

Guantanamo's Force-Feeding Challenged

Exclusive: In the Kafkaesque world of Guantanamo, even inmates cleared for release are held indefinitely and if they try to kill themselves via hunger strikes are brutally force-fed to keep them alive. Finally, a U.S. court is confronting whether the force-feeding can be done more humanely, reports Ray McGovern.

By Ray McGovern

In the first trial weighing the legality of force-feeding methods at the Guantanamo Bay prison, U.S. government lawyers have tried to disparage doctors and refute medical assessments regarding the best practices and ethics for treating inmates who have engaged in hunger strikes to protest their indefinite confinements, often after being cleared for release.

The case before Judge Gladys Kessler in Washington D.C.'s District Court involves Abu Wa'el Dhiab, 43, a Syrian who ran a successful business in Afghanistan before the U.S. invaded 13 years ago. He fled, together with his wife and four children, to Pakistan where police seized him and turned him over to the U.S. probably for a large bounty, as was the usual practice.

In summer 2002, Dhiab was brought to Guantanamo Bay where he was held without charge or trial. Though cleared for release in 2009, Dhiab remains at the notorious prison, using hunger strikes to protest his Kafkaesque existence. In response to the hunger strikes, he like other inmates has been roughly removed from his cell and strapped to a chair as tubes are forced down his throat to feed him.

It is the manner in which the force-feeding process is carried out that is primarily at issue in Dhiab's case, including the forced cell extractions and the "five-point restraint chair" in which the head and limbs are tied down during the feeding.

Reprieve, a British-based human rights organization, filed a court challenge against Dhiab's treatment with some of the legal skirmishing around whether the public will be allowed to see video of Dhiab being dragged from his cell and force-fed once or twice a day, a total of 1,300 times, according to his lawyer. In June, 16 news organizations intervened in *Dhiab v Obama* seeking the videos of Dhiab's treatment.

While the government contended that the tapes must be kept secret to protect national security, Judge Kessler found that the government arguments were "unacceptably vague, speculative, lack specificity or are just plain

implausible.” On Oct. 3, Judge Kessler ruled that unclassified versions of the videos may be “entered on the public docket.” This was a major setback for government lawyers.

Impugning the Witness

At times in their efforts to disparage the testimony of doctors, the junior-varsity team of Obama administration lawyers seemed to be practicing for more lucrative post-government medical-malpractice work, trying out character assassination and similar tactics.

Granted, it would have taken a government varsity or, better, an all-star legal team to cross-examine respected psychiatrists like Steven Xenakis, a retired Brigadier General, who told the court on Monday that prison military brass apparently overrode sound medical decisions regarding Dhiab.

Xenakis along with Sondra Crosby, M.D., an associate professor of medicine at Boston University painted a bleak picture of the prevalence of punitive measures divorced from best medical practices at Guantanamo. The government lawyers then tried to discredit Xenakis by hinting broadly that Xenakis was unreliable because he left the Army amid an investigation, a slur Xenakis promptly laid to rest.

Then, on Tuesday, things went so badly for the government lawyers that I almost felt sorry for them. All four of them with a bullpen of six more were outmatched by Reprieve’s soft-spoken star witness, Steven Miles, M.D., of the University of Minnesota’s Center for Bioethics.

With his impeccable credentials, Miles could be at the same time understated and brutal in his critique of Guantanamo prison’s blithe disregard for best medical practices. For example, he said he was “astonished” to learn that an olive oil lubricant was applied to the feeding tubes used on hunger-striking detainees because olive oil can cause chronic inflammatory pneumonia if it reaches the lungs. The resulting condition is difficult to detect as it might appear years later on x-rays looking like tuberculosis or lung-cancer.

“There is simply no debate about this. All the medical literature I’ve found said the lubricant had to be water-soluble,” Miles said.

I had noticed that in presenting their case, the government lawyers had showed slides indicating that the use of olive oil was stopped in June, and when the court took a break I asked Dr. Miles why. “Because I went ballistic as soon as I found out about it,” he said in a voice much louder than the normally restrained one in which he testified.

According to the Guardian's Spencer Ackerman, Captain Tom Gresbach, a Guantanamo spokesman, has confirmed that the forced feedings now use water-based lubricant. He explained that change was made "to eliminate risk, albeit minimal, for olive oil to get into the bronchial tree and lungs, thereby possibly causing illness."

Cross-examining Dr. Miles turned out to be a futile exercise and the government lawyers soon stopped trying. I could almost hear sighs of relief as he left with his luggage. I found myself wishing he were able to stay longer; I had a premonition that the government lawyers might try to impugn his testimony in his absence. My fear was justified.

Safe Even for Little Children

I found it odd that, no sooner had Dr. Miles left, the government began to disparage his testimony. It just seemed that if the government was going to try to impeach his testimony this should have been done while he was still around. One of the Reprieve lawyers objected but was overruled.

One of the issues that Dr. Miles addressed earlier was the diameter of the feeding tube, indicating that the 8 to 10 "French" size (3.3/3.6 millimeters in diameter) tube – needed to make a 90-degree turn at the back of the throat – was one of several reasons why frequent insertion could cause trauma and infection.

Shortly after Dr. Miles had left the courtroom, one of the young government lawyers asserted, "What Dr. Miles said [about the tubes] was false." The lawyer produced a chart from Brown University about using such tubes for small children. According to the chart, use of a size 8 or 10 "French" tube, which is what the government says is used with detainees is appropriate practice with small children.

Where is Dr. Miles, I thought, to respond to that? However, it seemed that he may have been alerted to the government's maneuver and returned. I looked to the other side of the courtroom and there he was.

He whispered to one of the Reprieve lawyers, apparently suggesting that Reprieve should request a couple of minutes for rebuttal, since that would be all it would take for him to show the disingenuous nature of the evidence government lawyers were pushing.

It was late in the afternoon and we had been going non-stop for two hours. Judge Kessler was reluctant to allow Dr. Miles back on the stand but finally granted him "five minutes." In his characteristically understated way, he exposed the government's chicanery.

The Brown University chart had nothing to do with feeding nothing to do with

putting anything *into* a child. It had to do with a surgical procedure with several applications related to inserting a tube for suctioning stomach contents *out* of the body of a child. And, for that, a wider diameter or bore was more efficient.

Ouch was the expression at the table of government lawyers. "Does the government wish to cross-examine?" asked Judge Kessler. "No cross-examination," was the reply.

Shame, thought I; are these gentlemen in the black suits consciously reflecting Dick Cheney's "dark side" to sow confusion in the court? Are they getting paid by my taxes?

Asymmetrical Warfare?

Plus ca change: The government attorneys' repeated insistence on Tuesday that Dhiab was being fed only to save his life brought a flashback to eight years ago when two dozen Guantanamo detainees tried to starve themselves to death. They were strapped onto gurneys and plastic tubes were forced through their noses to force-feed enough nourishment to keep them alive, lest the Bush administration be embarrassed by their deaths.

But on June 10, 2006, three detainees committed gross insubordination by hanging themselves, the first successful suicides after 41 attempts by some 25 individual detainees.

The three who killed themselves incurred the wrath of then Guantanamo commander, Rear Adm. Harry B. Harris, Jr., who announced that the suicides were "not an act of desperation, but an act of asymmetrical warfare against us." In a similar spirit, Colleen Graffy, deputy assistant secretary of state for public diplomacy, told the BBC that the suicides "certainly (are) a good PR move to draw attention."

How nice that Obama's lawyers are backstopping those in Guantanamo who take such care to prevent any blot on our country's Guantanamo detention regime that could result from a prisoner escaping in so insubordinate a way. Grotesque is the word that kept springing to my mind, as I watched the government lawyers in action Monday and Tuesday. Testimony is expected to be completed on Wednesday.

Though this case is focused on the means of force-feeding Guantanamo inmates, the backdrop is the continued existence of this netherworld prison which President Barack Obama vowed to close but which Congress has insisted be kept open.

As the public proceedings got under way on Tuesday, the indomitable advocate for

justice, Eve Tetaz, removed her jacket to reveal an orange T-shirt with “SHUT DOWN GUANTANAMO” on the front, and “STOP TORTURE; WWW.WITNESS AGAINST TORTURE.ORG” on the back. But orange T-shirts were apparently a violation of courtroom etiquette and, after a brief scuffle, Eve was removed.

We extracted a promise from the guard that she would be allowed back in the courtroom but, instead, she was evicted from the building. We later learned that she was spared “forced cell extraction” treatment. Eve was merely handcuffed and then, with faux solicitousness, the Federal Protective Service, having successfully protected us all from Eve, condescendingly freed her to go home and sin no more.

Otherwise, Judge Gladys Kessler has done us a great favor in insisting that *Dhiab v. Obama* be a substantially open proceeding, so that even plain folks like you and me can go and watch. The more daunting task is to find ways to tell our fellow citizens what we have seen.

If anything qualifies for the description of a festering boil, Guantanamo does. We would do well to follow Dr. Martin Luther King’s dictum (in his Letter from the Birmingham City Jail) on how to deal with boils:

“Like a boil that can never be cured so long as it is covered up but must be opened with all its pus-flowing ugliness to the natural medicines of air and light, injustice must be exposed, with all the tension its exposure creates, to the light of human conscience and the air of national opinion before it can be cured.”

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Ellsberg Sees Vietnam-Like Risks in ISIS War

Daniel Ellsberg, the former Defense Department official who leaked the Pentagon Papers exposing the Vietnam War lies, is alarmed at the many parallels between Vietnam and President Obama’s new military campaign against ISIS in Iraq and Syria, as Barbara Koeppel reports.

By Barbara Koeppel

At a recent talk at the National Press Club in Washington DC, Daniel Ellsberg, who released the Pentagon Papers in 1971, says he believes there's not one person in the Pentagon who would agree that President Obama can achieve his aim of destroying ISIS in Iraq and Syria with air strikes, along with training and arming local military forces.

Nor, he says, can the Administration do it even if the U.S. sends ground troops, contrary to Obama's repeated assurances.

Ellsberg described the similarities with Vietnam, Afghanistan and Iraq, and the near-certainty of comparable failure. I interviewed him after his talk, and updated the discussion this week, after the U.S. airstrikes inside Syria had begun. In his Press Club talk and with me, he read from some documents, as indicated below, and cited Web-links.

Q. Why are you urging Americans to be warned by what happened in Vietnam, half a century ago?

A. Well, that was my war. That makes me pretty old. And at 83, I am. This means I know what Vietnam means as well as Iraq, unlike most members of Congress. The *New York Times* noted on Sept. 18 that only a third of those voting on authorizing American advisers, arms and trainers for Syrian rebels were in Congress the last time there was a vote on war, which was for Iraq, in 2002. It would be interesting to know what they learned from the earlier vote.

As the Times wrote, "That 2002 vote hung heavily over the six hours of debate on Tuesday and Wednesday. Several veterans of the Iraq War stood against the President's request. Older Democrats recalled with bitterness their vote to back the invasion of Iraq, a vote that ended many careers."

"The last time people took a political vote like this in this House, it was on the Iraq War," Rep. Loretta Sanchez, D-California, said, "and many of my colleagues say it was the worst vote they ever took."

One member of the House who voted against the new authorization, Rep. Barbara Lee, D-California,, was the *one* member of Congress who voted against the authorization of military force (AUMF) in Afghanistan in 2001, then, as now, because there was inadequate discussion and too many questions left unanswered. And the next year, with Dennis Kucinich, D-Ohio, she helped organize 133 votes in the House against the AUMF 2002 on Iraq.

She says the earlier request was "an overly broad authorization which I could not vote for because it was a blank check for perpetual war."

She was right. That authorization is still on the books, and the Obama

Administration still cites it (along with the AUMF 2002), 13 years later, as sufficient authority for further escalation in Syria and Iraq. Lee says it should be repealed.

Both times Lee echoed Senators Wayne Morse, D-Oregon, and Ernest Gruening, D-Alaska, the only two members of Congress who voted against the Tonkin Gulf Resolution in 1964. Morse warned that it was an unconstitutional, undated blank check for war in Vietnam, and which President Lyndon Johnson used after deceiving other senators that he would not escalate without coming back to Congress.

In 2002, the only two senators who were in office long enough to have been deceived into voting for the Tonkin Gulf Resolution, Senators Ted Kennedy, D-Massachusetts, and Robert Byrd, D-West Virginia,, said they were ashamed of their 1964 votes and pleaded with colleagues not to make their mistake, which they said they regretted for almost 40 years.

Twenty-one other senators listened, which, incidentally, didn't include Kennedy's junior colleague from Massachusetts, Vietnam veteran Sen. John Kerry, who had reason to regret his yes vote which helped lose him the presidency just two years later. I believe he will come to regret his present, shameful role with respect to this war for the rest of his life.

I have my own mistake to regret, not being the whistleblower I could have been in the Pentagon in 1964. Like Byrd and Kennedy in 2002, I'm calling on people in comparable positions to save themselves from such remorse, that they didn't do what they could to warn and inform Congress and the public now, before decisive escalations occur.

Q. How do U.S. actions in Vietnam compare with what the U.S. is doing today, with advisers in Iraq and air strikes in Iraq and Syria, to destroy ISIS?

A. There are countless parallels. As in Vietnam, the U.S. is heading towards an American ground combat war under a president who assures us, before an election, that it isn't going to happen. And as in Vietnam, his generals claim he can't achieve his goal without boots on the ground.

Gen. Raymond Odierno, the Army Chief of Staff, says you can't defeat ISIS without ground troops. Gen. Martin Dempsey, Chairman of the Joint Chiefs of Staff, testified he will recommend U.S. ground forces in Iraq if and when air power alone is not sufficient. That day is certain to come, sooner than later, although not before the November elections.

In fact, I doubt there's a single person in the Pentagon or the CIA who believes Obama can achieve his goals to destroy ISIS in Iraq and Syria with air strikes

and advisers alone.

