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Essay; A Tale Of Three Counsels

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We have been treating Mr. Bush's "Christmas Eve massacre" of the Iran-contra prosecution as a single event, motivated either by compassion for Presidential loyalists or a need to shut down deeper inquiry.

That's a mistake. The pardons rounded out a trio of decisions about independent counsel made in the last two weeks.

The key figure in each was C. Boyden Gray, the White House legal counsel. To deduce the pattern, we must grasp three relationships.

1. George Bush treats Boyden Gray like a son and trusts him totally. No person has been as close in the final days.
2. Boyden Gray has had a four-year feud with James Baker, a competing confidant. It was Gray, to distract attention from his own conflict of interest, who exposed Jim Baker's bank holdings and forced him to sell. In the recent campaign, Gray was irked at Baker's slowness to take charge and quickness to distance himself from looming defeat.
3. William **Barr**, the 42-year-old Attorney General, became acquainted with Mr. Bush in his 20's, when he served as one of his aides in the C.I.A.; he was then taken under Boyden Gray's wing and owes his current lofty position to Gray's sponsorship.

A loyal order-follower, **Barr** makes no major decision without a nod or wink from his mentor.

With that background, consider the three interrelated decisions on independent counsel:

1. Despite demands from both Judiciary committees and an obvious conflict of cover-ups between the Justice Department and the C.I.A., Mr. **Barr** broke precedent and refused to seek independent counsel in the Iraqgate scandal. Instead, he handpicked a whitewasher who dutifully filibustered past the election, ultimately condemning Congress for the arms buildup of Saddam Hussein. Just before the special-prosecutor act expired, **Barr** insisted that such an appointment would undermine career officers in the department's Criminal Division.

2. On the day before the act was to end, under no pressure from press or Congress, Mr. **Barr** suddenly reversed field about his Criminal Division's capacity: he found evidence of sufficient credibility (I suspect at Mr. Gray's behest) to seek genuinely independent counsel in the case of the State Department's search of Bill Clinton's passport files. State's tawdry invasion of privacy was not in the same league of criminality as Iraqgate's sustained lying to Congress and obstruction of justice -- yet it rated the hated special prosecutor. The court panel was ready with Joseph deGenova because it had screened him for the expected Iraqgate appointment. (He had a conflict.)

3. As the old arms-for-hostages scandal threatened to involve Mr. Bush more deeply at the Weinberger trial, Gray took **Barr**'s Justice pardon dossier to the President; on Christmas Eve, the independent counsel's Iran-contra case was effectively shut down.

Follow the **Barr**-Gray zigzag: "no" to investigating major Iraqgate lying; "yes" to investigating minor passport file lying; "no" to further investigating arms-for-hostages lying. Why the inconsistency?

Answer: Only James Baker, not George Bush or Boyden Gray or William **Barr**, is vulnerable on the passport file case. Baker's longtime left arm, Janet Mullins, is the designated fall guy in the suspected lying; Margaret Tutwiler, his right arm, will be targeted for complicity. Both women are likely to be granted immunity and squeezed to rat on their boss before a grand jury; because they are unlikely to perjure themselves, Baker is likely to be embarrassed at guilty knowledge of the misdemeanor of snooping but not prosecutable for lying to officials.

Barr excluded a more serious invasion of privacy -- the widespread operations-center telephone eavesdropping by lawless bureaucrats -- in his surprise request for independent counsel. That is set to be quashed; the purpose of the passport-case appointment is to settle Boyden Gray's score with James Baker while trying to draw attention away from the two scandals touching Bush.

I have not been among James Baker's ardent acolytes in the past dozen years, but think he deserves the respect of a serious inquiry into major crimes of state rather than a light pop on a dirty trick.

The ability of Congress to take truthful testimony has been challenged by the pardons. The reaction to the shutdown of Iran-contra should be the opening up of Iraqgate.

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