

JOEL BRENNER REVEALS DAVID ADDINGTON'S SOURCES AND METHODS

Several people (including Dan Froomkin) have pointed to the speech former NSA Inspector General Joel Brenner gave at NSA today for the confirmation of what was pretty clear from the joint IG Report on Stellar Wind – that David Addington ran the program out of OVP.

The seed of the problem was planted shortly after 9/11, when the White House determined to undertake certain collection outside the FISA regime under a highly classified, but now mostly declassified, program called STELLAR WIND. That program was not SAP'ed, because the creation of a new special access program requires Congressional notification, but it was run directly by the Office of the Vice President and put under the direct personal control of the Vice President's counsel, David Addington.

But there's another detail I find more interesting (aside from Brenner's note that parts of the program remain classified, which people often forget).

Stellar Wind *was not* SAP'ed, Joel Brenner (who was, at least according to the IG Report, not read in himself until far later than he makes out in his speech).

Because if it were SAP'ed – if it were made a Special Access Program – then Congress would have had to be notified.

I'm interested in that for two reasons.

First (and most prosically), the Executive was messing around with the classification of Stellar Wind at least until January 2009, when they appear to have been making last minute

adjustments to gain advantage in the *al-Haramain* suit.

More interestingly, because the Executive claims Congress was notified (even in that IG Report, though interestingly enough, some accountings of Congressional briefings got redacted in the underlying reports). Joel Brenner is here suggesting that they weren't, really. Which is consistent with the fact that the briefing Congress got on March 10, 2004 was different in substance than what they had gotten before then.

Finally, because there are questions about when and who made the torture program a SAP. It appears not to have happened until early 2003 (and some of CIA's own briefing records suggest that's when the first torture briefings were, notwithstanding the September 2002 briefings for the Gang of Four).

Brenner's suggestion makes it likely (as if it weren't already) that that decision, too, was driven by Addington.