

WAP0 DOUBLES DOWN ON CONFLICT OVER TRUTH

In spite of the fact that it is becoming increasingly clear to the rest of the media that Porter Goss and Nancy Pelosi agree that they were not briefed that the CIA had already been torturing prisoners in September 2002, the WaPo has decided to double down on deliberately misreading events. The excuse the WaPo uses to present a story of Republican-Democratic conflict, again, is to report the impression that members of the intelligence committees express after having viewed the briefing documents.

Members of Congress are largely divided into two camps: One says that the CIA intentionally withheld information about the tactics it was already using against detainees, even as it was providing Congress with intelligence that led to an overwhelming bipartisan vote supporting the use of force in Iraq to rid Saddam Hussein of weapons of mass destruction. The other says that Pelosi is covering up her original tacit support of techniques that she now labels as torture.

Before I go any further, look at how utterly crazy this description is. The WaPo notes that the CIA gave this briefing at the same time as it was drumming up the case for war, but rather than describe that case as something like "now recognized as one of the worst examples of CIA deception and incompetence in our history," it instead emphasized that the CIA's case led to "an overwhelming bipartisan vote supporting the use of force in Iraq." WaPo. Don't you think you owe your readers an admission that the whole point of raising the Iraq War case is to remind them that almost everyone agrees everything else

the CIA was doing in September 2002 was either incompetent or deliberately deceptive?

Then there is the flatly deceptive language the WaPo uses to sustain their case that the "conflict" between Goss and Pelosi, Shelby and Graham, is one with equally credible sides. First, with Goss, they choose to ignore his language that is specific to the briefing in question,

In the fall of 2002, while I was chairman of the House intelligence committee, senior members of Congress were briefed on the CIA's "High Value Terrorist Program," including the development of "enhanced interrogation techniques" and what those techniques were. This was not a one-time briefing but an ongoing subject with lots of back and forth between those members and the briefers.

Today, I am slack-jawed to read that members claim to have not understood that the techniques on which they were briefed were to actually be employed; or that specific techniques such as "waterboarding" were never mentioned.

That language—as I've pointed out over and over—makes it crystal clear that there is not a dispute on Pelosi's main assertion, that they were **not** told torture was already being used. After all, if Goss has to claim that Pelosi should have "understood that the techniques on which they were briefed were to actually be employed," then he's ceding the point that they were not informed that the torture had been used. Even Goss speaks of that first briefing in 2002 as describing torture as being used—potentially—in the future.

But rather than focus on **that** language, which Goss labels as pertaining to the fall 2002 briefing and which from the context is directed at Pelosi—the WaPo chooses to focus on language

that comes later in the piece, language that pertains to the ongoing series of discussions Goss references. Here's what WaPo says Goss claimed:

Porter J. Goss (R-Fla.), the former representative who chaired the intelligence panel in 2002, has suggested that he and Pelosi left their briefing understanding "what the CIA was doing" and offering their support, while Pelosi said waterboarding and other aggressive techniques were mentioned only as legal tactics for future interrogations.

Um, no, WaPo, that is a profoundly dishonest citation of what Goss said. (It's all the more dishonest in that the WaPo doesn't link to Goss' original op-ed, even though it was published in their own damn newspaper!!!) Here's the original context of that quote:

Let me be clear. It is my recollection that:

- The chairs and the ranking minority members of the House and Senate intelligence committees, known as the Gang of Four, were briefed that the CIA was holding and interrogating high-value terrorists.

- We understood what the CIA was doing.

- We gave the CIA our bipartisan support.

- We gave the CIA funding to carry out its activities.

- On a bipartisan basis, we asked if the CIA needed more support from Congress to carry out its mission against al-Qaeda.

I do not recall a single objection from my colleagues. They did not vote to stop authorizing CIA funding. And for those who now reveal filed "memorandums for

the record" suggesting concern, real concern should have been expressed immediately – to the committee chairs, the briefers, the House speaker or minority leader, the CIA director or the president's national security adviser – and not quietly filed away in case the day came when the political winds shifted.

