

# KARZAI AND US FIGHT OVER WHO GETS TO RUN THE ABUSIVE PRISONS

As I noted, President Obama reacted to the NDAA's requirement that DOD actually review detainees' cases to figure out if they should be held by claiming the authority to make our prison at Bagram largely exempt from the law.

At one level, having us hold detainees keeps them out of the Afghan prisons, where they'll be tortured. But of course, the Afghans have at least managed to do what we claim to be unable to do—give these men trials.

Now, Karzai is upping the ante: demanding that the US turn over Bagram and its 3,000+ detainees next month.

Afghan President Hamid Karzai ordered the transfer of the U.S.-run Bagram prison to his government's control within a month, citing human rights violations.

Karzai decided the transfer should be made after hearing a report on the prison from the Constitutional Oversight Commission that "details many cases of violations of the Afghan Constitution and other applicable laws of the country, the relevant international conventions and human rights," the president's office said yesterday in a statement.

And in response to Karzai's claims of abuses (which appear to be about nudity), State Department's spokesperson and former Cheney hack Victoria Nuland basically said the same thing the Bush Administration always said: Geneva comply blah blah blah.

**QUESTION:** And what about his charges that – violation of human rights in

these prisons?

**MS. NULAND:** Well, you know that we take seriously any charges or allegations of detainee abuse. We respect the rights of detainees who are in facilities that the United States manages, and we ensure that all detainees in U.S. custody are treated in accordance with international legal obligations, including Geneva Common Article III. Any specific allegations of detainee abuse are investigated fully by the Department of Defense and by ISAF.

Coming from Nuland, such reassurances are little comfort.

But then, this is basically a pissing contest over who can run abusive prisons, so it's not comforting in any case.

---

## ON STRATEGY, DRONES, AND CLIMATE CHANGE



Try  
this  
exerci  
se.

Open up the new Defense Strategic Guidance DOD released today. Hit Ctrl-F. Type in "drone." Count how many times the word appears in the strategic document that is supposed to guide us through 2020.

Now do the same, Ctrl-F, "Climate change." Count

the mentions of the phenomenon that will cause accelerating amounts of instability between now and 2020.

The number of appearances, for both phrases, is zero.

Zero.

DOD just rolled out new strategic guidance without once mentioning the fancy new toys that are a cornerstone of their new-and-improved small footprint strategy or the phenomenon that will serve as significant a disruptive force as terrorism, China, and cyberwar in the next 8 years, all things that show up in this defense strategy.

And all that in a defense strategy that basically forswears large scale stability operations (AKA Iraq and Afghanistan).

**Conduct Stability and Counterinsurgency Operations.** In the aftermath of the wars in Iraq and Afghanistan, the United States will emphasize non-military means and military-to-military cooperation to address instability and reduce the demand for significant U.S. force commitments to stability operations. U.S. forces will nevertheless be ready to conduct limited counterinsurgency and other stability operations if required, operating alongside coalition forces wherever possible. Accordingly, U.S. forces will retain and continue to refine the lessons learned, expertise, and specialized capabilities that have been developed over the past ten years of counterinsurgency and stability operations in Iraq and Afghanistan. However, U.S. forces will no longer be sized to conduct large-scale, prolonged stability operations.

Mind you, the defense strategy doesn't ignore stability—which it mentions ten more times than it does drones or climate change. But in a

thoroughly Rumsfeldian manner, it seems to just believe stability ... happens.

All in a time when America's neoliberal economic policies ("commerce," "prosperity," and "economic growth"—at 2, 4, and 1—also show up more times than drones or climate change) also contribute to instability and where more and more countries seem to be falling as states.

Now, partly, the defense strategy forswears large scale stability operations, because this entire strategy is an effort to pretend it's cutting \$487 billion over ten years when it's really just ending two expensive wars, refocusing from Europe to Asia, and assuming we'll make do with things like Special Forces and those drones the strategy doesn't mention. To a significant degree, this new defense strategy is a pre-emptive (and thoroughly successful, from the looks of things) attempt to convince the press that DOD is suffering under the same rules of austerity the rest of us are, while really only moving some shells around on a card table.

I suspect the defense strategy also forswears large scale stability operations—AKA nation building—because we suck at it, and no President wants to embrace something we've failed at for ten years straight, no matter how important for our security. (Note, it does say it will retain the ability to "regenerate"—like a lizard's limb—stability operations if the need arises. How we're going to regenerate something we never had, I don't know.)

