

MORE CHENEY GET OUT OF JAIL FREE COSTS: MITCHELL AND JESSEN'S \$5 MILLION INDEMNITY AGREEMENT

The AP has a story on Mitchell and Jessen's torture defense. The lead of the story describes how CIA protected the torturers both by paying all of their defense costs—up to \$5 million—as well as paying it directly out of CIA funds.

But there's an interesting sub-narrative. The piece describes how, in addition to just waterboarding Rahim al-Nashiri twice (even Dick Cheney has implicitly admitted that waterboarding did not work), Mitchell and Jessen also successfully argued against waterboarding Ramzi bin al-Shibh.

Mitchell and Jessen successfully argued against waterboarding admitted terrorist Ramzi Binalshibh (RAM'-zee bin-al-SHEEB') in Poland, the official said.

And then when it came time to waterboard Khalid Sheikh Mohammed 183 times, Mitchell and Jessen played a somewhat different role.

The role of Mitchell and Jessen in the interrogation of confessed Sept. 11 mastermind Khalid Sheikh Mohammed is a bit murkier.

At least one other interrogator was involved in those sessions, with the company providing support, a former official said. Mohammed was waterboarded 183 times in Poland in 2003, according to documents and former intelligence officials.

Remember, too, that authority over the torture

program within the CIA also shifted around this time, and that after al-Nashiri was deemed compliant originally, analysts came in and used the kind of death threat that even John Yoo said was torture. And of course, over the period, the CIA decided it was probably a good idea not to film their torture sessions.

All of which suggests there was some regret or recognition that the torture program wasn't such a good idea.

Now, the article also makes something that had been known more obvious than before. As we know, Mitchell and Jessen were ordered to keep torturing Abu Zubaydah beyond such time as they felt he was compliant. That session would violate the terms of the Yoo memo (which said you could only torture if it was necessary to get information). And that session was almost certainly taped (though it may be one of the taped sessions that got damaged before CIA's Inspector General got to look at the tapes.

Jose Rodriguez was almost certainly in the chain of command that ordered Mitchell and Jessen to keep waterboarding Abu Zubaydah, if not gave the order himself.

And Jose Rodriguez, as soon as he got back into a position of authority, managed to find a way to destroy that tape, in spite of orders from the White House (however unserious) not to destroy the tapes.

But don't worry, DOJ says. None of this was criminal.

Oh, one more detail: the AP story notes that Mitchell and Jessen testified to the grand jury in August 2009. So note that Mitchell and Jessen did testify, whereas Rodriguez did not.