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"Pernicious and Troubling"

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That's what the White House press secretary Dana Perino said concerning the *New York Times*' reports about White House involvement in the decision to destroy tapes of CIA interrogations.

What was "pernicious and troubling"? Not the decision to destroy them (which almost certainly violated criminal statutes barring obstruction of justice). Not the fact that senior White House officials, including former White House counsels Alberto Gonzales and Harriet Miers, had been involved in debates about the tapes' destruction. And surely not the fact that the CIA had flouted both federal laws that criminalize torture in the course of the taped interrogations.

No, the administration is up in arms that *New York Times* suggested that the White House had been "misleading" in its past statement on the tapes. As the White House notes, it had made no public comment on the matter, and the *Times*' sources were anonymous. But these sources did acknowledge Ms. Miers' role, and did not point to the part Mr. Gonzales and other senior officials had played. The *Times* didn't hide where it got its information. To the contrary, it was the first leaks about White House involvement in the tapes' destruction that were incomplete and hence misleading.

But the administration's feigned indignation, while farcical and disingenuous, should not distract from the larger question: The need for a thorough investigation into not only who decided to destroy the CIA tapes, but also why and how this decision was taken. This investigation can only be effectively conducted by a special counsel, who, while appointed by the Attorney General, has critical independence from political control. The last special counsel, Patrick Fitzgerald, showed that it was possible to conduct a thorough investigation without it turning it into a witch-hunt of the kind familiar from the Clinton years. As the evidence of high-level involvement mounts, there is no cause for delay.

A special counsel is needed because there remains real uncertainty as to why the CIA would be so worried into blatant violation of the law, and why there was "vigorous sentiment" in the White House to destroy the tapes. As I've explained elsewhere, the reasons for the tapes' destruction that General Michael Hayden has given are facially implausible. Yet CIA officials risked obstruction of justice to eliminate the tapes. And the White House privately urged their destruction while assiduously declining to order their preservation (plausible deniability, anyone?). And all to what end?

Emily Bazelon and Dahlia Lithwick, in a typically perceptive article, have suggested that the tapes were destroyed because their release would have put an end to "all sorts of fuzziness about what is and isn't torture and whether it is or isn't happening." If the tapes had been public, they suggest, Michael Mukasey could not have gotten away with obfuscating on water-boarding. And surely Brigadier General Thomas Hartman, the legal advisor for the Guantánamo military commissions, could not have insouciantly suggested that evidence from water-boarding could be "reliable and probative," and thus used in the forthcoming commission trials.

There is, without question, something to this: Consider the story of Acting Assistant Attorney General Daniel Levin, who was asked to deliver a legal opinion on whether water-boarding constituted torture. Showing what can only be termed exceptional devotion to duty, Levin had himself water-boarded so he could judge for himself. Unsurprisingly, he concluded afterwards that water boarding "could be illegal torture unless performed in a highly limited way and with close supervision."

But would the fuzziness really have dropped away? After all, the idea of enhanced interrogation measures hardly died when the Abu Ghraib pictures were released, when though those pictures pictured some of the measures allegedly still used by the CIA. Indeed, there has been no public outcry about stress positions, which have been part of the "enhanced interrogation measures."

Further, as Michael Massing points out in the *New York Review of Books*, there is ample public evidence of the staggering and horrific human cost of the Iraq war. Literally tens of thousands of innocents have died in horrific circumstances. Yet, as Massing notes, the public barely blinks an eye.

Public outrage, then, doesn't seem a sufficiently bad result to trigger flagrant law-violation. Could it be instead that these tapes not only showed illegal, criminal interrogation methods, but that the statements captured on film may have contradicted the White House's factual claims about other individual detainees or other putative successes in the war on terror? I.e., that it proved that senior Administration officials have in fact lied to the public? Could it be that the tapes have a broader political resonance beyond "merely" showing illegality, a resonance that shook even the White House? These are mere suppositions, empty postulates for now. It is impossible to know for certain without a thorough investigation.

At present, the administration is facing investigations from two directions. Both are important and necessary. Neither provides a sufficient remedy.

