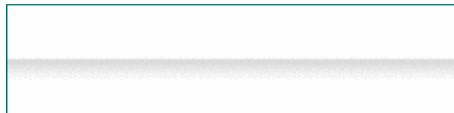




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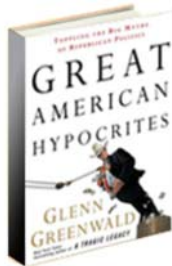
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**Glenn Greenwald's
Unclaimed Territory**

I was previously a constitutional law and civil rights litigator in New York. I am the author of two New York Times Bestselling books: "How Would a Patriot Act?" (May, 2006), a critique of the Bush administration's use of executive power, and "A Tragic Legacy" (June, 2007), which examines the Bush legacy. My most recent book, "Great American Hypocrites", examines the manipulative electoral tactics used by the GOP and propagated by the establishment press, and was released in April, 2008, by Random House/Crown.

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Glenn Greenwald

MONDAY APRIL 20, 2009 07:35 EDT

Major scandal erupts involving Rep. Jane Harman, Alberto Gonzales and AIPAC

[updated below - Update II (Interview w/Jeff Stein)]

Other obligations prevent me from writing until later today -- and I intend to focus on [Rahm Emanuel's war-crimes-protecting proclamation](#) that Obama's desire for immunity extends beyond CIA officers perpetrating torture to the "policy makers" who ordered it (watch today as the hardest-core Obama loyalists start explaining how [the UN doesn't matter](#), [international treaties are irrelevant](#), and war criminals need not be held accountable) -- but, until then, I wanted to highlight [this extremely important and well-reported story from CQ's Jeff Stein](#), which involves allegations of major corruption and serious criminal activity on the part of Democratic Rep. Jane Harman. Here's one crucial prong of the story:

*Rep. Jane Harman, the California Democrat with a longtime involvement in intelligence issues, was **overheard on an NSA wiretap telling a suspected Israeli agent that she would lobby the Justice Department to reduce espionage-related charges against two officials of the American Israeli Public Affairs Committee, the most powerful pro-Israel organization in Washington.***

Harman was recorded saying she would "waddle into" the AIPAC case "if you think it'll make a difference," according to two former senior national security officials familiar with the NSA transcript.

In exchange for Harman's help, the sources said, the suspected Israeli agent pledged to help lobby Nancy Pelosi, D-Calif., then-House minority leader, to appoint Harman chair of the Intelligence Committee after the 2006 elections, which the Democrats were heavily favored to win.

*Seemingly wary of what she had just agreed to, according to an official who read the NSA transcript, **Harman hung up after saying, "This conversation doesn't exist."***

That's not even the most significant part. Back in October, 2006, [Time reported](#) that the DOJ and FBI were investigating whether Harman and AIPAC "violated the law in a scheme to get Harman reappointed as the top Democrat on the House intelligence committee" and "the probe also involves whether, in exchange for the help from AIPAC, Harman agreed to help try to persuade the Administration to go lighter on the AIPAC officials caught up in the ongoing investigation." So that part has been known since 2006.

Stein adds today that Harman was captured on an NSA wiretap conspiring with an Israeli agent to apply pressure on DOJ officials to scale back the AIPAC prosecution. But the real crux of Stein's scoop is that then-Attorney General Alberto Gonzales intervened to kill the criminal investigation into Harman -- **even though DOJ lawyers had concluded that she committed crimes** -- because top Bush officials wanted Harman's credibility to be preserved so that she could publicly defend the Bush administration's illegal warrantless eavesdropping program:

*[C]ontrary to reports that the Harman investigation was dropped for "lack of evidence," it was Alberto R. Gonzales, President Bush's top counsel and then attorney general, who **intervened to stop the***

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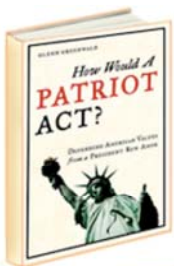
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Harman probe.

Why? Because, according to three top former national security officials, Gonzales wanted Harman to be able to help defend the administration's warrantless wiretapping program, which was about to break in The New York Times and engulf the White House. . . .

Justice Department attorneys in the intelligence and public corruption units who read the transcripts decided that Harman had committed a "completed crime," a legal term meaning that there was evidence that she had attempted to complete it, three former officials said. . . .

Then-CIA Director Porter J. Goss reviewed the Harman transcript and signed off on the Justice Department's FISA application. . . . Goss, a former chairman of the House Intelligence Committee, deemed the matter particularly urgent because of Harman's rank as the panel's top Democrat.

But that's when, according to knowledgeable officials, Attorney General Gonzales intervened.

According to two officials privy to the events, Gonzales said he "needed Jane" to help support the administration's warrantless wiretapping program, which was about to be exposed by the New York Times.

Harman, he told Goss, had helped persuade the newspaper to hold the wiretap story before, on the eve of the 2004 elections. And although it was too late to stop the Times from publishing now, she could be counted on again to help defend the program

He was right.

