

BIG BOY PANTS AND THE PRESIDENCY

Frankly, I think Jose Rodriguez was being naive when he claimed that having Jay Bybee's signature on a memo authorizing some, but not all, of the torture the torturers had already done by August 1, 2002 constituted full authority for what they had done.

But before moving forward, Jose Rodriguez got his superiors, right up to the president – to sign off on a set of those techniques, including waterboarding.

Jose Rodriguez: We needed to get everybody in government to put their big boy pants on and provide the authorities that we needed.

Lesley Stahl: Their big boy pants on–

Jose Rodriguez: Big boy pants. Let me tell you, I had had a lot of experience in the agency where we had been left to hold the bag. And I was not about to let that happen for the people that work for me.

Lesley Stahl: There wasn't gonna be any deniability on this one?

Jose Rodriguez: There was not gonna be any deniability. And I tell you something. In August of 2002, I felt I had all the authorities that I needed, all the approvals that I needed. The atmosphere in the country was different. Everybody wanted us to save American lives.

After all, to this day, these counterterrorism programs are being run on a Memorandum of Notification that not only doesn't comply with the terms of the National Security Act, but shields the President (Obama even more so than

Bush) from any direct accountability, a carefully crafted deniability that the CIA has worked to preserve.

Lesley Stahl was apparently not up to the task of asking Rodriguez about the torture the torturers actually used which exceeded the terms of the authorization. She describes waterboarding as laid out in the Bybee Memo, without acknowledging that the torturers didn't follow those guidelines. Stahl asserts as fact that the CIA kept Abu Zubaydah up for 3 straight days, when evidence suggests his sleep deprivation lasted longer, perhaps as long as 11 days. Had Stahl laid out the degree to which the torturers were known to have exceeded guidelines (both before and after those guidelines were codified in the Bybee Memo), she might have noted the underlying problem with this exchange.

Lesley Stahl: Oh, you had rules for each thing?

Jose Rodriguez: Yes, we had rules. And not only that, but every time we did any of this, we had to ask permission. The field had to ask permission of headquarters.

Lesley Stahl: Each time.

Jose Rodriguez: Each time.

As she herself pointed out, Rodriguez was not doing the torture. He wasn't in the field. He was at HQ. In fact, he was one of the guys sitting in Langley giving the oral permissions for individual torture techniques both before and after Bybee signed his memo, the techniques that exceeded the rules laid out in Bybee. You'd think Stahl might have pointed that out.

There's something similar going on in this passage.

Lesley Stahl: Mock executions. People threatened with power drills.

Jose Rodriguez: Yes.

Lesley Stahl: People told that, that you were gonna go and hurt their children, rape their wives.

Jose Rodriguez: Stupid things that were done by people who had no authority to do that.

Lesley Stahl: And they just took it on themselves.

Jose Rodriguez: Correct. And we found out about it and we self-reported, and actually called in the I.G. and said, "You better take a look at what these people did and do what you need to do."

A big reason the CIA sought OLC sanction after the fact is that the torturers brought out a coffin-shaped box and prepared to use it with Abu Zubaydah. In response, Ali Soufan left the black site, citing the CIA's use of borderline torture. When CIA attempted to get everything they had done and planned to do authorized by DOJ, they included mock burial among the techniques in question. As I've noted, the failure to get OLC buyoff for mock burial—regardless of what they called the small box confinement they used with Abu Zubaydah—made all the later mock executions legally suspect in a way even waterboarding beyond the scope of Bybee's approval did.

Though no one seems to have gotten in trouble not just for rape threats of prisoners' family members, of prisoners themselves, or even imprisonment of prisoners' children, so I'm not sure why Rodriguez is claiming to be squeamish about that too.

And since Stahl was not in the business of journalism with this interview, it's unsurprising all she missed in this exchange on the actual torture tapes.

Lesley Stahl: Well, that's ironic. You wanted to have a video record that he was being well treated, but in the end

they became— a video record that he had been subjected to these harsh techniques.

Jose Rodriguez: Yeah, we weren't hiding anything.

Lesley Stahl: But you then ordered these tapes destroyed.

Jose Rodriguez: Correct. Ninety-two tapes.

Lesley Stahl: Ninety-two tapes. Why did you order that they be destroyed?

Jose Rodriguez: To protect the people who worked for me and who were at those black sites and whose faces were shown on the tape.

Lesley Stahl: Protect them from what?

Jose Rodriguez: Protect them from al Qaeda ever getting their hands on these tapes and using them to go after them and their families.

[snip]

Jose Rodriguez: Everything that was on those tapes were authorized activities by the U.S. government. So there was nothing to cover up.

Not that Stahl was going to note that much of the tapes Rodriguez had destroyed—perhaps as many as half—were blank, tampered, and mangled. By no means were all these 92 tapes depicting the torture, and we have every reason to assume the tapes did not depict the worst torture (they may have depicted only 3/5 of the waterboarding sessions at all).

Furthermore, the guards, at least (though not Abu Zubaydah's torturers) wore masks.

But I'm particularly interested in Rodriguez' last claim: "everything that was on the tapes were authorized activities by the US

government.”

Yes, and many of the tapes that taped interrogation sessions were blank by the time Rodriguez destroyed them.

Those are not incompatible claims in the least. Indeed, Rodriguez’ claimed certainty that what was on the tapes when he destroyed them had been authorized may well stem from an awareness that the stuff that had already been destroyed was not authorized.

Over and over again, Rodriguez dodges the degree to which the CIA program exceeded even the oral authorizations given for torture and the evidence that Rodriguez—right at the nexus of accountability for the times CIA exceeded what guidelines they had been given—was protecting himself when he destroyed these tapes.

Which brings us to this wail.

Lesley Stahl: President Obama has said that what we did was torture.

Jose Rodriguez: Well, President Obama is entitled to his opinion. When President Obama condemns the covert action activities of a previous government, he is breaking the covenant that exists between intelligence officers who are at the pointy end of the spear, hanging way out there, and the government that authorized them and directed them to go there.

Let’s review what’s going on here.

Rodriguez—whose torturers broke the law with no written cover from the President, went to “everybody in government” and demanded they don their “big boy pants.” He claims they did, to his satisfaction. But somehow, all the ways his torturers either didn’t have authorization or Rodriguez had insufficiently submitted Bush and Cheney to big boy pants has left them exposed for crimes (though not really, because Rodriguez knows Obama isn’t going to prosecute).

And so now that Rodriguez' big boy pants have failed, he invokes, instead, a "covenant," which says Presidents have to pretend their predecessors wore precisely the big boy pants CIA's torturers hoped they had, after the fact.

Don't get me wrong—to some degree Rodriguez is fucked because while he was boasting of his big boy pants the rest of the national security establishment was building in protections for the guy Rodriguez insinuates was forced to wear them.

Jose Rodriguez looks awfully tough boasting of having made our Cowboy President wear big boy pants, of invoking a "covenant" that binds all future Presidents to overlook our spooks' past crimes. And maybe Presidents are as responsive to Rodriguez' taunts as he makes out.

Still, if I were President reading a torturer try to insulate himself for his past crimes, I might not take too kindly to this taunt about big boy pants.