First, a federal judge in Washington, DC, Judge Henry Kennedy, has ordered a hearing on Friday on the tapes' destruction. In July 2005, Kennedy ordered the preservation of interrogation tapes. The tapes' destruction is clearly grounds for a finding of contempt of court -- and provides important new evidence that the Guantanamo detainees have indeed been railroaded.

But Judge Kennedy's inquiry into the tapes destruction is necessarily limited: He can only look at the tapes to the extent they affect the case before him. (Another case filed on behalf of Abu Zubaydah himself might lead to a broader inquiry, but that faces substantial threshold delays and difficulties. But as we know from the fraught trial of Oliver North in the late 1980s, it is very difficult for courts to get at systemic problems of law violation within the federal government. Individual litigation is simply too narrow a tool to excavate systemic wrongdoing.

Second, House Intelligence Chairman Silvestre Reyes (D-TX) has indicated that he intends to subpoena the CIA officials involved. Reyes is rightly unimpressed by Attorney General Mukasey's argument that congressional investigations would interfere with the internal investigation: During Watergate, Whitewater, and Iran-Contra, congressional and internal investigations proceeded in parallel with minimal problems. There is simply no cause for Congress to stay its hand while the Justice Department acts.

Indeed, there is every reason to be skeptical of the present Justice Department investigations. After all, the Justice Department apparently knew of the CIA's interest in destroying the tapes--and yet did nothing when the tapes were destroyed in flagrant violation of Judge Kennedy's order (and in violation of an order from Judge Alvin Hellerstein in New York in a Freedom of Information Act suit filed by the ACLU). News that former Attorney General Gonzales was involved in deliberations about the tapes casts another cloud over the credibility of Justice Department investigations.

Yet congressional investigations are likely to prove insufficient to get to the bottom of the tapes' destruction. This White House has consistently played hardball through aggressive use of "executive privilege" to block congressional inquiries, for instance into the firing of the U.S. Attorneys. There is every reason to expect that the White House will stall and run the clock on congressional investigations by delaying resolution past the 2008 elections.

All of these inquiries are important, but they must be supplemented within a speedy criminal investigation conducted by a reputable and independent prosecutor. Justice Department regulations allow the appointment of such a special counsel in cases such as this one, where the entire department operates under a cloud. True, that makes Mukasey get to decide who will investigate, but his decision will be public and thus subject to public criticism and congressional pressure. As with the Valerie Plame investigation, it would be very hard to appoint a crony and get away with it.

In a funny way, the White House has shown the way. Yes indeed, what's unfolding with the story of the CIA tapes in "pernicious and troubling": It is showing a deep malaise in the executive branch, an apparent disregard for the law, and manifest contempt for the public. It is long past time all that was snuffed out--and a special counsel is the best tool for the job.

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Rethugs believe we got information from torture that "disrupted" attacks. How many times does BushCo have to lie before you learn?

Let's say they get a list of names. They go get these people. Some have weapons, and anti American literature. Did torture work? NO. You got a random list of people, probably people the tortured wanted to get rid of anyway.

Or perhaps "disrupted" just means they forced false confessions out of a bunch of people. The falsely convicted are now no longer able to "attack" us, as the were tortured into falsely professing, thus in BushCo fascist think, The attacks these tortured people "would" have committed were "disrupted".

Torture works great to terrorize, not to get information.

Torture works great to create false "intelligence" to justify BushCo next war.

Torture works great for getting false confessions for cover BushCo ass.

Torture works great for "compromising" the military, so you can blackmail them later.

Torture does not get information useful to stop a terrorist attack.

If "24" were accurate: Only minutes till the bomb goes off. They torture the deactivation code out of the suspect. The type it in....Boom!

Tortured people tell you what you want to hear.

We got the top Nazi's to confess without laying a hand on them. Intelligent clever TALKING got the the Nazi's to confess.

Nations that torture are no long worthy of the community of nations.

Torture recruits folks to our enemies, thus Torture is treasonous aid and comfort to the enemy.