So rather than explaining what we're going to do with all the countries we destabilize with drone campaigns (AKA Pakistan) or what we're going to do as Bangladesh and North Africa and the Horn of Africa and much of Southeast Asia increasingly suffer from droughts or floods, setting off catastrophe and migration and more failing central governments, we're just going to assume stability ... happens.

It's a nice strategy (and an even neater trick,

convincing journalists that an increase in defense spending equates to a cut). I'm all in favor of ending these big land wars. But the whole thing also seems to be a strategy for fostering instability as much as one to prevent it. And it doesn't even consider two of the most destabilizing forces on the horizon in the next 8 years.

Update: Bill Michtom had to remind me that 2020 is 8, not 18, years away.

---

## JOHN YOO DEFENDS SENATE'S AUTHORITY TO SIT AROUND AND DO NOTHING

Yes, it is hysterical, in general, that John Yoo has finally discerned some limits to the President's authority under Article II now that Obama used a recess appointment to get around Senate obstruction.

The president's power over what are known as "recess appointments" stems from Article II of the Constitution, which grants him the authority "to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session." The Constitution does not define what a "recess" is – the Senate adjourns for short periods of time, and the question becomes when an "adjournment" becomes long enough to turn into a "recess." In the past, attorneys general and presidents have thought that an adjournment would have to be longer than at least ten days to become a "recess."

Particularly given that Yoo has embraced a rather expansive notion of what Youngstown says about Presidential authority regarding activities that aren't defined under existing statute.

I'm amused, too, by the way Yoo trolls for clients at the end of his column.

Most importantly, private parties outside government can refuse to obey any regulation issued by the new agency. They will be able to defend themselves in court by claiming that the head of the agency is an unconstitutional officer, and they will have the grounds for a good test case. They can call Richard first, me second, for advice!

I hope, for NRO's sake, they get a cut if Yoo does go on to consult with the Chamber of Commerce, which has threatened to sue.

But I'm most amused by what Yoo has to defend to make his case. John Yoo, arch conservative, defends the right of Senators to sit around doing nothing but reading the paper on the taxpayer's dime.

It is up to the Senate to decide when it is in session or not, and whether it feels like conducting any real business or just having senators sitting around on the floor reading the papers.

I'll grant you, the Senate is pretty ineffective and it usually feels like they are, in fact, not doing anything. I'm sure they do have the legal authority to just sit around scratching their collective arse. But I do find it rather cute that John Yoo has come out of his hole to make an inspired defense of Article I authority based on Senators' rights to do absolutely nothing.

This constitutional lawyer business really is a noble profession.

---

# THE MCCHRYSTAL APOLOGISTS IGNORING MCCHRYSTAL'S OWN TAKE

The WSJ has a scathing critique of Michael Hastings' *The Operators* (see Spencer's more interesting take [here](#)). While it complains that Hastings doesn't profile local indigenous groups and conflates hating the Afghan war with being antiwar, its chief complaint is that "antiwar" journalists damage war efforts.

During the Vietnam War, the generation of David Halberstam and Neil Sheehan transformed America's mainstream media into a hotbed of antiwar and antimilitary muckraking. By the time a major war effort returned, in 2003, that generation had grown too old to visit the trenches, allowing the emergence of Generation X reporters like Dexter Filkins and George Packer, who did not share their predecessors' contempt for the military. Most Americans welcomed the change.

Not so Michael Hastings, as we learn in *"The Operators,"* his account of events in Afghanistan from 2008 to 2011. Mr. Hastings asserts that this generational change drove him to write *"The Runaway General,"* the *Rolling Stone* article of June 2010 that doomed the career of Gen. Stanley McChrystal, commander of coalition forces in Afghanistan. With characteristic acerbity, Mr. Hastings laments that his press colleagues have abandoned the spirit of Vietnam, when "war had been exposed as the Giant Lying Machine, in Halberstam's words."

Instead, he says, they write glowing profiles of generals and other officials in the hope of gaining greater access to sources.

