

BIBI LIED TO UN IN 2012, LIKELY TO LIE TO US NEXT WEEK



Look carefully. Are his lips moving?

Benjamin Netanyahu overstated Iran's nuclear technology in 2012 when he used his bomb cartoon in an address to the United Nations. The Guardian and Al Jazeera have released a trove of documents relating to Iran's nuclear program and one of the key documents was prepared by Mossad to brief South Africa just a few short weeks after the famous speech. From The Guardian:

Binyamin Netanyahu's dramatic declaration to world leaders in 2012 that Iran was about a year away from making a nuclear bomb was contradicted by his own secret service, according to a top-secret Mossad document.

/snip/

Brandishing a cartoon of a bomb with a red line to illustrate his point, the Israeli prime minister warned the UN in New York that Iran would be able to build nuclear weapons the following year and called for action to halt the process.

But in a secret report shared with South Africa a few weeks later, Israel's intelligence agency concluded that Iran

was “not performing the activity necessary to produce weapons”. The report highlights the gulf between the public claims and rhetoric of top Israeli politicians and the assessments of Israel’s military and intelligence establishment.

As The Guardian notes, although Bibi’s darling little cartoon makes little to no distinction between the steps of enriching uranium to 20% and enriching it to the 90%+ needed for a bomb, the Mossad document (pdf) states that Iran “is not ready” to enrich to the higher levels needed for a bomb:

6. EVEN THOUGH IRAN HAS ACCUMULATED ENOUGH 5% ENRICHED URANIUM FOR SEVERAL BOMBS, AND HAS ENRICHED SOME OF IT TO 20%, IT DOES NOT APPEAR TO BE READY TO ENRICH IT TO HIGHER LEVELS. IT IS ALLOCATING SOME OF IT TO PRODUCE NUCLEAR FUEL FOR THE TRR, AND THE AMOUNT OF 20% ENRICHED URANIUM IS THEREFORE NOT INCREASING.

Despite that clear information that Mossad surely already had at the time of the UN speech (h/t Andrew Fishman for the link), Netanyahu chose to portray Iran as ready to zip through the final stage of enrichment:

Now they’re well into the second stage. And by next spring, at most by next summer, at current enrichment rates, they will have finished the medium enrichment and move on to the final stage. From there, it’s only a few months, possibly a few weeks, before they get enough enriched uranium for the first bomb.

So Netanyahu described a step that the Mossad described Iran as not even ready to start and turned it into something Iran was eager to accomplish in a few weeks. Simply put, that is a lie.

Of further note in the document is information relating to the heavy water reactor under construction at Arak. Although it doesn’t appear

that Netanyahu mentioned it in the UN speech, it often is portrayed as another rapid route to a nuclear weapon for Iran, because, when finally functioning, it could produce plutonium that could be used in a bomb. Mossad found, however, that Iran was still a couple of years away from having the reactor functioning. Further, Mossad realized that Iran needs a fuel reprocessing facility (that it does not have) in order to use the plutonium in a bomb:

7. WE UNDERSTAND THAT IRAN IS MAKING EFFORTS TO PUT THE IR40 INTO OPERATION AS QUICKLY AS POSSIBLE. WE ASSESS THAT THIS WILL NOT HAPPEN BEFORE MID-2014. THIS REACTOR IS EXPECTED TO PRODUCE ENOUGH MILITARY-GRADE PLUTONIUM FOR ONE BOMB PER YEAR, BUT IN THE ABSENCE OF A NUCLEAR FUEL REPROCESSING PLANT (UNKNOWN IN IRAN), THIS PLUTONIUM WILL NOT BE ABLE TO BE USED FOR WEAPONS.

It should also be noted that those two years have elapsed and the reactor still has not been powered up. Further, there are proposals that the reactor can be modified to make it produce a dramatically lower amount of plutonium.

These documents have been released with very important timing. As I noted last week, Netanyahu aims to destroy the P5+1 negotiations with Iran. By pointing out his lies two years ago, we should be in a better position to see through whatever obfuscation he delivers next week. But with a new air of bipartisany-ness, to his visit, don't look for Washington politicians to be the ones to point out his next round of lies.

Postscript: I am significantly behind on my homework. I owe Marcy a careful reading of the technical documents from the Sterling trial and need to follow up more fully on the suggestions that false documents (including the Laptop of Death?) were planted with Iran for the IAEA to discover. Now with this new trove of documents and the looming date of Netanyahu's visit, I need to get busy (on something other than planting blueberries)!

WHAT WAS THE CIA REALLY DOING WITH MERLIN BY 2003?

Bloomberg is reporting that the exhibits released in the Jeffrey Sterling case may lead the UN to reassess some of the evidence they've been handed about Iran's alleged nuclear weapons program.

International Atomic Energy Agency inspectors in Vienna will probably review intelligence they received about Iran as a result of the revelations, said the two diplomats who are familiar with the IAEA's Iran file and asked not to be named because the details are confidential. The CIA passed doctored blueprints for nuclear-weapon components to Iran in February 2000, trial documents have shown.

"This story suggests a possibility that hostile intelligence agencies could decide to plant a 'smoking gun' in Iran for the IAEA to find," said Peter Jenkins, the U.K.'s former envoy to the Vienna-based agency. "That looks like a big problem."

Importantly, this story comes from two IAEA officials who are familiar with the evidence against Iran, and therefore would know if aspects of the Merlin caper resemble things they've been handed by the CIA, almost certainly including the Laptop of Death laundered through MEK to the CIA in 2004.

You'll recall that immediately upon hearing some of the sketchy details of the Merlin caper I thought of the Laptop of Death and a dubious tale, told by Iraqi nuclear scientist Mahdi

Obeidi, involving the blueprints posted above. And I've only got more questions about the operation given what we learned since that day.

Here are some of those questions.

- Why did CIA immediately turn to dealing Iraq nuclear blueprints after such a clusterfuck on Merlin's first operation – and why wasn't Sterling involved?
- Why did both Bob S and Merlin tell the FBI in 2006 that Sterling was just a marginal player in the operation?
- Did the program get *more* sensitive over time?
- Why is the government claiming this part of James Risen's State of War is as sensitive than his exposure of a massive illegal wiretap program?
- Did the *kind* of deception involved change?
- What was CIA intending with its Iran approach in 2003, and what really happened with it?
- What explains the weird reception for Jeffrey Sterling's complaint at the Senate Intelligence Committee?
- Why was Bill Duhnke the top suspect?

Why did CIA immediately turn to dealing Iraq nuclear blueprints after

such a clusterfuck on Merlin's first operation – and why wasn't Sterling involved?

As I have laid out, less than a month after Bob S deemed Merlin unable “to follow even the simplest and most explicit direction” (Exhibit 44), he and one other case officer who was apparently not Jeffrey Sterling (though Sterling was still nominally Merlin's handler) approached Merlin about repeating the operation with another country (Exhibit 45). David Swanson has compellingly shown that that country was almost certainly Iraq. That operation, however, would be “rather more adventurous” than the Iranian op that Merlin had already proven so inadequate to.

I think it possible they bypassed Sterling because his Equal Opportunity complaints had already so soured his relationship with the CIA they had it in for him already. But I do find it interesting that the transition to Stephen Y happened right as they moved onto this “more adventurous” operation (and Stephen Y handled Merlin through this 2003 leak).

Why did both Bob S and Merlin tell the FBI in 2006 that Sterling was just a marginal player in the operation?

That Bob S was bypassing Sterling in April 2000, over a month before Merlin got a new case officer, also raises questions about why he and Merlin, in what seems remarkably similar testimony to the FBI in 2006, started saying that Sterling was not a central player in the operation. Bob S was doing 70% of the thinking on the operation, he reportedly told the FBI in an February 28, 2006 interview, Sterling just 30%. Sterling served only as a “middleman” editing his letters, Merlin told the

FBI in an interview within a month after Bob S'. "The details of this operation were a wild forest to Sterling," Merlin told the FBI in the same interview (though when asked on cross, he said he meant Sterling didn't understand the technical details).

Why were Bob S and Merlin both so intent in the months after Risen's book first appeared on insisting that Sterling's understanding of the operation was incomplete?

Did the program get *more* sensitive over time?

Everything introduced at the trial treats the Merlin operation as a clandestine information collection operation. Yet a heavily redacted filing submitted in support of having Retired Colonel Pat Lang testify and other details from the trial suggest the operation got *more* sensitive as it went along. Like the contemporaneous cables, the filing suggests the operation was clandestine. "The [redacted] operation was conducted as a [redacted] clandestine intelligence operation." But it also makes it clear that the government was trying to argue that this clandestine operation was covert. Note, for example, the discussion of CIA "electing" to notify Congress, obtain approval from the CIA Director, and ... something redacted. That suggests the government went through some or all of the motions of the same kind of notice required under a Finding, without it being a formally covert operation. Risen may have been trying to get at this question, too, when he asked Bill Harlow's counterpart somewhere (this wouldn't have been at NSC, but it might have been at Sandia Lab), "he knew that President Clinton had approved the plan...but wanted to know if it had been reapproved by President Bush" (Exhibit 106; note, this appears to have been a seeded question, and not one that Sterling would have reason to pitch).

But two things suggest the program got,

formally, more sensitive, perhaps even escalating to a covert operation that the US would want to deny. First, there are the two "facts" mentioned in the Lang filing that had not been shared with the defense, even though Lang was purportedly read into all the evidence pertaining to the Sterling defense. Then there's an odd exchange that happened with Condi Rice. Eric Olshan asked "did everyone at the NSC know about this specific classified information?" (remember, within weeks, Bob S would tell the FBI more than 90 people were briefed into this compartment). Defense attorney Barry Pollack objected that the question was beyond the protective order. But Olshan insisted it wasn't, and Judge Brinkema judged that "the government is very sensitive to the protective order and I doubt they would go beyond it." The suggestion was that very few people at NSC were read into the precise details of the program when Condi talked NYT out of publishing in 2003.

All of this leads me to believe that the program had gotten much more sensitive between the time Sterling was booted off the program in 2000 and the time Risen was reporting the story in 2003.

If so, why?

Why is the government claiming this part of James Risen's *State of War* is as sensitive than his exposure of a massive illegal wiretap program?

The program would have *had* to have gotten more sensitive over time, if any of the implications about the relative sensitivity of the chapters of Risen's book – including the series of witnesses claiming Chapter 9 was the only one they read (though jurisdictional issues explain some of this, given that Risen's NSA chapter came under MD's purview) are to be

believed.

After all, elsewhere in Risen's book, he exposed a massive illegal wiretapping program that directly contravened FISA. He exposed a program that – we now know –directly implicated the Attorney General and Vice President in criminal wiretapping.

Yet the CIA and DOJ want us to believe that this program – described in contemporaneous CIA cables as an effort to give Iran a blueprint to find out if they wanted it – was more sensitive than that massive illegal program? (Admittedly this may all stem from the CIA thinking it is the center of the universe.)

Did the *kind* of deception involved change?

Those questions all make me wonder whether the kind of deception – and the audience – changed, if the project got more sensitive.

This program was established in January 1997 to,

create and sustain operational access to the Iranian nuclear target. [Merlin's] goals on behalf of [CIA] will be to gain insight into the stage of development of the Iranian nuclear program and to collect [redacted] information on their contacts with foreign nuclear scientists. Asset will also be involved in the ultimate operational objective of delivery and/or design of a piece of nuclear equipment needed by the Iranians. (Exhibit 5)

As far as we can tell, Merlin's outreach to Iranian scientists never developed substantive responses, much less insight into their alleged nuke program.

By May 1997, the focus had shifted even more to the blueprints (Exhibit 6).

The goal is to plant this substantial

piece of deception information on the Iranian nuclear weapons program, sending them down blind alleys, wasting their time and money, and discrediting Russian designs and equipment in their eyes. The terminology and list of parts are sufficiently specific that we stand a good chance of learning whether the Iranians have in fact adopted the design and trying to make it work.

This seems to suggest this operation was, in part, about trying to get the Iranians to adopt a parts list that would require they purchase in the US, which would be far easier for the CIA to track and thereby monitor Iranian progress. (Such a plan also seems similar to the monitoring of things like aluminum tubes the US was doing before the Iraq War, with all the implications of that.)

That was largely the goal as laid out in the December 1998 cable (Exhibit 16) where Bob S laid out the goal to approach Iranian Subject 1, who apparently was in the process of being assigned to serve as Iran's IAEA Head of Mission in Vienna (see Exhibit 3). That cable is notable, however, for its judgment that,

The major hurdle here is that neither we nor [Merlin] want him to go to Iran, which would almost certainly be their request. But if we have planted the information and strung them along a bit before facing this issue we would be prepared to let the operation end at that point if necessary.

