September 7, 2007

Jack Landman Goldsmith headed the Office of Legal Counsel, the division within the Justice Department that advises the President about the limits of executive power, from October 2003 until his resignation in the summer of 2004.

In his most recent book, THE TERROR PRESIDENCY, Goldsmith breaks his silence about his battles with the White House against an expanded notion of executive power, as well as the circumstances surrounding his resignation after 9 months at his post.

> read an excerpt from THE TERROR PRESIDENCY

As head of the Office of Legal Counsel Goldstein asked for the withdrawal of two important administration legal opinions known as the "torture memos," documents that helped to define torture, and which discussed military interrogation procedures, particularly associated with aliens held outside the United States. Goldsmith took issue with the memos "extremely broad and unnecessary analysis of the president's commander in chief power," as he describes in a recent piece by Jeff Rosen for THE NEW YORK TIMES MAGAZINE.

> more on the "Torture Memos"

"I'm not a civil libertarian, and what I did wasn't driven by concerns about civil liberties per se," Goldsmith tells Rosen. "It was a disagreement about means, not ends, driven by a desire to make sure that the administration's counterterrorism policies had a firm legal foundation."

Goldsmith is currently a tenured professor at Harvard Law School and a visiting scholar for the American Enterprise Institute.

> more on civil liberties during wartime

Excerpt of THE TERROR PRESIDENCY, courtesy of W.W. Norton.

References and Reading:

More on Goldsmith

Conscience of a Conservative
by Jeffrey Rosen, THE NEW YORK TIMES, September 9, 2007

"Instead of reaching out to Congress and the courts for support, which would have
strengthened its legal hand, the administration asserted what Goldsmith considers an unnecessarily broad, 'go-it-alone' view of executive power. As Goldsmith sees it, this strategy has backfired. 'They embraced this vision,' he says, 'because they wanted to leave the presidency stronger than when they assumed office, but the approach they took achieved exactly the opposite effect. The central irony is that people whose explicit goal was to expand presidential power have diminished it.'"

**Icy Welcome for New Law Prof**
By Daniel J. Hemel, HARVARD CRIMSON, December 10, 2004
"In the first month since he arrived in Cambridge to assume a tenured post at the Law School, Professor Jack L. Goldsmith has received a frosty welcome from a small faction of faculty who have questioned his scholarship and called for an investigation into his work as a Bush administration official."

**A Better Way on Detainees**
By Jack Goldsmith and Eric A. Posner, WASHINGTON POST, August 4, 2006
"Everyone involved in the contentious negotiations between the White House and Congress over the proper form for military commissions seems to agree on at least one thing: that al Qaeda and Taliban terrorists ought to be prosecuted. We think this assumption is wrong: Terrorist trials are both unnecessary and unwise."

**Comey Ally Jack Goldsmith to Testify Before Senate Committee**
By Spencer Ackerman, TPM MUCKRAKER, August 28, 2007
"A Senate source confirms to TPMmuckraker that the committee 'expects him to testify at a hearing sometime after Congress reconvenes,' but no dates have been announced yet. Nor is there word about other witnesses, or if Goldsmith — who didn't testify along with Comey during his dramatic May 15 hearing — has been subpoenaed. Isikoff reports that the hearing will likely occur next month.""

**The Global Convergence on Terror**
By Jack L. Goldsmith, FINANCIAL TIMES, August 2, 2007
"Detentions are not the only area where Europeans are acknowledging possible merits in U.S. counter-terrorism positions. They also believe more and more that the Geneva conventions system designed for interstate warfare between professional state militaries is inadequate for 21st century warfare against lethal non-state military forces that structure their operations to flout the laws of war."

**More on Defining Torture**

**THE NEW YORK TIMES: A Guide to the Memos on Torture**
"THE NEW YORK TIMES, NEWSWEEK, THE WASHINGTON POST and THE WALL STREET JOURNAL have disclosed memorandums that show a pattern in which Bush administration lawyers set about devising arguments to avoid constraints against mistreatment and torture of detainees. Administration officials responded by releasing hundreds of pages of previously classified documents related to the development of a policy on detainees."

**John Yoo Commentary on Torture Memos**
"Sept. 11, 2001, proved that the war against al Qaeda cannot be won solely within the framework of the criminal law. The attacks were more than crimes - they were acts of war. Responding to the attacks and protecting the United States from another requires a military approach to the conflict. But al Qaeda, without regular armed forces, territory or citizens to defend, also presents unprecedented military challenges."

**ACLU: Government Documents on Torture**
Read a collection of government documents related to administration torture policies, released under the Freedom of Information Act, presented by the American Civil Liberties Union.

**The Black Sites**
"A rare look inside the C.I.A.'s secret interrogation program."

**Reference guide to the Geneva Conventions**
Explore this guide compiled by the Society of Professional Journalists to the Geneva Conventions.

**Scott Horton on torture**
HARPER'S, April 14, 2007
"I want to give a bit of pre-constitutional history, and share with you the story of John Lilburne, an Englishman born in the early 1600s because his story - the story of an agitator who directly challenged the English legal system - has a great deal to tell us about the issues we're facing today. Lilburne's story explains why these matters - torture and secrecy - were not issues to the Founding Fathers, and it helps us understand the true nature of a government which, like the current administration,
thrives in that matrix of torture and secrecy."

**More on David Addington**

**Cheney Aide is Screening Legislation**
By Charlie Savage, BOSTON GLOBE, May 28, 2006
"Cheney's legal adviser and chief of staff, David Addington, is the Bush administration's leading architect of the signing statements the president has appended to more than 750 laws."

**The Hidden Power**
"The legal mind behind the White House's war on terror."

**Cheney's Guy**
By Chitra Ragavan, US NEWS AND WORLD REPORT, May 21, 2006
"He's barely known outside Washington's corridors of power, but David Addington is the most powerful man you've never heard of. Here's why..."

>more on Presidential Signing Statements

Guest photo by Robin Holland

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