Mr. Hastings singles out, as an example of such truckling, "Stanley McChrystal's Long War," an October 2009 profile by Mr. Filkins in the New York Times. Yet the most cursory reading of that piece reveals that Mr. Filkins soberly detailed Gen. McChrystal's mistakes as well as his triumphs. Mr. Filkins is perhaps now a target because he publicly expressed doubts about "The Runaway General" after its publication. Charlie Rose, on his PBS program, asked Mr. Filkins about quotes in the article that appeared to show Gen. McChrystal and his staff disrespecting President Obama, Vice President Biden, National Security Adviser James Jones and Special Representative Richard Holbrooke, not to mention the French. Mr. Filkins responded: "I spent a lot of time with General McChrystal and the people around him, and I never heard that."

[snip]

Like David Halberstam and Neil Sheehan, Mr. Hastings ignores the harm that his reporting caused to America's overseas interests. The firing of Gen. McChrystal removed the one American who enjoyed the confidence of Afghan President Hamid Karzai and of Ashfaq Parvez Kayani, chief of staff of Pakistan's army.

Hastings is a bad journalist, according to reviewer Mark Moyer, because he exposes that war is built on lies. (Never mind that Moyer provides no proof for his claim that "most Americans" welcomed having shills cover wars rather than journalists.)

Which is why McChrystal's own comments about war



and lies—as reported by Hastings—are so interesting. McChrystal—who, as Hastings reminded, had been a spokesperson during the Iraq War—admitted that the military co-opted the media to cover up the (correct) fact that they believed the war was a bad idea.

We started talking about larger issues within the media, which I felt he was in a unique position to discuss. McChrystal was a spokesperson at the Pentagon during the invasion of Iraq in March of 2003, his first national exposure to the public.

“We co-opted the media on that one,” he said. “You could see it coming. There were a lot of us who didn’t think Iraq was a good idea.”

Co-opted the media. I almost laughed. Even the military’s former Pentagon spokesperson realized—at the time, no less—how massively they were manipulating the press. The ex-White House spokesperson, Scott McClellan, had said the same thing: The press had been “complicit enablers” before the Iraq invasion, failing in their “watchdog role, focusing less on truth and accuracy and more on whether the campaign [to sell the war] was succeeding.”

I rattled off a few names of other journalists. I named the writer who’d just done the profile on him for *The Atlantic*, Robert Kaplan.

“Totally co-opted by the military,” he said.

Of course, the other important thing Hastings’ reporting exposes is the disdain with which those waging our wars hold those ostensibly in charge of them. Which strikes me as an entirely related issue.

It was not Hastings' reporting, after all, that doomed McChrystal's career. It was his comments and those his aides made in his presence. Along with exposing them, Hastings also shows that the generals—McChrystal, at least—has some similar doubts about Afghanistan as he had about Iraq.

The disagreement, then, between those so hysterical about Hastings' reporting and those who find it valuable has more to do with fundamental ideas of democracy than it does with whether he depicted the Afghanistan war truthfully.

---

## **EARLY EFFECTS OF NDAA IRAN SANCTIONS BEING FELT: EU AGREES ON OIL EMBARGO, CHINA CUTS OIL CONTRACTS BY HALF**

Among the many controversial provisions in the NDAA which President Obama signed into law on New Years Eve are provisions aimed at disrupting Iran's ability to export oil by punishing countries that do business with Iran's central bank. Although the harshest sanctions on Iran's bank don't take full effect for another six months (and Obama says in his signing statement that he will regard the measures as nonbinding if they affect his "constitutional authority to conduct foreign relations"), Iran's largest oil customers are planning to cut back dramatically on Iranian imports. The European Union has agreed in principal to a complete embargo on Iranian oil and China has already cut their imports from Iran for January and February to half their previous amount.

The moves by the EU and China will hit Iran very hard. As seen in the table above, China is Iran's largest oil importer, buying 22% of Iran's exports (but this only accounts for 11% of China's overall imports), so cutting their order for the next two months in half will have a major impact on Iran's overall oil revenues if replacement orders are not found quickly. The EU follows closely behind China, buying 18% of Iran's oil exports. Note that these purchases are not spread evenly among EU nations, as Italy and Spain combine to account for over 75% of total EU imports of Iranian oil. Should the EU embargo actually take place, and even if China does not further reduce its purchasing, Iran is looking at a loss of about 30% of its oil export volume.

The Wall Street Journal describes some of the details of how the Iran oil sanctions are designed to take effect:

The bill specifically targets anyone doing business with Iran's central bank, an attempt to force other countries to choose between buying oil from Iran or being blocked from any dealings with the U.S. economy.

