

## **The Presidency is now a Criminal Conspiracy**

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### **On waterboarding and torture**

SPECIAL COMMENT

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Anchor, 'Countdown'

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It is a fact startling in its cynical simplicity and it requires cynical and simple words to be properly expressed: The presidency of George W. Bush has now devolved into a criminal conspiracy to cover the ass of George W. Bush.

All the petulancy, all the childish threats, all the blank-stare stupidity; all the invocations of World War III, all the sophistic questions about which terrorist attacks we wanted him not to stop, all the phony secrets; all the claims of executive privilege, all the stumbling tap-dancing of his nominees, all the verbal flatulence of his apologists...

All of it is now, after one revelation last week, transparently clear for what it is: the pathetic and desperate manipulation of the government, the refocusing of our entire nation, toward keeping this mock president and this unstable vice president and this departed wildly self-overrating attorney general, and the others, from potential prosecution for having approved or ordered the illegal torture of prisoners being held in the name of this country.

"Waterboarding is torture," Daniel Levin was to write. Daniel Levin was no theorist and no protester. He was no troublemaking politician. He was no table-pounding commentator. Daniel Levin was an astonishingly patriotic American and a brave man.

Brave not just with words or with stances, even in a dark time when that kind of bravery can usually be scared or bought off.

Charged, as you heard in the story from ABC News last Friday, with assessing the relative legality of the various nightmares in the Pandora's box that is the Orwell-worthy euphemism "Enhanced Interrogation," Mr. Levin decided that the simplest, and the most honest, way to evaluate them ... was to have them enacted upon himself.

Daniel Levin took himself to a military base and let himself be waterboarded.

Mr. Bush, ever done anything that personally courageous?

Perhaps when you've gone to Walter Reed and teared up over the maimed servicemen? And then gone back to the White House and determined that there would be more maimed servicemen?

Has it been that kind of personal courage, Mr. Bush, when you've spoken of American victims and the triumph of freedom and the sacrifice of your own popularity for the sake of our safety? And then permitted others to fire or discredit or destroy anybody who disagreed with you, whether they were

your own generals, or Max Cleland, or Joe Wilson and Valerie Plame, or Daniel Levin?

Daniel Levin should have a statue in his honor in Washington right now.

Instead, he was forced out as acting assistant attorney general nearly three years ago because he had the guts to do what George Bush couldn't do in a million years: actually put himself at risk for the sake of his country, for the sake of what is right.

And they waterboarded him. And he wrote that even though he knew those doing it meant him no harm, and he knew they would rescue him at the instant of the slightest distress, and he knew he would not die — still, with all that reassurance, he could not stop the terror screaming from inside of him, could not quell the horror, could not convince that which is at the core of each of us, the entity who exists behind all the embellishments we strap to ourselves, like purpose and name and family and love, he could not convince his being that he wasn't drowning.

Waterboarding, he said, is torture. Legally, it is torture! Practically, it is torture! Ethically, it is torture! And he wrote it down.

Wrote it down somewhere, where it could be contrasted with the words of this country's 43rd president: "The United States of America ... does not torture."

Made you into a liar, Mr. Bush.

Made you into, if anybody had the guts to pursue it, a criminal, Mr. Bush.

Waterboarding had already been used on Khalid Sheik Mohammed and a couple of other men none of us really care about except for the one detail you'd forgotten — that there are rules. And even if we just make up these rules, this country observes them anyway, because we're Americans and we're better than that.

We're better than you.

And the man your Justice Department selected to decide whether or not waterboarding was torture had decided, and not in some phony academic fashion, nor while wearing the Walter Mitty poseur attire of flight suit and helmet.

He had put his money, Mr. Bush, where your mouth was.

So, your sleazy sycophantic henchman Mr. Gonzales had him append an asterisk suggesting his black-and-white answer wasn't black-and-white, that there might have been a quasi-legal way of torturing people, maybe with an absolute time limit and a physician entitled to stop it, maybe, if your administration had ever bothered to set any rules or any guidelines.

And then when your people realized that even that was too dangerous, Daniel Levin was branded "too independent" and "someone who could (not) be counted on."

In other words, Mr. Bush, somebody you couldn't count on to lie for you.

So, Levin was fired.

Because if it ever got out what he'd concluded, and the lengths to which he went to validate that conclusion, anybody who had sanctioned waterboarding and who-knows-what-else on anybody, you yourself, you would have been screwed.

And screwed you are.

It can't be coincidence that the story of Daniel Levin should emerge from the black hole of this secret society of a presidency just at the conclusion of the unhappy saga of the newest attorney general nominee.