High-level officers can't contradict the President publicly, without resigning or being fired. But retired officials can, and have. A former Commandant of the Marine Corps, General James Conway, put it succinctly: The President's current strategy "doesn't have a snowball's chance in hell" of succeeding. I'm sure Odierno and Dempsey give it the same odds.

It may be that people in the Pentagon are telling the President and each other that the U.S. can defeat ISIS if you let us do a bigger war, including sizeable numbers of American ground troops. If so, I believe they're wrong, just as the JCS were in Vietnam and the first Iraq War.

On the other hand, they may not believe that. Either way, here's where truly honest testimony to Congress is critical. And that's not likely to happen unless it's triggered by leaks from inside whistleblowers of internal, classified analyses, estimates and projections of the sort that should have occurred but didn't before the escalation in Vietnam or earlier in Iraq.

In any case, as Barbara Lee said, the consequences even of Obama's recent first steps will be to further expand our involvement in a sectarian war, without Congress considering the implications of the larger war that's coming.

Q. When generals, like Odierno, say ground troops will be needed, whose ground troops do they mean?

A. "Ideally," General Dempsey has said, they would be Iraqi, Kurdish or Syrian. But he's also said that half the Iraq army isn't competent to partner with the U.S. against ISIS. And, the other half has to be partially rebuilt and retrained. How long will that take, since the last 12 years of U.S. training failed so dramatically?

Regarding Syria, Dempsey says there will need to be 12,000 to 15,000 Syrian ground troops, properly trained by the U.S., to take back territory from ISIS. But the President just asked, and Congress authorized, U.S. training for only 5,000 Syrian troops, which is supposed to take six months to a year or more. Who but the U.S. is going to fill that gap?

Obama's former Secretary of Defense, Robert Gates, dismissed these fantasies. He insists the U.S. will not succeed against ISIS "strictly from the air, or strictly depending on the Iraqi forces, or the Peshmerga [the Kurds], or the Sunni tribes acting on their own." He adds "some small number of American advisers, trainers, Special Forces and forward spotters, forward air controllers, are going to have to be in harm's way."

Q. Doesn't that contradict President Obama's assurances of "no American boots on the ground"?

A. Yes. That is almost certain to happen. And a question we should ask, based on what we know about Vietnam is "When General Dempsey recommends, and the President agrees, that U.S. advisers, trainers and air spotters should leave their bases and accompany Iraqi troops in combat getting in harm's way will we be told that's happening? If so, when?"

I vividly recall reading a memo in the Pentagon on April 6, 1965, from McGeorge Bundy, Johnson's national security adviser, that the President had authorized a change in mission for the Marines at Danang. They'd been sent there, the first American combat units in Vietnam, ostensibly to defend the base from which we were conducting air operations.

Supposedly, they were politically harmless, just "advisers", which didn't involve large U.S. casualties and get us committed the way ground combat units do. Like what we're doing now, in Iraq and Syria. But in 1965, LBJ had secretly decided as early as April 1 to allow them to leave the base for offensive patrols in the field, precisely the kinds of actions I'd been trained to lead as a rifle company platoon leader and company commander in the Marines.

The memo said, as I noted in my 1972 book, *Papers on the War*, "The President desires that premature publicity be avoided by all possible precautions. The actions themselves should be taken as rapidly as practicable but in ways that should minimize any appearance of sudden changes in policy. The President desires that these movements and changes in combat mission should be understood as being gradual and wholly consistent with existing policy."

I remember writing a memo to my boss, the Assistant Secretary of Defense for International Security Policy, that "This is dangerous. You can't keep that secret. There are reporters over there. They'll know what the Marines are doing and we'll be shown to be concealing it. You know, we're actually changing the nature of the war. We're going to be taking over the war from the South Vietnamese. I don't think you can keep that secret very long."

I was wrong. That was April. And by July, about 100,000 troops were over there, doing offensive operations. But until then, there was no word or leak about this.

So on July 28, when President Johnson finally announced we were sending 50,000 more troops, it was actually 100,000, but he lied and said 50,000 to hide where this was heading, a reporter asked, "Mr. President, does the fact you are sending additional forces to Vietnam imply any change in the existing policy of

relying mainly on the South Vietnamese to carry out offensive operations and using American forces to guard installations and to act as an emergency backup?"

Johnson answered, "It does not imply any change in policy whatever. It does not imply change of objective."

And that was true! This was the end of July. He didn't *just* change the policy. He changed it four months earlier. He just hadn't announced it.

To bring us to the present, instead of saying "relying mainly on the South Vietnamese," insert Syrians, Iraqis and Kurds. When those first steps are taken towards making this mainly an American war steps Obama and his generals and Gates already hint at should we expect to hear about that from the White House? Why? Because Obama is more transparent, less secretive than Johnson, Nixon or George W. Bush? He isn't.

During the Vietnam build-up was when I could have alerted the American people about what was happening, and I didn't. That's why I'm calling on insiders who know that we're being misled to do better.

However, the big issue now is not the combat role for advisers, intelligence and support units, Special Forces and air spotters. Rather, given the air war, it's in the cards they will be in harm's way probably before the end of the year, perhaps even *before* the election. The real issue will be the deployment of tens if not hundreds of thousands of U.S. ground troops.

And whether they total 1,600 troops on the ground, what we already have in Iraq, or 16,000 (what LBJ had in Vietnam before the start of the air war and the major ground escalation in 1965), that "small force of Americans" Gates describes won't be remotely enough to "destroy" ISIS. Both Gates and the generals know it will take a lot more. But even if the number soared to 550,000, as in Vietnam in 1968, or even a million, I believe they still won't eliminate ISIS permanently. They'll be back.

Q. Does Obama realize the generals are sure to ask him for tens of thousands or more combat troops?

A. I don't know. I suspect they've told him that, secretly. Just as Johnson knew his generals would ask for that in Vietnam, while he was still promising the electorate "no wider war" in 1964, and saying he wouldn't send American boys to do what Vietnamese boys should be doing.

Does Obama foresee right now that he's likely to grant that request? Is he, then, just kidding when he promises, over and over, that we'll defeat ISIS without his sending American combat units? Or does he think he can and will keep

his military under control despite frustrating them and saddling them, as they see it, with stalemate and failure?

That's what Johnson sought to do, and to some extent did, though the war got much larger than he'd promised or even initially wanted. He gave the Chiefs just enough of what they wanted, in troop levels and bombings, to keep them from resigning, though never close to what they said was essential to succeed. He didn't really believe that meeting their full demands would make the difference, and he feared war with China. And he was right on both counts. But still, he didn't want to be accused of "losing" a region for want of "doing nothing."

He avoided that accusation, but at the cost of a lot of lives: 58,000 American and several million Vietnamese.

I suspect that same concern is driving Obama right now. I see him doing what he has to do to keep from being accused of doing "nothing." But does he really mean to stop at that? Or could he, even if he wanted to?

Gates recommends that President Obama scale down his present objective of "destroying" ISIS, which Gates describes as "very ambitious," which I translate to mean *unattainable*.

That's almost sure to happen. But even with lesser aims, like containment, or, as Gates suggests, driving ISIS out of Iraq, with embedded advisers and Special Forces alone, even with forward air spotters, this won't be enough. When Gates says it will, he's either lying about what he believes or he's a fool. And I don't think he's a fool.

I think the Joint Chiefs will recommend to Obama that he bring large numbers of American ground combat units to Iraq in the coming months. One difference from Vietnam is that in those days, when Johnson lied, saying he gave the generals everything they'd asked for and that there was no conflict between the civilians and military in the administration (as the Pentagon Papers were to reveal, year after year), the military kept their mouths shut. They hoped he would come around to their point of view eventually, and they didn't want to preclude that by contradicting him and getting fired.

Now, many of them think that was a mistake, even a "dereliction of duty." This time, the generals will do their *own* leaking about what they asked (as happened in 2009, when Obama confronted "top secret" recommendations for a surge in Afghanistan). Will the President, as he now implies, reject their recommendation every time they make it? I think he should, but I doubt that he will, any more than LBJ did.

The public doubts it too. The latest polls show that 72 percent of the public

expects him to deploy ground combat units in Iraq, contrary to his assurances. I think the generals are of the same mind. It might be almost irrelevant, the way things work, what the President himself thinks about that, privately, at this moment.

Q. Where is Congress and its powers to declare war on this? Will the Administration keep it informed about its military actions and ask for a formal vote?

A. On the day Congress voted on the Administration's request to authorize sending advisers, arms and trainers for Syrian rebel troops, Minority Leader Nancy Pelosi, D-California, said, in supporting it, the bill "is not to be confused with any authorization to go further." She said, "I will not vote for combat troops to be engaged in war."

But will she ever be *asked* by the Administration to vote on that? Every indication is that the White House believes the President can expand this war with the authority Congress granted the Executive in earlier bills, before the U.S. invaded Afghanistan or Iraq, and feels no need to come back to Congress.

Once again, that's reminiscent of Vietnam. Both the House and Senate approved the Tonkin Gulf Resolution in August 1964, which authorized President Johnson to use military force without a formal declaration of war. He said he needed it to retaliate against a North Vietnamese attack on our destroyers, which, in fact, didn't happen.

At that time, Sen. William Fulbright, D-Arkansas, assured the Senate that the Administration did not intend to expand the Vietnam War without returning to Congress. But he was duped by the White House, which never again appealed to Congress for consent, and used the Tonkin Gulf Resolution as an open-ended declaration of war.

This time, the White House hasn't even *bothered* to assure Congress, however deceptively, that it concedes the need for further authorization. To the contrary, it is asserting that the 2002 authorization of military force which was based on the Bush Administration's lies about WMDs, as blatantly as was the Tonkin Gulf Resolution is sufficient for anything the President wants to do in the Middle East, along with the even earlier AUMF of 2001.

For that same reason, Rep. Lee is now demanding a real vote on the war before it expands further. She's saying: "Don't do this again." Of the recent authorization, she said "I am reminded of the failure to have a thorough debate in the wake of 9/11, that act of atrocity, that act of terrorism, which frightened people into a very hasty and premature delegation of their powers;

now we have two beheadings on television to do that and call for a revenge act ”

Of this recent request, though it's much more limited than the Tonkin Gulf Resolution or the two AUMFs, she said, “The consequences of this vote, whether it's written in the amendment or not, will be a further expansion of a war currently taking place and our further involvement in a sectarian war,” again “without adequate debate or any vote in Congress having to do with the larger issues here of the war.”

She's right. We should be telling Nancy Pelosi to follow her counsel, and to use every constitutional power to force that vote, and precede it with adequate debate.

Q. So many ask, isn't it better to do something against ISIS – these murderers, fanatics – than do nothing? How do you answer that?

A. ISIS is not the only murderous, fanatic group in that region but they may well be the most extreme so far, and most successful. But that's a reason for not doing *something* that actually strengthens them in their rivalry with others. But that's exactly what we *are* doing, with our airpower.

Even before the Syrian airstrikes, FBI Director James Comey testified on Sept. 17 that ISIS' “widespread use of social media and growing online support intensified following the commencement of U.S. air strikes in Iraq.”

Another news report, in the Israeli daily *Haaretz*, states, ‘The Islamic State jihadist organization has recruited more than 6,000 new fighters since America began targeting the group with air strikes last month, according to the U.K.-based Syrian Observatory for Human Rights. At least 1,300 of the new recruits are said to be foreigners, who have joined IS from outside the swathes of Syria and Iraq that it controls.”

Do we think ISIS hasn't noticed this? We have to ask, why does ISIS want to show off its public beheadings of Americans on international television? Our ally Saudi Arabia doesn't televise its beheadings, 19 in August, one for sorcery, nor do our favored rebels, the Free Syrian Army.

But ISIS chose exactly now to boast them to the world. Why? Because they need and welcome U.S. air strikes and the flood of recruits they bring, despite the losses ISIS has to expect. Getting the U.S. to publicize ISIS as the number one American enemy, while U.S. airstrikes are killing Muslim civilians along with ISIS troops and leaders, stamps ISIS as leading the fight against the U.S. and its allied Arab regimes that ISIS believes are infidels.

I watched this happen in Vietnam. Each time we bombed a village in South

Vietnam, the young men who survived the attack joined the Viet Cong. In fact, the VC would fire on American planes from a village precisely for that reason. They could count on the retaliatory bombing, and the recruits. I wrote a report for the RAND Corporation about that when I came back, with the title, "Revolutionary Judo."

History repeated itself in Iraq and Afghanistan, where Matthew Hoh the Marine and then senior State Department official who served in both countries and who resigned his post saw exactly the same thing.

As I noted before, by doing this *something*, we're strengthening ISIS and making things worse. But that's nothing new. Indeed, all the military actions and expenditures of the last 13 years in the Middle East have led to creating, strengthening and expanding ISIS and other militant groups. It's time to stop.

As Sen. Joe Manchin III, D-West Virginia, said to his colleagues, "Our past experience, after 13 years, everything that we have tried to do has not proven to be at all beneficial. So what makes you think it's going to be different this time? What makes you think we can ask a group of Islamists to agree with Americans to fight another group of Islamists, as barbaric as they may be?"

With the air strikes in Syria, we are radicalizing moderates who then join ISIS, as the *New York Times* has noted. It has also allowed Syria's President Bashar al-Assad, who led the fight against ISIS until now, to stop his air strikes against it and concentrate on the *moderate* rebels we support who oppose both Assad and ISIS. Why is he doing this? Because the U.S. is attacking ISIS, doing his work for him. Then, if he can take moderates off the board, he calculates the U.S. will have to accept him as the only effective ally against ISIS.

Q. What *can* we do that would be useful?

A. Since ISIS won't be stopped with military actions alone, not ours or those of groups that join us, including Iraqis and Syrians, and are in fact counter-productive, we should have learned that if there's ever to be an answer, it has to be largely diplomatic.