Torture is a war crime: even propagandizing for torture is a war crime:

http://en.wikipedia.org/wiki/Julius_Streicher

Impeach!

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Americans voted for Reagan and most still think he was great despite lies and Alzheimers. Americans voted for Bush Sr. even though he had been head of the CIA just as Putin was head of the Russian secret police. Americans voted for Bush though he lied, cheated and had nothing to offer. Suck it up. In a democracy you get what you want.

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Just say 'impeach'. Impeachment means you're calling their credibility and honesty and integrity into question. Close out the liar's club, and put Congress to work doing the job that the public elected them to do, end the war, end the larceny, shine bright lights in all the dark little corners, find out what's REALLY been going on with hundreds upon hundreds of BILLIONS in tax revenue, here.

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"Literally tens of thousands of innocents have died in horrific circumstances. Yet, as Massing notes, the public barely blinks an eye."

Its not the Republicans or Democrats, between which there is no discernible difference. Or even the Bush Administration, as evil as they are.

It is your friends, neighbors, relatives, co-workers, hell, maybe even yourself that is to blame for the sad state this country is in.

Decades of greed and gluttony have resulted in a debt-ridden country, addicted to oil and on the verge of collapse, that has finally showed the world that our supposed principles are little more than fine china we take our for special occasions when times are good.

Well, it doesn't look so fine anymore.

It makes me wonder if it ever was any more than decorative.

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How can we have an investigation when the Justice department is still in the pocket of bush? With Congress out and not acting on calls for anyone to investigate and with the administration and justice blocking who will get to the bottom of it?

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Yes there must be accountability. A reminder: Senator Biden immediately called for special counsel on this issue. He also voted against Mukasey because of his "confusion" about waterboarding as torture.

Here's a link with Biden discussing his call for special counsel (and interconnected issues)with Stephanopolous.He gives answers, not sound bites.
<http://abcnews.go.com/Politics/story?id=3975197>

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"ANY Civil Officer ... SHALL Be Impeached ..."

The Constitution: "It's not just a good idea; it's the Law."

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SEATTLE POST-INTELLIGENCER EDITORIAL BOARD:

That our government allows for the torture during the interrogation of terror suspects (never mind what they say -- watch what they do) is a source of shame and shock.

But the sheer chicanery with which the evidence of the brutish treatment was handled itself is breathtaking. We learned earlier this month that videotapes of two al-Qaida operatives being interrogated using harsh techniques, such as waterboarding, were destroyed by the CIA in November of 2005. Five months before that, a U.S. District Court judge had ordered the government to preserve "all evidence and information regarding the torture, mistreatment, and abuse of detainees now at ... Guantanamo Bay." The excuses given for what was done to the tapes were weak – the identity of the agents needed to be protected (we think some in higher pay grades were protecting themselves), and besides, those interrogations didn't take place in Cuba, so the tapes didn't count as evidence that ought to be protected, right? Wrong.

On Wednesday, The New York Times reported a story (the White House has consistently refused to comment), telling us that no fewer than four of President Bush's lawyers (including Lawyer of the Year Alberto Gonzales) were in on the talks on what to do with the tapes.

Yet, we're expected to trust the Justice Department to investigate itself even as it asks Congress to back off plans for an immediate hearing. We agree with Georgetown law professor Jonathan Turley, who says he's "seen more reputable conduct from mob attorneys." There's no way Congress should postpone a hearing.

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As the Republic dies the death of a thousand cuts, it's important to finger each new wound as it appears on the slashed corpse of the body politic. Let's by all means keep our eye firmly on one more indicator of how lawless this lawless administration really is. Let's raise this latest assault to threat level Egregious.

Career criminals commit crimes on a predictable and regular basis. If the democrats were policemen, they'd be huddled around their video surveillance monitors and wondering just who the serial rapist assaults next. Look! There he goes! Boy I hope he gets tired soon, or somebody's going to get hurt! But hey, these donuts are indeed toothsome, and our booth above the mall is so warm....

As Sidney Zion used to say, it's both parties against the people. To which I would add--- every day, even while you're sleeping, even if you'd prefer to believe something else.

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