

CIA destroyed torture tapes

By Joe Kay 8 December 2007

The revelation that the Central Intelligence Agency destroyed at least two video tapes depicting the torture of prisoners held by the United States underscores the brazen criminality of the Bush administration. Aside from the torture itself, the elimination of evidence of brutal interrogation exposes top CIA and government officials to obstruction of justice charges.

In an article published on Friday, the *New York Times* cites several unnamed current and former government officials in reporting that “at least two videotapes” were destroyed. The tapes showed the 2002 interrogation of two prisoners, one of whom was Abu Zubaydah, considered a top member of Al Qaeda. The other individual was not named.

Although the government has never officially acknowledged it, Zubaydah, captured by the CIA in March 2002, was subjected to water-boarding, a form of torture involving the near drowning and suffocation of the prisoner. One can only assume that the tapes depict water-boarding or worse forms of torture.

The existence and destruction of the tapes was first revealed on Thursday by CIA Director Michael Hayden in a letter to CIA employees. Hayden issued the letter only after the government was informed by the *New York Times* Wednesday that the newspaper planned to publish an article on the topic.

Hayden’s letter attempts to create a rationale for what was clearly a move to hide the government’s actions from American and world public opinion and destroy evidence of criminal activity by CIA operatives and government officials, up to and including President Bush.

As the CIA well knew, if the tapes had become public—especially in the aftermath of the Abu Ghraib revelations—they would have evoked a wave of shock and revulsion in the United States and around the world, and confirmed that Abu Ghraib, far from an aberration, was the outcome of US government policy.

Hayden made the improbable claim that the tapes were destroyed to protect CIA interrogators from retaliation by Al Qaeda. He wrote in his letter that the CIA halted the practice of taping interrogations in 2002, after only a few recordings had been made.

The *Times* reported that the tapes were destroyed “in part because officers were concerned that video showing harsh interrogation methods could expose agency officials to legal risks, several officials said.”

If this statement is true, it is clear evidence of obstruction of justice. The officials also “said that CIA officers had judged that the release of photos or videos depicting his interrogation would provoke a strong reaction.” That is, the destruction involved a conspiracy to prevent the population from learning of the actions of the American government.

The tapes were destroyed in late 2005, as the extent of the CIA program of abusive interrogations was first coming to public light. On November 2, 2005, the *Washington Post* published the first report on the CIA interrogation program overseas. Subsequent reports detailed the techniques used, and on November 18, ABC News reported that one of these techniques was water-boarding. ABC reported on December 5, 2005 that one of the prisoners involved in the program was Zubaydah, and that he had been held in a CIA prison in Thailand.

The destruction of the tapes also took place in the context of the trial of

Zacarias Moussaoui, accused of conspiring in the September 11 attacks. Moussaoui’s lawyers wanted to review any videotapes of interrogations of Al Qaeda members in order to demonstrate that Moussaoui was not involved in plans for the attacks.

In 2003 and again in 2005, US District Court Judge Leonie Brinkema ordered the prosecutors to disclose whether any interrogations had been recorded, but the government refused to comply. On November 3, 2005, Brinkema asked about videotapes of specific interrogations. On November 14, the government reported that it did not have any tapes of these interrogations.

It is not clear exactly when the tapes were destroyed. According to the *Washington Post*, however, the destruction came after the November 14 response to Brinkema. According a CIA spokesman, the videotapes destroyed were not among those specifically requested by Brinkema.

Last month, the government acknowledged that it had in its possession two videotapes and one audiotape that it had failed to report in 2005, but again did not mention the video tapes that it had destroyed. The revelation of the destroyed tapes is only the latest in a pattern of government misconduct in the prosecution of Moussaoui.

There were several other investigations and lawsuits ongoing at the time the tapes were destroyed. Among these was a Freedom of Information request brought by the American Civil Liberties Union. In August 2004, a judge ordered the government to turn over all records relating to interrogation or explain why the records could not be released.