Certain sanctions would begin to take effect in 60 days, including purchases not related to petroleum and the sale of petroleum products to Iran through private banks. The toughest measures won't take effect for at least six months, including transactions from governments purchasing Iranian oil and selling petroleum products.

Reuters provides details on the status of the EU embargo:

European governments have agreed in principle to ban imports of Iranian oil, EU diplomats said on Wednesday, dealing a blow to Tehran that crowns new Western sanctions months before an Iranian

election.

/snip/

Diplomats said EU envoys held talks on Iran in the last days of December, and that any objections to an oil embargo had been dropped – notably from crisis-hit Greece which gets a third of its oil from Iran, relying on Tehran's lenient financing. Spain and Italy are also big buyers.

"A lot of progress has been made," one EU diplomat said, speaking on condition of anonymity. "The principle of an oil embargo is agreed. It is not being debated any more."

China is cutting its orders and is driving hard bargains on payments for the oil it is purchasing:

China, which buys around 10 percent of Iran's crude exports, cut its January purchases by about 285,000 barrels per day, just over half of the total average daily amount it imported in 2011.

"February would be the same as January, with the same cut," said a Beijing-based senior crude trader who deals with Iranian oil.

The sticking point in talks is over the credit period. Top Chinese refiner Sinopec Corp, which processes around nine-tenths of China's Iranian oil imports, is insisting on 90 days to pay for imports, while Iran wants payment in 60 days.

And, of course, no matter how "surgically" the sanctions are designed to affect only the Iranian government, the effects already are beginning to hit Iranian citizens very hard. Going back to the Reuters article about the EU embargo:

Tougher sanctions appear to be having an impact already on Iran's streets, where prices for foodstuffs are soaring. The rial currency has lost 40 percent of its value against the dollar over the past month.

Currency exchanges have shut in Tehran and Iranians have queued to withdraw their savings from banks and buy dollars.

That economic hardship is being felt by the public two months before a parliamentary election, Iran's first since a disputed 2009 presidential vote that led to massive street demonstrations, put down violently by Iran's rulers.

The timing of the announcement of the sanctions in relation to the upcoming parliamentary elections in Iran can't be a coincidence. It would appear that the US government has decided that inflicting damage on Iranian voters is a desirable route to getting them to vote against the current government. That is a very dangerous gamble to make, since the government should now be in a position to make the argument that the current hardships are not the fault of Iran's government but are instead due to US meddling.

And meddling it is. The US can't harm Iran by stopping its own importation of Iranian oil because it has been more than 20 years since the US imported any Iranian oil. In fact, 1987 is the only year since the 1979 hostage crisis in which the US imported more than 50,000 barrels of Iranian oil a day and no Iranian oil at all has been imported since 1991. So, just as Iran's threat to close the Strait of Hormuz was taking the attitude that if Iran couldn't export oil, no Persian Gulf countries could export oil, the US, in implementing these sanctions, is saying that since the US uses no Iranian oil, no country should use Iranian oil.

# I

---

## IS NYPD AVOIDING “TERRORISM” CHARGES IN NEW YEARS DAY BOMBINGS TO CLAIM THEY DIDN'T MISS A TERRORIST ATTACK?

The NYPD has caught the suspect in the New Years Day firebombings in Queens. The suspect, Ray Lazier Lengend, will be arraigned today (though he is also being evaluated for fitness to stand trial). Lengend will be charged with 18 counts, among them one charge of hate crime (for the attack on the mosque), as well as arson and weapons possession charges.

He will not be charged with terrorism.

Now, several of his attacks were targeted at specific individuals: his brother-in-law, Bejai Rai, who evicted him for not paying rent, and the bodega, for busting him for trying to steal a Frappuccino last week. The cops think the Hindu target was actually a case of a mistaken address.

But according to his confession, his primary target was the mosque (against which he also had a grudge, because they once refused to let him use their restroom) and his primary motive was to inflict as much damage on Muslims and Arabs as possible.

I The unhinged Queens pyromaniac who  
unleashed a scary New Year's Day

firebombing spree had planned to take out “as many Muslims and Arabs as possible” by lobbing Molotov cocktails at worshipers inside a mosque, prosecutors said.

