

THE MISSING DIRTY BOMB THAT SET OFF THE CHAIN OF DEATH

Several days ago, I finished listening to Joby Warrick's *The Triple Agent*. It's quite good, both in terms of readability and news value. But since I have the Audible, not the dead tree, version I wasn't able to transcribe what I found to be one of the most interesting passages in it.

Luckily, that incident is precisely what he told Tom Ricks he wished people had noticed, so now Ricks has basically transcribed it for me!

BD: What is the one question you'd like to answer about the book that nobody has asked you?

JW: Some of the events in the book have never been described elsewhere, and I've been surprised that few reviewers or interviewers have asked about them. One favorite: a description in the book of a dirty-bomb threat that emanated from Pakistan mid-2009 and raised alarms at the highest levels of the U.S. government. Information gleaned through SIGINT intercepts suggested strongly that the Pakistani Taliban (TTP) had acquired "nuclear" material—presumably radioactive sources useable in a dirty bomb—and were trying to decide what to do with it. Concerns over a possible dirty-bomb attack directly factored into the decision to take out TTP leader Baitullah Mehsud, who was killed in a drone strike on Aug. 5 of that year. No radioactive material was subsequently found, and to this day, no one knows what happened to it, or indeed, whether it ever existed.

As Warrick revealed, the reason we were so

intent on taking out Mehsud is because of intelligence that he might have the radioactive material for a dirty bomb (IIRC, the CIA was responding to SIGINT they deemed to be code). As tends to happen when we use uranium to justify war, no nukes were found.

A pity for Mehsud's young wife, who also died in that attack (Warrick describes how they died on their rooftop in some detail).

I raise this not just to recommend Warrick's book. But to remind you how our government decided to claim the retaliation for this drone strike by Mehsud's brother was a crime, presumably because the escalating series of revenge ended in Humam al-Bawali's Khost attack.

But the mention of CIA's drone campaign in Pakistan raises a bunch more problems with DOJ's charges. For starters, Mehsud's wife—a civilian—was reportedly killed in that January drone strike too. Both the uncertainty the CIA has about its purportedly scalpel-like use of drones and the civilian deaths they've caused illustrate the problem with drones in the first place. Civilians—CIA officers—are using them in circumstances with significant collateral damage. It would be generous to call the use of drones in such situations an act of war; some legal experts have said the CIA officers targeting the drones are as much illegal combatants as al Qaeda fighters themselves.

The affidavit describing the evidence to charge Mehsud doesn't say it, but underlying his alleged crime is the potential US crime of having civilians target non-combatants in situations that cannot be described as imminently defensive.

Charging someone for revenge on CIA's illegal killing

Which leads us to the crimes for which

they're charging Mehsud: conspiracy to murder and conspiracy to use a WMD (bombs) against a US national while outside of the United States. Basically, DOJ is charging Mehsud with conspiring with Humam Khalil Mulal al-Balawi, the Jordanian doctor who committed the suicide bombing at Khost that killed 7 CIA officers and contractors.

Now, there's not much doubt that Mehsud did conspire with al-Balawi. I just doubt whether it could be fairly called a crime. The affidavit describes two videos in which Mehsud stands side by side with al-Bawali. In one, both al-Balawi and Mehsud describe the upcoming attack as revenge for killings in the drone program—most importantly, of Mehsud's brother Baitullah Mehsud from a CIA drone strike in August 2009.

Al-Balawi then continues alone: "This itishhadi [martyrdom-seeking attack] will be the first of the revenge against the Americans." After additional declarations of revenge by al-Balawi, MEHSUD resumes speaking in Pashtu, explaining the motive for the upcoming suicide attack by al-Balawi, that is the death of the former emir of the TTP, Baitullah Meshud [sic] which MESHUD [sic] attributes to the Americans.

Remember, too, that al-Balawi was a double agent. The Americans believed he was helping them target people, people just like Mehsud. That means al-Balawi (and presumably through him, Mehsud) knew he was specifically targeting those behind the earlier killings in Pakistan when he killed them.

So al-Balawi successfully killed people

who were either civilians, in which case their own strikes at Baitullah Mehsud and others may be illegal, or people who were acting as soldiers, in which case the attack on their base was presumably legal under the law of war. And for helping al-Balawi, DOJ is now charging Mehsud with conspiracy.

The affidavit, of course, neglects to mention any of these details.

Let me be clear: the Administration's stupid attempt to apply this double standard doesn't make the Khost bombing any less tragic. But it did strike me as a pathetic attempt to cloak a disastrous blood feud, for all sides, in legal niceties to somehow make it seem like something else.

But I find it all the more ironic that the whole blood feud was triggered with yet another nuke claim that may have been wrong.