

WILL NYT'S OMBUD ENCOURAGE A NYT PRE- SENTENCING MEMO FOR BRADLEY MANNING, TOO?

When I first read Scott Shane's long profile of John Kiriakou, I thought, "how interesting that the NYT is doing a piece that exposes the government's double standards just in time for the sentencing of Kiriakou, one of their sources."

That's not to say I'm not glad to see the piece: the profile did more to raise the scandal of Kiriakou's prosecution than just about anything short of a 60 Minutes piece might.

And I'm much less interested in Shane's references to his own role in Kiriakou's indictment

Mr. Kiriakou first stumbled into the public limelight by speaking out about waterboarding on television in 2007, quickly becoming a source for national security journalists, including this reporter, who turned up in Mr. Kiriakou's indictment last year as Journalist B.

[snip]

After Mr. Kiriakou first appeared on ABC, talking with Brian Ross in some detail about waterboarding, many Washington reporters sought him out. I was among them. He was the first C.I.A. officer to speak about the procedure, considered a notorious torture method since the Inquisition but declared legal by the Justice Department in secret opinions that were later withdrawn.

Then I am by this passage.

In 2008, when I began working on an article about the interrogation of Khalid Shaikh Mohammed, I asked him about an interrogator whose name I had heard: Deuce Martinez. He said that they had worked together to catch Abu Zubaydah, and that he would be a great source on Mr. Mohammed, the architect of the Sept. 11 attacks.

He was able to dig up the business card Mr. Martinez had given him with contact information at Mitchell Jessen and Associates, the C.I.A. contractor that helped devise the interrogation program and Mr. Martinez's new employer.

Mr. Martinez, an analyst by training, was retired and had never served under cover; that is, he had never posed as a diplomat or a businessman while overseas. He had placed his home address, his personal e-mail address, his job as an intelligence officer and other personal details on a public Web site for the use of students at his alma mater. Abu Zubaydah had been captured six years earlier, Mr. Mohammed five years earlier; their stories were far from secret. [my emphasis]

As I have mapped out before, the indictment strongly suggests that Kiriakou was Shane's source for Martinez' phone number, and with that suggestion, implies that Shane got Martinez' identity from Kiriakou rather than one of the 23 other sources he had for the article.

With this passage, Shane rebuts what would have been a key point at trial (and may help Kiriakou in his sentencing). At least according to Shane, he not only learned of Martinez' identity before he asked Kiriakou about it, but was able to find Martinez' home address and email on an alumni network site. (Note, Shane doesn't address

whether Kiriakou was the source for the “magic box” technology discussed in the article, about which Kiriakou was also alleged to have lied to CIA’s Publication Review Board.)

In short, the whole article serves as a narrative pre-sentencing memo, offering a range of reasons why Kiriakou should get less than the 30 months his plea deal currently recommends.

Yet it was this article—and not a number of other ones, notably having to do with the leaks behind a John Brennan-friendly assassination czar profile—that NYT’s ombud Margaret Sullivan felt she had to address with respect to any conflict on Shane’s part.

But my overall reaction was sheer fascination with the tale he told – an invaluable glimpse inside a secret world, one that provided rare insights into the reporter-source relationship. It also illuminates a troubling subject that does not get enough attention: the Obama administration’s prosecution of government employees who leak information to the press – an effort with major implications for press freedom and the ability to inform the public.

I talked with Mr. Shane and with two editors who were involved in the decision-making. They told me that, after quite a bit of discussion, they decided that the pros far outweighed the cons.

“Having Scott tell the story wasn’t a downside; it enriched the story, by allowing us to give readers insight on how Kiriakou operated,” said David Leonhardt, the Washington bureau chief.

[snip]

“It’s always awkward when you’re a part of it,” Mr. Shane said, “but I thought it was justified.”

I agree. In this case, no one could have told this important tale as well. Those who have read it know more about how government and reporting work than they did before.

Now, Sullivan doesn't note how powerful Shane's story might be in Kiriakou's sentencing.

But she raised many of the same issues she did in her column on Kiriakou as she did in her column criticizing the NYT's decision to largely ignore the Bradley Manning trial.

She noted the NYT's own debt to Manning (and before Manning, to Daniel Ellsberg).

The newspaper's absence was noticed, and criticized, by many media watchers. Beyond the story itself, The Times, which considers itself the paper of record, had an obligation to be there – to bear witness – because, in a very real sense, Private Manning was one of its most important sources of the past decade.

“The New York Times got amazing, fantastic, unparalleled material for news stories from Bradley Manning,” Mr. Ellsberg told The New Republic's Eliza Gray.

To its credit, The Times published article after article based on the very information that Private Manning provided to WikiLeaks, just as it had published the Pentagon Papers that Mr. Ellsberg leaked during the Vietnam War.

The situations aren't equal: Private Manning may not have had the same clear-cut whistle-blower's motivation that Mr. Ellsberg had as an antiwar activist, and some are insistent in portraying him as a mentally unstable traitor to his military vows. But neither are the two situations unrelated, especially given

The Times's role as a lead publisher of the leaked information in both cases.

She noted how central Manning's trial is to the government's assault on journalism.

As a matter of news judgment, giving so little coverage to the hearing is simply weird. This is a compelling story, and an important one.

It has human drama – a young soldier, accused of transferring state secrets to WikiLeaks and harshly imprisoned since the spring of 2010, speaking publicly about his case for the first time since his arrest – and it goes to the heart of contentious media issues in which The New York Times has played an important role, publishing much information revealed through Private Manning's act.

And she observed that, by not sending a journalist to cover Manning's trial, the NYT ensured the story would stay off its front page (the Kiriakou profile, originally slotted for the magazine, appeared on the front page, which is part of the reason it was so effective in raising the profile of his case).

What's more, the decision not to send a staff reporter to the hearing for so long also contained an interesting pre-calculation: that the early coverage would not be considered as front-page news. The Times, after all, does not use wire-service articles on its front page, except in highly unusual circumstances involving fast-breaking and unexpected news.

Clearly, Margaret Sullivan believes the NYT has an obligation to cover those who have risked their livelihoods to serve as sources for the paper (even if its editors do not).

Yesterday, Charlie Savage attended the Manning hearing. One of the central issues discussed is whether sharing information with a media outlet can be charged as aiding the enemy; it seems coverage of the issue by the NYT might influence the Judge on this point, and the NYT's silence may gut journalism significantly. Moreover, yesterday the judge found that Manning had been illegally treated, pretty huge news. Yet neither of these issues appear on the front page of the NYT. Thus, while the NYT has at least sent a journalist to this hearing, it still isn't giving Manning the coverage it just gave Kiriakou, in spite of the role Manning had in a far greater number of NYT stories.

When it comes time to argue why Manning should not spend his life in prison, will the NYT make the same compelling case it did for Kiriakou? Or will its silence condone the illegal treatment of one of the NYT's most important recent sources?