

Licensed to Kill

Bush Justice Department embraces torture as a tool for collecting intelligence

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The Bush Justice Department does have an essential law enforcement mission, though sometimes it seems to behave much more like a criminal syndicate. It warmly embraces the crime of torture as a tool for collecting human intelligence notwithstanding both its manifest illegality and immorality and the uniform view of intelligence professionals that torture consistently produces corrupted, inherently unreliable information. In so doing of course it is engaged in a fairly primitive game of self-protection. It can't acknowledge the fundamental criminality of its conduct, so it turns the Justice Department into its consigliere. Three different lawyers in the office of legal counsel have rendered formal opinions giving a stamp of approval to a universal crime. Indeed, this sort of legal dexterity now seems to be accepted as a rite of passage for "movement" lawyers—a fact which is very revealing of the new character of the "movement." It has nothing to do with ideals, and everything to do with personal fidelity. In each of these cases, the opinion boils down to the fundamental principle of the authoritarian state, namely: if the Leader authorizes it, then it must be okay. I can't wait to see the intellectual conversion that will occur on January 20, 2009, when the opposition party furnishes the Executive.

But the Justice Department's attitude towards murder is also extremely revealing. In the view of the Bush Administration, a number of curious footnotes have been introduced into the concept of murder. One of them appears to be that certain persons are given a license to kill, freely, with full and unquestioned discretion. They need fear neither criminal investigation nor negative repercussions for their crimes. They will be protected.

Of course this sort of license does not come cheaply. It would appear that you get this license by having a close, nurturing relationship with the Republican Party—funding its candidates for office and offering employment to its functionaries following a sort of revolving door model. The strangest part of the Tuesday hearing came when Blackwater USA head Erik Prince was grilled about his funding of Republican causes—not by a Democrat, but rather by a remarkably PR-challenged Republican. As the Los Angeles Times reports, Blackwater's head, who inherited a large automotive parts business based in Holland, Michigan:

"has donated \$230,000 to federal campaigns and causes in the last decade. Almost all of that money has gone to Republicans, according to a check of Federal Election Commission records by The Times' campaign finance expert, Dan Morain. Prince's latest donation was in July, when he gave \$20,000 to the National Republican Congressional Committee. California recipients of Prince's \$1,000 checks include Reps. Jerry Lewis and Duncan Hunter, a current GOP presidential candidate, and former Rep. Richard Pombo."

And this is not to mention the revolving door employment service Blackwater offers to senior G.O.P. functionaries chased from their perches in the Administration by looming scandals.

Of course, the license to kill is not a formal license issued on paper and bearing the signatures of Alberto Gonzales and Condoleezza Rice. It arises through the exercise of “prosecutorial discretion” not to pursue certain matters. Any homicide committed by a contractor in Iraq, for instance.

Consider the unfortunate incident that occurred following some Christmas festivities in Baghdad’s Green Zone on December 24, 2006. Things got very lively, according to sources who were present, a lot of alcohol was being consumed, and a Blackwater employee drew his weapon and shot and killed the body guard of Iraqi Vice President Adil Abdul-Mahdi. Details about what occurred are still relatively slim. However, this incident is not unique. There have been dozens of shootings which have not garnered the press and media attention this one has. Most of the others involving ordinary Iraqi civilians—not the bodyguard of a high-profile political figure.

Nevertheless, if the incident had transpired in an American city, things would have unfolded in a predictable way. The police would have conducted an inquiry, the perpetrator would have been arrested. He would have access to counsel. After consultation with the district attorney, a crime would be charged reflecting the crime in an appropriate degree of severity. A hearing would be set on bail pending trial and in any event, severe restrictions would be focused on the perpetrator’s movements.

When a crime is committed by an American company deployed in connection with a military operation overseas, the law enforcement functions of the local police department are assumed by the U.S. Justice Department. But the Blackwater incidents demonstrate that the Justice Department has some very strange ideas about how it is to fulfill its responsibilities.

