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Is this really the state of ethics in the American legal profession? Government lawyers who abused their offices to give the president license to get away with torture did nothing that merits a review by the bar?

A five-year inquiry by the Justice Department's ethics watchdogs recommended a disciplinary review for the two lawyers who produced the infamous torture memos for former President George W. Bush, but they were overruled by a more senior Justice Department official.

The original investigation found that the lawyers, John Yoo and Jay Bybee, had committed "professional misconduct" in a series of memos starting in August 2002. First, they defined torture so narrowly as to make it almost impossible to accuse a jailer of torturing a prisoner, and they finally concluded that President Bush was free to ignore any law on the conduct of war.

The Justice Department's Office of Professional Responsibility said appropriate bar associations should be asked to look at the actions of Mr. Yoo, who teaches at the University of California, Berkeley, and Mr. Bybee, who was rewarded for his political loyalty with a lifetime appointment to the federal bench. It was a credible accounting, especially since some former officials, like Attorney General John Ashcroft, refused to cooperate and e-mails from Mr. Yoo were mysteriously missing.

But the more senior official, David Margolis, decided that Mr. Yoo and Mr. Bybee only had shown "poor judgment" and should not be disciplined. Mr. Margolis did not dispute that Mr. Yoo and Mr. Bybee mangled legal reasoning and produced work that ultimately was repudiated by the Bush administration itself. He criticized the professional responsibility office's investigation on procedural grounds and excused Mr. Yoo and Mr. Bybee by noting that everyone was frightened after Sept. 11, 2001, and that they were in a hurry.

Americans were indeed frightened after Sept. 11, and the Bush administration was in a great rush to torture prisoners. Responsible lawyers would have responded with extra vigilance, especially if, like Mr. Yoo and Mr. Bybee, they worked in the Justice Department's Office of

Legal Counsel. When that office renders an opinion, it has the force of law within the executive branch. Poor judgment is an absurdly dismissive way to describe giving the green light to policies that have badly soiled America's reputation and made it less safe.

As the dealings outlined in the original report underscore, the lawyers did not offer what most people think of as "legal advice." Mr. Yoo and Mr. Bybee were not acting as fair-minded analysts of the law but as facilitators of a scheme to evade it. The White House decision to brutalize detainees already had been made. Mr. Yoo and Mr. Bybee provided legal cover.

We were glad that the leaders of the House and Senate Judiciary Committees, Representative John Conyers Jr. and Senator Patrick Leahy, committed to holding hearings after the release of the Justice Department documents.

The attorney general, Eric Holder Jr., should expand the investigation into "rogue" interrogators he initiated last year to include officials responsible for facilitating torture. While he is at it, Mr. Holder should assign someone to look into the disappearance of Mr. Yoo's e-mails.

The American Bar Association should decide whether its rules are adequate for deterring and punishing ethical failures by government lawyers.

The quest for real accountability must continue. The alternative is to leave torture open as a policy option for future administrations.