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HUMANITIES

HISTORY/POLITICS AND INTERNATIONAL RELATIONS

**THE EAGLE COMES HOME TO ROOST: THE
HISTORICAL ORIGINS OF THE CIA'S LETHAL
DRONE PROGRAMME**

by

Christopher J. Fuller

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The Eagle Comes Home to Roost: The historical origins of the CIA's lethal drone programme

ABSTRACT

Since 2004, the CIA has been engaged in a covert campaign using remotely-operated drones to conduct targeted killings of suspected al-Qaeda and Taliban militants in the Afghanistan/Pakistan region. The rapid escalation of this programme under the Obama administration has attracted the close attention of the media and of academic experts working in the foreign policy, defence and legal fields. However, while such attention has enhanced our understanding of the scale, effectiveness and legality of drone warfare, there has been little attempt to explain the origins of the programme and place it within wider US counterterrorism practice. This dissertation meets that need, making an original contribution to the study of American counterterrorism by tracing the historical origins of the programme back to a small but influential group of policy makers within the Reagan administration. The thesis reveals how a shared hardline vision of how best to deal with terrorists set in motion legal and technological developments which eventually culminated in the CIA's drone programme three decades later.

By identifying the parallels between the drone campaign and the demands of the hardliners within Reagan's government, the thesis challenges the commonly held notion that the CIA's entry into drone warfare marks an unprecedented escalation of US counterterrorism practices resulting from a post-9/11 mind-set. Instead it presents evidence that current US counterterrorism practice is the result of a gradual evolution over the past three decades. Rather than placing the focus upon the drones themselves, this historical review reveals that the CIA's unmanned aircraft are simply the current tool which enables the United States to pursue the counterterrorism goal it has held for decades – the ability to unilaterally neutralize anti-American terrorists in safe havens around the world. The thesis reveals that the drone campaign should not be regarded as a product of post-9/11 policy, nor the result of the seductive nature of remote control warfare. Instead, the use of drones should be seen as the embodiment of America's long-term counterterrorism goal.

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Academic Thesis: Declaration of Authorship

I, Christopher J. Fuller

declare that this thesis and the work presented in it are my own and has been generated by me as the result of my own original research.

Thesis title: The Eagle Comes Home to Roost: The historical origins of the CIA's lethal drone programme

I confirm that:

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A note on language

This thesis uses a number of terms which hold serious and at times contentious connotations. The use of these terms has been considered carefully, and an explanation of why each is used follows:

AfPak – The term “AfPak”, popularised by the Obama administration, is used throughout this dissertation to reflect America’s strategic thinking on the Afghanistan/Pakistan border regions, rather than as an acceptance of the term in a geopolitical sense, inferring that the border regions are a single, homogenous bloc. It is fully acknowledged that the tribal regions which make up the Federally Administrated Tribal Areas (FATA), the North West Frontier Provinces (NWFP) and the border provinces of Afghanistan are all distinct regions with their own unique identity, tribes, culture, social groupings and history.

Collateral damage – This military term is used to denote civilian casualties. It is not intended to sanitise the tragic losses it signifies, rather to ensure the language used in official sources is consistent with that of the thesis.

Drone - The term “drone” is unpopular with pilots due to connotations of a mindless or autonomous activity. So too are the terms “Unmanned Aerial Vehicle” (UAV) and “Unmanned Aerial System” (UAS), as both suggest aircraft which fly without pilots. The preferred term amongst operators is “Remotely Piloted Aircraft” (RPA).¹ However due to its common usage in both academia and the media the term “drone” will be used throughout this thesis to cover all variants of RPAs. It is used with a full acknowledgement that at no time is a “drone” flying without a pilot or the support of a sensor operator and ground crew.

Neutralization - The term “neutralize” is used in reference to the counterterrorism objectives of the United States. It is drawn from the Reagan administration’s first counterterrorism document, National Security Decision Directive 138 and is used to

¹ Matt J. Martin with Charles W. Sasser, *Predator: The Remote-Control Air War Over Iraq and Afghanistan: A Pilot’s Story*, (Minneapolis MN: Zenith Press, 2010), p.3.

collectively denote the most proactive counterterrorism interventions such as killing, rendition and imprisonment as opposed to defensive measures or efforts to tackle the root causes of terrorism.

Targeted killing – This term is used to denote the killing of a known or suspected terrorist/militant in a drone strike. It is used in place of assassination in acknowledgement of the fact that within its own domestic law the United States government considers itself to be legally at war with al-Qaeda, its affiliates and their Taliban allies.

Abbreviations and Acronyms

AFPAK – Afghanistan/Pakistan border region
AIRRA - Aryana Institute for Regional Research and Advocacy (Pakistan)
ANSA - Assistant for National Security Affairs/National Security Advisor
ANSF – Afghan National Security Force
AUMF – Authorization for Use of Military Force
BIJ - Bureau of Investigative Journalism
BoC - Bureau of Counterterrorism (State Dept.)
CIA – Central Intelligence Agency
CTC - Counterterrorism Center (CIA)
DARPA - Defense Advanced Research Projects Agency
DIA - Defense Intelligence Agency (Pentagon)
DCI – Director of Central Intelligence
DI - Directorate of Intelligence (CIA)
DO – Directorate of Operations (CIA)
DoD – Department of Defense
DoS – Department of State
DoJ - Department of Justice
DSS - Diplomatic Security Service
DST - Directorate of Science and Technology (CIA)
EIT - Enhanced Interrogation Techniques
EO – Executive Order
EOB – Executive Office Building (White House staff)
FATA - Federally Administered Tribal Areas (Pakistan)
FLIR - Forward-Looking Infrared
GA – General Atomics
GA – ASI - General Atomics Aeronautical Systems Incorporated
GCHQ – Government Communications Headquarters
HUMINT – Human Intelligence
ICC – International Criminal Court
IOB - Intelligence Oversight Board
ISI – Inter-Services Intelligence
ISIS - Islamic State of Iraq and al-Sham

JCS – Joint Chiefs of Staff
JITF – CT - Joint Intelligence Task Force For Combating Terrorism
JSOC - Joint Special Operations Command
JTTF - Joint Terrorism Task Force
LSI - Leading Systems Incorporated
MAE - Medium Altitude Endurance
MNNA – Major non-NATO Ally
MON - Memorandum of Notification
NAF - New American Foundation
NATO – North Atlantic Treaty Organization
NGO – Non-governmental Organization
NWFP - North West Frontier Province
NSA – National Security Agency
NSC – National Security Council
NSDD - National Security Decision Directive (Reagan)
NSPG - National Security Planning Group
OMB - Office of Management and Budget
OSS – Office of Strategic Services
PAD - Pakistan Afghanistan Department (CIA)
PDD - Presidential Decision Directive (Clinton)
PLF - Palestine Liberation Front
PLO - Palestine Liberation Organization
QRF - Quick Reaction Force
SEAL – Sea, Air, Land
SIGINT – Signals Intelligence
SNIE - Special National Intelligence Estimate
SOG - Special Operations Group (CIA)
SSCI - Senate Select Committee on Intelligence
UAV – Unmanned Aerial Vehicle
UN – United Nations
WMD - Weapons of Mass Destruction
WTC – World Trade Center

Preface

As a historical study, this project is an effort to add light, rather than heat, to the ongoing drone debate. It is neither intended to cast a moral judgement upon, nor condone, the use of drones for targeted killings. Rather, it aims to provide the necessary context to allow for a more informed debate around their use. The classified nature of the drone campaign – the conduct of which the CIA still refuses to acknowledge – made undertaking this task extremely challenging. However, it is precisely this lack of transparency which made further investigation necessary. Initial efforts to utilize traditional historical sources were unsuccessful. Dozens of Freedom of Information Act (FOIA) requests were submitted to the CIA and Pentagon, but at the time of submission all were either rejected on “national security” grounds, or remain outstanding. Where physical archive work was undertaken, for example a visit to the Clinton Presidential Library with the aim of obtaining documents relating to the Clinton administration’s adoption of a targeted killing strategy, the relevant sources had been removed, once more on the grounds of national security. Multiple Mandatory Declassification Requests have been submitted, but these too remained outstanding at the time of submission. Not all branches of the US National Archives were so unhelpful. For example, when exploring the evolution of counterterrorism policy under the Reagan administration, the Presidential Library’s digitization of National Security Directives, coupled with the public nature of the debate between policy makers, ensured that the relevant sources were available without the necessity of an archival visit. What gaps there were could be supplemented by the three volume collection of US counterterrorism laws, policies and programmes compiled and published by Praeger Security International, and the *US Intelligence Community Law Sourcebook*, produced by the American Bar Association.¹

Due to the secrecy surrounding the official sources, this project made extensive use of open sources. For example, the Wikileaks archive of cables was utilised, as were the Afghan War Logs. Documents on the US intelligence budget

¹ Yonah Alexander, Michael Kraft (eds.), *Evolution of US Counterterrorism Policy*, Volume I-III, (Westport CD: Praeger Security International, 2008); Andrew M. Borene (ed.), *The US Intelligence Community Sourcebook: A Compendium of National Security Related Laws and Policy Documents* (Chicago IL: ABA Publishing, 2010).

and counterterrorism practices leaked by Edward Snowden provided invaluable and otherwise inaccessible insights into America's post-9/11 counterterrorism infrastructure. The use of these sources does not condone the manner in which they became available, rather reflects an acknowledgment that this information is now in the public domain. These document sets were interrogated in as orderly, disciplined and methodical a manner as any other historical archive would have been. These sources were supplemented with information obtained by other institutions committed to transparency, such as the National Security Archive, and the Federation of American Scientists Intelligence Review Program. In the absence of being able to visit the strike zones in the Afghanistan/Pakistan border region to undertake primary research, the project utilised the extensive databases of drone-related data which have been compiled by non-governmental organisations such as the Bureau of Investigative Journalism and the New American Foundation, as well as an analysis of the Pakistani press and official statements issued by the representatives of those who live in the regions in question. Finally, public testimony and memoirs of key policy makers and counterterrorism specialists were used to add insight into what motivated those directly responsible for developing America's counterterrorism policies. While it is acknowledged that memoirs only reflect a very specific perspective, and perhaps an attempt to shape or protect an individual's legacy, used carefully in combination with other sources these memoirs helped provide invaluable insights, and flesh out the narrative behind America's adoption of a lethal drone policy.

While individually many of these sources are flawed or limited, used in careful combination they provided extensive insights into the otherwise clandestine world of the CIA's drone campaign. In these digitized times, the physical archive remains one of the few areas in which governments can still exert a strict control over who can access what, and when, especially materials which can be linked to national security. While it was the advent of digitization and globalization that enabled the United States to wage a remote drone war, hidden from public view half way across the world, the same technological developments have ensured that, no matter how secretive the CIA is, information relating to this drone campaign, and other such clandestine activities, will always be available to the scholar who is willing to look beyond traditional methods of historical inquiry and embrace the wide variety of open sources and material one now has access to.

Introduction - “The true watersheds in human affairs are seldom spotted...”

The true watersheds in human affairs are seldom spotted amid the tumult of headlines broadcast on the hour. History rarely shows its hand swiftly.

Daniel J. Boorstin

The American historian Daniel J. Boorstin once stated that ‘the true watersheds in human affairs are seldom spotted amid the tumult of headlines broadcast on the hour.’¹ Few events in recent history have generated as many headlines as America’s “War on Terror”. Politicians past and present, think tank fellows, academics, journalists and countless pundits have all taken to the cable networks, press, Internet and radio airwaves to assert their opinions on what America’s on-going response to the attacks of September 11, 2001 should be. These debates have generated millions of pages of content and countless hours of broadcasting on a range of topics: the culpability of the Federal government in failing to stop the attacks; the challenge to domestic civil liberties through the PATRIOT Act and to international human rights through extraordinary rendition, torture and the use of the Guantánamo Bay detention facility; the invasion of Afghanistan and the subsequent nation-building mission there; the challenge to the UN Charter through the policy of pre-emption, leading to the invasion of Iraq and absence of the promised weapons of mass destruction (WMD); the failure to capture bin Laden in the Tora Bora caves, and his eventual killing during a US Special Forces raid in Abbottabad, undertaken without Pakistan’s consent. Despite the magnitude of all of these issues it was another development in the War on Terror which came to dominate the headlines during Barack Obama’s first term in office - the Central Intelligence Agency’s (CIA) use of remotely piloted aircraft (RPAs), or ‘drones’ in common parlance, to target and kill al-Qaeda militants and their affiliates.

The US government runs two drone programmes. The first - the military’s version - is publicly acknowledged and operates in the recognized war zone of

¹ Daniel J. Boorstin, ‘History’s Hidden Turning Points’, *US News & World Report*, 22 April 1991, p. 52.

Afghanistan. It is an extension of conventional warfare and subject to the same (relative) oversight of all Department of Defense (DoD) operations. However, the second - run by the Central Intelligence Agency and aimed at al-Qaeda and its affiliates around the world - is classified as covert action. The CIA has refused to publicly discuss the campaign or to provide any details of how it operates. Despite this secrecy the CIA's use of drones has attracted significant media attention. The *New York Times* published over 1,000 articles relating to the CIA and drones during the first Obama administration; the *Washington Post* published more than 1,600, reaching a peak of 105 articles on the subject between 1 July and 1 September 2011.²

The topic of drones has also become subject to increasing attention from academia, in particular scholars from the foreign policy, defence and legal fields. Google Scholar reveals that over 500 scholarly articles relating to the legal status of drones were published in the period 2009 - 2012.³ Furthermore, political scientists, philosophers and a number of non-profit public policy institutes have joined the debate, publishing a variety of studies concerning the CIA's use of remotely piloted

² Figures acquired through *New York Times* Archive Search and *Washington Post* Achieve Timeline of Coverage, <<http://www.washingtonpost.com/newssearch/search.html>> [accessed 20 January 2012].

³ For an example of the legal commentary on the use of drones for targeted killing, see: Kenneth Anderson, 'Targeted Killing In US Counterterrorism Strategy and Law', Social Science Research Network, May 11 (2009); William C. Banks and Peter Raven-Hansen, 'Targeted Killing and Assassination: The US Legal Framework', *University of Richmond Law Review* (2003), pp.667-749; Orna Ben-Naftali and Karen R. Michaeli, 'We Must Not Make a Scarecrow of the Law: A Legal Analysis of the Israeli Policy on Targeted Killings', *Cornell International Law Review Journal*, (2003), pp.233-289; Robert Chesney, 'Who May Be Killed? Anwar al-Awlaki As a Case Study in the International Regulation of Lethal Force', *Yearbook of International Humanitarian Law*, Volume 13 (2010); W. Jason Fisher, 'Targeted Killing, Norms and International Law', *Columbia Journal of Transnational Law*, Volume 45, No.3, (2007), pp.711-742; Amos Guiora, 'Targeted Killing As Active Self-Defense', *Case Western Research Journal of International Law*, Volume 36, (2004), p.319; David Kretzmer, 'Targeted Killing of Suspected Terrorists: Extra-Judicial Executions or Legitimate Means of Defense', *European Journal of International Law*, Volume 16, No. 2 (2005), pp.171-212; Michael W. Lewis, 'Drones and the Boundaries of the Battlefield', *Texas International Law Review*, Volume 47, Issue 2 (2012), pp.293-314; Richard Murphey and Afsheen John Radsan, 'Due Process and Targeted Killing of Terrorists', *Cardozo Law Review*, Volume 31 (2009), p. 405; Richard Murphey and Afsheen John Radsan, 'Measure Twice, Shoot Once: Higher Care for CIA Targeted Killing', *University of Illinois Law Review*, Number 4 (2011), pp.1201-1242; Mary Ellen O'Connell, 'Unlawful Killing with Combat Drones: A Case Study of Pakistan, 2004-2009', in Simon Bronitt (ed.), *Shooting to Kill: The Law Governing Lethal Force in Context*, Forthcoming; Notre Dame Legal Studies Paper No.09-43; Jordan J. Paust, 'Self-Defense Targetings of Non-State Actors and Permissibility of US Use of Drones in Pakistan', *Journal of Transnational Law & Policy*, Volume 19, No. 2 (2010), p.237; Tom Ruys, 'License to Kill? State Sponsored Assassination Under International Law', *Institute of International Law Working Paper No. 76*, May 2005; Gary Solis, 'Targeted Killing and the Law of Armed Conflict', *Naval War College Review*, Spring 2007, pp.127-136; John Yoo, 'Assassination or Targeted Killings After 9/11', *New York Law School Law Review*, Volume 56 (2011/12), pp.57-79.

aircraft against al-Qaeda and their affiliates.⁴ While disagreements over the putative military benefits, ethical downsides and legal complexities of the CIA's campaign are common, a number of persistent themes in media and scholarly discussions have emerged in recent years. The first, and arguably most common, is that the drone campaign represents a further escalation of the counterterrorism policies introduced after the events of 9/11.⁵ This argument, advanced here by former President Jimmy Carter in the *New York Times*, states that America's current counterterrorism practice 'began after the terrorist attacks of September 11, 2001, and has been sanctioned and escalated by bipartisan executive and legislative actions.'⁶ 'Many,' explains the Bureau of Investigative Journalism's (BIJ) Chris Woods, have come to view the torture and extraordinary rendition used under George W. Bush as having been 'replaced with industrial-scale extrajudicial execution by his successor.'⁷ This viewpoint earned President Obama a number of titles in the media, such as the 'Drone President' and 'drone warrior'; the neoconservative commentator Charles Krauthammer sarcastically referred to him as 'Zeus the Avenger, smiting by lightning strike.' Reporters and academics have argued that Obama has introduced a 'drone doctrine', and that the use of these remotely piloted aircraft will be 'Obama's legacy in the fight against terrorism.'⁸ '[N]o president' argues the *Washington Post*'s

⁴ Key non-profit institutions reporting on the CIA's drone campaign: The Long War Journal (LWJ), 'Charting US Airstrikes in Pakistan', <<http://www.longwarjournal.org/pakistan-strikes.php>>; The New American Foundation (NAF), 'Year of the Drone', <<http://counterterrorism.newamerica.net/drones>>; Bureau of Investigative Journalism (BIJ), 'Covert War on Terror', <<http://www.thebureauinvestigates.com/category/projects/drones/>>, [accessed 30 September, 2012].

⁵ Jimmy Carter, 'A Cruel and Unusual Record', *New York Times*, 24 June, 2012, <<http://www.nytimes.com/2012/06/25/opinion/americas-shameful-human-rights-record.html>>; Andrew C. Orr, 'Unmanned, Unprecedented, and Unresolved: The Status of American Drones Strikes in Pakistan Under International Law', *Cornell International Law Journal*, Volume 44, (2011), pp. 729-752. Spencer Ackerman, 'Unprecedented Drone Assault', *Wired*, 17 December, 2010, <<http://www.wired.com/dangerroom/2010/12/unprecedented-drone-strikes-hit-pakistan-in-late-2010/>>; 'Is it Legal to Kill Americans Overseas?', *Al Jazeera*, 9 March, 2012, <<http://www.aljazeera.com/programmes/insidestoryamericas/2012/03/2012398516557461.html>> [accessed 31 August, 2012].

⁶ Carter, 'A Cruel and Unusual Record'.

⁷ Chris Woods, 'Drones: Barack Obama's Secret War', *New Statesman*, 13 June, 2012, <<http://www.newstatesman.com/politics/politics/2012/06/drones-barack-obama-war-secret>> [accessed 16 June, 2012].

⁸ Jonathan Bernstein, 'At Stake in the 2012 Election, War or Peace?', *Washington Post*, 21 August, 2012, <http://www.washingtonpost.com/blogs/plum-line/post/at-stake-in-the-2012-election-war-or-peace/2012/08/21/f62e4564-ebd0-11e1-866f-60a00f604425_blog.html>; Charles Krauthammer, 'Barack Obama: Drone Warrior', *Washington Post*, 1 June, 2012, <http://www.washingtonpost.com/opinions/barack-obama-drone-warrior/2012/05/31/gJQAr6zQ5U_story.html>; Mark Mardell, 'Is Obama's Drone Doctrine Counter-productive?', BBC News, 30 May, 2012, <<http://www.bbc.co.uk/news/world-us-canada-18270490>>;

Greg Miller, ‘has ever relied so extensively on the secret killing of individuals to advance the nation’s security goals.’⁹

The second, closely related theme revolves around the concern that ‘the rapid expansion of the drone programme has blurred long-standing boundaries between the CIA and the military.’ ‘Lethal operations’ highlights Miller, ‘are increasingly assembled a la carte, piecing together personnel and equipment in ways that allow the White House to toggle between separate legal authorities that govern the use of lethal force.’¹⁰ While some, such as an anonymous former CIA official, have argued this is a positive change, transforming the CIA from ‘an agency that was chugging along’ into ‘one hell of a killing machine’, other commentators have shown greater concern.¹¹ ‘The current campaign can’t be reconciled with the agreed premises for the separation of military and intelligence community activities in the National Security Act of 1947,’ argues Human Rights lawyer Scott Horton. That Act stipulated that the Agency should be essentially civilian, and while it was granted the freedom to undertake ‘such other functions and duties related to intelligence affecting the national security as the President or the Director of National Intelligence may direct,’ its primary function was to be intelligence gathering and analysis.¹² Horton goes on to argue that intelligence operations were to be ‘distinguished from military operations, which would be in the hands of the Department of Defense.’ The current drone campaign, however, ‘marks the first time in US history that a state-of-the-art, cutting-edge weapons system has been placed in the hands of the CIA.’ This, Horton continues, ‘mark[s] the continued evolution of the CIA as a paramilitary force with advanced tactical weaponry.’¹³

Ari Shapiro, ‘Are Drones Obama’s Legacy in War on Terrorism?’, on National Public Radio, 20 June, 2012, <<http://www.npr.org/2012/06/20/155389081/are-drones-obamas-legacy-in-war-on-terrorism>> [accessed 26 August, 2012].

⁹ Greg Miller, ‘Under Obama, An Emerging Global Apparatus For Drone Killing’, *Washington Post*, 28 December, 2011, <http://www.washingtonpost.com/national/national-security/under-obama-an-emerging-global-apparatus-for-drone-killing/2011/12/13/gIQANPdILP_story.html> [accessed 30 August, 2012].

¹⁰ Ibid.

¹¹ Scott Horton, ‘The Trouble with Drones’, remarks delivered at New York University Law School Center on Law and Security’s Seventh Annual Global Security Forum, 1 May, 2010, published in *Harper’s*, 3 May, 2010, <<http://harpers.org/archive/2010/05/hbc-90006980>> [accessed 28 August, 2012].

¹² National Security Act of 1947, in US Senate Select Committee on Intelligence, <<http://www.intelligence.senate.gov/pdfs/nsact1947.pdf>> [accessed 25 March, 2012].

¹³ Horton, ‘The Trouble with Drones’.

Questions surrounding this perception of a newly militarized role of the CIA make up the third commonly discussed theme relating to drones. If the new, post-9/11 CIA is ‘acting like a military organization, shouldn’t it have the (relative) transparency and accountability of a military organization?’ asked *Wired*’s Spencer Ackerman. The fact that most members of Congress lack the appropriate security clearances necessary to know anything about CIA operations has raised questions in the media about the lack of effective oversight for the drone campaign.¹⁴ With the exception of the Republican senator Rand Paul’s filibuster over drone policy - which was focused upon their use against American citizens - Congress has remained remarkably quiet on the topic.¹⁵ Jane Mayer of the *New Yorker* argues that ‘It’s easy to understand the appeal of a “push-button” approach to fighting Al Qaeda,’ but extends Ackerman’s concerns about lack of oversight by observing that the campaign ‘has occurred with remarkably little public discussion, given that it represents a radically new and geographically unbounded use of state-sanctioned lethal force.’¹⁶ Others have argued that the accountability for the drone campaign goes beyond Congress and the American public, and that the United States ‘owes the world a clear accounting for its use of drones as a vehicle for targeted killings.’¹⁷ The political philosopher Michael Walzer, author of the book *Just and Unjust Wars*, has stated that he is unsettled by the notion of an intelligence agency wielding so much lethal power in secret. ‘Under what code does the CIA operate?’ he asks. ‘People are being killed, and we generally require some public justification when we go about killing people.’¹⁸ Furthermore, Horton argues that the failure to provide clearer evidence regarding the process by which targets are identified prior to and following drone strikes has invited the view that ‘the practice involves an arbitrary and capricious use of power.’¹⁹ The *Boston Review*’s David Lubine goes as far as to argue that ‘the

¹⁴ Spencer Ackerman, ‘How the CIA Became “One Hell of a Killing Machine”’, *Wired*, 2 September, 2011, <<http://www.wired.com/dangerroom/2011/09/cia-killing-machine/>> [accessed 5 September, 2011].

¹⁵ Paul Harris, ‘Rand Paul anti-drone filibuster draws stinging criticism from Republicans’, *Guardian*, 7 March, 2013, <<http://www.guardian.co.uk/world/2013/mar/07/rand-paul-drones-policy-filibuster>> [accessed 27 March, 2013].

¹⁶ Jane Mayer, ‘The Predator War: What are the risks of the C.I.A.’s covert drone program?’, *New Yorker*, 26 October, 2009, <http://www.newyorker.com/reporting/2009/10/26/091026fa_fact_mayer>, [accessed October 30, 2009].

¹⁷ Horton, ‘The Trouble with Drones’.

¹⁸ Michael Walzer, quoted in Mayer, ‘The Predator War’.

¹⁹ Horton, ‘The Trouble with Drones’.

opacity and unaccountability of the program are, in and of themselves, threats to the rule of law.’²⁰

This apparent undermining of both US and international law constitutes the fourth common theme relating to the campaign. On a domestic level, the debate is centered upon whether targeted killings undertaken with drones constitute assassination, which has been illegal in US law since Executive Order 11905, signed by President Ford in 1976 as a direct result of the Church Committee’s report on the CIA’s previous assassination campaigns.²¹ Unsurprisingly, this question has triggered debate amongst an array of legal scholars. Some, such as Mary Ellen O’Connell, Richard Murphy and Afsheen John Radsan, former Assistant General Counsel to the CIA from 2002-2004, condemn targeted killings as ‘extra-judicial, premeditated killing by a state of a specifically identified person not in its custody,’ and argue that therefore they are assassinations.²² David Lubine has agreed with this position, describing the practice of targeted killing with drones as ‘sneaky, underhanded, and prohibited.’ Georgetown University’s Gary Solis, the author of *The Law of Armed Conflict*, asserts that people at the CIA who pilot unmanned aerial vehicles are civilians directly engaged in hostilities, making them “unlawful combatants” and possibly subject to prosecution.²³ Other legal scholars, such as former Justice Department official John Yoo, and Cornell Law School’s Andrew C.

²⁰ David Lubine, ‘What Would Augustine Do? The President, Drones and Just War Theory’, *Boston Review*, 6 June, 2012, <http://www.bostonreview.net/BR37.3/david_luban_obama_drones_just_war_theory.php> [accessed 20 August, 2012].

²¹ Executive Order 11905, ‘United States Foreign Intelligence Activities’, 18 February, 1976, in ‘Gerald R. Ford Presidential Library’, <<http://www.ford.utexas.edu/library/speeches/760110e.htm>> [accessed 29 March, 2012]; Executive Order 12333, ‘United States Intelligence Activities’, December 4, 1981, in ‘National Archives.gov’, <<http://www.archives.gov/federal-register/codification/executive-order/12333.html#2.11>> [accessed 18 July 2010]; ‘Select Committee to Study Government Operations with Respect to Intelligence Activities (“Church Committee”)’, US Senate Select Committee on Intelligence, <<http://www.intelligence.senate.gov/churchcommittee.html>> [accessed 27 October, 2014].

²² Mary Ellen O’Connell, ‘The Choice of Law Against Terrorism’, *Norte Dame Law School Legal Studies Research Paper*, No 10-20, (2010). Richard Murphy and Afsheen John Radson, ‘Due Process and Targeted Killing of Terrorists’, *Cardozo Law Review*, Volume 32:2, (2010), pp.405-450.

²³ Tara McKelvey, ‘Inside the Killing Machine’, *Newsweek*, 13 February, 2011, <<http://www.thedailybeast.com/newsweek/2011/02/13/inside-the-killing-machine.html>> [accessed 29 August, 2012]. Gary Solis, CIA drone attacks produce America’s own unlawful combatants’, *Washington Post*, 12 March, 2010, <<http://www.washingtonpost.com/wp-dyn/content/article/2010/03/11/AR2010031103653.html>> [accessed 20 March, 2010]. For a detailed study of the legality of targeted killing under current US domestic law which provides a counter argument to Solis, see William C. Banks, Peter Raven-Hansen, ‘Targeted Killings and Assassination: The US Legal Framework’, *University of Richmond Law Review*, Issue 37, (2003), pp.667-749.

Orr, are in agreement with the position put forward by Administration officials and President Obama himself that targeted killing through drones is not assassination, and that the use of the devices rests on solid legal foundations.²⁴

However, despite a number of high profile speeches on the subject and a lengthy piece in the *New York Times* drawn from extensive investigative work and a number of government leaks, critics argue that the Obama administration has refused to disclose the details of how the decision to target an individual is made, to describe the safeguards in place to ensure that all targeted killings are legal and accurate, or to provide accountability mechanisms for violations.²⁵ Most troubling to the critics of the campaign, the Obama administration has refused to disclose who has been killed, for what reason and what the collateral consequences of such killings were. This has resulted in several legal cases aimed at challenging the secrecy behind the CIA's use of drones. The most prominent of these thus far has been brought by the American Civil Liberties Union (ACLU) and the Centre for Constitutional Rights (CCR), which have argued that 'the government must be held to account when it carries out such killings in violation of the Constitution and international law.'²⁶

²⁴ John Yoo, 'Assassination or Targeted Killings After 9/11', *New York Law School Law Review*, Volume 56, (2011-12), pp.58 – 79; Andrew C. Orr, 'Unmanned, Unprecedented and Unresolved: The Status of American Drone Strikes in Pakistan Under International Law', *Cornell International Law Journal*, Volume 44, (2011), pp.729 – 752. For further reading on targeted killing in US law, and a selection of memoranda, reports and cases on drone use for targeted killing, see 'Ethics of the Rule of Law', University of Pennsylvania Law School, <<https://www.law.upenn.edu/institutes/cerl/further-reading.php>> [accessed 19 October, 2012].

²⁵ Remarks of John O. Brennan, Assistant to the President for Homeland Security and Counterterrorism, at Harvard Law School/Brookings Conference, Cambridge, Massachusetts, 16 September, 2011, <<http://www.lawfareblog.com/2011/09/john-brennans-remarks-at-hls-brookings-conference/>> [accessed 20 September, 2011]; Attorney General Eric Holder Speaks at Northwestern University School of Law, Chicago, 5 March, 2012, <<http://www.justice.gov/iso/opa/ag/speeches/2012/ag-speech-1203051.html>> [accessed 6 March, 2012]; Jo Becker and Scott Shane, 'Secret "Kill List" Tests Obama's Principles and Will', *New York Times*, 29 May, 2012, <<http://www.nytimes.com/2012/05/29/world/obamas-leadership-in-war-on-al-qaeda.html?pagewanted=all&r=0>> [accessed 31 May, 2012]. See Appendix C, 'US Statements on Civilian Casualties', p.157 in *Living Under Drones*, International Human Rights and Constitutional Resolution Clinic, Stanford Law School, Global Justice Clinic, NYU School of Law, September 2012, for a summary of US statements on collateral damage from drone strikes, <http://livingunderdrones.org/wp-content/uploads/2012/09/Stanford_NYU_LIVING_UNDER_DRONES.pdf> [accessed 14 October, 2012].

²⁶ 'Drones', in 'Blog of Rights', American Civil Liberties Union, <<http://www.aclu.org/blog/tag/drones>> [accessed 31 August, 2012]; Center for Constitutional Rights, <<http://ccrjustice.org/newsroom/news/families-of-us-citizens-killed-drone-strike-file-wrongful-death-lawsuit>> [accessed 31 August, 2012]; Karen McVeigh, 'Families of U.S. Citizen Killed In Drone Strike File Wrongful Death Lawsuit', *Guardian*, 18 July, 2012,

On an international level, the legal criticism revolves around the extent to which the drone campaign violates state sovereignty and the human rights of those targeted. The former Swedish Foreign Minister Anna Lindh was one of the first international critics of the campaign when she described a November 2002 Predator strike in Yemen as ‘a summary execution that violate[d] human rights.’²⁷ In May 2010, Philip Alston, the UN’s Special Rapporteur for Extrajudicial, Summary or Arbitrary Executions, added his voice to the debate when he criticised the United States for the lack of international legal justification for the drone programme, describing it as ‘a vaguely defined license to kill.’ While not going as far as declaring the drone campaign illegal, Alston criticised the blurring of the boundaries of human rights law, the laws of war and the law applicable to the use of inter-state force. Even where the laws of war are clearly applicable, he argued that there has been a tendency for the US and CIA to expand who may permissibly be targeted and under what conditions.²⁸ Reflecting upon this exploitative interpretation of international law, Hina Shamsi, the director of the ACLU’s National Security project warned in the pages of the *Guardian* that the continued use of targeted killings meant that the US ‘risks becoming a legal pariah.’²⁹ The killing of Anwar al-Awlaki, a US citizen, in a drone strike in Yemen, raised further protests, both because of his citizenship, and the fact that ‘Yemen is not considered a war zone.’³⁰ This attack prompted the human rights group Amnesty International to state its belief that the ‘USA appears to have carried out or collaborated in unlawful killings in Yemen and has closely cooperated with Yemeni security forces in situations that have failed to give due

<<http://www.guardian.co.uk/world/2012/jul/18/us-citizens-drone-strike-deaths>> [accessed 28 August, 2012].

²⁷ Vince Crawley and Amy Svitak, ‘Is Predator the Future of Warfare?’, *Defense News*, 11-17 November, 2002, p.8; David Lubine, ‘What Would Augustine Do? The President, Drones and Just War Theory’, *Boston Review*, 6 June, 2012,

<http://www.bostonreview.net/BR37.3/david_luban_obama_drones_just_war_theory.php> [accessed 20 August, 2012].

²⁸ Philip Alston, ‘Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions’, UN Human Rights Council, 28 May 2010, paragraph 3,

<<http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>> [accessed 5 June, 2011].

²⁹ Hina Shamsi, ‘The Legacy of 9/11: Endless War Without Oversight’, *Guardian*, 7 September, 2011, <<http://www.guardian.co.uk/commentisfree/cifamerica/2011/sep/07/us-constitution-and-civil-liberties-congress>> [accessed 30 August, 2012].

³⁰ ‘Drones and the Law: America’s attacks on suspected terrorists should be more closely monitored’, *Economist*, 8 October, 2011, <<http://www.economist.com/node/21531477>> [accessed 8 October, 2011].

regard for human rights.³¹ This legal argument has led to a further law suit, this time brought by Mirza Shahzad Akbar, a Pakistan-based lawyer working with UK human rights group, Reprieve, against the CIA in Islamabad on behalf of victims of US drones strikes.³²

Reporting on the victims of drone strikes represents the fifth and perhaps most controversial theme discussed. There is considerable debate over the number of civilian casualties and wider collateral damage caused by the CIA's drone strikes. This debate is made all the more intense by the Agency's refusal, on grounds of national security, to publish data on the strikes. Despite the impression this refusal gives of the CIA having something to hide, the administration has gone to considerable lengths to present the drone campaign as carefully executed, precise and proportional. In a live webchat on Google+ in January 2012, President Obama responded to what he described as a 'perception that we're just sending in a whole bunch of strikes willy-nilly' by stating that the drone strikes were 'very precise, precision strikes against al-Qaeda and their affiliates' which were part of 'a targeted, focused effort [against] people who are on a list of active terrorists.' He went on to reassure the viewers that drone use was 'kept on a very tight leash.'³³ His former Director of Central Intelligence (DCI), Leon Panetta has also spoken on the record about the strikes, arguing that the drone campaign is 'the only game in town in terms of confronting or trying to disrupt the al-Qaeda leadership.'³⁴ The strongest avowal of the accuracy of drone strikes has come from the current DCI, John Brennan, the former Deputy National Security Advisor for Homeland Security and Counterterrorism, who, in June 2011, went as far as to state that, 'there hasn't been a single collateral death [as a result of drone strikes] because of the exceptional

³¹ 'Yemen: Cracking Down Under Pressure', Amnesty International, August 2010, <<http://www.amnesty.org/en/library/info/MDE31/010/2010/en>> [accessed 31 August, 2012].

³² Jerome Taylor, 'Pakistani Lawyer To Try And Halt Drone Strikes', *Independent*, 9 May, 2011, <<http://www.independent.co.uk/news/world/asia/pakistani-lawyer-to-try-and-halt-drone-strikes-2281538.html>> [accessed 20 August, 2012].

³³ 'Your interview with the President – 2012', live interview with President Obama on Google+, 21 January, 2013, in White House YouTube channel, 26:31 – 30:17, <<http://www.youtube.com/watch?v=eeTj5qMGTAI&feature=plcp>> [accessed 21 January, 2013].

³⁴ 'US Airstrikes in Pakistan called "very effective"', *CNN*, 18 May, 2009 <http://articles.cnn.com/2009-05-18/politics/cia.pakistan.airstrikes_1_qaeda-pakistani-airstrikes?_s=PM:POLITICS> [accessed 20 June, 2012].

proficiency, precision of the capabilities we've been able to develop.³⁵ While there is considerable evidence to support the administration's claims that the drone campaign is devastating al-Qaeda's leadership, critics are much less convinced by Brennan's claim of total accuracy.³⁶ Those seeking to challenge Brennan's claims have pointed towards the revelation, reported in the *New York Times* in May 2012, that the White House classes 'all military-age males [killed] in a strike zone to be combatants [...] unless there is explicit intelligence posthumously proving them innocent.'³⁷ Rejecting this methodology, the Bureau of Investigative Journalism (BIJ) published the evidence of its own investigations into civilian deaths in the Federally Administered Tribal Area (FATA) region of Pakistan in June 2012. The Bureau concluded that in the 330 drone strikes (278 under Obama) that had occurred in the region since 2004, more than 2,500 people had been killed, including at least 482 who could be credibly reported as civilian casualties.³⁸ The New American Foundation (NAF) has also published the results of its own study into casualties. While NAF's figures were slightly lower than those of the BIJ, they still contest Brennan's claims, reporting that between 152 and 191 civilians have been killed by drone strikes between 2004 and October 2012, with a further 130 to 268 victims unable to be credibly identified as either militants or civilians.³⁹ The US-based NGO Centre for Civilians in Armed Conflict has also sent researchers to North Waziristan to investigate civilian deaths from drone strikes, and whilst their reporting highlighted that many residents of the region agreed that the strikes are 'generally accurate' and 'do harm the Taliban and al-Qaeda', it also yielded detailed accounts of civilians harmed through drone strikes.⁴⁰ These case studies were well supported with photographic evidence of strike sites, pictures of the victims and witness

³⁵ 'Brennan defends US drone attacks despite risks to civilians', *Los Angeles Times*, 29 April, 2012, <http://latimesblogs.latimes.com/world_now/2012/04/brennan-drone-attacks.html> [accessed 1 May, 2012].

³⁶ For an analysis of the impact of the CIA's drone campaign upon al-Qaeda and their affiliates, see Chapter 6.

³⁷ Jo Becker and Scott Shane, 'Secret "Kill List" Proves a Test of Obama's Principles and Will', *New York Times*, 29 May, 2012, <<http://www.nytimes.com/2012/05/29/world/obamas-leadership-in-war-on-al-qaeda.html?pagewanted=all&r=0>> [accessed 1 June, 2012].

³⁸ Woods, 'Drones', *New Statesman*; Bureau of Investigative Journalism, 'Covert War on Terror', <<http://www.thebureauinvestigates.com/category/projects/drones/>> [accessed 21 October, 2012].

³⁹ New American Foundation, 'Year of the Drone', <<http://counterterrorism.newamerica.net/drones>> [accessed 21 October, 2012].

⁴⁰ 'Civilian Harm and Conflict in Northwest Pakistan', Civilians in Armed Conflict, October, 2010, p.14, <<http://www.civicworldwide.org/storage/civicdev/documents/civic%20pakistan%202010%20final.pdf>> [accessed October 29, 2010].

accounts. Additionally, the British-based human rights charity Reprise has begun publishing evidence of civilian casualties, as well as funding local journalistic reporting, such as the distribution of ‘Transparency Cameras’ to North Waziristan residents to record the impact of the drone campaign first-hand. This local journalistic support has also extended to hosting an exhibition of pictures and videos in London revealing the aftermath of drone strikes.⁴¹ This growing attention and evidence base has fuelled the perception that the US drone campaign is not proportional, and does not take account of civilian casualties.

The final theme that is regularly discussed in articles relating to the drone campaign concerns fears of blowback. A range of observers have argued that rather than making the United States safer, the increased dependency upon lethal drone strikes has actually stirred anti-Americanism and resulted in more hostility toward the US, ultimately reducing national security. ‘The use of drone aircraft,’ argues David Cortright, Director of Policy Studies at the Kroc Institute for International Peace Studies, University of Notre Dame, ‘perpetuates the illusion that military force is an effective means of countering terrorism.’ ‘We should know better by now,’ he adds.⁴² Former Australian military officer and Pentagon adviser David Kilcullen has agreed with this position, testifying before Congress in March 2009 that drone strikes arouse ‘a feeling of anger that coalesces the population around the extremists,’ who vow to fight against such attacks.⁴³ Kilcullen also published a widely discussed opinion piece in the *New York Times* describing the drone campaign as a ‘strategic error,’ which had distracted from the more important job of isolating extremists and hindered the vital task of building local partnerships by angering Pakistani locals.⁴⁴ Two years later, Leila Hudson, Colin Owens and Matt Flannes came to a similar conclusion in *Middle East Review*, arguing that ‘rather

⁴¹ ‘Teenage anti-drone protestor killed by CIA in Pakistan’, *Reprise*, 6 November, 2011, <http://www.reprise.org.uk/press/2011_11_06_Tariq_CIA_drone_Waziristan/> [accessed 21 October, 2012].

⁴² David Cortright, ‘License to Kill’, in *Cato Unbound*, 9 January, 2012, <<http://www.cato-unbound.org/2012/01/09/david-cortright/license-to-kill/>>, [accessed 30 August, 2012].

⁴³ ‘Effective Counterinsurgency: The Future of the U.S. Pakistan Military Partnership’, Committee on Armed Services, 111th Congress, 1st session, 23 April 2009, p.21, in gpo.gov, <<http://www.gpo.gov/fdsys/pkg/CHRG-111hhrg52666/pdf/CHRG-111hhrg52666.pdf>> [accessed 20 January, 2010].

⁴⁴ David Kilcullen, Andrew McDonald Exum, ‘Death From Above, Outrage Down Below’, *New York Times*, 16 May, 2009, <<http://www.nytimes.com/2009/05/17/opinion/17exum.html?pagewanted=all>> [accessed 26 October, 2012].

than calming the region through the precise elimination of terrorist leaders, [...] the accelerating counterterrorism program has compounded violence and instability [in Pakistan].⁴⁵ Noel Shachtman, contributing editor to *Wired*, agrees that the use of armed drones is breeding anger and frustration and leading to a backlash against the Pakistani and US governments.⁴⁶ Supporting this view, Peter Bergen and Katherine Tiederman have reported that two successful and one failed terrorist attack have been carried out in direct response to drone attacks.⁴⁷ The former US Secretary of State, Hillary Clinton faced several noisy protests against the drone strikes when she visited Pakistan in September 2009.⁴⁸ Even 2012's Republican presidential candidate Mitt Romney argued in a debate with the President that 'America cannot kill its way out' of its conflict with al-Qaeda.⁴⁹ The *New Yorker's* Jane Mayer stated that the 'United States continues to conduct drone strikes without apparent regard for even the acute anger created.' Hina Shamsi, the director of the ACLU's National Security project, summed up the concerns of these critics in the pages of the *Guardian* where she argued that 'if we further entrench the militarisation of our counter-terrorism efforts, our nation risks becoming a legal pariah.'⁵⁰ Despite these warnings, US policy makers have shown virtually no reservations about the continued use of drones in Pakistan. Peter W. Singer, a Brookings Institute fellow and author of *Wired for War*, argues this support might have more to do with the 'seductive' nature of the

⁴⁵ Leila Hudson, Colin S. Owens, Matt Flannes, 'Drone Warfare: Blowback from the New American Way of War', *Middle East Policy*, Vol. XVIII, No.3, (Fall 2011), p.123.

⁴⁶ Noah Shachtman, 'Washington Finally Feeling Drone War Backlash', *Wired*, 10 May, 2010, <<http://www.wired.com/dangerroom/2010/05/washington-finally-feeling-drone-war-backlash/>> [accessed May 20, 2010].

⁴⁷ Peter Bergen and Katherine Tiederman 'The Year of the Drone: An analysis of US Drone Strikes in Pakistan, 2004-2010', New America Foundation, <<http://counterterrorism.newamerica.net/drones/>> [accessed 10 July, 2011]; Siobhan Goreman, 'Suicide Bombing in Afghanistan Devastates Critical Hub For CIA Activities', *Wall Street Journal*, 1 January, 2010, <<http://online.wsj.com/article/SB126225941186711671.html>> [accessed 25 August, 2012]; Anne E. Kornblut and Karin Brulliard, 'U.S. Blames Pakistani Taliban For Times Square Bomb Plot', *Washington Post*, 10 May, 2010, <<http://www.washingtonpost.com/wp-dyn/content/article/2010/05/09/AR2010050901143.html>> [accessed 31 August, 2012].

⁴⁸ 'Pakistanis Confront Clinton Over Drones Attacks', *Washington Times*, 30 October, 2009, <<http://www.washingtontimes.com/news/2009/oct/30/clinton-rebuked-pakistan-over-al-qaeda-failure/?page=all>> [accessed 15 August, 2012].

⁴⁹ 'Mitt Romney: US Can't Kill Its Way Out Of Extremist Threats', 22 October, 2012, <http://www.huffingtonpost.com/2012/10/22/mitt-romney-arab-spring_n_2003919.html> [accessed 26 October, 2012]. 'Full Transcript of Third Debate', *New York Times*, 22 October, 2012, <<http://www.nytimes.com/2012/10/22/us/politics/transcript-of-the-third-presidential-debate-in-boca-raton-fla.html?pagewanted=all>> [accessed 26 October, 2012].

⁵⁰ Hina Shamsi, 'The Legacy of 9/11: Endless War Without Oversight', *Guardian*, 7 September, 2011, <<http://www.guardian.co.uk/commentisfree/cifamerica/2011/sep/07/us-constitution-and-civil-liberties-congress>> [accessed 30 August, 2012].

technology, which has created the perception that the military response is 'costless'.⁵¹ This in turn, argues Cortright, 'reduces the political inhibitions against the use of deadly violence,' creating what former UN Special Rapporteur Philip Alston described as 'a PlayStation mentality to killing,' which may induce public callousness.⁵²

One striking feature of all of the debates surrounding the drone campaign is the assumption that it is unprecedented. There is common agreement between supporters and critics alike that the CIA's actions represent the progression of the revolutionary policies introduced during George W. Bush's War on Terror, which has seen the Agency transformed with little or no oversight. To those who accept this perspective, the campaign represents a unique challenge to domestic and international law, is unmatched in its use of precision weapons to kill individual targets sheltering in populated areas, and marks a new level of militarism in US counterterrorism policy. However, true to Boorstin's adage, the true watershed of this drone campaign has been missed amongst the tumult of articles and opinions. 'History', Boorstin observed, 'rarely shows its hand swiftly', and the drone programme is no exception. Contrary to the views discussed above, the campaign is not unprecedented, nor is it the result of policies pursued by the George W. Bush administration. The militarization of the CIA has been decades in the making, and the legal challenges the drone campaign presents are not without precedent. The trade-off between concerns about collateral damage and the benefit of eliminating terrorist targets has been debated before at the highest levels of the US government, and the use of force to counter terrorism is a policy that has been evolving since the early years of the Reagan administration. This thesis will demonstrate that the drone campaign, whilst unique in scale, is not unprecedented, and actually marks a return to, rather than a further departure from, counterterrorism methods and strategy developed in the decades preceding 9/11. This is an argument that has not been made in any of the existing literature in the field, either in the texts mentioned above, or in broader studies relating to counterterrorism and drones.

⁵¹ Mayer, 'The Predator War.'

⁵² Cortright, 'License to Kill'; Alston, 'Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions'.

While the relatively recent escalation of the drone campaign, coupled with the covert nature of the operations means that literature on the topic is limited, there is a gradually increasing list of publications related to drones, reflecting the growing attention they have gained over recent years. Presently literature on drones can be divided into four categories – technical, policy, political and personal. The technical texts, such as Bill Yenne’s *Birds of Prey*, provide detailed summaries of the technical specifications of the aircraft, their development and their designations.⁵³ Whilst these can serve a useful purpose in tracking the evolution of the technology, they do not engage with the wider arguments about the policy decisions behind drone use, nor analyse their effectiveness in counterterrorism.⁵⁴

The second category of text, those which focus upon policy relating to drones, contain significantly less technical data but provide a much greater focus upon the implications of unmanned technology. For example the Congressional Research Service’s *Rise of the Drones* comprises of a collection of testimonies delivered by various experts on legal issues, terrorism and technology before a range of Congressional committees. Such texts give important insights into the current discussions taking place about the benefits, drawbacks and legal challenges presented by drone use. Due to many of these publications being funded by think tanks or policy advocacy centres they frequently offer their own policy recommendations and predictions as to the likely future development of drone technology.⁵⁵ Despite this engagement with the impending advances in the field of unmanned technology, these texts offer little to no context to current drone technology and provide little

⁵³ For examples of technical texts providing details on drones, see: David Axe, *Warbots* (Michigan MI: Nimble Books LLC, 2008); Peter W. Singer, *Wired For War: The Robotics Revolution and Conflict in the 21st Century* (New York NY: Penguin Books, 2009); Bill Yenne, *Birds of Prey: Predators, Reapers and America’s Newest UAVs in Combat* (Minnesota MN: Speciality Press, 2010); Steven J. Zaloga, *Unmanned Aerial Vehicles: Robotic Air Warfare, 1917-2007* (Oxford: Osprey Publishing, 2008).

⁵⁴ For more on the developmental history of the armed drone, see Chapter 3.

⁵⁵ For examples of texts relating to drone policy, see:

‘Living Under Drones’, International Human Rights and Constitutional Resolution Clinic, Stanford Law School, Global Justice Clinic, NYU School of Law, September 2012, <http://livingunderdrones.org/wp-content/uploads/2012/09/Stanford_NYU_LIVING_UNDER_DRONES.pdf> [accessed 14 October, 2012]; *Rise of the Drones: Unmanned Systems and the Future of War* (Washington, DC: Congressional Research Service, 2010); “‘Will I Be Next?’: US Drone Strikes in Pakistan’ Amnesty, International, 2013, <<http://www.amnestyusa.org/sites/default/files/asa330132013en.pdf>> [accessed 7 June, 2014]; Micah Zenko, *Between Threats and War: US Discrete Military Operations in the Post-Cold War World* (Stanford CA: Stanford University Press, 2010); Micah Zenko, *Reforming US Drone Strike Policies* (New York NY: Council on Foreign Relations, 2013).

perspective on the long-term evolution of the policies which currently dictate their use. A clear case in point is *Terminator Planet* by Nick Turse and Tom Engelhardt. The authors describe their book as ‘the first history of drone warfare,’ despite the start date of this history being 2001. This serves as an illustration of the relative short-sightedness that runs throughout much of the literature relating to the drone campaign. Arguably one of the most significant of these policy-focused texts is Brian Glynn Williams’ *Predators*, which makes excellent use of open sources to construct as clear a picture of post-9/11 drone warfare as is possible, given the classified nature of much of the evidence. However, its discussion of the longer-term history of drone development is limited to a few dozen pages, and focuses more on experimental drone use for reconnaissance during the Vietnam war than it does on the more critical role of the Counterterrorism Center and policy initiatives throughout the Reagan era.⁵⁶ James DeShaw Rae’s *Analysing Drone Debates* performs a similar function, detailing the legal and practical arguments of drone use, but only doing so in the context of a truncated account of how they came to function as a primary counterterrorism tool.⁵⁷ Finally, historian Lloyd C. Gardner’s *Killing Machine* provides an admirably comprehensive treatment of drone warfare from the perspective of how its advent has affected the role of the president, building upon a similar ‘imperial presidency’ thesis to Turse and Engelhardt, but avoiding their more polemic excoriating of the subject in favour of a nuanced treatment of what Gardner ultimately regards as a potentially disastrous policy.⁵⁸ Once more however, Gardner’s text approaches the ‘drone era’ as if it were entirely a product of 9/11, as opposed to considering the wider historical context out of which it emerged.

The third kind of text relevant to the history of drones is the insider account of counter-terrorism policy development. Whilst not specifically about drones, these works provide useful insights into how the campaign has been discussed in the White House, and the views of key political figures on their use. A good example is Bob Woodward’s book *Obama’s Wars*, which provides a valuable account of the

⁵⁶ Brian Glynn Williams, *Predators: The CIA’s Drone War on Al-Qaeda* (Washington, DC: Potomac Books, 2013).

⁵⁷ James DeShaw Rae, *Analysing the Drone Debates: Targeted Killing, Remote Warfare, and Military Technology* (New York NY: Palgrave Macmillan, 2014).

⁵⁸ Lloyd C. Gardner, *Killing Machine: The American Presidency in the Age of Drone Warfare* (New York NY: The New Press, 2013).

perspectives of those involved in decision making around the drone campaign. Woodward notes, for instance, that Tom Donilon, Obama's Assistant for National Security Affairs (ANSA), felt the administration was 'battering al-Qaeda far more than the Bush administration ever did in terms of tempo, tools and global scope.' We also learn, in contrast, that Douglas Lute, Obama's Special Assistant and Senior Coordinator for Afghanistan and Pakistan, saw the drone campaign as just a 'disruption' to al-Qaeda, with little or no lasting, durable effect.⁵⁹ Daniel Klaidman's *Kill or Capture*, meanwhile, provides an account of the thinking behind the Obama administration's adoption of drones as a primary counterterrorism tool.⁶⁰ Whilst most of Klaidman's work is focused upon other more politically sensitive issues during the administration's first term, such as efforts to close the Guantánamo detention center and debates over the use of enhanced interrogation, there is an entire chapter dedicated to the complex legal debates that surrounded the use of targeted killing by drone.⁶¹ Klaidman illustrates the lengths to which the Obama administration went in its efforts to present the drone campaign as legally acceptable and 'just.' Once again, however, the author's focus is upon the current debates. As contemporary political accounts the reporting within these texts is focused entirely on the recent past; none of the decisions the policy makers make are contextualized or compared to those that had been made in previous administrations. To read these texts would, again, be to believe that this particular method of counterterrorism was born exclusively of the September 11 attacks.

The final type of text which can provide useful context to the drone campaign are the memoirs and biographies of those who helped shape the policies that underwrite the campaign. Individuals such as George Schultz, Reagan's Secretary of State, and Oliver North, the National Security Council (NSC) staffer responsible for counterterrorism during the same period, played significant roles in creating the policies which established many of the precedents upon which the drone campaign is now built. Their memoirs provide remarkably useful insights as to the factors

⁵⁹ Bob Woodward, *Obama's Wars: The Inside Story* (London: Simon and Schuster, 2010), p.344, p.284. See also James Mann, *The Obamians: The Struggle Inside the White House to Redefine American Power* (New York NY: Penguin, 2012).

⁶⁰ Daniel Klaidman, *Kill or Capture: The War on Terror and the Soul of the Obama Presidency* (New York NY: Houghton Mifflin Harcourt, 2012).

⁶¹ 'From Warfare to Lawfare', in Klaidman, in *Kill or Capture*, p.199-223.

motivating their policy decisions.⁶² In addition, CIA officers who were personally involved in the Agency's initial struggles against terrorism such as Duane Clarridge, the founder of the Counterterrorism Center (CTC), and Robert Baer, one of its first operations officers, have also published detailed memoirs which can complement the heavily redacted official documents relating to this sensitive policy area.⁶³ There are also memoirs from those who initially witnessed the CIA's deployment of drones in their efforts to hunt al-Qaeda, although the technology itself is often only fleetingly mentioned as its future significance was frequently not realized at the time of publication. For example, the memoir of Clinton's former National Coordinator for Counterterrorism Richard Clarke, *Against All Enemies*, describes the political infighting which delayed the preliminary arming and deployment of the Predator drone toward the end of the Clinton administration. Accounts from within the CIA of those charged with tracking down bin Laden in the 1990s, such as those by Michael Scheuer, and his manager, former Director of Central Intelligence (DCI) George Tenet also contribute useful insights into the counterterrorism challenges, which eventually saw the Predator drone adopted.⁶⁴ In the case of a key figure such as William Casey, the former DCI, who died before he could leave a memoir, biographies serve to help fill the gaps between official speeches and papers and more private motivations.⁶⁵ Overall, these memoirs provide vital insights into the decision making that drove the development of drone policy. The fact that the testimony of

⁶² Some examples of memoirs of those involved in the formulation of counterterrorism policy are: Alexander M. Haig, *Caveat: Realism, Reagan and Foreign Policy* (New York NY: Macmillan Publishing Co., 1984); Oliver L. North and William Novak, *Under Fire: An American Story* (New York NY: HarperCollins, 1991); Ronald Reagan, *Ronald Reagan: An American Life* (New York NY: Pocket Books, 1990); George P. Schultz, *Turmoil and Triumph: My Years as Secretary of State* (New York NY: Charles Scribner's Sons, 1993); Casper Weinberger, *Fighting For Peace: Seven Critical Years at the Pentagon* (London: Michael Joseph Ltd., 1990).

⁶³ Some examples of memoirs of those serving within the CIA are: Robert Baer, *See No Evil: The True Story of a Ground soldier in the CIA's War Against Terrorism* (London: Arrow Books, 2002); Duane R. Clarridge with Digby Diehl, *A Spy For All Seasons: My Life in the CIA* (New York NY: Scribner, 1997); Robert Gates, *From the Shadows*, (New York NY: Simon & Schuster, 1996).

⁶⁴ For examples of memoirs in which drones feature, see: Richard A. Clarke, *Against All Enemies: Inside America's War on Terror* (London: Free Press, 2004); George Tenet, *At the Center of the Storm: My Years at the CIA* (New York NY: Harper Luxe, 2007); Michael Scheuer, *Imperial Hubris: Why the West is Losing the War on Terror* (Washington, DC: Potomac Books, Inc., 2007); Gary C. Schroen, *First In: An Insider's Account of How the CIA Spearheaded the War on Terror in Afghanistan* (New York NY: Ballantine Books, 2007); *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (New York NY: W.W. Norton and Company, 2004).

⁶⁵ Joseph E. Persico, *Casey: The Lives and Secrets of William J. Casey from the OSS to the CIA* (New York NY: Penguin, 1990).

many of these individuals also went into the 9/11 Commission's report further highlights the importance of their first-hand experience of American counterterrorism efforts. However, this also serves to highlight something else one must also consider when using such sources. Many of those writing these memoirs had or still have political legacies to protect, or in the case of North and Clarridge, reputations to salvage and axes to grind after their forced dismissals in the face of the Iran-Contra scandal. Furthermore, the stakes were even higher for those publishing memoirs post-9/11, looking to make the case for why America's greatest security failing was not their fault. Therefore, although personal memoirs are a vital part of the research for this project, they must be used with care.

Despite this range of material, there is not a single text which tracks the evolution of drone policy from its early counterterrorism stages under Reagan to the current campaign. No text has yet identified the key individuals responsible for the evolution of the policies of preemptive targeted killing, projection of aggressive counterterrorism abroad, nor the use of unmanned aircraft to gather intelligence and attack terrorists. This project aims to fill the gap in the existing literature by providing a clear line of development in US counterterrorism policy, showing how the current drone campaign is not a product of the 9/11 attacks, but actually part of a much more long running evolution in counterterrorist methods, which dates back to the Reagan administration. It will provide analysis of the individuals who pushed for hardline counterterrorist policies, the ideological and legal arguments that took place over counterterror techniques, as well as the technological innovations which led to the use of lethal unmanned drones. It will also explore why this approach, despite being formed in the mid-1980s, took three decades to fully emerge.

**Chapter 1 - “The Hamlet of Nations”:
The rhetoric and reality of the Reagan Administration’s counterterrorism
policy, 1980 - 1985**

*We cannot allow ourselves to become the Hamlet of nations, worrying
endlessly over whether and how to respond.*

Secretary of State George Schultz

As the threat of international terrorism against the United States grew during the early years of the Reagan administration, a small group of influential policy makers began to coalesce around a shared hardline position on counterterrorism. Secretary of State George Schultz, DCI William Casey and the NSC staff member responsible for Low-Intensity Warfare, Lt. Colonel Oliver North, collectively came to believe that the most effective way to meet the emerging threat was to deploy lethal force, preemptively if possible, against terrorist operatives and their leaders. These hardliners encountered considerable resistance to their ideas from within their own administration, with the likes of Secretary of Defense Casper Weinberger publicly criticising their hardline agenda. However, over the past three decades this view has gradually moved from the hardline fringes of US counterterrorism to being accepted as the mainstream policy approach adopted by successive American administrations. In the wake of the 9/11 attacks the focus upon Bush’s declaration of a War on Terror has meant that the impact of these officials’ ideas and actions has been overlooked. Yet their legacy is evident in the counterterrorism policies adopted by the Clinton, George W. Bush and Obama administrations, with the eventual emergence of the CIA’s drone campaign and the practice of targeted killing which it embodies owing more to these officials than any other policy makers.

Reagan’s counterterrorism in rhetoric

Reagan came to power at a time of heightened public interest in, and fear of, acts of terrorism. Globally, terrorist attacks had been increasing at an alarming rate over the previous decade. In 1970, there had been a total of 643 terrorist incidents worldwide.

In 1980, this figure had increased to 2,621 in the year.¹ Americans themselves had a particular sense of their vulnerability to this tactic due to the humbling ordeal of 52 American citizens held hostage in Iran for 444 days after the successful overthrow of the American-backed Shah by the Ayatollah Khomeini's Islamic revolution. President Carter had attempted a military rescue operation but its failure had left him looking enfeebled and the United States humiliated. The mission, codenamed Operation Eagle Claw was conducted by the US Army's elite new counterterrorism unit, Delta Force, on 24 April, 1980. The effort ended in debacle when one of the team's helicopters collided with a fuel-laden C-130 in the Iranian desert, killing eight Americans. The bodies were discovered by the Iranian authorities and pictures of the charred corpses were used as a symbol of American failure.² Not only had this ordeal demonstrated defencelessness on the part of the super power, it also revealed that terrorism was no longer just a foreign policy issue, but instead had the power to cross into domestic politics. Acts of terror - and the federal government's response to them - affected the public mood and carried with them electoral ramifications for presidents.

Many Americans had complained about Carter's conduct during the ordeal of the Iranian hostages, and Reagan had been able to exploit this during his presidential challenge. In a television campaign speech a month before the election, he spoke of the need for 'the United States to assume a leadership role in curbing the spread of international terrorism.' He went on: 'I will direct the resources of my administration against this scourge of civilization and toward the expansion of our cooperation with other nations combatting terrorism in its main forms.'³ Nine days later in the candidates' only debate, a question was asked about international terrorism, indicating its relevance as a political issue. Again, Reagan raised leadership, implying Carter had not been doing enough to combat the threat, and declaring that it

¹ National Consortium for the Study of Terrorism and Responses to Terrorism (START), Global Terrorism Database, 2012, University of Maryland, <<http://www.start.umd.edu/gtd/>> [accessed 3 December, 2012].

² Mark Bowden, 'The Desert One Debacle', *The Atlantic*, May 2006, <<http://www.theatlantic.com/magazine/archive/2006/05/the-desert-one-debacle/304803/>> [accessed 5 December, 2012]; Mark Bowden, *Guests of the Ayatollah: The Iran Hostage Crisis: The First Battle in America's War with Militant Islam* (New York NY: Grove Press, 2007).

³ Televised Address by Governor Ronald Reagan, 'A Strategy for Peace in the '80s', 19 October, 1980, in Papers of Ronald Reagan, The American Presidency Project, University of California, Santa Barbara, <<http://www.presidency.ucsb.edu/ws/index.php?pid=85200>> [accessed 3 December, 2012].

was ‘high time that the civilized countries of the world made it plain that there is no room worldwide for terrorism.’⁴ So great was the impact of the hostage crisis on Carter’s campaign and so acute the sense of weakness, one of his political advisors later lamented that ‘the President’s chances of re-election probably died on the desert of Iran with the eight brave soldiers who gave their lives trying to free the American hostages.’⁵ ‘The greatest casualty of Operation Eagle Claw’, reflects Richard Immerman, ‘was Jimmy Carter.’⁶ The failure did not just have an impact on the Carter presidency, but left a lasting legacy for Reagan and in particular the man who would become his Secretary of Defense, Casper Weinberger. Weinberger sought to ensure that no such disaster would befall the US military during his tenure at the Pentagon by doing all he could to keep its forces out of high-risk counterterrorism operations.

From the moment he took office, Reagan’s rhetoric regarding terrorism reflected his campaign promise to provide strong, decisive leadership in the face of terror threats. During his inaugural address, the new president warned ‘those who practice terrorism and prey upon their neighbours’ that the ‘will and courage of free men and women’ could never be shaken by their violent methods.⁷ Minutes after the new president completed his address, it appeared that his forceful stance was already paying dividends as Iran finally released the Americans hostages. The convenient timing of the liberation of the US detainees gave rise to the allegation that members of Reagan’s campaign team conspired with the Iranian authorities to ensure Carter could not pull off an “October surprise,” thus boosting his re-election chances by resolving the crisis before Americans went to the polls in November. In return for the Iranians dragging the crisis out it is alleged that members of the Reagan camp promised to lift trade sanctions and release billions of dollars of Iranian gold and

⁴ President Jimmy Carter and Governor Ronald Reagan Presidential Debate, Cleveland, Ohio, 28 October, 1980 in Reagan Presidential Library Speeches Archive, <<http://www.reagan.utexas.edu/archives/reference/10.28.80debate.html>> [accessed 4 December, 2012].

⁵ Theodore H. White, *America in Search of Itself: The Making of the President 1956-1980* (New York NY: Harper and Row, 1982), p.21.

⁶ Richard H. Immerman, *The Hidden Hand: A Brief History of the CIA* (Chichester: Wiley, 2014), p.124.

⁷ President Ronald Reagan, First Inaugural Address, Washington, DC, 20 January, 1981, in Miller Center, University of Virginia, <<http://millercenter.org/president/speeches/detail/3407>> [accessed 5 December, 2012].

assets frozen after the embassy seizure.⁸ Two Congressional enquiries and a number of media investigations failed to provide any solid evidence that the conspiracy was true, but it has persisted in no small part due to the fact that a number of notable individuals who were involved in the hostage negotiations at the time, including former Iranian President Abulhassan Banisadr, Israel's former Prime Minister Yitzhak Shamir (serving as foreign minister at the time) and Gary Sick, a Carter NSC member, have all stood by the allegations.⁹ The exposure of the Reagan administration's later collusion to supply arms to Iran in return for US hostages in Beirut lends further credence to this theory.¹⁰

Whatever the truth regarding the hostages' release, Reagan used their return to stake out his administration's first tangible policy departure from the Carter administration, vowing to 'take an unrelentingly tough line against any such future acts of terrorism.'¹¹ For the Reagan administration, in public at least, there was to be no flexibility in dealing with the perpetrators and sponsors of terrorist acts. Responding to a spate of kidnappings of American citizens in Lebanon in 1984, Reagan warned that 'Yielding to violence and terrorism today may seem to provide temporary relief, but such a course is sure to lead to a more dangerous and less

⁸ Steven R. Weismann, 'Reagan Takes Oath as 40th President; Promises an "Era of National Renewal"—Minutes Later, 52 U.S. Hostages in Iran Fly to Freedom After 444-Day Ordeal', *New York Times*, 21 January, 1981, <<http://www.nytimes.com/learning/general/onthisday/big/0120.html>> [accessed 5 December, 2012]. *The Iranian Hostage Crisis*, PBS 'American Experience' series, <<http://www.pbs.org/wgbh/americanexperience/features/general-article/carter-hostage-crisis/>> [accessed 3 December, 2012].

⁹ Neil A. Lewis, 'Bani-Sadr, in US, Renews Charges of 1980 Deal', *New York Times*, 7 May, 1991, <<http://www.nytimes.com/1991/05/07/world/bani-sadr-in-us-renews-charges-of-1980-deal.html>>; Gary Sick, 'The Election Story of the Decade', *New York Times*, 15 April, 1991, <<http://www.nytimes.com/1991/04/15/opinion/the-election-story-of-the-decade.html>>; Robert Parry, 'Shamir's October Surprise Admission', *Consortium News*, 3 July, 2012, <<http://consortiumnews.com/2012/07/03/shamirs-october-surprise-admission/>>; 'Creating a task force to investigate certain allegations concerning the holding of Americans as hostages in Iran in 1980', Congressional Record, House of Representatives, 5 February, 1992 in Federation of American Scientists Intelligence Review Program, <http://fas.org/irp/congress/1992_cr/h920205-october-clips.htm> [accessed 9 July, 2014].

¹⁰ For more on the Iran-Contra scandal, see Chapter 3.

¹¹ George C. Wilson, 'Pentagon Scrubbed a Second Iranian Rescue Plan as Too Dangerous', *Washington Post*, 25 January, 1981, <http://pqasb.pqarchiver.com/washingtonpost_historical/access/135680432.html?FMT=ABS&FMTS=ABS:AI&type=historic&date=Jan+25%2C+1981&author=By+George+C.+Wilson+Washington+Post+Staff+Writer&desc=Pentagon+Scrubbed+a+Second+Iranian+Rescue+Plan+as+Too+Dangerous> [accessed 4 December, 2012].

manageable future crisis.’¹² Building upon this theme of resistance in the face of terrorist threats, members of Reagan’s government criticized the Carter administration for opening diplomatic channels with Iranian officials in his efforts to free the hostages. ‘The present administration would not have negotiated with Iran for the release of the hostages,’ said William Dyess, a State Department spokesman.¹³ Instead of diplomacy, acts of terrorism against the United States would now be met with a policy of ‘swift and effective retribution,’ promised the president.¹⁴ During a press conference relating to the American hostages held in Lebanon, the president promised that ‘Every effort will be made to find the criminals responsible for this act of terrorism so this despicable act will not go unpunished.’¹⁵ As the anti-American terrorist threat escalated from the Iranian-backed militia in Lebanon to the state-sponsored violence conducted by Gaddafi’s Libyan agents, so too did Reagan’s rhetoric. ‘When our citizens are abused or attacked anywhere in the world on the direct orders of a hostile regime,’ warned the president during an address following military strikes against Libyan targets in 1986, ‘we will respond so long as I’m in this Oval Office.’¹⁶

The bellicose rhetoric used by the president and other members of his administration perpetuated an image of a government that was tough on terrorism. Reagan’s team presented themselves as offering a new, swift and decisive approach to counterterrorism, which put ‘those who would instigate acts of terrorism against US citizens or property on notice’ that the United States would ‘vigorously confront’ them and bring them to justice, whether that be via diplomatic and economic sanctions, their arrest for trial in US courts or through the full-scale deployment of

¹² President Ronald Reagan, ‘Statement on the Situation in Lebanon’, 7 February, 1984, in Reagan Presidential Library Speeches Archive,

<<http://www.reagan.utexas.edu/archives/speeches/1984/20784d.htm>> [accessed 5 December, 2012].

¹³ William Dyess, quoted in David C. Wills, *The First War on Terrorism: Counter-Terrorism Policy During the Reagan Administration* (Maryland MD: Rowman and Littlefield Publishers, Inc., 2003), p.5.

¹⁴ President Ronald Reagan, ‘Remarks at the Welcoming Ceremony of the Freed American Hostages’, 27 January, 1981, in Reagan Presidential Library Speeches Archive,

<<http://www.reagan.utexas.edu/archives/speeches/1981/12781b.htm>> [accessed 8 February, 2013].

¹⁵ President Ronald Reagan, ‘Remarks and a Question-and-Answer Session with Regional Editors and Broadcasters on the Situation in Lebanon’ 24 October, 1983, in Public Papers of Ronald Reagan, Reagan Presidential Library, <<http://www.reagan.utexas.edu/archives/speeches/1983/102483b.htm>> [October 24, 1983].

¹⁶ President Ronald Reagan, Address to the Nation on the United States Air Strike Against Libya, 14 April, 1986, in Reagan Presidential Library Speeches Archive,

<<http://www.reagan.utexas.edu/archives/speeches/1986/41486g.htm>> [accessed 13 August, 2012].

American military force.¹⁷ However, the reality behind the rhetoric was significantly different to the image it projected. The Reagan administration was deeply divided on how best to deal with the threat of international terrorism and its state sponsors. ‘The executive branch was itself so fragmented,’ reflected George Schultz, ‘that it was impossible to orchestrate all counterterrorist efforts effectively or even to get agreement that there should be a specific counterterrorist effort.’¹⁸ What follows is a study of the various viewpoints and policy proposals put forward by key members of Reagan’s administration on counterterrorism. The chapter will then provide an assessment as to why Reagan was unable to forge these viewpoints into a coherent counterterrorism policy, and why it was the CIA which ended up at the forefront of the US counterterrorist mission. The remainder of the chapter will demonstrate how these policies, although not successfully enacted at the time, would eventually form the strategic backbone of the CIA’s drone campaign.

The key architects of US counterterrorism policy in the Reagan Administration

Alexander M. Haig, Secretary of State, 1981 – 1982

Although Haig was not in post long enough to make a significant impact upon the administration’s counterterrorism policies, he was the first cabinet member to set out a tangible policy regarding terrorism.¹⁹ While serving as supreme allied commander in Europe in 1979, he narrowly survived an assassination attempt, which West German intelligence had concluded was perpetrated by the Baader-Meinhof Gang. Such groups, Haig was told, operated with significant Eastern bloc assistance.²⁰ This personal brush with Soviet-sponsored terrorism had left Haig convinced that the US had to make fighting international terrorism a central pillar of Cold War foreign

¹⁷ President Ronald Reagan, Proclamation 5557, ‘A Time of Remembrance for Victims of Terrorism’, 22 October, 1986, in Reagan Presidential Library Speeches Archive, <<http://www.reagan.utexas.edu/archives/speeches/1986/102286b.htm>> [accessed 13 August, 2012].

¹⁸ George P. Schultz, *Turmoil and Triumph: My Years as Secretary of State* (New York NY, Macmillan, 1993), p.647.

¹⁹ Haig resigned due to bureaucratic infighting on 25 June, 1982. Letter Accepting the Resignation of Alexander M. Haig, Jr., as Secretary of State, 25 June, 1982, in Public Papers of the Presidents, Ronald Reagan, 1982, Book I, The American Presidency Project, University of California, Santa Barbara, <<http://www.presidency.ucsb.edu/ws/index.php?pid=42681>> [accessed 13 January, 2013].

²⁰ Timothy Naftali, *Blind Spot: The Secret History of American Counterterrorism* (New York NY: Basic Books, 2005), pp.117-118.

policy. Haig used his first press conference to set out a hardline, anti-Soviet position he believed to be in step with the tough rhetoric Reagan had used during the election campaign. He argued that terrorism was not a regional issue, rather a Cold War issue, with terror groups coordinated globally by the Soviets as part of a covert war against Western democracies.²¹ Taking a swipe at the Carter administration, Haig declared that under the Reagan administration ‘International terrorism will take the place of human rights.’ ‘The greatest problem to me in the human-rights area today,’ the Secretary of State continued, ‘is the area of rampant international terrorism.’ Haig went on to place the blame for this international terrorism squarely on the Soviet Union for its role in the ‘training, funding and equipping’ of the world’s most significant terrorist groups.²² This declaration was not well received by many within the Reagan administration, especially James Baker, the new White House Chief of Staff. Baker berated Haig for upstaging the President on a strategic policy matter, and signalling to the Soviets that the United States might hold it culpable for any future terrorist attacks against it and its allies, anywhere in the world.

