

JOHN RATCLIFFE'S LIES ABOUT HIS TIME AT DOJ RAISE NEW QUESTIONS ABOUT HIS CLAIM TO HAVE USED WARRANTLESS SEARCHES

Both NBC and ABC have stories laying out how two key claims about his work at DOJ that John Ratcliffe has used to get elected three times are lies. Less important for this post, when Ratcliffe repeatedly took credit for “arresting over 300 illegal [sic] aliens in a single day,” he was actually taking credit for a poultry worker bust that was led by ICE and involved four other US Attorneys offices and a slew of other investigative agencies.

This is an ICE-led investigation with support from the U.S. Attorneys' Offices in the Eastern District of Texas, the Eastern District of Arkansas, the Eastern District of Tennessee, the Middle District of Florida, and the Northern District of West Virginia. Also aiding in the investigation are the DOL-OIG; the Social Security Administration's Office of Inspector General; the U.S. Department of Agriculture's Office of Inspector General; U.S. Customs and Border Protection; the U.S. Postal Service; the U.S. Marshals Service; the West Virginia State Police; and numerous other state and local agencies.

More interesting, however, is Ratcliffe's claim that, “There are individuals that currently sit in prison because I prosecuted them for funneling money to terrorist groups.” As both

NBC and ABC note, there's not a shred of evidence that Ratcliffe ever prosecuted a terrorism case. His own campaign press release botches the timing and titles of this, seemingly conflating his time as (an unconfirmed) US Attorney with his role as chief of the anti-terrorism section for the US Attorney office he'd eventually run.

In 2008, Ratcliffe served by special appointment as the prosecutor in *U.S. v. Holy Land Foundation*, one of the nation's largest terrorism financing cases. During his tenure as the Chief of the Anti-Terrorism and National Security Section for the Eastern District of Texas he personally managed dozens of international and domestic terrorism investigations.

The statement his office gave ABC, which explains that the reference pertained to his appointment as Special Counsel investigating why the Holy Land Foundation case resulted in a mistrial, conflates those two roles even worse.

Ratcliffe's office clarified that his status regarding the case was instead related to investigating issues surrounding what led to the mistrial in the first case.

"Because the investigation did not result in any charges, it would not be in accordance with Department of Justice policies to make further details public," Rachel Stephens, a spokesperson for Ratcliffe, said. "However, Department of Justice records will confirm that as both Chief of Anti-Terrorism and National Security for the Eastern District of Texas from 2004-2008, John Ratcliffe opened, managed and supervised numerous domestic and international terrorism related cases."

The timing here is critical, for reasons I'll get into in a second. Ratcliffe was appointed Acting US Attorney sometime between May 20 and June 20, 2007; prior to that, he had been the First AUSA and the chief of the anti-terrorism and national security division in a division that didn't see many national security cases (though in his campaigns, Ratcliffe would take credit for a big meth bust he mostly oversaw the sentencing of).

The mistrial of the first Holy Land Foundation trial was on October 23, 2007.

Ratcliffe was appointed US Attorney by Michael Mukasey sometime after he was confirmed as Attorney General on November 8, 2007.

Ratcliffe's tenure as US Attorney ended after his replacement was confirmed on April 29, 2008. It's unclear whether he stayed on after that; he joined a law firm leveraging John Ashcroft's name the next April.

I'm interested in those dates because, in a 2015 debate over whether to prohibit back door searches of data collected using Section 702 of FISA, Ratcliffe claimed he had used warrantless searches as a terrorism prosecutor.

In full disclosure to everyone, I am a former terrorism prosecutor that has used warrantless searches, and frankly have benefitted from them in a number of international and domestic terrorism cases.

The implication was that he had done back door searches, but (as I noted at the time) he could only have done back door searches of Section 702 content if he stuck around after being replaced as US Attorney, because the FISA Amendments Act did not become law until July 10, 2008, after he was replaced as US Attorney. It's true that Protect America Act was in place during part of the time he was US Attorney and during the time he would have been investigating the Holy Land Foundation case, but that remained in flux until

February 2008 and DOJ was claiming, in the Yahoo challenge, not to permit back door searches.

If, as Ratcliffe suggests, his big terrorism "prosecution" was on the Holy Land case, it suggests he was using data from Protect America Act. Any back door searches in conjunction with that would be particularly controversial given that a bunch of Muslim groups were improperly named in a list of unindicted co-conspirators in a filing in the case, and some of them (such as CAIR's Executive Director Nihad Awad) was under FISA surveillance through that period. In other words, if he used back door searches in the wake of the Holy Land mistrial, there's a good chance he was engaged in what Carter Page insists in FISA abuse. This was also a period when there were a slew of violations with the Section 215 phone dragnet, which was almost certainly used to map out all of CAIR during the period.

One possible alternative is still worse. Ratcliffe started his anti-terrorism position in 2004. At the time, the George Bush warrantless wiretap program Stellar Wind – on which the back door searches of FAA were modeled – remained active (though in somewhat constrained form in the wake of the hospital confrontation). If Ratcliffe did back door searches on Stellar Wind data, he was part of Bush's illegal surveillance program, and not just involved in "FISA abuse" but in crimes under FISA.

Given the number of lies he has already been caught in, and given his obvious confusion in any number of public hearings since, it's quite possible he was just pretending to be an expert on a national security issue to fluff up his credibility. Perhaps he didn't really understand the subject of the debate, and mistook normal criminal process for FISA surveillance.

That said, there's frankly no good answer for this claim: the least damning explanation is confusion or puffery, the most damning is that he was involved in criminal surveillance.

But it's a specific detail that demands an

answer if Ratcliffe wants to supervise the entire intelligence community.