

## Index of Bush-Era OLC Memoranda Relating to Interrogation, Detention, Rendition and/or Surveillance<sup>1</sup>

<u>Number</u>	<u>Date</u>	<u>Authors</u>	<u>Recipients</u>	<u>Title/Subject</u>	<u>Notes</u>	<u>Status</u>
1.	09/25/01	John C. Yoo, Deputy Assistant Attorney General, OLC	Timothy Flanigan, Deputy Counsel to the President	The President's Constitutional Authority To Conduct Military Operations Against Terrorists and Nations Supporting Them	Concludes that the Commander in Chief Clause vests the President with plenary authority to use military force abroad. The power to initiate military hostilities rests "exclusively" with the President. "In the exercise of his plenary power to use military force, the President's decisions are for him alone and are unreviewable."	Made public by the Department of Justice and available at: <a href="http://www.usdoj.gov/olc/warpower&lt;br/&gt;s925.htm">http://www.usdoj.gov/olc/warpower s925.htm</a> .
2.	09/25/01	John C. Yoo, Deputy Assistant Attorney General, OLC	David S. Kris, Associate Attorney General	Constitutionality of Amending Foreign Intelligence Surveillance Act to Change the "Purpose" Standard for Searches	Concludes that changing "purpose" to "significant purpose" would not violate the Fourth Amendment. The memo is criticized and partly repudiated in Steven Bradbury's 1/15/09 memo re status of certain OLC opinions.	Made public by the Department of Justice on 3/2/09 and available at: <a href="http://www.usdoj.gov/olc/docs/mem&lt;br/&gt;oforeignsurveillanceact09252001.pd&lt;br/&gt;f">http://www.usdoj.gov/olc/docs/mem oforeignsurveillanceact09252001.pd f</a>
3.	10/04/01	John C. Yoo, Deputy Assistant Attorney General, OLC	Alberto R. Gonzales, Counsel to the President	Legal standards governing the use of certain intelligence techniques		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.  This document may possibly correspond with the document titled "Undated draft memo analyzing the CIA's interrogation program under the CAT [OLC Vaughn Index

<sup>1</sup> This chart is not comprehensive. Not all OLC documents that have been released are included. We have included documents sent by the CIA to OLC in cases in which those documents were incorporated or relied on in later OLC opinions.

						#113]” (document #110 in this list).
4.	10/23/01	John C. Yoo, Deputy Assistant Attorney General, OLC, and Robert Delahunty, Special Counsel, OLC	Alberto R. Gonzales, Counsel to the President, and William J. Haynes, General Counsel to DOD	Authority for Use of Military Force to Combat Terrorist Activities Within the United States	Concludes that, “the President has both constitutional and statutory authority to use the armed forces in military operations, against terrorists, within the United States. We believe that these operations generally would not be subject to the constraints of the Fourth Amendment . . . .” The memo is criticized and partly repudiated in Steven Bradbury’s 10/6/08 memo.	Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case. Made public by the Department of Justice on 3/2/09 and available at: <a href="http://www.usdoj.gov/olc/docs/memomilitaryforcecombatus10232001.pdf">http://www.usdoj.gov/olc/docs/memomilitaryforcecombatus10232001.pdf</a>
5.	11/02/01	John C. Yoo, Deputy Assistant Attorney General, OLC	John D. Ashcroft, Attorney General	Legality of communication intelligence activities		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
6.	11/05/01	John C. Yoo, Deputy Assistant Attorney General, OLC	Associate Deputy Attorney General	Authority of the Deputy Attorney General Under Executive Order 12333	Extends the Attorney General’s authority under section 2.5 of Exec. Order no. 12333 to the Deputy Attorney General, allowing him to approve use of surveillance techniques for which a warrant would be required for law enforcement purposes.	Made public by the Department of Justice and available at: <a href="http://www.usdoj.gov/olc/25.htm">http://www.usdoj.gov/olc/25.htm</a>
7.	11/06/01	Patrick F. Philbin, Deputy Assistant Attorney General, OLC	Alberto R. Gonzales, Counsel to the President	Legality of the Use of Military Commissions to Try Terrorists	Argues that the President may establish military commissions without consulting Congress.	Made public by the Department of Justice and available at: <a href="http://www.usdoj.gov/olc/2001/pub-millcommfinal.pdf">http://www.usdoj.gov/olc/2001/pub-millcommfinal.pdf</a>
8.	11/20/01	John C. Yoo, Deputy Assistant Attorney General, OLC, and Robert J. Delahunty,	Alberto R. Gonzales, Counsel to the President	War Crimes Act, Hague Convention, Geneva Conventions, federal criminal code, and detainee treatment		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed in a 06/07/07 declaration filed by Steven Bradbury in that case.

		Special Counsel, OLC				
9.	12/21/01	John C. Yoo, Deputy Assistant Attorney General, OLC	William J. Haynes II, General Counsel, Department of Defense	Possible Criminal Charges Against American Citizen Who Was a Member of the Al Qaeda Terrorist Organization or the Taliban Militia	Probably discusses the applicability of 10 U.S.C. § 802(a)(11) during undeclared wars. The statute subjects persons serving with, employed by, or accompanying the Armed Forces to the Uniform Code of Military Justice. The memo is cited in John Yoo's 03/14/03 memo concerning military interrogation of alien unlawful combatants.	<b>Still secret.</b> Subject of FOIA request filed by ACLU on 12/09/08.
10.	12/28/01	Patrick F. Philbin, Deputy Assistant Attorney General, OLC, and John C. Yoo, Deputy Assistant Attorney General, OLC	William J. Haynes II, General Counsel, Department of Defense	Possible habeas jurisdiction over aliens held in Guantanamo Bay, Cuba	The memo is cited in John Yoo's 03/13/02 memo concerning the President's power to transfer prisoners to other nations.	<b>Still secret.</b> Subject of FOIA request filed by ACLU on 12/09/08.
11.	01/09/02	Patrick F. Philbin, Deputy Assistant Attorney General, OLC	John D. Ashcroft, Attorney General	Attorney General's review of the legality of the President's order authorizing the Terrorist Surveillance Program		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
12.	1/09/02	John C. Yoo, Deputy Assistant Attorney General, OLC	Robert J. Delahunty, Special Counsel	Application of Treaties and Laws to al Qaeda and Taliban Detainees	Concludes that international treaties do not protect members of al Qaeda and the Taliban militia.	Draft available at: <a href="http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB127/02.01.09.pdf">http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB127/02.01.09.pdf</a>
13.	01/11/02	Jay S. Bybee, Assistant Attorney General, OLC	Alberto R. Gonzales, Counsel to the President	Authority of OLC, DOJ, AG, and DOS in the interpretation of treaties and international		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed in a 06/07/07 declaration filed by

