

WHY ARE SSCI MEMBERS ASKING SO MANY QUESTIONS ABOUT TORTURE?

By my count, Senate Intelligence Committee members asked CIA General Counsel nominee and Acting OLC Head Caroline Krass 3 questions, plus follow-ups, about torture (these are my summaries):

- Udall 6: If you learned of a covert action that violated Convention Against Torture but did not violate a particular statute would you advise it was unlawful? Would you inform this committee?
- Udall 8: If the EO banning torture were overturned, what binding legal authorities would prevent CIA from using techniques authorized by 2007 OLC memo authorizing extended sleep deprivation?
- Heinrich 1: Can CIA officers participate in torture done by liaison services? If they do would anyone at CIA learn about it?

Granted, these questions come from people who have been particularly concerned about the Senate Torture report. So perhaps they're just asking to ensure it doesn't happen again.

But the questions, together, point to several

potential loopholes around Obama's purported ban on torture (even ignoring the way Executive Orders can be pixie dusted).

After all, as far as we know, the September 17, 2001 "Gloves Come Off" Memorandum of Notification remains active. That MON explicitly calls for partnering with countries that torture, both close partnership with Egypt (which was the first country we used to torture detainees), but even countries like Syria.

Then there's the perennial question – which was the driving question in 2004 and 2005, which led to OLC memos Udall has made clear were based on CIA's lies – of our compliance with the Convention Against Torture. We seem to have a sustained interest in humiliating detainees. Should we assume we continue to do so?

Finally, Udall's question about the 2007 OLC memo, with his particular focus on sleep deprivation. As long ago as Faisal Shahzad's interrogation, there have been suggestions that the High Value Interrogation Group might have found ways to keep detainees awake for extended periods. And while public explanations attributed Abu Anas al-Libi's abbreviated shipboard interrogation to his own hunger strike, I do wonder whether some kind of coercion wasn't also involved. Plus, there were claims that the CIA Annex in Benghazi was conducting interrogations. So I would be unsurprised if CIA were using sleep deprivation, again.

Again, perhaps Udall and Heinrich are asking these questions just to measure whether or not Krass would prevent CIA from getting back into the torture business. But I do find the questions troubling.