On Dec. 21, 2005, in the midst of a firestorm of criticism about the wiretaps, Harman issued a statement defending the operation and slamming the Times, saying, "I believe it essential to U.S. national security, and that its disclosure has damaged critical intelligence capabilities."

And thanks to grateful Bush administration officials, the investigation of Harman was effectively dead.

Indeed, as I've noted many times, Jane Harman, in the wake of the NSA scandal, became probably the [most crucial defender](#) of the Bush warrantless eavesdropping program, using her status as "the ranking Democratic on the House intelligence committee" to [repeatedly praise the NSA program](#) as "essential to U.S. national security" and "both necessary and legal." She even went on *Meet the Press* to defend the program along with GOP Sen. Pat Roberts and Rep. Pete Hoekstra, and she even [strongly suggested that the whistleblowers who exposed the lawbreaking and perhaps even the New York Times \(but not Bush officials\) should be criminally investigated](#), saying she "deplored the leak," that "it is tragic that a lot of our capability is now across the pages of the newspapers," and that the whistleblowers were "despicable." And Eric Lichtblau himself described how Harman, in 2004, [attempted very aggressively to convince him not to write about the NSA program](#).

[Stein's entire story should be read](#). It's a model of excellent reporting, as it relies on numerous sources with first-hand knowledge of the NSA transcripts (and what sweet justice it would be if Harman's guilt were established by government eavesdropping). It should be noted that Harman has issued a general denial of wrongdoing (but does not appear to deny that she had the discussion Stein reports), and the sources in Stein's story are anonymous (though because they're disclosing classified information and exposing government wrongdoing, it's a classic case of when anonymity is justifiable; and note Stein's efforts to provide as much information as possible about his sources and why they are anonymous).

There are many questions that the story raises -- Josh Marshall notes just some of those vital questions [here](#) -- and Harman's guilt therefore shouldn't be assumed. But obviously, given all the very serious issues this story raises -- involving what seem to be credible allegations of

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very serious wrongdoing by a key member of Congress, the former Attorney General and one of the most powerful lobbying organizations in the country -- full-scale investigations are needed, to put it mildly.

* * * * *

Two other notes:

(1) I was interviewed by *ReasonTV* regarding my report on drug decriminalization in Portugal and Obama's record thus far on civil liberties (the interview was taped two weeks ago, prior to release of the OLC memos):

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(2) Kudos to *The New York Times* and Scott Shane not merely for [amplifying a key fact about the OLC memos](#) -- that 2 of the detainees were waterboarded a total of **266 times** -- but, even more notably, for crediting Marcy Wheeler as the person who discovered that fact and first broke the story. Ironically, establishment journalists often complain that bloggers are "parasitic" on their work, yet many feel no compunction about simply copying what they read on blogs without any credit whatsoever. Some reporters are conscientious about crediting blogs -- [Shane is one of them](#) -- but it's far more common for them to use the work of bloggers with no credit. Marcy is one of the smartest, most knowledgeable and most diligent writers around, and it's excellent to see her get just some of the credit her work deserves.

UPDATE: [Atrios reads the CQ story](#) as containing "the suggestion that in exchange for dropping the investigation, Harman became a cheerleader for Bush's illegal wiretapping program." I'm not sure that's what the *CQ* story suggests. It was always clear that Harman would be a defender of the illegal NSA spying program; she was, as she herself acknowledged, repeatedly briefed on the program since 2003 and was such a vigorous proponent of it that she tried to bully Eric Lichtblau out of writing about it in 2004 -- a full year before it became public. She didn't need to be bribed or cajoled to support it. Instead, Gonzales' motive in quashing the investigation seems to be that he did not want her credibility impaired -- because, as a Democrat and a gushing defender of the NSA program, she would be of great value once the scandal broke.

As for those wondering what the possible crime would be, the allegation is that Harman agreed to use her influence as a member of Congress to intervene in a pending criminal proceeding directed at AIPAC officials in exchange for receiving something of value (namely, AIPAC's lobbying for her to be appointed Chair of the House Intelligence Committee). It's exactly what Pete Domenci was accused of: [trying to influence DOJ prosecutions](#) for political ends, though in the case of the allegations against Harman, it's even worse, since the suggestion is that she agreed to interfere in the criminal proceedings in exchange for AIPAC's support of her quest to become Intelligence Committee Chair.

Finally, the *CQ* story says that Harman's conversation was recorded as part of "**a court-approved NSA tap** directed at alleged Israel covert action operations in Washington." If those facts are accurate, then it is hard to claim that there was anything improper about the eavesdropping; targeting agents of foreign governments is exactly what FISA permits. But given the [recent report](#) that the Bush administration attempted to eavesdrop on a member of Congress without any FISA court approval, how the eavesdropping occurred should be something that ought to be looked into -- unless, that is, you're a follower of Barack Obama's philosophy that This Is a Time for

Reflection, Not Retribution, and we Must Look To The Future, Not the Past, in which case it's just best to let bygones be bygones.

I'll have a podcast interview later today with *CQ's* Jeff Stein about this story.

UPDATE II: My interview with Jeff Stein about his reporting is now posted; to hear it, click PLAY on the recorder below:



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