This admits that the point was dealing the blueprints, and the CIA would even have Merlin balk on an offered nuclear deal – which surely would have alerted the Iranians – if the Iranians asked him to travel to Iran.

In a cable (Exhibit 46) planning the replacement of Sterling (and including 3 offices besides

Vienna that were working with local liaison services – one of which would surely be Tel Aviv– to track any Iranian response), Bob S reiterated that goal. “The goal of the operation is to waste as much Iranian nuclear weapons expertise and money as possible.”

Curiously, the cable describing the handover from Sterling to Stephen Y (Exhibit 47) also notes that Merlin and his wife would be taken to a [CIA] setting to go over issues Merlin and his wife had covered in their initial debrief, which should cover more systematic Russian bomb construction.

All of which is to say for the period covering Sterling’s involvement, the story remained consistent. The idea of planting the blueprints was about wasting Iranian time (not unlike the StuxNet plan, though via different means).

What was CIA intending with its Iran approach in 2003, and what really happened with it?

The same cannot be said about the CIA’s plan to use Merlin to approach the Iranians again, after 3 years of having gotten absolutely no response to the first outreach (or, implicitly from Merlin’s testimony, from any of the other countries Merlin approached), as captured in a March 11, 2003 cable (Exhibit 103). The cable, apparently coordinated with the Near East and Counter Espionage Divisions of CIA, is titled, “Surveilling the Iranians in City A for a Classified Program No. 1 Approach.” It describes Bob S’ plan to surveil Iranians in City A. And that’s all the explanation, aside from the indication Bob S plans a unilateral approach to the Iranians at the end of the month, pending meeting with Merlin and his handler.

Whatever this operation was, it seems a more haphazard event than even having Merlin drop off a nuclear blueprint wrapped in a newspaper. And

in a mostly redacted cable, none of the unredacted discussion describes the intent of dealing off nuclear blueprints to the Iranians for a second time.

Why was CIA satisfied continually throwing out million dollar blueprints without getting a response?

As noted, with Iran, with (presumably) Iraq, and with the other country or countries which Merlin also approached, Merlin got no response.

None.

The government introduced a stipulation (Exhibit 166) at the Sterling trial revealing the CIA had spent at least \$1.5 million to develop the blueprint that Merlin wrapped in a newspaper and left in a mailbox. Presumably, there were additional costs for each time Merlin dropped a newspaper wrapped blueprint in a mailbox. We can presume at least one of those – the blueprint dropped on Iraq, which had given up its nuclear program 9 years earlier – was completely wasted, at least if the purpose was to get the target to waste money on a nuclear program.

And yet the CIA considered the Iranian drop, at least, to be a success.

Why?

What explains the weird reception for Jeffrey Sterling's complaint at the Senate Intelligence Committee?

Particularly given the curious status of the program involving some kind of Congressional notice, there's some weird stuff about the Senate Intelligence Committee treatment of Sterling's Merlin complaint.

Jeffrey Sterling went to the Senate Intelligence on March 5, 2003 to raise concerns about the operation given "current events." He met with Vicky Divoll – a Democratic staffer Mark Zaid had contacted – and Donald Stone – who was in charge of whistleblower issues. Both staffers showed an appropriate amount of skepticism, given Sterling's ongoing disputes with CIA, and Stone was a bit peeved that Sterling hadn't first gone to CIA's Inspector General. But Divoll and Stone differ about what happened next.

Divoll remembers a meeting with her, Stone, and Staff Director Bill Duhnke immediately after the meeting, with Lorenzo Goco (who covered this portfolio) being pulled in. Divoll also remembers Duhnke ordering them to write a memo right away. Note, Divoll got fired for what she claims credibly were political reasons shortly thereafter, but she blinked, a lot, during cross-examination (and she wears glasses, so it's not a contacts issue).

Stone, however, recalls a meeting involving just him and Bill Duhnke later. Perhaps at that meeting, Bill Duhnke told him there was an investigation into some kind of compromise (CIA referred the leak on April 7 and FBI opened the investigation on April 8), though Stone insisted he didn't know it involved a leak to the press. Worse, James Risen had tried to contact him on his direct line. And that's why, Stone said, he wrote the report, to admit that Risen had tried to contact him but that he hadn't spoken with him. Divoll said Stone wrote the draft and she reviewed it against her notes (though she appears to have an overestimation of her own note-taking skills). And Stone said he got rid of his notes at some point before his FBI interviews.

The thing is, Stone never got around to writing the report until April 25 (Exhibit 101), coincidentally the very same day Risen called the CIA with a completed draft of his story (Exhibit 112). And it seems no one had done any

official channel follow-up on the report until someone – presumably Duhnke, though the sender is redacted, sent Goco an email on April 24 (Exhibit 110) asking about his follow-up and, the next day, instructing, “please attempt to schedule the meeting” to follow-up today. It must have been that last minute follow-up – the day before and day that Stone wrote the report – that Stone refers to when he writes,

To follow up, it was decided that at the next opportunity, the [redacted] account monitor would ask a question on the degree to which such plans are modified and the approach to making sure there is no benefit to the target or a buyer of the plans. Such a briefing is to take place in the near future.

That is, the report and the official follow-up was constructed with the FBI’s leak investigation in mind at a point when Risen already had a story done.

Which is why the details Stone provided the FBI, which would have been captured in his notes but which didn’t show up in the report, are so interesting. First, Sterling said that “they did the equivalent of throwing it over a fence,” an admission of how shoddy the pass-off of the blueprints was. Then, that one of CIA’s two assets involved “got cold feet,” an admission that Merlin almost backed out just before the trip to Vienna. And that one asset (it actually sounds like Stone might have meant Human Asset 2, the other Russian, which the records actually support) “recognized the plans were faulty.”

In other words, Sterling told SSCI a number of details that not only correspond with known details of the operation, but which show up in Risen’s book, but Stone (writing after Bill Duhnke told him of the leak investigation) didn’t include those details in the report. Stone didn’t know when he destroyed his notes, but he didn’t have them when he met with

the FBI.

Why was Bill Duhnke the top suspect?

Finally, there's Bill Duhnke, who not only didn't testify at the trial, but didn't cooperate with the investigation. While classified witnesses who did not testify also named Vicki Divoll, as someone who had "a vendetta" against the CIA (as a Bob Graham staffer, she would have been tied to acute criticism of CIA for missing 9/11), Bill Harlow and Special Agent Hunt both said they considered Duhnke a top suspect at the beginning of the investigation. Since that point, because SSCI Chair Pat Roberts refused to cooperate, FBI never really could have ruled out Duhnke.

What I don't understand is why both people considered Duhnke the leading suspect, especially since he only heard of Sterling's complaints second-hand. Duhnke was a Richard Shelby staffer (and in recent years, has once again rejoined him as a key staffer), but remained at SSCI after Shelby left in the wake of allegations the Senator had leaked details of a wiretap on Osama bin Laden's satellite phone (which may have been a critique of CIA's failures prior to 9/11). But as he resumed the top SSCI staff position in 2003, Duhnke staffed Roberts as the Senator showed great deference to the CIA (as well as to Vice President Cheney). And very significantly, if the Merlin operation did get more sensitive between 2000 and 2003, Duhnke would have attended whatever Gang of Four briefings in this period included staffers. For example, Bill Duhnke **staffed** Roberts at the February 4, 2003 briefing at which Roberts agreed to the destruction of the torture tapes, quashed oversight efforts Graham had put into place, and – according to the CIA but contested by Roberts himself – said he could think of 10 reasons right off not to exercise more oversight over torture. Having been part of Roberts' hackery

for a few months, why did CIA regard Duhnke to be hostile? And why did they think he had enough information about the operation to be able to leak it to Risen?

There were details of the story Risen had early on – that Merlin had been used (rather than might be, as Risen reported in his book) with other countries, that the fire set handoff was part of a “larger program” to sabotage Iran’s nuke program – that didn’t make it into his book but which reflected knowledge that Sterling didn’t appear to have. They would also seem to reflect larger concerns about the program that had to come from someone with more visibility into what the CIA was doing. Did CIA know overseers at SSCI had such concerns?

AP’S MATT LEE: US OFFICIALS SAY NETANYAHU TRYING TO DESTROY IRAN NEGOTIATIONS

I haven’t chimed in yet on the political drama that has been building around the approaching deadline in the P5+1 negotiations with Iran and the massive breach of protocol by John Boehner in inviting Benjamin Netanyahu to address Congress just before the deadline (and just before elections in Israel). More recent rumblings on that front had the US already stating Obama would not meet with Netanyahu, along with suggestions that both John Kerry and Joe Biden are likely to be out of the country when Netanyahu is in Washington. Further, hints were coming out that the US is becoming increasingly irritated with Bibi over his leaking of information that the US has shared on

how negotiations with Iran are proceeding.

AP's Matt Lee shed much more light on these issues yesterday. He forced State Department spokesperson Jen Psaki to confirm that the US has now started withholding "classified" parts of the negotiations from Israel. Lee went beyond what he was able to pry out during Psaki's briefing, producing confirmation that the US now feels that Netanyahu is determined to prevent any final deal between the P5+1 and Iran:

The Obama administration said Wednesday it is withholding from Israel some sensitive details of its nuclear negotiations with Iran because it is worried that Israeli government officials have leaked information to try to scuttle the talks – and will continue to do so.

In extraordinary admissions that reflect increasingly strained ties between the U.S. and Israel, the White House and State Department said they were not sharing everything from the negotiations with the Israelis and complained that Israeli officials had misrepresented what they had been told in the past. Meanwhile, senior U.S. officials privately blamed Prime Minister Benjamin Netanyahu himself for "changing the dynamic" of previously robust information-sharing by politicizing it.

Working behind the scenes, Lee was able to get unnamed officials to fill in more detail:

But while Earnest and Psaki said the limitations on information sharing were longstanding, U.S. officials more directly involved in the talks said the decision to withhold the most sensitive details of the negotiations dated back only several weeks.

Those officials, speaking on condition of anonymity because they were not

authorized to speak publicly, said the administration believes Netanyahu, who is facing a March 17 election at home, has made a political decision to try to destroy the negotiations rather than merely insist on a good deal. This, they said, had led to politically motivated leaks from Israeli officials and made it impossible to continue to share all details of the talks, particularly as Netanyahu has not backed down on his vow to argue against a nuclear deal when he speaks to Congress.

And here's where it gets really interesting. Pushing on the issue of just what Israel has been leaking, Lee has this:

Neither Earnest nor Psaki would discuss the details of the leaks, but senior U.S. officials have expressed consternation with reports in the Israeli media as well as by The Associated Press about the number of centrifuges Iran might be able to keep under a potential agreement. Centrifuges are used to enrich uranium and diplomats familiar with the talks have said Iran may be allowed to keep more of them in exchange for other concessions under current proposals that are on the table.

Oh my. There is only one person we could be talking about when it gets to leaks from Israel on anything to do with the Iranian nuclear program. That would be none other than George Jahn, noted transcriber of Israeli leaks since they whole debate began. And just two days ago, Jahn regaled us with a piece titled "Good or bad Iran nuke deal? Israel vs the US administration". And just look what detailed information about centrifuge numbers Jahn managed to obtain:

With only a few weeks left until the March deadline, Iran – which insists it

does not want nuclear arms – seems to be ahead in pushing the other side to compromise.

The main dispute is over the size and potency of Iran's uranium enrichment program, which can make both reactor fuel and the fissile core of a weapon. The U.S., along with Russia, China, Britain, France and Germany, came to the table demanding that Tehran dismantle 80 to 90 percent of the nearly 10,000 centrifuges now turning out enriched uranium along with all of the 8,000 or so other machines set up but not working.

But faced with Iranian resistance, diplomats now say the U.S. is prepared to accept 4,500 operating centrifuges – perhaps more – if Tehran agrees to constraints on their efficiency.

While trying to paint his article as balanced, besides including his information leaked by Israel, Jahn also tips his hand in his choice of "experts". Two of the three he quotes are seriously lacking in objectivity. Jahn identifies Olli Heinonen only through his previous work at the IAEA but neglects to mention that Heinonen is also a major player in United Against Nuclear Iran, which has become embroiled in its own scandal about leaked information on Iran. Jahn also relies on David Albright, who has turned his Institute for Science and International Security (Hmm, Jahn left "International" out of the name; perhaps to stay away from "ISIS"?) into a pawn in the propaganda battle against Iran.

Albright is staging a "briefing" Monday to put his spin on expected news from IAEA. And of course Jahn is telling us before it has been released that the IAEA report will not be good for Iran.

