

# THE TERROR-OR MAYBE SOMETHING ELSE-PRESIDENCY

I just finished Jack Goldsmith's *The Terror Presidency*. As I've been reading, I've been focusing primarily on the insight it might offer onto the Terror Tape Destruction. I'll come back to this, but the short version is that, from June 2004 to December 2004, the CIA had no legal cover for the water-boarding they had already done, which explains why they'd want to destroy the evidence they had been doing it; but that still doesn't explain why they'd wait until November 2005 to destroy the tapes, which seems to be the really pressing question right now.

But I appreciated Goldsmith's book, too, for the way that reading an intelligent and sincere conservative helps me to see my disagreements with conservatives more clearly.

While I was reading the book, I found myself repeatedly bugged by several of Goldsmith's blind spots, not least for his explanation that the excesses of the Administration are attributable to the accountability a President has and the fear everyone had of another terrorist attack.

The main explanation is fear. When the original opinion [on torture] was written in the weeks before the first anniversary of 9/11, threat reports were pulsing as they hadn't since 9/11. ... "We were sure there would be bodies in the streets" on September 11, 2002, a high-level Justice Department official later told me. Counterterrorism officials were terrified by a possible follow-up attack on the 9/11 anniversary, and desperate to stop it.

[snip]

I have been critical of my predecessors'

actions in writing the interrogation opinions. But I was not there when they made the hard calls during the frightening summer of 2002. Instead, I surveyed the scene from the politically changed and always-more-lucid after-the-fact perspective. When I made tough calls in crisis situations under pressure and uncertainty, I realized that my decisions too would not be judged from the perspective of threat and danger in which they were taken. ... Recognizing this, I often found myself praying that I would predict the future correctly.

Now, much as I respect Goldsmith's intelligence, I'm convinced he conjures this explanation as a way to understand how someone like David Addington could be shredding the Constitution, but be doing it in good faith. It's all understandable and desirable, Goldsmith seems to be saying, in that it will keep us safe in the long run. And David Addington means well, really he does.

But there are several problems with this conceit. First, never once does Goldsmith acknowledge that the Bush Administration's intense fear stems not just from a fear of potential future events, but also from a fear heightened by past failure. For all Richard Clarke's (and Clinton's) efforts, Bush and his top aides refused to believe in the threat posed by Al Qaeda and instead focused primarily on Iraq. Bush dismissed a threat warning about Al Qaeda's determination to strike in the US with the insinuation that his briefer was just interested in covering his ass. So while Goldsmith repeatedly claims Presidents will be held accountable for national security failures, he never acknowledges that President Bush managed to dodge responsibility for the attack that he might have prevented, if he had just listened to his advisors and briefers. I'm sure folks like Richard Clarke had a realistic fear

of the damage Al Qaeda could do. But the fear of the Bush Administration has a whole different taint to it, that of a crowd that gambled and lost.

Speaking of which, it's not until page 209 when Goldsmith addresses the real elephant in the room—the Iraq War (though he does discuss Iraq in the context of discussions about interrogation policies). Goldsmith admits that the Iraq War hurt Bush's credibility in other matters.

The administration lost public trust in the fight against terrorists when it premised a major war on a terror-related threat of weapons of mass destruction that turned out to be wrong. And the war in Iraq has spilled over to and infected everything else that this administration does in the broader war on terrorism.

But Goldsmith doesn't even begin to account for the damage Iraq has done. Look at the construction: "it premised a major war on a terror-related threat of weapons of mass destruction that turned out to be wrong." Goldsmith doesn't make it clear whether the war itself or the premise was wrong. Yet by suggesting that one or the other "turned out to be wrong," Goldsmith strips the Administration of all agency with regards to the war. It just happened ... and happened to be wrong, with no discussion of the accountability for that moment. By ignoring the question of accountability for the war, Goldsmith ignores abundant evidence for why Bush couldn't win the trust of people. Once you've risked your vanity war's success by putting Heritage Foundation children in mission critical jobs, you lose the claim to good faith. And when your advisors twice lead you to gamble and lose with the nation's security, its authoritarian impulses should no longer be judged as good faith badly executed, but a fundamental characteristic that will lead repeatedly to choices that make us less safe.

Mostly, though, I was struck by Goldsmith's blind faith that he, writing as an expert on the Terror Presidency, is writing with the distance and wisdom to improve our nation's security. Yes, what he says about the necessity for winning public approval for presidential policies is right on. But he makes a critical mistake in his certainty that the terrorist war is the crisis that will dominate our time. Take a look at Goldsmith's statement about the importance of responding pre-emptively to threats:

For generations the Terror Presidency will be characterized by an unremitting fear of devastating attack, an obsession with preventing the attack, and a proclivity to act aggressively and preemptively to do so. The threats have such a firm foundation in possibility, and such a harrowing promise of enormous destruction, that any responsible executive leader aware of the threats ... must assume the worst. ... National security officials do not have the luxury of hindsight when deciding how to act. But they do understand the potential consequences of not taking threats seriously enough. This is why they obsessively focus on how a genuine threat might look *before the fact*.

And ask yourself—which is a greater threat to this country right now, climate change or terrorism? Climate change, like terrorism, "has such a firm foundation in possibility, and such a harrowing promise of enormous destruction." Yet no one in this Administration seems to care a whit about the "potential consequences of not taking" the threat of climate change seriously enough. On the contrary, the same guy who dismissed his briefer by insinuating that he was just covering his ass has twisted all the science coming out of his Administration to ensure that the threat of climate change is not discussed seriously.

The point is, Goldsmith takes a very particular approach to the presidency, one rooted in a firm belief that the Administration's errors will be vindicated as the nature of the terrorist threat becomes clear to all of us ignorant citizens. He never considers what happens to his argument when you assess it against the background of the Administration's failures to respond to other threats—either the false one of Saddam's nukes or the real one of climate change (or any number of other threats, including economic crisis). Admittedly, I can't foresee the future, so it may still transpire that terrorism will cause greater damage to our nation and our globe than ~~terrorism~~ climate change (though I'd say climate change is already wreaking greater havoc). And Goldsmith's primary lesson still holds: no matter the threat, you need to respond to it by cultivating support for your response. But Goldsmith manages to recuperate the members of the Administration he knows have failed by pitching their mistakes as a good faith response motivated out of the correct assessment of the threats to this country. And that recuperation gives the Administration yet another dodge to avoid looking at the real threats to this country.

Update: Error fixed per MadDog.