

THE YOO TUMOR

John Yoo is a cancer on the Constitutional body politic of the United States, and he won't go away. For some inexplicable reason, Carrie Johnson, and her editors at the Washington Post, have decided to fluff the one man self rationalization and obfuscation tour Yoo has been on as of late:

Some public figures, if their judgment and ethics come under fire, retreat into solitude. Then there is John C. Yoo.

The former Justice Department official, whose memos blessed the waterboarding of terrorism suspects and wiretapping of American citizens, has come out fighting, even as negative assessments of his government service pile up.

Last month, a federal judge in California refused to dismiss a lawsuit that accuses Yoo of violating a detainee's constitutional rights. This month, the Justice Department's inspector general described Yoo's legal analysis of the Bush surveillance program as "insufficient" and sometimes inaccurate. Also expected in coming weeks is a department ethics report that sources have said could renounce Yoo's approval of harsh CIA interrogation practices and recommend that he and Jay S. Bybee, a former colleague, be referred to their state bar associations for discipline.

While former colleagues have avoided attention in the face of such scrutiny, Yoo has been traveling across the country to give speeches and counter critics who dispute his bold view of the president's authority. Now a law professor at the University of California at Berkeley, he engages in polite but firm exchanges with legal

scholars over conclusions in their academic work. This month, he wrote an opinion piece in the Wall Street Journal defending his actions and labeling critics' arguments as "absurd" and "foolhardy" responses to "the media-stoked politics of recrimination."

There is nothing whatsoever new in the story, save perhaps for the information that even if the long delayed OPR Report recommends bar discipline against Yoo, he is unlikely to suffer any consequences because the only state he is licensed in, Pennsylvania, has a five year statute of limitations on ethics infractions. Johnson and the Post, of course, do not discuss whether the Pennsylvania statute may have been tolled because the information was not publicly available for a good deal of the time.

The Post article is beyond disingenuous with the way it blithely equates the pros and cons of Yoo and his work. It even points out the recent decision in Federal court in NDCA by Judge Jeffrey White without noting in any detail that White carved Yoo's work up like a Butterball turkey.

John Yoo arguably has done as much, if not more, harm to the Constitution than any government lawyer in history. Yoo authored legal reliance opinions eviscerating the Fourth Amendment and authorizing the implementation of a state sponsored torture regime. If the Washington Post is going to fluff Yoo, they ought to at least be intellectually honest enough to give some credible billing to the moral and legal hell he hath wrought. Apparently, it is asking too much.