

# Justice Department authorized CIA to torture prisoners in its custody

By [Global Research](#)

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ACLU Obtains Key Memos Authorizing CIA Torture Methods (7/24/2008)

## **Memo Instructed CIA To Document Both Torture Techniques And Agents Participating In Interrogations**

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NEW YORK - The American Civil Liberties Union today obtained three redacted documents related to the Bush administration's brutal interrogation policies, including a previously withheld Justice Department memo authorizing the CIA's use of torture. The government was ordered to turn over the documents in response to an ongoing Freedom of Information Act (FOIA) lawsuit brought in 2004 by the ACLU and other organizations seeking records on the treatment of prisoners in U.S. custody overseas.

"These documents supply further evidence, if any were needed, that the Justice Department authorized the CIA to torture prisoners in its custody," said Jameel Jaffer, Director of the ACLU National Security Project. "The Justice Department twisted the law, and in some cases ignored it altogether, in order to permit interrogators to use barbaric methods that the U.S. once prosecuted as war crimes."

One of the documents obtained by the ACLU today is a redacted version of a previously undisclosed Justice Department Office of Legal Counsel (OLC) opinion from August 2002 that authorizes the CIA to use specific interrogation methods, including waterboarding. The memo states that interrogation methods that cause severe mental pain do not amount to torture under U.S. law unless they cause "harm lasting months or even years after the acts were inflicted upon the prisoners." Initially, the CIA took the position that it could not confirm or deny the existence of this memo; it dropped that position after President Bush disclosed in September 2006 that the CIA had been operating detention centers overseas.

The other two documents, from 2003 and 2004, are memos from the CIA related to requests for legal advice from the Justice Department. The 2003 memo shows that CIA interrogators were authorized by OLC to use torture practices known as "enhanced interrogation techniques." The memo also indicates that, for each session in which these techniques were used, the CIA documented, among other things, "the nature and duration of each such technique employed" and "the identities of those present." The documentation relating to the CIA's torture sessions, including the names of agents who participated, is still being withheld.

The 2004 memo shows that CIA interrogators were told that the Justice Department had concluded that certain interrogation techniques, including “the waterboard,” did not constitute torture. The document also indicates that, after the Supreme Court ruled in June 2004 that courts can decide whether foreign nationals held in Guantánamo Bay were rightfully imprisoned, CIA interrogators were told to take into account the possibility their actions would ultimately be subject to judicial review.

“While the documents released today do provide more information about the development and implementation of the Bush administration’s torture policies, even a cursory glance at the documents shows that the administration continues to use ‘national security’ as a shield to protect government officials from embarrassment, criticism and possible criminal prosecution,” said Jaffer. “Far too much information is still being withheld.”

In May, Judge Alvin K. Hellerstein of the U.S. District Court for the Southern District of New York overruled some of the CIA’s claims that the documents released today were exempt from disclosure under the ACLU’s FOIA lawsuit. The judge is still considering the ACLU’s motion to hold the CIA in contempt of court for destroying hundreds of hours of videotape depicting the abusive interrogations of two detainees in its custody.

The documents released today are available online at: [www.aclu.org/safefree/torture/36104res20080724.html](http://www.aclu.org/safefree/torture/36104res20080724.html)

To date, more than 100,000 pages of government documents have been released in response to the ACLU’s FOIA lawsuit. They are available online at: [www.aclu.org/torturefoia](http://www.aclu.org/torturefoia)

Many of these documents are also compiled and analyzed in “Administration of Torture,” a recently published book by Jaffer and ACLU attorney Amrit Singh. More information is available online at: [www.aclu.org/administrationoftorture](http://www.aclu.org/administrationoftorture)

In addition to Jaffer and Singh, attorneys on the case are Alexa Kolbi-Molinas and Judy Rabinovitz of the national ACLU; Arthur Eisenberg and Beth Haroules of the New York Civil Liberties Union; Lawrence S. Lustberg and Melanca D. Clark of the New Jersey-based law firm Gibbons P.C.; and Shayana Kadidal and Michael Ratner of the Center for Constitutional Rights.

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