# Round 4 vs Kentucky GR

## 1AC

### Norms

#### Drone prolif is inevitable---the plan establishes norms for restrained use that prevents great powers war.

**Roberts 13**. Roberts, Kristen. March 22nd, 2013. “When the whole world has drones” “ <http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321> (news editor for the National Journal. She has a Masters degree in security studies from Georgetown)

The proliferation of drone technology has moved well beyond the control of the United States government and its closest allies. The aircraft are too easy to obtain, with barriers to entry on the production side crumbling too quickly to place limits on the spread of a technology that promises to transform warfare on a global scale. Already, more than 75 countries have remote piloted aircraft. More than 50 nations are building a total of nearly a thousand types. At its last display at a trade show in Beijing, China showed off 25 different unmanned aerial vehicles. Not toys or models, but real flying machines. It’s a classic and common phase in the life cycle of a military innovation: An advanced country and its weapons developers create a tool, and then others learn how to make their own. But what makes this case rare, and dangerous, is the powerful combination of efficiency and lethality spreading in an environment lacking internationally accepted guidelines on legitimate use. This technology is snowballing through a global arena where the main precedent for its application is the one set by the United States; it’s a precedent Washington does not want anyone following. America, the world’s leading democracy and a country built on a legal and moral framework unlike any other, has adopted a war-making process that too often bypasses its traditional, regimented, and rigorously overseen military in favor of a secret program never publicly discussed, based on legal advice never properly vetted. The Obama administration has used its executive power to refuse or outright ignore requests by congressional overseers, and it has resisted monitoring by federal courts. To implement this covert program, the administration has adopted a tool that lowers the threshold for lethal force by reducing the cost and risk of combat. This still-expanding counterterrorism use of drones to kill people, including its own citizens, outside of traditionally defined battlefields and established protocols for warfare, has given friends and foes a green light to employ these aircraft in extraterritorial operations that could not only affect relations between the nation-states involved but also destabilize entire regions and potentially upset geopolitical order. Hyperbole? Consider this: Iran, with the approval of Damascus, carries out a lethal strike on anti-Syrian forces inside Syria; Russia picks off militants tampering with oil and gas lines in Ukraine or Georgia; Turkey arms a U.S.-provided Predator to kill Kurdish militants in northern Iraq who it believes are planning attacks along the border. Label the targets as terrorists, and in each case, Tehran, Moscow, and Ankara may point toward Washington and say, we learned it by watching you. In Pakistan, Yemen, and Afghanistan. This is the unintended consequence of American drone warfare. For all of the attention paid to the drone program in recent weeks—about Americans on the target list (there are none at this writing) and the executive branch’s legal authority to kill by drone outside war zones (thin, by officials’ own private admission)—what goes undiscussed is Washington’s deliberate failure to establish clear and demonstrable rules for itself that would at minimum create a globally relevant standard for delineating between legitimate and rogue uses of one of the most awesome military robotics capabilities of this generation. THE WRONG QUESTION The United States is the indisputable leader in drone technology and long-range strike. Remote-piloted aircraft have given Washington an extraordinary ability to wage war with far greater precision, improved effect, and fewer unintended casualties than conventional warfare. The drones allow U.S. forces to establish ever greater control over combat areas, and the Pentagon sees the technology as an efficient and judicious force of the future. And it should, given the billions of dollars that have gone into establishing and maintaining such a capability. That level of superiority leads some national security officials to downplay concerns about other nations’ unmanned systems and to too narrowly define potential threats to the homeland. As proof, they argue that American dominance in drone warfare is due only in part to the aircraft itself, which offers the ability to travel great distances and loiter for long periods, not to mention carry and launch Hellfire missiles. The drone itself, they argue, is just a tool and, yes, one that is being copied aggressively by allies and adversaries alike. The real edge, they say, is in the unparalleled intelligence-collection and data-analysis underpinning the aircraft’s mission. “There is what I think is just an unconstrained focus on a tool as opposed to the subject of the issue, the tool of remotely piloted aircraft that in fact provide for greater degrees of surety before you employ force than anything else we use,” said retired Lt. Gen. David Deptula, the Air Force’s first deputy chief of staff for intelligence, surveillance, and reconnaissance. “I think people don’t realize that for the medium altitude aircraft—the MQ-1 [Predator] and MQ-9 [Reaper] that are generally written about in the press—there are over 200 people involved in just one orbit of those aircraft.… The majority of those people are analysts who are interpreting the information that’s coming off the sensors on the aircraft.” The analysts are part of the global architecture that makes precision strikes, and targeted killing, possible. At the front end, obviously, intelligence—military, CIA, and local—inform target decisions. But in as near-real time as technologically possible, intel analysts in Nevada, Texas, Virginia, and other locations watch the data flood in from the aircraft and make calls on what’s happening on target. They monitor the footage, listen to audio, and analyze signals, giving decision-makers time to adjust an operation if the risks (often counted in potential civilian deaths) outweigh the reward (judged by the value of the threat eliminated). “Is that a shovel or a rifle? Is that a Taliban member or is this a farmer? The way that warfare has advanced is that we are much more exquisite in our ability to discern,” Maj. Gen. Robert Otto, commander of the Air Force Intelligence, Surveillance, and Reconnaissance Agency, told National Journal at Nellis Air Force Base in Nevada. “We’re not overhead for 15 minutes with a fighter that’s about to run out of gas, and we have to make a decision. We can orbit long enough to be pretty sure about our target.” Other countries, groups, and even individuals can and do fly drones. But no state or group has nearly the sophisticated network of intelligence and data analysis that gives the United States its strategic advantage. Although it would be foolish to dismiss the notion that potential U.S. adversaries aspire to attain that type of war-from-afar, pinpoint-strike capability, they have neither the income nor the perceived need to do so. That’s true, at least today. It’s also irrelevant. Others who employ drones are likely to carry a different agenda, one more concerned with employing a relatively inexpensive and ruthlessly efficient tool to dispatch an enemy close at hand. “It would be very difficult for them to create the global-strike architecture we have, to have a control cell in Nevada flying a plane over Afghanistan. The reality is that most nations don’t want or need that,” said Peter Singer, director of the Brookings Institution’s Center for 21st Century Security and Intelligence and one of the foremost experts in advanced military technology. “Turkey’s not looking to conduct strikes into the Philippines.... But Turkey is looking to be able to carry out long-duration surveillance and potentially strike inside and right on its border.” And that’s a NATO ally seeking the capability to conduct missions that would run afoul of U.S. interests in Iraq and the broader Middle East. Already, Beijing says it considered a strike in Myanmar to kill a drug lord wanted in the deaths of Chinese sailors. What happens if China arms one of its remote-piloted planes and strikes Philippine or Indian trawlers in the South China Sea? Or if India uses the aircraft to strike Lashkar-e-Taiba militants near Kashmir? “We don’t like other states using lethal force outside their borders. It’s destabilizing. It can lead to a sort of wider escalation of violence between two states,” said Micah Zenko, a security policy and drone expert at the Council on Foreign Relations. “So the proliferation of drones is not just about the protection of the United States. It’s primarily about the likelihood that other states will increasingly use lethal force outside of their borders.” LOWERING THE BAR Governments have covertly killed for ages, whether they maintained an official hit list or not. Before the Obama administration’s “disposition matrix,” Israel was among the best-known examples of a state that engaged, and continues to engage, in strikes to eliminate people identified by its intelligence as plotting attacks against it. But Israel certainly is not alone. Turkey has killed Kurds in Northern Iraq. Some American security experts point to Russia as well, although Moscow disputes this. In the 1960s, the U.S. government was involved to differing levels in plots to assassinate leaders in Congo and the Dominican Republic, and, famously, Fidel Castro in Cuba. The Church Committee’s investigation and subsequent 1975 report on those and other suspected plots led to the standing U.S. ban on assassination. So, from 1976 until the start of President George W. Bush’s “war on terror,” the United States did not conduct targeted killings, because it was considered anathema to American foreign policy. (In fact, until as late as 2001, Washington’s stated policy was to oppose Israel’s targeted killings.) When America adopted targeted killing again—first under the Bush administration after the September 11 attacks and then expanded by President Obama—the tools of the trade had changed. No longer was the CIA sending poison, pistols, and toxic cigars to assets overseas to kill enemy leaders. Now it could target people throughout al-Qaida’s hierarchy with accuracy, deliver lethal ordnance literally around the world, and watch the mission’s completion in real time. The United States is smartly using technology to improve combat efficacy, and to make war-fighting more efficient, both in money and manpower. It has been able to conduct more than 400 lethal strikes, killing more than 3,500 people, in Afghanistan, Pakistan, Yemen, Somalia, and North Africa using drones; reducing risk to U.S. personnel; and giving the Pentagon flexibility to use special-forces units elsewhere. And, no matter what human-rights groups say, it’s clear that drone use has reduced the number of civilians killed in combat relative to earlier conflicts. Washington would be foolish not to exploit unmanned aircraft in its long fight against terrorism. In fact, defense hawks and spendthrifts alike would criticize it if it did not. “If you believe that these folks are legitimate terrorists who are committing acts of aggressive, potential violent acts against the United States or our allies or our citizens overseas, should it matter how we choose to engage in the self-defense of the United States?” asked Rep. Mike Rogers, R-Mich., chairman of the House Intelligence Committee. “Do we have that debate when a special-forces team goes in? Do we have that debate if a tank round does it? Do we have the debate if an aircraft pilot drops a particular bomb?” But defense analysts argue—and military officials concede—there is a qualitative difference between dropping a team of men into Yemen and green-lighting a Predator flight from Nevada. Drones lower the threshold for military action. That’s why, according to the Council on Foreign Relations, unmanned aircraft have conducted 95 percent of all U.S. targeted killings. Almost certainly, if drones were unavailable, the United States would not have pursued an equivalent number of manned strikes in Pakistan. And what’s true for the United States will be true as well for other countries that own and arm remote piloted aircraft. “The drones—the responsiveness, the persistence, and without putting your personnel at risk—is what makes it a different technology,” Zenko said. “When other states have this technology, if they follow U.S. practice, it will lower the threshold for their uses of lethal force outside their borders. So they will be more likely to conduct targeted killings than they have in the past.” The Obama administration appears to be aware of and concerned about setting precedents through its targeted-strike program. When the development of a disposition matrix to catalog both targets and resources marshaled against the United States was first reported in 2012, officials spoke about it in part as an effort to create a standardized process that would live beyond the current administration, underscoring the long duration of the counterterrorism challenge. Indeed, the president’s legal and security advisers have put considerable effort into establishing rules to govern the program. Most members of the House and Senate Intelligence committees say they are confident the defense and intelligence communities have set an adequate evidentiary bar for determining when a member of al-Qaida or an affiliated group may be added to the target list, for example, and say that the rigor of the process gives them comfort in the level of program oversight within the executive branch. “They’re not drawing names out of a hat here,” Rogers said. “It is very specific intel-gathering and other things that would lead somebody to be subject for an engagement by the United States government.” BEHIND CLOSED DOORS The argument against public debate is easy enough to understand: Operational secrecy is necessary, and total opacity is easier. “I don’t think there is enough transparency and justification so that we remove not the secrecy, but the mystery of these things,” said Dennis Blair, Obama’s former director of national intelligence. “The reason it’s not been undertaken by the administration is that they just make a cold-blooded calculation that it’s better to hunker down and take the criticism than it is to get into the public debate, which is going to be a hard one to win.” But by keeping legal and policy positions secret, only partially sharing information even with congressional oversight committees, and declining to open a public discussion about drone use, the president and his team are asking the world to just trust that America is getting this right. While some will, many people, especially outside the United States, will see that approach as hypocritical, coming from a government that calls for transparency and the rule of law elsewhere. “I know these people, and I know how much they really, really attend to the most important details of the job,” said Barry Pavel, a former defense and security official in the Bush and Obama administrations who is director of the Brent Scowcroft Center on International Security at the Atlantic Council. “If I didn’t have that personal knowledge and because there isn’t that much really in the press, then I would be giving you a different rendering, and much more uncertain rendering.” That’s only part of the problem with the White House’s trust-us approach. The other resides in the vast distance between the criteria and authorization the administration says it uses in the combat drone program and the reality on the ground. For example, according to administration officials, before a person is added to the targeted strike list, specific criteria should be met. The target should be a 1) senior, 2) operational 3) leader of al-Qaida or an affiliated group who presents 4) an imminent threat of violent attack 5) against the United States. But that’s not who is being targeted. Setting aside the administration’s redefining of “imminence” beyond all recognition, the majority of the 3,500-plus people killed by U.S. drones worldwide were not leaders of al-Qaida or the Taliban; they were low- or mid-level foot soldiers. Most were not plotting attacks against the United States. In Yemen and North Africa, the Obama administration is deploying weaponized drones to take out targets who are more of a threat to local governments than to Washington, according to defense and regional security experts who closely track unrest in those areas. In some cases, Washington appears to be in the business of using its drone capabilities mostly to assist other countries, not to deter strikes against the United States (another precedent that might be eagerly seized upon in the future). U.S. defense and intelligence officials reject any suggestion that the targets are not legitimate. One thing they do not contest, however, is that the administration’s reliance on the post-9/11 Authorization for Use of Military Force as legal cover for a drone-strike program that has extended well beyond al-Qaida in Afghanistan or Pakistan is dodgy. The threat that the United States is trying to deal with today has an ever more tenuous connection to Sept. 11. (None of the intelligence officials reached for this article would speak on the record.) But instead of asking Congress to consider extending its authorization, as some officials have mulled, the administration’s legal counsel has chosen instead to rely on Nixon administration adviser John Stevenson’s 1970 justification of the bombing of Cambodia during the Vietnam War, an action new Secretary of State John Kerry criticized during his confirmation hearing this year. Human-rights groups might be loudest in their criticism of both the program and the opaque policy surrounding it, but even the few lawmakers who have access to the intelligence the administration shares have a hard time coping with the dearth of information. “We can’t always assume we’re going to have responsible people with whom we agree and trust in these positions,” said Sen. Angus King, I-Maine, who sits on the Senate Intelligence Committee. “The essence of the Constitution is, it shouldn’t matter who is in charge; they’re still constrained by principles and rules of the Constitution and of the Bill of Rights.” PEER PRESSURE Obama promised in his 2013 State of the Union to increase the drone program’s transparency. “In the months ahead, I will continue to engage Congress to ensure not only that our targeting, detention, and prosecution of terrorists remains consistent with our laws and system of checks and balances, but that our efforts are even more transparent to the American people and to the world,” the president said on Feb. 12. Since then, the administration, under pressure from allies on Senate Intelligence, agreed to release all of the legal memos the Justice Department drafted in support of targeted killing. But, beyond that, it’s not certain Obama will do anything more to shine light on this program. Except in situations where leaks help it tell a politically expedient story of its skill at killing bad guys, the administration has done little to make a case to the public and the world at large for its use of armed drones. Already, what’s become apparent is that the White House is not interested in changing much about the way it communicates strike policy. (It took Sen. Rand Paul’s 13-hour filibuster of CIA Director John Brennan’s nomination to force the administration to concede that it doesn’t have the right to use drones to kill noncombatant Americans on U.S. soil.) And government officials, as well as their surrogates on security issues, are actively trying to squash expectations that the administration would agree to bring the judicial branch into the oversight mix. Indeed, judicial review of any piece of the program is largely off the table now, according to intelligence officials and committee members. Under discussion within the administration and on Capitol Hill is a potential program takeover by the Pentagon, removing the CIA from its post-9/11 role of executing military-like strikes. Ostensibly, that shift could help lift the secret-by-association-with-CIA attribute of the program that some officials say has kept them from more freely talking about the legitimate military use of drones for counterterrorism operations. But such a fix would provide no guarantee of greater transparency for the public, or even Congress. And if the administration is not willing to share with lawmakers who are security-cleared to know, it certainly is not prepared to engage in a sensitive discussion, even among allies, that might begin to set the rules on use for a technology that could upend stability in already fragile and strategically significant places around the globe. Time is running out to do so. “The history of technology development like this is, you never maintain your lead very long. Somebody always gets it,” said David Berteau, director of the International Security Program at the Center for Strategic and International Studies. “They’re going to become cheaper. They’re going to become easier. They’re going to become interoperable,” he said. “The destabilizing effects are very, very serious.” Berteau is not alone. Zenko, of the Council on Foreign Relations, has urged officials to quickly establish norms. Singer, at Brookings, argues that the window of opportunity for the United States to create stability-supporting precedent is quickly closing. The problem is, the administration is not thinking far enough down the line, according to a Senate Intelligence aide. Administration officials “are thinking about the next four years, and we’re thinking about the next 40 years. And those two different angles on this question are why you see them in conflict right now.” That’s in part a symptom of the “technological optimism” that often plagues the U.S. security community when it establishes a lead over its competitors, noted Georgetown University’s Kai-Henrik Barth. After the 1945 bombing of Hiroshima and Nagasaki, the United States was sure it would be decades before the Soviets developed a nuclear-weapon capability. It took four years. With drones, the question is how long before the dozens of states with the aircraft can arm and then operate a weaponized version. “Pretty much every nation has gone down the pathway of, ‘This is science fiction; we don’t want this stuff,’ to, ‘OK, we want them, but we’ll just use them for surveillance,’ to, ‘Hmm, they’re really useful when you see the bad guy and can do something about it, so we’ll arm them,’ ” Singer said. He listed the countries that have gone that route: the United States, Britain, Italy, Germany, China. “Consistently, nations have gone down the pathway of first only surveillance and then arming.” The opportunity to write rules that might at least guide, if not restrain, the world’s view of acceptable drone use remains, not least because this is in essence a conventional arms-control issue. The international Missile Technology Control Regime attempts to restrict exports of unmanned vehicles capable of carrying weapons of mass destruction, but it is voluntary and nonbinding, and it’s under attack by the drone industry as a drag on business. Further, the technology itself, especially when coupled with data and real-time analytics, offers the luxury of time and distance that could allow officials to raise the evidentiary bar for strikes—to be closer to certain that their target is the right one. But even without raising standards, tightening up drone-specific restrictions in the standing control regime, or creating a new control agreement (which is never easy to pull off absent a bad-state actor threatening attack), just the process of lining up U.S. policy with U.S. practice would go a long way toward establishing the kind of precedent on use of this technology that America—in five, 10, or 15 years—might find helpful in arguing against another’s actions. A not-insignificant faction of U.S. defense and intelligence experts, Dennis Blair among them, thinks norms play little to no role in global security. And they have evidence in support. The missile-technology regime, for example, might be credited with slowing some program development, but it certainly has not stopped non-signatories—North Korea and Iran—from buying, building, and selling missile systems. But norms established by technology-leading countries, even when not written into legal agreements among nations, have shown success in containing the use and spread of some weapons, including land mines, blinding lasers, and nuclear bombs. Arguably more significant than spotty legal regimes, however, is the behavior of the United States. “History shows that how states adopt and use new military capabilities is often influenced by how other states have—or have not—used them in the past,” Zenko argued. Despite the legal and policy complexity of this issue, it is something the American people have, if slowly, come to care about. Given the attention that Rand Paul’s filibuster garnered, it is not inconceivable that public pressure on drone operations could force the kind of unforeseen change to U.S. policy that it did most recently on “enhanced interrogation” of terrorists. The case against open, transparent rule-making is that it might only hamstring American options while doing little good elsewhere—as if other countries aren’t closely watching this debate and taking notes for their own future policymaking. But the White House’s refusal to answer questions about its drone use with anything but “no comment” ensures that the rest of the world is free to fill in the blanks where and when it chooses. And the United States will have already surrendered the moment in which it could have provided not just a technical operations manual for other nations but a legal and moral one as well.

#### That lowers the threshold for use for US policymakers

Rosa **Brooks 13**, Prof of Law @ Georgetown University Law Center, Bernard L. Schwartz Senior Fellow, New America Foundation, 4/23/13, The Constitutional and Counterterrorism Implications of Targeted Killing, http://www.judiciary.senate.gov/pdf/04-23-13BrooksTestimony.pdf

But the advantages of drones are as overstated and misunderstood as the problems they pose — and in some ways, their very perceived advantages cause new problems. Drone technologies temptingly lower or disguise the costs of lethal force, but their availability can blind us to the potentially dangerous longer - term costs and consequences of our strategic choices. Armed drones lower the perceived costs of using lethal force in at least three ways. First, drones reduce the dollar cost of using lethal force inside foreign countries. 13 Most drones are economical compared with the available alternatives. 14 Manned aircraft, for instance, are quite expensive: 15 Lockheed Martin's F - 22 fighter jets cost about $150 million each; F - 35s are $90 million; and F - 16s are $55 million. But the 2011 price of a Reaper drone was approximately $28.4 million, while Predator drones cost only about $5 million to make. 16 As with so many things, putting a dollar figure on drones is difficult; it depends what costs are counted, and what time frame is used. Nevertheless, drones continue to be perceived as cheaper by government decision - makers. Second, relying on drone strikes rather than alternative means reduces the domestic political costs of using lethal force. Sending manned aircraft or special operations forces after a suspected terrorist places the lives of U.S. personnel at risk, and full - scale invasions and occupations endanger even more American lives. In contrast, using armed drones eliminates all short - term risks to the lives of U.S. personnel involved in the operations. Third, by reducing accidental civilian casualties, 17 precision drone technologies reduce the perceived moral and reputational costs of using lethal force. The US government is extraordinarily concerned about avoiding unnecessary civilian casualties, and rightly so. There are moral and legal reasons for this concern, and there are also pragmatic reasons: civilian casualties cause pain and resentment within local populations and host - country governments and alienate the international community It is of course not a bad thing to possess military technologies that are cost little, protect American lives and enable us to minimize civilian casualties. When new technologies appear to reduce the costs of using lethal force, however, the threshold for deciding to use lethal force correspondingly drops, and officials will be tempted to use lethal force with greater frequency and less wisdom.¶ Over the last decade, we have seen US drone strikes evolve from a tool used in extremely limited circumstances to go after specifically identified high - ranking al Qaeda officials to a tool relied on in an increasing number of countries to go after an eternally lengthening list of putative bad actors, with increasingly tenuous links to grave or imminent threats to the United States. Some of these suspected terrorists have been identified by name and specifically targeted, while others are increasingly targeted on the basis of suspicious behavior patterns. Increasingly, drones strikes have targeted militants who are lower and lower down the terrorist food chain, 18 rather than terrorist masterminds. 19 Although drone strikes are believed to have killed more than 3,000 people since 2004, 20 analysis by the New America Foundation and more recently by a the McClatchy newspaper s suggests that only a small fraction of the dead appear to have been so - called "high - value targets." 21 What’s more, drone strikes have spread ever further from "hot" battlefields, migrating from Pakistan to Yemen to Somalia (and perhaps to Mali 22 and the Philippines as well). 23

#### These conflicts go nuclear --- wrecks global stability

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A second consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example, much of the stability among the Great Powers in the international system is driven by deterrence, specifically nuclear deterrence.135 Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another.136 While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same level of restraint with drone surveillance, which is unmanned, low cost, and possibly deniable. States may be more willing to engage in drone overflights which test the resolve of their rivals, or engage in ‘salami tactics’ to see what kind of drone-led incursion, if any, will motivate a response.137 This may have been Hezbollah’s logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel’s nuclear capabilities.138 After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities.139 One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other’s capability and resolve, with untold consequences if such a probe were misinterpreted by the other as an attack. As drones get physically smaller and more precise, and as they develop a greater flying range, the temptation to use them to spy on a rival’s nuclear programme or military installations might prove too strong to resist. If this were to happen, drones might gradually erode the deterrent relationships that exist between nuclear powers, thus magnifying the risks of a spiral of conflict between them.

#### That makes great power war inevitable---causes escalation as traditional checks don’t apply

Eric **Posner 13**, a professor at the University of Chicago Law School, May 15th, 2013, "The Killer Robot War is Coming," Slate, www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/05/drone\_warfare\_and\_spying\_we\_need\_new\_laws.html

Drones have existed for decades, but in recent years they have become ubiquitous. Some people celebrate drones as an effective and humane weapon because they can be used with precision to slay enemies and spare civilians, and argue that they pose no special risks that cannot be handled by existing law. Indeed, drones, far more than any other weapon, enable governments to comply with international humanitarian law by avoiding civilian casualties when attacking enemies. Drone defenders also mocked Rand Paul for demanding that the Obama administration declare whether it believed that it could kill people with drones on American territory. Existing law permits the police to shoot criminals who pose an imminent threat to others; if police can gun down hostage takers and rampaging shooters, why can’t they drone them down too?¶ While there is much to be said in favor of these arguments, drone technology poses a paradox that its defenders have not confronted. Because drones are cheap, effective, riskless for their operators, and adept at minimizing civilian casualties, governments may be tempted to use them too frequently.¶ Indeed, a panic has already arisen that the government will use drones to place the public under surveillance. Many municipalities have passed laws prohibiting such spying even though it has not yet taken place. Why can’t we just assume that existing privacy laws and constitutional rights are sufficient to prevent abuses?¶ To see why, consider U.S. v. Jones, a 2012 case in which the Supreme Court held that the police must get a search warrant before attaching a GPS tracking device to a car, because the physical attachment of the device trespassed on property rights. Justice Samuel Alito argued that this protection was insufficient, because the government could still spy on people from the air. While piloted aircraft are too expensive to use routinely, drones are not, or will not be. One might argue that if the police can observe and follow you in public without obtaining a search warrant, they should be able to do the same thing with drones. But when the cost of surveillance declines, more surveillance takes place. If police face manpower limits, then they will spy only when strong suspicions justify the intrusion on targets’ privacy. If police can launch limitless drones, then we may fear that police will be tempted to shadow ordinary people without good reason.¶ Similarly, we may be comfortable with giving the president authority to use military force on his own when he must put soldiers into harm’s way, knowing that he will not risk lives lightly. Presidents have learned through hard experience that the public will not tolerate even a handful of casualties if it does not believe that the mission is justified. But when drones eliminate the risk of casualties, the president is more likely to launch wars too often.¶ The same problem arises internationally. The international laws that predate drones assume that military intervention across borders risks significant casualties. Since that check normally kept the peace, international law could give a lot of leeway for using military force to chase down terrorists. But if the risk of casualties disappears, then nations might too eagerly attack, resulting in blowback and retaliation. Ironically, the reduced threat to civilians in tactical operations could wind up destabilizing relationships between countries, including even major powers like the United States and China, making the long-term threat to human life much greater.¶ These three scenarios illustrate the same lesson: that law and technology work in tandem. When technological barriers limit the risk of government abuse, legal restrictions on governmental action can be looser. When those technological barriers fall, legal restrictions may need to be tightened.

#### Congressional inaction has made this a defining policy doctrine---expansive executive authority triggers overreach

Maxwell 12 - Colonel and Judge Advocate, U.S. Army, 1st Quarter 2012, “TARGETED KILLING, THE LAW, AND TERRORISTS: FEELING SAFE?,” Joint Force Quarterly, p. 123-130, Mark David Maxwell.

In the wake of the attacks by al Qaeda on September 11, 2001, an analogous phenomenon of feeling safe has occurred in a recent U.S. national security policy: America’s explicit use of targeted killings to eliminate terrorists, under the legal doctrines of self-defense and the law of war. Legal scholars define targeted killing as the use of lethal force by a state4 or its agents with the intent, premeditation, and deliberation to kill individually selected persons who are not in the physical custody of those targeting them.5 In layman’s terms, targeted killing is used by the United States to eliminate individuals it views as a threat.6 Targeted killings, for better or for worse, have become “a defining doctrine of American strategic policy.”7 Although many U.S. Presidents have reserved the right to use targeted killings in unique circumstances, making this option a formal part of American foreign policy incurs risks that, unless adroitly controlled and defined in concert with Congress, could drive our practices in the use of force in a direction that is not wise for the long-term health of the rule of law. This article traces the history of targeted killing from a U.S. perspective. It next explains how terrorism has traditionally been handled as a domestic law enforcement action within the United States and why this departure in policy to handle terrorists like al Qaeda under the law of war—that is, declaring war against a terrorist organization—is novel. While this policy is not an ill-conceived course of action given the global nature of al Qaeda, there are practical limitations on how this war against terrorism can be conducted under the orders of the President. Within the authority to target individuals who are terrorists, there are two facets of Presidential power that the United States must grapple with: first, how narrow and tailored the President’s authority should be when ordering a targeted killing under the rubric of self-defense; and second, whether the President must adhere to concepts within the law of war, specifically the targeting of individuals who do not don a uniform. The gatekeeper of these Presidential powers and the prevention of their overreach is Congress. The Constitution demands nothing less, but thus far, Congress’s silence is deafening.

#### Congressional restrictions are key---prevents global war

Rosa **Brooks 13**, Professor of Law, Georgetown University Law Center, Bernard L. Schwartz Senior Fellow, New America Foundation, 4/23, The Constitutional and Counterterrorism Implications of Targeted Killing, http://www.judiciary.senate.gov/pdf/04-23-13BrooksTestimony.pdf

