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Cover Story

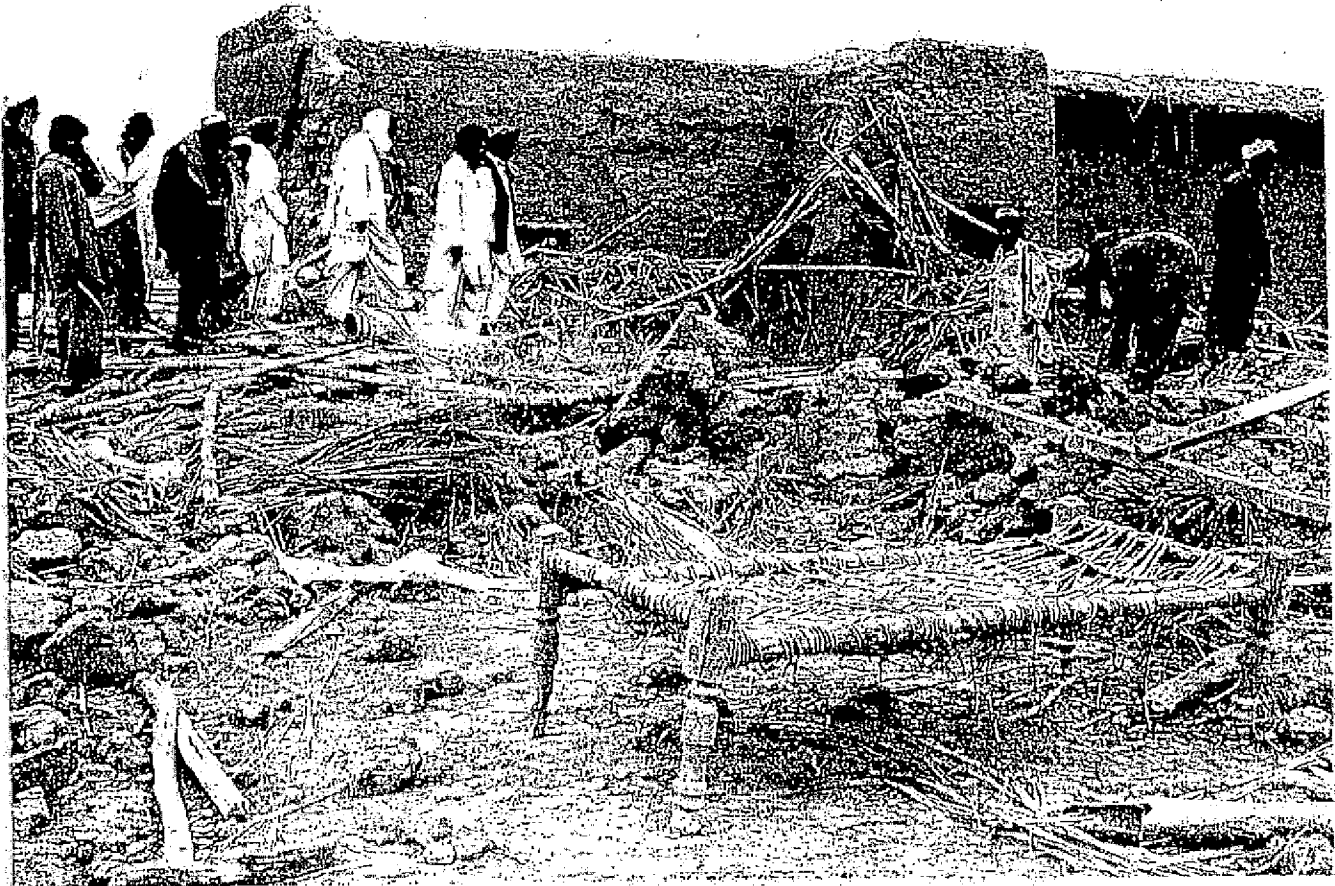
■ INTERNATIONAL AFFAIRS

With little public debate, the U.S. government has **dramatically increased targeted assassinations**, raising the body count and posing important questions about a secret program that serves as judge, jury, and executioner.

