ON THE PASSING OF DAVID MARGOLIS, THE DOJ INSTITUTION

David Margolis was a living legend and giant at the Department of Justice. Now he has passed. Just posted is the following from DOJ:

> **Statements From Attorney General Loretta E. Lynch and Deputy Attorney General Sally Q. Yates on the Passing of Associate Deputy Attorney General David Margolis**
>
> Attorney General Loretta E. Lynch and Deputy Attorney General Sally Q. Yates released the following statements today on the passing of Associate Deputy Attorney General David Margolis, senior-most career employee at the Department of Justice.
>
> Statement by Attorney General Lynch:
>
> “David Margolis was a dedicated law enforcement officer and a consummate public servant who served the Department of Justice – and the American people – with unmatched devotion, remarkable skill and evident pride for more than half a century. From his earliest days as a hard-charging young prosecutor with a singular sense of style to his long tenure as one of the department’s senior

> leaders, David took on our nation's most pressing issues and navigated our government's most complex challenges. To generations of Justice Department employees, he was a respected colleague, a trusted advisor and most importantly, a beloved friend. We are heartbroken at his loss and he will be deeply missed. My thoughts and prayers are with David's family, his friends and all who loved him."
>
> Statement by Deputy Attorney General Yates:
>
> "David Margolis was the personification of all that is good about the Department of Justice. His dedication to our mission knew no bounds, and his judgment, wisdom and tenacity made him the "go-to" guy for department leaders for over 50 years. David was a good and loyal friend to all of us, and his loss leaves a gaping hole in the department and in our hearts."

I am sure Mr. Margolis was a kind, personable and decent chap to those who knew and worked with him. I can be sure because there have been many voices I know who have related exactly that. He was undoubtedly a good family man and pillar of his community. None of that is hard to believe, indeed, it is easy to believe.

Sally Yates is spot on when she says Margolis' "dedication to our [DOJ] mission knew no bounds". That is not necessarily in a good way though, and Margolis was far from the the "personification of all that is good about the Department of Justice". Mr. Margolis may have been such internally at the Department, but it is far less than clear he is really all that to the public and citizenry the Department is designed to serve. Indeed there is a pretty long record Mr. Margolis consistently not only frustrated accountability for DOJ malfeasance, but was the hand which guided and ingrained the

craven protection of any and all DOJ attorneys for accountability, no matter how deeply they defiled the arc of justice.

This is no small matter. When DOJ Inspectors General go to Congress to decry the fact that there is an internal protection racket within the Department of Justice shielding even the worst wrongs by Department attorneys, as IG Glen Fine did:

> Second, the current limitation on the DOJ OIG's jurisdiction prevents the OIG – which by statute operates independent of the agency – from investigating an entire class of misconduct allegations involving DOJ attorneys' actions, and instead assigns this responsibility to OPR, which is not statutorily independent and reports directly to the Attorney General and the Deputy Attorney General. In effect, the limitation on the OIG's jurisdiction creates a conflict of interest and contravenes the rationale for establishing independent Inspectors General throughout the government. It also permits an Attorney General to assign an investigation raising questions about his conduct or the conduct of his senior staff to OPR, an entity reporting to and supervised by the Attorney General and Deputy Attorney General and lacking the insulation and independence guaranteed by the IG Act.
>
> This concern is not merely hypothetical. Recently, the Attorney General directed OPR to investigate aspects of the removal of U.S. Attorneys. In essence, the Attorney General assigned OPR – an entity that does not have statutory independence and reports directly to the Deputy Attorney General and Attorney General – to investigate a matter involving the Attorney General's and the Deputy Attorney General's conduct. The IG Act created OIGs to avoid this type

> of conflict of interest. It created statutorily independent offices to investigate allegations of misconduct throughout the entire agency, including actions of agency leaders. All other federal agencies operate this way, and the DOJ should also.
>
> Third, while the OIG operates transparently, OPR does not. The OIG publicly releases its reports on matters of public interest, with the facts and analysis underlying our conclusions available for review. In contrast, OPR operates in secret. Its reports, even when they examine matters of significant public interest, are not publicly released.

Said fact and heinous lack of accountability for Justice Department attorneys, not just in Washington, but across the country and territories, is largely because of, and jealously ingrained by, David Margolis. What Glen Fine was testifying about is the fact there is no independent regulation and accountability for DOJ attorneys.

