

THE FALSE FLAG WAVES IN THE FOG

"Absolute nonsense!" Israel has responded to Mark Perry's "False Flag" claim that Mossad agents recruited Jundallah members by posing as CIA officers. They've responded clearly, they claim, because they don't want US-Israeli intelligence cooperation to get as bad as it did when we caught Jonathan Pollard spying for Israel.

But I'm just as interested in the "proof" Israel offers that this didn't happen: that Meir Dagan is still welcome in Washington.

The senior Israeli government official said that if there were any truth the claims in Perry's report, Meir Dagan, the head of the Mossad at the time of the alleged operation, would have been declared a persona non grata in the U.S. and that "Dagan's foot would not have walked again in Washington".

Now, it is true that Dagan ran Mossad at the time—2007-2008—when the recruitment in question is alleged to have taken place. And it is true that under Dagan Mossad got rather embarrassingly caught using US ~~(and other~~ Western allies' passports to facilitate their assassination squads in the Dubai assassination of Quds Force surrogate Mahmoud al-Mabhouh.

But it is also notable that Dagan has made a series of increasingly strident remarks against war with Iran and for the kind of engagement that the latest scientist assassination seems designed to undercut. And then there's the presumably intentional irony in the statement: Dagan's ability to travel is limited not by his welcome among Western allies, but because Bibi Netanyahu revoked Dagan's diplomatic passport last summer in response to his efforts to prevent war against Iran. Since traveling without diplomatic immunity would expose him to

arrest for acts that include the al-Mabhouh assassination, Dagan, the former head of Israel's assassination agency, cannot travel freely to prevent such assassinations in the future.

In other words, this is a very witty but nevertheless quite serious reminder that the same people now trying to find a peaceful path forward are themselves thoroughly implicated in the same crimes they now disown. This is Bibi's camp reminding that everyone has been breaking the rules in ways that could cause significant legal trouble.

Right on cue, Iran has sent diplomatic notes to both the US and Britain, claiming that the CIA is behind the most recent assassination.

The message addressed to the U.S. government, read, "According to authentic documents and reliable information, the assassination plot was directed, supported, and planned by the U.S. Central Intelligence Agency (CIA) and was carried out with the direct involvement of the agents affiliated with this organization, and the government is directly responsible for it and should be answerable based on international regulations and rights and bilateral commitments."

[snip]In the protest note, Iran also said, "The Islamic Republic of Iran condemns the inhumane assassination, calls on the U.S. government to provide an immediate explanation, seriously warns about its repercussions, and calls on the (U.S.) government to stop supporting any kind of anti-humanitarian terrorist action against the lives of Iranian citizens, which is in contravention of international rights and the relevant commitments and pose a serious danger to international peace and security. In addition, the government of the Islamic Republic of

Iran reserves the right to pursue the issue."

In the note addressed to the British government, the Foreign Ministry pointed to the remarks that MI6 chief Sir John Sawers made on October 28, 2010, in which he said, "Stopping nuclear proliferation cannot be addressed purely by conventional diplomacy. We need intelligence-led operations to make it more difficult for countries like Iran to develop nuclear weapons."

The note read, "The Foreign Ministry of the Islamic Republic of Iran takes into consideration the fact that the assassinations of Iranian scientists began right after the announcement of the very attitude of the British government by Mr. John Sawers, the head of Britain's Secret Intelligence Service, and once again expresses its protest about the repercussions of the mentioned attitude of the British government and holds the country responsible for such terrorists acts."

Gosh, Iran could have drafted these letters using the letters the US issued after it busted the Scary Iran Plot allegedly involving Manssor Arbabsiar as a model! (Which reminds me. Has anyone checked in on the Saudi involvement to defeat Iran, of late? And what they—and the Pakistanis—think about Israelis purportedly running terrorists out of Pakistan?)

Remember, too, according to Perry's "False Flag," the recruitment of the Jundallah members—by whomever—largely took place in London, "under the nose of U.S. intelligence officers." So if Perry's piece was meant as preemptive inoculation against evidence his sources knew might be revealed, it would not be surprising if such evidence implicated both the US and Britain.

Now, if it weren't for the latent lethality

behind all this posturing (and if weren't so clear that, whatever Iran has, Israel surely has evidence of our complicity here, if they ever feel the need to reveal it), this might be a somewhat amusing and overdue spat between Israel and the US.

But as it is, it seems the winner of this conflict between Israeli and US neocon Hawks (some of who presumably remain in government positions) on one side, and those trying to avoid war (if not regime change) on the other threatens may depend most on who wins the infowar that has broken out. Clearly, all sides have the goods on the others, but no one can risk having all this damning information come out.

Update: Corrected post to reflect that Mossad did not use US passports in the Dubai hit.

FOREIGN POLICY'S "FALSE FLAG"

Wikipedia defines "false flag operations" as "covert operations designed to deceive the public in such a way that the operations appear as though they are being carried out by other entities." Unpacking such an operation would require explaining clearly the target audience(s) of the deception and the purpose of it.

But Mark Perry doesn't describe that structure in his Foreign Policy story, titled "False Flag," asserting that members of Jundallah were recruited by Mossad agents pretending to be CIA officers.

According to two U.S. intelligence officials, the Israelis, flush with American dollars and toting U.S. passports, posed as CIA officers in

recruiting Jundallah operatives – what is commonly referred to as a “false flag” operation.

The memos, as described by the sources, one of whom has read them and another who is intimately familiar with the case, investigated and debunked reports from 2007 and 2008 accusing the CIA, at the direction of the White House, of covertly supporting Jundallah – a Pakistan-based Sunni extremist organization. Jundallah, according to the U.S. government and published reports, **is responsible for assassinating Iranian government officials** and killing Iranian women and children.

