



Written by [Thomas R. Eddlem](#) on May 6, 2009

A Conspiracy to Prevent Torture Prosecutions?

It's worth asking why Yoo would do this. After all, what does he stand to benefit from such a commitment? Nothing, apparently, unless some details of the report were worked out beforehand to his benefit (such as, one might suggest, no prosecutions).

Yoo's attorney Miguel Estrada told the *Post* that "as a condition of permitting me to represent Professor Yoo in this matter, the Department of Justice required me to sign a confidentiality agreement. As a result of that agreement, there's nothing I can say."



Of course, if there was any possibility of Yoo being criminally prosecuted, there would have been no special confidentiality agreement and Yoo could have hired any attorney he wanted. Clearly, he hired a lawyer with the idea of manipulating the investigation away from a criminal investigation.

And it appears he has been successful thus far. The reputedly 200-page memoranda does not contain any recommendations for prosecutions, though the threshold of [felony torture](#) was clearly met (not to mention the "cruel and unusual punishments" prohibition in the [Constitution's Eighth Amendment](#)).

The Bush administration's policy of "harsh treatment" under the [recently released "torture memos"](#) mentioned not causing "severe pain," but a careful reading of the memos would reveal a more accurate summary as: "causing as much unbearable pain as possible without leaving a mark." That pretty much defines the word torture.



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