They are generally excluded from the Department IG purview of authority, and it is rare, if ever, courts or state bar authorities will formally review DOJ attorneys without going throughout the filter of the OPR – the Office of Professional Responsibility – within the Department. A protection racket designed and jealously guarded for decades by David Margolis. Even when cases were found egregious enough to be referred out of OPR, they went to…..David Margolis.

In fact, attuned people literally called the OPR the “Roach Motel”:

> “I used to call it the Roach Motel of the Justice Department,” says Fordham University law professor Bruce A. Green, a former federal prosecutor and ethics

> committee co-chair for the ABA Criminal Justice Section. “Cases check in, but they don’t check out.”

If you want a solid history of OPR, and the malfeasance it and Margolis have cravenly protected going back well over a decade, please go read “The Roach Motel”, a 2009 article in no less an authority than the American Bar Association Journal. It is a stunning and damning report. It is hard to describe just how much this one man, David Margolis, has frustrated public transparency and accountability into the Justice Department that supposedly works for the citizens of the United States. It is astounding really.

As I wrote back in 2010:

> But just as there is an inherent conflict in the DOJ’s use of the fiction of the OPR to police itself, so too does David Margolis have issues giving the distinct appearance of impropriety. Who and what is David Margolis? A definitive look at the man was made by the National Law Journal (subscription required):
>
> > “Taking him on is a losing battle,” says the source. “The guy is Yoda. Nobody fucks with the guy.”
> > ….
> > Margolis cut his teeth as an organized-crime prosecutor, and he often uses mob analogies in talking about his career at the Justice Department. When asked by an incoming attorney general what his job duties entailed, Margolis responded: “I’m the department’s cleaner. I clean up messes.”
> >
> > The analogy calls to mind the character of Winston Wolfe, played by Harvey Keitel in the

> 1994 film “Pulp Fiction.” In the movie, Wolfe is called in by mob honchos to dispose of the evidence after two foot soldiers accidentally kill a murder witness in the back of their car.

“The Cleaner” Mr. Margolis considered himself, while fastidiously sanitizing gross malfeasance and misconduct by DOJ attorneys, all the while denying the American public the disinfectant of sunshine and transparency they deserve from their public servants (good discussion by Marcy, also from 2010).

Perhaps no single incident epitomized Margolis’ determination to be the “cleaner” for the Department of Justice and keep their dirt from public scrutiny and accountability than the case of John Yoo (and to similar extent, now lifetime federal judge Jay Bybee). Yoo as you may recall was the enlightened American who formally opinedcrushing innocent children’s testicles would be acceptable conduct for the United States to engage in. Yoo and Bybee, by their gross adoption of torture, literally personally soiled the reputation of the United States as detrimentally as any men in history.

So, what did David Margolis do in response to the heinous legal banality of evil John Yoo and Jay Bybee engendered in our name? Margolis cleaned it up. He sanitized it. Rationalized it. Ratified it. Hid it. To such an extent architects of such heinous war crimes are now lifetime appointed federal judges and tenured professors. Because that is what “The Cleaner” David Margolis did. “Protecting” the DOJ from accountability, at all costs, even from crimes against humanity, was simply the life goal of David Margolis, and he was depressingly successful at it.

So, less than 24 hours in to the passing of The Cleaner, is it too early to engage in this

criticism? Clearly other career officials at the DOJ think discussing the pernicious effects of Margolis on accountability and transparency are out of bounds.

I wonder what the late Senator Ted Stevens would say in response to the "too soon" mandate of Steven Bressler? Because thanks to the efforts of The Cleaner Margolis, Stevens died without the public knowing what an unethical and craven, if not downright criminal, witch hunt attorneys in the Department of Justice ran on him. Even after Stevens was long gone from office and dead, there was Margolis "cleaning" it all up to protect his precious Justice Department when even the internal OPR found gross misconduct:

> Following the Justice Department's agreement in 2009 to vacate the convictions it obtained of former Alaska Senator Ted Stevens, it conducted an internal probe into the conduct of its senior lawyers and—surprise!—exonerated them and itself. It then refused to make the report public. However, at the time the conviction was voided, the presiding judge in Stevens's case, Emmet Sullivan, appropriately wary of the department's ethics office, appointed a special prosecutor, Henry F. Schuelke, III, an eminent Washington attorney and former prosecutor, to probe the DOJ's conduct. Late last week, Schuelke's 525-page report was released, over the loud objections of DOJ lawyers. The report revealed gross misconduct by the prosecutorial team, stretching over the entire course of the case and reaching into the upper echelons of the department. It concluded there had been "systematic concealment of significant exculpatory evidence which would have independently corroborated [Stevens's] defense."