In particular, this could mean changing our close relationship with Saudi Arabia and other Mideast allies whose citizens and regimes have long been financing and supplying ISIS and other radical groups at the same time they provide pilots whose attacks also help strengthen ISIS. If we ceased tolerating that ideological and financial support for extremists, this would be a major step to containing and eroding ISIS. But I doubt this will happen.

Serious diplomacy would also mean changing our relationship with Russia and Iran, exploring through direct negotiations the positive contributions they

could make to stabilize the region, rather than, as at present, demonizing them.

This, too, isn't likely. But if we don't face what we need to do to escape the madness we suffered and inflicted in Vietnam and Iraq, we will be mired in war in the Middle East for decades.

Q. There are posters of you around Washington DC urging those with inside information about the Pentagon's plans, to leak it. The headline is: "Don't Do What I Did." What do you hope will happen?

A. In 1964 and 1965, the lack of whistleblowers caused Vietnam to happen. I was in the Pentagon then and didn't come forward with what I knew. So I helped Vietnam happen. I very much regret that I didn't provide information when it would have done the most good, when Congress was voting on this and when the escalation was occurring. In 2002 and 2003, the lack of a Manning or Snowden with high-level access caused Iraq.

Actually, in 1964, many in the Pentagon could have put out the information the public and Congress needed to know. Not random documents. Just one drawer of selected documents showing that President Johnson was deceiving people and leading them into a hopeless war that his own Joint Chiefs believed could never be won at the level he was willing to do it. (The heart of the Pentagon Papers took up about one drawer of a top secret safe in my office at RAND, or earlier in my office in the Pentagon).

I'm sure that comparable documents exist in safes in Washington and Arlington and McLean, Virginia, right now. I'm just as sure that dozens if not hundreds of insiders could provide the information in those documents from their own safes to Congress and the public, if they're willing to take the risks.

In 1971, after I put out the Pentagon Papers, Sen. Morse told me that if I had given him the documents from my Pentagon safe while he was on the Senate Foreign Relations Committee in 1964, "The Tonkin Gulf Resolution would never have come out of Committee. And if they bypassed the committee and sent it to the floor, the resolution would never have passed."

That put a lot of weight on my shoulders, not unfairly. I'm urging insiders now to do better than I did then, and now is the time.

Q. What do you and ExposeFacts.org aim to do?

A. To encourage whistle-blowing that will lead people to press their congressional representatives, this month, while they're in their home districts campaigning for votes, to demand hearings, debates and a vote in an effort to block continued and escalated U.S. military involvement in Middle East

conflicts.

Just a year ago, constituents did almost exactly that, button-holing representatives at home in their districts to demand "No war on Syria!" The effect on Congress was electrifying, perhaps unprecedented.

It confronted a President who was committed to an attack at the end of August, because of gas attacks in Syria whose perpetrators are still a murky and controversial topic, and who had just remembered that he was head of the "world's oldest republic" with a duty to get consent from Congress to go to war. Indeed, he could have lost the vote in both Houses. That caused him to make a sharp turn and embrace a Russian proposal to eliminate Assad's gas menace by peaceful, negotiated means.

We need something like that now. Unlikely as it is, after the ISIS gains, the public beheadings, and, not mentioned by the President before our air attacks but quickly labeled a critical target, the emergence of the dreaded "Khorasan."

On Khorasan we need serious investigative reporting, fueled by whistleblowing. Could the "classified" leaks about Khorasan just before and after the Syrian airstrikes, a group allegedly more of an imminent danger to the U.S. than ISIS, be designed to manipulate the media and public? Could they be a fraud, just as the all-too-successful fraudulent, authorized classified leaks in 2002 about Saddam Hussein's supposed nuclear cylinders? Did these recent Khorasan leaks provide a self-defense motive for U.S. air attacks on Syria?

They sound eerily like the alleged Aug. 4, 1964 "attack" on our destroyers in the Tonkin Gulf, 50 years ago this August, an attack that never happened, which gave us the Tonkin Gulf Resolution and 11 years of war. Is there really solid evidence, as Administration officials have claimed and others leaked, of "an advanced state of planning" for imminent attacks on U.S. airliners, by a group called Khorasan or by any other? Or might it have been a hoax like that floated by the Bush Administration as Dick Cheney picked up various forgeries and fantasies, to justify our aggression against Iraq 12 years ago?

Could this administration really be re-playing the Bush and Johnson script that closely? And the media applauding the performance just as credulously?

Glenn Greenwald and Murtazsa Hussain make a strong case for this with Khorasan. This cries out for leaked or congressionally-demanded documents.

As the posters put up by ExposeFacts.org say, and one is quite near the Iraq embassy, "Don't wait until a new war has started. Don't wait until thousands more have died before you tell the truth with documents that reveal lies or crimes or internal projections of costs and dangers. You might save a war's

worth of lives.”

State Department, Pentagon, CIA, NSA or White House staff who follow that advice will risk unjust prosecution under the Espionage Act, as I did. Unjust because the Espionage Act was designed to deter or punish spies, not whistleblowers. It was never intended to be used against disclosures to the American public, and never used that way until my own prosecution, which was the first in American history for a leak.

Legal scholars argued then that it was an unconstitutional violation of the First Amendment to use the Espionage Act against whistleblowers. It’s unjust because it doesn’t allow defendants to tell the jury and public about their motives. [See Melville B. Nimmer, “National Security Issues v. Free Speech: The Issues Left Undecided in the Ellsberg Case,” *Stanford Law Review* (vol. 26, No. 2, January 1974, 311-333).]

Treating sources of leaks, classified or not, like spies, is exactly what’s happened under President Obama, who has brought more Espionage Act indictments for leaking than any other president, in fact, more than all of them together. And he’s leaving that precedent to his successors.

The risk whistleblowers take is very great. That’s why I think they should remain anonymous, if possible. ExposeFact.org, which sponsored the Washington press conference and encourages whistleblowers, proposes to facilitate their anonymity by the use of encryption.

There will always be a risk of identification, and if classified information is involved (even if it’s evidence of Executive Branch crimes or other malfeasance), there will likely be prosecutions. Until Congress rescinds the wording of certain clauses in the Espionage Act and passes laws to defend the public interest, or as Harvard Law Professor Yochai Benkler proposes to call it, a “public accountability defense,” they will probably be convicted. They could suffer years in prison, perhaps a life sentence, as I faced (a possible 115 years) but escaped on grounds of governmental criminal misconduct. Chelsea Manning faced the risks and now is serving 35 years. [See Benkler’s recent article, “A Public Accountability Defense for National Security Leakers and Whistleblowers,” *Harvard Law and Policy Review*, Vol. 8, Summer 2014.]

A heavy prospect. Worth considering only for the grimmest of circumstances. But we face them now, when a war’s worth of lives might yet be saved by courageous, patriotic truth-telling.

John Kerry, as a young, just-returned Vietnam veteran, was admired by many as an outstanding whistleblower, with his unsparing account of U.S. war crimes in

testimony on April 22, 1971, before the Senate Foreign Relations Committee. That's when he famously asked, "How do you ask a man to be the last man to die for a mistake?"

As things are now heading, he will not have to ask that of an American soldier in Iraq or Syria while Secretary of State. Nor will President Obama The last American combat death there is not now remotely possible within the next two, four or even eight years.

The Pentagon is reported to be planning for a campaign of 36 months, but I don't think Obama's and Kerry's successors will be any more ready over the next decade to admit a mistake.

The final American casualty, or last deaths inflicted in the Middle East by Americans, will not come about unless the American people tell Congress and the Executive what Lt. John Kerry said to the Senate in 1971, speaking for the newly-formed Vietnam Veterans Against the War: "We want this to stop."

Barbara Koeppel is a freelance investigative reporter based in Washington DC.

Standing Up for Lessons of Dissent

There is a general belief that Americans don't care much about history, preferring to bask in self-reverential "exceptionalism" with U.S. behavior beyond criticism. But students outside Denver are taking to the streets to protest right-wing efforts to strip dissent from the history curriculum, writes Peter Dreier.

By Peter Dreier

In Colorado, just west of Denver, Jefferson County high school students are protesting their school board's attempt to rewrite the American history curriculum. In their resistance, they are doing all Americans a favor by reminding us of the importance of dissent and protest in our nation's history.

The students are reacting to a proposal by the Jefferson County school board – Colorado's second largest school district with about 85,000 students – to change the way history is taught in the schools.

Last November, three new board members were elected to the school board, forming a conservative majority. One of them, Julie Williams, has led the charge to revise the Advanced Placement U.S. history curriculum to promote patriotism,

respect for authority, and free enterprise and to guard against educational materials that “encourage or condone civil disorder.”

Williams said she believes that the current Advanced Placement curriculum in American history places an excessive emphasis on “race, gender, class, ethnicity, grievance and American-bashing.”

With the support of many teachers and parents, the Colorado students have engaged in a protest of their own to teach the school board a lesson. It began on Monday, Sept. 22, when about 100 students walked out at Evergreen High School, one of 17 high schools in the suburban district outside Denver.

Since then the protests have gained momentum, fueled by social media and student-to-student contact. As the *New York Times* reported, they “streamed out of school and along busy thoroughfares, waving signs and championing the value of learning about the fractious and tumultuous chapters of American history.”

By last week, the number of students involved in the protest had mushroomed. On Thursday, according to the *Denver Post*, more than 1,000 students walked out of class behind a new unified slogan – “It’s our history; don’t make it mystery.”

History of Protest

Back in 1900, people were considered impractical idealists, utopian dreamers or dangerous socialists for advocating women’s suffrage, laws protecting the environment and consumers, an end to lynching, the right of workers to form unions, a progressive income tax, a federal minimum wage, old-age insurance, dismantling of Jim Crow laws, the eight-hour workday, and government-subsidized health care. Now we take these ideas for granted. The radical ideas of one generation have become the common sense of the next.

As Americans, we stand on the shoulders of earlier generations of reformers, radicals and idealists who challenged the status quo of their day. They helped change America by organizing movements, pushing for radical reforms, popularizing progressive ideas, and spurring others to action.

To understand American society, we need to know about the accomplishments of people like Jane Addams, Florence Kelly, Eugene Debs, Robert La Follette, Charlotte Perkins Gilman, W.E.B. DuBois, Frances Perkins, Lewis Hine, A.J. Muste, Alice Paul, A. Philip Randolph, Dorothy Day, Eleanor Roosevelt, Langston Hughes, Theodor Geisel (Dr. Seuss), Fiorello LaGuardia, Myles Horton, Rachel Carson, Walter Reuther, Thurgood Marshall, Bayard Rustin, Woody Guthrie, Cesar Chavez, Barry Commoner, Ella Baker, Jackie Robinson, Bella Abzug, Pete Seeger, Martin Luther King, Harvey Milk, Ralph Nader, Gloria Steinem, John Lewis and Billie Jean King.

If some of these names aren't quite household names, that reflects our failure as a society to recognize and teach our students about some of the major dissenters, rebels and reformers who have shaped our nation's history.

Even today, grassroots movements have continued to push and pull America in a positive direction, often against difficult odds. Today's battles over the minimum wage, Wall Street reform, immigrant rights, climate change, voting rights, gun control, and same-sex marriage build on the foundation of previous generations of dissenters.

Each generation of Americans faces a different set of economic, political, and social conditions. There are no easy formulas for challenging injustice and promoting democracy. But unless we know this history, we will have little understanding of how far we have come, how we got here, and what still needs to change to make America (and the rest of the world) more livable, humane and democratic.

The Jefferson County School Board's attempt to ignore or downplay the long tradition of dissent, protest and conflict that has always shaped American society is hardly unique. In the early 1990s, Lynne Cheney, who headed the National Endowment for the Humanities during the first Bush Administration (and is the wife of former Vice President Dick Cheney), attacked the teaching of American history for presenting a "grim and gloomy" account of America's past.

After that, conservatives on local school boards around the country escalated their efforts and continue them today. It is part of the backlash against the increasing examination by historians of the roles of women, African-Americans, Latinos, native Americans, dissenters, and movements in American history.

But such battles go back even further than Cheney's campaign. In the 1979 book, *America Revised*, Frances Fitzgerald examined how the teaching of American history has been the subject of an ongoing debate going back to the 1800s, fueled by political differences over the nature of American identity. Conservatives have traditionally sought to emphasize consensus over conflict in the development of U.S. history textbooks and curriculum.

As the College Board observed in a statement issued on Friday, the Jefferson County students "recognize that the social order can – and sometimes must – be disrupted in the pursuit of liberty and justice. Civil disorder and social strife are at the patriotic heart of American history – from the Boston Tea Party to the American Revolution to the Civil Rights Movement. And these events and ideas are essential within the study of a college-level, AP U.S. History course."

It would be fitting and appropriate for the Organization of American Historians and the American Historical Association to give these students an award at their next meetings for their commitment to the teaching of American history. Perhaps one or both of these organizations could invite some of the students to give a presentation about their protest campaign as part of a plenary session on the teaching of AP American history. It would surely be the most well-attended session at either conference.

Such a gesture by one or both of the leading organizations of historians would inspire high school students elsewhere to challenge arbitrary authority and put the two organizations on record in opposition to the efforts by school boards to distort the teaching of history for overtly political purposes.

Peter Dreier is the Dr. E.P. Clapp Distinguished Professor of Politics, and chair of the Urban & Environmental Policy Department, at Occidental College. His most recent book is *The 100 Greatest Americans of the 20th Century: A Social Justice Hall of Fame* (Nation Books, 2012)

PRISM's Controversial Forerunner

From the Archive: Richard L. Fricker, a courageous journalist and frequent writer at Consortiumnews, died on Sept. 12 from heart failure. Among Fricker's important work was his investigation of the U.S. government's PROMIS software which preceded the NSA's Orwellian PRISM, as Fricker noted last July.