With Netanyahu, Israel's government (and its

“diplomats”), AP’s Jahn, David Albright and much of Congress all aligned against a deal with Iran, the Obama Administration and the other P5+1 negotiators face a tough road in this final month of negotiations. I hope that sanity and peace somehow prevail, but it is very easy to see multiple paths to failure. Which means war.

Postscript – Let us welcome the new government of Freedonia: Okay, if you’ve made it this far through the post, you deserve a little fun. Matt Lee had a ton of fun with Jen Psaki when he was questioning her about the travel plans for Kerry and Biden. From the transcript:

QUESTION: If the Secretary doesn’t actually take part, is this because of the circumstances surrounding Prime Minister Netanyahu’s visit to the United States, which, of course, have been really overtaken by the fact that he’s going to address Congress on March 3rd?

MS. PSAKI: Well, we’ve already been clear that we don’t have to plan – we don’t have plans, I should say, to have a meeting. I think the more likely reason is that the Secretary is probably going to be out of town, which I don’t think surprises any of you, given his overseas travel schedule. We’re still working out the next couple of weeks.

QUESTION: Okay.

QUESTION: Wait, the Secretary is probably going to be out of town when?

MS. PSAKI: I’m sure –

QUESTION: For the entire AiPAC conference?

MS. PSAKI: It’s only a couple of days, Matt. We have a trip we’re working on for early-March, late-February. So –

QUESTION: That’s funny, because the Vice President also had some unspecified travel plans that would prevent him from

being at Congress to hear the prime minister's speech.

MS. PSAKI: Well, given I think –

QUESTION: Is everyone fleeing –

MS. PSAKI: – we have all spent days if not months on a plane, I don't think it should surprise anyone that the chief diplomat might be overseas.

QUESTION: Well, right, but – yeah. But it just seems to be a little unusual that both the Secretary of State and the Vice President are – have determined right now that they're going to be out of town or out of the country.
(Laughter.)

MS. PSAKI: I wouldn't look at it in those terms. I believe the Vice President's attending the inauguration for the new Government of Panama, I believe. I can't remember the specifics, but it's a set date. And again, we, as you know, always have a fluid schedule and as we have more information we'll let you know. I expect we'll be certainly represented there.

Lee at first accepts this explanation, but then suddenly remembers something:

QUESTION: I just remember being with the Secretary at the inauguration of the Panamanian prime minister a few months ago.

MS. PSAKI: Perhaps that's not the right information. I'm sure you can check the Vice President's schedule on his website.

And Lee just couldn't resist providing a helpful suggestion:

QUESTION: Might you invent a country

that he could go to if there isn't any –
(laughter) –

MS. PSAKI: I don't think inaugurations
for new leaders are invented, Matt.

Update: Now we have video of this part of the
briefing:

DOJ DOESN'T WANT YOU TO THINK CIA DOCTORED EVIDENCE IN THE STERLING TRIAL

On October 4, 2011 (just before Jeffrey Sterling's trial was originally due to start) the government submitted a motion that, in part, sought to prevent Sterling from presenting "any evidence or any argument that the CIA has manipulated documents." The motion presented the crazy pants idea that the CIA might alter or destroy documents as part of a conspiracy theory that the CIA wanted to blame Sterling for leaks others had made.

There is absolutely no evidence that the CIA was out to get the defendant, or that the CIA orchestrated some grand conspiracy to blame the defendant for the leaks to Risen. Any arguments or comments that the CIA engages in misconduct or has manipulated documents or evidence in order to blame the defendant for the disclosure of national defense information appearing in Chapter 9 lacks any merit and will needlessly send the Court, the parties, and the jury down an endless Alice-in-Wonderland rabbit hole.

Sterling's lawyers were nonplussed by this demand. "Documents will be admitted if they are authenticated and otherwise admissible."

Now, if DOJ were writing about most governmental agencies, you might interpret this request as no more than prosecutorial caution, an effort to exclude any hint of the other things the same motion tried to exclude – things like selective prosecution.

Except the CIA is not most governmental agencies.

Indeed, it is an agency with a long and storied history of serially destroying evidence. The Eastern District of VA US Attorney's Office knows this, too, because they have so much experience reviewing cases where CIA has destroyed evidence and then deciding they can't charge anyone for doing so.

And while I don't expect Judge Leonie Brinkema of CIA's own judicial district to therefore deny the CIA the presumption of regularity, I confess DOJ's concern that Sterling might suggest CIA had doctored or destroyed evidence makes me pretty interested in what evidence they might have worried he would claim CIA doctored or destroyed, because with the CIA, I've learned, it's usually a safer bet to assume they *have* doctored or destroyed evidence.

Especially given the two enormous evidentiary holes in the government's case:

- The letter to the Iranians Merlin included with his newspaper-wrapped nuclear blueprints
- A report of Merlin's activities in Vienna

As I lay out below, CIA's story about the letter to the Iranians is sketchy enough, though the government's ultimate story about it is at least plausible. But their story about Merlin's non-

existent trip report is sketchier still. I think the evidence suggests the latter, at least, once did exist. But when it became inconvenient – perhaps because it provided proof that Bob S lied in the cables he wrote boasting of Mission Accomplished – it disappeared.

But not before a version of it got saved – or handed over to – James Risen.

If I'm right, one of the underlying tensions in this whole affair is that a document appeared, verbatim, in Risen's book that proved the CIA (and Bob S personally) was lying about the success of the mission and also lying about how justifiable it would be to have concerns about the operation.

The CIA and DOJ went to great lengths in this trial to claim that the operation was really very careful. But they never even tried to explain why the biggest evidence that it was anything but has disappeared.

Merlin's letter to the Iranians

I've noted before that the FBI admits it never had a copy of the letter the government convicted Sterling of leaking to James Risen. "You don't have a copy of the letter" that appears in Risen's book, Edward MacMahon asked Special Agent Ashley Hunt. "Not in that exact form," she responded.

Nevertheless, Count 2, Count 3, and Count 5 all pertain to a letter that appears in Risen's book, the letter FBI never found. The letter appears at ¶¶ 58 to 63 of the exhibit version of the chapter in question.

To be sure, FBI *did* obtain versions of this letter, as cables introduced at trial reflect. The first iteration appears in Exhibit 30 (a cable describing a November 4, 1999 meeting), and discussions of the revisions process appears in Exhibit 33 (a cable describing a December 14, 1999 meeting). Exhibit 35 – dated January 12,

2000 and describing a January 10 meeting between Sterling and Merlin – provides the closest version to what appears in Risen’s book, in what is called (in Exhibit 36) the fifth iteration of the letter. The only difference (besides the signature line, presumably, according to the CIA’s currently official story) is the January 12, 2000 cable, based on a meeting that took place 7 weeks before Merlin left for Vienna, said this:

So I decided to offer this absolutely real and valuable basic information for [Iranian subject 2], about this possible event.

Whereas in Risen’s book that passage appears this way:

So I decided to offer this absolutely real and valuable basic information for free now and you can evaluate that. Also I sent e-mail to inform [the Iranian professor] about this possible event.

Now, it’s fairly clear that neither Sterling nor anyone else handed this January 12, 2000 cable itself, in its entirety, over to Risen. That’s because, in Risen’s book (see ¶21), he described Merlin as having been paid \$5,000 a month. Yet ¶7 of the January 12, 2000 cable states clearly that Merlin made \$6,000 a month. In fact, according to CIA records released at trial, the only years during which Merlin made \$5,000 a month appear to be 2001 (at which point Sterling no longer had access to this compartment; this could have been retroactive to 2000 except it doesn’t reflect what Sterling seems to have understood when he wrote cables on salary issues) and 2005 (when Risen was writing his book, but when Sterling was long gone from the CIA) – though in his deposition, Merlin did say he made \$5,000 a month during that period, before later saying it he did so the following year. (Remember Merlin was on medically-prescribed Oxycontin when he gave his

deposition, so he may have a good explanation for some of his inconsistent answers.)

Moreover, it's clear that's not the final letter.

That's true, first of all, because CIA did not intend it to be the final letter. In the cable where Sterling provided the verbatim text of the fifth iteration, he "suggest[ed] this letter can be pared down a bit to remove the puffery language included by [Merlin]." In response on January 14, 2000, Bob S wrote (Exhibit 36),

We agree with [Sterling's] comments that the verbiage needs to be tightened up still further to make sure the Iranians understand what he has and on what terms. He should say explicitly that he is offering the schematic and associated parts list free to prove that he can provide further information, and acknowledge that what he is providing initially is incomplete. There should be a very clear message that he expects to be paid for the rest of the details they will need if they want to build the device.

[snip]

Each iteration of his draft letter is better than the previous one, so [Sterling]'s patience seems to be paying off. It is worth our while to take the extra time to make sure he finally gets it just right, since the letters will have to do much of the work for us with the target.

Now, given Merlin's payment strike at the following two meetings, it is possible CIA never got around to making the changes Bob S wanted. The fact that Bob S, not Sterling, wrote the cables from those meetings means we would never know, because unlike Sterling, Bob S never included the text of correspondence in cables he wrote (as I laid out here). But Bob S – who ran

both the remaining meetings before the Vienna trip with Merlin – clearly wanted changes. And while the letter appearing in Risen’s book retains what Sterling called Merlin’s “puffery” language, it does reflect two of the changes Bob S asked for: reiteration that this package was meant as an assessment package, and an indication Merlin had emailed IS2 to alert him to the package (though see my questions about whether he really did in the update to this post).

In his testimony, Bob S claimed that what appeared in the book was the “nearly final draft,” explaining that the reference to Merlin getting paid was “sharpened” still further after the version that appears in the book. If true, given the way the final meetings worked out, Bob S may have been the only one who would know that.

Assuming CIA was honest with FBI about its records (again, given CIA’s history, not a safe assumption), one of three things could have happened with this letter. First, someone – Sterling or anyone else with access to the Merlin operation cables – could have recreated the letter from the January 10 cable, adding in language that might have served Bob S’ stated goals (though the replacement language definitely sounds like Merlin’s syntax). Alternately, Merlin or his wife could have shared the actual final letter with Risen directly. Or, a revised version of the letter could have been shared with Bob S, and possibly Sterling, and whoever got it could have shared it with Risen, even if it never got officially added to CIA’s archives.

Before I get into how Merlin’s testimony fails to address those possibilities, note one more thing. At least according to Merlin’s testimony, the letter that appears in Risen’s book may not be the one he left in Vienna.

While this passage is unclear (and it is based off of an FBI 302, which are notoriously unreliable in any case and appear to have been

so with Agent Ashley Hunt, given other witnesses' testimony), it seems to suggest that not only did Merlin "sanitize" the letter he brought on a disk to Vienna (as instructed by Bob S on February 21, 2000), but that *he left it sanitized* when he handed it over to the Iranians.

MacMahon: You actually told the FBI in 2006 that you did not follow instructions from the CIA as to how the bring the note with you to Vienna, did you?

Merlin: Yeah. If it was a question of my security, I didn't. My life, life of my family, of course I will not.

MacMahon: I understand that, sir, and I appreciate that, but my question is, though, did you not follow the instructions given to you by Bob as to how to draft the note when you got to Vienna?

Merlin: Yeah. If it put in danger my life or, like, my close relatives, of course I would not follow.

[snip]

MacMahon: Sir, do you remember telling the FBI that instead of writing the letter on your computer, you saved it onto a diskette, and that for operational security and your own protection, you left out sensitive terms in the draft saved on the diskette – and I'll skip those – and substituted generic words? Do you remember telling the FBI that?

Merlin. Yeah. I told it today: Device 1, Device 2, Device 3.

MacMahon: And you never told the CIA handlers that you did this since the action was in violation of their instructions, correct?

Merlin: Nobody asked me.

If that's what Merlin really did, then it would mean where the letter in Risen's book describes Merlin handing over a design for a TBA 480, Merlin's final letter would have read only "Device 1" or similar. But I think it possible that Merlin did as he was told, and de-sanitized the letter, adding back in names of nuclear bomb parts, sitting in the Hotel Intercontinental's Business Center in Vienna. Though in this case, if Merlin's testimony is confused we can't blame the Oxycontin, because the testimony is from 2006.

But the CIA – at least according to questionable sworn testimony given at the trial – doesn't know for sure one way or another.

It's only a nuclear blueprint. Who needs to know what the ultimate accompanying letters really said?!?!

Which is where Merlin's testimony gets interesting. In defense attorney Edward MacMahon's cross-examination at Merlin's deposition, he emphasized that Merlin's response to prosecutor Jim Trump was the *first time ever* that Merlin had claimed he had destroyed the disk on which the only copy of the final letter was stored (as well as the sanitized version, probably).

