ON THE NONSENSE OF NORMS ABOUT SECRETS

At a panel on secrecy yesterday, Bob Litt proclaimed that the NYT "disgraced itself" for publishing names, some of which were widely known, of the people who were conducting our equally widely known secret war on drones.

Sadly, Litt did not get asked the question implied by the Washington Post's Greg Miller (who has, in the past, caught heat for not publishing some of the same names).

> So CIA tried to convince @**MarkMazzettiNYT** not to name CTC chief, but helped @**NYTimesDowd** do profile of CTC women with names and photos??

Did the NYT "disgrace itself" for publishing a column by Maureen Dowd that covers over some of the more unsavory female CIA officers — notably, Alfreda Bikowsky — who have nevertheless been celebrated by the Agency?

I'd submit that, yes, the latter was a far more disgraceful act, regardless of the credit some of the more sane female CIA officers deserve, because it was propaganda delivered on demand, and delivered for an agency that would squawk Espionage Act had the NYT published the same details in other circumstances.

Keep that in mind as you read this post from Jack Goldsmith, claiming — without offering real evidence — that this reflects a new "erosion of norms" against publishing classified information.

I mean, sure, I agree the NYT decision was notable. But it's only notable because comes after a long series of equally notable events — events upping the tension underlying the secrecy system — that Goldsmith doesn't mention.

There's the norm — broken by some of the same people the NYT names, as well as Jose Rodriguez

before them — that when you take on the most senior roles at CIA, you drop your cover. By all appearances, as CIA has engaged in more controversial and troubled programs, it has increasingly protected the architects of those programs by claiming they're still undercover, when that cover extends only to the public, and not to other countries, even adversarial ones. That is, CIA has broken the old norm to avoid any accountability for its failures and crimes.

Then there's the broken norm — exhibited most spectacularly in the Torture Report — of classifying previously unclassified details, such as the names of all the lawyers who were involved in the torture program.

There's the increasing amounts of official leaking — up to and including CIA cooperating with Zero Dark Thirty to celebrate the work of Michael D'Andrea — all while still pretending that D'Andrea was still under cover.

Can we at least agree that if CIA has decided a Hollywood propagandistic version of D'Andrea's is not classified, then newspapers can treat his actual career as such? Can we at least agree that as soon as CIA has invited Hollywood into Langley to lionize people, the purportedly classified identities of those people — and the actual facts of their career — will no longer be granted deference?

And then, finally, there's CIA's (and the Intelligence Community generally) serial lying. When Bob Litt's boss makes egregious lies to Congress to cover up for the even more egregious lies Keith Alexander offered up when he played dress-up hacker at DefCon, and when Bob Litt continues to insist that James Clapper was not lying when everyone knows he was lying, then Litt's judgement about who "disgraced" themselves or not loses sway.

All the so-called norms Goldsmith nostalgically presents without examination rest on a kind of legitimacy that must be earned. The Executive has squandered that legitimacy, and with it any

trust for its claims about the necessity of the secrets it keeps.

Goldsmith and Litt are asking people to participate with them in a kind of propagandistic dance, sustaining assertions as “true” when they aren’t. That’s the habit of a corrupt regime. They’d do well to reflect on what kind of sickness they’re actually asking people to embrace before they start accusing others of disgraceful behavior.