

UNIFORMS AND WIKILEAKS IN THE DISCUSSION OF THE ANWAR AL-AWLAKI KILLING

This panel discussion between former State Department spokesperson PJ Crowley, former Gitmo Chief Prosecutor Colonel Morris Davis, and ACLU's Jameel Jaffer is one of the more nuanced, interesting discussions on the Anwar al-Awlaki killing. Not surprisingly, it was shown on Al Jazeera English, not, say, NBC.

One highlight, for me, came when Davis pointed out that the CIA, not JSOC, had targeted Awlaki. That's significant because it effectively made whoever pulled the trigger an unlawful enemy combatant, just as Omar Khadr was (the government argued in his military commission) for engaging in hostilities without wearing a uniform. Of course, Davis ended the discussion by noting that we're the big kid on the block, so we'll never be held accountable for the things we prosecute others for.

More interesting still came when PJ Crowley cited this WikiLeaks cable, reporting on a January 2, 2010 meeting between Ali Abdullah Saleh and David Petraeus back in his CentCom days, to show that Yemen was secretly supporting us on drone strikes, including the one that targeted Awlaki on December 24, 2009 (well before, it should be noted, the OLC had authorized his killing).

AQAP STRIKES: CONCERN FOR CIVILIAN CASUALTIES —————

¶4.(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. Saleh raised the issue of the Saudi Government and Jawf governorate tribal sheikh Amin al-Okimi, a subject that is being reported through other channels.

SHIFTING AIRSTRIKE STRATEGIES

¶15.(S/NF) President Obama has approved providing U.S. intelligence in support of ROYG ground operations against AQAP targets, General Petraeus informed Saleh. 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. 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. Saleh lamented the use of cruise missiles that are "not very accurate" and welcomed the use of aircraft-deployed precision-guided bombs instead. "We'll continue saying the bombs are ours, not yours," Saleh said, prompting Deputy Prime Minister Alimi to joke that he had just "lied" by telling Parliament that the bombs in Arhab, Abyan, and Shebwa were American-made but deployed by the ROYG.

I find Crowley's citation of it notable because, while as State Department spokesperson, he strongly argued for the humane treatment of Bradley Manning (and got fired for it), he also routinely criticized the WikiLeaks leaks of State Department cables.

Yet even **he** now finds himself relying on them to try to understand what the government did when it targeted an American citizen. And Crowley does so while calling for more transparency from the Administration.

Details about Yemen's role is, of course, one of the things the Administration invoked state secrets to hide back in 2010. But it is also now widely known and crucial to discussions of whether the attack on Awlaki was legal or not.

I can think of few better examples of how the Administration's own secrecy encourages not just the leaking of classified information, but the validation of those leaks. In a democracy, the Administration has an obligation to share a reasonable explanation about its claims that it can kill American citizens with no court review. In the absence of fulfilling that obligation, citizens will get that information one way or another.

The Administration's stonewalling on the Awlaki killing only serves to make leaks more necessary and justified. No matter how many whistleblowers it tries to prosecute to deny that fact.