# 'Wanted: Dead'

By James Kitfield

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**H**idden behind walls of top-secret classification, senior U.S. government officials meet in what is essentially a war chamber to decide which enemies of the state to target for assassination. There is no single master list, but all names pass through an elaborate, multi-agency vetting process that ends at the level of the National Security Council and ultimately requires presidential approval.

The high level group draws its authority from a post-9/11 presidential finding and executive order authorizing government agents to use lethal covert action in the global war on terrorism. Since inheriting the program from the Bush White House, the Obama administration has dramatically increased such actions, ordering a record 50 drone strikes on suspected terrorists in 2009 compared with 31 the year before.

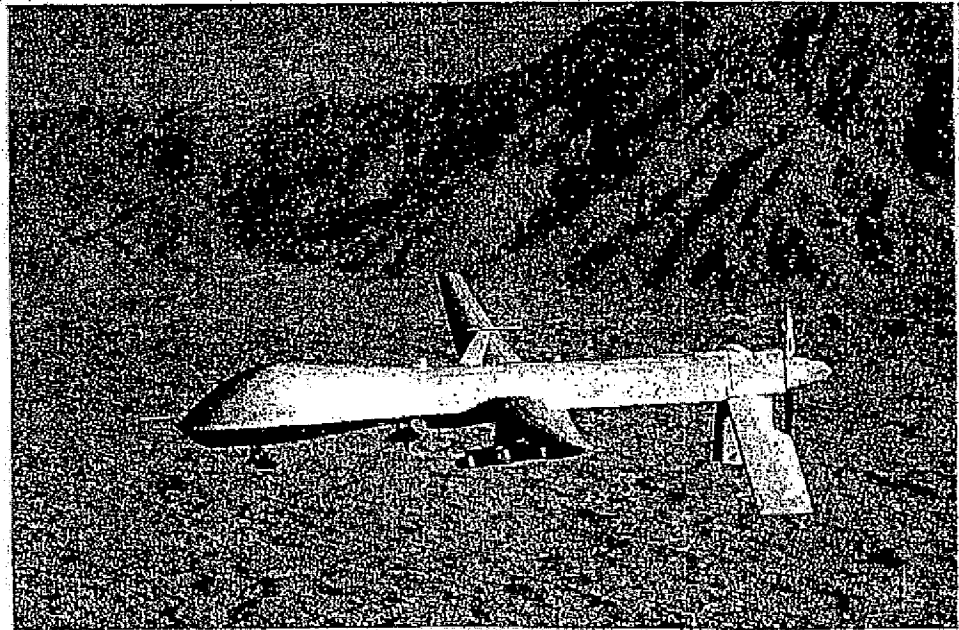
According to a knowledgeable source, names that make the final cut go to an interagency task force that includes representatives from the CIA and the military's Special Operations Command, the designated lead agencies for counter-terrorism operations. Depending on the target's priority, the intelligence on his or her whereabouts, and the potential legal authorities involved at the likely point of contact, either the CIA or a Special Forces direct-action unit may get the job.

This machinery operates in the utmost secrecy. Despite a body count that has grown significantly in recent years, senior U.S. officials still decline to publicly acknowledge key aspects of the targeted assassination program. This much is known, however: The surest qualification for getting designated for "lethal covert action" is to have any link or connection whatsoever to Al Qaeda. In a single 48-hour period on December 17 and 18, for instance, a barrage of Predator drone strikes killed 29 suspected Qaeda terrorists and allied militants in Pakistan's lawless tribal region of North Waziristan.

"As its reply to the 9/11 attacks, the United States officially declared war on the terrorists and authorized the CIA to kill Qaeda militants in a presidential directive that was briefed to Congress," Vincent Cannistraro, the CIA's former counter-terrorism chief,

wrote recently on *National Journal's* blog of national security experts. The Special Operations Command, he said, has also operated anti-terrorist hit squads.

"In an official wartime environment," Cannistraro wrote, "there is no definition for what the media calls 'assassination.' There's just the killing of the enemy, wherever and however found. The CIA's regular program of launching drone attacks against Qaeda members emphasizes this objective of killing terrorists, whether in Pakistan and Afghanistan, or in other areas, like Yemen and Somalia."



