DIPLOMATIC RENDITIONS?

Here’s a response from Mukasey that frankly stumps me. It comes in response to a Joe Biden question on extraordinary renditions.

> If the purpose [of renditions] is to gather intelligence, why would the United States trust interrogations carried out by Egyptian or Syrian intelligence agencies—agencies that the United States has long acknowledged and criticized for engaging in torture and abuse?
>
> ANSWER: I am not aware of the facts and circumstances concerning any rendition. It is my understanding that both United States law and policy prohibit the transfer of anyone in the custody of the United States to another country where it is "more likely than not" that the person would be tortured, and should I be confirmed as Attorney General, I would ensure that the Department of Justice provides legal advice consistent with that standard. That said, I understand that there are other departments, such as the Department of Defense or the Department of State, with more direct responsibility for carrying out our policies in this area.

The answer is carefully crafted to punt. First, as everyone else in the Administration does, Mukasey simply repeats the claimed standard—no rendition to countries that torture—without guaranteeing that the country as a whole fulfills this standard.

Then Mukasey makes an interesting move. He effectively says, "renditions are not done by DOJ, so I can’t be responsible for them." Which is true, as far as I know—the FBI does not carry out renditions. It’s as if Mukasey asserts he

can’t guarantee the country doesn’t engage in renditions because he’s not in charge of that area. Fair enough—and likely a sound legal strategy, to avoid any liability for the renditions that are going on.

But then Mukasey lists those departments that—in his understanding—are in charge of renditions. DOD and State.

What flummoxes me here is the inclusion of State, and the exclusion of CIA, on this list. We’ve had direct reporting of CIA involvement in renditions (such as with al-Libi). And they’re the one with the funny airlines that have no owners and no apparent flight plans. Perhaps those renditions are being done by some intelligence branch of DOD now (which might explain why the numbers for renditions carried out by CIA always seem much lower than the known cases of renditions).

So why State? Perhaps it’s as simple as State negotiating with countries before we steal their citizens (did Colin Powell’s State negotiate with Berlusconi’s government in the case of Abu Omar?). But I wonder. Is the State Department—and it’s beefy Blackwater contracts—currently involved in renditions in a way we don’t know about?