John Yoo, A Key Proponent of Unlimited U.S. Government Surveillance

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After 9/11, President Bush wanted legal justification for an unlimited surveillance program. From the outset, he limited who could see the legal memos allegedly justifying the President’s Surveillance Program (PSP). John Yoo was the only Office of Legal Counsel (OLC) attorney “read in” to the PSP from its inception in October 2001 until he left the OLC. During that time, Yoo wrote an Authorization stating his legal opinion that Congressional requirements regarding electronic surveillance found in the Foreign Intelligence Surveillance Act (FISA) “cannot restrict the President’s ability to engage in warrantless searches that protect the national security.” And that 4th Amendment prohibitions on unreasonable searches had no relevance to either U.S. citizens or non-citizens because the President’s unlimited surveillance program was “reasonable” and therefore did not require a warrant.

Prior to Yoo’s departure from the OLC in 2003, he renewed the Authorization for one more year, until March 2004. Deficiencies in Yoo’s legal and factual analysis arose immediately after he left. One of Yoo’s successors, James Comey (current Director of the FBI) stated that Yoo’s analysis amounted to ignoring an act of Congress:

“FISA prohibits persons from intentionally engaging in electronic surveillance ‘under color of law except as authorized by statute.’ 50 U.S.C. § 1809(a). Yoo’s analysis concluded that this provision did not implicate the legality of the PSP because FISA did not expressly apply to wartime operations. However, Yoo’s memoranda omitted any reference to the FISA provision allowing the interception of electronic communications without a warrant for a period of 15 days following a congressional declaration of war.”

In March 2004, when Yoo’s Authorization was up for renewal, Attorney General Ashcroft was struck ill, admitted to the hospital, and was unable to sign his name to Yoo’s legal work. Vice President Cheney personally met with Acting AG James Comey and stressed that the PSP was “critically important” and failure to renew the Authorization would risk “thousands” of lives. Still, Comey refused to sign the Authorization, leading to the infamous scene at Ashcroft’s hospital bed, with White House officials demanding Ashcroft or Comey sign, and their refusal to do so. Later that night, Comey got an urgent call, demanding an immediate meeting at the White House. Comey was so upset that he wouldn’t meet at the White House without a witness, Ted Olson (today’s commencement speaker), then solicitor general.

In an unprecedented move, on March 11, 2004, President Bush signed a renewal good through May 6, despite objections from the head of the FBI and others. Several top attorneys, including Comey and Goldsmith, drafted letters of resignation following the President’s renewal of Yoo’s Authorization. In the end, Goldsmith drafted a new authorization that went into effect on May 6.

Yoo’s Authorization has been described as “factually flawed” with no “legal basis to support” certain activities in the PSP. Yet, he is still permitted to teach law.


Fire, Disbar, and Prosecute John Yoo

Many people know the name of John Yoo, but most do not know his full role in the criminal enterprise known as the Bush Regime. Yoo is associated with the infamous 81-page ‘torture memo’ written while he was a Department of Justice lawyer, on a two-year leave from the UC Berkeley Law faculty. He is one of the many administration attorneys who provided advice and cover for illegal policies inherited and embraced by President Obama.

Yoo’s legal opinions have had serious consequences. Real people suffered: thousands have been subjected to torture, tens of thousands incarcerated, and over 600,000 deaths have been attributed to the 2003 invasion of Iraq. The president has given himself the power of targeted assassination. Surveillance of billions of people by the National Security Agency, and the pattern spying on people of this country by police, including via drones, prevails.

