

DIRTY WARS

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“There Was Concern... That We Not Create an American Hit List”

WASHINGTON, DC, 2001–2002—It was 10:10 a.m. on June 11, 2002, nine months to the day since the September 11 attacks. The senators and representatives filed into Room S-407 of the US Capitol. All of them were members of a small, elite group in Washington and were, by law, entrusted with the most guarded national security secrets of the US government. “I hereby move that this meeting of the committee be closed to the public,” declared Republican Richard Shelby, the senior senator from Alabama, in a Southern drawl, “on the grounds that the national security of the United States might be compromised were a proceeding to become public.” The motion was quickly seconded and the secret hearing was under way.

As the members of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence gathered in Washington, DC, half a world away in Afghanistan, tribal and political leaders were convening a *loya jirga*, a “grand council,” that was tasked with deciding who would run the country following the swift overthrow of the Taliban government by the US military. After 9/11, the US Congress had granted the Bush administration sweeping powers to pursue those responsible for the attacks. The Taliban government, which had ruled Afghanistan since 1996, was crushed, depriving al Qaeda of its sanctuary in Afghanistan. Osama bin Laden and other al Qaeda leaders were on the run. But for the Bush administration, the long war was just getting started.

At the White House, Vice President Dick Cheney and Defense Secretary Donald Rumsfeld were deep into planning the next invasion—Iraq. They had come to power with plans to topple Saddam Hussein in hand and, despite the fact that there was no Iraqi connection to the attacks, they used 9/11 as the pretext to push their agenda. But the decisions made in that first year of the Bush administration were much bigger than Iraq, Afghanistan or even al Qaeda. The men in power at that time were intent on changing the way the United States waged its wars and, in the process, creating unprecedented powers for the White House. The days of fighting uniformed enemies and national militaries according to the rules of the

Geneva Conventions were over. “The world is a battlefield” was the mantra repeated by the neoconservatives in the US national security apparatus and placed on PowerPoint slides laying out the plans for a sweeping, borderless global war. But terrorists would not be their only target. The two-hundred-year-old democratic system of checks and balances was firmly in their crosshairs.

Room S-407 was nestled in the attic of the Capitol building. It was windowless and accessible only by one elevator—or a narrow staircase. The room was classified as a secure facility and had been fitted with sophisticated counterespionage equipment to block any attempt at eavesdropping or monitoring from outside. For decades, the room had been used to house the most sensitive briefings of members of Congress by the CIA, the US military and scores of other figures and entities that inhabit the shadows of US policy. Covert actions were briefed and debriefed in the room. It was one of a handful of facilities in the United States where the nation’s most closely guarded secrets were discussed.

As the senators and representatives sat in the closed-door session on Capitol Hill that morning in June 2002, they would hear a story of how the United States had crossed a threshold. The stated purpose of the hearing was to review the work and structure of US counterterrorism (CT) organizations before 9/11. At the time, there was a substantial amount of finger-pointing regarding US intelligence “failures” leading up to the attacks. In the aftermath of the most devastating terrorist strikes on US soil in history, Cheney and Rumsfeld charged that the Clinton administration had failed to adequately recognize the urgency of al Qaeda’s threat, leaving the US homeland vulnerable by the time the Bush White House took power. Democrats pushed back and pointed to their own history of combating al Qaeda in the 1990s. The appearance of Richard Clarke before the US lawmakers on this particular day was, in part, intended to send a message to the congressional elite. Clarke had been President Bill Clinton’s counterterrorism czar and chaired the Counterterrorism Security Group of the National Security Council (NSC) for the decade leading up to 9/11. He had also served on President George H. W. Bush’s National Security Council and was an assistant secretary of state under President Ronald Reagan. He was one of the most experienced counterterrorism officials in the United States and, at the time of the hearing, was on his way out of government, though he still held a post as a special adviser to President George W. Bush on cyberspace security. Clarke was a hawkish figure who had risen to prominence under a Democratic administration and was known to have pushed hard when Clinton was in power for more covert action. So it made tactical sense that the Bush administration would put him forward

to make the case for a regime of military and intelligence tactics that had previously been deemed illegal, undemocratic or, simply, dangerous.

Clarke described the dialogue within the national security community under Clinton as marked by great concern over the possibility of violating a long-standing presidential ban on assassination and a deep fear of repeating scandals of the past. Clarke said he believed that “a culture” had developed at the CIA “that said when you have large scale of covert operations, they get messy, and they get out of control, and they end up splattering mud back on the Agency.”

