

JUDGE HELLERSTEIN CALLS THE CIA ON ITS BS

Wow. Judge Hellerstein is not amused with the CIA's assertion that the torture tapes—which IG staffers flew to Thailand to view as part of their investigation into CIA interrogation methods—were not part of their investigation. Nor does he buy the assertion that the "special review" is not an investigation. He basically called Bull on the CIA's assertions in about six different ways.

The judge, Alvin K. Hellerstein of Federal District Court in Manhattan, said from the bench that he was stunned that the C.I.A. investigators had not kept records about the tapes, which were destroyed in 2005, even though the tapes were an important part of an internal C.I.A. review into interrogation methods.

"I'm asked to believe that actual motion pictures, videotapes, of the relationship between interrogators and prisoners were of so little value" that was no record of them was kept in C.I.A. investigative files, Judge Hellerstein said during a hearing over a freedom of information request involving the tapes.

"I just can't accept it. If it came up in an ordinary case, it would not be credible," the judge said, adding, "It boggles the mind."

In fact, Judge Hellerstein even suggested what I did: that the CIA intentionally did not put any mention of the torture tapes in their IG report as a way to shield them from FOIA.

Judge Hellerstein raised the possibility that C.I.A. officials had intentionally

not placed the tapes in the investigative files so as to avoid a freedom of information request.

"It seems to me that you were gulled," he told Mr. Skinner, "and that the court was gulled."

Gotta love a good skeptical judge.

Now, Hellerstein denied the ACLU's request that he hold the CIA in contempt. But he did give them something worthwhile: the power of the court to get to the bottom of why the CIA didn't turn over the torture tapes.

While Judge Hellerstein denied the A.C.L.U.'s request to hold the C.I.A. in contempt of court for not producing information about the tapes, he said he was considering ways, including potentially subpoenas, to get to the bottom of why the C.I.A. has not turned the documents over to the A.C.L.U.

This is, IMO, very very important. With all the complaining coming from the leadership of HPSCI, they seem singularly uninterested in the relationship between the IG report and the torture tapes. If Hellerstein allows the ACLU to pursue why the CIA withheld information about the tapes (and the tapes themselves), it will ensure that the IG report becomes a central focus of the inquiry into the torture tapes. Which, in turn, may ensure that the inquiry itself goes further than Jose Rodriguez.