

U.S. Govt. Threatens to Prosecute Waterboarding

By [David Swanson](#)

Theme: [Law and Justice](#)

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We've been lobbying the Department of Justice all these months without realizing that the key to justice lay in the Department of the Interior, and specifically in the National Park Service, which has told activist Steve Lane he will be prosecuted if he attempts to demonstrate waterboarding at Thursday's [anti-torture rally](#) in Washington, D.C. The [permit](#) for the rally [reads](#) "Waterboarding exhibit will not be allowed for safety reasons."

Of course it's not news that the government views waterboarding as a crime. Attorney General Eric Holder called it torture at his confirmation hearings. But it is news that someone has been threatened with prosecution if he engages in torture. We learn about [ongoing torture](#) by the government all the time, and we're told all the time that torture is no longer [official policy](#), and yet in neither type of story is there ever any suggestion that the laws against torture might be enforced, now or in the future. In the government's view, torture must be less safe when performed without the benefit of government resources, doctors, lawyers, psychologists, videographers, and vice presidents. However, street demonstrations of waterboarding have yet to produce a single corpse to add to the pile produced by official U.S. government torture.

Other crimes in Washington are also crimes if you or I commit them, but not if someone else does. When a group of us ordinary citizens spoke against the wars in Iraq, Afghanistan, and Palestine in the lobby of a senate office building on January 6th of this year ([video](#)) we were hauled off to jail. Bill Moyers' Journal covered the story ([video](#)). But when tourist groups are spoken to by senators in the same lobby, no crime occurs ([video](#)). I'm not talking about the people who hung banners from the balconies, or the passersby who cheered. I'm talking about those of us who stood and read the names of the dead. Seventeen of us (including some who hung banners) were arrested. Some of us paid a fine. On Monday, four face prosecution for unlawful assembly even though freedom of assembly is guaranteed in the Constitution, while warrantless wiretapping — just to pick one example of ongoing government crimes — is banned by the Constitution.

The greatest hypocrisy is not that our groups can make noise whereas citizens with a political message cannot. The greatest hypocrisy is not that our president is speaking up for protesters as long as they are in Iran, while the Pentagon considers protesting to constitute "low level terrorism" when practiced within the United States. The greatest hypocrisy is that laws are being enforced while the most important laws and the most egregious violations are being ignored as a matter of loudly announced principle. When Laurie Arbeiter, Robbie Diesu, Michelle Grise, and Pete Perry appear in court on Monday they will not be able to ask the judge to stop looking backward, even though their "crimes" occurred in January. They will not be able to accuse the judge of petty vengeance for his or her refusal to "look forward." They will be compelled to face the question of whether they violated a law. (Never

mind that the Capitol Police arrested us and then figured out hours later something they could most plausibly charge us with.)

Meanwhile, Dick Cheney confesses to felonies every time he opens his mouth, a civil suit against John Yoo has produced a 42-page order that could easily serve as an indictment, and the families our drones keep bombing in Afghanistan could never be persuaded that reading the names of the dead is the most serious crime that has occurred. The House has impeached a judge for groping despite his already having been convicted in court. But [another judge](#) responsible for torture is permitted to continue ruling on cases.

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