

# ANWAR AL-AWLAKI IS THE NEW ALUMINUM TUBE

Mark Mazzetti, Charlie Savage, and Scott Shane team up to provide the government's best case – and at times, an irresponsibly credulous one – for the killing of Anwar al-Awlaki and the collateral deaths of Samir Khan and Abdulrahman al-Awlaki.

Yet even in a 3,600 word story, they don't present any evidence against the senior Awlaki that was fresher than a year old – the October 2010 toner cartridge plot – at the time the Yemeni-American was killed. (I'm not saying the government didn't have more recent intelligence; it just doesn't appear in this very Administration-friendly case.) Not surprisingly, then, the story completely ignores questions about the definition of "imminent threat" used in the OLC memo and whether Awlaki was an "imminent" threat when he was killed.

## **The "linked in various ways" standard for killing Americans**

Moreover, the case they do present has various weaknesses.

The story provides a fair amount of space to Awlaki's celebration of the Nidal Hasan attack (though it does make it clear Awlaki did not respond enthusiastically to Hasan's queries before the attack).

Investigators quickly discovered that the major had exchanged e-mails with Mr. Awlaki, though the cleric's replies had been cautious and noncommittal. But four days after the shootings, the cleric removed any doubt about where he stood.

"Nidal Hassan is a hero," he wrote on his widely read blog. "He is a man of conscience who could not bear living the

contradiction of being a Muslim and serving in an army that is fighting against his own people.”

It uses far vaguer language to describe Awlaki’s role in the Faisal Shahzad and toner cartridge plots.

Meanwhile, attacks **linked in various ways** to Mr. Awlaki continued to mount, including the attempted car bombing of Times Square in May 2010 by Faisal Shahzad, a naturalized American citizen who **had reached out to the preacher on the Internet**, and the attempted bombing by Al Qaeda in the Arabian Peninsula of cargo planes bound for the United States that October.

“Linked in various ways” seems to be the new standard for killing an American. That, in spite of the fact that Shahzad’s tie to Awlaki seems to be the same Hasan had: an inspiration, but not any involvement in the plot. And while Awlaki is reported to have had some role in the toner cartridge plot, reports from Saudi infiltrator Jabir al-Fayfi apparently fingered others in AQAP as the chief plotters.

I guess that would be too much nuance to include in a 3,600 word article.

#### **NYT doesn’t care about problems with the Abu Tarak explanation**

Which leaves the UndieBomb attack as the sole attack in which the NYT presents evidence about Awlaki’s direct role. But there’s a problem with their claims there, too.

The would-be underwear bomber told F.B.I. agents that after he went to Yemen and tracked down Mr. Awlaki, his online hero, the cleric had discussed “martyrdom and jihad” with him, approved him for a suicide mission, helped him prepare a martyrdom video and directed

him to detonate his bomb over United States territory, according to court documents.

In his initial 50-minute interrogation on Dec. 25, 2009, before he stopped speaking for a month, Mr. Abdulmutallab said he had been sent by a terrorist named Abu Tarek, although intelligence agencies quickly found indications that Mr. Awlaki was probably involved. **When Mr. Abdulmutallab resumed cooperating with interrogators in late January, an official said, he admitted that “Abu Tarek” was Mr. Awlaki.** With the Nigerian’s statements, American officials had witness confirmation that Mr. Awlaki was clearly a direct plotter, no longer just a dangerous propagandist.

I don’t doubt that Awlaki was directly involved in this attack in some way. And I got the same explanation about Abu Tarak from “an official” back when I first noted the discrepancy between DOJ’s public claims (thanks for not crediting me on that one, NYT boys). But either Abdulmutallab said something beyond “Abu Tarak was Awlaki,” or the entire explanation is not credible.