By Richard L. Fricker (Originally published July 11, 2013)

Long before Edward Snowden's claims or revelations that the National Security Agency and the Central Intelligence Agency were monitoring and tracking the Internet, cell phones, e-mails and any other electronic communication they could get their hands on using a program known as PRISM, there existed PROMIS [Prosecutors Management Information Systems].

PROMIS was designed in the late 1970s and '80s to bring Department of Justice criminal case management from the dark ages into the light of the computer age. In the spring of 1981, the Reagan Administration hailed PROMIS as one of law enforcements greatest assets. By 1983, PROMIS had morphed into the behemoth of intelligence gathering. It was not state of the art it was the art.

Over the ensuing decades PROMIS is reported to have been used by the DOJ, CIA, NSA, and several foreign intelligence agencies including Israel's Mossad. The

ownership of PROMIS has been the subject of federal court hearings and a congressional investigation.

The capabilities of PROMIS as a data collection and tracking program have never been a secret. But the only discussion of PROMIS has been about theft and black-market sales. Neither the courts nor Congress have ever inquired as to privacy issues or the ethics of the program. There has been no rending of political robes as seen with the Snowden case. In fact, the function of PROMIS has been discussed in open court and various public arenas.

PROMIS is a tracking program with enhancements by Washington, DC-based Inslaw Inc., owned by Bill and Nancy Hamilton. PROMIS was developed under a Law Enforcement Assistance Administration [LEAA] grant. Bill Hamilton was employed by NSA for six years. He left the agency in 1966.

PROMIS was designed to track the vast amount of criminal cases piling up in DOJ offices across the country. Bill Hamilton, in an interview for this story, recounted, "It was always a tracking program. It was designed to keep track of cases in local U.S. Attorneys' offices, which means street crimes, keep track of the scheduled events in court, what actually takes place, who's there, witnesses, police officers, conclusions, convictions, acquittals, whatever."

As the LEAA dissolved in the late days of the Carter Administration, the Hamiltons formed Inslaw and began to make modifications to the public domain PROMIS. The short version of the story: As originally designed, PROMIS ran only on 16-bit computers, but using their own funds, INSLAW converted the program to run on 32-bit VAX computers which were massive for their time.

The Reagan administration was very taken with the Inslaw version of PROMIS. In March 1982 Inslaw was awarded \$9.6 million to install the program in 20 U.S. Attorney's offices, with further installations in the remaining 74 offices, if successful. This would be the last government contact the Hamiltons would receive, not because the system failed quite the contrary, it was too successful.

Hamilton explained, "We developed it originally just for prosecutors. But some of our users wanted to have it shared with the courts and the police. So, the software was engineered to make it adaptable. In making it highly adaptable, a byproduct was to make it useable for non-prosecutor tracking and that made it adaptable totally outside the criminal justice system."

It became obvious with the latest round of modifications any data system could be integrated into PROMIS. And those data systems could interact that is, combine with each other forming a massive tracking data base of people via

government documents such as birth and death certificates, licenses, mortgages, lawsuits or anything else kept in a data base. PROMIS could also track banking transactions, arms shipments, communications, airplane parts again, anything kept in a data base.

With the discovery of these new capabilities Inslaw's problems began. Unknowingly, the Hamiltons had embarked on an odyssey winding from the White House and the heart of the Reagan inner circle, bankruptcy court, a congressional investigation, secret informants, the CIA, NSA, and the Mossad.

The odyssey began in February 1983 when Dr. Ben Orr, an Israeli prosecutor, came to Hamilton's office for a demonstration. He left, never placed an order and was never seen again. This was just one of the many demonstrations the company provided potential customers and the press. There was no shroud of secrecy about PROMIS or its capabilities.

Shortly after Dr. Orr's visit, DOJ terminated payments to Inslaw, but refused to return the software. The company soon [June 1986] found its way into bankruptcy court. Inslaw put forth the claim that DOJ had stolen their software and made a concerted effort to drive them out of business. Bankruptcy Judge George Bason agreed.

In a 216-page opinion delivered in 1987, Judge Bason wrote that DOJ used "trickery, fraud and deceit" to steal PROMIS. He was later overruled by the DC District Court of Appeals on jurisdictional grounds. A previous district court supported his findings that PROMIS had been stolen. Bason became one of the very few Bankruptcy judges to not be re-appointed.

As the PROMIS odyssey continued, information began to surface that DOJ had provided the NSA and CIA with the enhanced 32-bit PROMIS. Stories began to circulate that friends of the Reagan Administration were selling black-market versions of PROMIS to anyone willing to pay the price.

Time and time again the veracity of government employees was called into question. In 1989, the chairman of the House Judiciary Committee, Rep. Jack Brooks, D-Texas, launched what would become a three-year investigation into the theft of PROMIS and DOJ efforts to drive INSLAW out of business.

The Brooks report dated Aug. 11, 1992 not only agreed with Bason's findings but went further: "High government officials were involved individuals testified under oath that Inslaw's PROMIS software was stolen and distributed internationally in order to provide financial gain and to further intelligence and foreign policy objectives."

The report includes scathing comments about former Attorney General Richard

Thornburgh and several ranking DOJ staffers. Brooks recommended a settlement of Inslaw claims for damages and the appointment of a special prosecutor. Neither happened. Brooks said in an interview at the time, “[Inslaw] was ravaged by the Justice Department.” They were, he said, “treated like dogs.”

By this time nothing in the report surprised the Hamiltons. Seven months earlier they had discovered that their 1983 visitor, Dr. Ben Orr, was in fact Rafi Eitan, chief of the Israeli Defense Force’s [IDF] anti-terrorism intelligence unit. They further learned he left Washington carrying a copy of PROMIS.

The DOJ explanation was that he was given the 16-bit version, not the new improved 32-bit VAX version. The question would be: why the subterfuge? And why show off the superior 32-bit VAX version and then only provide the cheaper model? DOJ has never answered the question.

Through all this, Inslaw survived; Ireland installed PROMIS for case management, to track land records and in the bank credit system. Hamilton noted that every credit card transaction is tracked by PROMIS. The Netherlands uses the program to keep track of all the inmates in their prison system. The city of Rome has PROMIS for use in their tax office. In fact PROMIS is being legally used in several countries around the world.

Illegally? Who knows. The Canadian government once wrote Inslaw asking for an operating manual. Inslaw never sold PROMIS to Canada. A similar event popped up with Lithuania when a member of its parliament asked for help with its PROMIS program. In each case, when told they may have a bootleg version, the reply was, it must be a different PROMIS. To date, Inslaw has never received a dime for any government recommended settlements, some as high as \$50 million.

Hamilton has declined to suggest that PROMIS was the frontrunner to PRISM. He said flatly in the interview for this article that his only information about PRISM is from news accounts.

Regardless of the Inslaw affair, PROMIS is still out there, still tracking whatever its masters require. And still, to this day, no one in government or otherwise has inquired, not about what PROMIS can do, but rather what *is* PROMIS doing, for whom and why.

PROMIS has been toiling in the intelligence caverns for nearly 30 years that’s a lot of data consumption, that’s a lot of tracking. Where is the PROMIS data? Compared to 30 years of information gathering and tracking by PROMIS, PRISM could be considered the equivalent of digital binge drinking.

Richard L. Fricker was based in Tulsa, Oklahoma. His last book, *The Last Day of the War*, is available at <https://www.createspace.com/3804081>.

'Money-in-Politics' Amendment Ignored

A few right-wing pundits like George Will are livid over the prospect of curbing the power of billionaires to buy U.S. elections, but mostly the debate over a proposed constitutional amendment to allow regulation of money in politics is just being ignored, as Nat Parry notes.

By Nat Parry

An important debate is underway in the United States Senate this week, but if you are, like most, a casual consumer of the news, you probably wouldn't have heard about it. This is no indictment of your news-gathering habits, but rather of what passes for mass communication in modern America, in other words, the mainstream media's systematic suppression of important information.

Then again, perhaps that is too harsh. In a week dominated by saturation coverage of leaked video of NFL player Ray Rice's domestic violence, the iPhone 6 hitting the market and a possible new war being launched by President Obama, in-depth coverage of an arcane debate in the Senate might be too much to ask.

The problem is though, it's not just in-depth coverage that is lacking, but rather, any coverage at all, and it's not an arcane debate, but a highly relevant one in which the American people have a vested interest and have demonstrated a keen awareness.

The ignored debate is on a proposed amendment to the United States Constitution the 28th in its history that would empower Congress to restrict campaign financing and spending in an effort to rein in the deep-pocketed oligarchs who have been spending billions of dollars in recent years to influence electoral outcomes.

In a 79-18 procedural vote on Monday, the Senate agreed to consider the amendment, which is expressly intended as a response to Supreme Court decisions such as *Citizens United* and *McCutcheon* that have overturned campaign finance laws on constitutional grounds, severely limiting the ability of Congress to impose regulations on the raising and spending of money in elections.

Despite the media blackout, there appears to be widespread public support for the measure. According to a recent survey of likely voters in 12 states with close Senate races, a constitutional amendment to overturn *Citizens United* is supported by an overwhelming majority of 73 percent to 24 percent, support that cuts across party lines.

Americans nearly unanimously agree that there is far too much corporate money in politics and that it corrupts America's democratic institutions. A 2012 poll commissioned by the Corporate Reform Coalition found nearly nine in 10 Americans (89 percent) agreeing with that view, and more recently, a poll commissioned by Democracy Corps found that a majority of Democrats (75 percent), independents (64 percent) and Republicans (54 percent) see the wave of spending by Super PACs in the current election cycle as "wrong and leads to our elected officials representing the views of wealthy donors."

The proposed amendment under consideration in the Senate this week seeks to redress these widespread concerns. Although many observers believe the amendment is almost certain to fail and may be part of the Democrats' electoral strategy moving into the midterm election season, it is nevertheless a rare example of grassroots democracy in action.

This week's Senate debate is the culmination of four years of grassroots organizing and mobilizing by established organizations such as Common Cause and Public Citizen, as well as relative newcomers such as Move to Amend, a coalition of hundreds of local and national organizations committed to social and economic justice.

As Public Citizen explained the protracted campaign in an email to supporters this week, the movement for amending the Constitution began the very day that the Supreme Court handed down its *Citizens United* decision in 2010. "Many in Washington, D.C.," Public Citizen's president Robert Weissman noted, "dismissed the effort as chimerical. Sure, they said, an amendment was right on the merits, but it would never be taken seriously."

But by organizing and showing that the issue could capture the imagination of the public, good-government groups forced congressional leaders to take heed.

"With each additional petition signature," Weissman wrote, "with each additional email to a member of Congress, with each additional demonstrator or attendee at a public forum, with each additional organization endorsing an amendment, with each additional meeting with representatives and senators, with each additional news story, with each additional city passing a resolution calling for an amendment, with each state passing a resolution, we showed the passion for an amendment, we educated more of the public and we quieted the doubters."

Earlier this week, three million petition signatures were delivered to Congress calling for a constitutional amendment. The petition signers joined 16 states and nearly 500 local governments that had already registered their support for a constitutional amendment. Despite this groundswell of support and the fact that not only President Barack Obama but also key leaders of the House and Senate

have expressed support for amending the Constitution, the issue is still treated as something of a pariah among the media.

As Sen. Bernie Sanders (I-Vermont) said on Monday, “Now you may not know it if you watch TV lately or if you read the newspapers because this issue gets very little coverage, but the truth of the matter is that the issue that we will be debating this week is the most important issue that we have discussed in a number of years.”

“The major issue of our time,” he said, “is whether the United States of America retains its democratic foundation or whether we devolve into an oligarchic form of society where a handful of billionaires are able to control our political process by spending hundreds of millions of dollars to elect candidates who represent their interests.”

In 2012, just 32 donors gave more to Super PACs than 3.7 million average Americans who donated amounts under \$200 to presidential candidates Mitt Romney or Barack Obama. In the 2014 election cycle, federal candidates and political parties have already raised more than \$1.8 billion. Independent Super PACs and others have spent an additional \$190 million to support or oppose individual candidates.

The entire campaign this year is expected to cost more than \$4 billion a record for a midterm election and of course most of that money will end up going directly into the coffers of the media companies that will be inundating voters with advertisements, mostly negative and largely misleading, in the weeks leading up to the election.

It is this massive gravy train of cash that the media is loath to give up, and perhaps it is for this reason that we’re not hearing a peep about the historic debate in the Senate this week to amend the Constitution.

Nat Parry is the co-author of *Neck Deep: The Disastrous Presidency of George W. Bush.*

Fleshing Out Nixon’s Vietnam ‘Treason’

Exclusive: Out of the Watergate scandal came a favorite mainstream media saying: “the cover-up is always worse than the crime.” But the MSM didn’t understand what the real crime was or why President Nixon was so desperate, as James DiEugenio explains in reviewing Ken Hughes’s *Chasing Shadows*.

By James DiEugenio

One of America's great political mysteries continues to come into sharper focus: Did Richard Nixon sabotage President Lyndon Johnson's Vietnam peace talks in 1968 to win that election and did Nixon's fear of exposure lead him to create the burglary team that got caught at Watergate in 1972?

Pieces of this puzzle began to fall into place even in real time as Beverly Deepe, the Christian Science Monitor's Saigon reporter, got wind of Nixon's treachery before the 1968 election although her editors spiked her article when they couldn't get confirmation in Washington. [See Consortiumnews.com's "[The Almost Scoop on Nixon's 'Treason.'](#)"]

In the ensuing years, other journalists and historians began assembling the outlines of Nixon's peace-talk sabotage with the story getting its first big splash of attention when Seymour Hersh made reference to it in his 1983 biography of Henry Kissinger, *The Price of Power*.

Then, in 2012, investigative reporter Robert Parry discovered that Johnson's long-missing file on Nixon's 1968 operation, which was later turned over to the Johnson library, helped explain another mystery: why Nixon launched his Plumbers' operation in 1971 and thus set in motion a series of burglaries that led to the Watergate scandal in 1972.