Another patriot somewhere listened as Judge Mukasey mumbled like he'd never heard of waterboarding and refused to answer in words ... that which Daniel Levin answered on a waterboard somewhere in Maryland or Virginia three years ago.

And this someone also heard George Bush say, "The United States of America does not torture," and realized either he was lying or this wasn't the United States of America anymore, and either way, he needed to do something about it.

Not in the way Levin needed to do something about it, but in a brave way nonetheless.

We have U.S. senators who need to do something about it, too.

Chairman Leahy of the Judiciary Committee has seen this for what it is and said "enough."

Sen. Schumer has seen it, reportedly, as some kind of puzzle piece in the New York political patronage system, and he has failed.

What Sen. Feinstein has seen, to justify joining Schumer in rubber-stamping Mukasey, I cannot guess.

It is obvious that both those senators should look to the meaning of the story of Daniel Levin and recant their support for Mukasey's confirmation.

And they should look into their own committee's history and recall that in 1973, their predecessors were able to wring even from Richard Nixon a guarantee of a special prosecutor (ultimately a special prosecutor of Richard Nixon!), in exchange for their approval of his new attorney general, Elliott Richardson.

If they could get that out of Nixon, before you confirm the president's latest human echo on Tuesday, you had better be able to get a "yes" or a "no" out of Michael Mukasey.

Ideally you should lock this government down financially until a special prosecutor is appointed, or 50 of them, but I'm not holding my breath. The "yes" or the "no" on waterboarding will have to suffice.

Because, remember, if you can't get it, or you won't with the time between tonight and the next presidential election likely to be the longest year of our lives, you are leaving this country, and all of us, to the waterboards, symbolic and otherwise, of George W. Bush.

Ultimately, Mr. Bush, the real question isn't who approved the waterboarding of this fiend Khalid Sheik Mohammed and two others.

It is: Why were they waterboarded?

Study after study for generation after generation has confirmed that torture gets people to talk, torture gets people to plead, torture gets people to break, but torture does not get them to tell the truth.

Of course, Mr. Bush, this isn't a problem if you don't care if the terrorist plots they tell you about are the truth or just something to stop the tormentors from drowning them.

If, say, a president simply needed a constant supply of terrorist threats to keep a country scared.

If, say, he needed phony plots to play hero during, and to boast about interrupting, and to use to distract people from the threat he didn't interrupt.

If, say, he realized that even terrorized people still need good ghost stories before they will let a president pillage the Constitution,

Well, Mr. Bush, who better to dream them up for you than an actual terrorist?

He'll tell you everything he ever fantasized doing in his most horrific of daydreams, his equivalent of the day you "flew" onto the deck of the Lincoln to explain you'd won in Iraq.

Now if that's what this is all about, you tortured not because you're so stupid you think torture produces confession but you tortured because you're smart enough to know it produces really authentic-sounding fiction — well, then, you're going to need all the lawyers you can find ... because that crime wouldn't just mean impeachment, would it?

That crime would mean George W. Bush is going to prison.

Thus the master tumblers turn, and the lock yields, and the hidden explanations can all be perceived, in their exact proportions, in their exact progressions.

Daniel Levin's eminently practical, eminently logical, eminently patriotic way of testing the legality of waterboarding has to vanish, and him with it.

Thus Alberto Gonzales has to use that brain that sounds like an old car trying to start on a freezing morning to undo eight centuries of the forward march of law and government.

Thus Dick Cheney has to ridiculously assert that confirming we do or do not use any particular interrogation technique would somehow help the terrorists.

Thus Michael Mukasey, on the eve of the vote that will make him the high priest of the law of this land, cannot and must not answer a question, nor even hint that he has thought about a question, which merely concerns the theoretical definition of waterboarding as torture.

Because, Mr. Bush, in the seven years of your nightmare presidency, this whole string of events has been transformed.

From its beginning as the most neglectful protection ever of the lives and safety of the American people ... into the most efficient and cynical exploitation of tragedy for political gain in this country's history ... and, then, to the giddy prospect that you could do what the military fanatics did in Japan in the 1930s and remake a nation into a fascist state so efficient and so self-sustaining that the fascism would be nearly invisible.

But at last this frightful plan is ending with an unexpected crash, the shocking reality that no matter how thoroughly you might try to extinguish them, Mr. Bush, how thoroughly you tried to brand disagreement as disloyalty, Mr. Bush, there are still people like Daniel Levin who believe in the United States of America as true freedom, where we are better, not because of schemes and wars, but because of dreams and morals.

And ultimately these men, these patriots, will defeat you and they will return this country to its righteous standards, and to its rightful owners, the people.

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