

Judith Miller Recants; Where's the Media?

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In “The Story: A Reporter’s Journey,” which hit book store shelves Tuesday, April 7, former New York Times reporter Judith Miller revealed in the final chapter that she now believes that she was induced by then-Special Counsel Patrick J. Fitzgerald to give false testimony in the 2007 trial of I. “Lewis” Scooter Libby, former chief of staff to Vice President Dick Cheney.

Given that Fitzgerald’s three-and-a-half year-long investigation and prosecution of Libby riveted the nation’s capital and generated vast news coverage implying, when not outright declaring, that the Bush administration lied the nation into war, one might think that recantation of testimony by a pivotal prosecution witness would command attention and excite controversy.

Miller’s assertions, which I wrote about last week in a Wall Street Journal op-ed, are fascinating—and important. In a more extensive online-only essay, I reexamined the entire trial and concluded that Fitzgerald’s theory of the case was fundamentally flawed and that his unscrupulous conduct was not limited to withholding exculpatory evidence from Miller and the defense; I believe it extended to other prosecution witnesses as well. I also reviewed “The Story” for RCP.

Although I had no illusions that my interest would be matched by the left-liberal media, I did expect that Miller’s claims about giving false testimony—and the consequent corruption of the jury verdict that found Libby guilty of obstruction of justice, making a false statement, and perjury—would spark at least a few days of debate. Perhaps I gave the establishment media too much credit.

True, hardly anyone remembers the details of the Valerie Plame leak investigation, including, for example, that Plame’s CIA employment was leaked by Deputy Secretary of State Richard Armitage; that leaking it was not a crime and did not harm national security, and that Libby was never charged with outing Plame or disclosing classified information, but with lying to federal investigators and a grand jury—rather than committing innocent errors of memory—about fragments of long-ago telephone conversations.

And I was aware that whatever the jury decided, many elite journalists believed that for his role in helping launch what they regarded as a foolish and destructive military adventure in Iraq, Libby deserved the \$250,000 fine, the 30-month prison sentence (commuted by President Bush), and the 400 hours of community service to which Judge Reggie B. Walton sentenced him.

What I did not expect was that Miller's revelation—along with the new reporting she did on the flawed evidence against Libby and the damage inflicted on American national security by Fitzgerald's prosecution—would be given the silent treatment by the left-liberal media, beginning with the New York Times and the Washington Post.

It's not that the Times and the Post were uninterested in the book. Terry McDermott, a former Los Angeles Times national correspondent, reviewed "The Story" in the Times. Mostly, McDermott maintained that Miller, despite accurately reporting that intelligence agencies throughout the West believed—it turned out incorrectly—that Saddam possessed chemical and biological weapons, deserved her 2005 dismissal. McDermott does not explain why many others at the Times and the Washington Post who reported as did Miller kept their jobs.

McDermott seeks to make quick work of Miller's concluding chapter. He incorrectly states, "The final section of 'The Story' deals with Ms. Miller's role in the Valerie Plame affair, her refusal to identify a source (for an article she never wrote), her jailing because of that refusal, and finally her forced resignation from The Times in 2005." In fact, the section to which he refers is the penultimate one. But that's the least of the troubles with McDermott's summary of the end of Miller's book.

The final section actually deals with Miller's accusation that by withholding crucial evidence, prosecutor Fitzgerald tricked her into giving false testimony used to convict an innocent man. For Miller's revelation, for the courage she showed in coming forward to admit her error, and for the significance of her error—to the Libby verdict, the Fitzgerald prosecution, and the endlessly repeated lie that the White House sought to punish Bush critic Joseph Wilson by outing his wife Valerie Plame—McDermott offers not a single word.

Washington Post media critic Erik Wemple agreed in his review with McDermott that Miller's defense of her reporting on Iraqi WMD was unpersuasive. To reach this conclusion, Wemple took a rather anti-intellectual tack. He conceded that Miller's Times articles contained appropriate caveats. But, he writes, "Note to Miller: People don't read the caveats."

Since he has exactly nothing to say about Miller's account of the false testimony she gave in the Libby trial, one might wonder whether Wemple actually read Miller's book to the end. Why else would Wemple choose not to write about Miller's stunning disclosure that Libby lawyer Joseph Tate told her, "Fitzgerald had twice offered to drop all charges against Libby if his client would 'deliver' Cheney to him."?