From the citation above, it's clear that Goss intends to discuss more than just that September 4, 2002 briefing, he intends to discuss an ongoing discussion. Which, since no one disputes that Pelosi only attended one briefing, by definition includes Jane Harman as well (as well as Bob Graham, Richard Shelby, Jay Rockefeller, and Pat Roberts, all of whom were Chairs or Ranking Members while Goss was Chair of HPSCI, though why Goss thinks he can vouch for what Graham, Shelby, Rockefeller, and Roberts knew, when he wasn't in their briefings until he became Director of the CIA, I don't know). The following paragraph—the reference to "those who now reveal filed 'memorandums for the record'"—makes it crystal clear that Jane Harman is among those he's referring to as "we." And yes, it's clear that Harman knew what was going on, because she did write a letter to Scott Muller, raising concerns about the policy implications of using torture (note how arduously Goss struggles to find a way to dismiss that letter by listing a bunch of people he thinks she should have written).

And frankly, while it's a deceptive claim, it's not entirely unfair on Goss' part. By all appearances, both he and Pelosi walked out of the September 4, 2002 briefing understanding that CIA had an opinion finding torture legal to use in the future. Both he and Harman walked out of the February 5, 2003 briefing knowing torture had been used and that the CIA wanted to destroy its torture tapes. But for the WaPo to cite Goss' statement out of context, without telling readers that Goss was making a more general

comment about the eight briefings Congress got before Goss left Congress—and potentially the large number done while Goss was at the CIA (and while Goss may have been the one doing the briefing, which might make you wonder about his credibility on this matter), is just plain bad journalism.

Then there's the embarrassingly incomplete account of the dispute between Shelby and Graham.

Even more deeply divergent are the recollections of Bob Graham (D-Fla.), the former senator who chaired the Senate intelligence committee in 2002, and Sen. Richard C. Shelby (Ala.), the panel's ranking Republican. In interviews this week, Graham said waterboarding was never mentioned by CIA briefers in their meeting. But Shelby said that he and Graham were specifically told that the technique had already yielded valuable information.

No mention of the CIA's admission that they had told Graham he had been briefed three other times, even though it wasn't true. No mention that Graham has meticulous notes surrounding the circumstances of the briefing. No mention that the first time Shelby responded, he used a hedged description of what torture techniques were used— "what was purported to be a full account of the techniques"—and only after specific follow-up did he say, "waterboarding was one the EITs the CIA said it had used." If WaPo admitted those facts, of course, it might also have to judge which account had more credibility, but to sustain its narrative of irreconcilable conflict, it just leaves out those inconvenient details.

Now, there is news in this story, though you have to wade through to the second page to get it. The story describes the room in the Capitol where the briefing was held (ceding Bob Graham's point, of course, that it wasn't held at the

White House, as he says the most highly classified briefings were). And then it describes the lackadaisical approach the CIA took toward giving Congress its legally mandated notice (though the WaPo doesn't describe it as such):

CIA records show the session was led by officials from its counterterrorism center, which at the time was run by Jose A. Rodriguez Jr., who later left the CIA amid questions about the destruction of videotapes of detainees being waterboarded. **Intelligence officials did not consider the briefing "time sensitive"** but simply an effort to bring the lawmakers up to speed on what was labeled a "highly sensitive collection activity," **according to former intelligence officials.** Shelby and Graham would not be briefed for another 23 days.

Two officials present during the briefings in 2002 said the talks were overshadowed by fears of more terrorist attacks. "It was wartime crisis mode, and all the chatter at the time was about a 'second wave,' " said **one congressional official**, speaking on the condition of anonymity because the briefings were classified. "The next attack was supposed to be even bigger, and everyone was taking it very seriously."

Against that backdrop, lawmakers from both parties pressed the CIA for details about what it was learning from a high-value captive: Abu Zubaida, whose real name is Zayn al-Abidin Muhammed Hussein. **There was little, if any, questioning about how the information was obtained,** according to the two participants.