But while the memos show that the United States had barred even the most incidental contact with Jundallah, according to both intelligence officers, the same was not true for Israel’s Mossad. The memos also detail CIA field reports saying that Israel’s recruiting activities occurred under the nose of U.S. intelligence officers, most notably in London, the capital of one of Israel’s ostensible allies, where Mossad officers posing as CIA operatives met with Jundallah officials. [my emphasis]

Explaining that structure would seem all the more important in a story—apparently in the works for a year and a half—published at the precise moment the Americans are trying to deny any involvement in the ongoing assassinations of Iranian scientists.

The problem is all the more real given the ambiguity of Perry’s language. When he says the Israelis were “flush with American dollars,” does he mean they got the dollars from America, or only that they were—as dollars are in common usage—American? When he notes that the recruitment “occurred under the nose of U.S.

intelligence officers,” is that meant to suggest that it did so with their assent?

The ambiguity in Perry’s article is more significant given that, while he describes George Bush “going ballistic” when he was briefed on the op, Perry also provides evidence that at least some at the top officials in Bush’s Administration didn’t seem to care all that much.

A senior administration official vowed to “take the gloves off” with Israel, according to a U.S. intelligence officer. But the United States did nothing – a result that the officer attributed to “political and bureaucratic inertia.”

“In the end,” the officer noted, “it was just easier to do nothing than to, you know, rock the boat.” Even so, at least for a short time, this same officer noted, the Mossad operation sparked a divisive debate among Bush’s national security team, pitting those who wondered “just whose side these guys [in Israel] are on” against those who argued that “the enemy of my enemy is my friend.”

Furthermore, while Perry references earlier stories covering Jundallah, he doesn’t even consider the role of JSOC in this false flag operation, even though one of them—Sy Hersh’s—specifically describes the involvement of JSOC in such ops.

And as for the suggestion that since Obama took over, such cooperation between the US and Israel has been dramatically curtailed? The claim that the US and Israel have only been cooperating on operations that “are highly technical in nature and do not involve covert actions targeting Iran’s infrastructure or political or military leadership” would first of all seem to be a stretch given that StuxNet and Duqu are all

about infrastructure. It would also seem to gloss the apparent role that drones have had in targeting these scientists (Iran has captured some Israeli drones, in addition to the American ones, but most of the airspace involved would require US acquiescence). Add in the recent border incident between Iran and Pakistan involving claimed Jundallah members (the border area isn't exactly Israel's backyard), it seems the Obama Administration is, at best, looking the other way.

Israelis and Americans have long hidden behind each other when working with Iranians, going back at least to the Iran-Contra ops that Dick Cheney had a fondness for. Hiding behind Israelis lets American officials pretend we're not doing the taboo things we're doing. Hiding behind Americans lets Iranian partners working with Israelis pretend they aren't working with the Zionist enemy. That false flag business works in many different directions, after all.

Mind you, whatever the other purposes of this "false flag" story, its publication at this point in time just stripped Jundallah partners of the ability to deny they're working with Israel, with all the probably dangerous consequences that will have.

WHY WON'T THE FAA TELL EFF WHO'S FLYING THE DRONES IN US AIRSPACE?



Figure 4: Locations of Approved COAs and Class D Operations. Some locations have multiple approved COAs.

According to this October 2010 report, these are all the

locations at which someone—DOD, DHS, and NASA are publicly admitted users; “Other Government Agencies” (spooks) are always included in the discussion though not detailed—got waivers from the Federal Aviation Administration since 2008 to operate drones outside of restricted airspace. And we know they’ve been active since then, doing things like helping to arrest Sovereign Citizens who had stolen 6 cows.

Last April, the Electronic Frontier Foundation FOIAed to find out who was operating these drones.

- (1) any active certificates or authorizations issued by the FAA for any type of drone or unmanned aircraft (UA), including public UAs and private UAs, and all corresponding agency records;
- (2) any expired certificates or authorizations issued by the FAA for any type of drone or UA, including public UAs and private UAs, and all corresponding agency records;
- (3) any applications for UA certificates or authorizations that were denied by the FAA, and all corresponding agency records.

But thus far, the agency has refused to fulfill the FOIA request. On Tuesday, EFF sued to get those records.

Kudos to the EFF for suing to get these records. But FAA’s silence thus far really raises

questions about what kind of drone surveillance they've already got us under.

WHILE NY TIMES AGITATES FOR RESUMPTION OF DRONE STRIKES, PEACE TALKS SET TO ADD AFGHANISTAN, HAQQANI NETWORK

Over the weekend, the New York Times published a piece whose headline seemed to cry out that drone strikes in Pakistan need to resume: "Lull in Strikes by U.S. Drones Aids Militants in Pakistan". In reading the article, it is difficult to find strong evidence for the claim that the lull in strikes has helped militant groups. While the article does note a slight uptick in some forms of violence, there have been no major attacks on US forces in Afghanistan as one would expect if the insurgent groups truly had gained significant additional strength and operational capability. An alternative reading of the lull in strikes, however, is that it has provided an important opening for negotiations aimed at ending hostilities in Afghanistan. Two very important developments on that front are now in place, as Afghanistan is sending a delegation to Qatar to visit the newly established Taliban office there and the Express Tribune reports that the US is ready for the Haqqani network to take part in the peace negotiations. In the meantime, the Express Tribune also reports that negotiations between Pakistan and the US have nearly reached the point that drone strikes will resume. If the

strikes resume, will progress in the peace talks be slowed or halted?

The poor footing on which the Times bases its claim that insurgents have been aided by the suspension of drone attacks is given away in the opening sentence of the article:

A nearly two-month lull in American drone strikes in Pakistan has helped embolden Al Qaeda and several Pakistani militant factions to regroup, increase attacks against Pakistani security forces and threaten intensified strikes against allied forces in Afghanistan, American and Pakistani officials say.

