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A Guide to the Memos on Torture

By THE NEW YORK TIMES

The New York Times, Newsweek, The Washington Post and The Wall Street Journal have disclosed memorandums that show a pattern in which Bush administration lawyers set about devising arguments to avoid constraints against mistreatment and torture of detainees. Administration officials responded by releasing hundreds of pages of previously classified documents related to the development of a policy on detainees.

[Additional documents were released](#) in December and January by the American Civil Liberties Union, which filed a civil lawsuit seeking to discover the extent of abuse of prisoners by the military. Those papers are posted at aclu.org.

2002

JANUARY A series of memorandums from the Justice Department, many of them written by **John C. Yoo**, a University of California law professor who was serving in the department, provided arguments to keep United States officials from being charged with war crimes for the way prisoners were detained and interrogated. The memorandums, principally one written on Jan. 9, provided legal arguments to support administration officials' assertions that the Geneva Conventions did not apply to detainees from the war in Afghanistan.

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- [Yoo's Memo on Avoiding Geneva Conventions](#) (PDF document)

JAN. 25 **Alberto R. Gonzales**, the White House counsel, in a memorandum to **President Bush**, said that the Justice Department's advice in the Jan. 9 memorandum was sound and that Mr. Bush should declare the Taliban and Al Qaeda outside the coverage of the Geneva Conventions. That would keep American officials from being exposed to the federal War Crimes Act, a 1996 law that carries the death penalty.



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JAN. 26 In a memorandum to the White House, Secretary of State **Colin L. Powell** said the advantages of applying the Geneva Conventions far outweighed their rejection. He said that declaring the conventions inapplicable would "reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the laws of war for our troops." He also said it would "undermine public support among critical allies."



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FEB. 2 A memorandum from **William H. Taft IV**, the State Department's legal adviser, to Mr. Gonzales warned that the broad rejection of the Geneva Conventions posed several problems. "A decision that the conventions do not apply to

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Department lawyer, showed that most of the administration's senior lawyers agreed that the Geneva Conventions were inapplicable. The attachment noted that C.I.A. lawyers asked for an explicit understanding that the administration's public pledge to abide by the spirit of the conventions did not apply to its operatives.

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FEB. 7 In a directive that set new rules for handling prisoners captured in Afghanistan, **President Bush** broadly cited the need for "new thinking in the law of war." He ordered that all people detained as part of the fight against terrorism should be treated humanely even if the United States considered them not to be protected by the Geneva Conventions, the White House said. Document released by White House.

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- [Bush's Directive on Treatment of Detainees](#) (PDF document)

AUGUST A memorandum from **Jay S. Bybee**, with the Office of Legal Counsel in the Justice Department, provided a rationale for using torture to extract information from Qaeda operatives. It provided complex definitions of torture that seemed devised to allow interrogators to evade being charged with that offense.



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- [Justice Dept. Memo on Torture](#) (PDF document)
- [Letter by Author of Memo on Torture to White House Counsel](#)

Dec. 2 Memo from Defense Department detailing the policy for interrogation techniques to be used for people seized in Afghanistan. Document released by White House.

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- [Defense Dept. Memo on Afghanistan Detainees](#) (PDF document)

2003

MARCH A memorandum prepared by a Defense Department legal task force drew on the January and August memorandums to declare that **President Bush** was not bound by either an international treaty prohibiting torture or by a federal anti-torture law because he had the authority as commander in chief to approve any technique needed to protect the nation's security. The memorandum also said that executive branch officials, including those in the military, could be immune from domestic and international prohibitions against torture for a variety of reasons, including a belief by interrogators that they were acting on orders from superiors "except where the conduct goes so far as to be patently unlawful."

APRIL A memorandum from Secretary of Defense **Donald H. Rumsfeld** to **Gen. James T. Hill** outlined 24 permitted interrogation techniques, 4 of which were considered stressful enough to require Mr. Rumsfeld's explicit approval. Defense Department officials say it did not refer to the legal analysis of the month before.

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- [Rumsfeld's Memo on Interrogation Techniques](#) (PDF document)

DEC. 24 A letter to the International Committee of the Red Cross over the signature of **Brig. Gen. Janis Karpinski** was prepared by military lawyers. The letter, a response to the Red Cross's concern about conditions at Abu Ghraib, contended that isolating some inmates at the prison for interrogation because of their significant intelligence value was a "military necessity," and said prisoners held as security risks could legally be treated differently from prisoners of war or ordinary criminals.

Other Memorandums

Some have been described in reports in The Times and elsewhere, but their exact contents have not been disclosed. These include a memorandum that provided advice to interrogators to shield them from liability from the Convention Against Torture, an international treaty and the Anti-Torture Act, a federal law. This memorandum provided what has been described as a script in which officials were advised that they could avoid responsibility if they were able to plausibly contend that the prisoner was in the custody of another government and that the United States officials were just getting the information from the other country's interrogation. The memorandum advised that for this to work, the United States officials must be able to contend that the prisoner was always in the other country's custody and had not been transferred there. International law prohibits the "rendition" of prisoners to countries if the possibility of mistreatment can be anticipated.

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