"No one in either party was questioning interrogation tactics," said the congressional official. "People from

[both] parties were saying, 'Do what it takes.' Their questions were, 'Do you have the authorities you need?' and 'Are you doing enough?'" [my emphasis]

This entire passage is worth unpacking, particularly since it probably relies on the reporting of Joby Warrick and/or Walter Pincus, and not Paul Kane, who's the one beating this conflict story. Note the sourcing here: it relies on two people present at the briefing, one who is a "congressional official" (that is, one of the two aides present at each briefing). There are four potential aides this could be: Michael Sheehy (then a Dem House staffer), Tim Sample (then a GOP House staffer), Alfred Cumming (then a Dem Senate Staffer), and Bill Duhnke (the GOP Senate staffer). We know Sheehy recently retired. Sample appears to have left after 2003, as did Cumming. Which leaves Duhnke as the only current congressional official who attended the briefing. No wonder, then, that this description—of a focus on "details [the CIA] was learning from a high-value captive: Abu Zubaida" with "little, if any, questioning about how the information was obtained"—so closely resembles the description Bob Graham gave me the other day.

Graham went on further to explain that he recollects the briefing covered the high value detainees captured by that date, and described what the intelligence community had gleaned from those detainees. His impression, he said, was that they had gathered that information using traditional techniques the military, FBI, and intelligence agencies had used in the past.

Sorry, Richard Shelby, the Republican staffer in your briefing appears to side with Bob Graham, not you.

But back to that passage. It doesn't describe the other source who attended the meeting, but

it does rely on "former intelligence officials" for the larger context of the passage. I find that rather curious given that it makes a connection I've been making—that Jose Rodriguez was probably in that briefing.

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That's significant not just because it seems to be suggesting that my speculation is correct (if Rodriguez was present, that detail may still be classified). But because if the second source who attended this briefing is not one of the other three congressional staffers, then the chances are high that it is someone from CTC, either Rodriguez or someone who worked closely with him. That's because we know the representative from Office of Congressional Affairs, Stan Moskowitz, **can't** be a source for this story since he passed away several years ago. (Somewhere, we learned there were four CIA attendees at these briefings.)

Now look at what the former intelligence officials, one of whom may have attended the briefing, have to say about it.

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The WaPo doesn't remind you of the fact, but this was a briefing required by law, one that should have, but did not, occur **before** the torture started. Oh, we just wandered down to

Congress on the normal schedule, the former intelligence officials seem to be saying, we didn't think fulfilling the requirements of the National Security Act are all that "time sensitive." Heck, we didn't even get around to briefing Shelby and Graham for an extra 23 days. We were busy, you know, trumping up a case for war.

The description of these briefings as not "time sensitive" is actually yet another admission from the CIA that it broke the law—that it basically disregarded the requirement it brief Congress in timely manner on covert ops. But in **this article**, it seems to explain away why CIA didn't brief Congress on all that details it should have. Eh! We couldn't be bothered to tell Congress we were torturing.

In that context, this passage (buried in the partisan conflict section of the article) is particularly telling.

But Democrats, **as well as some former intelligence officials**, warn that the documents are far from definitive and reflect only after-the-fact recollections from CIA briefers who never intended to produce full transcripts of the sessions. [my emphasis]

Chances are pretty good that these former intelligence officials are the same ones who describe a briefing that was not "time sensitive," in which the discussion focused on what intelligence we were getting from Zubaydah, rather than on the torture the CIA was using with him. Chances are also pretty good that one of these former intelligence officials is the second source cited who attended one or both of the briefings.

So what the WaPo is telling us is that two Democrats, a Republican staffer, and one of the intelligence officials at the briefing (probably) maintain that it wasn't a briefing

about torture. The WaPo doesn't tell us, of course, that Goss' description supports the contention that they were not briefed that torture was already used, but that is the case.

Here's the WaPo's math, then, if I'm reading the sourcing correctly here: Two Democratic members of Congress, one Republican member of Congress, one Republican staffer, and one of the intelligence briefers (and Graham's meticulous notebooks, plus another former intelligence official who was familiar with the intent of the briefing), all supporting an argument that they weren't briefed that torture was already used. Those five or six people, against Richard Shelby's story, which was at first quite wishy-washy. According to the WaPo, it did that math and decided it would write a story about irresolvable conflict.