“The history of covert operations in the 1950s and 1960s and 1970s was not a happy one,” Clarke told the lawmakers. The CIA had orchestrated the overthrow of populist governments in Latin America and the Middle East, backed death squads throughout Central America, facilitated the killing of rebel leader Patrice Lumumba in the Congo and propped up military juntas and dictatorships. The spate of assassinations had become so out of control that a Republican president, Gerald Ford, felt the need to issue Executive Order 11905 in 1976, explicitly banning the United States from carrying out “political assassinations.” The CIA officers who had come of age in the shadow of that era and rose to positions of authority at the Agency during the 1990s, Clarke said, “had institutionalized [the notion that] a sense of covert action is risky and is likely to blow up in your face. And the wise guys at the White House who are pushing you to do covert action will be nowhere to be found when [the Senate Select Committee on Intelligence] calls you up to explain the mess that the covert action became.”

President Jimmy Carter amended Ford’s assassination ban to make it more sweeping. He removed language that limited the ban to political assassinations and also extended the ban on participating in assassinations to US proxies or contractors. “No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination,” read President Carter’s executive order. Although Presidents Reagan and George H. W. Bush maintained that language, no president’s executive orders actually defined what constituted an assassination. Reagan, Bush and Clinton all developed work-arounds to the ban. Reagan, for example, authorized a strike on the home of Libyan dictator Muammar el Qaddafi in 1986 in retaliation for his alleged role in a bombing of a night club in Berlin. The first President Bush authorized strikes on Saddam Hussein’s palaces during the 1991 Gulf War. Clinton did the same during Operation Desert Fox in 1998.

Clarke described for the lawmakers how, under the Clinton administration, plans were drawn up for killing and capturing al Qaeda and other terrorist leaders, including Osama bin Laden. President Clinton asserted

that the ban did not apply to foreign terrorists engaged in plotting attacks against the United States. In the aftermath of the bombings of the US Embassies in Kenya and Tanzania in late 1998, Clinton authorized cruise missile attacks against alleged al Qaeda camps in Afghanistan and also a strike against a factory in Sudan that the administration alleged was a chemical weapons plant. It turned out that the plant was actually a pharmaceutical factory. Although this lethal authority was granted by Clinton, it was envisioned as an option that would be rarely used and only at the direction of the president on a case-by-case basis. Rather than granting a *carte blanche* authority to conduct these operations, the Clinton White House required each proposed action to be thoroughly vetted. Legal structures were put in place and "lethal findings" were signed by the president, authorizing the use of deadly force in pursuit of terrorists across the globe. Yet, Clarke said, the trigger was seldom pulled.

Clarke conceded that the Clinton-era authorizations for targeted killings "looks like a very Talmudic and somewhat bizarre series of documents," adding that they were crafted in a careful way to narrow the scope of such operations. "The administration, and particularly the Justice Department, did not want to throw out the ban on assassination in a way that threw the baby out with the bathwater. They wanted the expansion of authorities to be limited." He added that the Clinton-era authorizations for targeted killing look like "a very narrow casting. But that, I think, is because of this desire not to throw out altogether the ban on assassinations and create an American hit list."

Representative Nancy Pelosi, one of the most powerful Democrats in Congress at the time, admonished her colleagues in the closed chamber not to publicly discuss any of the highly classified memoranda that authorized the use of lethal force. The memoranda, she said, "were held to the most restricted form of notification at the highest level in the Congress. It is extraordinary...that this information is being shared here today." She warned against any leaks to the media and added: "There is no way that we can confirm, deny, stipulate to, acknowledge knowledge of the memoranda." Clarke was asked whether he thought the United States should lift its policy banning assassinations. "I think you have to be very careful about how broadly you authorize the use of lethal force," he responded. "I don't think the Israeli experience of having a broad hit list has been terribly successful. It doesn't—certainly hasn't stopped terrorism or stopped the organizations where they have assassinated people." Clarke said that when he and his colleagues in the Clinton administration issued authorizations for targeted killing operations, they were intended for very surgical and rare cases. "We didn't want to create a broad precedent that would

allow intelligence officials in the future to have hit lists and routinely engage in something that approximated assassination....There was concern in both the Justice Department and in some elements of the White House and some elements of the CIA that we not create an American hit list that would become an ongoing institution that we could just keep adding names to and have hit teams go out and assassinate people."