Mr. Chairman, I would like to turn now to the legal framework applicable to US drone strikes. Both the United States and the international community have long had rules governing armed conflicts and the use of force in national self-defense. These rules apply whether the lethal force at issue involves knives, handguns, grenades or weaponized drones. When drone technologies are used in traditional armed conflicts—on “hot battlefields” such as those in Afghanistan, Iraq or Libya, for instance – they pose no new legal issues. As Administration officials have stated, their use is subject to the same requirements as the use of other lawful means and methods of warfare.28 But if drones used in traditional armed conflicts or traditional self-defense situations present no “new” legal issues, some of the activities and policies enabled and facilitated by drone technologies pose significant challenges to existing legal frameworks. As I have discussed above, the availability of perceived low cost of drone technologies makes it far easier for the US to “expand the battlefield,” striking targets in places where it would be too dangerous or too politically controversial to send troops. Specifically, drone technologies enable the United States to strike targets deep inside foreign states, and do so quickly, efficiently and deniably. As a result, drones have become the tool of choice for so-called “targeted killing” – the deliberate targeting of an individual or group of individuals, whether known by name or targeted based on patterns of activity, inside the borders of a foreign country. It is when drones are used in targeted killings outside of traditional or “hot” battlefields that their use challenges existing legal frameworks. Law is almost always out of date: we make legal rules based on existing conditions and technologies, perhaps with a small nod in the direction of predicted future changes. As societies and technologies change, law increasingly becomes an exercise in jamming square pegs into round holes. Eventually, that process begins to do damage to existing law: it gets stretched out of shape, or broken. Right now, I would argue, US drone policy is on the verge of doing significant damage to the rule of law. A. The Rule of Law At root, the idea of “rule of law” is fairly simple, and well understood by Americans familiar with the foundational documents that established our nation, such as the Declaration of Independence, the Constitution and the Bill of Rights. The rule of law requires that governments follow transparent, clearly defined and universally applicable laws and procedures. The goal of the rule of law is to ensure predictability and stability, and to prevent the arbitrary exercise of power. In a society committed to the rule of law, the government cannot fine you, lock you up, or kill you on a whim -- it can restrict your liberty or take your property or life only in accordance with pre-established processes and rules that reflect basic notions of justice, humanity and fairness. Precisely what constitutes a fair process is debatable, but most would agree that at a minimum, fairness requires that individuals have reasonable notice of what constitutes the applicable law, reasonable notice that they are suspected of violating the law, a reasonable opportunity to rebut any allegations against them, and a reasonable opportunity to have the outcome of any procedures or actions against them reviewed by some objective person or body. These core values are enshrined both in the US Constitution and in international human rights law instruments such as the International Covenant on Civil and Political Rights, to which the United States is a party. In ordinary circumstances, this bundle of universally acknowledged rights (together with international law principles of sovereignty) means it is clearly unlawful for one state to target and kill an individual inside the borders of another state. Recall, for instance, the 1976 killing of Chilean dissident Orlando Letelier in Washington DC. When Chilean government intelligence operatives planted a car bomb in the car used by Letelier, killing him and a US citizen accompanying him, the United States government called this an act of murder—an unlawful political assassination. B. Targeted Killing and the Law of Armed Conflict Of course, sometimes the “ordinary” legal rules do not apply. In war, the willful killing of human beings is permitted, whether the means of killing is a gun, a bomb, or a long-distance drone strike. The law of armed conflict permits a wide range of behaviors that would be unlawful in the absence of an armed conflict. Generally speaking, the intentional destruction of private property and severe restrictions on individual liberties are impermissible in peacetime, but acceptable in wartime, for instance. Even actions that a combatant knows will cause civilian deaths are lawful when consistent with the principles of necessity, humanity, proportionality,29 and distinction.30 It is worth briefly explaining these principles. The principle of necessity requires parties to a conflict to limit their actions to those that are indispensible for securing the complete submission of the enemy as soon as possible (and that are otherwise permitted by international law). The principle of humanity forbids parties to a conflict to inflict gratuitous violence or employ methods calculated to cause unnecessary suffering. The principle of proportionality requires parties to ensure that the anticipated loss of life or property incidental to an attack is not excessive in relation to the concrete and direct military advantage expected to be gained. Finally, the principle of discrimination or distinction requires that parties to a conflict direct their actions only against combatants and military objectives, and take appropriate steps to distinguish between combatants and non-combatants.31 This is a radical oversimplification of a very complex body of law.32 But as with the rule of law, the basic idea is pretty simple. When there is no war -- when ordinary, peacetime law applies -- agents of the state aren't supposed to lock people up, take their property or kill them, unless they have jumped through a whole lot of legal hoops first. When there is an armed conflict, however, everything changes. War is not a legal free-for-all33 -- torture, rape are always crimes under the law of war, as is killing that is willful, wanton and not justified by military necessity34 -- but there are far fewer constraints on state behavior. Technically, the law of war is referred to using the Latin term “lex specialis” – special law. It is applicable in—and only in -- special circumstances (in this case, armed conflict), and in those special circumstances, it supersedes “ordinary law,” or “lex generalis,” the “general law” that prevails in peacetime. We have one set of laws for “normal” situations, and another, more flexible set of laws for “extraordinary” situations, such as armed conflicts. None of this poses any inherent problem for the rule of law. Having one body of rules that tightly restricts the use of force and another body of rules that is far more permissive does not fundamentally undermine the rule of law, as long as we have a reasonable degree of consensus on what circumstances trigger the “special” law, and as long as the “special law” doesn’t end up undermining the general law. To put it a little differently, war, with its very different rules, does not challenge ordinary law as long as war is the exception, not the norm -- as long as we can all agree on what constitutes a war -- as long as we can tell when the war begins and ends -- and as long as we all know how to tell the difference between a combatant and a civilian, and between places where there's war and places where there's no war. Let me return now to the question of drones and targeted killings. When all these distinctions I just mentioned are clear, the use of drones in targeted killings does not necessarily present any great or novel problem. In Libya, for instance, a state of armed conflict clearly existed inside the borders of Libya between Libyan government forces and NATO states. In that context, the use of drones to strike Libyan military targets is no more controversial than the use of manned aircraft. That is because our core rule of law concerns have mostly been satisfied: we know there is an armed conflict, in part because all parties to it agree that there is an armed conflict, in part because observers (such as international journalists) can easily verify the presence of uniformed military personnel engaged in using force, and in part because the violence is, from an objective perspective, widespread and sustained: it is not a mere skirmish or riot or criminal law enforcement situation that got out of control. We know who the “enemy” is: Libyan government forces. We know where the conflict is and is not: the conflict was in Libya, but not in neighboring Algeria or Egypt. We know when the conflict began, we know who authorized the use of force (the UN Security Council) and, just as crucially, we know whom to hold accountable in the event of error or abuse (the various governments involved).35 Once you take targeted killings outside hot battlefields, it’s a different story. The Obama Administration is currently using drones to strike terror suspects in Pakistan, Somalia, Yemen, and –perhaps—Mali and the Philippines as well. Defenders of the administration's increasing reliance on drone strikes in such places assert that the US is in an armed conflict with “al Qaeda and its associates,” and on that basis, they assert that the law of war is applicable -- in any place and at any time -- with regard to any person the administration deems a combatant. The trouble is, no one outside a very small group within the US executive branch has any ability to evaluate who is and who isn’t a combatant. The war against al Qaeda and its associates is not like World War II, or Libya, or even Afghanistan: it is an open-ended conflict with an inchoate, undefined adversary (who exactly are al Qaeda’s “associates”?). What is more, targeting decisions in this nebulous “war” are based largely on classified intelligence reporting. As a result, Administration assertions about who is a combatant and what constitutes a threat are entirely non-falsifiable, because they're based wholly on undisclosed evidence. Add to this still another problem: most of these strikes are considered covert action, so although the US sometimes takes public credit for the deaths of alleged terrorist leaders, most of the time, the US will not even officially acknowledge targeted killings. This leaves all the key rule-of-law questions related to the ongoing war against al Qaeda and its "associates" unanswered.36 Based on what criteria might someone be considered a combatant or directly participating in hostilities? What constitutes “hostilities” in the context of an armed conflict against a non-state actor, and what does it mean to participate in them? And just where is the war? Does the war (and thus the law of war) somehow "travel" with combatants? Does the US have a “right” to target enemy combatants anywhere on earth, or does it depend on the consent of the state at issue? Who in the United States government is authorized to make such determinations, and what is the precise chain of command for such decisions? I think the rule of law problem here is obvious: when “armed conflict” becomes a term flexible enough to be applied both to World War II and to the relations between the United States and “associates” of al Qaeda such as Somalia’s al Shabaab, the concept of armed conflict is not very useful anymore. And when we lack clarity and consensus on how to recognize “armed conflict,” we no longer have a clear or principled basis for deciding how to categorize US targeted killings. Are they, as the US government argues, legal under the laws of war? Or are they, as some human rights groups have argued, unlawful murder? C. Targeted Killing and the International Law of Self-Defense When faced with criticisms of the law of war framework as a justification for targeted killing, Obama Administration representatives often shift tack, arguing that international law rules on national self-defense provide an alternative or additional legal justification for US targeted killings. Here, the argument is that if a person located in a foreign state poses an "imminent threat of violent attack" against the United States, the US can lawfully use force in self-defense, provided that the defensive force used is otherwise consistent with law of war principles. Like law of war-based arguments, this general principle is superficially uncontroversial: if someone overseas is about to launch a nuclear weapon at New York City, no one can doubt that the United States has a perfect right (and the president has a constitutional duty) to use force if needed to prevent that attack, regardless of the attacker's nationality. But once again, the devil is in the details. To start with, what constitutes an "imminent" threat? Traditionally, both international law and domestic criminal law understand that term narrowly: 37 to be "imminent," a threat cannot be distant or speculative.38 But much like the Bush Administration before it, the Obama Administration has put forward an interpretation of the word “imminent” that bears little relation to traditional legal concepts. According to a leaked 2011 Justice Department white paper39—the most detailed legal justification that has yet become public-- the requirement of imminence "does not require the United States to have clear evidence that a specific attack on U.S. persons and interests will take place in the immediate future." This seems, in itself, like a substantial departure from accepted international law definitions of imminence. But the White Paper goes even further, stating that "certain members of al Qaeda are continually plotting attacks...and would engage in such attacks regularly [if] they were able to do so, [and] the US government may not be aware of all... plots as they are developing and thus cannot be confident that none is about to occur." For this reason, it concludes, anyone deemed to be an operational leader of al Qaeda or its "associated forces" presents, by definition, an imminent threat even in the absence of any evidence whatsoever relating to immediate or future attack plans. In effect, the concept of "imminent threat" (part of the international law relating to self-defense) becomes conflated with identity or status (a familiar part of the law of armed conflict). That concept of imminence has been called Orwellian, and although that is an overused epithet, in this context it seems fairly appropriate. According to the Obama Administration, “imminent” no longer means “immediate,” and in fact the very absence of clear evidence indicating specific present or future attack plans becomes, paradoxically, the basis for assuming that attack may perpetually be “imminent.” The 2011 Justice Department White Paper notes that the use of force in self-defense must comply with general law of war principles of necessity, proportionality, humanity, and distinction. The White Paper offers no guidance on the specific criteria for determining when an individual is a combatant (or a civilian participating directly in hostilities), however. It also offers no guidance on how to determine if a use of force is necessary or proportionate. From a traditional international law perspective, this necessity and proportionality inquiry relates both to imminence and to the gravity of the threat itself, but so far there has been no public Administration statement as to how the administration interprets these requirements. Is any threat of "violent attack" sufficient to justify killing someone in a foreign country, including a U.S. citizen? Is every potential suicide bomber targetable, or does it depend on the gravity of the threat? Are we justified in drone strikes against targets who might, if they get a chance at some unspecified future point, place an IED that might, if successful, kill one person? Ten people? Twenty? 2,000? How grave a threat must there be to justify the use of lethal force against an American citizen abroad -- or against non-citizens, for that matter? As I have noted, it is impossible for outsiders to fully evaluate US drone strikes, since so much vital information remains classified. In most cases, we know little about the identities; activities or future plans of those targeted. Nevertheless, given the increased frequency of US targeted killings in recent years, it seems reasonable to wonder whether the Administration conducts a rigorous necessity or proportionality analysis in all cases. So far, the leaked 2011 Justice Department White Paper represents the most detailed legal analysis of targeted killings available to the public. It is worth noting, incidentally, that this White Paper addresses only the question of whether and when it is lawful for the US government to target US citizens abroad. We do not know what legal standards the Administration believes apply to the targeting of non-citizens. It seems reasonable to assume, however, that the standards applicable to non-citizens are less exacting than those the Administration views as applicable to citizens. Defenders of administration targeted killing policy acknowledge that the criteria for determining how to answer these many questions have not been made public, but insist that this should not be cause for concern. The Administration has reportedly developed a detailed “playbook” outlining the targeting criteria and procedures,40, and insiders insist that executive branch officials go through an elaborate process in which they carefully consider every possible issue before determining that a drone strike is lawful.41 No doubt they do, but this is somewhat cold comfort. Formal processes tend to further normalize once-exceptional activities -- and "trust us" is a rather shaky foundation for the rule of law. Indeed, the whole point of the rule of law is that individual lives and freedom should not depend solely on the good faith and benevolence of government officials. As with law of war arguments, stating that US targeted killings are clearly legal under traditional self-defense principles requires some significant cognitive dissonance. Law exists to restrain untrammeled power. It is no doubt possible to make a plausible legal argument justifying each and every U.S. drone strike -- but this merely suggests that we are working with a legal framework that has begun to outlive its usefulness. The real question isn't whether U.S. drone strikes are "legal." The real question is this: Do we really want to live in a world in which the U.S. government's justification for killing is so malleable? 5. Setting Troubling International Precedents Here is an additional reason to worry about the U.S. overreliance on drone strikes: Other states will follow America's example, and the results are not likely to be pretty. Consider once again the Letelier murder, which was an international scandal in 1976: If the Letelier assassination took place today, the Chilean authorities would presumably insist on their national right to engage in “targeted killings” of individuals deemed to pose imminent threats to Chilean national security -- and they would justify such killings using precisely the same legal theories the US currently uses to justify targeted killings in Yemen or Somalia. We should assume that governments around the world—including those with less than stellar human rights records, such as Russia and China—are taking notice. Right now, the United States has a decided technological advantage when it comes to armed drones, but that will not last long. We should use this window to advance a robust legal and normative framework that will help protect against abuses by those states whose leaders can rarely be trusted. Unfortunately, we are doing the exact opposite: Instead of articulating norms about transparency and accountability, the United States is effectively handing China, Russia, and every other repressive state a playbook for how to foment instability and –literally -- get away with murder. Take the issue of sovereignty. Sovereignty has long been a core concept of the Westphalian international legal order.42 In the international arena, all sovereign states are formally considered equal and possessed of the right to control their own internal affairs free of interference from other states. That's what we call the principle of non-intervention -- and it means, among other things, that it is generally prohibited for one state to use force inside the borders of another sovereign state. There are some well-established exceptions, but they are few in number. A state can lawfully use force inside another sovereign state with that state's invitation or consent, or when force is authorized by the U.N. Security Council, pursuant to the U.N. Charter,43 or in self-defense "in the event of an armed attack." The 2011 Justice Department White Paper asserts that targeted killings carried out by the United States don't violate another state's sovereignty as long as that state either consents or is "unwilling or unable to suppress the threat posed by the individual being targeted." That sounds superficially plausible, but since the United States views itself as the sole arbiter of whether a state is "unwilling or unable" to suppress that threat, the logic is in fact circular. It goes like this: The United States -- using its own malleable definition of "imminent" -- decides that Person X, residing in sovereign State Y, poses a threat to the United States and requires killing. Once the United States decides that Person X can be targeted, the principle of sovereignty presents no barriers, because either 1) State Y will consent to the U.S. use of force inside its borders, in which case the use of force presents no sovereignty problems or 2) State Y will not consent to the U.S. use of force inside its borders, in which case, by definition, the United States will deem State Y to be "unwilling or unable to suppress the threat" posed by Person X and the use of force again presents no problem. This is a legal theory that more or less eviscerates traditional notions of sovereignty, and has the potential to significantly destabilize the already shaky collective security regime created by the U.N. Charter.44 If the US is the sole arbiter of whether and when it can use force inside the borders of another state, any other state strong enough to get away with it is likely to claim similar prerogatives. And, of course, if the US executive branch is the sole arbiter of what constitutes an imminent threat and who constitutes a targetable enemy combatant in an ill- defined war, why shouldn’t other states make identical arguments—and use them to justify the killing of dissidents, rivals, or unwanted minorities?

### Plan

#### The United States federal government should statutorily ban targeted killing strikes carried out under Title 50

### Intel

#### Giving up drones is key to preserve CIA analytic culture and global reputation – key to traditional intelligence gathering.

**Dowd 13** – (4/16, Maureen, NYT, “The CIA’s Angry Birds,” http://www.nytimes.com/2013/04/17/opinion/the-cias-angry-birds.html?\_r=0#h[])

Meanwhile, the C.I.A. was setting up its own Pentagon at Langley, running the ever-expanding paramilitary drone operation. **Spies became soldiers**. Mazzetti writes that after 9/11, the C.I.A. director morphed into “a military commander running a clandestine, global war with a skeleton staff and very little oversight.” Why did the C.I.A., as Gen. James Cartwright asked when he was the vice chairman of the Joint Chiefs of Staff, need to build “a second Air Force”? Leon Panetta made the C.I.A. far more militarized and then went to the Pentagon. When an actual military commander, David Petraeus, became head spook in 2011, he embraced the drone program, pushed to expand the fleet and conducted the first robo-targeted killing of an American citizen. “A spy agency that on September 11, 2001, had been decried as bumbling and risk-averse had, under the watchful eye of four successive C.I.A. directors, gone on a killing spree,” Mazzetti writes. The C.I.A. now has a drone base in Saudi Arabia, and both the Pentagon and the spy agency are running parallel drone wars in Yemen, each fighting for resources. And the Pentagon continues its foray into human spying. As W. George Jameson, a lawyer who spent 33 years at the C.I.A., lamented: **“Everything is backwards. You’ve got an intelligence agency fighting a war and a military organization trying to gather on-the-ground intelligence.”** Mazzetti observes that the C.I.A., playing catch-up through so much of the Arab Spring, has turned a perilous corner, where a new generation at Langley much prefers “the adrenaline rush of being at the front lines” hunting and killing to the more patient, tedious, “gentle” work of intelligence gathering and espionage. Relying on foreign spies for counterterrorism information can blind you to what is really happening on the ground. Ross Newland, a career clandestine officer, told Mazzetti that the allure of killing people by remote control is “catnip,” and that the agency should have given up Predators and Reapers long ago. The death robots have turned the C.I.A. into the villain in places like Pakistan, Newland said, where the agency’s mission is supposed to be nurturing relationships to gather intelligence.

#### CIA militarization collapses intel gathering and collapses military effectiveness Mazetti and Schmitt 11. April 28th, 2011. “Obama’s Pentagon and C.I.A. Picks Show Shift in How U.S. Fights” <http://www.nytimes.com/2011/04/28/us/28military.html>

[President Obama](http://topics.nytimes.com/top/reference/timestopics/people/o/barack_obama/index.html?inline=nyt-per)’s decision to send an intelligence chief to the Pentagon and a four-star general to the [Central Intelligence Agency](http://topics.nytimes.com/top/reference/timestopics/organizations/c/central_intelligence_agency/index.html?inline=nyt-org) is the latest evidence of a significant shift over the past decade in how the United States fights its battles — the blurring of lines between soldiers and spies in secret American missions abroad. On Thursday, Mr. Obama is expected to announce that [Leon E. Panetta](http://topics.nytimes.com/top/reference/timestopics/people/p/leon_e_panetta/index.html?inline=nyt-per), the C.I.A. director, will become secretary of defense, replacing [Robert M. Gates](http://topics.nytimes.com/top/reference/timestopics/people/g/robert_m_gates/index.html?inline=nyt-per), and that Gen. [David H. Petraeus](http://topics.nytimes.com/top/reference/timestopics/people/p/david_h_petraeus/index.html?inline=nyt-per) will return from Afghanistan to take Mr. Panetta’s job at the C.I.A., a move that is likely to continue this trend.¶ As C.I.A. director, Mr. Panetta hastened the transformation of the spy agency into a paramilitary organization, overseeing a sharp escalation of the C.I.A.’s bombing campaign in Pakistan using armed [drone aircraft](http://topics.nytimes.com/top/reference/timestopics/subjects/u/unmanned_aerial_vehicles/index.html?inline=nyt-classifier), and an increase in the number of secret bases and covert operatives in remote parts of Afghanistan. ¶ General Petraeus, meanwhile, has aggressively pushed the military deeper into the C.I.A.’s turf, using Special Operations troops and private security contractors to conduct secret intelligence missions. As commander of the United States Central Command in September 2009, he also signed a classified order authorizing American Special Operations troops to collect intelligence in Saudi Arabia, Jordan, Iran and other places outside of traditional war zones. ¶ The result is that American military and intelligence operatives are at times virtually indistinguishable from each other as they carry out classified operations in the Middle East and Central Asia. Some members of Congress have complained that this new way of war allows for scant debate about the scope and scale of military operations. In fact, the American spy and military agencies operate in such secrecy now that it is often hard to come by specific information about the American role in major missions in Iraq, Afghanistan, Pakistan and now Libya and Yemen.¶ The operations have also created tension with important allies like Pakistan, while raising fresh questions about whether spies and soldiers deserve the same legal protections. ¶ Officials acknowledge that the lines between soldiering and spying have blurred. “It’s really irrelevant whether you call it a covert action or a military special operation,” said[Dennis C. Blair](http://topics.nytimes.com/top/reference/timestopics/people/b/dennis_c_blair/index.html?inline=nyt-per), a retired four-star admiral and a former director of national intelligence. “I don’t really think there is any distinction.” ¶ The phenomenon of the C.I.A. becoming more like the Pentagon, and vice versa, has critics inside both organizations. Some inside the C.I.A.’s clandestine service believe that its bombing campaign in Pakistan, which has become a cornerstone of the Obama administration’s counterterrorism strategy, has distorted the agency’s historic mission as a civilian espionage agency and turned it into an arm of the Defense Department. ¶ [Henry A. Crumpton](http://topics.nytimes.com/top/reference/timestopics/people/c/henry_a_crumpton/index.html?inline=nyt-per), a career C.I.A. officer and formerly the State Department’s top counterterrorism official, praised General Petraeus as “one of the most sophisticated consumers of intelligence.” But Mr. Crumpton warned more broadly of the “militarization of intelligence” as current or former uniformed officers assume senior jobs in the sprawling American intelligence apparatus.¶ For example, [James R. Clapper Jr.](http://topics.nytimes.com/top/reference/timestopics/people/c/james_r_clapper_jr/index.html?inline=nyt-per), a retired [Air Force](http://topics.nytimes.com/top/reference/timestopics/organizations/a/us_air_force/index.html?inline=nyt-org) general, is director of national intelligence, Mr. Obama’s top intelligence adviser. Maj. Gen. Michael Flynn, formerly the senior intelligence officer in Afghanistan, is soon expected to become one of Mr. Clapper’s top deputies.¶ “If the intelligence community is populated by military officers, they understandably are going to reflect their experiences,” Mr. Crumpton said.¶ At the Pentagon, the new roles raise legal concerns. The more that soldiers are used for espionage operations overseas, the more they are at risk of being thrown in jail and denied[Geneva Convention](http://topics.nytimes.com/top/reference/timestopics/subjects/g/geneva_conventions/index.html?inline=nyt-classifier) protections if they are captured by hostile governments. ¶ And yet few believe that the trend is likely to be reversed. A succession of wars has strained the ranks of both the Pentagon and the C.I.A., and the United States has come to believe that many of its current enemies are best fought with timely intelligence rather than overwhelming military firepower. ¶ These factors have pushed military and intelligence operatives more closely together in the years since the Sept. 11, 2001, attacks. ¶ “In the field, there is a blurring of the mission,” said Senator [Jack Reed](http://topics.nytimes.com/top/reference/timestopics/people/r/jack_reed/index.html?inline=nyt-per), a senior Rhode Island Democrat on the Armed Services Committee who served as an officer in the 82nd Airborne Division. “Military operations can buy time to build up local security forces, but intelligence is the key to operations and for anticipating your adversary.” ¶

#### Institutional inertia means now is key

**Scahill 12** – (11/14, Jeremy, Puffin Foundation Writing Fellow at The Nation Institute, an award-winning investigative journalist, author of Dirty Wars and Blackwater, “The Petraeus Legacy: A Paramilitary CIA?” <http://www.thenation.com/article/171247/petraeus-legacy-paramilitary-cia#axzz2YPwmfs7A>)

While much of the media focus on l’affaire Petraeus has centered on the CIA director’s sexual relationship with his biographer, Paula Broadwell, the scandal opens a window onto a different and more consequential relationship—that between the CIA and the military’s Joint Special Operations Command. In a behind-the-scenes turf war that has raged since 9/11, **the two government bodies have fought for control of the expanding global wars waged by the United States**—a turf war that JSOC has largely won. Petraeus, an instrumental player in this power struggle, **leaves behind an agency that has strayed from intelligence to paramilitary-type activities**. Though his legacy will be defined largely by the scandal that ended his career, to many within military and intelligence circles, Petraeus’s career trajectory, from commander of US military forces in Iraq and Afghanistan to the helm of the CIA, is a symbol of this evolution. “I would not say that CIA has been taken over by the military, but I would say that the CIA has become more militarized,” Philip Giraldi, a retired career CIA case officer, told The Nation. “A considerable part of the CIA budget is now no longer spying; it’s supporting paramilitaries who work closely with JSOC to kill terrorists, and to run the drone program.” The CIA, he added, “is a killing machine now.” As head of US Central Command in 2009, Petraeus issued execute orders that significantly broadened the ability of US forces to operate in a variety of countries, including Yemen, where US forces began conducting missile strikes later that year. During Petraeus’s short tenure at the CIA, drone strikes conducted by the agency, sometimes in conjunction with JSOC, escalated dramatically in Yemen; in his first month in office, he oversaw a series of strikes that killed three US citizens, including 16-year-old Abdulrahman Awlaki. In some cases, such as the raid that killed Osama bin Laden in Pakistan, commandos from the elite JSOC operated under the auspices of the CIA, so that the mission could be kept secret if it went wrong. One current State Department liaison who has also worked extensively with JSOC describes the CIA as becoming “a mini-Special Operations Command that purports to be an intelligence agency.” For all the praise Petraeus won for his counterinsurgency strategy and the “surge” in Iraq, he says, his real legacy is as a “political tool,” an enabler of those within the national security apparatus who want to see a continuation of covert global mini-wars. Pointing to the “mystique that surrounds JSOC” and Adm. William McRaven, commander of the Special Operations Command, the liaison says, “Petraeus was trying to implement that kind of command climate at the CIA.” “Petraeus wanted to be McRaven, and now that window has closed,” he said. “We are firmly in the age of McRaven. There is no other titular figure with the confidence of the president that is able to articulate strategies and hold their own in rooms where everyone else has the same or greater amount of intellectual heft. McRaven is everything that Petraeus is not.” Retired Army Col. W. Patrick Lang, a former senior defense intelligence official, says that Petraeus’s arrogance—“smoothly concealed beneath the appearance of the warrior scholar”—made him deeply unpopular among the military’s high-ranking officers. Dismissing the media’s portrayal of Petraeus as a “super soldier” and great military leader as “phony bullshit,” Lang describes him as the product of a military promotion system that encourages generals to think of themselves as “divinely selected.” “In fact, he didn’t write the COIN manual, the surge was not the main thing in improving the situation in Iraq…. They sent him to Afghanistan to apply the COIN doctrine in the same glorious way he did in Iraq, and it hasn’t worked. So, if you look beneath the surface from all this stuff, it’s just a lot of hot air. There are great generals, but this guy is not one of them.” Arriving at the CIA, Lang says, Petraeus “wanted to drag them in the covert action direction and to be a major player.” As for Petraeus’s future, the State Department liaison said, “There will be a lot of profits to be made by him and his immediate circle of advisers, as they’re given a soft landing, whether it’s in academia or within the nexus of the military-industrial complex.” Giraldi, the former senior CIA officer, expressed concern that in these circumstances, **the “CIA is going to forget how to spy.**” He also noted the “long-term consequence” of the militarization of the CIA: “every bureaucracy in the world is best at protecting itself. So **once the CIA becomes a paramilitary organization, there’s going to be in-built pressure to keep going in that direction**. Because you’ll have people at the senior levels in the organization who have come up that way and are protective of what they see as their turf,” he told me. “**That’s the big danger**.”

#### More resources are irrelevant – culture and focus are key

**Divoll 12** – (12/3, Vicki, former general counsel to the Senate Select Committee on Intelligence and former deputy legal adviser of C.I.A.’s Counterterrorist Center, “Stick to the Basic Tasks It Was Created For,” NYT, http://www.nytimes.com/roomfordebate/2012/12/03/a-new-director-or-a-new-direction-for-the-cia/stick-to-the-basic-tasks-it-was-created-for)

After 9/11 it was convenient, and perhaps necessary, to turn to the C.I.A. for all things. They had an arsenal of unmanned drones capable of scouring the earth to watch the enemy – and, yes, they could be armed. Back then, the Air Force didn’t want them, but the C.I.A. did. And they were ready. The C.I.A. was designed to focus on figuring out what needs to be done, how it could be done and what the consequences would be. The C.I.A. had a directorate of case officers whose personality and training made them experts in getting information from reticent people. They had been taught to use the art of persuasion, not coercion, but if the president wanted sticks rather than carrots, they could and would adapt. Uniquely, the C.I.A. had a network of officers in place, worldwide, ready to do what was needed – and they were quick learners. The C.I.A. has always been willing and able to morph into whatever the policymakers of the time want it to be. It is a flexible, can-do cadre of officers, selected and trained to think outside the box, assess a problem and solve it. **But by asking the C.I.A. to do all of these things, something else has to give.** No matter how many resources you throw at it, the agency cannot maintain its core mission if its focus is diverted in too many directions. Since its creation, the C.I.A. has given policymakers its best estimate of the plans, intentions and capabilities of foreign nations and entities that seek to do us harm. To do that, its officers recruit human assets, develop innovative technology and apply expert analysis to the fruits of the collection. Thus, **the C.I.A.’s core mission was to assess and predict**. We designed the agency to focus on figuring out what needs to be done, whether and how it could be done and, most important, what the consequences of those actions would likely be. The focus of the men and women of the C.I.A. – indeed, the entire culture of the agency – has been hijacked for purposes that are contrary to its original mission. It does not take an intelligence expert to imagine the vast amount of human and technical resources it has taken to identify and locate 2,500 people that were found to have met the standards to justify killing them, according to a recent Times article, and to conduct operations to do so.

#### CIA effectiveness key to intelligence – central and lead human intel agency

Zegart 4/16/9 (http://www.samefacts.com/2009/04/everything-else/dont-kill-the-cia/

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3. There’s a reason the CIA has the word “Central” in its name. It was created in 1947 to integrate all the disparate pieces of intelligence floating around military intelligence agencies, the State Dept. and the Justice Dept. In 1941, clues to the Japanese attack at Pearl Harbor were scattered throughout the U.S. government, but no one agency had the job of putting them together. That became CIA’s mission. It may not have performed that mission well, but it’s the best we’ve got. 4. CIA is also the lead agency for human intelligence collection. And let’s face it, human intelligence is more important than ever. In the Cold War, most good intelligence involved counting things like Soviet missiles. Today, good intelligence requires getting inside our enemies’ heads. It doesn’t help much to know how many box cutters or truck bombs al Qaeda owns. President Obama seems to get what Yglesias does not: he needs the CIA now more than ever. He’s got the fullest plate in modern history, with two wars, one whopper economic crisis, terrorists, nuclear proliferators, and failing states. Intelligence does not predict the future, but it bounds the uncertainty of it to help the president make better decisions. Sometimes the CIA is tragically wrong. Sometimes it’s ugly. But make no mistake: the CIA is vital to protecting American lives and interests.

