

# ADDINGTON'S MULTIPLE CHOICE TORTURE MEMOS

When I read the transcript from the House Judiciary Committee's Assholes Who Torture hearing after the torture memos got released, one thing became clear. Addington was hiding his involvement with the Bybee Two memo (about techniques) by answering questions only about Bybee One.

Twice during the hearing, David Addington answered a question about the Bybee One memo (abstract authorization for torture—which had been declassified long before this hearing), but made sure to clarify in the record that his answer pertained specifically to that memo. This suggests his answers may have been dramatically different had he been asked about the Bybee Two memo (concrete techniques—the one released last month). If I'm right, it suggests that Addington discussed the Bybee Two memo on his September 25, 2002 field trip to Gitmo with John Yoo, Jim Haynes, and John Rizzo (and others).

In the first of these exchanges, Jerry Nadler asks Addington what role he had in drafting the Bybee memo (without specifying which one he meant).

Mr. NADLER. Mr. Addington, It has been reported in several books and in the The Washington Post that you contributed to the analysis or assisted in the drafting of the August 1, 2002 interrogation memo signed by Jay Bibey. [sic] Is this correct?

Mr. ADDINGTON. No.

Mr. NADLER. You had nothing to do with that.

Mr. ADDINGTON. No. I didn't say I had nothing to do with it. You asked if I

assisted in contribution, and let me read to you something I think will be helpful to you.

Addington filibusters for a bit, so Nadler interrupts and instructs him to tell what his role was (did I mention this was the Assholes Who Torture hearing?).

Mr. NADLER. Wait a minute. Mr. Addington, please, we don't need all these quotes.

Mr. ADDINGTON. Okay.

Mr. NADLER. Just tell us what your role was, if you can.

Mr. ADDINGTON. Yes, I will.

At which point Addington asks precisely which one Nadler was talking about.

Mr. NADLER. Because you said it wasn't nonexistent but you didn't help shape it. So what was it?

Mr. ADDINGTON. Mr. Chairman, my recollection, **first of all, I would be interested in seeing the document you are questioning me about.** I think you are talking about a document of August 2002.

Mr. NADLER. Yes.

Mr. ADDINGTON. **It would be useful to have that in front of me** so I can make sure that what I am remembering relates to the document you have and not a lot of other legal opinions I looked at. But assuming you and I are talking about the same opinion, my memory is of Professor Yoo coming over to see the counsel of the President and I was invited in the meeting, with the three of us, and he gave us an outline of here are the subjects I am going to address. And I

remember, when he was done, saying, “Here are the subjects I am going to address,” saying, “Good,” and he goes off and writes the opinion. Now, in the course of my work—thank you. [my emphasis]

Addington is handed a copy of the memo and reads its title—Bybee to Gonzales, so Bybee One, which would distinguish it from Bybee Two, which was Bybee to John Rizzo—into the record.

You have a copy of it? Thanks. Let me just look at it. I will give it back to you. **It is August 1, 2002, memorandum for Alberto Gonzales, counsel of the President,** re: standards of conduct for interrogation under 18 USC Sections 2340 and 2340(a). I believe that this is the result of the process I was just describing where he came over and said, “These are the subjects I am going to address,” and we said, “Good.” [my emphasis]

Nadler got an answer (finally) out of Addington about the generalized Bybee One memo (the groundwork for which, as we discussed yesterday, had been established through a series of memos dating back nine months, which would make it thoroughly unsurprising that Yoo knew precisely which topics Addington wanted covered). But he got no answer about Addington’s involvement in Bybee Two, the one that lays out waterboarding and the like.

Which is particularly relevant given Addington’s admission that he worked much more closely on the CIA related torture than on the DOD related torture.

Mr. NADLER. Mr. Addington, you stated to Ms. Wasserman Schultz earlier in this hearing that your involvement in the CIA interrogation program was greater than your involvement in the military

program. What was your involvement in the CIA interrogation program?

Mr. ADDINGTON. We had a number of meetings, as you might imagine. An example was the one I described earlier with the Justice Department to obtain legal advice on the program. A number of the lawyers and the relevant parts of the executive branch would be involved in working on the legal advice on such a matter.

To which Bill Delahunt follows up later.

Mr. DELAHUNT. And I think you, Mr. Addington, indicated that you had multiple conversations regarding enhanced interrogation techniques at the CIA.

Mr. ADDINGTON. With the Office of Legal Counsel, office of general counsel at CIA.

Mr. DELAHUNT. Did the issue of waterboarding arise during the course of those conversations?

Mr. ADDINGTON. I think you will find that over the years, as lawyers in the group talk, at various times, there would be discussion of particular techniques. As I indicated to the Chairman at the beginning of this, when the subject came up—

Mr. DELAHUNT. Was waterboarding one of them?

Mr. ADDINGTON. That is what I am answering, because I know where you are headed. As I indicated to the Chairman at the beginning of this thing, I am not in a position to talk about particular techniques, whether they are or aren't used or could or couldn't be used or their legal status.

Addington dodges the question—did you discuss waterboarding with (from Addington’s context) Yoo and Rizzo during the process of writing Bybee Two—by appealing to the still-classified nature of Bybee Two.