Despite Baker’s criticism, Haig’s views received support from the American journalist Claire Sterling in her 1981 book, *The Terror Network*, in which she argued that ‘the KGB’s role [in international terrorism] was not a matter of guesswork, but documented fact.’²³ The Soviet Union, Sterling argued, coordinated with terrorist groups to attack strategic Cold War targets:

[T]he strongest and weakest links in the Western democratic chain [...] had plainly been singled out as front-line states by the terrorists and the Kremlin both. In neither of these countries did the evidence of Soviet complicity depend merely on connections two or three times removed. The KGB was involved directly, in tandem with the security services of Russia’s East European satellites.²⁴

²¹ Ibid, p.122.

²² Michael Getler, ‘Soviets and Terrorist Activity: World of Shadows and Shading’, *Washington Post*, 7 February, 1981.

²³ Claire Sterling, *The Terror Network: The Secret War of International Terrorism* (New York NY: Holt, Rinehart and Winston, 1981), p.287.

²⁴ Ibid, p.287. Interview with Claire Sterling by Richard D. Heffner, *The Terror Network*, ‘The Open Mind’, 1981, in The Internet Archive, <http://archive.org/details/openmind_ep1346> [accessed 13 January, 2013].

Experts across the US government and commentators in the media were divided over the role played by the Soviets in the escalating number of international terror acts.²⁵ The CIA produced a draft Special National Intelligence Estimate which rejected Sterling's argument, concluding that the Soviets were largely uninvolved, whilst the Pentagon's Defense Intelligence Agency (DIA) produced a contradictory draft which asserted Soviet guilt. Eventually the standoff was ended by an independent review of both reports and their sources undertaken by Lincoln Gordon, a former president of Johns Hopkins University. Gordon's conclusion was that, while it may have been possible to argue that the Soviets had contributed indirectly to international terrorism, they were not using it as a strategic tool to destabilize Western democracies and Third World nations.²⁶ The Soviets were not the hidden hand behind international terrorism. It was a total rejection of both Haig's argument and Sterling's thesis, and left the struggling Secretary of State's intended policies on counterterrorism in tatters, aiding his early exit from the cabinet.

With hindsight, the views expressed by Haig and Sterling were not as far from the truth as the analysis suggested. Whilst the Soviet Union was not the perpetrator behind *all* international terrorism, Soviet archives have since revealed the USSR and its satellites were far from innocent bystanders. Details of close links between the KGB and significant terrorist groups have since emerged.²⁷ Furthermore the statistics relating to international terrorism reveal a substantial reduction in terrorist attacks following the fall of the Soviet Union, further supporting Haig's theory. In the 1980s there had been 5,431 international terrorist incidents, in which 4,684 people died. In the 1990s these figures dropped to 3,824 incidents which

²⁵ Richard Halloran, 'Proof of Soviet Aided Terror Is Scarce', *New York Times*, 9 February, 1981, <<http://www.nytimes.com/1981/02/09/world/proof-of-soviet-aided-terror-is-scarce.html>>; Judith Miller, 'US Study Discounts Soviet Terror Role: A Draft CIA Report, Now Being Reviewed, Finds Insufficient Evidence For Direct Help', *New York Times*, 29 March, 1981, <<http://www.nytimes.com/1981/03/29/world/us-study-discounts-soviet-terror-role.html>>; George Lardner Jr., 'Assault on Terrorism: Internal Security or Witch Hunt?', *Washington Post*, 20 April, 1981; Philip Taubman, 'US Tries to Back Up Haig on Terrorism', *New York Times*, 3 May, 1981, <<http://www.nytimes.com/1981/05/03/world/us-tries-to-back-up-haig-on-terrorism.html>>; Tom Wicker, 'The Great Terrorist Hunt', *New York Times*, 5 May, 1981, <<http://www.nytimes.com/1981/05/05/opinion/in-the-nation-the-great-terrorist-hunt-by-tom-wicker.html?scp=82&sq=By%20Tom%20Wicker&st=nyt>>; [accessed 13 January, 2013].

²⁶ Bob Woodward, *Veil: The Secret Wars of the CIA, 1981 – 1987* (New York NY: Simon & Schuster, 1987), p.103.

²⁷ Naftali, *The Blind Spot*, p.124.

resulted in 2,468 deaths. Whilst improved counterterrorism efforts played a credible part in this reduction, the demise of leftist terror groups such as Red Brigades in Italy, the Red Army Faction in Germany, Direct Action in France, and the Communist Combatant Cells in Belgium was a key factor. As terrorism expert Paul Pillar reflects, ‘the West’s winning [of the Cold War] sealed their fate. The groups lost both a credible ideology and the material support they had received from communist states in the East.’²⁸

George W. Schultz, Secretary of State, 1982 – 1989

Schultz was the administration’s most ardent supporter of the use of force to fight terrorism, and arguably is the forefather of the concept of the “War on Terror”. He pushed a number of significant policy positions which can be recognised in the CIA’s conduct of their drone campaign. He held a firm view that by 1980 state-sponsored terrorism ‘had become a weapon of unconventional war against the democracies of the West, taking advantage of their openness and building on political hostility toward them.’²⁹ By this rationale, when terrorists targeted American citizens or US interests, they were actively ‘waging war’ against the United States. In order to win this war, Schultz believed that the United States had to show terrorists that they would ‘pay a price for their crimes’ through the use of lethal force. ‘Every nation has the right under international law to take defensive action,’ explained the Secretary of State in his autobiography, three chapters of which are dedicated to his efforts in shaping counterterrorism policy. ‘Part of that defense,’ he continued, ‘is to be prepared to take the offensive when the proper occasion arises.’³⁰

Schultz first publicly raised the issue of offensive action against terrorists in a statement to the Trilateral Commission on 3 April, 1984. The choice of a meeting with the Commission at which to deliver his statement – a body created by David Rockefeller to encourage dialogue between public and private leaders in Europe, North American and Asia on the most pressing problems of the time – reflected the seriousness with which Schultz regarded the issue. ‘[I]t is increasingly doubtful,’

²⁸ Paul R. Pillar, *Terrorism and US Foreign Policy*, (Washington, DC: Brookings Institute Press, 2003), p.43.

²⁹ Schultz, *Turmoil and Triumph*, p.643.

³⁰ *Ibid*, p.652.

warned the outspoken Secretary, ‘that a purely passive strategy can even begin to cope with the problem.’ His address went on to consider the issues which effectively countering terrorism rose for Western liberal democratic societies. In what circumstances and with what means should the United States respond to a terrorist threat, Schultz asked his audience. Following up on this line of enquiry Schultz posed further questions to the assembled members of the Commission: ‘When – and how – should we take preventive or pre-emptive action against known terrorist groups? What evidence do we insist upon before taking such steps?’³¹

The Secretary of State’s questions only remained rhetorical for three weeks, after which he returned to the theme in a speech delivered at the Jonathan Institute in Washington, DC, on 24, 1984. The choice of venue was deliberate on Schultz’s part. The Jonathan Institute was founded in 1979 by Benjamin Netanyahu and was named after his late brother, Lieutenant Colonel Jonathan Netanyahu, an Israeli officer who was killed during a rescue mission to free predominantly Israeli hostages from an aircraft hijacked by terrorists in Entebbe, Uganda.³² By delivering his address from an institution named in honour of a man who gave his life fighting terrorism, Schultz was making clear his belief that US counterterrorism should draw inspiration from Israel’s more aggressive approach. ‘It is time to think long, hard, and seriously about more active means of defense,’ he declaimed. Schultz went on to define what meant by a more ‘active’ defence by calling for the development of the ‘appropriate preventative or pre-emptive actions against terrorists before they strike.’³³ The Secretary of State’s speech marked an extremely significant moment in the evolution of US counterterrorism. Never before had a US official publicly called for the United States to take action against known or suspected terrorists *before* an attack was launched.

³¹ Secretary of State George P. Schultz, ‘Power and Diplomacy in the 1980s’, Statement before the Trilateral Commission, Washington, DC, 3 April, 1984, in Alexander, Kraft (eds.), *Evolution of US Counterterrorism Policy*, Volume I, pp.93-100.

³² Edward S. Herman and Gerry O’Sullivan, *The ‘Terrorism’ Industry: The Experts and Institutions That Shape Our View of Terror* (New York NY: Pantheon, 1989), pp. 104-6; Jonathan (Yoni) Netanyahu Memorial Site, <<http://www.yoni.org.il/>> [accessed 10 June, 2014].

³³ Secretary of State George P. Schultz, ‘Terrorism: The Challenge to the Democracies’, Address before the Jonathan Institute’s Second International Conference on Terrorism, Washington, DC, 24 June, 1984 in Alexander, Kraft (eds.), *Evolution of US Counterterrorism Policy*, Volume I, pp.101-104.

Schultz continued to build his case for pre-emptive action, delivering his most impassioned promotion of the approach four months later at the Park Avenue Synagogue, New York. Publicly criticising what he regarded as the Reagan administration's lack of decisive action against the growing terrorist threat. 'We cannot allow ourselves to become the Hamlet of nations' Schultz cautioned, 'worrying endlessly over whether and how to respond.' The United States was a 'great nation with global responsibilities,' the Secretary of State explained, and could not afford to be 'hamstrung by confusion and indecisiveness.' Schultz recognised the concerns of those who were hesitant to commit the United States to a forceful counterterrorist approach, acknowledging that fighting terrorism would be neither a 'clean or a pleasant contest,' but insisted that doing so was a necessity in order to prevent and deter future terrorist acts – something Schultz believed firmly was the duty of the US government. In order for this policy of prevention and deterrence to be successful, Schultz continued to push the view that the United States would need to be willing to use lethal force 'before each and every fact is known' regarding an imminent terrorist threat, and that such decisions could not be 'tied to opinion polls.'

³⁴ By raising the issue of opinion polls, Schultz was acknowledging that without the clarity of an attack being undertaken in retaliation for an act of terrorism, it could be difficult for the government to justify to the public why lethal force had been deployed. The American public were used to terrorism being treated as a criminal act, for which perpetrators would be arrested and put on trial in the federal legal system. The concept of pre-emptively using lethal force against possible terrorists was an extremely hardline position, and one which posed a number of legal, practical and ethical challenges. Over time, however, this approach would become the default policy of the federal government in its war against al-Qaeda, and a primary element of the CIA's drone campaign. In this chicken and egg scenario, then, the policy preceded the technology, not the other way around.

³⁴ Secretary of State George P. Schultz, 'Terrorism and the Modern World', Park Avenue Synagogue, New York, 25 October, 1984, <<http://www.airforce-magazine.com/MagazineArchive/Documents/2010/December%202010/1210keeperfull.pdf>> [accessed 6 December, 2012].

One of the main factors motivating Schultz to push for a more proactive and forceful counterterrorism strategy was his certainty that terrorism was being shown to be a viable strategy for successfully challenging the United States. The bombing of the US Marine's barracks in Beirut on 23 October, 1983 was a case in point. 241 American service members were killed and a further 60 injured by a truck bomb delivered by the Islamic Jihad militant group (later known to be Hezbollah). 58 French paratroopers were also killed in a second, coordinated bombing minutes later. The soldiers were stationed in Beirut as part of a multinational force charged with peacekeeping duties during the Lebanese civil war. Four months after the attack the US withdrew its forces ending the peacekeeping mission without having achieved its objectives. Far from removing the threat of further American losses, Schultz was convinced the rapid retreat sent 'a clear message' to the United States' enemies that 'terrorism works.'³⁵ 'Once it becomes established that terrorism works – that it achieves its political objectives – its practitioners will be bolder, and the threat to us will be greater,' the Secretary argued.³⁶ Terrorism expert Brian Jenkins agreed, stating in his Rand study *New Modes of Conflict*, published shortly after the barracks bombings, that state-sponsored terrorist attacks had become a form of 'covert or surrogate warfare whereby weaker states could confront larger, more powerful rivals without the risk of retribution.'³⁷ Later statements from Osama bin Laden suggest that Schultz's analysis that a lack of clear deterrence would serve to make America's enemies bolder, was also accurate. Citing both the events in Beirut, and a later withdrawal of US forces from Somalia, bin Laden described America as a 'paper tiger' which was 'unable to endure the strikes that were dealt to [its] army,' instead fleeing in the face of violence and casualties.³⁸ This perspective served as a

³⁵ Frank M. Benis, *US Marines in Lebanon, 1982-1984* (Washington, DC: History and Museums Division, US Marine Corps, 1987), <http://ia601504.us.archive.org/22/items/USMarinesInLebanon1982-1984/US%20Marines%20In%20Lebanon%201982-1984.pdf> [accessed 9 December, 2012]. Timothy J. Gerathy and J.; Alfred M. Gray Jr., *Peacekeepers at War: Beirut 1983 - The Marine Commander Tells His Story* (Washington, DC: Potomac Books, 2009); Lance Cpl. Paul Peterson, '29 years later: Beirut Marine shares memory of bombing', 15 October, 2012, in Marines.mil, <http://www.2ndmlg.marines.mil/News/NewsArticleDisplay/tabid/3874/Article/128298/29-years-later-beirut-marine-shares-memory-of-bombing.aspx> [accessed 9 December, 2012].

³⁶ Schultz, *Turmoil and Triumph*, p.646.

³⁷ Brian Michael Jenkins, *New Modes of Conflict* (Santa Monica CA: Rand, 1983), <http://www.rand.org/content/dam/rand/pubs/reports/2006/R3009.pdf> [accessed 11 June, 2014].

³⁸ Osama bin Laden, *ABC Frontline* interview, May 1988, quoted in Raymond Ibrahim, *The Al-Qaeda Reader* (New York NY: Broadway Books, 2007), p.260.

significant motivation behind al-Qaeda's decision to focus upon the 'far enemy' of the United States.³⁹

Schultz put the administration's unwillingness to use military force against terrorists down to three things. First, he blamed 'Vietnam Syndrome'. He believed the senior officials in the DoD and the Secretary of Defense Casper Weinberger were so concerned about avoiding another Vietnam scenario that they were 'abdicating the duties of leadership.'⁴⁰ Schultz reasoned that while lessons of the past had taught the US to avoid 'no-win situations,' that must not extend to a refusal to engage in 'hard-to-win situations,' where action would be prudent. For the Secretary of State, fighting terrorism was certainly a challenge, but not an unwinnable one. By opting out of the contest, Schultz believed the DoD was allowing the world's future to be 'determined by others – most likely by those who are the most brutal, the most unscrupulous, and the most hostile to our deeply held principles.'⁴¹ Furthermore, as a man with prior military experience himself, Schultz believed Weinberger's strategy to deter the Soviet Union from initiating a conflict by building the US military into an unchallengeable conventional force severely limited America's strategic options. Not unlike Eisenhower's policy of massive retaliation, it was an approach which presented the president with just two options to respond to threats - do nothing, or initiate all-out warfare. As a realist, Schultz believed diplomacy was at its most effective when the credible threat of force was part of the equation. He held that by presenting military action as exclusively a measure of last resort, Weinberger was emboldening terrorists. Despite huge military expenditure, the DoD lacked the sort of flexible units which could be deployed against the small, mobile militias and militant groups that hid in safe havens around the world, granting terrorists a sense of security.⁴²

Second, Schultz blamed those on the political left whom he regarded as apologists for terrorist's actions through their calls for a greater focus upon the 'root

³⁹ Ayman al-Zawahiri, *Knights Under the Prophet's Banner*, trans. by Laura Mansfield in *His Own Words: A Translation of the Writings of Dr. Ayman al-Zawahiri* (New York NY: TLG Publications, 2006), pp.219-220.

⁴⁰ Schultz, *Turmoil and Triumph*, p.650.

⁴¹ Schultz, 'Power and Diplomacy in the 1980s', in Alexander, Kraft (eds.), *Evolution of US Counterterrorism Policy*, pp.93-100.

⁴² Schultz, *Turmoil and Triumph*, p.650.

causes' of terrorism. Former Assistant Secretary of State George Ball advanced such an argument in an op-ed piece in the *New York Times* on 16 December, 1984, in which he criticized Schultz's State Department for its failure to 'investigat[e] the causes of persistent terrorist violence coming from the same source, specifically from a given population over the span of several years, e.g., the Palestinians.' Articulating the view of many who opposed Schultz's call for military force as the solution to terrorism, Ball went on to argue that the United States' prime objective should be to understand and then try to correct, or at least mitigate the 'fundamental grievances that nourish terrorism rather than engage in pre-emptive and retaliatory killing of those affected by such grievances.'⁴³ Whilst Schultz agreed that it was important for the United States should work towards social betterment, the advancing of human rights and seeking diplomatic solutions to conflicts, he also argued that he felt it was folly for the US ever to be willing to excuse terrorism as the consequence of other factors, such as poverty, oppression, anger at American policies or abject desperation. 'If we got ourselves in the frame of mind that these terrorist acts could be justified and legitimized – and that somehow *we* were to blame,' Schultz wrote, 'then we would have lost the battle.'⁴⁴ In the Secretary of State's view, it was exactly this sort of self-defeating mind-set that was handing terrorists the upper hand against the US.

Finally, Schultz blamed what he saw as over-cautiousness within the Reagan administration in supporting the necessary legislation to enable offensive actions against terrorist groups. For example, when National Security Decision Directive 138 (NSDD 138), introduced on 3 April, 1984, called for a 'shift [of] policy focus from passive to active defense measures' against terrorism, Schultz felt it lacked the political backing to cure the administration's paralysis.⁴⁵ Challenging this view, Ball argued that the US must not 'through panic and anger, [...] embrace counter-terrorism and international lynch law and thus reduce our nation's conduct to the squalid level of the terrorists.' The choice of the word *anger* is particularly important

⁴³ George Ball, 'Schultz Is Wrong On Terrorism', *New York Times*, 16 December, 1984, <<http://www.nytimes.com/1984/12/16/opinion/shultz-is-wrong-on-terrorism.html>> [accessed 14 December, 2012].

⁴⁴ Schultz, *Turmoil and Triumph*, p.645.

⁴⁵ *Ibid*, p.645; David C. Martin, John Walcott, *Best Laid Plans: The Inside Story of America's War Against Terrorism* (New York NY: Touchstone, 1988), pp.156-157.

here, as Ball went on to suggest that Schultz had lost perspective due to his ‘obsession with terrorism,’ which was distorting his ‘normally judicious view of the world.’⁴⁶ This was a reference to the fact that Schultz, a former US marine, had a deep emotional connection to what had happened in Beirut. Furthermore, it was the State Department which was bearing the brunt of terrorist attacks. Diplomacy was becoming an increasingly dangerous business - 28 Foreign Service staff were killed by terrorist actions between 1976 and 1988. This included 17 Americans killed in the bombing of the US embassy in Beirut on April 18, 1983, the deadliest attack on an American diplomatic mission up to that time.⁴⁷ Amongst the casualties of that bombing was the CIA’s Robert Ames, a Middle East expert. Ames had become Schultz’s ‘reader of intelligence and virtual handler’ when it came to the Middle East, and the loss of such a trusted advisor was a significant professional and personal blow for the Secretary of State.⁴⁸ All this meant that Schultz was personally invested in counterterrorism, and arguably his anger and desire for revenge was causing him to push America’s counterterrorism policy towards forceful retaliation. Schultz, of course, saw it differently. To him, terrorism was a genuine threat to the USA and to global order, and one that could only be stopped effectively through the pre-emptive application of force.

William J. Casey, Director of Central Intelligence, 1981 – 1987

Next to Schultz, DCI William Casey was the Reagan administration’s second most ardent supporter of aggressive, pre-emptive counterterrorism, and played a significant role in starting the CIA off on a path that would eventually lead to its prosecution of the drone campaign. Casey was appointed with the aim of boosting the CIA’s status, morale and covert-operation capability through what is referred to as the ‘Reagan revival.’⁴⁹ His importance and influence is indicated by the fact that the President granted him parity with the Secretaries of State and Defense, giving the DCI full cabinet status.⁵⁰ Casey has been described as having had ‘an exceptionally

⁴⁶ Ball, ‘Schultz Is Wrong On Terrorism’, *New York Times*, 16 December, 1984.

⁴⁷ American Foreign Service Association Memorial Plaque List, in [afsa.org](http://www.afsa.org), <http://www.afsa.org/afsa_memorial_plaque_list.aspx> [accessed 10 January, 2013].

⁴⁸ Woodward, *Veil*, p.230.

⁴⁹ Immerman, *The Hidden Hand*, pp.124-125.

⁵⁰ John A. Bross, ‘William J. Casey’, *Foreign Intelligence Literary Scene* 6 (March-April 1987), 2, cited in Rhodri Jeffreys-Jones, *The CIA & American Democracy* (New Haven CT: Yale University Press, 2003), p.231.

detailed intellectual grasp of the terrorist threat,' drawn from an understanding that the Soviet Union may have been the CIA's first intelligence priority, but that it certainly was not the only threat to the United States.⁵¹ His views on the matter evolved considerably during his first few years at the Agency.⁵² Initially, Casey agreed with the position put forward by Haig that international terrorism was a Cold War issue linked intrinsically to the USSR. 'The Soviet Union has provided funding and support for terrorist operations via Eastern Europe and its client nations like Libya and Cuba,' Casey reported in a speech in May, 1982.⁵³ Haig and Casey had formed a close political alliance, as well as being friends and confidants. They saw themselves as policy heavyweights, standing out from the rest of the non-confrontational, image-obsessed Reagan crowd. More importantly, they saw one another as serious foreign policy thinkers who had a responsibility to shape the international agenda.⁵⁴ However, when the intelligence failed to support the theory of the Soviets masterminding international terrorism, Casey refused to manipulate it to support a position he and his friend had agreed on, and dutifully delivered the report distancing the Soviets from international terrorism to the President.⁵⁵ However, the DCI never entirely abandoned the view that the Soviet Union had a hand in international terrorism, accusing the Soviets, in a speech he gave in April, 1985, of 'indoctrinating' those who trained in terrorist training camps with a 'Marxist-Leninism' ideology.⁵⁶

The departure of Haig was a blow to Casey, but he quickly established common ground with Haig's successor, George Schultz, with whom he had served in the Nixon administration. Casey saw Schultz as a man of keen intellect, like himself,

⁵¹ Casey in Meyer, Liedl (eds.), *Scouting the Future*, p.20, p.32, cited in Rhodri Jeffreys-Jones, *Cloak and Dagger: The History of American Secret Intelligence*, (New Haven CT: Yale University Press, 2002), p.236.

⁵² Herbert E. Meyer, Mark B. Liedl (ed.), *Scouting The Future: The Public Speeches of William J. Casey* (Washington, DC: Regnery Gateway Inc., 1989), p.193.

⁵³ Remarks of Director of Central Intelligence William J. Casey, before the Commonwealth Club of California, Sheraton Palace Hotel, San Francisco, California, 21 May, 1982, in CIA Electronic Reading Room, <http://www.foia.cia.gov/docs/DOC_0001446210/DOC_0001446210.pdf> [accessed 15 January, 2013].

⁵⁴ Persico, *Casey*, p.305.

⁵⁵ *Ibid*, pp.286-288.

⁵⁶ Director of Central Intelligence William J. Casey, 'Fighting Terrorists: Identifications and Action', Address to the 14th Annual Conference of the Fletcher School of Law and Diplomacy's National Securities Studies Program, Tufts University, Cambridge, Massachusetts, 17 April, 1985, in Meyer, Liedl (ed.), *Scouting the Future*, p.197-198.

and someone with whom he could continue to shape US foreign policy. Schultz had even agreed to attend a testimonial dinner to support Casey when the DCI was facing calls for his resignation early in his tenure, over inconsistencies in his reporting of his business dealings.⁵⁷ The bombings of the US embassy and Marine barracks in Beirut galvanized the two men into a pursuit of a new counterterrorism policy. Whilst it had been the State Department's embassy that was bombed, the CIA contingent within the embassy had been the terrorists' target. The bombers had been tipped off that the Agency staff were due to meet there by a female accomplice, who had managed to gain employment in the embassy's kitchen.⁵⁸ Seven of the American dead were CIA, including the station chief Kenneth Hass and the agency's foremost Middle East expert, Robert Ames, eulogized in the memorial service by Casey as 'the closest thing to an irreplaceable man.'⁵⁹ What is more, William Buckley, the agency's foremost terrorism expert, who was hand-picked by Casey to replace Ames, was kidnapped shortly after arriving in Beirut on March 16, 1984. He died at the hands of Islamic Holy War (Hezbollah) sometime in mid-1985.⁶⁰ It is doubtful Buckley should ever have been sent back into the Middle East - his cover had been blown in at least two countries, one of which was Syria; therefore, it could be assumed his kidnapers had known exactly who he was.⁶¹ His blood was indirectly on the DCI's hands. Casey described the losses as being like 'a personal wound,' with 'nothing quite so devastating' ever having happened in an organisation he previously headed.⁶² Casey's response was to adopt a very similar hardline mindset to that of Schultz. The synergy in the aggressive policies both men went on to advocate serves to demonstrate the raw emotional impact the terrorist attacks had upon both leaders whose respective departments and staff had been targeted. A desire for forceful retribution and need to stop future attacks drove them. The fact that these two men were so instrumental in the development of the Reagan administration's

⁵⁷ Woodward, *Veil*, p.131, Persico, *Casey*, pp.257-288; p.306.

⁵⁸ Neil C. Livingstone, *The Cult of Counterterrorism: The "Weird World" of Spooks, Counterterrorists, Adventurers, and the Not Quite Professionals* (Lexington MA, Lexington Books, 1990), p.232.

⁵⁹ Geraghty and Grey, *Peacekeepers at War*, p.20.

⁶⁰ Martin and Walcott, *Best Laid Plans*, pp.153-155; Persico, *Casey*, p.317; Profile of William Francis Buckley, in Arlington National Cemetery website, <<http://www.arlingtoncemetery.net/wbuckley.htm>> [accessed 15 January, 2013].

⁶¹ Livingstone, *Cult of Counterterrorism*, p.242; Persico, *Casey*, p.317.

⁶² Woodward, *Veil*, p.231.

counterterrorism policy also illustrates how limited the input on the issue was within Reagan's government.

In the wake of the Beirut bombings Casey was under no illusions about what fighting terrorism meant: it was a dirty job, but it had to be done.⁶³ Consistent with Schultz's views, the Director briefed a closed session of the Senate Intelligence Committee on 19 June, 1985 that 'the United States is at war' with terrorism.⁶⁴ He took this argument public with a speech at Tufts University on 17 April 1985, in which he described international terrorism as having become 'a perpetual war without borders.'⁶⁵ Matching the frustrations of the Secretary of State, Casey publicly hinted at the lack of support for proactive counterterrorism measures within the Reagan administration and Congress, equating it to 'the absence of a national will to fight terrorism at its roots.' The DCI warned that the consequence of this lack of will was that the United States 'must be content only to cope with terrorism's effects – not its cause.' For Casey, that was not enough. Echoing Schultz's criticism of the Hamlet-like paralysis in US counterterrorism decision making, Casey acknowledged that the decision of when and how to respond to terrorism posed 'difficult and sensitive problems,' but argued that this difficulty must not be allowed to 'freeze us into paralysis.' 'That,' the DCI added, 'is exactly what the terrorists now expect and would like us to do.'⁶⁶

The DCI also supported the most controversial element of Schultz's proposals, that effective counterterrorism called for the United States to be prepared to act pre-emptively in the face of a possible terrorist threat. If the government's response was too 'bogged down in interminable consultations or debates,' Casey reflected, then the US would not in fact have a deterrent.⁶⁷ Effective counterterrorism was not just about the will to act, but the speed with which the government could act. Although the DCI went to some lengths to make clear that the United States did not use lethal action indiscriminately, he also presented the use of force against terrorists as a necessary act of self-defence, stating that the US 'cannot

⁶³ Livingstone, *Cult of Counterterrorism*, pp.231-232.

⁶⁴ Ibid, pp.249-250; Wills, *First War on Terrorism*, p.33.

⁶⁵ Casey, 17 April, 1985, in Meyer, Liedl (eds.), *Scouting the Future*, p.193.

⁶⁶ Ibid, p.203.

⁶⁷ Ibid.

and will not abstain from forcible action to prevent, pre-empt, or respond to terrorist acts where the conditions justify – the knowledge justifies – the use of force.’⁶⁸ On the matter of deploying this force, the DCI backed Schultz’s criticism of Reagan’s Secretary of Defense. Casey too voiced his concern that Weinberger’s Soviet Union-focused military build-up left the US without flexible options in the face of an asymmetric foe and the sorts of unconventional threats which terrorism posed.⁶⁹ The criticism from Casey on this matter is particularly relevant as he and Weinberger were otherwise very close political allies within the Reagan cabinet.

Where Casey’s language did deviate from that of Schultz, fittingly, given his role as Director of Central Intelligence, was in his focus upon the necessity of possessing the right knowledge to effectively deploy pre-emptive force. Knowing where and when to hit terrorist groups would require the United States to ‘know and understand the various terrorist groups,’ as well as acquiring a knowledge of operating methods, support structures and ‘training camps which sprout up around the world.’⁷⁰ When charged with this mission Casey’s analysts warned the Director that penetrating small, paranoid terrorist cells was extremely difficult. However, Casey refused to accept this could not be done. If agents from his OSS days had managed to infiltrate Nazi controlled France, Italy and Japanese controlled Burma to gather intelligence during the Second World War, his agency could surely find ways of gathering more intelligence on terrorist groups operating in the Middle East and Eastern Europe.⁷¹

Lt. Colonel Oliver L. North, National Security Council Staff Member, 1983 - 1986

It serves as a good indicator of what a low priority terrorism was accorded in the Reagan administration that an obscure Lieutenant Colonel was given responsibility

⁶⁸ Ibid.

⁶⁹ Livingstone, *The Counterterrorism Cult*, p.232.

⁷⁰ Casey, ‘The Practice of International Terrorism Has to be Resisted by All Legal Means’, Alexander and Kraft (eds.), *Evolution of US Counterterrorism Policy*, p.229.

⁷¹ W.R. Peers, ‘Intelligence Operations of OSS Detachment 101’, (Summer 1960), in Center for the Study of Intelligence, <https://www.cia.gov/library/center-for-the-study-of-intelligence/kent-csi/vol4no3/html/v04i3a11p_0001.htm>; William J. Casey, ‘OSS: Lessons for Today’, (Winter 1986), in Center for the Study of Intelligence, Declassified Articles Archive, [accessed 10 February, 2013]. Also see Richard H. Smith, *OSS: The Secret History of America’s First Central Intelligence Agency* (Guildford CT: The Lyons Press, 2005) and Michael Warner, *The Office Of Strategic Services: America’s First Intelligence Agency* (Washington, DC: CIA History Staff, Center for the Study of Intelligence, 2000) for an overview of the operations conducted by the OSS.

for ‘coordinating the policy and plans of the US Government for low-intensity conflict and counterterrorism.’⁷² Despite his rise to public notoriety through the Iran-Contra scandal, Oliver North actually spent more hours working on counterterrorism than anything else. He was, in his own words, ‘the de facto counterterrorism coordinator’ of the United States, and played a significant role in the introduction of an approach which would set the precedent for the CIA’s drone campaign.⁷³ His significance in the development of this policy has been lost amongst the clamour and noise over his involvement in the Iran-Contra affair, but North played a remarkable role in crafting a hardline counterterrorism approach that reflected the views of Schultz and Casey - one which well outstripped both his rank and the unglamorous surrounds of his cramped Old Executive Office Building (EOB) room. ‘No lieutenant colonel ever had been given as much power – to rewrite US counterterrorist policy – and to have had such a huge impact on our foreign policy,’ claimed one senior State Departmental official close to North. Notably, the same official regarded this as a ‘colossal mistake.’⁷⁴

Upon his arrival in Washington, DC North quickly established a reputation as someone who could get things done. Major General Uri Simhoni, the former Israeli military attaché to Washington, described him as ‘a fulcrum in the White House, a man of action in a system often paralysed by checks and balances.’⁷⁵ North’s profile was quickly raised through his development of a close relationship with DCI Casey. By chance, North was a close neighbour of Casey’s in the EOB. The DCI had a corner office to which he would retreat at times when he wanted fewer calls and visitors.⁷⁶ Casey approved of North’s energy, aggression and apparent willingness to take risks. North on the other hand saw Casey as something of a mentor - ‘a man of immense proportions and a man whose advice I admired greatly.’ ‘He wasn’t a boss,’ North later reflected, ‘so much as he was a personal friend and an advisor, and a person with whom I could consult and get good advice.’⁷⁷ This close relationship

⁷² Livingstone, *Cult of Counterterrorism*, pp.231-232.

⁷³ Oliver L. North and William Novak, *Under Fire: An American Story* (New York NY: HarperCollins, 1991), p.197.

⁷⁴ Livingstone, *The Cult of Counterterrorism*, p.261.

⁷⁵ Ben Bradle, Jr, *Guts and Glory: The Rise and Fall of Oliver North* (New York NY: Donald I Fine Inc., 1988), p.291.

⁷⁶ Persisco, *Casey*, p.397.

⁷⁷ North and Novak, *Under Fire*, pp.179-182; Persisco, p.397.

saw North brought in to find a way of continuing US support to the Contras in Nicaragua following the December 1982 Boland Amendment, Congressional legislation which outlawed American assistance to the rebels for the purpose of overthrowing the Nicaraguan government, and ended the CIA's official role.⁷⁸ North played a significant part in helping the Reagan administration circumvent this Amendment and continue supplying arms to the rebels – an action which would eventually come to light in the Iran-Contra scandal.⁷⁹ The Lt. Colonel's success in finding a solution to the problem of the Contras encouraged Casey to recommend the relatively junior NSC staffer take up the task of drafting a Decision Directive focused upon combating international terrorism.⁸⁰ It is North's role as the chief architect of this document which makes him so significant to both the counterterrorism efforts of the time and the CIA's drone programme today. In North's own words, 'it was time to kill "cocksucker" terrorists.'⁸¹

By the time North was tasked with producing the directive which would encapsulate the views of the counterterrorism hardliners, there was already growing support amongst government officials for a more active strategy against terrorism. The Long Commission – an investigation into the mistakes made leading up to the Beirut barracks bombing - was established under the principal guidance of retired Admiral Robert Long, and published its hard-hitting findings on 20 December, 1983. The position taken by the commission was entirely in line with that which the hardliners within the Reagan administration had been pushing. The report argued that far from being a criminal act, 'state sponsored terrorism is an important part of the spectrum of warfare.' It went on to recommend that an 'adequate response to this increasing threat requires an active national policy which seeks to deter attack or reduce its effectiveness.'⁸² The commission also endorsed the possibility of pre-

⁷⁸ Sean Wilentz, *The Age of Reagan: A History, 1974 – 2008* (New York NY: HarperCollins, 2008), p.212; Bill Summary and Status, 98th Congress (1983-1984), H.R.2968, in Library of Congress Thomas, <<http://thomas.loc.gov/cgi-bin/bdquery/z?d098:HR02968:@@L&summ2=m&%7CTOM:/bss/d098query.html>> [accessed 25 January, 2013].

⁷⁹ For more on the Iran-Contra scandal, see Chapter 3.

⁸⁰ North and Novak, *Under Fire*, p.197.

⁸¹ Ibid, p.197; Oliver North, quoted in Woodward, *Veil*, p.357.

⁸² 'Report of the DoD Commission on Beirut, International Airport Terrorist Act', Long Commission, 23 October, 1983 to 20 December, 1983, pp.128-129, in Federation of American Scientists, Intelligence Resource Program, <<https://www.fas.org/irp/threat/beirut-1983.pdf>> [accessed 18 January, 2013].

emptive force as a legitimate approach, arguing that, ‘It makes little sense to learn that a state or its surrogate is conducting a terrorist campaign or planning a terrorist attack and not confront that government with political or military consequences if it continues forward.’⁸³ The members of the commission even expressed the same criticism of Weinberger’s DoD as Schultz and Casey, arguing that the Pentagon needed to diversify its forces in order to be able to undertake warfare at the ‘low ends of the conflict spectrum’ which terrorism occupied. Finally, as with the position shared by the hardliners, the report concluded that ‘the most effective defense is an aggressive anti-terrorism program supported by good intelligence, strong information awareness programs and good defensive measures.’⁸⁴

Building upon this growing support for action against terrorism, North drafted what has been described as ‘the most ambitious US counterterrorism policy’ to have been introduced during the Reagan administration. NSDD 138, signed by Reagan on 3 April, 1984, amounted in effect to ‘a declaration of war against international terrorism.’⁸⁵ Noel Koch, who worked with North as Director of Special Planning with responsibility for anti-terrorism and counterterrorism at the Pentagon, described the new policy as ‘a quantum leap in countering terrorism.’⁸⁶ Or at least it would have been had the policies it proposed ever been fully executed. Koch went on to lament that NSDD 138 ‘was simply ignored. No part of it was ever implemented.’⁸⁷ Reagan’s government never fully embraced the proactive approach set out in the pages of the directive.⁸⁸ However, while much of what was proposed in NSDD 138 was never implemented, for three key reasons this does not reduce its significance. First, it perfectly summarises the views of the counterterrorism hardliners within the Reagan administration in 1984. The directive declared that international terrorism was a ‘threat to [American] national security.’⁸⁹ In line with their desire for a more

⁸³ Ibid, p.128

⁸⁴ Long Commission, p.132-133.

⁸⁵ Naftali, *Blind Spot*, 138; Livingstone, *Cult of Counterterrorism*, p.234.

⁸⁶ Wills, *The First War on Terrorism*, p.84; ‘Secret Policy on Terrorism Given Airing’, *Washington Post*, 18 April, 1984, A1; Livingstone, *Cult of Counterterrorism*, p.234.

⁸⁷ Martin and Walcott, *Best Laid Plans*, p.157; Wells, *The First War on Terrorism*, p.87.

⁸⁸ For details of why NSDD 138 was never fully implemented, see Chapter 2.

⁸⁹ National Security Decision Directive 138, ‘Combating Terrorism’, 3 April, 1984, in Reagan Presidential Library Speeches Archive, <<http://www.reagan.utexas.edu/archives/reference/Scanned%20NSDDs/NSDD138.pdf>> [accessed 18 January, 2013].

proactive US approach against terrorism, it aimed to ‘shift policy focus from passive to active defense measures.’⁹⁰ ‘Whenever we have evidence that a state is mounting or intends to conduct an act of terrorism against us,’ the document stated, ‘we have a responsibility to take measures to protect our citizens, property and interests.’⁹¹ While ‘take measures’ is vague, the willingness to act pre-emptively, evidenced by the reference to the intentions of terrorists and their sponsors rather than the actions they have undertaken, is unmistakable. The document took this further by requiring the Secretary of Defense, in consultation with the Secretary of State, DCI, and the Attorney General to ‘develop a military strategy that is supportive of an active, preventive program to combat state-sponsored terrorism before the terrorists can initiate hostile acts.’ The perceived lack of military flexibility was addressed with the call for ‘improvements to the US capability to conduct military operations to counter terrorism’ and the development of ‘a full range of military options to combat terrorism throughout the entire terrorist threat spectrum.’⁹²

Second, the administration’s failure to implement the recommendations serves as useful evidence of just how divided and paralysed the various branches of government were on the issue and demonstrates the weakness of the NSC, in being unable to enforce its own recommendations. Robert Gates, at the time the Deputy Director for Intelligence at the CIA, has attempted to provide some insight as to why the NSC was so ineffective, placing much of the blame on the man serving as Reagan’s ANSA at the time, Robert McFarlane. According to Gates, McFarlane lacked the open access to the President which previous advisors had enjoyed. This was partly a deliberate structural change intended to avoid what Gates describes as the ‘internecine warfare’ which had beset the Nixon, Ford and Carter administrations as a result of overly influential National Security Advisors. However, beyond the deliberate efforts to reduce the influence of the chair of the NSC, McFarlane was weak and isolated in a cabinet dominated by overbearing personalities with their own agendas. This, Gates concludes, ‘led to some of the serious problems of the Reagan

⁹⁰ Memorandum for Edwin Meese, III from Robert C. McFarlane, ‘Background Material to Meese’, 15 August, 1984, National Security Archive, Counterterrorism, in Washington Decoded, <www.washingtondecoded.com/files/nsdd.pdf> [accessed 18 January, 2014]; NSDD 138, p.2, Naftali, *Blind Spot*, p.138.

⁹¹ NSDD 138, p.2.

⁹² *Ibid*, p.3.

Presidency in foreign affairs,' including its inability to implement its own counterterrorism policy.⁹³

Noel Koch's account supports Gates' analysis, in also placing the blame for the failure to implement NSDD 138 on a lack of leadership from Reagan's weak NSC. The Pentagon official describes McFarlane as 'just kind of a space cadet' and argues that his equally incompetent deputy, John Poindexter, was 'covering up that he was totally at sea.'⁹⁴ As Koch observed, the contentious nature of how best to respond to terrorism, coupled with the lack of firm leadership from the NSC meant that introducing a counterterrorism policy was always going to 'devolve on one or two guys that were willing to do what the President wanted done.'⁹⁵ As things turned out, Oliver North was that guy. With Casey's support, the relatively low-ranked and inexperienced North was able to take advantage of the power vacuum at the heart of the NSC and dictate the counterterrorism policy of the Reagan administration.⁹⁶ However, the same lack of leadership which enabled North to wield so much influence in the first place was also the reason why so little of NSDD 138 was implemented, as the weak NSC proved incapable of forcing the other branches of government to accept the new counterterrorism policies.

While the counterterrorism hardliners may have been unsuccessful in their first efforts to formalise the policy of pre-emptive military force in US counterterrorism, the creation of NSDD 138 would eventually have a noteworthy impact upon the CIA's drone programme. North, supported by some elements at the Pentagon had argued that surgical strikes against known terrorists who had been identified as culprits of attacks against the US, or who were planning future assaults, were the most efficient and effective means of dealing with the terrorist threat. As North saw it, this enabled the US to go to the root of the problem, whilst eliminating unnecessary civilian loss of life.⁹⁷ North included a section in the draft NSDD 138 which declared that the DCI, in consultation with the Secretaries of State and

⁹³ Robert M. Gates, *From The Shadows: The Ultimate Insider's Story of Five Presidents and How They Won the Cold War* (New York NY: Simon & Schuster, 1996), p.193.

⁹⁴ Interview with Noel Koch, 3 April, 1987, in Livingstone, *Cult of Counterterrorism*, p.235

⁹⁵ *Ibid*, p.235.

⁹⁶ Martin and Walcott, *Best Laid Plans*, p.156.

⁹⁷ Bradlee, *Guts and Glory*, p.188.

Defense and the Attorney General should ‘Develop [...] capabilities for pre-emptive neutralization of anti-American terrorist groups which plan, support, or conduct hostile terrorist acts against US citizens, interests, and property overseas.’ Should the United States prove unable to strike terrorist targets *before* they attacked, the draft also called for the development of ‘a clandestine service capability, using all lawful means, for effective responses overseas against terrorist acts committed against US citizens, facilities, or interests.’⁹⁸

North’s use of the term ‘neutralize’ was controversial. The strongest reaction came from Casey’s deputy, John McMahon, who, upon reading the draft at home one evening, reportedly called North to express his anger.⁹⁹ McMahon’s concerns were not misplaced. The term seemed to put the CIA at risk of breaching Reagan’s Executive Order 12333, which stated that, ‘No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination’.¹⁰⁰ Reagan’s order, signed on 4 December, 1981, was a reiteration of President Ford’s EO 11905, signed six years earlier in the wake of three separate Congressional investigations into suspected abuses by the intelligence community. The first was the Rockefeller Commission, established following an article by Seymour Hersh, which was published on the front page of the *New York Times* on 22 December 1974, linking the CIA to domestic spying operations against anti-war protestors – an action which breached the Agency’s charter.¹⁰¹ The second was the Church Committee, established on 27 January 1975 and chaired by Idaho Senator Frank Church to investigate allegations of CIA involvement in assassination attempts against foreign leaders.¹⁰² The third, established the following month on 19 February 1975, was the Pike Committee, headed by Democrat Representative Otis Pike of New York, with the aim of investigating the CIA’s effectiveness and cost to the

⁹⁸ NSDD 138, p.4

⁹⁹ Woodward, *Veil*, p.358.

¹⁰⁰ Ronald Reagan, Executive Order 12333, ‘United States Intelligence Activities’, 4 December, 1981, in National Archives, <<http://www.archives.gov/federal-register/codification/executive-order/12333.html>> [accessed 18 January, 2013].

¹⁰¹ Seymour Hersh, ‘Huge CIA Operation Reported in US Against Anti-War Forces’, *New York Times*, 22 December 1974 in CIA’s Family Jewels, National Security Archive, <<http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB222/>> [accessed 13 July, 2014].

¹⁰² Executive Order 11905, ‘United States Foreign Intelligence Activities’, 18 February, 1976, <<http://fas.org/irp/offdocs/eo11905.htm>> [accessed 13 July, 2014].

taxpayer.¹⁰³ CIA historian Gerald Haines has argued that this heavy-handed oversight was as much about the wider political events of the time, with Congress battling what they regarded as the ‘imperial presidency’, as it was the CIA’s actions. As Hains explains, the Agency was caught up in ‘the greater power struggle that was taking place between the legislative and the executive branches’ at the time, as Congress tried to regain greater control over US foreign policy.¹⁰⁴

Whilst it is undoubtedly the case that the Agency was caught up in the wider political struggle of the time, the various committee’s findings did identify serial abuse on the part of the CIA. Regarding its role in covert killings, the final report of the Church committee ‘condemn[ed] the use of assassination as a tool of foreign policy,’ and concluded that the CIA had ‘violat[e] moral precepts fundamental to [the American] way of life.’¹⁰⁵ Ford’s executive order was designed to curtail the CIA’s involvement in any sorts of future activities which could be construed as assassination in order to protect both the Agency and future presidents from the seduction of relying upon lethal covert operations to try to resolve foreign policy problems. In order to maintain better oversight of the activities of the intelligence community in the future the Permanent Select Committee on Intelligence was established, becoming active on 14 July, 1977.¹⁰⁶ As the Deputy Director saw it, NSDD 138’s call for covert teams tasked with the pre-emptive neutralization of targets risked dragging the CIA back into the riskiest elements of pre-Church committee covert operations. McMahon’s response was one of a man who cared about the reputation of the Agency to which he had dedicated 33 years of his life, and who had lived through its previous castigation over the issue of assassination.¹⁰⁷

¹⁰³ Gerald K. Haines, ‘The Pike Committee Investigations and the CIA: Looking for a Rogue Elephant’, *Studies in Intelligence*, (Winter 1998-1999), <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/winter98_99/art07.html> [accessed 13 July, 2014].

¹⁰⁴ Ibid.

¹⁰⁵ ‘Alleged Assassination Plots Involving Foreign Leaders’, Church Committee Interim Report, , 1975, p.257, in Assassination Archives and Research Center, <http://www.aarclibrary.org/publib/church/reports/ir/html/ChurchIR_0136a.htm> [accessed 18 January, 2013].

¹⁰⁶ ‘History and Jurisdiction’ in US House of Representatives Permanent Select Committee on Intelligence <<http://intelligence.house.gov/about/history-jurisdiction>> [accessed 13 July, 2014].

¹⁰⁷ ‘Spook No. 2’, *Time*, 10 May, 1982, <<http://www.time.com/time/magazine/article/0,9171,925363,00.html>> [accessed 18 January, 2013].

There were others who shared McMahon's concerns over embracing lethal force against terrorists, but for very different reasons than the vulnerability of the CIA. Rand's resident terrorism expert, Brian Jenkins, argued strongly against the targeting of specific terrorists. In criticism that would be echoed two decades later with regard to the drone campaign, Jenkins contested that whilst retaliatory actions against terrorists could take several forms, the US should 'rule out terrorist-type actions such as campaigns of assassination aimed at known or suspected leaders or members of terrorist groups.' His reasoning for this was that, in addition to the moral and political difficulties such actions raised, 'these are not appropriate actions to be carried out by armed forces.' Furthermore, Jenkins argued that pre-emptive force should only be used in 'extraordinary circumstances.'¹⁰⁸

Casey saw things differently. Perhaps because he had not been at the CIA during the days of the Rockefeller, Church and Pike commissions, or as a result of his OSS background, the Director saw his deputy as a timid, overcautious pessimist who failed to grasp the emerging action-orientated mentality he sought to restore to the Agency. With regard to Jenkins' warning that the targeted killing of known terrorists was not something the United States' armed forces should be involved in, one could argue that NSDD 138's placement of the CIA at the forefront of developing the necessary measures would have ensured the armed forces were not directly involved. It is extremely unlikely, however, that this was a concern the DCI was acting upon. It is more likely that the selection of the CIA as the lead agency for counterterrorism reflected the willingness of its director to get involved in the task. Casey had the CIA's chief counsel Stanley Sporkin, one of the first men he had handpicked to work alongside him and someone whom he referred to as his 'right hand man', investigate the issue.¹⁰⁹ 'Don't tell me it can't be done legally,' was Casey's frequent refrain to Sporkin, 'find me a legal way to do it.'¹¹⁰ Sporkin came to the conclusion that targeting terrorists did not count as assassination, which

¹⁰⁸ Brian Michael Jenkins, 'The Lessons of Beirut: Testimony before the Long Commission', February 1984, in Rand Corporation, Reports, <<http://www.rand.org/content/dam/rand/pubs/notes/2007/N2114.pdf>>, [accessed 23 January, 2013], pp.6-8.

¹⁰⁹ Michael C. Ruppert, *Crossing the Rubicon: The Decline of the American Empire at the End of the Age of Oil* (Vancouver, Canada: New Society Publishers, 2004), pp.54-55.

¹¹⁰ Persico, *Casey*, p240; p.405.

technically only referred to foreign political leaders.¹¹¹ As long as the CIA got the right targets, did all it could to minimize civilian casualties and kept the proper congressional committees notified, there was no legal problem. With regards to pre-emptive strikes, Sporkin concluded that if the CIA had hard intelligence proving that the terrorists were planning to attack, pre-emptive action could be undertaken under Article 51 of the UN Charter – the right to self-defense.¹¹²

Despite this legal reassurance and the growing support from other parts of the administration, the wording of the final version of NSDD 138 was altered to avoid further opposition. The aim to ‘neutralize’ terrorists was replaced with a less controversial reference to the adoption of ‘proactive efforts’ to counter them instead - the same phrase Schultz had used in his speech at the Jonathan Institute previously. Regardless of this change, what NSDD 138 represented was the first attempt to transform the rhetoric of the counterterrorism hardliners into actionable policy. The directive sought to establish the practice of retaliating against terrorist attacks with a flexible military force and pre-emptively targeting known terrorists as the primary counterterrorism approach of the United States. While it may not have been successfully implemented upon its introduction, NSDD 138 set many important precedents, which have since contributed to the CIA’s emergence as the United States’ lead counterterrorism agency, and the pre-emptive targeted killing of terrorists as an acceptable element of US counterterrorism and cornerstone of current drone policy.

Casper W. Weinberger, Secretary of Defense, 1981 – 1987

Weinberger’s significance for the development of US counterterrorism policy and the CIA’s drone programme in particular, lies not in what he did as Secretary of Defense, but rather in what he did not do. The title of his autobiography is *Fighting for Peace*, a designation which gives a significant insight into what his view was on the purpose of the US military and his own role at the Pentagon. In the wake of American defeat in Vietnam and subsequent loss of confidence in US military

¹¹¹ Wills, *The First War on Terrorism*, p.83

¹¹² Article 51, Chapter VII, Charter of the United Nations, 26 June, 1945 in UN.org, <<http://www.un.org/en/documents/charter/intro.shtml>> [accessed 18 January, 2013]; Woodward, *Veil*, p.358.

dominance, Weinberger aimed to ‘regain, as quickly as possible, sufficient military strength to convince our friends to stay closely allied with us and to convince the Soviets they could not win any war they might start against us or our allies.’¹¹³ To the Secretary of Defense, overwhelming American military strength was not a tool to start wars, but the best hope for peace. This was not just a strategic position for the Pentagon, but a popular political one for the White House. By 1980, in no small part due to speeches delivered by Reagan during his campaign, 56 per cent of Americans polled in support of significantly increased defence spending.¹¹⁴ The narrative the Reagan campaign had created, with varying degrees of truth, was that US defence spending had declined by more than 20 per cent between 1970 and 1980, causing America’s military to wither.¹¹⁵ It was Weinberger’s first priority to address this decline. After what he described as ‘strenuous arguments’ with Congress, the Secretary of Defense, with full support from the President, oversaw the largest peacetime military build-up in American history.¹¹⁶

During his first press conference as Secretary of Defence, Weinberger described his second priority as ‘strengthen[ing] [...] the support of the American people for all the men and women of our armed forces – both uniformed and civilian.’¹¹⁷ Post-Vietnam, a defeatist attitude had entrenched itself in both the services and amongst civilians. What was more, a chasm of mistrust, and in some cases hatred, had opened up between the American people and the military.¹¹⁸ To rectify this, Reagan created a world which American citizens could easily understand, in which America was the ‘good’, fighting for freedom against the ‘evil empire’ of the Soviet Union. Within this simplistic, Manichean, good versus evil

¹¹³ Casper Weinberger, *Fighting For Peace: Seven Critical Years at the Pentagon* (London: Penguin, 1990), p.54.

¹¹⁴ William Schneider, ‘Conservatism, Not Interventionism: Trends in Foreign Policy Opinion, 1974-1982’, in Kenneth A. Oye, Robert Lieber and Donald Rothchild (eds.), *Eagle Defiant: United States Foreign Policy in the 1980s* (Boston MA: Little Brown, 1983), p.36.

¹¹⁵ Weinberger, *Fighting For Peace*, p.28.

¹¹⁶ Jesús Velasco, *Neoconservatives in US Foreign Policy under Ronald Reagan and George W. Bush: Voices Behind the Throne* (Baltimore MD: Johns Hopkins University Press, 2010), p.111.

¹¹⁷ ‘Weinberger Takes Tough Defense Stance’, *Sarasota Herald Tribune*, 23 January, 1981, <<http://news.google.com/newspapers?nid=1755&dat=19810123&id=T-MbAAAIAIBAJ&sjid=9GcEAAAIAIBAJ&pg=2887,3454660>> [accessed 23 January, 2013].

¹¹⁸ Adrian R. Lewis, *The American Way of War: The History of US Military Force From World War II to Operation Iraqi Freedom* (New York NY: Routledge, 2007), p.295.

version of the world, Weinberger's military investment was vital to keep America 'strong and free'.¹¹⁹

The challenge for Weinberger was that international terrorism, with its messy state sponsorship, unclear rules of engagement and high potential for collateral damage, did not fit in with this simplified narrative. The Secretary of Defense did not want to get the US military involved in anything that could interfere with his primary and secondary goals by turning Congress or public goodwill against the Pentagon. The political and public backlash against Carter's failed attempt to use the military's elite counterterrorist force in Iran, which had seen the media label the action a 'fiasco', and Carter and the Pentagon as 'incompetent, devious and incoherent', served as a lesson for Weinberger.¹²⁰ As a result, he stubbornly refused to allow the military to get drawn into counterterrorism. Instead, Weinberger labelled international terrorism a criminal activity rather than a threat to national security, and suggested that it ought to be dealt with through the United Nations (UN).¹²¹ Refusing to accept the ongoing conflict with terrorism as a war and a national security threat was very significant, as Weinberger argued that the United States 'should only engage our troops if we must do so as a matter of our own vital national interest.'¹²² In a speech delivered a matter of months after Schultz set out his 'Hamlet of Nations' argument, Weinberger questioned whether military force should be used as a tool for diplomacy or problem-solving. His comments also served to reinforce his secondary goal of healing the split between the US public and military:

¹¹⁹ President Ronald Reagan, 'Evil Empire', National Association of Evangelicals, Orlando, Florida, 8 March, 1983, in Miller Center Presidential Speech Archive, <<http://millercenter.org/president/speeches/detail/3409>> [accessed 24 January, 2013].

¹²⁰ Stanley Hoffman, 'Carter's "Fiasco" In Iran', *New York Times*, 26 April, 1980, <<http://query.nytimes.com/mem/archive/pdf?res=F00914F83A5D11728DDDAF0A94DC405B8084F1D3>> [accessed 10 February, 2013].

¹²¹ 'Weinberger Suggests Turning to the UN With Terrorist Woes', *New York Times*, June 26, 1984, A14; Fred Hoffman, 'Weinberger: Let The UN Deal With International Terrorism', *Gettysburg Times*, 25 June, 1984, <<http://news.google.com/newspapers?nid=2202&dat=19840625&id=sqkyAAAIBAJ&sjid=UegFAAAAIBAJ&pg=3440.578097>>;

'Weinberger Wants Terrorism Handles By United Nations', *Palm Beach Post*, 26 June, 1984, in Google Archive, <<http://news.google.com/newspapers?nid=1964&dat=19840626&id=zAAAtAAAIBAJ&sjid=6c0FAAAAIBAJ&pg=3574.4026597>> [accessed 24 January, 2013].

¹²² Secretary of Defense Casper W. Weinberger, 'The Uses of Military Power', Remarks to the National Press Club, Washington, DC, 28 November, 1984, in Alexander, Kraft (eds.), *Evolution of US Counterterrorism Policy*, Volume I, p.117

[E]mploying our forces almost indiscriminately and as a regular and customary part of our diplomatic efforts – would surely plunge us head-long into the sort of domestic turmoil we experienced during the Vietnam war, without accomplishing the goal for which we committed our forces. [...] Such policies might well tear at the fabric of our society, endangering the single most critical element of a successful democracy: a strong consensus of support and agreement for our basic purposes.¹²³

In order to define what the appropriate conditions for the use of military force were, Weinberger used the same speech to set out the specific requirements which would need to be met before the United States would deploy its forces. These strict conditions, known as the Weinberger Doctrine, established that the United States should only commit its forces to combat overseas ‘as a last resort’ if the engagement or occasion was ‘deemed vital to our national interest or that of our allies.’ As Weinberger had already rejected the notion that terrorism was a threat to America’s national security the doctrine made clear the DoD would not be engaging in counterterrorism. Additionally, the doctrine dealt with the nature and scale of America’s military response. In a rejection of Lyndon Johnson’s gradual escalation of American forces in Vietnam, as well as small scale operations such as the Eagle Claw mission authorized by Carter, Weinberger stated that if and when the United States were to engage in military action, it should do so ‘wholeheartedly, and with the clear intention of winning.’ Weinberger maintained that such an approach would ensure the US could always bring its overwhelming strength to bear and avoid protracted conflicts. While Schultz and Casey criticised this approach for creating an all-or-nothing mentality within the DoD, that was exactly what Weinberger intended. By limiting the US military to large-scale interventions, he ensured the Pentagon would not get tasked with any other Eagle Claw type missions. Finally, in a rejection of Schultz’s argument for the pre-emptive use of force, possibly before public support has been gained, Weinberger maintained ‘there must be some reasonable assurance we will have the support of the American people and their elected Representatives in Congress before force is deployed.’¹²⁴

¹²³ Ibid, p.115

¹²⁴ Schultz, ‘Terrorism and the Modern World’; Weinberger, ‘The Uses of Military Power’, pp.117-118.

Just over a year later Weinberger returned to the issue of force and counterterrorism at a conference on low-intensity warfare hosted in Washington, DC. Reflecting the increased tempo of terrorist attacks, the Secretary of Defense's language marked an acknowledgement that the threat was growing, referring to the conflict with terrorism as 'this war, as it now reveals itself to us.' Nevertheless, despite this acknowledgement of the growing threat posed by terrorism and the determination of its protagonists, Weinberger maintained that the use of military force for counterterrorism purposes would be an error. Striking a similar chord to George Ball's criticism of Schultz's emotional response to the anti-American attacks, Weinberger argued that terrorism was 'prosecuted in such a way as to erode and destroy the values of civilization,' putting 'a special obligation to act as to uphold these values' upon the United States. America must not, for the sake of expediency in the pursuit of terrorists get dragged into committing 'blind acts of revenge that may kill innocent people who had nothing to do with terrorism.' To do so, Weinberger warned, was exactly what those responsible for the attacks wanted, and the resulting loss of American moral standing would play into their hands.¹²⁵

Prior to the conference, Weinberger had already publicly raised his concerns with the likelihood that any sort of retaliation would have the necessary quality of evidence to be sure, beyond reasonable doubt, that the strike was hitting the guilty party.¹²⁶ In a particularly damning appraisal of the approach, he had argued that 'retaliation would be analogous to firing a gun in a crowded theatre in the slim hope of hitting the guilty party.'¹²⁷ He built upon this theme during his conference address with another simile, comparing the difficulty of pre-emptively neutralizing a terrorist threat to that of a 'medical profession to be able to diagnose an illness in its earliest stages, and then to act to cure it before it becomes dangerous.'¹²⁸ Successfully identifying, and then countering the 'political and geo-strategic ills' which fuelled

¹²⁵ Secretary of Defense Casper W. Weinberger, Remarks Prepared for Delivery at the Conference on Low-Intensity Warfare, Fort McNair, Washington, DC, 14 January, 1984, in Alexander, Kraft (eds.), *Evolution of US Counterterrorism Policy*, Volume I, p.124.

¹²⁶ Wills, *The First War on Terrorism*, p.30.

¹²⁷ Christopher C. Joyner, 'In Search of an Anti-terrorism Policy: Lessons from the Reagan Era', *Studies in Conflict and Terrorism*, Volume 11, Issue 1, (1988), pp.29-42.

¹²⁸ Weinberger, Remarks Prepared for Delivery at the Conference on Low-Intensity Warfare, Kraft (eds.), *Evolution of US Counterterrorism Policy*, Volume I, p.124.

terrorism at its ‘incipient stages’ was, in Weinberger’s view, the greatest challenge of low-intensity warfare.

The Joint Chiefs of Staff (JCS) generally shared Weinberger’s scepticism regarding the utility of force in counterterrorism. At the Pentagon terrorism was regarded as a low priority in terms of the national security threat it presented, but potentially a high risk in public relations and political costs. Like Weinberger, General John Vessey, the Chairman of the Joint Chiefs, believed that the primary purpose of the US military was to counter the most significant threat to America’s national security - the Soviet Union.¹²⁹ Furthermore, in line with Weinberger’s concerns, Pentagon planners feared that, should the US military be dragged into asymmetric warfare in places such as Lebanon, there was a strong likelihood that American servicemen would die and innocent civilians would be killed or injured. Such an event could easily undermine the public’s support for the military and perhaps jeopardise backing for the ongoing build-up.¹³⁰ Despite this, not all of the senior military leadership were in agreement with Weinberger’s position. Admiral James D. Watkins, the Chief of the Navy described terrorism as ‘an already declared war’, and Admiral Crowe, who took over as Chairman in 1985, testified during his confirmation hearing that if faced with the choice of using force in a terrorist situation, his view would be to ‘project ahead to determine whether force would produce the results desired.’¹³¹ If the analysis suggested America’s counterterrorism objectives could be achieved, Crowe stated that he believed ‘the use of force would be justified.’ However, as General Vessey made clear, the Chairman was ‘a servant [...] to the National Command Authority: the president and the secretary of defense.’ The chain of command ran clearly from the Secretary of Defense and the Joint Chiefs fell in line.¹³²

¹²⁹ Chairman of the Joint Chiefs of Staff General John Vessey, ‘Address to the Dwight Eisenhower Society, Gettysburg, Pennsylvania, 14 October, 1982, in *Selected Works of General John W. Vessey, Jr., Tenth Chairman of the Joint Chiefs of Staff*, p.16, <http://www.dtic.mil/doctrine/doctrine/history/vessey_speeches.pdf> [accessed 28 March, 2013].

¹³⁰ Wills, *First War on Terror*, p.42.

¹³¹ Watkins quoted in G. Davidson Smith, *Combating Terrorism* (London: Routledge, 1990), p.26; James D. Watkins, Adm, USN, ‘Terrorism: An Already Declared War’, *Wings of Gold*, 9, no. 2, (Summer 1984), pp.19-21.

¹³² Robert L Pfaltzgraff, Jr, Jacquelyn K. Davis (eds.), *National Security Decisions: The Participants Speak* (Lexington MA: Lexington Books, 1990), pp.20-24.

How much of what Weinberger said was actually his heartfelt position, and how much was about not jeopardizing his military project is unclear. It has also been suggested that Weinberger's attitudes were informed by his 'Arabist' inclinations; he worried constantly about the possible disruption of US relations with Arab countries should the US take any sort of significant action against terrorist groups and their sponsors.¹³³ Whatever the reasoning behind it, Weinberger was the gatekeeper of the US armed forces, and he was entirely unwilling to see those forces deployed in low-intensity conflicts or assume a counterterrorism role, be that pre-emptive or retaliatory. So, despite parity in thinking amongst the Secretary of State, DCI and members of the NSC, Weinberger was able to block the use of military force against terrorist groups or their sponsors. Stalin had once mockingly asked of the Pope, "How many divisions has he got?" when the pontiff had attempted to pressure him to stop his suppression of Catholics within the USSR.¹³⁴ For all Schultz's talk of pre-emption, Casey's desire for retribution and North's plans for neutralization, without the support of the Secretary of Defense and Joint Chiefs, the counterterrorism hardliners had no armed divisions, and without them, no means to execute the policies they were promoting so vehemently. Only the President of the United States had the authority to overcome the paralysis the deep split in opinions had created. But he refused to exercise it.

President Ronald W. Reagan, 1981 - 1989

There has been much debate over what kind of leader Ronald Reagan really was. Supporters and critics alike have described him as a 'hands off president', who, when it came to policy-making, 'skimmed the waves but did not plunge deeply beneath the surface.' He has been portrayed as a man more interested in being popular than in being recognized as dealing with hard problems of governance.¹³⁵ However, the extent to which this was good management, consistent with the principle of delegation, or the result of a lack of understanding and ability in policy formation is debated to this day. Reagan explained how he saw his leadership style in his autobiography, published a year after he left office. 'The chief executive should set

¹³³ Livingstone, *Cult of Counterterrorism*, p.233.

¹³⁴ Michael Moran, 'The Pope's Divisions', *Foreign Affairs*, 3 February, 2006, <<http://www.cfr.org/religion-and-politics/popes-divisions/p9765>> [accessed 28 March, 2013].

¹³⁵ Haynes Johnson, *Sleepwalking Through History: America in the Reagan Years* (New York NY: W.W. Norton and Company, 2003), p.50.

broad policy and general ground rules, tell people what he or she wants them to do, then let them do it' he wrote. 'I don't believe a chief executive should supervise every detail of what goes on in his organization,' advised the former president. Should a problem arise in the pursuit of these broad goals, Reagan explained that he would make himself available so that members of his team could come to him and, if necessary, fine-tune the policies. If things went wrong and 'somebody dropped the ball' in the pursuit of these goals, Reagan noted that he would 'intervene and make a change.'¹³⁶

In theory Reagan's description of his management style is completely sound, but there is disagreement amongst observers and those who worked within the administration as to the extent to which it reflected reality. As a novice in foreign affairs upon entering the White House, Reagan's foreign policy goals were heavy on style and symbolism, reflecting the approach of setting broad policy aims he describes in memoirs, but lacked executable instructions.¹³⁷ One apparent consequence of this hands off approach was that 'officials acted randomly on what they believed to be the operant assumptions of "Reaganism", calculating what Reagan really intended.'¹³⁸ This created an environment of 'ad hocism', where foreign policies generally seemed to be judged against just three criteria: had the President made some vague statement of support, would it sound good on the evening news, and would it make the President look good?¹³⁹ On the occasion that one vague goal set by the President seemed to clash with or contradict another vague goal dysfunction emerged within the administration. For example, Schultz believed he was in line with the President's goals when he spoke out forcefully about the need to counter terrorist acts. The President had, after all, delivered a number of tough talking speeches on the matter. However, Weinberger also believed he was doing the President's bidding when he did all he could to avoid endangering support for the military and its build-up by engaging in risky counterterrorist actions. Assertively combating terrorism and restoring the military were both key agenda items which

¹³⁶ Ronald Reagan, *Ronald Reagan: An American Life* (New York NY: Pocket Books, 1990), p.161.

¹³⁷ Wilentz, *The Age of Reagan*, p.151.

¹³⁸ James A. Nathan, 'Decisions In the Land of the Pretend: U.S. Foreign Policy In the Reagan Years', *Virginia Quarterly Review*, (Winter 1989), pp.1-31,

<<http://www.vqronline.org/articles/1989/winter/nathan-decisions/>> [accessed 25 January, 2013].

¹³⁹ Ibid.

Reagan had consistently campaigned on and both Schultz and Weinberger were correct to see their respective causes as core policy issues for the administration. Whilst it seems that Reagan's description of a hands-off management style is accurate, closer inspection reveals that what was missing were the executive interventions and policy fine-tuning. Reflecting upon this, former Secretary of State Haig compared the policy-making culture within the administration to life aboard a 'mysterious ghost ship; you heard the creak of the rigging and the groan of the timbers and even glimpsed the crew on deck. But which one of the crew was at the helm? It was impossible to know for sure.'¹⁴⁰

Beyond the structural problems with policy and decision making in the Reagan administration, Haig confided in DCI Casey that he did not believe the president himself to be qualified for the job. He felt his attention span and interests were too narrow, going as far as to describe him as 'an amorphous mass that had no substance, no opinion.' 'Ronald Reagan', Haig reflected, 'knew little about foreign policy and cared less.' Haig claimed Casey shared these frustrations, although the DCI, loyal to Reagan, never stated as much on the record.¹⁴¹ Lee Hamilton, a veteran Congressman who had served with five presidents, agreed with Haig's assessment when describing working with the President. Reagan was 'the most inarticulate' president he had worked with, 'unable to formulate any problem precisely.' Hamilton observed that Reagan had 'an unsubtle, incurious mind' and that 'he clearly didn't worry much about ends and means. So long as he believed the goal a worthy one, he didn't seem troubled by the way it was achieved.' Hamilton too, observed the hands off management approach, but believed that, even with this approach in mind, the President 'delegated his authority to an extraordinary degree.'¹⁴²

Weinberger countered such criticism during an August 1990 interview in which he maintained that Reagan was 'one of the most underestimated men in the world.' Putting this down partially to elitism and snobbery, the former Harvard Law School scholar railed against 'intellectuals or academics or experts generally,' who

¹⁴⁰ Alexander M. Haig, *Caveat: Realism, Reagan and Foreign Policy* (New York NY: Macmillan Publishing Co., 1984), p.85. See pp. 67, 84-86, 93, 115 for commentary on obstacles within the Reagan administration to policy making.

¹⁴¹ Persico, *Casey*, pp.305-306.

¹⁴² Johnson, *Sleepwalking Through History*, pp.303-304.

had what he described as ‘preconceived attitude[s] towards him [Reagan] of either contempt or amusement, along with a feeling that a person with his background [movie actor] couldn’t do anything else.’¹⁴³ Rather than being a sign of weakness or a product of a lack of intellectual curiosity, Weinberger believed the President’s style was a product of his ‘skill in putting people at ease’ so as to create a congenial and productive atmosphere. In Weinberger’s view, this not only helped get the best out of the President’s own staff, but it also enabled him to secure vital agreements from Congressmen, Senators and even difficult heads of state ‘which neither logic, nor table pounding, nor cajoling could bring about.’¹⁴⁴

However, Reagan’s handling of the policy split between Schultz and Weinberger on how best to respond to terrorism does not suggest the approach the Secretary of Defense describes. Perhaps because Weinberger himself was so instrumental in this division, he is at lengths to play it down in his account of the administration; but other witnesses tell a very different story. Robert McFarlane, the former National Security Advisor, describes a meeting with the President in which he tried to discuss the Schultz/Weinberger split. ‘I must tell you, Mr President, we do not have a team in national security affairs.’ ‘Your Secretaries of State and Defense agree on next to nothing, whether it’s East-West relations, the Middle East, economic matters, trade, or dealing with terrorism,’ continued the beleaguered advisor. ‘When a decision goes against one of them,’ McFarlane reported, ‘he does all he can to obstruct its implementation.’ The ANSA also informed the Reagan of the acrimonious nature of the split, confessing that there was ‘personal hostility between them’ which resulted in ‘a constant air of confrontation.’ McFarlane concluded by informing Reagan this was resulting in the ‘paralysis’ of the NSC.¹⁴⁵ He presented the President with two recommendations – he should either sack one of the secretaries, or get more involved in the policy process. ‘So what I want you to do’, the President told McFarlane in response, ‘is just make it work.’¹⁴⁶ This reflects neither the fine-tuning intervention Reagan spoke of, nor the harmonious smoothing

¹⁴³ ‘Reagan and International Arms Agreements’, interview with Casper Weinberger, 21 August, 1990, in Kenneth W. Thompson (ed.), *Foreign Policy in the Reagan Presidency: Nine Intimate Perspectives* (Lanham MA: University Press of America Inc., 1993), p.44.

¹⁴⁴ Weinberger, *Fighting For Peace*, pp.23-24.

¹⁴⁵ Robert Timberg, *The Nightingale’s Song* (New York NY: Touchstone, 1995), p.359. Robert McFarlane and Zofia Smardz, *Special Trust* (New York NY: Cadell & Davies, 1994), p.268

¹⁴⁶ *Ibid*, p.359.

of relations Weinberger presented. Instead it reflects something both Schultz and Weinberger understood and exploited about the President - Reagan disliked coming down firmly on behalf of one of his principal subordinates at the expense of another.¹⁴⁷ This meant counterterrorism policy was defined by whoever could mobilize or block the use of resources.

The contested nature of counterterrorism policy during the Reagan administration is perhaps best evidenced by the failed attempt to launch a retaliatory strike against the Iranian Revolutionary Guard stationed in the Sheikh Abdullah Barracks in the Bekaa Valley, Syria, after intercepted intelligence proved Iranian complicity in the bombings of the US embassy and Marines in Beirut.¹⁴⁸ NSDD 109, signed on 23 October, 1983, the same day as the barracks bombing, had a military component entitled 'Responding to the Attacks on the USMNF Contingents.'¹⁴⁹ Whilst this document is still classified, its very existence reveals that the administration was considering military action. Furthermore, other sources reveal that military options were being debated, and according to one account, were agreed upon. McFarlane provided an account of a National Security Planning Group (NSPG) meeting he chaired on 14 November during which 'the President gave his approval for a retaliatory strike to be conducted on 16 November.' The ANSA describes it as a 'direct, unambiguous decision.'¹⁵⁰ The strike was to be conducted in coordination with the French. According to Weinberger's account, he received a call from Charles Hernu, the French Minister of Defence, in the morning of 16 November, telling him that French planes were going to attack Syrian positions in about two or three hours.' Contrary to McFarlane's account, Weinberger claimed that he had 'received no orders or notifications from the President of anyone' prior to the French call, so wished his counterpart luck and informed him "'Unfortunately it is a bit too late for us to join you in this one.'"¹⁵¹

¹⁴⁷ Lou Cannon, *President Reagan: The Role of a Lifetime* (New York NY: Simon and Schuster, 1991), p.78.

¹⁴⁸ Naftalli, *Blind Spot*, pp.131-132.

¹⁴⁹ National Security Decision Directive 109, 'Responding to the Lebanon Crisis', 23 October, 1983, in Federation of American Scientists Intelligence Resource Program, <<http://www.fas.org/irp/offdocs/nsdd/nsdd-109.htm>> [accessed 31 January, 2013].

¹⁵⁰ McFarlane and Smardz, *Special Trust*, p.270.

¹⁵¹ Weinberger, *Fighting For Peace*, p.112.

McFarlane's account makes the serious accusation that the Secretary of Defense directly violated a presidential order due to his personal disagreement with the policy. According to the ANSA, Weinberger 'launched into a long series of obfuscations about misunderstandings with the French and all the things that could have gone wrong with the attack.' McFarlane quotes the Secretary of Defense as saying, 'I just don't think it's the right thing to do.' In the Security Advisor's view, it was Weinberger's knowledge of his old friend Ronald Reagan which gave him the confidence to behave in this way whereas Weinberger puts the incongruity in accounts down to 'McFarlane's well known flexible "recollections".' The President's reaction was minimal. 'Gosh, that's really disappointing', McFarlane recalls the Commander in Chief saying, 'That's terrible. We should have blown the daylights out of them. I just don't understand.'¹⁵² Reagan's own account only briefly mentions the cancelled strikes. In it, he states that *he* cancelled the strikes after his experts informed him that they were not absolutely sure they had the right targets.¹⁵³ It is likely this was a face-saving exercise on the part of the former president, looking to cover the fact that as Commander in Chief one of his orders was ignored by his Secretary of Defense. The record shows that the US had convincing intelligence about the culpability of the Iranians and Syrians – strong enough for the French to decide to act. Furthermore, still angry over what they regarded as America's cancellation of a planned joint strike, the France later denied the US overfly rights when they launched a bombing raid on Libya in 1986, suggesting there is truth in the frustrated National Security Advisor's account that confirmation had initially been given.¹⁵⁴

Richard Armitage, at the time the Assistant Secretary of Defense for International Security Affairs, has also attested to the role Weinberger was able to play in blocking any military action on counterterrorism. Armitage told the 9/11 Commission that in the mid-1980s, there had been those at the Pentagon that 'wanted to put a cruise missile into the window of the Iranian ambassador in Damascus.'¹⁵⁵

¹⁵² Ibid, p.112; McFarlane, *Special Trust*, pp.270-271.

