

CIA AND DOJ'S DIFFERENT IDEAS OF ACCOUNTABILITY ON KHOST

I wanted to return to yesterday's report on the investigation in the Khost bombing. As I noted, the CIA had advance warning that Humam Khalil Abu-Mulal al-Balawi might be a double agent. The report also found a number of other operational problems in al-Balawi's treatment. But Leon Panetta decided not to hold anyone responsible for the attack.

Now let's return to another curious detail about the Khost bombing.

The CIA is not holding anyone responsible.

But DOJ is.

As I noted last month, DOJ is using Hakimullah Mehsud's involvement in the Khost bombing—the DOJ has videos of Mehsud talking about the attack with al-Balawi in advance of the bombing—as its basis for indicting him on conspiracy charges.

It's not that I mind DOJ indicting Mehsud. They say they've got evidence linking him to Faisal Shahzad's attempted Time Square bombing. And if they do, I'd love to see them indict and try Mehsud on that count.

But it's a tremendous stretch to argue that Mehsud's conspiracy with al-Balawi to strike the CIA officers who were targeting Pakistan with drone strikes was illegal. Either the CIA officers must be treated as civilians, in which case they should not be launching drones at people like Mehsud's brother, whom they killed in a drone attack. Or they are legitimate military targets, in which case any involvement from Mehsud seems to have been a legitimate act of self-defense (hell, regardless of their civilian status, he could probably legitimately

claim self-defense in any case).

Mind you, they'll probably end up taking Mehsud out the same way the took his brother, with a drone, making any indictment moot. But it all seems to suggest that at its higher levels, at least, we're running this war on terror motivated primarily by our own insecurities, latching onto things that most shame us, rather than any consistent approach. We've got to avoid accountability at CIA for some obvious failures because we don't want to be critical of the dead (or note the mistakes of more senior officers). But we've got to use the same event as reason to label the self-defense of an opponent as a crime.

Which seems to be the same thing going on with Fox's story that Anwar al-Awlaki dined at the Pentagon after 9/11 (at a luncheon in Jim Haynes' Office of General Counsel!). The fear-mongerers seem to want to suggest this was another big lapse in our vetting system (and maybe it was), as if to suggest that al-Awlaki in 2001 is in the same place he allegedly is now. The FBI was investigating this lunch subsequent to Nidal Hasan's Fort Hood attack (the 302 is dated November 23, 2009, so at about the time when Yemen asked us to take out al-Awlaki, but probably before he was reportedly put on JSOC's kill list, which may have happened in December). And leak of this news seems to be part of an effort to suggest the government missed an obvious threat long before Fort Hood. But that's not at all clear.