

SALEH: “I HAVE GIVEN YOU AN OPEN DOOR ON TERRORISM, SO I AM NOT RESPONSIBLE.”

[youtube]Uk-40vkDnGw[/youtube]

In a meeting on September 6, 2009—at a time when Umar Farouk Abdulmutallab was already in Yemen, seeking Anwar al-Awlaki—President Ali Abdullah Saleh assured John Brennan that the US Government had unfettered access in Yemen for counterterrorism efforts, but with that bore all responsibility in case of an attack on US targets.

(S/NF) In a September 6 meeting with Deputy National Security Advisor John Brennan, President Saleh insisted that Yemen’s national territory is available for unilateral CT operations by the U.S. Dissatisfied with current levels of USG funding and military training provided to the ROYG’s CT forces, Saleh asserted that the USG has produced “only words, but no solutions” to the terrorism issue in Yemen. Saleh repeatedly requested more funds and equipment to fight al-Qaeda in the Arabian Peninsula (AQAP), while at the same time placing responsibility for any future AQAP attacks on the shoulders of the USG now that it enjoys unfettered access to Yemeni airspace, coastal waters and land. (NOTE. The USG has been actively engaged since 2001 in training elements of Yemen’s CT forces, including the Counter-Terrorism Unit (CTU), the Yemen Special Operations Force (YSOF), the Presidential Guard, the Yemeni Border Troops, Yemen Air Force (YAF), and the Yemen Coast Guard (YCG). The USG has expended over \$115 million equipping CT forces since FY02. In 2009 alone, U.S.

teams have instructed Yemeni CT forces in training valued at \$5 million. END NOTE.)

(S/NF) While Saleh offered assurances that the ROYG is “determined to continue the war against al-Qaeda because they’re targeting U.S. and Yemeni interests,” he continued to link increased U.S. access to AQAP targets with full responsibility for achieving CT goals. Highlighting the potential for a future AQAP attack on the U.S. Embassy or other Western targets, Saleh said, “I have given you an open door on terrorism, so I am not responsible.” [my emphasis]

The public availability of the cable reporting this conversation is just one of the things that makes ACLU’s (with CCR) FOIA of details on the December 17, 2009 missile strike in Yemen so interesting.

The FOIA asks, for example, for details of the understanding between Yemen and the US at the time of the strike.

All records pertaining to agreements, understandings, cooperation or coordination between the United States and the government of Yemen regarding the strike on al-Majalah, including but not limited to records regarding:

- a. The process and reasons by which al-Majalah was selected as a target;
- b. The limits on the use of American military force in Yemen, including geographical or territorial limitations, measures that must be taken to limit civilian casualties and injuries, or measures that must be taken to assess the number of casualties and injuries and to determine the identity and status or affiliation of the individuals killed and injured;

- c. The agreement that the government of Yemen would take public responsibility for the al-Majalah strike; and
- d. The extent to which and manner in which survivors and family members of victims would be compensated for their loss.

And while the government refused to release 12 of 23 WikiLeaks cables in response to an earlier FOIA seeking WikiLeaks cables specifically, insisting those public documents are all still classified, at the very least this request should elicit description of this cable in a Vaughn Index.

I'll be equally interested in how the government will respond to this request.

All records pertaining to the assessment or evaluation of the al-Majalah strike on or after December 17, 2009, including but not limited to records regarding:

- a. Any investigation into or after-action assessment after the strike, including the number of casualties and injuries and identities and ages of the individuals killed and injured, as well as how the number of casualties and injuries and identity and ages of individuals killed and injured in the strike were determined;
- b. How the status and affiliation of individuals killed and injured was determined, i.e. whether individuals killed and injured were members of al Qaeda in the Arabian Peninsula, "supporters" of this group, members or supporters of other groups, innocent civilians, or any other status or affiliation.
- c. Any measures taken to revise legal, intelligence or operational standards, processes or procedures on the basis of

any deficiencies identified in the al-Majalah operation.

After all, we know the US Government was told by Yemen that the victims were Bedouins who were selling AQAP food, but were nevertheless non-combatants.