#### Plan makes intelligence more effective – solves future conflicts and boosts warfighting capabilities.

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Force and its employment are significant in driving outcomes in combat. However, it is operational and tactical intelligence, not necessarily numbers, technology, or tactics, that can have the most decisive impact on how forces are employed and how success is achieved in wartime operations. History repeatedly has demonstrated that numerically inferior forces, armed with less capable technologies, can win when leaders are armed with accurate intelligence they believe they can act upon. Such intelligence can be a force multiplier. Therefore, considering the value of force employment, technology, and mass without placing a corresponding value on intelligence is a mistake. In this article I explore the role of tactical and operational intelligence in dictating force employment schemes and as a decisive element in five strategically significant battles— the First Battle of Bull Run (1861), Tannenberg (1914), Midway (1942), Inchon (1950), and the Israeli air strike initiating the Six-Day War in 1967—and I will demonstrate that it was neither technology nor material superiority that won the day, but accurate, timely, actionable intelligence, combined with leaders willing to treat intelligence as a primary factor in deciding outcomes. In each case, intelligence gave commanders the knowledge of the battlefield (battlespace awareness) and the understanding of their foe to focus their forces at the right place and time to win when, in all probability, they should have been defeated. Certainly ADM Chester Nimitz, faced with the job of reversing the losses at Pearl Harbor, would have disputed RADM Thomas A. Brooks’ assertion that intelligence is a secondary factor in war, as would General P. T. Beauregard, who, in 1861, faced the grim possibility of losing the first major battle of the Civil War.[4] [Top of Page] The Battle of Bull Run: 21 July 1861 The battle may be most renowned for the last minute heroics of General “Stonewall” Jackson on Henry House Hill, which led to the rout of the Union army, but the Confederates were able to employ the forces needed to win at Bull Run because they had created, months earlier, an intricate spy network in Washington, DC. By the time the fledgling Union Army had organized itself for its first major campaign into Virginia, its troop strengths, dispositions, and plans had long been compromised. Said Beauregard, commanding Confederate forces in northern Virginia, “I was almost as well advised of the strength of the hostile army in my front as its commander.”[5] In May 1861, just weeks after the announcement of the fall of Fort Sumter, a spy in the quartermaster office of the US War Department had begun recruiting a ring of Confederate sympathizers in the nation’s capital. Among these were bankers, clerks, couriers, housewives, and Rose Greenhow, proprietor of a respectable salon frequented by senior government and military officials. While the network mobilized, a Union force of nearly 36,000 was organizing and training just across the Potomac River. Its commander, General Irvin McDowell, was under pressure from Lincoln to strike the Confederates at the earliest possible date. While the Union Army was concentrated, Confederate forces were split, with 21,000 stationed at Manassas Junction under Beauregard, and 12,800 under General Joseph E. Johnston near Harper’s Ferry. Combined, the Confederate troops still numbered fewer than the Federals, and divided, they stood little chance against a concerted Union offensive. Yet, authorities in Richmond, worried about a Federal incursion down the Shenandoah Valley by a force of 18,000 at Harpers Ferry, had told Beauregard he could unite the two armies only if an attack was imminent. Thus, a McDowell move toward Manassas would spark a race in which Johnston would have to rush to Beauregrad’s aid across piedmont terrain and with limited railroad access. His ability to win this race was possible only if he received timely, detailed, and believable intelligence indicating when, where, and with what forces McDowell would strike. Beauregard’s fate rested in the hands of a few neophyte clandestine agents. On 10 July the network demonstrated its worth, as Rose Greenhow sent word that “McDowell has certainly been ordered to advance on the sixteenth.”[6] This intelligence, however, proved insufficient to start the race. President Davis denied requests to authorize relocation of Johnston’s army. Beauregard, fearing the worst, sent a plea to Greenhow for intelligence reconfirming the date and planned movement of Union forces. On 16 July, she sent word that the Federal forces would move out that very day, marching from Arlington to Manassas, via Centreville, a distance of only 20 miles. This information immediately made its way to Richmond. Consequently, orders were dispatched that night directing Johnston to move south in haste and unite with Beauregard’s forces on the Bull Run. First Battle of Bull Run McDowell began his march on the 16th, as Greenhow had reported, crossed the Bull Run at Sudley Ford on the 21st, and attacked the Confederate left flank on Matthews Hill. Fighting raged throughout the day, and Beauregard’s forces were driven back to Henry Hill. Defeat seemed imminent. Late in the afternoon, however, Johnston’s reinforcements, having arrived via rail at Manassas Junction the night before, made their way to the battle and broke the Union right flank. What seemed a victory for the Federals rapidly deteriorated into a disorganized retreat. And while it was Jackson’s brigade under Johnston’s command that turned the tide of a hard fought battle, it was espionage that provided alternatives to Confederate political and military decisionmakers, allowing them to concentrate their forces and demonstrate that they could defeat the Union in a major engagement. Victory was not certain—defeat was avoided only as a result of the decision to reinforce Beauregard. In What If?, Stephen Sears suggests that without a geographic point at which to regroup, the Confederate Army might have dissolved and the rebellion ended in its first year if the Union had won that day.[7] Intelligence in this case gave the Confederates several advantages. First, with reliable information on the Union order of battle and strategy, they were able to split their smaller forces to defend the Shenandoah Valley and to maintain a check on McDowell’s army. Second, because of the existence of timely indicators and warning, it was inconceivable that the Federals could execute a surprise attack against the Confederates; agents were able to provide fresh, corroborated information on everything the Federals did. Finally, Beauregard knew the strength of his opponent and the route of attack and, therefore, had the ability to consolidate and position his forces on the most advantageous ground. This was all the more important as McDowell had a well-developed concept of operations and superior numbers. Yet force alone cannot win the day. [Top of Page] Battle of Tannenberg: 23–30 August 1914 The Battle of Tannenberg was one of the largest, yet least known, strategically decisive victories in modern warfare. Its outcome allowed the Germans to recover momentum after their loss at the Battle of the Marne on the Western Front, to save Prussia from the Russians, to defeat three successive Russian armies, and to deal the first of several blows leading to the Treaty of Brest Litovsk and the Russian Revolution in 1917. Of the roughly 150,000 Russian soldiers who fought in the battle of Tannenberg, some 30,000 were killed or wounded and another 95,000 captured. The Germans suffered fewer than 20,000 casualties, captured more than 500 guns, and filled dozens of trains with captured equipment for transport to Germany. After losing at Tannenberg, the Russian army could not muster enough offensive strength to re-enter Germany again until World War II. It was nothing short of a complete victory for Germany, and it came in large part because of the German Army’s successful use of intelligence. Modifying the Schlieffen Plan at the outset of the war, Germany sent only one army, the Eighth, to the Eastern Front to face the presumed, slow-to-mobilize Russian armies. Misperceiving how quickly the Russians could bring their forces to bear, the Eighth quickly found itself facing two Russian armies—the First moving west into Prussia, and the Second driving northwest from southern Prussia. While the German Eighth Army was comparable in size to each of the Russian armies, it could not face a combined assault. Battle of Tannenberg The Russian First Army struck first and won a victory at the Battle of Gumbinnen on 20 August 1914. It did not seize the initiative, however, choosing instead to wait until the Second Army could move north to catch the Germans in a pincer. This gave Helmuth von Moltke, the German Chief of Staff in Berlin, time to replace the commander of the Eighth Army, General Maximilian von Prittwitz, with Generals Paul von Hindenburg and Erich Ludendorff, and to regroup. Rather than concede Prussia to the Russians or potentially face another defeat at the hands of the First Army, Ludendorff looked south for an opening to attack the Russian Second Army. He authorized the movement of a corps from Gumbinnen south via railroad to attack the Second Army’s left flank. He also considered marching the bulk of his remaining forces south to envelop the right flank—this, however, would leave northern Prussia exposed to the First Army. Shifting fronts would be risky. While both side’s staffs planned for the coming great battle, a secret war was waged behind the scenes by cryptologists. Early in the days of radio communications, neither side was particularly astute in communications security, and both exposed their vulnerabilities over the airwaves. But the poorly educated and trained Russian cryptologists were unable even to master their simple cipher system and, in the case of the First Army, did not use a communications code. This led to frequent lapses in security and resulted in operators repeatedly resending messages, often uncoded, in plain language. The result was a windfall of intelligence for the Germans. Intercepting Russian communications, German cryptologists deduced troop strengths and movement schedules, picked up orders, and, most importantly, messages between the First and Second Armies that showed how poorly the two were coordinating their efforts.[8] While the German staff can be credited with developing the concept of operations that would lead to victory in the engagement, it was communications intelligence that provided a clear picture of the battlefield, or in today’s parlance, the battlespace awareness. As the single German corps under General Hermann von Francois began its attack against the exposed left flank of the Second Army on 27 August, two particularly important unencrypted communications transmitted by the Russian First and Second Armies were intercepted.[9] The first, sent by General Paul von Rennenkampf, commander of the First Army, revealed the distance between the two armies and that Rennenkampf needed at least three days before his army could join the Second Army in attacking the Germans. This suggested to Ludendorff that he need not worry about First Army assistance to the Second or exploitation of the gap created by his own army’s movement south. The second intercept, a communiqué from the Second Army, provided a complete description of its dispositions and planned route of attack to the north. As important as the first, this gave Ludendorff the foreknowledge he needed to achieve surprise and a concentration of force against an exposed adversary. As the bulk of the German Eighth Army advanced on the right flank of the Russian’s Second Army and the Russians’ plight became apparent, German cryptologists began intercepting pleas for assistance, as well as orders from General Zhilinski, overall commander of Russian forces, directing the First Army to move northwest, away from Second Army—a clear sign that the Russian leaders did not have a clear understanding of German dispositions or just how precarious Second Army’s situation was. This knowledge emboldened the Germans. With the two corps from Gumbinnen and Francois’ corps to the south, the German forces swept around the Second Army and on 29 August completed the encirclement that would spell its demise. By destroying Second Army with relatively little loss, Hindenburg and Ludendorff could turn north against the First Army and a newly formed army, the Tenth. These were defeated at the Battle of First and Second Masurian Lakes and effectively destroyed Russia’s capacity for carrying out offensive operations against Germany. Intelligence at Tannenberg did not win the battle, but it did play a decisive role in dictating the way the Germans employed their units against a force that was, overall, larger than theirs. German leaders had a thorough understanding of their adversary’s capabilities, schedules, and concept of operations, and this knowledge allowed them to exploit Russian vulnerabilities and defeat them in detail. Thus, if “[O]nly numbers can annihilate,” as suggested by Lord Nelson, the successful exploitation of intelligence in this case demonstrates that they need not be superior numbers.[10] [Top of Page] The Battle of Midway: 4-7 June 1942 Midway was one of the decisive battles of history. The loss of her fleet carrier force deprived Japan of the initiative; henceforward she was on the defensive—attempting to hold the great spread of the Southern Resources Area and contiguous regions she had so handily won.… Two basic factors led to the result: first and foremost, the American knowledge of the Japanese secret codes, which presented Nimitz with an accurate picture of Japanese intentions and dispositions. —R. Earnest and Trevor Dupuy[11] As with battles on land, intelligence can drive the employment schemes necessary for a leader to win against superior odds at sea. Midway, a battle in which intelligence allowed the United States to spring a trap against what the Japanese had planned as their own ambush, resulted in an immediate shift in the balance of sea power in the Pacific. The Japanese Navy, which had a fleet of six carriers before the battle, lost four at Midway, and it lost the bulk of its trained pilots and hundreds of aircraft. While the United States would lose one carrier, it was left with five spread throughout the world. Thirteen more were under construction. Yamamoto believed that for Japan to win the war it would need to destroy the carriers early.[12] Due in large part to the foresight provided by US naval intelligence, he failed. Following the victory at Pearl Harbor, Japanese strategists had different conceptions about how to proceed in the war in the Pacific. However, James Doolittle’s carrier strike on Tokyo in April 1942 gave impetus to the argument that what was needed was the destruction of America’s carrier fleet. In considering the options, Yamamoto believed that the United States, whose naval order of battle in the Pacific after the Pearl Harbor strike was significantly less than that of Japan, would not risk a major fleet engagement for anything other than defense of a vital target. Midway fit this bill.[13] Were the Japanese to take Midway, they would threaten not only the Hawaiian Islands, but they could use Midway as a springboard for attacks on the continental United States. As such, a direct attack against Midway would force the US hand. In this, Yamamoto was right. Meanwhile, the United States was facing its own strategic dilemmas. Having lost so much of its fleet at Pearl Harbor, it had only limited options. First, the United States was committed to a defensive war in the Pacific—they had to react to Japanese actions, and, second, since they were committed to defend the Hawaii-Australia line with inferior numbers and weapons, the only real chance for success was to concentrate their forces at the right place at the right time.[14] To succeed, therefore, foreknowledge of the Japanese plans was vital. And if the US command had it, it could compensate for the disproportionately large force that Japan could bring to bear. And foreknowledge the US Navy had. Since World War I, the Navy had placed a good deal of effort into developing a strong communications intelligence capability. Its OP-20-G Navy Radio Intelligence Section had over the years garnered a number of successes, including breaking many of the Japanese Navy’s codes. While diverted from conducting operational intelligence prior to Pearl Harbor, OP-20-G had reestablished its functional capabilities by March 1942 and was reporting daily on hundreds of Japanese naval intercepts.[15] The Japanese, like the Russians before Tannenberg, committed the egregious error of having to resend messages because command elements used outdated code books—US cryptologists had the benefit of capturing transmissions in both old and new codes, thereby providing multiple opportunities to mine transmissions for useful intelligence. OP-20-G’s successful reporting of Japanese naval movements prior to the Battle of the Coral Sea, which ADM Nimitz had used to determine what forces to commit, bolstered its credibility. Even as the Coral Sea engagement was being waged, intercepts strongly suggested a major Japanese combined, amphibious buildup. Naval intelligence determined in early May the composition of Japanese forces, where they were staging, and their operational schedules.[16] The precise location of attack, however, was more difficult to surmise because the codes for Japanese geographic designators remained unknown. Nimitz believed the Japanese would strike Oahu; others felt the target was the US West Coast. OP-20-G, though, reasoned that the target was Midway. In order to validate their position, the cryptologists successfully used a ruse to get the Japanese to reveal their target. The idea was to send a message, via the cable to Midway, to the Commanding Officer of the Naval Base instructing him to “…send a plain language message to Com 14 (Commandant 14th Naval District) stating in effect, that the distillation plant had suffered a serious casualty and that fresh water was urgently needed—to which Com 14 would reply, (also in plain language), that water barges would be sent, under tow, soonest.[17] Soon after that message was sent, a Japanese message was intercepted noting that “AF is short of water.” OP-20-G was able to report to Admiral Nimitz that the objective was, indeed, Midway. By the time the Japanese changed their cipher codes on 28 May, it was too late. Having been provided Yamamoto’s strategy, order of battle, transit dates, and carrier strike point, Nimitz had what he needed to commit his forces to battle. Rather than fall into a Japanese trap, Nimitz could set one himself by concentrating his forces against an unsuspecting enemy. Deploying three carriers north of Midway to lie in wait, Nimitz had nearly evened the odds. On 2 June 1942, with a good understanding of the general whereabouts of the Japanese fleet—a result of communications intercepts from the Japanese carriers—a US Navy patrol aircraft located and maintained regular contact with it.[18] In the ensuing battle, US intelligence, surveillance, and reconnaissance allowed for the coup de main on 4 June when dive-bomber squadrons from the carriers caught the Japanese completely by surprise, sinking the carriers Akagi, Kaga, and Hiryu. Having gained the advantage, US forces traded blows, sinking the Hiryu, while losing Yorktown. In addition to the lost four carriers, three Japanese battleships were damaged, two heavy cruisers sunk and three more damaged, and several destroyers and auxiliary ships were sunk. But, what if in mid-May 1942, a Japanese sailor, after transcribing a radio message he had just intercepted from Midway Island, had turned to his superior to ask, “Why are they broadcasting this message in the clear?”… A simple question, heightened alertness, and suddenly what historians have often described as the decisive US advantage in the close-run Battle of Midway might well have become the Japanese side’s key to a great victory in the central Pacific, dramatically altering the course of the Second World War.[19] Keegan’s analysis of the battle in Intelligence and War stresses that even with all the intelligence that Nimitz had, and while striking a sizable blow to the Japanese, it had nearly been a major US defeat: [M]idway demonstrates that even possession of the best intelligence does not guarantee victory…. A little less intuition by McClusky of Bombing 6, a little more intellectual resolution by Nagumo, and it would have been the carriers of TF 16 and 17, not those of Yamamoto’s Mobile Force, which would have been left burning and bereft in the bright waters of the Pacific on 4 June 1942.[20] This conclusion misses the point. Battle is always risky and can be swayed one way or another by sheer chance. Yet the US Navy would never have had the opportunity at Midway to avoid the Japanese trap and to concentrate its forces in a surprise attack against an adversary with numerical superiority had it not been for operational and tactical intelligence of the kind it received. “Armed with the support of excellent communications intelligence and of his superiors in Washington, CINCPAC was able to satisfy all three of Clausewitz’s ‘principles of warfare’: decision, concentration, and offensive action.”[21] Foreknowledge, not willpower, was the most decisive factor at Midway. [Top of Page] Inchon Landing: 15 September 1950 The first three examples illustrate how intelligence can help lead to victory through clandestine intelligence operations designed to provide indications and warning information of impending attacks or operations. Another way is through the support intelligence gives to planning, when it provides information on the adversary’s capabilities and vulnerabilities—in today’s terminology “intelligence preparation of the battlespace.” “Intelligence reduces the unknowns that planners must face and forms the basis for both deliberate and crisis action planning,” the Naval Doctrinal Publication points out.[22] In the case of the amphibious assault at Inchon, an attack that led to the collapse of the North Korean army and the taking of some 125,000 prisoners, intelligence gathering and planning allowed US forces to overcome geographic disadvantages and take the enemy by surprise. On 25 June 1950 four columns of North Korean infantry and tanks under the command of Marshal Choe Yong Gun surprised the world by driving south and pushing South Korean and contingents of US forces to the southeast corner of the Korean peninsula. While winning a series of tactical successes, the North was unable to gain its strategic objective— command of all Korea—and was faced with the proposition of using all its remaining forces against the last allied forces holding the Pusan perimeter. Through August and into September, the North threw 13 infantry and two armored divisions (98,000 men) at the Allies, necessitating the commitment of all UN reserves. And while the North suffered horrendous casualties, its tenacious attacks and acceptance of losses suggested a stronger force than they had. General MacArthur, the supreme allied commander in Korea, considered a major counterstroke to catch Choe’s forces in a net. This would involve a two-pronged attack in which an amphibious landing would be made on the west coast. The amphibious assault was designed to sever Choe’s lines of communication and retreat and would be coupled with a break-out from the Pusan perimeter. Two questions, however, had to be answered: (1) Where should the landing occur? and (2) What forces could the enemy bring to bear when it began? The intelligence community set about answering these questions. After a prototypical Intelligence Preparation of the Battlespace, General Douglas MacArthur decided that naval forces could dramatically alter the course of the war by seizing Inchon, a major port on Korea’s Yellow Sea coast. Possession of Inchon would enable the allies to recapture a key air base, and mount a major ground offensive on Seoul which would cut off North Korean forces in the south.[23] Inchon, however, was not ideal. The 45-mile-long approach from the open ocean to the landing area would be complicated by tides— which caused the water’s depth in the landing area to recede to dangerously low depths—and the proximity of several small islands occupied by North Korean forces. To be successful, the Allies would need to clear the islands, intelligence would need to be collected on water depths, and enemy troop strengths in the surrounding area ascertained. In addition, a forward reconnaissance element would need to be in place to provide eyes and ears to the Marines assigned to the assault. The assignment fell to a Naval Intelligence officer attached to the ROK Navy, LT Eugene Clark. Clark, a veteran of the OSS, recruited local fishermen and partisans for his team. Deployed on the 26th of August, he and his team silenced opposition on most of the islands by 8 September and began a thorough reconnaissance of approaches and Inchon itself.[24] Particularly crucial to success was the assessment of the depths and advice to planners on where and when to strike. Clark and a companion measured tides and found that the mud flats initially selected for the attack were not suitable to withstand the weight of fully armed marines. This critical piece of what today would be known as measurements and signatures intelligence (MASINT) averted what could have been a disaster, as the landing plans were modified to account for the findings. Clark and his men also held key positions up to the morning of the attack and lit beacons to guide the lead elements of the assault force. While Clark was providing on-site intelligence, planners were aided by imagery and human intelligence. Aerial photographs and reports from former inhabitants were used in shaping the operational plans for the amphibious task force commander, RADM James Doyle and his staff. Taken with Clark’s information, “intelligence helped Admiral Doyle select the best water approach, set the time for the amphibious assaults, and identify the North Korean Army line of communication as a critical vulnerability.”[25] Additionally, the intelligence estimates suggested that the North did not have forces enough in the area to offer significant resistance to the landing or to the recapture of Seoul.[26] With a full understanding of what he faced, MacArthur told the Joint Chiefs of Staff that he could conduct a successful amphibious operation. Meanwhile, he and his staff developed a concept of operations that would allow for concentration of force, and surprise, against a most vulnerable enemy point. This comprehensive planning bore fruit on 15 September, when the allied amphibious task force launched its initial assault from the sea. By the 19th, the 1st Marine Division seized the air base at Kimpo and began the assault on Seoul. U.S. Army troops pushed out from the Inchon beachhead and on the 27th linked up with their comrades advancing north from the Pusan perimeter. Two days later, the Marines captured Seoul. Thus, by skillfully incorporating intelligence into operational planning, in a little more than two weeks, allied forces were able to oust the invaders from the Republic of Korea.[27] The role of intelligence in the Inchon landing is significant if for no other reason than it shows how central it is to planning a victorious campaign. Intelligence at Inchon was not happenstance, like the discovery of Lee’s lost orders before Antietam, but a conscious and necessary task assigned by leadership; before MacArthur could determine how to employ his forces, he first had to know whether he could attack or not and where he could attack if it was possible. By emphasizing intelligence, MacArthur conducted a masterful offensive and avoided an American Gallipoli. [Top of Page] The Six-Day War: 5 June 1967 Israeli intelligence was outstanding, having pinpointed the location of every Egyptian squadron, revealed the layout of every air base, and mastered every detail of Egyptian Air Force operational procedure…. During the course of the morning, the Israelis struck 18 of Egypt’s Air Force bases, cratering runways, blowing up aircraft, and destroying support facilities. The Egyptians lost over 300 of their 420 combat aircraft, and 100 of their 350 qualified combat pilots. —Kenneth Pollack[28] Israeli intelligence was, indeed, outstanding in the Six-Day War. It demonstrated how strategic intelligence can be used in conjunction with operational intelligence to provide senior decisionmakers information necessary to make well-informed national security decisions and to give leaders opportunities to mitigate the numerical superiority of an adversary. Yet, just as Israeli intelligence in this case can be viewed as an example of how intelligence operations should be conducted, Egypt’s poor intelligence opened the door to its own defeat. In 1967, Israel faced a monumental security task: defense of the nation against several Arab armed forces that, when combined, held an advantages of two to one in manpower, two to one in tanks, seven to one in artillery, three to one in aircraft, and four to one in warships. On its southern border, Israel had roughly 70,000 troops in the Sinai against Egypt’s 100,000; 700 tanks against 950; and it had to distribute its 200 aircraft across all fronts while facing Egypt’s concentrated 430.[29] Nor could Israel count on technological superiority to overcome the odds. Israeli intelligence, for example, had scored a coup by obtaining a MiG-21 fighter from an Iraqi defector, and it had determined that Egypt’s MiGs were better than all but their Mirage aircraft. Egyptian artillery was superior, and their T-55 tanks were more capable than the majority of Israel’s tanks.[30] And while Israeli forces were better trained, had superior leadership, and had a far more flexible doctrine, Egypt’s army could boast that the majority of its soldiers were combat veterans. Israel faced a similar situation to its north, against Syria and Lebanon, and to its east, against Jordan. Finally, Israel faced a hostile international community; the United States was an ally but eager to avoid any spark that could ignite a conflict with Egypt’s ally, the Soviet Union. Events began spinning into war in November 1966, with the signing of an Egyptian and Syrian alliance, and led to an Egyptian threat to use force on 18 May 1967. Egypt had mobilized its military and announced combat readiness in the Sinai, followed on the 23rd by a closure of the Straits of Tiran, blockading the Israeli port of Eliat. Israel took these acts, particularly the blockade, to be cause for war. Further, Israeli intelligence was able to verify that Egypt had plans for an attack, code named Asad, on Eliat and other targets in the Negev on the 27th. This revelation was passed to the United States, which placed sufficient pressure on the Soviet Union and Egypt to force a cancellation of the attack.[31] But all other diplomatic efforts failed, and the Israelis confronted the decision of (1) preempting their enemies’ first strikes; (2) allowing themselves to be hit first by a numerically stronger adversary; or (3) continuing an unacceptable status quo. Israel chose to attack first. A preemptive strike against the Arabs had always been a major part of the Israeli concept of operations, but it was their military intelligence, under the command of the bright and aggressive Aharon Yariv, that proved decisive. ‘Know your enemy’ was not, Yariv told his heads of departments, merely a figure of speech; it had to be taken literally. It was not enough to know Arab strategy on the grand scale; Yariv wanted to know everything about every Arab unit down to the menus served in the sergeants’ mess.[32] And, quite literally, Israeli intelligence had a clearer picture of the Egyptian order of battle and capabilities than did Egypt’s own commanders. In the two-years before the Six-Day War, Yariv not only set about knowing the whereabouts of every Arab air base, but also having each inspected. Israeli intelligence officers, often working as chefs or coopting Egyptian soldiers, provided a complete picture of the EAF, including: the whereabouts of every aircraft and name/information on the pilot; the name, background, status, and schedule of every base commander; schedules and turnovers of Egyptian radar controllers; reveille and morning schedules for the pilots and ground crews; the complete Egyptian battle codes and communications networks; and when senior air officials would be absent from their commands, and unable to direct operations.[33] From this information, Israeli intelligence developed a precise targeting package. It knew when the EAF would be most vulnerable–when the aircraft would be most exposed; when the pilots would be slowest in getting to their aircraft for flight operations; and when leadership would be unable to provide direction. With comparable intelligence on Egypt’s land forces and effectiveness, Yariv believed that Israel could not conceivably lose the war. “So finely tuned was his intelligence apparatus that he was able to predict an outcome which was to astonish the world when it was all over.”[34] Coupled with military operational intelligence, the Israeli Mossad—its state intelligence agency—had developed relationships with foreign governments and intelligence agencies that provided new and corroborated strategic and tactical intelligence before the war. The relationship with the United States, in particular, served a critical role before the preemptive strike by making clear to both the CIA and Pentagon that war was inevitable and getting tacit buy-in on the plan. “The United States understood Israel’s reasoning and did not object to the preemptive attack. Amit’s (head of the Mossad) achievement in secret diplomacy was built upon the international intelligence links which the Mossad had worked so hard to foster for years.”[35] Knowing that the United States would not condemn the attack and armed with an exceptionally well-developed plan, Israeli leaders authorized the use of force, thus seizing the initiative from their adversaries. The preemptive air strike proved decisive. The attack caught the Egyptian Air Force with its commander, General Mahmud, out of contact with his forces. “In his absence, the EAF was paralyzed. Without specific authorization, the vast majority of Egypt’s air force officers, from air sector commanders all the way down to pilots, were uwilling to take even the most obvious emergency procedures.”[36] Only eight MiGs got into the air to defend their airfields; every one was shot down. The airfields that were undamaged in the initial strikes managed to get only 20 aircraft into the air, all of which were either shot down or crashed when they could find no undamaged airstrips to which to return. All told, three-quarters of the EAF was destroyed in the first hours of the war. Intelligence had paved the way for the Israeli Air Force to win one of the most lopsided victories in history. But credit for Israel’s success cannot be explained by its intelligence alone; indicators and warning should have prepared the Egyptians for what was to come. As Kenneth Pollack contends, “There was a colossal failure on the part of Cairo’s intelligence services to provide the Egyptian military with the information required to fight Israel.” He notes that Egyptian intelligence: was biased to the political climate and, therefore, did not provide clear and decisive analysis on whether Israel was going to attack; issued reports to commanders that changed daily and were often contradictory; provided no credible intelligence on Israel’s order of battle, effectiveness, doctrine, or planned strategy; had no intelligence on where Israeli forces were and, to the extent that it had information, fell victim to Israel’s denial and deception campaign; and did not understand the concept of flexibility stressed by the Israeli military in conducting joint and independent operations.[37] As a result of these failings, even had Egypt’s military been better trained and led, it was at a significant disadvantage from the outset. Once combat began, Egyptian forces had no understanding of where Israel would strike, with what force, in what manner, with what tactics or effect, over what duration, or with what objective—in short, they were blind. [Top of Page] Conclusion Kimmel stood by the window of his office at the submarine base, his jaw set in stony anguish. As he watched the disaster across the harbor unfold with terrible fury, a .50-caliber machine gun bullet crashed through the glass. It brushed the admiral before it clanged to the floor. It cut his white jacket and raised a welt on his chest. “It would have been merciful had it killed me.” —RADM Edwin Layton[38] The great military victory we achieved in Desert Storm and the minimal losses sustained by U.S. and Coalition forces can be directly attributed to the excellent intelligence picture we had on the Iraqis. —General H. Norman Schwarzkopf III, U.S. Army[39] Battle is a physical activity and requires force. And yet, to speak of force without associating a corresponding value to intelligence is akin to speaking of a boxer without eyes or a brain. Additionally, “employment of force” is hollow without an understanding of where, in what conditions and geography, and against whom to employ force. Success in the physical act of battle requires well-trained soldiers who are properly equipped, led by strong leadership willing to use force against a clear objective, employing it correctly, and sacrificing when necessary. But it also requires foresight, analysis, eyes and ears, and the development of a playbook on how to win—it takes intelligence. Therefore, just as Keegan correctly states that “Knowledge of what the enemy can do and of what he intends is never enough to ensure security,” so too, having superior forces equipped with better technology is no insurance for victory when opposing an enemy that invests in intelligence.[40] Absolute power does not win absolutely. None of the battles described were won by intelligence alone—victory was achieved by the application of force. However, in each case, the victor could only employ the forces necessary to achieve victory through the advantage of foreknowledge. What would have happened, for instance, had Jackson not reached Bull Run in time to “stand like a Stonewall”? How would Germany have fared had it been faced with defeat on the Eastern Front just one month after the initiation of hostilities in 1914? How would Nimitz have handled the Japanese attack on Midway had he not known in advance of the trap? How successful would the Inchon landings have been if intelligence had not warned of the mud flats on the approaches to the proposed landing sites? And, how much longer and precarious would the 1967 war have been had Israel’s intelligence not warned of the impending Arab attack, or had it not expended so much effort in knowing every detail of its adversaries force composition? Intelligence “failures,” too, tell of the significance intelligence plays. Pearl Harbor, Tet, or, for that matter, the attacks of September 11th, do not diminish the importance of intelligence but rather demonstrate the impact of not placing sufficient emphasis on it. Britain’s failed intelligence and misunderstanding regarding Japan’s military capabilities prior to 1942, for example, doomed its army of some 146,000 in Singapore to a crushing defeat at the hands of only 35,000.[41] History abounds with such examples. As in the past, intelligence will continue to play a vital role in future conflicts. As General Hugh Shelton, former chairman of the joint chiefs of staff, noted in 2000: “Successful employment of modern weapons systems, new operational concepts, and innovative combat techniques— particularly those involving forces that are lighter, faster, more agile, and more lethal—also depends on rapid, precise, accurate, and detailed intelligence.”[42] It behooves the planner, the operator, political and military leadership, and members of the Intelligence Community to understand this and not relegate intelligence to a secondary status as authors such as John Keegan suggest. The strongest boxer cannot defeat the foe he hasn’t studied or cannot see.

#### Its revers causal- absent effective intel war fighting capabilities collapse

**Deputies Committee of the National Security Council, 96** (senior policy representatives from the Departments of State, Defense, Justice, and Treasury, the Joint Chiefs of Staff, and the Office of Management and Budget, as well as the President's National Security Advisor, “The Role of Intelligence” <http://www.fas.org/irp/offdocs/int006.html>)

Another traditional mission of the Intelligence Community is to provide support to U.S. military operations. This mission encompasses not only warning of attack on U.S. territory and installations, but also providing information needed to plan for and carry out military operations of all kinds. In the past, this has largely involved the provision of order of battle information on opposing military forces: their size, nature, location, morale and capabilities. In recent years, however, this mission has been rapidly expanding. U.S. military operations since the Cold War have been carried out largely in the context of multilateral commitments of forces, increasing the need for joint planning and execution. Ironically, the number of occasions where U.S. military forces have been deployed outside the United States since the Cold War has greatly exceeded the rate of such deployments during the Cold War. Moreover, neither the location of such deployments, e.g. Panama, Somalia, Rwanda, Haiti, nor their purposes, e.g. preventing famine or genocide, "nation building," emergency evacuations, were typical of the Cold War period. Recent years have also seen radical change in the nature of warfare. The 1991 Persian Gulf war lasted only a few weeks, but signaled a quantum leap in U.S. military capability. The world saw U.S. weapons fired from aircraft, ships, and land batteries far from the point of impact and delivered with pinpoint precision and devastating consequences. The war ended quickly, and U.S. casualties were minimal. To a large degree, American success in the Persian Gulf war was due to information provided by intelligence systems both at the national and tactical levels. While achieving timely dissemination of such information was not without its problems, never before had so much information been gathered and relayed to a combat force so rapidly with such effect. The military began to look even more seriously at how intelligence capabilities could be brought to bear on their problems. U.S. intelligence should also continue to support defense planning, another traditional mission. This mission entails providing information on foreign military capabilities in order for defense planners to shape the size, nature, and disposition of U.S. military forces. It also includes necessary information to guide military research and development activities and future military acquisition decisions. It encompasses information about foreign military tactics and capabilities, which can then be used to train and protect U.S. forces.

#### Warfighting is key to heg

**Flourney and Davidson 12** (Michèle Angelique Flournoy, former [Under Secretary of Defense for Policy](http://en.wikipedia.org/wiki/Under_Secretary_of_Defense_for_Policy) of the United States, Janine Davidson holds a PhD and a Master's of Arts degree in international studies, “Obama's New Global Posture: The Logic of U.S. Foreign Deployments,” Foreign Affairs, Jul/Aug 2012, 54-63, ProQuest)

During the Pentagon's last global posture review, in 2004, then U.S. Secretary of Defense Donald Rumsfeld's guiding principle was closing overseas bases and bringing home U.S. troops stationed abroad. In contrast, the Obama administration has emphasized making the country's forward posture more e/cient and eaective. American forces stationed abroad should be aiming to prevent conflict, build the capacity of key partners, maintain core alliances, and ensure the U.S. military's ability to secure American interests in critical regions. Forward engagement, as this approach is called, does not mean policing the world or letting other countries free-ride on U.S. security guarantees. And partnership does not mean relinquishing American sovereignty to regional and international institutions. Rather, forward engagement means leveraging the United States' biggest strength, the ability to lead, while encouraging others to share the burden. The cornerstone of forward engagement will be positioning U.S. troops in vital regions to help deter major conflicts and promote stability, particularly in Asia and the Middle East. As the long-term U.S. deployments in Europe and Asia have demonstrated, the physical presence of military forces sends a powerful message to potential adversaries. Some believe that troops garrisoned at home are just as eaective a deterrent, given the global reach and technological superiority of the U.S. armed forces. But that argument, which was the cornerstone of Rumsfeld's posture vision, ignores the realities of time, distance, logistics, and politics. As the United States' experience in the two Iraq wars demonstrated, it takes weeks, if not months, to deploy a force of the size and strength required for some of the most likely and most dangerous scenarios the United States could face around the world. Furthermore, moving troops from the United States to a conflict zone just as tensions begin to rise can exacerbate or escalate a crisis. Forward-postured forces also reassure allies of the United States' commitment to their security. On the Korean Peninsula, for example, the presence of some 28,000 U.S. personnel reminds Seoul that the United States stands ready to defend South Korea against North Korean aggression. Further south, U.S. naval and air forces engaged in Australia, the Philippines, Singapore, and Thailand give allies in Southeast Asia greater confidence that the United States will not abandon the region at a time of great change and uncertainty. Should deterrence fail, forward-stationed military forces are well placed to facilitate a collective response. As the recent nato operation in Libya showed, responding to threats requires guaranteed access to supply routes and bases, diplomatic support, and, ideally, the help of allies in the field. Quickly assembling a posse to get the bad guys might have worked in old Westerns, but it does not work in complex, hightech military operations. For those, common command-and-control protocols, interoperable technologies, doctrines, and planning processes should be developed well in advance. And more than any other forces, forward-stationed forces can spearhead those preparations. They can conduct regular training exercises with allies to identify and correct shortfalls, build trust among U.S. and allied service members, and develop the shared practices that make the militaries work together more eaectively in the field. Another good reason for forces to remain engaged abroad, even in peacetime, is to serve as an investment in burden sharing. Training and conducting real-world missions with allies and partners, such as the United States' multilateral antipiracy operations oa the Horn of Africa and its freedom-of-navigation exercises in the Persian Gulf, helps build up their capacities. Such engagement also promotes a shared vision of the world, in which the rule of law dominates, disputes can be resolved without the use of force, and commerce flows freely. In turn, such partners are more able to address problems at home without the need for U.S. forces. Such relatively small investments in peacetime activities can mean not having to put American men and women in harm's way later. Forward engagement is not only an eaective way to safeguard U.S. national security interests; it is also a responsible and e/cient way to position U.S. forces in a time of economic constraint. The political scientists Joseph Parent and Paul MacDonald argued in these pages ("The Wisdom of Retrenchment," November/December 2011) that closing U.S. overseas bases and bringing U.S. personnel home would save billions of dollars. Such an argument misunderstands how U.S. armed forces are sustained abroad and underestimates the expense of relocating them. The United States has 1.4 million men and women in uniform. All of them, and their families, must be housed and trained somewhere. It is not necessarily cheaper to do that in the United States, especially since some countries, including Germany, Japan, and South Korea, help foot the bill for U.S. facilities stationed there. Furthermore, it would be a colossal misallocation of resources to abandon significant capital investments-for example, the world-class U.S. Army training center in Hohenfels, Germany-only to build duplicate facilities at home. The United States should position its forces to provide national security in the most e/cient and responsible way possible. In the coming years, the U.S. military will likely be operating in a tight budget environment, but Washington can get more for less by positioning a larger percentage of its forces in key regions. Take, for example, the rotation cycles of U.S. naval ships. For every ship out securing sealanes or deterring aggression, there are three others in various stages of maintenance or in transit. Porting ships closer to their areas of operation in Europe or Asia would save each vessel three to four weeks in transit time and would require keeping one-third fewer ships in U.S. inventories. That alone would save billions of dollars in acquisition, operations, and maintenance costs. Similarly, the strategic forward stationing of U.S. forces, combined with periodic rotations by U.S. forces to train with allies, makes the best use of American resources, enhances cooperation and burden sharing, and ensures that the military is positioned and ready to respond to emerging threats and crises.

