury served as the acting head until the end of the Bush Administration in 2009. He is now a partner in a law firm in Washington, DC.

Jack Goldsmith

Law professor Jack Goldsmith served as an attorney in the Department of Defense in the early years of the Bush Administration and became the head of OLC in 2003. As he later wrote in his book *The Terror Presidency*, Goldsmith considered the 2002 torture memos "deeply flawed," "sloppily reasoned," and indefensible, and he made the highly unusual move of having OLC

officially rescind John Yoo's 2002 memo in June 2004. It has been recently revealed that he also wrote a letter to the CIA advising a temporary halt to waterboarding; yet he left intact the 2002 Bybee memos that actually authorized the other torture methods. Feeling that he had lost the confidence of senior administration officials, Goldsmith resigned in July 2004 after only 9 months as head of OLC. He now teaches at Harvard Law School.

Daniel Levin

Daniel Levin served as Acting Assistant Attorney General for OLC from July 2004 until February 2005, following the resignation of Jack Goldsmith. Levin has received public praise for his 2004 memo that declared "torture is abhorrent." However, in August 2004, Levin sent a letter to the CIA reauthorizing the use of waterboarding, lifting the ban on waterboarding that Goldsmith had advised only months earlier. Levin is also known to have drafted much of the lengthy May 2005 memo signed by Steven Bradbury that authorized 13 interrogation techniques considered by many to be torture. In February 2005, Levin became a legal advisor to the National Security Council. The day before he left OLC, he stopped by Bradbury's office and apologized for leaving it to Bradbury to sign the 2005 torture memos. In November 2009, Levin spoke at an event about torture accountability at American University and surprised the audience by announcing his support for an investigation of the "torture memo" authors. Levin said, "I personally am not opposed to criminal investigation of the conduct of myself and others during the period in question, because I think any government employee is appropriately subject to investigation of their conduct while they are serving in the government." Levin is now a partner in a law firm in Washington, DC.

David Addington

Known as "Cheney's Cheney," the "id of the Bush White House," and "the most important man you've never heard of," David Addington served as the Vice-President's legal counsel (2001-05) and chief of staff (2005-09). His position as "the id of the Bush White House" culminated a 25-year career in government, including stints as assistant general counsel at the CIA, minority counsel and chief counsel on the House intelligence and foreign affairs committees, and staff attorney on the joint House-Senate committee investigation of the Iran-Contra scandal. Reports have indicated that he drove many of the President's counterterrorism policies, including the treatment of detainees; *U.S. News & World Report* described him as the "the ramrod driving the Bush administration's most secretive and controversial counterterrorism measures through the bureaucracy." Questions have been raised as to whether he engineered the torture memos to provide legal cover to ongoing interrogations outside the scope of the law.

John Rizzo

A CIA counterterrorism lawyer, Rizzo served as Acting General Counsel of the CIA during the Bush Administration and is reported to have helped develop the legal strategy authorizing the use of torture. At his confirmation hearing in 2007, Rizzo refused to disavow his approval of the 2002 torture memos, causing outrage among human rights advocates and Senators and prompting President Bush to withdraw his nomination. As of September 2009, President Obama's nomination to be CIA General Counsel has not had a confirmation hearing – and Rizzo remains Acting General Counsel.

"The War Council"

The War Council was an informal, self-titled group that met in secret every few weeks, during the early years of the Bush Administration, either in the White House Counsel's office or the Department of Defense counsel's office, to plot legal strategy in the war against terrorism. The War Council included White House Counsel **Alberto Gonzales**, Cheney's counsel **David Addington**, Department of Defense General Counsel **William "Jim" Haynes**, Gonzales's first deputy **Tim Flanigan**, OLC attorney **John Yoo**. These legal strategy sessions sometimes served as a prelude to dealing with lawyers from the State Department, the National Security Council, and the Joint Chiefs of Staff – the lawyers ordinarily involved in war-related interagency legal decisions. Other times, the War Council ignored the interagency process altogether.