Attacks on the US have not increased, we only have American and Pakistani officials saying that “intensified” strikes on NATO forces are possible or threatened. As for the increase in attacks on Pakistani security forces, we have this:

Other militant groups continue attacking Pakistani forces. Just last week, Taliban insurgents killed 15 security soldiers who had been kidnapped in retaliation for the death of a militant commander.

The spike in violence in the tribal areas – up nearly 10 percent in 2011 from the previous year, according to a new independent report – comes amid reports of negotiations between Pakistan’s government and some local Taliban factions, although the military denies that such talks are taking place.

So that’s it when it comes to documentation of the strengthening of militant groups: a 10% increase for the year in violence in tribal areas, when the drone “pause” has only been for the last two months or so, with earlier shorter pauses over the Raymond Davis incident and the

killing of Osama bin Laden.

The article also notes that the drones have not stopped flying, it's just that they are not launching missiles. Perhaps US intelligence personnel will take this opportunity to improve the quality of their intelligence so that fewer innocent civilians will be at risk when missile strikes resume.

Meanwhile, we learn that the newly established office for the Taliban in Qatar is about to be visited by a delegation from Afghanistan's High Peace Council:

A senior member of Afghanistan's peace-making body will travel to Qatar soon to gather more details about plans for a Taliban political office in the Gulf nation, the High Peace Council's adviser on international affairs said on Monday.

The Taliban said in a surprise announcement last week they had reached a preliminary agreement to set up a political address in Qatar and asked for the release of prisoners held by the U.S. military at Guantanamo Bay.

"We want to see the office with our own eyes and that's why someone from the High Peace Council will be travelling to Qatar soon," Mohammad Ismail Qasimyar, a leading member of President Hamid Karzai's High Peace Council, told Reuters.

"We want to see how big the office is and other details."

Since Afghanistan had not been included in the initial talks between the Taliban and the US that led to the opening of the Qatar office, a visit from Afghanistan's High Peace Council so soon after its opening is a very promising development.

Equally encouraging is the news today that the Haqqani Network also is likely to be taking part

in the peace talks:

The US has taken Pakistan into confidence over the unprecedented development of allowing the Taliban a political office in Qatar to advance the Afghan reconciliation process, sources revealed.

A senior Pakistani official stated that the Obama administration not only sought Pakistan's consent over the Taliban office but had also given a 'green light' to allow the deadliest Afghan insurgent group, the Haqqani network, to be a part of the reconciliation process.

The move by Washington was a clear deflection from its previous policy of keeping Islamabad at bay over its peace overtures with the Afghan Taliban.

"Yes, we were onboard," said the senior Pakistani official referring to the latest push by Washington to seek a political settlement of the Afghan conflict.

It would appear that all of the important parties for real negotiations aimed at ending hostilities in Afghanistan are moving toward the establishment of such negotiations. The governments of the US, Afghanistan and Pakistan, in concert with the Taliban and the Haqqani Network, all sitting down to negotiate a way forward for the region is a very promising prospect. My feeling is that this level of progress has been aided tremendously by the cessation of drone strikes in the tribal areas of Pakistan. That hypothesis may well be tested soon, as there are some reports that the US and Pakistan may be nearing agreement on the ground rules for re-starting the attacks:

Sources told *The Express Tribune* on Sunday that both sides have almost agreed on 'fresh terms of engagements' to resume drone attacks against

suspected al Qaeda members and their local facilitators hiding in the tribal areas, including North and South Waziristan.

/snip/

Officials said the resumption of drone strikes might be under new conditions. They added that Pakistani negotiators had convinced their American counterparts on at least a couple of conditions: First, the drone strikes should not be as frequent as they were in 2010 and 2011. And second, the CIA should narrow the stripe the aircraft were targeting under the approach known as 'box formation' in military terms.

"We don't want them to be that frequent ... it creates problems for us by invoking public anger," the official added, saying Pakistani authorities believed drones were 'strategically harmful but tactically advantageous'.

About the box approach, he added that the areas the Pakistani military had already claimed to have cleared must not be hit. "We want them to be within a smaller radius," the official explained.

If the significant recent peace talk progress has been a direct result of the interruption in drone strikes, it seems likely the resumption of strikes will slow or halt that progress. It's hard to imagine Taliban or Haqqani network leaders feeling comfortable at a negotiating table in Qatar speaking with parties they know will try to kill them once they return to their homes in Pakistan.

ON STRATEGY, DRONES, AND CLIMATE CHANGE



Try
this
exercise.

Open up the new Defense Strategic Guidance DOD released today. Hit Ctrl-F. Type in “drone.” Count how many times the word appears in the strategic document that is supposed to guide us through 2020.

Now do the same, Ctrl-F, “Climate change.” Count the mentions of the phenomenon that will cause accelerating amounts of instability between now and 2020.

The number of appearances, for both phrases, is zero.

Zero.

DOD just rolled out new strategic guidance without once mentioning the fancy new toys that are a cornerstone of their new-and-improved small footprint strategy or the phenomenon that will serve as significant a disruptive force as terrorism, China, and cyberwar in the next 8 years, all things that show up in this defense strategy.

And all that in a defense strategy that basically forswears large scale stability operations (AKA Iraq and Afghanistan).

Conduct Stability and Counterinsurgency Operations. In the aftermath of the wars in Iraq and Afghanistan, the United States will emphasize non-military means and military-to-military cooperation to

address instability and reduce the demand for significant U.S. force commitments to stability operations. U.S. forces will nevertheless be ready to conduct limited counterinsurgency and other stability operations if required, operating alongside coalition forces wherever possible. Accordingly, U.S. forces will retain and continue to refine the lessons learned, expertise, and specialized capabilities that have been developed over the past ten years of counterinsurgency and stability operations in Iraq and Afghanistan. However, U.S. forces will no longer be sized to conduct large-scale, prolonged stability operations.

