## 1NC

### 1NC – T

A. Interpretation – Statutory restrictions must directly prohibit activities currently under the president’s war powers authority – this excludes regulation or oversight

#### Statutory restrictions prohibit actions

Lamont 5 (Michael, Legal Analyst @ Occupational health, "Legal: Staying on the right side of the law," http://www.personneltoday.com/articles/01/04/2005/29005/legal-staying-on-the-right-side-of-the-law.htm#.UgFe\_o3qnoI)

It will be obvious what 'conduct' and 'redundancy' dismissals are. A statutory restriction means that the employee is prevented by law from doing the job - for example, a driver who loses his driving licence. 'Some other substantial reason' means "Parliament can't be expected to think of everything".

#### Restrictions on authority are distinct from conditions

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. Properly interpreted, the "conditions" that had been imposed by plaintiff's Board of Directors and by the Venezuelan Cabinet were not "restrictions" or "limitations" upon the authority of plaintiff's agents but rather conditions precedent to the granting of authority. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

B. Vote Neg –

1. Limits – Regulation and oversight of authority allows a litany of new affs in each area – justifies indirect effects of statutory policies and affs that don’t alter presidential authority – undermines prep and clash

2. Ground – Restriction ground is the locus of neg prep – their interpretation jacks all core disads – politics, presidential powers, and any area based disad because an aff doesn’t have to prevent the president from doing anything

### 1NC – K

#### The aff doesn’t provide real reform – continued crisis discourse allows a re-expansion of executive authority

Scheuerman 12 – Professor of Political Science and West European Studies at Indiana University (William E., Summer 2012, "Emergencies, Executive Power, and the Uncertain Future of US Presidential Democracy," Law & Social Inquiry 37(3), EBSCO)

IV. REFORMISM'S LIMITS Bruce Ackerman, one of our country's most observant analysts of its clunky constitutional machinery, is similarly impatient with the "comforting notion that our heroic ancestors" created an ideal constitutional and political system (2010, 10). He even agrees that the US model increasingly seems to overlap with Schmitt's dreary vision of executive-centered plebiscitarianism motored by endless crises and emergencies (2010, 82). In sharp contrast to Posner and Vermeule, however, he not only worries deeply about this trend, but he also discards the unrealistic possibility that it might be successfully countered without recourse to legal and constitutional devices. Although Madison's original tripartite separation of powers is ill-adjusted to the realities of the modern administrative state, we need to reinvigorate both liberal legalism and checks and balances. Unless we can succeed in doing so, US citizens are likely to experience a "quantum leap in the presidency's destructive capacities" in the new century (2010, 119). Despite its alarmist tenor, for which he has been—in my view—unfairly criticized,'' Ackerman's position is grounded in a blunt acknowledgment of the comparative disadvantages of the US constitutional system. More clearly than any of the other authors discussed in this article, he breaks cleanly with the intellectual and constitutional provincialism that continues to plague so much legal and political science research on the United States. In part because as "late developers" they learned from institutional mistakes in the United States and elsewhere, more recently designed liberal democracies often do a better job than our Model T version at guaranteeing both policy effectiveness and the rule of law (2010, 120-22). Following the path-breaking work of his colleague Juan Linz, Ackerman offers a critical assessment of our presidential version of liberal democracy, where an independently elected executive regularly finds itself facing off against a potentially obstructionist Congress, which very well may seek to bury "one major presidential initiative after another" (2010, 5; see also Linz 1994). In the context of either real or imagined crises, executives facing strict temporal restraints (i.e., an upcoming election), while claiming to be the people's best protector against so-called special interests, will typically face widespread calls for swift (as well as legally dubious) action. "Crisis talk," in part endogenously generated by a flawed political system prone to gridlock rather than effective policy making, "prepares the ground for a grudging acceptance of presidential unilateralism" (2010, 6). Executives everywhere have much to gain from crisis scenarios. Yet incentives for declaring and perpetuating emergencies may be especially pronounced in our presidential system. The combination of temporal rigidity (i.e., fixed elections and terms of office) and "dual democratic legitimacy" (with both Congress and the president claiming to speak for "we the people") poses severe challenges to law-based government (Linz 1994). Criticizing US scholarship for remaining imprisoned in the anachronistic binary contrast of "US presidentialism vs. Westminster parliamentarism," Ackerman recommends that we pay closer attention to recent innovations achieved by what he describes as "constrained parliamentarism," basically a modified parliamentary system that circumvents the worst design mistakes of both Westminster parliamentarism and US presidentialism. As he has argued previously in a lengthy Harvard Law Review article, constrained parliamentarism—as found, for example, in recent democracies like Germany and Spain—locates law making in a Westminster-style popular assembly. But in contrast to the UK model, "legislative output is constrained by a higher lawmaking process" (2000, 666). The German Eederal Republic, for example, rests on a written constitution (e.g., the Basic Law) and has a powerful constitutional court. In Ackerman's view, constrained parliamentarism lacks many of the institutional components driving the growth of executive-dominated emergency govemment. Not surprisingly, he posits, it suffers to a reduced degree from many of the institutional pathologies plaguing US-style presidentialism. Ackerman argues that, in contrast, US-style presidential models have regularly collapsed elsewhere (e.g., in Latin and South American countries, where US-style presidentialism has been widely imitated [Linz and Valenzuela 1994]), devolving on occasion into unabated authoritarianism (2000, 646). Ackerman now seems genuinely concerned that a similar fate might soon befall its original version. Even if his most recent book repeats some earlier worries, he has now identified additional perils that he thinks deserve immediate attention. Not surprisingly, perhaps, his anxiety level has noticeably increased. Even Schmitt's unattractive vision of presidential authoritarianism appears "a little old-fashioned," given some ominous recent trends (2010, 82). To an extent unfathomable in Schmitt's day, the executive can exploit quasi-scientific polling data in order to gauge the public pulse. Presidents now employ a small but growing army of media gurus and consultants who allow them to craft their messages in astonishingly well-skilled—and potentially manipulative—ways. Especially during crisis moments, an overheated political environment can quickly play into the hands of a "White House propaganda machine generating a stream of sound bites" (2010, 33). Pundits and opinion makers already tend to blur the crucial divide between polling "numbers" and actual votes, with polls in both elite and popular consciousness tending not only to supplement but increasingly displace election results.'^ The decline of the print media and serious joumalism—about which Ackerman is understandably distressed—means that even the most fantastic views are taken seriously. Thus far, the Internet has failed to pick up the slack; it tends to polarize public opinion. Meanwhile, our primary system favors candidates who successfully appeal to an energized partisan base, meaning that those best able to exploit public opinion polling and the mass media, but out of sync with the median voter, generally gain the party nomination. Linz earlier pointed out that presidentialism favors political outsiders; Ackerman worries that in our emerging presidential model, the outsiders will tend to be extremists. Polling and media-savvy, charismatic, and relatively extreme figures will colonize the White House. In addition, the president's control over the massive administrative apparatus provides the executive with a daunting array of institutional weapons, while the Office of Legal Counsel (OLC) and Office of Counsel to the President offer hyperpoliticized sites from which distinctly executive-centered legal and constitutional views now are rapidly disseminated. Ackerman raises some tough questions for those who deem the OLC and related executive organs fundamentally sound institutions that somehow went haywire under David Addington and John Yoo. In his view, their excesses represent a logical result of basic structural trends currently transforming both the executive and political system as whole. OLC's partisan and sometimes quasi-authoritarian legal pronouncements are now being eagerly studied by law students and cited by federal courts (2010, 93). Notwithstanding an admirable tradition of executive deference to the Supreme Court, presidents are better positioned than ever to claim higher political legitimacy and neutralize political rivals. Backed by eager partisan followers, adept at the media game, and well armed with clever legal arguments constructed by some of the best lawyers in the country, prospective presidents may conceivably stop deferring to the Court (2010, 89). Ackerman's most unsettling amendment to his previous views is probably his discussion of the increasingly politicized character of the military—an administrative realm, by the way, ignored by other writers here, despite its huge role in modern US politics. Here again, the basic enigma is that the traditional eighteenth-century tripartite separation of powers meshes poorly with twenty-first-century trends: powerful military leaders can now regularly play different branches of govemment against one another in ways that undermine meaningful civilian oversight. Top officers possess far-reaching opportunities "to become an independent political force—allowing them to tip the balance of political support in one direction, then another," as the competing branches struggle for power (2010, 49). For Ackerman, the emergence of nationally prominent and media-savvy figures such as Colin Powell and David Petraeus, who at crucial junctures have communicated controversial policy positions to a broader public,'^ suggests that this long-standing structural flaw has recently gotten worse. The Goldwater-Nichols Act of 1996, for example, transformed the chair of the Joint Chiefs of Staff from a mediator for the competing services into the military's principal—and hugely influential—spokesperson within the National Security Council (2010, 50). Not only does the military constitute a hugely significant segment of the administrative machinery, but it is now embodied—both in govemment and the public eye—in a single leader whose views carry tremendous weight. The fact that opinion surveys show that the officer corps is increasingly conservative in its partisan orientation, Ackerman notes, only adds to the dangers. Americans need not fear an imminent military putsch, along the lines that destroyed other presidential regimes elsewhere. Nonetheless, we would do well not to be "lulled into a false sense of security" (2010, 87). Having painted a foreboding portrait of institutional trends, Ackerman points to paths we might take to ward off the worst. In light of the obvious seriousness of the illness he has diagnosed, however, his antidotes tend to disappoint: he proposes that we treat cancer with some useful but limited home remedies. Like Shane, Ackerman wants to improve popular deliberation by reforming the mass media and institutionalizing "Deliberation Day" (2010, 125-40). Yet how such otherwise potentially appealing initiatives might counteract the symbiotic relationship between presidentialism and crisis government remains ambiguous. A modernized electoral college, for example, might simply engender executives better positioned to claim to stand in for "we the people" than their historical predecessors. Given Ackerman's own worries about plebiscitarianism, this reform might compound rather than alleviate our problems. More innovatively, Ackerman endorses the idea of a quasi-judicial check within the executive branch, a "Supreme Executive Tribunal" given the task of expeditiously determining the legality of proposed executive action, whose members would be appointed to staggered terms and subject to Senate confirmation. Forced to gain a seal of approval from jurists relatively insulated from sitting presidents, the executive tribunal would act more quickly than an ordinary court and thereby help put a "brake on the presidential dynamic before it can gather steam" (2010,143). Before the president could take the first political move and potentially alter the playing field, he or she might first have to clear the move with a body of legal experts, a requirement that presumably over time would work to undergird the executive branch's commitment to legality. The proposed tribunal could allow the president and Congress to resolve many of their standoffs more expeditiously than is typical today (2010, 146). Congressional representatives, for example, might rely on the tribunal to challenge executive signing statements. Existing exemptions for a significant number of major executive-level actors (e.g., the president's National Security Advisor) from Senate confirmation also need to be abandoned, while the military should promulgate a new Canon of Military Ethics, aimed at clarifying what civilian control means in contemporary real-life settings, in order to counteract its ongoing politicization. Goldwater-Nichols could be revised so as better to guarantee the subordination of military leaders to the Secretary of Defense (2010, 153-65). Ackerman also repeats his previous calls for creating an explicit legal framework for executive emergency action: Congress could temporarily grant the president broad discretionary emergency powers while maintaining effective authority to revoke them if the executive proved unable to gain ever more substantial support from the legislature (2010, 165-70; see also Ackerman 2006). Each of these suggestions demands more careful scrutiny than possible here. Nonetheless, even if many of them seem potentially useful, room for skepticism remains. Why, for example, would the proposed executive tribunal not become yet another site for potentially explosive standoffs between presidents and Congress? Might not highlevel political conflicts end up simply taking the forms of destructive (and misleadingly legalistic) duels? To the extent that one of the tribunal's goals is to decelerate executive decision making, its creation would perhaps leave our already sluggish and slow-moving political system even less able than at the present to deal with fast-paced challenges. Faced with time constraints and the need to gain popular support, executives might then feel even more pressed than at present to circumvent legality. As Ackerman knows, even as it presently operates, the Senate confirmation process is a mess. His proposal to extend its scope might simply end up reproducing at least some familiar problems. Last but not least, given the perils he so alarmingly describes, his proposed military reforms seem unsatisfying. Why not instead simply cut our bloated military apparatus and abandon US imperial pretensions? The obvious Achilles heel is that none of the proposals really deals head-on with what Ackerman himself conceives as the fundamental root of executive-centered government: an independently elected president strictly separated from legislative bodies with which he periodically clashes in potentially destructive ways. Despite Ackerman's ambition, his proposals do not provide structural reform: he concludes that US-based reformers should "take the independently elected presidency as a fixture" (2010, 124). Thus, presidential government is here to stay; reformers can also forget about significantly altering our flawed system of presidential primaries, activist government, and powerful military that intervenes frequently abroad (2010, 124). Given contemporary political developments, one can certainly appreciate why Ackerman is skeptical that the US system might finally be ripe for a productive institutional overhaul. Nonetheless, this just makes an already rather bleak book look even bleaker. His book's title. The Decline and Fall of the Arnerican Republic, is out of step with the somewhat upbeat reformist proposals detailed in its final chapters. Regretfully, the title better captures his core message. Only Ackerman's ultimately disturbing book both adeptly rejects the tendency among recent students of executive power to revert to constitutional nostalgia while forthrightly identifying the very real dangers posed by recent institutional trends. In an age of permanent or at least seemingly endless emergencies, where the very attempt to cleanly distinguish dire crises from "normal" political and social challenges becomes exceedingly difficult, the executive threatens to become an even more predominant— and potentially lawless—institutional player Unfortunately, US-style presidential democracy may be particularly vulnerable to this trend. Ackerman proves more successful than the other authors discussed here because he is best attuned to a rich body of comparative constitutional and political science scholarship that has raised legitimate doubts about the alleged virtues of US-style liberal democracy. Not surprisingly, some of his own reform ideas—for example, his proposed system of emergency law making—draw heavily on foreign examples, including Canada and new democracies such as South Africa. He convincingly argues that we might at least ameliorate the widespread tendency among presidents to manipulate crises for narrow partisan reasons, for example, by relying on the clever idea of a supermajoritarian escalator, which would require every legislative renewal of executive emergency authority to rest on ever more numerous supermajorities (2006). Ackerman is right to suggest that the United States needs to look abroad in order to improve our rather deficient system of emergency rule (Scheuerman 2006, 2008). Our system is broken; it is time to see what can be learned from others. Ackerman's latest book's overly cautious reformism thus seems especially peculiar in light of his own powerful and indeed enthusiastic defense of constrained parliamentarism, which he quite plausibly describes as potentially offering a superior approach to emergency government. The key point is not that we can be absolutely sure that the "grass is greener" in new democracies such as postwar Germany or post-Franco Spain; existing empirical evidence offers, frankly, a mixed picture. Contemporary Germany, for example, has certainly experienced its own fair share of emergency executive excesses (Frankenberg 2010). Scholars have criticized not only the empirical thesis that presidentialism and a strict separation of powers can help explain the substantial growth of executive discretion (Carolan 2009; Gross and Ni Aolain 2006), but also more farreaching assertions about their alleged structural disadvantages (Cheibub 2006). Still others argue that parliamentary regimes even of the "old type" (i.e., the UK Westminster model) have done relatively well in maintaining the rule of law during serious crises (Ewing and Gearty 2000; Bellamy 2007, 249-53). Unfortunately, we still lack wellconceived empirical studies comparing constrained parliamentarism with US-style presidentialism. Too much existing scholarship focuses on single countries, or relies on "foreign" cases but only in a highly selective and anecdotal fashion. Until we have more properly designed comparative studies, however, it seems inaccurate to assume a priori that core institutional features of US presidential democracy are well equipped to tackle the many challenges at hand. As I have tried to argue here, a great deal of initial evidence suggests that this simply is not the case. Admittedly, every variety of liberal democracy confronts structural tendencies favoring the augmentation of executive power: many of the social and economic roots (e.g., social acceleration) of executive-centered crisis govemment represent more-or-less universal phenomena, likely to rattle even well-designed constitutional systems. One can also easily imagine that in decades to come, extreme "natural" catastrophes— increasingly misnamed, because of their links to human-based climate change— justifying declarations of martial law or states of emergency will proliferate, providing novel possibilities for executives to expand their authority.^° So it would be naive to expect any easy constitutional or political-institutional fix. However, this sobering reality should not lead us to abandon creative institutional thinking. On the contrary, it arguably requires of us that we try to come up with new institutional models, distinct both from existing US-style presidentialism and parliamentarism, constrained or otherwise.

#### They create a self-fulfilling prophecy – causes global destruction

**Der Derian 98** (James, Professor of Political Science – University of Massachusetts, On Security, Ed. Lipschutz, p. 24-25)

No other concept in international relations packs the metaphysical punch, nor commands the disciplinary power of "security." In its name, peoples have alienated their fears, rights and powers to gods, emperors, and most recently, sovereign states, all to protect themselves from the vicissitudes of nature--as well as from other gods, emperors, and sovereign states. In its name, weapons of mass destruction have been developed which have transfigured national interest into a security dilemma based on a suicide pact. And, less often noted in international relations, in its name billions have been made and millions killed while scientific knowledge has been furthered and intellectual dissent muted. We have inherited an ontotheology of security, that is, an a priori  argument that proves the existence and necessity of only one form of security because there currently happens to be a widespread, metaphysical belief in it. Indeed, within the concept of security lurks the entire history of western metaphysics, which was best described by Derrida "as a series of substitutions of center for center" in a perpetual search for the "transcendental signified." Continues... [7](http://libcat1.cc.emory.edu:32888/20050307122932441313c0=www.ciaonet.org:80/book/lipschutz/lipschutz12.html#note7) In this case, Walt cites IR scholar Robert Keohane on the hazards of "reflectivism," to warn off anyone who by inclination or error might wander into the foreign camp: "As Robert Keohane has noted, until these writers `have delineated . . . a research program and shown . . . that it can illuminate important issues in world politics, they will remain on the margins of the field.' " [8](http://libcat1.cc.emory.edu:32888/20050307122932441313c0=www.ciaonet.org:80/book/lipschutz/lipschutz12.html#note8) By the end of the essay, one is left with the suspicion that the rapid changes in world politics have triggered a "security crisis" in security studies that requires extensive theoretical damage control. What if we leave the desire for mastery to the insecure and instead imagine a new dialogue of security, not in the pursuit of a utopian end but in recognition of the world as it is, other than us ? What might such a dialogue sound like? Any attempt at an answer requires a genealogy: to understand the discursive power of the concept, to remember its forgotten meanings, to assess its economy of use in the present, to reinterpret--and possibly construct through the reinterpretation--a late modern security comfortable with a plurality of centers, multiple meanings, and fluid identities. The steps I take here in this direction are tentative and preliminary. I first undertake a brief history of the concept itself. Second, I present the "originary" form of security that has so dominated our conception of international relations, the Hobbesian episteme of realism. Third, I consider the impact of two major challenges to the Hobbesian episteme, that of Marx and Nietzsche. And finally, I suggest that Baudrillard provides the best, if most nullifying, analysis of security in late modernity. In short, I retell the story of realism as an historic encounter of fear and danger with power and order that produced four realist forms of security: epistemic, social, interpretive, and hyperreal. To preempt a predictable criticism, I wish to make it clear that I am not in search of an "alternative security." An easy defense is to invoke Heidegger, who declared that "questioning is the piety of thought." Foucault, however, gives the more powerful reason for a genealogy of security: I am not looking for an alternative; you can't find the solution of a problem in the solution of another problem raised at another moment by other people. You see, what I want to do is not the history of solutions, and that's the reason why I don't accept the word alternative. My point is not that everything is bad, but that everything is dangerous, then we always have something to do. The hope is that in the interpretation of the most pressing dangers of late modernity we might be able to construct a form of security based on the appreciation and articulation rather than the normalization or extirpation of difference. Nietzsche transvalues both Hobbes's and Marx's interpretations of security through a genealogy of modes of being. His method is not to uncover some deep meaning or value for security, but to destabilize the intolerable fictional identities of the past which have been created out of fear, and to affirm the creative differences which might yield new values for the future. Originating in the paradoxical relationship of a contingent life and a certain death, the history of security reads for Nietzsche as an abnegation, a resentment and, finally, a transcendence of this paradox. In brief, the history is one of individuals seeking an impossible security from the most radical "other" of life, the terror of death which, once generalized and nationalized, triggers a futile cycle of collective identities seeking security from alien others--who are seeking similarly impossible guarantees. It is a story of differences taking on the otherness of death, and identities calcifying into a fearful sameness.

#### Alternative – reject the aff’s security discourse – only resistance to security logic can generate genuine political thought

Neocleous 8 – Mark Neocleous, Prof. of Government @ Brunel, 2008 [Critique of Security, 185-6]

The only way out of such a dilemma, to escape the fetish, is perhaps to eschew the logic of security altogether - to reject it as so ideologically loaded in favour of the state that any real political thought other than the authoritarian and reactionary should be pressed to give it up. That is clearly something that can not be achieved within the limits of bourgeois thought and thus could never even begin to be imagined by the security intellectual. It is also something that the constant iteration of the refrain 'this is an insecure world' and reiteration of one fear, anxiety and insecurity after another will also make it hard to do. But it is something that the critique of security suggests we may have to consider if we want a political way out of the impasse of security. This impasse exists because security has now become so all-encompassing that it marginalises all else, most notably the constructive conflicts, debatesand discussionsthat animate political life. The constant prioritising of a mythical security as a political end - as the political end constitutes a rejection of politics in any meaningful sense of the term. That is, as a mode of action in which differences can be articulated, in which the conflicts and struggles that arise from such differences can be fought for and negotiated, in which people might come to believe that another world is possible - that they might transform the world and in turn be transformed. Security politics simply removes this; worse, it remoeves it while purportedly addressing it. In so doing it suppresses all issues of power and turns political questions into debates about the most efficient way to achieve 'security', despite the fact that we are never quite told - never could be told - what might count as having achieved it. Security politics is, in this sense, an anti-politics,"' dominating political discourse in much the same manner as the security state tries to dominate human beings, reinforcing security fetishism and the monopolistic character of security on the political imagination. We therefore need to get beyond security politics, not add yet more 'sectors' to it in a way that simply expands the scope of the state and legitimises state intervention in yet more and more areas of our lives. Simon Dalby reports a personal communication with Michael Williams, co-editor of the important text Critical Security Studies, in which the latter asks: if you take away security, what do you put in the hole that's left behind? But I'm inclined to agree with Dalby: maybe there is no hole."' The mistake has been to think that there is a hole and that this hole needs to be filled with a new vision or revision of security in which it is re-mapped or civilised or gendered or humanised or expanded or whatever. All of these ultimately remain within the statist political imaginary, and consequently end up reaffirming the state as the terrain of modern politics, the grounds of security. The real task is not to fill the supposed hole with yet another vision of security, but to fight for an alternative political language which takes us beyond the narrow horizon of bourgeois security and which therefore does not constantly throw us into the arms of the state. That's the point of critical politics: to develop a new political language more adequate to the kind of society we want. Thus while much of what I have said here has been of a negative order, part of the tradition of critical theory is that the negative may be as significant as the positive in setting thought on new paths. For if security really is the supreme concept of bourgeois society and the fundamental thematic of liberalism, then to keep harping on about insecurity and to keep demanding 'more security' (while meekly hoping that this increased security doesn't damage our liberty) is to blind ourselves to the possibility of building real alternatives to the authoritarian tendencies in contemporary politics. To situate ourselves against security politics would allow us to circumvent the debilitating effect achieved through the constant securitising of social and political issues, debilitating in the sense that 'security' helps consolidate the power of the existing forms of social domination and justifies the short-circuiting of even the most democratic forms. It would also allow us to forge another kind of politics centred on a different conception of the good. We need a new way of thinking and talking about social being and politics that moves us beyond security. This would perhaps be emancipatory in the true sense of the word. What this might mean, precisely, must be open to debate. But it certainly requires recognising that security is an illusion that has forgotten it is an illusion; it requires recognising that security is not the same as solidarity; it requires accepting that insecurity is part of the human condition, and thus giving up the search for the certainty of security and instead learning to tolerate the uncertainties, ambiguities and 'insecurities' that come with being human; it requires accepting that 'securitizing' an issue does not mean dealing with it politically, but bracketing it out and handing it to the state; it requires us to be brave enough to return the gift."'

### 1NC – DA

#### GOP will gain Senate seats now but won’t retake the Senate – takeover dooms Obama’s remaining agenda

Whitesides 3/8/14 (John, Reuters, "Republicans gain momentum in close fight for U.S. Senate," http://www.reuters.com/article/2014/03/08/us-usa-politics-senate-analysis-idUSBREA2706H20140308)

(Reuters) - Eight months before the November 4 elections, Republicans have expanded the number of competitive races for U.S. Senate seats and have a growing chance of gaining control of that chamber and stalling Democratic President Barack Obama's second-term agenda.¶ Public dissatisfaction with the president, concerns about his healthcare overhaul and a sluggish economy, and a series of retirements by key Democratic senators in conservative states have made a rugged year for Democrats even more so, analysts and strategists in both parties say.¶ Republicans, who are widely expected to retain control of the U.S. House of Representatives, need a net gain of six seats to take back the 100-member Senate. Recent polling indicates they have big leads in three states - Montana, South Dakota and West Virginia - where longtime Democratic senators have retired or will retire in January.¶ Although the primary season is just starting and the candidates in many races are not set, polls suggest Republicans have boosted their odds of gaining additional Senate seats by becoming competitive in politically divided states such as Michigan and Colorado, where a year ago they were given little chance of winning.¶ Senate races in those states and five others now represented by Democrats - Alaska, Arkansas, Iowa, Louisiana and North Carolina - have been close in early voter surveys.¶ Democrats have a chance to pick up Republican-held seats in two states: Kentucky, where Senate Republican Leader Mitch McConnell is expected to dispatch a Tea Party-backed challenger in the primary but would face a tough fight against Democrat Alison Grimes in November; and Georgia, where Michelle Nunn, daughter of former Democratic senator Sam Nunn, will face the winner of a crowded Republican primary in a race to replace retiring Republican Saxby Chambliss.¶ That leaves Republicans needing to win at least three of the seven closely contested races for seats now held by Democrats, while holding off Grimes and Nunn in Kentucky and Georgia. If either of them wins in November, the task for Republicans will be more difficult.¶ "It's moving a little in the Republican direction," said Larry Sabato of the University of Virginia. His Crystal Ball website rates the Senate as a toss-up. "Republicans will pick up Senate seats, probably three or four. The question is, will they get that wave in October that carries them to the six they need?"¶ CONCERN AT THE WHITE HOUSE¶ If Republicans were to control the Senate and the House for the last two years of Obama's presidency, virtually any legislation or nomination he sought from Congress would probably be frozen in place.¶ Republicans also would be likely to press the Senate to join the House in trying to dismantle the Affordable Care Act, known as Obamacare. Although Obama could veto any bill from Congress that targets it, a Republican takeover of the Senate would put him on defense for the balance of his tenure.

#### War powers restrictions devastate Obama and makes him weak – that undermines Dems in the midterms

Todd 13 (Chuck, Chief Political Correspondent @ NBC, “First Thoughts: Obama's tough challenge ahead”, 9/6, <http://firstread.nbcnews.com/_news/2013/09/06/20357154-first-thoughts-obamas-tough-challenge-ahead?lite>)

\*\*\* What happens to Obama if this goes down: If the Obama administration loses, many might not realize the full-fledged political crisis the president will face. His congressional opposition will be more emboldened, if that was possible. (Any advantage the Democrats hold in the upcoming fiscal fights ahead could quickly disappear.) A year before the 2014 midterms, Democrats will start hitting the panic button with a wounded Democratic president in office. (If you’ve paid attention to politics over the past two decades, when the going gets tough, Democrats often jump ship.) And any lame-duck status for Obama would be expedited. (After all, a “no” vote by Congress would rebuke the nation’s commander-in-chief.) Up until now, the first nine months of Obama’s second term have been, well, a disappointment. Gun control was stopped in the Senate; immigration reform is stalled in the House; no progress has been achieved in the budget talks. So if you throw in Congress rebuking the president from taking military action in Syria -- something he has said is necessary -- that would be a huge political blow to Obama’s political standing.