The Iraqi Government wanted the perpetrator arrested and bound over for a criminal trial in Baghdad. And to this, the U.S. Government’s reaction was simple: the perpetrator was put on a plane and shipped back to the United States. As a representative of Iraq’s Justice Ministry told me: “That was also a crime. It’s flight to avoid prosecution. And United States Government officials were involved in committing that crime.” But in fact the Blackwater employee had immunity from Iraqi prosecution pursuant to Order No. 17 issued by the Paul Bremer. That order could have been waived by the United States. But as far as I can ascertain, that’s never happened.

The House Oversight Committee raised the December 24, 2006 incident in its original hearing on Blackwater last spring. Congressman Denis Kucinich asked specific questions about what had transpired, drawing a number of very vague answers from Blackwater’s general counsel. Since that time, I am told, Congress has been persistent in its efforts to understand how the Bush Administration has dealt with the case from a law-enforcement perspective. “It’s been pulling teeth to get any information from them,” one investigator told me. “The Justice Department tells us that there is a ‘pending investigation,’ but that’s it. And frankly the circumstances lead us to doubt that they’re doing anything. The response looks suspiciously like a brush-off.”

It also fits a pattern. A significant number of clearly unprivileged homicides coming out of

Iraq have been referred to the Justice Department, and the treatment of these cases is consistent. It appears that the Bush Justice Department has no resources to address such trivial matters as murder—which contrasts strongly with the tens of millions of dollars poured into the prosecution of grandmothers in Milwaukee who are under suspicion of registering to vote as Democrats, comedians who operate mail-order businesses selling plastic bongs, and what may be more than \$100 million allocated for the persecution of trial lawyers who made the mistake of raising campaign money for the contributions of Hillary Clinton and John Edwards—matters considered by the Bush regime to be of the utmost threat to humanity.

For years, when you ask contractors what happens to employees who commit serious crimes in the theater of operations, the answer has been simple: the perpetrator is fired and put on the next transport back to the States. On Tuesday, Blackwater's Erik Prince gave this practiced answer. But once more, the December 24, 2006 incident leads to a different set of facts.

Today the Associated Press's Richard Lardner reports on a letter from Oversight Chair Henry Waxman that adds a lot of detail to the story. The Christmas Eve perpetrator is a man named Andrew Moonen, it turns out:

"The State Department may have withheld critical information from the Pentagon about a fired Blackwater USA guard, a misstep that allowed the man to find work in the Middle East two months after he allegedly killed an Iraqi security worker, a senior House Democrat said Friday. In an Oct. 5 letter to Secretary of State Condoleezza Rice, Rep. Henry Waxman, D-Calif., also questioned the accuracy of statements made by Blackwater's top executive and State Department representatives at a hearing Tuesday by the Oversight and Government Reform Committee, chaired by Waxman.

"According to Waxman's letter, he and other committee members were told Andrew Moonen was fired by Blackwater after the Dec. 24, 2006, shooting and had his security clearance canceled. As a result, his employment prospects, especially with a defense company, should have been dim. He was drunk when he shot the guard.

"But two months after Moonen was whisked out of Baghdad, he got a job with Combat Support Associates, a Defense Department contractor based in Orange, Calif., that provides logistics support to U.S. troops at bases in Kuwait, said Waxman, who cited a CNN report. The job ended in August."

Moonen, who lives in Seattle, is a former Army paratrooper who served in Iraq from August 2003 to April 2004, according to his attorney, who denies the accuracy of the CNN report about his reemployment in Iraq.

Waxman focuses on the extremely suspicious conduct of the State Department which has now been caught disseminating a series of false statements designed to cover up unpleasant incidents involving their private army. Indeed, there are some indicators that the State Department statements are actually authored by Blackwater—a fact which attests yet again to the extraordinary relationship between the two.

For the moment, the roles have been reversed. Blackwater is under attack. And the State Department is its defender. Unfortunately, the State Department seems every bit as trigger-happy and unaccountable as its favorite contractor.

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