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Obama's worst-kept secret

To avoid accountability, US government equivocates over whether Obama's 'kill list' of suspected terrorists even exists.

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Last week, the Obama administration submitted a **Motion for Summary Judgment** in response to a lawsuit filed by the *New York Times* and the American Civil Liberties Union (ACLU) that demanded government agencies release documents on its alleged programme of targeted killings.

As early as June 2011, the *Times* and the ACLU had filed Freedom of Information Act (FOIA) requests that the government blocked in the name of national security. In its brief, the government argues for the continuation of complete secrecy surrounding its reported assassination programme. In fact, the government goes further, claiming that whether the programme even exists is "classified" information.

In light of last month's *Times* exposé that drew an intimate - and fawning - portrait of the inner chambers of the US president's counterterrorism programme and his process of drawing up the "kill list", it is baffling that, in court, the administration argues that the programme may not actually exist.

But it appears that the president of the United States will attempt the impossible: to have his cake and eat it too. He will appear like a tough-talking cowboy to the public, and then hide behind "national security needs" to dodge responsibility for his policies that decimate villages and destroy thousands of lives.

In case readers are wondering, the contradiction around US involvement does indeed apply to the

killing of Anwar al-Awlaki in Yemen by a drone attack on September 30, 2011.

In the words of the brief itself: "Whether or not the United States government conducted the particular operations that led to the deaths of Aulaki [sic] and the other individuals named in the FOI requests, and whether or not the CIA has the authority to be, or is in fact, directly involved in targeted lethal operations remains classified."

The government maintains its innocence, despite the fact that, upon the announcement of Awlaki's death, Obama publically stated:

"The death of Awlaki marks another significant milestone in the broader effort to defeat al-Qaeda and its affiliates. *Furthermore this success is a tribute to our intelligence community ...* We will be deliberate, we will be relentless, we will be resolute in our commitment to destroy terrorist networks that aim to kill Americans and to build a world in which people everywhere can live in greater peace, prosperity and security." [emphasis my own]

Yet the brief claims that this statement - and any other government statement made thus far - does not confirm or deny that the US was involved in a lethal operation against Awlaki. In fact, the only lethal operation in which the government is willing to admit involvement is the assassination of Osama bin Laden, about which the brief states there are no written legal opinions.

Nathan Wessler, a National Security Fellow with the ACLU and actively involved in the suit, explained to me that the government has had to go to extraordinary lengths to argue that statements made in the past by Attorney General Eric Holder, Assistant to the President for Homeland Security and Counterterrorism John Brennan, and even President Obama himself were not in fact confirmations of the existence of a US policy of targeted killings.

"They're giving the strangest possible readings of every one of these statements. They're separating out each statement on its own and applying what can only be described as the least plausible interpretation to each statement," Wessler said.

US drone attacks in Yemen began in 2002 under the Bush administration, but have been dramatically expanded and accelerated under the Obama administration.

The Bureau of Investigative Journalism and the New American Foundation maintain tallies of US drone attacks on Yemen, Pakistan and Somalia, where the total number killed ranges from 2,000 to more than 3,000. While the vast majority of those killed are labelled "militants", we now know how utterly meaningless that descriptor really is: if you are a military-aged male living in the targeted area, you are automatically categorised as a "militant".

Reports of the drone attacks and killings of "militants" as well as elderly men, women, and children have been widely disseminated and increasingly discussed in mainstream news outlets.

More to the point, on April 30, 2012, Brennan - who in the *Times* article is described as a "priest ... suddenly charged with leading a war" - gave a lengthy speech in which he described targeted

strikes as **legal, ethical, necessary, humane and wise.**

However, the government claims this speech only admits "a general US government interest" in the legal basis for targeting a US citizen with lethal force. Thus the government refuses to officially acknowledge the existence of the programme in order to avoid divulging its records on it, and thereby admit accountability.

"The only conclusion to draw is that they are trying to avoid accountability in any official channel. They are happy to speak to press to trumpet their successes, or rally public support. But they have calculated a way to avoid any determination by a court that would try to hold them accountable," Wessler said.

The government's legal position summons the Glomar Doctrine, which allows government agencies to remain mum in response to FOIA requests. Abusing the Glomar doctrine appears to be a recent trend: **the National Security Archive reported** that since 9/11, the government has invoked Glomar three times as often as it did in the 25 preceding years.

"Certainly there are circumstances where documents should not be discussed. But this case is different. The government is asserting the existence of the programme is a secret. If it's a secret, it is - hands down - the worst-kept secret," said Wessler.

The dissonance between the political rhetoric of Obama's "War on Terror" and the administration's official policy as revealed by this motion cuts to the heart of why the FOIA is essential to a functioning democracy. The FOIA was enacted during the 1960s as a means to, in the words of the ACLU, "curb selective disclosures, half-truths and admitted distortions". Without the benefit of FOIA, the public is unable to scrutinise the government's policies, let alone hold it accountable.

"It is very clear that the government is trying to conceal the whole picture," Wessler said.

Commentators from across the political spectrum - from John Pilger to John McCain - have accused the Obama administration of cherry-picking the information it wishes to be disclosed as a means to a political end: after all, this is election year. And ever since Obama came into office, his adversaries have maligned him as "soft on terror" - a reputation he seems bent on shaking.

Indeed, the *Times* article paints the president as possessing a hard-nosed character; one who feels the threat of al-Qaeda "in his gut", wrestles with "moral and legal conundrums", and "pores over terrorists' biographies".

But there is another political end this and other similar articles achieve: they generate a veneer of transparency, suggesting that through these selective press meetings the White House is volunteering sufficient insights into its truly radical policy of drone warfare. In reality, the White House has slammed the shutters closed to any independent investigation into its policies and placed an opaque shield around its doings. With such depth of secrecy, as well as the manipulation and distortion of information, we cannot take any official statement regarding the so-called "War on Terror" at anything close to face value.

