

# AND DID JAMES MITCHELL ALSO WRITE THE PSYCHOLOGICAL PROFILE OF ABU ZUBAYDAH BYBEE USED?

I think Spencer and I are just going to keep tag-teaming the torture memos.

He writes about something I've been thinking: to what degree was James Mitchell, almost certainly the contractor involved in making the case that they needed to use torture to get information out of Abu Zubaydah, making that case so he could win a hefty contract?

But is it too cynical to suggest that Mitchell also had an *interest* in saying that Soufan and the FBI's (and apparently, in part, CIA's) non-brutal techniques failed? From page 24 of the Senate Armed Services Committee report:

Subsequent from his retirement from DoD [the Department of Defense], Dr. Jessen joined Dr. Mitchell and other former JPRA [Joint Personnel Recovery Agency, which oversees SERE] officials to form a company called Mitchell Jessen & Associates. Mitchell Jessen & Associates is co-owned by seven individuals, six of whom either worked for JPRA or one of the service SERE schools as employees and/or contractors. As of July 2007, the company had between 55 and 60 employees, several of whom were former JPRA employees.

Science may be science, but money is  
*money.*

But Mitchell may have done more than certify that the only way to get Abu Zubaydah to speak was to waterboard him. He may have been the guy who did the psychological profile that found him fit to be waterboarded.

The May 30, 2005 memo attributes an incredibly chilling comment, acknowledging that waterboarding exceeded the guidelines laid out in the 2002 OLC memo, to a "psychologist/interrogator."

The IG Report noted that in some cases the waterboard was used with far greater frequency than initially indicated, see IG Report at 5, 44, 46, 103-04, and also that it was used in a different manner. See *id.* at 37 ("[T]he waterboard technique ... was different from the technique described in the DoJ opinion and used in the SERE training. The difference was the manner in which the detainee's breathing was obstructed. At the SERE school and in the DoJ opinion, the subject's airflow is disrupted by the firm application of a damp cloth over the air passages; the interrogator applies a small amount of water to the cloth in a controlled manner. By contrast, the Agency Interrogator ... applied large volumes of water to a cloth that covered the detainee's mouth and nose. **One of the psychologists/interrogators acknowledged that the Agency's use of the technique is different from that used in SERE training because it is "for real—and is more poignant and convincing."**) [my emphasis]

Is this "psychologist/interrogator" the person who supplied the dubious profile (the one disputed by FBI people) that Bybee used to

determine that Abu Zubaydah was fit to be waterboarded?

According to your reports, Zubaydah does not have any pre-existing mental conditions or problems that would make him likely to suffer prolonged mental harm from your proposed interrogation methods. Through reading his diaries and interviewing him, you have found no history of "mood disturbance or other psychiatric pathology[,] "thought disorder[,] ... enduring mood or mental health problems." He is in fact "remarkably resilient and confident that he can overcome adversity." When he encounters stress or low mood, this appears to last only for a short time. He deals with stress by assessing its source, evaluating the coping resources available to him, and then taking action. Your assessment notes that he is "generally self-sufficient and relies on his understanding and application of religious and psychological principles, intelligence and discipline to avoid and overcome problems." Moreover, you have found that he has a "reliable and durable support system" in his faith, "the blessings of religious leaders, and camaraderie of like-minded mujahedin brothers." During detention, Zubaydah has managed his mood, remaining at most points "circumspect, calm, controlled., and deliberate." He has maintained this demeanor during aggressive interrogations and reductions in sleep. You describe that in an initial confrontational incident, Zubaydah showed signs of sympathetic nervous system arousal, which you think was possibly fear. Although this incident led him to disclose intelligence information, he was able to quickly regain his composure, his air of confidence, and his "strong resolve" not to reveal any information.

We know, after all, one of the changes CIA made after its IG Report declared the program to be cruel and inhumane was to bring in independent medical personnel from their OMS to conduct evaluations.

We note that this involvement [in 2005] of medical personnel in designing safeguards for, and in monitoring implementation of, the procedures is a significant difference from earlier uses of the techniques catalogued in the Inspector General's Report. See IG Report at 21 n26 ("OMS was neither consulted nor involved in the analysis of the risk and benefits of [enhanced interrogation techniques], nor provided with the OTS report cited in the OLC opinion [the Interrogation Memorandum]."). Since that time, based on comments from OMS, additional constraints have been imposed on the use of the techniques.

And after the IG Report, the CIA imposed a specific new requirement that an OMS physician be present to observe the torture.

As noted, OMS input has resulted in a number of changes in the application of the waterboard, including limits on frequency and cumulative use of the technique. Moreover, OMS personnel are carefully instructed in monitoring this technique and are personally present whenever it is used. See OMS Guidelines at 17-20. Indeed, although physician assistants can be present when other enhanced techniques are applied, "use of the waterboard requires the presence of the physician." Id. at 9n2.

And this passage discussing the involvement of OMS after the IG Report makes it clear that, prior to that report, these "psychologist/interrogators" were the ones

making the decisions on waterboarding.

"OMS contends that the expertise of the SERE waterboard experience is so different from the subsequent Agency usage as to make it almost irrelevant. Consequently, according to OMS, there was no a priori reason to believe that applying the waterboard with the frequency and intensity with which it was used by the psychologist/interrogators was either efficacious or medically safe."

So it seems that in the early days of the torture program, the "psychologist/interrogators" were the ones making these medical and psychological judgments. Precisely the kind of people contracted to the CIA from Mitchell's consulting firm.

Now, it would seem to be a conflict in any case if a "psychologist/interrogator" were the only one to conduct such a profile before you up and waterboarded them 83 times in a month. But at the time the Bybee Memo was written, the CIA was still purportedly in the planning stages of the program—and we know Mitchell was personally involved in that planning stage.

There were a number of assurances CIA had to make to Bybee before he'd call this torture legal. One was that torture was the only way to get the information. Another was that Abu Zubaydah was psychologically strong enough to withstand it. Did the same person certify both to be true? And was that person James Mitchell?

Is it possible that, in addition to (possibly) judging Abu Zubaydah wasn't going to cooperate, someone standing to make a fat government contract if torture was used is also the person who assured Jay Bybee that Abu Zubaydah was fit to be tortured?