#### GOP-led Senate undercuts Obama’s climate agenda

Harder 13 (Amy, Environmental Correspondent @ National Journal, "Care About Energy and Environment Policy? Watch These Eight Races," http://webcache.googleusercontent.com/search?q=cache:CM3Nm1CJ-4wJ:www.nationaljournal.com/energy/care-about-energy-and-environment-policy-watch-these-eight-races-20131231+&cd=27&hl=en&ct=clnk&gl=us)

For environmentalists, the 2014 midterm elections are about settling for the lesser of two evils. Several conservative Democrats up for reelection in red states are facing tough competition, and if enough of these members lose, the Senate could flip to Republican control. That would be the worst outcome for environmentalists, who need a Democrat-controlled Senate to defend against efforts to undo President Obama's climate-change agenda and other tough environmental policies.

#### Obama’s climate agenda spurs global action – solves warming

Martinson 14 (Erica, Regulatory reporter @ Politico, "Obama's agenda: EPA leading the charge on climate change," http://dyn.politico.com/printstory.cfm?uuid=3BE87317-0921-4B01-A3B5-C39AEF6CDDC3)

President Barack Obama’s environmental regulators will spend the rest of this year writing climate rules that would reshape the nation’s electricity supply, throw a cloud over the future of coal power and take the biggest stride ever in throttling the nation’s greenhouse gas pollution.¶ And that’s just the beginning.¶ While the EPA takes on carbon pollution from thousands of power plants, the State Department is moving to carry out Obama’s orders to cut off funding for many coal projects overseas. The president’s agencies are also financing giant solar farms in the Mojave desert, working on doubling the federal government’s own reliance on green electricity and coming up with ways to help states gird their roads and bridges against severe storms and rising seas.¶ This is hardly a secret agenda. Obama has spoken of it proudly, most recently in Tuesday night’s State of the Union address, when he said: “Climate change is a fact. And when our children’s children look us in the eye and ask if we did all we could to leave them a safer, more stable world with new sources of energy, I want us to be able to say yes, we did.”¶ But some of the administration’s climate work is taking place under the radar, in ways few Americans would notice until the impacts ripple through the economy. One example: Last year, the administration quietly rejiggered a wonky calculation known as the “social cost of carbon” in a way that will make it easier to justify the economic burdens of a wide range of climate regulations.¶ The regulators are racing the calendar to get the rules in shape to take effect before Obama leaves office. That will be no easy feat, especially with the opponents in industry and coal-friendly states already fighting in the courts and Congress to thwart the new regulations.¶ But Obama and his “green Cabinet” — the secretaries and administrators in charge of energy, the environment and public lands — also have their eyes on 2015. That’s when the U.S. and other countries face a deadline to craft a legally binding agreement committing the world to reducing carbon dioxide emissions.¶ The president’s team is convinced that the U.S. must lead by example if it hopes to get China, India and Russia to follow suit, but the only hope of doing that is through the executive branch’s actions. By showing that his administration has taken concrete action, Obama can wipe out some of the embarrassment the U.S. suffered in international climate circles after rejecting the 1997 Kyoto climate accords.¶ The president made it plain in last year’s State of the Union that he wouldn’t wait for lawmakers to tackle climate change, proclaiming that “if Congress won’t act soon to protect future generations, I will.” But in fact, the administration’s climate efforts have been in motion since the start of his first term.¶ The administration’s major climate effort is a pair of EPA regulations aimed at cutting carbon pollution from power plants. The EPA proposed the first rule, aimed at future plants, in September and must finish writing it by January 2015. This June, it’s due to release the draft of a rule for the nation’s thousands of existing power plants — the agency’s main target and the single largest source of U.S. greenhouse gas pollution.

#### Extinction

Flournoy 12 (Don, Citing Feng Hsu, PhD NASA Scientist @ the Goddard Space Flight Center and Don is a PhD and MA from UT, former Dean of the University College @ Ohio University, former Associate Dean at SUNY and Case Institute of Technology, Former Manager for University/Industry Experiments for the NASA ACTS Satellite, currently Professor of Telecommunications @ Scripps College of Communications, Ohio University, “Solar Power Satellites,” January 2012, Springer Briefs in Space Development, p. 10-11)

In the Online Journal of Space Communication , Dr. Feng Hsu, a  NASA scientist at Goddard Space Flight Center, a research center in the forefront of science of space and Earth, writes, “The evidence of global warming is alarming,” noting the potential for a catastrophic planetary climate change is real and troubling (Hsu 2010 ) . Hsu and his NASA colleagues were engaged in monitoring and analyzing climate changes on a global scale, through which they received first-hand scientific information and data relating to global warming issues, including the dynamics of polar ice cap melting. After discussing this research with colleagues who were world experts on the subject, he wrote: I now have no doubt global temperatures are rising, and that global warming is a serious problem confronting all of humanity. No matter whether these trends are due to human interference or to the cosmic cycling of our solar system, there are two basic facts that are crystal clear: (a) there is overwhelming scientific evidence showing positive correlations between the level of CO2 concentrations in Earth’s atmosphere with respect to the historical fluctuations of global temperature changes; and (b) the overwhelming majority of the world’s scientific community is in agreement about the risks of a potential catastrophic global climate change. That is, if we humans continue to ignore this problem and do nothing, if we continue dumping huge quantities of greenhouse gases into Earth’s biosphere, humanity will be at dire risk (Hsu 2010 ) . As a technology risk assessment expert, Hsu says he can show with some confidence that the planet will face more risk doing nothing to curb its fossil-based energy addictions than it will in making a fundamental shift in its energy supply. “This,” he writes, “is because the risks of a catastrophic anthropogenic climate change can be potentially the extinction of human species, a ri

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The executive branch should issue an executive order stating it must publish its standards and procedures for target selection in targeted killing and establish ex ante transparency of targeted killing standards and procedures.

The United States Congress should enact a resolution and issue a white paper stating that, in the conduct of its oversight it has reviewed ongoing targeted killing operations and determined that the United States government is conducting such operations in full compliance with relevant laws.

The United States federal government should abide by the mandates of the executive order and Congressional resolution.

#### Executive order establishing transparency of targeting decisions resolves drone legitimacy and resentment

Daskal 13 (Jennifer Daskal, Fellow and Adjunct Professor, Georgetown Center on National Security and the Law, Georgetown University Law Center, April 2013, ARTICLE: THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, 161 U. Pa. L. Rev. 1165)

4. Procedural Requirements Currently, officials in the executive branch carry out all such ex ante review of out-of-battlefield targeting and detention decisions, reportedly with the involvement of the President, but without any binding and publicly articulated standards governing the exercise of these authorities. n163 All ex post review of targeting is also done internally within the executive branch. There is no public accounting, or even acknowledgment, of most strikes, their success and error rates, or the extent of any collateral damage. Whereas the Department of Defense provides solatia or condolence payments to Afghan civilians who are killed or injured as a result of military actions in Afghanistan (and formerly did so in Iraq), there is no equivalent effort in areas outside the active conflict zone. n164 Meanwhile, the degree of ex post review of detention decisions depends on the location of detention as opposed to the location of capture. Thus, [\*1219] Guantanamo detainees are entitled to habeas review, but detainees held in Afghanistan are not, even if they were captured far away and brought to Afghanistan to be detained. n165 Enhanced ex ante and ex post procedural protections for both detention and targeting, coupled with transparency as to the standards and processes employed, serve several important functions: they can minimize error and abuse by creating time for advance reflection, correct erroneous deprivations of liberty, create endogenous incentives to avoid mistake or abuse, and increase the legitimacy of state action. a. Ex Ante Procedures Three key considerations should guide the development of ex ante procedures. First, any procedural requirements must reasonably respond to the need for secrecy in certain operations. Secrecy concerns cannot, for example, justify the lack of transparency as to the substantive targeting standards being employed. There is, however, a legitimate need for the state to protect its sources and methods and to maintain an element of surprise in an attack or capture operation. Second, contrary to oft-repeated rhetoric about the ticking time bomb, few, if any, capture or kill operations outside a zone of active conflict occur in situations of true exigency. n166 Rather, there is often the time and need for advance planning. In fact, advance planning is often necessary to minimize damage to one's own troops and nearby civilians. n167 Third, the procedures and standards employed must be transparent and sufficiently credible to achieve the desired legitimacy gains. These considerations suggest the value of an independent, formalized, ex ante review system. Possible models include the Foreign Intelligence [\*1220] Surveillance Court (FISC), n168 or a FISC-like entity composed of military and intelligence officials and military lawyers, in the mode of an executive branch review board. n169 Created by the Foreign Intelligence Surveillance Act (FISA) in 1978, n170 the FISC grants ex parte orders for electronic surveillance and physical searches, among other actions, based on a finding that a "significant purpose" of the surveillance is to collect "foreign intelligence information." n171 The Attorney General can grant emergency authorizations without court approval, subject to a requirement that he notify the court of the emergency authorization and seek subsequent judicial authorization within seven days. n172 The FISC also approves procedures related to the use and dissemination of collected information. By statute, heightened restrictions apply to the use and dissemination of information concerning U.S. persons. n173 Notably, the process has been extraordinarily successful in protecting extremely sensitive sources and methods. To date, there has never been an unauthorized disclosure of an application to or order from the FISC court. An ex parte review system for targeting and detention outside zones of active hostility could operate in a similar way. Judges or the review board would approve selected targets and general procedures and standards, while still giving operators wide rein to implement the orders according to the approved standards. Specifically, the court or review board would determine whether the targets meet the substantive requirements and would [\*1221] evaluate the overarching procedures for making least harmful means-determinations, but would leave target identification and time-sensitive decisionmaking to the operators. n174 Moreover, there should be a mechanism for emergency authorizations at the behest of the Secretary of Defense or the Director of National Intelligence. Such a mechanism already exists for electronic surveillance conducted pursuant to FISA. n175 These authorizations would respond to situations in which there is reason to believe that the targeted individual poses an imminent, specific threat, and in which there is insufficient time to seek and obtain approval by a court or review panel as will likely be the case in instances of true imminence justifying the targeting of persons who do not meet the standards applicable to operational leaders. As required under FISA, the reviewing court or executive branch review board should be notified that such an emergency authorization has been issued; it should be time-limited; and the operational decisionmakers should have to seek court or review board approval (or review, if the strike has already taken place) as soon as practicable but at most within seven days. n176 Finally, and critically, given the stakes in any application namely, the deprivation of life someone should be appointed to represent the potential target's interests and put together the most compelling case that the individual is not who he is assumed to be or does not meet the targeting criteria. The objections to such a proposal are many. In the context of proposed courts to review the targeting of U.S. citizens, for example, some have argued that such review would serve merely to institutionalize, legitimize, and expand the use of targeted drone strikes. n177 But this ignores the reality of their continued use and expansion and imagines a world in which targeted [\*1222] killings of operational leaders of an enemy organization outside a zone of active conflict is categorically prohibited (an approach I reject n178). If states are going to use this extraordinary power (and they will), there ought to be a clear and transparent set of applicable standards and mechanisms in place to ensure thorough and careful review of targeted-killing decisions. The formalization of review procedures along with clear, binding standards will help to avoid ad hoc decisionmaking and will ensure consistency across administrations and time. Some also condemn the ex parte nature of such reviews. n179 But again, this critique fails to consider the likely alternative: an equally secret process in which targeting decisions are made without any formalized or institutionalized review process and no clarity as to the standards being employed. Institutionalizing a court or review board will not solve the secrecy issue, but it will lead to enhanced scrutiny of decisionmaking, particularly if a quasi-adversarial model is adopted, in which an official is obligated to act as advocate for the potential target. That said, there is a reasonable fear that any such court or review board will simply defer. In this vein, FISC's high approval rate is cited as evidence that reviewing courts or review boards will do little more than rubber-stamp the Executive's targeting decisions. n180 But the high approval rates only tell part of the story. In many cases, the mere requirement of justifying an application before a court or other independent review board can serve as an internal check, creating endogenous incentives to comply with the statutory requirements and limit the breadth of executive action. n181 Even if this system does little more than increase the attention paid to the stated requirements and expand the circle of persons reviewing the factual basis for the application, those features in and of themselves can lead to increased reflection and restraint. Additional accountability mechanisms, such as civil or criminal sanctions in the event of material misrepresentations or omissions, the granting of far-reaching authority to the relevant Inspectors General, and meaningful ex post review by Article III courts, n182 are also needed to help further minimize abuse. Conversely, some object to the use of courts or court-like review as stymying executive power in wartime, and interfering with the President's Article II powers. n183 According to this view, it is dangerous and potentially unconstitutional to require the President's wartime targeting decisions to be subject to additional reviews. These concerns, however, can be dealt with through emergency authorization mechanisms, the possibility of a presidential override, and design details that protect against ex ante review of operational decisionmaking. The adoption of an Article II review board, rather than an Article III-FISC model, further addresses some of the constitutional concerns. Some also have warned that there may be no "case or controversy" for an Article III, FISC-like court to review, further suggesting a preference for an Article II review board. n184 That said, similar concerns have been raised with respect to FISA and rejected. n185 Drawing heavily on an analogy to courts' roles in issuing ordinary warrants, the Justice Department's Office of Legal Counsel concluded at the time of enactment that a case and controversy existed, even though the FISA applications are made ex parte. n186 [\*1224] Here, the judges would be issuing a warrant to kill rather than surveil. While this is significant, it should not fundamentally alter the legal analysis. n187 As the Supreme Court has ruled, killing is a type of seizure. n188 The judges would be issuing a warrant for the most extreme type of seizure. n189 It is also important to emphasize that a reviewing court or review board would not be "selecting" targets, but determining whether the targets chosen by executive branch officials met substantive requirements much as courts do all the time when applying the law to the facts. Press accounts indicate that the United States maintains lists of persons subject to capture or kill operations lists created in advance of specific targeting operations and reportedly subject to significant internal deliberation, including by the President himself. n190 A court or review board could be incorporated into the existing ex ante decisionmaking process in a manner that would avoid interference with the conduct of specific operations reviewing the target lists but leaving the operational details to the operators. As suggested above, emergency approval mechanisms could and should be available to deal with exceptional cases where ex ante approval is not possible. Additional details will need to be addressed, including the temporal limits of the court's or review board's authorizations. For some high-level operatives, inclusion on a target list would presumably be valid for some set period of [\*1225] time, subject to specific renewal requirements. Authorizations based on a specific, imminent threat, by comparison, would need to be strictly time-limited, and tailored to the specifics of the threat, consistent with what courts regularly do when they issue warrants. In the absence of such a system, the President ought to, at a minimum, issue an executive order establishing a transparent set of standards and procedures for identifying targets of lethal killing and detention operations outside a zone of active hostilities. n192 To enhance legitimacy, the procedures should include target list reviews and disposition plans by the top official in each of the agencies with a stake in the outcome the Secretary of Defense, the Director of the CIA, the Secretary of State, the Director of Homeland Security, and the Director of National Intelligence, with either the Secretary of Defense, Director of National Intelligence, or President himself, responsible for final sign-off. n193 In all cases, decisions should be unanimous, or, in the absence of consensus, elevated to the President of the United States. n194 Additional details will need to be worked out, including critical questions about the standard of proof that applies. Given the stakes, a clear and convincing evidentiary standard is warranted. n195 While this proposal is obviously geared toward the United States, the same principles should apply for all states engaged in targeting operations. n196 States would ideally subject such determinations to independent review or, alternatively, clearly articulate the standards and procedures for their decisionmaking, thus enhancing accountability. b. Ex Post Review For targeted-killing operations, ex post reviews serve only limited purposes. They obviously cannot restore the target's life. But retrospective review either by a FISC-like court or review board can serve to identify errors or overreaching and thereby help avoid future mistakes. This can, and ideally would, be supplemented by the adoption of an additional Article III damages mechanism. n197 At a minimum, the relevant Inspectors General should engage in regular and extensive reviews of targeted-killing operations. Such post hoc analysis helps to set standards and controls that then get incorporated into ex ante decisionmaking. In fact, post hoc review can often serve as a more meaningful and often more searching inquiry into the legitimacy of targeting decisions. Even the mere knowledge that an ex post review will occur can help to protect against rash ex ante decisionmaking, thereby providing a self-correcting mechanism. Ex post review should also be accompanied by the establishment of a solatia and condolence payment system for activities that occur outside the active zone of hostilities. Extension of such a system beyond Afghanistan and Iraq would help mitigate resentment caused by civilian deaths or injuries and would promote better accounting of the civilian costs of targeting operations. n198

#### Solves---the combination of executive disclosure and Congressional support boosts accountability and legitimacy

McNeal 13 (Gregory McNeal, Associate Professor of Law, Pepperdine University, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>)

Perhaps the most obvious way to add accountability to the targeted killing process is for someone in government to describe the process the way this article has, and from there, defend the process. The task of describing the government’s policies in detail should not fall to anonymous sources, confidential interviews, and selective leaks. Government’s failure to defend policies is not a phenomenon that is unique to post 9/11 targeted killings. In fact, James Baker once noted

"In my experience, the United States does a better job at incorporating intelligence into its targeting decisions than it does in using intelligence to explain those decisions after the fact. This in part reflects the inherent difficulty in articulating a basis for targets derived from ongoing intelligence sources and methods. Moreover, it is hard to pause during ongoing operations to work through issues of disclosure…But articulation is an important part of the targeting process that must be incorporated into the decision cycle for that subset of targets raising the hardest issues…"519

Publicly defending the process is a natural fit for public accountability mechanisms. It provides information to voters and other external actors who can choose to exercise a degree of control over the process. However, a detailed public defense of the process also bolsters bureaucratic and professional accountability by demonstrating to those within government that they are involved in activities that their government is willing to publicly describe and defend (subject to the limits of necessary national security secrecy). However, the Executive branch, while wanting to reveal information to defend the process, similarly recognizes that by revealing too much information they may face legal accountability mechanisms that they may be unable to control, thus their caution is understandable (albeit self-serving).520

It’s not just the Executive branch that can benefit from a healthier defense of the process. Congress too can bolster the legitimacy of the program by specifying how they have conducted their oversight activities. The best mechanism by which they can do this is through a white paper. That paper could include:

A statement about why the committees believe the U.S. government's use of force is lawful. If the U.S. government is employing armed force it's likely that it is only doing so pursuant to the AUMF, a covert action finding, or relying on the President's inherent powers under the Constitution. Congress could clear up a substantial amount of ambiguity by specifying that in the conduct of its oversight it has reviewed past and ongoing targeted killing operations and is satisfied that in the conduct of its operations the U.S. government is acting consistent with those sources of law. Moreover, Congress could also specify certain legal red lines that if crossed would cause members to cease believing the program was lawful. For example, if members do not believe the President may engage in targeted killings acting only pursuant to his Article II powers, they could say so in this white paper, and also articulate what the consequences of crossing that red line might be. To bolster their credibility, Congress could specifically articulate their powers and how they would exercise them if they believed the program was being conducted in an unlawful manner. Perhaps stating: "The undersigned members affirm that if the President were to conduct operations not authorized by the AUMF or a covert action finding, we would consider that action to be unlawful and would publicly withdraw our support for the program, and terminate funding for it."

A statement detailing the breadth and depth of Congressional oversight activities. When Senator Feinstein released her statement regarding the nature and degree of Senate Intelligence Committee oversight of targeted killing operations it went a long way toward bolstering the argument that the program was being conducted in a responsible and lawful manner. An oversight white paper could add more details about the oversight being conducted by the intelligence and armed services committees, explaining in as much detail as possible the formal and informal activities that have been conducted by the relevant committees. How many briefings have members attended? Have members reviewed targeting criteria? Have members had an opportunity to question the robustness of the internal kill-list creation process and target vetting and validation processes? Have members been briefed on and had an opportunity to question how civilian casualties are counted and how battle damage assessments are conducted? Have members been informed of the internal disciplinary procedures for the DoD and CIA in the event a strike goes awry, and have they been informed of whether any individuals have been disciplined for improper targeting? Are the members satisfied that internal disciplinary procedures are adequate?

3) Congressional assessment of the foreign relations implications of the program. The Constitution divides some foreign policy powers between the President and Congress, and the oversight white paper should articulate whether members have assessed the diplomatic and foreign relations implications of the targeted killing program. While the white paper would likely not be able to address sensitive diplomatic matters such as whether Pakistan has privately consented to the use of force in their territory, the white paper could set forth the red lines that would cause Congress to withdraw support for the program. The white paper could specifically address whether the members have considered potential blow-back, whether the program has jeopardized alliances, whether it is creating more terrorists than it kills, etc. In specifying each of these and other factors, Congress could note the types of developments, that if witnessed would cause them to withdraw support for the program. For example, Congress could state "In the countries where strikes are conducted, we have not seen the types of formal objections to the activities that would normally be associated with a violation of state's sovereignty. Specifically, no nation has formally asked that the issue of strikes in their territory be added to the Security Council's agenda for resolution. No nation has shot down or threatened to shoot down our aircraft, severed diplomatic relations, expelled our personnel from their country, or refused foreign aid. If we were to witness such actions it would cause us to question the wisdom and perhaps even the legality of the program."

#### Judicial review of targeted killing would collapse military effectiveness and command structure---causes second-guessing of every crucial battlefield decision

Delery 12 (Stuart F. Delery, Principal Deputy Assistant Attorney General, Civil Division, 12/14/12, Defendants’ Motion to Dismiss, NASSER AL-AULAQI, as personal representative of the estate of ANWAR AL-AULAQI, et al., Plaintiffs, v. LEON E. PANETTA, et al., in their individual capacities, Defendants, No. 1:12-cv-01192 (RMC), <http://www.lawfareblog.com/wp-content/uploads/2012/12/MTD-AAA.pdf>)

First, the D.C. Circuit has repeatedly held that where claims directly implicate matters involving national security and particularly war powers, special factors counsel hesitation. See Doe, 683 F.3d at 394-95 (discussing the “strength of the special factors of military and national security” in refusing to infer remedy for citizen detained by military in Iraq); Ali, 649 F.3d at 773 (explaining that “the danger of obstructing U.S. national security policy” is a special factor in refusing to infer remedy for aliens detained in Iraq and Afghanistan (internal quotation and citation omitted)); Rasul v. Myers, 563 F.3d 527, 532 n.5 (D.C. Cir. 2009) (same for aliens detained at Guantánamo Bay). These cases alone should control Plaintiffs’ claims here. Plaintiffs challenge the alleged targeting of and missile strikes against members of AQAP in Yemen. Few cases more clearly present “the danger of obstructing U.S. national security policy” than this one. Ali, 649 F.3d at 773. Accordingly, national security considerations bar inferring a remedy for Plaintiffs’ claims.19¶ Second, Plaintiffs’ claims implicate the effectiveness of the military. As with national security, the D.C. Circuit has consistently held that claims threatening to undermine the military’s command structure and effectiveness present special factors. See Doe, 683 F.3d at 396; Ali, 649 F.3d at 773. Allowing a damages suit brought by the estate of a leader of AQAP against officials who allegedly targeted and directed the strike against him would fly in the face of explicit circuit precedent. As the court in Ali explained: “It would be difficult to devise more effective fettering of a field commander than to allow the very enemies he is ordered to reduce to submission to call him to account in his own civil courts and divert his efforts and attention from the military offensive abroad to the legal defensive at home.” 649 F.3d at 773 (quoting Eisentrager, 339 U.S. at 779). Moreover, allowing such suits to proceed “would diminish the prestige of our commanders, not only with enemies but with wavering neutrals.” Id.; see also Vance, 2012 WL5416500 at \*5 (“The Supreme Court’s principal point was that civilian courts should not interfere with the military chain of command . . . .”); Lebron, 670 F.3d at 553 (barring on special factors grounds Bivens claims by detained terrorist because suit would “require members of the Armed Services and their civilian superiors to testify in court as to each other’s decisions and actions” (citation and internal quotation omitted)). ¶ Creating a new damages remedy in the context of alleged missile strikes against enemy forces in Yemen would have the same, if not greater, negative outcome on the military as in the military detention context that is now well-trodden territory in this and other circuits. These suits “would disrupt and hinder the ability of our armed forces to act decisively and without hesitation in defense of our liberty and national interests.” Ali, 649 F.3d at 773 (citation and internal quotation omitted). To infuse such hesitation into the real-time, active-war decision-making of military officers absent authorization to do so from Congress would have profound implications on military effectiveness. This too warrants barring this new species of litigation.

#### Targeted killing’s vital to counterterrorism---disrupts leadership and makes carrying out attacks impossible

Anderson 13 (Kenneth, Professor of International Law at American University, June 2013, “The Case for Drones,” Commentary, Vol. 135, No. 6, http://www.volokh.com/2013/05/22/the-case-for-drones/)

Targeted killing of high-value terrorist targets, by contrast, is the end result of a long, independent intelligence process. What the drone adds to that intelligence might be considerable, through its surveillance capabilities -- but much of the drone's contribution will be tactical, providing intelligence that assists in the planning and execution of the strike itself, in order to pick the moment when there might be the fewest civilian casualties.¶ Nonetheless, in conjunction with high-quality intelligence, drone warfare offers an unparalleled means to strike directly at terrorist organizations without needing a conventional or counterinsurgency approach to reach terrorist groups in their safe havens. It offers an offensive capability, rather than simply defensive measures, such as homeland security alone. Drone warfare offers a raiding strategy directly against the terrorists and their leadership.¶ If one believes, as many of the critics of drone warfare do, that the proper strategies of counterterrorism are essentially defensive -- including those that eschew the paradigm of armed conflict in favor of law enforcement and criminal law -- then the strategic virtue of an offensive capability against the terrorists themselves will seem small. But that has not been American policy since 9/11, not under the Bush administration, not under the Obama administration -- and not by the Congress of the United States, which has authorized hundreds of billions of dollars to fight the war on terror aggressively. The United States has used many offensive methods in the past dozen years: Regime change of states offering safe havens, counter-insurgency war, special operations, military and intelligence assistance to regimes battling our common enemies are examples of the methods that are just of military nature.¶ Drone warfare today is integrated with a much larger strategic counterterrorism target -- one in which, as in Afghanistan in the late 1990s, radical Islamist groups seize governance of whole populations and territories and provide not only safe haven, but also an honored central role to transnational terrorist groups. This is what current conflicts in Yemen and Mali threaten, in counterterrorism terms, and why the United States, along with France and even the UN, has moved to intervene militarily. Drone warfare is just one element of overall strategy, but it has a clear utility in disrupting terrorist leadership. It makes the planning and execution of complex plots difficult if only because it is hard to plan for years down the road if you have some reason to think you will be struck down by a drone but have no idea when. The unpredictability and terrifying anticipation of sudden attack, which terrorists have acknowledged in communications, have a significant impact on planning and organizational effectiveness.