AP/WIDEWORLD

**ANONYMOUS AND DESTRUCTIVE:** A Predator drone (above) carries a Hellfire missile under its wing. On March 16, 2009, a drone strike (opposite) destroyed bulletproof buildings in Pakistan, believed to house fighters from Al Qaeda.

He. Sometimes these attacks are unilateral, and sometimes [they are] briefed and approved by the host government in advance but publicly denounced by them for domestic political reasons. But the purpose—the elimination through killing of terrorists—is authorized by presidential decree and congressional briefings."

#### Making the List

On Tuesday, December 8, a car carrying two men approached the village of Spilga in North Waziristan, where remnants of Al Qaeda's leadership have found sanctuary. Tribal sources reported to local media that the car disintegrated after being hit by

## ■ Remote-Controlled Death

■ Before the 9/11 attacks, the U.S. government **criticized Israel for its policy** of extrajudicial killings. Not anymore.

■ Who decides the exact criteria for **pulling the trigger and firing a missile** at someone?

■ Of 99 U.S. drone attacks carried out inside Pakistan since the first one in 2004, **89 occurred in the past 24 months.**

■ **FARAWAY PILOT:** An Air Force officer operates a Predator drone over Iraq from a ground station at Balad Air Base in 2006.

two missiles and that body parts scattered in all directions. As of this writing, U.S. intelligence sources have confirmed only that a "high-level" Qaeda operative was killed in an attack by an armed Predator drone on that date. Various media have reported, however, that the dead included Saleh al-Somali. If the reports are accurate, there is little doubt how he made it onto the assassination list. Somali, a chief Qaeda operations planner, was thought to be plotting attacks against the United States and Europe.

On the evening of August 5, Battullah Mehsud, the infamously ferocious head of the Pakistani Taliban, was resting on the roof of his father-in-law's house in the country's ungoverned South Waziristan region. Mehsud was Pakistan's most-wanted man, linked to a host of terrorist attacks, including the assassination of former Pakistani Prime Minister Benazir Bhutto and the bombing of the Marriott Hotel in Islamabad that killed more than 50 people in September 2008.

Mehsud had also forged increasingly close ties to Al Qaeda, and intelligence implicated him in a failed 2008 plot to bomb the subway system in Barcelona, Spain, suggesting that he was embracing the terrorist group's strategy of direct attacks on the West. All of which may explain how Mehsud's name appeared on the targeted assassination list.

Roughly 2 miles above the roof on which Mehsud was reclining, receiving an intravenous drip for diabetes or a kidney ailment, an unseen armed Predator drone circled and observed. The robot was piloted from thousands of miles away at CIA headquarters in Langley, Va. The drone fired two Hellfire missiles that engulfed the house in a fireball, killing 12 people, including Mehsud's wife and in-laws, as recently reported in *The New Yorker* magazine. When the dust settled, all that was left of Mehsud was a torso.

On September 14, Saleh Ali Saleh Nabhan, a Kenyan who was a top Qaeda operative in Africa, traveled in a convoy in southern Somalia. Nabhan was wanted by the FBI for his involvement in an attack on a hotel and an attempt to shoot down an Israeli jetliner

in Kenya in 2002, and for links to the 1998 Qaeda bombing of the U.S. embassies in Kenya and Tanzania. Nabhan was also a leader of the Somali Al Shabab terrorist group, which has close ties to Al Qaeda. In recent years Al Shabab has begun successfully recruiting and training Americans of Somali origin for suicide operations. All of which may explain how Nabhan's name made it onto what the Pentagon calls the "Joint Integrated Prioritized Target List."

As Nabhan's convoy pulled over for breakfast, U.S. Special Forces helicopters swarmed in with machine guns blazing. After the shooting stopped, Navy SEAL commandos rappelled to the ground and collected the bodies of Nabhan and another terrorist; the choppers then flew back to U.S. warships patrolling off the Somali coast, as reported by the Associated Press.

### Shadow War

By every indication, the Obama administration has markedly expanded the government's program of targeted assassinations of terrorists. According to a recent report by the New America Foundation, the number of drone attacks between January and October 2009 exceeded the total in all of 2008, which had been a record year for such strikes. According to *The Long War Journal*, a blog that tracks the drone program, of the 99 attacks carried out inside Pakistan since the first one in 2004, 89 occurred after January 2008. That's on top of targeted assassinations of terrorists and militants in Iraq, Somalia, Yemen, and elsewhere.

