

WE'RE SORRY FOR SPIKING THE NEWS

The NYT has a really [weird story](#) out today which tries to explain why news outlets don't publish "open secrets" about public figures.

Old-fashioned as it seems, there are still tacit rules about when an open secret can remain in its own netherworld, without consequence to the politician who keeps it. But now that any whisper can become a global shout in an instant, how much longer can those rules apply? And should they, anyway?

[snip]

In the mainstream media, the recent standard for pursuing open secrets has been murky, but generally guided by the notion that private behavior matters when it is at odds with public declarations. Mr. Foley's bawdy flirtation with pages was fair game not least because he had sponsored legislation seeking to protect children from online predators. Mr. Craig supported a 2006 amendment to the Idaho Constitution barring gay marriage and civil unions and has voted in Congress against gay rights.

Of course, the article gets a bunch of things wrong. The mainstream media let Craig and Foley (and continues to let David Dreier and others) off the hook for years, in spite of their clear hypocrisy. And Jim McGreevy was not outed because of hypocrisy—he was outed because of the clear impropriety of hiring his boyfriend (and here again, the example of Dreier is worth raising). Nor does the mainstream media ever point out the hypocrisy, in this case, of the Republican Party, which likes to mobilize the base by cultivating homophobia while remaining quite tolerant (up to a point—Dreier couldn't become majority leader, after all) of barely-

closeted gay men. At some point, the hypocrisy of the Republican party needs to become part of the story.

And perhaps most curiously, the article doesn't discuss the reasons to report legal wrongdoing—even if it involves personal behavior. That is, shouldn't the media have reported on Foley's behavior with congressional pages, since those pages were underage? Shouldn't the media report that David Vitter has admitted to breaking the law?

And, finally, the article doesn't quote either of the two people who ought to be quoted for the story, Mike Rogers and Lane Hudson. Are they afraid to talk to the guys who proved the mainstream media complicit?

TIME TO FIRE THE WHITE HOUSE WEBMASTER

I thought it worth mentioning that the Administration has twice made claims in the last week that their website refuted. First came Senator Leahy, who [noted](#) that Cheney's claims not to be part of the Executive Office of the President were disproved by the White House website.

The Administration's response today also claims that the Office of the Vice President is not part of the Executive Office of the President. That is wrong. Both the United States Code and even the White House's own web site say so "at least it did as recently as this morning.

Then yesterday, CREW [pointed out](#) that the White House website disproved White House claims that the Office of Administration was not subject to

FOIA.

After learning that the [Bush administration claimed](#) that the Office of Administration wasn't subject to Freedom of Information Act requests, CREW did some research. Seems the White House website, which is an official voice of the Bush administration, states otherwise:

In fact, evidence that the Office of Administration is subject to FOIA requests is made [here](#) and [here](#) and [here](#) and [here](#) on the White House website and even once on the Department of Justice site [here](#).

Rather than wait for the next ridiculous White House claim to be disproved by its own website, I say we try to anticipate it. What assertion, made on the White House website, do you think we should just ignore as a mirage invented by some over-imaginative White House webmaster? Some of my nominations include [this whole section of the website](#), particularly [this one](#). We ought to assume [this](#), [this](#), [this](#), and [this](#) simply aren't true. And while we're at it, I'm just going to presume that [this never happened](#)—since it's on the White House website, it must not be true.

See how much fun you can have simply ignoring things you don't like that appear on the White House website?

IX-NAY ON THE ONSTITUTION-CAY

[This is ripe](#). Apparently, the conservative blogosphere realized there wasn't a good defense for Harriet's claim of immunity from being subpoenaed, so they called the White House and

[begged for talking points](#). And then they published those talking points. Which, first of all, exposes to all the world that conservative bloggers are willing to gobble any kind of shite thrown at them.

If Congress pursues criminal contempt and the DoJ refuses to prosecute, how do they move forward? – No one really knows. There isn't any precedent on this point.

[Ed. both the White House and Ed Morrissey are pretending they've never heard of inherent contempt. Snip]

What about the call for a special counsel on Alberto Gonzales? – The law no longer exists for an independent prosecutor, and the "special counsel" is accountable to ... Alberto Gonzales.

[Ed. Someone better tell Patrick Fitzgerald, Alberto Gonzales, and Paul Clement—because they would all beg to differ, both about Gonzales' recusal on this matter or the ability to recuse authority over a special counsel more generally.]

