WHY HAS THE GOVERNMENT STORY ABOUT WHO ORDERED THE UNDIEBOMBER TO ATTACK THE US CHANGED?

The government has told two or three slightly different stories about who directed and inspired Umar Farouk Abdulmutallab's UndieBomber plot. The stories are all reconcilable (I'm not suggesting nefarious intent). But the differences in the three stories are worth noting, not least because the government killed Anwar al-Awlaki based on a claim he was the director of external operations of Al Qaeda in the Arabian Peninsula, reportedly based in significant part on a claim that he directed Abdulmutallab's plot.

In October, prosecutor Jonathan Tukel said that an Al Qaeda member with whom Abdulmutallab stayed in Sana, Yemen named Abu Tarak ordered the UndieBomber to attack a US airline over US airspace. Today, they say Awlaki gave that order. *[See update below for what I think is an explanation.]*

Update: There's a totally different explanation. Abu Tarak is an alias for Awlaki. Thus, while Abdulmutallab seemed to be hiding Awlaki's identity in that first interrogation, that initial story is consistent with his later story (which is presumably why the government was happy just using the initial interrogation).

Al-Awlaki had significant influence—but so did Abu-Tarak and others

The most balanced of the three stories submitted by the government came in a memo, released today, from an expert on martyrdom, Dr. Simon Perry, basically laying out why Abdulmutallab,

who hoped for martyrdom, is so dangerous (I'll leave to others to assess the validity of Perry's science; it's not relevant to this post).

In a section describing who inspired Abdulmutallab to extremism, Perry makes the central inspirational importance of Anwar al-Awlaki to Abdulmutallab clear—going back to 2005—but describes the following as other influences:

- Fundamentalist Islamists
- Abu Tarak and three other visitors who visited daily while Abdulmutallab stayed with Abu Tarak in Sana leading up to his attack
- Uthmann (?)
- A Jihadist who preached in England
- Other fighters in Yemen
- A man from Al Qaeda he met in Yemen

Here's the passage. (Note, Perry uses the acronym UFAM for Abdulmutallab; I've taken out the footnotes here for ease of reading, but they're all to interrogations between Christmas 2009 to February 5, 2010.)

> Manipulated by fundamentalists, such as Aulaqi and his internet lectures, UFAM claims that the main motivation for conducting the martyrdom mission included his interpretation of Koranic verses and his regularly attendance at prayers, where he met and interacted with Fundamentalist Islamists. UFAM was familiar with all of Aulaqi's lectures, and they were an important motivator which led UFAM to decide to participate in Jihad. He began listening to the lectures in 2005 and reading Aulaqi's

> writings, which motivated him to accept martyrdom as a possibility. Aulaqi was not the only influential fundamentalist in UFAM's life. **While residing at Abu Tarak's residence in Sana, Yemen he was mainly confined to his residence and discouraged from any communication with the outside world (phone, email). During this period, UFAM spoke regularly with Abu Tarak and three other individuals who visited him daily, speaking with them about Jihad and martyrdom**. UFAM discussed the concept of Jihad also with Uthmann who supported Mujahidin worldwide already from 2005. He was deeply influenced by a Jihadist who preached in England and elsewhere and used to meet with him intensively (as often as 3 times a week). UFAM associated with Aulaqi who frequently spoke of Jihad and interacted with other fighters, and while in Yemen, he met with a man from Al Qaeda who further deepened his conviction. [my emphasis]

Now, it's not Perry's job to describe the operation itself, so I'll take nothing from his silence on who directed it. He makes it very clear Awlaki counselled Abdulmutallab on the appropriateness of martyrdom.

And Perry does say that Awlaki told Abdulmutallab he should prepare a martyrdom video in anticipation of a plane operation; Abdulmutallab made the video on December 2 or 3 (this passage is sourced to Interrogations on January 29 and February 9, 2010).

> UFAM himself participated in this practice of preparing a martyrs' video after he was told by Aulaqi that he would bring down a plane and that he should prepare a video. UFAM spent time thinking about his martyr's video. Approximately on the 2nd or 3rd of Dec. 2009, UFAM made a martyr's video with the help of two video technicians who

> brought the equipment. They brought a black flag with Islamic writing for the background as well as clothing and other props. It took them approximately 2 or 3 days to complete the video.

