

Backgrounder – Steven G. Bradbury, August 2017

Mr. Bradbury’s most prominent and consequential work was to justify unlawful torture and detainee abuse.

- Mr. Bradbury was acting head of the Department of Justice’s Office of Legal Counsel from 2005 to 2009, and is known infamously as one of the primary authors of the “[torture memos](#)” that justified unlawful detainee abuse.
- Mr. Bradbury wrote four separate memos authorizing waterboarding and other forms of [torture and cruel treatment](#). Pursuant to the programs that [Mr. Bradbury authorized](#), the CIA sleep deprived detainees for up to 180 hours, often standing or in stress positions, and sometimes shackled to the ceiling. Two men were abused this way even though they had broken feet. Other detainees were [subjected](#) to “rectal rehydration and feeding,” confinement in boxes the size of small dog crates, and “ice water baths.” Some CIA personnel conducted [mock executions](#). Others [threatened](#) to harm captives’ mothers and children. One man was waterboarded to the point that he became “[completely unresponsive](#), with bubbles rising through his open, full mouth.” Another man was [frozen to death](#). Some of these abuses were authorized. Some were not. But unauthorized abuses should have been expected as brutality once sanctioned is not easily contained.
- The Senate has taken strong bipartisan action—a vote of 90-9 in 2005 on the [Detainee Treatment Act](#) and a vote of 78-21 in 2015 on the [McCain-Feinstein Anti-Torture Amendment](#)—to further reinforce the ban on torture because Mr. Bradbury and other DOJ colleagues unethically misinterpreted the law to justify waterboarding and other forms of torture.
- Recently, [SECDEF Mattis](#) and [176 of the nation’s most respected retired military leaders](#) opposed the unlawful techniques that Mr. Bradbury authorized when president Trump suggested reviving them.

Mr. Bradbury has a record of misinterpreting duly enacted federal law, evading congressional intent, and misrepresenting the views of members of Congress.

- Even after Congress passed [bipartisan legislation](#) forbidding the CIA from engaging in cruel, inhuman or degrading treatment in 2005, and after the Supreme Court [held](#) in 2006 that terrorism detainees in U.S. custody were protected by the Geneva Conventions, Mr. Bradbury found loopholes to allow torture to continue.
- In order to find that the Geneva Conventions allowed depriving detainees of sleep by shackling them, in diapers, for days at a time, Mr. Bradbury [misrepresented members of Congress](#) as approving abuses they had sought to prohibit. He also ignored evidence from the International Committee of the Red Cross and the CIA’s own documents about the brutality of the torture program.
- The Justice Department’s Office of Professional Responsibility [criticized](#) Bradbury for “uncritical acceptance” of the CIA’s representations about the torture program, and [several prominent lawyers](#) within the Bush administration questioned the objectivity of his legal analysis.

General counsel are supposed to provide independent, objective legal advice, and they should be concerned with the public good. Mr. Bradbury’s approach to government lawyering is the opposite: to justify what the President wants to do, no matter how wrong or at what cost.

- In 2007 [testimony](#) before the Senate Judiciary Committee, Mr. Bradbury defended the President’s interpretation of the *Hamdan* case (where the Supreme Court ruled that President Bush did not have authority to set up military tribunals at Guantanamo) by [saying](#) “The President is always right.”
- Mr. Bradbury’s torture memos follow the same approach: figure out a way to legally justify the President’s policy preference.

There is nothing to suggest that Mr. Bradbury’s approach would be different if confirmed to another position of government trust.

- Mr. Bradbury has [never expressed](#) any regret or acknowledged any error with respect to his role at OLC authorizing torture. For example, in his questionnaire for the Commerce Committee, he addressed the Justice Department Office of Professional Responsibility [report](#) on OLC’s torture memos—which was extremely critical of Bradbury’s work—by arguing that the report “does not have continuing official force or validity.”

The Senate refused to confirm Mr. Bradbury in 2008. What we have learned since then only makes Mr. Bradbury’s record worse.