That’s because Abdulmutallab’s initial interrogation – according to the version presented by Jonathan Tukul in the opening arguments of Abdulmutallab’s trial – said Abu Tarak did the following:

1. Spoke daily with Abdulmutallab about jihad and martyrdom
2. Suggested to Abdulmutallab that he become involved in a plane attack against the United States aircraft
3. Gave him training in detonating the bomb

4. Told him to make sure he attacked a U.S. aircraft and make sure the attack takes place over the United States

Yet according to the version of Abdulmutallab's interrogation presented in his sentencing memo, here's who did those things:

1. **Awlaki** and Abdulmutallab discussed martyrdom and jihad
2. Defendant and **Ibrahim Al Asiri** discussed defendant's desire to commit an act of jihad; **Asiri** discussed a plan for a martyrdom mission with **Awlaki**, who gave it final approval
3. **Asiri** trained defendant in the use of the bomb
4. **Awlaki** instructed defendant that the only requirements were that the attack be on a U.S. airliner, and that the attack take place over U.S. soil

That is, the things Abdulmutallab attributed to Abu Tarak in his first interrogation include two things the government now says Awlaki did – talk about martyrdom and gave final instructions about attacking the US – and at least one thing Asiri did – train him on the bomb (the government narrative seems to suggest Asiri was the one who first approached Abdulmutallab about the plane attack, too, but that is perhaps deliberately left more vague).

Moreover, Abdulmutallab also said he met Abu Tarak at a mosque and stayed with him for a period in Sanaa, which is totally inconsistent

with the government narrative of how and where he met either Awlaki or Asiri.

Abu Tarak is not simply Awlaki. Perhaps Abdulmutallab said Abu Tarak was an amalgam of three different people he met in Yemen. Perhaps he never said anything to explain the Abu Tarak reference, and DOJ just claims he did because some of what he attributed to Abu Tarak he later attributed to Awlaki. But the NYT presents a claim – that Abdulmutallab said Abu Tarak was Awlaki – that is not consistent with the public records and the government's own claims about what that public record represents.

Add in the fact that the government's own expert, Dr. Simon Perry, after having read 18 or 19 of Abdulmutallab's interrogation reports, including the ones where he reportedly implicated Awlaki, seemed to believe that Abu Tarak was someone different than Awlaki. Perry further pointed out that one of the few public statements Abdulmutallab ever made about his attack – accusing Americans of being guilty at his trial – contradicts the claims he made in February 2010 interrogations where he said Awlaki chose his target.

For example, in his statement to the court he claims that his attack was an outcome of the fact that the "American people are guilty of the sin, and Obama should pay for the crime". In contradiction to this statement made in court, UFAM previously, in his FBI debriefing, claims that he did not specifically target the U.S. for his mission.

[snip]

Once again as explained above (p.9 [sic] of this memorandum) what UFAM said when interviewed by FBI agents is a direct contradiction to later statement in court upon the entry of his guilty plea.

None of this proves that Abdulmutallab didn't

implicate Awlaki. I think he probably did. But what it does prove is the NYT took a single anonymous source's word as reason to dismiss real (albeit minor) inconsistencies with the government's public story, even though that anonymous source's explanation introduced more problems than it solved. That is, the way NYT treated the Abu Tarak reference doesn't necessarily say anything about the evidence against Awlaki, but it does show how uncritically it took the claims made by sources.

**NYT finally finds a WikiLeaks cable it doesn't like!**

There's one other really irresponsible piece to this story. Here's how they describe the December 24, 2009 strike when the government missed Awlaki.

On Dec. 24, 2009, in the second American strike in Yemen in eight days, missiles hit a meeting of leaders of the affiliate group. **News accounts said one target was Mr. Awlaki**, who was falsely reported to have been killed.

**In fact, other top officials of the group were the strike's specific targets, and Mr. Awlaki's death would have been collateral damage** – legally defensible as a death incidental to the military aim. As dangerous as Mr. Awlaki seemed, he was proved to be only an inciter; counterterrorism analysts did not yet have incontrovertible evidence that he was, in their language, "operational." [my emphasis]

It was not just "news accounts" that said one target was Awlaki. Then Yemeni President Ali Abdullah Saleh strongly implied as much, in the days after the attack, in a conversation with David Petraeus (who apparently didn't dispute his understanding) recorded in a WikiLeaks cable. Now, that doesn't disprove the NYT's claim that the justification the US used for

targeting Awlaki at a time they believed him not to be operational is that he would be known collateral damage in a strike ostensibly targeted at someone else. But introducing the cable (this is the NYT! They never pass up an opportunity to rely on WikiLeaks cables!) would have undermined the rest of their article.