Having laid out the above bill of particulars as to David Margolis, I'd like to return to where

we started. As I said in the intro, “I am sure Mr. Margolis was a kind, personable and decent chap”. That was not cheap rhetoric, from all I can discern, both from reading accounts and talking to people who knew Mr. Margolis well, he was exactly that. Ellen Nakashima did a fantastic review of Margolis in the Washington Post last year. And, let’s be honest, the man she described is a guy you would love to know, work with and be around. I know I would. David Margolis was a man dedicated. And an incredibly significant man, even if few in the public understood it.

Say what you will, but Mr. Margolis was truly a giant. While I have no issue delineating what appear to be quite pernicious effects of David Margolis’ gargantuan footprint on the lack of accountability of the Department of Justice to the American citizenry, I have some real abiding respect for what, and who, he was as a man. Seriously, read the Nakashima article and tell me David Margolis is not a man you would love to kill some serious beers with by a peaceful lake somewhere.

But David Margolis, both the good and the bad, is gone now. Where will his legacy live? One of our very longtime friends here at Emptywheel, Avattoir, eruditely said just yesterday:

> Focus instead on the institution, not the players. The players are just data points, hopefully leading to greater understanding of the institutional realities.

Those words were literally the first I thought of yesterday when I received the phone call David Margolis had passed. They are true and important words that I, and all, need to take heed of more frequently.

David Margolis, it turns out from all appearances and reports, was a complex man. Clearly great, and clearly detrimental, edges to him. So what will his legacy be at the

Department of Justice? Will the closing of the Margolis era, and it was truly that, finally bring the institution of the Department into a modern and appropriate light of transparency, accountability and sunshine?

Or will the dirty deeds of David Margolis' historical ratification and concealment of pervasive and gross misconduct by Department of Justice attorneys become permanently enshrined as a living legacy to the man?

We shall see.

RUSS FEINGOLD: YAHOO DIDN'T GET THE INFO NEEDED TO CHALLENGE THE CONSTITUTIONALITY OF PRISM

The NYT has a story that solves a question some of us have long been asking: Which company challenged a Protect America Act order in 2007, only to lose at the district and circuit level?

The answer: Yahoo.

> The Yahoo ruling, from 2008, shows the company argued that the order violated its users' Fourth Amendment rights against unreasonable searches and seizures. The court called that worry "overblown."

But the NYT doesn't explain something that Russ Feingold pointed out when the FISA Court of Review opinion was made public in 2009 (and therefore after implementation of FISA

Amendments Act): the government didn't (and still didn't, under the PAA's successor, the FISA Amendments Act, Feingold seems to suggests) give Yahoo some of the most important information it needed to challenge the constitutionality of the program.

> **The decision placed the burden of proof on the company to identify problems related to the implementation of the law, information to which the company did not have access. The court upheld the constitutionality of the PAA, as applied, without the benefit of an effective adversarial process**. The court concluded that "[t]he record supports the government. Notwithstanding the parade of horribles trotted out by the petitioner, it has presented no evidence of any actual harm, any egregious risk of error, or any broad potential for abuse in the circumstances of the instant case." However, the company did not have access to all relevant information, including problems related to the implementation of the PAA. Senator Feingold, who has repeatedly raised concerns about the implementation of the PAA and its successor, the FISA Amendments Act ("FAA"), in classified communications with the Director of National Intelligence and the Attorney General, has stated that the court's analysis would have been fundamentally altered had the company had access to this information and been able to bring it before the court.
>
> **In the absence of specific complaints from the company, the court relied on the good faith of the government**. As the court concluded, "[w]ithout something more than a purely speculative set of imaginings, we cannot infer that the purpose of the directives (and, thus, of the surveillance) is other than their stated purpose… The petitioner suggests

> that, by placing discretion entirely in the hands of the Executive Branch without prior judicial involvement, the procedures cede to that Branch overly broad power that invites abuse. But this is little more than a lament about the risk that government officials will not operate in good faith." One example of the court's deference to the government concerns minimization procedures, which require the government to limit the dissemination of information about Americans that it collects in the course of its surveillance. Because the company did not raise concerns about minimization, the court "s[aw] no reason to question the adequacy of the minimization protocol." And yet, the existence of adequate minimization procedures, as applied in this case, was central to the court's constitutional analysis. [bold original, underline mine]

This post — which again, applies to PAA, though seems to be valid for the way the government has conducted FAA — explains why.