Nixon had been told by FBI Director J. Edgar Hoover that Johnson had evidence from wiretaps about Nixon's peace-talk sabotage, but an alarmed Nixon couldn't find the file whose absence became critical after the Pentagon Papers' history of the Vietnam War was leaked in 1971. Nixon knew there was a potential sequel somewhere that could end his presidency. [See Robert Parry's [America's Stolen Narrative](#).]

Now, journalist Ken Hughes, a resident scholar at the Miller Center at the University of Virginia, has filled out the story even more in his new book, *Chasing Shadows: The Nixon Tapes, the Chennault Affair and the Origins of Watergate*.

Johnson's Peace Initiative

Hughes begins his book with the dramatic day of March 31, 1968, when President Johnson announced on national television that he would not run for reelection that fall. Or, as he put it, "I shall not seek, and I will not accept, the nomination of my party for another term as your President."

But Johnson said something else: he intended to end the Vietnam War before leaving the White House. Since his election in 1964, Johnson had overseen a

massive military escalation of the war, inserting 550,000 American troops in theater and ordering the greatest bombing campaign in the history of warfare, called "Rolling Thunder."

Despite all the carnage, Johnson finally concluded that a military victory in Vietnam was illusory. He therefore announced a limited bombing halt over 90 percent of North Vietnam and promised a complete bombing halt if the North Vietnamese would show some reciprocal restraint.

Though many Vietnam War critics were dubious about Johnson's peace initiative, the historical record is now clear that Johnson was sincere about his plan. He wanted peace talks to begin as soon as possible. He was seeking a U.S. exit strategy.

As Hughes notes, there had always been advisers around Johnson who told him it was futile to fight in Vietnam. As early as 1964, Sen. Richard Russell, D-Georgia, advised his former protégé, "It isn't important a damn bit. I never did want to get messed up down there. I do not agree with those brain trusters who say this thing has tremendous strategic and economic value and that we'll lose everything if we lose Vietnam."

Russell said the problem was how to get out of Vietnam without looking weak, a dilemma that Johnson a classic Cold Warrior who believed in the Domino Theory could not overcome. But the war's futility and its political damage had become apparent to Johnson by the time of the Viet Cong's Tet Offensive in January-February 1968, leading to his decision to withdraw from the presidential race and his plan to end the war.

Johnson also sought to be fair to the major candidates running to replace him: Vice President Hubert Humphrey, former Vice President Richard Nixon and independent candidate, Gov. George Wallace of Alabama. Johnson promised to keep them equally informed of developments in the peace process. And, Hughes writes, that as far as the declassified record reveals, Johnson kept that promise.

Nixon's Dilemma

But the political problem from Johnson's peace initiative soon grew acute for Nixon, who remained bitter about his narrow loss to John Kennedy in 1960. During the late summer of 1968, Nixon had a big lead over Humphrey, swelling to about 15 points after the disastrous Democratic convention in Chicago.

But Nixon recognized that the Democrats were likely to unify especially if the anti-war faction thought that Johnson was making progress on a peace deal. Humphrey also began reaching out to disaffected Democrats with increasingly clear overtures on resolving the war. If Johnson could deliver on a full bombing

halt and the start of a U.S. withdrawal, Nixon might again be denied his dream of the presidency.

Whatever one thinks of Richard Nixon, the man had the (deserved) reputation of a consummate infighter in the political arena. This went back to his smearing of Congressman Jerry Voorhis in 1946, his 1948-50 destruction of State Department diplomat Alger Hiss from Nixon's seat on the House Committee on Un-American Activities, and his tarring of senatorial candidate Helen Gahagan Douglas in 1950. In fact, on now-declassified Nixon tapes that Hughes cited, Nixon admits that he unethically had access to grand jury proceedings against Hiss, and he used them to convict Hiss in the press before trial.

Thus, Nixon might have viewed Johnson's peace initiative as just one more political obstacle to overcome. And Nixon had in his campaign apparatus people like China Lobby figure Anna Chennault who could sink Johnson's negotiations by getting the South Vietnamese government to stay away from the Paris talks.

Anna Chennault was the widow of legendary Flying Tigers pilot Claire Chennault, who was 32 years her senior when they were married in 1947. The Chennaults were part of the China Lobby, the campaign that smeared President Harry Truman and the Democrats for "losing China" to the communists in 1949. The Chennaults also suffered financially with the fall of China since they were planning on running the CIA-related airline Civil Air Transport under Chiang Kai-shek, but the operation was forced to move to Taiwan.

The Chennaults and the China Lobby were quite effective in portraying the Democrats as being soft on communism in the 1952 election. Chennault died in 1958 but his widow remained active in Republican politics and in Washington's social life. She rented a suite at the Watergate Hotel and became a founder of the Flying Tiger Line, a freight loading operation.

Helping Nixon

Because of her political effectiveness, her wealth and her status as a woman ethnic, Anna Chennault became involved in the 1968 Nixon campaign under campaign chief John Mitchell. She was co-chair of the Women's Advisory Committee and raised over \$250,000 for Nixon, the top sum by a female fundraiser.

By early July 1968, Anna Chennault was already in contact with Bui Diem, the South Vietnamese ambassador to the United States, about her work for the Nixon camp, according to a memo by Nixon's foreign policy adviser Richard Allen, cited by Hughes.

In her 1980 memoir, *The Education of Anna*, Chennault also described a meeting in New York City involving herself, Bui Diem, Nixon and Mitchell on July 12, 1968,

a get-together corroborated by Bui Diem's memoir, *In the Jaws of History*. At this meeting, Nixon anointed Anna Chennault, "the sole representative between the Vietnamese government and the Nixon campaign headquarters."

As the back-channel between the Nixon campaign and the South Vietnamese government, Chennault passed a series of messages to Bui Diem, President Thieu and other senior officials in Saigon essentially promising them a better deal if Nixon won. Chennault told Thieu through Diem that Johnson's peace talks were simply a ploy to get Humphrey elected president and that Humphrey opposed the Americanization of the war.

Chennault indicated that Nixon favored more direct American intervention, an appealing message to convey to Thieu because without U.S. support, Thieu's regime could not last long against the Viet Cong and the North Vietnamese.

Nixon's Assurances

While Nixon was putting in motion his plan to disrupt the peace talks, Johnson continued to brief all three candidates. On July 26, Johnson told them that he was pushing to have a four-point negotiation at the table, involving the U.S., North Vietnam, Thieu's government and the National Liberation Front (NLF), the political arm of the Viet Cong.

Nixon assured Johnson that he was in full support of the peace initiative and that the President's emissaries in Paris should be able to speak with the confidence and authority of the U.S. government. Nixon said nothing should be done in the political arena that might undermine the effort.

Hughes shows Nixon's hypocritical side again when he points to Nixon's acceptance speech at the GOP convention in Miami in August, saying: "We all hope that there's a chance that current negotiations may bring an honorable end to that war, *and we will say nothing during this campaign that might destroy that chance.*" (italics added)

Meanwhile, Humphrey trying to rebuild the shattered Democratic unity began to suggest that peace was possible and that U.S. troops could be coming home as early as 1969. Johnson responded by saying that although everyone hoped to see the day the troops come home no one could predict when that day would come. He added, "We are there to bring an honorable, stable peace to Southeast Asia, and no less will justify the sacrifices that our men have died for."

Later, Humphrey went even further, saying he would stop the bombing for good in return for good-faith negotiations from the North. Though Humphrey's public peace talk annoyed Johnson, it helped the Vice President cut into Nixon's once-formidable lead what had been a 15-point margin shrank to 8 points. The stakes

for Nixon were raised.

The first warning that Johnson got about Nixon's sabotage of the peace talks came from Wall Street. In late October, banker Alexander Sachs told State Department official Eugene Rostow that Nixon was alerting his allies on Wall Street that he had a plan to "block" Johnson's peace talks and they should place their investment bets accordingly. [See Consortiumnews.com's "[Profiting Off Nixon's Vietnam 'Treason.'](#)"]

Thieu's Resistance

When Eugene Rostow's information was passed to Johnson by his national security aide Walt Rostow (Eugene's brother), Johnson had just learned that South Vietnamese President Thieu had decided not to send a delegation to Paris to negotiate.

Johnson also had a second source who revealed that Mitchell, Nixon's campaign manager, was working to frustrate Johnson's attempt at peace talks and a truce. Mitchell had been heard to say words to the effect that they would foul up these peace talks as they had frustrated Johnson's attempt to make Abe Fortas the Chief Justice of the Supreme Court.

Johnson revealed this information to his friend Sen. Russell in a phone conversation. Johnson said he had ways to confirm whether or not the rumors were true. What he meant was that he could use the surveillance powers of the FBI, CIA and NSA to monitor certain communications necessary to carry out the subversion of the peace process.

Johnson did just that. The NSA placed a bug inside Ambassador Bui Diem's office in Washington, and the CIA did the same in the office of President Thieu in Saigon. Even though Hughes writes that these partially declassified cables are still heavily redacted, it's clear from them that Johnson told Russell that Anna Chennault was in contact with Bui Diem. LBJ was convinced she was the go-between from the Nixon camp to the South Vietnamese representatives.

NSA intercepts revealed that Ambassador Bui Diem told Thieu that the longer the situation dragged out the more it would favor the Republicans and South Vietnam. Bui Diem added that he was in direct contact with the Nixon entourage, which meant, of course, Chennault.

In fact, the FBI knew that Chennault had visited Bui Diem at the embassy on Oct. 30 for 30 minutes. Besides the wiretap, Johnson ordered the FBI to report on anyone entering or leaving the embassy and to tail Chennault. He also wanted her phone tapped at the Watergate, but the FBI didn't go that far.

Trying to pressure Nixon to back off, Johnson called Republican Senate Leader Everett Dirksen and asserted that he (Johnson) knew what was going on. "I really think it's a little dirty pool for Dick's people to be messing with the South Vietnamese ambassador and carrying messages around to both of them, and I don't think the [American] people would approve of it if it were known," Johnson told Dirksen with the implicit threat to expose publicly what Johnson privately called Nixon's "treason."

Hughes writes that Johnson never told Humphrey specifically about what Chennault was doing. He only mentioned some interference from the "China Lobby" and "Nixon's entourage." Nor did Johnson show Humphrey the intelligence cables he had from the FBI, NSA, and CIA.

The Final Days

Despite Johnson's warning to Dirksen, Chennault did not stand down. On Nov. 2, just three days before the election, another embassy message was intercepted revealing that she told Ambassador Bui Diem to convey to his superiors, "hold on, we are gonna win."

Thieu followed up by telling the South Vietnamese legislature that he would boycott the negotiations. At the same time, Nixon announced that he had been assured that the peace talks would begin. The combination of the two public announcements made Johnson look like either a con man or someone who had lost control of his own negotiations (which he had).

On Sunday, Nov. 3, Johnson asked Nixon about his knowledge of the Republican interference, and Nixon told Johnson that he was fully behind the President's efforts to bring the war to an end as quickly as possible. Nixon would lie about his role in the sabotage to the end.

There was one last twist to the story, playing out the day before the election. The Christian Science Monitor's Saigon correspondent Beverly Deepe filed a story based on her local sources describing the Republican gambit to prevent the peace talks. In Washington, the Monitor's Saviile Davis ran Deepe's information past Bui Diem, who denied it, and then past the White House.

President Johnson considered confirming the story but consulted with several of his top advisers national security adviser Walt Rostow, Secretary of State Dean Rusk and Defense Secretary Clark Clifford who all urged him to stay silent. Clifford warned that if the story was published and Nixon still won, Nixon might be unable to lead the country. With the White House declining comment, the Monitor decided not to go with Deepe's scoop.

Humphrey ended up losing the election by less than one point in the popular

vote, leaving history to ponder the painful question of whether the disclosure of Nixon's operation might have cost him the election and brought the war to an end years earlier saving countless lives.

The Watergate Tie-in

But there was another reason to expose Nixon's covert operation. Hughes concurs with journalist Robert Parry's revelations two years ago that it was probably Nixon's awareness of Johnson's knowledge about the sabotage that inspired the formation of the Plumbers and set the stage for the Watergate scandal which destroyed Nixon's presidency.

After Nixon won the election in 1968, FBI Director Hoover flew to New York for a private conference with Nixon and his chief of staff H. R. Haldeman. During the meeting, Hoover revealed the bugging operation ordered by Johnson over the Chennault affair. But the Director exaggerated its extent, claiming that the FBI had bugged Nixon's campaign plane, which was not true. Hoover also said the FBI had wiretapped Chennault's phone at her home, which Johnson had sought but which was not done.

There could have been a reason for Hoover's falsehoods. By claiming that Nixon's plane had been bugged, Hoover may have wanted Nixon to believe that he himself had been caught on tape directly implicated in the sabotage scheme. That could have led Nixon to think that Hoover had something politically lethal on him. By hyping the story, Hoover also undercut one of his younger FBI rivals, Cartha "Deke" DeLoach, by telling Nixon that some of the bugging had been DeLoach's idea.

What Nixon didn't know was that Johnson removed the Chennault file when he left office in January 1969 and entrusted the top-secret information to Walt Rostow, rather than ship it to the Johnson presidential library in Austin, Texas. The missing file and the paranoia instilled in Nixon by Hoover's exaggerated account had huge consequences for history.

When Nixon took office he assigned Haldeman to find the Chennault file, a task that was passed on to Thomas Charles Huston, who later became famous for the Huston Plan proposing more domestic surveillance of leftist anti-war groups. Huston's recommendations went too far even for Hoover. But Huston's work on national security issues made him a natural for Haldeman's assignment to locate the Chennault file.

