

**Nomination of Judge Neil M. Gorsuch to be
Associate Justice of the United States Supreme Court
Questions for the Record
Submitted March 24, 2017**

QUESTIONS FROM SENATOR DURBIN

1. When you recommended that the signing statement for the Detainee Treatment Act state that the Act is “best read as essentially codifying existing interrogation policies,” did you know what these existing interrogation policies were?
2. Prior to making the recommendation referenced in question #1, had you read any of the following memos by the Office of Legal Counsel?

Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques That May Be Used in the Interrogation of High Value al Qaeda Detainees (May 30, 2005)

Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, Re: Application of 18 U.S.C. §§ 2340–2340A to the Combined Use of Certain Techniques in the Interrogation of High Value al Qaeda Detainees (May 10, 2005)

Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel, Re: Application of 18 U.S.C. §§ 2340–2340A to Certain Techniques That May Be Used in the Interrogation of a High Value al Qaeda Detainee (May 10, 2005)

RESPONSE: The December 29, 2005 email chain discussed proposed versions of a signing statement to accompany the Detainee Treatment Act. As we discussed at the hearing, these events took place many years ago and my recollection “is that there were individuals in maybe the Vice President’s office who wanted a more aggressive signing statement ... and that there were others, including at the State Department, who wanted a gentler signing statement.” To my recollection, as I said at the hearing, “I was in the latter camp [along with] John Bellinger, among others.” I did so in my role as a lawyer helping with civil litigation brought by individuals detained as enemy combatants and defended by the Department of Justice. The email chain indicates that the Legal Adviser for the State Department favored a gentler and more expansive statement for various reasons, including public and foreign relations. The email chain also indicates that the National Security Council expressed the view that the Detainee Treatment Act codified existing policies. In that light and as a lawyer advising a client, the email chain indicates that I suggested a signing statement could (1) speak about the Detainee Treatment Act positively to the public and to foreign nations as the State Department suggested, (2) highlight aspects of the legislation helpful to litigators in the Civil Division of the Department of Justice, and (3) make transparent the client’s position that the Act codified

existing policies. I do not recall what I knew about specific interrogation policies or memos at the time.

3. Prior to making the recommendation referenced in question #1, were you read into or briefed on the CIA's rendition, detention or interrogation program?

RESPONSE: I had various national security clearances during my service at the Department of Justice, including related to detainee matters in aid of my work on litigation brought by individuals detained as enemy combatants, but I do not recall which specific programs or when I was read into them.