THE JULY 2002 TORTURE TRAINING SESSION

As I suggested, I'm working on a narrative of the known torture approvals. As part of that, I wanted to look at the approvals the CIA claimed were in place in early July, 2002—before the first known OLC opinion relating specifically to torture.

The Senate Armed Services Committee Report describes a training session JPRA conducted for CIA officers headed to Afghanistan and elsewhere on July 1-2, 2002 (we know it's CIA because it later quotes Jonathan Fredman, then the Counterterrorism Center's top lawyer). The training covered a range of torture techniques—apparently including some, like water dousing, not later approved by OLC for use with Abu Zubaydah.

> In advance ofthe training, JPRA developed a two day lesson for [redacted] covering the "full spectrum [of] exploitation," including both explanations and demonstrations of physical pressures that were approved for use at JPRA's SERE school. 149 At the time, JPRA-approved techniques included body slaps, face slaps, hooding, stress positions, walling, immersion in water, stripping, isolation, and sleep deprivation, among others. 150

At the training, instructors demonstrated waterboarding, even though they weren't qualified by SERE guidelines to do so.

> In addition to explaining and demonstrating the physical pressures used at SERE school, the JPRA personnel also provided instruction on waterboarding.
>
> [snip]

> None of the JPRA personnel who provided
> the assistance had ever conducted
> waterboarding and would not have been
> qualified to do so at SERE school.

That's the range of torture techniques trained
at the session. And here's what two CIA lawyers
instructed participants with regard to the
legality of using those techniques.

> The July 16, 2002 after action memo
> stated that two agency legal personnel
> were also present for the training. 157
> According to the memo, [redacted]
> personnel "requested and were granted
> time to present the legal limits of
> physiological and psychological
> pressures that were acceptable at the
> present time." 158 The after action memo
> described the legal briefing:
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>> Their 30-40 [minute] brief was
>> very supportive. Basically,
>> [redacted] were told they could
>> use all forms of psychological
>> pressure discussed and all of
>> the physiological pressures with
>> the exception of the 'water
>> board.' They were advised that
>> should they feel the need to use
>> the water board, they would need
>> prior approval. They were also
>> briefed on the ramifications for
>> participating in torture, which
>> under international law is
>> defined as a 'capital crime' and
>> could result in a death sentence
>> if convicted. An eye opener to
>> say the least. 159

Now, this training session (and the comment
about capital crime) has been reported by others
before. What I'm interested in is the timing,
July 1 to 2, 2002. That's almost two weeks
before CIA's lawyers met with John Bellinger,

John Yoo, Michael Chertoff, Daniel Levin, and Alberto Gonzales to discuss the proposed interrogation plan for Abu Zubaydah (which had, of course, started three months earlier). After that meeting, John Yoo sent what may be the first OLC document outlining (generically, not just with regards to Abu Zubaydah) "what is necessary to establish the crime of torture." And the training session—with its briefing on "the legal limits … that were acceptable at the present time"—took place over two weeks before Condi gave policy approval for torturing Abu Zubaydah.

That timing has several implications. First, those CIA officers headed out to Afghanistan and elsewhere couldn't have been relying on the Bybee One or Bybee Two memos. Those memos didn't exist yet. If they never later learned of the Bybee One memo—as Daniel Levin has suggested—then they would still be relying on the legal guidance given at this training session. Yet, as far as we know, the legal advice provided at that training session did not, in turn, rely on any advice from OLC.

Of course, the Bush Administration reportedly had approved torture by this point, though that approval reportedly came directly from Alberto Gonzales, and not OLC.