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CIA Destroyed Videos Showing Interrogations

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Harsh Techniques Seen in 2002 Tapes

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The CIA made videotapes in 2002 of its officers administering harsh interrogation techniques to two al-Qaeda suspects but destroyed the tapes three years later, CIA Director Michael V. Hayden said yesterday.

Captured on tape were interrogations of Abu Zubaydah, a close associate of Osama bin Laden, and a second high-level al-Qaeda member who was not identified, according to two intelligence officials. Zubaydah has been identified by U.S. officials familiar with the interrogations as one of three al-Qaeda suspects who were subjected to "waterboarding," a technique that simulates drowning, while in CIA custody.

The tapes were made to document any confessions the two men might make and to serve as an internal check on how the interrogations were conducted, senior intelligence officials said.

All the tapes were destroyed in November 2005 on the order of Jose A. Rodriguez Jr., then the CIA's director of clandestine operations, officials said. The destruction came after the Justice Department had told a federal judge in the case of al-Qaeda operative Zacarias Moussaoui that the CIA did not possess videotapes of a specific set of interrogations sought by his attorneys. A CIA spokesman said yesterday that the request would not have covered the destroyed tapes.

The tapes also were not provided to the Sept. 11 commission, the independent panel that investigated the 2001 terrorist attacks on the World Trade Center and the Pentagon, which demanded a wide array of material and relied heavily on classified interrogation transcripts in piecing together its narrative of events.

The startling disclosures came on the same day that House and Senate negotiators reached an agreement on legislation that would prohibit the use of waterboarding and other harsh interrogation tactics by the CIA and bring intelligence agencies in line with rules followed by the U.S. military.

The measure, which needs approval from the full House and Senate, would effectively set a government-wide standard for legal interrogations by explicitly outlawing the use of simulated drowning, forced nudity, hooding, military dogs and other harsh tactics against prisoners by any U.S. intelligence agency.

The proposed ban sets the stage for a potential election-season standoff between congressional Democrats and the Bush administration, which has fought vigorously on Capitol Hill and in the courts to preserve intelligence agencies' ability to use aggressive interrogation techniques against terrorism suspects.

White House spokesman Tony Fratto warned that the administration had threatened to veto similar legislation proposed in the House.

In a note to agency employees yesterday, Hayden said that the decision to destroy the videotapes was made to protect the identities of CIA officers who were clearly identifiable on them.

"Beyond their lack of intelligence value -- as the interrogation sessions had already been

exhaustively detailed in written channels -- and the absence of any legal or internal reason to keep them, the tapes posed a security risk," Hayden said. "Were they ever to leak, they would permit identification of your CIA colleagues who had served in the program, exposing them to and their families to retaliation from al-Qaeda and its sympathizers."

Hayden said he decided to discuss the tapes publicly because of news media interest and the possibility that "we may see misinterpretations of the facts in the days ahead." [The New York Times](#) said on its Web site that it had informed the CIA on Wednesday night that it was preparing a story about the destroyed tapes.

Agency officials declined to describe the contents of the tapes, but knowledgeable U.S. officials said they depicted hours of interrogations of the two men, both of whom were subjected to aggressive interrogation methods. Whether the tapes show waterboarding or any other specific techniques is not clear.

The existence of the tapes was revealed to congressional oversight committees, and Congress was also informed about the decision to destroy the tapes, two senior intelligence officials said. The CIA was headed by former [GOP](#) congressman Porter J. Goss at the time.

But [Sen. John D. Rockefeller IV](#) (D-W.Va.), chairman of the Senate intelligence committee, said in a statement last night that lawmakers did not learn about the destruction of the tapes for another year.

"While we were provided with very limited information about the existence of the tapes, we were not consulted on their usage nor the decision to destroy the tapes," Rockefeller said.

Civil liberties advocates denounced the CIA's decision to destroy the tapes, saying the agency should have known by 2005 that the actions depicted on them were potentially the subject of litigation and congressional investigations.

Jameel Jaffer, a national security lawyer at the [American Civil Liberties Union](#), said the tapes were destroyed at a time when a federal court had ordered the CIA to comply with a Freedom of Information Act request by the ACLU seeking records related to interrogations.

"The CIA appears to have deliberately destroyed evidence that would have allowed its agents to be held accountable for the torture of prisoners," Jaffer said. "They are tapes that should have been released to the courts and Congress, but the CIA apparently believes that its agents are above the law."

Whether the agency faces potential legal jeopardy depends on timing -- specifically, whether investigations into the interrogation practices had been launched when the tapes were destroyed, said A. John Radsan, a former federal prosecutor and CIA assistant general counsel.

"Once an investigation has begun -- whether it's an attorney general or an inspector general investigation -- it's much more problematic to have destroyed any kinds of documents or tapes that fall within the scope of the investigation," Radsan said.

U.S. District Judge Leonie M. Brinkema of [Alexandria](#) ordered the CIA in 2003 to turn over tapes of terrorists whose testimony might be relevant to Moussaoui's defense. Moussaoui briefly trained to become one of the hijackers in the Sept. 11 attacks but was taken into custody before they occurred.

The Justice Department revealed in a letter to Brinkema and an appeals court judge in October that the CIA's previous claims had been wrong and that it had found two videotapes and one audiotape of unidentified detainee interrogations. Those tapes still exist, prosecutors said in a court filing.

CIA spokesman Mark Mansfield said the tapes acknowledged by Hayden "did not involve anyone judged relevant by the court in the Moussaoui proceedings."

Mansfield also said that the CIA did not withhold evidence from the Sept. 11 commission, contending that its members did not ask specifically for tapes. "The tapes were destroyed only when it was determined that they were no longer of intelligence value and not relevant to any internal, legislative or judicial inquiries," he said.

Zubaydah was captured in March 2002, becoming the first of the "high-value" detainees in CIA custody and the first to be subjected to harsh interrogation methods, which included sleep deprivation as well as waterboarding. Zubaydah, who was shot and gravely wounded during his capture, later became "defiant and evasive," according to Hayden, leading to the decision to apply more aggressive measures.

Hayden said the methods shown on the videotapes were legal under guidelines approved by the Justice Department and the Bush administration, and he said the interrogation provided "crucial information."

Intelligence officials have acknowledged that the CIA used waterboarding on three prisoners after the 2001 attacks but say the agency stopped the practice in 2003. The technique was revived as a political issue in recent months during the confirmation process for [Attorney General Michael B. Mukasey](#), who refused to say whether waterboarding is considered torture under U.S. law. Most Senate Democrats voted against his nomination as a result, giving Mukasey the lowest level of Senate support of any attorney general in the past half-century.

The waterboarding ban was added to the 2008 intelligence authorization bill through an amendment offered by one of the few Democrats to support Mukasey, [Sen. Dianne Feinstein](#) (D-Calif.). Under the amendment, no prisoner in U.S. custody "shall be subject to any treatment or technique of interrogation not authorized by the [United States Army Field Manual](#)."

The Army field manual on interrogations was amended last year to explicitly prohibit eight aggressive and controversial interrogation tactics, including some methods used on military prisoners at the [Abu Ghraib](#) detention facility in [Iraq](#) and the military prison at [Guantanamo Bay, Cuba](#). The manual also singles out the use of waterboarding.

"The national debate over torture will end if this amendment to place the CIA under the Army Field Manual becomes law," Feinstein said in a statement.

But [Sen. Christopher S. Bond](#) (R-Mo.) accused Democrats of trying "to kill an important tool in our efforts to fight terror."

Staff writer Walter Pincus and staff researcher Julie Tate contributed to this report.

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