#### Extinction

Hellman 8 (Martin E. Hellman, emeritus prof of engineering @ Stanford, “Risk Analysis of Nuclear Deterrence” SPRING 2008 THE BENT OF TAU BETA PI, <http://www.nuclearrisk.org/paper.pdf>)

The threat of nuclear terrorism looms much larger in the public’s mind than the threat of a full-scale nuclear war, yet this article focuses primarily on the latter. An explanation is therefore in order before proceeding. A terrorist attack involving a nuclear weapon would be a catastrophe of immense proportions: “A 10-kiloton bomb detonated at Grand Central Station on a typical work day would likely kill some half a million people, and inflict over a trillion dollars in direct economic damage. America and its way of life would be changed forever.” [Bunn 2003, pages viii-ix]. The likelihood of such an attack is also significant. Former Secretary of Defense William Perry has estimated the chance of a nuclear terrorist incident within the next decade to be roughly 50 percent [Bunn 2007, page 15]. David Albright, a former weapons inspector in Iraq, estimates those odds at less than one percent, but notes, “We would never accept a situation where the chance of a major nuclear accident like Chernobyl would be anywhere near 1% .... A nuclear terrorism attack is a low-probability event, but we can’t live in a world where it’s anything but extremely low-probability.” [Hegland 2005]. In a survey of 85 national security experts, Senator Richard Lugar found a median estimate of 20 percent for the “probability of an attack involving a nuclear explosion occurring somewhere in the world in the next 10 years,” with 79 percent of the respondents believing “it more likely to be carried out by terrorists” than by a government [Lugar 2005, pp. 14-15]. I support increased efforts to reduce the threat of nuclear terrorism, but that is not inconsistent with the approach of this article. Because terrorism is one of the potential trigger mechanisms for a full-scale nuclear war, the risk analyses proposed herein will include estimating the risk of nuclear terrorism as one component of the overall risk. If that risk, the overall risk, or both are found to be unacceptable, then the proposed remedies would be directed to reduce which- ever risk(s) warrant attention. Similar remarks apply to a number of other threats (e.g., nuclear war between the U.S. and China over Taiwan). his article would be incomplete if it only dealt with the threat of nuclear terrorism and neglected the threat of full- scale nuclear war. If both risks are unacceptable, an effort to reduce only the terrorist component would leave humanity in great peril. In fact, society’s almost total neglect of the threat of full-scale nuclear war makes studying that risk all the more important. The cosT of World War iii The danger associated with nuclear deterrence depends on both the cost of a failure and the failure rate.3 This section explores the cost of a failure of nuclear deterrence, and the next section is concerned with the failure rate. While other definitions are possible, this article defines a failure of deterrence to mean a full-scale exchange of all nuclear weapons available to the U.S. and Russia, an event that will be termed World War III. Approximately 20 million people died as a result of the first World War. World War II’s fatalities were double or triple that number—chaos prevented a more precise deter- mination. In both cases humanity recovered, and the world today bears few scars that attest to the horror of those two wars. Many people therefore implicitly believe that a third World War would be horrible but survivable, an extrapola- tion of the effects of the first two global wars. In that view, World War III, while horrible, is something that humanity may just have to face and from which it will then have to recover. In contrast, some of those most qualified to assess the situation hold a very different view. In a 1961 speech to a joint session of the Philippine Con- gress, General Douglas MacArthur, stated, “Global war has become a Frankenstein to destroy both sides. … If you lose, you are annihilated. If you win, you stand only to lose. No longer does it possess even the chance of the winner of a duel. It contains now only the germs of double suicide.” Former Secretary of Defense Robert McNamara ex- pressed a similar view: “If deterrence fails and conflict develops, the present U.S. and NATO strategy carries with it a high risk that Western civilization will be destroyed” [McNamara 1986, page 6]. More recently, George Shultz, William Perry, Henry Kissinger, and Sam Nunn4 echoed those concerns when they quoted President Reagan’s belief that nuclear weapons were “totally irrational, totally inhu- mane, good for nothing but killing, possibly destructive of life on earth and civilization.” [Shultz 2007] Official studies, while couched in less emotional terms, still convey the horrendous toll that World War III would exact: “The resulting deaths would be far beyond any precedent. Executive branch calculations show a range of U.S. deaths from 35 to 77 percent (i.e., 79-160 million dead) … a change in targeting could kill somewhere between 20 million and 30 million additional people on each side .... These calculations reflect only deaths during the first 30 days. Additional millions would be injured, and many would eventually die from lack of adequate medical care … millions of people might starve or freeze during the follow- ing winter, but it is not possible to estimate how many. … further millions … might eventually die of latent radiation effects.” [OTA 1979, page 8] This OTA report also noted the possibility of serious ecological damage [OTA 1979, page 9], a concern that as- sumed a new potentiality when the TTAPS report [TTAPS 1983] proposed that the ash and dust from so many nearly simultaneous nuclear explosions and their resultant fire- storms could usher in a nuclear winter that might erase homo sapiens from the face of the earth, much as many scientists now believe the K-T Extinction that wiped out the dinosaurs resulted from an impact winter caused by ash and dust from a large asteroid or comet striking Earth. The TTAPS report produced a heated debate, and there is still no scientific consensus on whether a nuclear winter would follow a full-scale nuclear war. Recent work [Robock 2007, Toon 2007] suggests that even a limited nuclear exchange or one between newer nuclear-weapon states, such as India and Pakistan, could have devastating long-lasting climatic consequences due to the large volumes of smoke that would be generated by fires in modern megacities. While it is uncertain how destructive World War III would be, prudence dictates that we apply the same engi- neering conservatism that saved the Golden Gate Bridge from collapsing on its 50th anniversary and assume that preventing World War III is a necessity—not an option.

### 1NC – DA

#### Judicial review of war powers erodes the State Secrets Privilege

Kadidal 7 (Shayana – Center for Constitutional Rights, New York City; J.D., Yale 1994, “DOES CONGRESS HAVE THE POWER TO LIMIT THE PRESIDENT'S CONDUCT OF DETENTIONS, INTERROGATIONS AND SURVEILLANCE IN THE CONTEXT OF WAR?”, 2007, 11 N.Y. City L. Rev. 23, lexis)

As to the AUMF, this meta-defense runs as follows: In both our case and the ACLU's similar case, the government claims that it could explain how the program fits into what Congress authorized in the AUMF--namely, the "use [of] all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist [\*58] attacks that occurred on September 11, 2001" n127 and those who harbored them--but to do so it would have to explain to the court how the Program works, particularly who it was targeting and what kinds of communications it was intercepting. The sensitivity of that information about how the Program works in practice means that it cannot do that, even ex parte in camera. Thus, the government argues, the State Secrets Privilege forecloses the ability to litigate these questions. n128 As to the FISA-is-unconstitutional defense, the meta-defense argues that for the government to explain to the court how the Program fits into the core of the President's inherent power to defend the nation--that (limited) core aspect of the war power that is so fundamentally executive as to be immune to regulation from Congress--would require disclosing state secrets to the court. Since FISA might be unconstitutional to the extent that it restricts such a hypothetical core, unregulable part of the executive war power, the court cannot rely on FISA in enjoining the President from carrying out such surveillance:

#### Drone oversight requires circumventing the doctrine – allows lawsuits and releases military secrets

Rosen 11 (Richard D. – Professor of Law and Director, Center for Military Law and Policy, Texas Tech University School of Law, “PART III: ARTICLE: DRONES AND THE U.S. COURTS”, 2011, 37 Wm. Mitchell L. Rev. 5280, lexis)

V. State Secrets: The Death Knell of Drone Cases Assuming a complaint survives the jurisdictional, justiciability, immunity, and other hurdles to lawsuits challenging U.S. drone policy, the state secrets doctrine is likely to bring the suit to a quick end. n93 Under the doctrine, the United States may prevent the disclosure of information in judicial proceedings if there is a reasonable danger of revealing military or state secrets. n94 Once the privilege is properly invoked and a court is satisfied that release would pose a reasonable danger to secrets of state, "even the most compelling necessity cannot overcome the claim of privilege." n95 Not only will the state secrets doctrine thwart plaintiffs from acquiring or introducing evidence vital to their case, n96 it could result in dismissal of the cases themselves. Under the doctrine, the courts will dismiss a case either because the very subject of the case involves state secrets, n97 or a case cannot proceed without the privileged evidence or presents an unnecessary risk of revealing [\*5293] protected secrets. n98 Employing drones as a weapons platform against terrorists and insurgents in an ongoing armed conflict implicates both the nation's military tactics and strategy as well as its delicate relations with friendly nations. n99 As such, lawsuits challenging the policy cannot be tried without access to and the possible disclosure of highly classified information relating to the means, methods, and circumstances under which drones are employed.

#### Lawsuits release vital drone methods and intelligence –turns case

Murphy and Radsan 9 (Richard – AT&T Professor of Law, Texas Tech University School of Law, and Afsheen – Professor, William Mitchell College of Law, “ARTICLE: DUE PROCESS AND TARGETED KILLING OF TERRORISTS”, November, 32 Cardozo L. Rev. 405, lexis)

In defense of this anomaly, there are obvious policy reasons for not allowing Bivens-style claims against American officials for targeted killings wherever they occur in the world. Among them, we do not want federal courts damaging national security through excessive, misdirected second-guessing of executive judgments; nor do we want [\*442] the litigation process to reveal information that national security requires to be kept secret. In Arar v. Ashcroft, a divided panel of the Second Circuit cited these "special factors" to disallow a plaintiff from bringing a Bivens claim against officials he alleged subjected him to extraordinary rendition. n209 But as the dissenting judge in Arar noted, these special factors lose much of their force once one acknowledges that a Bivens-style action needs to overcome formidable hurdles of fact and law. n210 As to practical hurdles, most people left alive by a Predator strike or other targeted killing would not turn to American courts for relief. Some would not sue because they are, in fact, the enemy - Osama bin Laden is not going to hire an American lawyer. n211 Others would not sue because doing so is beyond their means - a villager from the mountains of Afghanistan is not likely to hire an American lawyer either. As to legal hurdles, Boumediene itself poses a high one to lawsuits by non-U.S. citizens for overseas attacks. Here we may seem to contradict our earlier insistence that Boumediene presupposes some form of constitutional protection worldwide for everyone. n212 Yet Boumediene shows that the requirement of judicial process depends on a pragmatic analysis. n213 As part of its balancing, Boumediene made clear that courts should favor the interests of American citizens and of others with strong connections to the United States. n214 Although the Boumediene petitioners lacked the preference in favor of citizens, they persuaded a slim majority of the Court to extend constitutional habeas to non-resident aliens detained at Guantanamo. This result, however, took place under exceptional circumstances: among them, Guantanamo is de facto United States territory; n215 the executive had held detainees [\*443] there for years and claimed authority to do so indefinitely; and the Supreme Court doubted the fairness and accuracy of the CSRTs. n216 Absent such circumstances, Boumediene leaves courts to follow their habit of deferring to the executive on national security. For targeted killing, that may mean cutting off non-citizens from American courts. The state-secrets privilege poses another barrier to Bivens-style actions. This privilege allows the government to block the disclosure of information in court that would damage national security. n217 It could prevent a case from proceeding in any number of ways. For instance, the government could block plaintiffs from accessing or using information needed to determine whether a Predator attack had a sound basis through human or technical sources of intelligence. n218 By this trump card, the government could prevent litigation from seriously compromising intelligence sources and methods. n219 In addition, the doctrine of qualified immunity requires dismissal of actions against officials if a court determines they reasonably believed they were acting within the scope of their legal authority. n220 Defendants would satisfy this requirement so long as they reasonably [\*444] claimed they had authority under the laws of war (assuming their applicability). These standards are hazy, and a court applying them would tend to defer to the executive on matters of military judgment. n221 In view of so many practical and legal hurdles, some courts and commentators might be inclined to categorically reject all Bivens-style challenges to targeted killings. In essence, they might view lawsuits related to targeted killing as a political question left to the executive. n222 This view parallels Justice Thomas's that courts should not second-guess executive judgments as to who is an enemy combatant. n223 Contrary to Justice Thomas's view, the potency of the government's threshold defenses means that targeted-killing cases that make it to the merits would likely involve the most egregious conduct - for example, killing an unarmed Jose Padilla at O'Hare Airport on a shoot-to-kill order. For these egregious cases, a judicial check on executive authority is most necessary. In terms of a Mathews balancing, the question becomes whether the benefits of Bivens actions on targeted killings of terrorists outweigh the harms. The potential harm is to the CIA's sources and methods on the Predator program. Lawsuits might harm national security by forcing the disclosure of sensitive information. The states-secrets privilege should block this result, however. Lawsuits might also harm national security by causing executive officials to become risk-averse about actions needed to counter terrorist activities. Qualified immunity, however, should ensure that liability exists only where an official lacks any justification for his action. On the benefit side, allowing lawsuits to proceed would, in truly exceptional cases, serve the private interest of the plaintiff in seeking compensation and, perhaps more to the point given the incommensurability of death and money, would provide accountability. Still more important, all people have an interest in casting light on the government's use of the power to kill in a world-wide war in which combatants and targets are not easily identified.

#### Unmanned vehicle tech leadership is key to naval power

Landay et al. 4 (William E. Landay III – RDML (Rear Admiral), USN, Concurring with the following: Michael A. LeFever, RDML, USN Raymond A. Spicer, RDML, USN Roseanne M. Levitre, RDML, USN Steven J. Toma szeski, RADM, USN, Oceanographer of the Navy, Approved by Joseph A. Walsh and Roger M. Smith of US Navy, “The Navy Unmanned Undersea Vehicle (UUV) Master Plan”, 11/9, http://www.navy.mil/navydata/technology/uuvmp.pdf)

The Vision for UUVs and the Objective of the UUV Master Plan Today our naval forces enjoy maritime superiority around the world and find themselves at a strategic inflection point during which future capabilities must be pondered with creativity and innovation . Change must be embraced and made an ally in order to take advantage of emerging technologies, concepts, and doctrine; thereby preserving the nation’s global leadership. Sea Power 21 has additionally specified unmanned vehicles as force multipliers and risk reduction agents for the Navy of the future. Transformation applies to what we buy as well as how we buy and operate it–all while competing with other shifting national investment priorities. The growing use of unmanned systems– air, surface, ground, and underwater is continually demonstrating new possibilities. While admittedly futuristic in vision , one can conceive of scenarios where UUVs sense, track, identify, target, and destroy an enemy–all autonomously and tie in with the full net-centric battlespace. UUV systems will provide a key undersea component f o r FORCEnet, contributing to an integrated picture of the battlespace. Even though today’s planners, operators, and technologists cannot accurately forecast the key applications for U UVs in the year 2050, this plan provides a roadmap to move toward that vision. Pursuit of this plan’s updated recommendations beginning in the year 2004, will place increasingly large numbers of UUVs in the hands of warfighters. Thus, xvii UUV Master Plan UUVs can begin addressing near-term needs while im proving understanding of mid- to far-term possibilities. Even the most futuristic applications can evolve in a confident, cost-effective manner. This confidence is based on several factor s: the Sea Power 21 Sub-Pillar capabilities identified he readdress a broad ran g e of user needs; critical technologies are identified that will enable tomorrow’s more complex applications; and key principles and best practices are recommended that p r o v ide for a logical, flexible, and affordable development effort.

#### Strong navy is key to prevent great power – deterrence

Eaglen 11 (Mackenzie, Heritage Foundation Research Fellow for National Security Studies, Allison Center for Foreign Policy Studies, May, 16, 2011, “Thinking about a Day without Sea Power: Implications for U.S. Defense Policy”, http://www.heritage.org/research/reports/2011/05/thinking-about-a-day-without-sea-power-implications-for-us-defense-policy)

Under a scenario of dramatically reduced naval power, the United States would cease to be active in any international alliances. While it is reasonable to assume that land and air forces would be similarly reduced in this scenario, the lack of credible maritime capability to move their bulk and establish forward bases would render these forces irrelevant, even if the Army and Air Force were retained at today’s levels. In Iraq and Afghanistan today, 90 percent of material arrives by sea, although material bound for Afghanistan must then make a laborious journey by land into theater. China’s claims on the South China Sea, previously disputed by virtually all nations in the region and routinely contested by U.S. and partner naval forces, are accepted as a fait accompli, effectively turning the region into a “Chinese lake.” China establishes expansive oil and gas exploration with new deepwater drilling technology and secures its local sea lanes from intervention. Korea, unified in 2017 after the implosion of the North, signs a mutual defense treaty with China and solidifies their relationship. Japan is increasingly isolated and in 2020–2025 executes long-rumored plans to create an indigenous nuclear weapons capability.[11] By 2025, Japan has 25 mobile nuclear-armed missiles ostensibly targeting China, toward which Japan’s historical animus remains strong. China’s entente with Russia leaves the Eurasian landmass dominated by Russia looking west and China looking east and south. Each cedes a sphere of dominance to the other and remains largely unconcerned with the events in the other’s sphere. Worldwide, trade in foodstuffs collapses. Expanding populations in the Middle East increase pressure on their governments, which are already stressed as the breakdown in world trade disproportionately affects food importers. Piracy increases worldwide, driving food transportation costs even higher. In the Arctic, Russia aggressively asserts its dominance and effectively shoulders out other nations with legitimate claims to seabed resources. No naval power exists to counter Russia’s claims. India, recognizing that its previous role as a balancer to China has lost relevance with the retrenchment of the Americans, agrees to supplement Chinese naval power in the Indian Ocean and Persian Gulf to protect the flow of oil to Southeast Asia. In exchange, China agrees to exercise increased influence on its client state Pakistan. The great typhoon of 2023 strikes Bangladesh, killing 23,000 people initially, and 200,000 more die in the subsequent weeks and months as the international community provides little humanitarian relief. Cholera and malaria are epidemic. Iran dominates the Persian Gulf and is a nuclear power. Its navy aggressively patrols the Gulf while the Revolutionary Guard Navy harasses shipping and oil infrastructure to force Gulf Cooperation Council (GCC) countries into Tehran’s orbit. Russia supplies Iran with a steady flow of military technology and nuclear industry expertise. Lacking a regional threat, the Iranians happily control the flow of oil from the Gulf and benefit economically from the “protection” provided to other GCC nations. In Egypt, the decade-long experiment in participatory democracy ends with the ascendance of the Muslim Brotherhood in a violent seizure of power. The United States is identified closely with the previous coalition government, and riots break out at the U.S. embassy. Americans in Egypt are left to their own devices because the U.S. has no forces in the Mediterranean capable of performing a noncombatant evacuation when the government closes major airports. Led by Iran, a coalition of Egypt, Syria, Jordan, and Iraq attacks Israel. Over 300,000 die in six months of fighting that includes a limited nuclear exchange between Iran and Israel. Israel is defeated, and the State of Palestine is declared in its place. Massive “refugee” camps are created to house the internally displaced Israelis, but a humanitarian nightmare ensues from the inability of conquering forces to support them. The NATO alliance is shattered. The security of European nations depends increasingly on the lack of external threats and the nuclear capability of France, Britain, and Germany, which overcame its reticence to military capability in light of America’s retrenchment. Europe depends for its energy security on Russia and Iran, which control the main supply lines and sources of oil and gas to Europe. Major European nations stand down their militaries and instead make limited contributions to a new EU military constabulary force. No European nation maintains the ability to conduct significant out-of-area operations, and Europe as a whole maintains little airlift capacity.

### Case – Accountability

---NO evidence that says that China or actors in the Senkakus specifically model the drone policy – the impact is short term so you can’t solve it

#### ---U.S. can’t effectively signal

Zenko 13 (Micah, Council on Foreign Relations Center for Preventive Action Douglas Dillon fellow, "The Signal and the Noise," Foreign Policy, 2-2-13, www.foreignpolicy.com/articles/2013/02/20/the\_signal\_and\_the\_noise)

Later, Gen. Austin observed of cutting forces from the Middle East: "Once you reduce the presence in the region, you could very well signal the wrong things to our adversaries." Sen. Kelly Ayotte echoed his observation, claiming that President Obama's plan to withdraw 34,000 thousand U.S. troops from Afghanistan within one year "leaves us dangerously low on military personnel...it's going to send a clear signal that America's commitment to Afghanistan is going wobbly." Similarly, during a separate House Armed Services Committee hearing, Deputy Secretary of Defense Ashton Carter ominously warned of the possibility of sequestration: "Perhaps most important, the world is watching. Our friends and allies are watching, potential foes -- all over the world." These routine and unchallenged assertions highlight what is perhaps the most widely agreed-upon conventional wisdom in U.S. foreign and national security policymaking: the inherent power of signaling. This psychological capability rests on two core assumptions: All relevant international audiences can or will accurately interpret the signals conveyed, and upon correctly comprehending this signal, these audiences will act as intended by U.S. policymakers. Many policymakers and pundits fundamentally believe that the Pentagon is an omni-directional radar that uniformly transmits signals via presidential declarations, defense spending levels, visits with defense ministers, or troop deployments to receptive antennas. A bit of digging, however, exposes cracks in the premises underlying signaling theories. There is a half-century of social science research demonstrating the cultural and cognitive biases that make communication difficult between two humans. Why would this be any different between two states, or between a state and non-state actor? Unlike foreign policy signaling in the context of disputes or escalating crises -- of which there is an extensive body of research into types and effectiveness -- policymakers' claims about signaling are merely made in a peacetime vacuum. These signals are never articulated with a precision that could be tested or falsified, and thus policymakers cannot be judged misleading or wrong. Paired with the faith in signaling is the assumption that policymakers can read the minds of potential or actual friends and adversaries. During the cycle of congressional hearings this spring, you can rest assured that elected representatives and expert witnesses will claim to know what the Iranian supreme leader thinks, how "the Taliban" perceives White House pronouncements about Afghanistan, or how allies in East Asia will react to sequestration. This self-assuredness is referred to as the illusion of transparency by psychologists, or how "people overestimate others' ability to know them, and...also overestimate their ability to know others." Policymakers also conceive of signaling as a one-way transmission: something that the United States does and others absorb. You rarely read or hear critical thinking from U.S. policymakers about how to interpret the signals from others states. Moreover, since U.S. officials correctly downplay the attention-seeking actions of adversaries -- such as Iran's near-weekly pronouncement of inventing a new drone or missile -- wouldn't it be safer to assume that the majority of U.S. signals are similarly dismissed? During my encounters with foreign officials, few take U.S. government pronouncements seriously, and instead assume they are made to appease domestic audiences.

#### ---China will ignore new norms – history proves

**Clark 13** (Colin, editor of Breaking Defense, “China Set To Grab UAV Market While US Restricts Sales,” http://breakingdefense.com/2013/06/14/china-set-to-grab-uav-market-while-us-restricts-sales/)

PARIS: Psst. Hey mister. Wanna buy a UAV? China’s got drones for shooting, drones for intelligence, surveillance and reconnaissance, and drones for target practice. Cheap prices and no arms export restrictions. And China may grab a significant share of the international market for just those reasons, according to a new report by the U.S-China Economic and Security Review Commission. Breaking Defense obtained a copy of the report: China’s Military Unmanned Aerial Vehicle Industry The irony would be, of course, that the United States has largely created that demand by demonstrating the utility of drones (UAVs, Remotely Piloted Aircraft — RPAs — pick your term) in Afghanistan, Pakistan, Yemen, Iraq and other locales over the last decade. Here’s what the report’s author, Kimberly Hsu, concludes: “Surging domestic and international market demand for UAVs, from both military and civilian customers, will continue to buoy growth of the Chinese industry. Chinese defense firms do not face the same export restrictions as top UAV-exporting countries, such as the United States and Israel. As a result, China could become a key UAV proliferator, particularly to developing countries.” Currently, the great majority of Chinese drones are tactical, but Hsu says that “in the long term, China’s continued interest and progression in strategic-level UAVs appear poised to position China as a leader in the high-end UAV market.” A major reason is that China is not a member of either the Missile Technology Control Regime (MTCR) or the looser but broader Wassenaar Arrangement. “In the absence of competition from more sophisticated U.S. or Israeli alternatives, China could become a key proliferator to non-members of the MTCR or Wassenaar,” she concludes. Just what drones is China building? Well, the report notes there isn’t much information available about the PLA’s efforts. Hsu says that China, “probably is developing and operating UAVs for electronic warfare (EW).” These would “probably would focus on jamming tactical communications and global positioning system (GPS), but could provide a range of other capabilities, including false target generation against enemy Airborne Warning and Control Systems (AWACS)/Airborne Early Warning (AEW) and power grid attack.” On top of that, several Chinese government owned defense firms are also developing killer drones in the vein of our Predator or Reaper. “It is not clear if China intends to use UCAVs in an air-to-air or an air-to-ground role,” Hsu writes. In addition to state-owned enterprises, several of China’s top engineering universities are working on drones. On the civilian side, China has already demonstrated use of indigenous drones for earthquake relief efforts after the May 2008 and April 2013 earthquakes in Sichuan province, according to the report. And the rough Chinese equivalent of the Coast Guard and harbor police “are integrating UAVs into their operations. All in all, China’s policy of not participating in what it would doubtless call hegemonic restrictions on its actions — MTCR, Wassenaar — coupled with its willingness to sell to pretty much anybody who can buy their weapons, places it in a prime position to benefit, just as Europe benefited from America’s decision to sharply restrict satellite sales and their components to foreign countries.

#### U.S. drone use doesn’t set a precedent, restraint doesn’t solve it, and norms don’t apply to drones at all in the first place

Amitai Etzioni 13, professor of international relations at George Washington University, March/April 2013, “The Great Drone Debate,” Military Review, <http://usacac.army.mil/CAC2/MilitaryReview/Archives/English/MilitaryReview_20130430_art004.pdf>

Other critics contend that by the United States using drones, it leads other countries into making and using them. For example, Medea Benjamin, the cofounder of the anti-war activist group CODEPINK and author of a book about drones argues that, “The proliferation of drones should evoke reﬂection on the precedent that the United States is setting by killing anyone it wants, anywhere it wants, on the basis of secret information. Other nations and non-state entities are watching—and are bound to start acting in a similar fashion.”60 Indeed scores of countries are now manufacturing or purchasing drones. There can be little doubt that the fact that drones have served the United States well has helped to popularize them. However, it does not follow that United States should not have employed drones in the hope that such a show of restraint would deter others. First of all, this would have meant that either the United States would have had to allow terrorists in hardto-reach places, say North Waziristan, to either roam and rest freely—or it would have had to use bombs that would have caused much greater collateral damage. Further, the record shows that even when the United States did not develop a particular weapon, others did. Thus, China has taken the lead in the development of anti-ship missiles and seemingly cyber weapons as well. One must keep in mind that the international environment is a hostile one. Countries—and especially non-state actors— most of the time do not play by some set of self constraining rules. Rather, they tend to employ whatever weapons they can obtain that will further their interests. The United States correctly does not assume that it can rely on some non-existent implicit gentleman’s agreements that call for the avoidance of new military technology by nation X or terrorist group Y—if the United States refrains from employing that technology. I am not arguing that there are no natural norms that restrain behavior. There are certainly some that exist, particularly in situations where all parties beneﬁt from the norms (e.g., the granting of diplomatic immunity) or where particularly horrifying weapons are involved (e.g., weapons of mass destruction). However drones are but one step—following bombers and missiles—in the development of distant battleﬁeld technologies. (Robotic soldiers—or future ﬁghting machines— are next in line). In such circumstances, the role of norms is much more limited.

#### ----Drone prolif is slow and the impact is small

Zenko 13 (Micah, Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR). Previously, he worked for five years at the Harvard Kennedy School and in Washington, DC, at the Brookings Institution, Congressional Research Service, and State Department’s Office of Policy Planning, “Reforming U.S. Drone Strike Policies,” January, Council Special Report No. 65, i.cfr.org/content/publications/attachments/Drones\_CSR65.pdf‎)

Based on current trends, it is unlikely that most states will have, within ten years, the complete system architecture required to carry out¶ distant drone strikes that would be harmful to U.S. national interests.¶ However, those candidates able to obtain this technology will most¶ likely be states with the financial resources to purchase or the industrial¶ base to manufacture tactical short-range armed drones with limited¶ firepower that lack the precision of U.S. laser-guided munitions; the¶ intelligence collection and military command-and-control capabilities needed to deploy drones via line-of-sight communications; and crossborder¶ adversaries who currently face attacks or the threat of attacks¶ by manned aircraft, such as Israel into Lebanon, Egypt, or Syria; Russia¶ into Georgia or Azerbaijan; Turkey into Iraq; and Saudi Arabia into¶ Yemen. When compared to distant U.S. drone strikes, these contingencies¶ do not require system-wide infrastructure and host-state support.¶ Given the costs to conduct manned-aircraft strikes with minimal threat¶ to pilots, it is questionable whether states will undertake the significant¶ investment required for armed drones in the near term.