Ray Lazier Lengend, 40, allegedly told cops he had planned to inflict “as much damage as possible” by hurling all five of his firebombs from the balcony of Imam Al-Khoei Islamic Center onto the crowd below.

Now, given past history, we can be fairly sure that if the NYPD had entrapped Lengend themselves making such threats against, say, a synagogue, they’d have called him, and charged him, as a terrorist. In May, after entrapping Ahmed Ferhani and Mohamed Mamdouh (Ferhani, like Lengend, is mentally unstable) by selling them guns, the NYPD charged them as terrorists. Like Lengend, Ferhani and Mamdouh used ethnic slurs against their target.

Ferhani and Mamdouh were arrested May 11 on charges that they wanted to strike a synagogue to avenge what they saw as mistreatment of Muslims around the world. An undercover officer who investigated them reported that Ferhani wanted to become a martyr. The officer said secret recordings caught the men calling Jews “rats” and other names.

Back in May, NYPD Deputy Commissioner Paul Browne suggested the decision to charge Ferhani and Mamdouh as terrorists was obvious.

Deputy Police Commissioner Paul Browne rejected the Federal critique and said “When somebody acquires weapons and plans to bomb the largest synagogue in Manhattan he can find, what do you call it, mischief?”

Eight months ago, two guys in Queens seek

weapons and plan to bomb the largest synagogue in the city, they're called terrorists. Today, a guy in Queens makes bombs and actually does attack the most prominent Shiite mosque in the city, that's called a hate crime.

Mind you, I'm not sure either of these should be called terrorism. But I do think the NYPD should maintain some consistency about whether bombing a house of worship is terrorism or a hate crime.

Now, I actually don't think the NYPD has chosen to call plots they concoct through entrapment terrorism, while calling this a hate crime out of any explicit prejudice. Rather, I think they're doing it for crime stats.

By charging Legend—someone with a criminal history, so they've known about him for years—with a bias crime rather than terrorism, they can sustain their boastful claims about how successful they've been at “preventing” “terrorism.” If they actually did charge Legend as a terrorist, they'd have to admit that, in spite of his criminal history, they hadn't discovered his plans to commit terrorism. They'd have to admit they're misallocating the \$330 million annually they're spending to profile Muslims. They'd have to admit that seeking out terrorists among certain religious groups doesn't necessarily mean you'll find the “terrorists” (as they NYPD has defined them) out there.

They'd rather engage in a blatant double standard, it seems, then admit their domestic spying operation failed.

---

## **THE CHALLENGE TO RICHARD CORDRAY NOT**



# BEING DISCUSSED

The internets are alive with the sound of excitement over the appointment today by President Obama of Richard Cordray to be Director of the Consumer Finance Protection Bureau (CFPB). And, as Brian Buetler correctly points out, by doing it today, the first day of the new legislative session, Obama (assuming he gets re-elected) has provided Cordray with the longest term possible to serve as a recess appointee:

By acting today, with session two of this Congress technically under way, Obama has given Cordray the rest of this session and the full next session of the Senate to run the bureau. Cordray could potentially serve through the end of 2013.

The Congressional Research Service outlined this in a recent report (PDF) – and the White House and Senate leaders of both parties confirm the analysis.

If Obama loses in 2012, that could shorten Cordray's tenure – and of course Cordray can leave early if he wants to. But this move makes it much more likely that the CFPB will truly take root.

Most of the banter so far has been on the viability of Obama's move to recess appoint in this manner. I have looked at this issue for years, going back to early in the Dawn Johnsen imbroglio, and find no reason to believe this was not a proper exercise of Presidential power and prerogative.

The long and short of it is, there is no restriction on timing of recess appointments by a President pursuant to Article II, Section 2 of the Constitution. Both the "10 day rule", which got narrowed to the "3 day rule" were practices and, at best were based on non-binding dicta from an early 90s DOJ memo; they are not now,

nor have they ever been, binding law or rule. Legally, they are vapor. The issue was actually litigated in the 2004 11th Circuit case of *Evans v. Stephens*.

And when the President is acting under the color of express authority of the United States Constitution, we start with a presumption that his acts are constitutional.<sup>2</sup> See *United States v. Allocco*, 305 F.2d 704, 713 (2d Cir. 1962) (Recess Appointments Clause case); see also *U.S. v. Nixon*, 94 S.Ct. 3090, 3105 (1974) (observing "In the performance of assigned constitutional duties each branch of the Government must initially interpret the Constitution, and the interpretation of its powers by any branch is due great respect from the others.>").

