

THE CONFUSION ABOUT WHEN HASSAN GHUL'S TORTURE STARTED

In this post, I noted that John McCain seemed to be talking about Hassan Ghul when he spoke of a detainee who gave up key information on Osama bin Laden's courier without being tortured.

It's the other detail I find even more interesting: that info on Abu Ahmed's real role and his real relationship with OBL came using "standard, noncoercive means." This break in intelligence has fairly consistently been attributed to Hassan Ghul in tick tocks of the hunt for OBL. And while McCain doesn't confirm that Ghul provided the intelligence, if he did, then consider what it probably means.

I have noted that a detainee who appears to be Ghul was held for six months—from January to August 2004—before the CIA started getting approval for his CIA-led interrogation. If the detainee who provided the key information on Abu Ahmed was Ghul and did so through noncoercive means, it means that Ghul's interrogation before CIA got him—presumably, Ghul's interrogation by military interrogators not using torture—yielded the key piece of information that would eventually lead to OBL. And (such a scenario would further imply) CIA insisted on taking custody and torturing him, even after he yielded information that would lead to OBL. Which might explain the legal sensitivities around Ghul's torture, because if they got key info without torture the claims they based torture on would all be demonstrably false.

Reuters has a piece on Ghul that may accord with my earlier speculation. (h/t MadDog) They describe DiFi confirming that key information came from Ghul, but before his torture started.

Earlier this week, [Dianne] Feinstein told Reuters about a CIA detainee who “did provide useful and accurate intelligence.” But she added: “This was acquired before the CIA used their enhanced interrogation techniques against the detainee.” Three U.S. officials said Feinstein was referring to Ghul.

Reuters relies heavily on declassified CIA documents to understand Ghul’s treatment—which I assume means they’ve confirmed that the May 2005 mention of Ghul was to Hassan Ghul, and not a second Janat Ghul that may have been held in CIA custody.

But if that’s true, they seem to be missing the key documents—the August 2004 documents cited in the May 2005 documents that ask for and get approval for four more torture techniques—dietary manipulation, nudity, water dousing and abdominal slap. From those documents, we can at least presume that Ghul was being subjected to his first round of CIA interrogations between August 2 and August 25, 2004, when CIA asked for the four additional techniques (though there are other possibilities I laid out here).

Just as interesting is the paper trail discussing the CIA getting custody of a detainee—and the Principals Committee discussing the treatment of a detainee named “Ghul”—on July 2 (Jay Bybee has said that detainee was Janat Gul, but unless there’s a CIA detainee named Janat distinct from the Janat who was in Gitmo, that seems unlikely). At the Principals Committee meeting, they appear to have approved certain treatment of this Ghul, notably after the torture skeptics left the meeting.

In other words, if FOIAed documents do pertain to Hassan Ghul (and Reuters appears to suggest they do), then Ghul was likely not in CIA custody until July 2004. That is, it appears **Ghul was not turned over to exclusive CIA custody until six months after he was captured.** His initial torture approval came on August 2, and his second torture approval came on August 26.

So when DiFi says the key information from Ghul "was acquired before the CIA used their enhanced interrogation techniques against the detainee," that probably also means that information was acquired before Ghul was transferred to CIA custody. That doesn't mean CIA didn't have access to him earlier than that, or that DOD didn't use some kind of torture on him before then (again, see this post for some of the possibilities).

All of which has two really big possible implications.

First, that the Principals Committee—without input from key DOJ officials—approved the torture of Hassan Ghul after he had already given up vital information leading to Osama bin Laden's location. And given that the torture approvals were always premised on the claim that a detainee wouldn't give up information without torture, this would mean a key claim made to justify torturing Ghul appears to have been false. This would tie an illegal torture authorization directly to people like Dick Cheney, having effectively bypassed the normal DOJ approval process.

Also, this could mean that obfuscation happening here serves to hide the possibility that what we now call a CIA detainee gave up his most important information while still in DOD custody.