#### The idea that China wouldn’t have realized it could use drones to carry out strikes internationally absent the U.S. doing so, is stupid

Kenneth Anderson 11, Professor of International Law at American University, 10/9/11, “What Kind of Drones Arms Race Is Coming?,” <http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/#more-51516>

It is indeed likely that the future will see more instances of uses of force at a much smaller, often less attributable, more discrete level than conventional war. Those uses will be most easily undertaken against non-state actors, rather than states, though the difference is likely to erode. The idea that it would not have occurred to China or Russia that drones could be used to target non-state actors across borders in safe havens, or that they would not do so because the United States had not done so is far-fetched. That is so not least because the United States has long held that it, or other states threatened by terrorist non-state actors in safe havens across sovereign borders, can be targeted if the sovereign is unable or unwilling to deal with them. There’s nothing new in this as a US view of international law; it goes back decades, and the US has not thought it some special rule benefiting the US alone. So the idea that the US has somehow developed this technology and then changed the rules regarding cross-border attack on terrorists is just wrong; the US has believed this for a long time and thinks it is legally and morally right.

#### ---No impact to Chinese drones---their ev is irrational media hype

Trefor Moss 13, journalist for The Diplomat covering Asian politics, defense and security, formerly Asia-Pacific Editor at Jane’s Defence Weekly, 3/2/13, “Here Come…China’s Drones,” The Diplomat, http://thediplomat.com/2013/03/02/here-comes-chinas-drones/?print=yes

Unmanned systems have become the legal and ethical problem child of the global defense industry and the governments they supply, rewriting the rules of military engagement in ways that many find disturbing. And this sense of unease about where we’re headed is hardly unfamiliar. Much like the emergence of drone technology, the rise of China and its reshaping of the geopolitical landscape has stirred up a sometimes understandable, sometimes irrational, fear of the unknown. It’s safe to say, then, that Chinese drones conjure up a particularly intense sense of alarm that the media has begun to embrace as a license to panic. China is indeed developing a range of unmanned aerial vehicles/systems (UAVs/UASs) at a time when relations with Japan are tense, and when those with the U.S. are delicate. But that hardly justifies claims that “drones have taken center stage in an escalating arms race between China and Japan,” or that the “China drone threat highlights [a] new global arms race,” as some observers would have it. This hyperbole was perhaps fed by a 2012 U.S. Department of Defense report which described China’s development of UAVs as "alarming." That’s quite unreasonable. All of the world’s advanced militaries are adopting drones, not just the PLA. That isn’t an arms race, or a reason to fear China, it’s just the direction in which defense technology is naturally progressing. Secondly, while China may be demonstrating impressive advances, Israel and the U.S. retain a substantial lead in the UAV field, with China—alongside Europe, India and Russia— still in the second tier. And thirdly, China is modernizing in all areas of military technology – unmanned systems being no exception.

#### ---No Sino-Japanese/Senkaku conflict

Reuters 12, “Japan, China military conflict seen unlikely despite strain,” 9/23/12, http://www.reuters.com/article/2012/09/23/us-china-japan-confrontation-idUSBRE88M0F220120923

Hawkish Chinese commentators have urged Beijing to prepare for military conflict with Japan as tensions mount over disputed islands in the East China Sea, but most experts say chances the Asian rivals will decide to go to war are slim. ¶ A bigger risk is the possibility that an unintended maritime clash results in deaths and boosts pressure for retaliation, but even then Tokyo and Beijing are expected to seek to manage the row before it becomes a full-blown military confrontation. ¶ "That's the real risk - a maritime incident leading to a loss of life. If a Japanese or Chinese were killed, there would be a huge outpouring of nationalist sentiment," said Linda Jakobson, director of the East Asia Program at the Lowy Institute for International Policy in Sydney. ¶ "But I still cannot seriously imagine it would lead to an attack on the other country. I do think rational minds would prevail," she said, adding economic retaliation was more likely. ¶ A feud over the lonely islets in the East China Sea flared this month after Japan's government bought three of the islands from a private owner, triggering violent protests in China and threatening business between Asia's two biggest economies. ¶ Adding to the tensions, China sent more than 10 government patrol vessels to waters near the islands, known as the Diaoyu in China and the Senkaku in Japan, while Japan beefed up its Coast Guard patrols. Chinese media said 1,000 fishing boats have set sail for the area, although none has been sighted close by.¶ Despite the diplomatic standoff and rising nationalist sentiment in China especially, experts agree neither Beijing nor Tokyo would intentionally escalate to a military confrontation what is already the worst crisis in bilateral ties in decades.

#### ---Asian war is unlikely --- regional initiatives check

Bitzinger and Desker ‘8 (senior fellow and dean of S. Rajaratnam School of International Studies respectively (Richard A. Bitzinger, Barry Desker, “Why East Asian War is Unlikely,” Survival, December 2008, http://pdfserve.informaworld.com-/678328\_731200556\_906256449.pdf)

The Asia-Pacific region can be regarded as a zone of both relative insecurity and strategic stability. It contains some of the world’s most significant flashpoints – the Korean peninsula, the Taiwan Strait, the Siachen Glacier – where tensions between nations could escalate to the point of major war. It is replete with unresolved border issues; is a breeding ground for transnationa terrorism and the site of many terrorist activities (the Bali bombings, the Manila superferry bombing); and contains overlapping claims for maritime territories (the Spratly Islands, the Senkaku/Diaoyu Islands) with considerable actual or potential wealth in resources such as oil, gas and fisheries. Finally, the Asia-Pacific is an area of strategic significance with many key sea lines of communication and important chokepoints**. Yet despite all these potential crucibles of conflict, the Asia-Pacific, if not an area of serenity and calm, is certainly more stable than one might expect**. To be sure, there are separatist movements and internal struggles, particularly with insurgencies, as in Thailand, the Philippines and Tibet. Since the resolution of the East Timor crisis, however, the region has been relatively free of open armed warfare. Separatism remains a challenge, but the break-up of states is unlikely. Terrorism is a nuisance, but its impact is contained. The North Korean nuclear issue, while not fully resolved, is at least moving toward a conclusion with the likely denuclearisation of the peninsula. Tensions between China and Taiwan, while always just beneath the surface, seem unlikely to erupt in open conflict any time soon, especially given recent Kuomintang Party victories in Taiwan and efforts by Taiwan and China to re-open informal channels of consultation as well as institutional relationships between organisations responsible for cross-strait relations. And while in Asia there is no strong supranational political entity like the European Union, there are many multilateral organisations and international initiatives dedicated to enhancing peace and stability, including the Asia-Pacific Economic Cooperation (APEC) forum, the Proliferation Security Initiative and the Shanghai Co-operation Organisation. In Southeast Asia, countries are united in a common eopolitical and economic organisation – the Association of Southeast Asian Nations (ASEAN) – which is dedicated to peaceful economic, social and cultural development, and to the promotion of regional peace and stability. ASEAN has played a key role in conceiving and establishing broader regional institutions such as the East Asian Summit, ASEAN+3 (China, Japan and South Korea) and the ASEAN Regional Forum. **All this suggests that war in Asia – while not inconceivable – is unlikely.**

### Case – Saudi

#### N--ational security courts don’t constrain the executive, lack public accountability, and legalize and encourage an increased use of targeted killing

Beauchamp 13 (Zack, Contributor @ Thinkprogress, "What To Be Concerned About As Congress Mulls Targeted Killing Courts," http://thinkprogress.org/security/2013/02/08/1562861/targeted-killing-courts-concerns/)

But specialized courts are unlikely to provide effective constraints on the President’s power, and there is a real concern that creating a legal system explicitly designed to authorize targeted killings raises troubling questions for a democratic society. The United States has some experience with specialized national security courts. King suggested modelling the targeted killing courts on the Foreign Intelligence Surveillance Act (FISA) system, designed to approve warrants for wiretapping foreigners suspected of espionage. But FISA courts don’t appear to present much of a challenge to a power-hungry executive. In 2011, FISA courts approved every request for wiretapping permission — all 1,506 of them. Lest you think this was a fluke, only two out of 1,329 were denied in 2009. Since FISA courts operate in secret, there’s virtually no public accountability.¶ Targeted killing courts would likely be as permissive as FISA courts. National security law expert Robert Chesney “wouldn’t bet” on such courts “detect[ing] and reject[ing] weak evidentiary arguments for targeting particular persons” because “[j]udges famously tend to defer to the executive branch when it comes to factual judgments on matters of military or national-security significance…[e]specially when the stakes are as high as they will be represented to be in such cases.” There’s not much reason, then, to believe new courts for targeted killing would a bit more adversarial than their FISA equivalents.¶ This permissiveness could potentially expand the targeted killing power well beyond Congress’ original intent — a point made clear by comparison to the Bush torture regime. David Luban, a lawyer and philosopher at Georgetown University, argued against legally enshrined torture on the ground that the practice would necessarily spread throughout the United States government. Abu Ghraib, for Luban, was a direct consequence of Guantanamo Bay and the Bush legal memos authorizing it: legal torture is never a one-off, containable thing. The more torture is built into the legal system, the more a “torture culture” becomes the norm.

#### Drones are locked in - plan can’t solve

**McDonald 13 (**Jack, lecturer at the Department of War Studies, King’s College London, completed his PhD thesis on targeted killings, has worked with The Centre for Defence Studies, “Losing perspective on proliferation,” <http://kingsofwar.org.uk/2013/01/losing-perspective-on-proliferation/>)

The control of UAV technology is, however, a problem. In short, it isn’t that amenable to control in any meaningful sense of the word. If one wishes to “control” the proliferation of technology automating human behaviour and actions, then there would need to be some form of global bar on research in that area.\* I imagine that MIT and Google might have a problem this idea. Similarly, if someone wants to control the design and building of small unmanned aircraft, well, too late, that horse bolted a long time ago. Of course, you could lock up every amateur geek enthusiast, but that would be a bit pointless. The point is, the technology to build UAVs is embedded into our society to a far greater degree than nuclear weapons, chemical and biological weapons and small arms are. UAVs are effectively an extension of the industrial revolution (mechanisation, automation, replacement of human action by machine). I’m writing this on a laptop that was probably made by a large number of robots. UAVs need to be put into perspective – despite their dangers they can’t make human life as we know it extinct and they likely can’t be controlled by treaty. A little less rhetoric and a little more thought from critics of military UAVs might produce a better critique.

#### Overwhelming U.S. support – means no internal pressure

**Curry 2013** [Tom, National Affairs Writer, June 5, “Poll finds overwhelming support for drone strikes,” NBC News, http://nbcpolitics.nbcnews.com/\_news/2013/06/05/18780381-poll-finds-overwhelming-support-for-drone-strikes?lite]

Some members of Congress have misgivings about the use of drone strikes against suspected terrorists, but Americans surveyed in the new NBC News/Wall Street Journal overwhelmingly support drones as a weapon. Tribesmen stand on the rubble of a building destroyed by a U.S. drone air strike, that targeted suspected al Qaeda militants in Azan of the southeastern Yemeni province of Shabwa in this file photo taken on Feb. 3, 2013. The survey found that 66 percent of respondents favored the use of unmanned aircraft, or drones, to kill suspected members of Al Qaeda and other terrorists. Sixteen percent opposed the drone strikes, while 15 percent said they did not know enough to voice an opinion. The poll result was in line with other survey data on drone use. A NBC News/Wall Street Journal survey in February found a nearly identical level of support for drone use against overseas terrorists. The survey found that two thirds of respondents favor the use of unmanned aircraft, or drones, to kill suspected members of al Qaeda and other terrorists. The poll result was in line with other survey data on drone use. A Gallup survey in March found almost the identical level of support as in the NBC/WSJ poll for drone use against overseas terrorists.

#### ---Relations impact empirically denied

Bronson 6, Rachel, Vice President, Studies at The Chicago Council on Global Affairs [“ 5 Myths About U.S.-Saudi Relations,” May 21st http://www.washingtonpost.com/wp-dyn/content/article/2006/05/19/AR2006051901758.html]

A major reason for the close ties between the two nations was their common Cold War fight against communism. Both countries worried about the Soviet Union, and that solidified their oil and defense interests, and minimized differences. In hindsight, by supporting religious zealots in the battle against communism, the two countries contributed to the rise of radical Islamic movements. 2 The 9/11 hijackers undermined otherwise strong U.S.- Saudi ties. Actually, things were never that smooth. Historians refer to the "special relationship" established when Saudi Arabia's King Abdel Aziz and President Franklin D. Roosevelt met in 1945. But since then the relationship has endured oil embargoes, U.S. restrictions on arms sales to Saudi Arabia, and tensions around Israel and Palestine. Dissension permeates the entire history of U.S.-Saudi relations. Since the end of the Cold War, relations have become particularly fraught, with the 9/11 attacks being the most recent issue. Oil, defense and some regional interests keep the countries together, but both sides have made clear that the relationship is less special today. In 2005, Rice stated that "for 60 years . . . the United States pursued stability at the expense of democracy in this region here in the Middle East -- and we achieved neither."

#### No spillover

OA 7 (Oxford Analytica, “U.S.-Saudi Tensions to Increase in 2008”, Forbes, 7-27,

http://www.forbes.com/business/2007/07/26/saudi-arabia-tensions-biz-cx\_0727oxford.html)

Such tensions are a normal feature of the Saudi-U.S. relationship and do not necessarily herald a crisis in the making. However, while core relations will not be affected, they will add to the tensions likely to emerge between the countries on Middle East issues and make for an uncomfortable few months in bilateral relations in 2008.

#### Zero risk of Saudi Oil disruption – security is tight, damage would be minimal, spare capacity solves

**CNN 11** (“Saudi oil supplies are safe and secure,” 4/7/2011, http://articles.cnn.com/2011-04-07/opinion/obaid.saudi.energy\_1\_abqaiq-saudi-oil-saudi-arabia?\_s=PM:OPINION

We are now facing another, more dangerous illusion: the vulnerability of Saudi Arabia's energy infrastructure. In recent weeks some pundits, oil traders and journalists have peddled a deceptive assessment of the threats facing the kingdom's ability to supply oil to the world, and this fear-mongering has had very real consequences, driving the price of oil to irrational heights, adding skittishness to the markets and threatening the nascent global economic recovery. No system as vast as the Saudi oil complex -- with its scores of rigs, refineries, export terminals and pipelines -- is perfectly protected. But a brief overview of the safeguards built into this infrastructure -- the forces that protect it and the demographics of the region -- sheds light on the actual security situation and reveals the risks are **much less serious** than widely disseminated. The first layer of security in the Saudi energy infrastructure is simply the design and construction of the facilities. Two failed attacks show this well. The first happened at the Yanbu petrochemical plant in 2004, where, because of the structure's layout, Saudi security agents were able to quickly cordon the industrial portions of the facility and isolate and neutralize the terrorists. **The complex itself was never in danger**, although several people were killed. Another example is the failed al Qaeda attack on the Abqaiq oil processing facility, one of the largest and most important in the world, in February 2006. The terrorists were able to breach the outer perimeter and overrun the guards, but never made it to the operational areas of the plant itself. Beyond the first guard post is a large "no-man's land," designed as a moat to protect the functioning elements of the facility. The terrorists were trapped and forced to detonate their car bomb there. Although people tragically lost their lives at the first gate and the exterior portions of the center suffered some damage, **at no time was the facility or its ability to process oil under serious threat**. In addition to safeguards and design elements such as multiple barriers and perimeters, thousands of sensors, cameras, sophisticated computers and world-class surveillance and security systems protect the sprawling energy facilities. It is worth pointing out that the elements most difficult to protect, such as the thousands of miles of pipeline, are **also the easiest to repair and quickly get back online**. Saudi authorities have estimated that in a worst case scenario -- where an entire section of pipeline is destroyed -- repair teams could bring the pipeline back to normal operation **within days**. The key processing points and bottlenecks in the system are, by their centralized nature, much easier to defend. It is also important to note that even though Abqaiq withstood the 2006 attack, since then the Saudi government has invested more than $10 billion to improve its energy security **even further**. A key element of this initiative has been the creation of a 35,000-strong "facilities security force." These troops come from across the kingdom and receive extensive training through a U.S. technical assistance program. This specialized force, which did not exist before 2005, has the exclusive responsibility of guarding all energy installations against both internal and external threats. Also, the Saudi government has **stockpiled considerable quantities of oil** through its Foreign Reserve Initiative. A sizable portion is in floating containment facilities near the kingdom's main export markets and can be released, if necessary, in emergencies, such as the tsunami in Japan or the civil war in Libya.

#### ---No economic collapse from shocks – most comprehensive data.

**Khadduri**, 8/23/**2011** (Walid – former Middle East Economic Survey Editor-in-Chief, The impact of rising oil prices on the economies of importing nations, Al Arabiya News, p. http://english.alarabiya.net/views/2011/08/23/163590.html)

What is the impact of oil price shocks on the economies of importing nations? At first glance, there appears to be large-scale and extremely adverse repercussions for rising oil prices. However, a study published this month by researchers in the IMF Working Paper group suggests a different picture altogether (it is worth mentioning that the IMF has not endorsed its findings.) The study (Tobias N. Rasmussen & Agustin Roitman, "Oil Shocks in a Global Perspective: Are They Really That Bad?", IMF Working Paper, August 2011) mentions that “Using a comprehensive global dataset […] we find that the impact of higher oil prices on oil-importing economies is generally small: a 25 percent increase in oil prices typically causes GDP to fall by about half of one percent or less.” The study elaborates on this by stating that this impact differs from one country to another, depending on the size of oil-imports, as “oil price shocks are not always costly for oil-importing countries: although higher oil prices increase the import bill, there are partly offsetting increases in external receipts [represented in new and additional expenditures borne by both oil-exporting and oil-importing countries]”. In other words, the more oil prices increase, benefiting exporting countries, the more these new revenues are recycled, for example through the growth in demand for new services, labor, and commodity imports. The researchers argue that the series of oil price rallies (in 1983, 1996, 2005, and 2009) have played an important role in recessions in the United States. However, Rasmussen and Roitman state at the same time that significant changes in the U.S. economy in the previous period (the appearance of combined elements, such as improvements in monetary policy, the institution of a labor market more flexible than before and a relatively smaller usage of oil in the U.S. economy) has greatly mitigated the negative effects of oil prices on the U.S. economy. A 10 percent rise in oil prices before 1984, for instance, used to lower the U.S. GDP by about 0.7 percent over two to three years, while this figure started shrinking to no more than 0.25 percent after 1984, owing to these accumulated economic changes. This means that while oil price shocks continue to adversely impact the U.S. economy, the latter has managed, as a result of the changes that transpired following the first shock in the seventies, to overcome these shocks, and subsequently, the impact of oil price shocks has become extremely limited compared to previous periods.

#### ---Economy’s resilient – can survive shocks

Bloomberg 12 (“Fed’s Plosser Says U.S. Economy Proving Resilient to Shocks,” 5-9, http://www.bloomberg.com/news/2012-05-09/fed-s-plosser-says-u-s-economy-proving-resilient-to-shocks.html)

Philadelphia Federal Reserve Bank President Charles Plosser said the U.S. economy has proven “remarkably resilient” to shocks that can damage growth, including surging oil prices and natural disasters. “The economy has now grown for 11 consecutive quarters,” Plosser said today according to remarks prepared for a speech at the Philadelphia Fed. “Growth is not robust. But growth in the past year has continued despite significant risks and external and internal headwinds.” Plosser, who did not discuss his economic outlook or the future for monetary policy, cited shocks to the economy last year, including the tsunami in Japan that disrupted global supply chains, Europe’s credit crisis that has damaged the continent’s banking system and political unrest in the Middle East and North Africa. “The U.S. economy has a history of being remarkably resilient,” said Plosser, who doesn’t have a vote on policy this year. “These shocks held GDP growth to less than 1 percent in the first half of 2011, and many analysts were concerned that the economy was heading toward a double dip. Yet, the economy proved resilient and growth picked up in the second half of the year.” Plosser spoke at a conference at the Philadelphia Fed titled, “Reinventing Older Communities: Building Resilient Cities.” Urban Resilience His regional bank’s research department is working on a project to measure the resilience of different cities, to learn more about the reasons that some urban areas suffer more than others in downturns, Plosser said. He mentioned one early finding of the study: Industrial diversity increases a city’s resilience. “I do want to caution you that resilient and vibrant communities are not just about government programs or directed industrial planning by community leaders,” Plosser said. “The economic strength of our country is deeply rooted in our market- based economy and the dynamism and resilience of its citizenry.”

#### Economic decline doesn’t cause war

Tir 10 [Jaroslav Tir - Ph.D. in Political Science, University of Illinois at Urbana-Champaign and is an Associate Professor in the Department of International Affairs at the University of Georgia, “Territorial Diversion: Diversionary Theory of War and Territorial Conflict”, The Journal of Politics, 2010, Volume 72: 413-425)]

Empirical support for the economic growth rate is much weaker. The finding that poor economic performance is associated with a higher likelihood of territorial conflict initiation is significant only in Models 3–4.14 The weak results are not altogether surprising given the findings from prior literature. In accordance with the insignificant relationships of Models 1–2 and 5–6, Ostrom and Job (1986), for example, note that the likelihood that a U.S. President will use force is uncertain, as the bad economy might create incentives both to divert the public’s attention with a foreign adventure and to focus on solving the economic problem, thus reducing the inclination to act abroad. Similarly, Fordham (1998a, 1998b), DeRouen (1995), and Gowa (1998) find no relation between a poor economy and U.S. use of force. Furthermore, Leeds and Davis (1997) conclude that the conflict-initiating behavior of 18 industrialized democracies is unrelated to economic conditions as do Pickering and Kisangani (2005) and Russett and Oneal (2001) in global studies. In contrast and more in line with my findings of a significant relationship (in Models 3–4), Hess and Orphanides (1995), for example, argue that economic recessions are linked with forceful action by an incumbent U.S. president. Furthermore, Fordham’s (2002) revision of Gowa’s (1998) analysis shows some effect of a bad economy and DeRouen and Peake (2002) report that U.S. use of force diverts the public’s attention from a poor economy. Among cross-national studies, Oneal and Russett (1997) report that slow growth increases the incidence of militarized disputes, as does Russett (1990)—but only for the United States; slow growth does not affect the behavior of other countries. Kisangani and Pickering (2007) report some significant associations, but they are sensitive to model specification, while Tir and Jasinski (2008) find a clearer link between economic underperformance and increased attacks on domestic ethnic minorities. While none of these works has focused on territorial diversions, my own inconsistent findings for economic growth fit well with the mixed results reported in the literature.15 Hypothesis 1 thus receives strong support via the unpopularity variable but only weak support via the economic growth variable. These results suggest that embattled leaders are much more likely to respond with territorial diversions to direct signs of their unpopularity (e.g., strikes, protests, riots) than to general background conditions such as economic malaise. Presumably, protesters can be distracted via territorial diversions while fixing the economy would take a more concerted and prolonged policy effort. Bad economic conditions seem to motivate only the most serious, fatal territorial confrontations. This implies that leaders may be reserving the most high-profile and risky diversions for the times when they are the most desperate, that is when their power is threatened both by signs of discontent with their rule and by more systemic problems plaguing the country (i.e., an underperforming economy).

#### No econ impact

Robert Jervis 11, Professor in the Department of Political Science and School of International and Public Affairs at Columbia University, December 2011, “Force in Our Times,” Survival, Vol. 25, No. 4, p. 403-425

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes? 45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy and bring back old-fashioned beggar-my-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that even if the more extreme versions of free trade and economic liberalism become discredited, it is hard to see how without building on a preexisting high level of political conflict leaders and mass opinion would come to believe that their countries could prosper by impoverishing or even attacking others. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that the very fact that we have seen such a sharp economic down-turn without anyone suggesting that force of arms is the solution shows that even if bad times bring about greater economic conflict, it will not make war thinkable.

#### ---Relations destroyed now and alternate causalities outweigh

**Bergen 3-28**

[Peter Bergen, CNN National Security Analyst -- March 28, 2014 -- “Why the Saudis unfriended the U.S.”]

That is why on Friday President Barack Obama [met with](http://politicalticker.blogs.cnn.com/2014/03/28/obama-administration-u-s-and-saudi-arabia-very-much-aligned/) Saudi King Abdullah, one of the sons of King Abdul Aziz, in an attempt to patch things up.¶ What went wrong? In recent months the normally hyper-discreet Saudis have gone on the record about their dissatisfactions with the Obama administration.¶ In December, Prince Turki al-Faisal, the former Saudi intelligence chief and ambassador to Washington, took the highly unusual step of publicly criticizing the administration, "We've seen several red lines put forward by the president, which went along and became pinkish as time grew, and eventually ended up completely white...When that kind of assurance comes from a leader of a country like the United States, we expect him to stand by it."¶ It's inconceivable that Prince Turki, whose brother is the Saudi foreign minister, would make these public comments without approval from the highest levels of the Saudi government.¶ Why are the Saudis going public with their dissatisfaction with the Obama administration? The laundry list of Saudi complaints most recently is that the United States didn't make good on its "red line" threat to take action against the Bashar al Assad regime in Syria following its use of chemical weapons against its own population.¶ Syria is a close ally of Saudi Arabia's archrival, Iran, and the Saudis are also growing apprehensive that the United States will not take a firm line on Iran's nuclear program -- which the Saudis see as an almost-existential threat -- now that the U.S.-Iranian relations have recently thawed.¶ The Saudi were also puzzled by the fact that the Obama administration seemed willing to let a longtime U.S. ally, Egyptian dictator Hosni Mubarak, be thrown overboard during the "Arab Spring" of early 2011. What did that say about other longtime U.S. allies in the region?¶ (Interestingly, these list of gripes look quite similar to those of another powerful player in the Middle East -- Israel.)

#### ---No Saudi dollar dumping Impact

**Baker ‘9**

[Dean Baker – macroeconomist and Co-Director of the Center for Economic and Policy Research in Washington, DC --Foreign Policy – Debunking the dumping the dollar conspiracy

OCTOBER 7, 2009]

The latest item in this tradition was an article by Robert Fisk, a longtime Middle East correspondent, in the London-based Independent. The article warns of a grand conspiracy between the Arab oil states, China, Japan, Russia, and France to stop pricing oil in dollars by 2018. When this happens, Fisk says, the dollar will suffer a severe blow to its international standing and the United States might struggle to pay for its oil. The article apparently caused a shudder in the currency markets yesterday, as panicked investors unloaded dollars in reaction to the terrifying prospect of this alleged international oil conspiracy.¶ But they really shouldn't be concerned. Fisk's theory would make a good plot for a Hollywood movie, but it doesn't make much sense as economics. It is true that oil is priced in dollars and that most oil is traded in dollars, but these facts make relatively little difference for the status of the dollar as an international currency or the economic well-being of the United States.¶ With the United States' ascendancy as the pre-eminent economic power after World War II, the dollar became the world's reserve currency: Most countries held dollars in reserve in the event that they suddenly needed an asset other than their own currency to pay for imports, or to support their own currency. Much international trade, including trade not involving the United States, was carried through in dollars. In addition, most internationally traded commodities became priced in dollars on exchanges. However, the dollar was never universally used to carry through trade (even trade in oil), and the pricing of commodities in dollars is primarily just a convention.¶ Any market -- a stock market, a wheat market, or the oil market -- requires a unit of measure. The importance of the U.S. economy made the dollar the obvious choice for most markets. But there would be no real difference if the euro, the yen, or even bushels of wheat were selected as the unit of account for the oil market. It's simply an accounting issue.¶ Suppose that prices in the oil market were quoted in yen or bushels of wheat. Currently, oil is priced at about $70 a barrel. A dollar today is worth about 90 yen. A bushel of wheat sells for about $3.50. If oil were priced in yen, then the current price of a barrel of oil in yen would 6,300 yen. If oil were priced in wheat, then the price of a barrel of oil would be 20 bushels. If oil were priced in either yen or wheat it would have no direct consequence for the dollar. If the dollar were still the preferred asset among oil sellers, then they would ask for the dollar equivalents of the yen or wheat price of oil. The calculation would take a billionth of a second on modern computers, and business would proceed exactly as it does today.¶ It does matter slightly that the trade typically takes place in dollars. This means that those wishing to buy oil must acquire dollars to buy the oil, which increases the demand for dollars in world financial markets. However, the impact of the oil trade is likely to be a very small factor affecting the value of the dollar. Even today, not all oil is sold for dollars. Oil producers are free to construct whatever terms they wish for selling their oil, and many often agree to payment in other currencies. There is absolutely nothing to prevent Saudi Arabia, Venezuela, or any other oil producer -- whether a member of OPEC or not -- from signing contracts selling their oil for whatever currency is convenient for them to acquire.¶ Even if all oil were sold for dollars, it would be a very small factor in the international demand for dollars, as can be seen with a bit of simple arithmetic. World oil production is a bit under 90 million barrels a day. If two-thirds of this oil is sold across national borders, then it implies a daily oil trade of 60 million barrels. If all of this oil is sold in dollars, then it means that oil consumers would have to collectively hold $4.2 billion to cover their daily oil tab.¶ By comparison, China alone holds more than $1 trillion in currency reserves, more than 200 times the transaction demand for oil. In other words, if China reduced its holdings of dollars by just 0.5 percent, it would have more impact on the demand for dollars than if all oil exporters suddenly stopped accepting dollars for their oil.¶ This raises a more serious issue affecting the demand for dollars, which is the dollar's status as an international reserve currency. Currently the dollar is by far the preferred currency, but others, notably the euro, are gaining ground. A switch away from the dollar will lower its value, but this is hardly anything to fear: In actuality, it was and is an official policy goal of both the George W. Bush and Barack Obama administrations.¶ Both administrations are on record complaining about China's "manipulation" of its currency. China does this by buying up vast amounts of dollars to hold as foreign reserves, suppressing the value of the yuan against the dollar. This, in turn, makes Chinese goods cheaper in the United States and bolsters China's exports.¶ If China stopped buying up huge amounts of dollars, as the United States wishes, then the dollar would fall in value against the yuan, thereby making Chinese imports more expensive. The result would be that the United States would buy fewer imports from China, improving its trade balance. Not too many people would be frightened by this prospect.¶ To summarize, the dollars needed to finance the international oil trade are trivial compared with other sources of demand for dollars. The currency chosen for foreign reserve holdings can have an impact on demand for dollars, but this has nothing to do with the currency chosen to conduct the oil trade. If Saudi Arabia wanted to hold euros rather than dollars, it could almost instantly offload as many dollars as it desired. Plus, the White House wants the dollar to decline anyway because it would improve the United States' trade balance.¶ Thus, the conspiracy theory Fisk resurrected might have spooked the markets, but the reality is that there is nothing to fear. The dollar's value will likely fall over time (as it has been doing against the euro for the last nine years). But there is nothing in the cards to suggest a collapse, even if Saudi Arabia starts selling its oil for euros or yuan.