The court's ruling makes it clear that PAA (and by association, FAA) by itself is not Constitutional. By itself, a PAA or FAA order lacks both probable cause and particularity.

The programs get probable cause from Executive Order 12333 (the one that John Yoo has been known to change without notice), from an Attorney General assertion that he has probable cause that the target of his surveillance is associated with a foreign power.

And the programs get particularity (which is mandated from a prior decision from the court, possibly the 2002 one on information sharing) from a set of procedures (the descriptor was redacted in the unsealed opinion, but particularly given what Feingold said, it's likely these are the minimization procedures

both PAA and FAA required the government to attest to) that give it particularity. The court decision makes it clear the government only submitted those — even in this case, even to a secret court — ex parte.

> The petitioner's arguments about particularity and prior judicial review are defeated by the way in which the statute has been applied. When combined with the PAA's other protections, the [redacted] procedures and the procedures incorporated through the Executive Order are constitutionally sufficient compensation for any encroachments.
>
> **The [redacted] procedures [redacted] are delineated in an ex parte appendix filed by the government. They also are described, albeit with greater generality, in the government's brief**. [redacted] Although the PAA itself does not mandate a showing of particularity, see 50 USC 1805b(b), this pre-surveillance procedure strikes us as analogous to and in conformity with the particularity showing contemplated by Sealed Case.

In other words, even the court ruling makes it clear that Yahoo saw only generalized descriptions of these procedures that were critical to its finding the order itself (but not the PAA in isolation from them) was constitutional.

Incidentally, while Feingold suggests the company (Yahoo) had to rely on the government's good faith, to a significant extent, so does the court. During both the PAA and FAA battles, the government successfully fought efforts to give the FISA Court authority to review the implementation of minimization procedures.

The NYT story suggests that the ruling which found the program violated the Fourth Amendment pertained to FAA.

> Last year, the FISA court said the minimization rules were unconstitutional, and on Wednesday, ruled that it had no objection to sharing that opinion publicly. It is now up to a federal court.

I'm not positive that applies to FAA, as distinct from the 215 dragnet or the two working in tandem.

But other reporting on PRISM has made one thing clear: the providers are still operating in the dark. The WaPo reported from an Inspector General's report (I wonder whether this is the one that was held up until after FAA renewal last year?) that they don't even have visibility into individual queries, much less what happens to the data once the government has obtained it.

> But because the program is so highly classified, only a few people at most at each company would legally be allowed to know about PRISM, **let alone the details of its operations**.
>
> [snip]
>
> According to a more precise description contained in a classified NSA inspector general's report, also obtained by The Post, PRISM allows "collection managers [to send] content tasking instructions directly to equipment installed at company-controlled locations," rather than directly to company servers. **The companies cannot see the queries that are sent from the NSA to the systems installed on their premises**, according to sources familiar with the PRISM process. [my emphasis]

This gets to the heart of the reason why Administration claims that "the Courts" have approved this program are false. In a signature case where an Internet provider challenged it — which ultimately led the other providers to

concede they would have to comply — the government withheld some of the most important information pertaining to constitutionality from the plaintiff.

The government likes to claim this is constitutional, but that legal claim has always relied on preventing the providers and, to some extent, the FISA Court itself from seeing everything it was doing.

LAMAR SMITH'S FUTILE LEAK INVESTIGATION

Lamar Smtih has come up with a list of 7 national security personnel he wants to question in his own leak investigation. (h/t Kevin Gosztola)

> House Judiciary Committee Chairman Lamar Smith, R-Texas, told President Obama Thursday he'd like to interview seven current and former administration officials who may know something about a spate of national security leaks.
>
> [snip]
>
> The administration officials include National Security Advisor Thomas Donilon, Director of National Intelligence James Clapper, former White House Chief of Staff Bill Daley, Assistant to the President for Homeland Security and Counterterrorism John Brennan, Deputy National Security Advisor Denis McDonough, Director for Counterterrorism Audrey Tomason and National Security Advisor to the Vice President Antony Blinken.

Of course the effort is sure to be futile—if

Smith's goal is to figure out who leaked to the media (though it'll serve its purpose of creating a political shitstorm just fine)—for two reasons.

First, only Clapper serves in a role that Congress has an unquestioned authority to subpoena (and even there, I can see the Intelligence Committees getting snippy about their turf—it's their job to provide impotent oversight over intelligence, not the Judiciary Committees).

As for members of the National Security Council (Tom Donilon, John Brennan, Denis McDonough, Audrey Tomason, and Antony Blinken) and figures, like Bill Daley, who aren't congressionally approved? That's a bit dicier. (Which is part of the reason it's so dangerous to have our drone targeting done in NSC where it eludes easy congressional oversight.)

