

OBAMA ON THE AFGHAN MASSACRE

Given President Obama's apparent order that his national security team look into the Afghan massacre, I wanted to look at the various statements about the Administration response to the massacre and disaster, because I think it speaks to the same internal tensions as described in the Klaidman story on Holder.

Risen's original story on Afghan massacre lacked any statement from the White House. But it did have several comments from the State Department suggesting the Obama Administration was laying the groundwork to marginalize Dostum.

But in recent weeks, State Department officials have quietly tried to thwart General Dostum's reappointment as military chief of staff to the president, according to several senior officials, and suggested that the administration might not be hostile to an inquiry.

[snip]

While President Obama has deepened the United States' commitment to Afghanistan, sending 21,000 more American troops there to combat the growing Taliban insurgency, his administration has also tried to distance itself from Mr. Karzai, whose government is deeply unpopular and widely viewed as corrupt.

A senior State Department official said that Secretary of State Hillary Rodham Clinton and Richard C. Holbrooke, the special representative on Afghanistan and Pakistan, had told Mr. Karzai of their objections to reinstating General Dostum. The American officials have also pressed his sponsors in Turkey to delay his return to Afghanistan while talks

continue with Mr. Karzai over the general's role, said an official briefed on the matter. Asked about looking into the prisoner deaths, the official said, "We believe that anyone suspected of war crimes should be thoroughly investigated."

While I'm not entirely sure how much the statement, "and suggested that the administration might not be hostile to an inquiry" is Risen's or is his State Department source, it does suggest that the Obama Administration was laying the groundwork to marginalize Dostum, making it easier to conduct an investigation into his actions.

Within hours of the publication of Risen's article, Laura Jakes had a seeming response—attributed to the Obama Administration generally—disavowing any intent or jurisdiction to conduct an investigation. The article starts by stating the opposition to an investigation generally.

Obama administration officials said Friday they had no grounds to investigate the 2001 deaths of Taliban prisoners of war who human rights groups allege were killed by U.S.-backed forces

[snip]

U.S. officials said Friday they did not have legal grounds to investigate the deaths because only foreigners were involved and the alleged killings occurred in a foreign country.

But it's clear her sources speak from very particular positions in the Administration. There's DOD, which bases its opposition to an investigation on the claim that there's no evidence US forces were involved in the massacre.

Asked about the report, Marine Corps

Col. David Lapan, a Pentagon spokesman, said that since U.S. military forces were not involved in the killings, there is nothing the Defense Department could investigate.

"There is no indication that U.S. military forces were there, or involved, or had any knowledge of this," Lapan said. "So there was not a full investigation conducted because there was no evidence that there was anything from a DoD (Department of Defense) perspective to investigate."

Then there's DOJ, which limits its comment to FBI's jurisdiction—without saying whether FBI doesn't have jurisdiction because the massacre happened on foreign soil, or because it happened in a military theater.

A Justice Department official said the FBI had no jurisdiction to investigate. The official was not authorized to discuss the matter publicly and spoke on condition of anonymity. Separately, Justice Department spokesman Matthew Miller declined to comment.

It's worth noting, on both counts, that Jakes' own article notes that Dostum was working with US special forces at the time of the massacre. Which might make you question that very quick statement that the military couldn't investigate because "There is no indication that U.S. military forces were there, or involved, or had any knowledge of this." That's a **very** carefully parsed statement—for a reason, I'd suggest.

So to summarize:

- State Department, at the very least, is seeking to marginalize Dostum
- DOD says there's no evidence

US forces were involved and so they can't investigate to find out if they were involved

- FBI says they have no jurisdiction

It's against that background, I think, that Obama said what he said:

ANDERSON COOPER: And now it seems clear that the Bush Administration resisted efforts to pursue investigations of an Afghan warlord named General Dostum, who was on the CIA payroll. It's now come out, there were hundreds of Taliban prisoners under his care who got killed...

PRESIDENT OBAMA: Right.

ANDERSON COOPER: ...some were suffocated in a steel container, others were shot, possibly buried in mass graves. Would you support – would you call for – an investigation into possible war crimes in Afghanistan?

PRESIDENT OBAMA: Yeah, the indications that this had not been properly investigated just recently was brought to my attention. So what I've asked my national security team to do is to collect the facts for me that are known. And we'll probably make a decision in terms of how to approach it once we have all the facts gathered up.

ANDERSON COOPER: But you wouldn't resist categorically an investigation?

PRESIDENT OBAMA: I think that, you know, there are responsibilities that all nations have even in war. And if it appears that our conduct in some way supported violations of the laws of war, then I think that, you know, we have to know about that.

There are two very critical aspects to what Obama said. First, he did **not** say there would be an investigation. Rather, he said his national security team would collect the facts for him. And he asked his national security team to do so—not DOJ.

Also, look closely at what Obama says. He's not talking about investigating Dostum, here. Rather, Obama jumps, with no prompting, to our own actions: "if it appears that our conduct in some way supported violations of the laws of war, then I think that, you know, we have to know about that."

Obama's statement—and the disparate comments coming from different parts of the Administration—is about a real tension within his Administration, with the State Department attempting to distance the country from Dostum's corruption and violence, and the military attempting to prevent anyone from looking too closely at what we did in this case.