#### ---Lots of factors prevent great power conflict without hegemony

Fettweis 10 (Christopher J. Professor of Political Science at Tulane, Dangerous Times-The International Politics of Great Power Peace, pg. 175-6)

If the only thing standing between the world and chaos is the US military presence, then an adjustment in grand strategy would be exceptionally counter-productive. But it is worth recalling that none of the other explanations for the decline of war – nuclear weapons, complex economic interdependence, international and domestic political institutions, evolution in ideas and norms – necessitate an activist America to maintain their validity. Were American to become more restrained, nuclear weapons would still affect the calculations of the would be aggressor; the process of globalization would continue, deepening the complexity of economic interdependence; the United Nations could still deploy peacekeepers where necessary; and democracy would not shrivel where it currently exists. More importantly,the idea that war is a worthwhile way to resolve conflict would have no reason to return. As was argued in chapter 2, normative evolution is typically unidirectional. Strategic restraint in such a world be virtually risk free.

## 2NC

### Midterms DA – UQ

#### The GOP is gaining momentum now but they currently fall short of gaining the six seats needed to gain a majority in the Senate – a wave of support could easily shift that which proves the magnitude of the link could change that – prefer our evidence – it cites Sabato – he’s 98% accurate

Wikipedia 10 ("University of Virginia Center for Politics," http://en.wikipedia.org/wiki/University\_of\_Virginia\_Center\_for\_Politics)

The Center for Politics was founded in 1998 by Robert Kent Gooch Professor of Politics and noted political analyst Larry Sabato, who is known as "the most quoted professor in all the land."[2] Its first programs that year were the Virginia Governors' Conference, which evolved into the Virginia Political History Project, and a post-election conference which is now the annual American Democracy Conference.¶ The Youth Leadership Initiative (which provides civic education resources and tools for grades K-12) launched in 1999, as did the National Symposium Series, and the Crystal Ball's election predictions debuted in 2002.¶ In 2008, the Center for Politics moved into its new home at Montesano, an early 20th century Georgian Revival house on land previously owned by Thomas Staples Martin, US Senator from Virginia. In 2009, the Center for Politics launched its newest program, Global Perspectives on Democracy, a program designed to foster dialogue between citizens in established and emerging democracies around the world, and conduct workshops on civic action plans.¶ [edit] Youth Leadership Initiative¶ The Youth Leadership Initiative provides free, technology-based civic education materials to K-12 teachers and students in public and private schools in all 50 states and Defense Department schools internationally.¶ The program emphasizes hands-on participation so that students can directly experience the electoral and legislative procedures of American government. The components of the Youth Leadership Initiative include detailed lesson plans, an online mock election, an online policy-making simulation which engages students in the law-making process nationwide, and a political campaign-simulating computer game.[3]¶ In 2008, Diane Trim of Inside the School, a website for secondary educators, ranked the Youth Leadership Initiative's mock election highly, giving it more stars than the other two educational mock election programs reviewed and praising the Youth Leadership Initiative program for its comprehensiveness and ease of use.[4]¶ The Youth Leadership Initiative began as a response to a perception of increasing political apathy among citizens and a decline in the number of schools incorporating civics lessons into their curricula. It started in Virginia public schools, but is now nationwide.¶ Current partners include[3]:¶ \* American Bar Association¶ \* National Association of Secretaries of State (NASS)¶ \* World Wrestling Entertainment (WWE)¶ \* Public Agenda¶ \* League of Women Voters¶ \* Close Up Foundation¶ [edit] Sabato’s Crystal Ball¶ Main article: Sabato's Crystal Ball¶ Sabato's Crystal Ball, founded by Center for Politics Director Larry Sabato, is a free, nonpartisan weekly online newsletter and comprehensive website that analyzes the current American political scene and predicts electoral outcomes for U.S House of Representatives, U.S. Senate, governors, and U.S. president races. Since it was first launched in September 2002, **the Crystal Ball has garnered a reputation for fair analysis and accurate predictions and is frequently cited by journalists and other political watchers**.[5]¶ Over its lifetime, **Sabato's Crystal Ball has a 98% accuracy rate in predicting U.S. House races, 98% accuracy rate in predicting U.S. Senate races** (including 100% accuracy each of the past two election cycles), **and 94% accuracy rate in predicting gubernatorial races**. It also has featured commentary but renowned political scientists and journalists, including Alan Abramowitz of Emory University, James E. Campbell from the University at Buffalo, Dahlia Lithwick who writes for Newsweek and Slate, Thomas E. Mann from the Brookings Institute, and Barbara A. Perry from Sweet Briar College.

#### Dems will keep control of the Senate - strong turnout key

Halloran 3/18/14 (Liz, Political Contributor @ NPR, "Top Democrat Insists Party Will Hold Senate — But Turnout Is Key," http://www.npr.org/blogs/itsallpolitics/2014/03/18/291149027/top-democrat-insists-party-will-hold-senate-but-turnout-is-key)

As increasingly confident Republican leaders predict big midterm election gains, the head of Democratic National Committee put on her game face Tuesday and insisted the party will hold control of the Senate.¶ The Democrats' grass-roots organization, said Florida Rep. Debbie Wasserman Schultz, and what she characterized as the GOP's continuing alienation of women, minority, LGBT and middle-class voters, bodes well for her party this fall.¶ "Our best weapon may just be Republicans themselves," said Wasserman Schultz, the chairwoman of the DNC, at a press conference. Her remarks came moments after her GOP counterpart, meeting with reporters across town, predicted a Republican "tsunami" in November.¶ When asked about Republican National Committee Chairman Reince Priebus' self-assured comments, Wasserman Schultz grinned.¶ "I really hope my counterpart remains bullish," she said, noting that Republicans in 2012 were predicting until the "polls closed" that GOP nominee Mitt Romney would be the next president.¶ It's been that kind of 24 hours in the nation's capital, where Monday GOP leaders in press calls and cable television interviews touted gains (better technology, more minority outreach) made in the year since its 2012 losses.¶ Priebus, during a Tuesday morning breakfast meeting with reporters, sounded more than bullish about his party's chances this fall, including an increasingly plausible scenario of winning control of the Senate.¶ "I think we're in for a tsunami-type election in 2014," Priebus said at the long-running newsmakers event, sponsored by the Christian Science Monitor. "My belief is that it's going to be a very big win, especially at the U.S. Senate level, and I think we may even add some seats in the congressional races."¶ Wasserman Schultz's event at the National Press Club, where Republicans one year ago presented the results of an "autopsy" of their 2012 losses and proposals for the future, was designed to push back on the GOP's narrative of a party undergoing transformation.¶ "In a rare moment of self-awareness, Republican leaders admitted that the party was alienating huge swaths of voters," Wasserman Schultz said, calling her appearance an "autopsy of an autopsy."¶ "But a year later," she said, "all the Republican Party has gotten is a year older."¶ At times sarcastic, the Florida congresswoman corralled a herd of derogatory statements Republicans have made in the past year about women, Latinos, African-Americans and gay, lesbian and transgendered Americans. And she asserted that the rhetoric is matched by party policy.¶ "The GOP has failed to change their actions of tone from the party that in 2012 told immigrants they should 'self-deport' and women that they had the ability to 'shut the whole thing down' when raped," she said.¶ But Wasserman Schultz tried to steer clear of the party's loss last week in a closely watched Florida special election, preferring to focus on Democrat Terry McAuliffe's November gubernatorial win in Virginia. And she sought to avoid the politics of President Obama and his signature health care law, which tops the GOP's campaign issues list, altogether.¶ (The RNC actually beat Wasserman Schultz to her own press conference, handing out to reporters a press release noting that "running on Obamacare" is among the things it asserts the "DNC is not doing" this election cycle.)¶ At its core, Wasserman Schultz's counterprogramming was about rallying the party's traditional base by reminding those voters why they should care this midterm election year.¶ "The bottom line," she said, "is we've gotta turn voters out. When Democratic voters turn out, Democratic candidates win."

#### GOP will gain seats in the Senate, but not enough to retake control

Mass 3/14/14 (Warren, Political Contributor @ New American, "Can the GOP Win the Senate This November?," http://www.thenewamerican.com/usnews/politics/item/17851-can-the-gop-win-the-senate-this-november)

Political pundits were quick to discuss whether Republican David Jolly’s victory in a March 12 special election in Florida was an early indicator of a GOP takeover of the Senate in the November elections. However, this single house election is less significant than results surfacing in recent national opinion polls, as well as historic trends suggesting that the party occupying the White House usually loses seats in Congress in the mid-term elections, especially during the president’s second term.¶ A Washington Post/ABC News poll released on March 4 indicated that when registered voters were asked: “If an election for the U.S. Senate were being held in your state today, would you vote for (the Democratic candidate) or (the Republican candidate)?” a very slim plurality of overall respondents (46 percent to 45 percent) chose the Democratic candidate. More significantly, however, when the results were limited to states where there will be a Senate elections this year, the Republican candidate was chosen by 50 percent of those polled, with the generic Democrat receiving only 42 percent.¶ The results of this poll reflect the characteristics of our federal system, in which every state is represented equally in the Senate, an intentional (and non-amendable) provision in our Constitution designed to prevent the domination of our government by large population states.¶ Thirty-six Senate seats will be decided in 2014, 21 of which are currently held by a Democratic incumbent and 15 currently held by a Republican. Republicans need to pick up six seats in November to gain control of the Senate.¶ Among other questions asked by the Washington Post/ABC News poll, 38 percent said they would be less likely to vote for a congressional candidate who supported a “path to citizenship” (amnesty) for “undocumented” (illegal) immigrants, 30 percent would be more likely to vote for such a candidate, and 29 percent said it wouldn’t make much difference. On a possible Hillary Clinton run for the White House, only 25 percent would definitely vote for Clinton, 41 percent would consider voting for her, and 32 percent definitely would not vote for her. If a congressional candidate supports ObamaCare, 34 percent would be more likely to vote for the candidate, 36 percent would be less likely, and 27 percent said it wouldn’t make much difference.¶ A Reuters News article published on March 8, four days before the Florida special election, advanced the viewpoint that, although the outcome was expected to be close, the number of Senate races in which Republicans are now competitive has increased, giving the GOP a good chance of regaining control of the upper house. Reuters noted that the results of recent polls indicates Republicans have big leads in three states — Montana, South Dakota, and West Virginia — all having longtime Democratic senators who have retired or will retire at the end of their current term.¶ “It’s moving a little in the Republican direction,” Reuters quoted Larry Sabato of the University of Virginia’s Center for Politics, whose Crystal Ball website rates the Senate as a toss-up. “Republicans will pick up Senate seats, probably three or four. The question is, will they get that wave in October that carries them to the six they need?”

#### GOP will gain seats in the Senate in the midterms, but NOT enough to retake control

Kondik 3/13/14 (Kyle, Managing Editor @ Sabato's Crystal Ball - UVA Center for Politics, "Senate Update: Domino Effects," http://www.centerforpolitics.org/crystalball/articles/senate-update-domino-effects/)

In other words, nearly all the competitive seats this cycle are in places where Democrats are playing defense. That fact alone indicates the GOP is poised for a strong cycle, although we’re not ready to say they will in fact win the six seats they need to take outright control of the Senate, even though they have a path to six — or perhaps even several seats more than that. Democrats, meanwhile, would do quite well to hold the GOP to a net gain of three or four seats. Such are the perils of holding the White House in a midterm election on the best GOP Senate map of the three classes contested once every six years.¶ It’s possible that the Republicans will pick up the Senate even if 2014 is not a “wave” election: In fact, the likeliest election outcome at this point seems to be Republicans gaining something close to their needed number of Senate seats (five or six or so), but adding only a similar number of seats to their House majority and actually losing a few net governorships. That would make 2014 like 1986, a midterm year where Democrats captured the Senate in President Reagan’s “sixth-year itch” election, but picked up fewer seats in the House than they did in the Senate (five in the lower chamber versus eight in the upper) and actually lost eight net governorships. (We detailed the 1986 comparisons in depth earlier this cycle.)¶ In this Senate update, we wanted to quickly sum up the state of play in all the competitive races, but also give a sense of which seats are likeliest to change party hands. Our current ratings suggest that Republicans are at least slightly favored in four Democratic-held seats (Arkansas, Montana, South Dakota and West Virginia); have about even odds in another three (Alaska, Louisiana and North Carolina); and — stretching here — under near-perfect conditions could potentially compete in or even flip up to an additional seven seats beyond that (Colorado, Iowa, Michigan, Minnesota, New Hampshire, Oregon and Virginia). Meanwhile, Democrats have outside shots in Georgia, Kentucky and perhaps — if absolutely everything broke right for them — Mississippi.

#### GOP will gain seats but won’t retake the Senate – weak candidates in southern races ensure

Goddard 3/13/14 (Taegan, founder of Political Wire, one of the earliest and most influential political websites. He also runs Wonk Wire and the Political Dictionary, "The GOP's chances of taking control of the Senate are rising," http://theweek.com/article/index/258065/gop-chances-of-taking-control-of-the-senate-are-rising)

Here are five takeaways:¶ 1. Republicans' chances of taking the Senate are going up. Not only have Republicans managed to expand the playing field by recruiting good candidates to compete for Democratic-held seats in Colorado (Cory Gardner) and Michigan (Terri Lynn Land). The political environment is also taking a bad turn for Democrats, Duffy said. President Obama's approval rating has dropped below 40 percent or even 35 percent in key states. And the specter of the president's signature domestic policy achievement, ObamaCare, could loom over some of the most vulnerable Democrats, Duffy said, even though some of the early problems that plagued the insurance-exchange rollout have been addressed: "Despite Democrats' belief that health-care reform is not going to be an issue, we are not seeing that in any of the data," she said.¶ 2. Some vulnerable Democrats have helped the GOP out with miscues. In North Carolina, incumbent Democratic Sen. Kay Hagan was already going to be vulnerable; she was elected in 2008 in a Democratic wave year, and now the political environment is much different. But recently she added to her problems when she launched her campaign. She stumbled in her responses to reporters' questions about ObamaCare. "I think she’s handled the issue really poorly," Duffy said. "It almost appears like she really doesn’t understand how this bill works." Additionally, Sen. Mark Pryor (D-Ark.) was already facing the challenge of his life from GOP Rep. Tom Cotton in the increasingly red state of Arkansas. Then Pryor hurt himself by accusing Cotton of feeling entitled to the Senate because of his military service. "It really didn’t play well, and it’s not going to play well in a state like Arkansas," she said. Still, Pryor's not too far behind Cotton in the polls and still has time to come back.¶ 3. Republicans still could hurt themselves by nominating extreme candidates in some states, including in — believe it or not — Mississippi. So far the Republican establishment hasn't had as much of a "Tea Party problem" as it did in previous cycles. Sen. John Cornyn (R-Texas) easily fended off a challenge from GOP Rep. Steve Stockman, Senate Minority Leader Mitch McConnell (R-Ky.) is favored over Tea Party challenger Matt Bevin, and Joe Miller's return in Alaska hasn't gained steam. But in Georgia, multiple GOP primary candidates are trying to outflank one another on the right. Nominating a very conservative candidate like Rep. Paul Broun could hurt Republicans in this red-tilting state, especially against presumptive Democratic nominee Michelle Nunn, who has run a very good campaign, Duffy said. A similar problem may happen in North Carolina, stymieing GOP efforts to unseat the incumbent Democrat, Hagan. And the deeply red state of Mississippi could actually be competitive if state Sen. Chris McDaniel (R), a Tea Party-aligned candidate, defeats incumbent Sen. Thad Cochran (R-Miss.) in the Republican primary, Duffy said; Democrats have a legitimate candidate there in former Rep. Travis Childers.¶ 4. Nightmare scenario: We may not know who controls the Senate until early 2015. That's because Senate races in two key states — Georgia and Louisiana — could enter runoffs, which wouldn't happen until well after Election Day in November. The general election in Louisiana is actually a primary featuring all candidates from all parties. If no one wins a majority, the race enters a runoff, which would occur in December. Sen. Mary Landrieu (D-La.), who is facing Rep. Bill Cassidy (R-La.), went into a runoff in two of her previous three re-election bids, Duffy noted. And in Georgia, if nobody wins a majority on Election Day, the top two candidates would enter a runoff in early January. It actually happened in 2008, when retiring Sen. Saxby Chambliss didn't initially get a majority against Democratic opponent Jim Martin and the other candidates.¶ 5. Republicans could win anywhere from three seats to six, the latter being the bare minimum to win the majority. That means that a GOP Senate takeover is far from guaranteed, but it's "definitely in the realm of possibility," Duffy said. But she also said it was too early to make a more definitive prediction: "I want to see the outcome of some of these primaries." As was the case in 2010 and 2012, Republicans could still grasp some defeats from the jaws of victory.

### Midterms DA – Link – Targeted Killing

#### Obama takes the heat for targeted killing restrictions - he's publically announced his desire to scale back drone strikes AND the GOP will pounce on the national security implications of the issue

Mazzetti and Shane 13 (Mark and Scott, NYT, "Threats Test Obama’s Balancing Act on Surveillance," http://www.nytimes.com/2013/08/10/us/threats-test-obamas-balancing-act-on-surveillance.html?\_r=0&pagewanted=print)

WASHINGTON — President Obama has said he wants eventually to scale back drone strikes and steer the country away from a single-minded focus on counterterrorism. But in response to a vague yet ominous terror warning in recent days, his administration shut down nearly two dozen American embassies and consulates and waged an intense drone campaign in Yemen.¶ American officials speak of the need for vigorous debate about controversial National Security Agency programs revealed by Edward J. Snowden, and Mr. Obama on Friday promised greater accountability to keep the surveillance state in check. Yet his underlying message was clear: the expansive monitoring of telephone and electronic communications would continue because the safety of the country depended on it.¶ America’s war on terrorism may one day end, as Mr. Obama said in a speech in May, but until that happens the president has given every indication that it will be fought in much the same way it has for nearly 12 years. Even Mr. Obama’s promise of more transparency appeared to fail an instant test during his Friday news conference. Asked about the flurry of American drone strikes in Yemen, which have been reported by every news outlet, Mr. Obama demurred.¶ “I will not have a discussion about operational issues,” he said.¶ Mr. Obama, who ran for office in 2008 against what he described as the excesses of counterterrorism under President George W. Bush, has occasionally expressed ambivalence about drone strikes and aggressive surveillance. But with Republicans ever ready to pounce with accusations that he has made the country less safe, he has declined to abandon any of the tools used by his predecessor, with the sole exception of the brutal interrogation methods once used by the C.I.A.¶ The government’s striking response to the reported terror threat in recent days has coincided with a wave of unprecedented skepticism about the N.S.A.’s sweeping surveillance programs since Mr. Snowden’s disclosures.¶ When Mr. Snowden began releasing secret documents two months ago, Mr. Obama said he welcomed a debate on the trade-offs of N.S.A. surveillance and privacy. But the debate has grown far larger than administration officials anticipated, with lawmakers of both parties in Congress and half of Americans in polls calling for curbs on the agency.¶ On Thursday, two small companies providing secure e-mail to customers added their voices. Lavabit and Silent Circle announced that they would shut down their e-mail services rather than give in to what they suggested was government pressure to make customers’ messages available to the N.S.A.¶ In a message on his Web site, Ladar Levison, the founder of Lavabit, said he was forced “to become complicit in crimes against the American people or walk away from nearly 10 years of hard work by shutting down Lavabit.”¶ He said he was prohibited by law from explaining what had happened over the last six weeks, but the suggestion was that he was fighting a government demand for access to the e-mail of one or more customers.¶ Mr. Snowden’s disclosures have had a continuing, even escalating impact as journalists have continued to pore over them. On Thursday, for instance, The New York Times wrote that the N.S.A. was examining all e-mail messages in and out of the country and searching them for clues associated with terrorism or foreign intelligence.¶ On Friday, The Guardian, the British newspaper that has published many of Mr. Snowden’s revelations, wrote about a clause in N.S.A. rules that permits the agency to search for Americans’ names and identifying information in data about foreign targets gathered from large Internet companies.¶ In his remarks on Friday, Mr. Obama said he was satisfied that the N.S.A. programs were both necessary and respectful of Americans’ privacy. He acknowledged the “instinctive bias of the intelligence community to keep everything very close.” But he said he had urged America’s spies to err on the side of making more details public.¶ “Let’s just put the whole elephant out there, and examine what’s working,” he said.¶ On Friday evening, the State Department announced that nearly all of the embassies and consulates that had been closed this week would reopen on Sunday — with only the American Embassy in Sana, Yemen, remaining closed. The consulate in Lahore, Pakistan, will also stay closed, the result of what American officials said is a different threat from the one that had forced the closing of the other diplomatic posts.¶ With intelligence agencies trying to piece together information about a terror plot allegedly discussed in recent weeks between senior Qaeda operatives, American drones delivered a flurry of missile strikes throughout Yemen.¶ Eight strikes have been carried out in Yemen in the past two weeks, a ferocious rate of drone attacks rivaled only by the two-week period after a suicide bomber killed seven C.I.A. employees at a base in Afghanistan in December 2009.¶ During his speech at National Defense University in May, President Obama said that targeted killing operations needed to be tightly constrained. The United States only carries out strikes against terrorists who pose a “continuing and imminent threat” to Americans, the president said, and only when it is determined it would be impossible to detain them, rather than kill them.

#### Strong, ubiquitous public support for aggressive drone strike policies

Merolla 13 (Jennifer, Associate Prof of PoliSci @ Claremont Graduate University, "Terrorism Threat Elevates Public Support for Drones," http://www.huffingtonpost.com/jennifer-merolla-phd/public-opinion-drones\_b\_3340280.html)

Our own research on this topic (in Democracy at Risk: How Terrorist Threats Affect the Public) suggests that the public is likely to remain supportive of aggressive foreign policy, including drone strikes, in a context in which the Boston marathon bombings and other recent events have increased the salience of terrorism. So long as individuals feel threatened, we find greater support for drone strikes. What is striking about this inclination is its ubiquity and persistence: heightened support for drones under threat conditions is not limited to one partisan identity or another; it spans across contexts of terrorist threat and economic decline; and, it is not muted by simple reminders of democratic values.¶ In recent times the number of voices questioning the drone program has increased. Several months ago, Rand Paul led a filibuster against John Brennan's nomination to head the CIA in which he critiqued the administration's use of drones. Last month, Farea al-Muslimi, a Yemeni activist and writer, testified before the Senate Judiciary subcommittee and warned that the strikes do more long term harm than good for U.S. security since they lead to more anti-Americanism abroad. He remarked: "What the violent militants had previously failed to achieve, one drone strike accomplished in an instant. There is now an intense anger against America." Prior to Rand's filibuster or al-Muslimi's testimony, few public figures in the U.S. questioned the use of drone strikes.¶ This increased criticism has led some to ask whether public opinion for these tactics, and in turn congressional support, will shift. After Rand Paul's filibuster, a Gallup poll showed that 65 percent of the public supported airstrikes in other countries against suspected terrorists; however, a majority did not support the use of such attacks against U.S. citizens who are suspected terrorists.¶ While there have been increasing voices critical of the use of drones, there has also been another terrorist attack on U.S. soil, which may further bolster support for the program. In the wake of the Boston attacks, a poll from the Pew Research Center shows that 75 percent of Americans say they expect future terror attacks. This represents an 11 percentage point increase over last year and is higher than worries registered in 2003.¶ Our research finds that such heightened worry about future terror attacks increases public support for drone strikes. In an online survey conducted last summer with a nationally representative sample of voting age adults, we asked a nuanced set of questions about public support for drone strikes. With a question that allowed individuals to indicate their level of support or opposition to the program, we found that support for drone strikes is only moderate, with the average study participant somewhat supportive of the use of drone strikes that target the leaders of extremist groups in other countries. The average person in our study somewhat agreed that such strikes are necessary to defend countries from extremist groups, but was uncertain about whether they kill too many innocent people and whether they should be conducted without authorization from the country in which the extremists are located.¶ However, we find that support varies depending on whether or not individuals have recently read news of terror threat. At random, we asked some individuals in our study to read a news story about either the threat of terrorism or the weak U.S. economy, while other individuals did not read any article. Individuals in our study who read about terrorism tended to be more supportive of drone strikes than those who did not read such an article, and were less likely to think that strikes kill too many innocent people. The differences are modest, but they are statistically meaningful. Our study presented a single news story about terrorist threat. We expect the differences we find would be even more pronounced if our control group was compared to those in an environment with a salient terrorist threat and multiple news articles about it, such as following the recent Boston marathon bombing.¶ In some versions of the terrorism article, we closed with a paragraph reminding people about democratic values, and this reminder did nothing to alter the increased support for drone strikes among those who read about terrorist threat. Furthermore, while baseline support for drone strikes was higher among Republicans than Democrats in our sample, both groups reacted similarly to a threatening news story by becoming more supportive of drone strikes.¶ Of course, one might expect that when terrorism is a salient threat, individuals would be more supportive of a strategy to combat it, especially if they have in mind targeting non-U.S. citizen militants abroad. However, we found the same type of increase in support for drones among those who read an article about weaknesses in the U.S. economy. Therefore, threat in general, rather than terror specific threat, can lead to more support for aggressive counter-terrorism policies among the public.

