

DID JOHN BRENNAN HAVE A ROLE IN DOJ'S DECISION TO PROSECUTE JEFFREY STERLING?

John Brennan apparently plays an interesting role in the events surrounding Jeffrey Sterling, whom DOJ indicted for allegedly leaking details of the MERLIN program to James Risen.

James Risen first wrote about Sterling—profiling his employment discrimination suit—in March 2002. In it, Risen quotes then CIA Deputy Executive Director John Brennan, denying that Sterling was dismissed because he is black.

John Brennan, the deputy executive director of the agency who met Mr. Sterling several times about his case, said there was no evidence that racial discrimination had caused his problems.

"It was an unfortunate situation," Mr. Brennan said, "because Jeffrey was a talented officer and had a lot of the skills we are looking for, and we wanted him to succeed.

"We were quite pleased with Jeffrey's performance in a number of areas. Unfortunately, there were some areas of his work and development that needed some improvement."

Now Brennan's role in negotiating with Sterling on the discrimination claims already provides one reason why Brennan might have a personal interest in seeing DOJ renew its pursuit of Sterling.

But there's another: to go after Risen personally.

After all, whatever role Brennan had in Sterling's discrimination suit, there's no reason to believe it put Brennan at legal risk.

But Risen's other big scoop in *State of War* did.

As I have shown, for at least a year, John Brennan was in charge of the process that picked who Dick Cheney would wiretap in his illegal domestic surveillance program.

Brennan appears to have overseen the units that conducted the threat assessments that were a key part of the illegal program from May 2003 at least until August 2004, and possibly up until he left ODNI in December 2005, just days before the NYT broke this story. For at least a year and possibly two, John Brennan appears to have been the guy inventing "reasonable cause" to wiretap people in the United States. John Brennan was also likely the guy who put together the list of groups considered al Qaeda affiliates (including al-Haramain) that could be wiretapped.

Of particular note, Brennan was in charge of this process when, after March 11, 2004, it operated without DOJ sanction, the time when it had the least legal cover (and the time period for which al-Haramain has proof they were illegally wiretapped). John Brennan is an accessory (at least) to violating FISA and other laws prohibiting domestic surveillance (including the part of 2004's DOD appropriation bill that prohibited data mining of Americans).

And Risen's reporting is what has ultimately led to the (very limited) exposure of Brennan's role in the illegal wiretapping of Americans.

Mind you, the Deputy National Security Advisor probably shouldn't be telling DOJ whom to investigate or not—particularly not if he's trying to retaliate for the exposure of his own illegal actions. But he seems to have been right in the mix on the White House's involvement in

DOJ's decisions on torture.

So did DOJ pursue this case so intently—as opposed to, say, torture and illegal wiretapping—at the direction of the White House?