Before being destroyed, the tapes were also withheld from the commission established by the Bush administration and Congress to investigate the attacks of September 11. The 9/11 Commission issued its final report in 2004, one year before the tapes were destroyed, but it was never informed of their existence.

The *Times* quotes Philip Zelickow, who served as executive director of the commission, as saying, “The commission did formally request material of this kind from all relevant agencies, and the commission was assured that we had received all the material responsive to our request. No tapes were acknowledged or turned over, nor was the commission provided with any transcript prepared for recordings.”

The *Times* goes on to report, “Daniel Marcus, a law professor at American University who served as general counsel for the Sept. 11 commission and was involved in the discussion about interviews with Qaeda leaders, said he had heard nothing about any tapes being destroyed. If the tapes were destroyed, he said, ‘it’s a big deal, it’s a very big deal,’ because it could amount to obstruction of justice to withhold evidence being sought in a criminal or fact-finding investigation.”

The 9/11 Commission was from the beginning intended as a whitewash of government inaction and likely foreknowledge of the terrorist attacks. The fact that the commission was denied access to interviews of an individual who was purportedly a close associate of Osama bin Laden only underscores the fraudulence of its findings.

In addition to depicting torture, it is possible that the interrogation of Zubaydah included information contradicting the official story of September 11. This would explain why no transcript of the interrogation was provided to the commission.

In his letter to CIA employees, Hayden wrote: “Beyond their lack of

intelligence value—as interrogation sessions had already been exhaustively detailed in written channels—and the absence of any legal or internal reasons to keep them, the tapes posed a serious security risk. Were they ever to leak, they would permit identification of your CIA colleagues who had served in the program, exposing them and their families to retaliation from Al Qaeda and its sympathizers.”

These are flat-out lies. The suggestion that there was no reason to keep the tapes is absurd, as Zubaydah was at the time under US custody and potentially faced some form of trial or military judicial proceeding. He has since been transferred to Guantánamo Bay and may be brought before a military commission. Videotapes of his interrogation would obviously be one of the most critical pieces of evidence in such proceedings.

As for the question of security, it would be a simple matter to obscure the identity of the interrogators in any videotape, if this were really the government’s concern. According to Hayden’s logic, the CIA would have to destroy any document in its possession identifying CIA interrogators, to prevent them from being leaked.

The threadbare character of Hayden’s attempt to justify the tapes’ destruction only serves to highlight the criminal intentions of the government.

A central question emerges from these revelations: Who knew about the tapes and their destruction, and when did they know it? The answer to this question points to the complicity of the entire political establishment in the cover-up of torture.

In his letter, Hayden declared, “The decision to destroy the tapes was made within CIA itself.” Hayden’s claim that the decision to eliminate the evidence was entirely internal to the CIA is almost certainly a lie. It is highly unlikely that the tapes were destroyed without the knowledge and approval of top administration officials.

According to the *New York Times*, the decision was made by Jose Rodriguez—a long-time CIA operative who at the time occupied the high-ranking position of head of the Directorate of Operations, in charge of clandestine and covert actions. Until shortly before his retirement in September, Rodriguez’s identity was classified.

The *Times* report quotes “two former intelligence officials” as saying that then-CIA director Porter Goss—Rodriguez’s direct superior—was not told of the decision and was angered when he learned of the tapes’ destruction.

For his part, Bush was quick to issue a carefully hedged denial of knowledge. White House spokesman Dana Perino said on Friday that Bush “has no recollection of being made aware of the tapes or their destruction before yesterday.”

The CIA has said that it received direct authorization to use the methods employed in the videos, though the form of this authorization has never been released to the public. This position was reiterated by Hayden on Wednesday, when he wrote in his letter, “Before [the interrogation procedures] were used, they were reviewed and approved by the Department of Justice and by other elements of the Executive Branch.”