				law		Steven Bradbury in that case.
14.	01/11/02	John C. Yoo, Deputy Assistant Attorney General, OLC, and Robert J. Delahunty, Special Counsel, OLC	Alberto R. Gonzales, Counsel to the President	Geneva Conventions		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed in a 06/07/07 declaration filed by Steven Bradbury in that case.
15.	01/14/02	John C. Yoo, Deputy Assistant Attorney General, OLC and Robert J. Delahunty, Special Counsel, OLC	William H. Taft, IV, Legal Advisor, Department of State	Prosecution for Conduct Against al Qaeda and Taliban Members under the War Crimes Act	Asserts that the Justice Department's interpretation of the War Crimes Act precludes prosecution under the statute for conduct against al Qaeda and Taliban members. The memo is cited in John Yoo's 03/14/03 memo concerning military interrogation of alien unlawful combatants.	<b>Still secret.</b> Subject of FOIA request filed by ACLU on 12/09/08.
16.	01/22/02	Jay S. Bybee, Assistant Attorney General, OLC; John C. Yoo, Deputy Assistant Attorney General, OLC	Alberto R. Gonzales, Counsel to the President and William J. Haynes, II, General Counsel to the Department of Defense	Application of Treaties and Laws to al Qaeda and Taliban Detainees ("Treaties and Laws Memorandum")	Addresses treatment of detainees captured in Afghanistan with respect to long-term detention at the U.S. navy base at Guantanamo Bay and trial by military commissions. Concludes that the Geneva Conventions do not apply to al Qaeda members. Also concludes that the President has authority to deny the Taliban militia POW status. Finds that because customary international law constitutes neither federal law nor a treaty recognized under the Supremacy Clause, CIL does not bind the President or restrict the actions of the U.S. military.	Available at: <a href="http://f11.findlaw.com/news.findlaw.com/hdocs/docs/doj/bybee12202mem.pdf">http://f11.findlaw.com/news.findlaw.com/hdocs/docs/doj/bybee12202mem.pdf</a> .
17.	01/24/02	John C. Yoo,	Alberto R.	Geneva Conventions and		<b>Still secret.</b> Subject of litigation in

		Deputy Assistant Attorney General, OLC	Gonzales, Counsel to the President	prisoners of war		<i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed in a 06/07/07 declaration filed by Steven Bradbury in that case.
18.	01/24/02	John C. Yoo, Deputy Assistant Attorney General, OLC	Larry D. Thompson, ODAG	Application of international law to the United States		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed in a 06/07/07 declaration filed by Steven Bradbury in that case.
19.	01/26/02	Jay S. Bybee, Assistant Attorney General, OLC	Larry D. Thompson, ODAG	Geneva Conventions		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed in a 06/07/07 declaration filed by Steven Bradbury in that case.
20.	02/01/02	James C. Ho, Attorney-Advisor, OLC	John C. Yoo, Deputy Assistant Attorney General, OLC	Possible interpretation of Common Article 3 of the 1949 Geneva Convention Relative to the Treatment of Prisoners of War	Probably interprets the scope of prohibited conduct under Common Article 3 and the meaning of phrases such as “outrages upon personal dignity” and “humiliating and degrading treatment.” The memo is cited in John Yoo’s 03/14/03 memo concerning military interrogation of alien unlawful combatants.	<b>Still secret.</b> Subject of FOIA request filed by ACLU on 12/09/08.
21.	02/07/02	George W. Bush, President	The Vice President, The Secretary of State, The Secretary of Defense, The Attorney General, Chief of Staff to the President, Director of CIA, Assistant to the President for National Security Affairs, Chairman of the Joint Chiefs	Humane Treatment of al Qaeda and Taliban Detainees	In this memo, the President concludes that (1) none of the provisions of the Geneva Conventions apply to the conflict with al Qaeda, (2) the President has authority to suspend obligations under the Geneva Conventions with regard to Afghanistan, (3) Common Article 3 does not apply to al Qaeda or Taliban detainees, and (4) Taliban and al Qaeda detainees do not qualify as prisoners of war.	Made public by the White House and available at: <a href="http://www.pegc.us/archive/WhiteHouse/bush_memo_20020207_ed.pdf">http://www.pegc.us/archive/WhiteHouse/bush_memo_20020207_ed.pdf</a> .

			of Staff			
22.	02/07/02	Jay S. Bybee, Assistant Attorney General, OLC	Alberto R. Gonzales, Counsel to the President	Status of Taliban Forces Under Article 4 of the Third Geneva Convention of 1949	Finds that the President has sufficient grounds to conclude that the Taliban militia are not entitled to POW status under the 1949 Geneva Convention (III) Relative to Treatment of Prisoners of War because the Taliban have no organized command structure, do not have distinctive uniform, and do not consider themselves bound by the Geneva Conventions. It also finds that it is not necessary for the government to convene Article 5 tribunals to determine the status of the Taliban detainees since a presidential determination of their status eliminates any legal doubt under domestic law.	Made public by the Department of Justice and available at: <a href="http://www.usdoj.gov/olc/2002/pub-artc4potusdetermination.pdf">http://www.usdoj.gov/olc/2002/pub-artc4potusdetermination.pdf</a>
23.	02/08/02	John C. Yoo, Deputy Assistant Attorney General, OLC	William J. Haynes II, General Counsel, Department of Defense	FISA	Proposes that FISA does not govern intelligence surveillance for national security purposes because FISA does not include a clear statement of intent to do so. The memo is criticized and partly repudiated in Steven Bradbury's 1/15/09 memo re status of certain OLC opinions.	<b>Still secret.</b> Subject of FOIA request filed by ACLU on 12/09/08.
24.	03/05/02	Joan L. Larsen , Deputy Assistant Attorney General, and Gregory F. Jacob, Attorney Advisor, OLC	CIV attorneys, Department of Justice	Availability of habeas corpus relief to detainees		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed in a 06/07/07 declaration filed by Steven Bradbury in that case.

25.	03/13/02	Jay S. Bybee, Assistant Attorney General, OLC	William J. Haynes II, General Counsel, Department of Defense	President's Power as Commander in Chief to Transfer Captured Terrorists to the Control and Custody of Foreign Nations	Concludes that, "the President has plenary constitutional authority, as the commander in chief, to transfer such individuals who are held and captured outside the United States to the control of another country." The memo is criticized and partly repudiated in Steven Bradbury's 1/15/09 memo re status of certain OLC opinions.	Subject of FOIA request filed by ACLU on 12/09/08. Made public by the Department of Justice on 3/2/09 and available at: <a href="http://www.scribd.com/doc/12935629/Bush-DOJ-Memorandum-Presidents-Power-as-Commander-in-Chief-to-Transfer-Captured-Terrorists-to-the-Control-and-Custody-of-Foreign-Nations">http://www.scribd.com/doc/12935629/Bush-DOJ-Memorandum-Presidents-Power-as-Commander-in-Chief-to-Transfer-Captured-Terrorists-to-the-Control-and-Custody-of-Foreign-Nations</a>
26.	03/28/02	John C. Yoo, Deputy Assistant Attorney General, OLC	William H. Taft, IV, Legal Advisor, Department of State	March 22, 2002 DOS memorandum		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed in a 06/07/07 declaration filed by Steven Bradbury in that case.
27.	04/08/02	Patrick F. Philbin, Deputy Assistant Attorney General, OLC	Daniel J. Bryant, Assistant Attorney, OLC	Swift Justice Authorization Act	Concludes that Congress cannot interfere with the President's exercise of his authority as Commander-in-Chief to control the conduct of operations during war, including his authority to promulgate rules to regulate military commissions. The memo is criticized and partly repudiated in Steven Bradbury's 1/15/09 memo re status of certain OLC opinions.	Subject of FOIA request filed by ACLU on 12/09/08. Made public by the Department of Justice on 3/2/09 and available at: <a href="http://www.usdoj.gov/olc/docs/memjusticeauthorizationact0482002.pdf">http://www.usdoj.gov/olc/docs/memjusticeauthorizationact0482002.pdf</a>
28.	06/08/02	Jay S. Bybee, Assistant Attorney General, OLC	John D. Ashcroft, Attorney General	Determination of Enemy Belligerency and Military Detention	Concludes that "the military has the legal authority to detain [Jose Padilla] as a prisoner captured during an international armed conflict," and that the Posse	Made public by the Department of Justice on 3/2/09 and available at: <a href="http://www.usdoj.gov/olc/docs/memomilitarydetention06082002.pdf">http://www.usdoj.gov/olc/docs/memomilitarydetention06082002.pdf</a>

