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Whistleblowers: An Interview with Daniel Ellsberg and John Dean

In 1971, Daniel Ellsberg made history by releasing the Pentagon Papers, a 7,000 page top secret study of U.S. decision-making in Vietnam, to the press. The document set in motion a chain of events that ended not only the Nixon presidency but the Vietnam War.

John Dean was counsel to President Nixon for 1,000 days and the government's key witness in the Watergate trials. Both men played crucial, personal roles in the abuse of executive power during the Vietnam War and the Watergate scandal, and both later blew the whistle with brutal honesty to expose the sordid actions of our national leaders during these crises.

This Tuesday, September 15, Ellsberg and Dean will appear together at a special free event (<http://www.soros.org/whistleblowers>) at the New York Society for Ethical Culture for a conversation about the perils of government secrecy and the critical role played by whistleblowers in maintaining democratic values both then and now.

The event comes on the eve of the U.S. premiere at New York's Film Forum (<http://filmforum.com>) of a new documentary, *The Most Dangerous Man in America: Daniel Ellsberg and the Pentagon Papers*. The Open Society Institute's Ann Beeson, who appears in the film, will moderate the conversation between Ellsberg and Dean.

Beeson, Ellsberg and Dean recently met by phone to discuss some of the issues raised by the film.

Ann Beeson: As a nation we are still coming to terms with human rights abuses committed since September 11th in the name of national security and the so-called "global war on terror." John, and then Dan, why is this film about the Pentagon Papers still relevant today?

John Dean: Americans have an unfortunately short collective memory. Most Americans under the age of 45 don't have a clue about what happened in Vietnam and Watergate. A film like this might provoke people to find out what happened and learn from it. And the film might also refresh the recollections of those who do remember the period, and remind them of how easily we find ourselves repeating our history.

Daniel Ellsberg: Even young viewers will recognize what went on in the Watergate period because they've seen it in the last eight years with the places and names changed. I think they'll

realize from this film that lying Congress into war did not begin with the Iraq war. That was a replay of what happened thirty years earlier. And abusing the Constitution and lying to the public are part of an old pattern. The film could be seen as dealing with what I call now "Vietnamistan." The parallels are very sharp, and I think one can't miss that when you see the film. I wish it had been available before the Iraq war. It might have saved a lot of lives.

Beeson: Attorney General Eric Holder has now finally appointed a special prosecutor to investigate the torture abuses committed during the Bush administration. And that has fueled Dick Cheney's fiery rhetoric and his claim that any attempt to prosecute wrongdoers would harm national security. Dan, can you say more about how today's debate about accountability compares to the debate during the Vietnam era?

Ellsberg: I think that virtually no one has been held accountable in any real sense for our disaster in Iraq or the ongoing war in Afghanistan, or the clear criminality in the case of torture and rendition. In the case of Vietnam, impeachment proceedings against Nixon did begin, leading to his resignation. We didn't see that in Iraq and we absolutely should have - and really a situation like that could well arise again in the case of Afghanistan.

On the accountability question, I think that we should not be listening to Cheney on the question of priorities between national security and observing our Constitution. I don't know what the comparison would be, listening to Michael Brown, "Brownie" of Katrina fame, on problems of future hurricanes? Cheney's judgment is totally discredited I would hope by this time. When he talks about the need to avoid prosecution, he is talking of course about himself.

He and others have talked about the dangers of allowing "policy disputes" to become criminalized. But we are not talking about policy disputes, in the case of torture or aggression, we are talking about whether or not to obey the law, or to obey the Constitution.

And for Obama and Holder to be saying that they don't want to look backward, is to be saying that they don't want the criminal justice system to apply to officials of the United States government, they are saying that their predecessors should be regarded as being above or beyond the law or as a law unto themselves. They are really arguing for a different system of government than the constitutional democracy that we are supposed to have. I think that's very dangerous.

Dean: Let me add a footnote to Dan's comment. There certainly is a division of public opinion on this. I saw a poll the other day that said 47% are for an investigation into abuses of torture, 49% against.

Ellsberg: John is referring to evidence that "the public" is part of the problem here. When I was in the government, I used to think, if the President only knew. Of course what the Pentagon Papers revealed to me is that the president had known, and that trusting the president was not the solution to avoiding this disaster. So then I thought, well, if the Congress only knew, but they didn't do anything with the Pentagon Papers when I gave them to them. I turned my hopes to the public - if the public only knew, if the press knew, and so forth. Thirty years later, there is a certain disillusionment on my part. The public did know with the publication of Pentagon Papers

but refused believe that the same patterns were being extended into the Nixon's second term in office. So the war went on for four more years.