That's because the cable provides a great deal of evidence that the government has used a "sitting next to baddies" justification for killing (or, in this case, trying to kill) Americans against whom they don't have enough evidence to target directly. That's almost certainly what happened with Kamal Derwish back in 2002, too.

If the US does use a "sitting next to baddies" excuse for killing Americans against whom the government doesn't have adequate evidence to justify killing directly, then what is the value of all this blather?

The missile strike on Sept. 30, 2011, that killed Mr. Awlaki – a terrorist leader whose death lawyers in the Obama administration believed to be justifiable – also killed Mr. Khan, though officials had judged he was not a significant enough threat to warrant being specifically targeted.

[snip]

In April 2011, the United States captured Ahmed Abdulkadir Warsame, a Somali man who worked closely with the Qaeda affiliate in Yemen. He was held aboard a naval vessel for more than two months and spoke freely to interrogators, including about his encounters with the former North Carolina man now editing the group's magazine, Samir Khan.

While the United States had long tracked Mr. Khan, the new details from the Warsame interrogation raised the question of whether another American

citizen should be considered for targeting. There was still scant evidence tying Mr. Khan to any specific plot, so the administration left him off the list. But events would not turn out so neatly.

[snip]

Mr. Khan, whom they had specifically decided not to add to the kill list, was dead, too. While the lawyers believed that his killing was legally defensible as collateral damage, the death cast a cloud over all those months of seemingly cautious efforts to analyze who should go on the list and who should not.

The NYT article strongly implies that in response to the Warsame intelligence, the government considered putting Khan on a targeting list at a time when he fit the same category Awlaki had been in when the government first tried to kill him under a “sitting next to baddies” standard: a propagandist who was not operational. And yet the NYT concludes from that that Khan’s death – which the government had apparently wanted but not found a way to justify legally – “cast a cloud” over the Awlaki killing?

Likewise, given the evidence the government does use a “sitting next to baddies” standard to kill people who are inconvenient, what is the credibility of this sob story?

Then, on Oct. 14, a missile apparently intended for an Egyptian Qaeda operative, Ibrahim al-Banna, hit a modest outdoor eating place in Shabwa. The intelligence was bad: Mr. Banna was not there, and among about a dozen men killed was the young Abdulrahman al-Awlaki, who had no connection to terrorism and would never have been deliberately targeted.

It was a tragic error and, for the Obama



administration, a public relations disaster, further muddying the moral clarity of the previous strike on his father and fueling skepticism about American assertions of drones' surgical precision. The damage was only compounded when anonymous officials at first gave the younger Mr. Awlaki's age as 21, prompting his grieving family to make public his birth certificate.

He had been born in Denver, said the certificate from the Colorado health department. In the United States, at the time his government's missile killed him, the teenager would have just reached driving age.

Um, fellas? You note that the Administration had a cover story ready for Abdulrahman's death (rather than remaining silent, which is what they normally do), but from that you conclude the government treats this as a horrible mistake?

Mind you, the NYT makes their job – which, in addition to claiming critics of the legal case behind the Anwar al-Awlaki killing are simply confused, seems to be inventing narratives to make the Khan and Abdulrahman deaths less appalling – much easier by ignoring that WikiLeaks cable. But ignoring it does the same thing their demonstrably credulous acceptance of the Abu Tarak story does: it demonstrates how hard the NYT worked to preserve the narrative the government fed them, public evidence to the contrary.

It's all very convenient, that the NYT worked so hard to preserve the Administration's narrative spinning its action as reasonable, just before Obama will reportedly make a speech about it. Any bets that what Obama says will match the story told here?