¹⁵³ Reagan, *Ronald Reagan*, pp.463-464.

¹⁵⁴ Martin and Walcott, *Best Laid Plans*, pp.292-293.

¹⁵⁵ Richard Armitage public testimony, National Commission on the Terrorist Attacks Upon the United States, 24 March, 2004, p.175, <http://govinfo.library.unt.edu/911/archive/hearing8/9-11Commission_Hearing_2004-03-24.pdf> [accessed 17 August, 2012].

Not only does Armitage's testimony show that there were DoD staff who supported the use of military force against those responsible for terrorist attacks, but also that the proposed weapon was the same as would later be used by President Clinton in his efforts to kill Osama bin Laden in Afghanistan during Operation Infinite Reach. Armitage also reveals that there was concern about whether or not such an attack would have been classed as assassination, thus violating EO 12333, something with which Clinton would also later wrestle.¹⁵⁶ Ultimately, Weinberger decided against the use of Tomahawk cruise missiles, arguing that if one failed to detonate the Syrians would give it to the Soviets for reverse engineering.¹⁵⁷ This reasoning further supports the view that while Weinberger was committed to building up the US military's capabilities, his primary focus was on deterrence of the USSR, not on how these capabilities could be used to provide responses to terrorism and other low-intensity challenges.

The failure to launch any sort of response against Iran, Syria or Hezbollah for their collective roles in the killing of hundreds of Americans supports Schultz's argument that the United States was becoming the 'Hamlet of nations.' They were not, however, paralysed by indecision. Strong decisions had been made on each side of the debate. The problem for the Reagan administration was that the decisions were diametrically opposed. James Nathan summed this up insightfully when he wrote:

F. Scott Fitzgerald once observed that the mark of intelligence is the capacity to hold two contradictory ideas and still retain the ability to act effectively. The Reagan administration, to the degree it was marked by any ideas at all, was caught in its own antinomies.¹⁵⁸

The Reagan administration's counterterrorism policy was paralysed by a lack of leadership. Whether it was the result of his intellectual limitations, the absence of interest or a deliberate leadership strategy to bring the best out of his officials, Reagan handed an extraordinary amount of autonomy to each appointed department

¹⁵⁶ Ibid, p.176.

¹⁵⁷ Naftallia, *Blind Spot*, p.133.

¹⁵⁸ Nathan, 'Decisions In the Land of the Pretend, *Virginia Quarterly Review*, pp.1-31.

or agency manager, then provided them with the vaguest of instructions to bring their fiefdoms in line with his philosophical thinking. Casey was to revive the CIA as an aggressive, risk-taking anti-communist tool. Schultz was to use the State Department to promote US power and to undermine and alienate the Soviet Union, and Weinberger was to build the US military into an unchallengeable martial force. For such an approach to work, three things were required. First, due to the extent of autonomy each manager was granted, headstrong and confident individuals were needed to lead the branches of government. Casey, Schultz and Weinberger all fitted this bill. Second, it required an element of collegiality, a common goal between these leaders. The problem here was that the individual mandates of the leaders were frequently contradictory and antagonistic to one another. Schultz believed military force was a necessary backup to any diplomatic actions the US undertook, whilst Weinberger thought any use of military force which was not directly related to the Cold War was a waste of resource and will. Finally, such a system needed an authoritative leader at the top who was able to make decisions and force action when the managers' views were diametrically opposed, as was the case with Schultz and Weinberger. How to best counter terrorism was and remains an extremely complex moral and strategic issue. When it came to making definitive decisions, Reagan failed. His ambiguity left key debates unresolved. Without a president who was willing to force his will on the deliberative system and bring his advisors behind a single conclusion, any member of the national security team could stubbornly refuse to abandon their position and allow paralysis to ensue, ensuring they did not have to follow a policy they personally did not agree with, or felt undermined their own mandated responsibility. This resulted in a standstill in the formal policy making process. Schultz, Casey and North had crafted the fundamentals of a counterterrorism strategy which they believed matched the strong rhetorical and philosophical position which Reagan had established. As set out in NSDD 138, the United States was to use military force to retaliate against terrorists and their sponsors as a deterrent. Furthermore, the US was to actively gather intelligence to inform covert and clandestine forces to neutralize terrorist leaders and their followers pre-emptively before threats fully materialised. By 1985, the policy was in place. What its creators lacked was the military muscle to make it happen, but the President was unwilling to force his Secretary of Defense to provide it. It is this deadlock and failed government

policy which would lead to the CIA filling the counterterrorism void, with far-reaching consequences.

Conclusion

Whilst the Reagan administration may have failed to implement an effective counterterrorism policy during its first term, it did succeed in establishing the core principles which would eventually become the backbone of George W. Bush's War on Terror and the CIA's drone campaign. NSDD 138 was the first US government document to introduce the concept of an act of terrorism being equivalent to an act of war and legitimate threat to US national security. Likewise, it was this document which called for the use of lethal force as both a retaliatory deterrent and pre-emptive tool to neutralize anti-American terrorist groups. However, it is a misrepresentation to describe the adoption of these principles as a 'neo-Reaganite foreign policy,' as Robert Kagan and William Kristol, the influential founders of the neoconservative think tank Project for the New American Century, have done. It is more accurate to attribute this approach to the counterterrorism hardliners within the Reagan administration, namely Schultz, Casey and North. What were the distinctive views of the three most hardline advocates of aggressive counterterrorism policies have since become the mainstream, if still controversial, policies of US counterterrorism.

Following the 9/11 attacks, Congress passed Joint Resolution 23, known as the Authorisation for Use of Military Force (AUMF), which granted the President the authority 'to use all necessary and appropriate force' against those determined to be responsible for 9/11.¹⁵⁹ This war footing continued into the Obama administration, which asserted in its 2011 National Strategy for Counterterrorism that the 'United States deliberately uses the word "war" to describe our relentless campaign against al-Qa'ida.'¹⁶⁰ On 1 June, 2002 George W. Bush used a speech delivered at the West

¹⁵⁹ Senate Joint Resolution 23 107th Congress, 18 September, 2001, in gpo.gov, <http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ040.107> [accessed 11 February, 2013].

¹⁶⁰ 'United States National Strategy for Counterterrorism', June 2011, p.2, in whitehouse.gov, <http://www.whitehouse.gov/sites/default/files/counterterrorism_strategy.pdf> [accessed 11 February, 2013].

Point academy to endorse a policy of using pre-emptive force against emergent threats. Later encapsulated within his 2002 National Security Strategy, Bush argued that ‘the greater the threat, the greater is the risk of inaction - and the more compelling the case for taking anticipatory action to defend ourselves.’ Echoing the words of Schultz’s Park Avenue speech almost two decades earlier, Bush warned that at times ‘even if uncertainty remains as to the time and place of the enemy’s attack [...] the United States would if necessary, act pre-emptively.’¹⁶¹

The Department of Justice (DoJ) has since argued for a ‘broader concept of imminence’ in terms of the threat which enables the United States to act in self-defense. The reasoning behind this, set out in a DoJ white paper leaked to NBC news in February 2013, revolves around the concept of the ‘limited window of opportunity’ to successfully hit al-Qaeda and associated targets, whilst limiting civilian casualties.¹⁶² The fact that al-Qaeda members have been instructed by the writings of bin Laden that it is their duty to ‘kill the Americans and their allies’ whenever they can, and that Ayman al-Zawahiri has instructed that all members should seek to ‘inflict maximum casualties against the opponent, [...], no matter how much time and effort such operations take,’ is taken as evidence that an al-Qaeda member is always plotting.¹⁶³ Furthermore, Khalid Sheikh Mohammed, the mastermind of the 9/11 plot, revealed the operation took five years to plan, further supporting the argument of continual and long-term planning.¹⁶⁴ Essentially, the DoJ has argued that the US can use force against an al-Qaeda member at any point it knows where they are and can hit them without disproportionate collateral damage,

¹⁶¹ President George W. Bush, ‘Graduation Speech at West Point’, United States Military Academy, West Point, New York NY, 1 June, 2002, in G.W. Bush White House Archive, <<http://georgewbush-whitehouse.archives.gov/news/releases/2002/06/20020601-3.html>>; National Security Strategy of the United States, 2002, in George W. Bush White House Archive, <<http://georgewbush-whitehouse.archives.gov/nsc/nss/2002/nss.pdf>>, p.15 [accessed 11 February, 2013].

¹⁶² ‘Lawfulness of Lethal Operation Directed Against a US Citizen Who Is a Senior Level Operational Leader of Al-Qa’ida or An Associated Force’, Department of Justice White Paper, in *MSNBC News*, <http://msnbcmedia.msn.com/i/msnbc/sections/news/020413_DOJ_White_Paper.pdf>, pp.7-8. [accessed 11 February, 2013].

¹⁶³ Osama bin Laden, ‘World Islamic Front Declaration of Jihad against Jews and Crusaders’, 23 February, 1998, <<http://www.fas.org/irp/world/para/docs/980223-fatwa.htm>> [accessed 17 February, 2013]; Ayman al-Zawahiri, *Knights Under the Prophet’s Banner*, trans. by Laura Mansfield in *His Own Words: A Translation of the Writings of Dr. Ayman al-Zawahiri* (New York NY: TLG Publications, 2006), p.223.

¹⁶⁴ ‘Suspect reveals 9/11 planning’, *BBC News*, 22 September, 2003, <http://news.bbc.co.uk/1/hi/world/south_asia/3128802.stm> [accessed 17 February, 2013].

because that target will try to hide itself amongst civilians at a later stage.¹⁶⁵

‘Delaying action against individuals continually planning to kill Americans until some theoretical end stage of the planning for a particular plot,’ states the DoJ’s white paper, ‘would create an unacceptably high risk that the action would fail and that American casualties would result.’¹⁶⁶ The belated capture of Khalid Sheikh Mohammed on 1 March 2003, or killing of bin Laden on 2 May, 2011 serve as examples of this argument.

The Obama administration’s preferred method of undertaking these pre-emptive attacks has been through the CIA’s drone campaign. It is here that the policies first set out in NSDD 138 can most clearly be seen. John Brennan, at the time serving as Obama’s Assistant for Homeland Security and Counterterrorism, echoed North’s ideas of targeting terrorist leaders in a rare speech on the topic delivered in June 2011. The purpose of the drone campaign, he explained, has been to ‘dismantle the core of al-Qaeda – its leadership in the tribal regions of Pakistan.’¹⁶⁷ Evidence of this strategy can be seen in the numbers of significant al-Qaeda and Taliban leaders who have been reported killed in drone strikes by the end of the Obama administration’s first term.¹⁶⁸ Again echoing North’s proposals, Brennan has vigorously defended these strikes on the ground that they are surgically precise:

With the unprecedented ability of remotely piloted aircraft to precisely target a military objective while minimizing collateral damage, one could argue that never before has there been a weapon that allows us to distinguish more effectively between an al-Qaida terrorist and innocent civilians. [...] By

¹⁶⁵ John Yoo, ‘Assassination or Targeted Killings After 9/11’, *New York Law School Law Review*, Volume 56, (2011/12), pp.58–79, p.73. See also Michael N. Schmitt, ‘State-Sponsored Assassination in International and Domestic Law’, *Yale Journal of International Law*, 1992, pp.609-648; Gregory M. Travalio, ‘Terrorism, International Law, and the Use of Military Force’, *Wisconsin International Law Journal*, 18, 2000, pp.145-173.

¹⁶⁶ ‘Lawfulness of Lethal Operation Directed Against a US Citizen Who Is a Senior Level Operational Leader of Al-Qa’ida or An Associated Force’, DoJ.

¹⁶⁷ Assistant to the President for Homeland Security and Counterterrorism John O. Brennan, ‘Ensuring al-Qaeda’s demise’, Paul H. Nitze School of Advanced International Studies, Washington DC, 29 June, 2011, <<http://www.sais-jhu.edu/sebin/a/h/2011-06-29-john-brennan-remarks-sais.pdf>> [accessed 11 February, 2013].

¹⁶⁸ ‘The Year of the Drone: Leaders Killed’, in Counterterrorism Strategy Initiative, New American Foundation Drones Database, <<http://counterterrorism.newamerica.net/about/militants>> [accessed 17 February, 2013].

targeting an individual terrorist or small numbers of terrorists with ordnance that can be adapted to avoid harming others in the immediate vicinity, it is hard to imagine a tool that can better minimize the risk to civilians than remotely piloted aircraft.¹⁶⁹

Regarding the legality of these strikes, the justification the Obama administration has used is identical to that set out by Stanley Sporkin for Casey and NSDD 138 – that the targeted killing of a terrorist is a lawful act of national self-defense, which does not violate the assassination ban in EO 12333. The DoJ also maintains the United States’ right to act unilaterally in the territory of another nation, should the host nation’s government have given consent, or have been determined to be ‘unable or unwilling to suppress the threat posed by the individual targeted.’¹⁷⁰

Hence, the CIA’s drone campaign follows the exact proposals and legal arguments set out by the Reagan administration in NSDD 138. What accounts for the significant change in policy and attitude from the Reagan administrations’ failure to implement their own guidance, to George W. Bush and Barack Obama’s wholesale adoption of targeted killings as a means of waging war against terrorists? The events of 9/11 stand out as the most obvious cause for this change. With NSDD 138, Schultz, Casey and North were focused upon trying to persuade doubters that counterterrorism was a national security issue. The preamble to NSDD 138 declared that ‘the US government considers the practice of terrorism by any person or group in any cause a threat to our national security.’¹⁷¹ However, at the time this language reflected the emotional and psychological impact of the threat of terrorism to the US rather than its actuality. The counterterrorism hardliners had built terrorism into something it was not, and were therefore unable to sell NSDD 138 to Weinberger

¹⁶⁹ Assistant to the President for Homeland Security and Counterterrorism John O. Brennan, ‘The Efficacy and Ethics of The President’s Counterterrorism Strategy’, Wilson Center, 30 April, 2012, in Wilson Center International Security Studies, <<http://www.wilsoncenter.org/event/the-efficacy-and-ethics-us-counterterrorism-strategy>> [accessed 17 February, 2013]. See also ‘Additional Prehearing Questions for Mr John O. Brennan on his nomination to be Director of the Central Intelligence Agency’, in *Wall Street Journal* Public Resources, <<http://online.wsj.com/public/resources/documents/brennanquestionnaire2013-add.pdf>>, pp.24-28 [accessed 15 February, 2013].

¹⁷⁰ ‘Lawfulness of Lethal Operation Directed Against a US Citizen Who Is a Senior Level Operational Leader of Al-Qa’ida or An Associated Force’, DoJ.

¹⁷¹ NSDD 138.

and the Joint Chiefs on national security grounds. As horrific and costly in American lives as the Beirut bombings were, they did not threaten the national security of the US. When America withdrew its forces shortly afterwards, there were not significant consequences to the geopolitical balance of power, demonstrating that Lebanon was in fact not a core security issue for the US. Terrorism was a threat to America's image, and to that of the president who was in office when overseas attacks occurred. It was also a threat to American citizens around the world. However, it was not something that could significantly undermine the national security of the superpower.

The killing of over 3,000 people on American soil on 11 September, 2001 served to escalate the threat terrorism posed. Following the multiple attacks that day, including one upon the Pentagon itself, terrorism shifted in peoples' perceptions to a demonstrable challenge to the security of the United States, as well as the lives of its citizens and reputation of its president. George W. Bush's Vice President Dick Cheney summed up this new thinking in an interview two years after the event:

9/11 changed everything. It changed the way we think about threats to the United States. It changed [sic] about our recognition of our vulnerabilities. It changed in terms of the kind of national security strategy we need to pursue, in terms of guaranteeing the safety and security of the American people.¹⁷²

Despite the temptation to regard 9/11 as the turning point where the counterterrorism policies first pushed by the Reagan-era hardliners were suddenly and wholeheartedly adopted as either a kneejerk response motivated by fear and a desire for vengeance, or as some sort of delayed realisation that Schultz and company had been right all along, the reality is much more complicated. America's adoption of such aggressive counterterrorism methods did not occur overnight. In the two decades between the introduction of NSDD 138 and the start of the CIA's lethal drone campaign, the counterterrorism policies of the United States had been gradually evolving, moving ever closer to the policy approach advocated by Schultz, Casey and North as the terrorist foe proved increasingly dangerous and difficult to

¹⁷² Vice President Dick Cheney, interview with Tim Russert, *NBC News*, 14 September, 2003 in *MSNBC.com*, <<http://www.msnbc.msn.com/id/3080244/>> [accessed 12 February, 2013].

counter; indeed, it can be plausibly argued that the much strengthened 9/11 'foe' was the predictable outcome of this very policy. It was no coincidence that by the time the hijacked planes slammed into the twin towers of the World Trade Center (WTC), the headquarters of the US military and a field in Pennsylvania, the CIA was ready to take the lead in George W. Bush's newly declared War on Terror. One way or another the Agency had been fighting a war against terrorism since the signing of NSDD 138. The legal architecture which has authorized the 300 plus drone strikes the Obama administration has launched, the CIA's Counterterrorism Center (CTC) which has overseen and coordinated the strikes, the network of informants on the ground who have guided them and the technological innovation behind the drones which have executed the strikes are all the products of two decades of persistent experimentation and evolution in America's ongoing effort to neutralize the threat posed by burgeoning anti-American terrorist groups.

Chapter 2 - “Let’s find a way to get them”
The Fadlallah affair and *Achille Lauro* hijacking, 1985

Those sons of bitches, let’s find a way to get them.

President Ronald Reagan

Following the NSC’s failure to implement the recommendations of NSDD 138, terrorist attacks against the United States continued, as did the Reagan administration’s ad-hoc, conflicted and disorganized response. Without a clear consensus America’s approach to counterterrorism during the mid-1980s is better characterised as a series of disjointed operations than as a strategy. As the Reagan administration’s hardliners continued to try to implement their agenda they were forced to bypass those who opposed it, in particular Secretary of Defense Weinberger. The lack of access to the resources of the DoD forced them to explore other avenues through which they could undertake their proactive counterterrorism policy. While ultimately this failed to significantly reduce the threat posed to US citizens by international terrorism, it did serve as a useful opportunity for those engaged in counterterrorism operations to explore different approaches and methods. Two operations in particular stand out as having been extremely influential in terms of the lessons they taught the counterterrorism community. The first is the Fadlallah affair – a failed targeted killing which shaped the way the CIA has worked with foreign agents in counterterrorism operations ever since. The second is the response to the hijacking of the *Achille Lauro* cruise liner, which revealed that the American public and wider political establishment is less concerned about the international fallout caused by a counterterrorism operation if the guilty parties are seen to have been brought to justice. The influence of both of these operations and the lessons they taught can be clearly seen in the CTC’s conduct of its drone campaign under the Obama administration.

Failed targeted killing attempt on Ayatollah Mohammed Hussayn Fadlallah

In his text on civilian casualties in America's wars, John Tirman argues that 'Reagan's preferred method of military intervention was to use other people to do the fighting.'¹ If one were to look at the wording of NSDD 75, the document which established the policy approach that would eventually become known as the Reagan doctrine, the administration's intention to rely upon proxies to confront the Soviet Union and far-left forces is clear. Referring to the newly emergent Cold War battle lines in nations such as Afghanistan, the directive states that the Reagan administration will 'support effectively those Third World states that are willing to resist Soviet pressures or oppose Soviet initiatives hostile to the United States, or are special targets of Soviet policy.'² Rather than committing US forces to such struggles, the Reagan Doctrine goes on to highlight that this support will come in the form of 'security assistance and foreign military sales' to the indigenous forces resisting the USSR.² Evidence of the administration's commitment to fighting through surrogates is provided by the huge financial and military aid which was funnelled by the US to the mujahideen fighters in Afghanistan and Contra rebels in Nicaragua during Reagan's time in office.³ In his 1985 State of the Union, Reagan identified the role these surrogates were playing in America's national defense, stressing to Congress that the US 'must not break faith with those who are risking their lives, on every continent - from Afghanistan to Nicaragua - to defy Soviet aggression and secure rights which have been ours from birth.'⁴ 'Support for freedom fighters,' he reasoned, 'is self-defense.'⁴

¹ John Tirman, *The Deaths of Others: The Fate of Civilians in America's Wars* (New York NY: Oxford University Press, 2011), p.182.

² National Security Decision Directive 75, 'US Relations with the USSR', 17 January, 1983, in Federation of American Scientists, Intelligence Resource Program, <<http://www.fas.org/irp/offdocs/nsdd/nsdd-075.htm>> [accessed 13 March, 2013].

³ Steve Coll, *Ghost Wars: The Secret History of the CIA, Afghanistan and bin Laden from the Soviet invasion to September 10, 2001*, (London: Penguin, 2005), p.65, 121. For more on the role Congress played in securing this funding, see George Crile, *Charlie Wilson's War* (New York NY: Grove Press, 2003); Richard Sobel, 'Contra Aid Fundamentals: Exploring the Intricacies and the Issues', *Political Science Quarterly*, Volume 110, Number 2, (Summer 1995), pp.287-306.

⁴ President Ronald Reagan, State of the Union Address, Washington, DC, 6 February, 1985, in American Presidency Project, University of California, Santa Barbra, <<http://www.presidency.ucsb.edu/ws/index.php?pid=38069>> [accessed 13 March, 2013].

The extent to which this willingness to use surrogates was actually a policy preference as Tirman describes it, or rather a forced necessity due to wider policy goals and their consequences, is debateable. As discussed in the previous chapter, Secretary of Defense Weinberger's primary objective during Reagan's tenure was to oversee the largest peacetime build-up of the US military in American history, with the aim of deterring any Soviet aggression. Achieving this goal not only required significant financial support, but also the regaining of public support in the wake of the damage caused by the Vietnam War. Committing US forces to an engagement in a country such as Afghanistan would not only have risked a dangerous escalation of Cold War tensions, but would also have jeopardised the support for the build-up through another potentially bloody conflict. The counterterrorism hardliners within the Reagan administration faced the same choice when looking to undertake the pre-emptive neutralization of terrorist leaders, which NSDD 138 advocated. Denied the use of the Pentagon's resources by Weinberger's parsimonious attitude towards the deployment of the US military, Schultz, Casey and North turned to other people to do their fighting. Tirman's assessment that the Reagan Doctrine, a 'policy mishmash' born of necessity not strategy, 'led to blunders and dashed expectations,' is borne out by the administration's first effort to use surrogates to implement their policy of pre-emptive neutralization of terrorist leaders, namely against Ayatollah Mohammed Hussayn Fadlallah, the "spiritual guide" of Hezbollah in Lebanon.⁵

On 8 March, 1985, a car bomb detonated in the Bir al-'Abd quarter of Beirut, Lebanon, close to the apartment building where Fadlallah, a hugely influential Shiite cleric, lived. Fadlallah's writings and preaching had led to him being identified, mistakenly some have argued, as the "spiritual guide" of Hezbollah, and the CIA believed he was responsible for numerous attacks against Western targets, including the 1983 Beirut barracks bombing.⁶ The car bomb killed more than 80 people and injured another 200. Fadlallah, however, was not amongst the casualties, escaping the explosion unharmed, if he was present at all. His followers hung a huge banner in front of a blown out building emblazoned with the words "MADE IN THE USA".

⁵ Tirman, *The Deaths of Others*, p.185.

⁶ Thanassis Cambanis, 'Grand Ayatollah Fadlallah, Shiite Cleric, Dies at 75', *New York Times*, 4 July, 2010, <<http://www.nytimes.com/2010/07/05/world/middleeast/05fadlallah.html? r=0>> [accessed 15 March, 2013].

While the bombing itself was carried out by local operatives recruited by the Lebanese intelligence agency, G-2, sources have since argued that Fadlallah's supporters were correct to link the bombing to the United States.⁷ Bob Woodward, whose account of the bombing in his book *Veil* places DCI Casey at the centre of the plan to kill Fadlallah, explains that in the absence of a consensus on how to deal with the anti-US terrorism emerging from Lebanon, Casey, supported by Schultz, proposed a plan to the President whereby local operatives would be recruited by the CIA to gather intelligence on terrorist targets in Lebanon, and then undertake lethal actions to neutralize them, under Sporkin's pre-emptive self-defense rationale.⁸ That the US government would adopt such a plan is perfectly likely, as the proposal is in line with the position set out in the Reagan Doctrine and NSDD 138, signed a year prior to the bombing. According to Woodward, Casey's deputy, John McMahon, expressed unequivocal disapproval of the plan, voicing the same doubts he had raised when NSDD 138 was first drafted by Oliver North - could they trust foreign nationals, particularly the Lebanese? Could the CIA control the G-2 agents? Even if they could guarantee the Lebanese would follow their orders, wouldn't this put the Agency in breach of EO 12333, which not only banned it from participating in assassinations, but from facilitating them too?⁹ If the CIA were not in control, how could they ensure that the foreign agents were using adequate intelligence to justify a pre-emptive attack, and how could it be ensured that this would be proportionate, taking all care to avoid unnecessary civilian casualties?¹⁰

Woodward reports that despite these concerns Reagan signed the necessary Finding and accompanying NSDD. The journalist has argued that Casey himself was heavily involved in planning the attack. He provides a detailed account of how Casey, frustrated with the CIA's unwillingness to take the necessary risks to make the plan work, made a deal with the Saudi government to use a car bomb to target Fadlallah. Somewhat sensationally, Woodward even wrote that Casey later confessed his personal culpability in the attack on his deathbed. This account is contested by

⁷ Bob Woodward, *Veil: The Secret Wars of the CIA, 1981 – 1987* (New York NY: Simon & Schuster, 1987), p.397.

⁸ *Ibid*, p.397.

⁹ Ronald Reagan, Executive Order 12333, 'United States Intelligence Activities', in National Archives, <<http://www.archives.gov/federal-register/codification/executive-order/12333.html>> [accessed 18 January, 2013].

¹⁰ Woodward, *Veil*, p.394.

Joseph Persico, whose alternative version of the lead up to the car bombing makes no mention of a deal with Saudi Arabia, instead identifying the NSC's Oliver North as the primary architect of the plan to train Lebanese agents to target terrorists.¹¹ Persico also challenges Woodward's claim that Casey confessed, noting that ten close associates and relatives described that Casey's health at the time following his brain haemorrhage and subsequent surgery, meant he was unable to articulate himself.¹² The findings of the official investigation into the bombing found no evidence of Casey's or the wider CIA's complicity in the attack, instead attributing the killings to the surrogate forces acting as 'rogue operatives' without sanction from their CIA handlers. The CIA did not escape the affair unscathed, however. Bernie McMahon, a thirty-year intelligence veteran who ran the Senate enquiry into the affair, concluded that whilst the CIA had not participated in the bombing, it had created 'a mechanism which ultimately got out of control and led to the bombing.'¹³

Whatever Casey's personal level of involvement and the culpability of those within the NSC and CIA, the Fadlallah affair represented the Reagan administration's first attempt to put into practice the NSDD 138 policy of preemptively neutralizing terrorists. The operation's failure identified some important lessons for the CIA in relation to counterterrorism, which can be identified in the way their drone campaign has been conducted. First, it illustrated the risks of building too close a relationship with the press, driven by the American government's desire to present its counterterrorist operations as just and legal. Second, it highlighted the importance of the CIA staying in control of any potentially lethal counterterrorist operation. Third, it highlighted the advantages, but also the risks, of using foreign agents. Fourth, it showed the importance of interagency cooperation and analysis, and the drawbacks of a lack of consensus. Finally, it showed that any effort to use lethal force against terrorists came with significant

¹¹ *Veil*, pp.393-399; 'Target America: Interview: Bob Woodward' in *PBS Frontline*, September, 2001, <<http://www.pbs.org/wgbh/pages/frontline/shows/target/interviews/woodward.html>>; Richard Zoglin, Jay Peterzell, Bruce van Voorst, 'Did A Dead Man Tell No Tales?', *Time*, 12 October, 1987, <<http://content.time.com/time/printout/0,8816,965712,00.html>> [accessed 17 July, 2014].

¹² Joseph E. Persico, *Casey: The Lives and Secrets of William J. Casey: From the OSS to the CIA* (New York NY: Penguin Books, 1990), pp.428-440, p.580; 'Target America: Interview: Robert McFarlane' in *PBS Frontline*, September, 2001, <<http://www.pbs.org/wgbh/pages/frontline/shows/target/interviews/mcfarlane.html>> [accessed 15 July, 2014].

¹³ Persico, *Casey*, p.443.

risks, particularly the potential for blowback. These factors are discussed in more detail below.

Building a domestic and international legal case

The link with the G-2 agents represented the first attempt to turn the NDSS 138 theory of anticipatory self-defence into a legal, workable policy. It was justified by the CIA's lead counsel Stanley Sporkin on the grounds that pre-emptive attack was enshrined within the jurisprudential standard of *jus ad bellum*, or "right to war". The Agency's lead lawyer also argued that the policy followed Article 51 of the UN Charter, which granted 'the inherent right of individual or collective self-defence.'¹⁴ Yet, the policy flaunted elements of *jus ad bellum*.¹⁵ By using foreign agents to conduct the pre-emptive attack, whilst having little to no control over their actual methods, the United States failed to meet the requirement of proportionality by ensuring all due care was taken to minimise civilian casualties and damage to infrastructure. Regardless of whether the car bombing was executed without CIA sanction, it was nonetheless carried out within the context of the US counterterrorism programme, itself under US oversight.¹⁶ Robert Oakley, Director of the State Department's Office of Combating Terrorism at the time of the bombing later recounted that two assessments were made of the reliability of the foreign counterterrorism units - once by US Special Forces advisors, and another by the CIA itself. In both instances, Oakley attests, discipline standards were found to be unacceptable, thereby precluding direct US provision of money and armaments to those units. Oakley recalls the general feeling around the plan being that 'we can't count upon G-2 and who they recruit to have the sort of discipline which we think is essential to conduct a really targeted operation.'¹⁷

¹⁴ Article 51, Chapter VII, Charter of the United Nations, 26 June, 1945 in UN.org, <<http://www.un.org/en/documents/charter/intro.shtml>> [accessed 17 March, 2013].

¹⁵ 'War and International Humanitarian Law', International Committee of the Red Cross, <<http://www.icrc.org/eng/war-and-law/index.jsp>> [accessed 17 March, 2013].

¹⁶ Convention (No. IV), 'Respecting the Laws and Customs of War on Land, with Annex of Regulations, United States Department of State, 26 January 1910, in The Avalon Project, Documents in Law, History and Diplomacy, Yale Law School, Lillian Goldman Law Library, <http://avalon.law.yale.edu/20th_century/hague04.asp> [accessed 17 March, 2013].

¹⁷ Interview with Ambassador Robert Oakley, 25 June, 2008 in Richard J. Chasdi, *An Analysis of Counterterror Practice Failure: The Case of the Fadlallah Assassination Attempt*, Center for Peace and Conflict Studies and the Center of Academic Excellence in National Security Intelligence Studies, Wayne State University, Detroit Michigan, <http://www.roa.org/site/DocServer/Chasdi_-_An_Analysis_of_Counterterror_Practice_Failure_.pdf?docID=29561>, p.11 [accessed 15 March, 2013].

By using international law to make the case for pre-emptive counterterrorism actions, whilst simultaneously flaunting the same law in the conduct of these actions, the CIA was acting in accordance with a notion which has surfaced again in America's conduct of its drone campaign - that for the United States international law is subordinate to geopolitical considerations and American objectives, and is something to be bent and shaped accordingly to add a veneer of legal authority to actions of dubious legality. Whilst George W. Bush flagrantly disregarded international law in favour of unilateral action, issuing a legal memo which stated 'I accept the legal conclusion of the Department of Justice that none of the provisions of Geneva apply to our conflict with al-Qaeda,' the Obama administration has sought to follow the approach established by Casey and Sporkin, creating a legal argument which aimed to place the drone campaign within the moral constraints of "just war" and the legal constraints of international law, whilst putting American geopolitical considerations first.¹⁸ Obama used the acceptance speech for his Nobel Peace Prize in Oslo on 10 December, 2009 to clearly define America's war against al-Qaeda as a "just war", firmly within the bounds of international law and meeting the requirements of *jus ad bellum*. 'We have a moral and strategic interest in binding ourselves to certain rules of conduct,' explained the president. 'The United States of America must remain a standard bearer in the conduct of war, that is why [...] I have reaffirmed America's commitment to abide by the Geneva Conventions.'¹⁹ In spite of these claims, the CIA's conduct of their drone campaign, as with the Fadlallah affair before, has frequently been criticized as operating outside of international law.

Maintaining direct control of counterterrorism operations

Despite the Obama administration's conduct of the drone campaign in Pakistan leaving it vulnerable to allegations of hypocrisy - preaching international law on one hand whilst flouting it on the other - American insistence upon conducting the drone

¹⁸ Executive Order 12958, 7 February, 2002, in *Torturing Democracy*, National Security Achieve, <<http://www.torturingdemocracy.org/documents/20020207-2.pdf>>; Erin Chlopak, 'Dealing with the Detainees at Guantanamo Bay: Humanitarian and Human Rights Obligations under the Geneva Conventions', *Human Rights Brief*, Volume 9, Issue 3, Washington College of Law, <<http://www.wcl.american.edu/hrbrief/09/3guantanamo.cfm>> [accessed 18 March, 2013].

¹⁹ President Barack Obama, 'A Just and Lasting Peace', Nobel Peace Prize Address, Oslo, Norway, 10 December, 2009, <http://www.nobelprize.org/nobel_prizes/peace/laureates/2009/obama-lecture.html> [accessed 17 March, 2013].

strikes themselves, as opposed to allowing Pakistan to take control, is drawn from the second hard learned lesson from the fallout of the Fadlallah bombing. In the immediate wake of the failed targeted killing, the CIA dismantled the entire foreign agent counterterror programme.²⁰ From this point onwards, if and when lethal counterterrorist operations were conducted, they occurred with a much greater level of American oversight. With regard to the drone programme in Pakistan, this is illustrated by the United States' refusal to provide the technology to the Pakistani government to conduct the strikes themselves on their own territory. In a confidential cable sent from the Islamabad embassy on 13 November, 2008, Pakistani Prime Minister Yousef Gilani was reported to have asked the United States to help Pakistan hit targets within its own borders, reiterating that the struggle against extremism was 'Pakistan's war.' Gilani argued that US- conducted drone attacks were 'counterproductive in winning the public's support.' The cable went on to make it clear that the Pakistani Prime Minister was not pushing for the suspension of the drone campaign, but rather for the Pakistani military to be given the technology to conduct the strikes itself. 'We have the will', said Gilani, 'but not the capacity.'²¹ In spite of such requests, the CIA has maintained tight control over the programme, reflecting a shift from the Reagan administration's approach of using surrogates to do the fighting.

That is not to say foreign agents are no longer used in American counterterrorism, and in particular in the drone campaign. It is a frequent misconception of the campaign that the decision to strike is being made solely by drone pilots thousands of miles away from the target - drone strikes need spotters. In line with the original recommendations set out in NSDD 138, the drone campaign uses foreign agents to provide intelligence and targeting information for pre-emptive attacks against terrorists and militants. The difference now is that, after the debacle of the Fadlallah assassination attempt, the foreign agents do not undertake the

²⁰ Bob Woodward and Charles R. Babcock, 'Anti-terrorist Plan Rescinded After Unauthorized Bombing', *Washington Post*, 12 May, 1985; Stuart Taylor, 'Lebanese Group Linked to CIA is Tied to Car Bombing Fatal to 80', *New York Times*, 13 May, 1985, <<http://www.nytimes.com/1985/05/13/world/lebanese-group-linked-to-cia-is-tied-to-car-bombing-fatal-to-80.html>> [accessed 17 March, 2013].

²¹ 'Gilani to Codel Snowe: Help Us Hit Targets', US State Department cable, Islamabad Embassy, 18 February, 2008, <<http://wikileaks.sbr.im/cable/2008/11/08ISLAMABAD3586.html>> [accessed 6 December, 2010].

neutralization themselves. This network of foreign agents has taken time for the CIA to rebuild. Following Casey's shutting down of the programme in Lebanon, and the CIA's disengagement from Afghanistan following the Soviet withdrawal, the agency did not have foreign agents it could use to infiltrate the tribal areas where al-Qaeda and the Taliban were sheltering. When facing the 9/11 commission on 14 April, 2004, then CIA Director George Tenet was asked how long it would take for the CIA to be in a position to counterattack al-Qaeda. 'It's going to take another five years,' Tenet confessed, 'to build the clandestine service the way the human intelligence capability of this country needs to be run.'²² Since then, the CIA has cultivated a large web of Afghan proxy forces, Pakistan-focused informants and foreign agents to help wage its drone campaign, just as NSDD 138 initially envisioned, but with new procedures and safeguards put in place to guarantee greater US control.²³ As a sign of how effective these foreign agents are, al-Qaeda has produced a document called *Guide to The Laws Regarding Muslim Spies*, which provides guidance on how to identify the agents and the GPS locators the CIA equip them with to guide the drone strikes.²⁴ The existence of this guide, coupled with the fact that it was written by Abu Yahya Al-Libi, at the time al-Qaeda's third in command (since killed in a drone strike), with a foreword by Ayman al-Zawahiri, goes to show how effective these foreign agents have proven to be.²⁵

²² Director of Central Intelligence George J. Tenet, 'Remarks Before the National Commission on Terrorist Attacks Upon the United States', 14 April, 2004, in CIA Speeches and Testimony Archive, <https://www.cia.gov/news-information/speeches-testimony/2004/tenet_testimony_04142004.html>; Spencer Ackerman, 'How the CIA Became 'One Hell of a Killing Machine'', *Wired*, 2 September, 2011, <<http://www.wired.com/dangerroom/2011/09/cia-killing-machine/>> [accessed 18 March, 2013]. For more on the CIA's use of foreign agents to guide drone strikes, see Chapter 5.

²³ Craig Whitlock and Greg Miller, 'US Covert Paramilitary Presence in Afghanistan Much Larger Than Thought', *Washington Post*, 22 September, 2010, <<http://www.washingtonpost.com/wp-dyn/content/article/2010/09/22/AR2010092206241.html?sid=ST2010092106707>>; Spencer Ackerman, 'CIA Snitches Are Pakistan Drone-Spotters', *Wired*, 23 September, 2010, <<http://www.wired.com/dangerroom/2010/09/cia-snitches-are-pakistan-drone-spotters/>> [accessed 18 March, 2013].

²⁴ Abu Yahya Al-Libi, *Guide to the Law Regarding Muslim Spies*, June 2009, <<http://xa.yimg.com/kq/groups/19377022/1660762922/name/%5Bthe+teacher+in+the+government+spy+Muslim++Sheikh+Abu+Yahya+al-Libi%5D+06.30.09+Archangel.pdf>>, translated in Report No. 2438, (July 9, 2009), Middle East Research Institute, MEMRI, Jihad and Terrorism Threat Monitor [accessed 18 March, 2013].

²⁵ 'Al-Qaeda Confirms Death of Bin Laden Confidant Libi', *Reuters*, 11 September, 2012, <<http://www.reuters.com/article/2012/09/11/us-security-qaeda-idUSBRE88A04L20120911>>; Robert Mackey, 'Qaeda Leader Confirms Death of His Deputy', *New York Times*, 11 September, 2012, <<http://thelede.blogs.nytimes.com/2012/09/11/qaeda-leader-confirms-death-of-his-deputy/>> [accessed 18 March, 2013]. See Chapter 5 for further details on the use of Afghan agents.

America's refusal to provide the weapons to Pakistan also illustrates a lesson learned from the blowback of the CIA's role in the Afghan jihad throughout the 1980s, which saw vast amounts of US-supplied military hardware end up in the hands of anti-American jihadists and the Taliban via Pakistan's ISI.²⁶ In *Knights Under the Prophet's Banner* Ayman al-Zawahiri mocked the role played by the CIA in equipping their future enemy, stating that the United States' backing of Pakistan and the mujahideen with money and equipment made the Afghan jihad 'a training course of the utmost importance' in preparing the Muslim mujahidin to 'wage their awaited battle' against the United States.²⁷ While America's primary objective in the region was to drive the Soviets out of Afghanistan, Pakistan's overriding interest in their western neighbour's fate related to their strategic relationship with their intense rival, India. Pakistan's traumatic history since its foundation on 15 August, 1947 had led to the loss of East Pakistan as Bangladesh in 1971 and Kashmir becoming disputed territory. Further fears of Pashtun calls for independence together with the possibility of Indian influence on Pakistan's western border led General Mohammed Zia-al-Haq, Pakistani's dictator during the time of the anti-Soviet jihad, to seek an Afghanistan dominated by an allied Sunni Islamic power, regardless of whether that power was anti-American or otherwise.²⁸

As the Soviets withdrew, staunch anti-American jihadists such as Gulbuddin Hekmatyar, backed by Pakistan's ISI and thousands of Arab volunteers from a dozen countries, went about systematically wiping out their more moderate rivals amongst the Afghan resistance. 'For God's sake,' warned one secular Afghan tribal leader to the CIA agents coordinating American military aid, 'You're funding your own assassins!'²⁹ As the country transitioned from an anti-Soviet jihad to a bloody civil war, the ISI eventually shifted its support to the Taliban, equipping the Kandahar-based militants with millions of dollars' worth of weapons left over from the jihad on the orders of Benazir Bhutto, who mistakenly believed the religious scholars would

²⁶ Coll, *Ghost Wars*, pp.126-127; Robert Gates, *From the Shadows*, (New York NY: Simon & Schuster, 1996), p.349; Kirsten Lundberg, 'Politics of a Covert Action: The US, the *Mujahideen*, and the Stinger Missile', Harvard Case Study, p.25.

²⁷ Ayman al-Zawahiri, *Knights Under the Prophet's Banner*, translated by Laura Mansfield, *In His Own Words: A Translation of the Writings of Dr Ayman al Zawahiri* (TLG Productions, 2006), p.38.

²⁸ Charles G. Cogan, 'Shawl of Lead', *Conflict*, Volume 10, No.3, (1990), pp.189-204.

²⁹ Interview with Hamid Gailani, former chairman of the Mujahideen Group, 14 May, 2002, Kabul, Afghanistan, in Coll, *Ghost Wars*, p.183.

make pliant clients. The long-term costs of this error to the United States have been well documented.³⁰ As well as the blowback from the CIA's policy of strengthening al-Qaeda and their Taliban hosts, evidence has also emerged which has linked training camps established by the ISI with CIA funds for terror attacks upon India. For example, following the Mumbai massacre of 2008 in which 164 were killed and more than 300 injured, Ajmal Kasab, the only attacker who was captured alive confessed under interrogation that the attacks were conducted with the support of the ISI, who allowed the militants to train in Afghan-jihad era camps.³¹ The CIA's failure to identify the future implications of flooding both Afghanistan and Pakistan with millions of dollars' worth of weapons is not an error the US wants to repeat. As a result, the drone campaign has been kept under strict control, even when passing the technology on would likely limit anti-Americanism and legal criticism in the short term.

Building a cross-governmental consensus

The Fadlallah affair also marked a vital moment of policy shift for the Reagan administration, when its paralyzing lack of consensus on counterterrorism policy turned into a fumbling foreign policy. In what Graham Allison describes as the 'pulling and hauling' dynamics of bureaucratic politics, the fierce competition between the different high-level decision makers to protect their own departmental and agency interests whilst pushing their own policy preferences, meant there was too little cooperation within the federal government on the issue of counterterrorism.³² There were profound differences of opinion between the CIA, the DoD and the DoS. Even within these institutions there were full-blown disagreements about the utility of force and the targeted killing of terrorist leaders as a counterterrorism strategy. The failure of the administration's leadership to either

³⁰ Coll, *Ghost Wars*, p.290; William Maley, *The Afghanistan Wars*, (New York NY: Palgrave-Macmillan, 2009), pp.218–250.

³¹ Chidanand Rajghatta, 'Rana, Headley implicate Pak ISI in Mumbai attack during ISI chief's visit to US', *Times of India*, 12 April, 2011, <http://articles.timesofindia.indiatimes.com/2011-04-12/us/29409412_1_rana-and-headley-isi-tahawwur-hussain-rana>; Bill Roggio, 'Even More Shocking: ISI Behind Mumbai Massacre', in Long War Journal, 12 April, 2011, <http://www.longwarjournal.org/threat-matrix/archives/2011/04/even_more_shocking_isi_behind.php> [accessed 18 March, 2013].

³² Graham T. Allison, *Essence of Decision: Explaining the Cuban Missile Crisis* (New York NY: Harper Collins Publishers, 1971), pp. 83, 162-181; Robert J. Art, 'Bureaucratic Politics and American Foreign Policy: A Critique', *Policy Sciences*, Vol. 4, (1973), pp. 467-487.

form a consensus or nominate a lead agency to take charge meant the different branches of government failed to work together towards a common goal. This created a situation in which the personal preferences of senior government officials took precedence over informed analysis.

The effort to implement NSDD 138 through the use of foreign agents was not guided by a carefully reasoned set of counterterrorism measures consistent with wider American foreign policy interests in Lebanon or the wider Middle East. The primary architects of the directive – namely North, Casey and Schultz - were so embroiled in the bureaucratic dispute with opponents of the plan, such as Weinberger and Casey's deputy John McMahon, that all criticism of the operation, no matter how valid, was ignored. When two separate assessments, one from the DoD and another from within the CIA itself, warned of the risks associated with using ill-disciplined G-2 agents coupled with the potential blowback of a targeted killing in Beirut, they were rejected on the grounds that they represented the views of those who opposed proactive counterterrorism. Robert Kupperman, Jeff Kamen, Paul Pillar, Martha Crenshaw and many other terrorism experts all stress that without synergy between counterterrorism practices and broader foreign policy objectives based on solid analysis, severe political setbacks are likely.³³ The affair taught a valuable lesson that any future counterterrorism action would need to involve a much more effective connection between policy recommendations, analysis and operational planning. The creation of the CIA's CTC less than a year after the failed bombing was a direct response to this and marked an effort to provide an analytical, centralised and coordinated approach to counterterrorism operations.³⁴ The center, sometimes

³³ Robert Kupperman and Jeff Kamen, *Final Warning: Averting Disaster in the New Age of Terrorism* (New York NY: Doubleday, 1989), pp. 121-122; Paul R. Pillar, *Terrorism and U.S. Foreign Policy* (Washington, DC: Brookings Institution Press, 2001), p. 28; Martha Crenshaw, 'Terrorism, Strategies and Grand Strategies', in Russell D. Howard, Reid L. Sawyer, and Natasha E. Bajema (eds.), *Terrorism and Counterterrorism: Understanding the New Security Environment, Readings and Interpretations*, (New York NY: McGraw Hill Publishers, 2004), pp. 444-459; Boaz Ganor, *The Counter-terrorism Puzzle* (New Brunswick, NJ: Transaction Books, 2005), p. 41; Roger N. McDermott, *Countering Global Terrorism: Developing The Anti-Terrorist Capabilities on Central Asian Militaries* (Carlisle, PA: Strategic Studies Institute, U.S. Army War College, 2004), pp. 7-8; Ian O. Lesser, 'Countering the New Terrorism: Implications for Strategy', in *Countering The New Terrorism* (Santa Monica, CA: Rand Corporation, 1999), p. 126; J. Paul de Taillon, *Hijacking and Hostages: Government Response to Terrorism* (Westport, CT: Praeger Publishers, 2002), p. 78.

³⁴ 'Centers in the CIA', in cia.gov, <<https://www.cia.gov/library/publications/additional-publications/the-work-of-a-nation/cia-director-and-principles/centers-in-the-cia.html>> [accessed 28 May, 2012]. For further details of the founding of the CTC, see Chapter 3.

described as ‘an agency within an agency,’ has since become the hub for the War on Terror in the Afghanistan/Pakistan (AfPak) region, and has responsibility for overseeing the drone campaign in Pakistan’s territory, a mission which the CTC has been undertaken with a near total cross-branch and cross-party consensus.³⁵

Consideration of the potential blowback

The fallout from the car bombing also demonstrated that undertaking lethal counterterrorist operations ran the risk of escalating America’s conflict with terrorism, especially when, as with the Fadlallah bombing, the United States was seen to have been responsible for civilian casualties. The impact of this was heightened by the attack taking place in a country where anti-Americanism was already prevalent. The linking of the CIA to the attempted killing of an influential religious figure and the deaths of so many civilians, regardless of how culpable the Agency actually was, further diminished an already lowly American reputation in Lebanon and the wider Middle East. The contradiction between American pronouncements about democracy and international law and the exposed reality of the Reagan administration’s plotting and partnership with the brutal Lebanese government was exposed.³⁶ Three months after the bombing Hezbollah and Islamic Jihad members hijacked TWA 847, an American airliner, using the hostages to demand the release of 700 Shiite Muslims from Israeli custody. During a standoff at Beirut airport the hijackers beat and killed Robert Stethem, a US Navy diver. When challenged by a control-tower operator for killing an innocent passenger, the lead hijacker replied angrily, ‘Did you forget the Bir al Abed massacre?’³⁷ This sense of injustice and the view that the United States had deliberately targeted Shiite civilians aided Hezbollah recruitment throughout Lebanon and the wider region.

There is evidence to suggest that America’s subsequent use of drones in counterterrorism operations generates a similar sense of anger and resentment. When Faisal Shahzad, a 31-year-old US citizen who lived in the Connecticut suburbs, was

³⁵ Robert M. Chesney, ‘Beyond the Battlefield, Beyond al-Qaeda: The Destabilizing Legal Architecture of Counterterrorism’, *Michigan Law Review*, Vol.11:163, (November 2013), p.163.

³⁶ Chasdi, *An Analysis of Counterterror Practice Failure*, p.40.

³⁷ William E. Smith, ‘Terror Aboard Flight 847’, *Time*, 24 June, 2001, <<http://www.time.com/time/magazine/article/0,9171,142099,00.html>>; Wills, *First War on Terrorism*, p.91.

arrested for parking a car full of explosives in New York City's Times Square in May 2010, he identified the CIA's drone campaign as the key factor that motivated him, telling the judge 'the drone hits in Afghanistan and Iraq, [...] they don't see children, they don't see anybody.' In blaming the drone strikes for the deaths of Muslim women and children, Shahzad added that, 'I am part of the answer to the US terrorising the Muslim nations ... I'm avenging the attacks because the Americans only care about their people, but they don't care about the people elsewhere in the world when they die.'³⁸ Suggesting the negative image of drone warfare is radicalising more Muslims to take up arms against the United States, a Lahore-based terrorist recruiter quoted in the *Observer* in September 2010, stated, 'We don't have to do anything to attract them - the Americans and the Pakistani government do our work for us.' According to the recruiter, the perception that the drone attacks targeting 'the innocents who live in Waziristan' meant that many were already sympathetic to their cause. Recruiting these sympathisers was 'simply a case of converting these sentiments into action'.³⁹

There is contradictory evidence, however, that the drone campaign has had the opposite effect and has played a significant role in drying up the flow of recruits to the al-Qaeda training camps in the FATA region of Pakistan. Four months after the attempted Times Square bombing, *Newsweek* interviewed Hafiz Hanif (alias) a young Afghan who attended an al-Qaeda training camp in Waziristan. He described his initial time experience at the camp in a positive light, testifying to the wide appeal the terrorist group held with his cohort of '30 students of various nationalities - Chechens, Tajiks, Saudis, Syrians, and Turks, two Frenchmen of Algerian extraction, and three Germans, one of whom was European and the other two of Arabic or Turkish extraction.' 'New recruits are always arriving,' Hanif added.⁴⁰ Yet, when the same reporter returned to interview Hanif 18 months later, after the Obama administration had dramatically escalated the CIA's drone campaign, his account was very different. 'Only four of the cell's 15 fighters were left, huddled in a two-

³⁸ Faisal Shahzad, quoted in Lorraine Adams with Ayesha Nasir, 'Inside the Mind of the Times Square Bomber', 19 September, 2010, *Observer*, <<http://www.guardian.co.uk/world/2010/sep/19/times-square-bomber>> [accessed 19 March, 2013].

³⁹ Ibid.

⁴⁰ Interview with Hafiz Hanif (alias), in Sami Yousefzai, Ron Moreau, 'Inside al-Qaeda', *Newsweek*, 4 September, 2010, <<http://www.thedailybeast.com/newsweek/2010/09/04/inside-al-qaeda.html>> [accessed 19 March, 2013].

room mud-brick house, with little or no money or food.’ The cell’s commander, a Kuwaiti named Sheik Attiya Ayatullah, had gone into hiding and the other members had either run off or been killed in drone strikes.⁴¹ ‘Why should we call you back just to get killed in a drone attack?’ Hanif’s jihadi brothers asked. Due to the secrecy surrounding the CIA’s campaign, it is extremely difficult to discern which account is more accurate, whether hatred, resentment and negative propaganda relating to the drones drive terrorist recruitment, or whether fear of attack has deterred recruitment to al-Qaeda’s training camps. What is clear is that achieving the correct balance of force to deter rather than recruit has been a challenge facing US counterterrorism policy from the Reagan administration into the present day.

The *Achille Lauro* hijacking

On 7 October, 1985, the Italian cruise liner *Achille Lauro* was hijacked by four men representing the PLF, a radical faction of the PLO, as she sailed from Alexandria to Port Said along the Egyptian coast. During the hijacking Leon Klinghoffer, a 69 year old wheelchair-bound Jewish-American, was murdered by the hijackers and his body thrown overboard.⁴² The hijacking was in retaliation for a bombing raid by the Israeli Air Force upon the PLO headquarters in Tunisia six days earlier, an attack strongly condemned by the UN which was reported to have killed between 60 and 75 Palestinians, injuring a similar number.⁴³ The attack upon the PLO headquarters was in itself in retaliation for the killing of three Israelis by members of the PLO’s commando force, Unit 17 on a yacht off the coast of Cyprus on 25 September 1985.⁴⁴

⁴¹ Interview with Hafiz Hanif (alias), Sami Yousafzai, Ron Moreau , ‘Al-Qaeda on the Ropes: One Fighter’s Inside Story’, *Newsweek*, 2 January, 2012, <<http://www.thedailybeast.com/newsweek/2012/01/01/al-qaeda-on-the-ropes-one-fighter-s-inside-story.html>> [accessed 19 March, 2013].

⁴² Michael K. Bohn, *The Achille Lauro Hijacking: Lessons in the Politics and Prejudice of Terrorism*, (Washington, DC: Potomac Books, 2004), pp.1-19.

⁴³ United Nations Security Council Resolution 573, 4 October, 1985, in UN Security Council Achieve, <[http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/573\(1985\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/573(1985))>; ‘Operation “Wooden Leg”’, Israeli Air Force, <<http://www.iaf.org.il/4694-33087-en/IAF.aspx>>; William E. Smith, ‘Israel’s 1,500 Mile Raid’, *Time*, 14 October, 1985, <<http://www.time.com/time/magazine/article/0,9171,960108-1,00.html>> [accessed 24 February, 2013].

⁴⁴ ‘Gunmen Kill Three Israelis Aboard Yacht: Palestinian Trio Surrender After Shootings in Cyprus’, *Los Angeles Times*, 25 September, 1985, <http://articles.latimes.com/1985-09-25/news/mn-19794_1_israelis-aboard-yacht> [accessed 24 February, 2013].

The incident serves as an example of the spiral of violence that retaliation can cause, a key argument put forward by many who oppose America's use of lethal force with drones against al-Qaeda and its affiliates.⁴⁵

Supporters of America's use of force in counterterrorism take a different lesson from the *Achille Lauro* affair. America's response has been seen by some to have been one of the high points of American counterterrorism under the Reagan administration. 'We Bag The Bums,' declared the *New York Daily News*, and a simple 'Got 'Em' took the front page of the *New York Post* when news broke that the hijackers had been captured due to American intervention.⁴⁶ Reagan himself summed up the jubilant feeling in the nation when he wrote, 'Americans as well as our friends abroad are standing six inches taller. We're flooded with wires and calls.'⁴⁷ Despite the eventual success, the Reagan administration's intervention in the affair had very nearly gone the way of their previous interventions. On the advice of his NSC, Reagan had ordered Joint Special Operations Command (JSOC) forces, namely Delta Force and the US Navy's SEAL Team Six be dispatched to undertake a rescue operation should the cruise liner re-enter international waters.⁴⁸ However, when the ship returned to Egypt before an operation could be launched, it looked like the chance to mount an effective intervention had passed. Egypt's President Hosni Mubarak negotiated a peace deal which allowed the hijackers to escape by air in return for the safe release of the remaining hostages. Mubarak deliberately misled the White House, keeping reports of Klinghoffer's murder from them in order to ensure the deal went ahead. Upon learning of Klinghoffer's killing from the US Ambassador to Egypt, however, the White House demanded the hijackers be detained as murderers. Once more Mubarak misled the Reagan administration, informing it that the Egypt Air plane with the hijackers aboard had already departed Cairo. When Israeli intelligence informed the US otherwise, members of the NSC and the Joint

⁴⁵ Simon Jenkins, 'Drones Are a Fool's Gold: They Prolong Wars We Cannot Win', *Guardian*, 10 January, 2013, <<http://www.guardian.co.uk/commentisfree/2013/jan/10/drones-fools-gold-prolong-wars>>; Shamim-uh-Rahman, 'Drones Fuel Terrorism, Says Imran', *Dawn*, 22 May, 2011, <<http://dawn.com/2011/05/22/drones-fuel-terrorism-says-imran/>> [accessed 24 February, 2013].

⁴⁶ 'America Reacts With Rejoicing: Capture Proves US Still Strong', *Washington Post*, 13 October, 1985, <<http://news.google.com/newspapers?nid=1948&dat=19851013&id=61JAAAIBAJ&sjid=8BwNAAAIBAJ&pg=1780,734973>> [accessed 24 September, 2013].

⁴⁷ Ronald Reagan, *An American Life*, (New York NY: Pocket Books, 1990), p.509.

⁴⁸ Timothy Naftali, *Blind Spot: The Secret History of American Counterterrorism* (New York NY: Basic Books, 2005), pp.171-174.

Chiefs liaised to come up with a plan to deploy military aircraft which would divert the airliner once it was in the air to a NATO base at Sigonella, Sicily, where the hijackers could be detained.⁴⁹

Accounts describe NSC staffer James Stark being the first to come up with the idea of intercepting the hijackers' escape aircraft. He briefly discussed the idea with fellow NSC member Howard Teicher, before the two men took the idea to Oliver North. North, unsurprisingly, liked the idea of aggressively pursuing the terrorists, and took it to the ANSA Robert McFarlane. McFarlane supported the idea but having to leave for Illinois with the president, left the planning of the operation to his deputy, Admiral John Poindexter. Poindexter contacted Vice Admiral Art Moreau, the assistant to Admiral William Crowe, the newly appointed chairman of the Joint Chiefs, and asked him to begin constructing a plan to take action against the hijackers' plane. Once the plan was formed and the logistical requirements arranged, they contacted McFarlane, who then reported the information to Reagan, who agreed planning should proceed. Upon returning to the White House, McFarlane convened a meeting of the NSC's National Security Planning Group, which decided upon the rules of engagement, discussed the diplomatic implications, and then ordered the intercept plan to go ahead.⁵⁰ The most vital part in the execution of this operation was that the planning had been very swift, taking a matter of hours from conception to implementation, bypassing the normal interagency and interdepartmental process, thus enabling the NSC to overcome the institutional stalemate discussed in the previous chapter. The speed outmanoeuvred Weinberger, who, when he heard of the plan from the chairman of the Joint Chiefs, was livid and attempted to halt the operation. 'What the hell's going on? That's a terrible idea. I'm dead set against it,' he stated. 'Interfering with civilian aircraft. We'll be castigated all over the world.'⁵¹

⁴⁹ Naftali, *Blind Spot*, pp.173-174.

⁵⁰ Deborah H. Strober and Gerald S. Strober, *Reagan: The Man and His Presidency, The Oral History of an Era* (New York NY: Houghton Mifflin, 1998), pp.376-379; Howard Teicher and Gayle Radley Teicher, *Twin Pillars to Desert Storm: America's Flawed Vision in the Middle East from Nixon to Bush* (New York NY: William Morrow and Company, Inc., 1993), p.339; David C. Wills, *The First War on Terrorism: Counterterrorism Policy During the Reagan Administration* (Maryland MD: Rowman & Littlefield Publishers Inc., 2003), pp.151-155.

⁵¹ Wills, *The First War on Terrorism*, p.153.

In spite of his protests Weinberger was too late to stop the operation. McFarlane, with the support of Schultz, had been able to convince Reagan of the viability of the plan. Without the dissenting voice of his Secretary of Defense, the president had agreed for the operation to go ahead. An ‘intercept package’ of six F-14s, two A-6 tankers, and two E-2C aircraft was dispatched from the USS *Saratoga*, and, using sophisticated radars, located the Egypt Air 737, forcing it to land at the NATO base in Sicily.⁵² On the landing strip US Delta Force troops attempted to seize the hijackers for extradition to the United States, but the Italian authorities intervened, and, after a tense standoff with the American forces, took the PLF members into custody.⁵³ Although the US subsequently asked the Italian government to extradite the hijackers, Italy asserted jurisdiction over them and put them on trial. Much to the Reagan administration’s frustration the Italians chose to release Abdul Abbas, as he had not actually been directly involved in the hijacking, despite American intelligence identifying him as the mastermind of the terrorist attack.⁵⁴ He remained at large until his eventual capture by JSOC in Baghdad, Iraq in 2003, following Operation Iraqi Freedom, dying in US custody in March 2004.

Be prepared to bend the law

There are a number of reasons why the *Achille Lauro* incident is significant for the CIA drone campaign. First, it demonstrates that the United States had already set a precedent for breaking international laws in the pursuit of terrorists. The diversion of the Egyptian airliner and planned abduction of the hijackers technically violated international sovereignty, territorial integrity and internationally protected due-process rights, and in doing so set off a legal debate as to what the US could and could not do in its efforts to counter international terrorism.⁵⁵ In his legal analysis of

⁵² John F. Lehman, Jr., *Command of the Seas: Building the 600 Ship Navy* (New York NY: Charles Scribner’s Sons, 1988), p.365.

⁵³ Bernard Gwertzman, ‘US Intercepts Jet Carrying Hijackers; Fighters Divert It To NATO Base In Italy; Gunmen Face Trial For Slaying Of Hostage’, *New York Times*, 11 October, 1985, <<http://www.nytimes.com/1985/10/11/world/us-intercepts-jet-carrying-hijackers-fighters-divert-it-nato-base-italy-gunmen.html>> [accessed 3 March, 2013].

⁵⁴ Wills, *First War on Terrorism*, p.161; David Ensor, ‘US Captures Mastermind of Achille Lauro Hijacking’, *CNN*, 16 April, 2003, <<http://edition.cnn.com/2003/WORLD/meast/04/15/sprj.irq.abbas.arrested/>>; ‘Terrorist Abu Abbas Dies in Iraq’, *Fox News*, 9 March, 2004, <<http://www.foxnews.com/story/0,2933,113719,00.html>> [accessed 3 March, 2013].

⁵⁵ Andrew L. Liput, ‘An Analysis of the Achille Lauro Affair: Towards an Effective and Legal Method of Bringing International Terrorists to Justice’, *Fordham International Law Journal*, Volume 9, Issue 2, Article 5, (1985), pp.328-372. Also see Antonio Cassese, *Terrorism, Politics and Law: The*

the event at the time, attorney Andrew Liput predated the criticism of contemporary legal scholars who rail against America's unilateral conduct of the drone campaign outside of the boundaries of international law. He stressed that the primary purpose of modern international law was to enable states to live together despite their varying and frequently opposing political views, and that action which was 'based upon universal norms that do not depend on any particular, narrowly focused political ideology' was key to maintaining stability whilst being able to eliminate the threat of international terrorism.⁵⁶ Both the drone campaign and the forced landing which predated it illustrate America's long-standing willingness to operate outside of these universal norms when it comes to counterterrorism operations and seizing the opportunity to neutralize anti-American terror threats.

Putting a strain on alliances

Egypt's response to the hijacking illustrated that, as with Pakistan and the drone campaign today, an American ally's national interests may prevent them from supporting America's counterterrorism cause, even when the United States presents a legal case for doing so, thus placing America into a position of either abandoning its efforts or undermining its ally in the pursuit of its goals. In the case of the *Achille Lauro* hijackers, the United States could claim the legal right for Egypt to either prosecute the hostage takers or to extradite them to the United States under the terms of an extradition treaty signed between Egypt and the US in 1874 and the International Convention against the Taking of Hostages, ratified by Egypt in 1981 and the US in 1984.⁵⁷ Egypt neither prosecuted nor extradited the hijackers, but instead provided them with their means of escape. Mubarak had a twofold reason to try to bring the hostage crisis to a peaceful end. First, as the president of an Arab nation he was aware that there was considerable sympathy amongst his people for the Palestinian cause, and any role on his part which might look too much like pandering

Achille Lauro Affair (Princeton NJ: Princeton University Press, 1989); John M. Rogers, 'Prosecuting Terrorists: When does Apprehension in Violation of International Law Preclude Trial?', *University of Miami Law Review*, (1987-1988), p.447-465.

⁵⁶ *Ibid*, p.365.

⁵⁷ Bilateral Extradition Treaty, Egypt and the United States, 11 August, 1874, in International Extradition Lawyers, <<http://internationalextraditionblog.files.wordpress.com/2011/03/egypt.pdf>>; International Convention against the Taking of Hostages, United Nations, New York, 17 December, 1979, <<http://www.unodc.org/documents/treaties/Special/1979%20International%20Convention%20against%20the%20Taking%20of%20Hostages.pdf>> [accessed 3 March, 2013].

to the Americans or Israelis could severely damage his credibility. Moreover, Egypt had a long history of radical Islamic leaders and groups operating within its territory, and any action seen to further align his government with the United States at the expense of the Palestinian people could cause a violent backlash.⁵⁸ Second, Mubarak was involved in the ongoing Arab-Israeli peace process. It was in his interests and those of the peace process itself to promote Arafat and his PLO as a legitimate partner in the negotiations. The hijacking and subsequent murder of an American citizen, although not instigated by the PLO, served to illustrate Arafat's continued links to international terrorism. If Egypt were to have any chance of mediating the peace process, the tension around the situation had to be relieved in a way that maintained Egyptian influence over the Palestinian cause.⁵⁹

Pakistan faces a similar clash between US counterterrorism efforts, supported by international law, and its own national interests. Legally, the United States claims international authority to pursue al-Qaeda and the Taliban through United Nations Security Council resolution 1368. Passed the day after the 9/11 attacks, the resolution identifies those responsible [al-Qaeda] as 'a threat to international peace and security' and 'Calls on all States to work together [...] to bring to justice the perpetrators.' The resolution also goes on to stress that 'those responsible for aiding, supporting or harbouring the perpetrators [the Taliban] will be held accountable.'⁶⁰ Like Egypt, however, Pakistan is home to a significant number of Islamic radicals who have directed attacks against the Pakistani government and its citizens as punishment for collaboration with the United States. A report published by Brown University's Watson Institute for International Studies has estimated that between

⁵⁸ Emmanuel Sivan, *Radical Islam: Medieval Theology and Modern Politics* (New York NY: Yale University Press, 1990), pp.101-102; Devin R. Springer, James L. Regens, David N. Edgar, *Islamic Radicalism and Global Jihad* (Washington D.C.: Georgetown University Press, 2009), p.31, 'Muhammad Rashid Rida' in 'Encyclopaedia of the Middle East', <http://www.mideastweb.org/Middle-East-Encyclopedia/muhammad_rashid_rida.htm> [accessed 3 March, 2013]; Albert J. Bergesen (ed.), *The Sayyid Qutb Reader: Selected Writing on Politics, Religion and Society* (London: Routledge, 2007), pp.3-31, Springer *et al.*, *Islamic Radicalism and Global Jihad*, p.33-37, Lawrence Wright, *The Looming Tower: al-Qaeda's Road to 9/11* (New York NY: Penguin, 2006), pp.7-31; Giles Kepel, *The Prophet and the Pharaoh: Muslim Extremism in Egypt* (California CA: University of California Press, 2003); Bruce Riedel, *The Search for Al-Qaeda: Its Leadership, Ideology and Future* (Washington D.C: The Brookings Institution Press, 2008), pp.14-36.

⁵⁹ Liput, *An Analysis of the Achille Lauro Affair*, p.362; Naftali, *Blind Spot*, p.173.

⁶⁰ United Nations Security Council Resolution 1368, 12 September, 2001, in UN.org, <<http://daccess-dds.ny.un.org/doc/UNDOC/GEN/N01/533/82/PDF/N0153382.pdf?OpenElement>> [accessed 15 November, 2012].

14,780 and 43,149 Pakistanis were killed and a further 40,000 injured by Taliban, al-Qaeda and other militant insurgents using suicide attacks, assassination and ambushes within their own country between 2004 and 2010.⁶¹ Amongst these casualties was former Pakistani Prime Minister and leader of the main opposition party at the time, Benazir Bhutto. Upon her assassination on 27 December, 2007, Mustafa Abu al-Yazid, an al-Qaeda commander, claimed responsibility, telling several news outlets that ‘We terminated the most precious American asset which vowed to defeat [the] mujahideen.’ The commander went on to link the killing to Pakistani cooperation with the United States on counterterrorism, stating ‘this is our first major victory against those who have been siding with infidels in the fight against al-Qaeda and declared war against mujahideen.’⁶²

Furthermore, as with Mubarak’s calculations regarding Egypt’s position in the region, Pakistan has always had a strategic interest in having a Sunni Islamic power in control of Afghanistan. This also serves to put its national interests at odds with US counterterrorism aims. As already discussed above, it has been a long-term strategic goal of successive Pakistani governments to ensure that Afghanistan is dominated by an allied Sunni Islamic power, regardless of whether that power is the Afghan Taliban or another anti-American force. This clash of interests has left the United States in a position where, as with Egypt in the 1980s, it claims a legal right to pursue operations against its terrorist enemies but finds this to be at odds with the national interests of its ally. On a number of occasions, Pakistani officials have publicly condemned the drone strikes and demanded they end.⁶³ Following three days of consultation with senior figures in the Pakistani government between 11-13

⁶¹ ‘The Escalating Casualties in Pakistan, 2005 – 2010’, in Costs of War.org, Watson Institute for International Studies, Brown University, <<http://costsofwar.org/article/pakistani-civilians>>; Neta C. Crawford, ‘War Related Death and Injury in Pakistan, 2004 – 2011’, Boston University, 9 September, 2011, <<http://costsofwar.org/sites/default/files/articles/16/attachments/Crawford%20Pakistan%20Casualties.pdf>> [accessed 6 March, 2013].

⁶² Syed Saleem Shahzad, ‘Al-Qaeda claims Bhutto killing’, 28 December, 2007, in World Security Network, <<http://www.worldsecuritynetwork.com/Terrorism/Shahzad-Syed-Saleem/Al-Qaeda-claims-Bhutto-killing>> [accessed 6 March, 2013].

⁶³ ‘Zadari urges US to stop drone attacks’, *Dawn*, 25 March, 2011, <<http://www.dawn.com/2011/03/24/us-should-stop-drone-attacks-says-zadari.html>>; Nick Paton Walsh and Nasir Habib, ‘Pakistani Leaders Condemn Suspected US Drone Strike’, *CNN*, <http://articles.cnn.com/2011-03-18/world/pakistan.drone.strike_1_drone-strike-intelligence-officials-volatile-tribal-region?_s=PM:WORLD>; Qasim Nauman, ‘Pakistan Condemns US Drone Strikes’, *Reuters*, 4 June, 2012, <<http://www.reuters.com/article/2012/06/04/us-pakistan-usa-drones-idUSBRE8530MS20120604>> [accessed 11 March, 2013].

March, 2013, Ben Emmerson, serving as the UN's Special Rapporteur on Human Rights and Counterterrorism, issued a formal statement on behalf of the Pakistani government, reporting that Pakistan 'does not consent to the use of drones by the United States on its territory and it considers this to be a violation of Pakistan's sovereignty and territorial integrity.' The lawyer's report noted that Pakistan officially called upon the United States to 'cease its campaign immediately.'⁶⁴

Contrary to the government of Pakistan's public position, there is evidence which suggests covert Pakistani complicity in the CIA drone campaign. In 2009, Google Earth images revealed CIA Predator drones at a Pakistani military airbase in Baluchistan. Additionally, a classified cable sent from the US embassy in Islamabad on 11 February 2008 revealed that a Pakistan general named Kayani asked America's Admiral Fallon for 'continuous Predator coverage of the conflict area [Waziristan]'.⁶⁵ This presents a number of possibilities. It could suggest the public criticism of the drone campaign is posturing on the part of the Pakistani government in an effort to limit the fallout which could result from overt collaboration with the United States, a country which is deeply unpopular with the majority of the Pakistani public. Alternatively, it could be argued that any Pakistani cooperation is actually the result of fear of its ally. Former Prime Minister Pervez Musharraf revealed in an interview on CBS's *60 Minutes* that immediately following the 9/11 attacks, his director of intelligence was warned by Deputy Secretary of Defense Richard Armitage that Pakistan would be 'bombed back to the stone age' should they fail to cooperate with US efforts.⁶⁶ Finally, it could demonstrate America's willingness to undermine the democratically elected Pakistani government by subverting their will and dealing directly with the Pakistani military instead.

⁶⁴ Ben Emmerson, 'Pakistan: Statement by the UN Special Rapporteur on Human Rights and Counterterrorism', 15 March, 2013, in United Nations Human Rights, <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13148&LangID=E>> [accessed 17 March, 2013].

⁶⁵ Jeremy Page, 'Google Earth reveals secret history of US base in Pakistan', *The Times*, 19 February, 2009, <<http://www.thetimes.co.uk/tto/news/world/asia/article2609737.ece>>; 'Admiral Fallon Discusses Security Cooperation with General Kayani, US State Department cable, Islamabad Embassy, 11 February, 2008, <<http://wikileaks.org/cable/2008/02/08ISLAMABAD609.html>> [accessed 11 March, 2013].

⁶⁶ Steve Kroft, interview with former Prime Minister Pervez Musharraf, 'In the Line of Fire', 60 Minutes, CBS, 25 September, 2006, <<http://www.cbsnews.com/video/watch/?id=2036261n&tag=mncol;lst;1>> [accessed 11 March, 2013].

Whatever the truth behind the Pakistani government's relationship with the CIA's drone campaign, the United States claims a lawful authority to undertake its counterterrorism actions. Just as the Reagan administration drew upon the existing Bilateral Extradition Treaty with Egypt and the United Nation's International Convention against the Taking of Hostages to justify its pursuit of the PLF terrorists, so too has the Obama administration drawn upon existing legislation to provide legal authority for the CIA's use of drones in an ally's territory, regardless of whether that ally is complicit or not. Obama administration officials have made reference to UN Security Council Resolution 748 passed on 31 March 1992 in the wake of Libya's failure to cooperate with the investigation into the bombing of Pan Am 103. The resolution states, in accordance with Article 2 of the UN Charter, that 'every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when such acts involve a threat or use of force.'⁶⁷

The acquiescence portion of Resolution 748 is the most relevant to the American/Pakistan case. Pakistan's double game between the United States and elements of the Taliban was acknowledged by the influential Obama advisor Bruce Riedel in 2009, and again by former Chief of Staff Admiral Mike Mullen in one of his final sessions before Congress. Mullen informed Congress that the United States possessed clear evidence that 'the Haqqani network [a branch of the Taliban] acts as a veritable arm of Pakistan's Inter-Services Intelligence agency' and that it 'operates from Pakistan with impunity.'⁶⁸ This legal position was further explained in a report published on 28 May 2010 by Philip Alston, the UN's former Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. Alston, whose report was generally critical of the CIA's drone campaign, conceded that under the law of inter-state force:

⁶⁷ UN Security Council Resolution 748, 31 March, 1992, <[http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/748\(1992\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/748(1992))> [accessed 11 March, 2013].

