

# WHY DID THE TORTURE APOLOGISTS COME OUT OF THEIR CAVES?

I don't really have the heart to refute Michael Mukasey's apology for torture. In it, he contradicts assertions made by torture apologists who were closer to the torture. He includes extraneous (and false) details to fluff up his case. He falsely pretends the torture described in the torture memos accurately described what happened to the detainees he claims led to OBL. And he doesn't even have the amusing self-contradiction that Rummy had, which at least made Rummy's psychological pretzel interesting to read.

In short, for Mukasey, the capture of OBL is not time to celebrate, but rather an opportunity to launch a hackish political attack on President Obama.

But the piece did lead me to reflect on why the torture apologists are so desperately trying to give torture the credit for finding OBL.

There's the big reason, of course, hinted at by Jose Rodriguez. He stated that the most valuable piece of intelligence Abu Faraj al-Libi revealed under torture was that OBL's courier only communicated with the outside world every two months. From that, Rodriguez concluded that OBL was only a figurehead, no longer the active head of al Qaeda (a conclusion that may have been proven false by the intelligence found at OBL's compound). Later that year, CIA would shutter the group focusing on finding bin Laden because—they had concluded—al Qaeda was no longer the hierarchy that had made OBL such a key figure earlier.

In other words, it's not just that the torture apologists' claims about torture—that it would immediately yield the information that would lead to OBL, allowing them to bypass the years of intelligence gathering it ultimately took to

find OBL—proved so wrong. It's that one of the chief torturers seems aware that the best piece of intelligence they got under torture is intelligence that led him to stop searching for OBL.

Then there's the laughable reason Mukasey seems to be animated by: because Obama's being mean to the torturers.

Yet the Justice Department, revealing its priorities, had gotten around to reopening investigations into the conduct of a half-dozen CIA employees alleged to have used undue force against suspected terrorists. I say "reopening" advisedly because those investigations had all been formally closed by the end of 2007, with detailed memoranda prepared by career Justice Department prosecutors explaining why no charges were warranted. Attorney General Eric Holder conceded that he had ordered the investigations reopened in September 2009 without reading those memoranda. The investigations have now dragged on for years with prosecutors chasing allegations down rabbit holes, with the CIA along with the rest of the intelligence community left demoralized.

[snip]

We also need to put an end to the ongoing investigations of CIA operatives that continue to undermine intelligence community morale.

Mukasey's concern is laughable, of course, because no one really believes these ongoing investigations exist for any reason except to shield the US from torture investigations conducted by countries like Spain and Poland. After all, if you won't charge Jose Rodriguez for destroying evidence that the torture conducted by his contractors exceeded the torture memos, you're not going to file charges

against anyone. Moreover, the statutes of limitation are expiring as we wait.

Though perhaps this is the real reason motivating Mukasey:

Immediately following the killing of bin Laden, the issue of interrogation techniques became in some quarters the “dirty little secret” of the event. But as disclosed in the declassified memos in 2009, the techniques are neither dirty nor, as noted by Director Hayden and others, were their results little. As the memoranda concluded—and as I concluded reading them at the beginning of my tenure as attorney general in 2007—the techniques were entirely lawful as the law stood at the time the memos were written, and the disclosures they elicited were enormously important. [my emphasis]

Mukasey sullied his reputation as a tough but fair judge when he agreed not to pursue torture in exchange for getting the Attorney General job. And since that time, the fiction he has been telling himself—that John Yoo’s analysis was even remotely serious, that the torturers didn’t exceed the guidelines of the memo, and that the torture proved valuable—has been exposed as a sordid lie. And ultimately, OBL’s death makes clear, it wasn’t worth it. The torture just impeded the real intelligence work that ultimately yielded OBL.

After all, ultimately the torture apologists staked their reputation on a certain approach to terrorism. That’s their legacy. It’s all they’ve got.

And, ultimately, I guess there’s one more reason the torture apologists came out of their caves. Either because of the media’s own complicity, or because the media has to sow controversy where celebration should suffice, the media is inviting them out of their caves; scheduling

Condi Rice, Michael Chertoff, Michael Hayden,  
Rudy Giuliani, Rummy, and the pulse-less wonder  
himself for the Sunday shows. (The last time the  
Sunday shows featured a crowd like this, they  
were lying about mushroom clouds to gin up a war  
to distract us from beating al Qaeda.)