					Comitatus Act poses no bar.	
29.	06/13/02	Jay S. Bybee, Assistant Attorney General, OLC	William J. Haynes II, General Counsel, DOD	Legal Constraints to Boarding and Searching Foreign Vessels on the High Seas		
30.	06/27/02	John C. Yoo, Deputy Assistant Attorney General, OLC	Daniel J. Bryant, Assistant Attorney General, OLC	Applicability of 18 U.S.C. § 4001(a) to Military Detention of United States Citizens	Concludes that the “the President’s authority to detain enemy combatants, including U.S. citizens, is based on his constitutional authority as Commander in Chief” and that the Non-Detention Act cannot interfere with that authority. The memo is criticized and partly repudiated in Steven Bradbury’s 1/15/09 memo re status of certain OLC opinions.	Subject of FOIA request filed by ACLU on 12/09/08. Made public by the Department of Justice on 3/2/09 and available at: <a href="http://www.globalsecurity.org/military/library/policy/national/olc_detention-us-citizens020627.pdf">http://www.globalsecurity.org/military/library/policy/national/olc_detention-us-citizens020627.pdf</a>
31.	07/13/02	John Yoo, Deputy Assistant Attorney General	John Rizzo, Acting General Counsel, Central Intelligence Agency	[Untitled]	Discusses "what is necessary to establish the crime of torture."	Made public by Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc1.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc1.pdf</a>
32.	07/22/02	John C. Yoo, Deputy Assistant Attorney General, OLC	Alberto R. Gonzales, Counsel to the President	Applicability of the Convention Against Torture	Concludes that the first fifteen articles of the Convention Against Torture are non-self executing and place no affirmative obligations on the Executive Branch. Cited in John Yoo’s 03/14/03 memo concerning military interrogation of alien unlawful combatants.	<b>Still secret.</b> Subject of FOIA request filed by ACLU on 12/09/08. Possibly corresponds to “Undated draft memo analyzing the CIA’s interrogation program under the CAT [OLC Vaughn Index #134],” which is document number 112 in this list.
33.	07/24/02	[Redacted]	John Yoo	Fax between CIA and OLC regarding psychological assessment of Abu Zubaydah [OLC Vaughn Index #4]	Draft psychological assessment of Abu Zubaydah. Provides background information (“for at least decade, subject has lived and worked within an environment that has condoned, nurtured, intensified, and rewarded his radical beliefs”),	Made public by Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc4.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc4.pdf</a>



					and notes on his personality, "emotional/mental status/coping skills," "future worldview," motivations, primary strengths, and detention/interrogation.	
34.	08/01/02	Jay S. Bybee, Assistant Attorney General, OLC	Alberto R. Gonzales, Counsel to the President	Standards of Conduct For Interrogation Under 18 U.S.C. §§ 2340-2340A	Concludes that conduct rises to the level of torture under domestic law and the Convention Against Torture only if it causes pain akin to pain associated with organ failure, impairment of bodily function and death. Prosecution for such acts may be barred where it infringes upon the President's Commander-in-Chief powers to conduct war and necessity and self-defense may justify interrogation in violation of § 2340A. The memo is criticized and partly repudiated in Steven Bradbury's 1/15/09 memo re status of certain OLC opinions.	Made public by the Washington Post and available at: <a href="http://www.washingtonpost.com/wp-srv/nation/documents/dojinterrogationmemo20020801.pdf">http://www.washingtonpost.com/wp-srv/nation/documents/dojinterrogationmemo20020801.pdf</a> .
35.	08/01/02	John C. Yoo, Deputy Assistant Attorney General, OLC	Alberto R. Gonzales, Counsel to the President	Letter regarding "the views of our Office concerning the legality, under international law, of interrogation methods to be used on captured al Qaeda operatives"	Concludes that interrogation methods that comply with 18 U.S.C. §2340-2340A do not violate international obligations under the Convention Against Torture based on the U.S. reservation requiring specific intent. Additionally, the methods could not fall under the jurisdiction of the International Criminal Court because (1) "a state cannot be bound by treaties to which it has not consented;" and (2) even if the ICC could act, the methods do not fall within the Rome Statute's crimes since they are not a "widespread and systematic" attack	Available at: <a href="http://news.findlaw.com/hdocs/docs/doj/bybee80102ltr.html">http://news.findlaw.com/hdocs/docs/doj/bybee80102ltr.html</a>

					on civilians and neither al Qaeda members or Taliban soldiers qualify as prisoners of war.	
36.	08/01/02	Jay S. Bybee, Assistant Attorney General, OLC	John A. Rizzo, General Counsel, CIA	Interrogation of al Qaeda Operative	Concludes that the CIA's proposed interrogation plan for Abu Zubaydah — which contemplates methods including “insects placed in a confinement box” and “the waterboard” — does not violate the torture statute.	Made public by the Department of Justice on 4/16/09 in response to ACLU FOIA request and available at: <a href="http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc_08012002_bybee.pdf">http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc_08012002_bybee.pdf</a>
37.	10/11/02	John C. Yoo, Deputy Assistant Attorney General, OLC	John D. Ashcroft, Attorney General	Legality of certain communications intelligence activities		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
38.	01/28/03	George J. Tenet, Director of CIA	CIA [not clear when actually provided to OLC]	Guidelines on interrogations signed by DCI George Tenet [OLC Vaughn Index #11]	Guidelines on interrogation. Divided into sections: 1) Permissible Interrogation Techniques; 2) Medical and Psychological Personnel; 3) Interrogation Personnel; 4) Approvals Required; and 5) Recordkeeping.	Referenced in the 05/10/05 Bradbury memo [individual use memo] which was released to the ACLU on 04/16/09.  Made public by Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc11.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc11.pdf</a>
39.	01/28/03	George J. Tenet, Director of CIA	CIA [not clear when actually provided to OLC]	Guidelines on confinement signed by DCI George Tenet [OLC Vaughn Index #12]	Guidelines on interrogation. Divided into sections: 1) Permissible Interrogation Techniques; 2) Medical and Psychological Personnel; 3) Interrogation Personnel; 4) Approvals Required; and 5) Recordkeeping.	Referenced in the 05/10/05 Bradbury memo [individual use memo] which was released to the ACLU on 04/16/09. Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc12.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc12.pdf</a>
40.	02/07/03	John C. Yoo, Deputy Assistant	William J. Haynes II, General Counsel, DOD	American Bar Association's Task Force on Treatment of Enemy		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed

		Attorney General, OLC		Combatants Report		in a 06/07/07 declaration filed by Steven Bradbury in that case.
41.	02/25/03	Deputy Assistant Attorney General, OLC	John D. Ashcroft, Attorney General	Use of information collected in course of classified foreign intelligence activities		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
42.	03/14/03	Jack L. Goldsmith III, Assistant Attorney General, OLC	James B. Comey, Deputy Attorney General	Classified foreign intelligence activities]		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
43.	03/14/03	John C. Yoo, Deputy Assistant Attorney General, OLC	William J. Haynes II, General Counsel, Department of Defense	Military Interrogation of Alien Unlawful Combatants Held Outside the United States	Concludes that the Fifth Amendment's due process protections and the Eight Amendment's prohibition against cruel and unusual punishment do not apply to enemy combatants held abroad and that federal criminal laws of general applicability do not apply to authorized interrogations of enemy combatants. Also asserts that customary international law can be overridden by the President at his discretion. The memo is criticized and partly repudiated in Steven Bradbury's 1/15/09 memo re status of certain OLC opinions.	Obtained by the ACLU through FOIA and available at: <a href="http://www.aclu.org/safefree/torture/34745res20030314.html">http://www.aclu.org/safefree/torture/34745res20030314.html</a> .
44.	04/28/03	Scott W. Muller, Office of General Counsel, Central Intelligence Agency	John Yoo	Draft list of bullet points discussing legal principles applicable to the CIA interrogation program [OLC Vaughn Index #17]	Draft list of bullet points discussing "legal principles applicable to CIA detention and interrogation of captured Al-Qa'ida personnel."	Made public by Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc17.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc17.pdf</a>
45.	05/30/03	Deputy Assistant Attorney	General Counsel "of another executive branch"			<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed

		General, OLC				in a 06/07/07 declaration filed by Steven Bradbury in that case.
46.	06/16/03	[Unknown – CTC?]	Patrick Philbin	Draft list of bullet points discussing legal principles applicable to the CIA interrogation program w attachment [OIC Vaughn Index #19]	Draft bullet points/final legal summary of "legal principles applicable to CIA detention and interrogation of captured Al-Qa'ida personnel."	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc19.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc19.pdf</a>
47.	06/XX/03	White House	CIA	Interrogation of prisoners by CIA	Existence reported by Washington Post. Joby Warrick, <i>CIA Tactics Endorsed in Secret Memos</i> , Wash. Post, Oct. 15, 2008.	<b>Still secret.</b> Subject of FOIA request filed by ACLU on 12/09/08.
48.	09/08/03	Sheldon Bradshaw, Deputy Assistant Attorney General, OLC	Roz Rettman, OMB	Draft legislation		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed in a 06/07/07 declaration filed by Steven Bradbury in that case.
49.	10/31/03	Nicholas Quinn Rosenkranz, Attorney Advisor, OLC	Jack L. Goldsmith III, Assistant Attorney General, OLC	Geneva Conventions		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed in a 06/07/07 declaration filed by Steven Bradbury in that case.
50.	11/18/03	Jack L. Goldsmith III, Assistant Attorney General, OLC, and Robert Delahunty, Special Counsel, OLC	DOD	Legal advice provided to DOD re: application of Geneva Conventions		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed in a 06/07/07 declaration filed by Steven Bradbury in that case.  Possibly corresponds to "Undated Notes [OLC Vaughn Index #137]," which is document number 114 in this list.
51.	03/02/04	Scott W. Muller, Office of General Counsel, Central	Jack Goldsmith, Department of Justice/Office of Legal Counsel	Draft letter from CIA to OLC w attached bullet points discussing legal principles applicable to	Draft letter from CIA to OLC with attached bullet points requesting that the OLC reaffirm its analyses set forth in a series of previously issued	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc22.p">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc22.p</a>

		Intelligence Agency		the CIA interrogation program [OLC Vaughn Index #22]	memos. States, "we rely on the applicable law and OLC guidance to assess the lawfulness of detention and interrogation techniques." Lays out the CIA's views on "three additional interrogation techniques, and two uses of water not involving the waterboard."	<a href="#">df</a>
52.	03/11/04	Jack L. Goldsmith III, Assistant Attorney General, OLC	Alberto R. Gonzales, Counsel to the President	Letter clarifying OLC advice on classified foreign intelligence activities		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
53.	03/12/04	Jack L. Goldsmith III, Assistant Attorney General, OLC	James B. Comey, Deputy Attorney General	Classified foreign intelligence activities		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
54.	03/15/04	Jack L. Goldsmith III, Assistant Attorney General, OLC	James B. Comey, Deputy Attorney General	Preliminary OLC views regarding legal issues concerning classified foreign intelligence activities		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
55.	03/16/04	James B. Comey, Deputy Attorney General	Alberto R. Gonzales, Counsel to the President	Legal recommendations regarding classified foreign intelligence activities		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
56.	03/18/04	Jack L. Goldsmith III, Assistant Attorney General, OLC	Alberto Gonzales, Counsel to the President	"Protected Person" Status Under the Fourth Geneva Convention.	Concludes that the following categories of people are not "protected persons" within the meaning of the Fourth Geneva Convention: are not "protected persons" within the meaning of article 4 of the Fourth Geneva Convention: U.S. nationals, nationals of a State not bound by the	Made public by the Department of Justice and available at: <a href="http://www.usdoj.gov/olc/2004/gc4mar18.pdf">http://www.usdoj.gov/olc/2004/gc4mar18.pdf</a>

					Convention, nationals of a co-belligerent State, and operatives of the al Qaeda terrorist organization who are not Iraqi nationals or permanent residents of Iraq.	
57.	03/19/04	Jack L. Goldsmith III, Assistant Attorney General, OLC	William H. Taft IV, General Counsel to the Department of State; William J. Haynes II, General Counsel to the Department of Defense; John Bellinger, Legal Adviser for National Security; Scott Muller, General Counsel to the Central Intelligence Agency; Alberto Gonzales, Counsel to the President	Draft Opinion on Permissibility of Relocating Certain "Protected Persons" from Occupied Iraq	Concludes that under the 1949 Geneva Convention (IV), the government can remove "protected persons" who are illegal aliens from Iraq to another country to facilitate interrogation. Additionally, the government can remove "protected persons" who have not been accused of a crime, irrespective of whether they are illegal aliens, so long as it is for a brief period and adjudicative proceedings have not been initiated against them.	Made public by the Washington Post and available at: <a href="http://www.washingtonpost.com/wp-srv/nation/documents/doj_memo031904.pdf">http://www.washingtonpost.com/wp-srv/nation/documents/doj_memo031904.pdf</a> .
58.	03/22/04	Jack L. Goldsmith III, Assistant Attorney General, OLC	James B. Comey, Deputy Attorney General		Confirms oral advice provided by OLC concerning classified foreign intelligence activities relating to surveillance.	<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
59.	03/30/04	James B. Comey, Deputy Attorney General	John D. Ashcroft, Attorney General	Briefing and summary of preliminary LOC conclusions concerning the Terrorist Surveillance Program		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
60.	05/06/04	Jack L.	John D. Ashcroft,		Memorandum, as well as four	<b>Still secret.</b> Subject of litigation in

