

## Lawyers and Journalists' Group See No End in Sight to the Controversy over Bush "Torture Lawyers"

By [The Robert Jackson Steering Committee](#)

Global Research, February 24, 2010

[The Robert Jackson Steering Committee](#) 23

February 2010

The Justice Robert Jackson Steering Committee, a group of lawyers, journalists and advocates formed in the fall of 2008 to pursue the prosecution of top Bush administration officials for alleged war crimes while in office, is both greatly concerned and guardedly hopeful by the recent release of 2 different assessments from inside the Department of Justice on whether John Yoo and Jay Bybee, the lawyers who crafted "torture memos" inside the Bush administration's Office of Legal Counsel, engaged in professional misconduct.

The committee expressed grave concern that David Margolis, a senior lawyer in the Department of Justice, wrote a final opinion in January which completely exonerates the two lawyers for legally justifying the illegal torture of detainees. "Thanks to news leaks, we had expected and indeed braced ourselves for a greatly toned-down final report by David Margolis" commented Charlotte Dennett, a lawyer with the group. "What we had not expected - and this is the good news - was the Justice Department's prompt compliance with a FOIA request we made in January, releasing not one, but three separate versions of a much more critical report by the Department's ethics watchdog group, the Office of Professional Responsibility, recommending disciplinary action. Our group had filed a FOIA request asking for all versions of the OPR reports, including the original version completed in December 2008 which reportedly was a 'scathing indictment' of Yoo and Bybee. We wanted to see how it might have been altered over time. Now we have some idea of what happened, thanks to the DOJ releasing a total of ten documents, including 3 different versions of the OPR report, Yoo's and Bybee's response, and the final report by Margolis." What emerges from the documents, Dennett adds, is a significant change from the OPR's original, December 2008 finding that both lawyers had engaged in professional misconduct (such as crafting memos to suit what their superiors wanted, i.e. memos that would shield them from criminal liability for authorizing torture) to Margolis's conclusion in January, 2010, that the two lawyers had merely exercised "poor judgment" and would not even be recommended for disciplinary action.

Notes RJSC member journalist Kristina Borjesson, "to read the contents of the first OPR report, the subsequent reports, and then the DOJ conclusions, is to read an account of a classic whitewashing process, one that has been exercised often since the Iran-Contra hearings and before. The first report presents the real evidence, a parade of enumerated horrors that, by the final report by Margolis, have been erased or minimized according to the interests that the reviewing parties want to protect. The end result is always the same: no accountability for laws broken. These were not little legal infractions committed by the OLC lawyers. These were infractions that destroy the very fabric of our democracy."

Observes, Peter Weiss, another attorney who filed the group's FOIA request, "We welcome the fact that DOJ has released a voluminous set of documents relating to this crucial matter, including - perhaps in response to our FOIA action - the two earlier drafts of the OPR report. But we question the redactions which accompany the release and we deplore the fact that David Margolis, speaking for the department, has gone very far toward accepting Yoo and Bybee's argument that, in times of emergency, legal norms as fundamental as the absolute prohibition of torture may be violated with impunity by the President and other high officials. If that is to become official US policy, it will merely reinforce the international movement toward universal jurisdiction for particularly heinous crimes, instead of leaving it to American courts to deal with Americans accused of such crimes."

David Swanson, who chairs the Robert Jackson Committee, believes that the DOJ's report is not the final word on this matter despite The New York Times' conclusion on Saturday that this "brings to a close a pivotal chapter in the debate over the legal limits of the Bush administration's fight against terrorism and whether its treatment of Qaeda prisoners amounted to torture." Comments Swanson: "The universal pretense in the Fawning Corporate Media that bar associations and congress are prevented from acting because the Justice Department released a self-contradictory pile of papers with a weak conclusion must be nipped in the bud. Imagine if impeachment proceedings against Richard Nixon had been called to a halt because Nixon ordered a subordinate to release a report opposing his impeachment. Congress is independent, as are bar associations, as are — at least in theory — newspapers."

Ben Davis, another lawyer with the Jackson Committee, believes that American citizens "should refer immediately the OPR report in all its package to the relevant bar associations for those bar associations to determine whether there are ethical violations by Yoo and Bybee." Citizens are advised to go to the website <http://disbartorturelawyers.com>

Concludes Swanson: "What's going to be needed in the end is prosecution. But that's going to have to come through massive public pressure and intense pressure from Congress, from abroad, and from a strengthened independent communications system."