**Absent effective U.S. power – global wars will ensue**

**Brooks et al 13** (Stephen, Associate Professor of Government at Dartmouth College, John Ikenberry is the Albert G. Milbank Professor of Politics and International Affairs at Princeton University in the Department of Politics and the Woodrow Wilson School of Public and International Affairs, William C. Wohlforth is the Daniel Webster Professor in the Department of Government at Dartmouth College “Don’t Come Home America: The Case Against Retrenchment,” International Security, Vol. 37, No. 3 (Winter 2012/13), pp. 7–51)

A core premise of deep engagement is that it prevents the emergence of a far more dangerous global security environment. For one thing, as noted above, the United States’ overseas presence gives it the leverage to restrain partners from taking provocative action. Perhaps more important, its core alliance commitments also deter states with aspirations to regional hegemony from contemplating expansion and make its partners more secure, reducing their incentive to adopt solutions to their security problems that threaten others and thus stoke security dilemmas. The contention that engaged U.S. power dampens the baleful effects of anarchy is consistent with influential variants of realist theory. Indeed, arguably the scariest portrayal of the war-prone world that would emerge absent the “American Pacifier” is provided in the works of John Mearsheimer, who forecasts dangerous multipolar regions replete with security competition, arms races, nuclear proliferation and associated preventive war temptations, regional rivalries, and even runs at regional hegemony and full-scale great power war. 72 How do retrenchment advocates, the bulk of whom are realists, discount this benefit? Their arguments are complicated, but two capture most of the variation: (1) U.S. security guarantees are not necessary to prevent dangerous rivalries and conflict in Eurasia; or (2) prevention of rivalry and conflict in Eurasia is not a U.S. interest. Each response is connected to a different theory or set of theories, which makes sense given that the whole debate hinges on a complex future counterfactual (what would happen to Eurasia’s security setting if the United States truly disengaged?). Although a certain answer is impossible, each of these responses is nonetheless a weaker argument for retrenchment than advocates acknowledge. The first response flows from defensive realism as well as other international relations theories that discount the conflict-generating potential of anarchy under contemporary conditions. 73 Defensive realists maintain that the high expected costs of territorial conquest, defense dominance, and an array of policies and practices that can be used credibly to signal benign intent, mean that Eurasia’s major states could manage regional multipolarity peacefully without the American pacifier. Retrenchment would be a bet on this scholarship, particularly in regions where the kinds of stabilizers that nonrealist theories point to—such as democratic governance or dense institutional linkages—are either absent or weakly present. There are three other major bodies of scholarship, however, that might give decisionmakers pause before making this bet. First is regional expertise. Needless to say, there is no consensus on the net security effects of U.S. withdrawal. Regarding each region, there are optimists and pessimists. Few experts expect a return of intense great power competition in a post-American Europe, but many doubt European governments will pay the political costs of increased EU defense cooperation and the budgetary costs of increasing military outlays. 74 The result might be a Europe that is incapable of securing itself from various threats that could be destabilizing within the region and beyond (e.g., a regional conflict akin to the 1990s Balkan wars), lacks capacity for global security missions in which U.S. leaders might want European participation, and is vulnerable to the influence of outside rising powers. What about the other parts of Eurasia where the United States has a substantial military presence? Regarding the Middle East, the balance begins to swing toward pessimists concerned that states currently backed by Washington— notably Israel, Egypt, and Saudi Arabia—might take actions upon U.S. retrenchment that would intensify security dilemmas. And concerning East Asia, pessimism regarding the region’s prospects without the American pacifier is pronounced. Arguably the principal concern expressed by area experts is that Japan and South Korea are likely to obtain a nuclear capacity and increase their military commitments, which could stoke a destabilizing reaction from China. It is notable that during the Cold War, both South Korea and Taiwan moved to obtain a nuclear weapons capacity and were only constrained from doing so by a still-engaged United States. 75 The second body of scholarship casting doubt on the bet on defensive realism’s sanguine portrayal is all of the research that undermines its conception of state preferences. Defensive realism’s optimism about what would happen if the United States retrenched is very much dependent on its particular—and highly restrictive—assumption about state preferences; once we relax this assumption, then much of its basis for optimism vanishes. Specifically, the prediction of post-American tranquility throughout Eurasia rests on the assumption that security is the only relevant state preference, with security defined narrowly in terms of protection from violent external attacks on the homeland. Under that assumption, the security problem is largely solved as soon as offense and defense are clearly distinguishable, and offense is extremely expensive relative to defense. Burgeoning research across the social and other sciences, however, undermines that core assumption: states have preferences not only for security but also for prestige, status, and other aims, and they engage in trade-offs among the various objectives. 76 In addition, they define security not just in terms of territorial protection but in view of many and varied milieu goals. It follows that even states that are relatively secure may nevertheless engage in highly competitive behavior. Empirical studies show that this is indeed sometimes the case. 77 In sum, a bet on a benign postretrenchment Eurasia is a bet that leaders of major countries will never allow these nonsecurity preferences to influence their strategic choices. To the degree that these bodies of scholarly knowledge have predictive leverage, U.S. retrenchment would result in a significant deterioration in the security environment in at least some of the world’s key regions. We have already mentioned the third, even more alarming body of scholarship. Offensive realism predicts that the withdrawal of the American pacifier will yield either a competitive regional multipolarity complete with associated insecurity, arms racing, crisis instability, nuclear proliferation, and the like, or bids for regional hegemony, which may be beyond the capacity of local great powers to contain (and which in any case would generate intensely competitive behavior, possibly including regional great power war). Hence it is unsurprising that retrenchment advocates are prone to focus on the second argument noted above: that avoiding wars and security dilemmas in the world’s core regions is not a U.S. national interest. Few doubt that the United States could survive the return of insecurity and conflict among Eurasian powers, but at what cost? Much of the work in this area has focused on the economic externalities of a renewed threat of insecurity and war, which we discuss below. Focusing on the pure security ramifications, there are two main reasons why decisionmakers may be rationally reluctant to run the retrenchment experiment. First, overall higher levels of conflict make the world a more dangerous place. Were Eurasia to return to higher levels of interstate military competition, one would see overall higher levels of military spending and innovation and a higher likelihood of competitive regional proxy wars and arming of client states—all of which would be concerning, in part because it would promote a faster diffusion of military power away from the United States. Greater regional insecurity could well feed proliferation cascades, as states such as Egypt, Japan, South Korea, Taiwan, and Saudi Arabia all might choose to create nuclear forces. 78 It is unlikely that proliferation decisions by any of these actors would be the end of the game: they would likely generate pressure locally for more proliferation. Following Kenneth Waltz, many retrenchment advocates are proliferation optimists, assuming that nuclear deterrence solves the security problem. 79 Usually carried out in dyadic terms, the debate over the stability of proliferation changes as the numbers go up. Proliferation optimism rests on assumptions of rationality and narrow security preferences. In social science, however, such assumptions are inevitably probabilistic. Optimists assume that most states are led by rational leaders, most will overcome organizational problems and resist the temptation to preempt before feared neighbors nuclearize, and most pursue only security and are risk averse. Confidence in such probabilistic assumptions declines if the world were to move from nine to twenty, thirty, or forty nuclear states. In addition, many of the other dangers noted by analysts who are concerned about the destabilizing effects of nuclear proliferation—including the risk of accidents and the prospects that some new nuclear powers will not have truly survivable forces—seem prone to go up as the number of nuclear powers grows. 80 Moreover, the risk of “unforeseen crisis dynamics” that could spin out of control is also higher as the number of nuclear powers increases. Finally, add to these concerns the enhanced danger of nuclear leakage, and a world with overall higher levels of security competition becomes yet more worrisome. The argument that maintaining Eurasian peace is not a U.S. interest faces a second problem. On widely accepted realist assumptions, acknowledging that U.S. engagement preserves peace dramatically narrows the difference between retrenchment and deep engagement. For many supporters of retrenchment, the optimal strategy for a power such as the United States, which has attained regional hegemony and is separated from other great powers by oceans, is offshore balancing: stay over the horizon and “pass the buck” to local powers to do the dangerous work of counterbalancing any local rising power. The United States should commit to onshore balancing only when local balancing is likely to fail and a great power appears to be a credible contender for regional hegemony, as in the cases of Germany, Japan, and the Soviet Union in the midtwentieth century. The problem is that China’s rise puts the possibility of its attaining regional hegemony on the table, at least in the medium to long term. As Mearsheimer notes, “The United States will have to play a key role in countering China, because its Asian neighbors are not strong enough to do it by themselves.” 81 Therefore, unless China’s rise stalls, “the United States is likely to act toward China similar to the way it behaved toward the Soviet Union during the Cold War.” 82 It follows that the United States should take no action that would compromise its capacity to move to onshore balancing in the future. It will need to maintain key alliance relationships in Asia as well as the formidably expensive military capacity to intervene there. The implication is to get out of Iraq and Afghanistan, reduce the presence in Europe, and pivot to Asia— just what the United States is doing. 83 In sum, the argument that U.S. **security** commitments are unnecessary **for peace** is countered by a lot of scholarship, including highly influential realist scholarship. In addition, the argument that Eurasian peace is unnecessary for U.S. security is weakened by the potential for a large number of nasty security consequences as well as the need to retain a latent onshore balancing capacity that dramatically reduces the savings retrenchment might bring. Moreover, switching between offshore and onshore balancing could well be difªcult. Bringing together the thrust of many of the arguments discussed so far underlines the degree to which the case for retrenchment misses the underlying logic of the deep engagement strategy. By supplying reassurance, deterrence, and active management, the United States lowers security competition in the world’s key regions, thereby preventing the emergence of a hothouse atmosphere for growing new military capabilities. Alliance ties dissuade partners from ramping up and also provide leverage to prevent military transfers to potential rivals. On top of all this, the United States’ formidable military machine may deter entry by potential rivals. Current great power military expenditures as a percentage of GDP are at historical lows, and thus far other major powers have shied away from seeking to match top-end U.S. military capabilities. In addition, they have so far been careful to avoid attracting the “focused enmity” of the United States. 84 All of the world’s most modern militaries are U.S. allies (America’s alliance system of more than sixty countries now accounts for some 80 percent of global military spending), and the gap between the U.S. military capability and that of potential rivals is by many measures growing rather than shrinking. 85 n

#### Intel is key to diplomacy- solves every major impact and makes all conflict less likely

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Although the departure of General Petraeus is a significant loss for the intelligence community, it is also an opportunity to better balance intelligence support for military and diplomatic operations. This will be no easy challenge. Roughly 80 percent of the intelligence budget is financed through the Defense Department – an old administrative arrangement that was never meant to bias intelligence agencies’ support for military operations over diplomatic ones. The agency should be rededicated to support diplomatic operations. Our ambassadors need robust intelligence to manage crises. Since the end of the cold war, however, well-informed observers on both sides of the political aisle have seen a trend toward the militarization of intelligence operations. As the United States engaged in wars in Somalia, the Balkans, Iraq and Afghanistan diplomatic budgets declined relative to military ones and the intelligence community increasingly justified operations by emphasizing support for the war planners and fighters. Improved intelligence support to military operations is a good thing; we need to win the wars we fight. But perhaps the most important lesson from the Benghazi attack, during which an American ambassador lost his life trying to help Libyans build a new democracy, is that diplomacy is on the front line too. It also carries risks and needs strong intelligence to be effective. The United States has over 280 diplomatic posts worldwide. They are working on drug interdiction, arms control negotiations, border security, counterterrorism, access to energy and trade, implementing sanctions, fair trade and the like. Intelligence helps diplomats recognize everything from cheating on agreements to social unrest and surprise attack. And it helps them make decisions that lower the risks and consequences of war. The new director should rededicate the C.I.A. to supporting these diplomatic operations. Our ambassadors need robust intelligence to manage the Syrian crisis, ease the transition in Afghanistan, help advise and rebuild war-torn countries such as Libya, ensure the security of Americans and their borders, move food and other resources safely from ports to refugees, and resolve conflicts that cost U.S. companies money and jobs. The new C.I.A. director needs to understand these non-military requirements and fight for the resources necessary to support civilian decision-making.

#### The plan shifts the CIA to focus to intel – key to drone effectiveness

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Washington Post national security reporter Greg Miller has an excellent story in Sunday’s paper on the operational role of the CIA in drone warfare. Back at the time of the Brennan confirmation hearings, and even before, there had been discussion that the CIA would be pulled – even if only gradually – out of drone warfare and this form of using lethal force would be turned over the military. The CIA would re-focus itself on intelligence gathering and analysis, which many commentators inside and outside government said had taken a backseat to operational roles. Brennan himself urged this re-configuring of CIA priorities – including a shift away from counterterrorism to re-emphasize other intelligence missions; and the administration has said similar things in recent weeks. Focusing on drone warfare in Yemen, however, Miller’s report suggests this is easier said than done – whether in Yemen (or, it might be added, in Pakistan). A fundamental reason seems to be something noted many times here at Lawfare – the firing of a missile from a drone is the last kinetic step in a long chain of intelligence-gathering that includes surveillance over time from drones, signals intelligence and, crucially, on-ground human intelligence networks that give the US reason to be focusing on certain people as possible targets. Whether in Pakistan or Yemen, the effectiveness of drone warfare has been a function of the quality of the front-end intelligence that finally might lead to a strike. The drone’s contribution to the intelligence is far from being entirely tactical, of course – the drone’s surveillance has far more utility than just the preparation of a strike and that surveillance is crucial for reducing collateral harm from the strike itself. But drones are not quite so useful if one has no prior idea who one is searching for or where he might be or even why him – and much of this intelligence is gathered at the front end of the process in reliance on human intelligence networks. Although in principle the functions of intelligence gathering at the front end might be separated out from the intelligence involved in the preparation of a strike and from the actual strike itself, with the CIA engaged in the intelligence side and the military serving as the trigger pullers, the experience in Yemen raises some cautions about how easy it is to create this division of labor.

#### Only congress can refocus the CIA- charter legislation is key

**Prados 12** – (2012, John, Senior Fellow and Co-Director of the Iraq Documentation Project, and Director of the Vietnam Project at the National Security Archive at The George Washington University, “The Continuing Quandary of Covert Operations,” JOURNAL OF NATIONAL SECURITY LAW &POLICY, Vol. 5:359)

Reviving the covert operations capability from its present atrophied state immediately raises overarching questions as to the suitability and constitutionality of covert operations techniques. The issues need to be addressed much more systematically. Within the terms of this discussion, **a branch able to do little more than rent armies is not a proper covert operations unit**. Moreover, the present formula of a high tech marriage between secret intelligence – primarily technical collection – and remote action (drones) is not a robust covert action capability either. It is attractive. Much like reconnaissance satellites, such mechanisms can be managed and budgeted with some ease, and have a certain apparent responsiveness. But that does not make them supple instruments, nor does such activity amount to a covert operation. **At the core, it is a conventional military action.** The Pakistanis today complain of a drone campaign out of control and they are right. **When the drones are striking, on average, every three days, that is aerial interdiction, not a targeted covert operation**. CIA lawyers insist that every individual drone target is selected from careful accumulation of evidence resulting in a proposal to neutralize, put in a memorandum and approved at a high level. That is not possible, given the number of targets struck, without expanding the target set far beyond the top levels of adversary leadership. Former CIA Director Panetta has affirmed that al Qaeda activists still in the region number only forty to fifty persons. By Pakistani accounts, most Predators now strike much lower level operatives, and of the Taliban, not al Qaeda. This follows perfectly from the fact that the top leaders have learned to exercise complete communications security, while CIA high technology surveillance depends on those data to acquire the targets. The drones are fishing, and the big fish are not biting. The bin Laden attack – apart from potential controversies about his assassination, or U.S. relations with Pakistan – shows that old school methods still work. Someone off the grid could be hunted down and dealt with. But the momentum of the technologically-driven covert operation has arguably reached the point of no return. **This is not an intelligence approach; it is a military one**. Today’s CIA is increasingly an auxiliary of the U.S. military. Since the 1990-1991 Persian Gulf war, and the Somali and Bosnian peacemaking operations that followed, the Pentagon has made increasing demands for improved national intelligence “support to military operations.” Larger numbers of military personnel have been seconded to the CIA, and military culture increasingly pervades the Agency. **The support has become the operation.** Director Panetta’s predecessor was an Air Force general. His successor is an Army general. Support for military operations has involved a learning curve, but increasingly the intelligence agencies are cast as adjuncts to the military. The high “operational tempo” demanded by Director Michael Hayden, Panetta’s predecessor, in fact required the CIA to work more like the military, discarding careful intelligence work in favor of “actionable intelligence,” further emphasizing technical collection programs. Under Director David Petraeus, another general, it is a safe prediction that this trend will continue. Under Secretary of Defense Donald Rumsfeld, the Pentagon moved strongly to supplant CIA operations. Under the slogan “military preparation of the battlefield,” the U.S. Special Operations Command tried to recruit agents, conduct operations, and do all manner of things traditionally reserved to the clandestine service. Secretary of Defense Robert Gates cut back some of those efforts and negotiated with the CIA regarding the roles and missions of each. Needless to say **this has been made easier as the agency became more militarized.** In Presidents’ Secret Wars, written amid the excesses of Reagan-era covert operations, I argued for vesting authority for the covert operations function within the Department of Defense (DoD). That was partly a matter of the DoD providing more of the full-service covert operations panoply within its Special Operations Forces – a point illustrated by the bin Laden attack – and partly a reflection of the sense that military regulations should ensure more proper legal controls. In Safe for Democracy, written in 2006, I was not so confident, and argued for preserving the main lines of covert operations authority within the CIA. But the CIA was guilty of excesses in the struggle against terrorism and has become excessively militarized, while the military remains as clumsy as ever. Today I am not comfortable with either solution. The presumptive authority for covert operations remains where it has been, with the CIA, but the Agency has become militarized, has **lost skills**, and still lacks a proper mechanism for cost-benefit analysis. **Covert capability needs to rebuild tradecraft, refine its decision devices, and be placed within a proper legal framework.** This brings us to the final, legal questions. I have consistently held, and still do, that no legal authority for covert operations exists under the U.S. Constitution. The underpinning for presidential approval of covert operations rests entirely on the ambiguous “such other functions” clause of the National Security Act of 1947. The CIA’s own General Counsel concluded on multiple occasions that covert operations did not fall within the scope of that language. Should the President instead rely upon his authority as Commander in Chief of the armed forces, the problem is that the CIA is not an “armed force.” Even if it were, the President would then have to be deemed to be acting under the provisions of the War Powers Resolution of 1973. This requires congressional approval of an action within sixty to ninety days. We can debate whether Congress has abdicated its responsibilities for enforcement of this statute, but the fact remains that it is the law of the land. Alternatively, were the CIA to be construed as an unofficial armed force for the purpose of conducting paramilitary action – which is, after all, an act of force – then the Constitution (Article I, Section 8) expressly reserves to the Congress all authority to issue “Letters of Marque.” The eighteenth century equivalent of grants of unofficial combatant status, given to privateers, Letters of Marque authorize the use of force by private individuals (read CIA operatives). The system of “presidential findings” (“Memoranda of Notification”) that exists today was cobbled together through the 1970s and 1980s by a Congress anxious to assert some sort of oversight and an Executive eager to avoid it. These presidential findings are functional equivalents of Letters of Marque. Since statutory law does not and cannot supersede the Constitution, the current system still fails to meet constitutional requirements. Congress and the Executive spent more than a decade from the 1980s into the 1990s fighting each other to regularize the format and content of presidential findings, which became a staple of congressional oversight debates. The wounds had barely healed when, after 9/11, the Bush administration further exploited the presidential finding system regarding non-covert operations matters (National Security Agency telephone monitoring) as covered by the system, by manipulating questions of what legislators (“Big Eight,” “Big Four,” the intelligence oversight committees, no one?) had to be informed on particular issues, and by continuing to dispute the issue left outstanding in the 1990s – what constituted “current” notification. The proper constitutional solution under Article I, Section 8, is to craft a mechanism for congressional approval of presidential findings. That would locate responsibility squarely and settle the matter of definitions. Congress would be entitled to whatever information is required to reach its decisions, and its affirmative action would give covert operations a degree of **political cover** they presently lack. **The legitimate vehicle for the expression of this formula is a CIA charter**, or more precisely a charter covering the intelligence community as a whole. **Charter legislation is the place to reframe all the questions of regulation and responsibility for various aspects of intelligence agency roles and missions that have been raised here and in other recent assessments of covert operations**. Congress and the Executive failed to reach agreement on intelligence charter legislation during the Carter administration. It is long overdue, and its necessity has only been confirmed by recent excesses.

#### The CIA will circumvent without statutory clarification

**Harris 05** – (2005, Grant, JD candidate at time of publication, expected same year, post-graduation: Special Assistant to the President and Senior Director for African Affairs, former Deputy Chief of Staff and Counselor to Susan E. Rice, the U.S. Ambassador to the United Nations and a member of President Obama’s Cabinet, “The CIA Mandate and the War on Terror,” Yale Law & Policy Review Vol. 23:529, 2005)

The thousands of pages of reports and recommendations made by the various commissions of the 1970s suggest that the vague terminology of the CIA mandate was an important cause of CIA abuses perpetrated during the Cold War. **The lack of clear boundaries of authority** provided no clear guideposts to prevent good-faith efforts to protect the nation's security from crossing the line to become overzealous and unnecessarily infringe civil liberties. Similarly, **statutory ambiguity provided fertile ground for political abuse of the Agency** at the behest of the highest levels of government. The abuses were caused by a mix of convenient and disingenuous interpretations of the CIA mandate and outright violations of the law. For these reasons, clarified statutory limits as proposed in Part IV of this Note would provide better boundaries for well-intentioned activities as well as a more **meaningful shield** by which the CIA could ward off bad-faith directives intended to serve personal or political ends.

Vague statutory language proved all too malleable in the face of the nation's overriding fear of communism. The drive to win the Cold War and undefined prohibitions with ambiguous parameters opened the door to **creative interpretations of authority**. CIA excesses during the Cold War were excused if not encouraged by the drive to defeat communism, which emanated from the country's highest levels of political leadership. This created a situation of lax oversight of CIA activities and a "climate of tolerance" in which there was a "let them do what they need to do to get the job done" ethic in place from the passage of the National Security Act in 1947 until the congressional inquiries ofthe 1970s.64

Such a national security environment allowed the CIA to justify domestic and law enforcement activities through alternating overly narrow and overly broad interpretations of its ambiguous statutory mandate. The executive branch "interpreted foreign intelligence broadly" to include domestic intelligencegathering programs directed at U.S. nationals designed "to determine foreign influence on dissident domestic groups. "65 The same activity was also condoned by a "narrow[]" CIA interpretation of "internal security functions," despite the fact that "history indicates that at the time of enactment of the National Security Act, threats to 'internal security' were widely understood to include domestic groups with foreign connections" and "[t]here is no evidence that by 194 7 these investigations were considered foreign intelligence. "66 The Agency later used an expansive interpretation of the DCI's obligation to protect "sources and methods" as an additional statutory justification for operations targeting domestic groups "whose activities, including demonstrations, have potential, however remote, for creating threats to CIA installations, recruiters, or contractors."67

#### Only congressional action solves– presidential directives are perceived as weak and unpredictable.

**Harris 05** – (2005, Grant, JD candidate at time of publication, expected same year, post-graduation: Special Assistant to the President and Senior Director for African Affairs, former Deputy Chief of Staff and Counselor to Susan E. Rice, the U.S. Ambassador to the United Nations and a member of President Obama’s Cabinet, “The CIA Mandate and the War on Terror,” Yale Law & Policy Review Vol. 23:529, 2005)

\*FOOTNOTE\* 205. **The analysis of this Section often refers to Executive Order 12,333 but would apply with equal force to any unilateral presidential directive**. \*TEXT\* Reliance on **presidential directives** to shed light on the CIA mandate and the "handoff' between law enforcement and intelligence **represents a continuation of the status quo.** Executive Order 12,333, though not a paragon of clarity, provides important directional guidance to the intelligence comrnunity.205 Yet its utility is limited by the simple and fundamental fact that an executive order lacks the power to alter the CIA's statutory mandate?06 Indeed, Executive Order 12,333 directly states it is constrained by the National Security Act of 194 7 and other laws and was promulgated for purposes of guidance.207 Such guidance as found in an executive order could not legally authorize any activity deemed to fall outside the bounds of the prohibitions in the National Security Act. Thus, the utility of an executive order is severely diminished because it still **operates within-but cannot resolve-the unclear statutory limits** on CIA authority.208 Seen in this light, guidance in the face of categorical, but ill-defined, statutory prohibitions is a distant "second best" to clarifying the prohibitions themselves. The guidance provided by executive orders as to CIA authority is also less **predictable and meaningful** because executive orders can be **rescinded by the President at anytime**. Though a statute could also be rescinded or amended, it would require more consensus and deliberation than merely the changed opinion of the President and would likely prompt greater public scrutiny and debate. More to the point, the political pressure to misuse the Agency during the Cold War came primarily from the highest levels of the executive branch, thus providing a strong argument against leaving guidance and clarification of the CIA's mandate to the president's sole discretion.209 If history serves as any guide, **dirty marching orders are more likely to come from the President** than Congress given the CIA's institutional location within the executive branch and the Agency's relationship with the President. Statutory amendment cannot guarantee the law will not be disregarded, but it would provide a better check than an executive order and would supply clearer guideposts for congressional oversight and executive branch officials such as inspectors general.210 A statute would also be more effective than an executive order because it would better **entrench the guidance and clarified boundaries of authority within everyday CIA activity.** Statutory amendment would most clearly and forcefully state the limits of CIA authority, thereby assisting the decisions of CIA officials and lawyers. This clear statement of norms of behavior (in this case **clarification of prohibited activity**) could also further the internalization of these norms among CIA officials.211 For reasons similar to those discussed above, reliance on **advisory boards, inspectors general, and other internal checks** within the executive branch is less effective than statutory clarification would be in preventing abuse.212 If anything, a clearer CIA charter would bolster the abilities of oversight officials by providing better guideposts to monitor CIA activity. In any case, it must be recalled that these officials and boards can, at best, assist in issues of oversight. Unlike statutory clarification, checks internal to the executive branch are incapable of alleviating the coordination challenges between intelligence and law enforcement agencies.

#### Shifting authority to the DoD is the only way to enable Congressional oversight – that makes foreign policy objectives more clear

Zenko 13([Micah Zenko](http://www.cfr.org/experts/national-security-conflict-prevention/micah-zenko/b15139), Douglas Dillon Fellow, “Transferring CIA Drone Strikes to the Pentagon,” April 2013, <http://www.cfr.org/drones/transferring-cia-drone-strikes-pentagon/p30434>)

ONE MISSION, TWO PROGRAMS

U.S. targeted killings are needlessly made complex and opaque by their division between two separate entities: JSOC and the CIA. Although drone strikes carried out by the two organizations presumably target the same people, the organizations have different authorities, policies, accountability mechanisms, and oversight. Splitting the drone program between the JSOC and CIA is apparently intended to allow the plausible deniability of CIA strikes. Strikes by the CIA are classified as Title 50 covert actions, defined as “activities of the United States Government . . . where it is intended that the role . . . will not be apparent or acknowledged publicly, but does not include traditional . . . military activities.” As covert operations, the government cannot legally provide any information about how the CIA conducts targeted killings, while JSOC operations are guided by Title 10 “armed forces” operations and a publicly available military doctrine. Joint Publication 3-60, Joint Targeting, details steps in the joint targeting cycle, including the processes, responsibilities, and collateral damage estimations intended to reduce the likelihood of civilian casualties. Unlike strikes carried out by the CIA, JSOC operations can be (and are) acknowledged by the U.S. government. The different reporting requirements of JSOC and the CIA mean that congressional oversight of U.S. targeted killings is similarly murky. Sometimes oversight is duplicated among the committees; at other times, there is confusion over who is mandated to oversee which operations. CIA drone strikes are reported to the intelligence committees. Senator Dianne Feinstein (D-CA), chair of the Senate Select Committee on Intelligence (SSCI), has confirmed that the SSCI receives poststrike notifications, reviews video footage, and holds monthly meetings to “question every aspect of the program.” Representative Mike Rogers (R-MI), chair of the House Permanent Select Committee on Intelligence (HPSCI), has said that he reviews both CIA and JSOC counterterrorism airstrikes. JSOC does not report to the HPSCI. As of March 2012, all JSOC counterterrorism operations are reported quarterly to the armed services committees. Meanwhile, the foreign relations committees—tasked with overseeing all U.S. foreign policy and counterterrorism strategies—have formally requested briefings on drone strikes that have been repeatedly denied by the White House. However, oversight should not be limited to ensuring compliance with the law and preventing abuses, but rather expanded to ensure that policies are consistent with strategic objectives and aligned with other ongoing military and diplomatic activities. This can only be accomplished by DOD operations because the foreign relations committees cannot hold hearings on covert CIA drone strikes. CONSOLIDATING EXECUTIVE AUTHORITY In 2004, the 9/11 Commission recommended that the “lead responsibility for directing and executing paramilitary operations, whether clandestine or covert, should shift to the Defense Department” to avoid the “creation of redundant, overlapping capabilities and authorities in such sensitive work.” The recommendation was never seriously considered because the CIA wanted to retain its covert action authorities and, more important, it was generally believed such operations would remain a rarity. (At the time, there had been only one nonbattlefield targeted killing.) Nearly a decade later, there is increasing bipartisan consensus that consolidating lead executive authority for drone strikes would pave the way for broader strategic reforms, including declassifying the relevant legal memoranda, explicitly stating which international legal principles apply, and providing information to the public on existing procedures that prevent harm to civilians. During his February 2013 nomination hearing, CIA director John O. Brennan welcomed the transfer of targeted killings to the DOD: “The CIA should not be doing traditional military activities and operations.” The main objection to consolidating lead executive authority in DOD is that it would eliminate the possibility of deniability for U.S. covert operations. However, any diplomatic or public relations advantages from deniability that once existed are minimal or even nonexistent given the widely reported targeted killings in Pakistan and Yemen. For instance, because CIA drone strikes cannot be acknowledged, the United States has effectively ceded its strategic communications efforts to the Pakistani army and intelligence service, nongovernmental organizations, and the Taliban. Moreover, Pakistani and Yemeni militaries have often taken advantage of this communications vacuum by shifting the blame of civilian casualties caused by their own airstrikes (or others, like those reportedly conducted by Saudi Arabia in Yemen) to the U.S. government. This perpetuates and exacerbates animosity in civilian populations toward the United States. If the United States acknowledged its drone strikes and collateral damage—only possible under DOD Title 10 authorities—then it would not be held responsible for airstrikes conducted by other countries.

## 2AC

#### DIA is structurally bad

**Boot 12** – (12/6, Max, Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations, consultant to the U.S. military, regular lecturer at the Army War College and the Command and General Staff College, “Better Spies, Not More,” Council on Foreign Relations, http://www.cfr.org/intelligence/better-spies-not-more/p29619?cid=rss-defense\_homelandsecurity-better\_spies,\_not\_more-120612)

The Defense Intelligence Agency is planning to dramatically expand the ranks of its covert "collectors" — a.k.a. case officers or, more popularly, spies. It has 500 or so and hopes to double that number.

There is nothing inherently wrong with this plan, which is being pushed by the DIA's new director, Army Lt. Gen. Michael Flynn. It is unlikely to lead to a militarization of U.S. foreign policy, as some fear — the military is already the dominant player in the intelligence community, with its control not only of the Defense Department's DIA but also the National Security Agency and other high-tech outfits.

The real question is, will a beefed-up DIA make up for the intelligence community's long-standing **difficulties in acquiring high-quality human intelligence?** On that score, unfortunately, there is real cause for doubt.

**The problem is that the intelligence community already suffers from a propensity to put quantity over quality, the former being easier to order up than the latter**. The CIA expanded dramatically after 9/11, but that has done nothing to prevent a series of embarrassing debacles, including Iraq's nonexistent weapons of mass destruction, the supposed halting of the Iranian nuclear program (claimed by a now-repudiated 2007 National Intelligence Estimate) and the September attack on the U.S. consulate in Benghazi, Libya. Even the CIA's basic tradecraft has been called into question by the inept "rendition" of a terrorist suspect from Italy in 2003 that resulted in the conviction, in absentia, of 22 CIA employees who left their fingerprints all over the operation.

### 2ac: Top Line

#### 1. Plan sovles- allows congressional watchdog organizations to oversee the CIAs budget to garuuntee that the plan is not being circumvented, and if it is the funding is snatched and there is no money to conduct the strikes, that’s the GAO evidence

#### 2. Obama will follow through- aligns himself with Congress

**Bellinger ’13** (John B. Bellinger III, Adjunct Senior Fellow for International and National Security Law, “Seeking Daylight on U.S. Drone Policy”, <http://www.cfr.org/drones/seeking-daylight-us-drone-policy/p30348>, March 29, 2013)

The president also has additional constitutional authority anytime to use force to protect the Unites States, either in self-defense or because he believes that it's in our national security interest. So if President Obama concludes that it's necessary to carry out a drone strike against a terror suspect, but that individual does not fall into the categories covered by the AUMF, he would have additional constitutional authority. But this administration has taken great pains to emphasize that it has been relying on congressional grant of authority rather than the president's own constitutional authority to conduct most of its counterterrorism operations. It has wanted to do that to contrast itself with the Bush administration, which had, at least early in its tenure, relied heavily on the president's constitutional authority. It's not clear though, at this point, given how old and somewhat limited the AUMF is, if the Obama administration has now been forced to rely on constitutional powers for certain drone strikes. It appears to many observers that the administration may be stretching the limits of the AUMF by targeting people who were not responsible for 9/11 or who were not affiliated or associated co-belligerents with those who carried out 9/11. In theory, could the president always claim constitutional authority with regard to these strikes? Although, as you pointed out, the administration is obviously loath to do that. This administration is already finding that 95 percent of its counterterrorism policies, and the legal basis therefore, are the same as the Bush administration's. Absolutely. I think the issue is, in this administration, political. This administration is already finding that 95 percent of its counterterrorism policies, and the legal basis therefore, are the same as the Bush administration's. It came into office with both domestic and international supporters expecting that it would change all of those policies. So one area where it really has been loath to act like the Bush administration is to rely heavily on the president's constitutional authority. We simply don't know whether they are doing it, but politically I'm sure that administration officials would be very reluctant to have to acknowledge that they are acting outside of the grant given to them by Congress.

#### Best recent scholarship and examples prove that law can constrain the exec

Aziz Z. Huq 12, Assistant Professor of Law, University of Chicago Law School, "Binding the Executive (by Law or by Politics)", May 25, www.law.uchicago.edu/files/file/400-ah-binding.pdf

There is some merit to this story. But in my view it again understates the observed effect of positive legal constraints on executive discretion. Recent scholarship, for example, has documented congressional influence on the shape of military policy via framework statutes . This work suggests Congress influences executive actions during military engagements through hearings and legislative proposals. 75 Consistent with this account, two legal scholars have recently offered a revisionist history of constitutional war powers in which “ Congress has been an active participant in setting the terms of battle, ” in part because “ congressional willingness to enact [ ] laws has only increased ” over time. 76 In the last decade, Congress has often taken the initiative on national security, such as enacting new statutes on military commissions in 2006 and 2009. 77 Other recent landmark security reforms, such as a 2004 statute restr ucturing the intelligence community, 78 also had only lukewarm Oval Office support. 79 Measured against a baseline of threshold executive preferences then , Congress has achieved nontrivial successes in shaping national security policy and institutions through both legislated and nonlegislated actions even in the teeth of White House opposition. 80¶ The same point emerges more forcefully from a review of our “ fiscal constitution. ” 81 Article I, § 8 of the Constitution vests Congress with power to “ lay and collect Tax es ” and to “ borrow Money on the credit of the United States, ” while Article I, § 9 bars federal funds from being spent except “ in Consequence of Appropriations made by Law. ” 82 Congress has enacted several framework statutes to effectuate the “ powerful limitations ” implicit in these clauses. 83 The resulting law prevents the President from repudiating past policy commitments (as Skowronek suggests) as well as imposing barriers to novel executive initiatives that want for statutory authorization . 84¶ Three statutes merit attention here. First, the Miscellaneous Receipts Act of 1849 85 requires that all funds “ received from customs, from the sales of public lands, and from all miscellaneous sources, for the use of the United States, shall be paid . . . into the treasur y of the United States. ” 86 It ensures that the executive cannot establish off - balance - sheet revenue streams as a basis for independent policy making. Second, the Anti - Deficiency Act, 87 which was first enacted in 1870 and then amended in 190 6 , 88 had the effect of cementing the principle of congressional appropriations control. 89 With civil and criminal sanctions, it prohibits “ unfunded monetary liabilities beyond the amounts Congress has appropriated, ” and bars “ the borrowing of funds by federal a gencies . . . in anticipation of future appropriations. ” 90 Finally, the Congressional Budget and Impoundment Control Act of 1974 91 (Impoundment Act) channels presidential authority to decline to expend appropriated funds. 92 It responded to President Nixon ’ s e xpansive use of impoundment. 93 Congress had no trouble rejecting Nixon ’ s claims despite a long history of such impoundments. 94 While the Miscellaneous Receipts Act and the Anti - Deficiency Act appear to have succeeded, the Impoundment Act has a more mixed rec ord. While the Supreme Court endorsed legislative constraints on presidential impoundment, 95 President Gerald Ford increased impoundments through creative interpretations of the law. 96 But two decades later, Congress concluded the executive had too little di scretionary spending authority and expanded it by statute. 97 ¶ Moreover, statutory regulation of the purse furnishes a tool for judicial influence over the executive. Judicial action in turn magnifies congressional influence. A recent study of taxation litiga tion finds evidence that the federal courts interpret fiscal laws in a more pro - government fashion during military engagements supported by both Congress and the White House than in the course of unilateral executive military entanglements. 98 Although the r esulting effect is hard to quantify, the basic finding of the study suggests that fiscal statutes trench on executive discretion not only directly, but also indirectly via judicially created incentives to act only with legislative endorsement. 99¶ To be sure, a persistent difficulty in debates about congressional efficacy, and with some of the claims advanced in The Executive Unbound , is that it is unclear what baseline should be used to evaluate the outcomes of executive - congressional struggles. What counts, that is, as a “win” and for whom? What, for example, is an appropriate level of legislative control over expenditures? In the examples developed in this Part , I have underscored instances in which a law has been passed that a President disagrees with in substantial part, and where there are divergent legislative preferences reflected in the ultimate enactment. I do not mean to suggest, however, that there are not alternative ways of delineating a baseline for analysis. 100¶ In sum, there is strong evidence that law and lawmaking institutions have played a more robust role in delimiting the bounds of executive discretion over the federal sword and the federal purse than The Executive Unbound intimates. Congress in fact impedes presidential agendas. The White House in practice cannot use presidential administration as a perfect substitute. Legislation implementing congressional control of the purse is also a significant, if imperfect, tool of legislative influence on the ground. This is true even when Presidents influence the budgetary agenda 101 and agencies jawbone their legislative masters into new funding. 102 If Congress and statutory frameworks seem to have such nontrivial effects on the executive ’ s choice set , this at minimum i mplies that the conditions in which law matters are more extensive than The Executive Unbound suggests and that an account of executive discretion that omits law and legal institutions will be incomplete .

#### President believes he is constrained by statute

Saikrishna Prakash 12**,** professor of law at the University of Virginia and Michael Ramsey, professor of law at San Diego, “The Goldilocks Executive” Feb, SSRN

We accept that the President’s lawyers search for legal arguments to justify presidential action, that they find the President’s policy preferences legal more often than they do not, and that the President sometimes disregards their conclusions. But the close attention the Executive pays to legal constraints suggests that the President (who, after all, is in a good position to know) believes himself constrained by law. Perhaps Posner and Vermeule believe that the President is mistaken. But we think, to the contrary, it represents the President’s recognition of the various constraints we have listed, and his appreciation that attempting to operate outside the bounds of law would trigger censure from Congress, courts, and the public.

