

JOHN RIZZO DECLARES ENTIRE TORTURE PROGRAM ILLEGAL

As I have noted in the past, John Rizzo has gone on the record to admit that the torture program was authorized by a Presidential Memorandum of Notification.

A few days after the attacks, President Bush signed a **top-secret directive to CIA authorizing an unprecedented array of covert actions** against Al Qaeda and its leadership. Like almost every such authorization issued by presidents over the previous quarter-century, this one was provided to the intelligence committees of the House and Senate as well as the defense subcommittees of the House and Senate appropriations committees. However, the White House directed that details about the most ambitious, sensitive and potentially **explosive new program authorized by the President—the capture, incommunicado detention and aggressive interrogation of senior Al Qaeda operatives**—could only be shared with the leaders of the House and Senate, plus the chair and ranking member of the two intelligence committees.

As always, **CIA dutifully followed White House orders**, [my emphasis]

Two years ago, at least, when he was trying to diss Congress using demonstrably false claims about the degree to which they had been briefed, John Rizzo claimed that the authority for the torture program all came directly from George Bush (Michael Hayden has said the same).

Not so today, apparently.

Steve Coll reports that Rizzo's memoir claims

Bush knew nothing about the details of torture
his authorization provided the legal cover for.

Rizzo's most remarkable account concerns President Bush. Essentially, Rizzo concludes that Bush has lately invented a memory of himself as a someone who was well informed and decisively in favor of waterboarding certain Al Qaeda prisoners, when, as far as Rizzo can tell, Bush seems not to have known at the time what the C.I.A. was doing.

In "Decision Points," his 2010 memoir, Bush recalled that George Tenet provided a list of brutal interrogation techniques the C.I.A. proposed to use, and that Bush overruled "two that I felt went too far." Later, when Tenet asked the President directly if he could employ waterboarding on Khalid Sheikh Mohammed, Bush wrote that he answered, "Damn right."

Yet, according to Rizzo, "The one senior U.S. Government national security official during this time—**from August 2002 through 2003**—who I did not believe was knowledgeable about the E.I.T.s was President Bush himself. He was not present at any of the Principals Committee meetings ... and none of the principals at any of the E.I.T. sessions during this period ever alluded to the President knowing anything about them."

Some of the chronology of events related to the C.I.A. interrogations that Bush provides in "Decision Points" doesn't compute, according to Rizzo. Also, Rizzo would certainly have known if Bush had banned two techniques, but Rizzo has "no idea" what Bush might have been referring to in his memoir. Throughout this period, Rizzo, as he remembers it, was in daily contact with George Tenet, who said "nothing about any conversations he had with the president

about E.I.T.s, much less any instructions or approvals coming from Bush."

Rizzo writes, "It simply didn't seem conceivable that George [Tenet] wouldn't have passed something like that on to those of us who were running the program." Rizzo got in touch with Tenet while preparing "Company Man" and Tenet confirmed "that he did not recall ever briefing Bush" on specific interrogation techniques being used at C.I.A. prisons. "I have to conclude that the account in Bush's memoir simply is wrong," Rizzo concludes. [my emphasis]

There are, as there always are with John Rizzo's claims, obvious gimmicks. He apparently discusses the period from August 2002 – the date when DOJ's OLC authorized torture for Abu Zubaydah, at which point much, if not all of the techniques approved, had already been used on him – through 2003, the year before Bush issued a second authorization for the torture program in Tenet's last days. The key authorizations from the White House came before August 2002, as the torture was happening (and Coll should review these details if he wants to review Rizzo's memoir competently). And we know Tenet did record Bush's authorization for the program – he did it in a document Rizzo handled.

Moreover, there are other public claims that refute Rizzo's claim, as when Glenn Carle described being told CIA had a letter from the President authorizing it to go beyond SERE with detainees.

"We don't do that sort of thing," [Glenn Carle responded to a CIA Counterterrorism Center Deputy about "going beyond SERE" with a detainee].

"We do now," Wilmington's voice was flat. The conversation remained quiet.

"What about E012333? We've never done

that sort of thing. The Agency'd never do that. We'd need a finding, at least."

[snip]

"We have it." Wilmington's manner brightened a little. "**We have a letter from the president.** We can do whatever we need to do. We're covered." [my emphasis]

In other words, Rizzo's claims don't mean much (except that, goddamnit I'm going to have to read his stinking memoir).

But hey, let's take him at his word. Because if Bush really was ignorant about the torture program, then it means the entire thing was illegal.

If CIA's former top lawyer wants to claim the torture program was illegal, who are we to doubt him?