

PAT ROBERTS' "10 REASONS RIGHT OFF" NOT TO EXERCISE OVERSIGHT OVER TORTURE

Practically the first thing Pat Roberts did after he became Chair of the Senate Intelligence Committee was to back down off nascent efforts Bob Graham had made as SSCI Chair to exercise real oversight over the torture program. That's one of the most important details revealed in the Memo for the Record [big PDF] of the briefing Pat Roberts received on the torture program on February 4, 2003. (For more background on this FOIA dump see this post; for the evidence in it that Michael Hayden knowingly lied to Congress see this post.)

Roberts' "ten reasons right off" not to exercise oversight over torture program

In addition to Roberts' accession to the destruction of the torture tapes, he appears to have spiked an effort, started by Bob Graham (who had been SSCI Chair), to exercise more oversight over the torture program.

Roberts' [redacted; staffer?] asked me whether I had "taken up the line" the Committee's, actually Senator Graham's, late November request to undertake its own "assessment" of the enhanced interrogation. I [Stan Moskowitz, head of Congressional Affairs] explained to Senator Roberts the dialogue I had had with [redacted], and our response [sic] that we would not support reading another staffer into the program nor allow any staffer to review the interrogations in real time or visit the clandestine site where the interrogations were taking place.

Quickly, the Senator interjected that he saw no reason for the Committee to pursue such a request and could think of “ten reasons right off why it is a terrible idea” for the Committee to do any such thing as had been proposed. Turning to [redacted], he asked whether they thought otherwise and they indicated that they agreed with the Senator. [my emphasis]

And so it was that Pat Roberts, in one of his first actions as SSCI Chair, squelched an effort that might have prevented the torture program from metastasizing across our counter-terrorist (and Iraqi) efforts.

Addington’s approval for torture

Though we’ve long known that David Addington was intimately involved in planning the torture program, and though Maureen Mahoney said as much in her first response to the OPR report for Bybee, I know of no document that describes Addington as **approving** the torture techniques.

Except this one:

The enhanced techniques were described in considerable detail, including how the water board was used. The General Counsel [Scott Muller] described the process by which the techniques were approved by a bevy of lawyers from the NSC, the Vice President’s office and the Justice Department, including the Criminal Division and the Attorney General.

We know NSC legal advisor John Bellinger formally started off the process (though Yoo was already doing research). We know Chertoff and OLC and Ashcroft reviewed the torture memos.

And we also know that Addington has stopped short of saying he “approved” of the techniques, either claiming that he was simply satisfied

with the subjects Yoo covered in his memos, or hedging as he did here in testimony to HJC:

Mr. ELLISON. Were you part of a group of folks who made legal decisions on a regular and routine basis that would include Alberto Gonzales, William Haynes, Jim Haynes, and yourself? Were you part of that?

Mr. ADDINGTON. I talked regularly in lots of different meetings with the counsel of the President and his deputy, with the department of defense general counsel, less frequently with the CIA general counsel or acting general counsel, but yes.

Mr. ELLISON. So did you and Messrs. Gonzales and Haynes have sort of an ongoing responsibility or authority to guide and make decisions about legal matters for the Administration with regard to torture of detainees, the conduct of the war on terror?

Mr. ADDINGTON. No. I think it is more monitoring what is going on, discussing it and if you need legal advice on the subject, you would ask a question to the Office of Legal Counsel, which typically would be done either by the counsel to the President, if it is the White House that wants the advice, which the law, by the way, that you all passed provides for.

It is 28 USC something like 511, 512, in that range. And also heads of agencies have the authority to go to OLC and get that legal advice. So they usually do that through their general counsels, either DOD or CIA.

Addington answers the question, "did you make decisions about torture?," "No." But the CIA told Congress that OVP's lawyers—almost certainly Addington—did.

What does CIA know that David Addington trying to deny?

Zubaydah and al-Nashiri fully compliant ... but not

We know from the CIA IG report that Abu Zubaydah was waterboarded an extra time even though his torturers already believed he was compliant. And we know from the OPR report that Nashiri was tortured after his interrogators already believed him to be compliant.

Why, then, did Jim Pavitt make this claim about them?

Both Zubayda and Nashiri were described as founts of useful information, even though it seems clear that they have not, even under enhanced techniques, revealed everything they know of importance.

Is this the CIA, once again, believing these two had more information than they had? Is this an admission that even fully compliant (per the CIA) detainees will still withhold informatoin? Or did Pavitt say this because, these two shared more after the torture stopped than they had under torture?

In either case, it seems to strike at the claimed logic to the torture program.

The perfect match torture tapes

I find the description of what CIA told Roberts about the torture tapes fascinating.

Pavitt and Muller briefly described the circumstances surrounding the existence of tapes of the Zubayda debriefing, the inspection of those tapes by OGC lawyers, the comparison of the tapes with the cables describing the same interrogations. According to Muller, the match was perfect and [redacted] who did the review was satisfied that the interrogations were carried out in full

accordance with the guidance. Muller indicated that it was our intention to destroy these tapes, which were created in any case as but an aide to the interrogations, as soon as the Inspector General had completed his report. (In a subsequent briefing to Congressmen Goss and Harman, Muller said that the interrogators themselves were greatly concerned that the tapes might leak one day and put themselves and their families at risk.)

First, what CIA didn't say: that the tapes also included some of al-Nashiri's torture. And, that a number of the tapes were destroyed or dysfunctional.

Some perfect match.

And then there's the changing story. Was Muller's elaboration—his addition of the torturers' concerns for their own safety—a response to Harman's hesitation about destroying the tape?

One tiny note: the redaction of the name of the person who reviewed the tapes is one character too short to be John Rizzo.