The escalation raises important questions about the efficacy of the assassination program and about its legal and moral underpinnings. (See next story, p. 21.) Recent controversies and media reports already provide ample evidence of the difficulties in managing and legally containing a program of extrajudicial killings that is cloaked in such secrecy.

Why, for instance, after long criticizing Israel for its targeted assassination program, did the United States so decisively reverse course under a Republican president and significantly escalate

the program under a Democratic president who almost never refers to a "global war on terrorism"? What exactly are the distinctions between a Special Forces unit shooting a terrorist first and asking questions later; a CIA drone firing Hellfire missiles at a highway target; and proposed CIA hit squads conducting "find, fix, and finish" operations? How high are the intelligence and evidentiary bars that land someone on the targeted list? Why has government contracted out its most profound responsibility—using lethal force in the name of the state—to private parties? How accountable and legitimate is a program of targeted killings that officials will not even publicly acknowledge?

Answers to these questions are all the more important, given that the program's success and the lack of better options for targeting terrorists in ungoverned spaces have garnered widespread support in Washington for continuing and even escalating the operation.

"I believe, short of war, targeted assassination has its place in U.S. policy or in its arsenal," Brian Michael Jenkins, a longtime counter-terrorism expert and author at the Rand think tank, said. "But today we are at war with a deadly enterprise called Al Qaeda, and that's why I supported the U.S. government openly declaring war after 9/11."

The campaign against Al Qaeda has many faces and fronts, he noted, involving law enforcement, diplomacy, military force, and even political warfare. "And our policy should be that where the rule of law applies and the long arm of the law can reach, we should rely on diplomacy and law enforcement," Jenkins said. "And where it does not, I think assassination is a legitimate response against leaders of the enemy camp."

Sen. Christopher (Kit) Bond, R-Mo., is the vice chairman of the Select Intelligence Committee. "In law enforcement, where a suspect enjoys certain constitutional rights, a federal agent could never kill a suspect except in self-defense, but on the battlefield, against enemies bent on our nation's destruction, different rules must prevail," he wrote on National Journal's *National Security* expertise blog. "We must use every available tool at our disposal to defeat the enemy. That means that our military and intelligence operations must have the authority to take out our enemies, through any lawful means, in any range. This is not assassination. This is war."

**State-Sponsored Killings**

Israel pioneered the use of targeted assassination of terrorists after the Palestinian Black September group murdered 11 Israeli athletes at the 1972 Summer Olympics in Munich. Israel's intelligence agency, Mossad, subsequently launched Operation Wrath of God to track down and kill those responsible, leading to assassinations in Beirut, Lebanon; Paris; and Lillehammer, Norway. Israel carries out targeted assassinations to this day, including strikes in recent years against leaders of the Hamas terrorist group in the Gaza Strip.

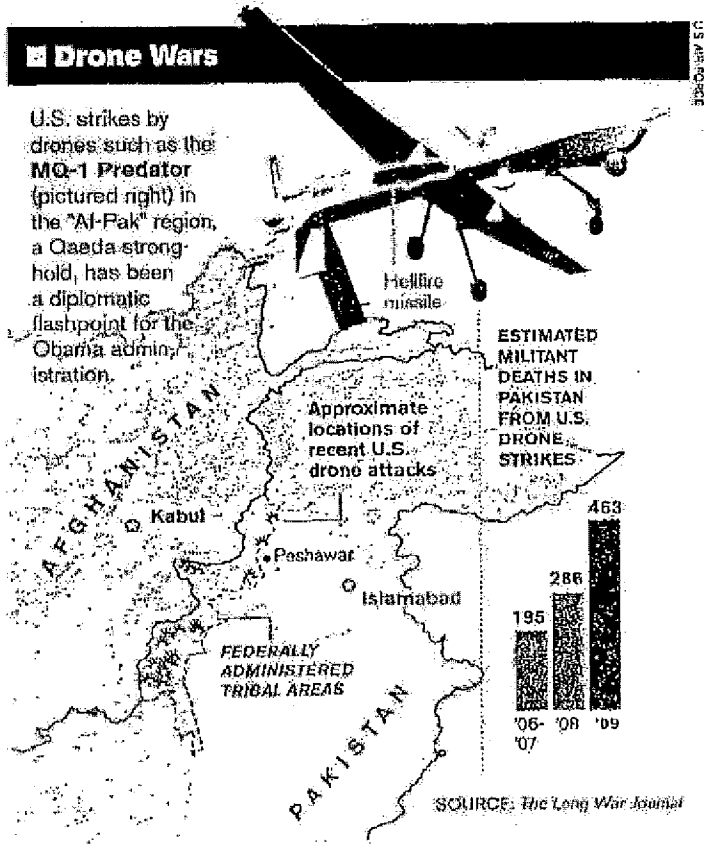
Before the 9/11 attacks, the United States criticized Israel for its policy of extrajudicial killings. Critics noted that Israel's strikes frequently killed innocent civilians and occasionally targeted the wrong people. As part of the Wrath of God operation, for instance, Mossad agents mistakenly killed a Moroccan immigrant in Norway in 1973 based on faulty intelligence from an informant; the Norwegian government arrested and imprisoned the Israeli agents.

