

DID BYBEE SAY NO TO WATERBOARDING ON JULY 24, 2002?

Earlier today, I showed that Jim Haynes personally pushed the SERE people to come up with some materials on waterboarding on July 25, 2002, just one day after OLC had given CIA clearance to use some—but not all—of the techniques they had asked for. The same day Haynes got that information and forward it to OLC (or had John Rizzo do it, depending on whom you ask), OLC approved the use of waterboarding.

I wish I had read this passage from this Charlie Savage story before I wrote that post.

One thing could change that dynamic, however. The Justice Department's Office of Professional Responsibility has been investigating the work of lawyers who signed off on the interrogation policy, and is believed to have obtained archived e-mail messages from the time when the memorandums were being drafted.

If it turned out that the lawyers initially concluded that aspects of the proposed program would be illegal, then reversed that conclusion at the request of policy makers, then prosecutors could make a case that the officials knowingly broke the law.

This is the second time we've heard about emails.

Emails.

Hahahahahaha!

Imagine there were emails between—say, Addington—and Yoo, discussing what it would take to get Bybee to sign off on the torture memos? Imagine those emails were dated July 25, 2002, the same day that Haynes was pushing JPRA to

come up with some description of waterboarding that—since we did it to our own Navy men, could get past the bar of legality.

I want these guys to pay for their crimes. But I'd take special pleasure if they somehow didn't manage to destroy all the emails.