

JOHN YOO: AL QAEDA USES TELEPHONES BUT KGB SPIES DON'T

There's a lot that's downright amusing for all but Berkeley's trustees in John Yoo's rebuttal to the IG Report. Though there is some good news for Berkeley: John Yoo **has** heard of *Youngstown*, even if the Korean-American has underplayed the context of the Korean **War**.

The 1952 Supreme Court case of *Youngstown Sheet & Tube v. Sawyer* is the IG's lodestar. In *Youngstown*, the Court addressed President Harry Truman's effort to seize steel mills shut down by a labor strike during the Korean War. Truman claimed that maintaining production was necessary to supply munitions and material to American troops in combat. *Youngstown* correctly found that the Constitution gives Congress, not the president, the exclusive power to make law concerning labor disputes. It does not, however, address the scope of the president's power involving military strategy or tactics in war.

Our mistake in 2001, I guess, was to have had our labor discussions face to face and not via email.

But I'm most amused that John Yoo believes that the best way to find al Qaeda—an organization that had already cut back on the use of cell phones before 2001 and increasingly employed *hawalas* to elude electronic communication—is via tapping high tech communications.

Unlike, say, Soviet spies working under diplomatic cover, terrorists are hard to identify. Yet they are vastly more dangerous. Monitoring their likely communications channels is the best way

to track and stop them. Building evidence to prove past crimes, as in the civilian criminal system, is entirely beside the point. The best way to find an al Qaeda operative is to look at all email, text and phone traffic between Afghanistan and Pakistan and the U.S.

"The best way" to find an al Qaeda operative is to search high tech traffic between a select group of countries that doesn't even include the country from which most 9/11 hijackers came?

Well, really, the whole thing is worth more for laughs, as Yoo desperately tries to shoot down the straw men haunting his unconscious. But at least we learn this.

"The best way" to find al Qaeda operatives is not, apparently, to torture other suspects.

Well, I'm glad Yoo finally figured that out.

Update: Anonymous Liberal apparently still has the patience with Yoo to engage him in good faith. But his entire post is worth reading for the way he slaps Yoo up silly with analysis from ... John Yoo.