In connection to *United States v. Libby*, journalists failing to do their jobs is nothing new. And journalists doing the jobs of politicians is old hat.

The trial record provided ample reason to conclude that the prosecution failed to meet its burden of proving beyond a reasonable doubt that, as Fitzgerald's indictment charged, Libby lied about snippets of telephone conversations with NBC's Tim Russert, Time magazine's

Matthew Cooper, and Judy Miller. That the prosecution's case was anything but airtight, however, would have been difficult to glean from the standard media coverage.

In fact, serious memory errors afflicted every prosecution witnesses. And the errors were consistently of a certain sort. The prosecution witnesses' memories of conversations with Libby changed significantly, always to Libby's detriment, as time passed—from initial FBI questioning in the fall of 2003, through grand jury testimony in 2004 and 2005, to the trial in 2007—and as they were increasingly subjected to questioning by Fitzgerald, who was named to head the investigation in December 2003, and his team. While the Wall Street Journal editorial page provided an honorable exception, the elite media generally treated the verdict reached by the jury on March 6, 2007, as gospel.

Among the more sober reactions to the Libby verdict emerging from the left-liberal media was the Washington Post's March 7, 2007 editorial. It recognized that the controversy over the Plame leak "was remarkable for its lack of substance"; that Wilson's allegations were false; that the trial "provided convincing evidence that there was no conspiracy to punish Mr. Wilson by leaking Ms. Plame's identity—and no evidence that she was, in fact, covert"; and that "it would have been sensible for Mr. Fitzgerald to end his investigation after learning" that Armitage was the leaker. Yet despite a trial in which a parade of prosecution witnesses could not keep their stories straight, the Post asserted that the evidence that Libby lied was "strong" and "abundant" and condemned his lies as "reprehensible."

Meanwhile, the Democratic Party's highest ranking elected officials crowed that the verdict confirmed their ugliest suspicions about the White House.

"The testimony unmistakably revealed—at the highest levels of the Bush administration—a callous disregard in handling sensitive national security information and a disposition to smear critics of the war in Iraq," proclaimed Speaker of the House Nancy Pelosi, even though the testimony revealed nothing of the kind.

"It's about time someone in the Bush administration has been held accountable for the campaign to manipulate intelligence and discredit war critics," chimed in Senate Majority Leader Harry Reid, repeating the long-discredited canard. He added that the "trial revealed deeper truths about Vice President Cheney's role in this sordid affair." Reid never bothered to mention that the leak of Plame's identity came not from Cheney's staff—or even the White House— but from Armitage, who worked at the State Department.

Amplifying the Democratic leadership's propaganda, the New York Times editorial page decried Libby's conduct, which it declared involved much more than having been "caught lying to the FBI." Libby, the Times asserted, "appears to have been trying to cover up a smear campaign that was orchestrated by his boss against the first person to unmask one of the many untruths that President Bush used to justify invading Iraq."

The Times editorial writers displayed as much unfamiliarity with the case as did Pelosi and Reid. Despite his sly insinuations, Fitzgerald provided not a speck of evidence that Vice President Cheney had orchestrated a smear campaign. Moreover, the Times editorial writers appeared to be as ignorant as Speaker Pelosi and Majority Leader Reid of the high-level bipartisan investigations of 2004 and 2005, which found that that in making its case for war, the Bush administration relied in good faith on intelligence that was only discovered to have been faulty after the Iraq invasion.

A few journalists—outstanding among them Christopher Hitchens at Slate, syndicated columnist Charles Krauthammer, and syndicated columnist Thomas Sowell—understood the incoherence of Fitzgerald’s case and the flimsiness of his evidence. Most mainstream commentary, however, lay somewhere between the Washington Post’s relative sobriety and the partisan blasts of Pelosi, Reid, and the New York Times. Nearly everyone, including the Washington Post, missed the pervasive memory failures of the witnesses who were summoned to show that Libby could not have possibly innocently misremembered bits and pieces of old telephone conversations--conversations that did not involve disclosures of classified information and which had no impact on national security.

By acknowledging her mistaken testimony in the Libby trial, Judith Miller has given the left-liberal media an opportunity to correct the profoundly flawed account it promulgated of Patrick Fitzgerald’s prosecution of Scooter Libby. The early indications at the New York Times and the Washington Post are not heartening. We could use more journalists with the guts and the integrity that Miller has displayed in setting the record straight.

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