

ADDINGTON'S DIRECT INVOLVEMENT IN THE TORTURE MEMOS

As I noted yesterday, I've been reading old HJC hearings—including the hearing at which Daniel Levin testified about the torture memos. Levin basically testified that he was asked to resign while he was drafting what became the 2005 Bradbury memos.

Mr. DAVIS. Mr. Levin, let me begin with you and Mr. Wilkerson, and put frankly everything I have heard today in some context. And I want to pull out two particular events. The first one is the circumstances of your not being at the Department. I know that you were very careful in your answers to Chairman Nadler earlier. But let me make sure I understand you.

You didn't voluntarily leave the Department; is that correct?

Mr. LEVIN. I would have preferred to have stayed. I mean, when I was told I wasn't going to stay, I voluntarily left.

Mr. DAVIS. That tends to be what happens; when people who are over you tell you to go, you go. That is what in the real world is called being fired.

But he also revealed something else about what happened when he was drafting the replacements for John Yoo's crappy memos: he had no direct contact with David Addington during the process—or anyone else in OVP.

Mr. ELLISON. Whom did you talk to in the redrafting?

Mr. LEVIN. I talked to a lot of people. As I mentioned in my opening remarks, I

think one of the problems with the earlier memo was, it was not the subject of sufficiently broad collaboration and discussion.

I talked, in addition to everybody in the Office of Legal Counsel virtually, people at the Criminal Division, various other people in the Department, people at the State Department.

Mr. ELLISON. Did you talk to anybody in the Vice President's Office?

Mr. LEVIN. I don't believe I did talk to anybody in the Vice President's Office. I did submit drafts to the White House Counsel's Office, and whom they circulated it to in the White House, I don't know.

Mr. ELLISON. Okay. Do you know if—did Mr. Addington have any input into your redraft?

Mr. LEVIN. Not directly to me. Whether he did so indirectly, I am not sure. He may have provided comments to White House Counsel that were then communicated to me as their comments. I was not ever told anything that were his comments, and he never spoke to me about it directly.

Now, that's remarkable. We know from Addington's testimony before HJC that Addington met with Alberto Gonzales and John Yoo on the Bybee One memo (and his care to specify that this description pertained to Bybee One, and not Bybee Two, may suggest his influence was greater with the latter).

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

Mr. ADDINGTON. Yes, I will.

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.

Addington goes on to describe himself as "essentially ... the client on this opinion." So we know that Addington (unsurprisingly) had direct conversations with Yoo about this opinion and (as the rest of his testimony makes clear) others.

Now, when he testified before HJC, Steven Bradbury refused to answer questions about his contacts with Addington and others during the drafting of the torture memos. But the Comey emails released earlier this year make it clear that Bradbury did have direct conversations with Addington as he was drafting the May 2005 memos (and that Addington was pressuring him to get them done).

The AG explained that he was under great pressure from the Vice President to

complete both memos, and that the President had even raised it last week, apparently at the VP's request and the AG had promised they would be ready early this week. He added that the VP kept telling him "we are getting killed on the Hill." (Patrick [Philbin] had previously reported that Steve [Bradbury] was getting constant similar pressure from Harriet Miers and David Addington to produce the opinions. Parenthetically, I have previously expressed my worry that having Steve as "Acting"—and wanting the job—would make him susceptible to just this kind of pressure.

Mind you, this is only proof that Addington had direct communication with Yoo and Bradbury, but not Levin. It doesn't prove that Levin was ousted to make it easier for Addington to direct the OLC opinion writing process.

But Levin's ousting—and related ascension of Alberto Gonzales to be Attorney General—does appear to have had that effect.