Huston couldn't find the file but believed that some of the information about why the peace talks had failed might have ended up in a Defense Department study supervised by Clifford, Paul Warnke and Leslie Gelb. When Gelb left office for

the Brookings Institution, he supposedly took the report with him, Huston believed. [See Consortiumnews.com's "[An Insider's View of Nixon's 'Treason.'](#)"]

Confusion Reigns

As Hughes notes, this information conveyed by Huston seems, at best, garbled. It more accurately describes the Pentagon Papers, which Gelb was actually involved in, rather than the Chennault affair, which Gelb had no role in. But even though Huston's information was dubious on its face, Haldeman conveyed it to Nixon, who predictably replied: "I want that goddamn Gelb material and I don't care how you get it!"

But as yet, Nixon lacked his own team for conducting illegal break-ins. So, the issue of the missing Chennault material was pushed to the proverbial back burner. But an historic event in 1971 returned this concern to the center of Nixon's paranoid mind.

On June 13, 1971, the *New York Times* started publishing the Pentagon Papers, a secret study of the Vietnam War commissioned by former Defense Secretary Robert McNamara tracing the conflict from its beginning to 1967. The American public was suddenly riveted by disclosures about how various presidents, mostly Democrats, had deceived the country about the Vietnam War.

Four days later, Nixon returned to the issue of the missing file and the possibility that Gelb had taken it to the Brookings Institution and placed it in the think tank's safe. On June 17, 1971, Nixon summoned Haldeman and national security advisor Henry Kissinger into the Oval Office and pleaded with them again to locate the missing file. "Do we have it?" Nixon asked Haldeman. "I've asked for it. You said you didn't have it."

Haldeman: "We can't find it."

Kissinger: "We have nothing here, Mr. President."

Nixon: "Well, damnit, I asked for that because I need it."

Nixon then added that he wanted a break-in of Brookings "implemented. Goddamn it, get in and get those files. Blow the safe and get it."

On June 30, 1971, Nixon again berated Haldeman about the need to break into Brookings and "take it [the file] out." Nixon even suggested using former CIA officer E. Howard Hunt to conduct the Brookings break-in. "You talk to Hunt," Nixon told Haldeman. "I want the break-in."

Nixon's Paranoia

From here in the book, Hughes draws a portrait of a man who is a victim of his own past and his own prejudices. Nixon begins to compare those who leaked the Pentagon Papers with the communist conspiracy he railed about back in his HUAC days.

Feeling under pressure regarding leaks or potential leaks Nixon starts scheming about leaking negative information about former Democratic icons. He wanted to get the goods on Franklin Roosevelt's prior knowledge about the Japanese attack on Pearl Harbor. Nixon wanted files on President Kennedy because he thought there might be some dirt about the Bay of Pigs fiasco or the Cuban Missile Crisis.

In effect, Nixon wanted a dual-track program: 1.) He wanted to break into private institutions to save himself from potential political damage from the Chennault affair, and 2.) He wanted to disclose damaging classified materials on the Democrats, possibly to muddy the waters just in case his 1968 peace talk sabotage was exposed.

Nixon soon brought onboard Hunt to oversee the creation of a Special Investigations Unit, better known as the Plumbers. The unit would be governed from above by Nixon, Haldeman, and White House aide John Ehrlichman, but it would have support from the FBI and the CIA.

At this point, with the Plumbers formed and their target list forming, Hughes reveals another Nixon pathology: his hatred of the Harvard People. Nixon did not come from a privileged background and did not get into an Ivy League college. He seemed to resent those who did, like Hiss, Kennedy and Roosevelt.

Nixon began to demand head counts in certain agencies of government like Treasury and Justice of, respectively, Jews and Ivy Leaguers. Incredibly, his subordinates actually compiled these counts. Fred Malek was put in charge of finding the Jewish cabal inside government after Nixon said, "I really feel that I want the Jews checked."

In a conversation with White House counsel Chuck Colson about the Treasury Department, Nixon said: "Well. Listen are they all Jews over there?" Colson replied, "Every one of them. Well, a couple of exceptions." This conversation concludes with Nixon saying that they have to find a man who is not Jewish to control the Jews in the administration.

Haldeman later wrote that he understood the dark pathology of Nixon's mind and would not follow through on some of his wilder demands. The problem, as Haldeman saw it, was that Colson would. Colson and Nixon would then do things that Haldeman would not know about until afterwards. In other words, Colson enabled

the worst in Nixon.

Acting on Nixon's worst impulses, Colson and G. Gordon Liddy, a leader of the Plumbers, thought up a wild scheme to burglarize Brookings in pursuit of the missing file. They would first firebomb the building. Then, after the fire engines were called in, a burglary team would take advantage of the confusion and bust open the safe.

But after John Caulfield and Anthony Ulasewicz, veteran detectives working for Nixon, heard about the scheme, they counseled against it and Ehrlichman canceled the operation. As Hughes notes, Ehrlichman then lied under oath about Nixon's approval of the project, which was the only burglary that Nixon clearly authorized on tape.

On to Watergate

Still, the Plumbers continued to undertake other illegal break-ins, including rifling files and planting bugs inside the Watergate offices of the Democratic National Committee in late May 1972. When five burglars returned on June 17, 1972, to do more espionage, they were caught by Washington D.C. police, setting in motion the Watergate scandal. That, in turn, created a constitutional crisis as Nixon refused to surrender his White House tapes to investigators.

On July 24, 1974, when the U.S. Supreme Court ordered Nixon to surrender the tapes, it spelled the doom for Nixon's presidency by corroborating allegations from ex-White House counsel John Dean and others that Nixon had overseen a criminal cover-up of the Watergate break-in. Nixon resigned on Aug. 9, 1974.

However, Nixon's sabotage of Johnson's peace talks although it may have extended the war for four years and caused the deaths of some 20,000 U.S. soldiers and a million Vietnamese never received the attention that the Watergate cover-up did. Nor has Official Washington ever come to grips with the new evidence suggesting that the two scandals were actually one.

Hughes ends the book deftly. In the David Frost interviews with Nixon in 1977, Frost asked him about the Chennault affair. Nixon replied that he did nothing to undercut Johnson's attempts at negotiations. About Chennault's interference, he said that he did not authorize these attempts at subterfuge.

Building on the investigative work of Robert Parry and other researchers, Ken Hughes has written a well-documented, incisive and hard-hitting book. He takes us up close to a man who never should have been president and who appears to have gotten into the White House through an act approaching treason. Nixon then lied about the crime for the rest of his life.

James DiEugenio is a researcher and writer on the assassination of President John F. Kennedy and other mysteries of that era. His most recent book is *Reclaiming Parkland*.

Bringing War Home to America

From the “war on drugs” to the “war on terror,” U.S. society has grown increasingly militarized with police now armed to the teeth with weapons of war to deploy against American citizens, a process that apes U.S. violence-oriented actions abroad, says Brian J. Trautman.

By Brian J. Trautman

The police response to public protests in Ferguson, Missouri, in the wake of the deadly Aug. 9 shooting of Michael Brown, Jr., an unarmed 18-year-old black man killed by a white police officer, was a prime illustration of the hyper-aggressive nature of policing in America today.

The residents of Ferguson fed up with hostile and abusive police behavior continue to flood the streets to demand justice for Mike Brown and other victims of police brutality. They have been joined in solidarity by people of conscience in other cities (e.g., Oakland, NYC).

Their anger and frustration was exacerbated by the heavy-handed tactics used against the mostly peaceful protestors in Ferguson during the first week or so of the demonstrations tear gas, rubber bullets, smoke, deafening sirens as well as assault rifles fixed on protestors were some of the violent methods employed by law enforcement.

In addition, a mandatory curfew imposed by the Missouri governor, verbal threats of physical harm from police, and arrests of journalists, among other ill-advised and counterproductive reactions, only escalated the tensions between protestors and police.

The police action in Ferguson sparked a much-needed and long overdue national discussion about the rise of the police-industrial complex. One important outcome of this conversation has been an increased awareness among the American public of how local and state police became armed with equipment meant for war.

The fact that government programs and funding provided police with military-grade weaponry and that these arms have been deployed against American citizens

has provoked the ire of liberal and conservative lawmakers alike a rare show of bipartisanship in today's political climate.

The national media has now joined independent media in shining a spotlight on the paramilitary structure of modern-day policing. However, even now, the vast majority of media and politicians continue to ignore the fundamental causes of the increasingly violent policies and procedures of law enforcement, as it would require critically questioning and challenging the systems and institutions that produce them.

To better understand, effectively reduce, and eventually prevent the underlying factors which led to the police slaying of Mike Brown and other unarmed citizens, we must openly debate two major forms of violence prevalent in the United States: systemic violence (aka structural violence) and militarism.

Systemic violence is the type of violence that is deeply-embedded in a nation's social, economic, educational, political, legal and environmental frameworks, and tends to be rooted in government policy. It is organized violence with an historical context, and often manifests in subtle but very specific and destructive ways.

Examples include entrenched racism, classism and discrimination and economic inequality and relative poverty. Systemic violence paves the way for authoritarian and undemocratic values such as exploitation, marginalization and repression, especially of underrepresented, underprivileged populations.

Militarism is the ideology that a nation must maintain a strong military capability and must use, or threaten to use, force to protect and advance national interests. America's militaristic approach to overseas conflicts can be found in many aspects of its domestic policies.

Systemic violence and militarism are interconnected and mutually dependent. They go hand in hand, building on and reinforcing each other. Both define and direct American policing, which regularly treats citizens like enemies of the state. We need not look further for an example than the military-style police assault in Ferguson.

Systemic violence and militarism are responsible for the flow of military-grade equipment such as mine resistance vehicles and semi-automatic weapons to police departments across the country.

In an op-ed I wrote last month entitled "Escalating Domestic Warfare," I discussed a report from the American Civil Liberties Union (ACLU) on the emergence of a militarist ethos in American policing. The ACLU's research showed that the militarization of police has become excessive and lethal.

For example, SWAT teams are being deployed primarily to serve search warrants in low-level drug cases, and these teams are using methods and equipment traditionally reserved for war to do so. The ACLU also found that police militarization increased substantially after each of three major national events: the initiation of the "War on Drugs," the attacks of 9-11, and a series of Supreme Court decisions which have eroded the rights guaranteed in the Fourth Amendment.

Over the past two decades, the violent crime rate in the United States has decreased sharply. The militarization of policing, then, is counter-intuitive. Historically, nations that have militarized their police have done so not because of violent crime but rather to rapidly quell potential mass civil uprisings against tyranny, oppression and injustice.

A statement released by Veterans for Peace (VFP), a global organization of military veterans and allies working to build a culture of peace, calls for justice for Mike Brown and his family through, in part, "a complete, swift and transparent investigation" into his death.

VFP strongly condemns the use of violence in any form to secure justice. Instead, they implore protestors "to continue to channel their anger towards building power, solidarity and creating change nonviolently."

The organization expresses deep outrage for the state violence in Ferguson: "police over reaction to community expressions of grief and anger is the outcome of a national mindset that violence will solve any problem."

According to VFP, the military-industrial complex and a permanent war mentality are two major sources of this violence: "Thirteen years of war has militarized our whole society. We see equipment designed for the battlefield used in our nation's streets against our citizens. We see police in uniforms and using weapons indistinguishable from the military."

This militaristic approach to domestic policing, says VFP, has resulted in tragedy on our streets: "Week after week we see reports of police abuse and killings of innocent and unarmed civilians." Justice for the victims is often denied: "time and time again we see police given impunity for their crimes and citizens left in disbelief wondering where to turn next."

VFP reminds us of the repeated targeting of communities of color by police. The Ferguson protests are a natural reaction to this legacy of mistreatment and injustice. Police brutality against young black males, in particular, VFP argues, was a powder keg waiting to explode: "the unrest in Ferguson and similar incidents of citizen rebellions are the outcome of state abuse and neglect, not

of hoodlums and opportunists. Eventually, any people who are held down will attempt to standup.”

VFP’s statement also warns that militarism at home cannot be solved until we end our nation’s militarism abroad: “We cannot call for peace in the streets at home and at the same time conduct war for thirteen years in the streets of other nations.”

America’s violent system of policing and its antagonistic foreign policy are interrelated. Therefore, they must be addressed together before reforms can be effective and help to end our culture of violence.

Solutions-based approaches begin with local, state and federal legislators acknowledging that many current laws and policies create and fuel systemic violence and militarism. They must then find the wisdom and muster the courage to act to change or abandon those laws and policies.

One strategy that our towns and cities can adopt to contribute to this process is nonviolent community policing. Retired police captain Charles L. Alphin, who served for over 26 years in the St. Louis City Police Department, offers suggestions for such a policing model in an [article](#) titled “Kingian Non-violence: A Practical Application in Policing.”

Alphin believes Kingian nonviolence holds great potential for American policing. He gives examples of how this model of policing can work using Dr. Martin Luther King Jr.’s philosophy of nonviolence. Alphin contends, as Dr. King did, that how we approach policing cannot stand alone from teaching nonviolence in the school, home, streets and in every phase of life.

Alphin also explains that he applied Kingian philosophy effectively in interrogation of criminal suspects and in the organization of communities to get at the root causes of violence and drugs, effectively empowering communities to identify and work on these problems at the grassroots level (note: this community-based solution to violence is a feature of the theory and practice of [transformative justice](#)).

There is an urgent need for models of paramilitary policing to be replaced with models of nonviolent community policing. Freedom and democracy are at stake. So are the lives of our innocent citizens.

The killing of Mike Brown can be a pivotal moment for how we treat the systemic violence and militarism that produced the policing system of today. Ferguson has awakened many Americans to the realities of police militarism on their streets and to the urgent need to demilitarize the police.

We cannot afford public apathy on this issue any longer. The people must insist on alternative models of policing that respect and protect civil and human rights. To reverse the trend of police violence in this country, we must work to eliminate the systemic and militaristic roots of this violence, remembering that military-style policing is inextricably linked to America's belligerence abroad.