MacMahon: The first time you—you were, you were asked questions over, over a space of many years, and you never told the FBI at all that you had destroyed the disk that you took to Vienna, did you?

Merlin: I don't know, but there was, was no reason to bring it back. It just put myself in additional danger to have such disk in possession. If somebody stop me and read this disk, I'm in trouble.

MacMahon: Okay. But you didn't tell the FBI, you didn't tell anybody until today

as a matter of fact that that's what your story was as to what you did with the disk in Vienna, correct?

Merlin: I don't know, but again, it was no reason to keep this disk when action was, operation was accomplished, and no reason to keep it as a drawing, as letter, as whatever.

Let me interject and note that when the defense asked Bob S (whose court testimony came after Merlin's deposition) whether Merlin had told him he had destroyed the disk with the letter on it, Bob S responded, "I believe he did." Remarkably, Bob S didn't see fit to include that detail (or his inability to verify what the letter said) in the cables he wrote about "Mission Accomplished!"

Perhaps because, by destroying the disk with the letter would have made it impossible for Sterling to have had the final version of the letter (given the record I've laid out here and in this post), Merlin explained that he had given the final to Sterling – and only to Sterling – two weeks before he left for Vienna.

MacMahon: So when you came back from Vienna, you didn't bring a copy of any – any – the letter with you, did you?

Merlin: Of course not. For what?

MacMahon: You just – my only –

Merlin: To get jail time?

MacMahon: I'm, I'm just asking you questions, sir. You didn't bring it back, right?

Merlin: Yeah.

MacMahon: So you never gave a copy of the final letter to Mr – excuse me, to Bob or to Mr. Sterling, correct?

Merlin: I did before leaving. I cannot go without final version of letter. So

Jeff got it.

MacMahon: Okay. When did he get it? What is your testimony as to when he got it?

Merlin: Maybe two weeks before or – I don't, I don't remember exact date.

MacMahon: All right. Was Bob present at that meeting?

Merlin: No.

MacMahon: You have a specific recollection sitting here now of, of giving that letter to Mr. Sterling and not Mr. – not Bob sometime 15 years ago, correct?

Merlin: Yeah, I have it.

MacMahon: And it's a different letter from the one that's in the book, isn't it?

Merlin: No. it's the, it's the same letter.

MacMahon: It's the exact same letter?

Merlin: Yeah, or very similar.

MacMahon: That's all you can say is it's similar?

Merlin: Yes.

As the defense pointed out in their closing argument, it was not possible for Merlin to have provided only Sterling the final two weeks before his trip. While Merlin did hand Sterling a copy – which appears in the January 10 cable – that was 7 weeks before the trip. And while Merlin did meet with Sterling two weeks before his trip, on February 14, 2000, Bob S attended that meeting and Merlin stormed out before any business got done (at least per the cable written by Bob S). Now it's certainly possible that Merlin is just misremembering how much before the trip he handed Sterling what was, in

fact, pretty close to the letter than appears in Risen's book, if he handed a final version to anyone before the trip, it more likely would have been to Bob S, not Sterling.

There would, of course, be an easy way to determine what Merlin brought to Vienna: To check the computer on which Merlin drafted it.

Only according to Merlin, FBI never did that – never even asked to do that (and if they had, even in 2003 when they first began the investigation, he thinks he probably had already sold the computer with its nuclear sales correspondence with Iran zeroed out).

MacMahon: Were you ever asked at any time by the FBI to give them a copy – or to give them the computers that you used to draft any of these notes?

Merlin: This computer was too old, and I replace it later.

MacMahon: Okay. When–were you ever asked by the FBI to provide to them any computer hardware that you had in, in 2000 or anytime thereafter?

Merlin: I wasn't asked.

MacMahon: Never asked.

Merlin: No.

[snip]

MacMahon: Do you recall when it was that you destroyed that computer or got rid of it, whatever you did with it?

Merlin: I believe I format it to hard drive and sell it.

MacMahon: Do you know when that was?

Merlin: 2001 probably.

Now, FBI's failure to find the letter they claim – and a jury convicted – Sterling of sharing with Jim Risen is actually the less problematic

of the two gaping evidentiary holes in the CIA's story. As I said above, it's plausible that someone just took the January 10 iteration, filled it in with the changes Bob S had asked for (though those didn't help the narrative being pitched to Risen, so it's unclear why that person would do so), and handed it off.

Merlin's trip report

Why oh why do I keep finding myself writing about the provenance of CIA trip reports?

Perhaps because the stories about who read them and how they got them always end up being the crux of the story?

You see, while I'm perfectly willing to accept that whoever leaked Merlin's letter to James Risen did so based off the January 10, 2000 cable, I find the CIA's currently operative story that Merlin did not give CIA a trip report from his trip to Vienna, and/or the CIA did not capture all the details of what Merlin told them in his March 9, 2000 debriefing meeting, to be laughable.

Bob S at least intended to order Merlin to bring back a trip report. His February 17, 2000 cable (Exhibit 37) promised he'd stress that requirement in his next meeting with Merlin, if he deemed the Russian scientist ready to carry out the mission. "C/O will stress that we need a full and detailed report of his visit and reception," Bob S wrote. Though, because Bob S preferred flourish in his cables rather than details that might get him in trouble later, we don't know whether he did stress that.

And Risen's book not only indicates that Merlin *did* write a report, but it quotes from that report.

At 1:30 P.M. I got a chance to be inside of the gate, at the entrance of the Iranian mission, the Russian later explained in writing to the CIA. "They have two mailboxes: one after gate on

left side for post mail (I could not open it without key) and other one nearby an internal door to the mission. Last one has easy access to insert mail and also it was locked. I passed internal door and reached the mission entry door and put a package inside their mailbox on left side of their door. I cover it old newspaper but if somebody wants that is possible to remove from mailbox. I had no choice.”

There are other details in Risen’s book – notably, other exact times for when Merlin was at the building – that would logically appear in a report and perfectly match Merlin’s current story (and those aspects of Merlin’s story are remarkably crisp 15 years later).

Mind you, Risen’s book also seems to quote from a CIA debriefing of Merlin, complete with its author’s (according to Merlin) incorrect supposition of why Merlin didn’t ask for directions in Vienna.

“I spent a lot of time to ask people as I could [language problem] and they told me that no streets with this name are around,” the Russian later explained to the CIA, in his imperfect English.

As Merlin explained it in his deposition testimony, his German was good enough to ask directions of Viennese passers-by, but – Merlin claimed in his deposition to explain why he hadn’t asked directions – he didn’t want to ask questions about Iran’s IAEA mission. But whether it was an accurate characterization or not, that parenthetical comment – “language problem” – sure seems to be a direct quotation from an actual document.

Now, before I talk about what explanations Bob S and Merlin offered about this, let me just present what the government appears to have claimed at the trial (not having charged

Sterling with leaking *this document* they never found, unlike *the letter* they never found, the government didn't make a really credible effort to explain it at all). They effectively suggested that Merlin explained all these details – down to the exact times he arrived at the Iranian mission, as well as the detail about the newspaper-wrapped nuclear blueprint that never showed up in any cable – in a debriefing both Sterling and Bob attended. And then Sterling remembered those exact details from 2000 until 2003 (or 2004) when he leaked them to Risen. Indeed, the government pointed to Sterling's presence at that debriefing of which they claim no record was ever made as proof that he is one of the only people who could have leaked details like the times and that Merlin wrapped his nuclear blueprints in newspaper.

No. I don't find that explanation credible either.

Bob S must have had conflicting motives with regards to Merlin's report in his trip, because if a report existed, then it would offer further proof than the cables he wrote already do that he lied blatantly by suppressing how big of a clusterfuck the operation was. But he clearly wanted Sterling convicted. He offered one hint that might serve both motives.

Bob S claimed that Sterling spoke to Merlin before he arrived for the March 9 meeting. "Sterling told me he had heard something and the news was good; I don't know what had happened, but I do recall that things had gone well." When asked on cross why Sterling hadn't documented that in a cable, Bob S explained that it didn't need to be documented "because they had a meeting later that day." Had an extensive conversation between Sterling and Merlin actually occurred, it would have presented an opportunity for Sterling to document the events outside the gaze of Bob S.

Merlin offered up a different story for how Sterling might have recorded details from the debriefing that don't appear in the cables Bob S

wrote: that Sterling recorded the conversation (though this was close to the end of the deposition, and I think this may have been partly fatigue, partly Oxycontin, and only partly an attempt to make his story implicate Sterling).

MacMahon: Okay. When you just talked about what happened in Vienna, you told the FBI that Mr. Sterling didn't take any notes, right?

Merlin: I cannot recall such details.

MacMahon: Okay. But you don't recall Mr. Sterling taping your conversation, right? There wasn't a tape deck sitting there, was there?

Merlin: I don't know. He always came with a big bag.

MacMahon: So he – you never saw, you never saw Mr. Sterling with a tape deck recording any of your conversations, right?

Merlin: I believe so I, I did see him.

MacMahon: You think you did?

Merlin: I did see him–

MacMahon: You did see him do –

Merlin: –with recorder.

MacMahon: Where was the recorder?

Merlin: I didn't see it; I told you.

Again, I think Merlin's attempt to claim that Sterling had recorded this conversation stems from a variety of issues. But the prosecution tried to get the court to alter the transcript to have Merlin claim he didn't see Sterling tape him. The court reviewed the transcript and deemed this version correct.

All that said, Merlin was a lot squishier about whether he wrote a report than Bob S was (see

this post for how Merlin's verbal dodges match up with known facts in the case).

Mac: How many meetings did you have with Bob when you came back from Vienna in which you discussed what transpired in Vienna?

Merlin: Maybe just one.

Mac: Just one.

Merlin: Um-hum.

Mac: And how many meetings did you have with Jeff when he came – when you came back from Vienna in which you discussed what transpired in Vienna?

Merlin: I don't remember.

Mac: You didn't write a written report for them as to what happened, correct?

Merlin: It seems –

Mac: Do you remember?

Merlin: Are you waiting for me?

MacMahon: Yes, sir. I'm sorry, if you answered, I missed it. Did you provide a written report for the CIA as to what happened when you were in Vienna?

Merlin: I cannot recall.

MacMahon: And you recall telling the FBI that when – at your meeting with Mr. Sterling after you got back, that he took very few notes?

Merlin: Who took notes?

Now to be fair, this, too, could be Merlin's fatigue and pain-killers. Still, given how Merlin's other memory lapses coordinate with answers that in fact were true, this testimony suggests that Merlin may actually have written a report after all. (And note, MacMahon got Merlin to confirm that it was his 2006 FBI interview –

the one in which Merlin's story seems to have changed in remarkably parallel ways to how Bob S' story did – where he first explained he had not written a trip report.)

Which brings us to the big problem with Merlin's claim not to have written a trip report.

His pictures.

As even shows up in Bob S' first Mission Accomplished cable (Exhibit 44), Merlin "on his own initiative, [] took a series of photographs of the [Iranian mission] building, entrance way, mission door, and the locked mailbox, and presented these to C/O's."

Merlin, who claims he didn't bring a copy of the final letter back to the US with him because he worried if he was caught he'd go to prison, nevertheless brought back photos from the Iranian IAEA mission. Merlin, who claims he didn't write a trip report after he returned safely to the US, nevertheless took photos as proof that he had done what CIA ordered him to do.

It's rather unlikely that Merlin would have – on his own accord – taken and brought back these pictures, but not done a trip report for the CIA.

And with that in mind, consider what Merlin says happened to those pictures: either Sterling or Bob S handed them back to Merlin and asked him to destroy them.

Merlin: Yeah, I brought a photo to show.

[snip]

Merlin: I believe they returned the photo to me.

MacMahon: Excuse me?

Merlin: They returned this photo to me.

MacMahon: So the photos was returned to you?

Merlin: Um-hum.

MacMahon: Do you remember telling the FBI that you actually destroyed all those pictures because they weren't needed?

Merlin: I couldn't find it.

MacMahon: Do you remember telling the FBI that you destroyed those photos because they weren't needed?

Merlin: Maybe, but I couldn't find it actually.

MacMahon: And do you remember telling the FBI that you gave the photographs to Bob or Jeffrey?

Merlin: It was both of them. They – both of them can confirm they saw it.

MacMahon: And it's your testimony that, that one of them gave you the pictures back and you destroyed them?

Merlin: Yeah, most likely. I don't – I didn't get it.

“Yeah, most likely. I don't – I didn't get it.”

