

ABU ZUBAYDAH'S FBI INTERROGATOR REMOVES THE LEGAL CORNERSTONE OF THE TORTURE REGIME

Ali Soufan, the FBI interrogator described in the DOJ IG report on interrogation as the interrogator (whom they call "Thomas") who called CIA's tactics on AZ, "borderline torture," has an important op-ed in the NYT. He writes,

One of the most striking parts of the memos is the false premises on which they are based.

I pointed this out myself, in a post on why the debate over whether these techniques were necessary and effective is so heated.

Check out what the second paragraph of the Bybee Memo says:

Our advice is based upon the following facts, which you have provided to us. We also understand that you do not have any facts in your possession contrary to the facts outlined here, and this opinion is limited to these facts. If these facts were to change, this advice would not necessarily apply. Zubaydah is currently being held by the United States. The interrogation team is certain that he has additional information that he refuses to divulge. Specifically, he is withholding information regarding terrorist networks in the United States or in Saudi

Arabia and information regarding plans to conduct attacks within the United States or against our interests overseas. Zubaydah has become accustomed to a certain level of treatment and displays no signs of willingness to disclose further information. Moreover, your intelligence indicates that there is currently level of "chatter" equal to that which preceded the September 11 attacks. In light of the information you believe Zubaydah has and the high level of threat you believe now exists, you wish to move the interrogations into what you have described as an "increased pressure phase." [my emphasis]

Here's what Ali Soufan says:

It is inaccurate, however, to say that Abu Zubaydah had been uncooperative. Along with another F.B.I. agent, and with several C.I.A. officers present, I questioned him from March to June 2002, before the harsh techniques were introduced later in August. Under traditional interrogation methods, he provided us with important actionable intelligence.

We discovered, for example, that Khalid Shaikh Mohammed was the mastermind of the 9/11 attacks. Abu Zubaydah also told us about Jose Padilla, the so-called dirty bomber. This experience fit what I had found throughout my counterterrorism career: traditional interrogation techniques are successful in identifying operatives, uncovering plots and saving lives.

There was no actionable intelligence

gained from using enhanced interrogation techniques on Abu Zubaydah that wasn't, or couldn't have been, gained from regular tactics. [my emphasis]

We already knew this, of course, from the DOJ IG Report and many other sources. But Soufan emphasizes, importantly, that CIA interrogators were in the room when persuasive interrogation techniques worked. If those interrogators subsequently relied on the Bybee Memo, they could not claim they had a good faith reliance on the memo.

Which may be one of the reasons why, as Soufan notes, the CIA interrogators were unhappy at having been ordered to use coercive methods with AZ.

Almost all the agency officials I worked with on these issues were good people who felt as I did about the use of enhanced techniques: it is un-American, ineffective and harmful to our national security.

[snip]

My C.I.A. colleagues who balked at the techniques, on the other hand, were instructed to continue. (It's worth noting that when reading between the lines of the newly released memos, it seems clear that it was contractors, not C.I.A. officers, who requested the use of these techniques.)

Soufan's on-the-record refutation of the very cornerstone of the Bybee Memo—and with it the entire torture regime—dismantles the legal rationale for that regime. As Bybee wrote,

We also understand that you do not have any facts in your possession contrary to the facts outlined here, and this opinion is limited to these facts. If these facts were to change, this advice

█ would not necessarily apply.

So who lied to Bybee about what facts the CIA had in its possession?