#### Statutes have spillover restraint effects

Cole 11. “Where Liberty Lies: Civil Society and Individual Rights After 9/11” <http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=2129&context=facpub> (Professor, Georgetown University Law Center.)

**In my view, Posner and Vermeule simultaneously underestimate the constraining force of law and overestimate the influence of political limits on executive overreaching. Sounding like Critical Legal Studies adherents, they sweepingly claim that law is so indeterminate and manipulable as to constitute only a “façade of lawfulness.”242 But in assessing law’s effect, they look almost exclusively to formal indicia— statutes and court decisions.243 That approach disregards the role that law plays without coming to a head in a judicial decision or legislative act. As the post-9/11 period illustrates, when law is reinforced and defended by civil society institutions, it can have a disciplining function long before cases reach final judgment, and even when no case is ever filed, a reality to which anyone who has worked in the executive branch will attest.244 While they are overly skeptical about law, Posner and Vermeule are unrealistically romantic about the constraining force of majoritarian politics. The political checks they identify consist solely of the fact that Presidents must worry about election returns, and must cultivate Executive officials generally cannot know in advance whether their actions will attract the attention of civil society watchdogs, or lead to court review. They often cannot know whether such oversight— whether by a court, a legislative committee, or a nongovernmental organization—will be strict or deferential. As long as there is some risk of such oversight, the resultant uncertainty itself is likely to have a disciplining effect on the choices they make. There are, in short, plenty of reasons why executive lawyers generally take legal limits seriously. They take an oath and are acculturated to do so. They know that claims of illegality can undermine their objectives. And they cannot predict when a legal claim will be advanced against them. Similarly, in focusing exclusively on statutes and their enforcement by courts, Posner and Vermeule disregard the considerable checking function that Congress’s legal oversight role plays through means short of formal statutes, such as by holding hearings, launching investigations, requesting information about doubtful executive practices, or restricting federal expenditures. The effectiveness of these checks, moreover, will often turn on the strength of civil society. If there are significant watchdogs in the nongovernmental sector and/or the media focused on executive actions, ready to bring allegedly illegal conduct to public attention, the law will have substantial deterrent effect, with or without actual court decisions.**

### T

#### We meet- we the Presidents abiltity to conduct drone stirkes under the CIA.

#### Restriction means a limit and includes conditions on action

CAA 8,COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT A, STATE OF ARIZONA, Appellee, v. JEREMY RAY WAGNER, Appellant., 2008 Ariz. App. Unpub. LEXIS 613

P10 The term "restriction" is not defined by the Legislature for the purposes of the DUI statutes. See generally A.R.S. § 28-1301 (2004) (providing the "[d]efinitions" section of the DUI statutes). In the absence of a statutory definition of a term, we look to ordinary dictionary definitions and do not construe the word as being a term of art. Lee v. State, 215 Ariz. 540, 544, ¶ 15, 161 P.3d 583, 587 (App. 2007) ("When a statutory term is not explicitly defined, we assume, unless otherwise stated, that the Legislature intended to accord the word its natural and obvious meaning, which may be discerned from its dictionary definition."). P11 The dictionary definition of "restriction" is "[a] limitation or qualification." Black's Law Dictionary 1341 (8th ed. 1999). In fact, "limited" and "restricted" are considered synonyms. See Webster's II New Collegiate Dictionary 946 (2001). Under these commonly accepted definitions, Wagner's driving privileges were "restrict[ed]" when they were "limited" by the ignition interlock requirement. Wagner was not only [\*7] statutorily required to install an ignition interlock device on all of the vehicles he operated, A.R.S. § 28-1461(A)(1)(b), but he was also prohibited from driving any vehicle that was not equipped with such a device, regardless whether he owned the vehicle or was under the influence of intoxicants, A.R.S. § 28-1464(H). These limitations constituted a restriction on Wagner's privilege to drive, for he was unable to drive in circumstances which were otherwise available to the general driving population. Thus, the rules of statutory construction dictate that the term "restriction" includes the ignition interlock device limitation.

#### “In” means within a set of limits

Dictionary.Com – No specific Date Included

Updated in 2013 but no specific date given, http://dictionary.reference.com/browse/in

In [in] preposition, adverb, adjective, noun, verb, inned, in·ning.¶ preposition¶ 1.¶ (used to indicate inclusion within space, a place, or limits): walking in the park.¶ 2.¶ (used to indicate inclusion within something abstract or immaterial): in politics; in the autumn.¶ 3.¶ (used to indicate inclusion within or occurrence during a period or limit of time): in ancient times; a task done in ten minutes.¶ 4.¶ (used to indicate limitation or qualification, as of situation, condition, relation, manner, action, etc.): to speak in a whisper; to be similar in appearance.¶ 5.¶ (used to indicate means): sketched in ink; spoken in French.¶ 6.¶ (used to indicate motion or direction from outside to a point within) into: Let's go in the house.¶ 7.¶ (used to indicate transition from one state to another): to break in half.¶ 8.¶ (used to indicate object or purpose): speaking in honor of the event.

#### Reasons to prefer:

#### Aff ground – they limit the aff to one tiny mechanism. Aff ground outweighs because the structural and functional limits check small affs

#### Education – none of the lit is about outright banning war powers – we create the most real world discussions

#### No ground loss – we guarantee them pres powers and intervention good ground

#### It’s not bidirectional --- our interp means congress has to directly limit him

#### 4) Prefer reasonability – if there is no ground loss an interpretation that expands aff ground should be preferred

#### And, their interpretation is terrible and arbitrary Restrictions and regulations can both be prohibitions or limitations—no brightline to their interp

Supreme Court of Delaware 83 (THE MAYOR AND COUNCIL OF NEW CASTLE, a municipal corporation of the State of Delaware, Plaintiff Below, Appellant, v. ROLLINS OUTDOOR ADVERTISING, INC., Defendant Below, Appellee, No. 155, 1983, 475 A.2d 355; 1984 Del. LEXIS 324, November 21, 1983, Submitted, April 2, 1984, Decided)

The term "restrict" is defined as: To restrain within bounds; to limit; [\*\*9] to confine. Id. at 1182. The Supreme Court of the United States has recognized that HN5the term "regulate" necessarily entails a possible prohibition of some kind. That Court has stated: "It is an oft-repeated truism that every regulation necessarily speaks as a prohibition." Goldblatt v. Hempstead, 369 U.S. 590, 592, 8 L. Ed. 2d 130, 82 S. Ct. 987 (1962). The Supreme Court of Massachusetts in reviewing a statute containing language similar to that found in 22 Del.C. § 301 (which empowered municipalities to "regulate and restrict" outdoor advertising on public ways, in public places, and on private property within public view) held that the statute in question authorized a town to provide, through amortization, for the elimination of nonconforming off-site signs five years from the time the ordinance was enacted. The court held that the Massachusetts enabling act: Conferred on the Legislature plenary power to regulate and restrict outdoor advertising . . . . Although the word "prohibit" was omitted from [the enabling act], it was recognized that the unlimited and unqualified power to regulate and restrict can be, for practical purposes, the power to prohibit [\*\*10] "because under such power the thing may be so far restricted that there is nothing left of of it." (Citations omitted.) The court continued its discussions of the two terms by stating: The distinction between regulation and outright prohibition is often considered to be a narrow one: "that regulation may take the character of prohibition, in proper cases, is well established by the decisions of this court" . . . quoting from United States v. Hill, 248 U.S. 420, 425, 63 L. Ed. 337, 39 S. Ct. 143 (1919). John Donnelly and Sons, Inc. v. Outdoor Advertising Board, Mass. Supr., 369 Mass. 206, 339 N.E.2d 709 (1975). We hold that, through Article II, Section 25 of the Delaware Constitution and 22 Del.C. § 301, the General Assembly has authorized New Castle to terminate nonconforming off-site signs upon reasonable notice, that is, by what has come to be known as amortization. We hold that the power to "regulate and restrict" as such term applies to zoning matters includes the power, upon reasonable notice, to prohibit some of those uses already in existence.

### XO

#### Perm do both- the plan would cut the funding from CIA drone stirkes, while the president stops using them. Perms should be a test of mutal exclusivity, and should not be required to have a net bennifit. Its aslo normal means.

Doesn’t solve any of the aff:

1. only charter legislation can refovus the CIA on intel gaithering- it increases responsibility within the CIA. That’s Padros
2. The CIA will circumvent XOs- they are too vauge and weak, only statorty limits provide a guidepost. That’s Harris. Perfer our evidence, its comparative
3. Congressional action key to solve Nroms. Congress is key to send a statorty roadmap to other states, and only congress can send a clear signal. That’s Brooks and Maxwell

#### Only congressional action solves– presidential directives are perceived as weak and unpredictable.

**Harris 05** – (2005, Grant, JD candidate at time of publication, expected same year, post-graduation: Special Assistant to the President and Senior Director for African Affairs, former Deputy Chief of Staff and Counselor to Susan E. Rice, the U.S. Ambassador to the United Nations and a member of President Obama’s Cabinet, “The CIA Mandate and the War on Terror,” Yale Law & Policy Review Vol. 23:529, 2005)

\*FOOTNOTE\* 205. **The analysis of this Section often refers to Executive Order 12,333 but would apply with equal force to any unilateral presidential directive**. \*TEXT\* Reliance on **presidential directives** to shed light on the CIA mandate and the "handoff' between law enforcement and intelligence **represents a continuation of the status quo.** Executive Order 12,333, though not a paragon of clarity, provides important directional guidance to the intelligence comrnunity.205 Yet its utility is limited by the simple and fundamental fact that an executive order lacks the power to alter the CIA's statutory mandate?06 Indeed, Executive Order 12,333 directly states it is constrained by the National Security Act of 194 7 and other laws and was promulgated for purposes of guidance.207 Such guidance as found in an executive order could not legally authorize any activity deemed to fall outside the bounds of the prohibitions in the National Security Act. Thus, the utility of an executive order is severely diminished because it still **operates within-but cannot resolve-the unclear statutory limits** on CIA authority.208 Seen in this light, guidance in the face of categorical, but ill-defined, statutory prohibitions is a distant "second best" to clarifying the prohibitions themselves. The guidance provided by executive orders as to CIA authority is also less **predictable and meaningful** because executive orders can be **rescinded by the President at anytime**. Though a statute could also be rescinded or amended, it would require more consensus and deliberation than merely the changed opinion of the President and would likely prompt greater public scrutiny and debate. More to the point, the political pressure to misuse the Agency during the Cold War came primarily from the highest levels of the executive branch, thus providing a strong argument against leaving guidance and clarification of the CIA's mandate to the president's sole discretion.209 If history serves as any guide, **dirty marching orders are more likely to come from the President** than Congress given the CIA's institutional location within the executive branch and the Agency's relationship with the President. Statutory amendment cannot guarantee the law will not be disregarded, but it would provide a better check than an executive order and would supply clearer guideposts for congressional oversight and executive branch officials such as inspectors general.210 A statute would also be more effective than an executive order because it would better **entrench the guidance and clarified boundaries of authority within everyday CIA activity.** Statutory amendment would most clearly and forcefully state the limits of CIA authority, thereby assisting the decisions of CIA officials and lawyers. This clear statement of norms of behavior (in this case **clarification of prohibited activity**) could also further the internalization of these norms among CIA officials.211 For reasons similar to those discussed above, reliance on **advisory boards, inspectors general, and other internal checks** within the executive branch is less effective than statutory clarification would be in preventing abuse.212 If anything, a clearer CIA charter would bolster the abilities of oversight officials by providing better guideposts to monitor CIA activity. In any case, it must be recalled that these officials and boards can, at best, assist in issues of oversight. Unlike statutory clarification, checks internal to the executive branch are incapable of alleviating the coordination challenges between intelligence and law enforcement agencies.

#### Self-restraint fails--- future presidents and crisis psychology

Healy 2009 (Gene Healy, The Cult of the Presidency: America’s Dangerous Devotion to Executive Power, 2009 p. 308-309)

Laudable as it is, though, presidential self-restraint is far from a robust or lasting solution to the imperial presidency. Executive orders can be overturned, and personnel can be changed – by future presidents, or by this president should political conditions change. The threat of terrorism is no longer as vivid in the public mind as it was a few years ago but all that could change quite rapidly. If a bomb goes off in a subway or terrorist carries out a shooting spree at a shopping mall, it will be very difficult for any president – particularly one with political opponents eager to paint him as “soft on terror” to resist pushing his authority beyond constitutional limits. Lasting restraint needs to come from external sources: the courts, the Congress, and the general public. The Supreme Court has lately shown greater willingness to check presidential power in foreign affairs. However, there’s little evidence that the public has moderated its demands for bold presidential action to solve all manner of problems. And Congress remains as pliable as ever.

#### Exec fiat is a voter--- limits out core affs, scews 2ac strat because moots 1ac and cant read addons --avoids the core topic question by fiating away Obama’s behavior in the squo---no comparative lit means the neg wins every debate

Victor Hansen 12, Professor of Law, New England Law, New England Law Review, Vol. 46, pp. 27-36, 2011, “Predator Drone Attacks”, February 22, 2012, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2009313>, PDF

Any checks on the President’s use of drone attacks must come domestically. In the domestic arena the two options are either the courts or Congress. As discussed above, the courts are institutionally unsuited and incapable of providing appropriate oversight. Congress is the branch with the constitutional authority, historical precedent, and institutional capacity to exercise meaningful and effective oversight of the President’s actions.

Reject the team – at very least reject durable fiat and grant rollback args and justifices timeframe perms.

#### Statutory change coming now. Means CP links to politics and would have zero case solvency. Gets overridden immediately. Only fiatting congressional implementation can solve the aff

**Schmitt, 1/16** (Eric, Congress Restricts Drones Program Shift, New York Times, http://www.nytimes.com/2014/01/17/us/politics/congress-restricts-drones-program-shift.html?\_r=0)

WASHINGTON — In an unusual move, Congress is placing restrictions on the Obama administration’s plan to shift responsibility for armed drones more toward the military and away from the C.I.A., congressional and administration officials said Thursday. Lawmakers inserted wording into a classified annex to the $1.1 trillion federal budget approved by Congress this week that would make it more difficult to transfer control over the drone campaign or the authority to carry out strikes. The scope of the restrictions remained unclear because of their classification. But the provision does not appear to entirely block a shift described last May by administration officials as a ramification of President Obama’s intention to move the country off a decade-long war footing. Lawmakers allowed the president to waive the constraints under certain circumstances or to permit the transfer if the administration certifies that the military meets certain standards in drone operations, congressional aides said Thursday. Even before the new provision in the budget bill, administration and congressional officials said the schedule for shifting control to the military was being revised — if not shelved. “D.O.D. has some work to do,” a senior House Intelligence Committee staff aide said Thursday, referring to the Department of Defense. “It’s a lot more challenging than they thought.”

#### Counter plan doesn’t solve and links to politics- the president will overreach his power

Eric A. Posner + and Adrian Vermeule ++, + Kirkland & Ellis Professor of Law, The University of Chicago Law School, ++ Professor of Law, Harvard Law School. Copyright (c) 2007 University of Chicago, University of Chicago Law Review Summer, 2007, 74 U. Chi. L. Rev. 865

With discretion comes distrust. n2 Voters and legislators grant the executive discretion, through action or inaction, and increase executive discretion during emergencies, because they believe that the benefits of doing so outweigh the risks of executive abuse. n3 By the same token, political actors will attempt to constrain the executive, or will simply fail to grant powers they otherwise would have preferred to grant, where they believe that the risks and harms of abuses outweigh any benefits in security or other goods. The fear of executive abuse arises from many sources, but the basic problem is uncertainty about the executive's motivations. The executive may, for example, be a power maximizer, intent on using legal or factual discretion to harm political opponents and cement his political position, or that of his political party; or he may be an empire builder, interested in expanding his turf at the expense of other institutions.

