

# HAILING CARMEN ORTIZ WHILE IGNORING SEVERAL AMENDMENTS

Main Justice has a bizarre post suggesting that those who excoriated Carmen Ortiz for her treatment of Aaron Swartz (and Tarek Mehanna and Russ Caswell, though MJ doesn't name them by name) are now hailing her aggressiveness.

"The criticism lately has been that they've overcharged some people and been overly harsh," Peter Elkann, a Boston defense attorney, said in a recent interview with Reuters. Elkann went on to observe that "no one is going to accuse any prosecutor of making too big a deal out of this case."

That would be a safe statement, considering that the April 15 bombing killed 3 people and wounded more than 280 others, many of whom lost legs, as it left blood on the street and horrified and infuriated millions of Americans.

Ahem.

Maybe Main Justice doesn't read this blog, which has twice noted the needless prosecutorial irregularity of Dzhokhar Tsarnaev's interrogation.

But I would hope that a site covering legal inside baseball has heard of a guy named Erwin Chemerinsky, who seems just as troubled by DOJ's refusal to comply with Dzhokhar's reported request for a lawyer as bmaz and I?

It has become increasingly evident that the Justice Department violated the constitutional rights of Boston bombing suspect Dzhokhar Tsarnaev. He apparently was questioned for hours without being given his *Miranda* warnings, and the

interrogation continued even after he explicitly requested an attorney. It is disturbing that the Justice Department would risk its criminal prosecution by ignoring such basic rules and even more disturbing for what this says as to its view of the Constitution.

Don't get me wrong. I don't think Carmen Ortiz made the decision to refuse Dzhokhar a lawyer through 16 hours of interrogation alone. I'm quite certain she did that because that's the policy – generally and specifically – Obama's DOJ wants to pursue.

But that's true of her over-aggressive pursuit of the war on drugs, the war on hackers, and the war on Muslims, too, the wars she was fighting when she took down Aaron Swartz and Tarek Mehanna (and tried to take down Russ Caswell). The other abusive decisions she made all reflect the policy choices of the Obama Administration.

But denying someone his Fifth and Sixth Amendment rights is completely consistent with what we've seen Carmen Ortiz do in the past. And while Main Justice appears unphased by it, some of the same people who have noted her prosecutorial aggression in the past are noting it continues here.