Now, Bob S, in his testimony, seems to have suggested that those photographs weren't destroyed, but were instead left in the NY office. Merlin, however, says he was told by his case officer(s) to destroy the evidence he brought back from his trip (which would, probably, show how insecurely Merlin had left the blueprints that CIA had spent \$1.5 million having the national lab make, wrapped in their newspaper and sticking out of a locked mail slot). But Merlin said he couldn't find the photos to destroy when he tried to.

If Merlin's photos logically suggest that he also wrote a trip report for the CIA, I would suggest it may have met a similarly confused state, particularly if the existence of it – with details about the times he showed up to the

Iranian mission but didn't knock on the door, descriptions of what he really did with the letter to Iran, and details on actions he took that would have implicated the CIA in his operation – became inconvenient for cheerleaders about the operation.

And neither Sterling nor Bob S would have an incentive to admit it once existed. For Sterling, it would provide yet more evidence he had access to the information leaked to James Risen. For Bob S, it would prove he lied about the operation (and, possibly after he learned a leak investigation had started, had evidence destroyed).

In a just world, the government would have spent its time investigating what appears to be destruction of evidence – yet more obstruction of justice by the CIA – rather than prosecuting a 12 year old leak. But this is EDVA we're talking about. And ignoring curiously missing evidence is all in a day's work for them.

THE MERLIN OPERATION: BOB S' 70% THINKING

When he cross-examined the Merlin Operation manager Bob S at Jeffrey Sterling's trial, defense attorney Barry Pollock asked whether Bob S thought he was doing 70% of the thinking on the operation. When Bob S denied that, Pollock reminded Bob S of his February 28, 2006 FBI testimony, where he had said he was doing 70% of the thinking to Sterling's 30%. "This was shortly after publication of book that revealed the whole operation," Bob S explained his earlier comment. "I was being ungenerous."

Similarly, when he cross-examined Merlin himself, defense attorney Edward MacMahon asked

whether he had told the FBI in March 2006 that Sterling (whom elsewhere Merlin called “lazy” and “irresponsible” while denying earlier statements he had made about Sterling’s race) was just a middleman between Merlin and Bob S who helped prepare the letters Merlin would send out to Iran.

MacMahon: You, you told the FBI that Sterling merely acted as a middleman – and this is in 2006 – as a middleman between you and Bob to prepare letters to be included in the package of technical documents, right?

Merlin: Some kind of, yes?

MacMahon: So the person that was making the final say as to what went in any letter you sent as far as you knew was Bob, right?

Merlin: I, I don’t know what is hierarchical.

I raise these comments – both apparently made only *after* the publication of Risen’s book – because of some oddities in the CIA cables documenting the operation.

Bob S’ 70%

To some degree, the cables that cover the period when Sterling handled Merlin do make it clear the degree to which Bob S was running this operation, and Sterling was just holding Merlin’s hand as he tried to reach out to Iranians.

Over the period in question (the first meeting when Sterling met alone with Merlin was January 12, 1999; he handed over Merlin to Stephen Y on May 24, 2000 (though it appears Bob S had already excluded Sterling from at least one meeting, as noted below), most of the cables written by Sterling deal with the tedium of Merlin’s pay and include – always verbatim – Merlin’s correspondence with the Iranians.

Sterling's cables often ask for input from Langley on Merlin's drafts; he expresses some concern about the lag during spring 1999 when CIA was getting export control approval for the program.

Then, in the May 13, 1999 cable (Exhibit 24), as Merlin seems to be getting more interest from Iranian Institution 4 (in spite of his having sent his resume and business proposition letter separately), Sterling notes that Bob S will need to inform Merlin where the program heads from here. "[M] should expect a visit from Mr. S who will provide an update on the definite direction of the project. [M] understands that there are aspects of the project that require certain approvals beyond the purview of C/O."

The next cable (Exhibit 25) describes the May 25, 1999 meeting at which Bob S, with Sterling in attendance, told Merlin that the target of this operation would be Iranian Subject 1. This plan actually dated back to December 18, 1998 (Exhibit 16). In that cable, Bob S referenced a November 20, 1998 cable (not included as an exhibit nor apparently turned over to FBI as evidence) that apparently described IS1's "new public position" for which he would be "arriving in Vienna in Mid-December to assume his new duties" (one of Bob S' later cables would identify IS1 as the Mission Manager in Vienna). But it wasn't until May of the following year when Bob S (and not Sterling) instructed Merlin that he should start finding ways to reach out to IS1. Note, one paragraph of that cable – following on a discussion of IS1 – is redacted.

At the next meeting – on June 17, 1999 (Exhibit 27) – Merlin told Sterling that he was having problems locating IS1, though some of this discussion is redacted.

Then, in spite of the indication that Sterling had tentatively scheduled a meeting for July 5, 1999, we see no further meeting reports until November 5, 1999. (Though on July 23, 1999, someone applied for reauthorization to use Merlin as an asset; Exhibit 29.) It appears

that only one cable from this period, which would have been numbered C2975-2976, was turned over during the investigation but not entered into evidence, if the Bates numbers on the cables are any indication. Given the report in the 11/5/1999 cable that Merlin had gone AWOL, it's likely things were already going south between him and Sterling. From that period forward, Bob S either soloed or attended most meetings with Sterling and Merlin, with one very notable exception.

The exception was the January 10, 2000 meeting (Exhibit 35) at which Sterling informed Merlin CIA would withhold money Merlin believed – rightly, it appears – he was owed. Given that Sterling had already (on November 18, 1999) unsuccessfully requested a transfer out of NY, where he believed he was being harassed for his race, it's hard not to wonder whether they deliberately sent Sterling out to deliver the bad news, anticipating they'd soon be giving Merlin a new case officer within short order anyway.

All of that is to say that, in spite of the several ways that Sterling appears to have managed Merlin with more professionalism than his prior case officer and arguably even than Bob S, Bob S was running the show, which includes making key decisions and at key moments, dictating how the reporting on the operation appeared.

Two versions of November 18, 1999

To see how this manifested, it's worth comparing the two cables recording (in part or in whole) the November 18, 1999 meeting between Bob S, Sterling, and Merlin.

The first version (Exhibit 31), written on November 24 by Bob S from Langley and addressed to NY and Vienna – Office #5 – for information, appears under the heading “Iranian Subject 1 is in Vienna” and references a cable from Vienna

(this cable, too, appears not to have been turned over as evidence). As such, the cable describes the results of the meeting with Merlin in context of the arrival of IS1 in Vienna, using the "good news" offered by Merlin as an opportunity to flesh out the plan for the blueprint hand off in Vienna. Presumably, paragraph 2 of the cable (which is redacted) lays out the news on IS1's presence in Vienna. Bob S then presents all the good news involving Merlin in that context with a flourish.

During an 18 November Meeting with [M] Officer [Jeffrey Sterling] and HQS CPD Officer [Mr. S.], [M] provided two pieces of good news. The first was that he has obtained a new [Country A] passport (which he showed C/O's) and will soon apply for an Austrian visa. His possession of a Green Card should facilitate the issuance of the latter. The second and more significant development was an e-mail dated 7 November which [M] had received from [Iranian Institution 1] Professor [Iranian Subject 2 IS2]. [IS2] said he had been going through old e-mails and found a 1998 message from [M]. He asked [M] to respond and provide more information about himself. [M] did so in a generic fashion. This contact from [IS2] provides an excellent opportunity to ease [M]'s (and his disinformation packet's) way in to [Iranian Subject 1 (IS1)] who until recently was also [at Iranian Institution 1] and is still featured on its website.

He then goes on to lay out what he presents as a plan crafted with the help of folks at HQ and Sterling (remember, this was written from Langley, not NY). That plan includes recognition that Merlin is "no one's idea of a clandestine operative;" to compensate for that, Bob S envisions (resources willing) a Sterling trip to Vienna so he can help provide clear instructions

to Merlin as well as Mrs. Merlin traveling to Vienna with the scientist because she was instrumental in his cooperation with the CIA in the first place and is a calming influence.

4) Shortly before he prepares to launch in Vienna (see below RE timing and mechanics) we will have [M] advise [IS2] via e-mail that he is going on vacation in Vienna with his wife and will stop by the Iranian IAEA Mission there with a packet of interesting information for [IS2], asking IS2 to alert the mission to expect [M]. When he shows up at the mission, [M] will have the packet containing the [CP1] disinformation in an envelope addressed to [IS2] and will ask to see [IS1] to make sure the package gets delivered to the right man. [IS1] is likely to acknowledge that he too is from [Iranian Institution 1] and that he knows [IS2]. This will let [M] plant his story (of repeated efforts to find a receptive audience in Iran) more firmly and give the Iranians a chance to see that [M] is indeed a Russian and a nuclear weapons veteran. Even if [IS1] does not see [M] presenting a package with a known addressee at a prestigious Iranian [redacted] institution can only help advance our plan to have the information taken seriously.

5) Per discussion at HQS and with [Sterling], we believe it best to send [M] to Vienna with his wife in early January (after the Austrian Christmas pause and the Islamic holiday of Ramadan, which begins on 9 December and ends on 8 January) to make the approach to [IS1]. *His wife, [Mrs M], was instrumental in getting him to cooperate with [CIA] in the first place and is a definite calming influence on him.* [M] is no one's idea of a clandestine operative and we believe it wiser to refrain from meeting him while he is in

Vienna. That said, he needs to be thoroughly prepared. One option – contingent on available resources – would be for [Mr S] and [Sterling to] visit Vienna during the first week of the New Year [redacted] so he can given the rather differently-oriented [M] as much concrete detail about where he has to go and what he has to do as possible.
[1 line redacted]

Spoiler alert: while Mrs. Merlin did travel to Vienna with her husband (and probably had a big role in even getting him to go and – my suspicion is – had a role in the operational security measures Merlin took which helped doom the operation, though neither she nor the CIA would ever admit that), Sterling never did make the trip, and Bob S' instructions – which Bob S' habit of flourish aside were probably also deficient because he was too familiar with the city – ended up being one of the problems with the trip. It's worth mentioning, too, that according to Bob S' testimony, he made several trips to case out Iran's IAEA mission in the months leading up to the operation and one of his cables describes having done so too.

Now compare Bob S' cable with Sterling's (Exhibit 31), written on December 1, 1999, a week after Bob S' cable and 12 days after the actual meeting (it's probably worth noting that on the very same day this meeting took place, Sterling asked for a transfer out of CIA's New York office, and within 5 days his boss was scolding him for having done so), and addressed to Langley and – like Bob S' cable – Vienna, for information.

Sterling saves his enthusiasm over the outreach to Merlin from IS2 for his last paragraph.

Feel this is a fortuitous turn of events for the operation, as a preliminary thought, the contact from [IS2] can be exploited to either provide another person to present the material to, or

somehow utilize this contact to provide a more definite entree to [IS1] for [M].

Curiously, that paragraph seemed to show little awareness of Bob S' extensive plans for how to exploit the IS2 contact to provide "a more definite entree to IS1," even though Sterling references the cable Bob S wrote.

Aside from the first, action, paragraph in Sterling's cable (which is redacted), the sole apparent explanation for why he wrote a cable after Bob S had already written one reporting all the same news from the meeting as Sterling would seem to be the inclusion of the verbatim content of the outreach from IS2.

During the meeting, [M] mentioned that he had received the following email from [Iranian Subject 2 (IS2)] from [Iranian Institution 1] dated 7 Nov:

Dear [M]

I was reviewing my old mails. I found you last year email. I want to know more about you. Could you let me have more information regarding your work, your hobby, your interest, etc?

Regards,

[Iranian Subject 2]

[IS2]'s email address is [redacted]

It's not surprising Sterling included the verbatim email – he always did that in cables he wrote solo. It's just rather curious that Sterling submitted his "preliminary thoughts" – along with the verbatim language – so long after Bob S had rolled out his plan.

Prelude to a clusterfuck

The next cable (Exhibit 33), dated December 16, 1999 and describing the December 14 meeting between Sterling, Merlin, and Bob S,

reflects continued uncertainty about how to get Merlin to Vienna in such a way that he didn't screw up the operation. "[M] has and will be provided with enough information so that any concerns he will have about finding the building should be alleviated," the cable optimistically predicted. At that point, however, it wasn't getting lost that had Merlin worried. It was that his wife would find out what he had been up to (though she almost certainly already knew).

When asked, [M] expressed as his main concern actually carrying the documents on his person when he travels to Vienna. [M]'s preference is that his wife ([Mrs. M]) not know any specifics about his work for the CIA. He feels certain that she will discover the package and have many questions that he would prefer not to have to answer.

Note that the action paragraph of this cable is redacted.