Where the executive is indeed ill motivated in any of these ways, constraining his discretion (more than the voters would otherwise choose) may be sensible. But the executive may not be ill motivated at all. Where the executive is in fact a faithful agent, using his increased discretion to promote the public good according to whatever conception of the public good voters hold, then constraints on executive discretion are all cost and no benefit. Voters, legislators, and judges know that different executive officials have different motivations. Not all presidents are power maximizers or empire builders. n4 Of course, the executive need not be pure of heart; his devotion to the public interest may in turn be based on concern for the judgment of history. But so long as that motivation makes him a faithful agent of the principal(s), he counts as well motivated.¶ The problem, however, is that the public has no simple way to know which type of executive it is dealing with. An ill-motivated executive will just mimic the statements of a well-motivated one, saying [\*867] the right things and offering plausible rationales for policies that outsiders, lacking crucial information, find difficult to evaluate -- policies that turn out not to be in the public interest. The ability of the ill-motivated executive to mimic the public-spirited executive's statements gives rise to the executive's dilemma of credibility: the well-motivated executive has no simple way to identify himself as such. Distrust causes voters (and the legislators they elect) to withhold discretion that they would like to grant and that the well-motivated executive would like to receive. Of course, the ill-motivated executive might also want discretion. The problem is that voters who would want to give discretion (only) to the well-motivated executive may choose not to do so, because they are not sure what type he actually is. The risk that the public and legislators will fail to trust a well-motivated president is just as serious as the risk that they will trust an ill-motivated president, yet legal scholars have felled forests on the second topic while largely neglecting the first. n5¶ Our aim in this Article is to identify this dilemma of credibility that afflicts the well-motivated executive and to propose mechanisms for ameliorating it. We focus on emergencies and national security but cast the analysis within a broader framework. Our basic claim is that the credibility dilemma can be addressed by executive signaling. Without any new constitutional amendments, statutes, or legislative action, law and executive practice already contain resources to allow a well-motivated executive to send a credible signal of his motivations, committing to use increased discretion in public-spirited ways. By tying [\*868] policies to institutional mechanisms that impose heavier costs on ill-motivated actors than on well-motivated ones, the well-motivated executive can credibly signal his good intentions and thus persuade voters that his policies are those that voters would want if fully informed. We focus particularly on mechanisms of executive self-binding that send a signal of credibility by committing presidents to actions or policies that only a well-motivated president would adopt.¶ The discussion is structured as follows. Part I lays out examples of the credibility dilemma, both historical and recent. Part II analyzes the credibility dilemma through the lens of principal-agent theory. Part III examines the attempted Madisonian solution to the credibility dilemma and explains why it is a failure, for the most part. Part IV suggests a series of mechanisms for credibly demonstrating the executive's good intentions. These mechanisms include independent commissions within the executive branch; bipartisanship in appointments to the executive branch, or more broadly the creation of domestic coalitions of the willing; the related tactic of counterpartisanship, or choosing policies that run against the preferences of the president's own party; commitments to multilateral action in foreign policy; increasing the transparency of the executive's decisionmaking processes; and a regime of strict liability for executive abuses. Not all of these mechanisms succeed, and some of them succeed under some conditions but fail under others.¶ Credibility is but one good that trades off against other goods, even from the standpoint of the well-motivated executive. The main cost of credibility is that it diminishes the president's control over policymaking. In Part IV, we attempt to identify the conditions under which one or the other mechanism can produce credibility benefits greater than the resulting costs.¶ I. Examples¶ Presidents always have some credibility, at least at the start of their term. People do not vote for candidates whom they do not believe, and so the winning candidate brings to the office some amount of credibility, which he may further enhance over time by keeping his promises or making predictions that are proven correct by events. Having built up capital, some presidents find it useful to engage in deception, and some have gotten away with it, at least in the short term. Prominent examples include FDR's claim during the 1940 election that he was determined to keep the United States out of war; n6 Eisenhower's [\*869] denial that U-2 spy planes overflew the Soviet Union; n7 (probably) Johnson's description of the Gulf of Tonkin incident; n8 Nixon's statements about military action relating to Cambodia; n9 (probably) Reagan's claim that he was unaware of the arms-for-hostages scheme; n10 and Clinton's denial that he had had a sexual relationship with Monica Lewinsky. n11 But deception is potentially a costly strategy, because revelation of the deception damages the president's credibility, making it more difficult for him to achieve his next set of goals.¶ For this reason, we focus on historical cases where the president avoids deception, where in fact he makes a true or roughly true statement about circumstances that the public cannot directly evaluate, but has trouble persuading the public to believe him. In these cases, the president needs to use mechanisms that enhance his credibility or, if he cannot, finds himself unable to act. We offer examples to illustrate the credibility dilemma, to illustrate a range of solutions to the dilemma -- some successful, some otherwise -- and to show that the mechanisms we will propose in Part IV have historical analogues or precedents.¶ A. FDR: The Nazi Threat¶ Franklin Delano Roosevelt understood the threat posed by Nazi Germany to the United States' long-term interests long before the U.S. public did. The public was preoccupied with the Great Depression and had powerful isolationist representatives in Congress. Because of popular sentiment, FDR could not commit U.S. military assistance to Britain and France, even after Germany invaded France and began [\*870] bombing London. n12 Marginal economic and military assistance could take place only through complicated subterfuges and was in any event of minimal value.¶ Even after Japan bombed Pearl Harbor and Nazi Germany declared war on the U.S., FDR had to move cautiously. The public supported war, but sought war primarily with Japan, while FDR correctly believed that Germany posed a greater threat to the United States than Japan did. In FDR's view, Japan could be, and should be, dealt with after the Atlantic alliance against Germany was solidified. Thus, although FDR had popular support on one level, he needed to devise ways to ensure support for his particular war aims and strategies, whose particular justifications would always remain at least partially obscure to the public. One of FDR's tactics for generating support was to invite prominent Republicans into his cabinet. For example, Henry Stimson was given the post of Secretary of War, and Frank Knox was made the Secretary of the Navy. n13 Provided with inside information, they would be able to blow the whistle if U.S. war strategy departed too much from what they believed was the public interest. But, as internationalists, they would also support the war.¶ B. Truman: Scaring Hell out of the Country¶ The Soviet Union had been the United States' ally during World War II, and many people, including FDR, expected or hoped that it would cooperate with the United States after the war as well. That the Soviet Union would have aggressive rather than pacific designs only gradually dawned on U.S. elites. By 1946, skepticism about Soviet motives was widespread in the U.S. government, but the U.S. public still labored under more genial impressions fostered by wartime propaganda. To counter the growing Soviet threat, President Harry S. Truman resolved to expend U.S. treasure to rebuild the economies of France, West Germany, Britain, and other potential allies, and to bind them together in a military defense pact. The former would require a lot of money; the latter would require the stationing of U.S. troops abroad. The U.S. public, however, was traditionally isolationist, and wished to enjoy the victory and the peace. n14 How could Truman persuade [\*871] the public that further sacrifice and foreign entanglements would be necessary to defend U.S. interests against a former ally?¶ Truman apparently could not simply explain to the public that the Soviet threat justified the Marshall Plan and North Atlantic Treaty Organization, the United States' first permanent foreign military alliance. The problem was that the public had no way to evaluate the Soviet threat. The U.S.S.R. had not actually used military force against U.S. troops, as the Japanese had five years earlier at Pearl Harbor. The Soviet Union was instead supporting communist insurgencies in Greece and Turkey, interfering in politics in Italy, violating its promise to respect democratic processes in Poland, engaging in espionage, and so forth. Experienced and perceptive observers saw a threat, but, generally speaking, the public was in no position to do so.¶ To enhance the credibility of his claims about the Soviet threat, Truman did two things. First, he recast the threat as an ideological challenge. Truman gave the threat an ideological dimension, deliberately "scaring hell out of the country." n15 Second, he made an alliance with a powerful Republican senator, Arthur Vandenberg, who could assure Truman that the Republicans would not object to his policies as long as he consulted them and allowed them some influence. As a former isolationist, Vandenberg's endorsement of Truman's policy of engagement must have enhanced the credibility of Truman's claims about the Soviet threat. n16¶ Both of these strategies succeeded, but neither was costless. Truman's characterization of the Soviet threat as an ideological challenge may have led to the McCarthy era and suppressed public debate about foreign policy. Truman's alliance with the Republicans meant, of course, that he would have less freedom of action. n17 [\*872] ¶ C. Bush I versus Bush II: The Iraqi Threat¶ George H.W. Bush and George W. Bush both went to war with Iraq, but they faced different threats and chose different responses. George H.W. Bush sought to drive Iraqi military forces out of Kuwait. His problem was persuading the U.S. public that a U.S. military response was justified. In retrospect, it might seem that he was clearly right, but at the time most experts believed that that a great number of U.S. troops would be killed. n18 This was the expected cost of a military response. On the benefit side, Bush could appeal to the sanctity of sovereign borders, but public sympathy for the rich Kuwaitis was limited. The United States' real concern was that Iraq would, with Kuwait's oil fields, become wealthy and powerful enough to expand its control over the region, threaten Saudi Arabia, dominate the Persian Gulf's oil reserves, and pose a long-term threat to the Western economies and the United States' influence in the Middle East. But all of these concerns are rather abstract, and it was never obvious that the public would accept this case. Indeed, the congressional authorization to use military force was far from unanimous in the House of Representatives. n19¶ The credibility of Bush's claims, however, was greatly aided by international support. The public support of nations with divergent interests showed that Bush's claim about the internationally destabilizing effects of Saddam Hussein's invasion was real and not imagined. Thus any claim that a U.S. military invasion was solely in Bush's partisan political interests, or in the interests mainly of oil companies, was seriously weakened. Formal United Nations approval and the military assistance of foreign states -- which was of mainly political, not military significance -- further solidified Bush's credibility. n20¶ Surface similarities aside, George W. Bush faced a different kind of threat. He feared that Saddam Hussein had weapons of mass destruction (WMDs), which he would give or sell to terrorist groups like al Qaeda. It was more difficult for George W. Bush to prove that Saddam had WMDs than for his father to prove that Saddam was a threat to the region, because any WMDs were hidden on Saddam's territory [\*873] while the invasion of Kuwait could be observed by all. George W. Bush followed the same strategy that his father did, albeit somewhat less enthusiastically: to enlist international support in order to bolster the credibility of his claim that Saddam continued to pose a major threat to U.S. and Western interests. But George W. Bush failed to persuade foreign countries that Saddam posed a great enough threat to justify a military invasion (although they largely agreed that he either had or probably had WMDs), and he did not obtain significant international support. n21 Ironically, George W. Bush, unlike his father, had strong congressional support, in part because opposition to the first war turned out to be a political liability, and the costs of the first war (unlike the second war) turned out to be minimal.¶ D. Clinton: Wag the Dog¶ Long before the attacks of September 11, 2001, the U.S. government understood that al Qaeda posed a threat to U.S. interests. The CIA had established a bin Laden office in 1996, and the Clinton administration was trying to develop an effective counterterrorism strategy. n22 In 1998, al Qaeda blew up U.S. embassies in Kenya and Tanzania, whereupon Clinton ordered cruise missile strikes on targets in Afghanistan and Sudan. Just three days earlier, however, Clinton had announced on national television that he had had an affair with Monica Lewinsky. Opponents charged that he ordered the strikes in order to distract the public from his domestic problems. n23 This came to be known as the Wag the Dog strategy after a movie that featured a similar subterfuge. n24 [\*874] ¶ Clinton's credibility problem was more acute than that of earlier presidents. FDR, Truman, and George H.W. Bush (as well as, later, George W. Bush) might embark on foreign adventures in order to enhance their prestige or to pay off interest groups or to distract the public from domestic problems. George W. Bush, for example, has been repeatedly accused of manipulating terrorism warnings in order to improve poll results or electoral outcomes. n25 But only in Clinton's case was it necessary for him to make an important and visible decision about foreign policy in the midst of a personal scandal in which he admitted that he engaged in deceit, with the result that his ability to conduct an effective terrorism defense was hampered by doubts about his credibility. n26 A more aggressive response to al Qaeda would have to wait until after September 11, 2001.¶ II. Theory¶ A. The Problem¶ The examples we discussed have a common structure: a nation or group, like Nazi Germany, the Soviet Union, Iraq, or al Qaeda, poses a threat to U.S. interests. The threat is widely understood at a general level but the public does not understand important details: why the threat exists, its magnitude, what programs will best address it. The president believes that a particular program -- NSA surveillance, unlimited detention, military preparation -- is necessary and desirable for countering the threat, and let us assume that he is correct. At the same time, the program could be misused in various ways. It could be used to enhance the power of the president at the expense of legitimate political opponents; to pay off the president's supporters at the expense of the general public; or to spark an emotional but short-lived surge of patriotism that benefits the president during an important election but does not enhance security. The president can announce the [\*875] program and justify it in general terms, but he cannot design the program in such a way that its dangers to legitimate political opposition can be eliminated. n27 As a result, his claim that the program will be used only for national security, and not to enhance his power at the expense of political opponents, or to benefit allies, may not be believed.¶ Consider, for example, the policy of detaining suspected members of al Qaeda without charging them and without providing them with a trial. The public understands that al Qaeda poses a threat to national security but lacks the information necessary to evaluate the detention policy. The public does not know the magnitude of the continuing threat from al Qaeda: it might be the case that the group has focused its attention on foreign targets, that it no longer has the capacity to launch attacks on U.S. soil, that greater international cooperation and intelligence sharing has significantly reduced the threat, and so forth. The public also does not know whether the detainees are important members of al Qaeda, foot soldiers, or unconnected to al Qaeda; whether the dangerous detainees could be adequately incapacitated or deterred through regular criminal processes; whether the Bush administration obtains valuable intelligence from the detainees, as it claims, or not; whether the detainees are treated well or harshly; and numerous other relevant factors. Some of the relevant variables are public, but most are not; those that are public are nonetheless extremely difficult to evaluate. Consider the ambiguity over whether the suicides at Guantanamo Bay in June 2006 were driven by despair and harsh treatment, or were the result of a calculated effort by martyr-seeking Jihadists to score a propaganda coup. n28 As a general matter, the public does not even know whether the absence of major terrorist attacks on U.S. soil since September 11, 2001 resulted from the Bush administration's detention policy, at least partly resulted from this policy, occurred for reasons entirely independent of this policy such as (say) the military attack on Afghanistan, or occurred despite the detention policy, which, by alienating potential allies, perversely made a further attack more likely than it would otherwise have been.¶ Described in this manner, the president's credibility problem is the result of an agency relationship, where the president is the agent and the public is the principal. In agency models, the agent has the power to engage in an action that benefits or harms a principal. In a [\*876] typical version of these models, the principal first hires the agent and instructs the agent to engage in high effort rather than shirk. The agent then chooses whether to engage in high effort or shirk. High effort by the agent increases the probability that the principal will receive a high payoff, but some randomness is involved, so that the link between the agent's effort and the principal's payoff is stochastic rather than certain. If the agent's behavior can be observed and proven before a court, then the simple solution is for the two parties to enter a contract requiring the agent to engage in high effort. If the agent's behavior cannot be observed, then a contract requiring high effort is unenforceable, and instead the principal and agent might enter a contract that makes the agent's compensation a function of the principal's payoff. This gives the agent an incentive to use high effort, though depending on various conditions, this incentive might be weak. n29¶ Less important than the details of the agency model, and its various solutions, is the way that it clarifies the basic problem. The president is the agent and the public is the principal (sometimes we will think of the legislature as the principal, bracketing questions of agency slack between voters and legislators). The public cares about national security but also cares about civil liberties and the well-being of potential targets of the war on terror; its optimal policy trades off these factors. However, the public cannot directly choose the policy; instead, it delegates that power to the government and, in particular, the president. The president knows the range of options available, their likely effects, their expected costs and benefits -- thanks to the resources and expertise of the executive branch -- and so, if he is well motivated, he will choose the best measures available.¶ Thus a well-motivated executive, in our sense, is an executive who chooses the policies that voters would choose if they knew what the executive knows. n30 This definition does not require that the president's deeper motives be pure. For our purposes, a well-motivated president may be concerned with his historical reputation in the long run, as many presidents are. Because presidents know that in the long run most or all of their currently private information will be revealed, n31 a [\*877] concern with the judgment of history pushes presidents to make the decisions that future generations, knowing what the president knows now, will approve. To be sure, the concern with historical reputation is not perfectly congruent with doing what the current generation would approve of (with full information), because different generations have different values, as in the case of civil rights. The convergence is substantial, however, compared to far more harmful motivations a president might have, such as short-term empire-building or partisan advantage. Presidents with a concern for their long-run reputation may not be disinterested leaders, but they approach the ideal of faithful agency more closely than do presidents with no such concern.¶ We also assume that the voters' ultimate preferences are fixed, so we put aside the possibility of presidential leadership that changes bedrock public values. However, voters' derived preferences may change as their information changes, and this further blurs the significance of changing public values over time. On this view, there is still scope for leadership, in the sense that a well-motivated president might choose a policy inconsistent with voters' current ill-informed preferences, but consistent with the new preferences voters will form as their information changes, perhaps as a result of the policy itself. FDR's behavior just before World War II is the model for presidential leadership in this sense. n32¶ As this discussion suggests, the well-motivated executive may or may not keep campaign promises, or adopt popular policies. All depends on circumstances -- on what the public would approve, if it knew what the president knows. A public that would condemn the president's policy P might, if it knew more, approve of P. The well-motivated president will want to adopt P in such circumstances, and will then face the problem of credibly signaling to the public that he favors the policy for good reasons that he cannot directly convey. Furthermore, we assume that the well-motivated executive will collect an optimal amount of information -- up to the point where the marginal benefits of further information gathering equal the marginal costs. n33 This does not mean [\*878] that the well-motivated executive always gets the facts right; he may turn out to be wrong. But it does mean that greater accuracy would not have been cost justified.¶ Against this benchmark of faithful agency, the problem is that a given president's motivations may or may not be faithful, and the public knows this. The public fears that, for various reasons, the president might choose policies that diverge from the public's optimal policies. These include:¶ 1. The president cares more about national security (or more about civil liberties, but we will, for simplicity, assume the former) than the public does. His "preferences" are different from those of the public.¶ 2. The president cares very little about national security and civil liberties; he mainly cares about maximizing his political power and, more broadly, political success -- success for himself, his party, or his chosen successor. With a view to political power and success, the president might maximize the probability of electoral success by favoring particular interest groups, voting blocs, or institutions at the expense of the public, or by adopting policies that are popular in the short term, as far as the next election cycle, but that are harmful in the long term, along with rhetoric that confuses and misleads.¶ The public knows that the president might have these or other harmful motivations, so when the president claims, for example, that a detention policy is essential to the war on terror but at the same time is not excessively harsh given its benefits, the public simply does not know whether to believe him.¶ Crucially, the risk that the public will fail to trust a well-motivated president is just as serious as the risk that it will trust an ill-motivated one. Imagine that a well-motivated president chooses the optimal policies. No terrorist attack occurs before the next election, but the public does not know whether this is because the president chose the optimal policies, the president chose bad policies and was merely lucky (as the terrorists for internal reasons chose to focus on foreign targets), or the president chose effective but excessively harsh policies. In the election, the public therefore has no particular reason to vote for this president and could easily vote him out of office and replace him with a worse president. A president who cares about electoral [\*879] success might therefore not choose the optimal policies, and even a well-motivated president might be reluctant to choose the optimal policies because of the risk that the public will misinterpret them and replace him with an ill-motivated president. Presidents need public support even when they do not face reelection; they need the public to prod Congress to provide the president with funds for his programs and statutory authorization when necessary. A well-motivated president will abandon optimal policies if he cannot persuade the public that they are warranted.¶ As we noted earlier, legal scholars rarely note the problem of executive credibility, preferring to dwell on the problem of aggrandizement by ill-motivated presidents. Ironically, this assumption that presidents seek to maximize power has obscured one of the greatest constraints on aggrandizement, namely, the president's own interest in maintaining his credibility. Neither a well-motivated nor an ill-motivated president can accomplish his goals if the public does not trust him. n34 This concern with reputation may put a far greater check on the president's actions than do the reactions of the other branches of the government.¶ B. Solutions¶ The literature on agency models and optimal contracting provides clues for solving the problem of executive credibility. This literature gives two basic pieces of advice. n35 The first piece of advice is to align preferences. An employer will do better if her employees obtain utility from doing whatever actions benefit the employer. Suppose, for example, an employer seeks to hire someone to build furniture in a factory. The pay is good enough to attract job candidates who do not enjoy building furniture, but clearly the employer does better by hiring people who like working with their hands, and take pleasure in constructing a high-quality product, than by hiring people who do not like working with their hands. We say that the first type of person has a preference for building high-quality furniture; this person is less likely to shirk than the other type of person.¶ In order to align preferences, employers can use various types of screening mechanisms or selection mechanisms that separate the good [\*880] types and the bad types. n36 An old idea is that job candidates who completed a training program -- here, in carpentry -- are more likely good types than job candidates who did not complete such a program. The reason is not that the training program improves skills, though it might, but that a person who enjoys carpentry is more likely to enter and complete such a program than a person who does not -- the program, in terms of time and effort, is less burdensome for the former type of person. The employer could use other mechanisms as well, of course. She could ask for evidence that the job candidate pursues woodworking as a hobby in his free time, or, simply, that he has held other jobs in similar factories, or jobs that involve carpentry or furniture construction. Another important screening mechanism is to compensate employees partly through in-kind components or earmarked funds that are worth more to good types than to bad types. In university settings, academic compensation is partly composed of research budgets that cannot be spent on personal consumption and that are worth more to good types (researchers) than to bad types (shirkers). n37¶ The second piece of advice is to reward and sanction. This is not as simple as giving the employee a bonus if she constructs good furniture and firing her if she does not; recall that we assume that the employer does not directly observe the quality of the agent's action. Consider the following version of our example. The employees both design and construct furniture; "high-quality" furniture is both made well and pleasing to the public, so that it sells well. The employer cannot tell by looking at a piece of furniture whether it is high quality, because she does not know the tastes of the public. An employee who uses a high level of effort is more likely to produce furniture that sells well, but an employee can in good faith misjudge public taste and produce furniture that sells poorly. Similarly, an employee who uses a low level of effort is less likely to produce furniture that sells well but nonetheless may succeed at times. Since the employer cannot observe the quality of the furniture, she cannot make the wage a function of its quality; if she pays a flat wage, then the employee does not have an incentive to engage in a high level of effort, because that involves more personal cost without producing any reward.¶ The main solution is to make the employee's compensation a function, in part, of the quantity of the sales of the goods that the employee [\*881] produces. The quantity of sales, unlike the quality of the furniture, is observable. If the pay is properly determined, then the employee will engage in a high level of effort because the expected gains from high sales exceed the cost of high effort. How closely pay should be correlated with sales depends on how risk averse the employee is, and it may be necessary, for ordinary people who are generally risk averse, to pay them at least a little even if sales are low, and somewhat more if sales are high.¶ An enormous literature develops and qualifies these results, and we will refer to relevant parts of it later as necessary rather than try to summarize it here. n38 For now, we want to briefly point out the relevance of these solutions to our problem of executive credibility.¶ The preference-alignment solution has clear applicability to the problem of executive credibility. To be sure, elections and other democratic institutions help ensure that the president's preferences are not too distant from those of the public, but they are clearly not sufficient to solve the executive credibility problem. Elections will never create perfect preference alignment, for well-known reasons, and in any event the well-motivated executive will do what the public would want were it fully informed, not what maximizes the chances of electoral success in the short run. Furthermore, we do not consider credibility-generating mechanisms that would require new constitutional or statutory provisions; of course, the president has little or no power to redesign electoral rules in order to enhance his credibility. We will instead focus, in Part IV, on how the president might use the existing electoral system to enhance his credibility in indirect ways -- by appointing subordinates, advisors, and commission members, and by supporting certain types of candidacies for electoral office.¶ The reward-and-sanction solution also is applicable to the problem of executive credibility, but we think it is of less importance and we will not address it in any detail. The problem that most concerns us -- threats to national security -- typically does not produce a clear outcome while the president is still in office. As noted above, Bush's war-on-terror policies might be optimal, insufficient, or excessive; we will not know for many years. And the public cannot enter a contract with the president that provides that he will receive a bonus if national security is enhanced and will be sanctioned if it is not enhanced. Consequently, Bush cannot enter a contract with the public that rewards him if his policies are good and punishes him if they are bad. [\*882] ¶ However, some signaling mechanisms have a reward-or-sanction component. A good job applicant can distinguish herself from a bad job applicant by agreeing to a compensation scheme that good types value and bad types disvalue. For example, if a good type of employee discounts future payoffs less than bad types, then good types will accept deferred compensation (such as pension contributions) that bad types reject. n39 Similarly, a well-motivated president can distinguish himself from an ill-motivated president by binding himself to a policy position that an ill-motivated president would reject -- for example, deficit reduction programs or Social Security reform that would mainly benefit future generations, long after the president leaves office. However, a president, unlike an ordinary employee, cannot bind himself by a judicially enforceable contract; therefore, this mechanism can work only if the president can engage in self-binding through informal means, as we will discuss below. n40¶ Note that either a well-motivated actor or an ill-motivated actor might use strategic devices to enhance her credibility. A bad actor might, for example, take actions to enhance the credibility of his threats. In a standard illustration, the "chicken" game occurs when two drivers race toward each other and the loser is the one who swerves to avoid death. In that game, each driver is threatening to drive straight, and the winner will be the one who can make his threat credible, because the other driver will then know that the only choice is to swerve or die. Credibility is a valuable adjunct to many different motivations, not just to socially beneficial ones.¶ But this is a different type of credibility problem than the one we are interested in. In the class of problems we address, the problem that faces the well-motivated actor is that others cannot distinguish or sort him at a glance from ill-motivated actors. "Bad types" can mimic "good types" through low-cost imitation and by saying all the right things. The good type needs some device whereby he can credibly signal that he is a good type. The only effective device, in general, is for the good type to undertake an action that imposes greater costs on bad types than on good types. If third parties understand the cost structure of the action, then this separates the two types, because the bad type's strategy of costlessly imitating the good type no longer works. In employment screening, for example, both the lazy worker and the hard worker will claim to be a hard worker. The employer might prefer candidates with good references, or an advanced degree, [\*883] on the theory that obtaining those things will be easier for the good type than the bad type.¶ Let us provide a little more structure to our analysis before describing our preferred mechanisms. Suppose that the president must choose a policy that will affect national security and civil liberties; this might include asking Congress to authorize him to engage in conduct like wiretapping or the use of military force. He makes this choice at the start of his first term, and the actual effect of his choice -- on national security and civil liberties -- will not be revealed to the public until after the next election. Terrorist attacks during the first term do not necessarily prove that he chose the wrong policies; nor does the absence of terrorist attacks during the first term prove that he chose the right policies. Only later will it become clear whether the president chose the optimal policies, perhaps many decades later. Thus, the public must vote for or against the president on the basis of the policy choice itself, not on the basis of its effect on their well-being. For expository convenience, we will assume that the president actually does make the optimal policy choice and that his problem is one of convincing the public that he has done so. Presidents who, for whatever reason, knowingly choose policies that the public would reject (if fully informed) obviously do not want to convince the public that this is what they are doing.¶ Our focus, then, is how the president who chooses the optimal policy, given the information available to him and the relevant institutional constraints, might use some additional mechanism to enhance the credibility of his claim that he chose the best policy. In the next Part, we will address why our current Madisonian system does not already solve the problem of executive credibility. In Part IV, we will analyze some mechanisms by which presidents can bootstrap themselves into credibility.¶ III. Madisonian Monitoring¶ In the standard separation of powers theory attributed to Madison, the executive's credibility dilemma is ameliorated by the separation of powers and institutional competition, which produce monitoring or oversight of executive discretion. Although the Madisonian system is not usually justified as a means of enhancing the executive's credibility, that is a byproduct of the system: if checks and balances discourage ill-motivated persons from running for office, or force them to adopt public-spirited policies once in office, then the executive's claims about his policies will be credible. Congressional and judicial oversight of executive action, on this account, will ensure that the executive exercises discretion only as directed by voter-principals, [\*884] acting through legislators who are simultaneously agents (of the voters) and principals (of the executive).¶ This account is no longer adequate, if it ever was. Legislators and judges are, for the most part, unable to effectively oversee or monitor the executive, especially in the domains of foreign policy and national security. As a result, they are forced to make the difficult choice of granting discretion that an ill-motivated executive would abuse, or withholding discretion that a well-motivated executive would use for good.¶ We do not suggest that the Madisonian system has entirely failed, only that it has partly failed, and that to the extent it has failed the executive's credibility dilemma becomes more acute. We will examine some of the principal institutional problems, beginning with legislative oversight and then turning to the courts.¶ A. Congress¶ In the Madisonian vision, legislators are simultaneously principals of the president, who is supposed to execute the statutes that legislators enact, and are also institutional competitors of the president, who has freestanding constitutional powers beyond the execution of statutes. Voters elect legislators, who either transmit voters' exogenously determined policy preferences to the executive through statutes or (in a deliberative conception of Madisonianism) refine public preferences through reasoned discussion and then instruct the executive accordingly. n41 We are agnostic on the question of whether the preference-based or deliberative version of the Madisonian vision is more persuasive, or exegetically more faithful to the Madison of the Federalist Papers. In either case, what matters here is that the combination of principal-agent relationships with institutional rivalry is supposed to produce valuable byproducts for the polity as a whole. Legislators have an interest in monitoring the president, not only to ensure that he faithfully executes the statutes they enact, but also to ensure that executive power does not swell beyond its constitutionally prescribed bounds and destroy the separation of legislative and executive powers.¶ Whether or not this picture was ever realistic, it is no longer so today. Many institutional factors hamper effective legislative monitoring of executive discretion. Consider the following problems. [\*885] ¶ 1. Information asymmetries.¶ Monitoring the executive requires expertise in the area being monitored. In many cases, Congress lacks the information necessary to monitor discretionary policy choices by the executive. Although the committee system has the effect, among others, of generating legislative information and expertise, n42 and although Congress has a large internal staff, there are domains in which no amount of legislative expertise suffices for effective oversight. Prime among these are areas of foreign policy and national security. Here legislative expertise is beside the point, because the legislature lacks the raw information that experts need to make assessments.¶ The problem would disappear if legislators could cheaply acquire information from the president, but they cannot. One obstacle is a suite of legal doctrines protecting executive secrecy and creating deliberative privileges n43 -- doctrines which may or may not be justified from some higher-order systemic point of view as means for producing optimal deliberation within the executive branch. Although such privileges are waivable, the executive often fears to set a bad institutional precedent. Another obstacle is the standard executive claim that Congress leaks like a sieve, so that sharing secret information with legislators will result in public disclosure. The credibility dilemma becomes most acute when, as in the recent controversy over surveillance by the National Security Agency, the executive claims that the very scope or rationale of a program cannot be discussed with Congress, because to do so would vitiate the very secrecy that makes the program possible and beneficial. In any particular case the claim might be right or wrong; legislators have no real way to judge, and they know that the claim might be made either by a well-motivated executive or an ill-motivated executive, albeit for very different reasons.¶ 2. Collective action problems.¶ Executive officials worry that, with many legislators on select intelligence committees, someone is bound to leak and it will be difficult to pinpoint the source. Aware of the relative safety that the numbers give them, leakers are all the more bold. This is an example of a larger problem, arising from the fact that there are many more legislators than top-level executive officials. Compared to the executive branch, [\*886] Congress finds it more costly to coordinate and to undertake collective action (such as the detection and punishment of leakers). To be sure, the executive too is a "they," not an "it." Much of what presidents do is to arbitrate internal conflicts among executive departments and to try to aggregate competing views into coherent policy over time. As a comparative matter, however, the contrast is striking: the executive can act with much greater unity, force, and dispatch than can Congress, which is chronically hampered by the need for debate and consensus among large numbers. This comparative advantage is a principal reason why Congress enacts broad delegating statutes in the first place, especially in domains touching on foreign policy and national security. In these domains, and elsewhere, the very conditions that make delegation attractive also hamper congressional monitoring of executive discretion under the delegation.¶ There may or may not be offsetting advantages to Congress's large numbers; perhaps the very size and heterogeneity of Congress make it a superior deliberator, whereas the executive branch is prone to suffer from various forms of groupthink. n44 But there are clear disadvantages to large numbers, insofar as monitoring executive discretion is at issue. From the standpoint of individual legislators, monitoring is a collective good. If rational and self-interested, each legislator will attempt to free-ride on the production of this good, and monitoring will be inefficiently underproduced. n45 More broadly, the institutional prerogatives of Congress are also a collective good. n46 Individual legislators may or may not be interested in protecting the institution of Congress or the separation of legislative from executive power; much depends on legislators' time horizons or discount rate, the expected longevity of a legislative career, and so forth. But it is clear that protection of legislative prerogatives will be much less in an institution composed of hundreds of legislators coming and going than if Congress were a single person. [\*887] ¶ 3. "Separation of parties, not powers." n47¶ Congress is, among other things, a partisan institution. Political scientists debate whether it is principally a partisan institution, or even exclusively so. n48 But Madison arguably did not envision partisanship in anything like its modern sense. n49 Partisanship undermines the separation of powers during periods of unified government. n50 Where the same party controls both the executive branch and Congress, real monitoring of executive discretion rarely occurs, at any rate far less than in an ideal Madisonian system. Partisanship may enhance monitoring during periods of divided government, as one house of Congress, say, investigates a president of the other party. However, monitoring is arguably most necessary during periods of unified government, because Congress is most likely to enact broad delegations when the President holds similar views; n51 and in such periods monitoring is least likely to occur. n52 The Congress of one period may partially compensate by creating institutions to ensure bipartisan oversight in future periods -- consider the statute that gives a partisan minority of certain congressional committees power to subpoena documents from the executive, albeit only nonprivileged documents n53 -- but these are palliatives. Under unified government, congressional leaders of the [\*888] same party as the president have tremendous power to frustrate effective oversight by the minority party.¶ 4. The limits of congressional organization.¶ Congress as a collective body has attempted, in part, to overcome these problems through internal institutional arrangements. Committees and subcommittees specialize in a portion of the policy space, such as the armed forces or homeland security, thereby relieving members of the costs of acquiring and processing information (at least if the committee itself maintains a reputation for credibility). n54 Intelligence committees hold closed sessions and police their members to deter leaks (although the sanctions that members of Congress can apply to one another are not as strong as the sanctions a president can apply to a leaker in the executive branch). Large staffs, both for committees and members, add expertise and monitoring capacity. And interest groups can sometimes be counted upon to sound an alarm when the executive harms their interests. n55¶ Overall, however, these arrangements are not fully adequate, especially in domains of foreign policy and national security, where the scale of executive operations is orders of magnitude larger than the scale of congressional operations. Congress's whole staff, which must (with the help of interest groups) monitor all issues, runs to some 30,000 persons. n56 As of 2005, the executive branch had some 2.6 million civilian employees, n57 in addition to almost 1.4 million in the active armed forces. n58 The sheer mismatch between the scale of executive operations and the congressional capacity for oversight, even aided by interest groups or by leakers within the bureaucracy, is daunting. Probably Congress is already at or near the limits of its monitoring capacity at its current size and budget. [\*889] ¶ 5. Congressional motivation and credibility.¶ Like the executive, Congress has a credibility problem. Members of Congress may be well motivated or ill motivated; the public does not know. Thus, when Congress passes a resolution criticizing presidential action or refuses to delegate power that he seeks, observers do not know whether Congress or the president is right. Ill-motivated members of Congress will constrain public-spirited presidents; thus the Madisonian cure for the problem of executive credibility could be worse than the disease.¶ Even if members of Congress are generally well motivated, Congress has a problem of institutional credibility that the president lacks. Although a voter might trust the member of Congress for whom she voted because she knows about his efforts on his district's behalf, she will usually know nothing about other members of Congress, so when her representative is outvoted, she might well believe that the other members are ill motivated. And, with respect to her own representative, he will often lack credibility compared to the president because he has much less information. Further, the reputation of congressional leaders is only very loosely tied to the reputation of the institution, while there is a closer tie between the president's reputation and the presidency. As a result, Congress is likely to act less consistently than the president, further reducing its relative credibility. Congressional lack of credibility undermines its ability to constrain the president: Congress can monitor the president and tell the public that the president has acted properly or improperly, but if the public does not believe Congress, then Congress's power to check the president is limited.¶ We neither make, nor need to make, any general empirical claim that Congress has no control over executive discretion. That is surely not the case; there is a large debate, or set of related debates, about the extent of congressional dominance. n59 We have reviewed the institutional problems piecemeal; perhaps some of them are mutually offsetting, although we do not see any concrete examples. Our assertion is just that there is at least a real gap, and during emergencies and wars [\*890] an even larger gap, between the extent of executive discretion and legislative capacity for monitoring. It is hard to say how great that gap is, but we know of no one who thinks it is nonexistent. Within that gap, the dilemma of executive credibility arises. To the extent that legislators cannot monitor the executive's exercise of discretion, they must either withhold discretion from an executive who might be well motivated, or grant discretion to an executive who might be ill motivated.¶ B. Courts¶ Similar problems afflict judicial oversight of the executive.¶ 1. Information asymmetries.¶ The gap between the executive and the judiciary, in information and expertise, is even wider than between the executive and Congress. Whereas many legislators have a narrowly defined field of policy expertise, particularly in the House, federal judges are mostly generalists, barring a few specialized courts. Furthermore, the partial insulation from current politics that federal judges enjoy, by virtue of life tenure and salary protection, brings with it a kind of informational impoverishment. n60 Legislators, who must please other people at least some of the time, interact with the outside world far more systematically than generalist judges, whose main source of information is the briefs and arguments of litigants. The credibility dilemma thus appears quite acutely in judicial proceedings. When the executive says that resolving a plaintiff's claim would require disclosure of "state secrets," n61 with dangerous consequences for national security, judges know that either an ill-motivated or a well-motivated executive might be making the claim and that they have no easy means to assess whether the claim is credible.¶ 2. Collective action problems and decentralization.¶ If congressional monitoring of executive discretion is hampered by collective action problems, judicial monitoring is hampered by a [\*891] similar condition, the decentralized character of the federal judiciary. The judiciary really is a "they," not an "it," and is decentralized along mainly geographic lines. Different judges on different courts will have different prior estimates of the executive's credibility, and hence different views of the costs and benefits of oversight and of the appropriate level of monitoring. The Supreme Court is incapable of fully resolving these structural conflicts. Because the Court presides over a large institutional system and lacks the capacity to review more than a fraction of cases submitted to it, its role is restricted by necessity to the declaration of general principles of law and episodic, ad hoc intervention in the system. n62¶ 3. The legitimacy deficit.¶ In the federal system, appointed judges are not overtly partisan, though they are sometimes covertly so. n63 The very condition that enables this relative lack of overt politicization -- that federal judges are, at least in one familiar conception, legal technocrats appointed for their expertise rather than elected on a partisan basis -- also creates a serious legitimacy deficit for the judiciary, understanding legitimacy in a strictly sociological sense. n64 Aroused publics concerned about issues such as national security sometimes have little tolerance for robust judicial oversight of executive discretion, which can always be condemned as "activism" by "unelected judges." This charge sometimes succeeds and sometimes fails, but for the judges it is always a concern that acts as a drag on attempts to monitor executive behavior.¶ 4. Judicial credibility.¶ Judges rely on executive officials to carry out their orders and Congress to fund them, and thus ultimately rely on the public to impose sanctions on the political branches when the political branches do not obey a court order. But the public will support the judiciary [\*892] only if the public believes that the judiciary is well motivated rather than ill motivated. Such is often the case, but the credibility of judges is not infinite. n65 Lingering public suspicion of elite decisionmaking places a cap on judicial credibility, and indeed the evidence suggests that judges are often motivated by ideology, at least when it comes to opinion assignment. n66 Thus, in extreme cases, as between a presidential determination that an emergency requires a course of action and a judge's claim to the contrary, the public might well believe the president. n67¶ Here too, we do not claim that judicial oversight is a total failure. Doctrinal lawyers focus, sometimes to excess, on a handful of great cases in which judges have checked or constrained discretionary executive action, even in domains involving foreign policy or national security. Cases such as Youngstown, n68 the Pentagon Papers case, n69 and recently Hamdan n70 head this list. Undoubtedly, however, there is a [\*893] large gap between executive discretion and judicial capacities, or even between executive discretion and the sum of congressional and judicial capacities working in tandem. In times of emergency, especially, both Congress and the judiciary defer to the executive. n71 Legislators and judges understand that the executive's comparative institutional advantages in secrecy, force, and unitariness are all the more useful during emergencies, so that it is worthwhile transferring more discretion to the executive even if it results in an increased risk of executive abuse. The result is that cases such as the ones we have listed are the exception, not the rule, at least during the heat of the emergency.¶ C. The Madisonian System and the Well-Motivated Executive¶ The Madisonian system of oversight has not totally failed. Sometimes legislators overcome the temptation to free ride; sometimes they invest in protecting the separation of powers or legislative prerogatives. Sometimes judges review exercises of executive discretion, even during emergencies. But often enough, legislators and judges have no real alternative to letting executive officials exercise discretion unchecked. The Madisonian system is a partial failure; compensating mechanisms must be adopted to fill the area of slack, the institutional gap between executive discretion and the oversight capacities of other institutions. Again, the magnitude of this gap is unclear, but plausibly it is quite large; we will assume that it is.¶ It is often assumed that this partial failure of the Madisonian system unshackles and therefore benefits ill-motivated executives. This is grievously incomplete. The failure of the Madisonian system harms the well-motivated executive as much as it benefits the ill-motivated one. Where Madisonian oversight fails, the well-motivated executive is a victim of his own power. Voters, legislators, and judges will be wary of granting further discretion to an executive whose motivations are uncertain and possibly nefarious. The partial failure of Madisonian oversight thus threatens a form of inefficiency, a kind of contracting failure that makes potentially everyone, including the voters, worse off.¶ Our central question, then, is what the well-motivated executive can do to solve or at least ameliorate the problem. The solution is for the executive to complement his (well-motivated) first-order policy goals with second-order mechanisms for demonstrating credibility to other actors. We thus do not address the different question of what voters, legislators, judges, and other actors should do about an execu [\*894] tive who is ill motivated and known to be so. That project involves shoring up or replacing the Madisonian system to block executive dictatorship. Our project is the converse of this, and involves finding new mechanisms to help the well-motivated executive credibly distinguish himself as such.¶ IV. Executive Signaling: Law and Mechanisms¶ We suggest that the executive's credibility problem can be solved by second-order mechanisms of executive signaling. In the general case, well-motivated executives send credible signals by taking actions that are more costly for ill-motivated actors than for well-motivated ones, thus distinguishing themselves from their ill-motivated mimics. Among the specific mechanisms we discuss, an important subset involves executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. Commitments themselves have value as signals of benign motivations.¶ This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by "government" or government officials. In constitutional theory, it is often suggested that constitutions represent an attempt by "the people" to bind "themselves" against their own future decisionmaking pathologies, or relatedly, that constitutional prohibitions represent mechanisms by which governments commit themselves not to expropriate investments or to exploit their populations. n72 Whether or not this picture is coherent, n73 it is not the question we examine here, although some of the relevant considerations are similar. n74 We are not concerned with binding the president so that he cannot abuse his powers, but with how he might bind himself or take other actions that enhance his credibility, so that he can generate support from the public and other members of the government. [\*895] ¶ Furthermore, our question is subconstitutional: it is whether a well-motivated executive, acting within an established set of constitutional and statutory rules, can use signaling mechanisms to generate public trust. Accordingly, we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these constraints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations. In general, the solution is to engage in actions that are less costly for good types than for bad types.¶ We begin with some relevant law, then examine a set of possible mechanisms -- emphasizing both the conditions under which they might succeed and the conditions under which they might not -- and conclude by examining the costs of credibility.¶ A. A Preliminary Note on Law and Self-Binding¶ Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding. n75 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is yes, at least to the same extent that a legislature can. Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo. n76 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A [\*896] president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies.¶ More schematically, we may speak of formal and informal means of self-binding:¶ 1. The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so.¶ 2. The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding. n77 However, there may be large political costs to repealing the order. This effect does not depend on the courts' willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so, too, the executive's issuance of a self-binding order can trigger reputational costs. In such cases, repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it.¶ In what follows, we will invoke both formal and informal mechanisms. For our purposes, the distinction between the authority to engage in de jure self-binding (legally limited and well-defined) and the power to engage in de facto self-binding (broad and amorphous) is secondary. So long as policies are deliberately chosen with a view to generating credibility, and do so by constraining the president's own future choices in ways that impose greater costs on ill-motivated [\*897] presidents than on well-motivated ones, it does not matter whether the constraint is formal or informal.¶ B. Mechanisms¶ What signaling mechanisms might a well-motivated executive adopt to credibly assure voters, legislators, and judges that his policies rest on judgments about the public interest, rather than on power maximization, partisanship, or other nefarious motives?¶ 1. Intrabranch separation of powers.¶ In an interesting treatment of related problems, Neal Katyal suggests that the failure of the Madisonian system counsels "internal separation of powers" within the executive branch. n78 Abdication by Congress means that there are few effective checks on executive power; second-best substitutes are necessary. Katyal proposes some mechanisms that would be adopted by Congress, such as oversight hearings by the minority party, but his most creative proposals are for arrangements internal to the executive branch, such as redundancy and competition among agencies, stronger employment protections for civil servants, and internal adjudication of executive controversies by insulated "executive" decisionmakers who resemble judges in many ways. n79¶ Katyal's argument is relevant because the mechanisms he discusses might be understood as signaling devices, but his overall approach is conceptually flawed on two grounds. First, the assumption that second-best constraints on the executive should reproduce the Madisonian separation of powers within the executive branch is never defended. The idea seems to be that this is as close as we can get to the first-best, while holding constant everything else in our constitutional order. But the general theory of second-best states that approaching as closely as possible to the first-best will not necessarily be the preferred strategy; n80 the best approach may be to adjust matters on other margins as well, in potentially unpredictable ways. If the Madisonian system has failed in the ways Katyal suggests, the best compensating [\*898] adjustment might be, for all we know, to switch to a parliamentary system. (We assume that no large scale changes of this sort are possible, whereas Katyal seemingly assumes that they are, or at least does not make clear his assumptions in this regard.) Overall, Katyal's view has a kind of fractal quality; each branch should reproduce within itself the very same separation of powers structure that also describes the whole system, but it is not explained why the constitutional order should be fractal.¶ Second, Katyal's proposals for internal separation of powers are self-defeating: the motivations that Katyal ascribes to the executive are inconsistent with the executive adopting or respecting the prescriptions Katyal recommends. n81 Katyal never quite says so explicitly, but he clearly envisions the executive as a power-maximizing actor, in the sense that the president seeks to remove all constraints on his current choices. n82 Such an executive would not adopt or enforce the internal separation of powers to check himself. Executive signaling is not, even in principle, a solution to the lack of constraints on a power-maximizing executive in the sense Katyal implicitly intends. Although an ill-motivated executive might bind himself to enhance his strategic credibility, as explained above, he would not do so in order to restore the balance of powers. Nor is it possible, given Katyal's premise of legislative passivity or abdication, that Congress would force the internal separation of powers on the executive. In what follows, we limit ourselves to proposals that are consistent with the motivations, beliefs, and political opportunities that we ascribe to the well-motivated executive, to whom the proposals are addressed. This limitation ensures that the proposals are not self-defeating, whatever their other drawbacks.¶ The contrast here must not be drawn too simply. A well-motivated executive, in our sense, would attempt to increase his power if fully informed voters would want him to do so. The very point of demonstrating credibility is to allow voters and legislators to increase the discretionary authority of the executive, where all will be made better off by doing so. Scholars such as Katyal, who implicitly distrust the executive, however, do not subscribe to this picture of executive motivations. Rather, they see the executive as an unfaithful agent of the voters; the executive attempts to maximize his power even where fully informed [\*899] voters would prefer otherwise. An actor of that sort will have no incentive to adopt proposals intended to constrain that sort of actor.¶ 2. Independent commissions.¶ We now turn to some conceptually coherent mechanisms of executive signaling. Somewhat analogously to Katyal's idea of the internal separation of powers, a well-motivated executive might establish independent commissions to review policy decisions, either before or after the fact. Presidents do this routinely, especially after a policy has had disastrous outcomes, but sometimes beforehand as well. Independent commissions are typically blue-ribbon and bipartisan. n83¶ We add to this familiar process the idea that the President might gain credibility by publicly committing or binding himself to give the commission authority on some dimension. For example, the president might publicly promise to follow the recommendations of such a commission, or to allow the commission to exercise de facto veto power over a policy decision before it is made, or might promise before the policy is chosen that the commission will be given power to review its success after the fact. To be sure, there will always be some wiggle room in the terms of the promise, but that is true of almost all commitments, which raise the costs of wiggling out even if they do not completely prevent it.¶ Consider whether George W. Bush's credibility would have been enhanced had he appointed a blue-ribbon commission to examine the evidence for weapons of mass destruction in Iraq before the 2003 invasion, and publicly promised not to invade unless the commission found substantial evidence of their existence. Bush would have retained his preexisting legal authority to order the invasion even if the commission found the evidence inadequate, but the political costs of doing so would have been large. Knowing this, and knowing that Bush [\*900] shared that knowledge, the public could have inferred that Bush's professed motive -- elimination of weapons of mass destruction -- was also his real motive. Public promises that inflict reputational costs on badly motivated behavior help the well-motivated executive to credibly distinguish himself from the ill-motivated one.¶ The more common version of this tactic is to appoint commissions after the relevant event, as George W. Bush did to investigate the faulty reports by intelligence agencies that Iraq possessed weapons of mass destruction. n84 If the president appoints after-the-fact commissions, the commissions can enhance his credibility for the next event -- by showing that he will be willing, after that event, to subject his statements to scrutiny by public experts. Here, however, the demonstration of credibility is weaker, because there is no commitment to appoint any after-the-fact commissions in the future, but merely a plausible inference that the president's future behavior will track his past behavior.¶ 3. Bipartisan appointments.¶ In examples of the sort just mentioned, the signaling arises from public position-taking. The well-motivated executive might produce similar effects through appointments to office. n85 A number of statutes require partisan balance on multimember commissions; presidents might approve them because they allow the president to commit to a policy that legislators favor, thus encouraging legislators to increase the scope of the delegation in the first place. n86 For similar reasons, presidents may consent to restrictions on the removal of agency officials, [\*901] because the restriction enables the president to commit to giving the agency some autonomy from the president's preferences. n87¶ Similar mechanisms can work even where no statutes are in the picture. As previously mentioned, during World War II, FDR appointed Republicans to important cabinet positions, making Stimson his Secretary of War. n88 Clinton appointed William Cohen, a moderate Republican, as Secretary of Defense in order to shore up his credibility on security issues. Bipartisanship of this sort might improve the deliberation that precedes decisions, by impeding various forms of herding, cascades, and groupthink; n89 however, we focus on its credibility-generating effects. By (1) expanding the circle of those who share the president's privileged access to information, (2) ensuring that policy is partly controlled by officials whose preferences differ from the president's, and (3) inviting a potential whistleblower into the tent, bipartisanship helps to dispel the suspicion that policy decisions rest on partisan motives or extreme preferences, which in turn encourages broader delegations of discretion from the public and Congress.¶ A commitment to bipartisanship is only one way in which appointments can generate credibility. Presidents might simply appoint a person with a reputation for integrity, as when President Nixon appointed Archibald Cox as special prosecutor (although plausibly Nixon did so because he was forced to do so by political constraints, rather than as a tactic for generating credibility). A person with well-known preferences on a particular issue, even if not of the other party or widely respected for impartiality, can serve as a credible whistleblower on that issue. Thus presidents routinely award cabinet posts to leaders of subsets of the president's own party, leaders whose preferences are known to diverge from the president's on the subject. One point of this is to credibly assure the relevant interest groups that the president will not deviate (too far) from their preferences.¶ More generally, the decision by presidents to bring into their administrations members of other parties, or persons with a reputation for bipartisanship and integrity, illustrates the formation of domestic [\*902] coalitions of the willing. Presidents can informally bargain around the formal separation of powers n90 by employing subsets of Congress, or of the opposing party, to generate credibility while maintaining a measure of institutional control. FDR was willing to appoint Knox and Stimson, but not to give the Republicans in Congress a veto. Truman was willing to ally with Arthur Vandenberg but not with all the Republicans; Clinton was willing to appoint William Cohen but not Newt Gingrich. George W. Bush likewise made a gesture towards credibility by briefing members of the Senate Intelligence Committee -- including Democrats -- on the administration's secret surveillance program(s), which provided a useful talking point when the existence of the program(s) was revealed to the public.¶ 4. Counter-partisanship.¶ Related to bipartisanship is what might be called counter-partisanship: presidents have greater credibility when they choose policies that cut against the grain of their party's platform or their own presumed preferences. n91 Only Nixon could go to China, and only Clinton could engineer welfare reform. Voters and publics rationally employ a political heuristic: the relevant policy, which voters are incapable of directly assessing, must be highly beneficial if it is chosen by a president who is predisposed against it by convictions or partisan loyalty. n92 Accordingly, those who wish to move U.S. terrorism policy towards greater security and less liberty might do well to support the election of a Democrat. n93 By the same logic, George W. Bush is widely suspected [\*903] of nefarious motives when he rounds up alleged enemy combatants, but not when he creates a massive prescription drug benefit.¶ Counter-partisanship can powerfully enhance the president's credibility, but it depends heavily on a lucky alignment of political stars. A peace-loving president has credibility when he declares a military emergency but not when he appeases; a belligerent president has credibility when he offers peace but not when he advocates military solutions. A lucky nation has a well-motivated president with a belligerent reputation when international tensions diminish (Ronald Reagan) and a president with a pacific reputation when they grow (Abraham Lincoln, who opposed the Mexican War). But a nation is not always lucky.¶ 5. Transparency.¶ The well-motivated executive might commit to transparency as a way to reduce the costs to outsiders of monitoring his actions. n94 The FDR strategy of inviting potential whistleblowers from the opposite party into government is a special case of this; the implicit threat is that the whistleblower will make public any evidence of partisan motivations. The more ambitious case involves actually exposing the executive's decisionmaking processes to observation. To the extent that an ill-motivated executive cannot publicly acknowledge his motivations or publicly instruct subordinates to take them into account in decisionmaking, transparency will tend to exclude those motivations from the decisionmaking process. The public will know that only a well-motivated executive would promise transparency in the first place, and the public can therefore draw an inference to credibility.¶ Credibility is especially enhanced when transparency is effected through journalists with reputations for integrity or with political [\*904] preferences opposite to those of the president. Thus, George W. Bush gave Bob Woodward unprecedented access to White House decisionmaking and perhaps even to classified intelligence, n95 with the expectation that the material would be published. This sort of disclosure to journalists is not real-time transparency -- no one expects meetings of the National Security Council to appear on C-SPAN -- but the anticipation of future disclosure can have a disciplining effect in the present. By inviting this disciplining effect, the administration engages in signaling in the present through (the threat of) future transparency.¶ There are complex tradeoffs here, because transparency can have a range of harmful effects. As far as process is concerned, decisionmakers under public scrutiny may posture for the audience, may freeze their views or positions prematurely, and may hesitate to offer proposals or reasons for which they can later be blamed if things go wrong. n96 As for substance, transparency can frustrate the achievement of programmatic or policy goals themselves. Where security policy is at stake, secrecy is sometimes necessary to surprise enemies or to keep them guessing. Finally, one must take account of the incentives of the actors who expose the facts -- especially journalists who might reward sources who give them access by portraying their decisionmaking in a favorable light. n97¶ We will take up the costs of credibility shortly. n98 In general, however, the existence of costs does not mean that the credibility-generating mechanisms are useless. Quite the contrary: where the executive uses such mechanisms, voters and legislators can draw an inference that the executive is well motivated, precisely because the existence [\*905] of costs would have given an ill-motivated executive an excuse not to use those mechanisms.¶ 6. Multilateralism.¶ Another credibility-generating mechanism for the executive is to enter into alliances or international institutions that subject foreign policy decisions to multilateral oversight. Because the information gap between voters and legislators, on the one hand, and the executive on the other, is especially wide in foreign affairs, there is also wide scope for suspicion and conspiracy theories. If the president undertakes a unilateral foreign policy, some sectors of the domestic public will be suspicious of his motives. All recent presidents have faced this problem. In the case of George W. Bush, as we suggested, many have questioned whether the invasion of Iraq was undertaken to eliminate weapons of mass destruction, or to protect human rights, or instead to safeguard the oil supply, or because the president has (it is alleged) always wanted to invade Iraq because Saddam Hussein attempted to assassinate his father. n99 In the case of Bill Clinton, some said that the cruise missile attack on Osama bin Laden's training camp in Afghanistan was a "wag the dog" tactic intended to distract attention from Clinton's impeachment. n100¶ A public commitment to multilateralism can close or narrow the credibility gap. Suppose that a group of nations have common interests on one dimension -- say, security from terrorism or from proliferation of nuclear weapons -- but disparate interests on other dimensions -- say, conflicting commercial or political interests. Multilateralism can be understood as a policy that in effect requires a supermajority vote -- or even a unanimous vote -- of the group to license intervention. The supermajority requirement ensures that only interventions promoting the security interest common to the group will be approved, while interventions that promote some political agenda not shared by the requisite supermajority will be rejected. Knowing this, domestic audiences can infer that interventions that gain multilateral approval do not rest on disreputable motives.¶ It follows that multilateralism can be either formal or informal. Action by the United Nations Security Council can be taken only under formal voting rules that require unanimous agreement of the permanent members. n101 Informally, in the face of increasing tensions [\*906] with Iran, George W. Bush's policy has included extensive multilateral consultations and a quasicommitment not to intervene unilaterally. Knowing that his credibility is thin after Iraq, Bush has presumably adopted this course in part to reassure domestic audiences that there is no nefarious motive behind an intervention, should one occur.¶ It also follows that multilateralism and bipartisan congressional authorization may be substitutes, in terms of generating credibility. In both cases the public knows that the cooperators -- partisan opponents or other nations, as the case may be -- are unlikely to share any secret agenda the president may have. The substitution, however, is only partial; as we suggested in Part III, the Madisonian emphasis on bipartisan authorization has proven insufficient. The interests of parties within Congress diverge less than do the interests of different nations, which makes the credibility gain greater under multilateralism. In eras of unified government, the ability of the president's party to put a policy through Congress without the cooperation of the other party (ignoring the threat of a Senate filibuster, a weapon that the minority party often hesitates to wield) often undermines the policy's credibility even if members of the minority go along. After all, the minority members may be going along precisely because they anticipate that opposition is fruitless, in which case no inference about the policy's merits should be drawn from their approval. Moreover, even a well-motivated president may prefer, all else equal, to generate credibility through mechanisms that do not involve Congress, if concerned about delay, leaks, or obstruction by small legislative minorities. Thus Truman relied on a resolution of the United Nations Security Council n102 rather than congressional authorization to prosecute the Korean War.¶ The costs of multilateralism are straightforward. Multilateralism increases the costs of reaching decisions, because a larger group must coordinate its actions, and increases the risks of false negatives -- failure to undertake justified interventions. A president who declines to bind himself through multilateralism may thus be either ill motivated and desirous of pursuing an agenda not based on genuine security [\*907] goals, or well motivated and worried about the genuine costs of multilateralism. As usual, however, the credibility-generating inference holds asymmetrically: precisely because an ill-motivated president may use the costs of multilateralism as a plausible pretext, a president who does pursue multilateralism is more likely to be well motivated.¶ 7. Legal liability.¶ For completeness, we mention that the well-motivated executive might in principle subject himself to legal liability for actions or outcomes that only an ill-motivated executive would undertake. Consider the controversy surrounding George W. Bush's telecommunications surveillance program, which the president has claimed covers only communications in which one of the parties is overseas, not domestic-to-domestic calls. n103 There is widespread suspicion that this claim is false. n104 In a recent poll, 26 percent of respondents believed that the National Security Agency listens to their calls. n105 The credibility gap arises because it is difficult in the extreme to know what exactly the Agency is doing, and what the costs and benefits of the alternatives are.¶ Here the credibility gap might be narrowed by creating a cause of action, for damages, on behalf of anyone who can show that domestic-to-domestic calls were examined. n106 Liability would be strict, because a negligence rule -- whether the Agency exerted reasonable efforts to avoid examining the communication -- requires too much information for judges, jurors, and voters to evaluate, and would just reproduce the monitoring problems that gave rise to the credibility gap in the first place. Strict liability, by contrast, would require a much narrower factual inquiry. Crucially, a commitment to strict liability would only be made by an executive who intended to minimize the incidence of (even unintentional and nonnegligent) surveillance of purely domestic communications. [\*908] ¶ However, there are legal and practical problems here, perhaps insuperable ones. Legally, it is hardly clear that the president could, on his own authority, create a cause of action against himself or his agents to be brought in federal court. It is well within presidential authority to create executive commissions for hearing claims against the United States, for disbursing funds under benefit programs, and so on; but the problem here is that there might be no pot of money from which to fund damages. The so-called Judgment Fund, out of which damages against the executive are usually paid, is restricted to statutorily specified lawsuits. n107 Even so, statutory authorization for the president to create the strict liability cause of action would be necessary, n108 as we discuss shortly. n109 Practically, it is unclear whether government agents can be forced to "internalize costs" through money damages in the way that private parties can, at least if the treasury is paying those damages. n110 And if it is, voters may not perceive the connection between governmental action and subsequent payouts in any event.¶ 8. The news conference.¶ Presidents use news conferences to demonstrate their mastery of the details of policy. Many successful presidents, like FDR, conducted numerous such conferences. n111 Ill-motivated presidents will not care [\*909] about policy if their interest is just holding power for its own sake. Thus, they would regard news conferences as burdensome and risky chores. The problem is that a well-motivated president does not necessarily care about details of policy, as opposed to its broad direction, and journalists might benefit by tripping up a president in order to score points. Reagan, for example, did not care about policy details, but is generally regarded as a successful president. n112 To make Reagan look good, his handlers devoted considerable resources trying to prepare him for news conferences, resources that might have been better used in other ways. n113¶ 9. "Precommitment politics." n114¶ We have been surveying mechanisms that the well-motivated executive can employ once in office. However, in every case the analysis can be driven back one stage to the electoral campaign for executive office. During electoral campaigns, candidates for the presidency take public positions that partially commit them to subsequent policies, by raising the reputational costs of subsequent policy changes. Under current law, campaign promises are very difficult to enforce in the courts. n115 But even without legal enforcement, position-taking helps to separate the well-motivated from the ill-motivated candidate, because the costs to the former of making promises of this sort are higher. To be sure, many such promises are vacuous, meaning that voters will not sanction a president who violates them, but some turn out to have real [\*910] force, as George H.W. Bush discovered when he broke his clear pledge not to raise taxes. n116¶ 10. The possibility of statutory commitments.¶ So far, we have proceeded on the austere assumption that no constitutional or statutory changes are allowed. We have confined ourselves to credibility-generating mechanisms that arise by executive signaling -- commitments that the executive could initiate by legal order or by public position-taking, without the permission of other institutions.¶ However, this restriction may stack the deck too heavily against the solutions we suggest. A central example of the credibility problem, after all, arises when voters and legislators want to enact statutes transferring further discretion to a well-motivated executive, but are not sure that that is the sort of executive they are dealing with. In such cases, there is no reason to exclude the possibility that the executive might ask Congress to provide him with statutory signaling mechanisms that he would otherwise lack. In the surveillance example, Congress is currently considering amendments to relevant statutes. n117 It is easy to imagine a well-motivated executive proposing that Congress explicitly ratify his authority to examine overseas communications, while also proposing -- as a demonstration of credibility -- that the ratification be bundled with oversight mechanisms, review by an independent agency or special court, or a statutory cause of action imposing strict liability for prohibited forms of surveillance.¶ C. The Costs of Credibility¶ The mechanisms we have discussed generate credibility, which is a benefit for voters and legislators who would like to increase the discretion of the well-motivated executive. What of the cost side? In each case, there are costs to generating credibility, although the character and magnitude of the costs differ across mechanisms.¶ Signaling is by definition costly. The presence of a cost is what distinguishes ill-motivated mimics, who are unwilling to incur the cost, from genuine good types. In this context, the inherent costliness of signaling means that the president must use time or resources to establish credibility with the public when, if voters were perfectly informed, that time and those resources could be expended directly on [\*911] determining and implementing policy. But costs can be reflected in more subtle ways as well. Many of these mechanisms rely on the participation of agents who themselves may be ill motivated. Whistleblowers can leak information in order to damage the administration or cry wolf when there is no partisanship, merely substantive disagreement. Journalists might produce images distorted by their own biases and strategic agendas. Miscellaneous costs arise in other ways as well. Multilateralism raises decision costs, transparency can harm deliberation, and so on. n118¶ Often the basic tradeoff facing presidents is that credibility is gained at the expense of control. Mechanisms such as creating independent commissions and pursuing multilateralism illustrate that to gain credibility, presidents must surrender part of their control over policy choices, partially constraining executive discretion in the present in return for more trust, which will then translate into more discretion in the future. The loss of control is a cost, even to the well-motivated executive. To be sure, the well-motivated executive may be more willing than the ill-motivated one to trade some loss of present control for increased future discretion, if the ill-motivated executive tends to be myopic or to discount the future more heavily. However, it is not clear that is so -- many terrifying dictators have been quite far-sighted -- and in any event everything depends upon the particulars of the case.

