

# **THE “SITTING NEXT TO A BADDIE” AMERICAN DEATH AUTHORIZATION HAS BECOME THE “SITTING IN A BADDIE COMPOUND”**

As Jim laid out, yesterday President Obama admitted that we killed two hostages, including American Warren Weinstein, in a drone operation in the Af-Pak border in January. In that same strike, we killed American citizen Ahmed Faruq, though he was not specifically targeted, Administration sources assure us. We also killed Adam Gadahn in an apparently unrelated strike, though we weren't targeting him either, Administration sources assure us.

But I want to point to something rather remarkable in the language the Administration used yesterday to discuss this.

For years, the government has used the rationale that if an American is “sitting next to a baddie” then he becomes acceptable collateral damage in a drone strike.

That's the rationale they gave when they killed Kamal Derwish in 2002: they were not targeting Derwish, they were targeting Abu Ali al-Harethi, but Derwish – far more threatening to the US at that moment because of his presumed role in recruiting Muslims in Lackawanna, NY – just was unlucky enough to be sitting next to him.

That's the rationale they gave when they first missed Anwar al-Awlaki on December 24, 2009, a day before the government decided he had gone operational but at a time when Pete Hoekstra was making his continued existence an embarrassing issue for the Obama Administration. The Administration hadn't been targeting Awlaki,

they explained, they were instead targeting Nasir al-Wuhayshi and some other AQAP leaders, and Awlaki just happened to be present.

That's the rationale they gave when they killed Samir Khan. He just happened to be sitting in the car when the CIA finally scorched Awlaki.

And that's the rationale they gave when they killed Abdulrahman al-Awlaki: They weren't targeting him, they were targeting Ibrahim al-Banna, though al-Banna turned out not even to be present.

That's the rationale they gave, years later, when they admitted to killing Jude Kenan Mohammed: he was killed in a signature strike targeting the group he was in as a whole.

Never mind that in a number of these cases – the first Awlaki strike and the one that killed his son – there's reason to believe they were specifically targeted. Never mind that in the case of Derwish and Khan knowing insiders wink winked that the government knew full well they'd be killing these men too when they struck the other target. The excuse has been – with the exception of the pursuit of Anwar al-Awlaki – that they were targeting another person (another *known* person, with the exception of the Jude Mohammed strike), and the American just happened to die as collateral damage.

But yesterday, that rationale changed.

Now, the government wasn't so much targeting a person, but a compound, something that Josh Earnest was quite insistent on in his press conference yesterday.

Q Thanks, Josh. Let's start just with some of the facts of what happened, to the extent that you can discuss them. How many other people were killed in these two strikes, either local civilians or militants?

EARNEST: Josh, I won't be able to provide specific numbers on this. I can

tell you that in the specific strike that resulted in the death of Dr. Weinstein and Mr. Lo Porto, there was one other al Qaeda leader who was among those that was killed. That is the – Ahmed Faruq, the American citizen al Qaeda leader. This was a strike against an al Qaeda compound, and the result was the death of at least one al Qaeda leader.

I can tell you that the assessment that we have right now does not raise questions about additional civilian loss of life. Again, the reason for that is that the standard that was in place and, to the best of our knowledge, was closely followed by our counterterrorism professionals was to adhere to this near-certainty standard. And that near-certainty standard applied to two things.

The first is near certainty that this was an al Qaeda compound that was used by al Qaeda leaders; that turned out to be true. That assessment did turn out to be correct. The other near-certainty assessment was that no civilians would be harmed if this operation were carried out. Unfortunately, that was not correct, and the operation led to this tragic, unintended consequence.

Q And there's very little at this point that we know about the Gadahn operation. Who was the target of that operation? And were others killed in that strike?

EARNEST: Josh, I can tell you that Mr. Gadahn was not specifically targeted. But in a fashion that was similar to the operation that we were discussing that resulted in the death of Dr. Weinstein and Mr. Lo Porto, the operation was against an al Qaeda compound. So again, this is a scenario where U.S. officials

had determined with near certainty that an operation could be carried out against an al Qaeda compound that was frequented, or at least where at least one al Qaeda leader was located. And that operation did result in the death of Mr. Gadahn.

Q So are you saying basically that there were not specific individuals that were being targeted in that strike, but more the U.S. knew this was a place al Qaeda guys went and so the U.S. struck there under the presumption that they'd be likely to take out some al Qaeda operatives by striking that location?

EARNEST: Yes. Again, based on the intelligence assessment, they could conclude with near certainty that this was an al Qaeda compound that was frequented by al Qaeda leaders, or at least an al Qaeda leader.

