

OBAMA PRETENDS THE BOB WOODWARD LAW DOESN'T EXIST

Yesterday, Michael Whitney pointed out how irresponsible it was for the ultimate commander of all the people who will decide Bradley Manning's innocence or guilt to state publicly, before his trial, that "he broke the law." But there was something else wrong with it. As transcribed by the UK Friends of Bradley Manning, Obama said,

OBAMA: So people can have philosophical views [about Bradley Manning] but I can't conduct diplomacy on an open source [basis]... That's not how the world works.

And if you're in the military... And I have to abide by certain rules of classified information. If I were to release material I weren't allowed to, I'd be breaking the law.

We're a nation of laws! We don't let individuals make their own decisions about how the laws operate. He broke the law.

[Q: Didn't he release evidence of war crimes?]

OBAMA: What he did was he *dumped*...

[Q: Isn't that just the same thing as what Daniel Ellsberg did?]

OBAMA: No it wasn't the same thing. Ellsberg's material wasn't classified in the same way. [my emphasis]

But of course, Presidents (and some Vice Presidents) actually don't have to "abide by certain rules of classified information." As

explained by John Rizzo in the context of the Obama Administration's leaks to Bob Woodward, they can and do insta-declassify stuff for their own political purposes all the time. They can do it to make the President look important; they can do it to lie us into an illegal war; they can do it to ruin the career of someone who might expose the earlier lies. (Steven Aftergood and Eugene Fidell explain the legal reason this is true for the Politico.)

The way secrecy in this country works is insidious not just because the government prevents citizens from learning the things we as citizens need to know to exercise democracy, but also because the President and other classification authorities can wield secrecy as an instrument of power, choosing to release information they otherwise claim is top secret when it serves their political purpose. As I pointed out last year, this power even extends to information about whether or not the President has approved assassinating an American citizen.

Less than a month ago, the Obama Administration told a judge they didn't have to—couldn't—tell a judge their basis for killing a US citizen. Instead, they invoked state secrets, claiming (among other things) they couldn't even confirm or deny whether they had targeted Anwar al-Awlaki for assassination.

Yet this came after one after another Obama Administration official leaked the news that al-Awlaki had been targeted, and after they had obliquely confirmed that he was. The Administration can leak news of this targeting all it wants, apparently, but when a US citizen attempts to get protection under the law, then it becomes a state secret.

There's a lot of other reasons why this President's claim that "we are a nation of

laws!" is utterly laughable, from his Administration's refusal to prosecute torture or bank fraud to its efforts to prevent former officials from doing time for breaking the law.

We are not, anymore, a nation of laws. The Constitutional Professor President has institutionalized the efforts W and Cheney made to make sure that remains true.

But one of the ways our lawlessness most disproportionately works against the citizens of this country is the government's abuse of secrecy.