It also demonstrates that neither the "senior official" (is this [Fred Fielding](#), giving transparently erroneous legal advice off the record again?) nor a bevy of conservative bloggers have read the Constitution. At least that's the only logical conclusion I can draw from the fact that Morrissey doesn't correct this claim.

Executive privilege is particularly strong in this case. The power to hire and fire federal prosecutors belongs exclusively to the executive branch. Congress has no particular oversight in these matters, and so the executive privilege claim is very compelling in this instance.

As I have pointed out [over](#) and [over](#) and [over again](#), hiring and firing federal prosecutors—particularly interim USAs like Tim Griffin—is something the Constitution explicitly gives Congress the authority to legislate. This is authority the White House itself did not contest, neither in 2006 when Bush signed the PATRIOT provision, nor earlier this year when he signed its reversal. So either Morrissey’s post is intended to expose conservative ignorance once and for all, it’s a secret message for conservatives everywhere that Dick has given the sign that it’s finally time to burn their copies of the Constitution, or it’s simply proof that conservative bloggers are willing to regurgitate transparent falsehoods if their President gets in a legal bind.

Most likely, it’s a combination of all three.

Update: LOL. I hadn’t read [TRex](#) before I wrote this. He’s got a better sense of humor than I about right blogistan’s stupidity.

NOVAK, I’LL BLOG YOU WHEN YOU’RE GONE

I’ve been trying to ignore Novak’s publicity tour while staying on top of his ever changing story on Plame. But (via [TP](#)) [this is just too inviting](#).

Iâ€™m 76 years old, and pretty soon
Iâ€™m going to a place where there are
no blogs.

Why, why, Novak? Why do you look forward to heading off for your time in the [Eighth Circle](#) of Hell, simply because we bloggers aren’t there? (I have it on good authority that Gilliard is enjoying his time at the never-ending barbecues of Heaven.) Is it because we

call you on your shit? Is it because while the trained reporters get blank stares in their eyes and complain that "my head hurts" when we point out your changing stories, even our readers can catalog how your stories have changed every time the legal need presented itself? Is it because we point out that just nine months before your book came out, you stated "You could write a book on the bad journalism"? Or is it because when you say, "my account is close to the truth," we only dispute your definition of "close"?

Well, I hope you're in no rush to get to that Eighth Circle, because I am going to do a big debunking (just as soon as the library gets the book in—I'm not paying Novak a cent, of course). And if I finish it after you're gone, then I'll just take solace that we'll both be doing what we should be.

TURNING TIDES

I gotta say, [this post](#) yesterday from Josh Marshall,

As regular readers of this site know, I've always been against the movement to impeach President Bush. I take this position not because he hasn't done plenty to merit it. My reasons are practical. Minor reasons are that it's late in the president's term and that I think impeachment itself is toxic to our political system — though it can be less toxic than the high officials thrown from office. My key reason, though, is that Congress at present can't even get to the relatively low threshold of votes required to force the president's hand on Iraq. So to use an analogy which for whatever reason springs readily to my mind at this point in my life, coming out

for impeachment under present circumstances is like being so frustrated that you can't crawl that you come out for walking. In various ways it seems to elevate psychic satisfactions above progress on changing a series of policies that are doing daily and almost vast damage to our country. Find me seventeen Republican senators who are going to convict President Bush in a senate trial.

On balance, this is still my position. But in recent days, for the first time I think, I've seen new facts that make me wonder whether the calculus has changed. Or to put it another way, to question whether my position is still justifiable in the face of what's happening in front of our eyes.

[snip]

Whether because of prudence and pragmatism or mere intellectual inertia, I still have the same opinion on the big question: impeachment. But I think we're moving on to dangerous ground right now, more so than some of us realize. And I'm less sure now under these circumstances that operating by rules of 'normal politics' is justifiable or acquits us of our duty to our country.

Reminds me a lot of the posts he was writing in Fall 2002, such as [this post](#), written on September 20, 2002.

LIBBY DOESN'T WANT

**BLOGGERS TO KNOW
WHO IS SHILLING FOR
HIM**

**THOSE VILE HATE-
MONGERING
PSEUDONYMS**

**NO WEB JOURNALISTS
ALLOWED?**

DON'T SAY BLOW JOB

DON'T SAY BLOW JOB