		Goldsmith III, Assistant Attorney General, OLC	Attorney General		electronic files, prepared in response to a request from the Attorney General that OLC perform a legal review of classified foreign intelligence activities relating to surveillance.	<i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
61.	05/18/04	Renee Lettow Lerner, Deputy Assistant Attorney General, OLC	William E. Moschella, OLA	H.R. 42000, the National Defense Authorization Act for FY 2005		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed in a 06/07/07 declaration filed by Steven Bradbury in that case.
62.	05/25/04	Jack L. Goldsmith, III, Department of Justice/Office of Legal Counsel	John L. Helgerson, Inspector General, Central Intelligence Agency	Letter from OLC to CIA discussing CIA OIG 2004 Special Review [OLC Vaughn Index #26]	Letter from Goldsmith to Helgerson requesting time to review the description of the OLC's advice in the OIG 2004 Special Review before it is sent to Congress.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc26.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc26.pdf</a>
63.	05/27/04	Jack L. Goldsmith, III, Department of Justice/Office of Legal Counsel	Scott Muller, Office of General Counsel, Central Intelligence Agency	Letter from OLC to CIA discussing CIA OIG 2004 Special Review [OLC Vaughn Index #28]	Letter from Goldsmith to Muller re CIA OIG 2004 Special Review	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc28.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc28.pdf</a>
64.	06/10/04	Jack L. Goldsmith, III, Department of Justice/Office of Legal Counsel	Scott Muller, Office of General Counsel, Central Intelligence Agency	Letter from OLC to CIA discussing CIA's request for reaffirmation of a previous OLC document [OLC Vaughn Index #29]	Concerns Muller's request that the OLC reaffirm three pages of bullet points titled "Legal Principles Applicable to CIA detention and Interrogation of Captured Al-Qa'ida Personnel." Goldsmith asks that the CIA put their own views in writing before the OLC issues their written opinion.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc29.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc29.pdf</a>
65.	06/10/04	Jack L. Goldsmith, III, Department of Justice/Office of Legal Counsel	Scott Muller, General Counsel, Central Intelligence Agency	Letter from OLC to CIA discussing CIA's request for reaffirmation of a previous OLC document [OLC Vaughn Index #30]	Concerns Muller's request that the OLC reaffirm three pages of bullet points titled "Legal Principles Applicable to CIA detention and Interrogation of Captured Al-Qa'ida Personnel." Goldsmith asks that the CIA put their own views in writing	Made public by the Department of Justice on 08/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc30.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc30.pdf</a>

					before the OLC issues their written opinion.	
66.	06/18/04	Jack L. Goldsmith, III, Department of Justice/Office of Legal Counsel	George J. Tenet, Director, Central Intelligence Agency	Letter from OLC to CIA discussing CIA OIG 2004 Special Review [Vaughn Index #36]	Discusses the DOJ's concern that the OIG 2004 Special Review contains some "ambiguous statements concerning the Attorney General's remarks at a 29 July 2003 meeting..." Requests that the report be returned to the Inspector General with the suggested modifications.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc36.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc36.pdf</a>
67.	06/18/04	Jack Goldsmith III, Assistant Attorney General, Office of Legal Counsel	John Helgerson, Inspector General, Central Intelligence Agency	Memorandum from OLC to CIA OIG regarding OIG Special Review [Not previously identified in OLC Vaughn Index]	OLC expresses disagreement with the CIA's Office of General Counsel in their representation of OLC opinions on two points -- whether OLC provided sanction for "expanded use" of techniques on detainees other than Abu Zubaydah, and whether the OLC endorsed a document called "Legal Principles Applicable to CIA Detention and Interrogation of Captured Al-Qa'ida Personnel," a series of bullet points outlining legal principles relating to the treatment of HVDs. The memo includes an addendum with suggested changes to a report the CIA submitted (called "the Report" in the memo).	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/06182004memo_from_olc_to_cia_re_oigspecialreview.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/06182004memo_from_olc_to_cia_re_oigspecialreview.pdf</a>
68.	06/22/04	John Rizzo, Acting General Counsel, Central Intelligence Agency	Patrick Philbin	Fax of John Yoo's 07/13/02 Letter to John Rizzo [OLC Vaughn Index #49]	Discusses "what is necessary to establish the crime of torture."	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc49.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc49.pdf</a>
69.	06/23/04	Scott W. Muller, Office of General	Jack Goldsmith, Department of Justice/Office of	Letter from CIA to OLC discussing CIA OIG 2004 Special Review [OLC	Letter from Muller to Goldsmith confirming receipt of Goldsmith's 6/18/2004 letter re IG report	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/relea">http://www.aclu.org/torturefoia/relea</a>



		Counsel, Central Intelligence Agency	Legal Counsel	Vaughn Index #38]	modifications and confirming that they have forwarded the letter and the suggested modifications to the IG.	<a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc38.pdf">sed/082409/olcremand/2004olc38.pdf</a>
70.	07/XX/04	White House	CIA	Interrogation of prisoners by CIA	Existence reported by Washington Post. Joby Warrick, <i>CIA Tactics Endorsed in Secret Memos</i> , Wash. Post, Oct. 15, 2008.	<b>Still secret.</b> Subject of FOIA request filed by ACLU on 12/09/08.
71.	07/02/04	John L. Helgerson, Inspector General, Central Intelligence Agency	Jack L. Goldsmith, III, Assistant Attorney General, Office of Legal Counsel	Letter from CIA OIG to OLC discussing CIA OIG 2004 Special Review [OLC Vaughn Index #42]	Regards DOJ's proposed modifications to the IG report. "We have carefully reviewed the comments of the [DOJ] regarding the Special Review. We concluded that it would not be practicable to recall the Review and integrated those comments into the body of the review...however... we intend to include your 18 June memorandum with any future circulation of the Review."	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc42.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc42.pdf</a>
72.	07/02/04	Scott W. Muller, Office of General Counsel, Central Intelligence Agency	John Bellinger; Cc: James B. Comey	Letter from CIA to Department of State [OLC Vaughn Index #43]	Concerns further discussions that clarified the approval of certain techniques. "The authorized techniques are those previously approved for use with Abu Zubaydah (with the exception of the waterboard) and the 24 approved by the Secretary of Defense on 16 April 2003."	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc43.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc43.pdf</a>
73.	07/07/04	Jack L. Goldsmith, III, Assistant Attorney General, Office of Legal Counsel	Scott W. Muller, Office of General Counsel, Central Intelligence Agency	Letter from OLC to CIA discussing the proposed interrogation of a detainee [OLC Vaughn Index #48]	Regards the use of interrogation techniques on a certain high-value detainee. Emphasizes that approval of the 33 techniques is conditioned by adherence to the safeguards and limitations put forth in OLC memos.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc48.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc48.pdf</a>
74.	07/16/04	Jack L.	John D. Ashcroft,	Implications of recent		<b>Still secret.</b> Subject of litigation in

		Goldsmith III, Assistant Attorney General, OLC	Attorney General	Supreme Court decision for certain foreign intelligence activities		<i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
75.	07/22/04	John Ashcroft, Attorney General	John E. McLaughlin, Acting Director of Central Intelligence, Central Intelligence Agency	Letter from AG Ashcroft to ADCI McLaughlin [OLC Vaughn Index #64]	Confirms advice that the use of certain interrogation techniques addressed by the 08/01/02 Bybee memo, other than waterboarding, outside territory subject to US jurisdiction would not violate the United States Constitution or any statute or treaty obligation of the US.	Existence disclosed narrative released by Senator Rockefeller on 04/22/09. The narrative is available at <a href="http://www.intelligence.senate.gov/pdfs/olcopinion.pdf">http://www.intelligence.senate.gov/pdfs/olcopinion.pdf</a>  Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc64.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc64.pdf</a>
76.	07/22/04	Daniel B. Levin, Acting Assistant Attorney General	Scott W. Muller, General Counsel, Central Intelligence Agency	Letter from OLC to CIA requesting information on certain techniques [OLC Vaughn Index #65]	Concerns whether a certain detainee may be subjected to the waterboard. Asks CIA to address details of the technique In practice, including "whether the technique on which we would now opine differs in any respect from the one considered in our earlier memorandum."	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc65.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc65.pdf</a>
77.	07/30/04	Associate General Counsel, CIA	Daniel Levin, Acting Assistant Attorney General, OLC	[Letter]	Describes interrogation methods.	<b>Still secret.</b> Referenced in the 05/10/05 Bradbury memo [individual use memo] which was released to the ACLU on 04/16/09.
78.	08/02/04	John A. Rizzo, Acting General Counsel, CIA	Daniel Levin, Acting Assistant Attorney General, OLC	[Letter]	Describes interrogation methods.	<b>Still secret.</b> Referenced in the 05/10/05 Bradbury memo [individual use memo] which was released to the ACLU on 04/16/09.
79.	08/05/04	[REDACTED], Associate General Counsel	Daniel Levin, Acting Assistant Attorney General, Office of Legal Counsel,	Letter from CIA to OLC discussing guidelines for a certain technique [OLC Vaughn Index #72]	Responds to the OLC's query about the specifics of administering the waterboard.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc72.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc72.pdf</a>