#### Widespread, bipartisan support for expansive use of drones – multiple polls prove

Cilizza 13 (Chris, Award-winning political correspondent @ Wash Post, "The American public loves drones," http://www.washingtonpost.com/blogs/the-fix/wp/2013/02/06/the-american-public-loves-drones/)

But, when it comes to drones, the fight in Washington has no parallel in the public at large. Put simply: Americans love drones.¶ A look across the polling landscape on the Obama Administration's increased reliance on drones suggests that support for the strikes is not only wide but also bipartisan.¶ A February 2012 Washington Post-ABC poll showed that eight in ten Americans (83 percent) approved of the Obama Administrations use of unmanned drones against suspected terrorists overseas -- with a whopping 59 percent strongly approving of the practice. Support for the drone attacks was also remarkably bipartisan. Seventy six percent of Republicans and 58 percent of Democrats approved of the policy.¶ In that same poll, respondents were asked whether they supported using drones to target American citizens who are suspected terrorists, the question that stands at the heart of the recent flare-up in Congress over the practice. Two thirds of people in the survey said they approved of doing so.¶ It's not just Post-ABC polling that suggests the use of drones is widely popular with the American public. A September 2011 Pew poll showed that 69 percent of people said that the increased use of drones was a good thing while just 19 percent said it was a bad thing.¶ The reason drone strikes are popular? Because they are perceived to be effective in reducing the threat of terrorism without endangering American lives. (Polling on the wars in Iraq and Afghanistan has, for several years now, suggested that a majority of the public believes neither was worth fighting almost certainly due to the losses of American lives.) In a September 2011 Post-ABC poll, three-quarters of the public said drone strikes against suspected terrorists in Yemen and Pakistan had been either "very" or "somewhat" effective to reduce the threat of terrorism.¶ Now there are all sorts of "to be sure" statements regarding the data above. To be sure, the average American isn't paying close attention to the issue of drones and how they are being used. To be sure, the debate over what the government can and can't do as well as how much or little it should be required to tells its citizenry its doing is a worthy one. To be sure, making policy decisions simply based on what the public wants (or thinks it wants) is a dangerous game.¶ But, it's also important to remember as the drone debate gains steam in Washington that there is little public appetite for an extended look at how unmanned attacks fit into our broader national security policy. Minds are made up on the matter. And, if the public has anything to do with it, drones are here to stay.

### Midterms DA – Targeted Killing – Authority Popular

#### Strong bipartisan, public support for executive authority to initiate drone strikes

LaFranchi 13 (Howard, Christian Science Monitor, "American public has few qualms with drone strikes, poll finds," http://www.csmonitor.com/USA/Military/2013/0603/American-public-has-few-qualms-with-drone-strikes-poll-finds)

But the American public appears to be unmoved by such arguments. A new Monitor/TIPP poll finds that a firm majority of Americans – 57 percent – support the current level of drone strikes targeting “Al Qaeda targets and other terrorists in foreign countries.” Another 23 percent said the use of drones for such purposes should increase. Only 11 percent said the use of drones should decrease.¶ The poll, conducted from May 28-31, followed a major speech in which Mr. Obama suggested the use of drone strikes would decline. In the May 26 address, he also hinted at his own ambivalence about the controversial tactic, weighing the program’s efficacy against the moral questions and long-term impact.¶ Obama acknowledged that the pluses of drone strikes – no need to put boots on the ground and the accuracy and secrecy they offer – can “lead a president and his team to view drone strikes as a cure-all for terrorism.”¶ He balanced that against words of caution: “To say a military tactic is legal, or even effective, is not to say it is wise or moral in every instance.”¶ The drone strikes, which under Obama have mostly been carried out in secrecy by the CIA, are credited with killing as many as 3,000 terrorists and Islamist militants – at least four of whom were American citizens. Obama is planning to shift most drone operations to the military as part of an effort to make the program more transparent.¶ Americans are by and large comfortable with drone strikes being ordered by the president, the CIA, or by the military, according to the Monitor poll. Less popular is the idea of creating a separate “drone court” – a panel that would presumably increase the accountability of the program.¶ Almost two-thirds of Americans (62 percent) say they approve of drone-strike authorization coming from the president, the Pentagon, or the CIA. About a quarter (26 percent) favor setting up a drone court to sign off on strikes.¶ The question of who should retain responsibility for authorizing drone strikes reveals something of a political divide: While 67 percent of Democrats approve of the president, the CIA, or the Pentagon deciding on the strikes, a lower percentage of Republicans (55 percent) approve of entrusting the decisionmaking to those three.

#### Strong public support for Obama targeted killing policy – esp. among Democrats and liberals

Serwer 12 (Adam, Reporter @ MSNBC and formerly @ Mother Jones, "Poll: Americans Approve of Targeted Killing of American Terror Suspects," http://webcache.googleusercontent.com/search?q=cache:CyoCHGLA-1EJ:www.motherjones.com/mojo/2012/02/poll-americans-approve-targeted-killing-terror-suspects-americans+&cd=11&hl=en&ct=clnk&gl=us)

Buried in the recently released Washington Post/ABC poll noting improving numbers for President Barack Obama are numbers showing that Americans are favorably disposed towards the use of targeted killing in counterterrorism operations, even if the targets are Americans.¶ Here are the poll results: Overall 83 percent of Americans approve of the use of "unmanned, 'drone' aircraft against terrorist suspects overseas," 59 percent strongly and 26 percent "somewhat." Of those who approve, 79 percent think the use of targeted killing against American citizens abroad who are suspected of terrorism is justified. The Washington Post's Greg Sargent, who takes a closer look at the internal numbers, finds that "Democrats approve of the drone strikes on American citizens by 58-33, and even liberals approve of them, 55-35." Whether as a result of partisan identification with the president or an artifact of the United States shifting to the right on counterterrorism policy in general, it doesn't seem likely that Obama will pay a high political price with his base for either the escalation of drone strikes since taking office or the use of drones to kill Americans abroad suspected of terrorism. ¶ The administration has faced increasing criticism from civil liberties and human rights groups over the nature and secrecy of its targeted killing program, including its efforts to block attempts to force disclosure of the legal rationale for targeting Americans without charge or trial, even as administration officials comment publicly on the program's success. Recently, Secretary of Defense Leon Panetta revealed that, when it comes to the targeted killing of Americans suspected of terrorism, the final decision is made by the president himself. In an online forum, President Obama insisted that drones were being used with restraint, saying it was on a "very tight leash," with extreme care being taken to minimize civilian casualties. Not everyone agrees with that assessment: The Bureau of Investigative Journalism says that since Obama took office close to 400 of the casualties from drone strikes in Pakistan have been civilians, with close to 200 of them children. ¶ Republicans have criticized Obama for his use of targeted killing and special operations forces—mostly on the grounds that more dead terror suspects means fewer of them to interrogate. But the poll numbers suggest widespread approval of Obama's approach to counterterrorism: Limited, covert, and with the collateral damage borne by individuals who remain far beyond the thoughts of most Americans.

### Midterms DA – Drone Restrictions = Loss

#### Restrictions on targeted killing constitute a foreign policy defeat for Obama before the midterms

Howard 14 (David, National Security Correspondent @ Essential Prepper, "Obama eyeing drone strikes in Syria," http://www.essentialprepper.com/us-eyeing-drone-strikes-syria/)

As the United States is revisiting its plans for Syria, US Congressional officials say the idea of using drones against targets in the Middle Eastern country is gaining popularity in Washington.¶ Washington’s plans for what it calls limited strikes in Syria comes months after the administration of President Barack Obama failed to sell an offensive missile campaign against Syria to America’s war-weary public.¶ The US President was pushing for military strikes against Syria last summer following reports of a chemical weapons attack that Washington blamed on the Syrian government.¶ US Congress also refused to give the green light to Obama for military intervention in Syria and Obama put on hold his planned military strike against the Arab country after Russia helped broker a deal under which Damascus agreed to eliminate its chemical weapons arsenal.¶ Now, with the upcoming midterm elections this year, Obama fears more foreign policy failures and is not willing to risk another defeat.¶ But, his senior intelligence officials came to his help and broached the issue of militant groups’ plans of carrying out terrorist attacks on US soil in order to convince US lawmakers that drone strikes in Syria could help prevent such attacks on the US.

### Midterms DA – Terror Focus – Helps GOP (TK/Detention)

#### Terror focus favors the GOP in the midterms - they're perceived as stronger on national security issues

Lightman 13 (David, Washington Correspondent @ McClatchy Newspapers, "Boston bombing could threaten Democratic gains on national security," http://webcache.googleusercontent.com/search?q=cache:a\_9mHhS9cigJ:www.mcclatchydc.com/2013/04/24/189570/boston-bombing-could-threaten.html+&cd=2&hl=en&ct=clnk&gl=us#storylink=cpy)

And written between the lines is the recurring suggestion that Obama’s Democrats are not as good, and not as tough on terrorism, as they bragged after the slaying of bin Laden.¶ Obama is “trying to convince everybody he’s defeated terrorism. He’s trying to convince everybody – for the advancement of his agenda – that we beat it back. Remember, this guy wants to cut the defense budget dramatically,” talk show host Rush Limbaugh said Tuesday.¶ Republican leaders have been somewhat more circumspect. The performance of certain agencies “raises some serious questions,” House Speaker John Boehner of Ohio said Wednesday. But he added, “I don’t want to get in the business of indicting agencies or agency heads until we have all the facts.”¶ Republicans suddenly have the potential to win back a political edge on national security issues they enjoyed for decades.¶ In the 1970s, Democrats were often viewed as too accommodating to the Soviet Union. President Jimmy Carter negotiated an arms treaty with the Soviets in 1979, only to see that nation send troops to Afghanistan shortly afterward.¶ Ronald Reagan campaigned in 1980 on a vow to stand up to what he would dub the “Evil Empire.” When the Soviet Union collapsed shortly after he left office, Republicans were entrenched as the tough guy party.¶ The aftermath of the Sept. 11, 2001, terrorist attacks reinforced that image. Gallup polls show that for years, Republicans enjoyed a strong advantage as the party that could do a better job of protecting the country from international terrorism.¶ Democrats briefly overcame the deficit as discontent with the Iraq War grew in 2007. Republicans quickly won it back as Obama, lacking national security experience, was elected president in 2008.

#### Terror focus helps the GOP in the midterms

Joseph 6 (Dan, “A BIG WIN FOR THE GOOD GUYS,” Journalist and Conservative Political Commenter -- August 10th, http://fallingpanda.blogspot.com/2006/08/big-win-for-good-guys.html)

Finally, I feel sorry for the Democratic party as a whole, as well as the liberals who have taken over that party since Bill Clinton left office. They were so close to convincing voters that they were better suited to lead congress, not because of their ideas and competence, but rather because they were not Republicans.¶ Now that convincing will take a lot more effort.¶ You see, every time American’s are reminded that terrorism is the most important issue of our time and that the threat from Islamic-fascism is real and still very much alive within this small world which we live in, many of them realize that the aggressive anti-terror policies of the Bush administration are not as awful as the administrations detractors claim.¶ When they actually see these policies work, swing voters understand and appreciate George W. Bush a bit more, warts and all. I hope that goes for Tony Blair in England as well.

### Midterms DA – National Security Focus – Helps GOP

#### National security focus hurts Democrats politically – Republicans are trusted on terror issues and they’ll use the issue to attack Dems as weak

Zelizer 12 (Julian, professor of history and public affairs at Princeton University, "Dems' national security advantage at risk," http://www.cnn.com/2012/10/22/opinion/zelizer-presidential-debate/)

Democrats stand a lot to lose.¶ For several decades, the public trusted Republicans on the issue of national security. Since Vietnam, Republicans hammered away at Democrats as being weak on defense and unwilling to do what was necessary to protect the nation. In 2004, President George W. Bush eviscerated his opponent, Massachusetts Sen. John Kerry, with this argument. Though Kerry began the Democratic Convention by highlighting his credentials as a Vietnam veteran, the Republicans developed an entire campaign around the question of whether Democrats could be trusted to prosecute the war on terrorism.¶ For all of Obama's struggles with the economy, Democrats have made huge strides in the past six years.¶ The reversal of partisan fortunes began toward the end of George W. Bush's presidency, when the White House was struggling to avoid total chaos in Iraq, a war that was highly unpopular. Democrats took control of Congress in the 2006 elections, partially in response to Bush's decision to go to war in Iraq and his handling of it. In the 2008 presidential election, Obama made Bush's war a centerpiece of his campaign. He promised to bring the war to an end and to reverse those components of the war on terrorism that had violated civil liberties.¶ The strategy was successful.¶ As president, Obama continued to neutralize many of his critics. He left intact most of Bush's counterterrorism program, in some cases intensifying operations such as drone airstrikes against al Qaeda, and he made it difficult for conservatives to say that he was not doing enough. After Osama bin Laden was killed by special operations forces, even Republicans had to praise the courageous operation. Obama accelerated the war in Afghanistan and brought the controversial war in Iraq to a close.¶ While many on the left have been frustrated that Obama retained so much of the status quo, politically the president positioned himself as the person who was tougher on defense.¶ During the Democratic Convention, he railed against Romney for having failed to salute the troops in his acceptance speech and for a series of embarrassing gaffes that took place when Romney traveled overseas this summer. In September, Pew found that 53% of those surveyed trusted Obama to make wise decisions on foreign policy, compared with 38% for Romney.¶ But in recent weeks, the advantage seems to be eroding.¶ The outbreak of violence in the Middle East and the White House's contradictory statements about a deadly al Qaeda attack at the U.S. Consulate in Benghazi, Libya, have opened up space for Republicans to go after the administration on this front. Vice President Joe Biden's statements during his debate against Paul Ryan that neither he nor the president knew about security threats, along with Secretary of State Hillary Clinton taking responsibility, certainly did not help.¶ Sen. John McCain, R-Arizona, told Fox News, "I think it's very laudable that she should throw herself under the bus. But first of all, responsibility for American security doesn't lie with the secretary of state. It lies with the president of the United States. It's either willful deception or a degree of incompetence and failure to understand fundamental facts on the ground. ... Either one of those is obviously totally unacceptable."¶ Obama has tried to push back against all of this criticism, including his statement in the second debate that he himself has ultimate responsibility, but the Republicans' singular attacks have continued nonetheless.¶ Administration officials must be careful if they think there is no risk.¶ Aside from 2008, there are many years in which parties lost their advantage on national security. In 1952, Democrats still thought of themselves as the party that had won World War II and set up America's Cold War strategy against the Soviet Union. Republicans hit back when Adlai Stevenson faced off against Dwight Eisenhower, a World War II military hero. Republicans attacked Democrats for being weak on fighting communism, for a military stalemate in Korea and for having allowed China to fall to communism in 1949. Eisenhower won the presidency, and Republicans took control of Congress.¶ Just a few years later, Republicans saw their advantage slip away. Though Eisenhower was an immensely popular president and one who, as Evan Thomas shows in his masterful new book "Ike's Bluff," demonstrated immense skills at diplomacy, John F. Kennedy ran as more of a hawk than Eisenhower's vice president, Richard Nixon, did in 1960.¶ He built on arguments that Democrats had made in the 1950s, that Republicans were so focused on balancing the budget they were not spending enough on defense to win the presidency.¶ "Our security," he said, "has declined more rapidly than over any comparable period in our history -- in terms of defensive strength and retaliatory power, in terms of our alliances, in terms of our scientific effort and reputation."¶ Republicans struggled again in 1992 when President George H.W. Bush watched as his advantage, which had apparently been cemented with the successful Operation Desert Storm in 1990-1991 that resulted in the expulsion of Iraqi forces from Kuwait, slip away.¶ While Bush did not devote enough attention to the economy, it was also Saddam Hussein's continued military attacks on his opponents in U.N. cease-fire zones that seemed to demonstrate Bush's victory had been incomplete.¶ "It's like any other bully," presidential candidate Bill Clinton said then, "you send 'em mixed messages, they'll take advantage of you every time."¶ The politics of national security is tricky, and uncontrollable events can easily push politics in a different direction. Obama will have to answer some of the tough questions that have emerged, and this time Romney is going to be prepared to handle them more effectively and to show that his overall agenda still offers the U.S. the best path forward.

### Midterms DA – Link – General – 2NC

#### War powers debates energize Republicans – plays in the GOP message against Obama and no turns

Baier and Williams 3/13/14 (Bret and Carl, Contributors @ Fox News, "Some 2016 Election Contests Examined; President to Alter Overtime Rules; Malaysian Airline Plane Still Missing," lexis)

BAIER: Is there an understanding in the voting public about this issue? Is there a knowledge about it? Do most people think this is a do- nothing Congress and the president is up against a wall and, therefore, he needs to use his pen and his phone, and they stand with him, or is this an executive branch out of control? I mean, where do you think the mindset of the country is?¶ WILLIAMS: It's -- in this environment we are so polarized, Bret. You can't get an honest answer. What you get is Republicans, and I think that's what we see from Congressman Gowdy, who is grandstanding. He's playing to the base and ginning up to the Republican base heading towards the midterms and he's building a narrative we've got king Obama out here acting as a monarch, ignoring the other branch of government and violating our basic American principles. And you saw the reaction from his fellow members of Congress. They were shouting and cheering.¶ BAIER: I get, but I'm asking you where is America?¶ WILLIAMS: I think America -- you know where America comes into this, on war powers, because there, to pick up on George's point, the Congress abandoned -- they don't want their fingerprints oftentimes on an act of war, so they will back off and say, oh, you go ahead, Mr. President. But that has a real consequence and then as you go farther down the line and away from such issues. That's where the American people pay attention. Right now this is a lot of static back and forth. It plays politically well for the base on the GOP side, and on the Democratic side it has little resonance¶ BAIER: It will play I bet in the election. It will come up.

### Midterms DA – Link – Weakness/Lose– 2NC\*

#### The plan allows Republicans to spin Obama as incompetent on questions of war powers - tanks Dems in the midterms

The Moderate Voice 13 ("New Republican theme: stay out of Syria due to Obama's incompetence," 9/8, lexis)

First there was Peggy Noonan [1]- and now it's becoming an emerging theme. Republicans are arguing a)Barack Obama is too incompetent to be trusted with going into Syria b)Syria would have listened to George W. Bush (who just so happens to have had an 'R' in front his party affiliation) if he was President today.¶ #1. Republican Senator Jeff Session[2]s (insisting he's not being partisan):¶ 'I do believe if President Bush had told Bashar Assad 'You don't use those chemical weapons or you're gonna be sorry, we're coming after you, and this'll be a consequence you will not want to bear,' I don't believe he would have used it.¶ #2. Conservative columnist Charles Krauthammer:[3]¶ Charles Krauthammer joined Hugh Hewitt on his radio show to bash President Obama's strategy on Syria. Krauthammer said he wasn't necessarily opposed to military action in Syria, but said, 'The reason I'm for staying out is because this president doesn't know what he's doing.'¶ #3. Rush Limbaugh,[4] whose rants on a major issue almost always somehow foreshadow how the kind of line the party eventually takes:¶ 'Folks, the people of this country are lagging behind what the rest of the world thinks of Obama, I'm here to tell you… The American people are sort of a lagging indicator in coming to grips with Obama's incompetence on things.'¶ It's a major theme, now — and look for the GOP to try to use it to erase the gains Democrats made under Obama in being perceived as a party that was strong on national security issues. And use it in further battles with Obama. Could it work? If polls show that as a growing perception yes. And it could work for another reason: over the Edward Snowden revelations and now Syria the liberal wing of the Democratic party is not happy with Obama and Democrats have a long history of breaking with their own party. Which often means long lasting Republican election gains, when they can get in and put people who share their views in key positions in the judiciary.¶ How likely is that to happen? Right now the smart money is on Obama's resolution not making it alive out of Congress, which would make him one of the most politically lame lame duck Presidents in decades. Not good news for Democrats heading into the mid-terms.

### Accountability – China

#### ---China will ignore new norms – history proves

**Clark 13** (Colin, editor of Breaking Defense, “China Set To Grab UAV Market While US Restricts Sales,” http://breakingdefense.com/2013/06/14/china-set-to-grab-uav-market-while-us-restricts-sales/)

PARIS: Psst. Hey mister. Wanna buy a UAV? China’s got drones for shooting, drones for intelligence, surveillance and reconnaissance, and drones for target practice. Cheap prices and no arms export restrictions.

And China may grab a significant share of the international market for just those reasons, according to a new report by the U.S-China Economic and Security Review Commission. Breaking Defense obtained a copy of the report: China’s Military Unmanned Aerial Vehicle Industry

The irony would be, of course, that the United States has largely created that demand by demonstrating the utility of drones (UAVs, Remotely Piloted Aircraft — RPAs — pick your term) in Afghanistan, Pakistan, Yemen, Iraq and other locales over the last decade.

Here’s what the report’s author, Kimberly Hsu, concludes:

“Surging domestic and international market demand for UAVs, from both military and civilian customers, will continue to buoy growth of the Chinese industry. Chinese defense firms do not face the same export restrictions as top UAV-exporting countries, such as the United States and Israel. As a result, China could become a key UAV proliferator, particularly to developing countries.”

Currently, the great majority of Chinese drones are tactical, but Hsu says that “in the long term, China’s continued interest and progression in strategic-level UAVs appear poised to position China as a leader in the high-end UAV market.” A major reason is that China is not a member of either the Missile Technology Control Regime (MTCR) or the looser but broader Wassenaar Arrangement. “In the absence of competition from more sophisticated U.S. or Israeli alternatives, China could become a key proliferator to non-members of the MTCR or Wassenaar,” she concludes.

Just what drones is China building? Well, the report notes there isn’t much information available about the PLA’s efforts. Hsu says that China, “probably is developing and operating UAVs for electronic warfare (EW).” These would “probably would focus on jamming tactical communications and global positioning system (GPS), but could provide a range of other capabilities, including false target generation against enemy Airborne Warning and Control Systems (AWACS)/Airborne Early Warning (AEW) and power grid attack.”

On top of that, several Chinese government owned defense firms are also developing killer drones in the vein of our Predator or Reaper. “It is not clear if China intends to use UCAVs in an air-to-air or an air-to-ground role,” Hsu writes.

In addition to state-owned enterprises, several of China’s top engineering universities are working on drones.

On the civilian side, China has already demonstrated use of indigenous drones for earthquake relief efforts after the May 2008 and April 2013 earthquakes in Sichuan province, according to the report. And the rough Chinese equivalent of the Coast Guard and harbor police “are integrating UAVs into their operations.

All in all, China’s policy of not participating in what it would doubtless call hegemonic restrictions on its actions — MTCR, Wassenaar — coupled with its willingness to sell to pretty much anybody who can buy their weapons, places it in a prime position to benefit, just as Europe benefited from America’s decision to sharply restrict satellite sales and their components to foreign countries.

#### The idea that China wouldn’t have realized it could use drones to carry out strikes internationally absent the U.S. doing so, is stupid

Kenneth Anderson 11, Professor of International Law at American University, 10/9/11, “What Kind of Drones Arms Race Is Coming?,” <http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/#more-51516>

It is indeed likely that the future will see more instances of uses of force at a much smaller, often less attributable, more discrete level than conventional war. Those uses will be most easily undertaken against non-state actors, rather than states, though the difference is likely to erode. The idea that it would not have occurred to China or Russia that drones could be used to target non-state actors across borders in safe havens, or that they would not do so because the United States had not done so is far-fetched. That is so not least because the United States has long held that it, or other states threatened by terrorist non-state actors in safe havens across sovereign borders, can be targeted if the sovereign is unable or unwilling to deal with them. There’s nothing new in this as a US view of international law; it goes back decades, and the US has not thought it some special rule benefiting the US alone. So the idea that the US has somehow developed this technology and then changed the rules regarding cross-border attack on terrorists is just wrong; the US has believed this for a long time and thinks it is legally and morally right.

#### ---Asian war is unlikely --- regional initiatives check

Bitzinger and Desker ‘8 (senior fellow and dean of S. Rajaratnam School of International Studies respectively (Richard A. Bitzinger, Barry Desker, “Why East Asian War is Unlikely,” Survival, December 2008, http://pdfserve.informaworld.com-/678328\_731200556\_906256449.pdf)

The Asia-Pacific region can be regarded as a zone of both relative insecurity and strategic stability. It contains some of the world’s most significant flashpoints – the Korean peninsula, the Taiwan Strait, the Siachen Glacier – where tensions between nations could escalate to the point of major war. It is replete with unresolved border issues; is a breeding ground for transnationa terrorism and the site of many terrorist activities (the Bali bombings, the Manila superferry bombing); and contains overlapping claims for maritime territories (the Spratly Islands, the Senkaku/Diaoyu Islands) with considerable actual or potential wealth in resources such as oil, gas and fisheries. Finally, the Asia-Pacific is an area of strategic significance with many key sea lines of communication and important chokepoints**. Yet despite all these potential crucibles of conflict, the Asia-Pacific, if not an area of serenity and calm, is certainly more stable than one might expect**. To be sure, there are separatist movements and internal struggles, particularly with insurgencies, as in Thailand, the Philippines and Tibet. Since the resolution of the East Timor crisis, however, the region has been relatively free of open armed warfare. Separatism remains a challenge, but the break-up of states is unlikely. Terrorism is a nuisance, but its impact is contained. The North Korean nuclear issue, while not fully resolved, is at least moving toward a conclusion with the likely denuclearisation of the peninsula. Tensions between China and Taiwan, while always just beneath the surface, seem unlikely to erupt in open conflict any time soon, especially given recent Kuomintang Party victories in Taiwan and efforts by Taiwan and China to re-open informal channels of consultation as well as institutional relationships between organisations responsible for cross-strait relations. And while in Asia there is no strong supranational political entity like the European Union, there are many multilateral organisations and international initiatives dedicated to enhancing peace and stability, including the Asia-Pacific Economic Cooperation (APEC) forum, the Proliferation Security Initiative and the Shanghai Co-operation Organisation. In Southeast Asia, countries are united in a common eopolitical and economic organisation – the Association of Southeast Asian Nations (ASEAN) – which is dedicated to peaceful economic, social and cultural development, and to the promotion of regional peace and stability. ASEAN has played a key role in conceiving and establishing broader regional institutions such as the East Asian Summit, ASEAN+3 (China, Japan and South Korea) and the ASEAN Regional Forum. **All this suggests that war in Asia – while not inconceivable – is unlikely.**

### Accountability – Senkaku

#### No East China Sea conflict

Rudd 3/14 -- Former Prime Minister and Former Foreign Minister, Member, Australian Parliament, interview with Jonathan Tepperman (Kevin, 2013, "The Situation in North Korea and the Future of U.S.-China Relations," http://www.cfr.org/australasia-and-the-pacific/situation-north-korea-future-us-china-relations/p30230)

What ultimately drives this is a -- is a conflicting set of interests between rampant nationalisms on the one hand and, on the other hand, a pragmatic recognition by governments both in Beijing and Tokyo that conflict, for both of them, would be absolutely disastrous and would retard economic growth and stability in the wider region and would further (retard China's ?) -- primacy of China's own economic development objectives. Now, if they're the two competing poles in this debate, both in Tokyo and Beijing, rational foreign policy actors would conclude that rational self-interest and rational economic self-interest would ultimately (prevail ?). As you know, history cautions us against reaching those conclusions. And I think if you've seen the drift in the numbers, both in terms of Sino-Japanese trade numbers and Sino-Japanese investment numbers over the last six to nine months, the impact in real numbers is palpable and measurable in terms of the state of the China-Japan relationship. I think my friends in Beijing, when I have spoken with them, including the military, I think it's fair to say, are working very actively behind the scenes to find face-saving mechanisms by which this can be managed to the point of stability for the period ahead and then put into some longer-term process with the Japanese. However, when I was last in Beijing, which was prior to the -- (audio interference) -- lock-on incident, the -- it was very much a question within the Chinese minds about how one would do that without actually losing face on the national mistakes in the public discourse both about Japan and with Japan.

