

# MCCAIN'S TORTURED BRIEFING MEMORY

I guess it's "why can't Glenn Thrush read? day."

In addition to finally getting schooled on facts that have been in the public record for three weeks, Thrush gives John McCain a soapbox from which to scold Nancy Pelosi for not doing more when she learned—in 2003, reportedly via a staffer—that CIA was engaging in torture.

"If she felt it was wrong she should have acted," the former GOP Presidential hopeful said on his way into the Republican Senate lunch on Tuesday.

"Let me just tell you – I was briefed on it – and I vehemently objected to it. We did the Detainee Treatment Act, which prohibited cruel, inhuman and degrading treatment. So we felt, I certainly felt, I could act on it."

He dismissed her claim she was barred from acting on what she learned in the briefings with a shrug.

"I'm sure she has her argument and we'll see if the American people agree."

Set aside, for the moment, McCain's completely erroneous premise, that Pelosi should have responded to "what she learned in the briefings." Pelosi's entire point (not one I'm entirely sympathetic with) is that since she wasn't briefed that waterboarding was being used, but instead learned that CIA was torturing detainees through a staffer and not the CIA, it would have been inappropriate for her to intervene directly.

"She felt that the appropriate response was the letter from Harman, because Jane was the one who was briefed," said the person. Pelosi "never got briefed on it personally, and when Harman got a 'no

response' from the CIA, there was nothing more that could be done."

Maybe McCain just doesn't get Pelosi's point; or maybe Thrush didn't understand what he earlier reported on Pelosi and botched his own question. So for the moment set aside McCain's faulty premise.

But look at what McCain claims about his own actions. McCain suggests that he was briefed on torture and then, because he objected so strenuously to what he learned in the briefing, he passed the Detainee Treatment Act. Briefing, then DTA, McCain tells the tale.

Yet according to the CIA briefing list the Republicans are so intent to use to attack Pelosi, John McCain was briefed on torture in "late October 2005" (in the chronology, McCain's briefing appears after Thad Cochran and Ted Stevens got their briefing on October 18, 2005).

The Senate passed its version of the DTA on October 5, 2005.

The chronology, at least according to CIA's admittedly questionable timeline, went DTA, then briefing.

In fact, the only thing that happened subsequent to McCain's briefing was the conference (in December 2005), McCain's capitulation to White House demands for insertion of a clause making an "obedience to orders" defense acceptable in cases of torture, and Bush's signing statement reserving the right to interpret McCain's amendment however he—Bush—deemed necessary as Commander in Chief. In particular, McCain got briefed on torture and then assented to the inclusion of this language in the DTA.

it shall be a defense that such officer, employee, member of the Armed Forces, or other agent did not know that the practices were unlawful and a person of ordinary sense and understanding would

not know the practices were unlawful. Good faith reliance on advice of counsel should be an important factor, among others, to consider in assessing whether a person of ordinary sense and understanding would have known the practices to be unlawful.

So while McCain makes himself out to be a hero subsequent to his sole reported torture briefing, at least according to the CIA, McCain got briefed and then agreed to water down the DTA that had already been passed.

I'm sure McCain has his argument and we'll see whether the American people agree whether McCain's capitulation after his briefing was really all that heroic. But I don't really think he's the one who should be lecturing Nancy Pelosi about proper responses to torture briefings.