			Department of Justice			
80.	08/05/04	[REDACTED], Associate General Counsel	Daniel Levin, Acting Assistant Attorney General, Office of Legal Counsel, Department of Justice	Letter from CIA to OLC discussing guidelines for a certain technique [OLC Vaughn Index #73]	Letter from assistant AG to Levin, Acting Assistant Attorney General, re the use of the waterboard. Responds to the OLC's query about the specifics of administering this technique.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc65.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc65.pdf</a>
81.	08/06/04	Daniel Levin, Acting Assistant Attorney General, OLC	John A. Rizzo, Acting General Counsel, Central Intelligence Agency	Letter from Daniel Levin to John Rizzo [OLC Vaughn Index #74]	Written confirmation that, subject to the CIA's proposed limitations, waterboarding would not violate the Constitution or any statute or treaty obligation.  Regarding the waterboard: concludes that "although it is a close and difficult question, the use of the waterboard technique in the contemplated interrogation of [redacted] outside territory subject to the United States jurisdiction would not violate any United States statute."	Existence disclosed narrative released by Senator Rockefeller on 04/22/09. The narrative is available at <a href="http://www.intelligence.senate.gov/pdfs/olcopinion.pdf">http://www.intelligence.senate.gov/pdfs/olcopinion.pdf</a>  Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc74.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc74.pdf</a>
82.	08/09/04	Daniel Levin, Acting Assistant Attorney General, OLC	James B. Comey, Deputy Attorney General	Proposed memorandum concerning a decision to be made by the Deputy Attorney General regarding an intelligence collection activity		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
83.	08/19/04	Associate General Counsel, CIA	Daniel Levin, Acting Assistant Attorney General, OLC	[Letter]	Describes interrogation methods.	<b>Still secret.</b> Referenced in the 05/10/05 Bradbury memo [individual use memo] which was released to the ACLU on 04/16/09.
84.	08/25/04	Associate General Counsel, CIA	Daniel Levin, Acting Assistant Attorney General,	[Letter]	Describes interrogation methods.	<b>Still secret.</b> Referenced in the 05/10/05 Bradbury memo [individual use memo] which was

			OLC			released to the ACLU on 04/16/09.
85.	08/26/04	Daniel Levin, Acting Assistant Attorney General	John A. Rizzo, Acting General Counsel for the CIA	Letter from Daniel Levin to John Rizzo [OLC Vaughn Index #85]	Regards the use of four particular enhanced techniques: “dietary manipulation, nudity, water dousing, and abdominal slaps” in the interrogation of [REDACTED] outside territory subject to United States jurisdiction. The letter concludes that use of the techniques would not violate any U.S. statutes, the U.S. Constitution, or any U.S. treaty obligation. The letter sets out conditions for the applicability of the legal finding, including specifying that the opinion only applies if “these techniques are not painful and are not intended to, or expected to, cause any physical or psychological harm.”	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc85.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc85.pdf</a>
86.	09/06/04	Daniel Levin, Acting Assistant Attorney General	John A. Rizzo, Acting General Counsel, Central Intelligence Agency	Letter from Daniel Levin to John Rizzo [OLC Vaughn Index #88]	Confirms that the use of “twelve particular interrogation techniques (attention grasp, walling, facial hold, facial slap (insult slap), cramped confinement, wall standing, stress positions, sleep deprivation, dietary manipulation, nudity, water slap, and abdominal slap) in the interrogation of [REDACTED]” would not violate the U.S. Constitution, U.S. statutes, or U.S. treaty obligations when practiced in territory outside of U.S. jurisdiction, given certain conditions.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc88.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc88.pdf</a>
87.	09/15/04	James B. Comey, Deputy Attorney General	Robert S. Mueller, Director of the FBI	National Security Agency Collection Activities		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven

						Bradbury in that case.
88.	09/20/04	Daniel Levin, Acting Assistant Attorney General	John A. Rizzo, Acting General Counsel for the CIA	Letter form Daniel Levin to John Rizzo [OLC Vaughn Index #79]	Regards whether the use of “twelve particular interrogation techniques (attention grasp, walling, facial hold, facial slap (insult slap), cramped confinement, wall standing, stress positions, sleep deprivation, dietary manipulation, nudity, water dousing, and abdominal slap in the interrogation of [redacted] would violate any United States Statute (including 18 U.S.C. §2340A), the United States Constitution, or any treaty obligation of the United States.” “...This letter confirms our advice that the use of these techniques on [REDACTED] outside territory subject to United States jurisdiction would not violate any of these provisions.”	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc79.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc79.pdf</a>
89.	09/XX/04	Daniel Levin, Assistant Acting Attorney General	Attorney General; Deputy Attorney General	Memo reflecting OLC's view on the previous and current guidance it provided to CIA and DOD [OLC Vaughn Index #89]	Update on the status of interrogation advice. Contains sections for general advice, advice specific to the CIA, and advice specific to the DOD. In the CIA section, it especially concerns waterboarding. The document also addresses whether the CIA's actions would "shock the conscience, if that standard applies." The answer to this question is redacted. The document is extensively redacted. The letter also makes mention of "24 specific techniques" which were approved for use by the DOD.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc89.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc89.pdf</a>
90.	10/12/04	Associate General	Daniel Levin, Acting Assistant	[Letter]	Describes interrogation methods.	<b>Still secret.</b> Referenced in the 05/10/05 Bradbury memo

		Counsel, CIA	Attorney General, OLC			[individual use memo] which was released to the ACLU on 04/16/09.
91.	10/22/04	Associate General Counsel, CIA	Daniel Levin, Acting Assistant Attorney General, OLC	[Letter]	Describes interrogation methods.	<b>Still secret.</b> Referenced in the 05/10/05 Bradbury memo [individual use memo] which was released to the ACLU on 04/16/09.
92.	11/17/04	Daniel Levin, Acting Assistant Attorney General, OLC			Memo and electronic file prepared in response to a request for OLC views regarding the applicability of certain statutory requirements relating to surveillance.	<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in a 10/18/07 declaration filed by Steven Bradbury in that case.
93.	12/XX/04	CIA	OLC	OMS Guidelines on Medical and Psychological Support to Detainee Rendition, Interrogation and Detention	(See: 01/15/05: Fax from CIA to OLC providing information on medical guidelines for detainees [OLC Vaughn Index #101])	Referenced in the 05/10/05 Bradbury memo [individual use memo] which was released to the ACLU on 04/16/09.  Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc101.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc101.pdf</a>
94.	12/06/04	Daniel Levin, Acting Assistant Attorney General, OLC	James B. Comey, Deputy Attorney General	Communications with detainees in combatant status review tribunal who are represented by counsel		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed in a 06/07/07 declaration filed by Steven Bradbury in that case.
95.	12/30/04	Daniel Levin, Acting Assistant Attorney General, OLC	James B. Comey, Deputy Attorney General	Legal Standards Applicable Under 18 U.S.C. §§ 2340-2340A)  OLC Memo Prepared for James Comey [OLC Vaughn Index #96]	Issued to supersede John Yoo's August 2002 torture memo. Concludes that Congress's definition of torture, which requires conduct intended to cause severe pain, is not limited to "excruciating and agonizing" pain or suffering. Footnote 8, however, asserts that despite disagreement with the	Made public by the Department of Justice and available at: <a href="http://www.usdoj.gov/olc/18usc23402340a2.htm">http://www.usdoj.gov/olc/18usc23402340a2.htm</a>  Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc96.p">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc96.p</a>