[snip]

There's one other element of the near-certainty standard that applied to the first operation, the one that resulted in the death of Ahmed Faruq, and that is that there were hundreds of hours of surveillance against that particular al Qaeda compound. And this surveillance included near-continuous surveillance in the days leading up to the operation, and that is what led to the near-certain assessment that it was an al Qaeda compound frequented by an al Qaeda leader, and did not include – or that civilians would not be included in an operation against the compound. Obviously, the latter assessment was incorrect.

Q But I ask that because you've made it clear to us you were not targeting anyone. This was a compound. That's not in pursuit of any particularly

identified, vetted, or thoroughly established operational leader of al Qaeda. It was a compound. And there was nobody in particular, as we understand it, based on what you've told us, the United States government was seeking to attack or eliminate. And I'm just wondering, that standard of not seeking anyone and having a specific target resulting in the deaths of these two innocent hostages, does the President consider it worth it?

EARNEST: Well, I think it's important, because in this instance we've gone to great lengths to declassify as much information as we can, for us to scrutinize these two situations.

As it relates to the operation against the compound that resulted in the death of Adam Gadahn, you had the intelligence community reach a near-certain assessment that this was an al Qaeda compound and it could be carried out without harming any innocent civilians. Those assessments were correct, and that operation did succeed in taking an al Qaeda leader off the battlefield.

The other operation that resulted in the death of Ahmed Faruq, the al Qaeda leader who was frequenting that compound, also resulted in the death of Dr. Weinstein and Mr. Lo Porto. The near-certain assessment that it was an al Qaeda compound and that it was frequented by an al Qaeda leader was correct. What was not correct is that an innocent civilian would not be harmed in that strike.

Q Weighing all those things, was it worth it?

EARNEST: And so I think the point is simply this – that when it comes to that particular operation, the protocols that

are in place, had our intelligence professionals known that there were – or even suspected that there were innocent civilians in and around that compound, then the operation would not have been carried out because it would not have been consistent with the protocols that the President and his team have established.

That is, to some degree, consistent with signature strikes. The Administration is claiming that they were targeting known movements relating to this compound.

But look at how this works out in the Faruq – Weinstein strike.

Earnest claimed yesterday that both Gadahn and Faruq are “Al Qaeda leaders.” Indeed, that’s how Earnest first explained Faruq’s death; he’s the al Qaeda leader who happened to die in a compound targeted that also happened to house Weinstein.

And to validate that the intelligence behind the strike was reasonably accurate, Earnest points to the presence of “at least one al Qaeda leader” at the compound. But he’s not saying there were two al Qaeda leaders. The only thing they’re certain about is that there was one leader. And that leader, as it turns out, is Faruq, also an American citizen. Mind you, the government never did the analysis to determine whether Faruq would have been a sufficiently imminent threat to target himself; they didn’t need to do that because they were only targeting a compound, not Faruq, even if he’s the only leader they’re sure they found in that compound thus far.

The intelligence was right because they targeted a compound believing an al Qaeda leader was using it, Faruq, whom the government now claims was an al Qaeda leader, was in it when the US struck it, and therefore the targeting was sound because Faruq was there, but Faruq wasn’t the

target.

So Weinstein died, ultimately, because of Faruq's presence in that compound, but they weren't targeting Faruq and it's not like they intentionally killed an American citizen and oops unintentionally killed another because it was all about the compound, not the person.

All of which suggests the real possibility they'd be wink winking Faruq's sitting next to a baddie death if there had been another baddie of interest present, but there's just him and his American citizen hostage, both dead, but only dead, you see, because of the compound they were in.

I had been wondering why both Richard Burr and Dianne Feinstein had emphasized that they had already been closely overseeing the after action reports on that strike (a strike the time and location the government refuses to acknowledge for what are probably very cynical legal reasons). If the Administration had already disclosed to the Gang of Four that Faruq had been incidentally killed because he was sitting in a baddie compound, that might explain the close focus.

One more point. In his speech, Earnest emphasizes that they discovered Weinstein was one of the unidentified bodies taken from this baddie compound because the national security figures who had been investigating Weinstein's kidnapping for years had learned he died, and they closed in on him being the dead body in that strike. It's not that the CIA IDed those two unexpected bodies, according to this explanation, it's that the search for Weinstein ended up clarifying that those two unidentified bodies included Weinstein.

The Weinstein statement and reporting on their views emphasizes how helpful specific officials at the FBI have been during their son's captivity, while complaining about the "disappointing" assistance they had received from other government officials.

That leads me to suspect, at least, that the FBI retained the lead on the search for Weinstein, which is who Earnest was referring to when he described national security people figured out that Weinstein had been killed. Those searching for the aid worker discovered Weinstein had died, or maybe were about to discover he had died, and that's what led the Administration to come clean that the CIA killed him in a drone strike.

Which raises the question: is it really true that the CIA hadn't figured that out already? Or were they just hoping they could prevent this from coming out?