Although Israel's assassination program has brought considerable international criticism, its leaders early on confronted an agonizing question: When deadly terrorist groups who wear no uniforms and hide in the shadow of anonymity declare war on your civilians, both at home and abroad, where does the battlefield end?

Daniel Byman is a counter-terrorism expert and the director of Georgetown University's security studies program. He has closely investigated the Israeli program. "Israel has actually set up a pretty accountable system of targeted killings," he said. "The criteria for operations are decided at the Cabinet level, and a decision to kill is usually made by the prime minister. The intelligence standards for such operations also appear to be quite high, and Israel takes pains to avoid killing noncombatants. Despite those precautions, a fair amount of civilians still die in these operations because the terrorists always seem to be around family members or noncombatants, or in crowded urban settings where any explosion is bound to kill civilians."

Byman believes that the United States could take valuable and cautionary lessons from the Israeli program, beginning with the need for accountability and greater sensitivity to the collateral deaths of civilians. Although U.S. officials estimate that targeted strikes in Pakistan have killed just 20 civilians and 400 militants, the New America Foundation's report puts the counts at 250 civilians and 500 militants; some estimates of civilian deaths range much higher. The civilian death count has contributed to record levels of anti-Americanism in Pakistan in recent years.

"I argue, you need someone to effectively act as a devil's advocate within the system who ideally is outside the elec-



Ahmed Swedan



Abu Laith al-Libi



Ilyas Kashmiri



**Qaeda operatives believed to be killed by U.S. drone strikes: Swedan was connected to the U.S. embassy bombings in Africa in 1998; al-Libi, the reputed No. 3 in the Qaeda hierarchy; and Kashmiri, the group's chief of paramilitary operations in Pakistan.**

sion loop of such programs," Byman said. "It could be a U.S. agency, or something like the [Foreign Intelligence and Surveillance Act] court that makes judgments on secret wiretaps, because the simple requirement of going before a judge or independent official to make a case for a targeted killing introduces a measure of accountability. Mistakes the U.S. intelligence agencies have made in the 'rendition' program, where individuals were apparently captured and rendered to third countries for interrogation, based mostly on a hunch, also suggest that we have set the bar far too low in terms of the intelligence basis for these types of operations."

Because of its status as a superpower with global interests and responsibilities, the United States pays for extrajudicial killings and the inadvertent death of innocent civilians in the court of world opinion in a way that Israel does not, Byman says. "I'm also deeply troubled by the outsourcing of parts of these operations to private contractors, because this is a fundamental national security responsibility that an accountable public official or political appointee should ultimately have to answer for—because the consequences are huge."

Despite those misgivings, Byman believes that the U.S. program of targeted assassinations will continue, for the same reason that Israel's program has persisted for decades: It works. "The Israelis have found that by targeting terrorist leaders on a persistent basis they force terrorist organizations to go deep into their bench, until eventually they are forced to promote new people who are not as well trained and the effectiveness of the terrorist organization drops," he said. "I think the U.S. military discovered the same thing in Iraq when it decimated the cadre of terrorists that were led by [Abu Musab] al-Zarqawi with targeted killings, which greatly diminished the effectiveness of Al Qaeda in Iraq."