⁶⁸ Bruce Riedel, *Deadly Embrace: Pakistan, America, and the Future of the Global Jihad* (New York NY: Brookings Institute, 2012), pp.1-16; Statement of Admiral Mullen, Chairman of Joint Chiefs of Staff before Senate Armed Services Committee, 22 September, 2011, <<http://armed-services.senate.gov/statemnt/2011/09%20September/Mullen%2009-22-11.pdf>>; Elisabeth Bumiller and Jane Perlez, 'Pakistan's Spy Agency Is Tied to Attack on US Embassy', *New York Times*, 22 September, 2011, <<http://www.nytimes.com/2011/09/23/world/asia/mullen-asserts-pakistani-role-in-attack-on-us-embassy.html?pagewanted=all>> [accessed 6 March, 2013].

A targeted killing conducted by one State in the territory of a second State does not violate the second State's sovereignty if either (a) the second State consents, or (b) the first, targeting State has the right under international law to use force in self-defence under Article 51 of the UN Charter, because (i) the second State is responsible for an armed attack against the first State, or (ii) the second State is unwilling or unable to stop armed attacks against the first State launched from its territory.⁶⁹

The Obama administration has argued that Pakistan is both unwilling to act against the Taliban, either through fear of reprisals or due to their links to the Haqqani network, and unable to act against al-Qaeda, as evidenced by the CIA's discovery of bin Laden in a compound in Abbottabad, home of the Pakistani military training academy.⁷⁰ Whether or not the threat the United States faces from the Taliban and al-Qaeda is enough to meet the self-defence terms of Article 51 of the UN Charter, and whether or not the CIA's drone strikes represent a proportionate enough response to meet the terms of International Humanitarian Law, are different debates. What is clear from this example is that the United States will put the act of neutralizing terrorists above the national interests of their allies, even when it may cause considerable social and diplomatic unrest. This strategy is not unique to the drone campaign, but based upon a precedent set under the Reagan administration. When Weinberger warned the president that intercepting the Egyptian airliner would damage American relations with Egypt, other moderate Arab states and their NATO ally Italy, Reagan told him the operation was going ahead regardless, stating 'Cap, it is pretty cut and dried. This is a guilty party; we cannot let them go.'⁷¹ As the Secretary of Defense had warned, the fallout from the American intervention was significant. Both radical and more moderate elements within Egypt marched through the capital demanding Mubarak cancel upcoming US-Egyptian military exercises, deny American access to Egyptian military facilities and put intense pressure on the

⁶⁹ Philip Alston, 'Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions', United Nations, 28 May, 2010, pp.11-12
<<http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>> [accessed 11 March, 2013].

⁷⁰ See Peter Bergen, *Manhunt: From 9/11 to Abbottabad – The Ten-Year Search For Osama bin Laden* (London: The Bodley Head, 2012) for details on how the CIA located bin Laden.

⁷¹ Wills, *The First War on Terrorism*, p.155.

president to undertake some sort of retaliatory measure against America. America's close Egyptian ally was condemned by stone-throwing protestors in Cairo as a 'coward' and 'US agent.' Mubarak responded by denouncing the American intercept as 'an act of piracy', and declaring that relations between the two countries would be strained 'for a long time to come.'⁷² The CIA's assessment concluded this was more than just a bluff, predicting that 'Egyptian relations with the United States and the PLO are likely to remain strained for some time.'⁷³ Wider relations in the region were also harmed by the action. Mubarak was furious with Syria's Hafaz al-Assad after the Syrian leader ordered Klinghoffer's body, which had washed up on Syria's coastline, returned to the United States, and the CIA reported that numerous leaders in the region who were previously pro-American such as Tunisia's President Habib Bourguiba were likely to 'be obliged by internal political considerations to seek to lower US profile' in their countries.⁷⁴

The fallout did not stop in the Middle East. The Reagan administration had wanted Abu Abbas even more than the four hijackers. Reflecting the language in NSDD 138, and the later deliberate targeting of al-Qaeda leaders in drone strikes, the Reagan administration saw Abbas as the leader and mastermind of the attack, and therefore the most important part of the terror network to neutralize. The others were merely militants following his orders.⁷⁵ When the Italian government released Abbas, the Reagan administration issued a stinging censure, stating 'the US government finds it incomprehensible that the Italian authorities permitted Abul Abbas to leave Italy despite a US Government request to Italian Government for his arrest and detention.' Larry Speakes, the presidential spokesman, went on to add that Abbas was 'one of the most notorious Palestinian terrorists and has been involved in savage attacks on civilians...The US government is astonished at this breach of any

⁷² Ibid, p.159; Michael Ross, 'Mubarak Accuses US of "Act of Piracy": Will Strain Relations for 'Long Time to Come', Egypt Leader Says', *Los Angeles Times*, 13 October, 1985, <http://articles.latimes.com/1985-10-13/news/mn-15798_1_united-states> [accessed 11 March, 2013].

⁷³ 'Terrorism Review', Directorate of Intelligence, CIA, 21 October, 1985, in CIA Library Electronic Reading Room.

⁷⁴ Bob Woodward, *Veil: The Secret Wars of the CIA 1981-1987*, (New York NY: Simon and Schuster, 1987), p.418; 'Near East and South Asian Review', Directorate of Intelligence, CIA, 25 October, 1985, quoted in Wills, *The First War on Terrorism*, p.255.

⁷⁵ David C. Martin and John Walcott, *Best Laid Plans: The Inside Story of America's War Against Terrorism* (New York NY: Simon & Schuster, 1989), p.253.

reasonable standard of due process and is deeply disappointed.’⁷⁶ For the ruling coalition of the Italian government, already strained by differences over economic policy, the argument over the release of Abbas proved the final straw. Giovanni Spadolini, the leader of the Republican Party and Minister of Defence, accused the Prime Minister, the Socialist Party’s Bettino Craxi, of releasing Abbas before the judge could review the US extradition request, and thus failing to meet Italy’s international responsibilities. In the ensuing political row, Spadolini withdrew his party from the coalition and the government collapsed on 17 October, 1985.⁷⁷

The American public support proactive counterterrorism actions

Despite the chaos left in its wake with America’s allies, the interception of Egypt Air 2843 is seen domestically as one of the most successful counterterrorist actions undertaken by the Reagan administration. It represented America’s first clear-cut victory against terrorism. While Mubarak faced stone-throwing anti-American protesters, Reagan was showered with praise from the American public, as well as fellow Republicans and Democrats alike.⁷⁸ This demonstrates that a counterterrorism policy may play out badly overseas, but if it is popular with the American people, then it will be regarded as successful. Such a perspective helps put the CIA’s drone campaign in Pakistan in a different and better informed light. Rather than reflecting a new level of disregard for America’s allies, the calculations behind the drone campaign build upon the populist approach that was successfully adopted by the Reagan administration. Despite the drone campaign’s many critics amongst law school academics, human rights campaigners, anti-war protestors and some sections of the media, a *Washington Post* – ABC News poll conducted in February 2012 showed that an overwhelming 83 per cent of the American public ‘approved of Barack Obama’s use of unmanned “drone” aircraft against terrorist suspects overseas.’ Of these, 59 per cent strongly approved, and only 4 per cent strongly

⁷⁶ ‘Hostages and Hijackers: An Affront to Egypt’s Pride; Text of US Statement’, *New York Times*, 14 October, 1985, <<http://www.nytimes.com/1985/10/14/world/hostages-and-hijackers-an-affront-to-egypt-s-pride-text-of-us-statement.html>>; Presidential Spokesman Larry Speakes, quoted in ‘Yugoslavia refuses to hold suspect, US says’, *Pittsburgh Post-Gazette*, 14 October, 1985, <http://news.google.com/newspapers?nid=1144&dat=19851014&id=1-wdAAAABAJ&sjid=jmIEAAAABAJ&pg=4865.9442390>> [accessed 11 March, 2013].

⁷⁷ Martin and Walcott, *Best Laid Plans*, p.253; Wills, *First War on Terrorism*, pp.160-161.

⁷⁸ Naftali, *Blind Spot*, p.174; Woodward, *Veil*, p.417; Deborah Hart Strober, Gerald S. Strober, *The Reagan Presidency: An Oral History of the Era, Revised Edition* (Washington, DC: Brassey’s Inc. 2003), p.380.

disapproved.⁷⁹ A poll on international attitudes conducted by Pew the same year also puts American approval for the drone campaign at 62 per cent.⁸⁰ The majority of American public accepts the positive narrative of the drone campaign - that it is legal, precise, and the most effective method of combating the terrorist threat posed by al-Qaeda and their affiliates.

The Pakistani public's attitudes towards the CIA's drone campaign is, unsurprisingly, markedly different. A poll from the University of Maryland's World Opinion released in July 2009 following the first six months of increased drone activity under the Obama administration showed that 82 per cent of Pakistanis questioned believed that drone strikes were unjustified, and that 69 per cent had an unfavourable view of the US government.⁸¹ These negative attitudes towards the drone campaign can be seen to have impacted upon the domestic political situation in Pakistan. President Zardari, who held office during the Obama administration's expansion of the drone campaign saw his personal approval ratings drop from a respectable 64 percent in 2008 to a mere 14 per cent in a June 2012 poll. Whilst this rapid decline can be attributed to a number of factors, such as the faltering economy and accusations of corruption, America's actions have almost certainly played a part in undermining Zardari. Pakistanis were forced to choose between regarding their president as too weak to stop the United States doing what it wanted in Pakistani territory or being complicit in their attacks upon fellow Muslims.⁸² The role of the CIA's drone campaign in undermining Zardari can also be evidenced by the significant rise in popularity of Imran Khan during the same period. Khan built much of the support base of his Pakistan Tehrik-e-Insaaf party through anti-drone rallies

⁷⁹ *Washington Post /ABC News* Poll, 1-4 February, 2012, in *Washington Post*, <http://www.washingtonpost.com/wp-srv/politics/polls/postabcpoll_020412.html> [accessed 12 March, 2013].

⁸⁰ 'Global Opinion of Obama Slips, International Policies Faulted', Pew Research, Global Attitudes Project, 13 June, 2012, <<http://www.pewglobal.org/2012/06/13/global-opinion-of-obama-slips-international-policies-faulted/>> [accessed 12 March, 2013].

⁸¹ 'Pakistani Public Opinion on the Swat Conflict, Afghanistan, and the US', World Public Opinion.org, University of Maryland, 1 July, 2009, <<http://www.worldpublicopinion.org/pipa/articles/brasiapacificra/619.php>> [accessed 12 March, 2013].

⁸² 'Pakistani Public Opinion Ever More Critical of US', Pew Research Global Attitudes Project, 27 June, 2012, <<http://www.pewglobal.org/2012/06/27/pakistani-public-opinion-ever-more-critical-of-u-s/>> [accessed 12 March, 2013].

and promises to end the drone campaign.⁸³ In the same poll, Khan achieved a 70 per cent favourability rating in June 2012, up from 52 per cent in 2010. Furthermore, in parallel with the anger stirred in Egypt and the wider Middle East by Reagan's interception of the *Achille Lauro* hijackers' plane, further polling by Pew reveals widespread opposition globally to America's drone campaign. Of 20 countries polled, 17 registered 50 per cent or higher disapproval of America's use of drones to target extremist leaders, with some predominantly Muslim countries such as Turkey, Egypt and Jordan scoring more than 80 per cent disapproval.⁸⁴

As with Reagan's risky *Achille Lauro* venture, the CIA's drone campaign, despite major international repercussions, is regarded at home as a success. For Reagan, the United States' relationship with Egypt recovered shortly after, with President George H.W. Bush formally recognising Mubarak's state as the second ever major non-NATO ally in 1989. Anti-Americanism in the region remained, but it had been present before the intervention, and the protestors soon returned to their homes. For Obama, the same polls that show significant international disapproval for the American drone campaign also show widespread support for his presidency, and the United States in general.⁸⁵ For example, in 2012 whilst 63 per cent of French disapproved of drone strikes, 69 per cent had favourable views of the US. This was up from 42 per cent in George W. Bush's last year as president. In Germany, there is similar pattern, with 59 per cent against drone strikes, but 52 per cent then holding a positive view of the United States. This again represents an increase from Bush's last year as president, when US approval was as low as 31 per cent. Whilst approval ratings in predominantly Muslim countries, in particular Pakistan, continue to fall the United States is following a proven pattern of maintaining domestic support while temporarily sacrificing relations and stability of certain allies in order to neutralize its terrorist enemies. As Reagan said, 'it is pretty cut and dried' - if America has a clear opportunity to strike guilty parties in one way or another, they 'cannot let them go.' For the Obama administration, anti-Americanism already existed in Pakistan, Egypt

⁸³ Reza Sayah, 'Anti-drone Peace March Halted in Pakistan', *CNN*, 8 October, 2012, <<http://edition.cnn.com/2012/10/07/world/asia/pakistan-us-drone-protest>>; Murtaza Ali Shah, 'Drones Radicalising Western Muslims, says Imran Khan', *The News*, 22 November, 2012, <<http://www.thenews.com.pk/Todays-News-2-144356-Drones-radicalising-western-Muslims.-says-Imran-Khan>> [accessed 12 March, 2013].

⁸⁴ Pew Research, Global Attitudes Project, 13 June, 2012.

⁸⁵ *Ibid.*

and other Middle Eastern states for a wide range of reasons beyond the drone campaign.⁸⁶ While the use of the drones may worsen these relations in the short term, the administration is taking the *Achille Lauro* approach of following an America first policy in counterterrorism. It is neither unprecedented, nor necessarily the cause of a terminal decline in America's relations with its Muslim allies, as the fallout of the Egypt Air interception proved.

Conclusion

During the reelection campaign in 2012, some media reports began to compare Obama's presidency to that of Ronald Reagan, looking at similarities in unemployment figures, voting patterns, rhetoric and the way in which both presidencies sought to change the direction of the United States.⁸⁷ None of these reports drew any connections between the counterterrorism policies of the two administrations, yet this is one area in which major similarities can be found. The two case studies discussed above go some way toward demonstrating that the counterterrorism policy introduced during Barack Obama's 'drone presidency' has its roots in the policies advocated and pursued by the counterterrorism hardliners of the Reagan administration. That is not to say that the drone campaign simply reproduces these policies. Important lessons have been learned since the patchy and haphazard execution of counterterrorism in the mid-1980s, showing the evolutionary nature of US counterterrorism policy over the past three decades. While the drone campaign is still focused upon the pre-emptive neutralization of terrorists, this has become a much more centralized effort, run through the CIA's CTC with lethal operations undertaken with much tighter control. In the case of high-profile targets the final authorization for strikes is reserved for the President himself in an effort to ensure the campaign abides by the requirements of a "just war". The Obama administration brought a much greater emphasis on consensus building, ensuring

⁸⁶ Brendon O'Conner, 'The Anti-American Tradition: A History in Four Phases', in Brendon O'Conner and Martin Griffiths (eds.), *The Rise of Anti-Americanism* (Abingdon, Routledge, 2006), pp.11-24.

⁸⁷ Chris Cillizza, 'Barack Obama 2012 = Ronald Reagan 1984?', *Washington Post*, 5 October 2012, <<http://www.washingtonpost.com/blogs/the-fix/wp/2012/10/05/barack-obama-2012-ronald-reagan-1984/>>; Joshua Greenman, 'Election Day 2012: President Obama is the New Ronald Reagan', *New York Daily News*, 7 November, 2012 [accessed 2 April, 2013].

clear lines of cooperation and responsibility exist between the departments of Justice, Defense, State and the CIA. Foreign agents still play a role, providing vital intelligence and targeting details, but are no longer trained or equipped to undertake the lethal operations themselves. Obama does follow Reagan, however, in being willing to sacrifice relations with allies in the short-term in the pursuit of terrorists.

In 2008, Senator Obama offered his own comparison between his hoped for presidential legacy and that of Reagan.⁸⁸ ‘He put us on a fundamentally different path because the country was ready for it,’ reflected Obama. ‘I think we are in one of those times right now, where people feel like things as they are going, aren’t working, that we’re bogged down in the same arguments that we’ve been having and they’re not useful.’⁸⁹ Although Obama’s comments were intended to relate to domestic concerns, they could just as easily have referred to America’s War on Terror at the time. Following George W. Bush’s neglect of Afghanistan in favor of regime change in Iraq, the mission against al-Qaeda had stalled. The terror group’s core leadership and their Taliban hosts were resurgent in the AfPak border region, using the momentum gained from the conflict in Iraq to recruit and train the next wave of jihadist fighters. By embracing drone warfare on a huge scale Obama was in many ways setting US counterterrorism on a different path. Never before had the targeted killing of terrorists been undertaken on such a large and well-coordinated scale. And yet at its core the drone campaign was based upon the principles which had governed the Reagan administration’s first efforts at pre-emptive neutralization of terrorists. Rather than a revolution in US counterterrorism, the Obama administration was following an evolutionary path, drawing upon the lessons which the CIA and their colleagues in the national security fraternity had learned from their predecessors.

Perhaps the most important lesson learned from the Reagan administration was to do with the American public. Ultimately, the United States is a democracy.

⁸⁸ Michael Duffy, ‘The Role Model: What Obama Sees in Reagan’, *Time*, 27 January, 2011, <<http://www.time.com/time/magazine/article/0,9171,2044712,00.html>> [accessed 2 April, 2013].

⁸⁹ Senator Barack Obama interview with Reno-Gazette-Journal’s Editorial Board, 16 January, 2008, in Ben Smith, ‘Transformation Like Reagan’, *Politico*, <http://www.politico.com/blogs/bensmith/0108/Transformation_like_Reagan.html> [accessed 2 April, 2013].

Although a president may go against the will of the American public at times, spending political capital to pursue a particular path, in the end approval ratings, midterms and reelection ensure the president follows policies of which the majority of Americans approve. When Reagan authorized US warplanes to intercept a civilian airliner carrying terrorists who had murdered a US citizen, the American public supported the action in spite of the political fallout. When George W. Bush announced American forces would be entering Afghanistan to find bin Laden “dead or alive”, his approval ratings soared higher than any president before him. Barack Obama’s use of drones has the highest approval rating of any policy from his two terms in office. When justifying the operation against the Egyptian airliner, President Reagan told his close friend Casper Weinberger ‘This is a guilty party; we cannot let them go.’⁹⁰ In using the word ‘cannot’, Reagan was not just reflecting his personal view, but also the will of the majority of American people. The pre-emptive neutralization of terrorists, or at least the judicious application of force after an attack is not just the desire of a small group of hardliners within the Reagan administration. It is an expectation of the American public, Republican and Democrat alike.

⁹⁰ Wills, *The First War on Terrorism*, p.155.

Chapter 3 - “We have to find a better way to send a message”
The founding of the CIA’s Counterterrorism Center and the Eagle Programme,
1986 - 1987

We have to find a better way to send a message to outlaw nations that we don’t like their behavior – short of sending in squadrons of F-111Bs.

Duane “Dewey” Clarridge, First Director of the CIA’s Counterterrorist Center

The CIA’s Counterterrorism Center was spearheading America’s War on Terror in the AfPak region before George W. Bush even announced its commencement to the American people in his joint address to Congress on 21 September, 2001. Members of the CTC covertly entered Afghanistan days after the 9/11 attacks to prepare the way for the American assault, striking a deal with the Afghan Northern Alliance to oust the Taliban and track down al-Qaeda’s fighters. Since then, it has been the CTC which has been responsible for executing the CIA’s drone campaign in the region, launching hundreds of strikes and killing thousands of suspected anti-American militants. The Center’s aggressive pursuit of al-Qaeda has been seen by many to serve as an example of how America’s belligerent response to 9/11 has militarized the CIA. Yet, for the CTC, this aggressive stance marked a return to its founding principles rather than a post-9/11 departure. Established in 1986 by Duane Clarridge - one of the Agency’s most capable, aggressive and risk-taking case officers – the CTC was a unique fusion of intelligence, technology and operations which was, from the outset, intended to put the CIA on an aggressive footing against international terrorism. Supported by the likes of Casey and North, the CTC introduced many of the practices which enable the drone campaign to function today. Even more significantly, through its Eagle Programme the CTC introduced a prototype unmanned aircraft which set in motion the technological developments that culminated in the creation of the drones used by the CIA in its pursuit of al-Qaeda today. Whilst the fallout of the Iran-Contra scandal coupled with Casey’s death shortly after the Center’s founding meant it never launched its proactive counterterrorism campaign during the Reagan administration, the demand for action following the September 11 attacks saw the Center eventually take up the role it was initially intended to fulfil.

The founding of the Counterterrorism Center

Despite the split between his advisors and his own periodic indecisiveness regarding retaliation, Reagan seems to have genuinely wanted to punish terrorists who killed Americans.¹ Reagan's ANSA Robert McFarlane recalled that after the bombings of the Marine barracks in Beirut in 1983, the president had entered the Situation Room with 'an expression of hatred and wish for revenge' that he had never seen in him before. 'Those sons of bitches', Reagan had said, 'let's find a way to go after them.'² But three years on from the bombings, his administration was still fumbling around to find an effective way of going after terrorists. The *Achille Lauro* affair had demonstrated what could be done when all branches of the government worked together – the Fadlallah affair had shown what happened when splits and divisions ruled.

In January 1986, Casey confided in Duane "Dewey" Clarridge, his favourite CIA officer, that Reagan was putting intense pressure on him and the CIA to show more leadership and initiative in the fight against terrorism.³ Casey had a reason for discussing the issue with Clarridge. Dewey, as he was referred to within the CIA, had run Casey's Contra war against Nicaragua.⁴ The DCI had handed him the job personally after meeting him during a tour of CIA stations. 'Dewey's the only really impressive guy I met out there,' Casey had stated to his deputy, Robert Inman; 'He's a doer, a take-charge guy.' Casey's instincts were correct. Clarridge was already a legend at Langley. When asked to describe him, colleagues would use terms like 'roughrider', 'cowboy', 'a hip-shooter', 'our General Patton'. Robert Gates summed him up by saying, 'If you have a tough, dangerous job, critical to national security, Dewey's your man. He's talented. One of our best operations officers. Just make sure

¹ David C. Wills, *The First War on Terrorism: Counter-Terrorism Policy During the Reagan Administration* (Maryland MD: Rowman and Littlefield Publishers, Inc., 2003), p.87.

² Robert Timberg, *The Nightingale's Song* (New York: Simon and Schuster, 1995), p.337.

³ Duane R. Clarridge with Digby Diehl, *A Spy For All Seasons: My Life in the CIA* (New York NY: Scribner, 1997), p.320; Steve Coll, *Ghost Wars: The Secret History of the CIA, Afghanistan and bin Laden, from the Soviet Invasion to September 10, 2001* (New York NY: Penguin Books, 2005), p.139.

⁴ Timothy Naftali, *Blind Spot: The Secret History of American Counterterrorism* (New York NY: Basic Books, 2005), p.181.

you have a good lawyer at his elbow – Dewey’s not easy to control.’⁵ Gates’s point was proven in 1984 when Clarridge had to be “promoted” to chief of the CIA’s European operations after a storm over the Contra manual *Psychological Operations in Guerrilla Warfare* broke during Reagan’s reelection campaign.⁶ The book, written by the CIA, was intended to provide guidance to the Contras on how to conduct a guerilla campaign, but caused an investigation by the Intelligence Oversight Board (IOB) due to its use of the term ‘neutralization’, implying assassination.⁷ The section in the book, entitled ‘Selective Use of Violence for Propagandistic Effects’, suggested ‘It is possible to neutralize carefully selected and planned targets, such as court judges, mesta judges, police and State Security officials, CDS chiefs, etc.’ The book recommended that ‘For psychological purposes it is necessary to gather together the population affected so that they will be present, take part in the act, and formulate accusations against the oppressor.’⁸

Far from putting Casey off, Clarridge’s aggressive risk-taking approach and willingness to work on the fringes of EO 12333 were exactly what the DCI was looking for in response to the growing pressure from the president. The very same use of the term ‘neutralization’ had caused controversy with the drafting of NSDD 138, so Casey could be confident Clarridge shared a similar outlook to him and his fellow counterterrorism hardliners.⁹ The DCI believed that the agency as a whole had been shackled by the Church commission and heavy-handed congressional oversight. He felt his Directorate of Operations (DO) had become too timid and bureaucratic. This was perhaps best illustrated for Casey by the 130-page book of guidelines governing covert operations. ‘This kind of crap is smothering us.’ Casey had ranted to his DO officers, waving the book in the air. ‘You practically have to take a lawyer with you on a mission. I’m throwing this thing out.’ To Casey, who had cut his teeth

⁵ Ronald Kessler, *The CIA at War: Inside the Secret Campaign Against Terror* (New York NY: St. Martin’s Griffin, 2003), pp.119-120; Joseph E. Persico, *Casey: The Lives and Secrets of William J. Casey: From the OSS to the CIA* (New York NY: Penguin Books, 1990), pp.265-266.

⁶ Rhodri Jeffreys-Jones, *The CIA & American Democracy* (Binghamton NY: Yale University Press, 2003), p.239.

⁷ John Prados, *Presidents’ Secret Wars: CIA and Pentagon Covert Operations From World War II Through the Persian Gulf* (Chicago IL: Elephant Paperbacks, 1996), p.418.

⁸ *Psychological Operations in Guerrilla Warfare*, Central Intelligence Agency, in Federation of American Scientists, Intelligence Review Program, <<http://www.fas.org/irp/cia/guerilla.htm>> [accessed 19 March, 2013].

⁹ See Chapter 1 for more detail on the counterterrorism hardliners and the introduction of NSDD 138.

in the OSS, covert operations were the equivalent of his gambles on the stock market – you had to take risks to get big results. He replaced the guidelines with a single memorandum, which essentially told agents that ‘In conducting a covert operation, use your common sense.’¹⁰ ‘This is a rough business,’ Casey had argued during an NSC meeting. ‘If we’re afraid to hit terrorists because somebody’s going to yell ‘assassination,’ it’ll never stop. The terrorists will own the world. They’ll know nobody’s going to raise a finger against them.’¹¹ Clarridge had already proven he was not afraid of somebody yelling ‘assassination’.

When the director told Clarridge he wanted to put the CIA on the offensive in a global campaign against terrorist groups, Clarridge told Casey what the director already believed: to succeed, the CIA had to attack the terrorist cells pre-emptively. If not, Clarridge said, ‘The incidents would become bolder, bloodier, and more numerous.’ This is exactly what Casey wanted to hear, and Clarridge was given the task of writing up a proposal for a new covert CIA counterterrorist strategy.¹² By late January, Clarridge had his first draft for the creation of what would become the CTC. The eight-page draft was accepted by Casey without a single edit, and the CTC, which would go on to become the command centre for the modern drone campaign, was born on 1 February, 1986 with Clarridge appointed as its first director.¹³

Reviewing Clarridge’s line of argument for the creation of the CTC helps to give a clear picture of how the centre functions today, and reveals just how influential Clarridge was in shaping the development of today’s drone campaign. The new director argued that the CIA had four main problems in confronting the international terrorist threat. The most significant of these was what he referred to as the agency’s ‘defensive mentality’. Terrorists were able to operate from safe havens around the world ‘knowing there was little chance of retribution or of their being brought to justice.’¹⁴ Terrorism, he explained in his blueprint, was effective even when the targeted nation just tried to contain it, as doing so provided time and space for would be attackers to recruit and plan. Instead the CTC would need to be

¹⁰ Persico, *Casey*, p.290.

¹¹ *Ibid*, pp.428-429.

¹² Clarridge and Diehl, *A Spy for All Seasons*, p.320; Coll, *Ghost Wars*, p.139.

¹³ Coll, *Ghost Wars*, p.140.

¹⁴ Clarridge and Diehl, *A Spy for All Seasons*, p.321.

established on an offensive footing, building upon the pre-emptive self-defense argument made by the hardliners in NSDD 138. ‘We thought it was time to go on the offensive against terrorism’, said Frederick Turco, Clarridge’s second in the European division, who would join him as deputy at the CTC.¹⁵ Clarridge called for new legal parameters for the CIA which would enable the Agency to undertake offensive strikes against terrorist groups worldwide, depriving them of safe havens. With the support of Casey and Robert Gates - then head of the Directorate of Intelligence (DI) - Reagan signed a highly classified Finding granting the CIA the authority to do so.¹⁶ This Finding was accompanied by a new NSDD, based partly upon Clarridge’s recommendations, and also a review of counterterrorism practices undertaken by Vice President Bush. NSDD 207 - entitled ‘The National Program for Combatting Terrorism’ - was signed on 20 January, 1986.¹⁷

NSDD 207 did not introduce any particularly new measures to what was already set out in NSDD 138, but it did serve to reinforce some of the policy positions and tighten up procedures. It recognised terrorism as ‘a potential threat to our national security’, and acknowledged the growing support for the pre-emptive self-defence argument, stating that ‘Whenever we [the United States] have evidence that a state is mounting or intends to conduct an act of terrorism against us, we have a responsibility to take measures to protect our citizens, property and interests.’¹⁸ To lead this new offensive, Clarridge proposed the formation of two secret ‘action teams’ which would track terrorists globally. The action teams would have the authority to kill terrorists if doing so would pre-empt a terrorist event, or arrest them to bring them to justice if possible. The plan called for one team to be made up of foreign nationals so that they could blend more easily into hostile environments overseas, and the other to be made up of Americans.¹⁹ These pre-emptive strikes can be seen at the heart of the CTC’s drone campaign two decades later, as can the aim to deny a safe haven for terrorists to operate within.

¹⁵ Ibid, p.321; Naftali, *Blind Spot*, p.181.

¹⁶ Coll, *Ghost Wars*, p.140.

¹⁷ National Security Decision Directive 207, ‘The National Program for Combatting Terrorism’, in National Security Achieve, <<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB55/nsdd207.pdf>> [accessed 21 May, 2012].

¹⁸ NSDD 207, pp.1-2.

¹⁹ Coll, *Ghost Wars*, pp.139-140.

Second, Clarridge argued that the CIA in its current form was organizationally incapable of dealing with international terrorism. Primarily focused upon the Soviet Union since its creation, the agency was set up to deal with geopolitical Cold War issues and was structured along regional geographic lines. Terrorism, argued Clarridge, was so effective precisely because it did not follow geographic lines. ‘An Arab terrorist group may be based in Libya or Syria, but its operations are likely to take place in Rome or London or Athens. Within the Clandestine Services, which division has jurisdiction – the Near East or Europe?’ he asked rhetorically.²⁰ This was especially true with a stateless terrorist group, in Clarridge’s case Palestinian militants, and in the modern example, al-Qaeda.²¹ The CIA was not structured in a way which enabled it to pool knowledge and resources to deal with a transnational problem like international terrorism. Clarridge’s solution was for the CTC to serve as a ‘fusion center,’ which combined the resources of the different agency directorates and broke down the traditional divides.²² It would be located within the DO to reflect its action-orientated purpose, but would also include analysts from the DI and tech staff from the Directorate of Science and Technology (DST). Clarridge defined this as ‘nothing less than a revolution’ within the CIA, and as being ‘without precedent.’²³ The plan met with considerable resistance, especially from some members of the DO who reportedly saw counterterrorism as police work best left to the FBI, but Casey’s unflinching support for Clarridge was enough to ensure the changes were made.²⁴

The fusion concept went beyond the different directorates of the CIA and reached out to the DoD. Clarridge requested that the entire antiterrorist unit of the CIA’s Special Operations Group (SOG) be moved to the CTC to enable better coordination of covert and military action. The SOG comprised the CIA’s paramilitary specialists, who regularly worked with JSOC: Delta Force and the Navy

²⁰ Clarridge and Diehl, p.321.

²¹ Jason Burke, *Al-Qaeda: The True Story of Radical Islam* (London: Penguin Books, 2003), pp.1-22; Christina Hellmich, *Al-Qaeda: From Global Network to Local Franchise* (Nova Scotia: Fernwood Publishing Ltd, 2011), pp.21-60.

²² John Prados, *Safe For Democracy: The Secret Wars of the CIA* (Chicago IL: Ivan R. Dee, 2006), p.576.

²³ Clarridge and Diehl, *A Spy for All Seasons*, p.323-329; ‘Centers in the CIA’ in cia.gov, <<https://www.cia.gov/library/publications/additional-publications/the-work-of-a-nation/cia-director-and-principles/centers-in-the-cia.html>>, [accessed 28 May, 2012].

²⁴ Robert Gates, *From the Shadows*, (New York NY: Simon & Schuster, 1996), pp.293-294.

SEALs.²⁵ Casey agreed, and the formal link between CIA counterterrorism operations and JSOC was established. Although cooperation between the Agency and JSOC was patchy at times, the formal connection between the two reveals that the concept of a militarized CIA had existed well before September 11, 2001.²⁶

It serves as evidence of just how influential Clarridge's fusion centre concept was that when the United States sought a more proactive strategy against al-Qaeda the CTC grew seven-fold from 300 staff in 2001 to over 2,000 in 2011. The Center now accounts for over 10 per cent of the agency's workforce, and has been described by the *Washington Post's* Greg Miller as 'an agency within an agency.'²⁷ Most of these additional staff are focused upon the CIA's drone campaign, which fully embodies the global focus Clarridge called for the CTC to have. At Langley, the CTC staff are divided up into sub-units focused upon specific areas, for example, the Pakistan/Afghanistan Department, known as PAD, and equivalent units for Yemen, Somalia and other potential terrorist hotspots. Nick Turse and Tom Engelhardt claim their research has uncovered at least 60 CTC drone bases around the world, mostly concentrated around North and East Africa, the Middle East and Central Asia.²⁸ In addition, the *New York Times* broke an informal agreement with the CIA in February 2013 and revealed that the Agency even had a drone base in the most sensitive of locations - Saudi Arabia. This global network ensures that the CTC can, as Clarridge had originally demanded, counter the transnational nature of non-state terrorism.²⁹

NSDD 207 sought to create a similar level of fusion and cooperation on a governmental level. Whilst identifying the CIA as the lead agency in planning and executing counterterrorism operations, the directive sought to ensure the other

²⁵ Naftali, *Blind Spot*, p.182.

²⁶ Gary Berntsen, *Jawbreaker: The Attack on bin Laden and al-Qaeda* (New York NY: Three Rivers Press, 2005), p.75; Gary C. Schroen, *First In: An Insider's Account of How the CIA Spearheaded the War on Terror in Afghanistan* (New York NY: Ballantine Books, 2007), p.21.

²⁷ Greg Miller and Julie Tate, 'CIA shifts focus to killing targets', *Washington Post*, 1 September, 2011, <http://www.washingtonpost.com/world/national-security/cia-shifts-focus-to-killing-targets/2011/08/30/gIQA7MZGvJ_story.html> [accessed 28 October, 2014].

²⁸ Nick Turse and Tom Engelhardt, *Terminator Planet: The First History of Drone Warfare, 2001-2050* (London: Dispatch Books, 2013), pp.71-74.

²⁹ Robert F. Worth, Mark Mazzetti and Scott Shane, 'Drone Strikes' Risks to Get Rare Moment in the Public Eye', *New York Times*, 5 February, 2013, <http://www.nytimes.com/2013/02/06/world/middleeast/with-brennan-pick-a-light-on-drone-strikes-hazards.html?_r=0> [accessed 20 March, 2013].

departments would work together too. ‘The entire range of diplomatic, economic, legal, military, paramilitary, covert action and informational assets at our disposal must be brought to bear against terrorism,’ the directive stated.³⁰ In making this declaration, the Reagan administration was providing an answer of sorts to a question which had been undermining its counterterrorism efforts since it had come to power. Was terrorism a law enforcement problem or a national security issue? Should the CIA try to capture terrorists alive in order to try them on criminal charges in open courts, or should the goal be to kill them? NSDD 207 came down on both sides - in some cases terrorism was a legal matter, in others it was an act of war. Terrorists should be captured for trial if possible, but that would not always be a requirement. Although NSDD 207 did not provide clarity, it at least acknowledged that the situation was complex and that agencies and departments would need to work together on a case by case basis

The third issue identified by Clarridge was what he described as the ‘inadequate analysis of data to support counterterrorist operations – and a corollary failure to centralize the available data.’³¹ The new CTC Director believed that there was excellent analysis being undertaken in parts of the DI, and within the individual sections of the DO, but that there was no mechanism for bringing this all together. Counterterrorism, Clarridge explained in his blueprint, was ‘a business of minutiae – collecting bits and pieces of data on people, events, places.’³² The CTC was to act as this central point of collection and analysis, where the puzzle pieces that identified terrorist plots, leaders and members could be assembled. Echoing Clarridge’s observation on the importance of intelligence analysis 25 years on, an anonymous CTC official interviewed in relation to the drone campaign told the *Washington Post*:

The kinetic piece of any counterterror strike is the last 20 seconds of an enormously long chain of collection and analysis. Traditional elements of espionage and analysis have not been lost at the agency. On the contrary. The

³⁰ NSDD 207, pp.2-3.

³¹ Clarridge and Diehl, *A Spy for All Seasons*, p.322.

³² *Ibid*, p.322.

CT effort is largely an intelligence game. It's about finding a target...the finish piece is the easy part.³³

In order to provide the analysis that informs the drone strikes, approximately 20 per cent of staff in the agency's analytical branch now work as 'targeters', scanning data for individuals to recruit, arrest or most importantly, target for drone strikes.³⁴ Whilst the final missile strike from a drone delivers the pre-emptive neutralization of terrorists that Casey and the other counterterror hardliners pushed for in NSDD 138, it is the existence of the CTC and its careful attention to intelligence gathering that Clarridge instilled which forms the keystone of the campaign.

The final area Clarridge's blueprint identified as needing reform was the technological support from the Directorate of Science and Technology. The DST usually worked on lengthy development cycles. High-tech projects such as the U-2, SR-71 Blackbird and Corona spy satellite system were each in development for five years or more.³⁵ Whilst this was still an impressive pace given the experimental nature of so much of their work, fighting terrorism, Clarridge argued, required a much more straightforward and rapid response. The CTC director called for what he termed the 'Radio Shack approach to research and development – taking pieces of existing things off the shelf and putting them together to deal with a particular situation in no more than a year.' Clarridge wanted 'simple, cheap, low-tech stuff that worked even in parts of the world where electricity and flush toilets were luxuries.'³⁶ Jeffrey T. Richelson has argued that 'the history of the directorate [of Science and Technology] is a key element in the history of both the CIA and the entire intelligence community,' which has too often been overlooked. This is undoubtedly true, although ironically it is arguably these low-tech solutions to the

³³ Greg Miller and Julie Tate, 'CIA Shifts Focus to Killing Targets', *Washington Post*, 2 September, 2011, <http://www.washingtonpost.com/world/national-security/cia-shifts-focus-to-killing-targets/2011/08/30/gIQA7MZGvJ_story_1.html> [accessed 20 March, 2013].

³⁴ Ibid.

³⁵ See Dino A. Brugioni, *Eyes in the Sky: Eisenhower, the CIA and Cold War Aerial Espionage* (Annapolis MD: Naval Institute Press, 2010), pp.90-171 for background on the development of the U-2 and pp.361-386 for details on the Corona satellite programme. See Richard H. Graham, *SR-71 Revealed: The Inside Story* (Minneapolis MN: Zenith Press, 1996), pp.41-44 for details on the development of the SR-71.

³⁶ Clarridge and Diehl, *A Spy for All Seasons*, p.323.

CTC's problems which signify the DST's most significant contribution to CIA history in the past decade, in that they led to the CIA's development and deployment of the drones which serve as the primary tool of their counterterrorism efforts today.³⁷

The CTC's first challenges: Libya and Gaddafi

Interrogation of the CIA's electronic archive reveals that by far the most persistent topic discussed by the terrorism experts transferred to the newly formed CTC within its first months of operation was Libya's state-sponsored terrorism. A CIA review of Libya's terrorist capabilities described the state's leader Mu'ammarr Gaddafi as being 'committed to terrorism as an instrument of policy.' Furthermore, the review estimated that his influence and reach was growing as he expanded his network of terrorist agents through sponsorship.³⁸ This was demonstrated by growing evidence of Libya's hand in a number of international terrorist incidents throughout the 1980s. In a speech delivered on 8 July, 1985 Reagan told the assembled audience that the United States had 'evidence which links Libyan agents or surrogates to at least 25 incidents last year.'³⁹ Despite this, the American response to this growing terrorist threat had been as stuttering and limited as the rest of the administration's counterterrorism policy for the reasons already discussed. In June 1985, McFarlane, Poindexter and North at the NSC had tried to force the issue through the creation of Operation Flower, split into two components: Tulip and Rose. Tulip was a covert operation which was to be run by the CIA aimed at overthrowing Gaddafi with the aid of Libyan exiles. However, pre-CTC, there was little support within the Agency for the plan, which was a product of the NSC, not the DO. The second element, Rose, was a proposed pre-emptive military strike against Libya, planned to be conducted in unison with the Egyptian military. Weinberger, his deputy Richard

³⁷ Jeffery T. Richelson, 'The Wizards of Langley: The CIA's Directorate of Science and Technology', in Rhodri Jeffreys-Jones and Christopher Andrew (eds.) *Eternal Vigilance? 50 Years of the CIA* (London: Frank Cass, 1997), p.82.

³⁸ 'Libya: Reviewing Terrorist Capabilities', April, 1989, in CIA Electronic Reading Room, <http://www.foia.cia.gov/docs/DOC_0000259675/DOC_0000259675.pdf>, [accessed 28 May, 2012].

³⁹ President Ronald Reagan, 'Remarks at the Annual Convention of the American Bar Association, 8 July, 1985, in Reagan Presidential Library Speeches Archive, <<http://www.reagan.utexas.edu/archives/speeches/1985/70885a.htm>> [accessed 21 March, 2013].

Armitage and the Joint Chiefs believed the plan was ridiculous, and the Secretary of Defense ensured its preparation was so complex and resource-intensive that it was never a viable option. What is more, the Egyptian president Hosni Mubarak had no interest in attacking Libya on America's command.⁴⁰

Weinberger's hand was eventually forced in the early hours of 5 April, 1986 when Libyan agents bombed the *La Belle* nightclub in West Berlin, a popular venue with American service personnel. Two Americans and a Turkish woman were killed, and a further 229 people were injured, including 78 US military personnel.⁴¹ Libyan cables intercepted by the National Security Agency (NSA) and Britain's Government Communications Headquarters (GCHQ) provided 'the smoking gun' that proved Gaddafi's responsibility for the attack.⁴² Reagan decided it was a matter of self-defense to respond. He later wrote, 'I felt we must show Qaddafi that there was a price he would have to pay for that kind of behavior, that we wouldn't let him get away with it.'⁴³ With such a blatant attack upon the US military and clear evidence identifying the source of the attack, the Secretary of Defense had little choice but to back the use of military force in retaliation against a terrorist attack.

The retaliation came in the form of a large bombing raid codenamed Operation El Dorado Canyon, launched on 14 April, 1986. Whilst the counterterrorism hardliners celebrated Reagan's decision to use military force, others did not: the NSC's Howard Teicher referred to the raid as a 'disproportionate response'.⁴⁴ There is still debate regarding the utility of the attack. Politically, the raid achieved its objective. Gaddafi, along with the governments of Iran and Syria were put on notice that they could no longer attack the United States via state-sponsored terrorism with

⁴⁰ John Prados, *Keepers of the Keys: A History of the National Security Council From Truman to Bush* (New York NY: William Morrow and Company, Inc., 1991), pp.503-504; Timberger, *The Nightingale's Song*, p.375; Wills, *The First War on Terrorism*, pp.172-173.

⁴¹ Prados, *Keepers of the Keys*, pp.505-506.

⁴² Christopher Andrew, *For the President's Eyes Only: Secret Intelligence and the American Presidency from Washington to Bush* (London: HarperCollins Publishers, 1995), p.483; Casper Weinberger, *Fighting For Peace: Seven Critical Years at the Pentagon* (London: Michael Joseph Ltd., 1990), pp.132-133.

⁴³ Ronald Reagan, *An American Life*, (New York NY: Pocket Books, 1990), p.518.

⁴⁴ George P. Schultz, *Turmoil and Triumph: My Years as Secretary of State* (New York NY: Charles Scribner's Sons, 1993) pp.685-687; Howard Teicher and Gayle Radley Teicher, *Twin Pillars to Desert Storm: America's Flawed Vision in the Middle East from Nixon to Bush* (New York NY: William Morrow and Company, Inc., 1993), pp.349-350.

impunity. Reagan reinforced this point with an address from the Oval Office on the night of the raids, addressed as much to Gaddafi and other state-sponsors of anti-American terrorism as it was the American people. ‘Despite our repeated warnings’ Reagan explained, ‘Qadhafi continued his reckless policy of intimidation, his relentless pursuit of terror.’ The Libyan leader had counted upon America remaining passive, explained the President, but he had miscalculated the country’s resolve to act. ‘I warned that there should be no place on Earth where terrorists can rest and train and practice their deadly skills’, stressed the President, ‘I said that we would act with others, if possible, and alone if necessary to ensure that terrorists have no sanctuary anywhere...I meant it.’⁴⁵ Reagan sought to make it clear to America’s enemies that whilst his administration may have been slow to act upon his strong anti-terrorist rhetoric, this was a sign of restraint, not weakness, and that his administration was perfectly willing to use force if it deemed it necessary.

While the bombing raid did not end the threat of state terrorism, a detailed case study of their impact more than ten years later suggests that it certainly reduced the frequency of terror acts. Furthermore, the study argues that Gaddafi’s reputation was severely damaged. The weaknesses of his regime were exposed, and his international isolation was highlighted.⁴⁶ The leaders of Syria and Iran had to think twice before risking the same happening to them. Additionally, the escalation of eye for an eye violence, which critics of military retaliation had warned would result, did not materialize. In fact, the opposite occurred: Brian Davis has argued that rather than provoking escalation, ‘it appears that the US attack may have helped break the cycle of accelerating Middle Eastern terrorism dating from 1983.’⁴⁷ Domestically, as with the Egypt Air incident, the perception of Reagan as being willing to stand up to terrorism played very well with the American public. Ratings from a *New York*

⁴⁵ President Ronald Reagan, ‘Address to the Nation on the United States Air Strike Against Libya’, Oval Office, Washington, DC, 14 April, 1986, in in Reagan Presidential Library Speeches Archive, <<http://www.reagan.utexas.edu/archives/speeches/1986/41486g.htm>> [accessed 21 March, 2013].

⁴⁶ Commander Mark E. Kosnik, *An Analysis of the United States Use of Force Against Terrorism*, Weatherhead Center for International Affairs, Harvard University, May, 1999, <<http://programs.wcfia.harvard.edu/files/fellows/files/kosnik.pdf>>, pp.10-26.

⁴⁷ Brian L. Davis, *Qaddafi, Terrorism, and the Origins of the U.S. Attack on Libya* (New York NY: Praeger Publishers, 1990), p. 169.

Times/CBS poll taken the day after the raid showed that 77 per cent of Americans questioned approved of the action.⁴⁸

Militarily, however, the raid can be seen in a very different light. While America's retaliation may have forced Gaddafi to be more covert and less publicly belligerent with his sponsorship of terrorism, he was not stopped entirely. The actual damage to the Libya's terrorism infrastructure was relatively modest.⁴⁹ The CTC concluded that Gaddafi would 'consistently return to terrorism as a primary tool for achieving his goals.'⁵⁰ The 1988 bombing of Pan AM flight 103 over Lockerbie, Scotland, which resulted in the death of all 259 passengers and 11 on the ground served as confirmation of the point. Gaddafi remained a threat because the raid had failed to hit what has since been reported to have been its primary target – Gaddafi himself. After three months of careful investigation and interviews with over 70 serving and former officials from the White House, DoS, CIA, NSA and Pentagon, Seymour Hersh published an article in the *New York Times* which clearly set out evidence that 'a small group of military and civilian officials in the NSC' including Poindexter (then serving as Reagan's ANSA), North and 'several senior CIA officials' had sought to ensure the raid would specifically target Gaddafi's personal quarters, without this information being known to the public, the military or even those flying the mission.⁵¹ It is unclear whether Clarridge was one of the senior CIA officials but as the newly appointed director of the CTC and a close confidant of Casey it is highly likely he would have been involved in the discussions regarding retaliation. If so, his views regarding the need to take the offensive against terrorists and their sponsors, together with his willingness to bend the law to achieve his goals would suggest his involvement.

Gaddafi may have been a proven sponsor of terrorism, but he was still a head of state, which therefore put him outside of the legal criteria for Sporkin's pre-emptive self-defense argument. This made the deliberate targeting of his home an

⁴⁸ Reagan, *An American Life*, p.520; Seymour Hersh, 'Target Qaddafi', *New York Times*, 22 February, 1987, <<http://www.nytimes.com/1987/02/22/magazine/target-qaddafi.html?pagewanted=all&src=pm>> [accessed 21 March, 2013].

⁴⁹ Teicher and Teicher, *Twin Pillars to Desert Storm*, p.350.

⁵⁰ 'Libya: Reviewing Terrorist Capabilities', April, 1989, p.15, in CIA Electronic Reading Room, <http://www.foia.cia.gov/docs/DOC_0000259675/DOC_0000259675.pdf> [accessed 28 May, 2012].

⁵¹ Hersh, 'Target Qaddafi'.

illegal assassination attempt, in breach of both international law and America's own EO 12333. There is no suggestion that Reagan himself was involved in the plotting, although he did help select the target sites. Gaddafi's residence, built in the grounds of the Al Azziziyah barracks, was described in the targeting information as 'the command, control and communications centre for Libya's terrorist-related activities,' as opposed to the dictator's home.⁵² An Air Force officer described Gaddafi's survival to Hersh as 'a fluke.' Post-strike photography showed that the bombs dropped by the F-111s left a line of craters right past both his two-story house and Bedouin tent. Another Air Force officer quoted by Hersh blamed the failure to kill Gaddafi on equipment failure. The high-tech laser-guidance system on four of the nine F-111s attacking Gaddafi's quarters malfunctioned. The Rules of Engagement, written to try to minimise the chances of ordinance going off target and causing civilian casualties, stated that if any aircraft were not one hundred per cent functional then they were to withdraw from the mission, forcing the pilots to abort the attack before they could drop their ordinance. With four 2,000-pound bombs per F-111, this eliminated 16 more bombs that should have been dropped on the quarters. 'The very high-technology system that was meant to insure Qadhafi's death', mused Hersh, 'may have spared his life.'⁵³

Whilst the bombs may have missed Gaddafi, unfortunately the same could not be said for a number of civilians around the target sites. Reportedly, all eight of the dictator's children as well as his wife Safiya, were hospitalized, suffering from shock and various injuries. In addition, it was claimed that his 15-month-old adopted daughter, Hana, died several hours after the raid, although Weinberger later contended that the claim was completely unverified and based upon 'highly suspect Libyan reports.' Overall, the raid was less surgical than Reagan had hoped. Nearly five tons of explosives had landed in residential neighborhoods by mistake and 37 civilians were reported killed with approximately 100 more injured. The French embassy in Tripoli was also damaged by stray munitions and two US aviators were killed when their F-111 was shot down.⁵⁴ Despite the general approval from the

⁵² Reagan, *An American Life*, p.518; Weinberger, *Fighting For Peace*, p.135.

⁵³ Hersh, 'Target Qaddafi'; Weinberger, *Fighting For Peace*, p.139.

⁵⁴ Andrew, *For The President's Eyes*, p.484; Prados, *Keepers of the Keys*, p.506; Teicher and Teicher, *Twin Pillars to Desert Storm*, p.350; Weinberger, *Fighting For Peace*, p.138; 'Hana Gaddafi, Libyan Leader's Presumed Dead Daughter, May Be Still Alive', *Huffington Post*, 9 August, 2011,

American public for the operation, the Reagan administration did face a backlash from its European allies and a minority of Americans over the ‘unintended human costs’ which, in the words of Mark Kosnik, ‘become a major part of later criticisms of Reagan’s decision to use armed force against the Libyan regime.’⁵⁵ Former Attorney General Ramsey Clark heavily criticised the Reagan administration in an article in the *Nation*, pointing out that Reagan’s ‘surgical strike’ had ‘killed at least twice as many Libyans in one night as all Americans killed by terrorists world-wide in 1985.’ ‘Unless it is lawful for the President to use military bombers in an attempt to assassinate a foreign leader and to kill and mutilate scores of human beings sleeping innocently in their homes,’ Clark concluded, ‘Ronald Reagan must be impeached and tried for high crimes and misdemeanours.’⁵⁶ Like Reagan, Obama too has faced similar criticism for the collateral damage caused by CIA drone strikes against suspected terrorists during his administration. Echoing a similar sentiment to Clark, Medea Benjamin, co-founder of the anti-war NGO Code Pink, has publicly stated that she regards the authorizing of the drone campaign to be an impeachable offense and believes Obama should answer to the International Criminal Court (ICC) for ‘war crimes committed via his authorization’ against ‘blameless people in foreign countries, against which the US is not at war’.⁵⁷

As both examples show, ensuring any strikes against terrorists are proportional, precise and do not entail extensive collateral damage is vital, both to meet the requirements of *jus ad bellum*, and to maintain public support for such action. The counterterrorism hardliners did show an awareness of this. Decades before the CTC’s decision to use local agents on the ground to guide drone strikes against al-Qaeda and the Taliban, North, Poindexter and a small group of special operations planners at the Pentagon proposed the insertion of Navy SEALs into Tripoli to place homing devices on Gaddafi’s headquarters. These devices would

<http://www.huffingtonpost.com/2011/08/09/hana-gaddafi-libyan-leader-daughter-alive-n_922043.html> [accessed 21 March, 2013].

⁵⁵ Kosnik, *An Analysis of the United States Use of Force Against Terrorism*, pp.10-26.

⁵⁶ Ramsey Clark, quoted in Neil C. Livingstone, ‘The Raid on Libya and the Use of Force in Combating Terrorism’, in Neil C. Livingstone and Terrell E. Arnold (eds.), *Beyond the Iran-Contra Crisis: The shape of US Anti-terrorism Policy in the Post-Reagan Era* (Washington, DC: Lexington Books, 1988), p.74.

⁵⁷ Marion Dean, ‘Barack Obama Must Be Impeached Over Drone Strike Issue, Demands Code Pink’, *Global News Desk*, 12 February, 2013, <<http://www.globalnewsdesk.co.uk/north-america/barack-obama-impeached-us-drone-strikes/03305/>> [accessed 21 March, 2013].

then guide “smart” bombs precisely to their target, hitting Gaddafi with minimal risk of collateral damage. However, the plan was rejected by Admiral William Crowe, the chairman of the Joint Chiefs, as too risky for the SEAL team.⁵⁸ North also told colleagues that he proposed a number of other alternatives to Crowe, including the use of Tomahawk cruise missiles launched from submarines off the coast of Libya, but was told that there were too few conventionally armed variants, and that they lacked the necessary accuracy to be used in a built up environment at that stage, having been configured to deliver nuclear warheads – an ordinance which required considerably less precision.⁵⁹ Once more North’s rejected proposal anticipated what eventually became official counterterrorism policy; following later reconfiguration to deliver conventional warheads with greater precision, cruise missiles became the primary tool adopted by the Clinton administration in its efforts to target bin Laden and al-Qaeda members in Afghanistan.⁶⁰

Clarridge was acutely aware that if the CIA was to take an offensive footing against terrorists, it would need to do so with more precise tools than bombers and a carrier battle group. ‘We have to find a better way to send a message to outlaw nations,’ he told Casey. The counterterrorism chief criticized what he regarded as the hypocrisy of the government’s ban on assassination, asking the DCI why ‘an expensive military raid with heavy collateral damage to our allies and to innocent children’ was ‘more morally acceptable than a bullet to the head?’⁶¹ Clarridge believed the DST staff attached to the CTC had the answer to the problem. Rather than the high-tech, high-risk strategies North and the NSC had pitched, Clarridge’s proposal reflected the Radio Shack approach he had encouraged the DST staff to adopt. Due to the classified nature of the material, Clarridge is unusually reserved in his memoir about what exactly this solution was, but does mention that ‘one of the technical geniuses in the Center thought he could develop a system that would send a clear message, with poignant [sic] effect, but with minimal loss of life for the recipients, and none for our delivery personnel.’⁶² Clarridge provides no more details

⁵⁸ Ben Bradlee, Jr., *Guts and Glory: The Rise and Fall of Oliver North* (New York NY: Donald I. Fine Inc., 1988), pp.353-354.

⁵⁹ *Ibid*, p.354; Wills, *The First War on Terrorism*, p.200.

⁶⁰ See Chapter 5 for details on Clinton’s use of cruise missiles.

⁶¹ Clarridge with Diehl, *A Spy For All Seasons*, p.339.

⁶² *Ibid*, p.339.

about what this ‘system’ actually was, other than to mention that Casey was fascinated with the idea, and that, after securing his approval, the CTC had a working model within a year. However, in an interview with the former journalist Steve Coll shortly after 9/11, Clarridge did elaborate on something dubbed the ‘Eagle Program’. The CIA will neither ‘confirm nor deny’ the existence of the Eagle Programme, but the dates Clarridge provides in his account of this programme match those of the ‘system’ he mentions in his memoirs, indicating they are one and the same. The Eagle Programme, Clarridge told Coll, was a highly-classified pilotless drone equipped with intercept equipment, an infrared camera, and low-noise wooden propellers. Clarridge’s plan was to equip the drones with small rockets which could be fired at pre-designated targets to take them out in a surgically precise way, avoiding the potential collateral damage of a full scale bombing raid whilst keeping American assets safe from harm. The CTC was even experimenting with loading the drones with two hundred pounds of C-4 plastic explosives and 100 ball bearings with the aim of flying them into sensitive areas such as Tripoli’s airport at night and blowing them up to sabotage aircraft, although the lethal implications of such a device would be significant, too.⁶³ The development was to have far-reaching implications for the CIA as there is little doubt from his description that what Clarridge and the CTC had developed was the precursor to the Predator drones and their Reaper successors the Center now uses to combat al-Qaeda.

The CTC’s first challenges: the Lebanon hostage crisis

The experimental drones of the Eagle Programme did not just have a lethal purpose. Just like the CIA’s current fleet of drones, Clarridge planned to use them for reconnaissance purposes and intelligence gathering, in this instance to help locate the Western hostages in Lebanon. Since the summer of 1982, Hezbollah had been systematically kidnapping Westerners, amongst them numerous American citizens, including William Buckley, the local CIA station chief. Retrieving these hostages

⁶³ Steve Coll interview with Duane Clarridge, 28 December, 2001 in *Ghost Wars*, pp.143-144. In response to a FOIA request regarding the Eagle Programme, the CIA has stated that ‘the fact of the existence or nonexistence of records is [...] protected from disclosure by Section 6 of the CIA Act of 1949 [...] and section 102(A)(i)(1) of the National Security Act of 1947’. Michele Meeks, CIA Information and Privacy Coordinator, 3 May 2013.

had become something of an obsession for the White House. On 20 December, 1985, Reagan's new ANSA Poindexter had ordered the creation of a 'Hostage Locating Task Force', bringing together staff from the CIA, the Pentagon's DIA, NSA and JSOC.⁶⁴ The CIA was the lead agency in this task force which was to report its progress on a weekly basis. Clarridge's plan was to attempt to penetrate Hezbollah, and to gather enough intelligence to mount a hostage rescue mission undertaken by US Special Forces. The Pentagon's generals, however, were still scarred from the catastrophic hostage rescue attempt of Operation Eagle Claw under the Carter administration, and did not like the plan.⁶⁵ They cited what they saw as weak intelligence regarding the actual location of the hostages, refusing to deploy their troops based upon information supplied by local agents. They insisted that there would need to be American 'eyes on the target' confirming the location of the hostages twenty-four hours before any rescue operation would be launched.⁶⁶ This was exceptionally difficult. Beirut was a dangerous place for Americans to operate, and a terrorist group like Hezbollah is notoriously paranoid about spies and foreign agents. As pressure to do something about the hostages grew after months without any results, Casey used a speech before the Jewish American Committee to address the issue of gaining human intelligence from a terrorist group somewhere like Beirut:

In order to prevent terrorist plans or disrupt their activities, we need information about them. But the very nature of terrorist groups and their activities makes this task extremely complicated. Terrorist groups are very small, making penetration a very difficult task for police or intelligence agents. Moreover, the operating life of any single group of terrorists is often no more than a few years. Likewise, typical terrorist leaders have a relatively short business life.⁶⁷

⁶⁴ 'Initial DCI-Hostage Location Task Force Report', 3 January, 1986, in CIA Electronic Reading Room, <http://www.foia.cia.gov/docs/DOC_0000139471/DOC_0000139471.pdf> [accessed 29 May, 2012].

⁶⁵ See Chapter 1 for details on Operation Eagle Claw.

⁶⁶ Steve Coll interview with Duane Clarridge, 28 December, 2001 in *Ghost Wars*, pp.143.

⁶⁷ Director of Central Intelligence William Casey, 'Address before the Jewish American Committee', Thursday 15 May, 1986, Marriott Hotel, Washington, D.C., in CIA Electronic Reading Room, <http://www.foia.cia.gov/docs/DOC_0000247983/DOC_0000247983.pdf> [accessed 23 May, 2012].

Clarridge hoped that the drones might be able to fly 2,500 feet over Beirut and locate the American hostages through careful monitoring of the movement and habits of Hezbollah militants. If a CTC agent operating the drone from a safe distance could get the American hostages on camera, the generals would have their American ‘eyes on the target,’ without the risk of exposing more CIA agents to kidnap.⁶⁸ This use of unmanned drones for gathering intelligence on terrorists’ locations would be the exact role the RQ-1A Predator, the initial reconnaissance version of the later armed MQ-1 Predator, would come to play in Afghanistan in a joint CIA-DoD effort to locate Osama bin Laden. As with Clarridge in Beirut, the problem facing the CTC in its efforts to hunt down bin Laden following his declaration of jihad and subsequent bombing of US embassies in Kenya and Tanzania in 1998, was locating the al-Qaeda leadership in Afghanistan long enough to enable the US to act.⁶⁹ The operation, dubbed ‘Afghan Eyes,’ was championed by Richard Clarke, Clinton’s National Coordinator for Counterterrorism, and involved a 60-day trial of Predators flying over Afghanistan. The first flight took place on 7 September, 2000. Upon seeing the video captured by the drone, Clarke described the imagery to Sandy Berger, Clinton’s National Security Advisor, as ‘truly astonishing.’⁷⁰ Cofer Black, the head of the CTC, and Charles Allen, assistant director of the CIA’s intelligence-collection operations, were also enthusiastic about what they saw. A total of 15 missions were flown over Afghanistan, ten of which were judged successful. On the Predator’s first flight, the drone filmed a tall man in white robes matching bin Laden’s description surrounded by a security detail on his Tarnak Farm compound. Footage from a second sighting of the man in white, taken on 28 September, 2000, was later judged by analysts from the intelligence community probably to have been of bin Laden.⁷¹ Had the drone been armed, consistent with Clarridge’s initial idea, bin Laden could have been neutralized that day. As it was, it would not be until February 2002 that the CTC flew an unmanned drone over Afghanistan equipped with missiles.

⁶⁸ Coll, *Ghost Wars*, p.143-144; Clarridge with Diehl, *A Spy For All Seasons*, pp.339-340.

⁶⁹ Richard A. Clarke, *Against All Enemies: Inside America’s War on Terror* (London: Free Press, 2004), p181-184, 220; ‘1998 Embassy Bombings’ in Global Security.org, <<http://www.globalsecurity.org/security/ops/98emb.htm>> [accessed 22 March, 2013].

⁷⁰ *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (New York NY: W.W. Norton and Company, 2004), p.190. Also available online at <http://www.9-11commission.gov/report/911Report_Ch6.pdf> [accessed 22 March, 2013].

⁷¹ *9/11 Commission Report*, p.190; Clarke, *Against All Enemies*, p.221; George Tenet, *At the Center of the Storm: My Years at the CIA* (New York NY: Harper Luxe, 2007), p.194.

Ironically, Clarke claims to have initially struggled to get the CTC to adopt the use of the Predator drone for locating bin Laden. The Center was set on the use of human assets on the ground in Afghanistan, but these were proving unreliable. Drones, Clarke says, were seen as ‘Too risky. Too costly. Too not-invented-here.’⁷² This could not have been further from the truth. The very drones that now undertake the majority of strikes for the CTC’s campaign are directly evolved from the Eagle Programme drones, which were invented in the CTC. In his memoirs, Clarridge describes how ‘the system’ (the Eagle Programme) saw five operation prototypes built at a cost of \$8 million. Part of the funding for this project, he explains, came from Charlie Hawkins, then an Assistant to Secretary of Defense for Intelligence Oversight, who ‘saw the device’s applicability to military problems.’⁷³ According to Clarridge, the Army looked into developing a ‘gold plated’ version of the device, spending \$900 million, but eventually cancelled the project some years later due to technical difficulties.⁷⁴ Although Clarridge never names the Army’s project, the Directory of US Rockets and Missiles lists the Amber I UAV as a system developed by the US Army, with work starting in 1986 – the same year Hawkins picked up on the Eagle Programme – and being cancelled in 1990. Like the drones of the Eagle Programme, the Amber was a propeller-driven, remote-controlled aircraft equipped with a daylight television camera and a Forward-Looking Infrared system. Additionally, as with the Eagle prototypes the Amber was designed to be lethal if necessary, with the nose section containing a warhead. When over its target, the Amber could jettison its wings and fall as a form of cheap, highly accurate cruise missile.⁷⁵

⁷² Clarke, *Against All Enemies*, p.220.

⁷³ Clarridge with Diehl, *Spy for All Seasons*, p.339.

⁷⁴ A FOI request was submitted to the DoD for documents relating to Charles Hawkins and the Eagle Programme but the official response has been delayed due to ‘unusual circumstances’ which include ‘the need to search for and collect records from a facility geographically separated from this Office’ and ‘the need for consultation with one or more other agencies or DoD components having a substantial interest in either the determination or the subject matter of the records.’ Response to FOIA Request 13-F-0623, Don Nicholson, Office of Freedom of Information, Department of Defense, Pentagon, Washington, DC, 1 February, 2014.

⁷⁵ US Directory of U.S. Rockets and Missiles, Appendix 4, Undesignated Vehicles - Amber, <<http://www.designation-systems.net/dusrm/app4/amber.html>> [accessed 25 May, 2012]; Curtiss Peebles, *Dark Eagles: A History of Top Secret U.S. Aircraft Programs* (New York NY: Simon and Schuster, 1995), pp.207-209.

In 1988, Leading Systems Inc. (LSI), the manufacturers of the Amber I, began development of an improved version of the drone, the GNAT-750. However, the company went bankrupt shortly after the contract with the Army was cancelled, and the company's assets were acquired from Hughes Aircraft (who were the creditors) by General Atomics. The takeover created General Atomics Aeronautical Systems Inc. (GA-ASI) and included 10 LSI staff and six GNAT 750 UAVs, which were already in built-up stage.⁷⁶ In early 1993, the Joint Chiefs requested a surveillance drone to support the UN peacekeeping forces in the former Yugoslavia and the GNAT-750 was selected for the mission. It was enhanced with the addition of an off-the-shelf sensor package, and the military planned to purchase two of these modified variants, known as GNAT-750-45s. However, lengthy DoD procurement procedures meant that the drones could not be purchased within the timescale necessary for deployment, so the two GNAT-750-45s were transferred to the CIA. One was lost in an accident, while technical delays meant the remaining GNAT was not deployed until early 1994. In February of that year the CIA began its first drone operations from a base in Albania. Initial results were mixed, but the drone, along with an additional leased one, was refitted with improved sensors and deployed by the CIA to Croatia later in 1994 where it was generally considered a success.⁷⁷ By 1997, GA-ASI had introduced the I-GNAT (International GNAT), a derivative of the 750 with a more powerful engine, larger payload capacity for sensor equipment, and greater endurance, showing the rapid development of this technology.⁷⁸ In January 1994 GA-ASI was awarded a contract by the Defense Advanced Research Project Agency (DARPA) for the production of a drone which would fulfil what it referred to as 'Tier II MAE', standing for medium altitude endurance.⁷⁹ The RQ-1 Predator

⁷⁶ Email interview with Kimberly A. Kasitz, Public relations & Communications Manager, General Atomics Aeronautical Systems, Inc., 7 June, 2012.

⁷⁷ Peebles, *Dark Eagles*, pp.207-209; Bill Yenne, *Birds of Prey: Predators, Reapers and America's Newest UAVs in Combat* (North Branch MN: Speciality Press, 2010), pp.37-38; 'General Atomic GNAT-750 Lofty View', in Federation of American Scientists Intelligence Resource Program, <<https://www.fas.org/irp/program/collect/gnat-750.htm>> [accessed 1 April, 2013].

⁷⁸ Roxana Tiron, 'Army Unmanned Air Vehicles Proliferate in the Battlefield', *National Defense Magazine*, May 2004, <http://www.nationaldefensemagazine.org/archive/2004/May/Pages/Army_Unmanned3559.aspx> [accessed 22 March, 2013].

⁷⁹ Directory of US Military Rockets and Missiles, Appendix 4: Undesignated Vehicles - GNAT, <<http://www.designation-systems.net/dusrm/app4/gnat.html>>; 'Unmanned Aircraft Systems Roadmap 2005-2013', Office of the Secretary of Defense, 4 August, 2005, in Federation of American Scientists, Intelligence Review Program, <https://www.fas.org/irp/program/collect/uav_roadmap2005.pdf> [accessed 22 March, 2013].

was the drone designed to meet the new, higher endurance criteria. The RQ-1 was based upon the GNAT-750, which itself was a derivative of LSI's Amber, the 'gold plated' version of the Clarridge's Eagle programme aircraft. The Predator first flew in July 1994, and was used operationally in July 1995 by the CIA in Albania to provide intelligence on Serbian installations. Although two Predators were lost during these missions, the CIA and DARPA were pleased with the results and the full contract for production of the RQ-1 Predator was subsequently awarded in August 1997.⁸⁰

Arguably the most important upgrade to the Predator system which brought it back full circle to the CTC's initial Eagle concept was the arming of the drone with air-to-ground guided missiles. Development began in 1999 following pressure from Richard Clarke, supported by President Clinton, for the CIA to have the capacity to strike bin Laden upon the next drone sighting. There was significant resistance from within the Agency regarding the deployment of the armed Predator under Agency authority, not least from DCI George Tenet who claimed it would be a 'terrible mistake for the CIA to fire the weapon.'⁸¹ Despite this, development continued but was slowed by bureaucratic and budgetary battles between the CIA and Air Force over who would pay the estimated \$3million bill, coupled with technical delays and legal debates.⁸² Despite a direct intervention from the White House to end the financial dispute, the armed Predator was still not deployed by the time Clinton left office.⁸³ By February 2001 a Hellfire laser-guided anti-armour missile was fired for the first time from a Predator, changing the designation from the reconnaissance RQ-

⁸⁰ 'RQ-1 Predator MAE UAV', in Global Security.org, <<http://www.globalsecurity.org/intell/systems/predator.htm>> [accessed 22 March, 2013]; 'Unmanned Aircraft Systems Roadmap 2005-2013'.

⁸¹ Richard Clarke, 'Strategy for Eliminating the Threat from the Jihadist Networks of al Qida[sic]: Status and Prospects', p.8, in National Security Archive, <<http://www2.gwu.edu/nsarchiv/NSAEBB/NSAEBB147/clarke%20attachment.pdf>> [accessed 4 January 2014]; Barton Gellman, 'A Strategy's Cautious Evolution', *Washington Post*, 20 January 2002, <<http://www.washingtonpost.com/wp-dyn/content/article/2006/06/09/AR2006060900885.html>> [accessed 22 March 2013].

⁸² *The 9/11 Commission Report*, p.189.

⁸³ 'Department of Defense FY 2001 Budget Amendment – Counterterrorism', 'Department of Defense, FY 2001 Request for Other Procurement, Air Force' and 'Central Intelligence Agency FY 2001 Amendment Request for Counterterrorism Funding', May 2000, in National Security Council, Millennium Threat Budget After Action Review, Transnational Threats, Records of the 2000 Millennium Attack Plots, Box 1, Clinton Presidential Records, Little Rock, Arkansas.

1 to the armed variant used in the CIA's drone campaign, the MQ-1.⁸⁴ However, the Bush administration was slow to resolve the unfinished business of the Predator. In the first Principal level meeting regarding al-Qaeda held on 4 September 2001 it was agreed to deploy the armed drone. The issue of who would be responsible for firing its rockets was deferred to a later meeting and remained unresolved when the 9/11 attacks occurred.⁸⁵ After the attacks the potency of the resistance of those concerned about the CTC's role in piloting lethal drones could not stand the pressure for retribution, and the bureaucratic deadlock was broken. On 17 September, 2001 Bush signed a Finding authorizing the CIA's deployment of the armed drone.⁸⁶ The first lethal use of its weapons occurred on 3 November 2002 in Yemen when the CIA destroyed a jeep carrying six al-Qaeda militants, including Ali Qaed Senyan al-Harth, one of the masterminds of the 2000 bombing of the USS *Cole*.⁸⁷

Conclusion

The very weapon the CIA's CTC eventually adopted in order to take the offensive against al-Qaeda began as a concept developed by the Center's first director 15 years prior to 9/11, with the exact same purpose in mind – gathering intelligence on terrorists to enable precision strikes to neutralise them. Why did it take the Agency so long to finalise a concept that had begun so long ago? First of all, Clarridge was a risk taker. He was appointed for exactly that reason, but it eventually undermined the counterterrorism cause he had been selected to pursue. He had interpreted the new Finding and creation of the CTC as authority 'to do pretty much anything he wanted against the terrorists,' recalled Robert Baer, one of CTC's first recruits from the

⁸⁴ Barton Gellman, 'A Strategy's Cautious Evolution', *Washington Post*, 20 January, 2002, <<http://www.washingtonpost.com/wp-dyn/content/article/2006/06/09/AR20060609000885.html>> [accessed 22 March, 2013]; Yeene, *Birds of Prey*, pp.13-16; 'MQ-1B Predator Factsheet', in US Air Force, <<http://www.af.mil/information/factsheets/factsheet.asp?fsID=122>> [accessed 1 April, 2014].

⁸⁵ Benjamin and Simon, *The Age of Sacred Terror*, pp.345-6; Robert Windrem, 'How the Predator Went from Eye in the Sky to War on Terror's Weapon of Choice', *NBC News*, 5 June 2013, <<http://investigations.nbcnews.com/news/2013/06/05/18780716-how-the-predator-went-from-eye-in-the-sky-to-war-on-terrors-weapon-of-choice>> [accessed 9 December 2013].

⁸⁶ David Gow, 'Bush gives Green Light to CIA for Assassination of Named Terrorists', *Guardian*, 28 October 2001 <<http://www.theguardian.com/world/2001/oct/29/afghanistan.terrorism3>> [accessed 16 December 2013]; Brian Glyn Williams, *Predators: The CIA's Drone War on Al-Qaeda* (Washington, DC: Potomac Books 2013) p.28.

⁸⁷ 'CIA "killed al-Qaeda suspects" in Yemen', *BBC News*, 5 November, 2002, <<http://news.bbc.co.uk/1/hi/2402479.stm>> [accessed 1 April, 2013].

DO.⁸⁸ At first, that was exactly how things had seemed. The former operations officer recalls how the CTC, based on Langley's sixth floor, burst into life with 'pure frenetic energy.' The staff worked in a huge open bay with 'all the telephones ringing nonstop, printers clattering, files stacked all over the place, CNN playing on TV monitors bolted to the ceiling, hundreds of people in motion and at their computers.' Baer's first weeks in the CTC were like 'being in a war room.'⁸⁹ But this energy was quickly sapped in the wake of the Iran-Contra scandal. North, Casey and Clarridge, amongst others, were all implicated in the illegal effort to support Nicaraguan rebels and despatch arms shipments to Iran in an effort to secure the release of the American hostages in Lebanon. Casey was looked upon by his Congressional overseers as 'an adventurer,' recalled Vincent Cannistraro, an operations officer who had arrived shortly after the centre's founding, 'and Dewey as kind of a cowboy.'⁹⁰ Hours before Casey was due to testify before Congress about his knowledge of the affair, he was hospitalized with what turned out to be a brain tumour. Despite surgery, the DCI never recovered and died at home on 5 May, 1987.⁹¹ After Clarridge's testimony the CTC director was formally reprimanded and forced to retire from the CIA on 1 June 1987.⁹² North, heavily implicated in the scandal, was dismissed by Reagan in November 1986, and testified the following July.⁹³ Rhodri Jeffreys-Jones has described the long-term impact of the scandal on President Reagan and his Republican successor George H.W. Bush as little more than a discomfort. While it may have 'taken some of the shine' off the administration, it ultimately 'produced no great upheaval.'⁹⁴ This was not the case for the CTC. With two of the original counterterrorism hardliners gone, and the man selected to lead their offensive against terrorism forced to retire, the appetite for risk-taking within

⁸⁸ Robert Baer, *See No Evil: The True Story of a Ground soldier in the CIA's War Against Terrorism* (London: Arrow Books, 2002), p.126.