Mind you, the defense strategy doesn't ignore stability—which it mentions ten more times than it does drones or climate change. But in a thoroughly Rumsfeldian manner, it seems to just believe stability ... happens.

All in a time when America's neoliberal economic policies ("commerce," "prosperity," and "economic growth"—at 2, 4, and 1—also show up more times than drones or climate change) also contribute to instability and where more and more countries seem to be falling as states.

Now, partly, the defense strategy forswears large scale stability operations, because this entire strategy is an effort to pretend it's cutting \$487 billion over ten years when it's really just ending two expensive wars, refocusing from Europe to Asia, and assuming we'll make do with things like Special Forces and those drones the strategy doesn't mention. To a significant degree, this new defense strategy is a pre-emptive (and thoroughly successful, from the looks of things) attempt to convince the press that DOD is suffering under the same rules of austerity the rest of us are, while really only moving some shells around on a card table.

I suspect the defense strategy also forswears large scale stability operations—AKA nation building—because we suck at it, and no President wants to embrace something we’ve failed at for ten years straight, no matter how important for our security. (Note, it does say it will retain the ability to “regenerate”—like a lizard’s limb—stability operations if the need arises. How we’re going to regenerate something we never had, I don’t know.)

So rather than explaining what we’re going to do with all the countries we destabilize with drone campaigns (AKA Pakistan) or what we’re going to do as Bangladesh and North Africa and the Horn of Africa and much of Southeast Asia increasingly suffer from droughts or floods, setting off catastrophe and migration and more failing central governments, we’re just going to assume stability ... happens.

It’s a nice strategy (and an even neater trick, convincing journalists that an increase in defense spending equates to a cut). I’m all in favor of ending these big land wars. But the whole thing also seems to be a strategy for fostering instability as much as one to prevent it. And it doesn’t even consider two of the most destabilizing forces on the horizon in the next 8 years.

Update: Bill Michtom had to remind me that 2020 is 8, not 18, years away.

~~WE REQUEST TO INFORM~~ ~~YOU THAT YOU INFORM~~ ~~US WE KILLED ANOTHER~~ ~~DRONE TARGET~~

I want to follow-up on Jim’s latest drone post—and go back to Greg Miller’s article on

drones—to look at the the approval process. A lot of readers of Miller’s article noted this passage, revealing that JSOC continues to avoid the kind of (minimal) oversight that CIA gets.

There is no comparable requirement in Title 10, and the Senate Armed Services Committee can go days before learning the details of JSOC strikes.

But read the whole passage in context.

Within 24 hours of every CIA drone strike, a classified fax machine lights up in the secure spaces of the Senate Intelligence Committee, spitting out a report on the location, target and result.

The outdated procedure reflects the agency’s effort to comply with Title 50 requirements that Congress be provided with timely, written notification of covert action overseas. There is no comparable requirement in Title 10, and the Senate Armed Services Committee can go days before learning the details of JSOC strikes.

Neither panel is in position to compare the CIA and JSOC kill lists or even arrive at a comprehensive understanding of the rules by which each is assembled.

The senior administration official said the gap is inadvertent. “It’s certainly not something where the goal is to evade oversight,” the official said. A senior Senate aide involved in reviewing military drone strikes said that the blind spot reflects a failure by Congress to adapt but that “we will eventually catch up.”

The disclosure of these operations is generally limited to relevant committees in the House and Senate and sometimes only to their leaders. Those briefed

must abide by restrictions that prevent them from discussing what they have learned with those who lack the requisite security clearances. The vast majority of lawmakers receives scant information about the administration's drone program.

In addition to the long-standing problem of JSOC avoiding oversight (and, implicitly, that this notice apparently comes **after the fact**, when CIA sends a fax over, which is a little late for the Intelligence Committees to weigh in, IMO), Miller lays out the following:

- No one—not the intelligence committees or even the Gang of Four—gets enough insight into the drone programs to understand how JSOC's practices differ from CIA's (this is consistent with what the Gang of Four said about Anwar al-Awlaki's killing, given that they said they never saw the kill lists)
- As is typical, the intelligence committee overseers can't share information from briefings with their colleagues not read into the program (this is how the Bush Administration gutted intelligence committee oversight of the torture and illegal wiretap programs)

But don't worry, a senior Administration

official says, this time, this secrecy is not designed specifically to avoid oversight.

Apparently, this SAO's interlocutors don't agree, because the WSJ's Adam Entous and Siobhan Gorman have a similar story out today, just three days after Miller's, quoting "current and former administration, military and congressional officials" complaining about oversight gaps.

While few U.S. lawmakers question the effectiveness of the targeted killing campaigns, some top lawmakers complain about what they see as excessive White House secrecy about how targets are chosen and how the administration justified the killings, particularly of American citizens.

Senate Judiciary Committee Chairman Patrick Leahy, a Vermont Democrat, has been publicly and privately pressing the Justice Department to let his committee review the secret memorandum prepared by Justice Department lawyers that endorsed the legality of killing U.S. citizens abroad.

Similar qualms have come from members of the House and Senate armed services committees, who have also sought more information in particular about the CIA's drone program (they have some oversight over the drones run by the Defense Department).

We've seen this movie already. The refusal to release OLC opinions to DOJ's oversight committee(s); the use of committee jurisdictional oddities to avoid oversight; the appeal to secrecy. All of this comes directly from the Bush script on hiding illegal programs from Congress.

