

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

	<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/warpowers925.htm">http://www.usdoj.gov/olc/warpowers925.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/opa/document/olc-memos.htm">http://www.usdoj.gov/opa/document/olc-memos.htm</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.
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	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:

<sup>1</sup> This chart is not comprehensive. For example, we have excluded any memo that OLC has identified to the ACLU as a "draft," as "internal," or as "undated." We have also excluded memos that have been identified to us only by date and length. 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.

					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.	<a href="http://www.usdoj.gov/opa/documents/olc-memos.htm">http://www.usdoj.gov/opa/documents/olc-memos.htm</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	This memo 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/whatsnew.htm">http://www.usdoj.gov/olc/whatsnew.htm</a> .
8	11/20/01	John C. Yoo, Deputy Assistant Attorney General, OLC, and Robert J. Delahunty, Special Counsel, OLC	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.
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	<b>Still secret.</b> Subject of FOIA request filed by ACLU on 12/09/08.

					concerning military interrogation of alien unlawful combatants.	
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	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 law		<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.
13	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.
14	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.
15	01/22/02	Jay S. Bybee, Assistant Attorney	Alberto R. Gonzales, Counsel	Application of Treaties and Laws to al Qaeda and	Addresses treatment of detainees captured in Afghanistan with respect	Available at: <a href="http://fl1.findlaw.com/news.findlaw.c">http://fl1.findlaw.com/news.findlaw.c</a>

		General, OLC; John C. Yoo, Deputy Assistant Attorney General, OLC	to the President and William J. Haynes, II, General Counsel to the Department of Defense	Taliban Detainees ("Treaties and Laws Memorandum")	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.	<a href="http://www.hdocs/docs/doj/bybee12202mem.pdf">om/hdocs/docs/doj/bybee12202mem.pdf</a> .
16	01/24/02	John C. Yoo, Deputy Assistant Attorney General, OLC	Alberto R. Gonzales, Counsel to the President	Geneva Conventions and prisoners of war		<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.
17	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.
18	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.
19	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 memos is cited in John Yoo's 03/14/03 memo concerning military interrogation of	<b>Still secret.</b> Subject of FOIA request filed by ACLU on 12/09/08.

					alien unlawful combatants.	
20	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 of Staff	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.pege.us/archive/White_House/bush_memo_20020207_ed.pdf">http://www.pege.us/archive/White_House/bush_memo_20020207_ed.pdf</a> .
21	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	This memo 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/whatsnew.htm">http://www.usdoj.gov/olc/whatsnew.htm</a> .

22	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.
23	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.
24	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.usdoj.gov/opa/documents/olc-memos.htm">http://www.usdoj.gov/opa/documents/olc-memos.htm</a> .
25	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.
26	04/08/02	Patrick F. Philbin,	Daniel J. Bryant,	Swift Justice	Concludes that Congress cannot	Subject of FOIA request filed by

		Deputy Assistant Attorney General, OLC	Assistant Attorney, OLC	Authorization Act	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.	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/opa/documents/olc-memos.htm">http://www.usdoj.gov/opa/documents/olc-memos.htm</a> .
27	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 Comitatus Act poses no bar.	Made public by the Department of Justice on 3/2/09 and available at: <a href="http://www.usdoj.gov/opa/documents/olc-memos.htm">http://www.usdoj.gov/opa/documents/olc-memos.htm</a> .
28	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		
29	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.usdoj.gov/opa/documents/olc-memos.htm">http://www.usdoj.gov/opa/documents/olc-memos.htm</a> .
30	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	<b>Still secret.</b> Subject of FOIA request filed by ACLU on 12/09/08.

					military interrogation of alien unlawful combatants.	
31	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> .
32	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 on civilians and neither al Qaeda members or Taliban soldiers qualify as prisoners of war.	Available at: <a href="http://news.findlaw.com/hdocs/docs/doj/bybee80102ltr.html">http://news.findlaw.com/hdocs/docs/doj/bybee80102ltr.html</a> .

