

JOSE RODRIGUEZ & CIA LAWYER REMOVED SENTENCE ABOUT TORTURE ILLEGALITY FROM PELOSI, GOSS BRIEFING RECORD

Over four years ago, I wrote a post noting how, in the two days after Jose Rodriguez and one of his Counterterrorism Lawyers briefed Nancy Pelosi and Porter Goss in September 2002 they might use torture prospectively, they 1) moved closer to deciding to destroy the torture tapes and 2) altered their initial record of the briefing to take out one sentence.

As I pointed out in [the comments to this thread](#), someone (I'll show in my new weedy post why it might be then-Counterterrorism Center Legal Counsel Jonathan Fredman) changed the initial description of the briefing that Jose Rodriguez and two others (I believe Fredman was one of the two) gave to Porter Goss and Nancy Pelosi on September 4, 2002. To see the documents showing discussing the alteration (but not the content of it), [see PDF 84](#) of this set and [PDF 11-12](#) of this set.

That's suspicious enough. But as the email discussions of destroying the torture tape show (see [PDF 3](#)), the briefing and the alteration to the briefing record happened the day before and the day after—respectively—the day “HQS elements” started talking seriously about destroying the torture tapes.

On 05 September 2002, HQS elements discussed the disposition of the videotapes documenting interrogation

sessions with ((Abu Zubaydah)) that are currently being stored at [redacted] with particular consideration to the matters described in Ref A Paras 2 and 3 and Ref B para 4. As reflected in Refs, the retention of these tapes, which is not/not required by law, represents a serious security risk for [redacted] officers recorded on them, and for all [redacted] officers present and participating in [redacted] operations.

[snip]

Accordingly, the participants determined that the best alternative to eliminate those security and additional risks is to destroy these tapes [redacted]

So here's what this looks like in timeline form:

September 4, 2002: Jose Rodriguez, C/CTC/LGL (probably Fredman) and a CTC Records officer brief Porter Goss and Nancy Pelosi on Abu Zubaydah's treatment. According to both Goss and Pelosi, CIA briefs them on torture techniques, but implies they are hypothetical techniques that might be used in the future, not the past.

September 5, 2002: Unnamed people at CIA HQ discuss destroying the torture tapes, ostensibly because of danger to CIA officers conducting the torture.

September 6, 2002: Someone (possibly Jonathan Fredman or

someone else in CTC's Legal department) alters the initial description of the Goss-Pelosi briefing, eliminating one sentence of it. "Short and sweet" Rodriguez responded to the proposed change.

September 9, 2002: CIA records show a scheduled briefing for Bob Graham and Richard Shelby to cover the same materials as briefed in the Goss-Pelosi briefing. The September 9 briefing never happened; Graham and Shelby were eventually briefed on September 27, 2002 (though not by Rodriguez personally).

September 10, 2002: The altered description of the briefing is sent internally for CTC records. This briefing is never finalized by Office of Congressional Affairs head Stan Moskowitz into a formal Memorandum for the Record.

Or, to put it more plainly, they briefed Pelosi, decided they wanted to destroy the torture tapes (there's no record Pelosi was told about the tapes), and then tweaked the record about what they had said to Pelosi.

The Torture Report backs my analysis (though doesn't include the details about the torture tapes or that both Pelosi and Goss said they had been briefed the torture would be used prospectively; see here for backing of the claim this was a prospective briefing). But it adds one more detail.

The sentence Jose Rodriguez and his lawyer eliminated – the day after folks at CIA

discussed destroying the torture tapes showing they had already used this torture – recorded that one or both of Pelosi and Goss noted that these techniques would be illegal in another country.

In early September 2002, the CIA briefed the House Permanent Select Committee on Intelligence (HPSCI) leadership about the CIA's enhanced interrogation techniques. Two days after, the CIA's [redacted]CTC Legal [redacted], excised from a draft memorandum memorializing the briefing indications that the HPSCI leadership questioned the legality of the program by deleting the sentence: "HPSCI attendees also questioned the legality of these techniques if other countries would use them."²⁴⁵⁴ After [redacted] blind-copied Jose Rodriguez on the email in which he transmitted the changes to the memorandum, Rodriguez responded to email with: "short and sweet."

At least one of these members of Congress (or their staffers) got briefed on torture and said the torture would be illegal if other countries used it, according to CIA's own records. So CTC's lawyer eliminated that comment from the CIA's record, with Jose Rodriguez' gleeful approval.

And yet he says Congress approved of these techniques from the start.