And yet all of the people presumably bitching—folks like Pat Leahy, Carl Levin, John McCain, Buck McKeon, and Adam Smith

presumably—just passed language leaving the Administration's authority to use deadly force while pretending to try to detain American citizens with a **drone** intact.

Hey Congress! With Bush you were usually most successful forcing more transparency by refusing to pass legislation until you got that transparency. Maybe you should have tried that here?

In any case, Obama's anonymous leakers poo poo the entire notion of functional Congressional oversight.

Current and former officials say the White House wants to keep a tight hold on classified information to avoid unauthorized disclosures.

The demand for lawmakers outside the intelligence committees to have access to details on the covert drone program, said one U.S. official, "just doesn't hold water."

[snip]

Administration officials say the drone programs run by the CIA and Joint Special Operations Command are carefully monitored by top officials at both agencies and by the White House National Security Council.

Hey Congress! John Brennan (or some information hypocrite like him) just suggested that demands for functional Congressional oversight, "just [don't] hold water." And yet the same Administration that is refusing to pay you due respect out of feigned secrecy concern is, at the same time, selectively leaking about their drone strikes, going so far as to boast about the one that is supposedly covered by state secrets. Not to mention the fact that the contractors presumably know what you don't (though that, too, is like the illegal programs of the Bush Administration).

At one level, this story is about how yet another Congress is allowing themselves to be treated with disdain by the President, refusing to do the things to coerce the information they need to do their jobs out of the Administration.

At another, though, there's the unanswered question about the underlying dispute. While "officials from" (not members of) the intelligence committees claim, in the WSJ piece, they do adequate oversight, someone, somewhere, is running around begging for the ability to tell his or her Congressional colleagues details about the drone program they're not currently privy to.

And given what we do know—the contractors' involvement that makes the strikes illegal and inaccurate, the way our "allies" game the system to eliminate rivals, the unacceptable numbers of dead civilians—what we don't know may well be horrible indeed.

MORE COLLATERAL DAMAGE FROM MAD RUSH TO RELY ON DRONES

Marcy already covered the very important Greg Miller Washington Post article on drones and the way the Obama administration is growing ever more reliant on their use. I would like to focus on more of the collateral damage from drone use as described in two Los Angeles Times articles from this week. Today's article discusses the growing reliance on civilian contractors in the use of drones. Earlier in the week, we learned about the "death squads" roaming the tribal areas of Pakistan doling out revenge on those thought to have sold information used by the US

in developing target information. Taken together, these articles demonstrate how the excessive reliance on drones is outstripping the military and CIA support infrastructure. This matter will be only be made worse by the fact that the number of US personnel on the ground within Pakistan to develop intelligence has been cut to one fourth the previous level.

Today's LA Times article opens with a description of the difficulties that ensue when civilians take part in analysis of video feeds from drones that hit civilian targets:

After a U.S. airstrike mistakenly killed at least 15 Afghans in 2010, the Army officer investigating the accident was surprised to discover that an American civilian had played a central role: analyzing video feeds from a Predator drone keeping watch from above.

The contractor had overseen other analysts at Air Force Special Operations Command at Hurlburt Field in Florida as the drone tracked suspected insurgents near a small unit of U.S. soldiers in rugged hills of central Afghanistan. Based partly on her analysis, an Army captain ordered an airstrike on a convoy that turned out to be carrying innocent men, women and children.

We learn in the article that maintaining drones in the air requires a very large contingent of ground support, with Predators requiring over 150 ground crew for a 24 hour flight and twice that amount for the larger drones. We are already short on these ground crews and yet the number of these medium and large drones is expected to go from the current 230 to 960 within ten years. But don't worry, only 44 hours of training are required to certify a pilot!

In relying so heavily on civilian contractors, the US is flirting with breaking the international laws of war. Also from today's

article:

By law, decisions to use military force must be made by the military chain of command or, in the case of CIA strikes, by civilian officials authorized to conduct covert operations under presidential findings or other specific legal mandates.

Writing in a military law journal in 2008, Lt. Col. Duane Thompson, chief lawyer for the Air Force Operations Law Division, warned that allowing nonmilitary personnel to communicate targeting information directly to pilots would violate international laws of war.

Moreover, civilians are not subject to the Uniform Code of Military Justice, which subjects military personnel to prosecution for war crimes or for violations of rules of engagement on when to use force.

But this question of how we get to a kill decision has another facet to it as well. Earlier this week, the LA Times described the “death squads” roaming Pakistan’s tribal areas to extract revenge on those thought to have sold information to the US for use in targeting:

The death squad shows up in uniform: black masks and tunics with the name of the group, Khorasan Mujahedin, scrawled across the back in Urdu.

Pulling up in caravans of Toyota Corolla hatchbacks, dozens of them seal off mud-hut villages near the Afghan border, and then scour markets and homes in search of tribesmen they suspect of helping to identify targets for the armed U.S. drones that routinely buzz overhead.

/snip/

Militant groups lack the ability to bring down the drones, which have killed

senior Al Qaeda and Taliban commanders as well as many foot soldiers. Instead, a collection of them have banded together to form Khorasan Mujahedin in the North Waziristan tribal region to hunt for those who sell information about the location of militants and their safe houses.

Pakistani officials and tribal elders maintain that most of those who are abducted this way are innocent, but after being beaten, burned with irons or scalded with boiling water, almost all eventually “confess.” And few ever come back.

The deaths doled out by the Khorasan Mujahedin undoubtedly do not go into the official death tolls from drones, but it seems likely that they do indeed increase the death toll of innocent civilians. With the recent reduction of US personnel on the ground within Pakistan from 400 to 100, it now will be even more difficult to obtain human intelligence for use in target selection. Despite that complication, I’ve seen no indication that the US intends to back off from its current strategy of attacking both mid-level operatives and high-level commanders with drones.