Meanwhile, the Jackson Committee will continue to examine all the documents released by the Justice Department and then determine whether it wants to proceed with its FOIA request, which also asked for additional documents including Attorney General Michael Mukasey's 10 page rebuttal of the December 2008 OPR report, emails, and OPR procedures bearing on the ethics probe and its conclusions, all of which can be viewed on the website of the Robert Jackson Steering Committee:  
<http://lawsnotmen.org>

### **Members of the Robert Jackson Steering Committee are:**

Chair David Swanson is the author of Daybreak: Undoing the Imperial Presidency and Forming a More Perfect Union by Seven Stories Press, Co-Founder of AfterDowningStreet.org. Swanson became chair in November 2009.

Past Chair Lawrence Velvel served as chairman of the Steering Committee of the Justice Robert H. Jackson Conference On Planning For The Prosecution of High Level American War Criminals, or the Robert Jackson Steering Committee for short, through October 2009. Velvel

is Dean of the Massachusetts School of Law and a professor of law.

John Bonifaz, Legal Director of Voter Action, author of *Warrior-King: The Case for Impeaching George W. Bush*.

Kristina Borjesson, an award-winning print and broadcast journalist for more than twenty years and editor of two recent books on the media.

Shahid Buttar, executive director of the Bill of Rights Defense Committee.

Marjorie Cohn, a law Professor at Thomas Jefferson School of Law, immediate past president of the National Lawyers Guild, author of *Cowboy Republic: Six Ways the Bush Gang Has Defied the Law* (PoliPointPress, 2007), and editor of "The United States and Torture: Interrogation, Incarceration and Abuse" (NYU Press, Fall 2010).

Colleen Costello, until recently Staff Attorney of Human Rights, USA, of Washington, D.C., and coordinator of its efforts involving torture by the American government.

Ben Davis, a law Professor at the University of Toledo College of Law, where he teaches Public International Law, Contracts, and International and Domestic Arbitration". He is the author of numerous articles on international and related domestic law.

Charlotte Dennett, investigative journalist, attorney, 2008 candidate for Attorney General of Vermont, and author of *The People v. Bush: One Lawyer's Campaign to Bring the President to Justice and the National Grassroots Movement She Encounters Along the Way* (Chelsea Green, January 2010).

Valeria Gheorghiu, attorney.

Jeanne Mirer, President of the International Association of Democratic Lawyers.

Chris Pyle, a Professor at Mount Holyoke College, where he teaches Constitutional law, Civil Liberties, Rights of Privacy, American Politics and American Political Thought, and is the author of many books and articles, including *Getting Away with Torture: Secret Government, War Crimes, and the Rule of Law*.

Elaine Scarry, the Walter M. Cabot Professor of Aesthetics and the General Theory of Value at Harvard University, and winner of the Truman Capote Award for Literary Criticism.

Peter Weiss, vice president of the Center For Constitutional Rights, of New York City, which was recently involved with war crimes complaints filed in Germany against former Defense Secretary Donald Rumsfeld and others.

Andy Worthington, British journalist and author of *The Guantanamo Files: The Stories of the 774 Detainees in America's Illegal Prison* (Pluto Press, 2007).

Kevin Zeese, attorney, activist, serves as Executive Director of Voters for Peace and Prosperity Agenda. He has filed complaints with bar associations seeking the disbarment of 15 Bush-Cheney lawyers for facilitating torture (two who also served Obama-Biden) as part of the Disbar Torture Lawyers Campaign of Velvet Revolution on whose board he serves.

The original source of this article is [The Robert Jackson Steering Committee](#)  
Copyright © [The Robert Jackson Steering Committee](#), [The Robert Jackson Steering Committee](#), 2010

---

[Comment on Global Research Articles on our Facebook page](#)

[Become a Member of Global Research](#)

Articles by: [The Robert Jackson Steering Committee](#)

**Disclaimer:** The contents of this article are of sole responsibility of the author(s). The Centre for Research on Globalization will not be responsible for any inaccurate or incorrect statement in this article. The Centre of Research on Globalization grants permission to cross-post Global Research articles on community internet sites as long the source and copyright are acknowledged together with a hyperlink to the original Global Research article. For publication of Global Research articles in print or other forms including commercial internet sites, contact: [publications@globalresearch.ca](mailto:publications@globalresearch.ca)

[www.globalresearch.ca](http://www.globalresearch.ca) contains copyrighted material the use of which has not always been specifically authorized by the copyright owner. We are making such material available to our readers under the provisions of "fair use" in an effort to advance a better understanding of political, economic and social issues. The material on this site is distributed without profit to those who have expressed a prior interest in receiving it for research and educational purposes. If you wish to use copyrighted material for purposes other than "fair use" you must request permission from the copyright owner.

For media inquiries: [publications@globalresearch.ca](mailto:publications@globalresearch.ca)