⁸⁹ Ibid, pp.84-85.

⁹⁰ Coll, interview with Vincent Cannistraro, Rosslyn, Virginia, 8 January, 2002 quoted in *Ghost Wars*, p.142.

⁹¹ Persico, *Casey*, p.572.

⁹² 'Understanding the Iran-Contra Affairs: The Legal Aftermath', in National Security Archive, <<http://www.gwu.edu/~nsarchiv/coldwar/interviews/episode-18/clarridge2.html>> [accessed 1 April, 2013]; Clarridge with Diehl, *A Spy for All Seasons*, pp.363-386.

⁹³ 'Understanding the Iran-Contra Affairs: The Legal Aftermath', in Brown University Good Government Project/National Security Archive, <http://www.brown.edu/Research/Understanding_the_Iran_Contra_Affair/h-on-gallery.php> [accessed 1 April, 2013].

⁹⁴ Rhodri Jeffreys-Jones, *Cloak and Dollar: The History of American Secret Intelligence*, (Binghamton NY: Yale University Press, 2002), p.244.

the CIA and the Congressional oversight committees disappeared. The CTC abandoned the ‘war room’ vision of action teams and its offensive posture which had spawned the Eagle programme and returned to the more cautious, analytical, report-writing culture that Casey and Clarridge had disdained. ‘Casey had envisaged it as something different than what it eventually became’, lamented Cannistraro.⁹⁵

Second, the unmanned aircraft technology envisioned by Clarridge was in its infancy. Although the CTC may have had a ‘Radio Shack’ style prototype working within a year, it would take almost a full decade before defence contractors came up with a design reliable enough to be used on sensitive missions. Even today, the models of drones used by the CIA have the highest accident rates of all the aircraft in the US Air Force.⁹⁶ The US war logs from Afghanistan contain numerous accounts of drones suffering mechanical failures, computer glitches or signal loss, usually resulting in a crash. For example, a report dated 20 November, 2008 filed under the category of ‘Equipment Failure’ states that ‘1 x UAV (PREDATOR) with 1 x HELLFIRE on board, crashed on KAF [Kandahar Air Force base] near the JULIET Ramp.’⁹⁷ Another report, dated 27 December, 2008 revealed that a small Shadow drone had needed to make an emergency landing after its temperature had spiked and it had been unable to maintain its proper altitude.⁹⁸ The logs also reveal the concern over the potential loss of sensitive equipment each drone malfunction brings. Special units are deployed on salvage operations to try to ensure the remains of the aircraft do not end up being sold on to the likes of Iran, China, Russia or even Pakistan. For example, on 4 September, 2009 a report logged that a Predator drone had ‘crashed due to suspected mechanical failure,’ and that ‘overwatch’ of the crash site had been established. The report went on to add that a special unit ‘has taken lead in the recovery of sensitive materials,’ and that by ‘0050, all sensitive items [had been]

⁹⁵ Coll, interview with Cannistraro, quoted in *Ghost Wars*, p.142.

⁹⁶ Brendan McGarry, ‘Drones Most Accident-Prone US Air Force Craft: BGOV Barometer’, *Bloomberg News*, 18 June, 2012, <<http://www.bloomberg.com/news/2012-06-18/drones-most-accident-prone-u-s-air-force-craft-bgov-barometer.html>> [accessed 22 March, 2013].

⁹⁷ ‘RC South: (non-combat event) Equipment Failure RPT JDOC: 0 INJ/DAM’, 20 November, 2008, in ‘Afghanistan War Log’, Wikileaks <http://wikileaks.org/afg/sort/date/2008_11_21.html> [accessed 2 April, 2013].

⁹⁸ ‘RC East: (non-combat event) Equipment Failure RPT TF Currahee: 0 INJ/DAM’, 27 December, 2008, in Wikileaks Afghanistan War Log, <<http://wikileaks.org/afg/event/2008/12/AFG20081227n1607.html>> [accessed 2 April, 2013].

recovered.’⁹⁹ If modern drones are still this error prone, it is very unlikely, even without the events of the Iran-Contra scandal, that Clarridge’s CTC would have been able to make the Eagle programme functional in the mid-1980s.

Despite the significant length of time it took for the CTC to effectively deploy the technology and embrace the techniques Clarridge had pushed in 1986, the first director of the CTC still managed to play a role in the downfall of the man who had inspired the creation of the Eagle programme in the first place – Mu’ammarr al-Gaddafi. Armed Predator drones were deployed to Libya to attack ground targets as part of the NATO support to the rebel forces that had risen up against the Libyan dictator in April 2011.¹⁰⁰ A recent study by the Bureau of Investigative Journalism has estimated that approximately 200 drone strikes were launched by the US in Libya by the time the conflict ended on 31 October, 2011.¹⁰¹ The most significant of these strikes came around 8:30am on 20 October. According to a report from the *New York Times*, Gaddafi tried to slip out of his fortified compound in Surt, but was observed by an American Predator drone. Before the convoy had travelled two miles, NATO officials reported that it was set upon by the Predator and a French warplane. The missile strikes forced the surviving vehicles in the convoy to detour and scatter. It is during the chaos following the strike that anti-Gaddafi fighters descended on the scene and captured the dictator whilst he sheltered for cover.¹⁰² So, the very technology that Clarridge and the DST staff of the CTC had developed with the specific aim to dealing with terrorist sponsors such as Gaddafi eventually ended up playing a key role in both his downfall and his death. The capability of the drone to loiter, observe and gather intelligence, consistent with Clarridge’s original

⁹⁹ ‘RC Capital: (non-combat event) Equipment Failure RPT Predator UAV: 0 INJ/DAM’, 4 September, 2009, in Wikileaks Afghanistan War Log,

<<http://wikileaks.org/afg/event/2009/09/AFG20090904n2089.html>> [accessed 2 April, 2013].

¹⁰⁰ David S. Cloud, ‘US begins using Predator drones in Libya’, *Los Angeles Times*, 22 April, 2011, <<http://articles.latimes.com/2011/apr/22/world/la-fg-gates-libya-20110422>> [accessed 2 April, 2013].

¹⁰¹ Chris Woods and Alice K Ross, ‘Revealed: US and Britain launched 1,200 drone strikes in recent wars’, 4 December, 2012, in Covert Drone War, Bureau of Investigative Journalism, <<http://www.thebureauinvestigates.com/2012/12/04/revealed-us-and-britain-launched-1200-drone-strikes-in-recent-wars/>> [accessed 2 April, 2013].

¹⁰² Kareem Fahim, Anthony Shadid, Rick Gladstone, ‘Violent End To An Era As Qaddafi Dies In Libya’, *New York Times*, 20 October, 2011, <http://www.nytimes.com/2011/10/21/world/africa/qaddafi-is-killed-as-libyan-forces-take-surt.html?_r=2&pagewanted=all>, [accessed 5 June, 2012].

specifications, along with the ability to deliver lethal ordinance, made it impossible for the dictator to slip out of his stronghold undetected.

The Predator drone and its more advanced successor the Reaper – the primary tools used by the CIA to wage is drone war against al-Qaeda and their affiliates - are directly evolved from the DoD's investment in drone technology, which is in turn emerged from the CTC's Eagle programme. The drone campaign itself is run by the CTC, the fusion centre Clarridge created to ensure that the United States' counterterrorism efforts were centralised, coordinated across all branches of government and proactive in their pursuit of terrorists. It is global in reach, enabling the United States to attack terrorist safe havens in areas US forces could not otherwise access. It is based upon the scrupulous analysis of multiple sources of intelligence with hundreds of targeters and analysts compiling signals intelligence provided by the DoD's NSA and human intelligence drawn from the CIA's network of foreign assets, which officials argue makes the strikes precise and limits collateral damage as far as is possible. Finally, it enables the CIA to go on the offensive, pre-emptively targeting known and suspected terrorists before they can launch attacks against American targets and interests. It is striking then that the drone campaign is based upon both a piece of technology introduced by Clarridge and upon the principles he sought to instil into US counterterrorism, fittingly making the CTC's first director the father of the Center's drone campaign.

Chapter 4 - “Talking about capturing bin Laden”
**The Clinton administration and the legal architecture of lethal force in
counterterrorism**

*And the Clinton White House was only talking about capturing bin
Laden, not knocking him off.*

CIA Council John Rizzo

Upon assuming power Clinton’s administration quickly identified the newly-emergent threat of non-state terrorism but then struggled to develop a solution to neutralize that threat. The fallout of the Iran-Contra scandal had seen Clarridge and North removed from their positions and renewed Congressional oversight of the CIA. Together with Casey’s passing, the emerging proactive counterterrorism agenda had been left in tatters. By the time Osama bin Laden first declared jihad against the United States in 1996, a culture of risk aversion had emerged within the CIA, whilst the memory of the political damage caused by Iran-Contra ensured neither Clinton nor the members of his NSC were looking to sanction any risky covert operations. This lack of any proactive method to pursue the terrorist threat left America vulnerable, giving its enemy the time and space it needed to recruit, train and dispatch fighters to wage their global struggle against the “far enemy” of the United States. As the threat heightened, the Clinton administration, drawing upon Reagan-era legislation, cautiously began to establish a legal architecture which authorized the CIA to take action against al-Qaeda. Although too late to prevent the disastrous attacks of September 11, 2001 it was this preexisting architecture which formed the backbone of George W. Bush’s War on Terror, and once strengthened with additional Congressional and presidential support, provided the legal sanction for the targeted killings undertaken by the CTC’s drone campaign. This legal architecture has proven remarkably stable in the first post-9/11 decade, empowering presidents to pursue a significantly more proactive counterterrorism strategy than their predecessors. It has also served to demonstrate that American counterterrorism is significantly more effective and less prone to failure when operating within clear legal boundaries as opposed to working covertly outside them, thus running the risk of exposure and backlash.

The covert action pendulum

Whilst there can be no doubt that much of al-Qaeda's success against the United States during the Clinton administration can be credited to the organization's exceptional planning, experience and determination, the US itself must accept a significant portion of the blame for failing to act in time to counter the threat. This is in spite of the effectiveness of the efforts of the US counterterrorism community in identifying the newly emergent al-Qaeda and quickly recognizing it as a major threat. According to Richard Clarke, the veteran Washington bureaucrat brought in by the Clinton administration to serve as America's first national coordinator for counterterrorism, the administration was 'seized with the issue' as early as 1994.¹ Much has already been written about why the Clinton administration failed in its efforts to kill Osama bin Laden and neutralize his non-state Sunni Islamic terrorist group before, or even after, its successful attacks against American interests.² This chapter will take a different perspective. By arguing that one of the key factors which has enabled the CTC to be significantly more effective against al-Qaeda's leadership is the legal infrastructure within which it now operates, this chapter highlights how a lack of such clear legal sanction and authorization crippled Clinton's efforts to neutralize bin Laden. This illustrates how the laws which came to underpin the CIA's drone campaign have proven to be as vital to its operation as the technology itself.

The legal architecture which supports lethal counterterrorism actions undertaken by the United States intelligence community has taken decades to evolve. The transition between the Bush and Obama administrations was remarkably smooth with regards to the extent to which this architecture remained largely untouched. While certain counterterrorism policies introduced by the previous administration – such as the use of Enhanced Interrogation Techniques (EITs) – were heavily criticized and abandoned, there has been what legal scholar Robert Chesney has

¹ Richard A. Clarke, *Against All Enemies: Inside America's War on Terror* (London: Free Press, 2004), p.89.

² *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (New York NY: W.W. Norton and Company, 2004), <<http://www.9-11commission.gov/report/>> [accessed 19 February, 2014]. Also see Daniel Benjamin and Steven Simon, *The Age of Sacred Terror: Radical Islam's War Against America* (New York NY: Random House, 2003) for an NSC insider's perspective and Timothy Naftali, *Blind Spot: The Secret History of American Counterterrorism* (New York NY: Basic Books, 2005) for a contextual overview.

described as ‘a remarkable degree of cross-branch and cross-party consensus manifested by legislation, judicial decisions, and consistency of policy across two very different presidential administrations.’³ This is especially true with regard to the use of lethal force in counterterrorism.

This stability certainly owes something to the policy commitment to confront al-Qaeda that followed the experience of 9/11. Prior to September 2001, the development of a policy and legal architecture addressing the use of lethal force to neutralize terrorist threats was much more hotly contested and evolved in what Chesney describes as ‘fits and starts’ which were ‘generally in the direction of increased constraint.’⁴ Rather than gradually building upon existing practice and legislation introduced by the counterterrorism hardliners within the Reagan administration, the responsibilities and accompanying legal authorities granted to the CIA lurched from one position to another in the decades between the creation of the CTC and 9/11, causing uncertainty and confusion amongst those responsible for carrying out America’s aggressive covert operations. This state of affairs can be described as the covert action pendulum. The phrase denotes the way in which demand and support for aggressive covert action from the Executive and Congress swings dramatically from one side to the other depending upon the political circumstances. In times of need when presidents are struggling to come up with orthodox solutions to a foreign policy problem, they frequently turn to the CIA to provide a non-orthodox solution through aggressive covert action. These actions either occur with the approval of the appropriate Congressional oversight committees or in the most controversial cases without any legislative oversight at all. Operation Cyclone, the CIA’s support for anti-Soviet mujahideen in Afghanistan during the 1980s, serves as an example of a covert action supported by both the Executive (in this case, first Carter then Reagan) and Congress. The Reagan administration’s support for the Contras in Nicaragua and linked arms dealing with Iran provides an example of a covert action without Congressional support.⁵ The CIA’s drone

³ Robert M. Chesney, ‘Beyond the Battlefield, Beyond al-Qaeda: The Destabilizing Legal Architecture of Counterterrorism’, *Michigan Law Review*, Vol.11:163, (November 2013), p.163.

⁴ *Ibid*, p.171.

⁵ For details on CIA activities during the Afghan anti-soviet jihad and funding for the Nicaraguan Contras see John Prados, *Safe For Democracy: The Secret Wars of the CIA* (Chicago IL: Ivan R. Dee, 2006); pp.507-538; Milton Bearden and James Risen, *The Main Enemy: The CIA’s Battle with the Soviet Union* (London: Random House, 2003) pp.205-367. For an assessment of the CIA’s policy in

campaign falls into the first camp, with the members of the House and Senate intelligence committees privy to most details and responsible for scrutinizing the highly classified programme.⁶ Obama stressed the necessity for this oversight in a speech on the future of US counterterrorism in May 2013, telling his audience that ‘the very precision of drone strikes, and the necessary secrecy involved in such actions can end up shielding our government from the public scrutiny that a troop deployment invites.’ The President also acknowledged the potentially seductive nature of an unregulated covert killing programme, recognizing that if unchecked it could ‘lead a President and his team to view drone strikes as a cure-all for terrorism.’ Having highlighted the problem, Obama offered his solution to the audience:

For this reason I’ve insisted on strong oversight of all lethal action. After I took office, my Administration began briefing all strikes outside of Iraq and Afghanistan to the appropriate committees of Congress. Let me repeat that – not only did Congress authorize the use of force, it is briefed on every strike that America takes.⁷

There have been attempts by members of Congress on both sides of the aisle to expand access to information about drone strikes beyond the intelligence committees, especially since Anwar al-Awlaki, an American citizen, was targeted and killed by a strike in Yemen on 30 September 2011. To date these challenges have been unsuccessful.⁸

Afghanistan, see Richard Immerman, *The Hidden Hand: A Brief History of the CIA* (Chichester: Wiley, 2014), pp.153-160.

⁶ For example, see the Select Committee’s questioning of John O. Brennan on US drone policy during his nomination hearing for DCI post: Open Hearing on the Nomination of John O. Brennan to be Director of the Central Intelligence, Washington, DC, 7 February, 2013, in US Senate Select Committee on Intelligence, <<http://www.intelligence.senate.gov/130207/transcript.pdf>>; Alice K Ross, ‘Is Congressional oversight tough enough on drones?’, *Bureau of Investigative Journalism*, 1 August, 2013, <<http://www.thebureauinvestigates.com/2013/08/01/is-congressional-oversight-tough-enough-on-drones/>> [accessed 19 February, 2014].

⁷ Remarks of President Barack Obama, National Defense University, 23 May, 2013, in whitehouse.gov, <<http://www.whitehouse.gov/the-press-office/2013/05/23/remarks-president-barack-obama>> [accessed 18 February, 2014].

⁸ Richard W. Stevenson and Ashley Parker, ‘A Senator’s Stand on Drones Scrambles Partisan Lines’, *New York Times*, 7 March, 2013, <http://www.nytimes.com/2013/03/08/us/politics/mccain-and-graham-assail-paul-filibuster-over-drones.html?pagewanted=all&_r=0>; Ken Dilanian, ‘Sen. Levin’s bid to boost drone oversight falters in Congress’, *Los Angeles Times*, <http://www.latimes.com/world/worldnow/la-fg-wn-levin-drone-oversight-20140212.0,2114536.story?utm_source=Sailthru&utm_medium=email&utm_term=%2ASituation%20Report&utm_campaign=SITREP%20FEB%2013#ixzz2tC6flahu> [accessed 20 February, 2014].

When Congress discovers that a covert action has occurred without its oversight, either through a leak (such as the NSA data collection scandal exposed by the whistleblower Edward Snowden), a conspicuous operational failure (for example the capture of Eugene Hasenfus by Nicaraguan authorities whilst smuggling guns to Contra rebels) or through investigative journalism or Congressional inquiries (as in Seymour Hersh's 1974 story about illegal CIA activity and the subsequent Church Committee hearings), the pendulum of political support for aggressive covert action swings the other way. The Agency and those of its officers charged with planning and undertaking the aggressive covert actions become exposed to criticism and possible legal prosecution.⁹ The Church Committee hearings offer an illustrative case. Originally established to investigate potential domestic abuses by the CIA such as illegal wiretaps, the committee shifted its focus to lethal covert actions following an unguarded comment by President Ford to reporters suggesting the CIA had conspired to kill foreign political leaders.¹⁰ Over the course of the hearings, various abuses were uncovered in which the CIA had operated outside of its charter, with the use of assassination as an instrument of US policy regarded as the worst.¹¹

Despite the CIA bearing the brunt of the blame for the abuses, Senator Church did acknowledge the complicity of the Executive in the CIA's questionable activities during its first three decades of existence. The Committee highlighted that while the CIA planned the coups and attempted to kill foreign leaders, these operations were always encouraged by those occupying the White House. As Mark Mazzetti notes, 'the CIA offered secrecy, and secrecy had always seduced American

⁹ 'The NSA Files', *Guardian*, <<http://www.theguardian.com/world/the-nsa-files>>; 'Nicaragua Downs Plane and Survivor Implicates CIA', *New York Times*, 12 October, 1986, <<http://www.nytimes.com/1986/10/12/weekinreview/in-summary-nicaragua-downs-plane-and-survivor-implicates-cia.html>>; Thomas Blanton (ed), 'The CIA's Family Jewels: Agency Violated Charter for 25 Years', in National Security Archive Electronic Briefing Book No. 222, <<http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB222/>>; Church Committee Reports, in Assassination Archives and Research Center Public Library, <http://www.aarclibrary.org/publib/contents/church/contents_church_reports.htm> [accessed 20 February, 2014].

¹⁰ Richard Immerman, 'A Brief History of the CIA', in Athan Theoharis *et. al.* (ed.), *The Central Intelligence Agency: Scrutiny Under Security* (Westport CT: Greenwood Press, 2006), p.50.

¹¹ L. Britt Snider, *The Agency and the Hill: CIA's Relationship with Congress, 1946-2004* (Washington, DC: Center for the Study of Intelligence, 2008), p.275. Also available in digital format from the CIA Library, <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/books-and-monographs/agency-and-the-hill/The%20Agency%20and%20the%20Hill_Book_1May2008.pdf> [accessed 12 March, 2014].

presidents.’¹² Senator Church’s final report observed that ‘once the capability for covert activity is established, the pressures brought to bear on the President to use it are immense,’ and went as far as to question whether the United States even needed a ‘regiment of cloak-and-dagger men’ at the president’s disposal.¹³ While the senator did not manage to see the CIA dismantled, he did cause severe new restraints to be imposed on its covert actions. As a result of the hearings, President Ford signed EO 11905 on 18 February, 1976 which, amongst other wide-ranging provision upon the intelligence community, stated that ‘[n]o employee of the United States Government shall engage in, or conspire to engage in, political assassination.’¹⁴ Ford’s order was as much about protecting his successors in the Oval Office from the seduction of the apparent quick fix offered by aggressive covert actions as it was about saving the CIA from future prosecution.¹⁵ There were further swings of the covert action pendulum before al-Qaeda emerged as a significant threat to US national security, the impact of which served to limit the options available to the US counterterrorism community when called upon to neutralize the threat posed by the Sunni Islamic radical group.

William Casey, the director who oversaw the CIA’s first foray into counterterrorism on the orders of President Reagan, arrived at Langley in the wake of the Church committee recriminations. The new DCI acknowledged the Executive’s role in the Agency’s misfortunes during his first staff meeting by announcing to his assembled officers that ‘none of the sins the CIA had committed were born at Langley. They were carried out as the result of directives from above, including the wishes of American Presidents and secretaries of State, people who operated above the line while directing the dirty work to be done below it.’¹⁶ Despite Casey’s

¹² Mark Mazzetti, *The Way of the Knife: The CIA, a Secret Army, and a War at the Ends of the Earth* (New York NY: Penguin Press, 2013), p.46.

¹³ ‘Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities’, United States Senate, 26 April, 1976, in US Select Committee on Intelligence, Hearings, <<http://www.intelligence.senate.gov/churchcommittee.html>> [accessed 12 March, 2014].

¹⁴ Executive Order 11905, ‘United States Foreign Intelligence Activities’, 18 February, 1976, in Federation of American Scientists Intelligence Resource Program, <<http://www.fas.org/irp/offdocs/eo11905.htm>> [accessed 12 March, 2014]. Executive Order 12333, ‘United States Intelligence Activities’, 4 December, 1981, in ‘National Archives.gov’, <<http://www.archives.gov/federal-register/codification/executive-order/12333.html#2.11>> [accessed 18 July 2010].

¹⁵ Mazzetti, *Way of the Knife*, p.46.

¹⁶ Joseph E. Persico, *Casey: The Lives and Secrets of William J. Casey from the OSS to the CIA* (New York NY: Penguin, 1990), p.216.

reference to the agency's past actions as 'sins', he dedicated his time at the CIA to trying to swing the pendulum back the other way, keen to restore a sense of risk-taking and lethality to an agency he believed had been rendered weak and bureaucratic. Under Casey, the CIA was to get back into the aggressive covert action business, with a new focus on counterterrorism.¹⁷

Rather than making the Agency stronger, as Casey believed it would and his supporters have subsequently argued, the consequence of this push for risk-taking and aggressive covert action was to leave the CIA vulnerable to another swing of the pendulum, weakening its counterterrorism capabilities still further. This is exactly what occurred when in late 1986 details of the Iran-Contra affair broke. As the public and Congress learned of the double-ended deal involving illegal arms sales to Iran aimed at securing the release of American hostages in Lebanon, and it also emerged that Nicaraguan rebels had been funded from the proceeds to aid in the overthrow of the communist government, the Agency found itself once again on trial. Casey passed away as Congressional investigations progressed, and the nomination of the Reagan administration's chosen successor, Robert Gates, was opposed due to his links to those implicated in the scandal.¹⁸ The White House's replacement nominee represented the mood of Congress at the time. William Webster, a former federal appeals court judge and a respected pillar of the Washington establishment, was just completing a nine-year tenure as FBI director. He was appointed with what John Rizzo, the CIA's counsel overseeing the Iran-Contra case, described as 'a mandate from Congress to clean up the mess at Langley.'¹⁹ This clean-up was particularly damaging to the CTC. Having already lost its patron in Casey, the CTC also lost one of its closest supporters, Clair George, head of the DO and a man described by Bob Woodward as 'an old warhorse symbol of the CIA at its best and proudest.'²⁰ George was asked to retire by Webster due to his links to Iran-Contra; he was eventually indicted on ten counts, including making false statements to Congress and

¹⁷ See Chapter 2 details on Casey's efforts to reform the CIA.

¹⁸ Robert M. Gates, *From The Shadows: The Ultimate Insider's Story of Five Presidents and How They Won the Cold War* (New York NY: Simon & Schuster, 1996), p.418.

¹⁹ John Rizzo, *Company Man: Thirty Years of Controversy and Crisis in the CIA* (New York NY: Scribner, 2014), p.130.

²⁰ Douglas Martin, 'Clair George, Spy and Iran-Contra Figure, Dies at 81', *New York Times*, 20 August, 2011, <http://www.nytimes.com/2011/08/21/us/21george.html?_r=0> [accessed 17 February, 2014].

obstruction, but was pardoned by George H. W. Bush.²¹ Perhaps most damaging of all, the CTC also lost its founding member and leader, Duane Clarridge, who, along with several other lower-ranking officers, was forced into retirement, in what became known within the CIA as the ‘Holiday Party Massacre.’²² Additionally, Stanley Sporkin, the CIA’s chief counsel who had provided his legal backing to the CTC’s aggressive counterterrorism policies, left the Agency in December 1985, having been nominated to a seat in the US District Court for the District of Columbia by Reagan.²³

Perhaps unsurprisingly, Clarridge is stinging in his criticism of Webster. He complained that Webster, though tasked with the job of tackling the threat of terrorism around the world, ‘didn’t have the stomach for bold moves of any sort.’ Clarridge recounted his frustration at the rejection of a plan for the ‘fairly daring extraction of a dangerous terrorist.’ The plan was to snatch Mohammed Rashid, a well-known and skilled bomb maker wanted in connection with a number of airline attacks, from an African country where he had been spotted by CTC assets.²⁴ The complex operation would require a C-130 landing in the desert, in-flight refuelling and considerable coordination with the US military. Having worked the details of the operation out with administration officials just below cabinet level, Clarridge was convinced that it was ‘entirely feasible.’ Despite this, he was informed by Webster’s office that the Joint Chiefs had rejected the plan and that Webster had terminated the operation.²⁵ Rather than considering the wider politics engulfing the CIA at the time, the former counterterrorism chief pinned the blame on Webster, arguing that the idea of a lawyer leading the CIA was antithetical. ‘All of his training as a lawyer and as a judge was that you didn’t do illegal things,’ Clarridge complained. ‘He never could

²¹ ‘Clair E. George, CIA officer who figured in Iran-contra scandal, dies at 81’, *Washington Post*, 13 August, 2011, <http://www.washingtonpost.com/local/obituaries/clair-e-george-cia-officer-who-figured-in-iran-contra-scandal-dies-at-81/2011/08/12/gIQAADpzBJ_story.html> [accessed 12 March, 2014].

²² Rizzo, *Company Man*, p.132.

²³ ‘Sporkin, Stanley’, in Biographical Directory of Federal Judges, Federal Judicial Center, <<http://www.fjc.gov/public/home.nsf/hisj>> [accessed 17 February, 2014]. For more on the impact of the Iran-Contra crisis on the CTC, see Chapter 3.

²⁴ Duane R. Clarridge with Digby Diehl, *A Spy For All Seasons: My Life in the CIA* (New York NY: Scribner, 1997), pp.347-348.

²⁵ Ibid, pp.359-360; ‘Jordanian Man Sentenced In 1982 Bombing Of Pan Am Flight From Tokyo to Honolulu’, in US Department of Justice, <http://www.justice.gov/opa/pr/2006/March/06_crm_172.html> [accessed 21 February, 2014].

accept that this is *exactly* what the CIA does when it operates abroad.’ Breaking the laws of other countries in order to collect information was what the CIA did, Clarridge concluded. ‘It’s why we’re in business.’ In the view of the former counterterrorism chief, Webster ‘had an insurmountable problem with the *raison d’etre* of the organization he was brought in to run.’²⁶ It is worth noting that William Casey, Clarridge’s champion and someone not opposed to rule breaking himself was also a trained lawyer, suggesting Clarridge’s grievance was with Webster himself or the attitude he personified rather than his training and previous profession.

Not all within the CIA shared Clarridge’s perspective; those with a better sense of the vulnerabilities of the Agency following the Iran-Contra scandal felt that Webster’s clean-up was a necessary step. Whilst Clarridge railed that DCI Webster was ‘out of sync with the purpose and principles of the Agency,’ the reality is that, in the aftermath of Iran-Contra, it was Clarridge himself that was now ‘out of sync’ with the changing principles of the CIA.²⁷ While he may have believed it was in the nature of the CIA’s work to break other countries’ laws, the CIA had been guilty of breaking its own country’s laws. Furthermore, the Agency had also exposed American hypocrisy by flaunting the international arms embargo on Iran which it had been proactively pushing other countries to observe.²⁸ Gates, having missed out on the chance to be director himself due to the scandal, referred to the former judge as a ‘godsend’, bringing ‘a reputation for integrity, honesty, and fidelity to the Constitution’ when the CIA was still under a shadow.²⁹

Whether the clean-up was inconsistent with the purpose of the CIA or a necessary step to save the Agency from itself is not the main issue here, however. The point is that the violent swings between the CIA being ‘unleashed’ (as Reagan had promised during his election campaign) and then ‘cleaned up’ has had an extremely negative impact upon its effectiveness over time, especially in the field of

²⁶ Clarridge, *A Spy For All Seasons*, p.371.

²⁷ *Ibid*, p.371.

²⁸ Malcolm Byrne, Peter Kornbluh, Thomas Blanton, ‘The Iran-Contra Affair 20 Years On’; <<http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB210/>>; ‘The Iran Contra Affair’, <<http://www2.gwu.edu/~nsarchiv/nsa/publications/irancontra/irancon.html>> , in National Security Archive [accessed 12 March, 2014].

²⁹ Gates, *From The Shadows*, p.419.

counterterrorism.³⁰ First, the waves of prosecutions stripped out talent and ended the careers of some of the Agency's most capable officers for following orders passed on from above. Second, the constantly shifting boundaries and expectations placed upon the CIA created a sense of confusion as to exactly what the Agency's role was when it came to counterterrorism. Finally, and most crucially, the sense that its officers could be retrospectively prosecuted for following orders passed on to them from their leaders in response to the demands of government officials created a sense of risk aversion. This risk aversion played a significant role in limiting the Clinton administration's options for dealing with bin Laden and the wider al-Qaeda network, and can be seen as a contributing factor to the United States' failure to neutralize the group before the 9/11 attacks occurred. In the longer term, however, the CIA's risk aversion helped push US counterterrorism towards the adoption of the Predator drone and the subsequent drafting of the legal sanctions which have accompanied its use. Ultimately the insistence upon greater legal authority for the use of lethal force enhanced America's counterterrorism capabilities by providing policy makers with the option of more aggressive covert action, such as targeted killings, whilst giving the CTC the authority and tools to deploy this force. Whether or not the availability of such an option is a positive development for the United States is still very much up for debate, but the roots of this policy can be found in the failures of the Agency's past counterterror efforts.

The weakness of the CIA's Counterterrorist Center

The CTC and CIA more widely were still reeling from the effect of the Iran-Contra scandal and the 'Holiday Party Massacre' when Clinton assumed office. The rapid collapse of the Soviet Union had created further challenges for an agency whose very *raison d'être* had been the winning of the Cold War. The resulting drop in anti-Western terrorist incidents which followed the loss of material support and sanctuary from collapsing communist states put the CTC under even greater pressure, and it is telling that George H.W. Bush's administration never felt the need to introduce a

³⁰ Rhodri Jeffreys-Jones, *The CIA & American Democracy* (Binghamton NY: Yale University Press, 2003), p.229; Immerman, 'A Brief History of the CIA', in Theoharis *et. al.* (eds.), *The Central Intelligence Agency: Scrutiny Under Security* (Westport CT: Greenwood, 2005), p.57.

counterterrorism policy of its own.³¹ When Clinton entered the Oval Office, his initial focus was very much on the domestic economy. Not a single foreign policy objective was set out in the goals of his administration's first 100 days.³² The Cold War was over, and the American public had voted for a president whose unofficial campaign motto had been "It's the economy stupid!"³³ As a result of this domestic focus and the CIA's damaged reputation, it was singled out for significant budget cuts under Clinton, who had made a campaign promise to cut its funding by 25 per cent (\$7.5 billion) over five years.³⁴

In contrast to the Clinton campaign narrative, which convinced voters that the first post-Cold War decade should be one of domestic regeneration over defence and intelligence spending, Clinton's pick for DCI, James Woolsey sought to make the case that the CIA was as vital as ever in the post-Soviet security environment. Woolsey, a man who was commonly known to have had very little personal connection to the President, testified before the Senate Select Committee for Intelligence on 2 February, 1993, and warned that the US may have 'slain a dragon' of communism, but that America now faced 'a jungle filled with poisonous snakes.' In many ways the dragon, Woolsey's colourful metaphor concluded, had been 'easier to keep track of.'³⁵ Two terrorist incidents within eight weeks of Clinton's inauguration seemingly supported the new DCI's position, with analysts warning that the attacks were most likely linked to radical Islamist training camps in Afghanistan

³¹ Paul R. Pillar, *Terrorism and US Foreign Policy*, (Washington, DC: Brookings Institute Press, 2003), p.43; Clarke, *Against All Enemies*, p.90.

³² Thomas L. Friedman, 'Clinton Keeping Foreign Policy on a Back Burner', *New York Times*, 8 February, 1993, <<http://www.nytimes.com/1993/02/08/world/clinton-keeping-foreign-policy-on-a-back-burner.html?src=pm>> [accessed 17 February, 2014].

³³ Will Marshall and Martin Schram, *Mandate for Change* (New York NY: Berkley Books, 1993); Charles F. Allen and Jonathan Portis, *The Life and Career of Bill Clinton: The Comeback Kid* (New York NY: Birch Lane Press, 1992), pp.153-157; Bob Woodward, *The Agenda: Inside the Clinton White House* (New York NY: Simon and Schuster, 1995), p.xi.

³⁴ Douglas Jehl, 'CIA Nominee Wary of Budget Cuts', *New York Times*, 3 February, 1993, <<http://www.nytimes.com/1993/02/03/us/cia-nominee-wary-of-budget-cuts.html>>; 'Budget cuts force CIA to recruit youths', *Baltimore Sun*, 11 June, 1993, <http://articles.baltimoresun.com/1993-06-11/news/1993162250_1_cia-students-recruit> [accessed 20 February, 2014].

³⁵ Hearing before the Senate Select Committee on Intelligence on the Nomination of R. James Woolsey, to be Director of the Central Intelligence Agency, 2 – 3 February, 1993, in US Senate Select Committee on Intelligence, <<http://www.intelligence.senate.gov/pdfs103rd/103296.pdf>>, p.76 [accessed 17 February, 2014]; Douglas F. Garthoff, *Directors of Central Intelligence as Leaders of the US Intelligence Community 1946 – 2005* (Pittsburgh: Government Printing Office, 2005), p.221.

and Pakistan.³⁶ In spite of these warnings, the promised tranche of cuts went ahead. Despite resistance from Clinton, the Democrat-controlled Congress followed the initial cuts with further budget reductions, eventually cutting \$7.5 billion from the CIA budget in three years as opposed to five proposed by the President. The CIA did recover from the budget cuts imposed during Clinton's first term as the threat posed by non-state terrorism heightened. By 1997 the President sought to increase the Agency's counterterrorism funding from the proposed \$9.7 million to \$41 million. When Republicans gained control of Congress in 1998 Clinton supported their further budget increase to the CIA which saw approximately \$3 billion added to the Agency's overall budget by 1999, the largest single increase to the intelligence budget in 15 years.³⁷ In spite of the Agency's eventual recovery, the instability wrought by the budget cuts damaged its morale and capabilities. Deputy Counsel John Rizzo summed up the impact of the to and fro of the pendulum by reflecting nostalgically that the Reagan-Bush era had been 'a period that began with the Agency reenergized and ascendant,' but that the transition to the Clinton administration had left it 'largely adrift and leaderless.'³⁸ The budget cuts represented not only a loss of financial capital, but also a loss political capital, a decline in its standing, the primary currency of the CIA.³⁹

The purges of the Agency continued through the 1990s. The hugely detrimental case of the double agent Aldrich Ames, a veteran case officer who was arrested on espionage charges in 1994 after spying for the Russians since 1985, saw the CIA further chastised by Congress and ridiculed in the media.⁴⁰ In the aftermath

³⁶ 'Ramzi Yousef: A New Generation of Sunni Islamic Terrorists', FBI, cited in Steve Coll, *Ghost Wars: The Secret History of the CIA, Afghanistan and bin Laden from the Soviet invasion to September 10, 2001*, (London: Penguin, 2005), pp.278-279; Pillar, *Terrorism and US Foreign Policy*, p.49.

³⁷ 'Preparing for the 21st Century: An Appraisal of US Intelligence', 1 March, 1996, in Federation of American Scientists Intelligence Review Program, <<http://www.fas.org/irp/offdocs/report.html>> [accessed 20 February, 2014]; 'Congressional Action on Terrorism', in Richard Clarke Terrorism Legislation, Transnational Threats, Box 9, Clinton Presidential Archive, Little Rock, Arkansas; Richard Sale, *Clinton's Secret Wars: The Evolution of A Commander in Chief* (New York NY: Thomas Dunne Books, 2009), p.290.

³⁸ Rizzo, *Company Man*, p.135.

³⁹ Rhodri Jeffreys-Jones, *The CIA & American Democracy* (Binghamton NY: Yale University Press, 2003), p.10.

⁴⁰ Walter Pincus, 'CIA: Ames Betrayed 55 Operations; Inspector General's Draft Report Blames Supervisors for Failure to Plug Leak', *Washington Post*, 24 September, 1994, <<http://www.highbeam.com/doc/1P2-911040.html>>; Aldrich Hazen Ames, in Famous Cases and Criminals, Federal Bureau of Investigation, <<http://www.fbi.gov/about-us/history/famous-cases/aldrich-hazen-ames>> [accessed 17 February, 2014].

of the debacle Woolsey was forced to resign his post, despite the fact that Ames's crimes had been going on for a decade before he was appointed DCI. With volunteers for the post of director of the beleaguered agency thin on the ground, the Clinton administration eventually settled upon the reluctant John Deutch, who had been serving as Deputy Secretary of Defense. Deutch proved to be extraordinarily unpopular at the CIA, having savaged the Agency during his nomination testimony with some highly critical and tone-deaf comments, such as announcing it was time for 'a new generation of leaders and managers at the CIA' to replace those who had 'grown up fully in the Cold War.'⁴¹ The new DCI had also made no secret of his reluctance to take the job, or of the fact that he valued technical data collection over human spying and espionage, the core business of the DO. 'I'm a technical guy,' he told one interviewer. 'I'm a satellite guy. I'm a SIGINT [signals intelligence] guy.'⁴²

Already disliked and mistrusted, the task of winning the support of his subordinates was made all but impossible for Deutch by his having to conduct what the *New York Times* referred to as a 'cleansing' of 'dirty assets.' This cleansing was largely prompted by a report from the IOB submitted on 28 June, 1996 concerning the CIA's conduct in Guatemala from 1984 to 1995, during which time funds were provided to military officers known to have been involved in the killing of one American and the spouse of another.⁴³ The report argued:

Our clandestine intelligence capability will clearly remain essential to our national security. However, although the conduct of clandestine intelligence collection at times requires dealing with unsavoury individuals and organizations, the value of what we hope to gain in terms of our national

⁴¹ Hearing before the Senate Select Committee on Intelligence on the Nomination of John M. Deutch, to be Director of the Central Intelligence Agency, 26 April and 3 May, 1995, in US Archive.org, <<https://ia600304.us.archive.org/2/items/nominationofjohn1995unit/nominationofjohn1995unit.pdf>> , pp.14-34. [accessed 17 February, 2014].

⁴² Ronald Kessler, *The CIA At War: Inside the Secret Campaign Against Terror* (New York NY: St. Martin's Griffin, 2003), pp.21-22.

⁴³ New York Times Opinion, 'Mr Deutch's Message', *New York Times*, 28 April, 1995, <<http://www.nytimes.com/1995/04/28/opinion/mr-deutch-s-message.html>> [accessed 17 February, 2014].

interests must outweigh the costs of such unseemly relationships and be worth the risks always inherent in clandestine activity.⁴⁴

As a result of the Oversight Board's feedback and Deutch's promise during his testimony to hold every member of staff personally accountable for their actions and any misdeeds which might occur as a result, the Director fired Terry Ward and Fred Brugger, two senior DO officers with links to the Guatemala operation. These officers had spotless records from decades of service and were enormously popular figures inside the Agency.⁴⁵ Jeffrey Smith, Deutch's handpicked general counsel, worked closely with new DCI to write what became known as the 'Deutch Guidelines.' These new rules severely narrowed the margins of moral tolerance to be observed by the agency when it went looking to recruit assets in the future.⁴⁶ Besides the practical constraints which the guidelines introduced with respect to recruiting assets linked to a group such as al-Qaeda, their introduction also had a devastating impact upon morale. 'Our spirit was broken,' said William Lofgren, chief of the Central Eurasian Division. 'At the CIA, you have to be able to inspire people to take outrageous risks. Deutch didn't care about us at all.' The result, according to Lofgren, was that 'people retired in place or left.'⁴⁷

Deutch lasted less than two years as DCI, and by the time his deputy George Tenet was sworn in as Director on July 31 1997, he inherited an agency that was in disarray. The constant turnover of directors had left its policies adrift, and its purpose unclear.⁴⁸ Moreover, the prosecutions and sackings of high-profile and popular staff had a tremendously detrimental impact upon morale, whilst the hefty budget cuts

⁴⁴ 'Report on the Guatemala Review', President's Intelligence Oversight Board, 28 June, 1996, in University of Texas iSchool, <<https://www.ischool.utexas.edu/~gpasch/tesis/pages/guatemala/otr02/iob.tag>> [accessed 17 February, 2014].

⁴⁵ Rizzo, *Company Man*, p.147.

⁴⁶ James Risen, 'CIA to Issue Guidelines on Hiring Foreign Operatives', *Los Angeles Times*, 20 June, 1995, <http://articles.latimes.com/1995-06-20/news/mn-15022_1_cia-director>; Sandra Sobieraj, 'After Guatemala, CIA Developing New Spy-Recruitment Guidelines', *Associated Press*, 12 September, 1995, <<http://www.apnewsarchive.com/1995/After-Guatemala-CIA-Developing-New-Spy-Recruitment-Guidelines/id-078e4d9040fd397c6893a4325d8b7599>>; New York Times Opinion, 'Making the CIA Accountable', *New York Times*, 18 August, 1996, <<http://www.nytimes.com/1996/08/18/opinion/making-the-cia-accountable.html>> [accessed 17 February, 2014].

⁴⁷ Kessler, *The CIA At War*, p.28.

⁴⁸ George Tenet, *At the Center of the Storm: My Years at the CIA* (New York NY: Harper Collins, 2007), p.20.

further drained off talent and spirit with early retirements and redundancies. The negative press associated with the CIA also caused recruitment to stall with just 25 trainees becoming clandestine officers in 1995.⁴⁹ For those who remained at the Agency, a very real risk was that their actions could compromise one of the plethora of new rules and guidelines which had been introduced to curtail any morally ambiguous behaviour. Worse still, their current actions could breach a guideline or break a rule which had not yet been introduced, but which could be applied retrospectively in the future, as had been the case with Ward and Brugger. Within this atmosphere, according to former CIA officer Melissa Boyle Mahle, a culture of risk aversion was ‘pervasive throughout the Agency.’⁵⁰ As someone who spent time prior to 9/11 working in the DO recruitment centre, Mahle’s criticism of the culture within the Agency is particularly telling. So poor was the Agency’s standing that early in his tenure Tenet was invited by former president Gerald Ford to take part in a discussion panel titled “Does America need a CIA?” Whilst the debate was a purely academic exercise, the very existence of such a topic for discussion on a panel served to demonstrate the vulnerability of the Agency.⁵¹

Speaking before the Senate Select Committee on Intelligence (SSCI) in the first hearing of his nomination, Tenet sought to tackle the area he saw as most responsible for the waning of the CIA’s fortunes. He aimed to dramatically reduce the CIA’s role in aggressive covert action and paramilitary activities, the very missions which caused the swinging of the pendulum for and against the Agency. He described such activities as the ‘most controversial’ of the CIA’s major functions, as they exposed both the Agency and its officers to unacceptable legal risk. ‘A succession of administrations,’ observed Tenet in his autobiography, ‘would tell [CIA officers] that they were expected to take risks and be aggressive. But if something went wrong, Agency officials faced disgrace, dismissal, and financial ruin.’⁵² While being careful not to fully reject the use of covert force by promising to ‘sustain the infrastructure we need when the President directs us to act,’ Tenet argued

⁴⁹ Coll, *Ghost Wars*, p.359.

⁵⁰ Melissa Boyle Mahle, *Denial and Deception: An Insider’s View of the CIA from Iran-Contra to 9/11* (New York NY: Nation Books, 2006), p.249.

⁵¹ George Tenet, ‘Does America Need the CIA?’, November 19, 1997, in CIA Speeches and Testimony Archive, cia.gov, <https://www.cia.gov/news-information/speeches-testimony/1997/dci_speech_111997.html> [accessed 12 April, 2011].

⁵² Tenet, *At the Center of the Storm*, p.23.

that covert action, whilst ‘a critical instrument of US foreign policy [...] should never be the last resort of a failed policy.’⁵³ Tenet’s concerns that the CIA often engaged in lethal covert actions because of a lack of other credible policy choices were well founded. It is exactly this scenario which had led to the CIA being put at the front line of America’s first war against terrorism during the Reagan administration, when Casey was given the job of dealing with America’s elusive enemies, a job which no other branch of government had wanted. A decade later, with its staff, budget, moral and legal latitude all reduced, the Agency was once again called upon to take on another such task, that of neutralizing the threat posed by Osama bin Laden and his al-Qaeda network.

The importance of correct legal sanction for successful covert action

Faced with reports of the growing threat posed by the radical Sunni Islamic organisation which had declared a jihad against the United States in 1996, Clinton turned to the CIA to provide a covert action solution. In theory, this was a positive development, as the CIA had been looking for new challenges to make it relevant again since the Cold War.⁵⁴ As Richard Immerman observes, DCI Tenet recognised that ‘for the purpose of advancing the CIA’s mission to enhance American security and restoring its reputation, budget and élan, the agency had to reorient its emphasis.’⁵⁵ The mounting threat of the al-Qaeda network offered such an opportunity. Making the CIA the linchpin for a more aggressive and concerted effort to confront and counter terrorism significantly helped restore the Agency’s reputation and funding.⁵⁶ But placing the CIA into this position also presented new risks for the Agency and its staff. As the acrimonious debates between the principals of the Reagan administration had previously revealed, neutralizing the threat posed by terrorist groups was fraught with legal and ethical challenges, not to mention

⁵³ Hearing before the Senate Select Committee on Intelligence, First Session on the Nomination of George J. Tenet to be Director of the Central Intelligence Agency, 6 May, 1997, in US Senate Select Committee on Intelligence, <www.intelligence.senate.gov/pdfs105th/105314.pdf> [accessed 3 December, 2012]; Excerpts of prepared statement by George J. Tenet to Senate Select Committee on Intelligence, 6 May, 1997, in Federation of American Scientists Intelligence resource Program, <http://www.fas.org/irp/congress/1997_hr/s970506t.htm> [accessed 3 December, 2012].

⁵⁴ Kessler, *The CIA At War*, p.27.

⁵⁵ Immerman, *The Hidden Hand*, p.161.

⁵⁶ *Ibid*, p.162.

physical dangers. With its protagonists existing in a legally grey area between criminals and soldiers, there would always be questions about what level of force was proportionate for the Agency to use. Furthermore, terrorists frequently sheltered amongst civilians, creating additional risks and challenges when pursuing them. Neutralizing the threat posed by terrorism while remaining within the confines of domestic and international law was a challenge with which the CTC had already struggled at a time when their latitude for action had been considerably greater and their resources more plentiful. Risk averse from a decade under pressure, what the CTC required was a clear presidential Finding, a transparent Memorandum of Notification, a direct Executive Order or a detailed Presidential Decision Directive giving explicit legal authority to go after bin Laden and his followers with whatever force was deemed necessary. The CTC needed to be able to operate without fear of legal recriminations should the planned operation fail or result in wider casualties than planned. This is what the Reagan administration had sought to do with NSDD 138 and accompanying Finding, endorsed by then CIA chief counsel Stanley Sporkin.⁵⁷

Post-9/11 both the Bush and Obama administrations ensured the CTC had clear legal sanction to neutralize al-Qaeda members and affiliates when placed on the front line of the War on Terror. Bush's administration had initially held the same legal position as its predecessor, rejecting within its first month a CIA request for a more comprehensive and aggressive MON to target al-Qaeda.⁵⁸ However, following the September 11 attacks new legislation was quickly introduced which altered the conduct of US counterterrorism. The most significant element was the Authorization for the Use of Military Force (AUMF), passed by Congress 420 to one on 18 September, 2001. Written in the emotional days following the 9/11 attacks, the only US politician to vote against the AUMF was the Democrat Representative for California, Barbara Lee. Her concerns were, quite rightly, that the wording of the authorization was a 'blank check' for military action. 'Let's step back for a moment,' she argued; 'let's just pause, just for a minute, and think through the implications of our actions today so that this does not spiral out of control.' The AUMF was initially

⁵⁷ See Chapter 1 for a detailed discussion of the content of NSDD 138 and its introduction.

⁵⁸ Rizzo, p.168.

intended to give Bush the ability to retaliate against whoever orchestrated the attacks, but has since become the primary legal justification for almost every covert American action in the War on Terror, including the drone campaign.⁵⁹ At just 60 words, the AUMF is suitably vague to licence all manner of counterterrorism actions:

That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.⁶⁰

‘It’s like a Christmas tree,’ said John Bellinger III, a lawyer who worked closely with Condoleezza Rice, first Bush’s ANSA and later his Secretary of State. ‘All sorts of things have been hung off those 60 words.’⁶¹

Accompanying the AUMF was Resolution 1368, passed by the UN Security Council the day after the 9/11 attacks. The resolution declared al-Qaeda’s actions a ‘threat to international peace and security,’ and called on ‘all States to work together [...] to bring to justice the perpetrators.’ The resolution also justified a focus upon the Taliban and any other group linked to al-Qaeda by adding that ‘those responsible for aiding, supporting or harbouring the perpetrators [...] will be held accountable.’⁶² This resolution has been significant in enabling the United States to validate its continued campaign against al-Qaeda and their affiliates as self-defence under Article 51 of the UN Charter, which guarantees a state’s ‘inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United

⁵⁹ Gregory D. Johnsen, ‘60 Words And A War Without End: The Untold Story Of The Most Dangerous Sentence in US History’, *Buzzfeed*, 16 January, 2014, <<http://www.buzzfeed.com/gregorydjohnsen/60-words-and-a-war-without-end-the-untold-story-of-the-most>> [accessed 14 April, 2014].

⁶⁰ Senate Joint Resolution 23 107th Congress, 18 September, 2001 in Congressional Record, Vol.147 (2001), <http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ040.107> [accessed 14 April, 2014].

⁶¹ Johnsen, ‘60 Words And A War Without End’.

⁶² UN Security Council Resolution 1368, 12 September, 2001 in UN.org, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N01/533/82/PDF/N0153382.pdf?OpenElement>> [accessed 14 April, 2014].

Nations, until the Security Council has taken measures necessary to maintain international peace and security.’⁶³

The day before the AUMF was passed Bush also signed a Finding explicitly authorising the CIA to target and kill named terrorists.⁶⁴ While media reports suggested Bush’s order marked the first departure from America’s ban on assassination since Ford had issued it, the order was actually based upon a Finding issued by Clinton in 1998. This Finding in turn had its roots in NSDD 138 and the accompanying Finding signed off by Sporkin two decades earlier.⁶⁵ Those who argue that ‘9/11 changed everything,’ as Vice President Cheney put it, oversimplify the CIA’s position.⁶⁶ While there have been well publicised examples of a gung-ho revenge-orientated attitude from members of the Agency, such as then CTC chief Cofer Black’s order to his agents to bring him ‘bin Laden’s head in a box on dry ice,’ the Agency did not immediately embrace targeted killing following Bush’s Finding.⁶⁷ Even with the new authorities granted to them, the *Washington Post* reported that concerns within the CIA regarding legal protection still lingered. Agency lawyers felt the Bush Finding and AUMF were too ambiguous. The Agency was ‘reluctant to accept a broad grant of authority to hunt and kill US enemies at its discretion,’ but it was ‘willing’ and believed itself ‘able to take the lives of terrorists designated by the president.’⁶⁸ Further legal cover was quickly added through the Bush administration’s military order regarding the legal status of al-Qaeda and Taliban fighters, issued on 13 November, 2001. The order designated the fighters of both groups as ‘unlawful combatants’ rather than enemy soldiers or civilians, effectively denying them Geneva Convention protections.⁶⁹ This ‘in-between’

⁶³ Article 51, Chapter VII, Charter of the United Nations, 26 June, 1945 in UN.org, <<http://www.un.org/en/documents/charter/intro.shtml>> [accessed 14 April, 2014].

⁶⁴ Rizzo, p.168.

⁶⁵ David Gow, ‘Bush gives green light to CIA for assassination of named terrorists’, *Guardian*, 28 October, 2001, <<http://www.theguardian.com/world/2001/oct/29/afghanistan.terrorism3>> [accessed 16 December, 2013]; Brian Glyn Williams, *Predators: The CIA’s Drone War on Al-Qaeda* (Washington DC: Potomac Books, 2013), p.28; Rizzo, *Company Man*, p.161.

⁶⁶ Tim Russert interview with Vice-President Dick Cheney, ‘Meet the Press’, *NBC News*, 14 September, 2003, <http://www.nbcnews.com/id/3080244/ns/meet_the_press/t/transcript-sept/#.U0vHzbFwa70> [accessed 14 April, 2014].

⁶⁷ ‘Bring me the head of bin Laden’, *BBC News*, 4 May, 2005, <<http://news.bbc.co.uk/1/hi/world/americas/4511943.stm>> [accessed 14 April, 2014].

⁶⁸ Barton Gellman, ‘CIA Weighs “Targeted Killing” Missions: Administration Believes Restraints Do Not Bar Singling Out Individual Terrorists’, *Washington Post*, 28 October, 2001, p. A01.

⁶⁹ George W. Bush, ‘Detention, Treatment and Trial of Certain Non-Citizens in the War Against Terrorism’, 13 November, 2001, in George W. Bush White House Archive, <

category, as legal scholar Claire Finkelstein has described it, combined with Congress's authorisation for the use of military force against al-Qaeda and the Taliban eased the way for the CIA to undertake targeted killings without fear of legal reprisals.⁷⁰ This position was strengthened further still on 27 August, 2004 when Bush issued EO 13355, which superseded Reagan's EO 12333, the successor to Ford's original assassination ban. While the order did not overtly overturn the assassination ban, it did define 'countering terrorism' as 'a matter of the highest national security priority' and granted the intelligence community 'the authority to translate the intelligence objectives and priorities approved by the President into specific guidance for the Intelligence Community.'⁷¹ With this legal architecture in place, the CTC's first lethal drone strike occurred in Yemen on 3 November, 2002, when one of its Predators destroyed a jeep carrying six al-Qaeda militants.⁷² Duane Clarridge's Eagle Programme had come full circle, and the CTC was once again in possession of an armed remote controlled aircraft.⁷³ Ironically, for a man who had argued that it was the role of the CIA to break laws, his lethal vision for the CTC could only be realised once it was fully enshrined within laws.

A common criticism of the use of the CTC to lead the drone campaign, voiced by the likes of Gary Solis, has been that, despite this legal architecture, CIA drone operators are themselves unlawful combatants due to their civilian status.⁷⁴ Charles Kels, an attorney for Homeland Security, has dismissed such criticism as a misreading of the law of armed conflict, which he argues 'does not prohibit the use of civilian personnel in combat,' as long as they do not engage in 'perfidy', or 'the

whitehouse.archives.gov/news/releases/2001/11/print/20011113-27.html> [accessed 20 December, 2013].

⁷⁰ Claire Finkelstein, 'Targeted Killing As Preemptive Action', in Claire Finkelstein, Jens David Ohlin and Andrew Altman (eds.), *Targeted Killings: Law and Morality in an Asymmetrical World* (Croydon: Oxford University Press, 2012), p159.

⁷¹ Executive Order 13355, 'Strengthened Management of Intelligence Community', 27 August, 2004 in Federal Register, Vol. 69, No.169, 1 September, 2004, <<http://www.gpo.gov/fdsys/pkg/FR-2004-09-01/pdf/04-20051.pdf>> [accessed 20 December, 2013].

⁷² 'Yemen: reported US covert actions 2001-2011', in Drone Wars, Bureau of Investigative Journalism, 29 March, 2012, <<http://www.thebureauinvestigates.com/2012/03/29/yemen-reported-us-covert-actions-since-2001/>>; 'CIA "killed al-Qaeda suspects" in Yemen', *BBC News*, 5 November, 2002, <<http://news.bbc.co.uk/1/hi/2402479.stm>> [accessed 20 February, 2014].

⁷³ See Chapter Three for details on the origin of the Eagle Programme.

⁷⁴ Gary Solis, 'CIA drone attacks produce America's own unlawful combatants', *Washington Post*, 12 March, 2010, <<http://www.washingtonpost.com/wp-dyn/content/article/2010/03/11/AR2010031103653.html>> [accessed 20 March, 2010].

feigning of civilian, non-combatant status’ to mount ambushes.⁷⁵ Convinced by these arguments, the Obama administration has relied upon the same legal structures as the Bush administration to justify its significantly larger scale targeted killing campaign. There were only two notable differences.⁷⁶ First Obama abandoned the term ‘unlawful combatant’ to describe members of al-Qaeda and their associates. This was a political decision rather than a legal one, as the term’s association with the prisoners held in the controversial Guantánamo Bay detention facility meant it held negative political connotations. In practical terms the ‘in-between’ category was retained, and Obama went to great lengths to ensure that his legal authority was seen to be drawn from and consistent with the laws of armed conflict and the principle of “just war” rather than purely from the AUMF. To this end Obama used his 2009 Nobel Peace Prize speech to reframe the rhetoric of Bush’s War on Terror as a just war of self-defence against al-Qaeda, arguing that the United States’ actions were ‘in self-defence’, that ‘the force used is proportional’ and that ‘whenever possible, civilians are spared from violence.’⁷⁷ Other than these rhetorical changes, the Obama administration vigorously defended the legality of using lethal force against al-Qaeda and their associates, not just in the hot battlefield of Afghanistan, but in the geographically remote areas of North West Pakistan, Yemen and Somalia, where al-Qaeda sought to establish safe havens. ‘Indeed,’ reflects Robert Chesney, ‘the Obama administration quickly outstripped its predecessor in terms of the quantity and location of its airstrikes outside of Afghanistan, and it also greatly surpassed the Bush administration in its efforts to marshal public defences of the legality of these actions.’⁷⁸

⁷⁵ Charles G. Kels, ‘Why There’s Nothing Illegal About CIA Drone Pilots’, *Small Wars Journal*, 3 August, 2012, <<http://smallwarsjournal.com/blog/why-theres-nothing-illegal-about-cia-drone-pilots>> [accessed 9 December, 2013]. For further details on the act of perfidy, see Article 37 – Prohibition of perfidy, Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the protection of Victims of International Armed Conflicts (Protocol I), in Adam Roberts and Richard Guelff, *Documents on the Laws of War* (New York NY: Oxford University Press, 2000), p.442.

⁷⁶ Chesney, ‘Beyond the Battlefield’, p.174.

⁷⁷ President Barack Obama, ‘A Just and Lasting Peace’, Nobel Lecture, Oslo City Hall, 10 December, 2009, <http://www.nobelprize.org/nobel_prizes/peace/laureates/2009/obama-lecture.html> [accessed 14 April, 2014].

⁷⁸ Chesney, ‘Beyond the Battlefield’, pp.176-177; For examples of the Obama administration’s public speeches on the legality of their counterterrorism actions, see Kenneth Anderson, ‘Readings: The Canonical National Security Law Speeches of the Obama Administration Senior Officials and General Councils’ in *Lawfare*, 28 August, 2012, <<http://www.lawfareblog.com/2012/08/readings-the-canonical-national-security-law-speeches-of-obama-administration-senior-officials-and-general-councils/>> [accessed 14 April, 2014].

This continuation led to accusations of backtracking from many of those who interpreted Obama's 2008 campaign rhetoric of change to indicate a dramatic departure from the War on Terror.⁷⁹ A Reason-Rupe Poll published on 10 September, 2013 revealed that 64 percent of Americans questioned said 'President Obama's Foreign Policy Is Worse or Same as Bush's.' It is worth noting, however, that this poll was conducted after the NSA scandal had broken and the US was debating possible intervention in Syria, factors which no doubt helped to associate the President with the excesses of his predecessor. Trevor McCrisken argues that those who expected Obama to introduce wholesale changes to US counterterrorism policy 'misread Obama's intentions.' According to McCrisken, 'Obama always intended to deepen Bush's commitment to counterterrorism,' with the change being a campaign more focused upon dismantling al-Qaeda, rather than upon the wider distractions of regime change and democracy promotion, which the war in Iraq represented.⁸⁰ Throughout his first election campaign, Obama made clear this intention to refocus on neutralizing al-Qaeda. For example, during his first debate with John McCain Obama argued that, despite the United States having spent over \$600 billion on the war Iraq, sustaining 4,000 military casualties with a further 30,000 wounded, Bush had neither captured bin Laden nor 'put al-Qaeda to rest.' In fact, Obama continued, the terrorist group was 'resurgent, stronger now than at any time since 2001.' The reason for this, the Senator argued, was that the Bush administration had taken its 'eye off the ball' by invading Iraq. However, rather than an anti-war message, Obama finished his answer by stating that 'the lesson to be drawn is that we should never hesitate to use military force,' but that it should be used wisely. The invasion of Iraq had not been wise.⁸¹

⁷⁹ Dave Boyer, 'Bush policies still alive in Obama White House', *Washington Times*, 24 April, 2013, <<http://www.washingtontimes.com/news/2013/apr/24/bush-policies-still-alive-in-obama-white-house/?page=all>>; Tom Curry, 'Obama continues, extends some Bush terrorism policies', *NBC News Politics*, 6 June, 2013, <<http://nbcpolitics.nbcnews.com/news/2013/06/06/18804146-obama-continues-extends-some-bush-terrorism-policies?lite>>; Emily Ekins, 'Reason-Rupe September 2013 National Survey', 10 September, 2013 in Reason-Rupe Poll, <<http://reason.com/poll/2013/09/10/reason-rupe-september-2013-national-survey>> [accessed 21 February, 2014].

⁸⁰ Trevor McCrisken, 'Obama's war on terrorism in rhetoric and practice', in Michelle Bentley and Jack Holland (eds.), *Obama's Foreign Policy: Ending the War on Terror* (Oxon: Routledge, 2014), p.17.

⁸¹ Transcript of First Presidential Debate between Senators John McCain and Barack Obama, Oxford, Mississippi, 26 September, 2008, in *New York Times*, Election 2008, <<http://elections.nytimes.com/2008/president/debates/transcripts/first-presidential-debate.html>> [accessed 21 February, 2014].

During the same debate, Obama went on to set out his intentions for refocusing the War on Terror, introducing what would evolve into the CIA's drone campaign in Pakistan, by arguing that 'every intelligence agency will acknowledge that al-Qaeda is the greatest threat against the United States,' and that not enough had been done to 'get rid of the safe havens [...] across the border in the northwest regions' of Pakistan. Indicating his willingness to act unilaterally against the terrorist group, Obama concluded his point by declaring that '[i]f the United States has al-Qaeda, bin Laden, top-level lieutenants in our sights, and Pakistan is unable or unwilling to act, then we should take them out.'⁸² While some have argued that the continuation of certain policies under Obama, such as the failure to close the Guantánamo Bay detention facility, illustrate the structural limits to change within the US system, when it comes to his policy against al-Qaeda, Obama has followed through with what he proposed from the outset.⁸³ Hence, any misinterpretation of his intention to mount a more aggressive campaign against al-Qaeda on the part of his supporters was arguably an act of self-deception, not dishonesty on the part of the candidate.

The expansion of the drone campaign did force the Obama White House to strengthen the legal case in one area. The DoJ was pressured into publishing a white paper in order to provide further clarification on the administration's authority to target American citizens, after receiving heavy criticism from both the political left and right following the killing of Anwar al-Awlaki in a drone strike in Yemen on 30 September, 2011.⁸⁴ Addressing the issue further in a speech on US counterterrorism methods, delivered on 23 May, 2013, Obama promised to 'extend oversight of lethal actions outside of warzones that go beyond our reporting to Congress,' whilst at the same time warning that such a course of action posed significant difficulties in practice and would therefore take time to implement.⁸⁵ As part of this promised extension of oversight, Attorney General Eric Holder had already submitted a letter

⁸² Ibid.

⁸³ Jack Holland, 'Why is change so hard', in Bentley and Holland (eds.), *Obama's Foreign Policy*, pp.1-16.

⁸⁴ 'Lawfulness of Lethal Operation Directed Against a US Citizen Who Is a Senior Level Operational Leader of Al-Qa'ida or An Associated Force', Department of Justice White Paper, in *MSNBC News*, <http://msnbcmedia.msn.com/i/msnbc/sections/news/020413_DOJ_White_Paper.pdf> ; 'Anwar al-Awlaki', in Times Topics, *New York Times*, <http://topics.nytimes.com/top/reference/timestopics/people/a/anwar_al_awlaki/> [accessed 18 February, 2014].

⁸⁵ Obama, National Defense University, 23 May, 2013.

to the Senate Judiciary Committee the day before the speech in which he explained that the decision to target Awlaki had been based on ‘generations-old legal principles and Supreme Court decisions handed down during World War II.’ The Attorney General stated that for those small number who decide ‘to commit violent acts against their own country from abroad,’ merely being an American citizen does not make one ‘immune from being targeted.’ Holder went on to argue:

The Supreme Court has long ‘made clear that a state of war is not a blank check for the President when it comes to the rights of the Nation’s citizens.’ [...] But the Court’s case law and longstanding practice and principle also make clear that the Constitution does not prohibit the Government it establishes from taking action to protect the American people from threats posed by terrorists who hide in faraway countries and continually plan and launch plots against the US homeland. The decision to target Anwar al-Aulaqi was lawful, it was considered, and it was just.⁸⁶

Significantly, Awlaki was not the first American citizen killed in a drone strike, and thus executed without a trial. On 3 November, 2002 a Hellfire missile fired from a CIA Predator destroyed a car in Yemen which had been carrying a well-known al-Qaeda commander named Qaed Senan al Harethi. Known as the “Godfather of Terror”, Harethis was linked to the 2000 bombing of the *USS Cole*, which had killed 17 US sailors. Unknown to the CIA at the time, one of Harethi’s passengers in the incinerated vehicle had been Kemal Darwish, a neutralized US citizen and leader of a seven-man al-Qaeda sleeper cell based in Lackawanna, New York. When questioned about the killing of the American by the *Washington Post*, the Bush administration denied knowing Darwish was in the vehicle. However, an anonymous government official echoed the same principle set out in Attorney General Holder’s letter a decade later, telling the reporters ‘it would not have made a difference. If you’re a terrorist, you’re a terrorist.’⁸⁷ While Darwish’s death did not attract anywhere near

⁸⁶ Letter from Attorney General Eric H. Holder to Chairman of Senate Committee on the Judiciary Patrick J. Leahy, 22 May, 2013 in Justice.gov, <<http://www.justice.gov/ag/AG-letter-5-22-13.pdf>> [accessed 18 February, 2014].

⁸⁷ Williams, *Predators*, pp.42-43; Michael Powell and Dana Priest, ‘US Citizen Killed by CIA Linked to NY Terror Case’, *Washington Post*, 9 November, 2002, <<https://groups.google.com/forum/#!topic/misc.legal/qhTUoBpOtrJ>>; Roya Aziz and Monica Lam, ‘Profiles: The Lackawanna Cell’, in *PBS Frontline*, December, 2003,

the level of publicity and protest as Awlaki's, the killing of an American citizen and the high-tech nature of its execution did bring some criticism. Alluding to the potentially seductive nature of the new remote method of targeted killing, an article published in the *Economist* later that year, titled 'Assassination by remote control,' predicted that 'the use of pilotless aircraft to hunt down terrorists will become more appealing to America.'⁸⁸ In typically bullish style and reflecting a period during which America's counterterrorism practices were under less scrutiny due to the relative proximity of 9/11, Bush defended the CIA's pursuit of al-Qaeda leaders through rendition and targeted killings in a speech delivered on the day of the Yemen strike. He argued that, 'The best way to secure this homeland, short-term and long-term, is to find those killers one at a time and bring them to justice.' The struggle against al-Qaeda was a different kind of war, Bush explained. 'It's a kind of war instead [sic] of trying to knock down airplanes and sink ships, we're looking in caves.' The United States had to put 'the spotlight on some of the dark corners of the world,' because al-Qaeda's leaders hid there whilst they sent youngsters out to their suicidal deaths, the President continued. 'The only way to treat them,' Bush reasoned, 'is what they are - international killers.' And the only way to find them, the President added, was 'to be patient and steadfast and hunt them down.'⁸⁹

The Clinton administration's lack of appropriate legal architecture

While the legal clarity which authorises the CIA's lethal drone campaign may appear to be a product of the 9/11 attacks, the reality is that it is based upon a legal architecture which has its roots in the Reagan administration, and gradually evolved during the Clinton administration. The 9/11 attacks accelerated the process and guaranteed greater public support, but the policy of targeted killing embraced by George W. Bush and to a greater extent by Obama has both its strategic and legal

<<http://www.pbs.org/wgbh/pages/frontline/shows/sleeper/inside/profiles.html>> [accessed 14 April, 2014].

⁸⁸ 'Assassination by remote control', *Economist*, 5 November, 2002, <<http://www.economist.com/node/1427862>> [accessed 14 April, 2014].

⁸⁹ Remarks by President Bush at Arkansas Welcome, Northwest Arkansas Regional Airport, Bentonville, Arkansas, 4 November, 2002 in George W. Bush White House Archive, <<http://georgewbush-whitehouse.archives.gov/news/releases/2002/11/20021104-7.html>> [accessed 14 April, 2014].

roots in the actions of the Reagan and Clinton administrations. For Clinton, however, in the pre-9/11 security environment in which the prevailing culture had been to constrain the CIA's covert paramilitary capabilities, the path to empowering the CTC to neutralize al-Qaeda's leadership was a cautious, at times faltering and frequently frustrating one.

When the new wave of Sunni Islamic terrorism first revealed itself, initially with Mir Ami Kasi's attack upon CIA staff outside Langley on 25 January, 1993, followed by Ramzi Yousef's bombing of the WTC a month later, the unanimous view within the government at the time was that the law-enforcement community was to take the lead in combatting the terrorists. The FBI headed the investigation, and Yousef and his fellow terrorists were to be indicted, arrested and prosecuted in US courts.⁹⁰ Some, such as the CIA's John Rizzo have argued that, while such an approach presented relatively few legal challenges for the US, it left America vulnerable to the problem Schultz and his fellow counterterrorism hardliners had warned of two decades before, that a terrorist attack had to be carried out before any action could be taken against its perpetrators.⁹¹ This is not strictly true, however, as the FBI's TERRSTOP investigation showed. As a result of the investigation, Omar Abdel-Rahman, otherwise known as 'the Blind Sheikh', and 11 of his followers were arrested, charged and found guilty of planning a 'Day of Terror', during which the group hoped to paralyze New York City by assassinating several political figures and bombing numerous landmarks simultaneously.⁹² However, in defence of Rizzo's criticism, the records show that it is unlikely the FBI would have investigated the plot had it not been for the Yousef bombing, despite warnings from a well-placed informant. Bureau documents quote this informant as having berated agents following the WTC attack, declaring in frustration: 'It takes a bomb with you guys to wake up and start to move.'⁹³

⁹⁰ Benjamin and Simon, *The Age of Sacred Terror*, pp.7-19; Naftali, *Blind Spot*, pp.232 – 234; Lawrence Wright, *The Looming Tower: Al-Qaeda's Road to 9/11* (New York NY: Penguin, 2007), pp.176 – 179; Rizzo, *Company Man*, p.159.

⁹¹ Rizzo, *Company Man*, p.159. See Chapter 1 for details on Schultz's position on pre-empting terrorist attacks.

⁹² Naftali, *Blind Spot*, pp.232–234.

⁹³ Benjamin and Simon, *The Age of Sacred Terror*, p.18.

Anthony Lake, Clinton's ANSA described the WTC bombing as a 'wake-up call'.⁹⁴ The State Department's 'Patterns of Global Terrorism' reports for 1994 and 1995 showed a significant increase in the number of Sunni jihadist-linked terror attacks, and Paul Pillar, a counterterrorism analyst at the CIA, coined the phrase 'ad-hoc terrorism' to describe what he warned was 'a watershed in global terrorism – the debut of a new generation of unaffiliated, religious and political violence.'⁹⁵ Gradually, as intelligence reporting continued to warn of the growing trans-national security threat posed to the United States by this Islamic extremism, both the Clinton administration and the CIA began to move toward the position previously held by the counterterrorism hardliners within the Reagan administration. In January 1996, the CTC focused its intelligence resources into an interdisciplinary virtual station staffed by CIA, NSA, FBI and other officers to track an individual identified as 'one of the most significant financial sponsors of Islamic extremist activities in the world.'⁹⁶ That individual was Osama bin Laden, the leader of al-Qaeda, an Islamic extremist group formed in 1988 with the explicit aim of uniting the previously disparate Sunni Islamic radical groups together in a jihad against the "far enemy" of the United States.⁹⁷ The station's mission, according to DCI Tenet's testimony to the 9/11 commission, was to 'track him [bin Laden], collect intelligence on him, run operations against him, disrupt his finances and warn policymakers about his activities and intentions.'⁹⁸ The creation of the Bin Laden Issue Station marked a significant return on the part of the CTC to what its founder, Duane Clarridge, had

⁹⁴ Naftali, *Blind Spot*, p.234.

⁹⁵ '1994/1995 Patterns of Global Terrorism', US Department of State, in Federation of American Scientists, 'Terrorism: Background and Threat Assessments', <<http://www.fas.org/irp/threat/terror.htm>> [accessed 18 February, 2014]; Steve Coll, *Ghost Wars: The Secret History of the CIA, Afghanistan and bin Laden from the Soviet invasion to September 10, 2001*, (London: Penguin, 2005), p.261.

⁹⁶ 'Usama bin Laden Islamic Extremist Financier', CIA Bio Sketch, in Bin Laden File, National Security Archive <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB343/osama_bin_laden_file01.pdf> [accessed 18 February, 2014].

⁹⁷ For details of bin Laden's call to jihad and plans to attack the "far enemy" of the United States, see: Osama bin Laden, 'The Invasion of Arabia', c. 1995/1996, in Bruce Lawrence, *Messages to the World: The Statements of Osama bin Laden* (New York NY: Verso, 2005), pp.15-19; Osama bin Laden, 'Declaration of Jihad Against the United States', 23 August, 1996 in Global Security.org, <http://www.globalsecurity.org/security/profiles/osama_bin_laden_declares_jihad_text.htm>; Osama bin Laden, 'World Islamic Front Declaration of Jihad against Jews and Crusaders', 23 February, 1998, in Intelligence Review Programme, Federation of American Scientists, <<http://www.fas.org/irp/world/para/docs/980223-fatwa.htm>> [accessed 15 April, 2014].

⁹⁸ George Tenet, written statement before the 9/11 Commission, 24 March, 2004, <http://www.9-11commission.gov/hearings/hearing8/tenet_statement.pdf> [accessed 18 February, 2014].

first envisioned. It was interdisciplinary, global in outlook and focused on developing plans to neutralize terrorist threats. There was one significant exception, however, its lack of lethal capability.