Oh, and when getting targeting information directly from government sources in unstable areas, it seems the US is open to being played at times:

Top U.S. military leaders who oversaw missile strikes last year against al Qaeda targets in Yemen suspect they were fed misleading intelligence by the country’s government and were duped into killing a local political leader whose relationship with the president’s family had soured.

On May 25, 2010, a U.S. missile attack killed at least six people including

Jabir Shabwani, the 31-year-old deputy governor of Yemen's central Mareb province. The Yemeni government provided intelligence used in the strike but didn't say Mr. Shabwani would be among those there, say several current and former U.S. military officials.

These people say they believe the information from the Yemenis may have been intended to result in Mr. Shabwani's death. "We think we got played," said one participant in high-level administration discussions.

Realizing just how stupid this made the US look, it appears that John Brennan was "pissed" about being played in this way (of course, Marcy figured out we got played months before the WSJ did):

"Permissions are harder to get," a participant in the discussions said of the process of adding new targets. "Brennan wants to make sure we don't get played again."

However, as long as Brennan and Obama continue to expand the drone program beyond the infrastructure and intelligence gathering capabilities of the moment, more instances of incorrect targeting by both military and civilian analysts as well as "being played" by "allies" are inevitable. Despite the allure to Brennan and Obama that drones are somehow magic, clean ways to take out enemies, they are fraught with all the same real world problems as any other tool of war. Collateral damage is always a risk in actions of war and the damage is no less real when the weapons are controlled from a distance.

“ODDLY PASSIVE” IN THE WORLD OF DRONE KILLING

The WaPo has an important piece on the use of drones. One thing bmaz noted about it on Twitter, for example, is that CIA had Anwar al-Awlaki under such multi-drone surveillance before they killed him, it is not credible that they killed Samir Khan, also an American, out of ignorance of his presence. Particularly given their claim they had made sure no “civilians wandered in the cross hairs.”

Two Predators pointed lasers at Awlaki’s vehicle, and a third circled to make sure that no civilians wandered into the cross hairs.

So the article makes it clear that the Administration doesn’t consider non-operational American citizen propagandists “civilians.”

But I’m particularly interested in what a “former official who served in both [the Bush and Obama] administrations and was supportive of the [drone] program” had to say about who was promoting increased use of drones. The official starts by pointing to Hillary Clinton, Leon Panetta, and John Brennan as the program’s champions.

Secretary of State Hillary Rodham Clinton, former CIA director and current Defense Secretary Leon E. Panetta, and counterterrorism adviser John O. Brennan seemed always ready to step on the accelerator, said a former official who served in both administrations and was supportive of the program. Current administration officials did not dispute the former official’s characterization of the internal dynamics.

And then calls the Commander-in-Chief “oddly passive” when it comes to drones.

Obama himself was “oddly passive in this world,” the former official said, tending to defer on drone policy to senior aides whose instincts often dovetailed with the institutional agendas of the CIA and JSOC.

The senior administration official [who also disputed that the drones were driving our counterterrorism policy and not vice versa] disputed that characterization, saying that Obama doesn’t weigh in on every operation but has been deeply involved in setting the criteria for strikes and emphasizing the need to minimize collateral damage.

“Everything about our counterterrorism operations is about carrying out the guidance that he’s given,” the official said. “I don’t think you could have the president any more involved.”

The description of a passive Obama accords with other descriptions of Obama’s role in the drone war. As I noted in October, even Obama’s “approval” of the Anwar al-Awlaki targeting, according to Mark Hosenball, consisted only of not rejecting the recommendations of the Principals Committee’s recommendation (and therefore people like Hillary, Brennan, and Panetta).

The role of the president in ordering or ratifying a decision to target a citizen is fuzzy. White House spokesman Tommy Vietor declined to discuss anything about the process.

[snip]

Other officials said the role of the president in the process was murkier than what Ruppertsberger described.

They said targeting recommendations are

drawn up by a committee of mid-level National Security Council and agency officials. Their recommendations are then sent to the panel of NSC "principals," meaning Cabinet secretaries and intelligence unit chiefs, for approval. The panel of principals could have different memberships when considering different operational issues, they said.

[snip]

Several officials said that when Awlaki became the first American put on the target list, Obama was not required personally to approve the targeting of a person. But one official said Obama would be notified of the principals' decision. If he objected, the decision would be nullified, the official said.

A former official said one of the reasons for making senior officials principally responsible for nominating Americans for the target list was to "protect" the president.

In addition, Joby Warrick's description of the targeting approval process used before we killed Baitullah Mehsud and his young wife shows just the Director of the CIA signing off on the killing.

So it's not news, exactly, that Obama has been given plausible deniability about the out-of-control backlash-creating program. Nor that the Administration wants to sustain that plausible deniability while still pursuing political advantage from the drone strikes.

But I am interested in the implication Greg Miller leaves as a result. Obama is passive, and so his senior aides control the program (perhaps one of the aides denying that Obama is passive?), and they, in turn, basically support the "the institutional agendas of the CIA and JSOC."

Here's what that senior aide had to say to try to deny that we're letting a fondness for drones drive our counterterrorism policy.

"People think we start with the drone and go from there, but that's not it at all," said a senior administration official involved with the program. "We're not constructing a campaign around the drone. We're not seeking to create some worldwide basing network so we have drone capabilities in every corner of the globe."

It seems there's a third option, an alternative to "we're building so many drone bases because we like drones" and "we have so many drones because there are so many possible targets for them."

That third option is that JSOC and CIA have certain "institutional agendas" that center on wielding the power of drones anywhere in the world to implement a policy they've dreamt up rather than their civilian Commander-in-Chief. There's a hint, at least, that drones not only take the human out of the cockpit, but also take the Commander-in-Chief out of the cockpit as well.