33	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> .
34	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.
35	01/28/03	George J. Tenet, Director of CIA	CIA [not clear when actually provided to OLC]	Guidelines on Interrogations Conducted Pursuant to the [REDACTED]		<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.
36	01/28/03	George J. Tenet, Director of CIA	CIA [not clear when actually provided to OLC]	Guidelines on Confinement Conditions for CIA Detainees		<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.
37	02/07/03	John C. Yoo, Deputy Assistant Attorney General, OLC	William J. Haynes II, General Counsel, DOD	American Bar Association's Task Force on Treatment of Enemy Combatants Report		<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.
38	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.
39	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.
40	03/14/03	John C. Yoo, Deputy Assistant	William J. Haynes II, General	Military Interrogation of Alien Unlawful	Concludes that the Fifth Amendment's due process	Obtained by the ACLU through FOIA and available at:

		Attorney General, OLC	Counsel, Department of Defense	Combatants Held Outside the United States	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.	<a href="http://www.aclu.org/safefree/torture/34745res20030314.html">http://www.aclu.org/safefree/torture/34745res20030314.html</a> .
41	05/30/03	Deputy Assistant Attorney General, OLC	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 in a 06/07/07 declaration filed by Steven Bradbury in that case.
42	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.
43	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.
44	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.
45	11/18/03	Jack L. Goldsmith III, Assistant Attorney General, OLC, and Robert	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

		Delahunty, Special Counsel, OLC				Steven Bradbury in that case.
46	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.
47	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.
48	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.
49	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.
50	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 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.	Made public by the Department of Justice and available at: <a href="http://www.usdoj.gov/olc/whatsnew.htm">http://www.usdoj.gov/olc/whatsnew.htm</a> .

51	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> .
52	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.
53	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.
54	05/06/04	Jack L. Goldsmith III, Assistant Attorney General, OLC	John D. Ashcroft, Attorney General		Memorandum, as well as four 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	<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.

					surveillance.	
55	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.
56	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.
57	07/16/04	Jack L. Goldsmith III, Assistant Attorney General, OLC	John D. Ashcroft, Attorney General	Implications of recent Supreme Court decision for certain 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.
58	07/22/04	John Ashcroft, Attorney General	John E. McLaughlin, Acting Director of Central Intelligence		Written confirmation that the use of the interrogation techniques addressed by the 08/01/02 Bybee memo, other than waterboarding, would not violate the Constitution or any statute or treaty obligation.	<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> .
59	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.
60	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.
61	08/06/04	Daniel Levin, Acting Assistant Attorney General, OLC	[presumably also to John E. McLaughlin]		Written confirmation that, subject to the CIA's proposed limitations, waterboarding would not violate the Constitution or any statute or treaty obligation.	<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> .
62	08/09/04	Daniel Levin,	James B. Comey,	Proposed memorandum		<b>Still secret.</b> Subject of litigation in

		Acting Assistant Attorney General, OLC	Deputy Attorney General	concerning a decision to be made by the Deputy Attorney General regarding an intelligence collection activity		<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.
63	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.
64	08/25/04	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.
65	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.
66	10/12/04	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.
67	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.
68	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.
69	12/XX/04	CIA	OLC	OMS Guidelines on Medical and Psychological Support to Detainee Rendition,		<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.

				Interrogation and Detention		
70	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.
71	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)	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 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."	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> .
72	12/30/04	CIA	OLC	Background Paper on CIA's Combined Use of Interrogation Techniques		<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.
73	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.
74	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.

75	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.
76	04/22/05	Assistant General Counsel, CIA	Steven G. Bradbury, Principal Deputy Assistant Attorney General, OLC		Describes “how the waterboard may be used in combination with other techniques.”	<b>Still secret.</b> Referenced in a 05/10/05 Bradbury memo [combined use memo] which was released to the ACLU on 04/16/09.
77	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> .
78	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> .
79	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> .
80	08/XX/06	OLC	CIA		Opinion interpreting the Detainee Treatment Act with respect to the conditions of confinement in CIA	<b>Still secret.</b> Existence disclosed narrative released by Senator Rockefeller on 04/22/09. The

					facilities.	narrative is available at <a href="http://www.intelligence.senate.gov/pdfs/olcopinion.pdf">http://www.intelligence.senate.gov/pdfs/olcopinion.pdf</a> .
81	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/pdfs/olcopinion.pdf">http://www.intelligence.senate.gov/pdfs/olcopinion.pdf</a> .
82	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> .
83	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/documents/olc-memos.htm">http://www.usdoj.gov/opa/documents/olc-memos.htm</a> .
84	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/documents/olc-memos.htm">http://www.usdoj.gov/opa/documents/olc-memos.htm</a> .