This means that ultimate responsibility for any actions depicted in the videos lies with Bush, Cheney, former Attorney General John Ashcroft and others in the administration. In this sense, the videos are more damaging even than the photographs of torture at Abu Ghraib, which the government could claim was the unauthorized behavior of a few individuals.

Bush has repeatedly declared that the US does not “torture,” but the tapes would provide incontrovertible proof that it does.

Hayden also insisted, “The leaders of our oversight committees in Congress were informed of the videos years ago and of the Agency’s intention to dispose of the material.” This would include the ranking members of the Senate and House intelligence committees at the time, Democratic Representative Jane Harman and Senator Jay Rockefeller, and the Republican chairmen, Representative Pete Hokestra and Senator Pat

Roberts.

A spokesman Hoekstra denied any knowledge of the tapes, but remarks from Harman and Rockefeller confirm Hayden’s account.

The Associated Press reported that Harman was “one of only four members of Congress informed of the tapes’ existence,” and cited her as saying she “objected to the destruction when informed of it in 2003.”

“I told the CIA that destroying videotapes of interrogations was a bad idea and urged them in writing not to do it,” Harman said.

This is a dodge. Harman, and therefore the Democratic Party, knew of the tapes in 2003, but decided not to inform the American people or do anything to expose the government’s policy of torture. This knowledge was withheld from the American people throughout the Abu Ghraib scandal, which began in 2004. The tapes’ existence was known by leading Democrats two years before the American people were first made aware that the US government had used water-boarding.

The AP goes on to report, “While key lawmakers were briefed on the CIA’s intention to destroy the tapes, they were not notified two years later when the spy agency went through with the plan.” It reports that Rockefeller “only learned of the tapes’ destruction in November 2006.”

Even if one were to accept this account as true, it means that the Democrats have known for over a year that these tapes were destroyed but decided to say nothing about it.

In September 2006, Rockefeller voted, along with 11 other Democrats in the Senate, for the Military Commissions Act. Both that act and the Detainee Treatment Act, passed in December 2005, included provisions shielding CIA operatives and Bush administration officials from prosecution for torture and other war crimes.

From the beginning of the Bush administration, the Democratic Party has played a critical role in facilitating the massive attack on democratic rights and legal constraints. It has helped confirm the nomination of all the administration officials who have spearheaded a policy of torture—including Hayden and, most recently, Attorney General Michael Mukasey, who was approved by a Democratic-controlled Senate despite his refusal to denounce water-boarding as torture.

The complicity of the Democrats in covering up the existence and destruction of the videotapes means that any investigation will be a whitewash. On Friday, Rockefeller said the Senate Intelligence Committee would “review the full history and chronology of the tapes, how they were used and the reasons for destroying them, and any communication about them that was provided to the courts and Congress.” Senator Edward Kennedy called on the Justice Department—headed by Mukasey—to open an investigation.

The Democrats are now pushing for a bill that would bar the CIA from using “enhanced interrogation techniques,” knowing full well that it passed—which appears unlikely—it will simply be vetoed by Bush.

By itself, the destruction of the CIA torture tapes constitutes a sufficient basis for impeachment of top government officials. It comes on top of revelations of massive domestic spying and illegality. It was done by a government that routinely violates and ignores laws, launches illegal wars of aggression, and conspires against the democratic rights of the American people.

But the Democratic leadership has resolutely, since winning control of both houses of Congress over a year ago, ruled out any impeachment investigation. No serious hearings or investigations have been carried out into the Bush administration’s torture program and other brazen violations of American and international law under the Democratic Congress.

There may be fall-out from the destruction of the videos. Some lower-level individuals may be made fall guys for the White House and the CIA. But the Bush administration is counting with good reason on the Democrats to keep things under control.

This new revelation underscores the lawless character of the clique

around Bush and the immense dangers it represents to the democratic rights of the people. It also highlights the Democratic Party's lack of any serious commitment to the defense of democratic rights. These rights can be defended only through the independent political mobilization of the working population against the two-party political establishment and the US ruling elite whose interests it serves.

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