And the target was chosen, according to Perry, by Awlaki. But oddly, he did not source that assertion to any of Abdulmutallab's interrogations.

> He was prepared to fulfill his mission of Jihad **against whatever enemy was identified by Aulaqi**. UFAM did not choose the target or the mission, it was chosen for him. [**Perry did not source this statement**. Instead, in a footnote he points out his unsourced statement contradicted a comment Abdulmutallab made at his sentencing, in which the defendant said he was motivated by hate for the US.]

Awlaki chose the target

In the narrative released today (based, according to the government filing, on conversations of unknown date during which Abdulmutallab's original court-appointed lawyers were trying to negotiate a plea bargain that never happened), Awlaki instructed Abdulmutallab to make a martyrdom video.

> Awlaki told defendant that he would create a martyrdom video that would be used after the defendant's attack. Awlaki arranged for a professional film crew to film the video. Awlaki assisted defendant in writing his martyrdom statement, and it was filmed over a period of two to three days.

Thus far, the government's narrative matches Perry's. But the government narrative provides more details about how Awlaki gave Abdulmutallab the final instructions about how to carry out

the attack.

> Although Awlaki gave defendant operational flexibility, **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**. Beyond that, Awlaki gave defendant discretion to choose the flight and date. Awlaki instructed defendant not to fly directly from Yemen to Europe, as that could attract suspicion. [my emphasis]

Abu Tarak chose the target

That's funny, because back when prosecutors gave their opening argument on October 11, just 12 days after the government killed Awlaki in a drone strike, they told a different story. In that version, Awlaki provided the inspiration for Abdulmutallab.

> So [Abdulmutallab] had the opportunity to do anything he wanted with his life. But instead he began listening to tapes of someone named Anwar al-Awlaki, a radical preacher, and he became committed to jihad, and he left graduate school and he went to Yemen. He wanted jihad and he sought it out and he found it.

That's it—the sole mention of Awlaki in the case the government was willing to defend in court.

But a guy named Abu Tarak—the guy, according to Perry, with whom Abdulmutallab stayed in Sana, Yemen—gave Abdulmutallab the instructions.

> So what else did the defendant say to the FBI? He said that he sought out and found al-Qaeda. **He said that he was introduced at a mosque to someone he called Abu-Tarak, an al-Qaeda member**. He told the FBI that he and Abu-Tarak spoke daily about jihad and martyrdom and

supported al-Qaeda and Osama bin Laden. And martyrdom is, of course, a suicide operation where the person is engaged in jihad, and they carry out an operation, sometimes called suicide bombing, sometimes called martyrdom bombing, where the person intends to kill and to himself die in the act of doing it, and they usually think that they will end up in heaven as a result of doing that.

And the defendant said that he and Abu-Tarak spoke daily about ways to attack the United States. Daily.

And then **in late November of 2009**, remember, this interview is taking place on December 25th so he's talking about a month or so earlier, **Abu-Tarak suggested to the defendant that he become involved in a plane attack against the United States aircraft**. And the defendant agreed to do that. And the plan was that the bomb would be concealed in the defendant's underwear, and Abu-Tarak gave him training in detonating the bomb. And the way the bomb would work is that the defendant would inject liquid into a powder with a syringe and that would cause the explosion.

And Abu-Tarak told the defendant that the bomb would not be detected by airport security anywhere in the world. And he said that the bomb maker was a Saudi Arabian individual, and in fact, the defendant told the FBI that he met the bomb maker, he met the Saudi Arabian bomb maker while he was in Yemen. And Abu-Tarak told him that the plane would crash and it would kill everybody on board.

And Abu-Tarak gave him the direction.

