

DID CONDI REALLY NOT KNOW DEFENSE WAS SLEEPING WITH THE SPOOKS ON TORTURE?

There's a weird detail in John Yoo's prepared testimony for last year's House Judiciary Committee hearing on Assholes Who Torture. He claims the National Security Council (so, presumably John Bellinger or Condi or her boss) ordered OLC not to let on what it was doing to either State or Defense.

In particular, the offices of the CIA general counsel and of the NSC legal advisor asked OLC for an opinion on the meaning of the anti-torture statute. They set the classification level of the work and dictated which agencies and personnel could know about it. In this case, the NSC ordered that we not discuss our work on this matter with either the State or Defense Departments.

To be fair, Yoo is referring to the production of just the Bybee One memo—the one requiring torture to rival organ failure or death—and not the recently-released Bybee Two memo—the one detailing the techniques in question. And from reviewing the hearing now that Bybee Two has been released (trust me, I mean it when I call it the hearing on Assholes Who Torture), it's clear that Addington and Yoo both maintained a clear distinction between the two memos (in Addington's case, for example, he did so to avoid admitting he had discussed torture techniques with the folks in Gitmo.)

So it's possible that Yoo was only ordered to keep this memo secret from DOD; it's possible Condi knew the techniques memo was basically a group project for the torture kids over at

Defense and CIA.

But with this weird detail in mind, I find another weird detail from the Senate Armed Services Report even weirder. Both DOD's Jim Haynes and CIA's John Rizzo kind of sort of take credit for passing the material from JPRA to Yoo and friends at OLC. Here's Haynes:

Mr. Haynes also recalled that he may have been "asked that information be given to the Justice Department for something they were working on," which he said related to a program he was not free to discuss with the Committee, even in a classified setting.

And here's Rizzo:

According to Acting CIA General Counsel John Rizzo, the techniques that the OLC analyzed in the Second Bybee memo were provided by his office. In his testimony before the Senate Select Committee on Intelligence, Mr. Rizzo stated that his office was "the vehicle" for getting the interrogation practices analyzed in the Second Bybee memo to the Department of Justice.

These aren't necessarily contradictory. Maybe Haynes said to Rizzo, "I don't have any reason to go over to DOJ right now, and besides, I'm pre-emptively hiding from all prosecutors. Can you bring it over?" (Though it seems like it'd be Rizzo's job to "vehicle" it over anyway, since it was his agency asking for the torture okay.)

But the possibility that Condi didn't know DOD and CIA were working hand in "take the gloves off" on torture, plus the squirmy way Haynes and Rizzo appear to want to hide who actually brought the documents over, makes me wonder how much Condi is discovering in the SASC report.

It goes without saying, though, that I'm

thoroughly unsurprised they left State out of the torture loop.