A pity Republicans made such a stink over the HJC subpoenaing Karl Rove and David Addington and backed Bush's efforts to prevent Condi Rice from testifying, huh?

The other problem is that Smith's list, by design, won't reveal who leaked the stories he's investigating. He says he wants to investigate 7 leaks.

> Smith said the committee intends to focus on seven national security leaks to the media. They include information about the Iran-targeted Stuxnet and Flame virus attacks, the administration's targeted killings of terrorism suspects and the raid which killed Usama bin Laden.
>
> Smith wants to know how details about the operations of SEAL Team Six, which executed the bin Laden raid in Pakistan, wound up in the hands of film producers making a film for the president's re-election. Also on the docket is the identity of the doctor who performed DNA tests which helped lead the U.S. to bin

> Laden's hideout.

But his list doesn't include everyone who is a likely or even certain leaker.

Take StuxNet and Flame. Not only has Smith forgotten about the programmers (alleged to be Israeli) who let StuxNet into the wild in the first place—once that happened, everything else was confirmation of things David Sanger and security researchers were able to come up with on their own—but he doesn't ask to speak to the Israeli spooks demanding more credit for the virus.

Then there's the Osama bin Laden raid, where Smith has forgotten two people who are almost certainly part of the leak fest: Ben Rhodes and Brigadier General Marshall Webb.

Smith's inclusion of Shakeel Afridi's plight here is downright ridiculous. It's fairly clear the first leaks about Afridi's role in the OBL operation came from the ISI, with reporting originally published in the UK, not the US. The source for confirmation that Afridi was working for the CIA? Well, if Lamar Smith and his staffers can't negotiate a TV remote or an internet search to find Leon Panetta confirming Afridi's role on TV, then they have no business serving in an oversight role, period. And yet Panetta's not on Smith's list.

Smith also wants to know who leaked details of the UndieBomb 2.0 plot. Well, he better start subpoenaing some Yemeni and Saudi—and even British—partners, then, because they were all part of the leak.

Finally, there are the various drone targeting stories. What Smith seems not to get is that the Kill List stories were responses to earlier stories on signature strikes and Brennan's grasp of targeting under NSC. Those leaks almost certainly did not arise from the White House; if I had to guess, they came from folks in JSOC who are miffed about losing a turf battle. Yet they, too, are not on the list. And all that's before

you consider that CIA did not report a leak on, at least, the later targeted killing stories, suggesting the possibility that they're not leaks at all, but myths told to the American public.

All that, of course, is before you get to the circumstance that Republicans fiercely defended during the Plame investigation: for original classification authorities—and the Vice President if pixie dust has been liberally applied—can unilaterally declassify whatever the fuck they feel like, leak it to select journalists, and then start wars or end careers on it. All with no paperwork, making it hard to prosecute either the legitimate instadeclassifications as well as the illegal ones. Lamar Smith had absolutely no problem with that unacceptable state of affairs five years ago. Now, it turns his entire witch hunt into a farce.

So either Lamar Smith is going to need to find a way to undo all the precedent on executive prerogative on secrecy he and his party set under the Bush Administration—as well as find a way to start subpoenaing our allies—or this entire effort is futile.

Unless, of course, this is all about election year posturing.

EXTRAJUDICIAL EXECUTION OF SAMIR KHAN ARGUABLY MORE SIGNIFICANT THAN AWLAKI

By this time in the day, the early morning report of the killing of Anwar Awlaki is old

news. From ABC News:

> Senior administration officials say that the U.S. has been targeting Awlaki for months, though in recent weeks officials were able to pin down his location.
>
> "They were waiting for the right opportunity to get him away from any civilians," a senior administration official tells ABC News.

And today they got him. Awlaki was killed by a drone delivered Hellfire missile, via a joint CIA and JSOC operation, in the town of Kashef, in Yemen's Jawf province, approximately 140 kilometres east of Sanaa, Yemen's capital. But not only Awlaki was killed, at least three others, including yet another American citizen, Samir Khan, were killed in the strike.

That's right, not just one, *but two*, Americans were summarily and extrajudicially executed by their own government today, at the direct order of the President of the United States. No trial, no verdict, just off with their heads. Heck, there were not even charges filed against either Awlaki or Khan. And it is not that the government did not try either, there was a grand jury convened on Khan, but no charges. Awlaki too was investigated for charges at least twice by the DOJ, but non were found.

