

# Lawyers Responsible for Authorizing Torture: Department of Justice’s “Watered Down” Report

FOIA Appeal to DOJ

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## FOIA Appeal to DOJ on Torture Cites Effort to Conceal Crimes

The U.S. Department of Justice severely watered down an internal report on the conduct of its lawyers responsible for authorizing torture and has failed to comply with the Freedom of Information Act (FOIA), depriving the public of necessary information about the conduct of our government. The Robert Jackson Steering Committee (RJSC) has just sent a 13-page appeal for fuller compliance with a FOIA request originally made in January to which the U.S. Department of Justice replied in August with heavily redacted documents. RJSC is seeking information on the process through which an initial report was significantly modified.

“We have determined that the redactions made by the Justice Department were designed to protect CIA interrogators — and those who authorized torture ‘at the highest level’ — from criminal liability,” said Charlotte Dennett of the RJSC, who drafted the appeal.

“Whenever the ethics lawyers in the Office of Professional Responsibility (OPR) got close to revealing criminal behavior in their report, the CIA stepped in and blacked out the evidence,” she added. “Among the items redacted are dates (already made public through other sources) which confirm that illegal torture began in the spring of 2002, months before lawyers John Yoo and Jay Bybee of Bush’s Justice Department concocted their phony definitions of torture to get their superiors off the hook.”

“Sometimes the redactors got sloppy, as when they left in a 12th form of torture — mock burial — in the December 08 OPR report, but redacted it in the July 09 version. At other times, whole pages are blacked out following clear indications of White House pressure on the Justice Department lawyers to approve torture. Large redactions also followed sections where the criminal division of the Justice Department refused to give an ‘advance declination to prosecute’ — effectively, a ‘stay out of jail free card,’ to CIA interrogators and their superiors.”

David Swanson, Chair of the RJSC, added, “The Freedom of Information Act is based on the premise that we will have a government of the people, and that to do so the people must be informed. There is no exception for covering up governmental crimes, which would largely defeat the purpose.”

The group’s administrative appeal makes frequent reference to intense public interest in the OPR report, which is one way to contest redactions. The appeal ends with two quotes from

the *New York Times*, which frequently suggested a coverup in its editorials.

Any “official confirmation of wrongdoing,” the *Times* wrote on October 26, 2009, “might be used in lawsuits against government officials and contractors, and might help create a public clamor for prosecution those responsible. President Obama calls that a distracting exercise in ‘looking back.’ What it really is, is justice.”

And on June 4, 2010, the *Times* wrote: “The rule of law rests on scrutinizing evidence of past behavior to establish accountability, confer justice, and deter bad behavior in the future.”

Founded in September 2008, the Robert Jackson Steering Committee works to bring about the criminal prosecution of top government officials in the United States alleged to have committed war crimes. The committee was named in honor of U.S. Supreme Court Justice Robert Jackson, who was the top U.S. prosecutor of Nazi war criminals at Nuremberg. “We must never forget,” Jackson had said in his Opening Statement, “that the record on which we judge these defendants today is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our lips as well.”

RJSC letter October 22, 2010: ([PDF](#)).

DOJ response August 25, 2010: ([PDF](#)).

[RJSC request](#) January 7, 2010.

ONLINE: <http://lawsnotmen.org/node/24>

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