

DID JELLO JAY ROCKEFELLER ENDORSE TORTURE BASED ON A FABRICATION?

Over at Al Jazeera, I have a piece about ASSET Y, a CIA source whose fabricated claims served as one excuse to restart both the torture and the Internet dragnet (ASSET Y's intelligence was the excuse to restart torture).

Buried amid details of “rectal rehydration” and waterboarding that dominated the headlines over last week’s Senate Intelligence Committee findings was an alarming detail: Both the committee’s [summary report](#) and its [rebuttal by the CIA](#) admit that a source whose claims were central to the July 2004 resumption of the torture program – and, almost certainly, to authorizing the Internet dragnet collecting massive amounts of Americans’ email metadata – fabricated claims about an election year plot.

[snip]

The CIA in March 2004 received reporting from a source the torture report calls “Asset Y,” who said a known Al-Qaeda associate in Pakistan, Janat Gul – whom CIA at the time believed was a key facilitator – had set up a meeting between Asset Y and Al-Qaeda’s finance chief, and was helping plan attacks inside the United States timed to coincide with the November 2004 elections. According to the report, CIA officers immediately expressed doubts about the veracity of the information they’d been given by Asset Y. A senior CIA officer called the report “vague” and “worthless in terms of actionable

intelligence.” He noted that Al Qaeda had already issued a statement “emphasizing a lack of desire to strike before the U.S. election” and suggested that since Al-Qaeda was aware that “threat reporting causes panic in Washington” and inevitably results in leaks, planting a false claim of an election season attack would be a good way for the network to test whether Asset Y was working for its enemies. Another officer, assigned to the group hunting Osama bin Laden, also expressed doubts.

[snip]

Soon after the reauthorization of the torture and the Internet dragnet, the CIA realized ASSET Y’s story wasn’t true. By September, an officer involved in Janat Gul’s interrogation observed, “we lack credible information that ties him to pre-election threat information or direct operational planning against the United States, at home or abroad.” In October, CIA reassessed ASSET Y, and found him to be deceptive. When pressured, ASSET Y admitted had had made up the story of a meeting set up by Gul. ASSET Y blamed his CIA handler for pressuring him for intelligence, leading him to lie about the meeting.

Like the Iraq War before then, then, the torture and the dragnet were in part justified by a fabricator, one who, when caught in his lie, complained his handler had pressured him into telling this story. CIA obtained this intelligence in March 2004, after it became clear the counterterrorism programs were in trouble.

The CIA used the claim Janat Gul was involved in an election year plot to get the Principals Committee to reauthorize torture after Jack Goldsmith and George Tenet had halted it.

But there's also this detail not included in the AJAM piece, which may explain quite a bit about why Senate Democrats have been so aggressive on oversight here where they usually aren't.

On July 15, 2004, based on the reporting of ASSET Y, the CIA represented to the chairman and vice chairman of the Committee that Janat Gul was associated with a pre-election plot to conduct an attack in the United States.

According to handwritten notes of the briefing, CIA briefers described Janat Gul as "senior AQ" and a "key facilitator" with "proximity" to a suspected pre-election plot. Committee records indicate that CIA briefers told the chairman and vice chairman [Jay Rockefeller] that, given the pre-election threat, it was "incumbent" on the CIA to "review [the] need for EITs," following the suspension of "EITs." (See Handwritten notes of Andrew Johnson (DTS #2009-2077) CIA notes (DTS #2009-2024 pp. 92-95); CIA notes (DTS #2009-2024, pp. 110-121).) [redacted] CTC Legal [redacted] later wrote that the "only reason" for the chairman and vice chairman briefing on Janat Gul was the "potential gain for us" as "the vehicle for briefing the committees on our need for renewed legal and policy support for the CT detention and interrogation program." See email from:mmil;to:[REDACTED]; subject: Re: Priority: congressional notification on Janat Gul; date: July 29, 2004. (Senate Report, 345)

That is, not only did CIA use this fabricated single source story to get the Principals Committee to reauthorize torture (as well as a series of OLC memos and, ultimately 2 of the May 2005 memos), but they used it as an opportunity to get at least two members of Congress, SSCI Chair Pat Roberts and SSCI Vice Chair Jay

Rockefeller, to reauthorize it as well (it's unclear whether Porter Goss and Jane Harman got an equivalent briefing; in what appears unredacted from the released record of their briefing, they did not, but the CTC lawyer talks about briefing the "committees," plural, so I assume they did).

This July 2004 briefing would have been the *only* known briefing for the Gang of Four about the use of torture on a particular detainee before that detainee was tortured (while 3 of 4 Gang of Four members had been briefed that CIA was using torture in February 2003, I know of no briefing where they signed off on torturing Khalid Sheikh Mohammed or those rounded up around that time). And the briefing happened even as Pat Roberts was releasing a whitewash on the Iraq War intelligence and the fabricators who went into that.

In his own narratives about torture, Jello Jay never explained what went on in this briefing – that CIA told a story based on a fabrication and based on that, he gave at least tacit approval, after which the CIA tortured someone so badly the detainee asked to be killed. But I can imagine how that might lead him to have a particular interest in exposing all the lies that CIA told Congress about torture.

For its part, CIA is fairly circumspect about how they resumed torture based on a fabrication. Unlike the GOP response, they admit fairly readily this was a fabrication. Yet one of the key claims the SSCI Report challenges is that the torture of Gul, Sharif al-Masri, and Ahmed Ghailani, all of whom were tortured based on this claim, served to "validate" one of their sources – that it, the three together served to debunk Asset Y. Given how central Janat Gul's torture was, both in 2004 and in Steven Bradbury's retroactive authorizations in May 2005, I can see why they'd have to invent some purpose for this torture (and Gul did have associations with al Qaeda – just not very involved ones). But ultimately, this torture

fell so far below the standards they had set for themselves, it may well explain a great deal about the tensions between CIA and those in Congress who reauthorized torture based on a fabrication.