By the following meeting, the ill-fated January 10, 2000 meeting documented in a January 12 cable (Exhibit 35), however, Merlin had resolved these concerns. When Sterling said that CIA would arrange to have someone meet him with the blueprints, Merlin explained that was no longer necessary.

[M] said that the situation has changed and that he can now take the package. [M] explained to his wife that he has to deliver some materials while they are in Vienna. He did not give her any further explanation. [M] said the reason he decided to tell his wife was that he thought it might be too risky to have someone meet him in Vienna, so he felt it more secure to handle the package himself. [M] said the he has not apprehensions about being in Vienna alone, but that he would like to have an emergency contact number just in case.

At the same meeting, Merlin and Sterling discussed two other aspects of the drop-off that would be significant. First, that “the best way will be for [M] to simply drop the package off and then depart the mission without any lengthy discussion with Iranian officials.” And also, “the possibility of two letters being included with the package,” the second of which would be a hand-written note to IS1 telling him how important the materials in the main package, addressed to IS2, were.

So after having talked to his wife about delivering sensitive materials in Vienna – but he didn’t provide any more details, promise! – the following discussions, which would each contribute to the Vienna clusterfuck, began:

- Merlin would carry the packet; in the process, he would take out (and, according to one of his stories, never put back in) the names of certain nuclear devices
- Because he carried the packet, he was able to bring the letter on disk (hidden among 19 other disks), meaning he could destroy the disk without ever giving CIA a final version of what he included
- Merlin would bring Bob S’ cell phone number as an emergency backup, which he would use to place a call from his hotel phone, only to be instructed to follow the directions he already had

- Merlin may have taken the permission to simply drop off the package without lengthy discussion and turned it into dropping off the package with no discussion
- Merlin combined that permission to just drop the document with the discussion of a second, hand-written note to justify leaving a significantly different hand-written note, the content of which the CIA *also* cannot be sure of

The only other step Merlin is known to have taken that screwed up this operation – refusing to leave his PO Box for follow-up content – had been in the works since the previous summer, when he had started to do the same with those letters.

In other words, Merlin talked to his wife – but he didn't provide any details! – and then proceeded to implement the steps that in his mind he needed to do to protect himself and his family even while potentially implicating the CIA directly in the drop-off, while ruining several of the operational goals for this operation.

And he proceeded from adopting those steps to launching the first of two refusals to do the operation without getting paid more (in each instance, Merlin would apologize via phone the following day and say he would do the operation, a capitulation Bob S attributed to Merlin's wife in his testimony).

Also in this meeting – which took place 7 weeks before Merlin left for Vienna – Sterling and Merlin worked on the fifth iteration of the

letter, which Sterling included verbatim in this cable. I'll return to that in a follow-up post.

Because Merlin launched his payment strike (for which Bob S apologized to Sterling in a January 14, 2000 cable), Bob S was forced to come to NY to try to appease Merlin. He did so for a February 17, 2000 meeting, detailed in a February 17, 2000 cable (Exhibit 37) written from Langley and addressed to NY, Vienna for Info, and CIA offices 7 and 8 (the liaison services of which CIA would later ask to track any signs of response from Iran; because of that one is likely to be Tel Aviv). In that meeting, too, Merlin walked out because of his payment dispute. In that cable, Bob S described what would happen if, on a follow-up visit, he deemed Merlin prepared for the operation. It includes the instruction that "we will need a full and detailed report of his visit and reception." Bob S' cable documenting that February 21 follow-up meeting – a February 22, 2000 cable (Exhibit 38) – described his judgment (Sterling did not attend this last meeting) that Merlin was prepared. "[Merlin] and the information he is carrying have been exhaustively prepared," Bob S alone judged, "and now it is up to luck and the Iranian reaction."

Bob S' two version of Mission Accomplished

I've already written about the two different versions of Mission Accomplished cables that Bob sent and will write at more length in a follow-up post. For the purposes of this post, however, it's important that Sterling wrote neither of them even though he attended the March 9, 2000 meeting at which Merlin described his trip, though Bob S claimed in his testimony that Sterling "may have been sitting at the next terminal" when he wrote the first of them. For the purposes of this post, however, it's worth noting what Bob S did and did not include.

Bob S' March 10, 2000 cable addressed internally (Exhibit 44) did admit:

- Merlin called Bob S' cell phone from his hotel room phone
- Bob S' details included some errors (here described as mis-counting the number of steps leading into the Iranian mission building)
- Merlin showed up one day while people were in the mission without going inside (purportedly because he didn't have the packet)
- Merlin left the packet without speaking to anyone
- Merlin took photographs of the mission

But the unredacted parts of that cable (the action paragraph and one more are redacted) did not admit details that are now part of CIA's operative story (though may not all be true):

- CIA reportedly has no record of what Merlin left, neither in the computer printed nor the hand-written note, in part because he destroyed the disk on which he had written the former
- Merlin did not include his PO Box, as instructed, for further contact
- Merlin may have substituted "Device 1" for the actual names for key devices in the schemes
- Merlin did not write a

report, as instructed

Bob S' March 13, 2000 cable (Exhibit 3) included a tearline intended for "local intelligence services" in 3 overseas locations (which I take to mean Israel's and two other countries' intelligence services were the target audience). In addition to the other things Bob S suppressed in his March 10 cable, he:

- Falsely implied Merlin had included his PO Box for further contact
- Hid that Merlin had been at the Iranian mission on one day when people were present
- Made no mention Merlin had called Bob S from his hotel room
- Made no mention of Merlin's claimed difficulties finding the mission
- Hid that there were two separate letters – the handwritten one and the computer print out one

The point, of course, is that in cables Bob S wrote immediately after debriefing Merlin after the operation, he was being less than fully truthful, both to liaison partners, but even for internal reporting, about a number of the ways that Merlin had blown off his instructions.

Bypassing Sterling

Then there's the most curious cable from the consideration of Bob S running an operation on which Sterling was just a (per Merlin) "middleman." On May 24, 2000, Sterling handed over managing Merlin to Stephen Y (Exhibit 47). Before then, on April 5, 2000 (Exhibit 45), Merlin "was met" (note the passive voice, which

seems to violate CIA's protocol for cable writing, which puts the details about meeting attendees in the second paragraph) to see if he was interested in participating in a similar operation, only targeting a different country which was almost certainly Iraq. The cable – written in NY, addressed to Langley (for information) as well as Vienna and the same three CIA offices where the CIA was seeking liaison help tracking the Iranian op, and apparently written in Bob S' fluffy style – describes Bob S making the ask. But then it describes case officers, plural, being “glad that [Merlin] posed no objection to a rather more adventurous extension of the current operation.”

By all appearances, even before Sterling handed over Merlin to his successor, Bob S was holding meetings with Merlin without Sterling's involvement (and this is consistent with trial testimony that seemed to suggest that Sterling would suspect but not know of the other countries involved, as indicated by Risen's book).

Bob S got Sterling to hold Merlin's hand through a disastrous delivery of one set of nuclear blueprints, and even though Bob S admitted – in a highly self-serving cable – Merlin's “inability to follow even the simplest and most explicit direction,” Bob S was asking Merlin, outside Sterling's presence, to approach (probably) Iraq a month later.

The late admission of Bob S' 70% thinking

After Merlin's 2003 interview with the FBI, he told them he would tell Bob S if he remembered any other details about Sterling. Bob S was still managing the Merlins in 2006 when he met with them twice about Merlin's book. And in 2006 – but not, apparently, in 2003 or 2010, when both had at least one other interview with the FBI – Bob S and Merlin were both telling a story about how minor Sterling's role in the operation

was.

Both denied having done so in their sworn trial testimony.

Perhaps they did so – Bob S did so – because of his fairly transparent efforts to include others in any blame for this clusterfuck, implicating both Sterling and the “Generals” he said who had approved every step of the operation, in his extended effort to use the trial to prove this wasn’t a clusterfuck.

But the claims, in 2006, that Sterling wasn’t all that involved make me wonder whether Bob S was prepping a claim that Sterling wouldn’t know precisely what the operation was about given that he was doing just 30% of the thinking on the operation.

Update

First, here’s the working document I used for this post. It includes three things: A side-by-side comparison of the two cables describing the November 18, 1999 meeting, a side-by-side comparison of Bob S’ two Mission Accomplished cables, and a list of all the cables from when Sterling managed Merlin. As part of the latter, I tracked the Bates numbering of cables. Each cable should have a Secret cover-sheet not included. Thus, I surmise that any 4-Bates number gap includes a 3-page cable (cover sheet plus two pages of content) plus the cover sheet for the next cable. The most significant detail from the Bates numbering is that the second Mission Accomplished cable comes from a different part of what appears to be CIA production (C115-116 as opposed to C2991-2992). That may mean it was found in someone else’s hard copy collection; the rest likely come from Bob S or CPD, though the cable gap in the series may reflect that same cable. There’s likely nothing interesting in the missing cables; after all, if there were something interesting, the defense could have submitted it, as they did the second Mission Accomplished cable.

Second, there's a line that has stuck in my mind since writing this post. In Bob S' cable describing the last meeting with Merlin before the Vienna trip (Exhibit 38), he writes, "Perhaps characteristically, [M] had misplaced the e-mail address of [Iranian Subject 2] and [Bob S] provided it again along with instructions to send off a brief notice telling [IS2] of his plans to deliver an important packet to the mission in Vienna." First, while Merlin was flaky about a lot of things, there's no evidence he was flaky about losing emails (though this may have reflected Merlin's efforts to avoid more personalized contact). Also note Bob S says he "provided" the email "again." I can't think of when he would have provided it before (unless it was back in 1998), at least per the operative story.

Then, in his first Mission Accomplished email (Exhibit 44), Bob S says he and Sterling "directed him to send a follow-up e-mail to [IS2 at Iranian Institution 1] informing him that he had dropped off an important packet of information in Vienna and asking [IS2] to confirm its receipt." In his second Mission Accomplished email (Exhibit 3), Bob S claims "the asset e-mailed the professor before and after the Vienna trip to alert him to expect a packet of valuable information." The thing is, because Sterling (who was very good about recording such things) stopped writing the cables, we have no way of knowing whether Merlin ever got a response from IS2 after his "generic" response to IS2's initial November 7 email before the November 18 meeting. A January 14 Bob S cable (Exhibit 36) reflects the instructions that Merlin should send both an email and a letter, but there's no record they reminded Merlin of that at the February 14 meeting and Bob S had to reiterate the instruction to send an email at his February 21 meeting. And there's no indication that Merlin had sent one between the March 10 and March 13 cables. In other words, we have no cable record of Merlin having emailed before and after, as Bob S claims in his cable. Thus, it's possible the tie with IS2 was

even sketchier than it seems (and certainly, Merlin never got any confirmation from IS2, which suggests he never heard back from him).

Finally, particularly given his varying claims about Sterling's actions, it's worth noting two aspects of Bob S' relationship with Sterling. First, there's a dispute about what Bob S said when he took Sterling aside to deal with the concerns Sterling raised about Merlin's initial reaction to the nuclear blueprint. In his testimony, Bob S said Sterling was "taken aback" by Merlin's response. But after much effort to deny it, Merlin testified that Bob S "did tell Jeff to shut up in this discussion." Nevertheless, when asked this on cross, Bob S specifically denied "telling him to shut up."

Then, during cross-examination but in response to questions from Judge Brinkema, Bob S admitted that Sterling had told him "a handful" of times in 1999 that he had been treated unfairly because of his race. In response to Sterling telling him of this, Bob S told Sterling "he needed to do his job and not worry about it." This almost certainly would have been around the time of the November 18, 1999 meeting. None of that means Bob S had it in for Sterling. But it does suggest he was entirely unsympathetic to both his operational and professional concerns.

Update

On review I realize Merlin told the FBI in 2006 – the same year both he and Bob S said Sterling was more tangential to this operation – that "the details of this operation were a wild forest to Sterling."

MERLIN'S TESTIMONY: "IT'S LIE," "I DON'T REMEMBER," AND "I DON'T KNOW"

I've finally gotten a hold of the transcript for Merlin's testimony in the Jeffrey Sterling trial (working on getting something I can post; he was apparently difficult to understand, in any case, so not even people present understood all this).

Reading it, it's clear why the government has claimed, going back to 2011, that Merlin's imminent death from cancer meant he should not testify. I don't dismiss the gravity of his health problems (and also note that he is apparently on pain killers, including Oxycontin, which may have affected his testimony here). But he was a terrible witness, and pretty clearly lying on a great number of accounts.

But I'm interested in specifically *how* he denied things that appear either in James Risen's book or in CIA cables.

It's lie

About two things, Merlin was adamant. The first is the same thing that really elicited the Merlins' ire when they read Risen's book: the report that they were defectors.