No matter how you slice it, the weapons of war and other violent tactics used against Ferguson protestors will go down as a tragic chapter in American history. Still, robust and meaningful people-powered action for progressive social change can help make this chapter a turning point toward the positive transformation of policing in the United States. This action, change, and transformation are inevitable because justice demands it.

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Is Police Brutality Color-Blind?

The Missouri police shooting death of Michael Brown has spotlighted police brutality toward blacks but many other Americans, including whites, are finding themselves the targets of harsher and harsher police tactics, notes Nat Parry.

By Nat Parry

A survey released this week by the Pew Research Center has revealed glaring differences of views among blacks and whites when it comes to the death of Michael Brown, an unarmed African-American youth killed by a white police officer in Ferguson, Missouri, on Aug. 9, and the protests that have followed.

Unfortunately though, the wording of the survey leaves some pertinent questions unaddressed, focusing on the racial aspect of the controversy while overlooking the public's general perception about the problem of police brutality in America.

Nevertheless, the survey significantly found that blacks are about twice as likely as whites to say that Brown's shooting "raises important issues about race that need to be discussed," with about 80 percent of African-Americans agreeing with that statement and whites saying by a 47 percent to 37 percent margin that the issue of race is getting more attention than it deserves.

Although the Pew survey neglected to ask, it's possible that at least some of the white respondents objected to the focus on race because they feel that the epidemic of police violence cuts across racial lines. As anyone who regularly follows news pertaining to police brutality knows, the police are generally out of control across the country and the victims of their brutishness are not just African-Americans but in fact, Latinos, Asians, and yes, even white people.

In one recent case that received some national attention, police shot and killed a homeless white man in Albuquerque, New Mexico, sparking a wave of demonstrations in the city. Police officers gunned down 38-year-old James Boyd on March 16 in the Sandia foothills following a standoff and after he allegedly brandished a small knife, authorities said. But a helmet-camera video showed Boyd agreeing to walk down the mountain, gathering his things and taking a step toward officers just before they opened fire.

Amid the popular uproar that ensued, the U.S. Justice Department issued a report on April 10 documenting that the Albuquerque Police Department (APD) has for years engaged in a pattern of excessive force that violates the U.S. Constitution and federal law.

The investigation, launched in November 2012, specifically identified three general patterns of police abuse in Albuquerque:

- APD officers too frequently use deadly force against people who pose a minimal threat;
- APD officers use "less lethal" force, including tasers, on people who are non-threatening or unable to comply with orders; and
- Encounters between APD officers and persons with mental illness and in crisis too frequently result in a use of force or a higher level of force than necessary.

While these findings specifically pertained to law enforcement practices in Albuquerque, largely vindicating the grievances of demonstrators protesting the shooting death of James Boyd, they could just as easily apply to any number of police departments across the country that engage in similar practices of excessive force.

United Nations' Criticism

The national epidemic of police violence has even caught the attention of the United Nations Human Rights Committee, which earlier this year issued a scathing report raising serious concerns about human rights abuses in the United States, including police brutality.

In a section on “Excessive use of force by law enforcement officials,” the UN found that across the country, there is an unacceptably “high number of fatal shootings by certain police forces,” as well as “reports of excessive use of force by certain law enforcement officers including the deadly use of tasers.”

In order to bring U.S. practices in line with international norms on law enforcement, the UN recommended that the U.S. government should “step up its efforts to prevent the excessive use of force by law enforcement officers by ensuring compliance with the 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officers” and “ensure that reported cases of excessive use of force are effectively investigated, alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions.”

This is one area that is severely lacking in the U.S., with killer cops rarely if ever held accountable for their actions. It is also another major difference in the perceptions of whites and blacks, according to the Pew survey. In fact, whites are nearly three times as likely as blacks to express confidence in the official investigations into the shooting of Michael Brown, with about half of whites saying they have a great deal or fair amount of confidence in the investigations, compared to just 18 percent of blacks.

Whites are also less likely than blacks to view the highly militarized and aggressive police response to the Ferguson street protests a response that has been widely condemned, including by UN Secretary-General Ban Ki-moon and Amnesty International as problematic, with fully 65 percent of African-Americans saying the police have gone too far but only 33 percent of whites agreeing. (According to the Pew survey, 32 percent of whites say the police response has been about right, while 35 percent offered no response.)

While the framing of the Pew survey may in some ways be lacking, failing to consider for example the possibility that whites view race as receiving too much attention because they also feel victimized by police, when combined with the findings on the police response to the protests and the viability of the official investigation of Brown’s death, it does appear that there may be some naiveté on the part of white people when it comes to these issues.

Racial Disparities

Indeed, although police violence to a certain degree does cut across racial and demographic lines, the reality is, if you are black you are far more likely die at the hands of a police officer than you would if you are white. A 2007 investigation by ColorLines and the Chicago Reporter found for example that in ten major cities, there was a disproportionately high number of African-Americans among police shooting victims, particularly in New York, San Diego,

and Las Vegas.

An investigation of the NAACP into police shootings in Oakland, California, found that out of 45 officer-involved shootings in the city between 2004 and 2008, 37 of those shot were black and none were white. Although one-third of the shootings resulted in fatalities and despite the fact that weapons were not found in 40 percent of cases, no officers were ever brought up on criminal charges.

Considering these statistics, the black-white perception divide on the Ferguson situation may indeed be a cause for concern. While there could be other unaddressed dynamics at play, including a general ignorance and apathy as it pertains to the racial disparities in law enforcement, it seems likely that the concept of white privilege is also playing a significant role.

White privilege, as defined by sociologists, is a system of unearned benefits granted to white people, providing them with an advantage based on their race, which enables them to maintain an elevated status in society. As Frances Kendall describes the concept in *Understanding White Privilege*, it is “an institutional, rather than personal, set of benefits granted to those of us, who, by race, resemble the people who hold the power positions in our institutions.”

One of those benefits, it is assumed, is the right not to be shot, beaten or even harassed by police. And by maintaining relative silence over the routine police brutality that disproportionately affects African-Americans and expressing general support to cops who are “just doing their jobs,” whites may think that they can maintain this privilege and hold on to their perceived immunity from police violence.

If this is the assumption, it is a foolish one indeed. Emboldened by decades of martial rhetoric emanating from the war on drugs, the war on crime and the war on terror, and lavished by the Defense Department with advanced military combat gear through a program authorized by Congress in the 1990s, local police forces around the country have been militarized to a degree never seen before in the United States.

The Warrior Cop

Radley Balko, author of the book *Rise of the Warrior Cop: The Militarization of America's Police Forces*, explained the phenomenon in a recent interview on Democracy Now.

“The transfers from the Pentagon of surplus military equipment we’re talking tanks, armored personnel carriers, grenade launchers, helicopters that began

early in the Reagan administration informally and then was formalized by Congress in the 1990s," he said. "We've had millions literally millions of pieces of military equipment have been exchanged this way. And then, after September 11th, the Department of Homeland Security started sending out checks to buy new military-grade equipment from companies that have now sprung up to build that equipment."

Balko pointed out that the body responsible for administering these transfers, the Law Enforcement Support Office, which is part of the Defense Logistics Agency, boasts the motto, "from warfighter to crimefighter."

"So, you know," Balko said, "their very motto sort of portrays a misunderstanding of the role of soldiers versus the role of police officers. I think these are two very different jobs. The soldier's job is to annihilate a foreign enemy; it's to kill people and break things. A police officer's job is to keep the peace and to protect our constitutional rights."

In a report released in June, "War Comes Home: The Excessive Militarization of American Policing," the American Civil Liberties Union investigated more than 800 SWAT raids conducted by law enforcement agencies in 20 states and the agencies' acquisition of military weaponry, vehicles, and equipment.

"We found that police overwhelmingly use SWAT raids not for extreme emergencies like hostage situations but to carry out such basic police work as serving warrants or searching for a small amount of drugs," said Kara Dansky, Senior Counsel with the ACLU's Center for Justice.

Wounding a Baby

In one tragic case the ACLU examined, police in Habersham County, Georgia, carrying out a "no-knock" search warrant for someone suspected of having made a \$50 drug sale, threw a flash-bang grenade into the house that landed in a crib where a 19-month-old boy was sleeping.

"Just before 3:00 am on a night in May of 2014, a team of SWAT officers armed with assault rifles burst into the room where the family was sleeping," the ACLU explained. "Some of the kids' toys were in the front yard, but the Habersham County and Cornelia police officers claimed they had no way of knowing children might be present. One of the officers threw a flashbang grenade into the room. It landed in Baby Bou Bou's crib."

When the grenade exploded, it blew a hole in the toddler's face and chest, exposing his ribs. The blast covered his body in third degree burns and left him disfigured. The boy's mother, Alecia Phonesavanh, who is white, told the ACLU, "This is all about race and class. You don't see SWAT teams going into a white

collar community, throwing grenades into their homes.”

Despite costing the family \$800,000 for the toddler’s medical bills, officials from Habersham County are now refusing to pay. The cops have defended their actions, with Police Chief Rick Darby claiming that since there was “nothing to indicate that there was children present in the home,” throwing a grenade into someone’s house in the middle of the night was perfectly reasonable.

“If there had been [indications of children present] then we’d have done something different,” Darby said. An investigation is underway into the handling of the case, but no arrests of police officers for criminal negligence have been made.

Cases such as these make one wonder about the mentality of modern-day police officers, specifically whether they possess anything resembling a conscience or human empathy. Do they recognize inherent human rights in others, or do they simply view people as potential threats or as subjects with whom they must establish their authority at any cost?

Don’t Resist

In a Washington Post op-ed on Tuesday, Sunil Dutta of the Los Angeles Police Department provided some insight into this question, offering practical advice to civilians on how to avoid being brutalized or killed by cops.

“If you don’t want to get shot, tased, pepper-sprayed, struck with a baton or thrown to the ground,” he wrote, “just do what I tell you. Don’t argue with me, don’t call me names, don’t tell me that I can’t stop you, don’t say I’m a racist pig, don’t threaten that you’ll sue me and take away my badge.”

Acknowledging that police “field stops” can sometimes amount to unlawful and unconstitutional harassment, Dutta nevertheless advised civilians to never question the police about why they are being hassled, and above all, never contest cops’ authority in any way.

“I know it is scary for people to be stopped by cops,” he wrote. “I also understand the anger and frustration if people believe they have been stopped unjustly or without a reason,” adding that he is well aware that “corrupt and bully cops exist.”

However, “if you believe (or know) that the cop stopping you is violating your rights or is acting like a bully, I guarantee that the situation will not become easier if you show your anger and resentment,” he said. Instead of challenging the cop on the spot or questioning the legitimacy of his or her “field stop,” Dutta advises that you “Save your anger for later, and channel it appropriately.

Do what the officer tells you to and it will end safely for both of you.”

“Feel free to sue the police,” he says. “Just don’t challenge a cop during a stop.”

Of course, this is often more easily said than done. While many people have long ago internalized Dutta’s advice, having learned at an early age that to avoid being brutalized or thrown in jail, it is always best to demonstrate the utmost respect during run-ins with the law, at times, this is not always realistic. Particularly when it comes to individuals who endure police harassment on a daily basis such as African-American youths living in the ghetto or homeless people of any color living on the streets there is always a breaking point at which civilians might on occasion talk back to police or, heaven forbid, fail to immediately comply with what they feel are unfair or disrespectful police orders.

At other times, police orders might be confusing or contradictory, such as the incident last week in Ferguson in which Washington Post reporter Wesley Lowery was arrested after failing to obey the conflicting commands of two different police officers who were demanding that he leave a McDonald’s restaurant where he was filing a story.

“One instructed me to exit to my left,” Lowery explained. “As I turned left, another officer emerged, blocking my path.” ‘Go another way,’ he said.” At that point, Lowery, who is white, was slammed against a soda machine and handcuffed.

A Beating Death

Or, consider the tragic case of Kelly Thomas, a white 37-year-old homeless man who was savagely beaten to death by police in California in July 2011. The full video of the altercation, which was made public for the first time in May 2012, demonstrated for all to see that the episode started as routine harassment of a homeless person, with questioning about where he sleeps at night and requests to search his belongings.

Police officer Manuel Anthony Ramos then began making contradictory demands of Thomas, instructing him to sit down, to extend his legs and simultaneously put his hands on his knees. When Thomas, who suffered from schizophrenia, failed to immediately comply with the confusing instructions, Ramos held out his fists and warned Thomas that “they’re getting ready to fuck you up.”

Ramos then proceeded to viciously beat and taser Thomas for about ten minutes, assisted by several other officers who subsequently joined the assault. Thomas repeatedly cried out “I’m sorry! I’m sorry!” and “Daddy, help me!” as the officers continued to torture him. He died several days later in a hospital.

After a lengthy legal battle, Ramos was ultimately acquitted of second-degree murder and involuntary manslaughter. His partner, Jay Cicinelli, who assisted in the beating of Kelly, was acquitted of involuntary manslaughter and excessive use of force. As the Associated Press noted, "It was a rare case in which police officers were charged in a death involving actions on duty. Jurors took less than two days to reach their verdicts."

Incidents such as these reveal that, perhaps, police brutality is really more about power than it is about race. In the U.S., of course, race and power are historically linked, but then again so too are wealth and power. It is therefore unwise for whites to think that their racial status their white privilege will protect them from out-of-control, militarized police forces around the country. Power, of course, is also intrinsically tied to violence, or what political scientists call the "*monopoly of legitimate physical force.*"

Max Weber, one of the most influential political theorists of the Twentieth Century, defined not just state power but the state itself in terms of the means that is specific to it, namely, violence.

"Violence," he wrote, "is not the normal or sole means of the state, but it is what is specific to the state." The state "is the sole source of the 'right' to exercise violence," and must maintain its monopoly over violence in order to "force those who are ruled to comply with the claimed authority of those actually ruling."