I think that a large part of the public heard for many years from Bush and Cheney and others that there is a great need for torture, that it was appropriate in these circumstances, that it was necessary and had great benefits. They have been indoctrinated to believe that torture is a matter for debate, that it's a matter for discussion. And the issue that's being discussed is "should there be a ban on torture or not?" Now, we can discuss anything, that's the beauty of our country. It's a perfectly reasonable thing if you want to raise that question.

But, it's ignoring the point that there is a legal ban on torture. The question is not, "Should there be a law against torture?" Domestic and international laws were totally, consciously violated by the Bush administration. So the real question is, should the executive branch be regarded as being above and beyond the reach of the criminal law? Whatever the public thinks about torture is a separate question from whether we should allow blatant violation of criminal laws and treaties. A willingness to do that - and indeed there may be a lot of the people who are willing to do that - is to jettison our constitutional democracy and the rule of law and to accept that the current situation requires a monarch or a dictator. And that's what we're hearing today. It remains dangerous, as it was under Bush.

Beeson: There are two very important questions raised by what you've both just said. First, given that almost every president has tried to take an expansive view of executive power, what more could be done legally to ensure more accountability? And second, what more needs to be done to educate the public about the dangers of expansive executive power?

Dean: The only way you can have a check on executive power is for one of the other branches to do the checking. And Congress, under six years of Republican control, couldn't even spell the word "oversight." The Democrats, while they could spell it, weren't willing to exercise it once they took control in 2006. It's a total failure by the legislative branch to undertake an effort towards oversight. Why they're doing this is, I think, because of the amount of money in Washington that influences their thinking. In the post-Watergate era, there was something of a rebalancing or a re-exercise by Congress of its inherent powers. There really wasn't a lessening of executive power so much as an exercise of congressional power. When Bush and Cheney came in, they came in with a clear mandate in their own minds to remove those powers of Congress, and did a pretty damn good job of it over their time in office, to my amazement.

Ellsberg: I agree with that, very well said. On the question of civil liberties, privacy, and surveillance, I must say that I didn't expect Obama and Holder to behave differently from what they have been doing, which is reproducing Bush's legal positions on these issues, because I didn't expect any president to voluntarily forego expanded powers that his predecessor had left to him. Unfortunately, my prediction has proven to be right. That leaves it up to Congress to take back those powers and rein them in, which they did not do when the Democrats became a majority in 2006, as John said, and they're not doing it now.

I recently asked Senator Mike Gravel, who is in the film and who was the one Senator who had the guts to read the Pentagon Papers into the Congressional Record, "Mike, do you find the

Senate extraordinarily cowardly in the last couple of years?" And he said said, "No. Ordinarily cowardly. They were just the same thirty years ago."

However, there was a Church Committee, which did result in some changes, which have now been rolled back specifically on FISA. I just noticed the cover story in the *Nation* magazine calling for a new Church Committee to investigate the abuses and general operating of the intelligence system altogether. It seems to me an excellent idea, and one Congress is not likely to do on its own. So again it comes back to whether the public - even a minority of the public that cares about the Constitution and about this hopeless war in Afghanistan can press Congress to hold hearings that are its responsibility to do. Hearings on torture, hearings on Afghanistan, hearings on secrecy and surveillance issues. They have not held these hearings, they have not used their subpoena power, and they won't do it unless some of us force them to do it on the grounds that we will fire them if they don't.

Beeson: Thank you both so much. I hope this brief exchange will convince many folks to go out and see this very important film, and to join us for a longer conversation at the New York Society for Ethical Culture on Tuesday, September 15th.

Daniel Ellsberg is a former RAND strategist and Pentagon insider who released top secret documents known as "The Pentagon Papers" to the *New York Times* in 1971. His actions directly contributed to the end of Nixon presidency and the Vietnam War. He is the author of *Secrets: a Memoir of Vietnam and the Pentagon Papers*.

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John Dean was White House Counsel to President Nixon for 1000 days and, subsequently, a whistleblower on the Watergate scandal. Today, Dean is a political analyst who often appears on MSNBC and is author of ten books on American political life, including *Worse Than Watergate*, *Conservatives Without Conscience* and *Broken Government*. Dean has just reissued a paperback version of *Blind Ambition* with a new afterword.

Ann Beeson, Executive Director of the Open Society Institute's U.S. Programs and former Associate Legal Director for the ACLU. While at the ACLU, Beeson, a leading expert on the threat that government secrecy poses to freedom of expression, collaborated with Daniel Ellsberg to defend government whistleblowers and promote open government.