

DOUGIE FEITH VISITS HJC

Before Nadler's Subcommittee. I'll liveblog until Levin shows up at FDL—note, there's an 11 ET vote scheduled in the Senate, so Levin's likely to show up closer to 11:15.

Nadler speaking now: "Perhaps there's something in the WH drinking water these days that causes amnesia."

Also note, the Republicans are in a really ornery mood. When Nadler moved to assert the ability to recess without objection, Franks objected. Should be interesting—looks like Darrell Issa's ready to do his thing.

Franks: Speaker Pelosi never objected. Zubaydah caught building a bomb. Complains about Nadler's statement that Republicans can't respond to a request for ticking bomb scenario. "Tenth hearing dedicated to protecting the rights of terrorists."

Conyers: Can Franks tell us about the ten hearings?

Franks: I think this is one of the examples, this is a repetitive hearing.

Conyers: Can I have a list of the hearing? This is the Constitutional Committee of the Judiciary. This is to protect the rights of Americans. To prevent our own government from violating the laws and treaties that pertain to torture. I counted some hearings myself. This is the fourth hearing. The first hearing was when Sands came. Ordered from the top, not a few bad apples. Dan Levin, told us flaws in Professor Yoo's memos. Forced out of OLC while attempt to impose constraints on torture. Wilkinson, Powell worried about torture and the President was complicit. Third hearing Yoo and Addington. Could not or would not remember the facts. Fourth hearing was necessitated bc we had trouble getting Feith to the hearing. Khadr kept

up 50 days, ICRC, Administration committed war crimes. Taguba has also written that war crimes were committed. How high does responsibility go? Mukasey refuses to appoint special counsel. Said these people acted in good faith, so not fair to prosecute them. That starts out sounding fairly reasonable. But let's look more closely.

Update on Levin chat: It is back to the original time: 11AM.

King: 9/11 9/11 9/11. Success success success. People on this committee despise the Administration. People here disagree with that legal analysis. Let's think about what Dougie was thinking when the open hole was still smoking.

Nadler: Point out, regardless of the situation of the country, we do have laws, that's what distinguishes us from other countries.

Darrell Issa, making a series of parliamentary inquiries, which are not parliamentary inquiries, to remind everyone that Jane Harman and Nancy Pelosi were briefed on this. My understanding as a member of the Intell Committee. Let's do it before Thursday.

Nadler: I'll take suggestion—as a suggestion, bc motion would not be in order—under advisement.

King: Oh, by the way, I didn't mean okay to torture.

Nadler: Dougie Feith. Phillippe Sands.

Hey! Dougie wasn't too fucking stupid to turn on the microphone.

Dougie: Counter some falsehoods on Admin policies. The "torture narrative" unsubstantiated narrative that top members of Admin sanctioned torture. Hitting back at Sands hard.

Shorter Dougie: "I'm confident enough in getting pardoned before the end of the Administration that I'd rather say risk a lying to Congress charge than risk having people believe I'm as

stupid as I am."

Shorter Dougie: "Fighting Soviet Russia was so much easier."

Shorter Dougie: "Torture is effective."

Shorter Dougie: "Blame the lawyers. I recognize, of course, I'm a lawyer. But that doesn't mean I think like a lawyer."

[Missed some fireworks while I was at the mothership]

Issa: Been to Gitmo? At hearings in HPSCI? Were enhanced techniques discussed?

Dougie: I believe so.

Issa: Harman was aware of some of the techniques?

Dougie: I believe so.

Issa: What Iraqi govt allowed to be done to our troops? By Al Qaeda?

Issa: Anyone know of knowledge to counter the claim that Harman and Pelosi were briefed?

Davis: Issa had a clever set of questions that Speaker and former Ranking member had some knowledge of this. Members of Congress cannot share with their colleagues stuff they learned on the Committee.

Issa; Yield?

Davis: Nope. The issue is not whether certain members of leadership were given a briefing that they couldn't share with their colleagues. I think it is in dispute that that did not happen (Bush consult with Congress). At no point did Bush come to Congress and ask Congress to help shape policy on interrogations.

Davis: Here's the Constitution. It's really nifty. Congress shall provide for the common defense. Why the US Congress should not have had a role in shaping detainee policy.

Dougie: I believe Congress did have a role.

Davis: How can issues be addressed, how can Congress have a role of policy debate is confidential and intelligence committee members cannot share with their colleagues. Has to be transparency.

Dougie: President's statement on Geneva Convention was public to the world. If you wanted to engage in that?

Davis: Professor Sands, is that true it was on the record?

Sands: News reports, but what had not come out was the decision to move to abandon Lincoln's prohibition on cruelty.

Davis: This is the point I think you miss. The issue is what those words meant in practice. It was an impossible debate to have. It was only shared after 3 years of newspaper reporting.

Pence: Not always in agreement with your interpretation of events in recent years, but I'm grateful for your service. I have to be honest with you, went to law school. Try to not think like a lawyer.

Debbie Wasserman Schultz: Hammering on techniques.

D WS Did these discussions discuss whether these techniques accorded with Geneva Convention? Was your advice ignored?

Dougie: Bush followed GC.

D WS Role in working group? Role of OLC advice.

D WS Newsweek, urgent email not to discuss Taguba report.

Dougie: Doesn't ring any bells. Maybe sent by someone in my office.

D WS You're saying Newsweek report is inaccurate. Never seen any email like that?

Dougie: I don't remember. I was completely surprised when I read that.

Nadler: When you saw Newsweek report that, you

didn't check into it?

Dougie: I only remember hearing about it when I read Pearlstein's testimony.

Ellison: Do you concede that people designated as POWs are subject to questioning?

Dougie: No form of coercion to secure information of any kind.

Ellison: You agree they can be questioned. In an earlier hearing, we had Wilkerson. I heard you objected because of his presence?

Dougie: Laid out in letter...

Ellison: I want to know.

Dougie: Accused me of being card-carrying member of being Likud party, loyalty to Israel rather than US. He made other nasty statements too.

Ellison: I don't care if you're interested.

Dougie: I think that remark in and of itself explains why he was not an appropriate person. I believe he's made reckless remarks describing top officials as war criminals. He said he had to violate the rules not to shoot a 12 year old girl.

Ellison: Is there anything he said about YOUR role?

Dougie: He's lumped me in with others in Administration about war crimes?

Ellison: I'm trying to figure out

Franks: Regular order—he's badgering a witness.

Nadler: We're not in court.

Ellison: What is the factual basis for refusing to participate. I'm trying to get the facts about why he wouldn't appear.

Dougie: Here's what my lawyer said. What should neither be expected or tolerated are the kinds of personal attacks.

Ellison: You've made it clear, personal

invective. In your book, you said AG Ashcroft said that prisoners could not be effectively interrogated under GC.

Dougie: I think he was referring to POW.

Ellison: But you've already said they could be interrogated. Did he say tell you prisoners could not be effectively interrogated. Do you know why he was under impression they could not be interrogated effectively?

Dougie: General view?

Ellison: Another minute?

Issa: Object. [the he recalls objection]

Ellison: Why not effective interrogation.

Dougie: No inducement positive or negative. No cigarettes.