Despite repudiation by peers, and rejection of his work at the Office of Legal Counsel by the same (Bush) regime that hired him to legalize the unconscionable,¹ Yoo continues to be given credence as an authority on a variety of issues including, presumptively, Korean legal practice. Given his misappropriation of the U.S. Constitution, we must challenge UC’s recent promotion of John Yoo to head a new research center.²

¹ http://www.firejohnyoo.net/2012/04/monsters-among-us.html
² http://www.law.berkeley.edu/korea.html

firejohnyoo.net  worldcantwait.net  warcriminalswatch.org
Defying the Justice Department's Office of Professional Responsibility finding that professor Yoo and his boss, now federal district court judge Jay Bybee, were guilty of 'professional misconduct' warranting referral to their state bar associations to face disciplinary action including revocation of their law licenses, Berkeley Law administrators continue to provide a soapbox for the rantings of an unrepentant advocate for human suffering.

Yoo’s name is no longer attached only to torture. He also plays a key role in supporting illegal government surveillance and use of U.S. troops against people on American soil (see back of this flyer), advocates for militarization of outer space, and stumps for a lethal strike on Iran. The ‘torture professor’ now volunteers endorsement for Obama’s targeted assassination program. John Yoo represents a dangerous philosophy of exceptionalism; that American lives are worth more than other peoples’ lives. Yoo’s veneer of legitimacy should have been stripped away years ago. Since 2008 civil liberties columnist and former constitutional lawyer Glenn Greenwald has been asking

"Why is one of the central perpetrators of a systematic torture regime teaching at Berkeley law school and welcomed in our most respectable opinion venues?"  

That question continues to be raised at Boalt Hall Commencements every year. By refusing to investigate charges of misconduct against the professor, Berkeley Law abdicates responsibility for ethical leadership of its students. And assumes complicity in advancing the illegal usurpation of constitutional powers prescribed by John Yoo’s ‘Unitary Executive’ theory.

Torture advocates are a nasty lot. Dodging accountability for their actions and public retribution, they often find employment in the military/industrial complex or American academic institutions that accommodate war criminals with positions of respectability. Universities face resistance to these appointments from students and parents, alumni and a few faculty members disparage, and communities at large attempt to legislate remedy. It is our responsibility to call out criminals and enablers alike.

A university that allows a war criminal to teach constitutional and international law courses to the next generation of lawyers and judges under prejudice of ‘academic freedom’ is protecting war crimes. The legal profession now produces an ideology that includes justification of crimes of arbitrary detention, torture, and trials before military commissions bereft of civil due process. Faced with the challenge of moral relativism popularized in today’s schools, will students find the courage to speak out against the crimes of their government?

We demand application of ethical standards administrators choose to ignore. Professor Sujit Choudhry could use his new position as Berkeley Law Dean to teach the practice of law to protect peoples’ rights. Will he?

End the silence.
Say NO to normalization of crimes against humanity.
Fire, Disbar and Prosecute John Yoo and ALL the Torture Lawyers.

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The U.S. military is killing and terrorizing people right now in Afghanistan, Pakistan, Yemen, and Somalia with missiles fired from drones piloted from distant bases. Thousands of people have been incinerated, some by follow-up attacks aimed at rescuers and mourners in lands where Obama has designated all military-age males as combatants.

Public debate surrounding the legality and morality of drone attacks on civilians has prompted a national campaign to stop the use of these robotic killing machines. The Network for Stopping Drone Spying and Warfare can help you organize protest actions to call for an end to the manufacture of weaponized ‘Unpiloted Aerial Vehicles’ and expose the institutions facilitating their use. Find Bay Area actions at sfbaycantwait.net.

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3 http://ideas.time.com/2012/03/12/peace-in-space-why-obama-is-right/
4 http://www.eastbayexpress.com/ebx/the-torture-professor/Content?oid=1089823
5 http://tinyurl.com/o2p3ykn
6 http://www.salon.com/2008/04/02/yoo_2/
7 http://www.dailycal.org/2012/05/13/john-yoo-protest-at-boalt-law-school-commencement/
8 http://tinyurl.com/qdmqswf
9 https://sites.google.com/site/abolishtorture/press-releases
10 http://delong.typepad.com/the_torture_memo/
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