					August 2002 memo, the Office's prior conclusions on detainee treatment are nonetheless consistent with this memo. Additionally, footnote 13 cites common dictionary definitions of torture to support "the statutory concept that the pain or suffering must be severe."	<a href="#">df</a>
96.	12/30/04	CIA	Daniel Levin, Acting Assistant Attorney General, OLC	Background Paper on CIA's Combined Use of Interrogation Techniques  Fax from CIA to OLC providing generic description of the CIA's combined use of various interrogation techniques [OLC Vaughn Index #97]	States that "effective interrogation is based on the concept of using both physical and psychological pressures in a comprehensive, systematic, and cumulative manner to influence HVD behavior, to overcome a detainee's resistance posture." Document walks the reader through a detainee's evolving circumstances, from the moment of capture to the interrogation. Also contains a vivid (although largely redacted) description of a prototypical interrogation over several sessions. This description is stated to be "a fair representation of how these techniques are actually employed."	Referenced in the 05/10/05 Bradbury memo [individual use memo] which was released to the ACLU on 04/16/09.  Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc97.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc97.pdf</a>
97.	01/04/05	Assistant General Counsel, CIA	Daniel Levin, Acting Assistant Attorney General, OLC	Fax	Sets out interrogation techniques proposed to be used against a specific detainee.	<b>Still secret.</b> Referenced in the 05/10/05 Bradbury memo [individual use memo] which was released to the ACLU on 04/16/09.  Possibly also referenced in "Undated handwritten notes of an OLC attorney [OLC Vaughn Index #129]," which is document number 111 in this list.
98.	01/15/05	[REDACTED]	Daniel Levin, Office of Legal	Fax from CIA to OLC providing information on	2004 OMS Guidelines on Medical and Psychological Support to	Made public by the Department of Justice on 8/24/09 and available at:

			Counsel, Department of Justice	medical guidelines for detainees [OLC Vaughn Index #101]	Detainee Rendition, Interrogation, and Detention. Document is heavily redacted, but includes descriptions of the enhanced interrogation techniques related to the SERE program. It should be noted that the document still relies on the August 2002 memo, <i>Standards of Conduct for Interrogation under 18 U.S.C. §§ 2340-2340A</i> , for its definition of mental harm, despite the fact that this definition became obsolete with the release of the 12/30/2004 OLC memo. The OMS Guidelines list approximately 20 sanctioned interrogation techniques and describes several of them in detail.	<a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc101.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc101.pdf</a>
99.	02/04/05	Daniel Levin, Acting Assistant Attorney General, OLC	William J. Haynes II, General Counsel, DoD	Prior OLC memo concerning interrogation		<b>Still secret.</b> Subject of litigation in <i>ACLU v. DOD</i> , 04-cv-4151 (S.D.N.Y.) and existence disclosed in a 06/07/07 declaration filed by Steven Bradbury in that case.
100.	03/02/05	OCI Counterterrorist Center	Steven G. Bradbury, Principal Deputy Assistant Attorney General, OLC	Effectiveness of the CIA Counterintelligence Interrogation Techniques	States that the CIA believes that “the intelligence acquired from these interrogations has been a key reason why al Qa’ida has failed to launch a spectacular attack in the West since 11 September 2001.”	<b>Still secret.</b> Referenced in the 05/30/05 Bradbury memo which was released to the ACLU on 04/16/09.
101.	04/22/05	Assistant General Counsel, CIA	Steven G. Bradbury, Principal Deputy Assistant Attorney General, OLC; [Redacted]	Fax to OLC elements of CIA's use of techniques in combination [OLC Vaughn Index #107]	Fax from the CIA to Steve Bradbury of the DoJ OLC. Begins with a detailed description of the CIA's technique of “horizontal sleep deprivation.” Document then goes on to discuss waterboarding when used in conjunction with two other techniques: liquid diet and sleep deprivation.	Referenced in a 05/10/05 Bradbury memo [combined use memo] which was released to the ACLU on 04/16/09.  Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc107">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc107</a> .



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102.	05/10/05	Steven G. Bradbury, Principal Deputy Assistant Attorney General, OLC	John A. Rizzo, Senior Deputy General Counsel, CIA	Application of 18 U.S.C. §§ 2340-2340A to Certain Techniques That May Be Used in the Interrogation of a High Value al Qaeda Detainee	Concludes that the CIA's interrogation techniques do not violate the torture statute if used individually.	Made public by the Department of Justice on 4/16/09 in response to ACLU litigation and available at: <a href="http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc_05102005_bradbury46pg.pdf">http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc_05102005_bradbury46pg.pdf</a>
103.	05/10/05	Steven G. Bradbury, Principal Deputy Assistant Attorney General, OLC	John A. Rizzo, Senior Deputy General Counsel, CIA	Application of 18 U.S.C. §§ 2340-2340A to the Combined Use of Certain Techniques in the Interrogation of High Value al Qaeda Detainees	Concludes that the techniques outlined in the other 05/10/05 Bradbury memo would not violate the torture statute even if used in combination.	Made public by the Department of Justice on 4/16/09 in response to ACLU litigation and available at: <a href="http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc_05102005_bradbury_20pg.pdf">http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc_05102005_bradbury_20pg.pdf</a>
104.	05/30/05	Steven G. Bradbury, Principal Deputy Assistant Attorney General, OLC	John A. Rizzo, Senior Deputy General Counsel, CIA	Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that May Be Used in the Interrogation of High Value al Qaeda Detainees	Concludes that "the use of these techniques, subject to the CIA's careful screening criteria and limitation and its medical safeguards, is consistent with the United States obligations under Article 16."	Made public by the Department of Justice on 4/16/09 in response to ACLU litigation and available at: <a href="http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc_05302005_bradbury.pdf">http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc_05302005_bradbury.pdf</a>
105.	08/XX/06	OLC	CIA		Opinion interpreting the Detainee Treatment Act with respect to the conditions of confinement in CIA facilities.	<b>Still secret.</b> Existence disclosed narrative released by Senator Rockefeller on 04/22/09. The narrative is available at <a href="http://www.intelligence.senate.gov/pdfs/olcopinon.pdf">http://www.intelligence.senate.gov/pdfs/olcopinon.pdf</a>
106.	08/XX/06	OLC	CIA		Letter interpreting Common Article 3, as enforced by the War Crimes Act, with respect to conditions of confinement in CIA facilities.	<b>Still secret.</b> Existence disclosed narrative released by Senator Rockefeller on 04/22/09. The narrative is available at <a href="http://www.intelligence.senate.gov/p">http://www.intelligence.senate.gov/p</a>