This may help explain why police brutality is generally on the rise across the country, and also more specifically why the police in Ferguson are now employing such harsh and draconian means to quell the uprising that has taken hold there. What police despise more than anything is when their authority is challenged, whether it is by whites, blacks, Asians or Latinos. When they feel the need to establish authority is when they lash out, which can be either by throwing you in jail or through excessive force.

And when they do lash out, be advised: white privilege is no protection.

Nat Parry is the co-author of *Neck Deep: The Disastrous Presidency of George W. Bush.*

Cracking Down on Truth-telling

President Obama entered office vowing to run a transparent government. But instead he has clamped down on leaks, prosecuted whistleblowers and threatened

truth-telling journalists with jail if they don't reveal sources, as Marcy Wheeler recounts.

By Marcy Wheeler

Last week focused a lot of attention on *New York Times* reporter James Risen, who is facing the threat of jail time for refusing to testify in a leak case against former CIA officer Jeffrey Sterling. The Supreme Court refused to hear Risen's appeal of a subpoena to testify in June.

A week ago, a bunch of fellow Pulitzer Prize winners signed a statement supporting Risen. On Thursday, a coalition of press freedom groups submitted 100,000 signatures calling on DOJ to halt its pursuit of Risen's testimony. In an interview with Maureen Dowd after a press conference on press freedom on Thursday, Risen called President Barack Obama, "the greatest enemy to press freedom in a generation."

Meanwhile, even as Risen waits to find out whether the Department of Justice will send him to jail to attempt to force him to testify about his source, Sterling also waits, as he has since January 2011, when he was first arrested. The government has done nothing official in Sterling's case since the Supreme Court refusal to take Risen's appeal in June.

Sterling is accused of providing Risen classified information regarding Operation Merlin, a bungled CIA effort to deal Iran bad nuclear weapons information. The information appeared in Chapter 9 of Risen's 2006 book, *State of War*, which exposed a number of the Bush Administration's ill-considered intelligence programs.

Risen's account revealed not just that CIA tried to thwart nuclear proliferation by dealing doctored nuclear blueprints to American adversaries, but that in this case, the Russian defector the U.S. charged with dealing the blueprints to Iran told them the blueprints were flawed. In other words, Risen's story, for which Sterling is one alleged source demonstrated questionable judgment and dangerously incompetent execution by the CIA, all in an effort to thwart Iran's purported nuclear weapons program.

Sterling's story, then, makes an instructive contrast with that of retired General James Cartwright, who is alleged by the press, but not yet, publicly at least, by the government, to have served as the source for another story about the intelligence community's questionable judgment and dangerously incompetent execution of counter-proliferation plots targeting Iran.

Over a year ago, NBC reported that General Cartwright had received a target letter informing him he was under investigation as the source for one of David

Sanger's stories on U.S.-Israeli efforts to stall Iran's enrichment program with the StuxNet cyberattack:

"According to legal sources, Retired Marine Gen. James 'Hoss' Cartwright, the former vice chairman of the Joint Chiefs of Staff, has received a target letter informing him that he's under investigation for allegedly leaking information about a massive attack using a computer virus named Stuxnet on Iran's nuclear facilities. Gen. Cartwright, 63, becomes the latest individual targeted over alleged leaks by the Obama administration, which has already prosecuted or charged eight individuals under the Espionage Act.

"As soon as the Times report appeared, Congressional leaders demanded a criminal probe, and President Obama said he had 'zero tolerance' for 'these kinds of leaks.' Republicans charged that senior administration officials had leaked the details to bolster the president's national security credentials during the 2012 campaign.

"But, said legal sources, while the probe that Attorney General Eric Holder ordered initially focused on whether the information came from inside the White House, by late last year FBI agents were zeroing in on Cartwright, who had served as one of the president's 'inner circle' of national security advisors. Two sources said prosecutors were able to identify Cartwright as a suspected leaker without resorting to a secret subpoena of the phone records of New York Times reporters.

"One source familiar with the probe said the Justice Department has not made a final decision on whether to charge Cartwright."

Subsequent reports revealed Cartwright was stripped of his security clearance sometime last year.

The story for which Cartwright allegedly served as a source did not expose StuxNet cybersecurity firm Kaspersky Lab did that. Nor was it Sanger's first story confirming U.S. and Israeli involvement; in 2011 he partnered with other *New York Times* journalists to provide details on U.S. and Israeli collaboration on the attacks.

Sanger's 2012 story provided new details, including that Obama approved an escalation of the StuxNet attack even after it had escaped beyond its target at Iran's Natanz centrifuge facility lab. Perhaps even more sensitive, Sanger's story relayed claims from officials attending a presidential briefing suggesting that Israel had been responsible for the code escaping Natanz:

"An error in the code, they said, had led it to spread to an engineer's computer when it was hooked up to the centrifuges. When the engineer left Natanz and

connected the computer to the Internet, the American- and Israeli-made bug failed to recognize that its environment had changed. It began replicating itself all around the world. Suddenly, the code was exposed, though its intent would not be clear, at least to ordinary computer users.

“‘We think there was a modification done by the Israelis,’ one of the briefers told the president, ‘and we don’t know if we were part of that activity.’

“Mr. Obama, according to officials in the room, asked a series of questions, fearful that the code could do damage outside the plant. The answers came back in hedged terms. Mr. Biden fumed. ‘It’s got to be the Israelis,’ he said. ‘They went too far.’”

Sanger’s StuxNet story is, then, just like Risen’s account of Merlin, a story of the dangerous unintended consequences caused by covert U.S. efforts to combat Iran’s claimed nuclear program. Both are issues the American public deserves to debate. Should the U.S. risk further proliferation in its effort to counter proliferation? Should NSA launch offensive attacks against an adversary we’re not at war with? What kind of blowback do such operations invite?

Both stories have been critical to bringing necessary public attention to the bungling behind our Iran policy. Yet the alleged leakers in the two stories have thus far been treated differently. Sterling has been fighting prosecution for 3.5 years. Cartwright has lost his security clearance but, two years after the Sanger story, DOJ has not charged him or anyone else.

There may be any number of explanations for the apparently different treatment: DOJ may still be crafting a case against Cartwright, and we may all be defending Sanger’s right to protect his sources sometime in the future. Given the sensitivities of StuxNet, DOJ may be unable to prosecute the leak without exposing even more classified information.

Cartwright’s different treatment may reflect DOJ’s efforts, announced last year, to “explore ways in which the intelligence agencies themselves, in the first instance, can address information leaks internally, though administrative means, such as the withdrawal of security clearances.”

Then there’s the possibility that if you’re “Obama’s favorite general,” as Cartwright reportedly was, you don’t get prosecuted. Unlike Cartwright, Jeffrey Sterling didn’t sit in on White House briefings. On the contrary, the government claimed Sterling only leaked this information after losing an Equal Employment Opportunity suit against the CIA, in which he claimed he had not been given certain assignments because he is African-American. In fact, as Risen reported in a 2002 story on Sterling, CIA Director John Brennan, then the

Agency's deputy executive director, played a role in denying Sterling's claim, after which the CIA subjected Sterling to an early security investigation.

Both Risen's and Sanger's stories provided citizens important information on America's ham-handed efforts to combat Iran. Both leaks served to provide important information about the ill-considered covert actions done in our name. Thus far, the leaks have not been treated the same.

Hopefully, the inaction on Sterling's case and against Cartwright, if he is, indeed, Sanger's source, reflects reconsideration on the part of the Obama Administration of its counterproductive criminalization of whistleblowing. Hopefully, what we're seeing is a belated recognition that attacking journalism doesn't serve the country.

But for now, Jeffrey Sterling and James Risen remain under direct threat from DOJ for telling us just how problematic some of CIA's programs against Iran are.

Investigative journalist Marcy Wheeler writes the "Right to Know" column for ExposeFacts. She is best known for providing in-depth analysis of legal documents related to "war on terrorism" programs and civil liberties. Wheeler blogs at emptywheel.net and publishes at outlets including the *Guardian*, *Salon* and the *Progressive*. She is the author of *Anatomy of Deceit: How the Bush Administration Used the Media to Sell the Iraq War and Out a Spy*. Wheeler won the 2009 Hillman Award for blog journalism.

Still Tolerating Torture

President Obama admits that U.S. authorities engaged in torture during the "war on terror" but he has taken no action to hold the torturers accountable and even elevated one of its defenders, John Brennan, to chief of the CIA, notes William Blum.

By William Blum

Since the "war on terror," the before , there was the argument pretense that Two of the things that governments tend to cover-up or lie about the most are assassinations and torture, both of which are widely looked upon as exceedingly immoral and unlawful, even uncivilized.

Since the end of the Second World War the United States has attempted to assassinate more than 50 foreign leaders and has led the world in torture; not only the torture performed directly by Americans upon foreigners, but providing

torture equipment, torture manuals, lists of people to be tortured, and in-person guidance and encouragement by American instructors, particularly in Latin America.

Thus it is somewhat to the credit of President Barack Obama that at his Aug. 1 press conference he declared "We did a whole lot of things that were right, but we tortured *some folks*. We did some things that were contrary to our values."

And he actually used the word "torture" at that moment, not "enhanced interrogation," which has been the euphemism of preference the past decade, although two minutes later the president used "extraordinary interrogation techniques." And "tortured some folks" makes me wince. The man is clearly uncomfortable with the subject.

But all this is minor. Much more important is the fact that for several years Mr. Obama's supporters have credited him with having put an end to the practice of torture. And they simply have no right to make that claim.

Shortly after Obama's first inauguration, both he and Leon Panetta, the new Director of the CIA, explicitly stated that "rendition" was not being ended. As the *Los Angeles Times* reported at the time: "Under executive orders issued by Obama recently, the CIA still has authority to carry out what are known as renditions, secret abductions and transfers of prisoners to countries that cooperate with the United States."

The English translation of "cooperate" is "torture." Rendition is simply outsourcing torture. There was no other reason to take prisoners to Lithuania, Poland, Romania, Egypt, Jordan, Kenya, Somalia, Kosovo or the Indian Ocean island of Diego Garcia, to name some of the known torture centers frequented by the United States.

Kosovo and Diego Garcia both of which house large and very secretive American military bases if not some of the other locations, may well still be open for torture business. The same for the Guantánamo Base in Cuba.

Moreover, the Executive Order referred to, number 13491, issued Jan. 22, 2009, "Ensuring Lawful Interrogations," leaves a major loophole. It states repeatedly that humane treatment, including the absence of torture, is applicable only to prisoners detained in an "armed conflict." Thus, torture by Americans outside an environment of "armed conflict" is not explicitly prohibited. But what about torture within an environment of "counter-terrorism"?

The Executive Order required the CIA to use only the interrogation methods outlined in a revised Army Field Manual. However, using the Army Field Manual as a guide to prisoner treatment and interrogation still allows solitary

confinement, perceptual or sensory deprivation, sensory overload, sleep deprivation, the induction of fear and hopelessness, mind-altering drugs, environmental manipulation such as temperature and noise, and stress positions.

After Panetta was questioned by a Senate panel, the *New York Times* wrote that he had “left open the possibility that the agency could seek permission to use interrogation methods more aggressive than the limited menu that President Obama authorized under new rules. Mr. Panetta also said the agency would continue the Bush administration practice of ‘rendition’ picking terrorism suspects off the street and sending them to a third country. But he said the agency would refuse to deliver a suspect into the hands of a country known for torture or other actions ‘that violate our human values’.”

The last sentence is of course childishly absurd. The countries chosen to receive rendition prisoners were chosen precisely because they were willing and able to torture them.

No official in the Bush and Obama administrations has been punished in any way for torture or other war crimes in Iraq, Afghanistan and the other countries they waged illegal war against. And, it could be added, no American banker has been punished for their indispensable role in the world-wide financial torture they inflicted upon us all beginning in 2008. What a marvelously forgiving land is America. This, however, does not apply to Julian Assange, Edward Snowden or Chelsea Manning.

In the last days of the Bush White House, Michael Ratner, professor at Columbia Law School and former president of the Center for Constitutional Rights, pointed out:

“The only way to prevent this from happening again is to make sure that those who were responsible for the torture program pay the price for it. I don’t see how we regain our moral stature by allowing those who were intimately involved in the torture programs to simply walk off the stage and lead lives where they are not held accountable.”

I’d like at this point to once again remind my dear readers of the words of the “Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” which was drafted by the United Nations in 1984, came into force in 1987, and ratified by the United States in 1994. Article 2, section 2 of the Convention states: “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.”

Such marvelously clear, unequivocal, and principled language, to set a single

standard for a world that makes it increasingly difficult for one to feel proud of humanity. The Convention Against Torture has been and remains the supreme law of the land. It is a cornerstone of international law and a principle on a par with the prohibition against slavery and genocide.

"Mr. Snowden will not be tortured. Torture is unlawful in the United States."
United States Attorney General Eric Holder, July 26, 2013

John Brennan, appointed by President Obama in January 2013 to be Director of the CIA, has defended "rendition" as an "absolutely vital tool"; and stated that torture had produced "life saving" intelligence.

Obama had nominated Brennan for the CIA position in 2008, but there was such an outcry in the human-rights community over Brennan's apparent acceptance of torture, that Brennan withdrew his nomination. Barack Obama evidently learned nothing from this and appointed the man again in 2013.

During Cold War One, a common theme in the rhetoric was that the Soviets tortured people and detained them without cause, extracted phony confessions, and did the unspeakable to detainees who were helpless against the full, heartless weight of the Communist state.

As much as any other evil, torture differentiated the bad guys, the Commies, from the good guys, the American people and their government. However imperfect the U.S. system might be we were all taught it had civilized standards that the enemy rejected.

William Blum is an author, historian, and renowned critic of U.S. foreign policy. He is the author of *Killing Hope: U.S. Military and CIA Interventions Since World War II* and *Rogue State: A Guide to the World's Only Superpower*, among others. [This article originally appeared at the Anti-Empire Report, <http://williamblum.org/> .]
