

# Obama administration asserts right to assassinate Americans

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The Obama administration drafted a secret legal memorandum last year claiming that the president had the power to order the killing of an American citizen without a trial, a power that was exercised ten days ago with the drone missile murder of Anwar al-Awlaki, an Islamic radical cleric born in the United States of Yemeni parents.

Awlaki and three other men—one of them also an American citizen, Samir Khan—were blown to pieces by a missile fired from a CIA-operated drone in northern Yemen. The Obama administration claimed, without providing any evidence, that Awlaki was a high-level “operational leader” of Al Qaeda in the Arabian Peninsula, and justified the killing as a preemptive military action, using almost the same language as the Bush administration before it.

The details of the legal memorandum were reported on the front page of Sunday’s *New York Times*, in what appears to be an effort at damage control by the Obama administration. The existence of the document was reported October 1 by the *Washington Post*, which described it as “an attempt to resolve, at least internally, a legal debate over whether a president can order the killing of US citizens overseas as a counterterrorism measure.”

While *Times* reporter Charlie Savage was not allowed to see the memo himself, several officials described it as a 50-page document drafted by the Justice Department’s Office of Legal Counsel. This is the same government agency that drafted the notorious “torture memos” during the Bush administration, justifying waterboarding and other abuses of prisoners at Guantanamo Bay and other US military and CIA-run prisons.

According to the *Times* account: “The legal analysis, in essence, concluded that Mr. Awlaki could be legally killed, if it was not feasible to capture him, because intelligence agencies said he was taking part in the war between the United States and Al Qaeda and posed a significant threat to Americans, as well as because Yemeni authorities were unable or unwilling to stop him.”

The sweeping character of the assertion of presidential power is demonstrated in the sheer number of prohibitions

against killing that had to be overturned. The *Times* wrote, “The secret document provided the justification for acting despite an executive order banning assassinations, a federal law against murder, protections in the Bill of Rights and various strictures of the international laws of war ...”

The *Times* article then sums up one after another, completely uncritically, the various legal sophistries provided by the Justice Department lawyers to support the right of the president to ignore all these longstanding legal protections against state killing, such as the right to due process under the Fifth Amendment to the US Constitution. (See: “The legal implications of the Awlaki assassination”).

Perhaps the most important sentence in the article, and the one that encapsulates the role of the *New York Times* as the mouthpiece for the US military/intelligence apparatus, comes in the third paragraph, where the following claim is made: “The memo, however, was narrowly drawn to the specifics of Mr. Awlaki’s case and did not establish a broad new legal doctrine to permit the targeted killing of any Americans believed to pose a terrorist threat.”

The purpose of this assertion is to rebut criticisms from civil liberties and Muslim groups, and scattered objections in the press, concerning the White House assertion of an unreviewable presidential power to order an American citizen killed.

The media, in general, has tacitly supported the state assassination of a US citizen. At Obama’s first White House press conference since the killing of Awlaki, held last Thursday, not a single reporter asked a question about the killing.

The implications of the legal memorandum and the ensuing CIA assassination are truly chilling, since there are effectively no limits to the assertion of executive power to kill. It is not only not subject to legal challenge or judicial scrutiny, but it is completely secret. Both the selection of the target and its eventual destruction are arbitrary and unreviewable actions.

The American Civil Liberties Union said, in a statement issued Friday, “Much of the debate thus far has focused on

al-Awlaki. But we should be thinking about not only the people the government killed last week, but the power that's being claimed by the president—and the administration has not said nearly enough about the power President Obama is claiming.”

The ACLU statement followed a Reuters news service report last week revealing that “American militants like Anwar al-Awlaki are placed on a kill or capture list by a secretive panel of senior government officials.” By this account, “There is no public record of the operations or decisions of the panel, which is a subset of the White House’s National Security Council, several current and former officials said. Neither is there any law establishing its existence or setting out the rules by which it is supposed to operate.”

In other words, a group of high government officials, acting in secret and with no accountability, exercises the power to target an American citizen for death and have that sentence carried out by push-button drone operators at CIA headquarters, without any reference to legal procedure or due process.

Some leading congressional Democrats have expressed nervousness over the arrogant refusal of the Obama administration to provide any public justification for its decision to assassinate an American citizen.

Senator Dianne Feinstein of California, chairman of the Senate Select Committee on Intelligence, and Senator Carl Levin of Michigan, chairman of the Senate Armed Services Committee, both supporters of the killing of Awlaki, called on the White House to release documents laying out a legal basis for the action.

Feinstein said that this was necessary “to maintain public support of secret operations.” In other words, she was concerned that the American people would reject too sweeping an assertion of a presidential “right-to-kill.”

Obama appeared to be aware of such concerns at his first appearance after the killing of Awlaki, when he described him as the “external operations” chief for Al Qaeda in the Arabian Peninsula, the first time any US official had applied that label to the Muslim fundamentalist cleric.

Other administration officials told the media—in accounts that were generally unattributed—that Awlaki had “crossed over” from preaching sermons advocating violent attacks on US targets to an active role in organizing terrorist attacks. They cited such events as the Ft. Hood massacre, the attempted bombing of a Detroit-bound jetliner in December 2009, and the package bombs mailed from Yemen to addresses in Chicago last year.

Awlaki’s own Islamic fundamentalist views were clearly articulated in his sermons in English and Arabic, widely available on the Internet. In many cases, those directly

involved in these attacks have cited Awlaki as a religious inspiration for their actions, but no evidence has been made public to support the claims that Awlaki played an operational role. Moreover, there was no attempt to bring a criminal indictment against Awlaki, which would have required presenting evidence before a grand jury.

Awlaki was born in New Mexico while his Yemeni father was studying in the United States, and lived in the US until he was seven, returning to Yemen, then going back to Colorado to attend college. He settled in California as a Muslim preacher, then headed a large congregation in the Virginia suburbs of Washington, DC, where he was a prominent “moderate” and public critic of the 9/11 terrorist attacks.

The year after 9/11, however, reacting to the atmosphere of intolerance towards Muslims, he decided to leave the country, eventually settling in Yemen. He was arrested in 2006 by the dictatorship of President Ali Abdullah Saleh, a longtime US ally, and was severely tortured. According to members of his northern Virginia mosque, it was the torture at the hands of a US stooge that turned Awlaki into an ally rather than an opponent of Al Qaeda. This history suggests that his political trajectory was the byproduct of the reactionary policies of American imperialism in the Middle East.

A particularly sinister editorial in the *Washington Post*, published immediately after Awlaki’s killing, openly defends the right of the US government to kill political opponents, whether or not they have actually taken up arms.

The editorial claimed that there was “considerable evidence” of Awlaki’s direct role in attempted attacks on the United States, although it did not cite any. It continued: “Perhaps more significant, Mr. Awlaqi, a charismatic teacher and fluent English speaker, was instrumental in inspiring would-be jihadists in the United States and other Western countries—who may pose the greatest threat of terrorism at this point.”

The logic of this editorial is clear: today the “commander-in-chief” targets an Islamic preacher, claiming he is a terrorist. Tomorrow, he may simply target the Islamic preacher because he is “anti-American.” And the day after, he can target any individual, organization or party that opposes the policies of American imperialism.



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