Despite Tenet informing the Clinton administration that ‘an al-Qaeda defector told us that UBL [bin Laden] was the head of a worldwide terrorist organization with a board of directors that included al-Zawahiri,’ and in spite of the terrorist leader issuing two public declarations of jihad against the US in which he made clear his intent to kill Americans and their allies, the CTC had very limited legal authority to mount an operation to neutralize this threat.⁹⁹ The nature of the CTC’s sources and evidence meant that initially, despite significant intelligence attesting to his group’s organisational abilities and determination to strike the US, there was no legal indictment for bin Laden. The terrorist leader’s use of virtually lawless safe havens made it impossible to investigate his group’s activities in order to gather evidence of the quality to stand up in a US court. Furthermore, even after an indictment was eventually filed, following al-Qaeda’s bombing of American embassies in Kenya and Tanzania on 7 August 1998, bin Laden’s sheltered locations made arrest almost impossible.¹⁰⁰ Initially, bin Laden had based himself in Sudan, which under Hassan Turabi’s rule had become what former-CIA analyst Bruce Riedel described as ‘a safe haven for all kinds of radicals and dissidents.’¹⁰¹ The DoS defines a terrorist safe haven as ‘ungoverned, under-governed, or ill-governed physical areas where terrorists are able to organize, plan, raise funds, communicate, recruit, train, transit, and operate in relative security because of inadequate governance capacity, political will, or both.’ Sudan certainly met those criteria for al-Qaeda.¹⁰² The UN did eventually exert political pressure on Turabi to expel known terrorists after an assassination attempt on Egyptian Prime Minister Hosni Mubarak was traced back to

⁹⁹ Tenet, *Center of the Storm*, p.102.

¹⁰⁰ ‘Indictment of Osama bin Laden’, United States District Court, Southern District of New York, 4 November, 1998, in Findlaw.com, <<http://f11.findlaw.com/news.findlaw.com/hdocs/docs/binladen/usbinladen1.pdf>>; ‘Attacks on US Embassies in Kenya and Tanzania’ in Global Security.org, <<http://www.globalsecurity.org/security/ops/98emb.htm>> [accessed 23 February, 2014]. Also see Clarke, *Against All Enemies*, pp.181-184, Wright, *The Looming Tower*, pp.270-272.

¹⁰¹ Bruce Riedel, *The Search for Al-Qaeda: Its Leadership, Ideology and Future* (Washington, DC: Brookings Institution Press, 2008), p.49; Wright, *Looming Tower*, pp.163-212.

¹⁰² ‘Chapter 5: Terrorist Safe Havens’, in Country Reports on Terrorism 2012, Office of the Coordinator for Counterterrorism, US State Department, 30 May, 2013, <<http://www.state.gov/j/ct/rls/crt/2012/209987.htm>> [accessed 15 April, 2014].

his country.¹⁰³ As a result, bin Laden returned to Afghanistan where he had fought in the anti-Soviet jihad a decade previously. According to the 9/11 Commission, upon his arrival Pakistani Inter-Services Intelligence (ISI) officers introduced him to the Taliban.¹⁰⁴ From here the link is well documented, with the Taliban sheltering bin Laden as their ‘guest’, having reportedly asked him ‘not to carry out terrorist activities against other countries.’¹⁰⁵ As US diplomatic relations with the Taliban soured any chance of prosecuting bin Laden through official legal and diplomatic channels dissolved.¹⁰⁶

That bin Laden was a threat to the lives of US citizens and those of America’s allies was clear, as was the fact that he was beyond the reach of both the US judicial system and international law. The challenge of reaching terrorists who sheltered in safe havens around the world was one with which the Reagan administration had already struggled. The solution had been the CIA’s creation of the CTC, backed by a presidential Finding, which had authorized its officers to undertake worldwide covert action against terrorism. However, after the fallout of the Iran-Contra scandal and a decade of budget cuts and legal constraints the CTC was less well equipped to complete the mission than its founders had originally envisioned. The Center quickly developed a plan which involved deploying the bin Laden unit’s TRODPINT team (left-over assets from the Agency’s involvement with the Afghan mujahideen in the 1980s) to storm Tarnak farm, a compound in which it was believed bin Laden was staying.¹⁰⁷

Although the Reagan-era Finding technically provided adequate legal authority for the CTC to begin moving against bin Laden, in the words of the 9/11 commission, the Agency was ‘mindful of the old “rogue elephant” charge,’ and

¹⁰³ UN Security Council Resolution 1104, January 1996 and UN Security Council Resolution 1054, April 1996, in UN.org, <<http://www.un.org/Docs/scres/1996/scres96.htm>> [accessed 21 February, 2014].

¹⁰⁴ *9/11 Commission*, pp.64-65.

¹⁰⁵ ‘Afghanistan: Taliban agree to visits of militant training camps, admit bin Laden is their guest’, US State Department cable, 9 January, 1997, in Bin Laden File, National Security Archive’, <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB343/osama_bin_laden_file10.pdf> [accessed 10 September, 2011]; Riedal, *The Search for Al-Qaeda*, pp.61-84.

¹⁰⁶ Clarke, *Against All Enemies*, pp.208-209. Also see Sajit Gandhi (ed), ‘Volume VII: The Taliban File’, in The September 11th Sourcebooks, National Security Archive, <<http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB97/>> [accessed 21 February, 2014].

¹⁰⁷ Coll, *Ghost Wars*, pp.371–371, 377–378. For more on the hunt for Kasi, see Chapter 5.

senior CIA managers wanted something on paper to show that they were not acting on their own.¹⁰⁸ John Rizzo, who drafted both the original Reagan Finding and those which followed under Clinton, explained how significantly things had changed for the Agency from the days of the Reagan counterterrorism hardliners, noting that ‘of all the officials who had been involved in the Finding back then, I was the only one who was still around in 1998.’ According to Rizzo’s memoirs, ‘I didn’t want the Agency to act simply on the basis of that Finding. ‘I wrote it in another era, to deal with terrorists from another era, long before there was anyone comparable to bin Laden.’ Rizzo also had doubts concerning the proposed operation. When the Clinton administration first ordered the CTC to develop a plan to capture bin Laden the al-Qaeda leader was not actually facing criminal charges in the United States, nor was there another country which would have been willing to put him on trial on America’s behalf. Furthermore, the CTC had reported that bin Laden was ‘unlikely to come quietly,’ raising fears that any snatch operation undertaken by the Afghan tribals could result in a shoot-out causing the deaths of bin Laden, and perhaps women and children around him. ‘And the Clinton White House was only talking about capturing bin Laden,’ noted Rizzo, ‘not knocking him off.’¹⁰⁹

In all, four MONs were drafted by the CIA for Clinton between February 1998 and February 1999. The first was for the planned tribal snatch plan, but the proposal never made it to the President’s desk for approval. Although Michael Scheuer, the head of the CTC’s Bin Laden Station, was strongly in favour of the operation, senior managers at the Agency had overwhelming doubts.¹¹⁰ Former DCI Tenet provides his version of events in his memoirs, explaining that he took Scheuer’s recommendation ‘very seriously, but six senior CIA officers stood in the chain of command between Mike and me.’ Unlike Scheuer who was an analyst untrained in paramilitary operations, most of the senior staff were seasoned operations officers. ‘Every one of those senior operations officers above Mike,’ Tenet notes, ‘recommended against undertaking the operation.’ The reasons given ranged from an outright belief that the operation could not succeed to a fear that too many innocent

¹⁰⁸ *The 9/11 Commission Report*, p.113.

¹⁰⁹ Rizzo, *Company Man*, p.161.

¹¹⁰ Lawrence Wright, interviews with Scheuer, Dale Watson, Mark Rossini, Daniel Coleman, and Richard A. Clarke, in *The Looming Tower*, pp.265-266

women and children were likely to be killed. Geoff O'Connell, director of the CTC at the time of the planning allegedly told the former DCI that the proposed raid was 'the "best plan we had", but that "it simply wasn't good enough."' ¹¹¹

Not only were the CIA managers concerned about the strategic elements of the plan, there was also apprehension concerning the reliability of the surrogates to conduct the operation within the boundaries of what would be acceptable. Tenet makes a specific point of the fact that no one in the Clinton administration gave the CIA permission to use elite American troops; instead the Agency had to rely upon its old tribal links. Having experienced first-hand from the failed Fadlallah mission in Beirut a decade earlier how difficult untrained surrogates can be to control in such situations, and how the blowback of a failed operation can damage both the CIA and wider US interests, the Agency was determined to avoid collateral damage. ¹¹² Tenet explained that '[We] couldn't simply have our surrogates burst in, guns blazing, and hope for the best'. Commenting on the shift in attitudes and latitude pre and post-9/11, the former DCI noted how '[t]hat sort of "kill 'em and let God sort 'em out" approach might have had a lot of appeal after the massacres of 9/11, but 1998 was a different environment, legally and otherwise. ¹¹³

The second MON was signed in late August 1998, following al-Qaeda's bombing of US embassies in Africa. With dramatic evidence that bin Laden's declarations of jihad against the US had not been hollow threats, the new MON was meant to encapsulate the Clinton administration's increased determination to neutralize bin Laden. However, coupled with the strategic difficulty of planning an operation against bin Laden in a safe haven, this MON also highlighted the political difficulties involved in achieving this objective. The use of the intelligence services to undertake assassination was still banned by executive order. While Stanley Sporkin, the CIA counsel under the Reagan administration may have been willing to argue that this ban only extended to heads of state and not terrorists, both Rizzo and Tenet have identified the 1990s as a very different legal environment. In an effort to

¹¹¹ George Tenet, *At the Center of the Storm: My Years at the CIA* (New York NY: Harper Collins, 2007), pp.171-173.

¹¹² See Chapter 2 for details on the Fadlallah assassination attempt and the reported links to the CIA.

¹¹³ Tenet, *At the Center of the Storm*, p.172.

avoid any overt language linking the White House to something which could be interpreted as an assassination plot, Rizzo was instructed by staff within Clinton's NSC to add language to the MON authorizing the tribals to use force only in 'self-defence.' In Rizzo's words, 'it was a phrase I did not remember ever including in a Finding or MON before and one more suited for a judge's jury instructions in a criminal trial than as a covert-action directive.'¹¹⁴ It was a phrase which added a layer of complexity to an already difficult mission, as all planning had to be conducted with the exfiltration of bin Laden in mind.

As time dragged on and the CTC proved unable to develop a workable snatch plan, the CIA pushed for language which incorporated an acknowledgement on the part of the President that any effort to capture bin Laden was most likely going to end up with him killed in a gunfight. Clinton signed yet another MON in December 1998 to this effect, but once again political self-interest interfered with the language. Somewhere up the NSC chain on the way to the President a phrase was added which shifted the responsibility for bin Laden's death, should it occur, firmly to the CIA. The edited MON stated that the CIA could authorize the tribals to kill bin Laden, but only if capture was 'not feasible.' Again, Rizzo observed that this was another term which he had previously never seen in a covert-action authorization.¹¹⁵ There was good reason for this. The phrase was unnervingly vague for those accountable for signing off the mission within the Agency. It put responsibility for bin Laden's life or death squarely on the CIA, despite the fact that the orders to neutralize the threat came from the White House. Who was to judge whether capture was feasible? The DCI, the DO, the tribals' handlers or was responsibility to be handed to the tribals themselves? At what point was the decision meant to be made? Was this something that could be decided and relayed to the tribals during the planning stage, or was it a decision which the tribals were meant to make in the heat of the moment during the operation itself? Worst of all in the mind of the senior managers of the CIA, the judgement could even be made retrospectively by a member of the Executive branch or a Senate Select Committee.

¹¹⁴ Rizzo, *Company Man*, p.162.

¹¹⁵ Ibid, p.162; Sale, *Clinton's Secret Wars*, p.299.

One final MON was introduced in February 1999. As doubts lingered about the TRODPONT team's likelihood of ever being up to the task of successfully snatching bin Laden, the CIA developed a plan to use the better trained and more capable forces of Ahmed Shah Massoud.¹¹⁶ Massoud was arguably Afghanistan's most capable warlord and leader of the Taliban's bitter foes, the Northern Alliance. The CIA's hope was that Massoud would be able to accomplish what was being asked of the CTC within the boundaries of what Clinton's White House had imposed. While still uncomfortable with the feasibility aspect of the December 1998 MON, the CIA had greater confidence in the ability of Massoud's more professional and disciplined forces to conduct the operation cleanly and efficiently than they had with respect to the tribal assets. While the Massoud plan was sound in theory, its chances of success were again undermined by political concerns surrounding assassination and the language of the MON. This time, it was Clinton himself who annotated the MON. The president reinserted the qualification from the August 1998 MON which stated that lethal action could only be taken in self-defence. Ultimately, this meant that members of the less capable TRODPONT group had the most latitude with their raid: they would be able to use their own judgement as to the feasibility of getting bin Laden out alive and act accordingly, whereas Massoud's more capable forces had stricter limitations, only able to use force in self-defence. The ambiguity of the American position was not lost on Massoud and his men. As an American officer responsible for liaising with the warlord's forces recalled, 'The Northern Alliance thought, "Oh, okay, you want us to capture him. Right. You crazy white guys."' ¹¹⁷ Garry Schroen, the CIA's main liaison with Massoud, whose links dated back to the Afghan jihad of the 1980s, believed that the capture proviso did not actually stop Massoud planning an operation against bin Laden. It did, however, inhibit those plans.¹¹⁸ During his testimony before the 9/11 Commission five years later, Clinton claimed to have no recollection of editing the MON, and was unable to explain why he did so.¹¹⁹ Despite this, in his memoirs Clinton makes it clear that he felt he had given the CIA all of the authority they needed to launch a lethal operation against bin

¹¹⁶ Coll, *Ghost Wars*, pp.499-501, 506-507.

¹¹⁷ Ibid, p.499.

¹¹⁸ *9/11 Commission Report*, p.139.

¹¹⁹ Dan Eggen and John Mintz, '9/11 Panel Critical of Clinton, Bush', *Washington Post*, 24 March, 2004, < <http://www.washingtonpost.com/wp-dyn/articles/A18972-2004Mar23.html> > [accessed 24 February, 2014]; *9/11 Commission*, p.139.

Laden, remarking that he ‘signed several Memoranda of Notification authorizing the CIA to use lethal force to apprehend bin Laden.’ When the CTC officers and Afghan tribals were ‘uncertain as to whether they had to try to capture bin Laden before they used deadly force I made it clear they did not,’ he claims unequivocally. Continuing to defend the extent to which he granted the CIA the necessary authorization to act, Clinton added that ‘within a few months’ of signing the first MONs he had ‘extended the lethal force authorization by extending the list of targeted bin Laden associates and the circumstances under which they could be attacked.’¹²⁰

Richard Clarke, Clinton’s National Coordinator for Counterterrorism agrees with the President’s viewpoint, asserting that the CIA had all the legal authority they needed to carry out the operation against bin Laden. Expressing disbelief at what he regards as the CIA proving ‘pathetically unable to accomplish the mission,’ Clarke complains that he cannot understand ‘why it was impossible for the United States to find a competent group of Afghans, Americans, third country nationals, or some combination who could locate bin Laden in Afghanistan and kill him.’ Responding to criticism that the lethal authorizations ‘were convoluted’ and that the “‘people in the field” did not know what they could do,’ Clarke argues that ‘every time such an objection was raised during those years, an additional authorization was drafted with the involvement of all the concerned agencies, and approved by the President’s signature.’ Justifying the caution surrounding the language of the MONs, the former counterterrorism tsar described how the Principals and President sought to avoid sparking a cycle of violence similar to that which the Israelis found themselves locked into following their broad assassination policy introduced in retaliation for the 1972 Munich terror attacks, but adds that ‘the President’s intent was very clear: kill bin Laden.’ Any claims otherwise, Clarke protests, are excuses to cover up the Agency’s failings.¹²¹

Unsurprisingly, many within the CTC disagree with Clinton and Clarke’s assessments. Scheuer, the first head of the Bin Laden station, blames what he saw as obstructionism, short-sightedness and even cowardice by senior management in both

¹²⁰ Bill Clinton, *My Life* (New York NY: Knopf Publishing, 2004), p.804.

¹²¹ Richard A. Clarke, *Against All Enemies: Inside America’s War on Terror* (London: Free Press, 2004), p.204.

the CIA and the Executive for the failure to neutralize bin Laden. Shortly after the formation of the Bin Laden station, Scheuer had categorically stated that the destruction of bin Laden and al-Qaeda ‘could be accomplished only with the direct intervention of some type of force on the ground.’¹²² In Scheuer’s view, senior staff lacked the will to do what was necessary to neutralize al-Qaeda. When relieved of command of the Bin Laden station in May 1999 for a series of recriminatory emails, Scheuer’s response summed up his frustrations. Rather than retiring as was expected, he reported for work the following Monday and took a seat at a desk in the library ‘waiting for the agency to come to him when it was ready to kill, not dither.’¹²³ Following the 9/11 attacks, Scheuer was indeed taken back on and served as a special advisor to the chief of the Bin Laden unit from September 2001 to November 2004.¹²⁴ In his book *Imperial Hubris*, first published anonymously the year he left the advisory post, Scheuer reasserted his case for the use of lethal force against al-Qaeda, heavily criticising the defensive mentality America’s government had adopted as ‘cowardice’ cloaked by ‘words about international comity, civilized norms, and high moral standards.’ ‘Such words,’ Scheuer provocatively claimed, ‘are proper only in a suicide note for the nation.’ Instead, the former CIA analyst called for the engagement of ‘whatever martial behaviour is needed’ to remove the threat posed by al-Qaeda.¹²⁵ Scheuer argued that large scale lethal force, with the accompanying risk to civilian lives, would be necessary to destroy al-Qaeda. ‘Progress will be measured by the pace of killing and, yes, by body counts.’ These body counts, Scheuer advised, would need to be precise and would likely run into ‘extremely large numbers.’ ‘The piles of dead will include as many or more civilians as combatants,’ warned that former head of the Bin Laden Unit ominously, ‘because our enemies wear no uniforms.’¹²⁶ Although Scheuer’s forecast that civilian casualties would match those of America’s enemies has proven overly pessimistic, in many ways his prediction that effectively combating al-Qaeda would require a much more significant deployment of lethal force, precise body counts and a greater

¹²² Gary Berntsen, *Jawbreaker: The Attack on Bin Laden and Al-Qaeda: A Personal Account by the CIA’s Key Field Commander* (New York NY: Three Rivers Press, 2005), p.32.

¹²³ Wright, *Looming Tower*, pp.291-292.

¹²⁴ Michael Scheuer, *Marching Toward Hell: America and Islam After Iraq* (New York NY: Free Press, 2008).

¹²⁵ Michael Scheuer, *Imperial Hubris: Why the West is Losing the War on Terror* (Washington, DC: Potomac Books, 2004), pp.241-242.

¹²⁶ *Ibid*, p.242.

tolerance of collateral damage has proven correct through the expansion of the CTC's drone campaign.

Scheuer's frustrations at the lack of lethal action were shared by other agents, who complained that politics had become more important to the Agency than action. Robert Baer, a 21 year veteran of the DO, described how changes to the CIA left him with 'a growing rage that [he] was having more and more trouble containing.' Nostalgically referring back to his days working under Clarridge in the CTC, Baer explained that 'back then, the CIA was expected to operate on the edge, do things no other government agency would consider.' By the time he retired in 1997 however, Baer complained that 'politics had seeped down to its [the CIA's] lowest levels, into operations, where I worked.'¹²⁷ Explaining his reasons for leaving the Agency he loved, Baer continued his criticism:

Whether it was Osama bin Laden, Yasir Arafat, Iranian terrorism, Saddam Hussein, or any of the other evils that threaten the world, the Clinton administration seemed determined to sweep them all under the carpet. Ronald Reagan and George Bush before Clinton were not much better. The mantra at 1600 Pennsylvania Avenue seemed to be: Get through the term. Keep the bad news from the newspapers. Dump the naysayers. Gather money for the next election – gobs and gobs of it – and let some other administration down the line deal with it all. Worst of all, my CIA had decided to go along for the ride.¹²⁸

Gary Berntsen, another experienced member of the DO and CTC, shared similar grievances in his memoirs. For Berntsen, a combination of Clinton, who 'd[idn't] have it in his DNA to act [...] boldly,' and 'risk aversion on the seventh floor [the DCI's office]' made the necessary action against al-Qaeda 'a non-starter.'¹²⁹ Even Tenet's declaration of war against al-Qaeda following the African embassy bombings was rejected by Berntsen as nothing more than a rhetorical flourish. To Berntsen, the statement was not backed up by actions and undermined by the

¹²⁷ Robert Baer, *See No Evil: The True Story of a Ground Soldier in the CIA's War on Terrorism* (London: Arrow Books, 2002), p.126, pp.398-399.

¹²⁸ *Ibid*, pp.399.

¹²⁹ Berntsen, *Jawbreaker*, p.32.

ongoing series of budget cuts and early retirements. ‘I thought, Great, let’s get rid of our most senior and qualified officers, tie those who are left in red tape, and then declare war.’ ‘In George Tenet’s CIA,’ Berntsen continued, ‘the conduct of operations was less important than Beltway politics and networking on the seventh floor.’¹³⁰

In its efforts to apportion blame, the 9/11 Commission, having heard the testimony from all involved, decided the failure to neutralize bin Laden was not due to a lack of will on the part of the President and his national security team. Nor did it blame a lack of competence or imagination on the part of the CIA. Instead, the Commission identified a lack of clear legal sanction for the use of lethal force as the problem. There was no clear bipartisan support or creation of the necessary legal architecture to empower the CIA to act without fear of prosecution and institutional damage. The Commission’s report concluded that ‘the President’s intent regarding covert action against bin Laden was clear: he wanted him dead.’ However, that intent was never well communicated to nor understood by the CIA. Senior managers, operators, and lawyers within the Agency all confirmed this unfortunate disconnect to the Commission, with a former chief of the bin Laden unit telling its members, ‘We always talked about how much easier it would have been to kill him [bin Laden].’¹³¹ Despite this sympathy toward the CIA, the Commission still concluded that the Agency’s approach to paramilitary operations had been ‘muddled.’ Apparently ignorant of the constraints which had been placed on the CIA over the previous decade, the Commission had been struck by what they saw as the Agency’s ‘unwillingness to take risks’ and reluctance ‘to pull the trigger when opportunities were presented.’ The biggest problem, as the commissioners saw it, was that ‘the Pentagon had the capabilities for hunting-and-killing operations, but the CIA had the authorities.’¹³² The Commission’s conclusion that the CIA had all the legal authorities it needed prior to 9/11 ignores the fact that it was not until Bush issued an additional Finding on 17 September and the AUMF was passed the following day that the CIA undertook its first targeted killing against al-Qaeda.

¹³⁰ Ibid, pp.33-36.

¹³¹ *9/11 Commission Report*, p.133.

¹³² Mazzetti, *Way of the Knife*, p.81.

Factors acting to constrain the Clinton administration's use of lethal force

Despite Scheuer, Baer and Berntsen's complaints, Beltway politics were a necessary concern as the White House considered the legal sanction to use lethal force against bin Laden and al-Qaeda. On the most basic level, regardless of his orders for the CIA to deal with the threat of al-Qaeda, Clinton was very conscious that he did not want to fall foul of the US ban on assassination. While the Bush and Obama administrations have made it clear that they regard CIA drones to be undertaking targeted killings rather than assassinations, the defining line between the two is a fine one. The concept and practice of assassination has proven hard to define, and many critics of the drone campaign such as the investigative journalists Jeremy Scahill and Glenn Greenwald, have consciously chosen to refer to the practice as assassination rather than use what they describe as 'the euphemistic term' of targeted killing, which 'the government wants [them] to use' in order to imply accuracy and legitimacy.¹³³ In basic terms, an assassination is 'the killing of an individual or group of individuals for purely political or ideological reasons,' whereas a targeted killing is 'the killing of an individual or group of individuals without regard for politics or ideology, but rather *exclusively* for reasons of state self-defence.'¹³⁴ The state of war which the United States has argued has existed between it and al-Qaeda since 9/11, legally supported by the wording of the 2001 AUMF, has made it significantly easier for the post-9/11 administrations to define their actions as being in self-defence.¹³⁵ For Clinton, however, this was much more difficult. There was no precedent for the United States being in a state of armed conflict with a non-state terrorist group. During the Reagan administration, CIA counsel Stanley Sporkin may have ruled that targeting terrorists did not constitute assassination, but the terrorist groups in question were state-sponsored. Moreover, as already illustrated the 1990s were a very different environment, both legally and politically, for the Executive and the CIA. Hence, Clinton and the members of his NSC were at pains to keep the wording

¹³³ Jeremy Scahill and Glenn Greenwald, 'The NSA's Secret Role in the US Assassination Program', *The Intercept*, 10 February, 2014, <<https://firstlook.org/theintercept/article/2014/02/10/the-nsa-secret-role/>>; Erik Wemple, 'Glenn Greenwald and the US "assassination" program', *Washington Post*, 10 February, 2014, <<http://www.washingtonpost.com/blogs/erik-wemple/wp/2014/02/10/glenn-greenwald-and-the-u-s-assassination-program/>> [accessed 15 April, 2014].

¹³⁴ Thomas B. Hunter, *Targeted Killing: Self-Defence, Preemption, and the War on Terrorism* (United States: Booksurge Publishing, 2009), p.7.

¹³⁵ James DeShaw Rae, *Analysing the Drone Debates: Targeted Killing, Remote Warfare, and Military Technology* (New York NY: Palgrave Macmillan, 2014), p.52.

of the MONs as far away as possible from anything which could be construed as an order to kill an individual for political or ideological reasons.

Almost certainly, this sense of caution also extended to the potential political fallout should the CIA's mission against bin Laden go wrong. As President Ford had stated, one of the reasons he introduced the ban on assassination was to protect future presidents from the seduction of covert operations, which, if exposed or unsuccessful, had the power to embarrass, weaken or even bring down presidencies. Clinton's childhood hero, John F. Kennedy, was a president who suffered significant political embarrassment when the CIA's covert operation to back the Bay of Pigs invasion of Cuba failed miserably. Kennedy had placed much of the blame for the failure on the CIA, confessing that he had wanted to 'splinter [it] in a thousand pieces and scatter it to the winds.'¹³⁶ The last Democrat to occupy the White House before Clinton had also suffered costly political humiliation when his risky operation to rescue the US hostages in Iran also failed.¹³⁷ And it was not just the CIA that was ravaged by the breaking of the Iran-Contra scandal. The reputation of President Reagan was also adversely affected: his approval ratings sank by 21 points and for a time his administration struggled to articulate its messages over the din of the media circus generated by the scandal.¹³⁸ While Reagan did recover his credibility and popularity later in his second term, there is no doubt the scandal blighted his legacy.¹³⁹ Scheuer and company may have deemed Clinton's caution as cowardly, but it is a responsibility of the president not just to maintain his or her own political position, but to maintain the public's faith in the office, and little undermines that faith more than a covert operation gone wrong, exposing the darker side of politics to the public.

¹³⁶ 'CIA: Maker of Policy or Tool?', *New York Times*, 25 April, 1966, in Scribd digital library, <<http://www.scribd.com/doc/186175212/CIA-Maker-of-Policy-or-Tool-Wicker-Finney-Frankel-Kenworthy-NY-Times-25-April-1966>> [accessed 15 April, 2014].

¹³⁷ Immerman, *The Hidden Hand*, pp.122-124.

¹³⁸ E.J. Dionne Jr., 'Poll Shows Reagan Approval Rating At 4-Year Low', *New York Times*, 3 March, 1987, <<http://www.nytimes.com/1987/03/03/us/poll-shows-reagan-approval-rating-at-4-year-low.html>>; Frank Newport, Jeffrey M. Jones and Lydia Saad, 'Ronald Reagan From the People's Perspective: A Gallup Poll Review', in Gallup, 7 June, 2004, <<http://www.gallup.com/poll/11887/ronald-reagan-from-peoples-perspective-gallup-poll-review.aspx>> [accessed 15 April, 2014].

¹³⁹ Robert Busby, 'The scandal that almost destroyed Ronald Reagan', *Salon*, 4 February, 2011, <http://www.salon.com/2011/02/04/busby_iran_contra/> [accessed 15 April, 2014]; Robert Busby, *Reagan and the Iran-Contra Affair: The Politics of Presidential Recovery* (New York NY: Palgrave MacMillan, 1999).

Clinton was not immune to scandal, and he did not exert the same caution he showed with the wording of the MONs in his relationship with White House intern, Monica Lewinski. There are commentators who have suggested that the ensuing sex scandal and threat of impeachment undermined the President's authority and withered his political capital at exactly the time he needed it. Those closest to the president at this time have rejected these accusations, although it is clear that it was an issue when it came to building the case for the use of lethal force against al-Qaeda. 'I feared that the timing of the President's interrogation about the scandal [...] would get in the way of our hitting [...] al-Qaeda' confessed Clarke, before adding 'It did not. Clinton made clear that we had to give him our best national security advice, without regard to his personal problems.'¹⁴⁰ CIA Director Tenet's account agrees with Clarke, giving assurances that he 'never saw any evidence that Clinton's personal problems distracted him from focusing on his official duties.'¹⁴¹ While it may not have distracted Clinton, however, Tenet does suggest that the wider loss of credibility may have impacted upon Clinton's policy making options. 'Perhaps they circumscribed the range of actions he could take – he was, after all, losing political capital by the hour'.¹⁴²

Clinton's Secretary of State, Madeleine Albright hints at a wider problem which may have served to limit Clinton's ability to act – a lack of Congressional, media and public support for lethal action against al-Qaeda. Reflecting upon the reaction to Operation Infinite Reach on 20 August 1998, in which Clinton authorized the use of cruise missiles against al-Qaeda in retaliation for al-Qaeda's bombing of the US embassies in Africa, Albright reports that 'Most members of Congress applauded the mission,' before adding that 'the public reaction was muted.' While al-Qaeda may have hit American embassies they had not yet launched a domestic attack upon the United States. This was a vital distinction, and, as Clinton's Secretary of State notes, there were 'even those who thought we had overreacted and questioned the President's motives.' Citing the fortuitously timed 1997 black comedy *Wag the Dog* in which the White House fakes a war to distract from a sex scandal, partisan commentators attacked the administration's retaliation against bin Laden, suggesting

¹⁴⁰ Clarke, *Against All Enemies*, p.186.

¹⁴¹ Tenet, *At the Center of the Storm*, pp.175-176.

¹⁴² *Ibid*, p.176.

it was an effort to shift the media focus from Clinton's problems with the special prosecutor. 'These allegations were groundless and repugnant,' stated Albright, before adding that they did, however, contribute 'to an atmosphere in which there were virtually no calls from Congress or the media to take further military action against al-Qaeda.'¹⁴³

This lack of bipartisan political support, coupled with media cynicism, is significantly different to the wider support given to the counterterrorism policies of the Bush and Obama administrations in the wake of 9/11.¹⁴⁴ However, the fact that Clinton was acting prior to a terrorist attack upon the US homeland does not excuse his inability to build a national consensus around the need to neutralize the threat posed by al-Qaeda. Rallying public support against threats is a vital part of a president's national security responsibilities. Truman had to win both Congressional and public support in 1947 when articulating the doctrine of containment, and while the threat Clinton was addressing with al-Qaeda was not as great or immediate in the minds of Americans, nor was the commitment required to combat it.¹⁴⁵ The administration did make some effort to sell the policy of targeting al-Qaeda to the American public. Clinton delivered an address from the Rose Garden on the day of the strikes highlighting the threat posed by Osama bin Laden, whom he described as the 'preeminent organizer and financier of international terrorism' whose mission was to 'wage a terrorist war against America.' The president went on to suggest America 'must be prepared to do all that [it] can' and warned that inaction would only embolden the terrorist group.¹⁴⁶ To further push the case for targeting bin Laden, Sandy Berger, Clinton's ANSA provided a detailed press briefing and

¹⁴³ Madeleine Albright, *Madame Secretary: A Memoir* (New York NY: Miramax Books, 2003), pp.468-469. For more on the operation, see Chapter 4 and 'Infinite Reach, 20 August 1998' in Global Security.org, <http://www.globalsecurity.org/military/ops/infinite-reach_news.htm> [accessed 16 April, 2014].

¹⁴⁴ 'Flashback: Conservative Lawmakers Decried Clinton's Attacks Against Osama As "Wag the Dog"', *ThinkProgress* 25 September, 2006, <<http://thinkprogress.org/politics/2006/09/25/7679/wag-the-dog/>> [accessed 16 April, 2014].

¹⁴⁵ President Harry S. Truman's Address before a Joint Session of Congress, 12 March, 1947, in 'The Avalon Project', <http://avalon.law.yale.edu/20th_century/trudoc.asp> [accessed 16 April 2014].

¹⁴⁶ President William J. Clinton, 'Address to the Nation on Military Action Against Terrorist Sites in Afghanistan and Sudan', White House, Washington, DC, 20 August, 1998, in Yonah Alexander and Michael B. Kraft, *Evolution of US Counterterrorism Policy, Volume One* (Westport CT: Praeger Security International, 2008), pp.79-81. For a digital copy of the speech, see The American Presidency Project, <<http://www.presidency.ucsb.edu/ws/print.php?pid=54799>> [accessed 16 April, 2014].

Albright took to the cable networks to answer interviewers' questions.¹⁴⁷ Despite this, so great was the circus Clinton's infidelity had created that the administration never succeeded in directing political or public attention to the issue. This muted response undermined Clinton's mandate to direct the CIA to take politically risky action, and the president lacked the necessary political capital to win support from such a hostile Congress.

Another significant political difference between Clinton's administration and those of his successors is that Clinton's attorney general, Janet Reno, did not support the CIA's use of lethal force against al-Qaeda. Attorney generals are always kept in the loop with regards to new Findings or MONs in order to provide legal oversight and guidance for the president. According to John Rizzo, when it came to the MONs relating to bin Laden, Reno's behaviour was 'often erratic and alarming.' The CIA counsel claims the attorney general and her staff would scrutinise each word and agonize over every detail.¹⁴⁸ Such action in itself is not so surprising, as attention to detail with respect to such a sensitive subject is a necessary quality in an attorney general. Reno's attitude towards the MONs, however, provides further explanation for Clinton's caution. While the DoJ did not provide any specific legal objection to the MONs, on two of the three occasions Reno's final judgement was accompanied by a separate memo in which she expressed her concern and opposition in policy rather than legal terms. She was concerned about blowback. Reno warned of possible retaliation, which could include the targeting of US officials should any operation be construed as an assassination attempt.¹⁴⁹ This lack of legal support undermined the Clinton administration's confidence with regards to explicit authorization for the CIA to use lethal force. Tenet and Rizzo also claim that Reno went further, verbally warning the DCI and Geoff O'Connell, then director of the CTC, that she would consider any action intended solely to kill bin Laden as 'illegal'. Tenet interpreted this warning to mean anyone involved in a mission that ended with bin Laden dead ran the risk of facing a murder charge. Coupled with the already ambiguous language of the MONs, this discouraged both the DCI and Director of the CTC to push for

¹⁴⁷ See 'US Government Statements and Transcripts' in Infinite Reach 20 August 1998, Global Security.org, <http://www.globalsecurity.org/military/ops/infinite-reach_news.htm#usg> [accessed 16 April, 2014].

¹⁴⁸ Rizzo, *Company Man*, p.164.

¹⁴⁹ *9/11 Commission Report*, p.132, Rizzo, pp.164-165.

aggressive action against bin Laden, which could see members of the Agency on murder charges.¹⁵⁰ Reno would later make no mention of these policy memos, nor her verbal warnings during her testimony to the 9/11 Commission.¹⁵¹

The fear of targeted killings undertaken by an intelligence agency setting off a cycle of violence was not unprecedented. The disastrous consequences of the Mossad's campaign against those behind the 1972 Munich Olympics massacre has served as an important lesson on the risks of unilateral, state-led targeted killings. While Israel's retaliatory missions may have successfully killed most members of Black September, the Palestinian organization responsible for the deaths of 11 Israeli athletes and officials, it also resulted in what was described by Simon Reeve as 'one of the greatest disasters in the history of the Mossad.'¹⁵² On 21 July, 1973, in Lillehammer, Norway, Mossad agents killed an innocent Moroccan waiter named Ahmed Bouchiki, having mistaken him for Black September's chief of operations Ali Hassan Salameh. Norwegian authorities subsequently arrested many of the Mossad team who had participated in the attack, some of whom were sentenced to jail. As well as the death of the innocent Bouchiki, the disastrous mission 'exposed Israel's secret intelligence network to public scrutiny' and 'prompted [the] deterioration in its international prestige, leading to significant political fallout.'¹⁵³ More importantly, the targeted killings failed to neutralize the terrorist threat against Israel, and although Black September may have ceased to exist, the exposure of Israel's campaign triggered retaliatory attacks from Palestinian militant groups, with the cycle of violence continuing to this day.

Whilst the attorney general was right to be cautious about the potential political fallout of targeted killing campaigns, Reno's judgement of the situation regarding al-Qaeda underestimated the determination of the organization's leaders.

¹⁵⁰ Rizzo, *Company Man*, p.165; Tenet, *At the Center of the Storm*, p.166

¹⁵¹ Transcript of former Attorney General Janet Reno's testimony to the 9/11 Commission, 13 April, 2004, in NBC News, <http://www.nbcnews.com/id/4732236/ns/us_news-security/t/janet-reno-commission-statement/#.UwtdU7FFC70> [accessed 24 February, 2014].

¹⁵² For details on the Munich massacre and subsequent Israeli retaliation, see Simon Reeve, *One Day in September: The full story of the 1972 Munich Olympics massacre and the Israeli revenge operation 'Wrath of God'* (New York NY: Arcade Publishing, 2011).

¹⁵³ Hunter, *Targeted Killing*, pp.67-70; Doug Mellgren, 'Norway solves riddle of Mossad killing', *Guardian*, 2 March, 2000, <<http://www.theguardian.com/world/2000/mar/02/israel>> [accessed 16 April, 2014].

Bin Laden's declarations of jihad had already made clear that al-Qaeda held the United States responsible for what it perceived as a wide range of crimes against Muslims. Showing restraint against bin Laden was not going to make any difference, as Al-Qaeda already had all the motivation it needed. Evidence of this was recovered in the Shomali compound near Kabul, Afghanistan in 2002. Documents and videos dating back to the mid-1990s were recovered, which included notes on 'presidential protective details and what vulnerabilities to look for,' as well as 'sketches of Secret Service procedures' and documents disclosing 'which streets or open areas were the best locations to stage a presidential assassination.'¹⁵⁴ It is highly likely that al-Qaeda had been plotting to assassinate Clinton before any lethal action was launched against bin Laden. The US embassy in Islamabad, Pakistan had also received a warning late in 1997, again before the US had launched an attack on bin Laden, that the al-Qaeda leader had ordered the assassination of senator Hank Brown, then chair of the Senate Foreign Relations Subcommittee on the Near East and South Asia.¹⁵⁵

The final factor which can help explain the Clinton administration's caution in providing legal sanction to the CIA to undertake the targeted killing of bin Laden relates to the wider political environment of the time, and the strategic outlook the Clinton administration had for the United States' role in the post-Cold War order. Following the collapse of the Soviet Union, the United States was the world's sole superpower, what some commentators referred to as a 'hyperpower'.¹⁵⁶ How the US conducted itself and used this position was a matter of significant political debate. Within George H. W. Bush's administration, those classed as 'assertive nationalists,' such as then Secretary of Defense Dick Cheney, and his neoconservative assistant secretary Paul Wolfowitz, believed that having achieved such power, the United States no longer needed to compromise its goals in pursuit of allied support. In the minds of these assertive nationalists, the United States was free to act unilaterally in its own interests, focusing upon the 'prevent[ion of] the emergence of a new rival,' and no longer had to bind itself to organisations such as the UN and other multilateral institutions, which they regarded as inefficient and often at odds to US

¹⁵⁴ Sale, *Clinton's Secret Wars*, p.289.

¹⁵⁵ *Ibid*, p.294.

¹⁵⁶ Eliot A. Cohen, 'History and the Hyperpower', *Foreign Affairs*, (July/August 2004), <<http://www.foreignaffairs.com/articles/59919/eliot-a-cohen/history-and-the-hyperpower>> [accessed 19 April, 2014].

interests.¹⁵⁷ Instead, in their view of the new world order, the United States was to maintain a position of a dominant hegemonic leader. Alliances were to be limited to ‘the world’s leading democracies,’ which collectively would use their power and influence to consolidate the spread of democracy and free market economies, systems which they were convinced would bring global prosperity and stability.¹⁵⁸

However, Clinton’s victory in the 1992 presidential election brought a significant change to the strategic outlook for this new world order. Clinton was a liberal internationalist. Far from favouring a unilateralist and dominant approach, liberal internationalists believed that the best way to ensure a peaceful transition from superpower competition to post-Cold War stability was to firmly enmesh the United States at the centre of the global community. Hence, liberal internationalists favour the expansion of trade ties, military agreements and alliances, and full participation in multilateral institutions, in the belief that the mutual dependence such a global community creates closely parallels stable domestic societies, and ensures overt rivalry and competition does not develop and escalate into military confrontation.¹⁵⁹ Clinton summed this thinking up in his first inaugural address, creating an image of ‘a new generation assum[ing] new responsibilities in a world warmed by the sunshine of freedom’, a generation with a ‘universal ambition for a better life’ driven by ‘peaceful competition across the Earth.’¹⁶⁰

Such an outlook however, inevitably created inherent contradictions between US national security interests and the international laws and treaties which held this

¹⁵⁷ John W. Dietrich (ed.), *The George W. Bush Foreign Policy Reader* (New York NY: M.E.Sharpe, 2005), p.17; Secretary of Defense Dick Cheney, Under-secretary of Defense Policy Paul Wolfowitz and Deputy Under-secretary for Strategy and Resources I. Lewis Libby, ‘1994-99 Defense Planning Guidance’, 18 February, 1992 in National Security Archive, <http://www.gwu.edu/~nsarchiv/nukevault/ebb245/doc03_extract_nytedit.pdf>; Patrick E. Tyler, ‘US Strategy Plan Calls for Ensuring No Rivals Develop’, *New York Times*, 8 March, 1992, <<http://www.nytimes.com/1992/03/08/world/us-strategy-plan-calls-for-insuring-no-rivals-develop.html?scp=1&sq=us+strategy+plan+calls+for+ensuring+no+rivals+develop+March+8%2C+1992&st=cse>> [accessed 19 April, 2014].

¹⁵⁸ Secretary of Defense Dick Cheney, ‘Defense Strategy for the 1990s: The Regional Defense Strategy’, <<http://www.gwu.edu/~nsarchiv/nukevault/ebb245/doc15.pdf>> [accessed 19 April, 2014]

¹⁵⁹ ‘Strategic Outlook for a New World Order’, in Alvin Z. Rubinstein, Albina Shayevich and Boris Zlotnikov (eds.), *The Clinton Foreign Policy Reader* (New York NY: M.E. Sharpe, 2000) , pp.11-12.

¹⁶⁰ President William J. Clinton, Inaugural Address, 20 January, 1993 in Miller Center for Public Affairs, ‘American President: William Clinton’, <<http://millercenter.org/president/clinton>> [accessed 19 April, 2014].

global community together.¹⁶¹ The intention to snatch or kill Osama bin Laden was one such contradiction. When first discussing the practice of seizing terrorist subjects from foreign countries in a meeting in early 1993, White House Counsel Lloyd Cutler warned Clinton that such action was a clear violation of international law. Vice President Gore, who was also present during the discussion, was less cautious. ‘Of course it’s a violation of international law, that’s why it’s a covert action.’¹⁶² For Clinton, the risk of undermining the international legal system whilst exposing the United States to charges of hypocrisy added a further risk to be considered when contemplating the use of covert action against bin Laden. This having been said, the Clinton administration did not always stick to this internationalist approach, and as his presidency progressed Clinton adopted a more unilateral stance, refusing to ratify the 1998 Statute of Rome which established the International Criminal Court (ICC), endorsing National Missile Defense in 1999 in spite of its violation of the existing Anti-Ballistic Missile Treaty, and intervening without UN Security Council support against Iraq and in the former Yugoslavia.¹⁶³ Clinton’s use of cruise missiles against bin Laden in 1998 can be seen as part of this increasingly assertive trend, but the overall mentality of trying to keep the US within the bounds of international law wherever possible certainly helps explain his initial reluctance to sanction unilateral covert action.

Aside from the impact of 9/11, the willingness of the Bush administration to authorize the CIA to undertake its unilateral targeted killing campaign reflected its own rejection of liberal internationalist ideas. During the 2000 election campaign, the Bush camp had mounted strong attacks upon the liberal internationalist outlook, which Al Gore had maintained as a central tenet of his proposed foreign policy agenda. Bush derided the limits of diplomacy in a speech entitled ‘A Distinctly American Internationalism’, while his future ANSA then Secretary of State Condoleezza Rice argued in a *Foreign Affairs* essay that under the principles of liberal institutionalism, ‘the “national interest” [had been] replaced with

¹⁶¹ ‘Strategic Outlook for a New World Order’, in *The Clinton Foreign Policy Reader*, p.7; Dumbrell, *Clinton’s Foreign Policy*, pp.130-131; Onea, *US Foreign Policy in the Post-Cold War Era*, pp.99-101; Patrick Hagopian, *American Immunity: War Crimes and the Limits of International Law* (Boston MA: University of Massachusetts Press, 2013), pp.152-164.

¹⁶² Sale, *Clinton’s Secret Wars*, p.291.

¹⁶³ Onea, *US Foreign Policy in the Post-Cold War Era*, p.93.

“humanitarian interests.”¹⁶⁴ The Obama administration sought to present its drone campaign as sitting somewhere between the two approaches, putting American national security first but doing so within the confines of the international legal system. The May 2010 National Security Strategy identified that when the use of force was deemed necessary the Obama administration would ‘seek broad international support, working with institutions such as NATO and the UN Security Council.’ However, the same document immediately went on to state that the US reserved ‘the right to act unilaterally if necessary to defend our nation and our interests’. It did, however, seek to distance the United States from the worst extrajudicial actions of the Bush presidency by adding that when acting unilaterally America would ‘seek to adhere to standards that govern the use of force.’¹⁶⁵ This position of adherence to international standards in its war against al-Qaeda, including drone deployment, lies behind Obama’s reference to America’s meeting the criteria of a ‘just war’ in his 2009 Nobel Peace Prize speech.¹⁶⁶

Conclusion

The political analyst Graham Fuller, a former CIA operations officer with 20 years’ experience, described terrorism and counterterrorism as ‘a very rough game,’ and stated that ‘sometimes to win it, you have to use very rough tactics.’ The reason for this, Fuller explained, was that your opponents were ‘not nice people, these are not citizens of anyone’s country, they live in a grey area.’¹⁶⁷ This non-state grey area, somewhere between criminality and war, was responsible for causing the Clinton administration and CIA so much difficulty during the 1990s and into 2000, and left the United States much more vulnerable than a country with a \$17.2 billion

¹⁶⁴ Governor George W. Bush, ‘A Distinctly American Internationalism’, Ronald Reagan Library, Simi Valley, California, 19 November, 1999, in Federation of American Scientists, <<http://www.fas.org/news/usa/1999/11/991119-bush-foreignpolicy.htm>> [accessed 19 April, 2014]; Condoleezza Rice, ‘Promoting National Interest’, *Foreign Affairs*, (January/February 2000), p.2.

¹⁶⁵ National Security Strategy 2010, May 2010, in Whitehouse.gov, <http://www.whitehouse.gov/sites/default/files/rss_viewer/national_security_strategy.pdf> [accessed 22 June, 2014].

¹⁶⁶ Remarks by President Barack Obama at the Acceptance of the Nobel Peace Prize.

¹⁶⁷ Sale, *Clinton’s Secret Wars*, p.290.

counterterrorism budget ever should have been.¹⁶⁸ What al-Qaeda represented was a new kind of post-Cold War threat, unlike anything the United States, or any other country, had experienced before. Al-Qaeda was, and still is, a transnational threat capable of waging a sustained guerrilla war against a superpower and its allies. And yet, even following the devastation of the 9/11 attacks, lawyers were divided on how the group should be treated. Andrew Orr, the editor-in-chief of the *Cornell International Law Journal*, has expressed the view held by the US government, in arguing that it seems ‘almost absurd to argue that terrorism is a law enforcement matter’ and that the ‘scale, sophistication and complexity of the al-Qaeda threat has long-since evolved into something more substantial.’¹⁶⁹ The terrorism expert J.M. Berger has agreed with this position, arguing that America is ‘fighting al-Qaeda like a terrorist group’ while al-Qaeda was engaging the US ‘as an army.’ Berger suggests the reference to al-Qaeda as a terrorist group is ‘increasingly misleading’, instead suggesting the vast weight of al-Qaeda manpower and funding combined with its objective to capture and govern territory makes its members ‘warfighting jihadists.’¹⁷⁰ Conversely, Christopher Greenwood, a judge in the International Court of Justice, has challenged such a perspective, contending that ‘[i]n the language of international law there is no basis for speaking of a war on al-Qaeda or any other terrorist group.’ To Greenwood, irrespective of their scale and lethality, al-Qaeda is ‘a band of criminals’ and to treat it as anything else ‘risks distorting the law while giving the group a status which to some implies a degree of legitimacy.’¹⁷¹ Berger’s own argument concedes that ‘becoming a warfighting jihadist is a much more appealing moral choice than terrorism.’¹⁷²

¹⁶⁸ Barton Gellman and Greg Miller, ‘“Black budget” summary details US spy network’s successes, failures and objectives’, *Washington Post*, 29 August, 2013, <http://www.washingtonpost.com/world/national-security/black-budget-summary-details-us-spy-networks-successes-failures-and-objectives/2013/08/29/7e57bb78-10ab-11e3-8cdd-bcdc09410972_story.html> [accessed 30 June, 2014].

¹⁶⁹ Andrew C. Orr, ‘Unmanned, Unprecedented and Unresolved: The Status of American Drone Strikes in Pakistan Under International Law’, *Cornell International Law Journal*, Volume 44, (2011), pp.729–752.

¹⁷⁰ J.M. Berger, ‘War on Error’, *Foreign Policy*, 5 February, 2014, <http://www.foreignpolicy.com/articles/2014/02/04/war_on_error_al_qaeda_terrorism> [accessed 22 June, 2014].

¹⁷¹ Christopher Greenwood, ‘War, Terrorism and International Law’, *Current Legal Problems*, 56, (2004), pp. 505–529.

¹⁷² Berger, ‘War on Error’.

This debate continues today and helps to explain the indecision within the Clinton administration surrounding the granting of the legal authority to the CIA to neutralize bin Laden and his followers. While Clinton's national security staff were quick to identify the threat of al-Qaeda, it was too slow to grant the appropriate legal sanction necessary to deal with it. In the CTC, designed by Clarridge a decade earlier to meet a different but equally transnational terrorist threat, the Clinton administration already had the perfect organisation to counter the new danger, but until it was granted the appropriate authority to act through the Findings and MONs the Center was powerless to stop bin Laden.

Currently, the CTC's lethal drone campaign functions within its own legal architecture. Targeted killings are undertaken through precision strikes against enemy combatants with whom the United States regards itself as being at war.¹⁷³ These combatants, made up of al-Qaeda and its associated forces, are logged onto a 'Disposition Matrix' – a next generation capture/kill list with a more sanitised name - with the President himself making the final judgement as to whether or not they should be killed.¹⁷⁴ This approach is not without its critics. For example, journalist Glenn Greenwald has argued that the Matrix has established 'simultaneously a surveillance state and a secretive, unaccountable judicial body that analyses who you are and then decrees what should be done with you, how you should be "disposed" of, beyond the reach of any minimal accountability or transparency.'¹⁷⁵ While the debate over what level of accountability and transparency is appropriate is ongoing between the Obama administration and Congress, what is clear is that for better or worse, the United States has developed the legal sanctions and associated bureaucracy which empowers its intelligence community to deploy lethal force

¹⁷³ Senate Joint Resolution 23 107th Congress, September 18 2001, in gpo.gov, <http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ040.107>; United States National Strategy for Counterterrorism, June 2011, p.2 in whitehouse.gov, <http://www.whitehouse.gov/sites/default/files/counterterrorism_strategy.pdf [accessed 26 February, 2014].

¹⁷⁴ Greg Miller, 'Plan for hunting terrorists signals US intends to keep adding names to kill lists', *Washington Post*, 24 October, 2012, <http://www.washingtonpost.com/world/national-security/plan-for-hunting-terrorists-signals-us-intends-to-keep-adding-names-to-kill-lists/2012/10/23/4789b2ae-18b3-11e2-a55c-39408f6e6a4b_story.html> [accessed 26 February, 2014].

¹⁷⁵ Glenn Greenwald, 'Obama moves to make the War on Terror permanent', *Guardian*, 24 October, 2012, <<http://www.theguardian.com/commentisfree/2012/oct/24/obama-terrorism-kill-list>> [accessed 26 February, 2014].

against al-Qaeda and their associates without fear of legal reprisal. Comparatively, one can see how the Clinton administration's vague language of 'self-defence' and concern with the feasibility of capture lacked the necessary conviction and legal authority to empower the CTC to do what the President actually wanted it to do – kill his enemy. Just as the CIA was transformed from an agency that was 'chugging along' into 'one hell of a killing machine' by the post-9/11 legislation, so too was the Executive's language on counterterrorism transformed from ambiguous and woolly phrases to distinct authorisations to hunt and kill.¹⁷⁶

The CIA was entirely right to push for strong legal clarification from the Clinton administration on what exactly it was and was not authorized to do in order to deal with bin Laden. Historically it had been called upon time and time again by Eisenhower, Kennedy and Johnson to engage in similar covert activities during their terms, from attempts on Castro's life to the larger-scale Phoenix Programme in Vietnam.¹⁷⁷ These missions had resulted in the Agency being publicly castigated by the Church committee, had seen officers removed from their posts and legislation introduced to prevent the CIA from violating what were described as the 'moral precepts fundamental to [the American] way of life.'¹⁷⁸ The reforms which were introduced, including Ford's ban on assassination, were intended to protect the potential targets of the CIA, but also Agency officers themselves and administration officials from overstepping their authority in the future.¹⁷⁹

¹⁷⁶ Greg Miller, 'Under Obama, An Emerging Global Apparatus For Drone Killing', *Washington Post*, 28 December, 2011, <http://www.washingtonpost.com/national/national-security/under-obama-an-emerging-global-apparatus-for-drone-killing/2011/12/13/gIqANPdILP_story.html> [accessed 30 August, 2012].

¹⁷⁷ For more on the Phoenix Programme, see: Mark Moyar, *Phoenix and the Birds of Prey: Counterinsurgency and Counterterrorism in Vietnam*, (Winnipeg, Canada: Bison Books, 1997); Colonel Andrew R. Finlayson, USMC (Ret.), 'A Retrospective on Counterinsurgency Operations: The Tay Ninh Provincial Reconnaissance Unit and Its Role in the Phoenix Program, 1969-70', *Studies in Intelligence*, vol.51, no.2, (12 June, 2007), <<https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/vol51no2/a-retrospective-on-counterinsurgency-operations.html>> [accessed 26 February, 2014]. For more on efforts to assassinate Castro, see: Don Bohning, *The Castro Obsession: US Covert Operations Against Cuba, 1959 - 1965* (Washington, DC: Potomac Books, 2005).

¹⁷⁸ 'Alleged Assassination Plots Involving Foreign Leaders', Church Committee Interim Report, 1975, p.257, in Assassination Archives and Research Center, <http://www.aarclibrary.org/publib/church/reports/ir/html/ChurchIR_0136a.htm>, [accessed 4 June, 2012].

¹⁷⁹ Executive Order 11905, 'United States Foreign Intelligence Activities', 18 February, 1976, in 'Gerald R. Ford Presidential Library' <<http://www.ford.utexas.edu/library/speeches/760110e.htm#assassination>> [accessed 29 May, 2012].

However, when it was felt that this legislation had held the CIA back in its mission against the Soviet Union, the Reagan administration set about ‘unleashing it’ once more.¹⁸⁰ The prosecutions which followed the Iran-Contra scandal ended the careers of a number of officers who simply saw themselves as following orders from their president. The ensuing period of atrophy and loss of confidence within the Agency served al-Qaeda well. The renowned scholar of CIA history, Rhodri Jeffreys-Jones, reflects upon the impact of the post-Cold War years on the Agency, remarking that ‘it is plain that the CIA’s standing was impaired, and to a measurable degree.’ As Jeffreys-Jones goes on to argue in *The CIA and American Democracy*, the Agency can only be as good as its standing and influence.¹⁸¹ The high turnover of directors, low morale and lack of presidential patronage weakened the CIA just at a time when the United States was struggling to find an effective response to the rising threat of non-state terrorism. Existing outside of the realms of law and order, but also not warranting a full military response, the threat of al-Qaeda in the 1990s was exactly the kind of non-conventional threat the CIA should have proven capable of dealing with, had it not been suffering the fallout of the two previous periods of adventurism and over-extension. The covert action pendulum swings resulted in an unstable Agency, and, as a result, unstable national security.

Following 9/11, this pendulum swing and counter-swing can be seen to have occurred once more, with the CIA initially being granted carte-blanche to attack al-Qaeda and to gather intelligence on the terror network and its plans for future attacks.¹⁸² It is these orders which led to the CIA’s use of black sites and Enhanced Interrogation Techniques (EIT) under the Bush administration, until the pendulum swung back and the Agency found itself condemned at home and abroad for what was deemed as unconstitutional and morally unacceptable conduct.¹⁸³ While there

¹⁸⁰ Reagan quoted in Morton H. Halperin, ‘The CIA’s Distempler’, *New Republic*, (9 February, 1980), pp.21-22, cited in Rhodri Jeffreys-Jones, *Cloak and Dollar: The History of American Secret Intelligence*, (New Haven CT: Yale University Press, 2002), pp.237-238.

¹⁸¹ Jeffreys-Jones, *The CIA & American Democracy*, p.xiii, p.248.

¹⁸² ‘The Torture Archive’ in National Security Archive, <http://www2.gwu.edu/~nsarchiv/torture_archive/> [accessed 26 February, 2014].

¹⁸³ Scott Shane, ‘US Engaged in Torture After 9/11, Review Concludes’, *New York Times*, 16 April, 2013, <[http://www.nytimes.com/2013/04/16/world/us-practiced-torture-after-9-11-nonpartisan-review-concludes.html?_r=1&";](http://www.nytimes.com/2013/04/16/world/us-practiced-torture-after-9-11-nonpartisan-review-concludes.html?_r=1&)>; Patrick Goodenough, ‘UN Torture Expert Says US Should Probe Bush-Era Torture Claims With Intention to Prosecute’, *CNS News*, 18 November, 2010; ‘Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism’, 1 March, 2013, UN Human Rights Council,

were no formal prosecutions by the US government for the use of enhanced interrogation, its legacy still serves as a black mark against the CIA and the officers who followed the orders given, with President Obama, Attorney General Holder and even the CIA Director Leon Panetta publicly criticising the policy.¹⁸⁴

Doubtless a similar nervousness exists within the Agency with respect to its conduct of its lethal drone campaign. What the history of the pendulum swings illustrates is that the CIA is less effective if used to excess outside of what is legally and morally acceptable at that given time, as there will be a backlash when circumstances change. Such backlashes cause the Agency to be diminished. What this highlights is the importance of a clear and transparent legal architecture. In the first post-9/11 decade the US government has settled upon what it deems to be acceptable boundaries for the CIA to function within. As a covert intelligence agency these boundaries brush right up against - and even challenge - what is acceptable in international law. However, the Agency's actions have been condoned by policy and law makers, making them, in theory at least, as accountable as the agents who follow their orders. Should there come a time when an intelligence leak, change in administration or discovery of fresh evidence casts a new light upon the policy of drone warfare, leading to fresh criticism being made of the CIA's conduct, it must be remembered that the CIA's drone operatives were functioning within the boundaries set out by the Executive and overseen by Congress in order to guarantee the national security of the United States. While the likes of Clarridge, Baer and Berntsen may see such legal boundaries, oversight and transparency as an anathema to the way the Agency used to operate, one only need to look at the impact of the pendulum swings on their own careers to see that clear boundaries and regular review will serve both

<http://www.ohchr.org/Documents/HRCouncil/RegularSession/Session22/A-HRC-22-52_en.pdf> [accessed 26 February, 2014].

¹⁸⁴ Dschabner, 'President Obama Discusses Possible Prosecutions of Bush Administration Officials', 21 April, 2009, *ABC News*, <<http://abcnews.go.com/blogs/politics/2009/04/president-ob-25/>>; 'Obama names intel picks, vows no torture', *Associated Press*, 9 January, 2009, <http://www.nbcnews.com/id/28574408/ns/politics-white_house/#.Uw4eLrFFDIU>; David Stout, 'Holder Tells Senators Waterboarding Is Torture', *New York Times*, 15 January, 2009, <<http://www.nytimes.com/2009/01/16/us/politics/16holderend.html>>; Transcript of interview between Brian Williams and CIA Director Leon Panetta, in *NBC News*, 3 May, 2011, <http://www.nbcnews.com/id/42887700/ns/world_news-death_of_bin_laden/t/transcript-interview-cia-director-panetta/#.Uw4dk7FFDIU> [accessed 26 February, 2014].

the CIA and the US better. Greater transparency, solid oversight and clear legal boundaries, while being a long way from the principles the CTC was originally founded upon have proven the most effective way of ensuring both a powerful, but responsible counterterrorism capability.

Chapter 5 – “Ninja guys in black suits”
Alternative counterterrorism tools, 1993 - 2008

What I think would scare the shit out of these al-Qaeda guys more than any cruise missiles...would be the sight of US commandos, Ninja guys in black suits...

President William J. Clinton

Counterterrorism works on multiple levels. At its most basic it includes defensive measures designed to protect citizens and make it difficult for terrorist groups to function. This includes actions such as building diplomatic pressure against states which sponsor or harbour known terrorists, tracking and seizing illegal assets and money transfers relating to terrorist activities, surveillance and disruption of communications between known and suspected terrorists and maintaining security checks at airports and other sensitive locations. Such things are standard practice, low profile and pass on from one administration to the next, constantly being undertaken to undermine terrorist threats. In addition to these are more proactive policies which are intended to take the fight to terrorist groups by neutralizing their members and ultimately destroying the group. Unlike the more consistent defensive measures these policies have changed from administration to administration over the past three decades. When al-Qaeda emerged as a national security threat the Clinton administration sought to use the practice of extraordinary rendition to bring the group's leader Osama bin Laden to justice before adopting the cruise missile as its weapon of choice in an effort to kill the elusive leader. Empowered by the fallout from 9/11, Clinton's successor George W. Bush instigated renditions and interrogation on a mass scale, detaining hundreds of suspected al-Qaeda and Taliban members whilst dramatically expanding the DoD's counterterrorism role. Critical of this approach, Obama scaled back the rendition programme and instead embraced targeted killings executed by the CTC's drones as his primary counterterrorism tool, authorizing more strikes in his first year in office than his predecessor had launched during the entirety of his two terms. Far from being kneejerk changes, the different policies adopted from president to president are influenced by and built upon the successes and failures of the counterterrorism policies of their predecessors. The Obama administration's adoption of drone warfare is no different, evolving from that which previously proven successful and rejecting that which did not.

Countering terrorism through extraordinary rendition

The policy of extraordinary rendition is the counterterrorism method most intrinsically linked to George W. Bush's time in the White House. Extraordinary rendition is legally defined as the transfer – without legal process – of a detainee to the custody of a foreign government for the purposes of detention and interrogation, a practice which became a core element of the Bush's War on Terror.¹ Reeling from the impact of 9/11 and fully expectant of further attacks, the Bush administration charged the CIA with finding out what other al-Qaeda plots existed against the United States, where other terror cells may exist, and how they operated. For the CTC, that meant not only apprehending key members of al-Qaeda, but also getting them to talk. Less than a week after the September 11 attacks, Bush provided the CIA with written authorization to capture, render and interrogate terrorists in Agency run prisons (referred to as 'black sites') in an operation dubbed GREYSTONE.² The full scale and scope of the GREYSTONE programme remains unknown, as does the extent of foreign governments' cooperation. Amrit Singh's study into the CIA's use of rendition and detention under the Bush administration has identified 136 individuals who were reportedly subjected to extraordinary rendition, and 54 governments who purportedly participated in these operations in various ways.³ It should also be noted that this figure does not include those transfers conducted by the DoD and their confinement of suspected terrorists in Guantánamo Bay or other military detention facilities. A list released by the DoD on 15 May, 2006 included the names of 759 individuals who 'were or are held at the US detention facility for war on terrorism detainees.'⁴

¹ Amrit Singh, *Globalizing Torture: CIA Secret Detention and Extraordinary Rendition* (New York NY: Open Society Foundations, 2013), p.5. Digital copy available from Open Society Foundation.org, <<http://www.opensocietyfoundations.org/sites/default/files/globalizing-torture-20120205.pdf>> [accessed 25 April, 2014].

² John Rizzo, *Company Man: Thirty Years of Controversy and Crisis in the CIA* (New York NY: Scribner, 2014), p.178; Jose A. Rodriguez, Jr. with Bill Harlow, *Hard Measures: How Aggressive CIA Actions After 9/11 Saved American Lives* (New York NY: Threshold Editions, 2012), p.40; Michael Kirk (dir), 'Top Secret America: From 9/11 to the Boston Bombing', *Frontline PBS* 6 September, 2011, <<http://www.pbs.org/wgbh/pages/frontline/iraq-war-on-terror/topsecretamerica/transcript-6/>> [accessed 19 May, 2014].

³ Singh, *Globalizing Torture*, pp.29-61.

⁴ Kathleen T. Rhem, 'DoD Releases Names of 759 Current, Former Guantanamo Detainees', 15 May, 2006, <<http://www.defense.gov/news/newsarticle.aspx?id=15754>>; 'List of Individuals Detained by the Department of Defense at Guantanamo Bay, Cuba from January 2002 through May 15, 2006', <<http://www.defense.gov/news/May2006/d20060515%20List.pdf>> [accessed 25 April, 2014].

Despite its association with the Bush administration the rendition of terror suspects to face trial and incarceration through the American justice system was a practice established well before Bush assumed power and sought a response to the shock of the 9/11 attacks. In the wake of the Iranian hostage crisis with incidents of international terrorism, in particular hijackings, rising dramatically, Congress added a section to their Comprehensive Crime Act of 1984 detailing how the United States was to deal with hostage situations involving American citizens.⁵ The new section made federal crimes of air piracy and terrorist attacks upon US citizens abroad, and specifically ‘gave the FBI jurisdiction over any terrorist acts in which Americans were taken hostage – no matter where the acts occurred.’⁶ This authority was further strengthened and extra resources for counterterrorism operations made available when Reagan signed the Omnibus Diplomatic Security and Antiterrorism Act in August 1986.⁷ Stressing the global nature of America’s security commitment, he used the occasion of the signing of the act to send a message to terrorists planning attacks involving Americans:

This act once again puts those who would instigate acts of terrorism against US citizens or property on notice that we will not be deterred from carrying out our obligations throughout the world. I am committed to ensuring the safety of our diplomats, servicemen, and citizens wherever they may be.⁸

In many ways the introduction of these two acts marked a positive development for US counterterrorism. They showed that Congress recognised international terrorism was an issue which required action and that tackling terrorists’ use of safe havens was a vital part of reducing the threat they posed. Moreover, their passing revealed an understanding between the Executive and America’s lawmakers, with Reagan

⁵ ‘Comprehensive Crime Control Act of 1984’, US House of Representatives, S.1762, 9 February, 1984 in National Criminal Justice Reference System, <<https://www.ncjrs.gov/pdffiles1/Digitization/123365NCJRS.pdf>> [accessed 22 April, 2014].

⁶ ‘The Case of the Yachted Terrorist’, in FBI Famous Cases and Criminals Archive, <<http://www.fbi.gov/about-us/history/famous-cases/fawaz-younis/fawaz-younis>> [accessed 22 April, 2014].

⁷ HR 4151, ‘Omnibus Diplomatic Security and Antiterrorism Act of 1986’, 27 August, 1986 in govtrack.us, <<https://www.govtrack.us/congress/bills/99/hr4151/text>> [accessed 22 April, 2014].

⁸ President Ronald Reagan, ‘Statement on Signing the Omnibus Diplomatic Security and Antiterrorism Act of 1986’, 27 August, 1986 in Reagan Presidential Library Speeches Archive, <<http://www.reagan.utexas.edu/archives/speeches/1986/082786a.htm>> [accessed 22 April, 2014].

promising to ‘continue to work with Congress to identify legislative gaps in our ability to combat terrorism.’⁹ However, the acts also highlighted one of the most significant divisions in Reagan’s administration concerning counterterrorism. The Omnibus act was passed shortly after the creation of the CIA’s CTC. The Center’s founders intended it to operate as the central hub through which all America’s counterterrorism operations would be organised and coordinated. However, Congress’s two acts revealed the prevailing consensus, especially amongst lawmakers, that terrorism was a criminal activity not an act of war, therefore falling within the FBI’s jurisdiction. Despite some successful cooperation, the competition between the CIA and FBI over who led America’s counterterrorism agenda remained, eventually being identified by the 9/11 Commission as a significant factor in America’s failure to prevent the September 11 attacks.

Even with its new legal authority the Reagan administration’s first attempt to prosecute international terrorists for hostage taking proved unsuccessful when Italian authorities intervened following the hijacking of the *Achille Lauro*.¹⁰ However, buoyed by the positive domestic reaction to its efforts to seize the cruise liner’s hijackers, the government continued in its efforts to subject international terrorists to the justice of US courts. On 13 September 1987 America undertook its first successful terrorist rendition, capturing a Lebanese national named Fawaz Younis. Younis had been implicated in the hijacking of Alia Royal Jordanian Airlines Flight 402 on 11 June 1985 as it left Beirut for Amman. The aircraft’s crew and over 70 passengers, including four American citizens, were held hostage for over 30 hours as the hijackers forced the aircraft’s pilots to fly them to Cyprus, then Sicily, and finally on to Beirut. Once there the hijackers released the hostages, held a hastily arranged press conference to denounce a resolution adopted by the Arab League, blew up the plane on the tarmac and successfully fled.¹¹ The suspected hijacker was captured through a complex joint FBI-CIA sting operation codenamed ‘Goldenrod’. Younis was lured onto an FBI-owned yacht off the coast of Cyprus with the promise of drugs. Once aboard he was taken into international waters where the FBI arrested

⁹ Ibid.

¹⁰ See Chapter 2 for further details on the *Achille Lauro* hijacking and US response.

¹¹ Kenneth B. Noble, ‘Lebanese Suspect in ’85 Hijacking Arrested by the FBI While at Sea’, *New York Times*, 18 September, 1987, <<http://www.nytimes.com/1987/09/18/world/lebanese-suspect-in-85-hijacking-arrested-by-the-fbi-while-at-sea.html>> [accessed 22 April, 2014].

him.¹² The prisoner was then moved to the *USS Butte*, which steamed for four days to the western Mediterranean where it transferred him to the American aircraft carrier *USS Saratoga*. Thereafter, Yunis was flown to Andrews Air Force base on the US mainland. He was tried in a US court and found guilty of conspiracy, aircraft piracy and hostage-taking, for which he was sentenced to 30 years in prison in October, 1989.¹³ In a direct challenge to the calls for lethal operations against terrorists which had dominated the counterterrorism agenda in the years preceding the Iran-Contra scandal, Edwin Meese, Reagan's attorney general, drew upon the Yunis operation to stress the efficacy of a law enforcement response. Speaking after the Lebanese terrorist's successful prosecution, Meese affirmed that 'acts of terrorism are criminal acts, pure and simple.' He urged others to follow suit: 'The world must deal with them as criminal acts and utilize the rule of law and order to combat this very serious threat to the lives and well-being of citizens of every country.'¹⁴

The rejection of the Reagan hardliners' calls to treat terrorism as an act of war and renewed emphasis upon handling it as a criminal act is reflected in the United States' approach to counterterrorism when Clinton entered the White House. Following Mir Ami Kasi's attack outside the CIA's Langley headquarters and Ramzi Yousef's bombing of the WTC in 1993, the Clinton administration set out to bring both men back to the United States to face trial in federal courts.¹⁵ In the case of Yousef's rendition, the CIA and FBI cooperated closely with Pakistan's ISI to help find and arrest the fugitive. Following a tip off, on 7 February 1995 ISI officers, accompanied by Special Agents from the US Diplomatic Security Service (DSS) raided a room in the Su Case guesthouse in Islamabad and arrested Yousef inside. The following day, the Pakistani government waived formal extradition proceedings

¹² Tim Naftali, 'Milan Snatch: Extraordinary rendition comes back to bite the Bush administration', *Slate*, 30 June, 2005,

<http://www.slate.com/articles/news_and_politics/war_stories/2005/06/milan_snatch.html>

¹³ David C. Wills, *The First War on Terrorism: Counter-Terrorism Policy During the Reagan Administration* (Maryland MD: Rowman and Littlefield Publishers, Inc., 2003), p.137; Robin Wright, 'US Sentences Arab Hijacker to 30 Years', *Los Angeles Times*, 5 October, 1989,

<http://articles.latimes.com/1989-10-05/news/mn-911_1_united-states> [accessed 22 April, 2014];

'The Case of the Yachted Terrorist', FBI.

¹⁴ Attorney General Edwin Meese, quoted in Noble, 'Lebanese Suspect in '85 Hijacking Arrested by the FBI While at Sea', *New York Times*. For more on the Reagan administration's counterterrorism hardliners, see Chapter 1.

¹⁵ For details on the attacks carried out by Kasi and Yousef, see Chapter 4.

and immediately handed the wanted man over to members of the FBI's Joint Terrorism Task Force (JTTF), who were waiting in a US military transport at Islamabad airport, having scrambled over from Washington, DC the night before.¹⁶ Yousef was flown back to the United States where he faced two separate trials in federal courts in New York. On 7 January, 1998 Yousef, described by the US District Court judge as a 'virus that must be locked away,' was sentenced to a total of life in prison plus 240 years.¹⁷

Following the success of the Yousef operation the Clinton administration was assured of the efficacy of rendition as a counterterrorism tool. On 21 June 1995, it introduced Presidential Decision Directive 39 (PDD 39), titled 'US Policy on Counterterrorism.' This set out new guidelines to deter and respond to terrorist acts, as well as measures to reduce US vulnerabilities to terrorism. In addition, a provision on preventing terrorist organisations acquiring or developing weapons of mass destruction (WMD) was inserted, following an incident on 20 March, 1995 in which a religious cult named Aum Shinrikyo released liquid sarin into the Tokyo subway during the morning rush hour, killing 12 and injuring a further 3,769.¹⁸ The directive reaffirmed rendition as a key component of US counterterrorism, both as a response to terrorist acts and as a deterrent to future attacks. Acknowledging the tendency of terrorists to exploit safe havens around the world, PDD 39 provided additional legal authority for those charged with seizing indicted terror suspects, confirming that the United States would act unilaterally if they did not receive adequate cooperation from a state that harbors a terrorist¹⁹

¹⁶ Steve Coll, *Ghost Wars: The Secret History of the CIA, Afghanistan and bin Laden from the Soviet invasion to September 10, 2001*, (London: Penguin, 2005), p.272; 'The Long Arm of the Law: FBI International Presence Key to Bringing Terrorists to Justice', 6 February, 2004 in FBI.gov, <<http://www.fbi.gov/news/stories/2004/february/law020604>> [accessed 23 April, 2014].

¹⁷ Peg Tyre, "'Proud terrorist" gets life for Trade Center bombing', *CNN*, 8 January, 1998, <<http://edition.cnn.com/US/9801/08/yousef.update/>> [accessed 23 April, 2014].

¹⁸ Presidential Decision Directive 39, 'US Policy on Counterterrorism', 21 June, 1995, in Federation of American Scientists Intelligence Review Program, <<http://www.fas.org/irp/offdocs/pdd39.htm>> [accessed 23 April, 2014]; Nicholas D. Kristof, 'Terror In Tokyo: The Overview', *New York Times*, 21 March, 1995, <<http://www.nytimes.com/learning/general/onthisday/big/0320.html#article>>; James M. Lindsay, 'Lessons Learned: Tokyo Sarin Gas Attack', in Council on Foreign Relations, 20 March, 2012, <<http://www.cfr.org/japan/lessons-learned-tokyo-sarin-gas-attack/p27685>> [accessed 23 April, 2014].