.....

The Constitution, on its face, does not establish a minimum time that an authorized break in the Senate must last to give legal force to the President's appointment power under the Recess Appointments Clause. And we do not set the limit today.

And there you have it. There is no minimum time. Also, somewhat significant, is that *Evans* was decided by the full 11th Circuit, not a three judge panel, and SCOTUS considered a full cert application, and denied it, leaving the 11th Circuit decision standing as good law and citable precedent.

Oh, and if you wonder if SCOTUS has a real hard on for Presidential recess appointments, the answer would appear to be no. During the oral argument in *New Process Steel v. NLRB* last year, Chief Justice Roberts scoldingly asked Deputy Solicitor General Neal Katyal "And the recess appointment power doesn't work why?" I am not sure the blustering Republicans like McConnell and Boehner will find quite as receptive an ear from the Roberts Court as they think.

Well, as Beutler notes, things should be all rosy and good to go for Cordray and CFPB, right? Not so fast, there is another issue not receiving any attention by the chattering classes.

The CFPB was promulgated by a pretty bizarre act – The Dodd Frank Act – bizarre, specifically, in how it structures and empowers the CFPB in its various duties. Notably, several of the key powers flow not necessarily through the agency, but through the “confirmed director” of CFPB. If there is no director, the bureau is run in the interim by the Treasury Secretary. Yep, good ‘ole Turbo Tax Timmeh Geithner. Specifically, Section 1066 provides:

The Secretary is authorized to perform the functions of the Bureau under this subtitle until the **Director of the Bureau is confirmed by the Senate** in accordance with section 1011. (emphasis added)

So, in all this meantime, and despite the White House trying to put the patina on that Liz Warren was running the CFPB, it has actually been Geithner. And the problem with this has been (remember I said the enabling language was bizarre??) that not all of the full powers of the CFPB vest, nor can they be exercised, until there is a director.

A director “confirmed by the Senate” according to the literal wording of the Dodd Frank Act.

If I were speculating on legal challenges to Cordray, rather than focusing solely on Obama’s ability to so appoint him (which, again, I think stands up), I might be more concerned about the issue of whether Cordray has full powers to lead and operate CFPB because he is not “confirmed by the Senate”. That should be a stupid argument you would think, but the words “confirmed by the Senate” in the enabling act make it at least a very cognizable question.

Normally a confirmed appointee and a recess

appointee have the same legal authority and powers but, to my knowledge, there is no other situation in which substantive power for an agency flows only through its specific “confirmed” director. If I were going to attack Cordray, I would certainly not restrict it to the propriety of Obama’s recess appointment, I would also attack his scope of authority since he was not “confirmed”. I would like to think such a challenge fails, but Congress sure left a potential hidden boobytrap here.

---

## **OBAMA PROMISED ADMIN WOULD NOT INDEFINITELY DETAIN AMERICAN CITIZENS WITHOUT TRIAL, BUT CONTINUES TO DEPORT THEM**

On New Year’s Eve, President Obama promised that his “Administration will not authorize the indefinite military detention without trial of American citizens.”

But his Administration continues to deport them.

Consider the example of Jakadrian Turner, the 15 year old African American girl who spoke no Spanish but was deported to Colombia in April.

[After running away from home in Dallas] Jakadrien somehow ended up in Houston, where she was arrested by Houston police for theft. She gave Houston police a fake name. When police in Houston ran that name, it belonged to a 22-year-old illegal immigrant from Columbia, who had

warrants for her arrest.

So ICE officials stepped in.

News 8 has learned ICE took the girl's fingerprints, but somehow didn't confirm her identity and deported her to Colombia, where the Colombian government gave her a work card and released her.

"She talked about how they had her working in this big house cleaning all day, and how tired she was," Turner said.

Now some might blame this girl for giving the cops a false name—though pictures suggest she still looks like a teenager, so that itself is problematic.

But what this demonstrates is how low the due process requirements are on ICE deportations. Not her fingerprints, not her lack of identification, not her youth, not even basic common sense prevented her from getting deported to a country to which she had no tie.