### Saudi – Drone Solvency

#### Drones are locked in - plan can’t solve

**McDonald 13 (**Jack, lecturer at the Department of War Studies, King’s College London, completed his PhD thesis on targeted killings, has worked with The Centre for Defence Studies, “Losing perspective on proliferation,” <http://kingsofwar.org.uk/2013/01/losing-perspective-on-proliferation/>)

The control of UAV technology is, however, a problem. In short, it isn’t that amenable to control in any meaningful sense of the word. If one wishes to “control” the proliferation of technology automating human behaviour and actions, then there would need to be some form of global bar on research in that area.\* I imagine that MIT and Google might have a problem this idea. Similarly, if someone wants to control the design and building of small unmanned aircraft, well, too late, that horse bolted a long time ago. Of course, you could lock up every amateur geek enthusiast, but that would be a bit pointless. The point is, the technology to build UAVs is embedded into our society to a far greater degree than nuclear weapons, chemical and biological weapons and small arms are. UAVs are effectively an extension of the industrial revolution (mechanisation, automation, replacement of human action by machine). I’m writing this on a laptop that was probably made by a large number of robots. UAVs need to be put into perspective – despite their dangers they can’t make human life as we know it extinct and they likely can’t be controlled by treaty. A little less rhetoric and a little more thought from critics of military UAVs might produce a better critique.

#### Zero risk of Saudi Oil disruption – security is tight, damage would be minimal, spare capacity solves

**CNN 11** (“Saudi oil supplies are safe and secure,” 4/7/2011, http://articles.cnn.com/2011-04-07/opinion/obaid.saudi.energy\_1\_abqaiq-saudi-oil-saudi-arabia?\_s=PM:OPINION

We are now facing another, more dangerous illusion: the vulnerability of Saudi Arabia's energy infrastructure. In recent weeks some pundits, oil traders and journalists have peddled a deceptive assessment of the threats facing the kingdom's ability to supply oil to the world, and this fear-mongering has had very real consequences, driving the price of oil to irrational heights, adding skittishness to the markets and threatening the nascent global economic recovery. No system as vast as the Saudi oil complex -- with its scores of rigs, refineries, export terminals and pipelines -- is perfectly protected. But a brief overview of the safeguards built into this infrastructure -- the forces that protect it and the demographics of the region -- sheds light on the actual security situation and reveals the risks are **much less serious** than widely disseminated. The first layer of security in the Saudi energy infrastructure is simply the design and construction of the facilities. Two failed attacks show this well. The first happened at the Yanbu petrochemical plant in 2004, where, because of the structure's layout, Saudi security agents were able to quickly cordon the industrial portions of the facility and isolate and neutralize the terrorists. **The complex itself was never in danger**, although several people were killed. Another example is the failed al Qaeda attack on the Abqaiq oil processing facility, one of the largest and most important in the world, in February 2006. The terrorists were able to breach the outer perimeter and overrun the guards, but never made it to the operational areas of the plant itself. Beyond the first guard post is a large "no-man's land," designed as a moat to protect the functioning elements of the facility. The terrorists were trapped and forced to detonate their car bomb there. Although people tragically lost their lives at the first gate and the exterior portions of the center suffered some damage, **at no time was the facility or its ability to process oil under serious threat**. In addition to safeguards and design elements such as multiple barriers and perimeters, thousands of sensors, cameras, sophisticated computers and world-class surveillance and security systems protect the sprawling energy facilities. It is worth pointing out that the elements most difficult to protect, such as the thousands of miles of pipeline, are **also the easiest to repair and quickly get back online**. Saudi authorities have estimated that in a worst case scenario -- where an entire section of pipeline is destroyed -- repair teams could bring the pipeline back to normal operation **within days**. The key processing points and bottlenecks in the system are, by their centralized nature, much easier to defend. It is also important to note that even though Abqaiq withstood the 2006 attack, since then the Saudi government has invested more than $10 billion to improve its energy security **even further**. A key element of this initiative has been the creation of a 35,000-strong "facilities security force." These troops come from across the kingdom and receive extensive training through a U.S. technical assistance program. This specialized force, which did not exist before 2005, has the exclusive responsibility of guarding all energy installations against both internal and external threats. Also, the Saudi government has **stockpiled considerable quantities of oil** through its Foreign Reserve Initiative. A sizable portion is in floating containment facilities near the kingdom's main export markets and can be released, if necessary, in emergencies, such as the tsunami in Japan or the civil war in Libya.

#### ---Economy’s resilient – can survive shocks

Bloomberg 12 (“Fed’s Plosser Says U.S. Economy Proving Resilient to Shocks,” 5-9, http://www.bloomberg.com/news/2012-05-09/fed-s-plosser-says-u-s-economy-proving-resilient-to-shocks.html)

Philadelphia Federal Reserve Bank President Charles Plosser said the U.S. economy has proven “remarkably resilient” to shocks that can damage growth, including surging oil prices and natural disasters. “The economy has now grown for 11 consecutive quarters,” Plosser said today according to remarks prepared for a speech at the Philadelphia Fed. “Growth is not robust. But growth in the past year has continued despite significant risks and external and internal headwinds.” Plosser, who did not discuss his economic outlook or the future for monetary policy, cited shocks to the economy last year, including the tsunami in Japan that disrupted global supply chains, Europe’s credit crisis that has damaged the continent’s banking system and political unrest in the Middle East and North Africa. “The U.S. economy has a history of being remarkably resilient,” said Plosser, who doesn’t have a vote on policy this year. “These shocks held GDP growth to less than 1 percent in the first half of 2011, and many analysts were concerned that the economy was heading toward a double dip. Yet, the economy proved resilient and growth picked up in the second half of the year.” Plosser spoke at a conference at the Philadelphia Fed titled, “Reinventing Older Communities: Building Resilient Cities.” Urban Resilience His regional bank’s research department is working on a project to measure the resilience of different cities, to learn more about the reasons that some urban areas suffer more than others in downturns, Plosser said. He mentioned one early finding of the study: Industrial diversity increases a city’s resilience. “I do want to caution you that resilient and vibrant communities are not just about government programs or directed industrial planning by community leaders,” Plosser said. “The economic strength of our country is deeply rooted in our market- based economy and the dynamism and resilience of its citizenry.”

### Saudi – Relations Resilient

#### US-Saudi relationship is unbreakable – threats are just posturing

Malli 14 [Dr. Ahmad, Almanar News, 3/28, http://www.almanar.com.lb/english/adetails.php?fromval=1&cid=23&frid=23&eid=143010]

Saudi Arabia doesn't have an alternative to the United States:¶ After the Saudi Royal family's trust in Washington became shaky and it expressed its discontent with the maximum it can, will the Saudis separate from the United States?¶ It is not likely for this to happen, as the Saudis don't have another place to go to - according to some US analysts.¶ US Ambassador to Riyadh (2001-2003), Robert Jordan says that: "There is no country in the world more capable of providing the protection of their oil fields, and their economy, than the US, and the Saudis are aware of that. We're not going to see them jump out of that orbit."¶ Jordan adds: "There’ll be more contact with the Russians and Chinese than in the past. They’ve gone elsewhere for weapons before and we’ll see some more of that, but the overall environment will be America-centric."¶ Undoubtedly, France forms one of the "options" open as mentioned earlier, but this must not be exaggerated, according to Ian Black who wrote for the Guardian (last December) that: "The notion that China or France can replace the US is – for now – fanciful nonsense."¶ We are in front of a deep and tangled relation in different aspects, as the Saudi Army and Air Forces are being structured similar to the US Army which supplies them with large quantities of weapons, in addition to the support and training they give them. Moreover, the economy of the kingdom is strongly attached to the United States that any serious attempt to break this attachment on the long run would have a high and tough cost.¶ A quick revision to the types of projects the Americans are carrying out in the kingdom and the number of contracts they have closed reveals the unbreakable attachment between the two parts, an example on that is the strong cooperation between the US security and military forces and the Saudi military forces, and no part has the motive to give up this partnership. The Americans equip and train the Saudi National Guards, which is the main Internal Security force for the Saudi regime, and they have been doing that since 1977, as they have been establishing security facilities for a unit of 35 thousand members of the National Guards, and which is being spread to protect the oil facilities, desalination plants, power stations, and other vital facilities in other countries.¶ As for the arms and military services costs which the Saudis have demanded from the United States in the last couple of years, they seem imaginary as they reached 60 billion dollars, including 34 billion dollars the sum of US arms sales to Saudi Arabia in 2012 which is ten times more than in 2011, and recently the US Congress announced its intention to close a 6.8 billion dollar arms deal with the kingdom.¶ Can the current tensions in relations between Riyadh and Washington be disregarded?¶ Saudi officials' statements against the United States should not be regarded as an indication to their intention to abandon the strategic partnership with Washington, especially amid the major changes in the region. This Saudi campaign only aims at putting pressure to affect the US policies that do not satisfy Riyadh, considering that what is going on reflects two contradicting views on the regional changes and the Saudi leadership cannot impose its will... The two allies will sooner or later overcome their disagreements because a Saudi retraction from its relation with the United States would cost it high.

#### Saudi-US relations resilient – they’ve got nobody else to turn to.

Carnegie 14 [Carnegie Endowment for International Peace, 2/6, “Carnegie Scholar Says Saudi Relations With the United States Unlikely to Shift”, http://carnegieendowment.org/2014/02/06/carnegie-scholar-says-saudi-relations-with-united-states-unlikely-to-shift/h0a7]

Speaking in front of an audience of policy experts, journalists, and diplomats, Carnegie Senior Associate Frederic Wehrey, an expert on U.S.-Gulf relations and a previous analyst at the RAND Corporation stressed that Saudi Arabia’s relationship with the United States is unlikely to dramatically shift. Despite the perception of a decline in America’s power interest in further involvement in the region, it remains the sole security guarantor for the Gulf monarchies.¶ Recent and dramatic developments in the Middle East have presented new challenges to the foreign policies of Saudi Arabia and the Gulf Arab states, with regional commentators calling for more muscular and independent foreign policies to balance what they see as the United States’ unreliability. Frederic Wehrey addressed this development at a special event in Carnegie’s Middle East office in Beirut, Lebanon on Wednesday February 5, 2014. Wehrey discussed Saudi Arabian efforts to back different political actors and engage with multiple great powers in order to diversify their options. However, he argued, these existing options all have drawbacks related to capacity, willpower, or political differences within the Gulf.¶ Wehrey explained this point by highlighting that existing relationships with other great powers are not a substitute for the United States. China, while being Saudi’s biggest oil importer, is a free rider in terms of Gulf security and is more interested in trade. Russia, on the other hand, has soured its relationship with the Gulf over its stance on Libya and Syria. In addition, regional political differences within the Gulf, attributed partly to the “historic distrust” of Saudi Arabia’s hegemony by its neighbors, have decreased regional cooperation and reform.

#### Relations resilient – Saudi Arabia has no alternative to the US

Economist 14 [3/29, http://www.economist.com/news/middle-east-and-africa/21599767-american-president-and-saudi-king-will-have-unusually-edgy]

Despite this growing list of grievances on both sides, the two countries need each other. America retains a strong military presence in the Gulf, and cannot be replaced as the ultimate guarantor of Saudi security in the foreseeable future. In the midst of turmoil across the region, and with the threat of jihadist terrorism ever-present, America still relies heavily on the Saudis as the leading local policeman.

## 1NR

### State Secrets DA – Impact

#### Strong navy key to allied response- creates a super-deterrent

Lyons, 13 -- retired Navy admiral

[James, commander in chief of the U.S. Pacific Fleet and senior U.S. military representative to the United Nations, "Where are the carriers?" Washington Times, 1-15-13, l/n, accessed 1-22-13, ]

To keep pressure on and **raise** **the level of deterrence**, movement of naval forces, particularly carrier strike groups, must remain unpredictable. In a deteriorating crisis situation, our Navy gains maximum impact by moving the carrier strike group into the crisis area. That sends a **special signal** of our intent to respond to our potential enemies and to our allies as well. Such a signal has a telling effect on our regional allies and encourages them to **employ their** air force and naval **assets in a coordinated manner**, which certainly should **raise the deterrent equation**.

#### Russia war outweighs all other impacts – only existential threat

**Bostrum**, March **2002** (Nick – prof of philosophy at Oxford University and recipient of the Gannon Award, Existential Risks, Journal of Evolution and Technology, p. http://www.nickbostrom.com/existential/risks.html)

A much greater existential risk emerged with the build-up of nuclear arsenals in the US and the USSR. An all-out nuclear war was a possibility with both a substantial probability and with consequences that might have been persistent enough to qualify as global and terminal. There was a real worry among those best acquainted with the information available at the time that a nuclear Armageddon would occur and that it might annihilate our species or permanently destroy human civilization.[4] Russia and the US retain large nuclear arsenals that could be used in a future confrontation, either accidentally or deliberately. There is also a risk that other states may one day build up large nuclear arsenals. Note however that a smaller nuclear exchange, between India and Pakistan for instance, is not an existential risk, since it would not destroy or thwart humankind’s potential permanently. Such a war might however be a local terminal risk for the cities most likely to be targeted. Unfortunately, we shall see that nuclear Armageddon and comet or asteroid strikes are mere preludes to the existential risks that we will encounter in the 21st century.

#### Middle east war causes extinction

Stirling 11 - hereditary Governor & Lord Lieutenant of Canada, Lord High Admiral of Nova Scotia, M.A. in European Studies [The Earl of Stirling 11, “General Middle East War Nears - Syrian events more dangerous than even nuclear nightmare in Japan”,http://europebusines.blogspot.com/2011/03/general-middle-east-war-nears-syrian.html]

Any Third Lebanon War/General Middle East War is apt to involve WMD on both side quickly as both sides know the stakes and that the Israelis are determined to end, once and for all, any Iranian opposition to a 'Greater Israel' domination of the entire Middle East. It will be a case of 'use your WMD or lose them' to enemy strikes. Any massive WMD usage against Israel will result in the usage of Israeli thermonuclear warheads against Arab and Persian populations centers in large parts of the Middle East, with the resulting spread of radioactive fallout over large parts of the Northern Hemisphere. However, the first use of nukes is apt to be lower yield warheads directed against Iranian underground facilities including both nuclear sites and governmental command and control and leadership bunkers, with some limited strikes also likely early-on in Syrian territory. The Iranians are well prepared to launch a global Advanced Biological Warfare terrorism based strike against not only Israel and American and allied forces in the Middle East but also against the American, Canadian, British, French, German, Italian, etc., homelands. This will utilize DNA recombination based genetically engineered 'super killer viruses' that are designed to spread themselves throughout the world using humans as vectors. There are very few defenses against such warfare, other than total quarantine of the population until all of the different man-made viruses (and there could be dozens or even over a hundred different viruses released at the same time) have 'burned themselves out'. This could kill a third of the world's total population. Such a result from an Israeli triggered war would almost certainly cause a Russian-Chinese response that would eventually finish off what is left of Israel and begin a truly global war/WWIII with multiple war theaters around the world. It is highly unlikely that a Third World War, fought with 21st Century weaponry will be anything but the Biblical Armageddon.

#### Turns case – 1NC Murphy says lawsuits deter the use of drone tech – if officials think they will be sued, they won’t use it – prevents solvency for all drone good advantages

### State Secrets DA – Impact – Turns Asia

#### Naval power prevents Asian wars- specifically China

Hultin and Blair 6. (Jerry MacArthur Hultin, Undersecretary for the Navy, Dennis Blair, former President for the Institute of Defense Analysis and Admiral, US Navy, “Naval Power and Globalization,” September, 2006 http://www.poly.edu/president/\_doc/hultin%20naval%20power.pdf)

Even if the interaction of US and Chinese decisions in future avoids a global naval arms race centered in the Pacific, China will still have a capable regional navy. World events may put China and the United States on opposite sides of an issue or crisis, leading to a maritime confrontation. The most likely location for this scenario is Taiwan. Successful deterrence depends on the United States **having strong naval capability** on station or quickly deployable so that there is no incentive to China or other adversaries to initiate hostilities.   The second Pacific area in which the United States must maintain a deterrent capability based on naval power is around the Korean Peninsula. North Korea is a failing state, but so long as Kim Jong II and his successors maintain their position of power, they will need to be deterred from military aggression.   To maintain deterrence, American naval strategy in the Pacific must preserve its alliance base, its forward deployed posture and its ability to reinforce quickly to assert maritime superiority throughout any crisis situation.

### State Secrets DA – Impact – Turns Econ/Trade

#### **Naval power collapse kills the economy and trade**

Eaglen 11

(Mackenzie, Heritage Foundation Research Fellow for National Security Studies, Allison Center for Foreign Policy Studies, May, 16, 2011, “Thinking about a Day without Sea Power: Implications for U.S. Defense Policy”, http://www.heritage.org/research/reports/2011/05/thinking-about-a-day-without-sea-power-implications-for-us-defense-policy, 2/16/13, atl)

If the United States slashed its Navy and ended its mission as a guarantor of the free flow of transoceanic goods and trade, globalized world trade would decrease substantially. As early as 1890, noted U.S. naval officer and historian Alfred Thayer Mahan described the world’s oceans as a “great highway…a wide common,” underscoring the long-running importance of the seas to trade.[12] Geographically organized trading blocs develop as the maritime highways suffer from insecurity and rising fuel prices. Asia prospers thanks to internal trade and Middle Eastern oil, Europe muddles along on the largesse of Russia and Iran, and the Western Hemisphere declines to a “new normal” with the exception of energy-independent Brazil. For America, Venezuelan oil grows in importance as other supplies decline. Mexico runs out of oil—as predicted—when it fails to take advantage of Western oil technology and investment. Nigerian output, which for five years had been secured through a partnership of the U.S. Navy and Nigerian maritime forces, is decimated by the bloody civil war of 2021. Canadian exports, which a decade earlier had been strong as a result of the oil shale industry, decline as a result of environmental concerns in Canada and elsewhere about the “fracking” (hydraulic fracturing) process used to free oil from shale. State and non-state actors increase the hazards to seaborne shipping, which are compounded by the necessity of traversing key chokepoints that are easily targeted by those who wish to restrict trade. These chokepoints include the Strait of Hormuz, which Iran could quickly close to trade if it wishes. More than half of the world’s oil is transported by sea. “From 1970 to 2006, the amount of goods transported via the oceans of the world…increased from 2.6 billion tons to 7.4 billion tons, an increase of over 284%.”[13] In 2010, “$40 billion dollars [sic] worth of oil passes through the world’s geographic ‘chokepoints’ on a daily basis…not to mention $3.2 trillion…annually in commerce that moves underwater on transoceanic cables.”[14] These quantities of goods simply cannot be moved by any other means. Thus, a reduction of sea trade reduces overall international trade. U.S. consumers face a greatly diminished selection of goods because domestic production largely disappeared in the decades before the global depression. As countries increasingly focus on regional rather than global trade, costs rise and Americans are forced to accept a much lower standard of living. Some domestic manufacturing improves, but at significant cost. In addition, shippers avoid U.S. ports due to the onerous container inspection regime implemented after investigators discover that the second dirty bomb was smuggled into the U.S. in a shipping container on an innocuous Panamanian-flagged freighter. As a result, American consumers bear higher shipping costs. The market also constrains the variety of goods available to the U.S. consumer and increases their cost. A Congressional Budget Office (CBO) report makes this abundantly clear. A one-week shutdown of the Los Angeles and Long Beach ports would lead to production losses of $65 million to $150 million (in 2006 dollars) per day. A three-year closure would cost $45 billion to $70 billion per year ($125 million to $200 million per day). Perhaps even more shocking, the simulation estimated that employment would shrink by approximately 1 million jobs.[15] These estimates demonstrate the effects of closing only the Los Angeles and Long Beach ports. On a national scale, such a shutdown would be catastrophic. The Government Accountability Office notes that: [O]ver 95 percent of U.S. international trade is transported by water[;] thus, the safety and economic security of the United States depends in large part on the secure use of the world’s seaports and waterways. A successful attack on a major seaport could potentially result in a dramatic slowdown in the international supply chain with impacts in the billions of dollars.[16] As of 2008, “U.S. ports move 99 percent of the nation’s overseas cargo, handle more than 2.5 billion tons of trade annually, and move $5.5 billion worth of goods in and out every day.” Further, “approximately 95 percent of U.S. military forces and supplies that are sent overseas, including those for Operations Iraqi Freedom and Enduring Freedom, pass through U.S. ports.”[17]

#### Naval power key to the global economy

Conway, Roughead, and Allen, 07- \*General of U.S. Marine Corps and Commandant of the Marine Corps, \*\*Admiral of U.S. Navy and Chief of Naval Operations, \*\*\*Admiral of U.S. Coast Guard and Commandant of the Coast Guard (\*James Conway, \*\*Gary Roughead, \*\*\*Thad Allen, "A Cooperative Strategy for 21st Century Seapower", Department of the Navy, United States Marine Corps, United States Coast Guard, http://www.navy.mil/maritime/MaritimeStrategy.pdf, KONTOPOULOS)

The world economy is tightly interconnected. Over the past four decades, total sea borne trade has more than quadrupled: 90% of world trade and two-thirds of its petroleum are transported by sea. The sea-lanes and supporting shore infrastructure are the lifelines of the modern global economy, visible and vulnerable symbols of the modern distribution system that relies on free transit through increasingly urbanized littoral regions. Expansion of the global system has increased the prosperity of many nations. Yet their continued growth may create increasing competition for resources and capital with other economic powers, transnational corporations and international organizations. Heightened popular expectations and increased competition for resources, coupled with scarcity, may encourage nations to exert wider claims of sovereignty over greater expanses of ocean, waterways, and natural resources—potentially resulting in conflict.

### State Secrets DA – Impact – Turns Heg

#### Naval power makes Heg sustainable

Friedman, 07- Writer for Stratfor (George, "The Limitations and Necessity of Naval Power", Stratfor- Global Intelligence Reports, April 10th 2007, http://www.stratfor.com/limitations\_and\_necessity\_naval\_power, KONTOPOULOS)

The argument for slashing the Navy can be tempting. But consider the counterargument. First, and most important, we must consider the crises the United States has not experienced. The presence of the U.S. Navy has shaped the ambitions of primary and secondary powers. The threshold for challenging the Navy has been so high that few have even initiated serious challenges. Those that might be trying to do so, like the Chinese, understand that it requires a substantial diversion of resources. Therefore, the mere existence of U.S. naval power has been effective in averting crises that likely would have occurred otherwise. Reducing the power of the U.S. Navy, or fine-tuning it, would not only open the door to challenges but also eliminate a useful, if not essential, element in U.S. strategy — the ability to bring relatively rapid force to bear. There are times when the Navy’s use is tactical, and times when it is strategic. At this moment in U.S. history, the role of naval power is highly strategic. The domination of the world’s oceans represents the foundation stone of U.S. grand strategy. It allows the United States to take risks while minimizing consequences. It facilitates risk-taking. Above all, it eliminates the threat of sustained conventional attack against the homeland. U.S. grand strategy has worked so well that this risk appears to be a phantom. The dispersal of U.S. forces around the world attests to what naval power can achieve. It is illusory to believe that this situation cannot be reversed, but it is ultimately a generational threat. Just as U.S. maritime hegemony is measured in generations, the threat to that hegemony will emerge over generations. The apparent lack of utility of naval forces in secondary campaigns, like Iraq, masks the fundamentally indispensable role the Navy plays in U.S. national security.

### State Secrets DA – Impact – AT: Impact D

#### **No fill in for naval power – only thing that prevents great power war**

Eaglen 11 (Mackenzie, Heritage Foundation Research Fellow for National Security Studies, Allison Center for Foreign Policy Studies, May, 16, 2011, “Thinking about a Day without Sea Power: Implications for U.S. Defense Policy”, http://www.heritage.org/research/reports/2011/05/thinking-about-a-day-without-sea-power-implications-for-us-defense-policy)

How the United States might replace its preponderant sea power—if that day ever comes—seems less straightforward. Indeed, the question seems almost ludicrous. The United States is a maritime nation, bordered by two oceans and for much of its history protected by them. Over the past 60 years, the oceans have been highways for worldwide trade that has helped to lift more than a billion people out of poverty,[3] and those sea lanes have been patrolled by the U.S. Navy, the world’s preeminent naval power. The U.S. Navy’s global presence has added immeasurably to U.S. economic vitality and to the economies of America’s friends and allies, not to mention those of its enemies. World wars, which destroyed Europe and much of East Asia, have become almost incomprehensible thanks to the “nuclear taboo” and preponderant American sea power. If these conditions are removed, all bets are off. For more than five centuries, the global system of trade and economic development has grown and prospered in the presence of some dominant naval power. Portugal, Spain, the Netherlands, the United Kingdom, and now the U.S. have each taken a turn as the major provider of naval power to maintain the global system. Each benefited handsomely from the investment: [These navies], in times of peace, secured the global commons and ensured freedom of movement of goods and people across the globe. They supported global trading systems from the age of mercantilism to the industrial revolution and into the modern era of capitalism. They were a gold standard for international exchange. These forces supported national governments that had specific global agendas for liberal trade, the rule of law at sea, and the protection of maritime commerce from illicit activities such as piracy and smuggling.[4] A preponderant naval power occupies a unique position in the global order, a special seat at the table, which when unoccupied creates conditions for instability. Both world wars, several European-wide conflicts, and innumerable regional fights have been fueled by naval arms races, inflamed by the combination of passionate rising powers and feckless declining powers. This thought experiment cannot go so far as to conjure “a day without the U.S. Navy,” because it strains credulity to believe the nation would ever do without one.