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Aff turns the K- another terrorist attack would cause more violence- 9/11 proves

#### Only voting aff is an embracment of non violence because we prevent wars.

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#### Legal restraints on use of force are the best check against militarism---rejecting all intervention goes too far and won’t be accepted

Falk 1 (Richard, Professor Emeritus of International Law at Princeton University, "Defining a Just War", The Nation, 10-11, http://www.thenation.com/article/defining-just-war)

I. ANTIWAR/PACIFIST APPROACH The pacifist position opposing even limited military action overlooks the nature of the threat and is thus irrelevant to meeting the central challenge of restoring some sense of security among our citizenry and in the world generally. Also, in the current setting, unlike in the civil rights movement and the interventionist conflicts of the cold war era (especially Vietnam), antiwar and pacifist stands possess little or no cultural resonance with the overwhelming majority of Americans. It may be that at later stages of the war this assessment will prove to have been premature, and even now Quaker, Christian, Gandhian and Buddhist forms of pacifism offer a profound critique of wars. These critiques should be seriously heeded, since they lend weight to the the view that the use of force should be marginal and kept to an absolute minimum. Certainly the spiritually motivated pacifist witness can be both inspirational and instructive, and help to mitigate and interrogate militarist postures. Another form of antiwar advocacy rests on a critique of the United States as an imperialist superpower or empire. This view also seems dangerously inappropriate in addressing the challenge posed by the massive crime against humanity committed on September 11. Whatever the global role of the United States--and it is certainly responsible for much global suffering and injustice, giving rise to widespread resentment that at its inner core fuels the terrorist impulse--it cannot be addressed so long as this movement of global terrorism is at large and prepared to carry on with its demonic work. These longer-term concerns--which include finding ways to promote Palestinian self-determination, the internationalization of Jerusalem and a more equitable distribution of the benefits of global economic growth and development--must be addressed. Of course, much of the responsibility for the failure to do so lies with the corruption and repressive policies of governments, especially in the Middle East, outside the orbit of US influence. A distinction needs to be drawn as persuasively as possible between inherently desirable lines of foreign policy reform and retreating in the face of terrorism. II. LEGALIST/UN APPROACH International treaties that deal with terrorism on civil aircraft call for cooperation in apprehending suspects and allow for their subsequent indictment and prosecution by national courts. Such laws could in theory be invoked to capture Osama bin Laden and his leading associates and charge them with international crimes, including crimes against humanity. A tribunal could be constituted under the authority of the United Nations, and a fair trial could then be held that would avoid war and the ensuing pain, destruction and associated costs. The narrative of apocalyptic terrorism could be laid before the world as the crimes of Nazism were bared at Nuremberg. But this course is unlikely to deal effectively with the overall threat. A public prosecution would give bin Laden and associates a platform to rally further support among a large constituency of sympathizers, and conviction and punishment would certainly be viewed as a kind of legal martyrdom. It would be impossible to persuade the United States government to empower such a tribunal unless it was authorized to impose capital punishment, and it is doubtful that several of the permanent members of the Security Council could be persuaded to allow death sentences. Beyond this, the evidence linking bin Laden to the September 11 attacks and other instances of global terrorism may well be insufficient to produce an assured conviction in an impartial legal tribunal, particularly if conspiracy was not among the criminal offenses that could be charged. European and other foreign governments are unlikely to be willing to treat conspiracy as a capital crime. And it strains the imagination to suppose that the Bush Administration would relinquish control over bin Laden to an international tribunal. On a more general level, it also seems highly improbable that the US government can be persuaded to rely on the collective security mechanisms of the UN even to the unsatisfactory degree permitted during the Gulf War. To be sure, the UN Security Council has provided a vague antiterrorist mandate as well as an endorsement of a US right of response, but such legitimizing gestures are no more than that. For better and worse, the United States is relying on its claimed right of self-defense, and Washington seems certain to insist on full operational control over the means and ends of the war that is now under way. Such a reliance is worrisome, given past US behavior and the somewhat militaristic character of both the leadership in Washington and the broader societal orientation in America toward the use of overwhelming force against the nation's enemies. Yet at this stage it is unreasonable to expect the US government to rely on the UN to fulfill its defensive needs. The UN lacks the capability, authority and will to respond to the kind of threat to global security posed by this new form of terrorist world war. The UN was established to deal with wars among states, while a transnational actor that cannot be definitively linked to a state is behind the attacks on the United States. Al Qaeda's relationship to the Taliban regime in Afghanistan is contingent, with Al Qaeda being more the sponsor of the state rather than the other way around. Undoubtedly, the world would be safer and more secure with a stronger UN that had the support of the leading states in the world. The United States has for years acted more to obstruct than to foster such a transformation. Surely the long-term effects of this crisis should involve a new surge of support for a reformed UN that would have independent means of financing its operations, with its own peacekeeping and enforcement capabilities backed up by an international criminal court. Such a transformed UN would generate confidence that it could and would uphold its charter in an evenhanded manner that treats people equally. But it would be foolish to pretend that the UN today, even if it were to enjoy a far higher level of US support than it does, could mount an effective response to the September 11 attacks. III. MILITARIST APPROACH Unlike pacifism and legalism, militarism poses a practical danger of immense proportions. Excessive reliance on the military will backfire badly, further imperiling the security of Americans and others, spreading war and destruction far afield, as well as emboldening the government to act at home in ways that weaken US democracy. So far the Bush Administration has shown some understanding of these dangers, going slowly in its reliance on military action and moving relatively cautiously to bolster its powers over those it views as suspicious or dangerous, so as to avoid the perception of waging a cultural war against Islam. The White House has itself repeatedly stressed that this conflict is unlike previous wars, that nonmilitary means are also important, that victory will come in a different way and that major battlefield encounters are unlikely to occur. Such reassurances, however, are not altogether convincing. The President's current rhetoric seems to reflect Secretary of State Colin Powell's more prudent approach, which emphasizes diplomacy and nonmilitary tactics, and restricts military action to Al Qaeda and the Taliban regime. Even here, there is room for dangerous expansion, depending on how the Al Qaeda network is defined. Some maximalists implicate twenty or more countries as supporters of terrorism. Defense Secretary Donald Rumsfeld, his deputy Paul Wolfowitz and others are definitely beating the drums for a far wider war; they seem to regard the attacks as an occasion to implement their own vision of a new world, one that proposes to rid the world of "evil" and advances its own apocalyptic vision. This vision seeks the destruction of such organizations as Hezbollah and Hamas, which have only minimal links to Al Qaeda and transnational terror, and which have agendas limited mainly to Palestinian rights of self-determination and the future of Jerusalem. These organizations, while legally responsible for terrorist operations within their sphere of concerns, but also subject to terrorist provocations, have not shown any intention of pursuing bin Laden's apocalyptic undertaking. Including such groups on the US target list will surely undermine the depth and breadth of international support and engender dangerous reactions throughout the Islamic world, and possibly in the West as well. Beyond this, there is speculation that there will be a second stage of response that will include a series of countries regarded as hostile to the United States, who are in possession of weapons of mass destruction but are not currently related to global terrorism in any significant fashion. These include Iraq, Libya and possibly even Syria, Iran and Sudan. To expand war objectives in this way would be full of risks, require massive military strikes inflicting much destruction and suffering, and would create a new wave of retaliatory violence directed against the United States and Americans throughout the world. If military goals overshoot, either by becoming part of a design to destroy Israel's enemies or to solve the problem of proliferation of weapons of mass destruction, the war against global terrorism will be lost, and badly. Just as the pacifist fallacy involves unrealistic exclusion of military force from an acceptable response, the militarist fallacy involves an excessive reliance on military force in a manner that magnifies the threat it is trying to diminish or eliminate. It also expands the zone of violence in particularly dangerous ways that are almost certain to intensify and inflame anti-Americanism. It should be kept in mind that war occasions deep suffering, and recourse to international force should be both a last resort and on as limited a scale as possible. But there is a fourth response, which has gained support among foreign policy analysts and probably a majority of Americans. IV. LIMITING MEANS AND ENDS Unlike in major wars of the past, the response to this challenge of apocalyptic terrorism can be effective only if it is also widely perceived as legitimate. And legitimacy can be attained only if the role of military force is marginal to the overall conduct of the war and the relevant frameworks of moral, legal and religious restraint are scrupulously respected. Excessive use of force in pursuing the perpetrators of September 11 will fan the flames of Islamic militancy and give credence to calls for holy war. What lent the WTC/Pentagon attack its quality of sinister originality was the ability of a fanatical political movement to take advantage of the complex fragility and vulnerability of advanced technology. Now that this vulnerability has been exposed to the world, it is impossible to insure that other extremists will not commit similar acts--even if Osama bin Laden is eliminated. The only way to wage this war effectively is to make sure that force is used within relevant frameworks of restraint. Excessive force can take several forms, like the pursuit of political movements remote from the WTC attack, especially if such military action is seen as indirectly doing the dirty work of eliminating threats to Israel's occupation of Palestinian territories and Jerusalem. Excessiveness would also be attributed to efforts to destroy and restructure regimes, other than the Taliban, that are hostile to the United States but not significantly connected with either the attack or Al Qaeda. The second, closely related problem of successfully framing a response is related to the US manner of waging war: The US temperament has tended to approach war as a matter of confronting evil. In such a view, victory can be achieved only by the total defeat of the other, and with it, the triumph of good. In the current setting, goals have not been clarified, and US leaders have used grandiose language about ending terrorism and destroying the global terrorist network. The idea of good against evil has been a consistent part of the process of public mobilization, with the implicit message that nothing less than a total victory is acceptable. What are realistic ends? Or put differently, what ends can be reconciled with a commitment to achieve an effective response? What is needed is extremely selective uses of force, especially in relation to the Taliban, combined with criminal law enforcement operations--cutting off sources of finance, destroying terrorist cells, using policing techniques abetted, to the extent necessary, by paramilitary capabilities. Also troubling is the Bush Administration's ingrained disdain for multilateralism and its determination to achieve security for the United States by military means--particularly missile defense and space weaponization. This unilateralism has so far been masked by a frantic effort to forge a global coalition, but there is every indication that the US government will insist on complete operational control over the war and will not be willing to accept procedures of accountability within the UN framework. The Administration has often said that many of the actions in this war will not be made known to the public. But an excessive emphasis on secrecy in the conduct of military operations is likely to make the uses of force more difficult to justify to those who are skeptical about US motives and goals, thus undercutting the legitimacy of the war. In building a global coalition for cooperative action, especially with respect to law enforcement in countries where Al Qaeda operates, the US government has struck a number of Faustian bargains. It may be necessary to enter into arrangements with governments that are themselves responsible for terrorist policies and brutal repression, such as Russia in Chechnya and India in Kashmir. But the cost of doing so is to weaken claims that a common antiterrorist front is the foundation of this alliance. For some governments the war against apocalyptic terrorism is an opportunity to proceed with their own repressive policies free from censure and interference. The US government should weigh the cost of writing blank checks against the importance of distinguishing its means and ends from the megaterrorist ethos that animated the September 11 attacks. There are some difficult choices ahead, including the extent to which Afghan opposition forces, particularly the Northern Alliance, should be supported in view of their own dubious human rights record. How, then, should legitimacy be pursued in the current context? The first set of requirements is essentially political: to disclose goals that seem reasonably connected with the attack and with the threat posed by those who planned, funded and carried it out. In this regard, the destruction of both the Taliban regime and the Al Qaeda network, including the apprehension and prosecution of Osama bin Laden and any associates connected with this and past terrorist crimes, are appropriate goals. In each instance, further specification is necessary. With respect to the Taliban, its relation to Al Qaeda is established and intimate enough to attribute primary responsibility, and the case is strengthened to the degree that its governing policies are so oppressive as to give the international community the strongest possible grounds for humanitarian intervention. We must make a distinction between those individuals and entities that have been actively engaged in the perpetration of the visionary program of international, apocalyptic terrorism uniquely Al Qaeda's and those who have used funds or training to advance more traditional goals relating to grievances associated with the governance of a particular country and have limited their targets largely to the authorities in their countries, like the ETA in Spain and the IRA in Ireland and Britain. Legitimacy with respect to the use of force in international settings derives from the mutually reinforcing traditions of the "just war" doctrine, international law and the ideas of restraint embedded in the great religions of the world. The essential norms are rather abstract in character, and lend themselves to debate and diverse interpretation. The most important ideas are: § the principle of discrimination: force must be directed at a military target, with damage to civilians and civilian society being incidental; § the principle of proportionality: force must not be greater than that needed to achieve an acceptable military result and must not be greater than the provoking cause; § the principle of humanity: force must not be directed even against enemy personnel if they are subject to capture, wounded or under control (as with prisoners of war); § the principle of necessity: force should be used only if nonviolent means to achieve military goals are unavailable. These abstract guidelines for the use of force do not give much operational direction. In each situation we must ask: Do the claims to use force seem reasonable in terms of the ends being pursued, including the obligation to confine civilian damage as much as possible? Such assessments depend on interpretation, but they allow for debate and justification, and clear instances of violative behavior could be quickly identified. The justice of the cause and of the limited ends will be negated by the injustice of improper means and excessive ends. Only the vigilance of an active citizenry, alert to this delicate balance, has much hope of helping this new war to end in a true victory.

### Links to politics

#### CP links to politics more

Billy Hallowell 13, writer for The Blaze, B.A. in journalism and broadcasting from the College of Mount Saint Vincent in Riverdale, New York and an M.S. in social research from Hunter College in Manhattan, “HERE’S HOW OBAMA IS USING EXECUTIVE POWER TO BYPASS LEGISLATIVE PROCESS” Feb. 11, 2013, <http://www.theblaze.com/stories/2013/02/11/heres-how-obamas-using-executive-power-to-bylass-legislative-process-plus-a-brief-history-of-executive-orders/>

“In an era of polarized parties and a fragmented Congress, the opportunities to legislate are few and far between,” Howell said. “So presidents have powerful incentive to go it alone. And they do.”¶ And the political opposition howls.¶ Sen. Marco Rubio, R-Fla., a possible contender for the Republican presidential nomination in 2016, said that on the gun-control front in particular, Obama is “abusing his power by imposing his policies via executive fiat instead of allowing them to be debated in Congress.”¶ The Republican reaction is to be expected, said John Woolley, co-director of the American Presidency Project at the University of California in Santa Barbara.¶ “For years there has been a growing concern about unchecked executive power,” Woolley said. “It tends to have a partisan content, with contemporary complaints coming from the incumbent president’s opponents.”

### Warfighting

#### 2. No link- plan still allows strikes to occur, they are just carried out by the DOD, that’s Zenko.

#### 2. US losing the WOT now – US needs to change its strategy

**Walt 7/29** ([Stephen M. Walt](http://www.foreignpolicy.com/author/Stephen%20M.%20Walt), Robert and Renée Belfer professor of international relations at Harvard University. “['They're Baaack…': The Rebirth of al Qaeda?](http://walt.foreignpolicy.com/posts/2013/07/29/theyre_baaackthe_rebirth_of_al_qaeda),” July 29, 2013, <http://walt.foreignpolicy.com/posts/2013/07/29/theyre_baaackthe_rebirth_of_al_qaeda>)

Last Friday I posted an entry on America's ["one-sided" war on terrorism](http://walt.foreignpolicy.com/posts/2013/07/26/our_one_sided_war_on_terror), arguing that the country has focused enormous efforts on deterring, thwarting, or killing suspected terrorists and hardly any effort on removing the incentives or grievances that might make someone join a terrorist organization. The very same day, Bruce Riedel of the Brookings Institution posted [an article](http://www.thedailybeast.com/articles/2013/07/26/al-qaeda-is-back.html" \t "_blank) on the Daily Beast, arguing that various al Qaeda affiliates are making a significant comeback in places like Iraq and Syria. Precisely my point. Undoubtedly, some pundits will interpret Riedel's article as evidence that the United States should have been even more aggressive and should have stayed in Iraq or Afghanistan or Yemen or wherever for as long as it took. This argument overlooks the tremendous costs of these operations -- including their degrading effects on Army performance and morale -- as well as their inherently self-defeating character. Given that opposition to foreign occupation and interference is one of the prime motivations behind terrorist activity -- especially [suicide bombings](http://www.amazon.com/gp/product/0812973380/ref=as_li_ss_tl?ie=UTF8&camp=1789&creative=390957&creativeASIN=0812973380&linkCode=as2&tag=fopo-20" \t "_blank) -- maintaining an extensive military footprint in the Arab and Islamic world is a recipe for endless war. Even more limited operations like drone strikes have been tactically effective but are strategically questionable, precisely because they give jihadi recruiters a constant pool of angry locals from which to draw and vindicate their claims that the United States is unalterably addicted to violent interference in their societies. Indeed, the real lesson of Riedel's article is that much of the so-called "war on terror" has been misguided to the point of foolishness. It was both smart and necessary to go after al Qaeda in Afghanistan, but letting Osama bin Laden slip away at Tora Bora was a [massive command failure](http://www.gpo.gov/fdsys/pkg/CPRT-111SPRT53709/html/CPRT-111SPRT53709.htm" \t "_blank). It was dumb to take on the task of nation-building in Afghanistan, and even dumber to invade Iraq in 2003. It was both immoral and counterproductive to torture captured terrorists (it tarnished America's image and didn't yield better intelligence) and obtuse not to rethink other aspects of the United States' Middle East policy. The post-9/11 TSA regime has been a colossal waste of resources that has added little to Americans' overall level of security. And vacuuming up gazillions of bytes of email and phone records merely proved that government agencies operating in secret will invariably grow like Topsy, without making Americans significantly safer. As Riedel suggests, none of these activities has prevented al Qaeda and its copycats from making a comeback. What is needed is a much more fundamental rethinking of the entire anti-terrorism campaign. As I suggested last week, part of that rethink means asking whether the United States needs to do a lot more to discredit jihadi narratives, instead of persisting with policies that make the extremists' charges sound plausible to their audiences. A second part is to keep the jihadi threat in better perspective: They are a challenge, but not a mortal threat to Americans' way of life unless the country reacts to them in ways that cause more damage to its well-being and its values than they do. Sadly, a rational ranking of costs, benefits, and threats seems to be something that the U.S. foreign-policy establishment is largely incapable of these days.

#### 3. We make drone strikres more effective- 1ac Anderson evdeience says intel is key to conduct good drone strikes, that Anderson.

#### 4. Over reliance on drones is bad- they increase anti American sentiment, limit out other stratagies, and are not a long term strategy, that’s Schwartz.

#### CIA strikes tank Yeman stability

**Rohde ’12** (David Rohde, “How Obama’s drone war is backfiring”, <http://blogs.reuters.com/david-rohde/2012/03/01/how-obamas-drone-war-is-backfiring/>, March/April issue of Foreign Policy, March 1, 2012)