All of which brings us to the second time Addington went out of his way to clarify which August 1, 2002 memo was being discussed—when Debbie Wasserman Schultz asked if he mentioned the Bybee memo (speaking of the more abstract one) while in Gitmo.

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chairman. Mr. Addington, there are press reports that state that in September of 2002, you and other Administration lawyers visited Guantanamo Bay. A JAG attorney in Guantanamo, Diane Beaver, is quoted in a ‘‘Vanity Fair’’ article as saying that the message from you and the other visitors was ‘‘do whatever needed to be done.’’ And just weeks after that visit, interrogators at Guantanamo Bay began to developing a far harsher interrogation program than they had ever used before. Did you visit Guantanamo Bay in September of 2002, as has been reported?

Addington filibusters for some time, regaling Wasserman Schultz with accounts of how many times he had been to Gitmo in his career, even back to when he worked at DOD (yeah. Assholes Who Torture). When she asks if he remembers speaking with Diane Beaver—the author of the crappy legal opinion that ended up authorizing harsh interrogation at Gitmo—he claims not to remember (though he remembers the later encounter, at which he is reported to have told Beaver, “great minds think alike,” which sure suggests he remembered the earlier meeting).

Ms. WASSERMAN SCHULTZ. On one of those trips, did you meet with JAG attorneys?

Mr. ADDINGTON. I don’t recall it. I

remember when Ms. Beaver, Col. Beaver, who was referenced, I think, in Mr. Sands' 'Vanity Fair' article, I did not remember meeting her there. The only time I remember meeting her is over at the office of general counsel at the Department of Defense many years later.

After further discussion about the trip, and Addington's admission he watched an interrogation, Wasserman Schultz asks the first time about the memo, and Addington first dodges by answering a question about Bybee One that he couldn't answer about Bybee Two.

Ms. WASSERMAN SCHULTZ. On any of the trips, did you discuss interrogation methods that were directly referenced in the memo that we have been discussing here for this hearing?

Mr. ADDINGTON. **I am not sure I remember this memo having methods discussed in it**, frankly. [my emphasis]

So Wasserman Schultz asks more generally about whether Addington recommended methods, which puts Addington into full Gonzolesque "I don't recall" mode.

Ms. WASSERMAN SCHULTZ. Did you discuss specific types of interrogation methods that interrogators should use while at Guantanamo Bay on the detainees?

Mr. ADDINGTON. I don't recall doing that, no.

Ms. WASSERMAN SCHULTZ. That means you didn't or you don't recall doing it?

Mr. ADDINGTON. It means I don't recall doing it, as I said.

Wasserman Schultz asks again (though makes the mistake of asking whether Addington discussed techniques "with those who would be

administering the interrogation"). Which is when Addington says he was more involved in the CIA program than the DOD one (which Nadler references to in a question above). So Wasserman Schultz asks about the memo again. And once again, Addington makes it clear in the reference that he's referring to Bybee One, and not Bybee Two, by making clear it's the one addressed to Gonzales and not Rizzo. Addington ends this line of questioning by giving an incredibly parsed denial of using specific words to encourage certain techniques, but not of encouraging them in the first place.

Ms. WASSERMAN SCHULTZ. So I am pretty clear on why I am asking you the questions and which one I am asking you. On one of the trips that you took, it was weeks after the August 1, 2002 interrogation memo was issued by the Office of Legal Counsel. Did you have any discussions on that trip about that recent Department of Justice legal advice on interrogations? Did you ever discuss the memo which offered legal advice on interrogations with anyone at Guantanamo Bay on any of your trips there?

Mr. ADDINGTON. I am fairly certain, I won't be absolute, but fairly certain that I did not.

Ms. WASSERMAN SCHULTZ. That you did not ever—

Mr. ADDINGTON. Discuss **this August 1, 2002 legal opinion to the counsel of the President** from the Department of Justice.

Ms. WASSERMAN SCHULTZ. So you deny the suggestion then in their report that you encouraged Guantanamo Bay interrogators to do whatever needed to be done.

Mr. ADDINGTON. No—yes, I do deny that.

Ms. WASSERMAN SCHULTZ. You do deny that.

Mr. ADDINGTON. Yes. That quote is wrong.  
[my emphasis]

Interestingly, given his suggestion he worked with Rizzo and Yoo on Bybee Two, the one instance in which he doesn't make a distinction between Bybee One and Two is when he says he didn't speak about SERE techniques in reference to "the August 1, 2002 memorandum."

Mr. SCOTT. Mr. Addington, did you ever discuss the SERE program in connection with the August 1, 2002 memorandum?

Mr. ADDINGTON. No. I didn't think I did so, but I don't have any reason to dispute the quotation from Mr. Bradbury that the Chairman just read [that "The CIA's use of the waterboarding procedure was adapted from the SERE training program."'].]

Though given the context (I presume he still had it before him), it would be safe to assume he was answering about Bybee One, not Bybee Two.

All of which leads me to believe you can trace a pretty direct line from the Bybee Two memo though that September 25, 2002 field trip to Gitmo to the torture at Gitmo.