### State Secrets DA – Spillover

#### The state secrets privilege has no exceptions – it is an all or nothing proposition – the plan must overturn it in its entirety

Page 8 (Michael H. – J.D. Candidate, Cornell Law School, “JUDGING WITHOUT THE FACTS: A SCHEMATIC FOR REVIEWING STATE SECRETS PRIVILEGE CLAIMS” 2008, 93 Cornell L. Rev. 1243, lexis)

Reynolds\*= Refers to US v. Reynolds, case that established the state secrets privilege

The cost of Reynolds and Ellsberg's misplaced analysis is not worth the benefit of the absolute privilege it creates. The benefit of the privilege's absolute nature is largely illusory--more valuable symbolically than in its legal effect. The qualifier only means that where the privilege applies, it applies without exception. The real question is under what conditions does the privilege apply. Admittedly, differences between the state secrets privilege and the executive privilege, for example, do support making the former less qualified than the latter. Whereas an individual's need might outweigh a weak showing of need for executive privilege, an individual's need can never outweigh the public's safety. n158 But it is not true that a very remote probability of harm to the public should always outweigh an individual's interest. Therefore, the requesting party's interest should more appropriately join the magnitude and likelihood of harm to the public in the initial trigger test. n159 The amount of information a judge should review before affirming an executive official's privilege claim ought to track the rationale driving judicial deference, an area this Note explores below. 3. Deference: How Much Despite Reynolds's instruction that deference is a function of the requesting party's need, the lower courts have generally taken their guidance from a different source, employing a static "utmost deference" in all contexts. n160 Although the popularity of this standard is further evidence of the inadequacy of Reynolds's deference calculus, the standard's rigidity ignores its own driving rationale. [\*1265] The modern source of guidance regarding judicial deference in the state secrets privilege context is United States v. Nixon. n161 Prior to Nixon, courts were not clear how the state secrets privilege related to the better-known executive privilege. n162 In Nixon, the President claimed the inherent power to withhold documents from the court. n163 In response to this claim, the Court stated: "[President Nixon] does not place his claim of privilege on the ground they are military or diplomatic secrets. As to these areas of Art. II duties the courts have traditionally shown the utmost deference to Presidential responsibilities." n164 Those two words, "utmost deference"--pure dicta themselves--swept through the lower courts. Three years after Nixon, they surfaced in a state secrets privilege case for the first time. In Jabara v. Kelley, the Eastern District of Michigan stated:

#### Either the plan doesn’t solve or it overturns the whole doctrine because the ruling has to be antithetical to the decision in Reynolds and undermines the whole framework – national security cases are particularly dangerous

Rapa 6 (Anthony – J.D. Candidate, 2007, Seton Hall University School of Law, “When Secrecy Threatens Security: Edmonds v. Department of Justice and a Proposal to Reform the State Secrets Privilege”, 2006, 37 Seton Hall L. Rev. 233, lexis)

In almost all of the cases noted above, the government invoked the state secrets privilege and prevailed. n207 Though some courts were [\*259] more demanding than others, the end result was that each of these potentially explosive cases was stalled, halted, or outright dismissed. These cases presented a challenge to the Reynolds framework. The surveillance cases, in particular, moved state secrets case law out of the black-and-white workability of Reynolds itself and commercial litigation cases, and confronted courts with the likelihood that victims of egregious constitutional violations were remediless. For the first time the possibility of bad faith in invoking the privilege crept into the picture - the possibility that government officials, tangled in allegations of mass invasions of privacy and political intimidation, were crouching behind the shield of the state secrets privilege. n208 In fact, the D.C. Circuit found an overreach in Ellsberg v. Mitchell when the government claimed it need not produce the names of the Attorneys General who authorized the allegedly unconstitutional surveillance. n209 The panel, unimpressed by the conjurations of broad national security interests, ordered the names be produced. n210 Bound by Supreme Court precedent, the most courts could do in these cases was wring their hands at the mass of alleged potential violations that were going by the boards. n211 Reynolds, with its holding that the interests of a private litigant can never outweigh the properly asserted interests of the government, n212 forbade them from even considering that the interests of the plaintiffs in the surveillance cases approached those of the government. Yet, it can be argued that these plaintiffs invoked interests that equaled, or even outweighed, the potential harm to national security that the government decried. [\*260] If correct in their allegations, they were standing up against threats to the Bill of Rights and supplying the political process with subjects for discourse. Yet, in the ultimate evaluation the plaintiffs alleged no government wrongdoing that directly threatened national security. Perhaps most notably, the government has invoked the state secrets privilege in a number of cases in which the plaintiffs have alleged they were the targets of warrantless electronic surveillance initiated by the National Security Agency. n213 Moreover, the suit of Khalid El-Masri, a German citizen who alleges he was abducted and "rendered" to Afghanistan for four months of torture, ran into the buzzsaw of the privilege. n214 The Global Relief Fund, a charity that [\*261] sued after the government allegedly conducted warrantless searches and froze its assets, met the same fate. n215 Sibel Edmonds leads the charge of national security whistleblowers, but remains the only such plaintiff to encounter the state secrets privilege. Other whistleblowers include: Coleen Rowley, one of Time magazine's 2002 Persons of the Year, n216 who blasted the FBI for throwing up roadblocks in the investigation of Zacarias Moussaoui; n217 Bogdan Dzakovic, a member of the Federal Aviation Administration (FAA) "Red Team" who told the September 11 Commission that the FAA knew before September 11th that the nation's commercial airplanes were vulnerable to hijackings; n218 Robert Wright, who alleged FBI intelligence agents thwarted counterterrorism investigations in order to protect their sources; n219 John Vincent, an FBI agent who sued the Bureau after it forbade him to talk to New York Times reporter Judith Miller about a bungled terrorism investigation; n220 Diane Kleiman, who alleges rampant corruption in the U.S. Customs Service and is suing for wrongful termination; n221 and Russ Tice, an NSA analyst who was fired after going to Capitol Hill with allegations that a Chinese spy worked with him at his former post at the Defense Intelligence Agency (DIA). n222 Courts and commentators may shuffle the Arar, Global Relief Fund, and no-fly list cases into the same category as the surveillance cases (even though Arar alleges he was tortured in Syria!). The Edmonds [\*262] case and the particular brand of national security whistleblower litigation that may follow, however, pose a unique challenge to the viability of the Reynolds framework. More than any other type of state secrets case, a national security whistleblower case carries the possibility that the public interest in disclosure, or at least allowing a case to go forward with judicial controls, outweighs the interest in secrecy. After all, in such a case a plaintiff necessarily alleges government wrongdoing (either malfeasance or nonfeasance) that threatened or is threatening national security. n223 On the one hand the government may argue that military or diplomatic secrets are at stake, but on the other hand are allegations that espionage rings and organized crime have infiltrated the FBI, n224 that terrorist investigations have been diverted, n225 that massive amounts of cocaine have been smuggled into the U.S. through corruption, n226 and that foreign intelligence operates at the DIA. n227 Dismissing these cases may protect some aspects of national security, but leave others extremely vulnerable.

#### Rulings spill over – multiple opinions prove

Donohue 10 (Laura – Associate Professor of Law, Georgetown University Law Center, “The Shadow of State Secrets”, 2010, 159 U. Pa. L. Rev. 77, lexis)

The telecommunications cases related to the NSA's warrantless wiretapping program stand apart from the general third-party cases. Here the government has acted variously as plaintiff, intervenor, and defendant. Although none of the forty-six cases dismissed under the MDL turned on the invocation of state secrets, the privilege played a key role throughout. The executive's decision to invoke state secrets in this set of cases rested on a closely held executive branch jurisprudence - suggesting that this body of opinions may be relevant to understanding operation of the privilege. This set of suits also reveals a parallel effect: when invoked in one case, courts may treat similarly positioned cases as though the state secrets privilege has been asserted, even in the absence of a formal invocation thereof. The telecommunication suits also bring to the fore the major battles between the branches that mark invocations of the privilege.

#### The doctrine can be overturned literally at any point by either Congress or the Supreme Court

CCR 13 (Center for Constitutional Rights, “FAQs: What Are State Secrets”, Accessed 10/19/2013)

How is the Bush administration abusing the SSP? The Bush administration is using the state secrets privilege far more than any administration and is using it to cover up its own illegal behavior. So far, it has invoked the privilege to dismiss cases that fight illegal government spying on American citizens, challenge the government’s use of torture and rendition, and other cases that seek to hold the Bush administration accountable for abusing executive power and violating the human rights of both citizens and non-citizens. Instead of merely employing the privilege to deny attorneys access to evidence (as it was used in the past), the Bush administration is using the state secrets privilege to get courts to dismiss cases at their very beginning stages. In doing so, the Bush administration is trying to disarm the courts from being able to check the power of the executive branch. What can I do? We need to remember that the state secrets privilege can be overturned at any point by Congress or the Supreme Court. Any push to end the use of this relic of the British monarchy must start with educating others about the Bush administration’s abuse of the state secrets privilege. You can help by handing out this factsheet to your family and friends.

#### Err Neg – the doctrine is easily shaped – little US case law

Setty 9 (Sudha – Associate Professor of Law, Western New England College School of Law, “Litigating Secrets Comparative Perspectives on the State Secrets Privilege”, 2009, 75 Brooklyn L. Rev. 201, lexis)

Reynolds is the only instance in which the Supreme Court has articulated a standard for the state secrets privilege; given the dearth of U.S. precedent, n36 the Court based its reasoning on numerous other sources, including the English case of Duncan v. Cammel, Laird, & Co. n37 decided in 1942. n38 Cammel, Laird's acknowledgement of a robust evidentiary privilege available to the executive was not, however, the only basis on which the Reynolds court made its decision; the Court also considered other sources, such as earlier U.S. cases involving various privileges n39 and Wigmore's treatise on evidence. n40 Wigmore noted the need for a state secrets privilege, but cautioned--even then, in 1940--that the privilege "has been so often improperly invoked and so loosely misapplied that a strict definition of its legitimate limits must be made," n41 and that courts, not the executive branch itself, were the appropriate decision-makers regarding the privilege. n42 [\*209] In Reynolds, the Supreme Court established a standardized doctrine by which to evaluate claims of a state secrets privilege; this doctrine balanced national security matters with adherence to the rule of law and attention to rights of individual litigants. n43 However, the balancing test set forth in Reynolds has often been subsumed by a judicial tendency to uphold claims of privilege without engaging in a meaningful analysis of the underlying evidence or the government's claimed need for nondisclosure. n44 In recent years, that tendency has come under scrutiny as the current war on terror has led to numerous lawsuits in which national security programs have been implicated.

#### Status quo rulings haven’t clarified the legal debate---the plan does

Entlin 12 (Jonathan L. Entin 12, Associate Dean for Academic Affairs (School of Law), David L. Brennan Professor of Law, and Professor of Political Science, Case Western Reserve University. War Powers, Foreign Affairs, and the Courts: Some Institutional Considerations, 45 Case W. Res. J. Int'l L. 443)

To be sure, the Supreme Court has decided some well-known national security cases. Among them are the Steel Seizure case, Youngstown Sheet & Tube Co. v. Sawyer; n2 the Pentagon Papers case, New York Times Co. v. United States; n3 the Iranian hostage case, Dames & Moore v. Regan; n4 and some notable First Amendment cases arising out of World War I, such as Schenck v. United States n5 and Abrams v. United States. n6 Then there are the Japanese internment decisions during World War II, notably Korematsu v. United States, n7 as well as Ex parte Quirin, n8 which upheld the use of military commissions to try German agents who landed in the United States as part of a sabotage mission. Most recently, the Supreme Court has addressed questions arising from the government's response to the attacks of September 11, 2001, in such cases as Hamdi v. Rumsfeld, n9 Hamdan v. Rumsfeld, n10 and Boumediene v. Bush. n11 These cases do matter, but they have not clearly resolved the constitutional and other legal issues that pervade the debate about presidential power and foreign affairs.

Beyond the limitations of the Supreme Court rulings, the judiciary probably will not contribute very much to the debate. Various procedural and jurisdictional obstacles make it difficult for courts to address the merits of disputes about war powers and foreign affairs. Even if those obstacles can be surmounted, those who decry what they view as presidential excess should note that the judiciary typically has taken a deferential role in reviewing challenges to executive action.

#### Precedent dictates use of state secret doctrine

Ziegler 8 (Margaret, “No Attention to the Man Behind the Curtain: The Government's Increased Use of the State Secrets Privilege to Conceal Wrongdoing”, Berkeley Technology Law Journal, 2008, 23 Berkeley Tech. L.J. 691, lexis)

With respect to the second and third approaches to state secrets identified in the opinion, Judge Walker said it would be premature to conclude that state secrets privilege would bar evidence that would keep Hepting from establishing his prima facie case or preclude AT&T's defense. n41 The court said its decision to allow the case to proceed followed precedent in other state secret cases where the courts allowed them to "proceed to discovery sufficiently to asses the state secrets privilege in light of the facts." n42

### State Secrets DA – Link Wall – Judiciary

#### State secrets are not subject to judicial review – the plan must overrule that doctrine

Windsor 12 (Lindsay – J.D. candidate and Master of Security Studies candidate at Georgetown University, “IS THE STATE SECRETS PRIVILEGE IN THE CONSTITUTION? THE BASIS OF THE STATE SECRETS PRIVILEGE IN INHERENT EXECUTIVE POWERS & WHY COURT-IMPLEMENTED SAFEGUARDS ARE CONSTITUTIONAL AND PRUDENT”, 2012, 43 Geo. J. Int'l L. 897, lexis)

This case is the most recent invocation of a long-established government privilege which frequently results in barring all further litigation of the issue. n7 From 1954 through 2008, the state secrets privilege was adjudicated in about a hundred cases. n8 In most, but not all, the assertion of the privilege was upheld. n9 The state secrets privilege has become particularly important since September 11, 2001, because in a [\*900] number of cases involving issues such as torture, n10 extraordinary rendition, n11 and domestic warrantless surveillance, n12 the Bush Administration argued that the privilege is based in inherent executive power and not subject to judicial review. n13 The Obama Administration has continued this assertion, arguing in Al-Aulaqi, for example, that the protection of state secrets from disclosure in litigation is within "[t]he ability of the Executive." n14

#### They are in a double-bind – either judicial review doesn’t happen or the plan links and dismisses the state secret doctrine

Ziegler 8 (Margaret, “Pay No Attention to the Man Behind the Curtain: The Government's Increased Use of the State Secrets Privilege to Conceal Wrongdoing”, 2008, 23 Berkeley Tech. L.J. 691, lexis)

B. Hepting Exemplifies More Expansive Use of the State Secrets Privilege The government, in facing these allegations of warrantless wiretapping, is not defending its actions based on compliance with FISA or the scope of Fourth Amendment protections. Instead, the government insists that the case must be dismissed under the state secrets privilege because it claims that judicial review of such claims would jeopardize national security. The state secrets privilege has been invoked in a number of wiretapping cases, both in the aftermath of the Vietnam War and recently. n132 The government, however, has recently enhanced its requests under the privilege; instead of using state secrets to hold back certain scientific evidence, it is asking that entire cases be dismissed. One scholar has referred to the state secrets privilege as "the most powerful privilege available to the President" because it prevents disclosure of information to the courts and prevents a judicial check on the executive. n133 Also, given how superficial judicial review of state secrets claims has become, abuse of the privilege is far more likely. "The plain fact is that if department heads or the president know that assertion of the privilege is tantamount to conclusive on the judiciary, and that federal judges rarely order documents for inspection, then there is great incentive on the part of the executive branch to misuse the privilege." n134

#### Judicial review is inconsistent with state secrets – the plan must rule against the secrets doctrine

Strossen et al. 8 (Nadine – President, American Civil Liberties Union; Professor of Law, New York Law School, “LEFT OUT IN THE COLD? THE CHILLING OF SPEECH, ASSOCIATION, AND THE PRESS IN POST-9/11 AMERICA: SEPTEMBER 20-21, 2007”, 2008, 57 Am. U.L. Rev. 1203, lexis)

As a second illustration of the relationship between the First Amendment and judicial review, let me give you an example of the dark side, the glass half-empty perspective. It shows how the judicial review power can be thwarted through undue Executive Branch secrecy, thus undermining both checks and balances and First Amendment freedoms. I am specifically referring to how judicial review power has been completely frustrated to an alarming extent by [\*1211] the government's abuse of, and many courts' acceptance of, the "state secrets privilege." As a result, the Executive Branch has effectively been immunized from any judicial review of even the most egregious violations of constitutional rights, including First Amendment freedoms. Such abuses are analyzed in the powerful new report put together by James Tucker and his ACLU colleagues, which refers to such acts as "governing in the shadows." n18 While this topic is not as well known as it should be, Louis Fisher has written a book on this subject, In the Name of National Security, n19 which I recommend to you. In its origin, the state secrets privilege was designed to protect particular pieces of evidence that were shown to be dangerous to national security if they came to light. That narrow application has been completely expanded, distorted, and exaggerated, so the privilege is now being used systematically to completely dismiss cases before the introduction of any evidence, even cases claiming enormous abuses of the most fundamental human rights, including rendition to countries that we know engage in torture.

### State Secrets DA – Link – Drones

#### Drones are protected as state secrets – plan requires circumventing the doctrine

Rosen 11 (Richard D. – Professor of Law and Director, Center for Military Law and Policy, Texas Tech University School of Law, “PART III: ARTICLE: DRONES AND THE U.S. COURTS”, 2011, 37 Wm. Mitchell L. Rev. 5280, lexis)

V. State Secrets: The Death Knell of Drone Cases Assuming a complaint survives the jurisdictional, justiciability, immunity, and other hurdles to lawsuits challenging U.S. drone policy, the state secrets doctrine is likely to bring the suit to a quick end. n93 Under the doctrine, the United States may prevent the disclosure of information in judicial proceedings if there is a reasonable danger of revealing military or state secrets. n94 Once the privilege is properly invoked and a court is satisfied that release would pose a reasonable danger to secrets of state, "even the most compelling necessity cannot overcome the claim of privilege." n95 Not only will the state secrets doctrine thwart plaintiffs from acquiring or introducing evidence vital to their case, n96 it could result in dismissal of the cases themselves. Under the doctrine, the courts will dismiss a case either because the very subject of the case involves state secrets, n97 or a case cannot proceed without the privileged evidence or presents an unnecessary risk of revealing [\*5293] protected secrets. n98 Employing drones as a weapons platform against terrorists and insurgents in an ongoing armed conflict implicates both the nation's military tactics and strategy as well as its delicate relations with friendly nations. n99 As such, lawsuits challenging the policy cannot be tried without access to and the possible disclosure of highly classified information relating to the means, methods, and circumstances under which drones are employed.

#### The privilege applies to drones – only the counterplan avoids the link

Sinnar 13 (Shirin – Assistant Professor of Law at Stanford, “Protecting Rights from Within? Inspectors General and National Security Oversight”, May, 65 Stan. L. Rev. 1027, lexis)

More than a decade after September 11, 2001, the debate over which institutions of government are best suited to resolve competing liberty and national security concerns continues unabated. While the Bush Administration's unilateralism in detaining suspected terrorists and authorizing secret surveillance initially raised separation of powers concerns, the Obama Administration's aggressive use of drone strikes to target suspected terrorists, with little oversight, demonstrates how salient these questions remain. Congress frequently lacks the [\*1029] information or incentive to oversee executive national security actions that implicate individual rights. Meanwhile, courts often decline to review counterterrorism practices challenged as violations of constitutional rights out of concern for state secrets or institutional competence. n1 These limitations on traditional external checks on the executive - Congress and the courts - have led to increased academic interest in potential checks within the executive branch. Many legal scholars have argued that executive branch institutions supply, or ought to supply, an alternative constraint on executive national security power. Some argue that these institutions have comparative advantages over courts or Congress in addressing rights concerns; others characterize them as a second-best option necessitated by congressional enfeeblement and judicial abdication.

#### Empirics prove – state secrets have hidden the drone program

Bazzle 12 (Tom – J.D., Georgetown University Law Center, 2011, “Shutting the Courthouse Doors: Invoking the State Secrets Privilege to Thwart Judicial Review in the Age of Terror”, 2012, 23 Geo. Mason U. Civ. Rts. L.J. 29, lexis)

C. A New Frontier: The Obama Administration's Invocation of State Secrets to Prevent Judicial Oversight of Its Plan to Target and Kill Anwar al-Aulaqi The American-born Yemeni cleric Anwar al-Aulaqi was perhaps the most notorious member of the Obama Administration's controversial "targeted killing" list, n171 a classified but widely-known-to-exist list of alleged terrorists identified by intelligence agencies for targeted killing by U.S. forces and the government's growing arsenal of unmanned drones. n172 As a propagandist of the Al Qaeda in the Arabian Peninsula (AQAP), al-Aulaqi's incendiary statements and alleged involvement in recently foiled terrorist plots n173 led the Obama Administration to conclude that he posed such a sufficient threat to U.S. security to justify the unprecedented step of targeting him for capture or killing. n174 Despite outcries from across the political spectrum [\*56] that targeting a U.S. citizen for assassination without first charging him and convicting him of a crime amounted to an unconscionable violation of due process rights, n175 the Obama Administration continued undeterred in its search for al-Aulaqi. This pursuit ended on September 30, 2011, when an American drone strike in Yemen killed al-Aulaqi and several others, including an American citizen of Pakistani origin that had edited Al Qaeda's online jihadist magazine. n176 Prior to al-Aulaqi's killing, his father, Nasser al-Aulaqi - represented by the ACLU and Center for Constitutional Rights (CCR) - filed a claim in the District Court for the District of Columbia to enjoin his assassination, and in response, the Obama Administration invoked the state secrets privilege. n177 Al-Aulaqi charged that the authority contemplated by the Obama Administration is far broader than what the Constitution and international law allow. n178 According to al-Aulaqi, outside of armed conflict, both the Constitution and international law prohibit targeted killing except as a last resort to protect against concrete, specific, and imminent threats of death or serious physical injury. n179 Al-Aulaqi further argued that an extrajudicial policy, under which names are added to CIA and military "kill lists" for a period of months, through a secret executive process, is plainly limited to imminent threats. n180

### State Secrets DA – U

#### Trends prove – the state secret privilege is stronger

Rudenstine 13 (David – Sheldon H. Solow Professor of Law at the Benjamin N. Cardozo School of Law, Yeshiva University, “The Irony of a Faustian Bargain: A Reconsideration of the Supreme Court's 1953 United States v. Reynolds Decision”, Cardozo Law Review, 2013, 34 Cardozo L. Rev. 1283, lexis)

Introduction Sixty years ago, the Supreme Court decided United States v. Reynolds. n1 That decision attracted very little public attention at the time, n2 remains largely unexamined today, n3 and is critically important in understanding the scope of the contemporary state secrets privilege. n4 [\*1286] The Reynolds decision announced new guidelines that courts to this day n5 must follow when they decide whether to sustain an executive n6 branch claim that certain information is confidential because it is protected by the state secrets privilege. n7 That privilege, which has been vastly expanded in recent decades and has a determinative impact on a large number of cases, n8 is highly controversial and has been the subject of substantial analysis by judges, n9 news commentators n10 and legal [\*1287] scholars. n11 Nonetheless, with few exceptions, n12 scholars and commentators have not returned to re-examine the Reynolds decision, the basis of the modern privilege.

[CONTINUED TO FOOTNOTE]

n8. The expansion of the state secrets privilege over the last three and a half decades has been so sweeping and intricate that a thorough description and analysis would require a separate Article. The best that can be done in footnotes is to point to mountain peaks. Thus, the so-called "Mosaic theory," which emphasizes that trivial information that may seem to be of no particular national security significance may in fact be significant when assessment, in the context of other information by an informed person, prompts the protection of seemingly harmless information. See, e.g., United States v. Marchetti, 466 F.2d 1309 (4th Cir. 1972). The "unacceptable risk" doctrine holds that a complaint will be dismissed before a responsive pleading is filed because of a state secrets privilege when a judge decides that litigation of the claim will present a "risk" that a state secret may be accidently and unintentionally disclosed and that a judge decides that the "risk" is "unacceptable." See, e.g., Jeppesen Dataplan, 614 F.3d at 1079, 1083; El-Masri, 479 F.3d at 305-06. The state secrets privilege now applies when a party merely seeks from the executive a statement that information already in the public domain is true. A court may sustain the executive's objection that acknowledging, confirming, or denying, the validity of such information constitutes a state secret. See, e.g., Bareford, 973 F.2d 1138; Fitzgibbon v. CIA, 911 F.2d 755 (D.C. Cir. 1990). The privilege may result in the dismissal of an action if the unavailability of the evidence due to the privilege hampers a defendant in establishing a valid defense. Zuckerbraun, 935 F.2d 544. See generally infra Part VI.D. Perhaps in recognition of the expansion and potential abuse of the state secrets privilege, the Obama administration has adopted a policy which grants authority to the Department of Justice to review all claims of executive privilege. See infra note 409.

#### Courts are deferring to the privilege now

Bazzle 12 (Tom – J.D., Georgetown University Law Center, 2011, “Shutting the Courthouse Doors: Invoking the State Secrets Privilege to Thwart Judicial Review in the Age of Terror”, 2012, 23 Geo. Mason U. Civ. Rts. L.J. 29, lexis)

The war on terror has led to an increased use of the state secrets privilege by the Executive Branch - to dismiss legal challenges to widely publicized and controversial government actions - ostensibly aimed at protecting national security from terrorist threats. n1 Faced with complaints that allege indiscriminate and warrantless surveillance, n2 tortious detention, and torture that flouts domestic and international law, n3 courts have had to reconcile impassioned appeals for private justice with the government's unyielding insistence on protecting national security. Courts, almost unanimously, have cast their lot with national security, granting considerable deference to government assertions of the state secrets principle. This deference to state secrets shows no signs of abating; indeed, the growing trend is for courts to dismiss these legal challenges pre-discovery, n4 even before the private litigants have had the chance to present actual, non-secret evidence to meet their burden of proof. Although many looked optimistically at President Obama's inauguration as a chance to break decisively from the Bush Administration's aggressive application of the state secrets [\*30] privilege, n5 the Obama Administration has largely disappointed on the state-secrets front, asserting the privilege with just as much fervor - if not as much regularity n6 - as its predecessor. n7

#### Obama is increasingly using the privilege

Radsan 10 (Afsheen – Professor of Law, William Mitchell College of Law, former assistant general counsel at the Central Intelligence Agency, “Bush and Obama Fight Terrorists Outside Justice Jackson’s Twilight Zone”, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1684720)

"By this point in the journey it should come as no surprise that President Obama, much like Captain Bush on his own ship, also favors assertions of the state-secrets privilege as another area of robust executive power. Obama's cabinet heads have not shied away from asserting this privilege to protect sensitive military, diplomatic, and intelligence information when the United States is a party to a lawsuit or when the United States intervenes in the lawsuit. The state-secrets privilege is just one of several presidential prerogatives to keep things out of the public spotlight. Other privileges include the right to classify and the executive privilege to protect the confidences of those who advise the President. The Obama Administration, for example, continues to assert the state-secrets privilege in a case in which a Boeing subsidiary is being sued for its alleged role in the rendition program. In Jeppesen, five non-U.S. citizens brought suit under the Alien Tort Statute against Jeppesen Dataplan for providing logistical and other services to the aircraft and the crews the CIA allegedly used in transferring them within the rendition program.\*\*^ A panel of the Ninth Circuit rejected the government's broad assertion of the state-secrets privilege as to the "very subject matter" of the case, holding that the government needed to conduct an item-by-item inventory of the information to which the privilege applied.^ The appellate court remanded to the district court for that inventory and for a determination that the objected to evidence was essential to a prima facie case.\*' Before the remand, the Ninth Circuit took this case up en bane and heard oral arguments in December 2009.\*\* The challenge against Boeing's subsidiary has gone farther than Khaled el-Masri's lawsuit which alleged the CIA wrongfully snatched him in Macedonia and then transferred him to Afghanistan for harsh interrogation. In the Eastern District of Virginia, Judge Ellis accepted the government's broad assertion of the state-secrets privilege in the el-Masri case, and the Fourth Circuit affirmed.\*' Again, on state secrets President Obama has not sought to involve Congress. Rather than support any congressional bills to reform the privilege, the Obama Administration offered its own reforms through a new Justice Department policy on September 23, 2009.\*\* Under this policy, heads of agencies are to assert the privilege only in cases of "significant harm" to national security. This is an executive gloss on the Supreme Court decision. United States V. Reynolds, which first recognized the state-secrets privilege. In that case, the head of any executive agency could assert the privilege based on personal review of the facts. The new Obama policy, adding some internal checks, sets up the State Secrets Review Committee to coordinate assertions of the privilege and requires the Attorney General to review all proposed assertions. President Obama's maneuver on state secrets avoids a difficult constitutional issue. If he and Congress were to pass legislation that reformed the state-secrets privilege, they would have to determine the underlying basis to the Reynolds decision. If the basis is common law, there is ample room for statutory refinement. But if the basis to the decision is the President's inherent power, there is much less room in what Justice Jackson calls his third category. An amendment to the Constitution would be necessary. President Obama's approach on state secrets, just as his approach to Predator strikes and renditions, does not seem unreasonable to me. In my view, the use of the state-secrets privilege does not require an overhaul. Between Bush and Obama, the three branches continue to work toward equilibrium in this area of national security law."

#### Obama has reasserted the state secrets privilege – still holds today

Setty 12 (Sudha – Professor of Law at Western New England University School of Law, “National Security Interest Convergence”, 2012, 4 Harv. Nat'l Sec. J. 185, lexis)

In many nations, a politician's ability to be perceived as "tough on terrorism" is seen as a predicate of a successful political campaign. n41 President George W. Bush governed and ran for re-election in 2004 based largely on the promise that he would continue to be "tough on terror." This strategy was obviously successful, as evidenced by Bush's re-election and the maintenance of a Republican majority in the House and Senate that year. n42 By 2008, the appeal of this kind of rhetoric had lessened considerably. Then-Senator Barack Obama's campaign message of restoring the rule of law, protecting civil liberties, and curtailing other aspects of the national security state n43 was met with approval by a comfortable majority of the electorate. n44 President Obama, however, sent mixed messages regarding his national security and civil liberties priorities soon after taking office. Citing the need to restore the rule of law and protect individual rights, he immediately signed an executive order to close the prison facility at [\*199] Guantanamo Bay, Cuba, n45 put a temporary stop to the use of military commissions, n46 declared that the United States would abide by its domestic and international obligations not to torture detainees, n47 and ordered the review of the status of all of the detainees held by the U.S. military. n48 Whether out of a genuine change of belief on national security issues or due to mere political calculation, n49 Obama shifted rightward on some issues shortly after taking office, such as his position on the use of the state secrets privilege, n50 and has stepped back from many rights-protective positions that he articulated on the campaign trail in 2008 n51 and to some extent in 2009. n52 [\*200] For example, the administration has fought aggressively to limit the scope and substance of habeas corpus review for detainees, n53 has prosecuted a Canadian child soldier under the reconstituted military commission system, n54 and has unsuccessfully attempted to curtail attorney access to detainees at the Guantanamo detention facility. n55