

SSCI INVESTIGATING ITS TORTURE BRIEFINGS

I'm all in favor of an unrelenting focus on Dick Cheney's role in torture, but I think David Corn's focus on the possibility that Cheney's briefing of Pat Roberts and Jello Jay on March 8 (and possibly March 7), 2005 is too narrowly focused. (h/t fatster via RawStory)

"The Senate intelligence committee's study includes an examination of how the committee was briefed on the CIA's detention and interrogation program," says Phil LaVelle, a Feinstein spokesperson. "This includes briefings of committee leadership, and is not limited by who conducted the briefing."

The committee has restricted this part of its review and is not examining briefings provided to other committees—such as the House intelligence committee—according to a congressional source familiar with the probe. But given that Cheney briefed two senior members of the Senate intelligence panel, the committee can review what Cheney told Roberts and Rockefeller about the interrogation program and evaluate whether his assertions were supported by the facts. That is, the Cheney briefing is fair game for the Senate investigators.

[snip]

So did Cheney make an honest presentation during the behind-closed-doors meetings with congressional leaders when he was veep? Feinstein can find out—if she wants to.

The Senate intelligence committee's investigation is not wide-ranging—which may be good news for Cheney. According to a press release it issued, the

committee is mainly focusing on what the CIA did, whether it remained in compliance with guidance it received from the Justice Department, and what was the value of the intelligence it obtained through the use of "enhanced and standard interrogation techniques." That press release makes it seem unlikely that the committee is investigating whether the White House—with or without Cheney's involvement—pressured the Justice Department to cook up legal cover for the CIA's use of so-called enhanced interrogation techniques.

When I asked LaVelle whether the committee was examining the 2005 Cheney briefing, he declined to comment. The committee is not confirming or denying any specific aspects of its inquiry, including the witnesses it has or will be interviewing. But the committee has granted itself the authority to investigate what Cheney told committee members about the CIA interrogations. If it chooses not to do so, its probe will be incomplete. [my emphasis]

That is, I think Cheney's role in persuading the SSCI not to investigate the torture program in 2005 may be one of the least interesting things the SSCI might be investigating wrt its CIA briefings. Consider two other items of interest:

CIA Claims to Have Briefed Democrats When It Didn't

CIA once claimed to have briefed Bob Graham (and, presumably, Richard Shelby) on torture twice in April 2002, and twice in September 2002. In fact, it briefed them only once, in late September 2002, and according to Graham, did not brief them on torture.

Then, CIA claimed to have briefed Jello Jay on torture in February 2003. That, too, was a false

claim.

Thus, CIA never briefed the Ranking Democratic Member of SSCI on torture until after KSM had been waterboarded—yet CIA claimed that it had.

CIA May Have Lied about "Cruel and Inhuman"

In addition, CIA appears to have lied to SSCI about whether or not it had to comply with the Convention Against Torture's prohibition on cruel and inhuman treatment. I laid out the tensions underlying the issue in this post, which shows SSCI was pushing for a review of this issue for ten months before OLC finally reviewed it and produced a memo saying that, since our torture was useful, it did not shock the conscience.

And in fact, this issue is precisely what Mary McCarthy said the CIA lied about.

A senior CIA official, meeting with Senate staff in a secure room of the Capitol last June, promised repeatedly that the agency did not violate or seek to violate an international treaty that bars cruel, inhumane or degrading treatment of detainees, during interrogations it conducted in the Middle East and elsewhere.

But another CIA officer – the agency's deputy inspector general, who for the previous year had been probing allegations of criminal mistreatment by the CIA and its contractors in Iraq and Afghanistan – was startled to hear what she considered an outright falsehood, according to people familiar with her account. It came during the discussion of legislation that would constrain the CIA's interrogations.

At a time when the Senate had a number of efforts (a Dick Durbin bill, and the McCain amendment) to restrain torture, the Administration repeatedly told the Senate that

CIA complied with CAT. I think we're going to find, ultimately, that CIA had been given an explicit exemption from CAT by the Administration (which would explain why the SSCI narrative focuses so closely on it).

David Corn has real news here that their briefings are a subject of the SSCI's investigation. But I think the question of whether Dick Cheney lied to the SSCI may be nowhere near the most interesting part of that.