Even so, Clarke was part of a small group of officials in the counterterrorism community under the Clinton administration who agitated for the CIA to be more aggressive in using that lethal authority and pushed the envelope of the assassination ban within the limits he outlined. "In the wake of 9/11," Clarke declared, "almost everything we proposed prior to 9/11 is being done."

It would soon be everything and more.

RUMSFELD AND CHENEY HAD PADDED the administration with leading neoconservatives who had spent the Clinton era effectively operating a shadow government—working in right-wing think tanks and for major defense and intelligence contractors, plotting their return to power. Among them were Paul Wolfowitz, Douglas Feith, David Addington, Stephen Cambone, Lewis "Scooter" Libby, John Bolton and Elliott Abrams. Many of them had cut their teeth in the Reagan and Bush White Houses. Some, like Cheney and Rumsfeld, went back to the Nixon era. Several were key players in building up a policy vision under the umbrella of the ultra-nationalist Project for the New American Century (PNAC). Despite Clinton's decisions to use force in Yugoslavia and Iraq and to conduct a series of air strikes in other nations, they viewed the Clinton administration as an almost pacifist force that had weakened the hand of US dominance and left the country vulnerable. They believed the 1990s had been a "decade of defense neglect." The neoconservatives had long advocated a posture that, in the wake of the Cold War, the United States was the lone superpower and should exert its weight aggressively around the globe, redrawing maps and expanding empire. At the center of their vision was a radical increase in US military spending, plans for which were drawn up by Cheney and his aides when he was defense secretary in 1992. The Cheney draft Defense Planning Guidance, the neocons asserted in PNAC's founding document, "provided a blueprint for maintaining U.S. preeminence, precluding the rise of a great power rival, and shaping the international security order in line with American principles and interests." Wolfowitz and Libby were the key authors of Cheney's defense manifesto, which argued that the United States must be the sole superpower and take all necessary actions

to deter “potential competitors from even aspiring to a larger regional or global role.”

Their plan, however, was scrapped by more powerful forces within the first Bush administration, namely, the chair of the Joint Chiefs of Staff, General Colin Powell, Secretary of State James Baker and National Security Adviser Brent Scowcroft. The final draft, much to Cheney’s and the neocons’ frustration, was greatly toned down in its imperialist language.

A decade later, even before 9/11, the neoconservatives—restored to power by the Bush administration—pulled those plans out of the dustbin of history and set about implementing them. Expanding US force projection would be central, as would building up streamlined, elite special ops units. “Our forces in the next century must be agile, lethal, readily deployable, and require a minimum of logistical support,” George W. Bush had declared in a speech on the campaign trail in 1999 that was crafted by Wolfowitz and other neocons. “We must be able to project our power over long distances, in days or weeks, rather than months. On land, our heavy forces must be lighter. Our light forces must be more lethal. All must be easier to deploy.”

The neocons also envisioned further asserting US dominance over natural resources globally and directly confronting nation-states that stood in the way. Regime change in multiple countries would be actively contemplated, particularly in oil-rich Iraq. “Ardent supporters of U.S. military intervention, few neo-cons have served in the armed forces; fewer still have ever been elected to public office,” noted Jim Lobe, a journalist who tracked the rise of the neoconservative movement for a decade leading up to 9/11. They have a “ceaseless quest for global military dominance and contempt for the United Nations and multilateralism more generally.” Lobe added: “In the neo-conservatives’ view, the United States is a force for good in the world; it has a moral responsibility to exert that force; its military power should be dominant; it should be engaged globally but never be constrained by multilateral commitments from taking unilateral action in pursuit of its interests and values; and it should have a strategic alliance with Israel. Saddam must go, they argue, because he is a threat to Israel, and also Saudi Arabia, and because he has hoarded—and used—weapons of mass destruction.” The PNAC crowd had concluded that the “United States has for decades sought to play a more permanent role in Gulf regional security. While the unresolved conflict with Iraq provides the immediate justification, the need for a substantial American force presence in the Gulf transcends the issue of the regime of Saddam Hussein.” Within weeks of taking office, Rumsfeld and Cheney pressed to reverse President Clinton’s signing, at the very end of his time in office, of the Rome Statute, which recognized the legitimacy of an international criminal court. They

would not stand for US forces being subjected to potential prosecution for their actions around the world. Soon after becoming defense secretary, Rumsfeld wrote that he wanted his legal staff—and those of other US government agencies—to immediately determine “how we get out of it and undo the Clinton signature.”