And for all the solace that Defense Authorization supporters took (naively, I maintain) in habeas corpus, in a country where citizens can be deported based on gross error, in a country where this is not an isolated incident, that doesn't amount to much.

---

## **HOW DARE THE PRESIDENT PROTECT CONSUMERS!?!?!?**

We'll have to come back to the issue of why President Obama decided to use his recess authority to appoint Richard Cordray to head the Consumer Financial Protection Board but not Dawn

Johnsen or Elizabeth Warren. But for now, I'd like to collect the wails of Republican outrage.

Shorter John Boehner: Protecting consumers from rapacious banks is an extraordinary and entirely unprecedented power grab! Protecting consumers is bad for the economy!

Shorter Mitch McConnell: Obama has arrogantly circumvented the American people by protecting the American people!

Shorter Orrin Hatch: It is a very grave decision by this heavy-handed, autocratic White House to appoint someone to protect consumers. The American people deserve to be treated with more respect than this White House is affording them by protecting them from the banks!

Shorter Spencer Bachus: Appointing a director to the CFPB will cripple it for years. The greatest threat to our economy right now is uncertainty, and by protecting consumers the President just guaranteed there will be even more uncertainty.

---

## **SHORTER JAMIE DIMON: "I AM NOT A PSYCHOPATH"**

As business professor Clive Boddy describes it, banksters like Jamie Dimon succeed—and cause great catastrophe—because they are able to exploit the chaos of today's business environment while ignoring the consequences of their ruthlessness.

Boddy says psychopaths take advantage of the "relative chaotic nature of the modern corporation," including "rapid change, constant renewal" and high turnover of "key personnel." Such

circumstances allow them to ascend through a combination of “charm” and “charisma,” which makes “their behaviour invisible” and “makes them appear normal and even to be ideal leaders.”

[snip]

They “largely caused the crisis” because their “single- minded pursuit of their own self-enrichment and self-aggrandizement to the exclusion of all other considerations has led to an abandonment of the old-fashioned concept of noblesse oblige, equality, fairness, or of any real notion of corporate social responsibility.”

Boddy doesn’t name names, but the type of personality he describes is recognizable to all from the financial crisis.

He says the unnamed “they” seem “to be unaffected” by the corporate collapses they cause. These psychopaths “present themselves as glibly unbothered by the chaos around them, unconcerned about those who have lost their jobs, savings and investments, and as lacking any regrets about what they have done.

Meanwhile, a Reuters article offers a possible explanation for how millions of MF Global funds disappeared: because its clearing firm, JP Morgan Chase, dawdled while clearing hundreds of millions of dollars in securities MF Global sold to Goldman Sachs as an effort to stay afloat.

MF Global unloaded hundreds of millions of dollars’ worth of securities to Goldman Sachs in the days leading up to its collapse, according to two former MF Global employees with direct knowledge of the transactions. But it did not immediately receive payment from its clearing firm and lender, JPMorgan Chase & Co , one of the sources said.

The sale of securities to Goldman occurred on October 27, just days before MF Global Holdings Ltd filed for bankruptcy on October 31, the ex-employees said. One of the employees said the transaction was cleared with JPMorgan Chase.

[snip]

JPMorgan has fought aggressively in bankruptcy court to protect its interests, and received a lien on some of MF Global's assets in exchange for granting the firm \$8 million to fund its bankruptcy costs. The lien puts JPMorgan's interests ahead of MF Global customers who have not yet received an estimated \$900 million worth of money from their accounts, which remain frozen as regulators search for missing funds.

As it turns out, a week **before** JPMC was stalling on clearing MF Global's sales, Jamie Dimon sent out an email to JPMC employees boasting about the firm's expansion at a time of strife for the industry.

"2011 was another year of challenges, both for JPMorgan Chase and for countries around the world," Dimon wrote in a year-end e-mail to staff. "There is a lot of frustration out there and more than a little hostility toward our industry."

[snip]

JPMorgan hired 16,000 people in the U.S. in 2011, Dimon said in the letter, expanding its total workforce to more than 260,000 in a year when financial companies announced more than 200,000 job cuts and protests against Wall Street firms spread worldwide. The New York-based lender is adding about 175 branches a year in the U.S., he said.



“In the face of challenges, JPMorgan Chase is doing its part,” Dimon wrote.  
“We have not shrunk back.”

I tell you, indefinite detention looks better and better for Jamie Dimon.