DRONE PILOTS TO CONTROL FOUR PLANES AT ONCE: WHAT COULD POSSIBLY GO WRONG?

[youtube]<http://www.youtube.com/watch?v=FK4nh5I0jpE>[/youtube]

So soon on the heels of this week's disclosure that seventeen percent of US drone pilots show

signs of clinical distress and the debacle of the RQ-170 Sentinel drone being recovered and put on display by Iran, today's latest announcement on drones reads like a piece from The Onion or Andy Borowitz. In what appears to be all seriousness, the US is looking into the possibility of single drone operators controlling as many as four drones at one time:

Western militaries are experimenting with having future drone pilots command up to four aircraft at once, adding new potential challenges even as a top-secret U.S. drone's crash in Iran exposed the risks of flying unmanned aircraft thousands of miles away.

And why would such a foolish move be necessary? Why, it all comes down to insatiable demand for drone use and a military that wants to cut back on costs:

To save money and make unmanned aerial vehicles (UAVs) less reliant on massive ground support crews, weapons manufacturers are working with military officials to develop more autonomous control systems and improve networking among planes.

At the moment, it can take hundreds of support staff on the ground to run a single drone for 24 hours, adding cost and complications at a time when budget-cutters are looking for billions of dollars of program cuts.

But new high-tech networking systems and ground stations in development would let a single pilot fly four drones, possibly even from different manufacturers, dramatically reducing the ground staff now needed for each plane.

Early work on such systems has been going on for some time, but heavy demand for more drones and mounting budget

pressures are now bringing them closer to operational use.

If the US does institute such a foolish practice, let's just hope none of the stressed out operators decide to channel their inner Charlie Callas.

DRONE WAR SECRECY AND KILL OR CAPTURE

As we stand on the doorstep of President Obama signing into law the new NDAA and its dreaded controversial provisions, there are two new articles out of interest this morning. The first is an incredibly useful, and pretty thorough, synopsis



at Lawfare of the new NDAA entitled "NDAA FAQ: A Guide for the Perplexed". It is co-written by Ben Wittes and Bobby Chesney and, though I may differ slightly in a couple of areas, it is not by much and their primer is extremely useful. I suggest it highly, and it has condensed a lot of material into an easily digestible blog length post.

The second is a long read from the Washington Post on how secrecy defines Obama's drone wars:

The administration has said that its covert, targeted killings with remote-controlled aircraft in Pakistan, Yemen, Somalia and potentially beyond are

proper under both domestic and international law. It has said that the targets are chosen under strict criteria, with rigorous internal oversight.

...

"They've based it on the personal legitimacy of [President] Obama – the 'trust me' concept," Anderson said.

"That's not a viable concept for a president going forward."

The article goes on to state how the CIA, and the majority of voices in the White House, are fighting tooth and nail for continued utmost secrecy lest any of our enemies somehow discover we are blowing them to bits with our drones. This is, of course, entirely predictable, especially now that the former head of the CIA leads the military and the former military chief for the greater Af/Pak theater which has long been ground zero for the drone kill program, Petraeus, is the head of the CIA.

But then the Post piece brings up our old friend, the OLC:

The Justice Department's Office of Legal Counsel has opposed the declassification of any portion of its opinion justifying the targeted killing of U.S. citizen Anwar al-Awlaki in Yemen this year.

Awlaki, a propagandist for the Yemen-based al-Qaeda affiliate whom Obama identified as its "external operations" chief, was the first American known to have been the main target of a drone strike. While officials say they did not require special permission to kill him, the administration apparently felt it would be prudent to spell out its legal rationale.

...

Under domestic law, the administration considers all three to be covered by the Authorization for Use of Military Force that Congress passed days after the

Sept. 11, 2001, attacks. In two key sentences that have no expiration date, the AUMF gives the president sole power to use “all necessary and appropriate force” against nations, groups or persons who committed or aided the attacks, and to prevent future attacks.

The CIA has separate legal authority to conduct counterterrorism operations under a secret presidential order, or finding, first signed by President Ronald Reagan more than two decades ago. In 1998, President Bill Clinton signed an amendment, called a Memorandum of Notification, overriding a long-standing ban on CIA assassinations overseas and allowing “lethal” counterterrorism actions against a short list of named targets, including Osama bin Laden and his top lieutenants. Killing was approved only if capture was not deemed “feasible.”

A week after the Sept. 11 attacks, the Bush administration amended the finding again, dropping the list of named targets and the caveat on “feasible” capture.

“All of that conditional language was not included,” said a former Bush administration official involved in those decisions. “This was straight-out legal authority. . . . By design, it was written as broadly as possible.”

This brings us back to the notable October 8, 2011 article by the New York Times’ Charlie Savage on his viewing of the Awlaki targeting memo relied on by the Obama White House for the extrajudicial execution of Anwar al-Awlaki. Marcy, at the time discussed the incongruity of the collateral damage issue and the fact Samir Khan was also a kill in the targeted Awlaki strike.

I would like to delve into a second, and equally misleading, meme that has been created by the self serving and inconsistent secret law Obama has geometrically expanded from the already deplorable Bush/Cheney policy set: the false dichotomy in the kill or capture element of the Awlaki kill targeting.