(S/NF) According to Alimi, the ROYG has recruited a number of local political and religious leaders to visit the areas affected by the air strikes in Abyan to explain to the people the need for the operation and the danger that AQAP poses to all Yemenis. The Governor of Abyan was given YR 20 million (approximately USD 100,000) to disburse to the families of those killed or wounded in the strikes in Maajala, where the AQAP training camp was located. Alimi said that the civilians who died were largely nomadic, Bedouin families who lived in tents near the AQAP training camp and were assisting AQAP with logistical support. Alimi said they were poor people selling food and supplies to the terrorists, but were nonetheless acting in collusion with the terrorists and benefitting financially from AQAP's presence in the area. He assured the Ambassador that the Governor of Abyan visited the site after the operation and confirmed that there were no villages, houses, or civilian institutions that were damaged, only the training camp, and the encampments of the non-combatant Bedouin population. [typos in original WikiLeaks cable]

Not long after receiving this second-hand report from the Governor of Abyan, however, General Petraeus insisted to Saleh personally that just one woman and two children were killed in the strike.

(S/NF) Saleh praised the December 17 and 24 strikes against AQAP but said that

“mistakes were made” in the killing of civilians in Abyan. The General responded that the only civilians killed were the wife and two children of an AQAP operative at the site, prompting Saleh to plunge into a lengthy and confusing aside with Deputy Prime Minister Alimi and Minister of Defense Ali regarding the number of terrorists versus civilians killed in the strike. (Comment: Saleh’s conversation on the civilian casualties suggests he has not been well briefed by his advisors on the strike in Abyan, a site that the ROYG has been unable to access to determine with any certainty the level of collateral damage. End Comment.) AQAP leader Nassr al-Wahishi and extremist cleric Anwar al-Awlaki may still be alive, Saleh said, but the December strikes had already caused al-Qaeda operatives to turn themselves in to authorities and residents in affected areas to deny refuge to al-Qaeda.

The same cable also reveals some of the changes made, seemingly in response to the Abyan strike the US was claiming hadn’t killed civilians. First, Saleh balked at letting US spooks into the targeted areas to help with targeting; this seemingly contradicts Saleh’s earlier promise the US would have unfettered access to Yemen.

Saleh reacted coolly, however, to the General’s proposal to place USG personnel inside the area of operations armed with real-time, direct feed intelligence from U.S. ISR platforms overhead. “You cannot enter the operations area and you must stay in the joint operations center,” Saleh responded. Any U.S. casualties in strikes against AQAP would harm future efforts, Saleh asserted.

Though the conversation—and therefore the Abyan

strike—did lead Petraeus and Saleh to agree to shift to planes (drones?) rather than ship-based missiles.

Saleh did not have any objection, however, to General Petraeus' proposal to move away from the use of cruise missiles and instead have U.S. fixed-wing bombers circle outside Yemeni territory, "out of sight," and engage AQAP targets when actionable intelligence became available.

One more note about this conversation. It took place in early January. The WikiLeaks cables go through February (with the last cable pertaining to Yemen dated February 28 and the last cable from our Embassy in Sanaa dated four days earlier). Yet in spite of the fact that US Embassy personnel noted the formation of an official task force to investigate the strike, and in spite of the fact that February cables make mention of the al-Majalah strike, no cables I could find made mention of the results of the official Yemeni investigation into the strike, which named 44 civilian casualties.

Days after the attack, Yemen's parliament convened a *Commission of inquiry into the security incidents in Abyan province*. Made up of 14 representatives, the commission was led by Sheikh Hamir Ben Abdullah Ben Hussein Al-Ahmar, now deputy speaker of the Yemeni parliament.

y 'did not state that the American forces launched the attack'.

The commission found grisly evidence of a massacre. Although it concluded that al Anbouri and 13 other militants died, their deaths were overshadowed by those of 44 civilians. The effect of a cluster bomb-filled cruise missile had been particularly brutal:

When members of the Commission visited the cemetery where the victims were buried, they noticed that some members of the two families were buried in communal graves because their remnants could not be identified. Their bodies had been completely torn into pieces during the attack.

Naming the dead

The commission published its full investigation, in Arabic, on February 7, 2010. Included were the names, ages, genders, family relationships and clans of all 44 civilians killed, along with eyewitness testimony from survivors.

Call me crazy, but I don't think this kind of Parliamentary support for the conclusion that 44 civilians were killed. Of course, it may be such discussions took place on an even more classified level than these classified State cables.

All of which is to say we've can see the outlines—though only the vaguest outlines—of the documents the government has that would be responsive to this FOIA.

Which is not to say they'll even provide these very same public documents, mind you. But we know what to expect.