						<a href="#">dfs/olcopinion.pdf</a>
107.	07/XX/07	OLC	CIA		Opinion analyzing legality of the interrogation techniques authorized for use in the CIA program under Common Article 3, the Detainee Treatment Act, and the War Crimes Act. Released in conjunction with Executive Order 13,440, which interpreted the obligations imposed upon the U.S. by Common Article 3.	<b>Still secret.</b> Existence disclosed narrative released by Senator Rockefeller on 04/22/09. The narrative is available at <a href="http://www.intelligence.senate.gov/pdfs/olcopinion.pdf">http://www.intelligence.senate.gov/pdfs/olcopinion.pdf</a>
108.	10/06/08	Steven G. Bradbury, Principal Deputy Assistant Attorney General, OLC	File	Re: October 23, 2001 OLC Opinion Addressing the Domestic Use of Military Force to Combat Terrorist Activities	Advises “that caution should be exercised before relying in any respect” on John C. Yoo’s Oct. 23, 2001 memo <i>Re: Authority for Use of Military Force to Combat Terrorist Activities Within the United States.</i>	Made public by the Department of Justice on 3/2/09 and available at: <a href="http://www.usdoj.gov/opa/document/s/olc-memos.htm">http://www.usdoj.gov/opa/document/s/olc-memos.htm</a> .
109.	01/15/09	Steven G. Bradbury, Principal Deputy Assistant Attorney General, OLC	File	Re: Status of Certain OLC Opinions Issued in the Aftermath of the Terrorist Attacks of September 11, 2001	Advises that “certain propositions stated in several opinions issued by the Office of Legal Counsel from 2001-2003 respecting the allocation of authorities between the President and Congress in matters of war and national security do not reflect the current views of this Office.”	Made public by the Department of Justice on 3/2/09 and available at: <a href="http://www.usdoj.gov/opa/document/s/olc-memos.htm">http://www.usdoj.gov/opa/document/s/olc-memos.htm</a> .
110.	[undated]	[unlisted]	[unlisted]	Undated draft memo analyzing the CIA’s interrogation program under the Convention Against Torture (CAT) [OLC Vaughn Index #112]	Undated memo from the National Security Council analyzing whether the use of the CIA interrogation program would violate U.S. obligations under Article 16 of the Convention Against Torture.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc112.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc112.pdf</a>
111.	[undated]	[unlisted]	[unlisted]	Undated draft memo analyzing the CIA’s interrogation program under the CAT [OLC	Analyzes whether the use of the CIA interrogation program would violate U.S. obligations under Article 16 of the Convention Against Torture.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc113">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc113</a> .

				Vaughn Index #113]		<a href="#">pdf</a>
112.	[undated]	[unlisted]	[unlisted]	Undated handwritten notes of an OLC attorney [OLC Vaughn Index #129]	List of documents sent to various people with explanations of their contents. Documents listed: "Letter to Judge Gonzales from John Yoo, Aug. 1, 2002 addresses international legal obligations under the CAT;" "Opinion addressed to Judge Gonzales, signed by Jay Bybee, August 1, 2002. This <i>unclassified</i> opinion addresses standards generally under 18 U.S.C. §§ 2340-2340A" (emphasis in the original); "Opinion addressed to John Rizzo, Acting GC at CIA, signed by John Bybee, August 1, 2002. Addresses specifically proposed techniques with respect to Zubayda (sic.). Top Secret;" "Opinion addressed to William Jay Haynes, signed by John Yoo, March 14, 2003. Generally addresses standards for interrogation. Secret;" "Bullet points created by CIA OGC in collaboration with John Yoo -- <i>not signed</i> by OLC" (emphasis in original).	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc129.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc129.pdf</a>
113.	[undated]	[unlisted]	[unlisted]	Undated draft memo analyzing the CIA's interrogation program under the CAT [OLC Vaughn Index #134]	Undated memo from the National Security Council analyzing whether the use of the CIA interrogation program would violate U.S. obligations under Article 16 of the Convention Against Torture.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc134.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc134.pdf</a>
114.	[undated]	[unlisted]	[unlisted]	Undated notes [OLC Vaughn Index #136]	Undated memo from the National Security Council analyzing whether the use of the CIA interrogation program would violate U.S.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc136.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc136.pdf</a>

					obligations under Article 16 of the Convention Against Torture.	<a href="#">pdf</a>
115.	[undated]	[unlisted]	Attorney General	Undated Notes [OLC Vaughn Index #137]	Deals with the application of the Geneva Conventions to the conflicts with al Qaeda, in Afghanistan, and in Iraq. Mostly, it deals with who qualifies as a prisoner of war under the Geneva Conventions, and the rights of detainees from groups likely to end up in U.S. custody (al-Qaeda, Taliban, and Iraqis). Concludes that "except for some unusual situations, detention operations conducted pursuant to the Department of Defense's proposed policy would not require notification under the Conventions."	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc137.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc137.pdf</a>
116.	[undated]	[unlisted]	[unlisted]	Undated draft memo listing proposed techniques and the effect of the McCain Amendment on the CIA's RDI Program [OLC Vaughn Index #138]	Discusses whether the McCain Amendment would prevent the CIA from using its enhanced techniques. Concludes that the McCain Amendment would not do so because the standard for "shocks the conscience" is so nebulous.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc138.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc138.pdf</a>
117.	[undated]	[unlisted]	[unlisted]	Undated draft memo discussing legal principles applicable to the CIA's RDI program [OLC Vaughn Index #151]	Discusses why the CIA's interrogation program does not violate the CAT, 18 U.S.C. §2340-2340A, or 18 U.S.C. §2441. Much of the argument hinges on the contention that so long as the interrogators acted in good faith in their belief that they would not be causing "severe physical or mental pain or suffering," they would not have violated these principles. "A good faith belief," however, "need not be a reasonable belief; it need	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc151.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc151.pdf</a>

					only be an honest belief."	
118.	[undated]	[unlisted]	Counsel to the President	Undated notes [OLC Vaughn Index # 159]	Summary of OLC legal advice to the Counsel to the President, the CIA, and the DOD regarding the CIA and DOD's interrogation programs. The document ends with the advice that an interrogator charged under a torture statute might be able to claim defenses of necessity and self defense in his conduct of the interrogation.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc159.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc159.pdf</a>
119.	[undated]	[unlisted]	[unlisted]	Undated draft memo analyzing the CIA's interrogation program under the CAT [OLC Vaughn Index #163]	Undated draft memo analyzing the implications of the Convention Against Torture on the CIA's program of interrogations.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc163.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc163.pdf</a>
120.	[undated]	[unlisted]	[unlisted]	Undated memo outlining three previous OLC opinions [OLC Vaughn Index # 164]	Summary of three OLC opinions issued to the CIA ( <i>Interrogation Techniques Opinion</i> (May 10, 2005), <i>Combined Use Opinion</i> (May 10, 2005), and <i>Article 16 Opinion</i> (May 30, 2005)) regarding the legality of the CIA interrogation program.	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc164.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc164.pdf</a>
121.	[undated]	OLC	[unlisted]	Undated Notes [OLC Vaughn Index #174]	Summary of OLC opinions regarding interrogation of detainees. Most of it is similar to the other OLC memos concerning the CAT, but there are some important differences. To wit, on page 2, the note's author specifically disagrees with the IG and the CIA's Office of General Counsel "about whether OLC endorsed a set of bullet points that OGC produced in the spring of 2003, summarizing legal principles that were said to apply to interrogations of detained terrorists	Made public by the Department of Justice on 8/24/09 and available at: <a href="http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc174.pdf">http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc174.pdf</a>

					outside of the United States." The note's author also denies that the Attorney General "approved 'expanded use of the techniques.'" Rather, it states, "the Attorney General did approve the use of approved techniques on detainees other than Abu Zubaydah, but the techniques were not otherwise 'expanded' in any way." Finally, the note rehashes arguments about the legality of the Department of Defense's program of interrogation.	
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