

THE FIRST TORTURE COVER-UP WAS COVERED UP BY THE FIRST TORTURE COVER- UP LAWYER

Document Exploitation blog has read Jose Rodriguez' book so I don't have to!

Seriously, I will eventually get around to reading Rodriguez' book, when I can get it cheaper than toilet paper. But until then, I'm glad a document wonk has done the work.

One of the more interesting observations from DocEx pertains to Judge Hellerstein's apparent misreading of CIA's promises to fix their contemptuous document responses. Click through for that. (Though now that I understand that Hellerstein was unsuccessfully trying to expose that the President had authorized all this torture, perhaps he believed he had achieved a just result.)

But the real "ah ha" for me was this—showing that the CIA lawyer that reviewed the already-damaged torture tapes and found evidence of that damage not noteworthy...

This report appears to show McPherson admitting that he saw some of the tapes were partially blank, or had snow on them.

[Redacted] for many of the tapes one 1/2 or 3/4 of the tape "there was nothing." [Redacted] on some tapes it was apparent that the VCR had been turned off and then turned back on right away. [Redacted] on other tapes the video quality was poor and on others the tape had been reused (taped over) or not

recorded at all. [Redacted] The label on some tapes read "interrogation session," but when viewed there was just snow. [Redaction] did not make note of this in [redaction] report. [Redaction] estimated that "half a dozen" videotapes had been taped over or were "snowy."

Though he claims not to have noticed that two of the tapes were broken (though perhaps they were broken later). When asked why he had not reported the blank tapes in his report, McPherson said he didn't find that "noteworthy."

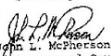
... Was also the lawyer who provided the original, contemptuous FOIA response.

Rodriguez's account also sheds new light on a crucial lynchpin in the **ACLU FOIA** case by identifying the CIA attorney from the Office of General Counsel (OGC) who viewed the videotapes in Nov. 2002 as "one of the assistant general counsels" whom Rodriguez calls "a very senior Agency officer." The attorney was later **interviewed** by the CIA Office of Inspector General (OIG) about that review. Rodriguez's small, but important details corroborate earlier reporting by the **AP** and **WashPo** that the OGC attorney was John L. McPherson, who based on unrelated court filings, was an Assistant General Counsel as of 2001 and later became an Associate General Counsel.

Why is this significant? Hellerstein found the tapes subject to FOIA because they were "identified and produced to" the CIA's OIG "as part of its investigation into allegations" of unauthorized interrogations and human rights violations. Yet Hellerstein

stopped short of finding the CIA in contempt in part because “the individuals responsible for processing and responding to plaintiffs’ FOIA requests may not have been aware of the videotapes’ existence before they were destroyed.”

Remarkably, however, the crucial FOIA response from the CIA regarding the records of the OIG in April 2005 (ergo, 7 months prior to the destruction of the tapes) was written by none other than John L. McPherson. That is, the most important FOIA response in the case was written by the very CIA attorney who, if reporting that Rodriguez’s book tends to support is true, arguably knew more about the tapes than anyone else. See for yourself [here](#).

Sincerely,

John L. McPherson
Associate General Counsel

In other words, the lawyer who chose not to mention the torture tapes in the original ACLU FOIA is the guy who first saw evidence the torturers were exceeding DOJ guidelines and covering that up on those torture tapes.

That’s the guy, by the way, John Durham gave immunity to.