¹⁹ *Ibid.*

The Clinton administration exercised this self-assigned freedom to act unilaterally shortly after PDD 39 was introduced. Despite the efficiency in locating the higher profile and more active Yousef, by early 1997 the CIA was no closer to finding Kasi. A combination of his low profile, the nature of the sprawling, unregulated territory of the AfPak border lands he was hiding in, and a deteriorating relationship with the ISI following America's introduction of sanctions against Pakistan's burgeoning nuclear programme, meant that the Agency had no clear leads to act upon.²⁰ In order to help locate and capture this terrorist fugitive, the CTC recruited former Afghan mujahideen assets, who had received formal military training during the 1980s, to act as bounty hunters. The tribal fighters, codenamed TRODPINT, the same group who would later be called upon to develop a plan to capture bin Laden under the codename TRODPONT, were given hundreds of thousands of dollars in cash, weapons, motorcycles, trucks and secure communications equipment, and ordered to try to locate Kasi.²¹ One of the pieces of equipment with which the CTC provided the TRODPINT team was a mobile GPS beacon. Should the team locate Kasi, it could use the beacon to send a signal to US satellites overhead to provide the exact location of the target. 'The technology', reported Steve Coll, 'would allow an American counterterrorism team to swarm an obscure location quickly once it was lit up by the Afghan agents.'²² Despite this investment in equipment, the TRODPINT team never actually located Kasi. In the end it was an informant from Kasi's own region who led the CIA to their target, and on 15 June 1997 he was seized by a joint FBI/CIA team supported by the ISI. After a day in a holding facility in Islamabad he was transferred to the United States to face trial, receiving a death sentence for capital murder on 4 February, 1998.²³

²⁰ Steve LaMontagne, 'India-Pakistan Sanctions Legislation Fact Sheet', in The Center for Arms Control and Non-proliferation', <http://armscontrolcenter.org/issues/nonproliferation/articles/india_pakistan_sanctions/> [accessed 23 April, 2014].

²¹ Coll, *Ghost Wars*, pp.371-376. See Chapter 4 for details on how the bin Laden unit planned to use the TRODPINT assets.

²² Coll, *Ghost Wars*, pp.371-372.

²³ Tim Weiner, 'Killer of Two At CIA Draws Death Sentence', *New York Times*, 24 January, 1998, <<http://www.nytimes.com/1998/01/24/us/killer-of-two-at-cia-draws-death-sentence.html?ref=miramalkansi&version=meter+at+7®ion=FixedCenter&pgtype=Article&priority=true&module=RegiWall-Regi&action=click>>; 'Arrest and trial of Mir Aimal Kasi', *Dawn*, 14 November, 2002, <<http://www.dawn.com/news/66694/arrest-and-trial-of-mir-aimal-kasi>> [accessed 23 April, 2014].

While the TRODPINT team may not have captured Kasi, its creation did establish the blueprint for intelligence gathering and targeting in the AfPak border territory that was to have significant repercussions for US counterterrorism. The Agency created Afghan Counterterrorism Pursuit Teams (CTPT), evolved from the TRODPINT team, which serve as a vital link in the intelligence chain for the CTC's drone campaign in the AfPak region.²⁴ With reportedly over 3,000 men in these teams, their primary mission has been described by an anonymous US official familiar with their operations as 'intelligence collection'. The official added that the teams do not engage in 'lethal action' when crossing over into Pakistan, but had made 'major contributions to stability and security.'²⁵ According to Shuja Nawaz, a Pakistani journalist, the teams 'see traffic coming and going from the fortress homes of tribal leaders associated with foreign elements [in the FATA region of Pakistan], and they pass the information along, placing GPS locators on the relevant homes and vehicles. Once the reports are corroborated through American surveillance, 'someone pops a couple of hundred-pound bombs at the house.'²⁶ The importance of the CTPTs is further highlighted by journalist Bob Woodward, who provides an account of an early transition meeting between Bush and Obama, during which the outgoing president told his successor that the drones were little more than 'flying high-resolution video cameras armed with missiles,' and that the 'only meaningful way to point a drone towards a target was to have spies on the ground telling the CIA where to look, hunt and kill.'²⁷ It took the CIA five years to develop its network of spies and informants in the AfPak region, a timescale which helps explain the significant gap between the Agency first proving their armed drones worked, in November 2002, and actually launching strikes on regular basis. The CTC's technological capacity was ahead of its human intelligence resources.²⁸ Once the CTC had an

²⁴ Cyril Almeida, 'Lying to ourselves', *Dawn*, 27 October, 2013, <<http://www.dawn.com/news/1052086>>; Craig Whitlock and Greg Miller, 'US covert military presence in Afghanistan much larger than thought', *Washington Post*, 22 September, 2010, <<http://www.washingtonpost.com/wp-dyn/content/article/2010/09/22/AR2010092206241.html>> [accessed 23 April, 2014].

²⁵ Robin Wright and Joby Warrick, 'US Steps Up Unilateral Strikes in Pakistan', *Washington Post*, 27 March, 2008, <<http://www.washingtonpost.com/wp-dyn/content/article/2008/03/27/AR2008032700007.html?sid=ST2008032700935>> [accessed 23 April, 2014].

²⁶ Ibid.

²⁷ Bob Woodward, *Obama's Wars: The Inside Story* (New York NY: Simon & Schuster, 2010), p.6.

²⁸ Director of Central Intelligence George J. Tenet, 'Remarks Before the National Commission on Terrorist Attacks Upon the United States', 14 April, 2004, in CIA Speeches and Testimony Archive, <https://www.cia.gov/news-information/speeches-testimony/2004/tenet_testimony_04142004.html>;

effective network providing targeting information strikes in Pakistan surged from four in 2007 to 36 in 2008 and 54 in 2009. While the change in administration and a shift in strategy no doubt contributed, the rise in strikes was also due to the fact that the CIA's long term investment in pursuit teams on the ground was beginning to pay off.²⁹

Why the Obama administration abandoned extraordinary rendition as a primary counterterrorism tool

Within the first week of his presidency Obama signed Executive Order 13491, revoking Bush's previous order and effectively ceasing the CIA's use of black sites as prisons. The order did not ban the actual practice of rendition, nor did it prohibit the short-term detention of terrorist suspects for interrogation before handing them over for prosecution.³⁰ As a result, renditions continued under the Obama administration.³¹ For example, on 5 October 2013 in a pre-dawn raid in Libya, Delta Force operatives assisted by FBI agents and CIA officers captured Abu Anas al Libi, a terrorist under indictment in the United States for his role in the 1998 African embassy bombings. Libi was held in custody and interrogated on board the USS *San Antonio* in the Mediterranean Sea before being transported back to the US for trial in a federal court in New York.³² However, Libi's rendition is far from the norm for the

Spencer Ackerman, 'How the CIA Became 'One Hell of a Killing Machine'', *Wired*, 2 September, 2011, <<http://www.wired.com/dangerroom/2011/09/cia-killing-machine/>> [accessed 18 March, 2013]. For more on the CIA's use of proxy agents, see Chapter 2.

²⁹ 'Drone Wars Pakistan: Analysis', in New American Foundation, <<http://natsec.newamerica.net/drones/pakistan/analysis>> [accessed 24 April, 2014].

³⁰ Executive Order 13491 – 'Ensuring Lawful Interrogations', 22 January, 2009 in whitehouse.gov, <http://www.whitehouse.gov/the_press_office/EnsuringLawfulInterrogations>; 'Secret prisons: Obama's order to close 'black sites'', *Guardian*, 23 January, 2009, <<http://www.theguardian.com/world/2009/jan/23/secret-prisons-closure-obama-cia>>, [accessed 25 April, 2014].

³¹ Craig Whitlock, 'Renditions continue under Obama, despite due-process concerns', *Washington Post*, 2 January, 2013, <http://www.washingtonpost.com/world/national-security/renditions-continue-under-obama-despite-due-process-concerns/2013/01/01/4e593aa0-5102-11e2-984e-f1de82a7c98a_story.html> [accessed 25 April, 2014].

³² David Kirkpatrick, Nicholas Kulish and Eric Schmitt, 'US Raids in Libya and Somalia Strike Terror Targets', *New York Times*, 5 October, 2013, <<http://www.nytimes.com/2013/10/06/world/africa/Al-Qaeda-Suspect-Wanted-in-US-Said-to-Be-Taken-in-Libya.html>>; 'Embassy bombings figure nabbed by US forces in Libya', *CBS News*, 5 October, 2013, <<http://www.cbsnews.com/news/embassy-bombings-figure-nabbed-by-us-forces-in-libya/>>; Benjamin Weiser and Eric Schmitt, 'US Said to Hold Qaeda Suspect on Navy Ship', *New York Times*, 6 October, 2013, <<http://www.nytimes.com/2013/10/07/world/africa/a-terrorism-suspect-long-known-to->

Obama administration's counterterrorism practice. Despite the secrecy surrounding the practice of rendition, it is clear that the numbers seized and detained under Obama represent a fraction of those taken by the previous administration. So why did the Obama administration move away from the GREYSTONE policy which had been embraced so fervently by the Bush administration and adopt drone strikes as their primary tool for neutralizing al-Qaeda and their Taliban allies?

One of the primary motivations behind the Bush administration's desire to capture al-Qaeda members was the desire to gather intelligence on the organisation and its future plans. This information was to be gained through the controversial EITs. Unsurprisingly, those most closely associated with authorising the techniques have strongly defended the benefits of their use. In his memoirs, President Bush claimed that the techniques 'proved highly effective,' and that those interrogated 'revealed large amounts of information on al-Qaeda's structure and operations.' Ultimately, Bush declared, 'the CIA interrogation program saved lives.'³³ Bush's Vice-President Dick Cheney, perhaps the most vocal proponent of the use of EITs, rejected criticism of the practice as 'recklessness cloaked in righteousness' in a high profile speech he delivered at the American Enterprise Institute on 21 May 2009.³⁴ Cheney used his memoirs to further defend the ethics of the EITs, arguing that they provided 'invaluable intelligence' which 'enabled [the government] to prevent attacks and save American lives.'³⁵ The most senior account from the CIA on the issue of the EITs comes from Jose Rodriguez Jr, who was appointed head of the CTC following 9/11. As the Center's first post-9/11 director, Rodriguez was responsible for gathering intelligence on al-Qaeda's network, and ultimately for advocating the use of enhanced interrogation. In his memoirs, Rodriguez stated categorically that he was 'certain, beyond any doubt, that these techniques, approved by the highest levels of the US government, certified as legal by the Department of Justice, and briefed to

[prosecutors.html?emc=edit_na_20131006&r=0](#)>; 'Abu Anas al Liby, al-Qaeda suspect nabbed in Libya, pleads not guilty to terrorism charges', *CBS News*, 15 October, 2013, <<http://www.cbsnews.com/news/abu-anas-al-liby-al-qaeda-suspect-nabbed-in-libya-pleads-not-guilty-to-terrorism-charges/>> [accessed 25 April, 2014].

³³ George W. Bush, *Decision Points*: (St. Ives: Virgin Books, 2010), pp.169-171.

³⁴ Remarks by Richard B. Cheney, American Enterprise Institute, 21 May, 2009, <<http://www.aei.org/article/foreign-and-defense-policy/regional/india-pakistan-afghanistan/remarks-by-richard-b-cheney/>> [accessed 19 May, 2014].

³⁵ Dick Cheney, *In My Time: A Personal and Political Memoir* (New York NY: Threshold Editions, 2011), pp.359-363.

and supported by bipartisan leadership of congressional oversight committees, shielded the people of the United States from harm and led to the capture and killing of Usama bin Laden.³⁶

The extent to which the EITs helped save American lives, and whether or not intelligence gathered from them led to Osama bin Laden, is a hotly debated topic. A controversially leaked report from the SSCI challenges the assertions above, suggesting that the CIA's programme was both more brutal than policy makers were initially led to believe and also less effective in terms of the reliable intelligence gleaned.³⁷ Furthermore, many have characterized the argument that enhanced interrogations of al-Qaeda members helped locate bin Laden as overly simplistic at best, and a flagrant lie at worst.³⁸ According to Peter Bergen, finding bin Laden was the result of 'the painstaking and cumulative assemblage of information from multiple detainee interviews [including non-coercive FBI interviews], from thousands of al-Qaeda documents recovered on the battlefield or following an arrest, and the scouring of open-source reporting about bin Laden,' which helped to assemble a picture of who his associates were and how and where he was likely to be living.³⁹

Revelations from the NSA files leaked by the former contractor Edward Snowden have provided further evidence as to why the capture and interrogation of terror suspects assumed less importance by the time Obama took office, enabling him to all but discontinue the practice. The files revealed that the NSA's electronic surveillance capabilities had increased significantly in the years since the War on Terror began. The DoD's signals intelligence specialists had developed the ability to

³⁶ Rodriguez, *Hard Measures*, p.xiii

³⁷ Spencer Ackerman, 'CIA and White House under pressure after Senate torture report leaks', *Guardian*, 11 April, 2014, <<http://www.theguardian.com/world/2014/apr/11/cia-white-house-pressure-leaked-senate-report>> [accessed 19 May, 2014].

³⁸ Clare Algar, 'Torture did not lead us to Osama bin Laden', *Guardian*, 5 May, 2011, <<http://www.theguardian.com/commentisfree/libertycentral/2011/may/05/torture-and-osama-bin-laden>>; John McCain, 'Bin Laden's death and the debate over torture', *Washington Post*, 5 May, 2011, <http://www.washingtonpost.com/opinions/bin-ladens-death-and-the-debate-over-torture/2011/05/11/AFd1mdsG_story.html>; Peter Bergen, "'Zero Dark Thirty': Did torture really net bin Laden?", *CNN*, 11 December, 2012, <<http://www.cnn.com/2012/12/10/opinion/bergen-zero-dark-thirty/>>; 'Fact Sheet: Torture and Obama bin Laden', in Amnesty International, <<http://www.amnestyusa.org/pdfs/BinLadenAndTortureFactSheet.pdf>> [accessed 19 May, 2014].

³⁹ Peter Bergen, *Manhunt: From 9/11 to Abbottabad – the ten-year search for Osama bin Laden* (London: Bodley Head, 2012), p.93.

track patterns of movement based upon an individual's digital footprint, a practice which has produced significantly more valuable leads in the pursuit and targeting of specific al-Qaeda and Taliban members than enhanced interrogation ever did.⁴⁰ Glenn Greenwald, the investigative journalist to whom Snowden passed the files, and his colleague Jeremy Scahill have raised concerns as to the accuracy of targeting individuals for drone strikes by their metadata and electronic footprint, a practice referred to within the NSA as 'We Track 'Em, You Whack 'Em'.⁴¹ Conversely Joshua Foust, a fellow at the non-partisan American Security Project think tank has argued that the revelations show the NSA to be 'an invaluable part of the intelligence chain leading to successful strikes against known (and very dangerous) figures within al-Qaeda.' Rather than exposing the CTC as a 'heartless killing machine intent on harming children – a caricature often employed in opposition to drone strikes,' Foust argues that the leaked files reveal a careful and methodical programme, resulting in 'a terrorist organization deeply afraid of an effective weapon.'⁴² Even with the controversy regarding the collection of citizens' metadata, the NSA's approach has presented significantly fewer legal challenges than rendition and interrogation, and has the added benefit of disrupting al-Qaeda's communication and networking capabilities.⁴³ Although actual details of how the NSA supports the CIA are scarce, one specific example provided in James Bamford's book *The Shadow Factory* reveals how an NSA listening post in the US military's Camp Doha in Kuwait intercepted a phone call from a satellite phone associated with Qaed Salim Sinan Al Harethi on 3 November, 2002. Al Harethi was one of the masterminds of the October 2000 attack upon the *USS Cole*. The intercept allowed the NSA to provide positive identification of Al Harethi and guide a CIA Predator from the nearby base in

⁴⁰ Dana Priest, 'NSA growth fuelled by need to target terrorists', *Washington Post*, 21 July, 2013, <http://www.washingtonpost.com/world/national-security/nsa-growth-fueled-by-need-to-target-terrorists/2013/07/21/24c93cf4-f0b1-11e2-bed3-b9b6fe264871_story.html> [accessed 19 May, 2014].

⁴¹ Jeremy Scahill and Glenn Greenwald, 'The NSA's Secret Role in the US Assassination Program', *The Intercept*, 10 February, 2014, <<https://firstlook.org/theintercept/article/2014/02/10/the-nasas-secret-role/>> [accessed 19 May, 2014].

⁴² Joshua Foust, 'NSA Outrage Machine Misfires on Drone Kills' in *War is Boring*, <<https://medium.com/war-is-boring/b63826b30825>> [accessed 20 May, 2014].

⁴³ Greg Miller, Julie Tate and Barton Gellman, 'Documents reveal NSA's extensive involvement in targeted killing program', *Washington Post*, 16 October, 2013, <http://www.washingtonpost.com/world/national-security/documents-reveal-nasas-extensive-involvement-in-targeted-killing-program/2013/10/16/29775278-3674-11e3-8a0e-4e2cf80831fc_story.html> [accessed 19 May, 2014].

Djibouti, East Africa to his exact coordinates. The Predator destroyed Al Harethi's vehicle, killing him and five associates.⁴⁴

Perhaps even more significant in the Obama administration's rejection of rendition and enhanced interrogation as a core counterterrorism tool is the extent to which it became a politically poisonous issue. For many both within and outside the United States, the association of America with the practice of torture created intense hostility and anti-Americanism. When on 12 June 2008 the Supreme Court ruled against the Bush administration, judging that the detainees at Guantánamo Bay had a constitutional right to *habeas corpus* – to challenge their detention before a neutral judge in a real court – it was clear that opposition to extraordinary rendition and the associated interrogations was at a critical level.⁴⁵ During his election campaign, Senator Obama strongly opposed both the mass detention of suspected al-Qaeda members and the use of EITs, which he described as torture. The Nobel Committee's decision to award Obama the Nobel Peace Prize in December, 2009 echoed the relief the international community felt when the newly-elected president laid America's most controversial counterterrorism policy to rest. Upon receiving the award, Obama summed up his reasoning for prohibiting torture and attempting to shut the prison at Guantánamo Bay, telling the assembled audience that 'the United States of America must remain a standard bearer in the conduct of war.' Abiding by the Geneva Conventions when confronting 'a vicious adversary that abides by no rules' was what made America different from those it fought. 'We lose ourselves when we compromise the very ideals that we fight to defend,' stated Obama in reference to the deep domestic divisions the use of EITs had produced.⁴⁶

Furthermore, while rendition may have been effective when the United States was seizing individual terrorists in the wake of attacks which had already been undertaken and were therefore followed by legal indictments, this was no longer the

⁴⁴ James Bamford, *The Shadow Factory: The Ultra-Secret NSA from 9/11 to the Eavesdropping on America* (London: Anchor Books, 2009); David Axe, 'That One Time the NSA Helped Kill A Guy', in *War is Boring*, <<https://medium.com/war-is-boring/af4f6d6fec62>> [accessed 20 May, 2014].

⁴⁵ 'Boumediene v. Bush/Al Odah v. US: The Supreme Court Decision', in Center for Constitutional Rights, <<http://ccrjustice.org/learn-more/faqs/factsheet-boumediene>> [accessed 20 May, 2014].

⁴⁶ Remarks by the President Barack Obama at the Acceptance of the Nobel Peace Prize, Oslo City Hall, Oslo, Norway, 10 December, 2009, in whitehouse.gov, <<http://www.whitehouse.gov/the-press-office/remarks-president-acceptance-nobel-peace-prize>> [accessed 19 May, 2014].

case once America entered a state of armed conflict with al-Qaeda and a legally declared hot war with the Taliban. The number of suspects the United States was dealing with made a law enforcement approach impossible. One only has to look at the difficulty the Obama administration had in trying to prosecute or release those held in the Guantánamo facility to understand why the US government is not keen to add to this number. Following 9/11 the nature of the United States' conflict with al-Qaeda shifted from the defensive, retaliatory approach adopted during the 1990s to a pre-emptive strategy. President Bush articulated this change in approach in a speech delivered at the West Point Military Academy on 1 June, 2002, declaring that 'if we wait for threats to fully materialize, we will have waited for too long.' 'Our security,' the president continued, 'will require all Americans to be forward-looking and resolute, to be ready for pre-emptive action when necessary to defend our liberty and to defend our lives.'⁴⁷ This position was formalised three months later with the release of the 2002 National Security Strategy. Widely referred to as the Bush Doctrine, the strategy stated:

The greater the threat, the greater is the risk of inaction - and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy's attack. To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act pre-emptively.⁴⁸

While the case for pre-emptively deploying force against nations when 'uncertainty remains' was critically undermined by the debacle of Iraq's non-existent stockpiles of WMDs, the concept is still central to the CIA's drone programme. The US government assigns the status of 'enemy combatant' to anyone who travels to an al-Qaeda training camp, or associates themselves with known al-Qaeda, Taliban or affiliated group members. While critics of the drone campaign argue that these individuals do not meet the imminent threat requirement to trigger legal self-defence,

⁴⁷ President George W. Bush Delivers Graduation Speech at West Point, 1 June, 2002, United States Military Academy, West Point, New York, in George W. Bush White House Archive, <<http://georgewbush-whitehouse.archives.gov/news/releases/2002/06/20020601-3.html>> [accessed 19 May, 2014].

⁴⁸ National Security Strategy of the United States, September, 2002, in state.gov, <<http://www.state.gov/documents/organization/63562.pdf>>, p.15. [accessed 19 May, 2014].

the United States' position is that terrorists represent continuous and ongoing threats of unlawful aggression. As professor of law, Russell Christopher, explains, under this definition it does not matter whether or not the terrorist is actually being aggressive at the time of the strike; 'it is their very *status* as a terrorist which qualifies as the *conduct* of posing an imminent threat.'⁴⁹ The philosopher, Jeff McMahan, explains this position further, arguing that 'even while terrorists are sleeping or eating dinner or doing some other innocuous activity, they do not lose their status as terrorists and thus are continuously and invariably constituting imminent threats.'⁵⁰ Whilst there is no legal consensus within international law, the United States is clear in its own legal justifications. Therefore, while the US government considers it legal to attack these individuals as known enemy combatants in the prevailing state of armed conflict between America and al-Qaeda, its affiliates and the Taliban, there might be little or no evidence to prosecute these individuals should they be seized and held in US custody. The awkward truth is that militarily, legally and politically it has proven much easier for the United States government to kill known and suspected terrorists rather than to arrest and take them through the justice system.⁵¹

Why military force from the Department of Defense was not an option

While the legal and political fallout of the GREYSTONE programme may help clarify why extraordinary rendition was abandoned as a primary counterterrorism tool, it does not explain why the CTC's drone campaign took its place. If lethal action was the United States' preferred approach to counterterrorism, there were other more obvious tools to which the president had access. When the Clinton administration eventually abandoned the cautious restraint it had shown in the face of

⁴⁹ Russell Christopher, 'Imminence In Justified Targeted Killing', in Claire Finkelstein, Jens David Ohlin and Andrew Altman (eds.), *Targeted Killings: Law and Morality in an Asymmetrical World* (Croydon: Oxford University Press, 2012), p.256. For a discussion on the fundamental distinction between status and conduct, see M. Maxwell, 'Rebutting the Civilian Presumption: Playing Whack-A-Mole Without A Mallet?', in same volume, Chapter 1, pp.31-59.

⁵⁰ Jeffery McMahan, 'Targeted Killing: Murder, Combat or Law Enforcement?', Finkelstein *et al.*, *Targeted Killing*, Chapter 5, pp.135-155.

⁵¹ Greg Miller, 'Plan for hunting terrorists signals US intends to keep adding names to kill lists', *Washington Post*, 23 October, 2012, <http://www.washingtonpost.com/world/national-security/plan-for-hunting-terrorists-signals-us-intends-to-keep-adding-names-to-kill-lists/2012/10/23/4789b2ae-18b3-11e2-a55c-39408f6e6a4b_story.html> [accessed 19 May, 2014].

al-Qaeda's threats and launched a lethal operation, it chose to use cruise missiles to try to neutralize the al-Qaeda leader. This was not the first time cruise missiles had been deployed for counterterrorism purposes. In June 1993 the Kuwait police claimed to have foiled an Iraqi-sponsored assassination plot targeting former president George H.W. Bush while he visited the Middle Eastern ally. Secretary of State Warren Christopher equated the plot to kill a former US president with 'an attack upon our nation,' prompting Defense Secretary Les Aspen to argue that the United States could 'exercise of the right of self-defense' under Article 51 of the UN Charter.⁵² The Clinton administration opted to retaliate unilaterally by using cruise missiles against Saddam Hussein's intelligence headquarters in central Baghdad, where it was suspected the assassination plot had originated. On 26 June 1993 the cruise missiles were launched from a US destroyer and cruiser stationed in the Red Sea. 'Well, when will we get the pictures from the missiles?' Clinton asked his special assistant, Richard Clarke. Clarke, who confesses he was almost floored by the question, replied that the missiles had no cameras, but that they would learn the degree of the damage from satellites the following morning. Showing the technological foresight worthy of a man labelled 'the globalization president', Clinton asked 'Why don't the missiles have cameras in them?' 'I'm going on TV in an hour to say we blew up this building,' the president continued, 'I want to know that we did.' 'Well, if the missiles communicated,' explained Clarke, 'someone might see them coming or interfere with them.'⁵³ Clarke's explanation was accurate. In 2009 it was discovered that Iraqi insurgents were hacking the video feed from US drones over Iraq using an illegal Russian programme designed for stealing satellite TV feeds.⁵⁴ This explanation, however, was not enough for Clinton. 'We can't

⁵² David Von Drehle, R. Jeffrey Smith, 'US Strikes Iraq for Plot to Kill Bush', *Washington Post*, 27 June, 1993, <<http://www.washingtonpost.com/wp-srv/inatl/longterm/iraq/timeline/062793.htm>> [accessed 19 May, 2014]; Richard Sale, *Clinton's Secret Wars: The Evolution of a Commander in Chief* (New York NY: Thomas Dunne, 2009), p.6; Memo, 'Plot Against President Bush', 13 May, 1993 in Richard Clarke, Transnational Threats, Terrorism, Box 7 of 13, National Security Council, Clinton Presidential Records, Clinton Presidential Library, Little Rock, Arkansas; Seymour Hersh, 'A Case Not Closed', *New Yorker*, 1 November, 1993, <http://www.newyorker.com/archive/1993/11/01/1993_11_01_082_TNY_CARDS_000367232> [accessed 29 June, 2014].

⁵³ Sale, *Clinton's Secret Wars*, pp.8-9; Richard Clarke, *Against All Enemies: Inside America's War on Terror* (London: Free Press, 2004), p.83; Foreign Policy Contributors, 'Clinton's Foreign Policy', *Foreign Policy*, No.121 (Nov. – Dec., 2000), pp.18-29.

⁵⁴ Charles Arthur, 'SkyGrabber: the \$26 software used by insurgents to hack US drones', *Guardian*, 17 December, 2009, <<http://www.theguardian.com/technology/2009/dec/17/skygrabber-software-drones-hacked>>; 'Iraq insurgents "hack into video feeds from US drones"', *BBC News*, 17 December, 2009, <http://news.bbc.co.uk/1/hi/world/middle_east/8419147.stm>; Siobhan Gorman, Yochi J.

communicate with the missiles? What if I wanted to turn them back?’ he asked. Clarke, who by his own admission was flustered and stammering by this point asked ‘You don’t want to sir, do you?...because you can’t...there is no mechanism to...’⁵⁵

20 of the 23 cruise missiles launched hit their target, levelling the intelligence headquarters. However, three went astray, killing Layla al-Attar, a revered Arab artist and director of the Iraqi National Art Museum. Her husband was also killed in the strike and her daughter lost her sight.⁵⁶ Unaware of the collateral damage but insistent upon knowing whether or not the missiles had hit their target before addressing the American public, Clinton pushed Clarke. The advisor notified Clinton’s ANSA Anthony Lake, who in turn called Admiral William Studeman, the Deputy DCI, only to be told that there was no option but to wait. Unsatisfied, Clinton horrified his national security team by telephoning CNN and asking if they had any journalists in Baghdad who could see whether the target had been destroyed. While the cable network did not, they did manage to reach the cousin of one of their cameramen in their Jordanian bureau who happened to be able to see the intelligence headquarters from his downtown Baghdad apartment and confirm that ‘the whole place blew up.’⁵⁷ Finally confident in the results of the strike, Clinton addressed the American people, informing them that the United States could not let the assassination plot ‘go unanswered’ because America’s enemies would ‘repeatedly resort to terrorism or aggression if left unchecked.’ Clinton finished by assuring the public that every effort had been taken to minimise the loss of innocent life.⁵⁸

Clinton had no intention of turning the missiles around, but his expectation of direct command and control over lethal operations and immediate feedback on the results goes some way toward explaining how Obama came to be at the centre of a killing network, giving personal authorisation for strikes with access to live feeds of

Dreazen and August Cole, ‘Insurgents Hack US Drones’, *Wall Street Journal*, 17 December, 2009, <<http://online.wsj.com/news/articles/SB126102247889095011>> [accessed 19 May, 2014]. The United States began encrypting the imagery shortly after this discovery was made.

⁵⁵ Clarke, *Against All Enemies*, p.83.

⁵⁶ Sale, *Clinton’s Secret Wars*, p.9; Malcolm Lagache, ‘The Forgotten Terrorist Attack’, in ‘uruknet.info’, <<http://www.uruknet.info/?p=78864>> [accessed 19 May, 2014].

⁵⁷ Sale, *Clinton’s Secret Wars*, p.9.

⁵⁸ President Clinton’s Address to the Nation, the Oval Office, Washington, DC, 26 June, 1993, in YouTube.com, <<https://www.youtube.com/watch?v=6mpWa7wNr5M>> [accessed 19 May, 2014]; Drehle, Smith, ‘US Strikes Iraq for Plot to Kill Bush’, *Washington Post*.

ongoing missions. As the commander-in-chief there is clearly a felt need to have direct control over the operations ordered. In many ways the availability of a live feed from lethal drones circling targets around the world has made this a reality. While a live feed may provide the immediate feedback that Clinton sought, it also runs the risk of encouraging micro-management, creating too close a personal relationship between the president and his authorised targeted killings. The well-established drone policy critic Tom Engelhardt refers to Obama's role at the centre of the CIA's targeted killing campaign as a marker of an 'imperial presidency.' Engelhardt's fellow TomDispatch blogger Peter Van Buren goes further, suggesting the direct control over drone operations has led to the 'transformation of the White House into a killing machine' headed by 'the assassin-in-chief'.⁵⁹ While both Engelhardt and Van Buren's polemics perhaps overplay the direct level of control those in the Executive have over actual operations, Clinton clearly felt too detached from the mission he was ordering – something that is no longer the case.

The records provide a number of examples of proposed cruise missile strikes against bin Laden which were rejected due to concerns over the lack of reliable intelligence and too great a risk of collateral damage. Clarke describes a strike which was planned in February 1999, when an informant advised bin Laden was visiting royals from the United Arab Emirates, who had set up a falconers' camp in the desert south of Kandahar, Afghanistan. Between the single source of human intel on the ground and the satellite photography, Clinton's NSC was not confident enough bin Laden was visiting. Even if they could confirm his presence in the camp they did not have any real-time intelligence which could confirm what part of the camp should be targeted. Ultimately the risk of dead princes from an Arab ally was enough to ensure the strike did not go ahead.⁶⁰ Another account provided by the 9/11 Commission describes a strike proposed in Kandahar on 20 December 1999. Intelligence suggested bin Laden would be staying overnight at the governor's residence. The NSC principals are reported to have again considered launching cruise missiles but

⁵⁹ Tom Engelhardt, *The American Way of War: How Bush's Wars Became Obama's* (Chicago IL: Haymarket Books, 2010), p.144; Peter Van Buren, 'The Divine Right of President Obama?', 16 February, 2014, in *TomDispatch.com*, <<http://www.tomdispatch.com/blog/175807/>> [accessed 19 May, 2014].

⁶⁰ Clarke, *Against All Enemies*, p.204; Lawrence Wright, *The Looming Tower: Al-Qaeda's Road to 9/11* (New York NY: Penguin, 2007), pp.291-292.

once more concerns about collateral damage were raised. Marine Corps General Anthony Zinni, who had been responsible for planning the December 1998 strategic bombing of Iraq's WMD capacity in Operation Desert Fox, projected the potential casualties at over 200, and also estimated that significant damage would be caused to a local mosque.⁶¹ A separate projection from a senior intelligence officer attached to the Joint Staff was significantly more conservative with regards to casualties, and predicted there would be no damage to the mosque. However, the uncertainty was enough to see the strike called off.⁶²

On the occasion the United States did launch cruise missiles against bin Laden a number of other factors reduced the effectiveness of the action. August 1998's Operation Infinite Reach was initiated in retaliation for al-Qaeda's bombing of the US embassies in Africa. It involved the launching of 79 cruise missiles at al-Qaeda-linked sites in Afghanistan and Sudan. Intelligence on the ground had suggested bin Laden would be hosting a conference to discuss their next attacks with his organisation's senior leadership, at the Zhawar Kili al-Badr camp, near the Eastern town of Khost. The conference, along with three other training camps associated with al-Qaeda were selected as targets.⁶³ Not for the first time, the geography of Afghanistan hampered the US mission. The cruise missiles had to fly hundreds of miles from US warships and submarines stationed in the Arabian Sea to the landlocked Afghanistan. In addition, the missile guidance systems had to be prepared and programmed with target co-ordinates. So, even at the speeds the missiles flew, there was an interval of several hours between Clinton's launch order and their arrival at the target.⁶⁴ This gave plenty of opportunity for a highly mobile target such as bin Laden to move out of danger. Furthermore, the United States had to warn the Pakistan's authorities of the launch due to the missiles' flight path over Pakistani air space. As the attacks were taking place at a time of increased tensions

⁶¹ Captain Gregory Ball, 'Operation Desert Fox', in Air Force Historical Studies Office, <<http://www.afhso.af.mil/topics/factsheets/factsheet.asp?id=18632>> [accessed 20 May, 2014].

⁶² *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (New York NY: W.W. Norton and Company, 2004), pp.130-131.

⁶³ Peter Bergen, *Holy War Inc.: Inside the Secret World of Osama bin Laden* (London: Phoenix, 2002), p.123.

⁶⁴ 'Infinite Reach, 20 August 1998' in Global Security.org, <http://www.globalsecurity.org/military/ops/infinite-reach_news.htm> [accessed 16 April, 2014]; Madeleine Albright, *Madame Secretary: A Memoir* (New York NY: Miramax Books, 2003), pp.468-469.

between the Pakistani and Indian governments, it was feared the Pakistanis may interpret the missiles as an Indian strike and retaliate. So, shortly before the missiles entered Pakistan's airspace, the Vice-Chairman of the Joint Chiefs General Joe Ralston was dispatched to alert Pakistani officials of the US operation. There was significant concern that this information would likely be passed from sympathetic elements in the Pakistani government to the Taliban, especially given the close links between that organization and members of Pakistan's ISI. As hosts to bin Laden it was likely, should the Taliban have learned about the strikes, that they would have warned the al-Qaeda leader, giving him time to flee the scene.⁶⁵

Whether bin Laden was tipped off or was just fortunate enough to have moved on before the missiles arrived is unclear. Peter Bergen suggests the evacuation of foreigners from Kabul shortly before the strikes may have alerted al-Qaeda's observant leadership.⁶⁶ Mohammed Odeh, an al-Qaeda operative arrested by the FBI for his role in the 1998 embassy bombings, suggested to his Bureau interrogators that bin Laden predicted the United States would retaliate with cruise missiles rather than risk casualties from either a commando or aircraft bombing raid, and had warned his people to evacuate.⁶⁷ What is clear is that the missiles missed their mark and in doing so, helped promote bin Laden's status further. The world's superpower had tried to kill the terrorist leader using hundreds of millions of dollars' worth of equipment and had failed.⁶⁸ A number of planned follow up strikes were prevented by the extremely limited intelligence resources the United States had on the ground in Afghanistan. Just as how a lack of American eyes on the target had prevented Clarridge from being able to launch a mission to rescue the American hostages from Beirut, so too the inability to corroborate intelligence supplied by Afghan sources with American eyes prevented the Clinton administration from

⁶⁵ Coll, *Ghost Wars*, p.290; William Maley, *The Afghanistan Wars*, (New York NY: Palgrave-Macmillan, 2009), pp.218–250; Ahmed Rashid, 'The Taliban: Exporting Extremism', *Foreign Affairs*, (November/December, 1999); George Tenet, *At the Center of the Storm: My Years at the CIA* (New York NY: Harper Collins, 2007), pp.176-177.

⁶⁶ Bergen, *Holy War Inc.*, p.124.

⁶⁷ 'United States of America v Usama bin Laden, *et al.*', Testimony of John Anticev, United States District Court, Southern District of New York, 28 February, 2001, in Cryptome.org, <<http://cryptome.org/usa-v-ubl-12.htm>> [accessed 20 May, 2014].

⁶⁸ 'Debates Rankle', *New York Times*, 27 October, 1999, in Internet Archive.org, <<http://web.archive.org/web/20060909050523/http://www.library.cornell.edu/colldev/mideast/sudbou.s.htm>> [accessed 20 May, 2014]; Bergen, *Holy War Inc.*, pp.126-127.

taking action. Clarke reflected upon the situation in his ‘Strategy for Eliminating the Threat from the Jihadist Networks of al-Qida [sic],’ which he completed shortly before Clinton left office, noting that ‘follow-on attacks were considered and military assets deployed on three occasions when al Qida commanders were located in Afghanistan by Humint [human intelligence] sources,’ but on all three occasions the attacks were called off because the single source was not deemed sufficiently reliable to justify US military action.⁶⁹

During the Clinton administration’s final year Clarke sought to see the use of cruise missiles in America’s pursuit of bin Laden replaced by the deployment of armed drones. Clinton’s counterterrorism advisor drew up a strategy for eliminating al-Qaeda in which he referred to the September 2000 reconnaissance flights which the CTC had conducted over Afghanistan using the Predator drone. The document noted that bin Laden had been located on two separate occasions by the unmanned aircraft, and called for the flights to recommence in spring 2001, and that this time the Predator should have ‘a new capability’ to launch Hellfire missiles at ground targets. Clarke reported that this would give the US a ‘see it/shoot it’ option, significantly reducing the kill chain from the president’s order to the impact of the missile.⁷⁰

For counterterrorism purposes, which required the pursuit of highly mobile targets who frequently hid amongst civilians, the cruise missile was just too blunt and inflexible an instrument. It was a Cold War-era weapon designed for levelling buildings, not killing individuals, and its singular deployment against bin Laden exposed how ill-equipped the DoD was to engage in counterterrorism. Since adopting the use of armed drones, thus providing the CTC with the ‘see it/shoot it’ option, the United States has launched hundreds of drone strikes against known and suspected al-Qaeda-related targets. Whilst much of the reasoning behind the increased number of strikes can be put down to America’s adoption of a war footing

⁶⁹ Richard Clarke, ‘Strategy for Eliminating the Threat from the Jihadist Networks of al-Qida’, p.7, in National Security Archive, <<http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB147/clarke%20attachment.pdf>> [accessed 20 May, 2014]. For a comparison of Clarridge’s problems with gaining American eyes on the target, see Chapter 3.

⁷⁰ Ibid, p.8.

against al-Qaeda and the Taliban following 9/11, the role played by the drone itself in increasing the number of strikes should not be ignored. Phillip Alston, the UN's Special Rapporteur on Extrajudicial Killing warned in his May 2010 report that the perceived accuracy of drones combined with the greater level of direct control and lack of immediate risk to American personnel could lower the threshold for leaders to order the use of lethal force.⁷¹ The increased willingness of Clinton's successors to unleash lethal strikes adds validity to Alston's case. The likes of Richard Clarke knew the limitations of the cruise missile all too well and set in motion the process of arming the Predator drone. Whilst this may not have been complete by the time Clinton left office it ensured that the weapon was ready for the Bush administration to deploy in the aftermath of 9/11. The development of a weapon system which significantly shortened the time scale between ordering to launching the strike, provided real-time intelligence on the target and delivered a significantly smaller blast radius which limited the risks of collateral damage was specifically driven by the need to hit bin Laden in his safe haven of Afghanistan.⁷² The armed Predator drone was custom made for lethal counterterrorism operations, and it is clear to see why the Obama administration adopted this weapon over other military options.

Rejection of the “boots on the ground” option

The final alternative for Obama to wage his war against al-Qaeda in the AfPak region was to make more use of the US military, primarily in the form of raids conducted by the counterterrorism operators within JSOC.⁷³ As Mark Mazzetti reveals in *The Way of the Knife*, Bush's Secretary of Defense Donald Rumsfeld had significantly bolstered the DoD's counterterrorist capabilities in the wake of 9/11. Following a visit to JSOC's headquarters at Fort Bragg, North Carolina in

⁷¹ Philip Alston, 'Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions', 28 May, 2010, United Nations Human Rights Council, <<http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>> [accessed 19 May, 2014].

⁷² 'Lockheed Martin's Scorpion Successful in Test Flight', 21 June, 2010, in lockheedmartin.co.uk, <<http://www.lockheedmartin.co.uk/us/news/press-releases/2010/june/LockheedMartinsSCORPIONSu.html>>; 'Year of the Drone', in New American Foundation <<http://counterterrorism.newamerica.net/drones>> [accessed 16 June, 2014].

⁷³ 'Joint Special Operations Command', in socom.mil, <<http://www.socom.mil/pages/jointspecialoperationscommand.aspx>> [accessed 22 May, 2014].

November, 2001, the Defense Secretary more than doubled the special operators' budget, reaching nearly \$8 billion by 2007.⁷⁴ Coupled with Rumsfeld's signing of the 'Al-Qaeda Network Executive Order' in spring 2004, which granted the military the authority to spy on, capture or kill al-Qaeda members anywhere in the world, the DoD's counterterrorism capability was transformed. 'No longer was JSOC capable merely of twenty-four-hour hostage-rescue missions', observes Mazzetti, 'It could run wars of its own.'⁷⁵ Jeremy Scahill's exhaustive investigative journalism, published in his book *Dirty Wars* and featured in the Academy Award nominated documentary of the same name, reveals how accurate Mazzetti's observation is. Scahill's work exposed the scale of US Special Forces counterterrorism operations sanctioned under Bush, and the extent to which these have been continued and even expanded further by the Obama administration.⁷⁶ These missions range from Afghanistan to Yemen, Somalia and beyond, and illustrate what journalist David Sanger calls Obama's 'surprising use of American power' in his 'secret wars'.⁷⁷ In their most high profile mission to date, it was JSOC, backed by CIA intelligence, which undertook the raid against bin Laden's Abbottabad hideout.

In adopting this approach, Rumsfeld took terrorism more seriously than any Secretary of Defense before him, and significantly expanded the options a president has for using lethal force against al-Qaeda and their affiliates. Whereas his predecessors such as Weinberger, Aspin, Perry and Cohen had fought to keep the DoD out of counterterrorism, Rumsfeld sought to challenge the CIA in this field and wrestle command of lethal counterterrorism operations away from the Agency, as revealed in an October 2011 memorandum: 'Does the fact that the Defense Department can't do anything on the ground in Afghanistan until the CIA people go in first to prepare the way suggest that the Defense Department is lacking the capability we need?' Rumsfeld asked. 'Given the nature of our world,' he continued, 'isn't it conceivable that the Department ought not to be in a position of near total

⁷⁴ Mazzetti, *The Way of the Knife*, p.63; p.129.

⁷⁵ Ibid, p.129; Eric Schmitt and Mark Mazzetti, 'Secret Order Lets US Raid Al Qaeda', *New York Times*, 9 November, 2009, <http://www.nytimes.com/2008/11/10/washington/10military.html?_r=0> [accessed 22 May, 2014].

⁷⁶ See Jeremy Scahill, *Dirty Wars: The World Is A Battlefield* (London: Serpent's Tail, 2013); *Dirty Wars* dir. by Rick Rowley (Sundance Selects, 2013) for more on the scale of JSOC counterterrorist operations.

⁷⁷ David E. Sanger, *Confront and Conceal: Obama's Secret Wars and Surprising Use of American Power* (New York NY: Broadway Paperbacks, 2013).

dependence on CIA in situations such as this?’⁷⁸ Through his reference to ‘the nature of the world,’ Rumsfeld indicated that counterterrorism was going to be a top national security concern for the foreseeable future, and that in order to remain influential within US policy making the DoD must end its reluctance to involve itself in counterterrorism operations.

In order to allow the DoD to take the lead in US counterterrorism, Rumsfeld sent a proposal to DCI Tenet for the Pentagon to create its own counterterrorism cell. It would be similar to the CTC, only bigger and more suited to the new, global war against terrorism. He wrote, ‘From everything I hear, CTC is too small to do a 24-7 job.’ Rumsfeld outlined his plan for the creation of an entirely new counterterrorism body based in the Pentagon named the Joint Intelligence Task Force For Combating Terrorism (JITF-CT), which would ‘establish a single focused effort’ in the newly launched war on terror.⁷⁹ It was Rumsfeld’s hope that this single focused effort would put the Pentagon, not the CIA, at the heart of the new war on terror. In contrast to previous Secretaries of Defense, who saw counterterrorism as a risky and messy distraction from the core business of the DoD, Rumsfeld saw it as the vehicle to exert American dominance.⁸⁰ An impression of the scale of Rumsfeld’s plans can be gleaned from the strategy memo he sent to the president within weeks of the 9/11 attacks: ‘The USG [U.S. Government] should envision a goal along these lines: New regimes in Afghanistan and another key State (or two) that supports terrorism (To strengthen political and military efforts to change policies elsewhere).’ He added, ‘If the war does not significantly change the world's political map the U.S. will not achieve its aim.’⁸¹ Just as anti-communism had been used to justify the expansion of American influence around the world during the Cold War, counterterrorism would provide the motivation for America to shape the post-9/11 world. Rumsfeld’s JITF-

⁷⁸ ‘Afghanistan’, Office of the Secretary of Defense, Donald Rumsfeld to General Myers, Working Paper, 17 October, 2001, in National Security Archive, <<http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB358a/doc19.pdf>> <<http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB358a/#19>> [accessed 22 May, 2014].

⁷⁹ ‘JITF-CT’, Memo from Secretary of Defense Donald Rumsfeld to DCI George Tenet, 26 September, 2001, in The Rumsfeld Papers Library, <<http://library.rumsfeld.com/doclib/sp/1508/2001-09-26%20to%20George%20Tenet%20re%20JITF-CT.pdf>> [accessed 22 May, 2014].

⁸⁰ ‘Strategic Thoughts’, Secretary of Defense Donald, Memorandum for the President, 30 September, 2001, in National Security Archive, <<http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB358a/doc13.pdf>> [accessed 22 May, 2014].

⁸¹ Ibid.

CT was created by the Defence Intelligence Agency (DIA) in 2007, and has since served as the DoD's primary counterterrorism analysis centre.⁸² Despite the creation of JTF-CT and the significant expansion of JSOC, it is the CIA and its drone campaign that has remained America's primary counterterrorism tool in North West Pakistan. Why was Rumsfeld's DoD so supportive of the CIA when it came to engaging al-Qaeda?

Prior to 9/11 the DoD's attitude toward counterterrorism was shaped by a number of unsuccessful interventions which had driven the Joint Chiefs and Defense Secretaries to steer clear of such operations. As already discussed in Chapter 3, there was significant collateral damage and the loss of two airmen following Reagan's use of airpower against Gaddafi.⁸³ Chapter 1 has also detailed the failure of Delta Force's commando raid in the disastrous Operation Eagle Claw. Not only did this cost Carter dearly in a political sense, but it also ensured that the Pentagon's commanders, both civilian and military, sought to avoid any similar commitments throughout the Reagan years.⁸⁴

This reluctance to engage in smaller scale operations was challenged in the autumn of 1992. Following the collapse of the Soviet Union, President George H. W. Bush had announced the emergence of a new, American-led world order in which 'brutality will go unrewarded and aggression will meet collective resistance.' Addressing Congress during his 1991 State of the Union, the president told the collected lawmakers that America would bear a major share of leadership in this new global system because, 'Among the nations of the world, only the United States of America has both the moral standing and the means to back it up.' The United States was, Bush declared, 'the only nation on this Earth that could assemble the forces of peace,' making America a 'beacon of freedom in a searching world.'⁸⁵ While the primary focus of Bush's speech was Saddam Hussein's aggression in Kuwait, the

⁸² 'CIA Support to Military Operations', in CIA Library, cia.gov, <https://www.cia.gov/library/reports/archived-reports-1/Ann_Rpt_2001/smo.html> [accessed 22 May, 2014].

⁸³ See Chapter 3 for details on the attack on Libya.

⁸⁴ See Chapter 1 for details on Operation Eagle Claw and its fallout.

⁸⁵ President George H.W. Bush, Address Before a Joint Session of the Congress on the State of the Union, Washington, DC, 29 January, 1991, in The American Presidency Project, <<http://www.presidency.ucsb.edu/ws/?pid=19253>> [accessed 20 May, 2014].

wider message of an assumption of American responsibility was not lost on the international community, in particular the recently elected UN Secretary General Boutros Boutros-Ghali. He challenged Bush to support his lofty rhetoric of a post-Cold War ‘new world order’ with action. A civil war had erupted between clans in the East African nation of Somalia in 1988, destroying the fragile economy. With hundreds of thousands of Somalis facing starvation, the UN appealed to the American president to provide assistance to an ongoing United Nations Operation in Somalia (UNOSOM I) peacekeeping mission. The United States agreed to the UN’s request, which, according to Bush’s ANSA Brent Scowcroft, would demonstrate that ‘the United States was not afraid to intervene abroad,’ and might even form a model for future peacekeeping missions under joint US/UN auspices for the future.⁸⁶

Unfortunately, in reality the operation was a calamitous failure. The UN and United States had divergent views as to the goal of the American intervention in Somalia. Despite the deployment of 25,000 troops, the United States saw its role as purely humanitarian, to ensure food reached those in need and nothing more. For Boutros Boutros-Ghali, however, the mission was one of nation building, with Somalia to be stabilised through the disarmament of the warlords. Tudor A. Onea explains that ‘a tug of war ensued between [...] Boutros Boutros-Ghali and the United States,’ which, according to the global affairs scholar, ‘resulted in the worst of both worlds.’⁸⁷ Keen to maintain his liberal internationalist vision of the post-Cold War world, the recently elected Clinton agreed to keep a limited US military force in the country to assist with the UN mission, but reduced the size of the force significantly, leaving a contingent of 1,500 troops and 400 Special Forces commandos to accomplish an objective that had already looked beyond the full force. When four American servicemen were killed by soldiers loyal to the Somali warlord Mohamed Farah Aideed, the UN Security Council responded by ordering his capture and detention. ‘Failure to take action,’ warned Clinton’s Secretary of State

⁸⁶ Tudor A. Onea, *US Foreign Policy in the Post-Cold War Era: Restraint versus Assertiveness from George H.W. Bush to Barack Obama* (New York NY: Palgrave Macmillan, 2013), pp.55-56; Brent Scowcroft quoted in Samantha Power, *A Problem From Hell: America and the Age of Genocide* (New York NY: Basic Books, 2002), p.293.

⁸⁷ Onea, *US Foreign Policy in the Post-Cold War Era*, p.56.

Madeleine Albright in an op-ed in the *New York Times*, ‘would have signaled to other clan leaders that the UN is not serious.’⁸⁸

The snatch mission fell to the elite Delta Force and Army Rangers that made up the US Quick Reaction Force (QRF), who deployed to the capital of Mogadishu on 3 October 1993 to apprehend Aideed.⁸⁹ Due to a combination of bad luck, poor planning, the lack of necessary equipment and what the UN later described as ‘a superficial understanding of Somalian clan politics,’ the snatch mission was a disaster.⁹⁰ In what became known as the Battle of Mogadishu a gun battle ensued with Aideed’s forces, during which three American Black Hawk helicopters were shot down, 18 American soldiers were killed, 74 were wounded and over 500 Somalis died. In the aftermath the body of one of the slain Black Hawk crew members was filmed being dragged through the streets of the Somali capital and beaten by an angry crowd.⁹¹ Al-Qaeda later claimed to have played a ‘prominent role’ in the downing of the American helicopters, with bin Laden boasting that they had taught the Somali militia to aim for the tail rotors with rocket-propelled grenades. The leader of the Somali al-Qaeda affiliate al-Shabaab has also described how members of al-Qaeda played ‘important combat and support roles’ during the battle itself.⁹² The impact of this episode on the attitudes of those within the Pentagon and the Clinton administration should not be underestimated, and helps explain the collective hesitancy in authorizing an armed snatch mission against bin Laden during Clinton’s second term.⁹³ In his memoirs, Clinton compared the debacle to his political hero John F. Kennedy’s most humiliating experience, the Bay of Pigs invasion.⁹⁴ The parallels go beyond the military fiasco, as both failures were partially caused by faulty intelligence and poor planning, and could be traced back to

⁸⁸ Madeleine Albright, ‘Yes, There Is a Reason to Be in Somalia’, *New York Times*, 10 August, 1993, <<http://www.nytimes.com/1993/08/10/opinion/yes-there-is-a-reason-to-be-in-somalia.html>> [accessed 20 May, 2014].

⁸⁹ Onea, *US Foreign Policy in the Post-Cold War Era*, p.57; John Dumbrell, *Clinton’s Foreign Policy: Between the Bushes, 1992-2000* (New York NY: Routledge, 2009), p.67.

⁹⁰ Dumbrell, *Clinton’s Foreign Policy*, p.71.

⁹¹ Bill Clinton, *My Life*, (New York NY: Knopf Publishing, 2004), p.55. For the full story of the incident, see Mark Bowden, *Black Hawk Down* (New York NY: Atlantic Monthly Press, 1999).

⁹² Bill Roggio, ‘Shabaab leader recounts al Qaeda’s role in Somalia in the 1990s’, in *Long War Journal*, 31 December, 2011, <http://www.longwarjournal.org/archives/2011/12/shabaab_leader_recou.php#> [accessed 29 June, 2014].

⁹³ See Chapter 4 for details on the aborted snatch operations against bin Laden in Afghanistan.

⁹⁴ Clinton, *My Life*, p.552.

commitments and decisions made by the previous administration. It is highly likely that this feeling of having been boxed in by the previous administration contributed to Clinton's decision to hold off from any retaliation against al-Qaeda following the bombing of the *USS Cole* in the closing months of his administration, preferring instead to pass on the details during the transition meetings with Bush, leaving the choice of action to the incoming president.⁹⁵

The effect of this military failure was perhaps felt even more acutely within the DoD. The month before the snatch mission, Colin Powell, then Chairman of the Joint Chiefs, had requested that Secretary of Defense Les Aspin approve a request filed by William F. Garrison, the US commander in Somalia, for tanks, armoured vehicles and AC-130 Spectre gunships to support his heavily depleted forces. This request was in line with Powell's preferred strategic approach, which had been dubbed the Powell Doctrine during the build-up to the 1990 - 1991 Gulf War. Drawing heavily on the Weinberger Doctrine, the Powell Doctrine emphasized that should military force become necessary it ought to be overwhelming in scale and only deployed with substantial public support. Powell advocated the utilization of 'every resource and tool' in order to 'achieve decisive force against the enemy, minimizing US casualties and ending the conflict quickly by forcing the weaker force to capitulate.'⁹⁶ To military officers like Powell and Garrison such requests were perfectly reasonable, and offered the best way of achieving the mission whilst limiting US casualties. To civilian policy makers such as Aspin, however, the doctrine created an all-or-nothing approach to American military action. While almost certainly limiting American military casualties and preventing policy makers from rashly deploying force, it also served to establish a prohibitively high benchmark for military action. Aspin rejected the request, leaving Garrison's force poorly equipped to succeed in its mission. Following the debacle in Mogadishu, Aspin was forced to answer to a Congressional

⁹⁵ Bill Clinton, *My Life*, p.935; Mark Knoller interview with William J. Clinton, *CBS Radio*, Dover, New Hampshire, 11 January, 2001, in Public Papers of the President, The American Presidency Project, <<http://www.presidency.ucsb.edu/ws/?pid=64800>> [accessed 15 June, 2014].

⁹⁶ Rachel Maddow interview with Colin Powell on 'Rachel Maddow Show', *MSNBC News*, 1 April, 2009, <http://www.nbcnews.com/id/30038761/ns/msnbc-rachel_maddow_show/t/full-text-transcript-colin-powell-talks-rachel-maddow/#.U6cCFLFwa70> [accessed 22 June, 2014]; Jonathan Monten, Andrew Bennett (2010) 'Models of Crisis Decision Making and the 1990-91 Gulf War', *Security Studies*, 19 (3). pp. 486-520; Colin Powell, 'US Forces: Challenges Ahead', *Foreign Affairs*, (Winter 1992/1993), <<http://www.cfr.org/world/us-forces-challenges-ahead/p7508>> [accessed 22 June, 2014]. For details on the Weinberger Doctrine, see Chapter 1.

committee on what had gone wrong. After an unconvincing performance, several members of Congress demanded Aspin's resignation; in December 1993 Clinton announced that his Secretary of Defense was retiring after less than a year in his post.⁹⁷

Aspin's replacement, William J. Perry, and other senior Pentagon leaders absorbed the lessons of Somalia. Both Operation Eagle Claw and now the mission in Somalia had, in the eyes of the military, been doomed to failure by political errors. The result of this was to reinforce the tenets of the Powell Doctrine. Problematically for Clinton, the Powell Doctrine, like the Weinberger Doctrine before it, limited the role of the military to huge scale interventions. Unfortunately, this meant when it came to looking for a solution to a small but professional terrorist group hiding out in the difficult-to-reach terrain of Afghanistan, the Pentagon was completely unwilling to be involved. Clarke recalls a discussion between Clinton and Joint Staff Chairman Hugh Shelton in the Cabinet Room in the aftermath of the 1998 embassy bombings. The president asked the former Special Forces commander:

Hugh, what I think would scare the shit out of these al-Qaeda guys more than any cruise missiles... would be the sight of US commandos, Ninja guys in black suits, jumping out of helicopters into their camps, spraying machine guns. Even if we don't get the big guys, it will have a good effect.⁹⁸

According to Clarke's account, Shelton 'looked pained.' His explanation for why such an action was unfeasible was that al-Qaeda's camps were a long way away from anywhere the United States could launch a helicopter raid. Despite this, Clinton's top military officer did agree to 'look into it,' but no plan for a Special Forces raid was ever presented to the president.⁹⁹ Shelton must not have looked very hard, because it was only a year later that the CIA secured basing rights for the Predator reconnaissance flights into Afghanistan from neighbouring Uzbekistan.¹⁰⁰ The reality

⁹⁷ David Osborne, 'Obituary: Les Aspin', *Independent*, 23 May, 1995, <<http://www.independent.co.uk/news/people/obituary--les-aspin-1620708.html>> [accessed 22 June, 2014].

⁹⁸ Clarke, *Against All Enemies*, p.190.

⁹⁹ *Ibid*, p.190.

¹⁰⁰ Clarke, 'Strategy for Eliminating the Threat from the Jihadist Networks of al-Qida', p.7.

was that even with the potential for basing in Uzbekistan, staff at the Pentagon had no desire to organise a mission which combined the long-distance helicopter raid elements of Operation Eagle Claw with the snatch operation of the Somalia raid. Despite its high-tech equipment and well-trained Special Forces, the challenge of flying across hundreds of miles of hostile territory to apprehend or kill an individual belonging to a highly motivated and well-trained terrorist organisation, based upon limited intelligence, was so rife with risks and potential negative fallout that the Pentagon resisted any pressure to engage. Based upon the tenets of the Powell Doctrine, if the US military was to combat al-Qaeda, it would need to be on a massive scale where their superior equipment and numbers could be brought to bear to ensure force protection and success, something the US public, media and most importantly Congress had no interest in supporting.¹⁰¹ Thus small scale raids were out of the question for Clinton. The Pentagon's resistance to the mission against al-Qaeda is perhaps best demonstrated by the fact that immediately following 9/11, when the UN granted the United States permission to invade Afghanistan to track down al-Qaeda and overthrow their Taliban hosts, the American military had no pre-arranged plan for attacking the country.¹⁰²

The public humiliation of these failures was eventually reversed with the success of the high-risk raid against bin Laden's Abbottabad hideout, deep in Pakistani territory on 2 May 2011. Despite the enormous publicity that was guaranteed to accompany the raid whatever the outcome, the Pentagon's JSOC felt confident to take on the mission. Why was Obama able to order a raid when Clinton's proposal for such an operation had been resisted by his military chiefs? Unlike Eagle Claw, which was the first such operation undertaken by America's new Delta Force, and the Somalia raid, which was unfamiliar territory for the SEALs and Rangers, by the time the CIA pinpointed bin Laden's location, JSOC's special operators had, according to a senior Defense Department official, conducted over 2,000 similar raids in Afghanistan and Iraq. They had become such common practice on the front lines of America's War on Terror that the same official described them

¹⁰¹ Albright, *Madam Secretary*, pp.468–469; Editorial, 'Assessing the Blame For 9/11', *New York Times*, 25 March, 2004, Section A p. 26.

¹⁰² Peter Bergen, *The Longest War: The Enduring Conflict Between America and Al-Qaeda* (New York NY: Free Press, 2011), pp.54-55.

as ‘mowing the lawn;’ adding that on the night of the bin Laden raid a further twelve missions were conducted in Afghanistan resulting in the killing or capturing of 15 to 20 targets.¹⁰³ Even with this extensive experience, the crash landing of one of the custom-built stealth Black Hawk helicopters in the courtyard of bin Laden’s compound emphasized the inherent risks associated with such missions, no matter how well planned and prepared.¹⁰⁴

The political fallout of the raid goes further to demonstrate why the United States’ use of Special Forces against al-Qaeda and the Taliban in Pakistan could not be a mainstay strategy. Even before the raid, Obama indicated he was aware that ‘there would be huge political ramifications.’¹⁰⁵ Although drones had been operating in Pakistani territory for years before the raid, there was a significant difference between the fallout from the unmanned and semi-authorized incursions and actual American boots on the ground in Pakistan. Humiliated by its inability both to locate bin Laden and to detect or react to the American forces, the Pakistani government lashed out at the United States. In the immediate aftermath Salman Bashir, the Pakistani Foreign Minister, described the raid as a ‘violation of sovereignty,’ which raised ‘legal questions in terms of the UN Charter.’¹⁰⁶ Opinion polls commissioned by *CNN* shortly after the raid revealed that 63 percent of Pakistanis expressed disapproval of America’s actions, with 51 percent saying they felt it would adversely affect their country’s relations with the United States.¹⁰⁷ However, polling by Pew Research revealed that although the al-Qaeda leader was not well liked in the years before the raid, only 14 percent of Pakistanis felt his death was a good thing, suggesting any action that had resulted in his killing would be looked upon

¹⁰³ Nicholas Schmidle, ‘Getting Bin Laden’, *New Yorker*, 8 August, 2011, <http://www.newyorker.com/reporting/2011/08/08/110808fa_fact_schmidle?currentPage=all> [accessed 22 May, 2014].

¹⁰⁴ Bergen, *Manhunt*, pp.219-220.

¹⁰⁵ President Barack Obama, interviewed in *Bin Laden: Shoot to Kill*, Channel 4, 7 September, 2011, 10pm. Available via 4OD, <<http://www.channel4.com/programmes/bin-laden-shoot-to-kill/4od>> [accessed 22 May, 2014].

¹⁰⁶ Owen Bowcott, ‘Pakistan says US may have breached sovereignty’ *Guardian*, 5 May, 2011, <<http://www.guardian.co.uk/world/2011/may/05/osama-bin-laden-pakistan-us-sovereignty>>; Harold Koh, ‘The Lawfulness of the US Operation Against Osama bin Laden’, in *Opinio Juris*, <<http://opiniojuris.org/2011/05/19/the-lawfulness-of-the-us-operation-against-osama-bin-laden/>> [accessed 22 May, 2014].

¹⁰⁷ ‘Poll: Most Pakistanis disapproved of US killing bin Laden’, *CNN*, 22 June, 2011, <<http://edition.cnn.com/2011/WORLD/asiapcf/06/21/pakistan.bin.laden.poll/>> [accessed 22 May, 2014].

unfavourably. Moreover, even though the Pakistani public was generally critical of the US action, America's overall favourability rating amongst Pakistanis was not worsened any further by the raid.¹⁰⁸ The report of Pakistan's Abbottabad Commission further highlighted Pakistanis attitude towards the raid, describing it as an 'act of war' by the United States against Pakistan. The report declared that the raid demonstrated Washington's 'contemptuous disregard of Pakistan's sovereignty, independence and territorial integrity in the arrogant certainty of [...] unmatched military might.'¹⁰⁹ As political retaliation, Pakistani MPs voted to temporarily end NATO transit convoys taking supplies to forces in Afghanistan.¹¹⁰ While this was only a short term measure, it was none-the-less costly and highly disruptive to operations in neighbouring Afghanistan.

In addition to the vitriol aimed at the US, the fallout of the raid also caused significant damage to the already vulnerable Pakistani government, headed by President Asif Ali Zardari and his fellow Pakistan Peoples Party (PPP) prime minister, Yousaf Raza Gilani. The Commission's report described the US action as the 'greatest humiliation' suffered by Pakistan since the loss of Bangladesh in 1971, and issued a damning indictment of the authorities' 'culpable negligence and incompetence' in failing to pick up on the clues of bin Laden's whereabouts. The report even went on to suggest that there was a possibility current and former officials provided 'plausibly deniable support' for bin Laden, though it did ultimately clear the Pakistani establishment of any involvement in sheltering the al-Qaeda leader.¹¹¹ In polling following the raid, only 11 percent of Pakistani's had a favourable view of Zardari, while his prime minister's ratings had dropped from 59 percent in 2010 to 37 percent. It is worth noting, however, that Zardari's government was already deeply unpopular before the raid due to a range of factors such as rising

¹⁰⁸ 'US Image in Pakistan Falls No Further Following bin Laden Killing', in Pew Research Global Attitudes Project, 21 June, 2011, <<http://www.pewglobal.org/2011/06/21/u-s-image-in-pakistan-falls-no-further-following-bin-laden-killing/>> [accessed 22 May, 2014].

¹⁰⁹ 'Abbottabad Commission Report', in Pakistan's Bin Laden Dossier, *Al Jazeera*, 8 July, 2013, <<http://www.aljazeera.com/indepth/spotlight/binladenfiles/2013/07/201378143927822246.html>>; Hannah Strange, 'US raid that killed bin Laden was "an act of war", says Pakistani report', *Telegraph*, 9 July, 2013, <<http://www.telegraph.co.uk/news/worldnews/asia/pakistan/10169655/US-raid-that-killed-bin-Laden-was-an-act-of-war-says-Pakistani-report.html>> [accessed 22 May, 2014].

¹¹⁰ 'Pakistan condemns Bin Laden raid and US drone attacks', *BBC News*, 14 May, 2011, <<http://www.bbc.co.uk/news/world-south-asia-13398281>> [accessed 22 May, 2014].

¹¹¹ Abbottabad Commission Report.

prices, unemployment and political corruption, with the fallout of the American attack serving to solidify rather than create the image of an incompetent administration.¹¹² What the episode of the Abbottabad raid did reveal is that the presence of American soldiers in Pakistan is significantly more controversial than that of drones. While US Special Forces may have honed their skills in undertaking such raids over the past decade of the War on Terror, such actions can still only be used sparingly and could not serve as the primary tool for combatting al-Qaeda and their Taliban allies in the North West provinces of Pakistan.

Rejection of the “boots on the ground” option

The fallout from the Abbottabad operation revealed that a larger presence of American soldiers in Pakistani territory was not an option for the Obama administration. The Pakistani public’s anger at the undermining of their sovereignty through the presence of even a small number of American soldiers indicated they would not tolerate larger incursions. Furthermore the large-scale deployments under Bush had not proven an effective method of destroy al-Qaeda. From the outset, bin Laden and Zawahiri had sought to suck the United States into a protracted, full-scale war through which they could drain the American economy and illustrate to other Muslims that there was a clash of civilisations between the ‘Zionist Crusaders’ of the West and Islam.¹¹³ While bin Laden had not managed to trigger a global clash, the presence of American forces in Iraq had certainly acted as a recruitment tool for al-Qaeda, breathing new life into the organisation and attracting recruits from all over the Arab world. The Sinjar Records, retrieved by US forces from the small Iraq/Syria border town of the same name in October 2007, revealed the extent to which foreign fighters were flocking to Iraq to fight Americans. The records provided details of 606

¹¹² ‘US Image in Pakistan Falls No Further Following bin Laden Killing’, Pew.

¹¹³ Ayman al-Zawahiri, letter quoted in Alan Cullison, ‘Inside Al-Qaeda’s Hard Drive’, *The Atlantic*, 1 September, 2004 <<http://www.theatlantic.com/magazine/archive/2004/09/inside-al-qaeda-s-hard-drive/303428/>> [accessed 16 June, 2014]; Gilles Kepel and Jean-Pierre Milelli (eds.), *Al Qaeda In Its Own Words* (Cambridge MA: Belknap Press of Harvard University Press, 2008), pp.53-56; Raymond Ibrahim (ed.), *The Al Qaeda Reader* (New York NY: Doubleday, 2007), pp.11-14. Bruce Lawrence (ed.), *Messages To The World: The Statements of Osama bin Laden* (London: Verso, 2005), pp.106-129, 133-144; Ayman al-Zawahiri, *Knights Under the Prophet’s Banner*, trans. by Laura Mansfield in *His Own Words: A Translation of the Writings of Dr. Ayman al-Zawahiri* (New York NY: TLG Publications, 2006), pp.219-220.

foreign fighters who had entered Iraq via Sinjar since August 2006. 41 percent of these fighters were Saudi, 19 percent were Libyan and others came from across the Middle East including Syria, Kuwait and Jordan, as well as African nations, such as Algeria and Sudan. Of the 389 fighters who designated their ‘work’, more than half stated ‘martyr.’¹¹⁴ Although Obama did opt to increase the number of troops on the ground in Afghanistan, to commit similar forces elsewhere in the pursuit of al-Qaeda, in particular into an area such as the north west frontiers of Pakistan, would have invited significant anti-American attacks. The remote nature of the drones has served to downplay the crusader image of the United States al-Qaeda has sought to spread, and there is no evidence of large numbers of foreign fighters flocking to the FATA to repel the infidel as was the case with Iraq.¹¹⁵

The final option open to the Obama administration, and one which it did initially pursue, was to exert pressure on the Pakistani military to act against al-Qaeda and the Taliban by undertaking military action in the FATA region. This approach faced two main problems. The first was similar to the risks posed by the presence of US boots on the ground in the region, namely the presence of the Pakistani military could inadvertently escalate the conflict rather than suppress it. When the Pakistani military did engage in hostilities against the Taliban in the FATA in 2004 it exposed the fragility of the government’s control and the intensely divided nature of Pakistan. Influential clerics at the Lal Masjid mosque in Islamabad called for the people of South Waziristan to resist. Furthermore, the Pakistani military lacked the precision munitions and intensive counterterrorism training of the US Special Forces. Instead, the Pakistani army ‘bludgeoned’ the villages of the FATA. As Mark Mazzetti describes, the Pakistanis used helicopter gunships and heavy artillery, destroying hundreds of compounds belonging to tribesman suspected of harbouring militants, looting civilian homes and even shelling civilians fleeing in a convoy of trucks. Despite their extreme use of force the Pakistani military still took heavy casualties, and had more success in turning the local residents of the region

¹¹⁴ ‘Al-Qaeda’s Foreign Fighters in Iraq: A First Look at the Sinjar Records’, in West Point Counterterrorism Center, <<http://www.isn.ethz.ch/isn/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=45910>> [accessed 16 June, 2014].

¹¹⁵ Richard A. Serrano and David S. Cloud, ‘Times Square bomb suspect had ties to key Pakistani militants’, *Los Angeles Times*, 8 May, 2010 <<http://articles.latimes.com/2010/may/08/nation/la-na-bomb-motive-20100508>> [accessed 16 June, 2014].

against them than in actually harming the militants.¹¹⁶ On 24 April, 2004 the Pakistani government signed a peace treaty with the Pakistani Taliban.¹¹⁷ The document itself was a mockery and soon the Pakistani state was under siege from the militants in its frontier provinces. However, the Pakistani government's willingness to sign the treaty revealed that it did not have the equipment, training nor the motivation to try to dismantle the militant groups who had conquered their border territories.

Conclusion

The United States has significantly expanded both its lethal and non-lethal counterterrorist capabilities since the Reagan administration's limited options for retaliation led to the bombing of Libya in 1986. In theory, Barack Obama entered the White House with more options of how to deal with al-Qaeda than any president who had preceded him. These included renditions backed by a global network of CIA black sites, Special Forces raids undertaken by JSOC with larger military interventions led by the DoD, and increasingly sophisticated and technologically advanced drones supported by the NSA's electronic surveillance and extensive human intelligence provided by the networks of informants in the AfPak border lands. Despite this apparent plethora of options, Obama's choices were actually curtailed by a range of factors. First, the United States' finances were already strained from a decade of war in Afghanistan and Iraq. The economic crash of 2008 had also had a devastating impact upon the nation's economy, putting pressure upon the new president to develop a strategy which was relatively modest in its costs compared to the extravagant expenditure of his predecessor's War on Terror. Second, the domestic pressure to end what was regarded as the CIA's torture programme and the growing worldwide embarrassment caused by the Guantánamo Bay detention facility made the continuation of large-scale rendition a political impossibility. Furthermore, political opposition to expanding US troop deployments and intense

¹¹⁶ Mazetti, *The Way of the Knife*, pp.105-107.

¹¹⁷ For more on the Pakistani peace deal, see: Rohan Gunaratna and Syed Adnan Ali Shah Bukhari, 'Making Peace with Pakistani Taliban to Isolate Al-Qaeda: Success and Failures', *Peace and Security Review*, Vol.1, No.2, (Second Quarter, 2008), pp.1-25.

anti-Americanism in countries such as Pakistan ensured that any counterterrorism efforts in the AfPak border region would need to be handled covertly. Finally, Obama's key objective in his more focused war against al-Qaeda – the decapitation of the organisation's core leadership in the AfPak region and denial of safe haven – was supplemented by a desire, with respect to Afghanistan, to reverse the Taliban's momentum and weaken the insurgency to a level which could be contained by the Afghan National Security Force (ANSF). With these objectives in mind, expanding the drone campaign was a sensible choice for the new president. The CTC's drone programme enabled a sustained and relatively precise campaign against al-Qaeda's leadership. It also empowered the United States to penetrate the Taliban's previously safe haven of the FATA and undertake the strikes necessary to weaken the group and at least reduce, if not reverse, its momentum in Afghanistan. At the same time, the campaign was relatively cheap, in US lives as well as cash, in comparison to the large scale military operations of the Bush administration, and despite organised protests in parts of Pakistan, generated considerably less anti-Americanism than the physical presence of US boots on the ground had done in Afghanistan and even more so in Iraq. That is not to say that the Obama administration has been wholly reliant upon drones. Obama has made extensive use of America's other counterterrorism tools, deploying JSOC forces on missions all around the world, authorizing extensive electronic surveillance and rendering a number of high profile targets back to the United States for trial by military tribunal. However, these activities have largely been reserved for the other battlefields of America's war against al-Qaeda. When it comes to the AfPak region the CTC's drones have undeniably been the primary tool to help the Obama administration achieve its core objectives on both sides of the border.

Chapter 6 - “The only game in town”
The effectiveness of the CIA’s lethal drone campaign

Very frankly, it’s the only game in town in terms of confronting or trying to disrupt the al-Qaeda leadership.

Director CIA Leon Panetta

During his 2008 election campaign Senator Barack Obama rejected the concept of the Global War on Terror which President Bush had declared in the aftermath of the 9/11 attacks. There were those who believed Obama’s rejection of the notion of fighting an open-ended conflict with all terrorism meant that he would repeal the military authority granted to the president by Congresses passing of the AUMF and set about dismantling the legal architecture which had evolved over the previous two decades, leading to increased domestic surveillance, the CIA’s network of detention centres and the pre-emptive deployment of unilateral force in breach of international law. Those who anticipated this were quickly disappointed. In rejecting the ‘war on terror’ concept, Obama was rejecting the scale of Bush’s conflict, not the actual use of force for counterterrorism purposes. Under Obama the war would continue, but would be refocused. No longer would the United States seek to change the regimes of ‘Axis of Evil’ states, or pre-emptively attack nations with a WMD capacity, real or perceived. Instead, what Obama promised was a slimmed down, intensive campaign directed against those responsible for 9/11 – the core of the ever-expanding al-Qaeda franchise - and those who harboured them. Obama declared the AfPak region as the front line of the war with al-Qaeda, and set out a three part strategy for destroying the terrorist group. First, the United States would aim to decapitate al-Qaeda’s leadership; second, they would deny safe haven for both al-Qaeda and their Taliban allies; and, finally, they would degrade the Taliban insurgency in order to aid the NATO mission in Afghanistan and ensure the group could not find the time and space to recover. Primary responsibility for achieving these objectives fell to the CIA’s Counterterrorism Center, and the primary tool which was to enable the CTC to hunt and kill America’s terrorist enemies was its ever-evolving unmanned drone fleet whose prototype the Center had introduced three decades previously. How effective the drone campaign has been in achieving these aims is a hotly debated topic, the answer to which has significant implications for the future direction of US counterterrorism.