Even among the GOP foreign policy community of elders, these figures were viewed as extremists. “When we saw these people coming back in town, all of us who were around in those days said, ‘Oh my God, the crazies are back’—‘the crazies’—that’s how we referred to these people,” recalled Ray McGovern, who served for twenty-seven years at the CIA and was a national security briefer to George H. W. Bush when he was vice president and served under him when he was the director of the Agency in the late 1970s. McGovern said that once they were in power, the neoconservatives resurrected ideas that had been tossed in “the circular file” in previous GOP administrations by veteran Republican foreign policy leaders, adding that those extremist ideas would soon “arise out of the ashes and be implemented.” These officials believed, “We’ve got a lot of weight to throw around, we should throw it around. We should assert ourselves in critical areas, like the Middle East,” McGovern said.

For decades, Cheney and Rumsfeld had been key leaders of a militant movement outside of government and, during Republican administrations, from within the White House itself. Its mission was to give the executive branch of the US government unprecedented powers to wage secret wars, conduct covert operations with no oversight and to spy on US citizens. In their view, Congress had no business overseeing such operations but should only fund the agencies that would carry them out. To them, the presidency was to be a national security dictatorship, accountable only to its own concepts of what was best for the country. The two men first worked together in the Nixon White House in 1969 when Rumsfeld hired Cheney, then a graduate student, to be his aide at the Office of Economic Opportunity. It kicked off a career for Cheney in the power chambers of the Republican elite and a lifetime project to further empower the executive branch. As scandal rocked the Nixon White House in the 1970s—with the secret bombings of Laos and Cambodia, revelations of a domestic “enemies” list and the infamous break-in at the Democratic National Committee’s headquarters at the Watergate Hotel—the US Congress began attacking the executive privileges and extreme secrecy that permeated the administration. Congress condemned the Laos and Cambodia bombings and overrode an attempt by Nixon to veto the War Powers Act of 1973, which limited the powers of the president to authorize military action. It mandated that the president “consult with Congress before introduc-

ing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." In the absence of a formal declaration of war, the president would be required to inform Congress, in writing, within forty-eight hours, of any military action of "the circumstances necessitating the introduction of United States Armed Forces; the constitutional and legislative authority under which such introduction took place; and the estimated scope and duration of the hostilities or involvement." Cheney viewed the War Powers Act as unconstitutional and an encroachment on the rights of the president as commander in chief. He termed this era the "low point" in American presidential authority.

After the Watergate scandal forced Nixon's resignation, Cheney went on to serve as President Ford's chief of staff, while Rumsfeld served as the youngest defense secretary in US history. In 1975, Congress intensified its probes into the underworld of secret White House operations under the auspices of the Church Committee, named for its chair, Democratic senator Frank Church of Idaho. The committee investigated a wide range of abuses by the executive branch, including domestic spying operations against US citizens. The Church Committee's investigation painted a picture of lawless, secret activities conducted with no oversight whatsoever from the courts or Congress. The committee also investigated the involvement of the United States in the overthrow and eventual death of Chile's democratically elected socialist president Salvador Allende in 1973, though Ford invoked executive privilege and stymied the probe. At one point during the Church investigations, Cheney attempted to compel the FBI to investigate famed investigative journalist Seymour Hersh and to seek an indictment against him and the *New York Times* for espionage in retaliation for Hersh's exposé on illegal domestic spying by the CIA. The aim was to frighten other journalists from exposing secret controversial actions by the White House.

The FBI rebuffed Cheney's requests to go after Hersh. The end result of the Church investigation was a nightmare for Cheney and his executive power movement: the creation of congressional committees that would have legally mandated oversight of US intelligence operations, including covert actions. In 1980, Congress enacted a law that required the White House to report on all of its spy programs to the new intelligence committees. Cheney—and Rumsfeld—would spend much of the rest of their careers attempting to thwart those authorities.

