

THE WATERBOARDING SMOKING GUN, AGAIN

Since Mark Benjamin has decided to claim—some 300-plus days after I did the first of many posts focusing on the details of waterboarding (to say nothing of posts drational did looking at these descriptions medically)—that, “the agency’s “enhanced interrogation program” haven’t been mined for waterboarding details until now,” I thought I’d make another point about the significance of those details.

As Mark points out and I’ve been pointing out for 11 months, the torturers did far more during waterboarding than what members of the military underwent in SERE training. They dumped large amounts of water onto detainees, and made sure detainees inhaled water. This is far worse than either the Bybee Two Memo or SERE training describes.

Which is why it is so important that, six days before Yoo finalized the Bybee Two memo describing a relatively controlled waterboarding process, Jim Haynes went out of his way to get JPRA to send CIA a description of waterboarding that **also** didn’t resemble waterboarding as it was done in SERE training (Haynes appears to have given orders eliciting that description in a face-to-face meeting).

As the SASC reported, DOD General Counsel Jim Haynes got JPRA, the entity that administers SERE training, to put together two packets of information on July 25 and 26, ostensibly about SERE training, though JPRA personnel realized he wanted to use it to reverse-engineer the techniques. As we now know, those were crucial days of the Bybee Memo drafting process, when Yoo was looking for more data before he could approve waterboarding, and at about the time when CIA decided it wanted written approval of the torture techniques. But the description JPRA sent Haynes (and CIA)—a description that the OPR Report makes clear OLC received—didn’t describe

waterboarding as the Navy used it. Rather, it described waterboarding as it would ultimately be practiced by the CIA.

JPRA's description of the waterboarding technique provided in that first attachment was inconsistent in key respects from the U.S. Navy SERE school's description of waterboarding. According to the Navy SERE school's operating instructions, for example, while administering the technique, the Navy limited the amount of water poured on a student's face to two pints. However, the JPRA attachment said that "up to 1.5 gallons of water" may be poured onto a "subject's face." While the Navy's operating instructions dictated that "[n]o effort will be made to direct the stream of water into the student's nostrils or mouth," the description provided by JPRA contained no such limitation for subjects of the technique. While the Navy limited the use of the cloth on a student's face to twenty seconds, the JPRA's description said only that the cloth should remain in place for a "short period of time." And while the Navy restricted anyone from placing pressure on the chest or stomach during the administration of this technique, JPRA's description included no such limitation for subjects of the technique.

Think about it. Why would Haynes make sure Yoo had **this** description, particularly if Yoo was going to use a more restrained description of the practice in his memo (just as he did with his description of sleep deprivation and small box confinement)? Why didn't they just use a description of what the Navy actually did? And where would JPRA have gotten that description? How did it happen that OLC ended up getting a description of waterboarding as it would ultimately be practiced?

There are a number of possibilities: maybe JPRA got a hold of Mitchell and Jessen's description of waterboarding as proposed and used that instead. Maybe CIA knew they were going to exceed the limits Yoo described in the memo.

Or, maybe JPRA somehow described waterboarding as it had already been applied to Abu Zubaydah.

I can't yet prove which of those things happened. But I'd suggest that, now that others have decided to look at descriptions I've been writing about for 11 months, they also might want to look at this particular description, which in theory, at least, preceded the waterboarding purportedly authorized by the Bybee Memo six days later.