#### Iraq Paradigm

Judged, in terms of tactics, scope, and effectiveness, the U.S. government's targeted assassination program is largely a product of lessons learned from the counter-terrorism operations in Iraq and Afghanistan. Given free rein to operate in war zones by local U.S. commanders, the Joint Special Operations Command led secret, multi-agency task forces that combined the personnel and expertise of intelligence, military, and law enforcement agencies,

including the CIA, the FBI, and the elite Delta Force counter-terrorism unit.

The task forces use an array of assets, including spy satellites, advanced computer network infiltration technology, wireless telephone intercepts, and human intelligence from Special Forces troops and local spies overseen by CIA field agents. Of particular use in the counter-terror mission are the Air Force's small, slow-flying robotic drones that can loiter over targets for many hours, pinpoint them with state-of-the-art video imaging, and shoot Hellfire missiles with precision.

The seven CIA operatives killed and six wounded in a suicide bombing attack at Forward Operating Base Chapman in Afghanistan's Khost province in December were engaged in just such a paramilitary campaign. They were training informants and collecting intelligence on the militant network of Saïyid bin al-Haqani. Such intelligence is critical to finding targets for the drones.

CIA operatives have also been sent, press reports say, to Yemen to assist the government there in strikes against Al Qaeda in the Arabian Peninsula, the group that is thought to be behind the unsuccessful Christmas Day bombing plot against a Detroit-bound airplane that resulted in the arrest of a Nigerian, Umar Farouk Abdulmutallab.

Task Force 121 in Iraq and Task Force 714 in Afghanistan synthesize all of those capabilities into "hunter-killer" teams that track terrorists and in many cases kill them on sight. Such was the case of Zarqawi, who was tracked by drones and then killed by a laser-guided bomb in 2006. Significantly, the commander in charge of Task Force 121 was Gen. Stanley McChrystal, then the head of the Joint Forces Command and now the top commander of U.S. and allied forces in Afghanistan.

A recent report by the Senate Foreign Relations Committee revealed the expansion of the targeted assassination program as an element in counter-terrorism operations in Afghanistan. The classified list of people targeted for capture or killing on the Joint Integrated Prioritized Target List for Afghanistan, the report notes, has expanded well beyond Al Qaeda and Taliban leaders to major drug traffickers whose operations help to finance the insurgency. According to the report, as of August 2009, the list named 357 "kill or capture" targets, about 50 of them drug traffickers.

Given that the roster of Afghan officials suspected of major involvement in the drug trade includes Ahmed Wali Karzai, brother of Afghan President Hamid Karzai, and other regional officials and warlords with ties to the Kabul government, the potential complications of adding drug traffickers to the targeted assassination list are obvious. A senior officer involved in the program told Senate investigators that the evidentiary bar for putting a name on the list includes at least two "verifiable human sources" and "substantial additional evidence." The report said that the military "places no restrictions on the use of force" for those targets.

Paul Pillar, a former top official in the CIA's Counterterrorism Center, told *National Journal*. "Just because of the nature of covert operations, there is much that goes on that you cannot see from the outside. But for the sake of oversight, responsible people should certainly be testifying in a closed session of Congress on exactly what criteria are applied to warrant targeted assassinations." He contended, "Officials may justify their actions by saying

"We're at war," because then the public has less heartburn about the use of force. Whether you call what we're doing a "war on terror" or not, however, we've seen that it doesn't solve a lot of knotty, nasty problems like how we interrogate and treat detainees, or handle extraordinary renditions of terrorist suspects. And it certainly doesn't absolve you from the issue of what exact criteria you apply in pulling the trigger and firing a missile at someone."

Although the CIA has long had a paramilitary branch called the Special Activities Division, before the 9/11 attacks it was small and rarely active. Even today, targeted killings fall outside the CIA's core competency of collecting and analyzing information. For that reason, Pillar said that the program raises the issue of whether participants are "blue badge" (CIA personnel), or "green badge" (private contractors). The CIA's secret interrogation program for terrorists involved similar issues, he noted. "These programs and the use of contractors inevitably raise issues of personal accountability."