By the end of the liberal Carter administration, Cheney concluded that the powers of the presidency had been "seriously weakened." Throughout the years of the Reagan administration, Cheney served as a Wyoming

representative in Congress, where he was a fierce backer of Reagan's radical drive toward reempowering the White House. As Pulitzer Prize-winning author Charlie Savage noted in his book, *Takeover: The Return of the Imperial Presidency and the Subversion of American Democracy*, Reagan's Justice Department sought to end "the congressional resurgence of the 1970s," commissioning one report that called for the White House to disregard laws that "unconstitutionally encroach upon the executive branch." Instead, the Reagan White House could use presidential "signing statements" to reinterpret laws and issue presidential edicts that could be used to circumvent congressional oversight. In the early 1980s, the Reagan administration was deeply embroiled in fueling a right-wing insurgency against the leftist government of the Sandinistas in the Central American nation of Nicaragua. The centerpiece of this campaign was covert US support for the right-wing Contra death squads. Reagan also authorized the mining of the harbors around Nicaragua, bringing an unlawful use of force judgment against the United States at the World Court.

When the US Congress finally moved in 1984 to ban all US assistance to the Contras, passing the Boland Amendment, some officials within the Reagan White House, led by Colonel Oliver North, who worked on the National Security Council, began a covert plan to funnel funds to the right-wing rebels, in direct contravention of US law. The funds were generated by the illicit sale of weapons to the Iranian government, in violation of an arms embargo. Fourteen members of the Reagan administration, including his secretary of defense, were later indicted for their involvement. When the Iran-Contra scandal unfolded, and Congress aggressively investigated its origins, Cheney emerged as the White House's chief defender on Capitol Hill and issued a dissenting opinion defending the covert US program that most of his congressional colleagues had deemed to be illegal. Cheney's "minority report" defending the White House condemned the congressional investigation into Iran-Contra as "hysterical." The report charged that history "leaves little, if any doubt that the president was expected to have the primary role of conducting the foreign policy of the United States," concluding, "Congressional actions to limit the president in this area therefore should be reviewed with a considerable degree of skepticism. If they interfere with the core presidential foreign policy functions, they should be struck down."

President George H. W. Bush pardoned Cheney's allies convicted in connection with Iran-Contra, and Cheney went on to serve as his defense secretary during the 1991 Gulf War, where he continued building his vision of a supremely powerful executive branch. During his time as defense secretary, Cheney began planting the seeds for another program that would aid

the consolidation of executive supremacy, commissioning a study from the oil services giant Halliburton that laid out a plan for privatizing as much of the military bureaucracy as possible. Cheney realized early on that using private companies to wage US wars would create another barrier to oversight and could afford greater secrecy for the planning and execution of those wars, both declared and undeclared. Cheney would then go on to head Halliburton for much of the 1990s, spearheading a drive to create a corporate shadow army that would ultimately become a linchpin of his covert and overt wars when he returned to the White House in 2001. During the Clinton era, Cheney also spent time at the neoconservative American Enterprise Institute, developing a political and military agenda that could be implemented once his party resumed power. When President George W. Bush was inaugurated, Cheney became the most powerful vice president in history. And he wasted no time in driving to expand that power.

ON SEPTEMBER 10, 2001, a day before American Airlines Flight 77—a Boeing 757—smashed into the western wall of the Pentagon, Donald Rumsfeld stood in that very building to deliver one of his first major speeches as defense secretary. Two portraits of Rumsfeld hung inside—one of him as the youngest defense secretary in US history, the other as its oldest. September 11 had not yet occurred, yet Rumsfeld was at the podium that day to issue a declaration of war.

“The topic today is an adversary that poses a threat, a serious threat, to the security of the United States of America,” Rumsfeld bellowed. “This adversary is one of the world’s last bastions of central planning. It governs by dictating five-year plans. From a single capital, it attempts to impose its demands across time zones, continents, oceans, and beyond. With brutal consistency, it stifles free thought and crushes new ideas. It disrupts the defense of the United States and places the lives of men and women in uniform at risk.” Rumsfeld—a veteran Cold Warrior—told his new staff, “Perhaps this adversary sounds like the former Soviet Union, but that enemy is gone: our foes are more subtle and implacable today. You may think I’m describing one of the last decrepit dictators of the world. But their day, too, is almost past, and they cannot match the strength and size of this adversary. The adversary’s closer to home. It’s the Pentagon bureaucracy.” The stakes, he declared, were severe—“a matter of life and death, ultimately, every American’s.” Rumsfeld told his audience, consisting of former defense industry executives turned Pentagon bureaucrats, that he intended to streamline the waging of America’s wars. “Some might ask, How in the world could the Secretary of Defense attack the Pentagon in