It has become an article of faith that Awlaki could neither have been brought to justice in Yemen nor, more importantly, captured in Yemen and brought to justice in an appropriate forum by the United States. It has been a central point made in the press; here is the New York Time's Scott Shane in early October:

The administration's legal argument in the case of Mr. Awlaki appeared to have three elements. First, he posed an imminent threat to the lives of Americans, having participated in plots to blow up a Detroit-bound airliner in 2009 and to bomb two cargo planes last year. Second, he was fighting alongside the enemy in the armed conflict with Al Qaeda. **And finally, in the chaos of Yemen, there was no feasible way to arrest him.** (emphasis added)

Shane was relying on Bobby Chesney, a University of Texas law professor, and granted an expert in the field who also is a principal at Lawfare Blog. It is the same meme propounded by not only other reporters, but by other leading experts. Here is Ben Wittes in Lawfare stating the assumption as a given fact. Here is Jack Goldsmith (also of Lawfare) espousing the same in a widely read Times Editorial. Here is Peter Finn and the venerable Washington Post doing the same.

Just how does this meme set in and become the common wisdom and fact of such wise men (and I mean that term literally; these are smart people)? Because, of course, that is what the US government tells them, as well as us. With nothing but the self-serving, selective dribble

leaking by the Administration of supposedly classified information, there is no specific factual basis from which to dissect the truth. And that is the way the Administration likes it; it always gets messy when citizens actually *know* what their government is doing in their name.

On the Awlaki targeted execution, it was not only desirable for people to believe the government's stated basis, it was critical. Because the house of cards falls otherwise without the necessity element, and it becomes no more than a convenience kill wherein Mr. Obama was too lazy and hamstrung by his own political considerations to do otherwise. Here is how Charlie Savage describes the predicate element in the Awlaki OLC memo in his, so far, seminal report:

The Obama administration's secret legal memorandum that opened the door to the killing of Anwar al-Awlaki, the American-born radical Muslim cleric hiding in Yemen, found that it would be lawful only if it were not feasible to take him alive, according to people who have read the document.

...

The [OLC] lawyers were also told that capturing him alive among hostile armed allies might not be feasible if and when he were located. (emphasis added)

In fairness to Mr. Savage, he more than touches on the import of the issue by including a question from Samir Khan's father:

"Was this style of execution the only solution?" the Khan family asked in its statement. "Why couldn't there have been a capture and trial?"

And Charlie himself posits the following:

The memorandum is said to declare that in the case of a citizen, it is legally required to capture the militant if

feasible – raising a question: was capturing Mr. Awlaki in fact feasible?

It is possible that officials decided last month that it was not feasible to attempt to capture him because of factors like the risk it could pose to American commandos and the diplomatic problems that could arise from putting ground forces on Yemeni soil. Still, the raid on Osama bin Laden's compound in Pakistan demonstrates that officials have deemed such operations feasible at times.

So Obama Administration "officials decided last month that it was not feasible to attempt to capture" Awlaki. Most everybody has taken that on faith, but should they? The US had had Awlaki under intense surveillance for quite some time. The US also claims to be strong strategic partners with Pakistan. It is doubtful Yemen really cared all that much about Awlaki, as he was a noisy American. Who says there was no way between the combined capabilities of the US and Yemen Awlaki could not at least be attempted to be captured?

Now, I am not saying it is clear Awlaki could have been captured and brought to trial, just that it is not a given that it was impossible. Who makes those decisions, and on what exact basis and criteria? Anwar Awlaki, for everything you want to say about him, had *never* been charged with a crime, much less convicted of one, and he retained Fourth, Fifth and Sixth Amendment rights as a US citizen. If the precedent for extrajudicial execution of American citizens is being set at the whim of the President, then American citizens should know how and why.

So, hats off to Charlie Savage for having raised the critical question on necessity; problem is, however, it was only a question. There was, and is, no more specific information for him, or us, to go on from the Administration. Which leaves

the remainder of the citizenry and chattering classes effectively working off of the glittering generalities and assumptions propounded by the government. And, in case you did not notice, there was effectively no discussion of the kill or capture paradigm in all the hubbub of the recent NDAA discussion. So, we are no further along in this regard than we were when Awlaki was terminated with prejudice. I will likely come back to the kill or capture paradigm at a later date, because it is a fascinating discussion in terms of history and protocols.

Which brings us back to where we started here. These are life and death matters for those, like Awlaki (and Samir Khan too, as it is quite likely the US had reason to know he was in Awlaki's "collateral damage" radius), that are placed on the President's kill list and, to the rest of us, are of rude foundational importance to the very existence of American rule of law and constitutional governance. For all the sturm and drang surrounding the release of the torture memos, the resulting discussion has been sober, intelligent, and important. The publication of the torture memos has provided a template not only showing how it can be done, but proving that it can and should be done.

The same as was the case with the OLC torture memos holds true in regards to the OLC kill list targeting memo for Anwar al-Alawki and the related memos the Obama Administration is relying on. The documents should be released by the Obama administration with no more than the absolute minimal redaction necessary to truly protect means and methods.

If the Obama administration insists on hiding such critical knowledge and information necessary for the knowing exercise of democracy within the United States, then Mr. Obama and his administration should have the intellectual consistency and honesty to investigate and prosecute those within his administration responsible for the serious leaks to Charlie

Savage and the New York Times of classified information that has previously been deemed in court and under oath to be "state secrets". If you can prosecute Bradley Manning, surely there should be some effort to bring Savage's leaker to justice. Except there will be none of that, because it was almost certainly ordered by the White House as a selective propaganda ploy to bolster their extrajudicial killing program.

As hard as it is to believe, I, at the time, contacted the Obama Department of Justice and they officially stated "no comment" when these questions were propounded. In light of the fact the leak almost certainly came from extremely high up within the Obama administration, and was done with the express knowledge and consent of Mr. Obama himself to crow and take political advantage of his kill, it is hard to say that this is shocking. And, again, this is exactly the problem when the United States government plays self-serving games with its own classified information – the people, and the democracy they are tasked with guiding, all lose.

[The forever classic Emptywheel "Killer Drone" graphic is, of course by the one and only Darkblack]