The Obama administration's use of drones

During Barack Obama's first year in office, the CIA's Counterterrorist Center undertook more lethal drone strikes than it had in the previous eight years of the Bush administration. The New American Foundation (NAF) has estimated that, by the end of Obama's first term, the CTC had launched 295 lethal drone strikes in Pakistan, compared to 47 during Bush's eight years in office. NAF's assessment suggests these first term strikes killed 1,863 militants, 148 civilians and a further 205 individuals whose status was categorized as 'unknown'. The Obama administration's second term has seen a significant reduction in the number of these strikes, with 30 launched by 22 June 2014. In tandem with stricter targeting criteria and increased safeguards, the downscaled second-term campaign has, according to the NAF resulted in the deaths of 165 militants, four civilians and four 'unknowns'. 19 percent of those killed in the first-term were civilians or of 'unknown' status; that figure has fallen to four percent during the second term. Of course, when working with this data one must keep in mind the covert nature of the CIA's drone campaign, and the difficulty of gaining accurate information from the AfPak region, combined with the blurred lines between militants and civilians in the ongoing conflict; all data, then, must be treated as inexact. However, what statistics are available suggest that there has been a significant move towards greater precision and less collateral damage over the past decade of the CIA's drone use. Journalist Daniel Klaidman provides an account of a discussion between Obama, his deputy National Security Advisor Tom Donilon and DCI Michael Hayden following a misjudged drone strike at the very start of Obama's first term, on 23 January, 2009. Rather than destroying the home of a leading Taliban commander, the strike killed Malik Gulistan Khan, a prominent tribal elder in the FATA who was a member of a pro-government peace committee. The missile also killed four members of his family, including two children. Reacting to Hayden's description of the CIA's 'signature strikes,' a technique authorised by Bush in which the drones could fire on groups of military aged men who bear certain signatures associated with terrorist activity, but whose identities are not necessarily known, Obama is reported to have said 'That's not good enough for me.' Despite Hayden's efforts to defend the approach, Donilon is reported to have told the DCI 'We have to review how we do this stuff. I'm not sure I'm comfortable with how we're doing it.'¹ Given the ratio of

¹ Daniel Klaidman, *Kill or Capture: The War on Terror and the Soul of the Obama Presidency* (New York NY: Houghton Mifflin Harcourt, 2012), pp.41-42.

militant-to-civilian casualties under the Bush administration's drone campaign was 62 to 101, with another 16 'unknowns', it appears to be the case that the CIA's experience, combined with additional safeguards, have made drone strikes significantly more accurate.²

Decapitation of al-Qaeda leadership

Although the CIA itself does not comment upon the drone campaign, an understanding of its main strategic objectives can be gleaned from the comments of administration officials since Obama came to office. Ultimately, the drone campaign has three primary purposes. The first aim was publicly set out by John Brennan in a speech delivered at the Paul H. Nitze School of Advanced International Studies in Washington, DC on 29 June 2011. Brennan, who went on to serve as DCI, was at the time working as President Obama's Assistant for Homeland Security and Counterterrorism, a role similar to that of Richard Clarke within the Clinton administration. This made Brennan Obama's main advisor on counterterrorism policy from 2009 until his move to Langley in March 2013. In Obama's first term, according to the *Washington Post's* Karen DeYoung, Brennan took what was 'a disparate collection of [counterterrorism tactics] and turned them into 'a White House-centered strategy' with him at its core.³ Hence, he is widely regarded as the main architect and proponent of the CTC's drone campaign in Pakistan, a position which has won him numerous supporters and critics alike.⁴ In the speech, which never specifically referred to the classified drone campaign, Brennan stated that the Obama administration's counterterrorism aim in the AfPak region was to wage a 'broad, sustained integrated and relentless campaign' against al-Qaeda's 'core

² 'Drone Wars Pakistan: Analysis', in New American Foundation, <<http://natsec.newamerica.net/drones/pakistan/analysis>>. BIJ offers slightly different statistics, estimating that the Obama administration undertook 300 strikes in Pakistan during its first term, resulting in the killing of 2,102 militants, and 354 civilians (17 percent civilian casualties). Alice K. Ross, Chris Woods and Sarah Leo, 'The Reaper Presidency: Obama's 300th drone strike in Pakistan', in *Covert Drone War*, Bureau of Investigative Journalism, <<http://www.thebureauinvestigates.com/2012/12/03/the-reaper-presidency-obamas-300th-drone-strike-in-pakistan/>> [accessed 22 June, 2014].

³ Karen DeYoung, 'A CIA veteran transforms US counterterrorism policy', *Washington Post*, 29 May, 2014, <http://www.washingtonpost.com/world/national-security/cia-veteran-john-brennan-has-transformed-us-counterterrorism-policy/2012/10/24/318b8eec-1c7c-11e2-ad90-ba5920e56eb3_story.html> [accessed 29 May, 2014].

⁴ Anne E. Kornblut, 'Counterterrorism advisor John Brennan: A forceful voice on Obama's security team', *Washington Post*, 6 June, 2010, <<http://www.washingtonpost.com/wp-dyn/content/article/2010/06/05/AR2010060502969.html>>; Glenn Greenwald, 'John Brennan's extremism and dishonesty rewarded with CIA Director nomination', *Guardian*, 7 January, 2013, [accessed 29 May, 2014].

leadership in the tribal regions of Pakistan' with the aim of 'dismantling' it.⁵ In counterterrorism circles, targeting high-value leadership is referred to as a decapitation strategy. Such a strategy is intended to reduce a terrorist group's operational capability through the systematic elimination of its most valuable members, the disruption of its organizational routine by deterring other members from assuming leadership roles, and potentially even spurring organizational collapse through a power vacuum.⁶ It is an approach which has generated significant debate about its effectiveness amongst terrorism and security experts. Many scholars, such as the political scientist Robert Pape, have argued that targeting enemy leaders within terrorist groups has 'met with meagre success.' Pape's view is supported by the recent studies of international affairs scholar Jenna Jordan amongst others, which conclude that leadership decapitation is 'a misguided strategy,' ineffective at best and possibly counterproductive.⁷

Audrey Kurth Cronin, one of the most noted scholars on the study of how terrorist groups end, has suggested that the study of the impact of decapitation is far from complete. She states that, 'Past experience with the decapitation of terrorist groups is just beginning to be studied in a systematic way.' As a result, 'the relationship between decapitation and a group's demise is not straightforward.'⁸ This point is supported by two extremely detailed empirical studies, which have recently challenged the current consensus that decapitation is ineffective. Rand's Patrick B. Johnston has criticised the methodologies of previous studies

⁵ John O. Brennan, Assistant to the President for Homeland Security and Counterterrorism, 'Ensuring al-Qaeda's demise', Paul H. Nitze School of Advanced International Studies, Washington DC, 29 June 29, 2011, <<http://www.whitehouse.gov/the-press-office/2011/06/29/remarks-john-o-brennan-assistant-president-homeland-security-and-counter>> [accessed 29 May, 2014].

⁶ Bryan C. Price, 'Targeting Top Terrorists: How Leadership Decapitation Contributes to Counterterrorism', *International Security*, Vol.36, No.4, (Spring 2012), pp.9-46, pp.9-10.

⁷ Robert A. Pape, 'The Strategic Logic of Suicide Terrorism', *American Political Science Review*, Vol.97, No.3 (August 2003), pp.1-19, p.14; Jenna Jordan, 'When Heads Roll: Assessing the Effectiveness of Leadership Decapitation', *Security Studies*, Vol.18, No.4 (December 2009), pp.719-755, p.14; Steven R. David, 'Fatal Choices: Israel's Policy of Targeted Killings', *Mideast Security and Policy Studies*, No. 51 (September 2002), pp. 1-26. For further studies concluding leadership decapitation is an ineffective strategy, see: Robert A. Pape, *Bombing to Win: Air Power and Coercion in War* (Ithaca, N.Y.: Cornell University Press, 1996); Stephen T. Hosmer, *Operations Against Enemy Leaders* (Santa Monica, Calif.: Rand, 2001); Paul Staniland, 'Defeating Transnational Insurgencies: The Best Offense Is a Good Fence', *Washington Quarterly*, Vol. 29, No. 1 (Winter 2005/06), pp. 21-40; Mohammed M. Hafez and Joseph M. Hatfield, 'Do Targeted Assassinations Work? A Multivariate Analysis of Israel's Controversial Tactic during Al-Aqsa Uprising,' *Studies in Conflict and Terrorism*, Vol. 29, No. 4 (April 2006), pp. 359-382; Or Honig, 'Explaining Israel's Misuse of Strategic Assassinations', *Studies in Conflict and Terrorism*, Vol. 30, No. 6 (June 2007), pp. 563-577. List compiled by Patrick B. Johnson, 'Does Decapitation Work?: Assessing the Effectiveness of Targeting in Counterinsurgency Campaigns', *International Security*, Vol.36, No.4 (Spring 2012), pp.47-79, pp.47-48.

⁸ Audrey Kurth Cronin, *Ending Terrorism: Lessons for Defeating al-Qaeda* (London: Routledge, 2008), p. 27.

and has argued that his own ‘data-driven approach’ has enabled a more accurate measurement of successful and failed decapitation campaigns dating back to the mid-1970s. Johnston concluded that ‘neutralizing insurgent leaders has a substantively large and statistically significant effect on numerous metrics of counterterrorism effectiveness.’ Specifically, he claims that his results show that ‘removing insurgent leaders increases governments’ chances of defeating insurgencies, reduces insurgent attacks, and diminishes overall levels of violence.’⁹

Bryan C. Price’s separate study, conducted using what Price refers to as ‘the largest and most comprehensive database of its kind,’ argues that terrorist groups are actually highly susceptible to decapitation because ‘they have unique organizational characteristics (they are violent, clandestine, and values-based organizations) that amplify the importance of leaders and make leadership succession difficult.’¹⁰ The accuracy of Price’s further conclusions are substantiated by the consequences of the CIA’s campaign against al-Qaeda. For example, Price’s study suggests that as decapitation ‘increases the mortality rate’ of terrorists, less experienced members are forced into senior positions, increasing their chances of making mistakes and being killed or captured, an argument supported by the now notoriously frequent turnover of the third in command position in al-Qaeda.¹¹ The third in command position is high-risk as it exposes the al-Qaeda member to operations in the field. Since 9/11 the United States has killed or captured those charged with this role with increasing frequency, including Mohammed Atef in November 2001, Abu Zubaida in March 2002, Ramzi bin al-Shibh in September 2002, Khalid Sheikh Mohammed in March 2003, Abu Faraj al-Libbi in May 2005, Abu Hamza Rabia in November 2005, Abu Laith al-Libi in January 2008, Mustafa Abu al-Yazid in June 2010 and Abu Yahya al-Libi in June 2012.¹² Both Price

⁹ Johnson, ‘Does Decapitation Work?’, p.77.

¹⁰ Price, ‘Targeting Top Terrorists’, pp.43-46.

¹¹ Timothy Noah, ‘Al-Qaeda’s Rule of Threes: Why are we always killing Osama’s “No.3 operative?”’, *Slate*, 1 June, 2010, <http://www.slate.com/articles/news_and_politics/recycled/2010/06/alqaidas_rule_of_threes.html> [accessed 29 May, 2014].

¹² ‘US strikes “leadership compound”’, *CNN*, 27 November, 2001, <<http://edition.cnn.com/2001/WORLD/asiapcf/central/11/27/ret.omar.attack/index.html>>; John F. Burns, ‘A Nation Challenged: The Fugitives’, *New York Times*, 14 April, 2002, <<http://www.nytimes.com/2002/04/14/world/nation-challenged-fugitives-pakistan-s-interior-troubling-victory-hunt-for-al.html>>; Dan Eggen and Walter Pincus, ‘FBI, CIA Debate Significance of Terror Suspect’, *Washington Post*, 18 December, 2007, <<http://www.washingtonpost.com/wp-dyn/content/article/2007/12/17/AR2007121702151.html>>; Rehab el-Buri and Jonathan Karl, ‘Top Al-Qaeda Leader Killed’, *ABC News*, 31 January, 2008, <<http://abcnews.go.com/Blotter/story?id=4222911&page=1>> Jeremy Kelly, ‘Al-Qaeda’s third in command killed in US drone strike’, *Telegraph*, 1 June, 2010, <<http://www.telegraph.co.uk/news/worldnews/asia/pakistan/7792134/Al-Qaedas-third-in-command-killed-in-US-drone-strike.html>> [accessed 28 June, 2014].

and Johnston's studies also suggest that the death of leaders can cause 'inter-organizational rifts,' which can also lead to an organisation's demise. The public infighting between Zawahiri's increasingly alienated and isolated core al-Qaeda in the AfPak region and its errant affiliates such as the Iraq/Syria based Islamic State of Iraq and al-Sham (ISIS), suggests the loss of long-term and respected leaders is taking a toll on the legitimacy of the group.¹³

Despite these more positive appraisals of the prospects of a decapitation strategy, Price and Johnston's studies maintain that such an approach is not a silver bullet to end terrorist groups, nor is it likely to be successful in isolation. Instead, both reach a very similar statistical conclusion that a successful decapitation campaign creates a 25-30 percent greater chance of a government successfully reducing violence and ending the conflict with the terrorist group, a sizeable benefit, which partially helps to explain why the United States has come to rely so heavily on this approach.¹⁴ The available evidence suggests a substantial pay-off with respect to al-Qaeda in the AfPak region. Early into the Obama administration's first term, DCI Leon Panetta told those assembled at the Pacific Council on International Policy in Los Angeles that the CTC's drone strikes had been 'very effective' against al-Qaeda, adding that they were 'the only game in town in terms of confronting or trying to disrupt the al Qaeda leadership.'¹⁵ In its September 2011 Quarterly Report to Congress on Afghanistan and Pakistan, the Obama administration continued to extoll the campaign, declaring that it had had 'significant success' in the region, having 'taken out more than half of al-Qa'ida's

¹³ Full translations of Zawahiri's communications regarding ISIS can be found here: Ayman al-Zawahiri on Jihadist infighting and the Islamic State of Iraq and al-Sham, in jihadology.net, <<http://jihadology.net/category/individuals/ideologues/dr-ayman-al-zawahiri/>> Also see: Ayman al-Zawahiri, translation of letter to the leaders of the two Jihadi groups, in <<http://s3.documentcloud.org/documents/710588/translation-of-ayman-al-zawahiris-letter.pdf>>. Translation by *al-Jazeera*, available from Basma Atassi, 'Qaeda chief annuls Syrian-Iraqi jihad merger', *al-Jazeera*, 9 June, 2013, <<http://www.aljazeera.com/news/middleeast/2013/06/2013699425657882.html>>; Karen DeYoung, 'Al-Qaeda leader Zawahiri seeks to end infighting among Syrian militants', *Washington Post*, 23 January, 2014, <http://www.washingtonpost.com/world/national-security/al-qaeda-leader-zawahiri-seeks-to-end-infighting-among-syrian-radicals/2014/01/23/05c80874-8451-11e3-8099-9181471f7aaf_story.html>; Liz Sly, 'Al-Qaeda disavows any ties with radical Islamist ISIS group in Syria, Iraq', *Washington Post*, 3 February, 2014, <http://www.washingtonpost.com/world/middle-east/al-qaeda-disavows-any-ties-with-radical-islamist-isis-group-in-syria-iraq/2014/02/03/2c9afc3a-8cef-11e3-98ab-fe5228217bd1_story.html>; Aryn Baker, 'Why Al-Qaeda Kicked Out Its Deadly Syria Franchise', *Time*, 3 February, 2014, <<http://time.com/3469/why-al-qaeda-kicked-out-its-deadly-syria-franchise/>> [accessed 16 June, 2014].

¹⁴ Johnston, 'Does Decapitation Work?', p.77;

¹⁵ 'US Airstrikes in Pakistan called "very effective"', *CNN*, 18 May, 2009 <http://articles.cnn.com/2009-05-18/politics/cia.pakistan.airstrikes_1_qaeda-pakistani-airstrikes?_s=PM:POLITICS> [accessed 16 June, 2014].

leadership.¹⁶ This claim is supported by al-Qaeda sources, with a June 2009 publication written by Abu Yahya Al-Libi, at the time al-Qaeda's third in command, lamenting the damage the drone strikes have caused to al-Qaeda, specifically mentioning the high casualty rate amongst the core leadership:

[T]he harm is alarming, the matter is very grave. So many brave commanders have been snatched away by the hands of the enemies. So many homes have been levelled with their people inside them by the planes that are unheard, unseen and unknown.¹⁷

The document provides photographs of the small GPS homing beacons, referred to as *pathrai* (a Pashto term for a metal device), with which the CTC equips its agents. The 'spies painstakingly transport to the targets they are assigned by their infidel patrons,' notes Al-Libi, resulting in 'the firing of the murderous and destructive missiles whose wrath is inflicted on the Mujahedeen.'¹⁸ While there is a risk of the CTC's spies mistakenly placing the homing beacons on the wrong house or vehicle, or deliberately misusing them, both the tone of al-Qaeda's online document and their behaviour, along with that of their Taliban hosts in the region of the strikes suggests that the drones have been finding their targets. As paranoia has gripped the jihadists they have launched hunts throughout the FATA, creating what Gul Rafay Jan, a Waziri from the border town of Miran Shah, referred to as 'a climate of fear'. 'Sometimes we see a body a day lying by the roadside, [...] they've got signs around their necks saying they were spies planting chips,' the tribesman told *The Times*. 'Sometimes they have been tortured to make confession videos,' Jan continued, 'by having rods pushed through their arms or stomachs, or being suspended over fire.'¹⁹ The Pakistani Taliban have

¹⁶ White House Quarterly Report on Afghanistan and Pakistan, September 2011, <<http://www.scribd.com/doc/66998459/WH-Report-on-Afghanistan-and-Pakistan-September-2011>> [accessed 16 June, 2014].

¹⁷ Abu Yahya Al-Libi, *Guide to the Law Regarding Muslim Spies*, June 2009, <<http://xa.yimg.com/kq/groups/19377022/1660762922/name/%5Bthe+teacher+in+the+government+spy+Muslim++Sheikh+Abu+Yahya+al-Libi%5D+06.30.09+Archangel.pdf?>>, Report No. 2438, 9 July, 2009, in Middle East Research Institute (MEMRI), Jihad and Terrorism Threat Monitor, <<http://www.memrijttm.org/content/en/report.htm?report=3403¶m=GJN>> [accessed 23 April, 2014]; Jason Burke, 'Abu Yahya al-Libi obituary', *Guardian*, 6 June, 2012, <<http://www.theguardian.com/world/2012/jun/06/abu-yahya-al-libi>> [accessed 23 April, 2014].

¹⁸ Adam Rawnsley, 'CIA Drone Targeting Tech Revealed, Qaeda Claims', *Wired*, 7 August, 2009, <<http://www.wired.com/2009/07/infrared-beacons-guiding-cia-drone-strikes-qaeda-claims/>>; Declan Walsh, 'Mysterious 'chip' is CIA's latest weapon against al-Qaeda targets hiding in Pakistan's tribal belt', *Guardian*, 24 April, 2014, <<http://www.theguardian.com/world/2009/may/31/cia-drones-tribesmen-taliban-pakistan>>;

¹⁹ Anthony Loyd, 'US drone strikes in Pakistan tribal areas boost support for Taliban', *The Times*, 10 March, 2010, accessed via Congressional Unmanned Systems Caucus, US Congress,

even created their own force whose only purpose is to ‘identify, capture and execute people allegedly working for [the] web of local spies created by the CIA.’²⁰ The Lashkar al Khorasan (Army of Greater Afghanistan) as it is known, operates in North Waziristan, arresting and publicly executing tribesman in all manner of brutal ways, primarily, local tribal elders have said, ‘just to terrorize ordinary tribesman’ and discourage further spying.²¹

One way in which it is intended that a decapitation campaign will end a terrorist group is that the power vacuum created will cause the group to fracture and split, and eventually turn upon itself. However, the brutality and violence of those leaders who have emerged in place of those targeted by drones, such as Abu Bakr al Baghdadi of ISIS, who reportedly ordered the mass executions of 1,700 captured Iraqi soldiers after the capture of Iraq’s second city Mosul, suggests that the short-term impact of the decapitation campaign has been more violence and bloodshed. Whether this intensifying violence will eventually undermine the jihadist coalitions is yet to be seen.²²

Denial of safe haven

The second goal of the Obama administration’s drone strategy in the AfPak region has been to ‘prevent [al-Qaeda and the Taliban’s] ability to re-establish a safe haven in the Pakistan-Afghanistan region.’²³ The establishment of a safe haven has been a core goal of Islamic radical groups since the highly influential Egyptian radical Sayidd Qutb argued that a group’s ‘foremost objective is to change the practices of [...] society’ in order to ‘protect the resources and the center of the movement.’ In Qutb’s view, a radical ‘vanguard’ was needed in order to free mankind and demolish the obstacles which prevented it from attaining the freedom that submission to a *salafist* [ancestor] form of Islam would provide. This vanguard

<<http://unmannedsystemscaucus.mckee.house.gov/pakistan/2010/03/us-drone-strikes-in-pakistan-tribal-areas-boost-support-for-taliban.shtml>> [accessed 24 April, 2014].

²⁰ Zia Khan, ‘Taliban create cell to hunt “spies” assisting US drones’, *Express Tribune*, 28 March, 2011, <<http://tribune.com.pk/story/138759/taliban-create-cell-to-hunt-spies-assisting-us-drones/>> [accessed 24 April, 2014].

²¹ Williams, *Predators*, p.108.

²² Rod Nordland and Alissa J. Rubin, ‘Militants Claim Mass Execution of Iraqi Forces’, *New York Times*, 15 June, 2014, <http://www.nytimes.com/2014/06/16/world/middleeast/iraq.html?_r=0>; ‘Profile: Abu Bakr al-Baghdadi’, *BBC News*, 11 June, 2014, <<http://www.bbc.co.uk/news/world-middle-east-27801676>> [accessed 16 June, 2014].

²³ Brennan, ‘Ensuring al-Qaeda’s demise’.

required a base from which to operate.²⁴ The concept of a vanguard with an established base was echoed by the influential Palestinian mujahid Abdullah Azzam, a man who is regarded by many as an early mentor to bin Laden.²⁵ Azzam argued that ‘Every principle needs a vanguard to carry it forward and [to] put up with heavy tasks and enormous sacrifices.’ This vanguard, in Azzam’s words, would need a ‘strong foundation,’ which translates in Arabic to *al-qaeda al-sulbah* (al-Qaeda is also referred to as ‘The Base’).²⁶ Reflecting upon the importance of Afghanistan to al-Qaeda in providing a safe haven within which the group could develop, Ayman al-Zawahiri stated in his radical manifesto *Knights Under the Prophets Banner* that, ‘A jihadist movement needs an arena that would act like an incubator where its seeds would grow and where it can acquire practical experience in combat, politics, and organizational matters.’²⁷ Terrorism scholars such as Jacob N. Shapiro and Abdulkadar H. Sinno have also discussed the arguments relating to the value of havens from which terrorist groups and insurgents can safely coordinate operations and transmit information, concluding that that ability to function in locations that are out of the reach of security services significantly boost the effectiveness of such groups.²⁸

Painstaking efforts by NAF (supported with shared data from the BIJ) to map out known and suspected drone strikes across the AfPak region provide clear evidence that whole areas of territory have been put out of bounds for al-Qaeda and the Taliban. The significant decline in the number of strikes in the past two years, with just 11 recorded by June 2014, compared to 27 the previous year, 48 in 2012 and 73 in 2011, indicates the steep reduction in the number of targets, as militants steer clear of the strike zones.²⁹ Furthermore, bin Laden’s near total isolation, along with the de-facto alienation of current al-Qaeda leader Ayman al-Zawahiri from fellow jihadists, best highlighted by his inability to influence the current jihadist groups such as ISIS, demonstrates the effectiveness of the drone campaign in cutting

²⁴ Sayyid Qutb, *Milestones* (Darya Ganj, New Delhi: Islamic Book Service, 2001), p.21, p.71.

²⁵ Bruce Riedel, *The Search for Al Qaeda: Its Leadership, Ideology and Future* (Washington, DC: Brookings Institution Press, 2008), pp.40-41; , ‘Profiles’, Global Security.org, <http://www.globalsecurity.org/security/profiles/osama_bin_laden.htm> [accessed 13 June, 2014].

²⁶ Abdulla Azzam, 1987, quoted in Jason Burke, *Al-Qaeda: Casting a Shadow of Terror*, (London: I.B. Tauris, 2003), pp.7-8.

²⁷ Ayman al-Zawahiri, *Knights Under the Prophet’s Banner*, <<http://azelin.files.wordpress.com/2010/11/6759609-knights-under-the-prophet-banner.pdf>> [accessed 13 June, 2014].

²⁸ Jacob N. Shapiro, *The Terrorist’s Dilemma: Managing Violent Organizations*, p.10; Abdulkader H. Sinno, *Organizations at War in Afghanistan and Beyond* (Ithica NY: Cornell University Press, 2008).

²⁹ ‘Drone Wars Pakistan: Analysis’, in New American Foundation, <<http://natsec.newamerica.net/drones/pakistan/analysis>> [accessed 13 June, 2014].

off al-Qaeda's AfPak-centred core from the rest of the organization.³⁰ Al-Qaeda's core has been forced to change its operating methods and divert its limited resources and time which could be spent on generating plots and training new recruits to protecting its leaders.³¹ Confirmation of the damage done to al-Qaeda by the drone campaign is provided by the organization's desperate efforts to recruit engineers to try to hack the unmanned aircraft, and the photocopied guidance sheets recovered from jihadists in North Africa, which give tips on avoiding drones, originally written by a jihadist in Yemen but since circulated amongst all of the terror group's franchises.³²

The conviction of the Obama administration that its drone campaign was working can be ascertained from a speech delivered at the Oxford University Union on 30 November 2012 by Jeh Johnson, then serving as the General Counsel of the DoD. Titled 'The Conflict Against Al Qaeda and its Affiliates: How Will It End?' the speech reflected the administration's confidence that the CTC's drone campaign was close to destroying the AfPak-based core of al-Qaeda: 'Osama bin Laden is dead. Many other leaders and terrorist operatives of al-Qaeda are dead or captured; those left in al Qaeda's core struggle to communicate, issue orders, and recruit.' While Johnson was careful to 'offer no prediction about *when* this conflict will end,' he suggested, as no Obama administration official had done before, that eventually a 'tipping point' would be reached:

a tipping point at which so many of the leaders and operatives of Al Qaeda and its affiliates have been killed or captured and the group is no longer able to attempt or launch a strategic attack against the United States, such that Al Qaeda as we know it, the organization that our Congress authorized the military to pursue in 2001, has been effectively destroyed.³³

Johnson went on to assert that America's counterterrorism policy would therefore cease to take the form of an armed conflict. Rather it would be an effort targeted at individuals, 'for which the law enforcement and intelligence resources of our government are principally

³⁰ Jason Burke, *The 9/11 Wars* (London: Allen Lane, 2011), p.493.

³¹ Price, 'Targeting Top Terrorists', pp.9-10.

³² Rukmini Callimachi, 'Mali Manual Suggests Al-Qaeda Has Feared Weapon', *Associated Press*, <<http://bigstory.ap.org/article/mali-manual-suggests-al-qaida-has-feared-weapon>> [accessed 13 June, 2014].

³³ General Counsel of the US Department of Defense Jeh Charles Johnson, 'The Conflict Against Al Qaeda and its Affiliates: How Will It End?', Oxford Union, Oxford University, 30 November, 2012 in lawfareblog.com, <<http://www.lawfareblog.com/2012/11/jeh-johnson-speech-at-the-oxford-union/>> [accessed 15 June, 2014].

responsible.³⁴ The return to the use of law enforcement agencies such as the FBI as the primary tool against terrorism would essentially mark the end of the War on Terror, although it is unlikely any president would ever tempt fate by directly saying as much. While Johnson's language was carefully selected and provided plenty of caveats, the fact that a senior Obama administration official was giving a high-profile speech in which he discussed the likelihood of an end to the war against al-Qaeda demonstrated the confidence within the Executive that al-Qaeda's core had been decimated.

Despite this confidence, other officials provided warnings about the limitations of the CTC's drone campaign. Shortly before Johnson's speech, Leon Panetta, at that point serving as Secretary of Defense, delivered remarks at the Center for a New American Security in Washington, DC in which he echoed the administration line that 'the United States has decimated core al-Qaeda.' However, he then went on to issue a warning about the increasingly fragmented nature of the group and its successful franchise operation, cautioning that 'even with these gains, the threat from al-Qaeda has not been eliminated.' 'We have slowed the primary cancer,' continued the former DCI, who oversaw the escalation of the drone campaign, 'but we know that the cancer has metastasized to other parts of the global body.'³⁵ Panetta's warning has turned out to be extremely accurate, and has perhaps highlighted one of the biggest weaknesses of the CTC's drone campaign as a primary tool for destroying al-Qaeda. While the barrage of drone attacks and constant surveillance may have succeeded in eliminating much of the leadership and the safe havens in the AfPak region, al-Qaeda has adapted and moved to areas where the drones have not been able to follow. The chaos and instability in countries such as Libya and in particular Syria have served to create new safe havens over which the CTC's drones cannot operate. These havens have become perfect incubators for radical jihadist groups, and have allowed the Salafist-jihadist movement not only to recover, but to become stronger than it has been in decades. A report published by the Rand Corporation in June 2014 provides details of this growing threat, and of the evolution of al-Qaeda, both in response to the destruction of its core in AfPak and to the wider political events which have shaken North Africa and the Middle East. The study's

³⁴ Ibid.

³⁵ Remarks by Secretary of Defense Leon Panetta at the Center for a New American Security, Washington, DC, 20 November, 2012, in defense.gov, <<http://www.defense.gov/transcripts/transcript.aspx?transcriptid=5154>> [accessed 15 June, 2014]; David Alexander, 'US has decimated al Qaeda chiefs but must persist in fight: Panetta', *Reuters*, 20 November, 2012, <<http://www.reuters.com/article/2012/11/21/us-usa-qaeda-panetta-idUSBRE8AK03R20121121>> [accessed 15 June, 2014].

author, Seth G. Jones, reports that in 2007 there were 28 Salafi-jihadist groups such as al-Qaeda. Rand estimates that there were between 18,000 and 44,000 terrorists active within these groups around that time and that they were collectively responsible for 100 terrorist attacks. By the end of 2013 the number of jihadist groups had increased to 49, with estimates of the numbers of active terrorists ranging between 44,000 and 105,000. The significance of this increase in numbers is represented by the fact that Salifist-Jihadists were linked to 950 attacks in 2013 alone. The report did agree with the Obama administration's assertion that 'core al-Qaeda', based in the AfPak region and targeted by the CTC's drone campaign, had sustained 'huge' damage and was no longer a principal threat to the US homeland. However, rather than eradicating the threat, the report concluded that the impact of the instability across North Africa and the Middle East since 2010 has seen a '58 percent increase in the number of jihadist groups, a doubling of jihadist fighters and a tripling of attacks by al-Qaeda affiliates.' 'The most significant threat to the United States,' the report concludes, 'comes from terrorist groups operating in Yemen [al-Qaeda in the Arabian Peninsula] and Syria [Islamic State of Iraq and al-Sham and al-Qaeda affiliate Jabhat al-Nusra].'³⁶

The US State Department's Bureau of Counterterrorism (BoC) published its latest annual assessment of global terrorism in April 2014, which has also acknowledged the growth of Salafi-jihadist groups and the violence they have brought. According to the report jihadist attacks across the world increased from 6,700 in 2012 to 9,700 in 2013. Approximately 18,000 people perished in these attacks, and a further 33,000 were injured. As with Rand's report, the DoS's analysis praised the US government's success against al-Qaeda's AfPak core, but also highlighted the increased threat of the group's affiliates and other independent jihadist groups. The BoC's study makes a specific reference to the threat growing from Syria, which it links back to the formation of ISIS and the development of the networks for foreign fighters which had formed in Syria during the US occupation of Iraq. The report estimates that the number of jihadist fighters could range from 7,000 to 20,000.³⁷ Such figures show that while the CIA's drone campaign may have succeeded in denying the core of al-Qaeda safe haven in the AfPak region, the group and its affiliates have been able to

³⁶ Seth G. Jones, 'A Persistent Threat: The Evolution of al-Qa'ida and Other Salafi Jihadists', Rand Corporation, June 2014, <http://www.rand.org/pubs/research_reports/RR637.html> [accessed 16 June, 2014]. For more information on al-Qaeda affiliates, see 'Mapping Militant Organisations', in 'stanford.edu', <<http://www.stanford.edu/group/mappingmilitants/cgi-bin/groups>> [accessed 16 June, 2014].

³⁷ 'Country Reports on Terrorism 2013', April 2014, in Bureau of Counterterrorism, state.gov, <<http://www.state.gov/j/ct/rls/crt/2013/>> [accessed 16 June, 2014].

escape the surveillance and strike capability of drones and establish new strongholds and incubators, out of the reach of the CIA.

Force protection for the NATO International Security Assistance Force (ISAF) in Afghanistan

The third aim of the CIA's drone campaign is revealed by the identities of the majority of the drones' targets. As discussed above, the available data suggests that the CIA's drone campaign in the AfPak region has killed somewhere between 58 and 96 senior al-Qaeda and Taliban leaders between 2004 and June 2014. During this period the same sources estimate the number of non-senior leadership militants killed by drone strikes in the region to be between 1,636 and 2,803. The targeting of these militants is just as significant a part of the drone campaign as the decapitation of al-Qaeda's leadership. The CIA's mission in AfPak is not just the targeted killing of terrorist leaders, but also to advance the wider campaign conducted by the United States and allied NATO ISAF forces against the Taliban.³⁸

During his 2008 election campaign, Obama referred to the invasion of Iraq as a 'strategic mistake,' making clear his view that Afghanistan and Pakistan represented the central front of the battle against al-Qaeda.³⁹ Despite fierce criticism from Republicans such as John McCain and the American Enterprise Institute's Frederick Kagan, Obama honoured the terms of the Status of Forces Agreement established between the Bush administration and the Iraqi government, which stated that 'all the United States forces shall withdraw from all Iraqi territory no later than December 31, 2011.'⁴⁰ While ending America's war in Iraq,

³⁸ United Nations Security Council Resolution 1368, 12 September, 2001, in UN.org, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N01/533/82/PDF/N0153382.pdf?OpenElement>>. For a full list of the ISAF troop numbers and contributing nations to the Afghanistan mission, see 'Troop numbers and contributions' in [www.isaf.nato.int](http://www.isaf.nato.int/troop-numbers-and-contributions/index.php), <<http://www.isaf.nato.int/troop-numbers-and-contributions/index.php>> [accessed 15 June, 2014].

³⁹ Transcript of first presidential debate between senators Obama and McCain, 26 September, 2008, *CNN*, <http://articles.cnn.com/2008-09-26/politics/debate.mississippi.transcript_1_mccain-and-barack-obama-first-presidential-debate-transcript?_s=PM:POLITICS> [accessed 13 June, 2014].

⁴⁰ Oliver Knox, 'Obama foes blast Iraq withdrawal amid Iran worries' *AFP*, 21 October, 2011 <<http://www.google.com/hostednews/afp/article/ALeqM5j8kBusvTCpcuG4QYujbPyb6qU9ag?docId=CNG.372358000fff8eb3e0bd8527f1e55dc5.5b1>>, Frederick Kagan, 'The Enterprise Blog', 21 October, 2011, <<http://blog.american.com/author/fkagan/>>; Status of Force Agreement between United States of America and Iraq, 27 November, 2008, *New York Times*, <http://graphics8.nytimes.com/packages/pdf/world/20081119_SOFA_FINAL_AGREED_TEXT.pdf>; American Servicemembers' Protection Act of 2002, in Public Law 107-206, August 2, 2002, in [gpo.gov](http://www.gpo.gov), <<http://www.gpo.gov/fdsys/pkg/PLAW-107publ206/pdf/PLAW-107publ206.pdf>> [accessed 13 June, 2014].

Obama surged troops into Afghanistan, using a speech on 27 March 2009 to warn the American public that ‘if the Afghan government falls to the Taliban or allows al-Qaeda goes unchallenged, that country will again become a base for terrorists who want to kill as many of our people as they possibly can.’ Indicating his administration’s commitment to combating al-Qaeda and the Taliban on both sides of the AfPak border, Obama declared: ‘The future of Afghanistan is inextricably linked to the future of its neighbour Pakistan.’⁴¹

Obama’s new strategy revealed his intention both to support the recruitment and training of Afghanistan’s security forces and to pursue al-Qaeda and the Taliban into what he described as the ‘remote areas of the Pakistani frontier.’⁴² Based upon the guidance of counterinsurgency experts, such as General David Petraus and the general’s special advisor David Kilcullen, Obama ordered two surges of US forces into Afghanistan with the aim of providing the security and stability necessary to enable the Afghan government to recruit and train members for its expanding security forces.⁴³ The first surge of 30,000 troops in March 2009 almost doubled the number of American soldiers who had been posted in Afghanistan when Obama assumed office. The second, ordered eight months later, saw a further 30,000 troops deployed.⁴⁴ In a speech delivered at West Point upon the announcement of his second surge, Obama deepened his commitment to securing Afghanistan by explaining that the additional forces were being deployed to ‘seize the initiative’ and that the United States would provide support to the Afghan government ‘over the long haul’. At the same time, the President acknowledged the new political realities of an economically weakened America whose citizens were growing tired of the war in Afghanistan by explaining that the troops would begin to be withdrawn in 18 months. The aim was to end the combat mission in 2014, with the caveat that this would be ‘dependent upon conditions on the ground.’⁴⁵

⁴¹ Remarks by President Barack Obama, ‘A New Strategy for Afghanistan and Pakistan’, 27 March, 2009 in whitehouse.gov, <<http://www.whitehouse.gov/blog/09/03/27/A-New-Strategy-for-Afghanistan-and-Pakistan/>> [accessed 13 June, 2014].

⁴² Ibid.

⁴³ For an overview of the counterinsurgency approach developed by General David Petraeus, see General David Petraeus, Lt. General James F. Amos, Lt. Colonel John A. Nagl and Sarah Sewall, *The US Army and Marine Corp Counterinsurgency Field Manual* (Chicago IL: University of Chicago Press, 2007). Also see: David Kilcullen, *The Accidental Guerrilla: Fighting Small Wars in the Midst of a Big One* (London: Hurst and Company, 2009), David Galula, *Counterinsurgency Warfare: Theory and Practice* (Westport CT: Praeger Security International, 2006).

⁴⁴ Statistics provided by US Department of Defense, ‘American Forces in Afghanistan and Iraq’, *New York Times*, 22 June, 2011, <<http://www.nytimes.com/interactive/2011/06/22/world/asia/american-forces-in-afghanistan-and-iraq.html?ref=asia>> [accessed 13 June, 2014].

⁴⁵ Remarks by the President in Address to the Nation on the Way Forward in Afghanistan and Pakistan, West Point Academy, 1 December 2009, <<http://www.whitehouse.gov/blog/2009/12/01/new-way-forward-presidents->

This significant deployment of troops revealed Obama's determination to secure the AfPak region and finish the fight against al-Qaeda and their Taliban hosts, something the Bush administration had failed to do. While the troop surge was the most publicly visible element of Obama's Afghan strategy, the drone surge was the second part of this strategy. Closer inspection of the aims Obama set out to coincide with his troop surge on 29 November, 2009 further reveals how the CIA's drone campaign was a cornerstone of the Afghan mission. Of the six overall goals included in Obama's new orders, three were clearly areas in which the CIA's drones were vital tools. Denying the Taliban access to key population and production centres, as well as disrupting its lines of communication, have been tasks particular to the drone campaign, as US soldiers were unable to operate over the border in the Waziristan population centres where Taliban fighters took sanctuary. The same is true for the goal of disrupting the Taliban in areas outside the secure areas of Afghanistan – again a reference to the AfPak borderlands NATO forces were unable to control. Obama's orders made a specific reference to the importance of preventing al-Qaeda re-establishing a sanctuary in the AfPak region, too. Finally, the high number of militant casualties reveals the CTC's role in helping meet the aim of degrading the Taliban to a level that would be manageable for the ANSF.⁴⁶

As the US military commitment to Afghanistan has begun to draw down, so too has that of the CIA. The Bilateral Security Agreement between the Obama administration and the new government of Afghanistan, along with a status of forces agreement with NATO partners, leaves just 9,800 US troops in the country past 2014 with the open-ended mission of 'training Afghan forces and supporting counterterrorism operations against the remnants of al-Qa'ida.'⁴⁷ The *Washington Post* has reported that the CIA has begun to reduce its number of Afghan bases, from 12 to six over the next two years. This shift is partly due to the pressure on the Agency to respond to new challenges beyond al-Qaeda and the Taliban, such as the chaos in Syria and the wider Middle East.⁴⁸ It also reflects DCI Brennan's desire,

[address](#)> [accessed 13 June, 2014]. For a full breakdown of the Obama administration's surge and breakdown plan, see Bob Woodward, *Obama's Wars: The Inside Story* (London: Simon and Schuster, 2010), p.283.

⁴⁶ President Obama's Final Orders for Afghanistan Pakistan Strategy, 29 November, 2009, in Woodward, *Obama's Wars*, pp.387-390.

⁴⁷ 'Bringing the US War in Afghanistan to a Responsible End', in [whitehouse.gov](http://www.whitehouse.gov), 27 May, 2014, <<http://www.whitehouse.gov/the-press-office/2014/05/27/fact-sheet-bringing-us-war-afghanistan-responsible-end>> [accessed 15 June, 2014].

⁴⁸ Greg Miller, 'CIA closing bases in Afghanistan as it shifts focus amid military drawdown', *Washington Post*, 23 July, 2013, <<http://www.washingtonpost.com/world/national-security/cia-closing-bases-in-afghanistan-as-it->

signalled during his confirmation hearings in February 2013, to return the Agency to its traditional espionage role and to limit its future involvement in paramilitary action. Reflecting on the CIA's mission since the 9/11 attacks, Brennan described it as 'a bit of an aberration,' arguing that the CIA's primary role should be delivering 'the best intelligence collection [and] analytical capabilities possible,' not conducting military operations.⁴⁹ While Brennan himself was a key architect of the CIA's paramilitary role, his declaration that the Agency should not be permanently engaged in this mission indicates that its campaign in AfPak was always intended to be a short term mission coupled to the US military mission in the country.

It is not wholly accurate to describe the CIA's engagement in covert paramilitary activities as a departure from its original role. As Rhodri Jeffreys-Jones has stated, 'the CIA did engage in covert operations virtually from the outset,' and while it is questionable that President Truman planned 'the whole panoply of 1950s dirty tricks and paramilitary operations in advance,' it is, as Jeffreys-Jones argues, 'likely that the executive architects of the agency hoped from the outset that it would enable them to intervene abroad in a hidden manner.' There is also an historical precedent for the CIA being called upon to weaken an insurgent enemy on behalf of the DoD as part of a wider war aim. From 1965 to 1972 the Agency coordinated the Phoenix Programme in Vietnam, a campaign designed to neutralize the infrastructure of the National Liberation Front of South Vietnam (NLF or *Viet Cong*). South Vietnamese forces undertook reconnaissance and intelligence gathering, interrogation (often involving torture) and targeted killings, with close CIA supervision. There is some debate with regard to the effectiveness of the programme, but when it began to draw significant negative publicity and became the focus of Congressional hearings it was officially shut down. Figures suggest the programme 'neutralized' 81,740 suspected NLF operatives and supporters, of whom 20,000 to 60,000 were killed.⁵⁰

[shifts-focus-amid-military-drawdown/2013/07/23/7771a8c2-f081-11e2-a1f9-ea873b7e0424_story.html](http://www.washingtonpost.com/world/national-security/secret-report-raises-alarms-on-intelligence-blind-spots-because-of-aq-focus/2013/03/20/1f8f1834-90d6-11e2-9cfd-36d6c9b5d7ad_story.html)> [accessed 15 June, 2014].

⁴⁹ Greg Miller, 'Secret report raises alarms on intelligence blind spots because of AQ focus', *Washington Post*, 20 March, 2013, <http://www.washingtonpost.com/world/national-security/secret-report-raises-alarms-on-intelligence-blind-spots-because-of-aq-focus/2013/03/20/1f8f1834-90d6-11e2-9cfd-36d6c9b5d7ad_story.html>; Open Hearing on the Nomination of John O. Brennan to be Director of the Central Intelligence Agency, United States Senate Select Committee, Washington, DC, 7 February, 2013 in [intelligence.senate.gov](http://www.intelligence.senate.gov), <<http://www.intelligence.senate.gov/130207/transcript.pdf>>, p.69 [accessed 15 June, 2014].

⁵⁰ Rhodri Jeffreys-Jones, 'Why was the CIA established in 1947?', in Rhodri Jeffreys-Jones and Christopher Andrew (eds.), *Eternal Vigilance? 50 Years of the CIA* (London: Frank Cass, 1997), p.33. For more on the Phoenix Program, see: Dale Andradé, *Ashes to Ashes: The Phoenix Program and the Vietnam War – Cover for Assassination or Effective Counterinsurgency?* (New York NY: Lexington Books, 1990); Andrew R. Finlayson,

Did the AfPak drone campaign bring the CIA too close to the DoD at the expense of its core mission? The fact that, the man who had overseen both the Bush administration's strategic surge into Iraq in 2007 and the Obama administration's surge into Afghanistan two years later, General David Petraeus, was given the role of DCI in September 2011, while the previous post holder, Leon Panetta, moved to the Pentagon as Secretary of Defense in July 2011, serves to highlight the close co-operation between these two organisations in the endeavour to achieve Obama's strategic goal in Afghanistan. Meanwhile the CIA's inability to keep the US government fully informed of events on the ground in a number of crises, has seen the Agency's intelligence efforts criticised by the Obama administration, Congress and the press.⁵¹ First came the outbreak of waves of protest labelled the Arab Spring, which saw Egyptian President, and close US ally, Hosni Mubarak, removed from power. In September 2012, an attack on the US consulate in Benghazi resulted in the deaths of four Americans including the Ambassador to Libya, Christopher Stevens. The US was again caught off-guard by Putin's swift military intervention in Ukraine's Crimean Peninsula, while the Islamic extremist group ISIS's rapid takeover of swathes of territory in Syria and Iraq, including

'A Retrospective on Counterinsurgency Operations: The Tay Ninh Provincial Reconnaissance Unit and Its Role in the Phoenix Program, 1969-1970', *Studies in Intelligence*, Vol. 51, No.2, (June 2007), in cia.gov/library, <<https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/vol51no2/a-retrospective-on-counterinsurgency-operations.html>>; Seymour Hersh, 'Moving Targets: Will the counter-insurgency plan in Iraq repeat the mistakes of Vietnam?', *New Yorker*, 15 December, 2003, <http://www.newyorker.com/archive/2003/12/15/031215fa_fact?currentPage=all>; Rhodri Jeffreys-Jones, *Cloak and Dollar: A History of American Secret Intelligence* (New Haven CT: Yale University Press, 2002), p.203; Alfred McCoy, *A Question of Torture: CIA Interrogation, from the Cold War to the War on Terror* (New York NY: Henry Holt and Company, 2006), p.68; Ken Tovo, 'From the Ashes of the Phoenix: Lessons for Contemporary Counterinsurgency Operations', report for US Army War College, in Air University, [au.af.mil](http://www.au.af.mil/au/awc/awcgate/army-usawc/ksil241.pdf), 18 March, 2005, <<http://www.au.af.mil/au/awc/awcgate/army-usawc/ksil241.pdf>> [accessed 23 June, 2014].

⁵¹ For criticism of the CIA from the Obama administration, US Senate and media see:

Ian Allen, 'US intel official acknowledges missed Arab Spring signs', *intelnews.org*, 23 July, 2012, <<http://intelnews.org/tag/0-us-intel-official-acknowledges-missed-arab-spring-signs/>>; Ken Dilanian, 'US intelligence official acknowledges missed Arab Spring signs', *Los Angeles Times*, 19 July, 2012, <http://latimesblogs.latimes.com/world_now/2012/07/us-intelligence-official-acknowledges-missed-signs-ahead-of-arab-spring.html>; Kimberly Dozier, 'Obama criticizes spy agencies for not seeing revolts', *Associated Press*, 5 February, 2011, <<http://www.sfgate.com/world/article/Obama-criticizes-spy-agencies-for-not-seeing-2477011.php>>; Dylan Evans, 'The Arab Spring and the CIA – One Year on', *Huffington Post*, 2 February, 2012, <http://www.huffingtonpost.co.uk/dylan-evans/the-arab-spring-and-the-cia_b_1246230.html>; Charlotte Higgins, 'Arab spring has created "intelligence disaster", warns former CIA boss', *Guardian*, 28 August, 2011, <<http://www.theguardian.com/world/2011/aug/28/arab-spring-intelligence-disaster-scheuer>>; Mark Mazzetti, Eric Schmitt and David D. Kirkpatrick, 'Benghazi Attack Called Avoidable in Senate Report', *New York Times*, 15 January, 2014, <http://www.nytimes.com/2014/01/16/world/middleeast/senate-report-finds-benghazi-attack-was-preventable.html?_r=0>; 'Review of the Attacks on US Facilities in Benghazi, Libya, September 11-12, 2012', Senate Select Committee on Intelligence, 15 January, 2014 in intelligence.senate.gov, <<http://www.intelligence.senate.gov/benghazi2014/benghazi.pdf>>; Shane Harris, 'Jihadist Gains in Iraq Blindside American Spies', *Foreign Policy*, 12 June, 2014, <http://www.foreignpolicy.com/articles/2014/06/12/jihadist_gains_in_iraq_blindside_american_spies> [accessed 15 June, 2014].

Iraq's second city of Mosul, left the Obama administration struggling to keep up with the pace of developments. In agreement with Brennan's assessment during his testimony, former DCI Michael Hayden has argued that the Agency's resources have been spread too thin to effectively perform its primary intelligence gathering and analysis role on a global scale. Speaking to reporters in the wake of the Crimean crisis, Hayden warned that America's spies were 'over-focused on the terrorist threat,' and had been for some time.⁵² In this context, Brennan's desire to untangle his agency from its military commitments in AfPak and focus once more upon the CIA's original core business seems all the more necessary.

Regardless of whether the drone campaign is a deviation from the Agency's core business or not, one should not disregard the significant impact the drones have had in aiding the US combat mission in Afghanistan. While a full analysis of its impact is impossible to undertake due to the classified nature of most of the data on the war, one can examine casualty figures in order to ascertain the extent to which the Taliban has been disrupted and its pre-2009 momentum reversed. Following Obama's decision to deploy more troops into Afghanistan, a number of commentators began making comparisons between this decision and that of Lyndon Johnson to escalate the US presence in Vietnam. *Newsweek's* John Barry described the conflict as 'Obama's Vietnam,' while the *New York Times's* Robert Wright went further, describing the decision to send in more troops as having created a situation that was 'worse than Vietnam.' The same paper's Bob Herbert used a Vietnam analogy to warn of a likely Afghan quagmire.⁵³

However, a study of the most vital statistics of the Vietnam war, namely the number of US casualties and the attitude of the American public toward the war, suggests that the two conflicts are dissimilar. In 1968 alone, the deadliest year of the American war in Vietnam, there were 16,899 recorded US casualties. By 15 June 2014, the total number of casualties for

⁵² Eli Laek, Noah Shachtman, Christopher Dickey, 'Ex-CIA Chief: Why We Keep Getting Putin Wrong', *The Daily Beast*, 2 March, 2014, <<http://www.thedailybeast.com/articles/2014/03/02/ex-cia-chief-why-we-get-putin-wrong.html>> [accessed 15 June, 2014].

⁵³ Bob Herbert, 'The Afghan Quagmire', *New York Times*, 5 January, 2009, <<http://www.nytimes.com/2009/01/06/opinion/06herbert.html>>, John Barry, 'Obama's Vietnam', *Newsweek*, 30 January, 2009, <<http://www.thedailybeast.com/newsweek/2009/01/30/obama-s-vietnam.html>>, Hal Burnton, 'For Troops, Afghanistan 'like Vietnam without Napalm'', *Seattle Times*, 2 October, 2009, <http://seattletimes.nwsourc.com/html/nationworld/2009990698_usafghanvillage03.html>, Robert Wright, 'Worse than Vietnam', *New York Times*, 23 November, 2010, <<http://opinionator.blogs.nytimes.com/2010/11/23/afghanistan-and-vietnam/>> [accessed 15 June, 2014].

the whole ISAF coalition force in Afghanistan was 3,450, of which 2,331 were American.⁵⁴ While the conditions in Afghanistan were obviously very different to those of Vietnam, the US casualty figures are also low when compared to those of the Soviet Union's own military campaign in Afghanistan in the 1980s. From December 1979 until its eventual withdrawal in February 1989, the Soviet military had 14,453 men killed in action, with a further 53,753 wounded.⁵⁵ With regards to the domestic response, these lower casualty levels also ensured that the American public never turned against the war in Afghanistan in the same way that it did the Vietnam War. A decade into the fighting in Vietnam only 29 percent of Americans polled believed it had not been a mistake to send US troops to the country. By the same benchmark with Afghanistan, 57 percent of the American public still believed the military invasion of Afghanistan had been the right decision, and 58 percent still believed the US would achieve its goals in Afghanistan.⁵⁶ While it is impossible to measure the exact role the CIA's drone campaign played in keeping casualties to these low levels, it is certainly the case that the high numbers of militants killed helped reverse the Taliban's momentum whilst the constant presence of drones over what had previously been their safe havens disrupted their insurgency. Furthermore, the fact that the CIA's drones allowed the United States to attack these otherwise impenetrable areas with minimum risk to American service personnel no doubt also helped to maintain public support for Obama's commitment to the war. It should be noted however that the CIA's drone campaign has not been totally without American casualties. In late-2009 a Jordanian physician named Khalil al-Balawi convinced his CIA handlers, who were operating from a small outpost at Khost airport, that he could provide them with accurate intelligence regarding the location of high-ranking al-Qaeda members. Instead, during a visit on 30 December, 2009 al-Balawi detonated a suicide vest, killing seven CIA officers and two other base personnel. It was the most deadly attack upon the CIA for 25 years.⁵⁷

⁵⁴ 'Statistical Information about Fatal Casualties of the Vietnam War', in archives.gov, <<http://www.archives.gov/research/military/vietnam-war/casualty-statistics.html>>;

'Operation Enduring Freedom casualties', in iCasualties.org, <<http://icasualties.org/>> [accessed 15 June, 2014].

⁵⁵ Ahmed Rashid, *Taliban*, in G.F. Krivosheev (ed.), *Soviet Casualties and Combat Losses in the Twentieth Century* (London: Greenhill Books and Stackpole Books, 1997), p.18.

⁵⁶ 'Record Number Favours Removing US Troops from Afghanistan', in Pew Research, 21 June, 2011, <<http://www.people-press.org/2011/06/21/record-number-favors-removing-u-s-troops-from-afghanistan/>> [accessed 29 June, 2014].

⁵⁷ 'Iraq Verses Vietnam: A Comparison of Public Opinion', Gallup, 24 August, 2005, <<http://www.gallup.com/poll/18097/iraq-versus-vietnam-comparison-public-opinion.aspx>>; Pew Research Center, 21 June, 2011, <<http://www.people-press.org/2011/06/21/record-number-favors-removing-u-s-troops-from-afghanistan>> [accessed 15 June, 2014]; Joby Warwick, *The Triple Agent: The Al-Qaeda Mole Who Infiltrated the CIA* (New York NY: Doubleday, 2011). Also see DCI Leon Penetta,

The impact of the drone campaign on Pakistan

While the American public may have been sheltered from the impact of the drone campaign, the same cannot be said for the people of Pakistan, especially those living in the FATA and North West Frontier Province (NWFP) where the majority of strikes have taken place.

International Relations theorist Wali Aslam has argued that the drone strikes are ‘damaging the social fabric of the society in FATA.’⁵⁸ The ethicist Michael Gross agrees, arguing that ‘assassination subverts strongly held beliefs about integrity, trust, honor, and loyalty that hold traditional societies together.’⁵⁹ These negative effects, he argues, may contribute further to ‘an atmosphere of lawlessness and chaos in which terrorism and militancy thrive.’⁶⁰ Taking the threat of this diminishing social cohesion to its most extreme consequence, Selig Harrison, a prominent scholar on Pakistani affairs, has argued that the tensions could lead to ‘the unification of the estimated 41 million Pashtuns on both sides of the border, the breakup of Pakistan and Afghanistan, and the emergence of a new national entity, ‘Pashtunistan’, under radical Islamist leadership.’⁶¹

Others have disagreed with the assessment that drone strikes are ripping the FATA apart. Syed Alam Mehsud, a Peshawar-based political activist from Waziristan, comments, ‘To those people sitting in the drawing rooms of Islamabad talking about the sovereignty of Pakistan, we say, “What about when Arabs or Uzbeks occupy your village? What about sovereignty then?”’. He continued: ‘Any weapon which kills these people who damaged my sovereignty is in fact helping the sovereignty of my region.’⁶² The attitudes of the residents in the tribal regions which have borne the brunt of the drone strikes are notoriously difficult to ascertain; however, there are two important pieces of evidence which have received little exposure, but suggest that the CIA’s drone campaign may have more support amongst locals than is often assumed. First, the results of a March 2009 poll conducted by the Aryana

Washington Post, 10 January, 2010, <<https://www.cia.gov/news-information/press-releases-statements/press-release-2010/director-panettas-op-ed-on-terrorist-attack-in-afghanistan.html>> [accessed 15 June, 2014].

⁵⁸ Wali Aslam, ‘A critical evaluation of American drone strikes in Pakistan: legality, legitimacy and prudence’, *Critical Studies on Terrorism*, 4:3, (2011), pp.313-329, p.324.

⁵⁹ Michael Gross, *Moral Dilemmas of Modern War: Torture, Assassination, and Blackmail in an Age of Asymmetric Conflict* (Cambridge: Cambridge University Press, 2009), p.113.

⁶⁰ Aslam, ‘A critical evaluation’, p.324.

⁶¹ Selig S. Harrison, ‘The Pashtun time bomb’, *New York Times*, 1 August, 2007, <http://www.nytimes.com/2007/08/01/opinion/01iht-edharrison.1.6936601.html?_r=0> [accessed 24 April, 2014].

⁶² Syed Alam Mehsud quoted in Loyd, ‘US drone strikes’, *The Times*.

Institute for Regional Research and Advocacy (AIRRA), a Pakistan-based think tank staffed by researchers and political activists from the NWFP and FATA, challenged many of the preconceptions about the attitudes of those who lived in the region. When asked whether or not they saw drone strikes causing fear and terror in the common people, 55 percent responded no; 58 percent of those polled responded that anti-American feelings in the region had not been increased by the presence of the CIA's drones, whilst 60 percent believed al-Qaeda and the Taliban were being damaged by the drone strikes. Given the choice of having the Pakistani military conduct targeted strikes in their region instead of the CTC's drones, 70 percent of respondents rejected the idea, favouring what they believed was the greater care and precision of the American strikes.⁶³ Reflecting this split in Pakistani perceptions of the drone strikes, Brian Glynn Williams explains that '[t]he results of the poll [...] would seem to indicate that many Pashtun tribesmen welcomed the strikes even if the rest of their countrymen did not.'⁶⁴ This view was further supported by a similar survey, conducted by World Public Opinion, the results of which indicated that 86 percent of residents in the predominantly Pashtun NWFP supported the government of Pakistan. Only six percent responded that they supported the Taliban. The same study also concluded that those in the regions occupied by the Taliban were significantly more likely to see them as 'critical threats to Pakistan,' with a nationwide takeover regarded both as an aim of the Taliban and as a realistic possibility.⁶⁵

Finally, on 12 and 13 December of the same year a conglomeration of FATA-based political parties, civil organisations and influential individuals met for a two day conference held in Peshawar. Called 'Terrorism – The Way Out', the aim of the conference was to produce a united position for FATA on how to eliminate terrorism from their region and establish a sustainable peace. The document produced at the end of the conference, referred

⁶³ Farhat Taj, 'Drone attacks – a survey', *The News*, 5 March, 2009, <<http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=165781&Cat=9&dt=3/4/2009>> [accessed 25 April, 2014].

⁶⁴ Brian Glynn Williams, 'The CIA's Covert Predator Drone War in Pakistan, 2004-2010: The History of an Assassination Campaign', *Studies in Conflict and Terrorism*, 33:10 (2010), pp.871-892, p.884.

⁶⁵ Clay Ramsay, Steven Kull, Stephen Weber, Evan Lewis, 'Pakistani Public Opinion on the Swat Conflict, Afghanistan, and the US', 1 July, 2009 in World Public Opinion.org, <http://www.worldpublicopinion.org/pipa/pdf/jul09/WPO_Pakistan_Jul09_rpt.pdf>; 'Pakistani Public Turns Against Taliban, But Still Negative On US', in World Public Opinion.org, <<http://www.worldpublicopinion.org/pipa/articles/brasiapacificra/619.php?nid=&id=&pnt=619&lb=bras>>; C. Christine Fair, 'Islamist Militancy in Pakistan: A View from the Provinces', 24 July, 2009, in World Public Opinion.org, <<http://worldpublicopinion.org/pipa/articles/brasiapacificra/629.php?lb=bras&pnt=629&nid=&id=>>> [accessed 25 April, 2014].

to as the ‘Peshawar Declaration,’ made a number of key statements, in particular on drone use.⁶⁶ Blaming the presence of al-Qaeda in their region on Arab expansionism disguised as jihad, and claiming the growth of the Taliban to be a result of the Pakistan’s failed ‘strategic depth’ vision against India, the coalition demanded the initiation of immediate operations against all centres and networks of terrorism.⁶⁷ These operations, the declaration stated, were to eliminate all foreign, non-local and local terrorists in FATA. The declaration recognised that drone strikes were likely to be a significant tool in these efforts, noting that ‘If the people of the war-affected areas are satisfied with any counter militancy strategy, it is the Drone attacks which they support the most.’ Challenging Pakistani reports of high civilian casualties from drone strikes, the declaration complained that a ‘component of the Pakistani media, some retired generals, a few journalists/analysts and pro-Taliban political parties never tire in their baseless propoganda against Drone attacks.’⁶⁸ As these very divergent perspectives upon the impact of the CTC’s drone strikes reveal, the commonly repeated hypothesis that the CIA’s drone campaign drives Pakistanis in the FATA and NWFP into the arms of al-Qaeda and the Taliban needs to be re-evaluated.

Conclusion

As this thesis has shown, the Obama administration’s adoption of drones as a key counterterrorism tool in the AfPak region was neither unprecedented nor a direct consequence of the 9/11 attacks. It was built upon decades of policy and technological development. Since Reagan signed NSDD 138 on 3 April 1984, the United States has regarded terrorism as a national security threat against which it is legitimate to use lethal military force to pre-emptively neutralize anti-American terrorist groups anywhere in the world, unilaterally if necessary. The primary goals of the CTC’s drone strategy in AfPak region, the decapitation of a terrorist group’s leadership and denial of safe haven through intelligence gathering and the timely, accurate use of lethal force, accords with the goal of US presidents since Reagan’s unsuccessful bombing raid on Libya in 1986. While the goals have

⁶⁶ ‘The Peshawar Declaration’, reproduced in full in Let Us Build Pakistan, <<http://lubpak.com/archives/47109>> [accessed 24 April, 2014]; Williams, ‘The CIA’s Covert Predator Drone War in Pakistan, 2004-2010’, p.891.

⁶⁷ ‘The Peshawar Declaration’. For more on the policy of strategic depth, see Charles G. Cogan, ‘Shawl of Lead’, *Conflict*, Volume 10, No.3, (1990), pp.189-204. For more on the link between the Pakistani government and the Taliban, see: William Maley, *The Afghanistan Wars*, (New York NY: Palgrave Macmillan, 2002), pp.218–250 and Coll, *Ghost Wars*, p.290.

⁶⁸ ‘The Peshawar Declaration’.

not changed, the technology has. Those who try to set the conduct of the Obama administration's counterterrorism apart from its predecessors are too focused upon the technologically innovative nature of the unmanned aircraft used as opposed to the policy which they enable.

In terms of the extent to which the CTC's drone campaign has achieved its aims, a full analysis is not yet possible due to the classified nature of much of the data and the uncertainty which remains as to the long-term outcome of the Afghanistan mission. However, the evidence which is available suggests that the campaign has achieved the primary goals which were set out in Obama's orders. Whether or not this has been enough to move the United States closer towards an end to the War on Terror remains unclear. To wage war against an abstraction may be inherently unachievable, and al-Qaeda and the wider jihadist movement have proven that they are extremely adaptable. For all the damage the drone campaign has done to al-Qaeda's core and their Taliban hosts, the group was able to find new safe havens created by the instability in the wake of the Arab Spring uprisings which have put them beyond the reach of the CIA's drones. In some countries such as Yemen these al-Qaeda affiliates have been attacked by JSOC operations. Other regions such as Syria remain off-limits for America's unmanned aircraft, revealing the limitations of efforts to dismantle a terrorist group through a targeted killing campaign.

Does the fact that the militant jihadist movement controls more territory now than it has in its history despite a decade of drone warfare suggest that ultimately the drone campaign has been a failure? The CTC was focused upon the AfPak region where al-Qaeda's presence and influence has been significantly diminished. The resurgence of Islamic militancy has had much more to do with the wider instability which has resulted from the uprisings across North Africa and the Middle East. Such events were beyond the scope of the CTC to deal with. However, it has been argued that it was precisely because so many of the CIA's resources were focused upon the drone campaign that the Agency was unable to detect the wider geopolitical events. While its critics may claim a decade of paramilitary activity and counterterrorism has left the CIA weakened in other areas of analysis which in turn led to a sluggish response from US policy makers, such a perspective only serves to make the Agency a scapegoat for broader policy failings by the United States and the wider global community.

There is no doubt that the upheaval in North Africa and the Middle East which accompanied the Arab Spring protests - particularly the civil war in Syria - enabled the jihadist cause to recover, restructure and become resurgent. Yet the notion that the CIA was spread too thin to warn about the outbreak of the Arab Spring and to predict its extraordinary impact upon the jihadist movement reveals more about unrealistic expectations of the intelligence community than it does the impact of the CIA's focus upon the drone campaign. Documents leaked by Snowden reveal that one quarter of the intelligence workforce and a third of the intelligence budget are devoted to counterterrorism.⁶⁹ But the same sources reveal that these resources have been funded by additional allocations rather than being diverted from existing intelligence operations. Since 2004 the CIA's budget has grown by 56 percent, surging past that of every other intelligence agency in the past decade, with \$14.7 billion requested in 2013.⁷⁰ Moreover, of the overall \$52.6 billion that consisted of the United States "black budget" for intelligence in 2013, the largest sum (\$20.1 billion) was still devoted to warning US leaders about critical events. Rhodri Jeffreys-Jones provides an alternative and altogether more convincing reason as to why the CIA was unable to warn about the next phase of America's conflict against Islamic extremism, suggesting it has more to do with the general nature of intelligence. While analysts may be able to point to certain trends and dangers, it is unrealistic to assume that intelligence can warn of any 'nasty surprises.' In a similar way to the police, the CIA can only ever solve a minority of cases, providing as much of an illusion of protection and security as the real thing. 'To shower the CIA and its ilk with taxpayers' money,' Jeffreys-Jones observes, 'is to drop pennies into the wishing well – if you are superstitious it makes you feel better.'⁷¹

Finally, before a conclusive judgement can be made about the extent to which the CTC's drone campaign has weakened the threat of al-Qaeda and Islamic extremism, it remains to be seen what impact the decimation of al-Qaeda's core leadership will have on global jihadist militancy in the longer term. One of al-Qaeda's greatest strengths was that it

⁶⁹ Barton Gellman and Greg Miller, "Black budget" summary details US spy network's successes, failures and objectives', *Washington Post*, 29 August, 2013, <http://www.washingtonpost.com/world/national-security/black-budget-summary-details-us-spy-networks-successes-failures-and-objectives/2013/08/29/7e57bb78-10ab-11e3-8cdd-bcdc09410972_story.html>; 'Congressional Budget Justification FY2013', Volume I, National Intelligence Program Summary, February 2013, *Washington Post*, <<http://apps.washingtonpost.com/g/page/national/inside-the-2013-us-intelligence-black-budget/420/>> [accessed 26 June, 2014].

⁷⁰ Ibid.

⁷¹ Rhodri Jeffreys-Jones, *The CIA & American Democracy* (New Haven, CT: Yale University Press, 2003) p.xxii.

had been able to unite Islamic extremist groups which for decades had been ineffective due to fractures and infighting. It is not yet known whether the splits which have emerged with the decline of al-Qaeda's core will once more lead to the breaking up of the jihadist cause. If this becomes the case the decapitation strategy which was a primary aim of the CTC's campaign will have succeeded in reducing the threat. While multiple extremist groups will still present a threat to the US, the lack of coordination, training and the pooling of resources which al-Qaeda's core provided will make the overall threat less serious and more manageable.

Conclusion – ‘It sends its bloodhounds everywhere’

One thought alone preoccupies the submerged mind of Empire: how not to end, how not to die, how to prolong its era. By day it pursues its enemies. It is cunning and ruthless, it sends its bloodhounds everywhere. By night it feeds on images of disaster: the sack of cities, the rape of populations, pyramids of bones, acres of desolation. A mad vision yet a virulent one.

J.M. Coetzee, *Waiting for the Barbarians*

It has been argued that the United States constitutes the first post-territorial empire, a nation whose power and influence have enabled it to transcend traditional concepts of territory and frontiers to exert its influence on a global scale.¹ The capability to launch lethal strikes at a moment's notice against individuals from Pakistan to Somalia, using unmanned drones piloted from air conditioned trailers in the Nevada desert, may suggest this to be true. However, the very existence of a network of drone bases suggests frontiers are far from irrelevant for US policy makers. From the frequent hijackings which harassed the Reagan administration to the deadly assault on the homeland on 11 September, 2001, terrorism has repeatedly demonstrated the threat posed to America by uncontrolled safe havens located at the far-flung edges of America's influence. These safe havens reveal the physical frontiers of US influence – contested fault lines along which rebellion, or resistance depending upon your perspective, takes place. ‘Any great Power that fails adequately to protect its frontier,’ warned the historian C. Collin Davies, ‘ceases to be great; any Empire that neglects this important duty of self-preservation is eventually overthrown.’² America's large scale deployment of lethal drones is evidence of policy makers' acknowledgement that, as first articulated in NSDD 138, terrorism, and the safe havens which enable it, are legitimate threats to American national security which must be neutralized.

The use of drones to enforce these frontiers has enabled the United States to maintain its intention of functioning as a fully globalized, post-territorial empire, or at least preserve the pretence of doing so. For the past decade there has been a lethal US presence in Pakistan, Somalia and Yemen, without the need for bases in that territory. No physical demarcation has

¹ Charles S. Maier, *Among Empires: American Ascendancy and its Predecessors* (Cambridge MA: Harvard University Press, 2006), p.109.

² C. Colin Davies, *The Problem of the North-West Frontier, 1890-1908*, 2nd ed. (New York NY: Cambridge University Press, 1932), p.2.

been necessary. Semi-permeable frontiers patrolled by unmanned aircraft have enabled the continued flow of trade, people and money, while providing a higher degree of control and security. Furthermore, as with so many military outposts in the past, America's first drone bases in Afghanistan may have been justified through the need to defend itself from an exterior threat, in this case al-Qaeda, but the growing network of bases also serve as useful springboards for deeper penetration into areas beyond US control, such as Iranian airspace.³

The available evidence suggests the CTC's AfPak drone campaign is all but over. While there are likely to be sporadic strikes from time to time in the region, the days of sustained weekly attacks in the FATA have passed. That is not to say that the role of drones in counterterrorism has ended. It is testimony to the perceived effectiveness of this strategy that the deployment of these aircraft was the primary request of Maliki's Iraqi government as it sought to drive ISIS fighters back over the Syrian border.⁴ A warning as to the future direction of warfare beyond counterterrorism and counterinsurgency is the fact that Iran, also concerned about the spread of ISIS in Iraq, deployed its own drones to help defend Maliki's government.⁵ Drone proliferation is a reality, and while the CIA may well be looking to get out of the lethal drone business post-Afghanistan, the United States is not, nor is the rest of the world, including terrorist groups. History has shown that any security advantage a monopoly over technologically advanced weaponry provides is short lived as the weapons disseminate to rival states, and even non-state forces. The Maxim machine gun may have enabled the British to cut down the Mahdist army in 1898, but the same technology was a

³ Joby Warrick and Greg Miller, 'US intelligence gains in Iran seen as boost to confidence', *Washington Post*, 8 April, 2012, <http://www.washingtonpost.com/world/national-security/us-sees-intelligence-surge-as-boost-to-confidence/2012/04/07/gIQA1Cha2S_print.html> [accessed 27 August, 2014].

⁴ Gordon Lubold, 'Exclusive: Iraq, in a Major Shift, Might Want Some US Troops Back', *Foreign Policy*, 8 May, 2014, <http://complex.foreignpolicy.com/posts/2014/05/08/exclusive_iraq_in_a_major_shift_might_want_some_us_troops_back#correction>; Eri Lake, 'Iraq Wants America Back to Fight Insurgents With Air Strikes', *Daily Beast*, 11 June, 2014, <<http://www.thedailybeast.com/articles/2014/06/11/iraq-wants-america-back-to-fight-al-qaeda-with-air-strikes.html>>;

Chelsea J. Carter, Arwa Damon and Raja Razek, 'US has armed drones over Baghdad, official says', *CNN*, <<http://www.cnn.com/2014/06/27/world/middleeast/iraq-crisis/>>;

Associated Press, 'US flying armed drones in Iraq', *Guardian*, 28 June, 2014, <<http://www.theguardian.com/world/2014/jun/28/us-flying-armed-drones-in-iraq>>; Mark Thompson, 'Armed US Drones Flying Over Baghdad', *Time*, 27 June, 2014, <<http://time.com/2933508/iraq-drones-isis-obama/>> [accessed 29 June, 2014].

⁵ Michael R. Gordon and Eric Schmitt, 'Iran Secretly Sending Drones and Supplies Into Iraq, US Officials Say', *New York Times*, 25 June, 2014, <http://www.nytimes.com/2014/06/26/world/middleeast/iran-iraq.html?_r=0>; Elias Groll, 'Iran Is Deploying Drones in Iraq. Wait, What? Iran Has Drones?', *Foreign Policy*, 25 June, 2014, <http://blog.foreignpolicy.com/posts/2014/06/25/iran_is_deploying_drones_in_iraq_wait_what_iran_has_drones> [accessed 29 June, 2014].

significant factor in the stalemate which resulted in so many deaths in the no-man's lands of the First World War little over a decade later. The introduction of the tank may have helped the British to break that stalemate, but it also enabled Hitler's panzer corps to overrun the Allied defences in the Ardennes in 1940, driving the English forces back over the Channel. Perhaps the best example of the fleeting security advantage technological superiority provides is that of nuclear weapons, possession of which initially granted the United States near martial immunity, but quickly led to fear and instability as the technology proliferated, first leading to anxiety over mutually assured destruction during the Cold War, then of nuclear terrorism and dirty bombs as the spectre of non-state terrorism emerged. Drones do not present a threat on the same scale as nuclear weapons, but the lesson is worth considering. For decades the United States sought a weapon that would allow it to strike at targets in places they could not otherwise reach. In drones they have this weapon, but its proliferation is inevitable. Relatively cheap and easy to obtain, it is only a matter of time before the radio shack solution Clarridge sought in the CTC's efforts to undertake targeted killing is adopted by the very groups the CIA itself seeks to target, for the same reasons the CTC use the weapon - to strike at targets in places they could not otherwise reach.

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