Trump: It says you defected to the United States. Is that accurate?

Merlin: It's lie.

Note, given the timing and the claim that Merlin might have been involved with the Soviet Union's 1980s-era nukes, I entertain the possibility that they defected to some *other* country before moving to the US in the early 1990s. That's true, especially, because when Merlin got his passport renewed in 1999, he did so from a

country the name of which got substituted (meaning it probably wasn't Russia; the original appears to be 9 characters long, so Ukrainian is a possibility), though it could just be a successor state. Whatever the case, the timing of the Merlins' arrival in the US and their certainty with which the government repeatedly said they did not defect convince me that Merlin is correct here: they were not defectors.

Similarly, Merlin is equally adamant that the description in Risen's book that Merlin tried to warn the Iranians of "flaws" in the blueprints he handed them was not true.

Trump: In paragraph 64, the book represents on page 205 that the letter was warning the Iranians as carefully as you could that there was a flaw somewhere in the blueprints. ... Was that the purpose of the letter?

Merlin: It's, it's lie. [Later] I don't see flaws here. It was just incomplete information.

While it's certainly true that Merlin's and the government's understanding of the significance of the incomplete information in the blueprints was very different – elsewhere Merlin claimed that a real fireset schematic was “100 times more complicated than it was shown in drawing and the schematics” – it is also true that Merlin appears not to have known about the deliberate flaws US scientists put in the blueprints. So he is correct that the representation in Risen's book is incorrect on that point.

I don't remember

Then there are a series of questions about which Merlin likely feels some shame, about which he professed not to remember the correct answer. One of those topics pertained to whether his wife also spied (note, Merlin and the CIA both are almost certainly lying about how much Mrs.

Merlin knew about this operation).

Trump: Did your wife at the time also agree to cooperate with the CIA?

Merlin: No.

Trump: Did she eventually?

Merlin: She didn't know anything about it.

Trump: She didn't know anything about what you did, is that correct?

Merlin: Yes.

Trump: But she was interviewed from time to time by the CIA as well?

Merlin: I don't remember. Probably.

Merlin's wife remained on the CIA payroll after he claims he stopped getting paid. Surely he knows that. But he'd prefer not to admit it.

Another of the topics about which Merlin forgot the correct answer came in response to a defense question about whether he ever used his American PO Box in communications with Iranians.

MacMahon: Did you testify earlier today that in all of your communications with the people, the Iranian institutions or otherwise, that you, you didn't use any kind of an American address in any of those documents?

Merlin: I don't remember.

Now, it's possible Merlin's earlier answer on whether he had used his PO Box on correspondence with Iran is correct: that is, it may be that he always ignored CIA's orders to do so, and CIA simply never found out about it (perhaps in part because the case officer before Sterling did not track that correspondence as closely as Sterling did). But the CIA record shows that he first started balking about using his actual geographic location about a year before going to

Vienna, but before that had publicly used his PO Box.

I don't know

Then there are a series of questions where Merlin clearly either had forgotten key details, or wanted to avoid admitting the truth. For example, when asked by prosecutor Jim Trump (who had met with Merlin before this deposition to go over it) whether this was a rogue operation, Merlin first offered up that it was a “brilliant” operation (elsewhere he took credit for Iran not have gotten nukes since 2000). But when asked a question to which the answer is clearly yes – whether it took significant persuading for Merlin to complete this operation – he claimed he didn't know.

Trump: It states that prior – prior to your trip to Vienna now is what is being discussed here. “It had taken a lot of persuading by his CIA case officer to convince him to go through what appeared to be a rogue operation.” Is that accurate?

Merlin: It was not rogue operation at all. It was brilliant, brilliant operation.

Trump: Did it take a lot of persuading by you – excuse me, by your case officer to go through with the operation?

Merlin: I don't know.

Merlin walked out of the meeting on final preparations, after having walked out of the meeting prior. That wasn't, apparently, because Merlin cared whether this was rogue or not, but because he thought the risk to him was too great for the money he was being paid. But the answer to whether it did take persuading should have been yes.

Just as interesting, when Merlin was asked by defense attorney Edward MacMahon whether he had

ever before this deposition told the FBI or CIA he had destroyed the disk on which the final version of the letter to the Iranians, he said he didn't know.

MacMahon: The first time you—you were, you were asked questions over, over a space of many years, and you never told the FBI at all that you had destroyed the disk that you took to Vienna, did you?

Merlin: I don't know, but there was, was no reason to bring it back. It just put myself in additional danger to have such disk in possession. If somebody stop me and read this disk, I'm in trouble.

MacMahon: Okay. But you didn't tell the FBI, you didn't tell anybody until today as a matter of fact that that's what your story was as to what you did with the disk in Vienna, correct?

Merlin: I don't know, but again, it was no reason to keep this disk when action was, operation was accomplished, and no reason to keep it as a drawing, as letter, as whatever.

The answer is clearly no, but Merlin doesn't want to admit that for some reason (I'll return to the significance of this question in a future post).

In a related vein, Merlin went to some lengths to avoid confirming some things he had told Agent Hunt in 2003 (importantly, before anyone knew what Risen would eventually write about the Vienna trip, including that Merlin wrote his own letter at the end). He professed not to know that he wrote letter in defiance of his orders from Bob S (he had, in fact, discussed doing such a thing with Sterling, but as Merlin confirmed elsewhere, Bob was in charge of the operation), and in doing so, provided the Iranians specific information about what they were getting in the blueprints.

MacMahon: Do you remember in 2003 telling the FBI, Agent Hunt specifically, that the recipient, that the – and I’ll read it to you: “When asked if he could recall the content of the note, he advised that he informed the recipient that the enclosed material was 90 percent complete.”

Merlin: I don’t know. It’s strange.

MacMahon: You don’t remember that?

Merlin: I don’t know.

[snip]

MacMahon: Did Bob tell you to deliver a handwritten note with the package?

Merlin: No.

MacMahon: And Jeff Sterling didn’t tell you to do that, either, right?

Merlin: No.

MacMahon: And did that note say – was it the handwritten note – do you remember the content of the handwritten note?

Merlin: I told you already it was just statement: “I couldn’t reach you. Nobody was there. I’m leaving the package. There’s valuable information in it.”

MacMahon: Okay. And so when it said – when you told the FBI in July of 2003 that part of the content of the note was that the enclosed material was 90 percent complete, that wasn’t in the handwritten note, either, right?

Merlin: I don’t know what you’re talking about.

I had to protect my family

That Merlin is not remembering inconsistencies with his past admissions that go to the core of whether Risen’s book is largely on point about

the clusterfuck of the operation is particularly interesting when, presented with the way in which some of these very same actions diverged from instructions in other questions, Merlin aggressively defended them as necessary to protect his family.

MacMahon: What you wanted to do was to leave an e-mail address, correct?

Merlin: Yeah.

MacMahon: And that's what you did when you were in Vienna. You left a note that contained an e-mail address but didn't attach any kind of contact information for you personally in the United States, correct?

Merlin: Correct.

MacMahon: All right. And that was not what you were told to do, was it?

Merlin: But it was my protection.

MacMahon: But it wasn't what you were told to do, correct?

Merlin: I would say yes.

[snip]

MacMahon: Do you remember being told to put an address for your – in the United States for yourself in the package that you delivered in Vienna?

Merlin: I believe it could be more trustful if I represented like Russian scientist than scientist living, living in the United States. Nobody likes United States in the world.

[snip]

Mac: Did—before you left for Vienna, your last meeting was with Bob, wasn't it?

Merlin: I don't remember. I believe it was Jeff.

[snip]

Mac: Is it your recollection that any of those meetings, that you were told by either Bob or Jeff, Jeffrey Sterling, not to include an American address in your letter that you were going to give to the Iranians with the plans for a nuclear weapon?

Merlin: I offer it, but I'm not stupid. I can put in danger my family.

It's the same answer that Merlin dodged elsewhere – that he deliberately ignored the clear instructions Bob S had given (here, as elsewhere, he falsely blames Sterling for stuff the cable record clearly shows Bob S did, but I suspect that is the way he remembers instructions he hated). These are precisely the actions Merlin took that made this operation a clusterfuck. But whereas when asked in the context of whether that made the operation a failure (and the book an accurate portrayal of why it was a failure), Merlin claimed not to remember, his memory instantly and aggressively returned when presented an opportunity to defend his own actions from an operational security standpoint.

As I noted here, the cable record suggests that when Merlin recognized how the CIA's efforts to dangle him left his identity and location exposed, he started taking his own measures to ensure his own safety (I wouldn't be surprised if that change in behavior came with the disclosure to his wife, or her discovery, of what he was up to). He's not ashamed or forgetful about those measures in the least.

He just wants to hide how directly those actions led to this operation being a laughable failure.

MERLIN WAS READING JAMES RISEN IN 1999

On March 16, 1999, Jeffrey Sterling met with Merlin, the Russian scientist Sterling was trying to get to establish ties with Iran so he could hand off a nuclear blueprint. (Exhibit 22) Merlin seemed to be getting impatient – and perhaps a little insulted – that the Iranians he was approaching weren't showing more interest in his 20 year experience as a Russian nuclear engineer. So he made an utterly bizarre suggestion.

[M] then suggested that in some of his future messages, he may make mention of the recent revelation that another country had secured nuclear secrets from the U.S. [M]'s reasoning was that others now see that it is possible to obtain nuclear secrets which can advance their programs, and that the project can build upon that supposition to entice the Iranians. [Sterling] lauded [M] for his thinking but said some thought would need to be given to such a proposition prior to [M] implementing it.

Merlin has to be referring to the stories about Wen Ho Lee which started appearing on page one of the NYT starting on March 6, 1999. (Remember, too, that Merlin lived in the NY area, so if he read this in the dead tree version – as most people still read newspapers in 1999 – he most likely read it in the NYT.)

Those stories were written by James Risen.

Which is strong evidence that Merlin was reading Risen as far back as 1999.

Merlin's suggestion – that he, a CIA asset, entice Iran to accept his Russian blueprint by

pointing out that China had allegedly jump-started its own nuclear weapon program by stealing blueprints from the US – reveals just how unclear on the concept of the operation Merlin was. After all, it had to have been suspicious enough to Iran that a Russian who had moved to the US was seeking to deal blueprints (it's unclear whether the blueprints were ultimately in English or Russian). Any suggestion that the Iranians would thereby be getting US, as opposed to Russian, technology should have alarmed them greatly.

It's also, of course, a bizarre commentary on the arc of Risen's career, that the main character in a future book of his would be monitoring nuclear developments by reading Risen. Risen, of course, managed to protect his sources in both cases, in a series that unfairly identified Wen Ho Lee as a Chinese spy and in a book that raised real questions about what our nuclear establishment was doing.

I'm still waiting for Merlin's transcript on this point, but his wife was asked whether she and her husband knew of or knew Risen. "I start to know about Jim Risen after he wrote the book," Mrs. Merlin testified on the stand in her imperfect English. She went further, asserting that her husband did not know (it's unclear whether she meant "of," or "personally") before, either. Given how much of the Wen Ho Lee story was driven by Risen between March 6 and March 16, 1999, Merlin probably had known "of" Risen for years before Risen started reporting on the operation that we now refer to by Merlin's codename.

And yet, I'm fairly certain, the fact that Merlin offered up Risen reporting to the man now convicted of having leaked to Risen, Jeffrey Sterling, 4 years before that leak began, never got mentioned at the trial.

WHAT DID DAVID SHEDD KNOW AND WHEN DID HE KNOW IT?

As I've said, I'm working on a larger post about what a shitshow the evidence entered into the Jeffrey Sterling trial showed the Merlin operation to be.



But before I do that, I want to look closely at how David Shedd's sworn testimony (which according to him, he practiced with prosecutor Jim Trump three times before appearing) contradicts a detail in one of CIA's cables, because I think it goes to the crux of CIA's efforts to spin this as a successful program.

Before I do that, let's review his background. From 1997 (just as the Merlin op started) until March 2000 (literally when the part that shows up in Risen's book ends), Shedd was the Chief of Operations in the Counterproliferation Division. From March 2000 until February 20, 2001, he was CIA's head of Congressional Affairs. Then, for over four years, he worked on proliferation issues at the National Security Council. On the stand, Shedd claimed that the NSC provided "real oversight" of intelligence. From 2005 until 2010, Shedd worked in the Office of Director of National Intelligence, ultimately as Deputy. Then he moved to the Defense Intelligence Agency, where he's now the Acting Director.

In other words, Shedd had a supervisory role

over the Merlin program until Merlin handed over the blueprints. Then, after a stint working with Congress, he helped Condi invent her mushroom clouds and was one of the people at NSC cleared into the program when, in 2003, Dr. Rice convinced NYT to kill the first Risen story.