**Contracting Out Death Squads**

The difficulties of limiting participation in a top-secret program



That is not assassination. This is war.

—Sen. Christopher (Kit) Bond, R-Mo.

of extrajudicial killings and keeping it within acceptable legal bounds were amply demonstrated in June 2009, when CIA Director Leon Panetta met in a closed session with the House and Senate intelligence committees to inform them of a nascent program to field CIA covert-action teams to capture or kill terrorists around the world. Many lawmakers recalled the CIA's assassination plots and abuses in the 1960s and 1970s that led to a congressional ban on assassinations. Reportedly, then-Vice President Cheney had insisted that the Bush administration keep Congress in the dark about the more recent program, which never achieved operational status under either the Bush or the Obama White House. Predictably, however, the revelations prompted a political firestorm.

Subsequent reporting has revealed that the CIA was building an internal capability to conduct assassinations using in-house hit squads and also thinking about contracting out the job. *The New York Times*, *The Washington Post*, and other news outlets reported, for instance, that leaders of the proposed program were subcontracting much of the work to the controversial private company Blackwater (since renamed Xe Services). Despite being involved in a court case involving allegations that its security personnel in Iraq wrongfully murdered 17 Iraqis in an improvised shooting spree, a case recently dismissed by a federal judge, Blackwater and its affiliates are heavily involved in providing security, con-

ducting logistics, and collecting intelligence for the CIA's drone assassination program.

A recent *Wonyon* article details how major elements of the nascent CIA hit squad program began to migrate to Blackwater in 2004 and 2005, after the company hired three of the CIA's top counter-terrorism officials: Rob Rieker, the former No. 2 in the agency's clandestine service; J. Color Black, former head of the agency's Counterterrorism Center; and Enrique (Rie) Prado, former chief of operations at the CTC. In an interview with the magazine, Blackwater founder and former Navy SEAL, Erik Prince confirmed that he was creating an "off-the-books" team to conduct the CIA's mission to "find, fix, and finish" terrorists.

"We were building unilateral, unaccountable capability," fully under the CIA's operational control, Prince told the magazine. "If it went bad, we weren't expecting the chief of station, the ambassador, or anyone to ball us out."

The news that the CIA was seriously considering getting back into the assassination game with direct-action teams and also moving to contract out such missions prompted some old hands to raise warning flags.

"Who could possibly question that targeted killings were considered an option by the CIA in the post-9/11 atmosphere?" retired senior CIA officer and Middle East expert Milt Bearden wrote on *National Journal's* blog. "Of course the option should have been in the mix, and it still should. But the crunch is in the implementation.... There are those at Langley who know there is precious little intelligence reliable enough to be the basis for a death sentence. When human intelligence is involved, the odds against reliability become even more daunting, as the intelligence sources sometimes try and get us to do their heavy lifting by passing off their enemies as our own."

The CIA's well-documented mistakes in its "extraordinary rendition" program—including the 2003 rendition and torture of Abu Omar for which an Italian court this year convicted 22 CIA agents in absentia—probably added to internal delays in green-lighting the hit squad program. "Those failures would have prompted caution, if not passive resistance, at CIA when it came to launching operations to kill based pretty much on the same kinds of intelligence," Bearden wrote on the blog. "Old Langley hands would also have remembered the heated debates inside Mossad on its targeted assassination programs. Could we actually do any better? Maybe, but maybe not."

**Ungoverned and Sovereign**

Having carte blanche to operate in war zones and "in preparation of the battlefields" of Iraq and Afghanistan, the Pentagon has given the Joint Special Operations Command the lead in counter-terrorist operations and targeted assassinations in those theaters. The Special Forces assassination of Saleh Ali Saleh Nabhan in Somalia last September suggests that the JSOC's counter-terrorist writ also extends to ungoverned spaces with little or no functioning government authority. Meanwhile, Congress's reaction and some internal reluctance to activate the CIA hit squad program indicate that the United States has so far rejected the kind of broad assassination program that Israel ran against Black September in the 1970s, which included bombings and shootings in the streets of Middle Eastern and European cities.