Remember, I said there were only three parts to the plan, he had to blow up a plane, it had to be a U.S. airliner and

> it had to take place over U.S. soil. **Abu-Tarak reported that way, make sure it's a U.S. aircraft, make sure it takes place over the United States**.
>
> And then the defendant told the FBI that **on approximately December 6 or 7 he received the bomb from Abu-Tarak in Yemen**. [my emphasis]

According to the story the government told in court last October, the timeline works out this way:

> Late November: Abu Tarak suggests Abdulmutallab become involved in a plane attack on the US
>
> Before December 2-3: Awlaki instructs Abdulmutallab to make his martyrdom video
>
> December 2-3: Abdulmutallab makes the video
>
> December 6-7: Abu Tarak gives him the bomb and the instructions to attack a US airliner over the US

The key difference here—and it's pretty significant given the government's claims that Awlaki was the operational leader here—is that Abu Tarak, not Awlaki, targeted the US.

The government's new description of Abu Tarak

And what of Abu Tarak in today's narrative?

Well, if the story AUSA Jonathan Tukel told in his opening statement is correct—that Abdulmutallab met Abu Tarak at a mosque—then it appears Abu Tarak is this guy in the current government narrative.

> Once in Yemen, defendant visited mosques and asked people he met if they knew how he could meet Awlaki. Eventually, **defendant made contact with an individual** who in turn made Awlaki aware

> of defendant's desire to meet him. [my emphasis]

Given the story the government told back in October, it appears that Abu Tarak—who in October had the central, starring role in this plot—is now that anonymous "individual" Abdulmutallab met in a mosque who introduced Abdulmutallab to Awlaki.

Reconciliation of the three stories

Now, Abdulmutallab will have an opportunity to respond to the government's narrative, so perhaps we'll get some clarity then. But there are two ready explanations for the differences between these stories (though not for the government's decision to tell different stories in different forums).

First, the story Tukel told in his opening argument was sourced entirely to what Abdulmutallab told the FBI agent on Christmas Day. So it is quite possible that Abdulmutallab initially hid the operational role of Awlaki, and only began to tell it in later interrogations.

As for the other possibility, remember that Abdulmutallab (rather, the lawyer Abdulmutallab is trying to replace, Anthony Chambers) appears to be complaining the government used statements he made during plea negotiations in his presentencing investigation and their narrative.

> As detailed extensively in the Presentence Investigation Report at ¶¶ 13-24 and in the Supplemental Factual Appendix [the government narrative],2 committed to his mission, seeking out and finding Al Qaeda and Anwar Awlaki, volunteering for a martyrdom mission, and then becoming involved in planning and training for a significant amount of time.
>
> 2 Defendant states that the objected-to paragraphs contain "information obtained

> during plea negotiations in this matter and can not at this stage be used against him, for sentencing purposes."

Given this complaint, the other possibility is that in a bid to get some kind of plea deal (back before he started, technically, to represent himself), Abdulmutallab implicated Awlaki more deeply in the operational aspects of the plot—the instructions to attack a US airliner over US airspace—than he had previously done, whether or not it was the truth or not.

I'm agnostic about which of these scenarios is more likely—both are completely plausible—but I would note that Abdulmutallab's complaints that his plea negotiation conversations are now being used in his sentencing might have more to do with what he was willing to say to get a lesser sentence than what he believed to be true.

Back in October, the government was clear. "Abu-Tarak gave Abdulmutallab the direction" to hit a US airliner over US airspace.

But now, when they're under pressure to justify killing Awlaki with no due process and trying to release the best case on that killing, their story has changed. Now, Awlaki gave that order.

Who ordered the UndieBomber to attack the US? Awlaki? Or Abu Tarak, whom they now appear to relegate to an anonymous role introducing people in a mosque?

Update: There is one more reason why the government's story may have changed. In his memo, which is dated January 2010, Perry notes he was working from redacted memos. It may be the government has only subsequently declassified the details that pertain to Awlaki.

Update: Here's what I think happened.

Abdulmutallab tried to suppress the statements he made at the Milan correctional facility, arguing they were made in the course of a plea bargain. The government responded by saying it would not seek to introduce those statements at

trial.

> The government will not seek to offer those statements at trial either, and therefore that motion should be denied as moot.

As a result, Judge Nancy Edmunds didn't rule on whether or not these statements were protected under *Kastigar* (which is the reason Abdulmutallab wants them suppressed now). So when Tukel gave his statement at trial, he was, in fact, relying on that first interview. And implication of Awlaki, then, came during the period when Abdulmutallab was cooperating with the government.