In spite of his potential conflicts, Shedd ended up being the guy who provided a leak assessment for Chapter 9 of Risen's book for Director of National Intelligence John Negroponte in 2006 (see page 11). Curiously, two parts of that leak assessment are redacted, meaning they have nothing to do with the Iranian op (though it could relate to the other countries CIA used Merlin to deal blueprints to, or to the exposure of all CIA's Iranian sources described in the chapter).

The prosecution specifically asked Shedd how he was kept informed about the Merlin project. He said Bob S kept him informed in conversations, providing updates "as often as necessary," and that he, Shedd, might see cable traffic. He also described relying on the National Lab's assurances that the blueprints Merlin was handing over to Iran could not help their program. "As a non-specialist myself, I had to rely on those with a nuclear specialization." (Almost all the CIA witnesses involved in Merlin said something similar, and they had really bizarre views on engineering expertise, which might be one reason the program ended up being a clusterfuck.)

Having laid out that background – particularly the bit about briefing in "conversations" with Bob S (who himself testified the CIA writes everything down) – I find a series of Shedd's responses to Sterling attorney Edward MacMahon particularly interesting. "You know the nuclear blueprints were delivered in a newspaper?" MacMahon asked. "I don't know," Shedd, one time advisor to both Condi and Negroponte responded. "You don't know any details about how the blueprints were delivered?" MacMahon persisted. Merlin "had

established contact through letters, he then had a meeting with the person in Vienna,” Shedd responded.

Of course, that’s wrong.

Even according to Bob S’ favorable description of the program, Merlin didn’t meet with anyone in Vienna. He just wrapped nuclear blueprints inside a newspaper with both a computer-written and a handwritten note of quasi-explanation and left them in a mailbox, apparently having taken his PO Box for further contact *off* the letter. So why was David Shedd – who had a supervisory role over this operation (what Bob S himself called one of the “Generals” who played a key “check and balance” over the program) and then went on to brief Condi and Negroponte on it – misinformed about such a critical detail of the case?

I find Shedd’s statement particularly interesting given that he is named in one of the two cables submitted into evidence on the outcome of the operation.

On March 10, 2000, Bob S wrote a cable (Exhibit 44; he claims Sterling may have been sitting at the next terminal while he wrote it), to Langley and CIA offices 5, 7, and 8.

Having finally located the mission after several very obvious searches in the vicinity, [M] at one point noted that there was someone in the office, but on that occasion he had not brought the document package with him. When he returned on two subsequent days he found the office unoccupied and finally left the package, very clearly addressed to [Iranian subject 1], in the locked mailbox right outside the mission door.

Much of the rest of the cable described what a hash Merlin had made of his delivery in Vienna, even describing Merlin’s “inability to follow even the simplest and most explicit instruction” (Bob S did leave some damning details out, and

that assessment did not prevent Bob S from proposing the use of Merlin to do similar operations with other countries within a month).

Then, on March 13, 2000, Bob S wrote another cable (Exhibit 3) to CIA offices 9, 7, and 8, New York, and office 5 for information. Like the previous cable, it was titled "Mission Accomplished." It asked those offices for any sign of an Iranian response to the blueprints. While the cable didn't provide as much detail about what a bumbler Merlin was, it did explain,

Our asset visited the Iranian mission facility several times, but did not find any one present in the office on 2 or 3 March during his visits. He accordingly placed the packet in the locked mail box immediately adjacent to the door of the mission inside its host building at 19 Heinestrasse in Vienna's Second District.

In this paragraph and in others, there's significant spin. In this paragraph, for example, Bob S doesn't reveal that Merlin *did* show up one day to find someone in the office, but claimed at the time he didn't have the packet with him. But it does reveal a detail Shedd says he doesn't know: that Merlin never actually met with any Iranian.

Now, it's a tearline document, meaning the people in each of those offices are supposed to direct the information below the tear line in the cable to specific recipients within the office. The only thing most readers would see is an above line summary, one line of which is redacted here. But this is a document David Shedd signed off on the release of:

CL BY: ID# , CL REASON: 1.5 (D); DECL ON: X5; DRV FROM:
CABLETYPE:
>
RELNO: 000000569
ORIG: Mr. S ; AUTH: CIA Officer #14 ; REL: David Shedd
CL BY ID#
END OF MESSAGE ~~SECRET~~

Of particular note, given that Shedd may have

briefed other superiors about the program, when George Tenet talked James Risen out of reporting the story in 2003 (page 10), he said, “the Russian involved introduced himself to the Iranians [two words redacted].” Did Tenet tell Risen he introduced himself in person, as Shedd claims to have believed?

Now to be fair, one more cable Shedd signed off on (Exhibit 16) described a plan, dating to 1998, to have Merlin meet directly with the Iranians. So it’s possible Shedd simply remembers the operation as it was supposed to be, and not as Merlin’s bumbling execution carried it off.

I’m not sure what to make of the later cable, though. Perhaps Shedd never read beyond the tearline – though that would raise real questions about his level of knowledge of the operation and the “General’s” oversight over it generally. Perhaps he was on his way out of CPD and didn’t read that closely. Or maybe he didn’t sign off on the release of it at all.

But it does seem to suggest that, before Shedd left CPD, he was involved in a cable that made it clear that Merlin just left the nuclear blueprints in a mailbox. And yet the story Shedd now tells, and perhaps told Condi and Negroponte, is the story of the operation as it was meant to be, not as it was actually conducted.

WALTER PINCUS’ GREAT INTELLIGENCE WORK

Walter Pincus had a piece yesterday purporting to lay out the inaccuracies in the chapter of James Risen’s *State of War*. In it, he includes this passage.

█ In Vienna in late February 2000 to

deliver the materials to an Iranian mission to the International Atomic Energy Agency, the Russian, according to Risen's book, "unsealed the envelope with the nuclear blueprints and included a personal letter of his own to the Iranians. No matter what the CIA told him, he was going to hedge his bets. There was obviously something wrong with these blueprints – so he decided to mention that fact to the Iranians in his letter."

Risen's book reprints the letter, saying the Russian later gave the CIA a copy.

The CIA trial witnesses and agency memos tell a different story.

The agency plan always was that the schematics and drawings would have some obvious flaws – and the Russian engineer was told about them. It also was part of the plan from the start that the design materials were to be accompanied by a letter from the Russian noting some errors. A Jan. 10, 2000, CIA memo carries a draft of what it describes as "the letter to be included in the package of material."

It has elements almost word for word found in the letter as printed in the Risen book, but it was written cooperatively with CIA input and made part of the document package for the Iranians more than a month before the Russian arrived in Vienna.

Now, I think the trial did show that there were some inaccuracies in the book – the one the Merlins cared most about is that they weren't defectors.

But I find it really curious that Pincus claims these were errors. I say it's curious because unless I'm mistaken, the transcripts for all the CIA witnesses save Bill Harlow have not been

loaded onto the docket and so probably aren't yet done. And in the 5 of 6 days of testimony I attended (including all but a few minutes of Bob S' testimony, whom Pincus cites by name), I didn't see Pincus in the courtroom once. And with the exception of Merlin himself, the CIA witnesses I missed, for the most part, talked about issues other than the Merlin operation. So it's unclear where Pincus got his understanding of CIA witness testimony, and what he got is inaccurate.

Indeed, in this limited example, Pincus makes two pretty significant errors: in suggesting Merlin was supposed to know about the flaws in (as opposed to the incompleteness of) the blueprints, and in suggesting the CIA is certain about what Merlin left at the IAEA in March 2000.

First, the flaws. Throughout discussions about this operation, there has been some confusion between the flaws and the incompleteness, which has allowed the CIA to push back on the story when in fact the CIA records show this may be a convenient way to claim Risen's book was wrong when what the CIA thought is meaningless if the Russians still had concerns. While Merlin was told the blueprints were incomplete, he was not told about the flaws the nuclear lab (probably Sandia) put in the blueprints that were supposed to prevent the Iranians from using them (but only held back a national lab team 3 months in using the same blueprints). According to my notes, for example, Bob S said they "didn't want to say [the blueprints] were intentionally flawed," to Merlin. Nevertheless, there is reason to believe that Merlin and (far more importantly) the other Russian asset involved in this operation saw what they believed were problems that would make the blueprints not serve the purpose the Russians believed they were supposed to serve, and there is reason to believe that those concerns were never adequately addressed.

In addition, as I noted in this Salon piece

yesterday, CIA doesn't actually have the final version of what Merlin left with the IAEA. They claim – with questionable credibility, which I'll return to – not to know what was in the formal letter Merlin left. Bob S himself agreed in his testimony that Pincus supposedly reviewed that Merlin is the only person who knows what he put in the final version. At the very least the story the CIA tells is that Merlin took a copy of the letter drafted in conjunction with the CIA to Vienna but with the nuke references altered to make sure he could get through customs (Bob S called it "sanitized"), then changed them back on the hotel computer and printed a fresh copy (note, earlier in this process, Merlin at times sent stuff off to the Iranians before the CIA had a chance to review it, so he had a history of freelancing). He then destroyed the disk he used, meaning no one – according to what Merlin told CIA – has a copy (though the almost-final version without any last minute changes would reside on Merlin's poorly secured home computer). Interestingly, Risen's book says Merlin wrote a report back, but Bob S and Merlin (apparently) claim he did not.

But that printed letter is not all Merlin left with the blueprints. He also left a handwritten letter in his packet of newspaper-wrapped nuclear blueprints – what Bob S called a "cover note." The current story – relying on an earlier idea floated during the drafting period but not formally adopted – is that the cover note would help alert the Iranian staffers to the ultimate intended recipient of the letter. But that letter was by all appearances ad-libbed by Merlin. So we only have Merlin's word for what he wrote.

Now these are just two details – details in Risen's book that Pincus claims were disproven by cables and Bob S' testimony – but which were anything but.

I will have a much longer summary of all the other details that came out at trial that made

it clear the operation was an even bigger shitshow than Risen's report makes out. But for the moment, I'm just curious what Pincus is trying to accomplish. Perhaps he was in the back of the courtroom for a tiny part of Bob S' testimony and neither I nor the several other journalists I asked noticed him. But (at least as far as testimony) it appears he's working off second-hand claims about what the record says and claiming, falsely, that they specifically disprove Risen's book.

Why?

Why would whoever provided Pincus this partial view of Bob S' testimony be so desperate to claim that Risen's book was proven wrong?

THE GOVERNMENT'S DATABASE ARBITRAGE

I have long believed that the government put Iran on its list of approved target countries under the Section 215 dragnet not to use for counterterrorism purposes (the terror Iran seems to have sponsored of late is largely US generated), but instead to support sanctions.

Yesterday, the government claimed it has been using a drug trafficking database (one described differently than Hemisphere) to support sanctions on Iran.

At least that's the implication of the declaration unsealed in the Shantia Hassanshahi case submitted in response to the judge's order for more information on how it had identified the defendant.

This database [redacted] consisted of telecommunications metadata obtained from United States telecommunications service providers pursuant to

administrative subpoenas served upon the service providers under the provisions of 21 U.S.C. § 876. This metadata related to international telephone calls originating in the United States and calling [redacted] designated foreign countries, one of which was Iran, that were determined to have a demonstrated nexus to international drug trafficking and related criminal activities. This metadata consisted exclusively of the initiating telephone number; the receiving telephone number; the date, time, and duration of the call; and the method by which the call was billed. No subscriber information or other personal identifying information was included in this database. No communication content was included in this database.

In other words it's just like the Section 215 phone dragnet (and different in a few ways from Hemisphere, the drug-related database collecting US calls), but collected under 21 USC 876, the drug war's version of Section 215 tangible things provision, rather than Section 215. And they used it to go after sanctions violators, not drug traffickers.

The declaration goes on to say that this database got shut down – at least, shut down under this authority – in September 2013.

Use of the [redacted] database [redacted] that returned the 818 number was suspended in September 2013.¹ This database [redacted] is no longer being queried for investigatory purposes, and information is no longer being collected in bulk pursuant to 21 U.S.C. § 876.

1 [5+ lines redacted]

The NYT broke the story of Hemisphere on September 1, 2013, so the month this thing was shut down. September 2013 is also, conveniently

enough, the month Hassanshahi was arrested.

But of course, the declaration doesn't even say it was shut down. There's the redacted footnote, saying who knows what about the suspension. And the declaration only says this stuff isn't collected in bulk under 21 USC 876, not that it's not being conducted in bulk.

Maybe the government has finally moved its Iran sanction phone dragnet under Treasury sanctions authorities, where it should be?