But at least Awlaki was on Barrack Obama's "Americans That Are Cool to Kill List". Not so with Samir Khan. Not only is there no evidence whatsoever Khan is on the classified list for killing (actually two different lists) my survey of people knowledgeable in the field today revealed not one who believed khan was on any such list, either by DOD or CIA.

So, the US has been tracking scrupulously Awlaki for an extended period and knew with certainty where he was and when, and knew with certainty immediately they had killed Awlaki and Khan. This means the US also knew, with certainty, they were going to execute Samir Khan.

How did the US then make the kill order knowing they were executing a US citizen, not only extrajudicially, but not even with the patina of being on the designated kill list (which would at least presuppose some consideration and Yoo-like pseudo-legal cover)?

Did Barack Obama magically auto-pixie dust Khan onto the list with a wave of his wand on the spot? Even under the various law of war theories, which are not particularly compelling justification to start with as we are not at war with Yemen and it is not a "battlefield", the taking of Khan would appear clearly prohibited under both American and International law. As Mary Ellen O'Connell, vice chairman of the American Society of International Law, relates, via Spencer Ackerman at Wired's Dangerroom:

> "The United States is not involved in any armed conflict in Yemen," O'Connell tells Danger Room, "so to use military force to carry out these killings violates international law."
>
> O'Connell's argument turns on the question of whether the U.S. is legally at war in Yemen. And for the administration, that's a dicey proposition. The Obama administration relies on the vague Authorization to Use Military Force, passed in the days after 9/11, to justify its Shadow Wars against terrorists. Under its broad definition, the Authorization's writ makes Planet Earth a battlefield, legally speaking.
>
> But the Authorization authorizes war against "nations, organizations, or persons [the president] determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001." It's a stretch to apply that to al-Qaida's Yemen affiliate, which didn't exist on 9/11. But when House Republicans tried to re-up the Authorization to explicitly bless the new contours of the war against al-

> Qaida, the Obama administration balked, fearing the GOP was actually tying its hands on the separate question of terrorist detentions.
>
> "It is only during the intense fighting of an armed conflict that international law permits the taking of human life on a basis other than the immediate need to save life," O'Connell continues. "In armed conflict, a privileged belligerent may use lethal force on the basis of reasonable necessity. Outside armed conflict, the relevant standard is absolute necessity."
>
> So did al-Awlaki represent an "absolute" danger to the United States? President Obama, in acknowledging Awlaki's death on Friday morning, didn't present any evidence that he did.

And therein lies lies the reason the US killing of Samir Khan may be even more troubling than the already troubling killing of al-Awlaki. There is no satisfactory legal basis for either one, but as to Khan there was NO process whatsoever, even the joke "listing" process utilized for Awlaki. The US *says* it took care to not harm "civilians", apparently that would mean Yemeni civilians. American citizens are fair game for Mr. Obama, list or no list, crime or no crime, charges or no charges. Off with their heads!

People should not just be evaluating today's fresh kills as to Awlaki, Samir Khan should be at the tip of the discussion spear too.

THE ASSASSINATION

SQUADS: TWO POINTS

Siobhan Gorman reports that the big secret Panetta revealed to Congress is an assassination squad. But there's got to be more to it than that.

CHANGE PIXIE DUST WE CAN BELIEVE IN

Man oh man, Greg Craig is not doing Obama any favors as White House Counsel. In this installment, he apparently told (probably) Senator Whitehouse or Feingold that he believes in Pixie Dust.

WHITEHOUSE AND FEINGOLD STRIKE BACK AT PIXIE DUST

Feingold and Whitehouse are finally trying to end the process of Pixie Dusting.

MUKASEY FLIP FLOPS ON PIXIE DUST

Back during Michael Mukasey's confirmation hearings, Sheldon Whitehouse got Michael Mukasey to commit that, when a President changes an executive order, he appropriately should

actually change the executive order—so schmoes like you and I can know what the President is actually doing.

2. Do you believe that the President may act contrary to a valid executive order?

THE YOO "EXCLUSIVITY" OPINION: MORE OUTRAGEOUS HACKERY

Senator Whitehouse finally got the Administration to declassify the jist of the John Yoo opinion used to dismiss the exclusivity provision in FISA. And boy is it a doozie.

JUST MAKING IT UP ON CLASSIFICATION

Bush's new classification, CUI, is worrisome. But just as worrisome is increasing evidence that Bush is just endorsing a system whereby his Administration does whatever it wants, regardless of classification.