When Barack Obama took the oath of office three years ago, no one associated the phrase “targeted killing” with his optimistic young presidency. In his inaugural address, the 47-year-old former constitutional law professor uttered the word “terror” only once. Instead, he promised to use technology to “harness the sun and the winds and the soil to fuel our cars and run our factories.” Oddly, technology has enabled Obama to become something few expected: a president who has dramatically expanded the executive branch’s ability to wage high-tech clandestine war. With a determination that has surprised many, Obama has embraced the CIA, expanded its powers and approved more targeted killings than any modern president. Over the last three years, the Obama administration has carried out at least 239 covert drone strikes, more than five times the 44 approved under George W. Bush. And after promising to make counterterrorism operations more transparent and rein in executive power, Obama has arguably done the opposite, maintaining secrecy and expanding presidential authority. Just as importantly, the administration’s excessive use of drone attacks undercuts one of its most laudable policies: a promising new post-9/11 approach to the use of lethal American force, one of multilateralism, transparency and narrow focus. Obama’s willingness to deploy lethal force should have come as no surprise. In a 2002 speech, Illinois State Senator Obama opposed Bush’s impending invasion of Iraq, but not all conflicts. “I don’t oppose all wars,” he said. “What I am opposed to is a dumb war.” And as president, in his December 2009 Nobel Peace Prize acceptance speech, Obama warned, “There will be times when nations — acting individually or in concert — will find the use of force not only necessary but morally justified.” Since then, he has not only sent U.S. forces into Afghanistan, Iraq and Libya, but also repeatedly approved commando raids in Pakistan and Somalia and on the high seas, while presiding over a system that unleashed hundreds of drone strikes. In a series of recent interviews, current and former administration officials outlined what could be called an “Obama doctrine” on the use of force. Obama’s embrace of multilateralism, drone strikes and a light U.S. military presence in Libya, Pakistan and Yemen, they contend, has proved more effective than Bush’s go-heavy approach in Iraq and Afghanistan. “We will use force unilaterally if necessary against direct threats to the United States,” Ben Rhodes, the administration’s deputy national security advisor for strategic communications, told me. “And we’ll use force in a very precise way.” Crises the administration deems indirect threats to the United States — such as the uprisings in Libya and Syria — are “threats to global security,” Rhodes argued, and will be responded to multilaterally and not necessarily by force. The drawdown of U.S. troops in Iraq and Afghanistan, as well as the creation of a smaller, more agile U.S. military spread across Asia, the Pacific and the Middle East, are also part of the doctrine. So is the discreet backing of protesters in Egypt, Iran and Syria. The emerging strategy — which Rhodes touted as “a far more focused approach to our adversaries” — is a welcome shift from the martial policies and bellicose rhetoric of both the Bush administration and today’s Republican presidential candidates. But Obama has granted the CIA far too much leeway in carrying out drone strikes in Pakistan and Yemen. In both countries, the strikes often appear to be backfiring. Obama and other administration officials insist the drones are used rarely and kill few civilians. In a rare public comment on the program, the president defended the strikes in late January. “I want to make sure the people understand, actually, drones have not caused a huge number of civilian casualties,” Obama said. “For the most part, they have been very precise precision strikes against al Qaeda and their affiliates. And we are very careful in terms of how it’s been applied.” But from Pakistan to Yemen to post-American Iraq, drones often spark deep resentment where they operate. When they do attack, they kill as brutally as any weapon of war. The administration’s practice of classifying the strikes as secret only exacerbates local anger and suspicion. Under Obama, drone strikes have become too frequent, too unilateral, and too much associated with the heavy-handed use of American power. In 2008, I saw this firsthand. Two Afghan colleagues and I were kidnapped by the Taliban and held captive in the tribal areas of Pakistan for seven months. From the ground, drones are terrifying weapons that can be heard circling overhead for hours at a time. They are a potent, unnerving symbol of unchecked American power. At the same time, they were clearly effective, killing foreign bomb-makers and preventing Taliban fighters from gathering in large groups. The experience left me convinced that drone strikes should be carried out — but very selectively. In the January interview, Obama insisted drone strikes were used only surgically. “It is important for everybody to understand,” he said, “that this thing is kept on a very tight leash.” Drones, though, are in no way surgical. In interviews, current and former Obama administration officials told me the president and his senior aides had been eager from the outset to differentiate their approach in Pakistan and Afghanistan from Bush’s. Unlike in Iraq, where Democrats thought the Bush administration had been too aggressive, they thought the Bush White House had not been assertive enough with Afghan and Pakistani leaders. So the new administration adopted a unilateral, get-tough approach in South Asia that would eventually spread elsewhere. As candidate Obama vowed in a 2007 speech, referring to Pakistan’s president at the time, “If we have actionable intelligence about high-value terrorist targets and President Musharraf won’t act, we will.” In his first year in office, Obama approved two large troop surges in Afghanistan and a vast expansion of the number of CIA operatives in Pakistan. The CIA was also given more leeway in carrying out drone strikes in the country’s ungoverned tribal areas, where foreign and local militants plot attacks for Afghanistan, Pakistan and beyond. The decision reflected both Obama’s belief in the need to move aggressively in Pakistan and the influence of the CIA in the new administration. To a far greater extent than the Bush White House, Obama and his top aides relied on the CIA for its analysis of Pakistan, according to current and former senior administration officials. As a result, preserving the agency’s ability to carry out counterterrorism, or “CT,” operations in Pakistan became of paramount importance. “The most important thing when it came to Pakistan was to be able to carry out drone strikes and nothing else,” said a former official who spoke on condition of anonymity. “The so-called strategic focus of the bilateral relationship was there solely to serve the CT approach.” Initially, the CIA was right. Increased drone strikes in the tribal areas eliminated senior al Qaeda operatives in 2009. Then, in July 2010, Pakistanis working for the CIA pulled up behind a white Suzuki navigating the bustling streets of Peshawar. The car’s driver was later tracked to a large compound in the city of Abbottabad. On May 2, 2011, U.S. commandos killed Osama bin Laden there. The U.S. intelligence presence, though, extended far beyond the hunt for bin Laden, according to former administration officials. At one point, the CIA tried to deploy hundreds of operatives across Pakistan but backed off after suspicious Pakistani officials declined to issue them visas. At the same time, the agency aggressively used the freer hand Obama had given it to launch more drone strikes than ever before. Established by the Bush administration and Musharraf in 2004, the covert CIA drone program initially carried out only “personality” strikes against a preapproved list of senior al Qaeda members. Pakistani officials were notified before many, but not all, attacks. Between 2004 and 2007, nine such attacks were carried out in Pakistan, according to the New America Foundation. In 2008, the Bush administration authorized less-restrictive “signature” strikes in the tribal areas. Instead of basing attacks on intelligence regarding a specific person, CIA drone operators could carry out strikes based on the behavior of people on the ground. Operators could launch a drone strike if they saw a group, for example, crossing back and forth over the Afghanistan-Pakistan border. In 2008, the Bush administration carried out 33 strikes. Under Obama, the drone campaign has escalated rapidly. The number of strikes rose steeply to 53 in 2009 and then more than doubled to 118 in 2010. Former administration officials said the looser rules resulted in the killing of more civilians. Current administration officials insisted that Obama, in fact, tightened the rules on the use of drone strikes after taking office. They said strikes rose under Obama because improved technology and intelligence gathering created more opportunities for attacks than existed under Bush. But as Pakistani public anger over the spiraling strikes grew, other diplomats expressed concern as well. The U.S. ambassador in Pakistan at the time, Anne Patterson, opposed several attacks, but the CIA ignored her objections. When Cameron Munter replaced Patterson in October 2010, he objected even more vigorously. On at least two occasions, CIA Director Leon Panetta dismissed Munter’s protests and launched strikes, the Wall Street Journal later reported. One strike occurred only hours after Sen. John Kerry, head of the Senate Foreign Relations Committee, had completed a visit to Islamabad. A March 2011 strike brought the debate to the White House. A day after Pakistani officials agreed to release CIA contractor Raymond Davis, the agency — again over Munter’s objections — carried out a signature drone strike that the Pakistanis say killed four Taliban fighters and 38 civilians. Already angry about the Davis case, Pakistan’s Army chief, Gen. Ashfaq Parvez Kayani, issued an unusual public statement, saying a group of tribal elders had been “carelessly and callously targeted with complete disregard to human life.” U.S. intelligence officials dismissed the Pakistani complaints and insisted 20 militants had perished. “There’s every indication that this was a group of terrorists, not a charity car wash in the Pakistani hinterlands,” one official told the Associated Press. Surprised by the vehemence of the official Pakistani reaction, National Security Adviser Tom Donilon questioned whether signature strikes were worthwhile. Critics inside and outside the U.S. government contended that a program that began as a carefully focused effort to kill senior al Qaeda leaders had morphed into a bombing campaign against low-level Taliban fighters. Some outside analysts even argued that the administration had adopted a de facto “kill not capture” policy, given its inability to close Bush’s Guantánamo Bay prison and create a new detention system. In April 2011, the director of Pakistan’s intelligence service, Lt. Gen. Ahmed Shuja Pasha, visited Washington in an effort to repair the relationship, according to news accounts and former administration officials. Just after his visit, two more drone strikes occurred in the tribal areas, which Pasha took as a personal affront. In a rare concession, Panetta agreed to notify Pakistan’s intelligence service before the United States carried out any strike that could kill more than 20 people. In May, after the bin Laden raid sparked further anger among Pakistani officials, Donilon launched an internal review of how drone strikes were approved, according to a former administration official. But the strikes continued. At the end of May, State Department officials were angered when three missile strikes followed Secretary of State Hillary Clinton’s visit to Pakistan. As Donilon’s review progressed, an intense debate erupted inside the administration over the signature strikes, according to the Wall Street Journal. Adm. Mike Mullen, then chairman of the Joint Chiefs of Staff, said the strikes should be more selective. Robert Gates, then the defense secretary, warned that angry Pakistani officials could cut off supplies to U.S. troops in Afghanistan. Clinton warned that too many civilian casualties could strengthen opposition to Pakistan’s weak, pro-American president, Asif Ali Zardari. The CIA countered that Taliban fighters were legitimate targets because they carried out cross-border attacks on U.S. forces, according to the former official. In June, Obama sided with the CIA. Panetta conceded that no drone strike would be carried out when Pakistani officials visited Washington and that Clinton and Munter could object to proposed strikes. But Obama allowed the CIA director to retain final say. Last November, the worst-case scenario that Mullen, Gates and Clinton had warned of came to pass. After NATO airstrikes mistakenly killed 24 Pakistani soldiers on the Afghanistan-Pakistan border, Kayani demanded an end to all U.S. drone strikes and blocked supplies to U.S. troops in Afghanistan. At the same time, popular opposition to Zardari soared. After a nearly two-month lull that allowed militants to regroup, drone strikes resumed in the tribal areas this past January. But signature strikes are no longer allowed — for the time being, according to the former senior official. Among average Pakistanis, the strikes played out disastrously. In a 2011 Pew Research Center poll, 97 percent of Pakistani respondents who knew about the attacks said American drone strikes were a “bad thing.” Seventy-three percent of Pakistanis had an unfavorable view of the United States, a 10-percentage-point rise from 2008. Administration officials say the strikes are popular with Pakistanis who live in the tribal areas and have tired of brutal jihadi rule. And they contend that Pakistani government officials — while publicly criticizing the attacks — agree in private that they help combat militancy. Making the strikes more transparent could reduce public anger in other parts of Pakistan, U.S. officials concede. But they say some elements of the Pakistani government continue to request that the strikes remain covert. For me, the bottom line is that both governments’ approaches are failing. Pakistan’s economy is dismal. Its military continues to shelter Taliban fighters it sees as proxies to thwart Indian encroachment in Afghanistan. And the percentage of Pakistanis supporting the use of the Pakistani Army to fight extremists in the tribal areas — the key to eradicating militancy — dropped from a 53 percent majority in 2009 to 37 percent last year. Pakistan is more unstable today than it was when Obama took office. A similar dynamic is creating even worse results on the southern tip of the Arabian Peninsula. Long ignored by the United States, Yemen drew sudden attention after a suicide attack on the USS Cole killed 17 American sailors in the port of Aden in 2000. In 2002, the Bush administration carried out a single drone strike in Yemen that killed Abu Ali al-Harithi, an al Qaeda operative who was a key figure in orchestrating the Cole attack. In the years that followed, the administration shifted its attentions to Iraq, and militants began to regroup. A failed December 2009 attempt by a militant trained in Yemen to detonate a bomb on a Detroit-bound airliner focused Obama’s attention on the country. Over the next two years, the United States carried out an estimated 20 airstrikes in Yemen, most in 2011. In addition to killing al Qaeda-linked militants, the strikes killed dozens of civilians, according to Yemenis. Instead of decimating the organization, the Obama strikes have increased the ranks of al Qaeda in the Arabian Peninsula from 300 fighters in 2009 to more than 1,000 today, according to Gregory Johnsen, a leading Yemen expert at Princeton University. In January, the group briefly seized control of Radda, a town only 100 miles from the capital, Sanaa. “I don’t believe that the U.S. has a Yemen policy,” Johnsen told me. “What the U.S. has is a counterterrorism strategy that it applies to Yemen.” The deaths of bin Laden and many of his lieutenants are a step forward, but Pakistan and Yemen are increasingly unstable. Pakistan is a nuclear-armed country of 180 million with resilient militant networks; Yemen, an impoverished, failing state that is fast becoming a new al Qaeda stronghold. “They think they’ve won because of this approach,” the former administration official said, referring to the administration’s drone-heavy strategy. “A lot of us think there is going to be a lot bigger problems in the future.” The backlash from drone strikes in the countries where they are happening is not the only worry. In the United States, civil liberties and human rights groups are increasingly concerned with the breadth of powers Obama has claimed for the executive branch as he wages a new kind of war. In the Libya conflict, the administration invoked the drones to create a new legal precedent. Under the War Powers Resolution, the president must receive congressional authorization for military operations within 60 days. When the deadline approached in May, the administration announced that because NATO strikes and drones were carrying out the bulk of the missions, no serious threat of U.S. casualties existed and no congressional authorization was needed. “It’s changed the way politicians talk about what should be the most important thing that a nation engages in,” said Peter W. Singer, a Brookings Institution researcher. “It’s changed the way we in the public deliberate war.” Last fall, a series of drone strikes in Yemen set another dangerous precedent, according to civil liberties and human rights groups. Without any public legal proceeding, the U.S. government executed three of its own citizens. On Sept. 30, a drone strike killed Anwar al-Awlaki, a charismatic American-born cleric of Yemeni descent credited with inspiring terrorist attacks around the world. Samir Khan, a Pakistani-American jihadist traveling with him, was killed as well. Several weeks later, another strike killed Awlaki’s 16-year-old son, Abdulrahman al-Awlaki, also a U.S. citizen. Administration officials insisted a Justice Department review had authorized the killings but declined to release the full document. “The administration has claimed the power to carry out extrajudicial executions of Americans on the basis of evidence that is secret and is never seen by anyone,” said Jameel Jaffer, deputy legal director of the American Civil Liberties Union. “It’s hard to understand how that is consistent with the Constitution.” After criticizing the Bush administration for keeping the details of its surveillance, interrogation and detention practices secret, Obama is doing the same thing. His administration has declined to reveal the details of how it places people on kill lists, carries out eavesdropping in the United States or decides whom to detain overseas. The administration is also prosecuting six former government officials on charges of leaking classified information to the media — more cases than all other administrations combined. Administration officials deny being secretive and insist they have disclosed more information about their counterterrorism practices than the Bush administration, which fiercely resisted releasing details of its “war on terror” and established the covert drone program in Pakistan. Obama administration officials say they have established a more transparent and flexible approach outside Pakistan that involves military raids, drone strikes and other efforts. They told me that every attack in Yemen was approved by Yemeni officials. Eventually, they hope to make drone strikes joint efforts carried out openly with local governments. For now, keeping them covert prevents American courts from reviewing their constitutionality, according to Jaffer. He pointed out that if a Republican president followed such policies, the outcry on the left would be deafening. “You have to remember that this authority is going to be used by the next administration and the next administration after that,” Jaffer said. “You need to make sure there are clear limits on what is really unparalleled power.” To their credit, Obama and his senior officials have successfully reframed Bush’s global battle as a more narrowly focused struggle against al Qaeda. They stopped using the term “war on terror” and instead described a campaign against a single, clearly identifiable group. Senior administration officials cite the toppling of Muammar al-Qaddafi as the prime example of the success of their more focused, multilateral approach to the use of force. At a cost of zero American lives and $1 billion in U.S. funding, the Libya intervention removed an autocrat from power in five months. The occupation of Iraq claimed 4,484 American lives, cost at least $700 billion, and lasted nearly nine years. “The light U.S. footprint had benefits beyond less U.S. lives and resources,” Rhodes told me. “We believe the Libyan revolution is viewed as more legitimate. The U.S. is more welcome. And there is less potential for an insurgency because there aren’t foreign forces present.” In its most ambitious proposal, the administration is also trying to restructure the U.S. military, implement steep spending cuts and “right-size” U.S. forces around the world. Under Obama’s plan, the Army would be trimmed by 80,000 soldiers, some U.S. units would be shifted from the Middle East to the Pacific, and more small, covert bases would be opened. Special Forces units that have been vastly expanded in Iraq and Afghanistan would train indigenous forces and carry out counterterrorism raids. Declaring al Qaeda nearly defeated, administration officials say it is time for a new focus. “Where does the U.S. have a greater interest in 2020?” Rhodes asked. “Is it Asia-Pacific or Yemen? Obviously, the Asia-Pacific region is clearly going to be more important.” Rhodes has a point, but Pakistan and its nuclear weapons — as well as Yemen and its proximity to vital oil reserves and sea lanes — are likely to haunt the United States for years. Retired military officials warn that drones and commando raids are no substitute for the difficult process of helping local leaders marginalize militants. Missile strikes that kill members of al Qaeda and its affiliates in Pakistan and Yemen do not strengthen economies, curb corruption or improve government services. David Barno, a retired lieutenant general who commanded U.S. forces in Afghanistan from 2003 to 2005, believes hunting down senior terrorists over and over again is not a long-term solution. “How do you get beyond this attrition warfare?” he asked me. “I don’t think we’ve answered that question yet.”

**Yemen drone strikes will cause wide spread blowback and strengthen the capacity of AQAP – that undermines Yemen stability**

**Hudson et al 13**

Dr. Leila Hudson, Colin Owens, and Matt Callen, is associate director of the School of Middle Eastern & North African Studies at the University of Arizona and director of SISMEC, graduate of the School of Middle Eastern & North African Studies and the School of Government and Public Policy, and PhD candidate at the School of Middle Eastern & North African Studies. “Drone Warfare in Yemen: Fostering Emirates through Counterterrorism?,” Middle East Policy Council, 2013. http://mepc.org/journal/middle-east-policy-archives/drone-warfare-yemen-fostering-emirates-through-counterterrorism

Just as likely, as the case of FATA has clearly shown, increased strikes in Yemen will produce distinct forms of blowback. This will manifest itself in terms of increased recruitment for al-Qaeda or affiliated groups and a reduction of the Yemeni leadership's ability to govern, increasing competition from alternative groups.¶ In the case of drone use in FATA, we identified five distinct forms of blowback, all of which are directly applicable to the use of drones in Yemen. The first, purposeful retaliation is typified by the events of the 2009 Khost bombing of CIA Camp Chapman and, more recently, an al-Qaeda attack earlier in 2012 on a liquid-natural-gas pipeline running through Yemen's Shabwa province.2 The motivation behind both of these attacks has been cited as the unremitting presence of, and specific attacks from, U.S.-operated drones. The second form of blowback deals with the increased ability of AQAP to recruit new members, especially those who have had friends or family killed in the attacks. Third, an overreliance on drones creates strategic confusion. While the United States is not waging a counterinsurgency (COIN) campaign next to Yemen — as it is in Afghanistan, Pakistan's western neighbor — the control of the drone program has oscillated between the CIA and JSOC, reducing U.S. accountability and blurring the lines between military and intelligence operations. Taken together, these three factors foster two additional forms of blowback: the continued destabilization of Yemen and an increasingly precarious alliance between the American and Yemeni governments. All told, these distinct forms of blowback combine to heighten Yemen's ungovernability.

#### Unrestrained targeted killing is worse in the long-run at combating root causes of terrorism - even though there are short term gains – additionally it undermines Yemen stability which strengthens AQAP

Colonel Gregory P. **Gilbreath 13** United States Air Force, “ America’s Targeted Killing Policy: Is it Right? Is it Working”, United States Army War College, Class of 2013, 3/2013, Strategy Research Project

The policy of targeted killing has yielded tangible short-term results. The ramped-up attacks over the last four years have eliminated several high-value targets, disrupted operational activities, and hurt Al-Qaeda’s morale making it difficult to train.49 The current administration touted that we have protected our homeland from attacks and that Al-Qaeda is “losing badly” requiring them to flee their once-safe havens.50 A young idealistic fighter who fought in Pakistan professed that the “flower is wilting” and Al-Qaeda’s prestige is on the decline.51 Even though some argue that dead terrorists are quickly replaced with others, the fact is that when you target highly skilled leaders or bomb makers, finding an equally qualified replacement is difficult, which severely hinders the organization.52 Conversely, while leader decapitation appears to have acute effects, there is little evidence that a prolonged campaign against leadership realizes long-term reduction of terrorist activities, especially with religiously motivated groups.53 Overall, there is evidence of short-term gains from targeted killing, but what it is less clear is whether it positively contributes to the long-term strategy of eliminating terrorism’s root causes. Further evaluation reveals that the policy potentially counters long-term goals because it breeds instability and increases recruits. The U.S. will continue to yield short-term gains by primarily only employing airstrikes, but without an effective and complementary counterinsurgency campaign, particularly in Pakistan and Yemen, the environment left behind will spur more instability and mistrust, which are key ingredients to producing more terrorists. A recent study by the Middle East Policy Council concluded that strikes in Yemen had a destabilizing effect, much like Pakistan, which led to less governance.54 This produced more recruits, retaliatory strikes on local governments, and destabilization. Ultimately, the lack of governance creates a vacuum, which is often filled by extremist leaders and organizations. Without a concurrent counterinsurgency strategy to offset these effects, the policy will continue to create conditions favorable to extremism and terrorism. In a nutshell, the policy “removes any trace of a campaign to win hearts and minds.”55 Similar doubts about the effectiveness of a counterterrorism strategy without a complementary counterinsurgency strategy surfaced during national leader discussions prior to the Afghanistan troop surge in 2011. General Stanley McChrystal, top military leader in Afghanistan, denied that terrorist decapitation alone would be effective in the long-term without a counterinsurgency campaign. Additionally, General David Petraeus, then Commander of U.S. Central Command, also reflected that killing Abu al-Zarqawi, Al-Qaeda’s charismatic and competent leader in Iraq in 2006, did not bring peace or stability by itself. It was the accompanying boots on the ground that set the stage for subsequent progress.56 Finally, General Michael Hayden, then Director of the Central Intelligence Agency, believed that the U.S. would be doing “piecemeal drone strikes forever,” and that the goal of defeating Al-Qaeda was not achievable if “facts on the ground” were not changed.57 While the U.S. continues to prosecute strikes in minimally governed areas in the Middle East without an accompanying counterinsurgency effort, it is difficult to imagine that it will meet its long-term goals when terrorism’s roots are left in place. Another measure that illuminates if a counterterrorism strategy is working is whether the targeted group can grow. Some state that targeted killing alone will only have a fleeting effect and may boost recruiting.58 For example, Al-Qaeda in Yemen has increased from 300 fighters in 2009 to over 1,000 in 2012 despite several high profile attacks against them.59 Additionally, drone strikes have replaced the detention center at Guantanamo Bay, Cuba as the terrorist recruiting tool of choice.60 In 2010, the individuals behind two separate terrorist plots in New York City both cited that part of their motivation was due to drone killings in their homeland.61 One of them told a judge “when drones hit, they don’t see children.”62 Of course terrorist groups have certainly exaggerated civilian deaths to their advantage for propaganda, but it seems clear that the campaign in Yemen has not stopped the growth of Al-Qaeda and brings into question whether the long-term goal of changing the “tide of hopelessness” can be achieved if it continues as is.63 A sizable targeted killing counterterrorism policy alone does not curb corruption or improve government services and can have the unintended effect of increasing the threat against the U.S. It cannot substitute for the more difficult and costly process of helping “local leaders marginalize militants.”64 There is also evidence that instability and motivation against the U.S. as a result of drone strikes is on the rise. In Pakistan some charge that the destabilization left behind has created more problems than it has solved.65 The campaign has produced a “siege mentality” amongst the populace and could give way to a regional insurgency much like the one in 2006 that occurred in Somalia when similar strikes were employed and the extremists’ power was actually solidified.66 Moreover, in Yemen the strikes have had the unintended effect of refocusing the terrorists’ aims from against its local Yemeni government toward targets in the U.S.67 The current administration, while articulating its visible tactical results, has also subtly questioned targeted killing’s contribution to the long-term strategy. Secretary of State Hillary Clinton expressed concern that the focus on targeted strikes was crowding out the broader strategy to stop radicalization, and that President Obama’s goal to mend the U.S.-Muslim relationship cannot move forward in light of the controversial tactic.68 While senior administration officials expressed that these operations are bound to continue at least for another decade with “no clear end” in sight, experts believe targeted killing through drone strikes is yielding undeniable short-term results while obscuring long-term costs.69 Dennis Blair, Director of National Intelligence until 2010, stated that drone strikes are “politically advantageous,” give the “appearance of toughness,” play well domestically, but “any damage done to national interest only shows up over the long-term.”70 The long-term costs are hard to predict with any certainty, but if this campaign is to continue for 10+ years then the U.S. cannot overlook the potential damage to its image in the eyes of the citizens it is trying to persuade. Since 2009 the U.S. has overused the tactic and has only provided limited transparency into the process, both of which are detrimental to the U.S.’ image abroad making it tough to maintain the moral high ground. For example, while small segments of the population in FATA do support the strikes, they have become deeply unpopular amongst the wider population and spurred the parliament to vote for an end to the strikes in 2012, which the U.S. continues to ignore.71 A 2011 Pew poll revealed that 97% of Pakistanis viewed drone strikes negatively, and 73% had unfavorable views towards the U.S.72 The anti-Americanism brought on by drone strikes is cited as one of the factors that contributed to the recent sharp rise in violence in Pakistan.73 According to David Rhode, the excessive drone attacks undercut any laudable policy of multilateralism and transparency, and appears to be backfiring in both Yemen and Pakistan.74 As cited earlier, Pakistan is less stable today than it was in 2008, and Yemen is yielding numerous sharia-based “emirate” safe-havens for terrorists.75 Foreign leaders have communicated the issue of overuse to the U.S. The Pakistani military chief told Admiral Mike Mullen, then Chairman of the Joint Chiefs of Staff, “after hundreds of drone strikes, how could the U.S. possibly still be working its way through the Top 20 list?”76 Overuse is not popular at the local and political levels in Pakistan, which will undoubtedly put a strain on future U.S.-Pakistan relations and the U.S.’ image.

#### 5. We control the better internal link to Nuke terror- Hezbollah scenario going to escalalte now- that was on case.

#### Even if there link is true- DoD will still give aid to Yemen forces

Yemen Post 13 July 30th, 2013. “US Department of Defense announces new military aid to Yemen” <http://yemenpost.net/Detail123456789.aspx?ID=3&SubID=7076>

US Secretary of Defense Chuck Hagel confirmed on Tuesday during a meeting with President Abdo Rabbo Mansour Hadi that Washington would continue to support Yemen in its fight against terror by enhancing both the impoverished nation's military capability and its level of expertise through a tight collaboration involving the distribution of military equipment, training, rehabilitation and technology. Yemen's long-standing partner against al-Qaeda, Washington suspended its military aid program in 2011 when the people rose against then-President Ali Abdullah Saleh. Once Yemen factions agreed on a political transition of power, the Pentagon resumed both its military and humanitarian assistance, as part of its reconstruction efforts. Secretary of Defense Hagel told reporters, "Washington is keen to strengthen its relation and mutual cooperation with Yemen on various levels." Earlier this month, Saba (Yemen state news agency) announced the White House was to boost Yemen's border guards efficiency through the delivery of 12 Seabird Sicre aircraft, all equipped with night vision and radioactive monitoring sensors as well as 100 military vehicles mounted with a state of the art integrated communication system. The move aims to enhance Yemen's ability to monitor and control its borders with Saudi Arabia and Oman as to crackdown on illegal trades: human trafficking and smuggling of weapons, as well as prevent terror elements from traveling to and from the country. A break down in security in 2011 and the formation of a power vacuum have left a void which criminal gangs and terrorists have used to their advantage to create havoc in the region.

#### u.s. drone strikes causes instability and undermines Pakistani government stability

Boyle, 13 (Michael J. Boyle, Assistant Professor of Political Science at La Salle University in Philadelphia. He was previously a Lecturer in International Relations and Research Fellow at the Centre for the Study of Terrorism and Political Violence (CSTPV) at the University of St. Andrews. He is also an alumnus of the Political Science Department at La Salle. “The costs and consequences of drone warfare” International Affairs 89: 1 (2013) 1–29)

Strategic costs For the United States, the strategic costs of over-reliance on drone strikes are substantial. In fact, drones work at cross-purposes with many other US counterterrorism objectives. The official US counterterrorism strategy identifies a number of goals, including disrupting, degrading and defeating Al-Qaeda, but also eliminating safe havens for terrorist actors and building partnerships and counterterrorism capabilities with governments whose cooperation is crucial.73 This strategy involves building up the resolve and capacity of states that will oppose Al-Qaeda, so that the US can ‘break the cycle of state failure to constrict the space available to terrorist networks’.74 As part of the Obama administration’s strategy, the US will seek to ‘leverage’ the capacity of foreign partners to confront terrorist threats within their borders and assist them by building a durable capacity to do so on their own. Much like the Bush administration, the Obama administration assumes that the predominant threat of terrorism comes from the ungoverned spaces of the globe. Along the same lines as Bush, its strategy highlights the need to ensure that states like Pakistan and Yemen have a greater capacity to police their own territory as a way of draining support for terrorist movements over the long term. For this reason, building the capacity of states like Pakistan and Yemen is crucial. Moreover, their central governments need to be seen as legitimate by the majority of the population, so that this policing is conducted at lower cost. Over the long term, the Obama administration’s strategy depends on ensuring that the populations of places like Pakistan and Yemen do not pledge their support to other entities, such as militant groups or tribal networks, that are more sympathetic to Al-Qaeda. Pakistan The escalation of drone strikes in Pakistan to its current tempo—one every few days—directly contradicts the long-term American strategic goal of boosting the capacity and legitimacy of the government in Islamabad. Drone attacks are more than just temporary incidents that erase all traces of an enemy. They have lasting political effects that can weaken existing governments, undermine their legitimacy and add to the ranks of their enemies. These political effects come about because drones provide a powerful signal to the population of a targeted state that the perpetrator considers the sovereignty of their government to be negligible. The popular perception that a government is powerless to stop drone attacks on its territory can be crippling to the incumbent regime, and can embolden its domestic rivals to challenge it through violence. Such continual violations of the territorial integrity of a state also have direct consequences for the legitimacy of its government. Following a meeting with General David Petraeus, Pakistani President Asif Ali Zardari described the political costs of drones succinctly, saying that ‘continuing drone attacks on our country, which result in loss of precious lives or property, are counterproductive and difficult to explain by a democratically elected government. It is creating a credibility gap.’75 Similarly, the Pakistani High Commissioner to London Wajid Shamsul Hasan said in August 2012 that what has been the whole outcome of these drone attacks is that you have directly or indirectly contributed to destabilizing or undermining the democratic government. Because people really make fun of the democratic government—when you pass a resolution against drone attacks in the parliament and nothing happens. The Americans don’t listen to you, and they continue to violate your territory.76 The appearance of powerlessness in the face of drones is corrosive to the appearance of competence and legitimacy of the Pakistani government. The growing perception that the Pakistani civilian government is unable to stop drone attacks is particularly dangerous in a context where 87 per cent of all Pakistanis are dissatisfied with the direction of the country and where the military, which has launched coups before, remains a popular force.77 The political effects of this signal are powerful and lasting even when the reality of the relationship between the perpetrator and the targeted state is more complex. For example, the government of Pakistan has been ambivalent about drone strikes, condemning them in some cases but applauding their results in others.78 Much has been made of the extent to which the Pakistani government has offered its ‘tacit consent’ for the US drone strikes on its territory.79 The US has been willing to provide details on drone strikes after the fact, but has refrained from providing advance warning of an attack to the Pakistani government for fear that the information might leak. Pakistan has been operationally compliant with drone strikes and has not ordered its air force to shoot down drones in Pakistani airspace. Despite official denials, it has been revealed that the Pakistani government has permitted the US to launch drones from at least one of its own airbases.80 Whatever the complexity of its position and the source of its ambivalence over drone strikes, the political effects of allowing them to escalate to current levels are increasingly clear. The vast expansion of drone warfare under the Obama administration has placed enormous pressure on Pakistan for its complicity with the US, multiplied the enemies that its government faces and undermined parts of the social fabric of the country. By most measures, Pakistan is more divided and unstable after the Obama administration’s decision to ramp up the tempo and scale of drone attacks than it was during the Bush administration.81 First, the Pakistani government is under intense pressure from growing popular hostility to the drone strikes. The drone policy carries a number of serious dangers for the regime, not the least of which is that it is seen as complicit in a policy where the US bombs its territory every few days. A Pew Research Center poll in June 2012 revealed that 74 per cent of Pakistanis now consider the United States an enemy.82 Only 17 per cent support drone strikes against extremist groups, even if they are conducted with the support of the Pakistani government.83 The drones programme has had a spillover effect for other areas of cooperation, as only 50 per cent of respondents still wish the US to continue to provide financial and humanitarian assistance to the country.84 The drone strikes have carried clear strategic costs in making the US widely hated within Pakistan and in jeopardizing support for US programmes designed to build the capacity of the Pakistani state. In this combustible environment, high-profile events such as the release of CIA contractor Raymond Davis after the deaths by shooting of two Pakistani citizens, the killing of 24 Pakistani soldiers in NATO strikes in November 2011 and the protests over the film Innocence of Muslims in September 2012 have exploded into waves of anti- American protest. These events, and the latent anger they release, have made it more costly for the government to comply with US demands to counter militant activity in the border regions. This growing anti-US sentiment culminated in the protest march led by Imran Khan in October 2012, where thousands of demonstrators tried to enter South Waziristan in a protest over drone strikes.85 Khan has tapped into growing anti-American sentiment and anger over drones to become a leading opposition figure for the next election. His actions, which have pushed the controversy over drones to the forefront of Pakistani politics, have made it more difficult for the Zardari government to support drone strikes that advertise both its complicity and its powerlessness. Sensing the dangers associated with a close relationship with the US, a number of other Pakistani leaders have moved to put some distance between themselves and the American drone policy. Even while he has secretly supported some of the drone strikes, President Asif Ali Zardari has called for an end to them, though his position was undermined when his associates called for more Pakistani control over the targets of strikes.86 Similarly, Prime Minister Raza Gilani has regularly excoriated the US for its ‘illegal and counterproductive’ use of drones, and has argued that it fuels the insurgencies against the central government.87 After a review of the country’s relationship with the United States, the Pakistani parliament called for an end to drone strikes and to any other operations on its territory. 88 Across the political spectrum, positioning oneself as a critic of the drone programme and expressing hostility to the United States is increasingly becoming the default position of the Pakistani political class. As this has happened, the US has offered Pakistan more aid—some US$4.3 billion in 2010 alone, second only to the sum offered to Afghanistan in amounts of US aid given worldwide—in part to build its ‘counterinsurgency capability’, even while continuing drone strikes signal a lack of faith in the country’s capacity and will to tackle terrorism.89 Seen in this light, the US–Pakistani relationship is riddled with hypocrisy: the US sidelines the Pakistani government with drones while ‘building its capacity’ with aid and military equipment transfers, while the Pakistani government secretly cheers when drone strikes kill its enemies, publicly grandstands against the US for the rest of the strikes, and then asks for more aid, much of which is lost through corruption or diverted into wasteful military purchases to deter India.90 The consequence of a drone-first counterterrorism policy has only heightened the hypocrisy of this already poisonous relationship, with untold consequences for the future of a nuclear-armed country seething with anti-American sentiment. At the same time, some of the Pakistani criticism of the drone programme is motivated by more than just cynical opportunism. Some of the objections are based on the logic of counterinsurgency: that is, to drain support from the array of militant movements in Waziristan, FATA and elsewhere, the Pakistani government must appear as a credible competitor for the loyalties of the population in tribal regions. Abdul Basit, a Pakistani Foreign Office spokesperson, has argued that drones are ‘not helpful in our efforts to win hearts and minds’.91 Winning the loyalties of the population is particularly hard to do when drone strikes sideline the central government and signal that the US is a direct combatant in Pakistan’s on-and-off-again wars in its tribal regions. In September 2012, Pakistani Foreign Minister Hina Rabbani Khar captured this dilemma well, saying that ‘this has to be our war. We are the ones who have to fight against them. As a drone flies over the territory of Pakistan, it becomes an American war again. And this whole logic of this being our fight, in our own interest is immediately put aside and again it is war which is imposed on us.’92 The extent to which the United States has assumed the role of a direct combatant and marginalized the Pakistani government through drone strikes has systematically undermined the claim that the central government in Islamabad could be a credible competitor for the loyalties of the tribal population. Second, drone strikes have also multiplied the ranks of the enemies of the Pakistani government and deepened its growing sense of crisis. Pakistan has never had full control over all parts of its territory, especially in the FATA and the Northwest Frontier province. The problem of Islamist militant networks in these regions is an old one, but the scope of their threat expanded dramatically when a number of competing groups coalesced under the banner of the TTP in 2007.93 At this point, the Musharraf government’s policy of conciliation with the various militant groups began to show its adverse effects. As the military tried to regain control over these regions, the militants fought back and extended their reach deeper into previously untouched urban areas. By 2008, the TTP and other groups were launching suicide attacks in cities and capturing territory in Swat and Buner, only 70 miles from Islamabad.94 While the Pakistani army managed to roll back their territorial advances in 2009, most of these militant groups were not fully defeated. While weakened, many of these Islamist networks redoubled their efforts to challenge the authority of central government and have increasingly resorted to terrorism to do so.95 While the sources of mobilization and recruitment to militant networks are numerous, the drones have given them a recruiting boost as the carnage has encouraged relatives and friends of the victims of strikes to join the ranks of the TTP or other militant groups to fight the US or the Pakistani government, holding the latter complicit in their deaths.96 Their wrath at American drones is directed first and foremost at the Pakistani government rather than at the United States or its direct interests abroad. While some recruits have joined Al-Qaeda and tried to bring the fight to the United States, the majority of these new recruits have joined local militant networks whose primary targets will be within the country.97 The previously existing militant networks in these regions serve as ready receptacles for the radicalized and angry after drone strikes; arguably, the biggest danger of these fresh recruits is not to the United States, but to the government of the country where the strikes take place, as the ranks of its enemies swell after drone attacks. The membership of the TTP, for example, has increased to approximately 35,000 through both existing groups pledging their allegiance to its leadership and the infusion of new recruits, some (but not all) of whom were motivated by revulsion over drone strikes.98

#### 2. No link- plan still allows strikes to occur, they are just carried out by the DOD, instead.

#### 3. We make drone strikres more effective- 1ac Anderson evdeience says intel is key to conduct good drone strikes

#### Climate Change is worse for Pakistan instability

Imran 13. Zafar Imran. July 2013. “Climate Change and its impact on the political dynamics of Pakistan”<http://www.cissm.umd.edu/papers/files/climate_change_and_its_impact_on_the_political_dynamics_of_pakistan__72313.pdf> (Zafar Imran is a doctoral student at the University of Maryland's School of Public Policy, specializing in International Security and Economic Policy, and a graduate fellow at CISSM, focusing on civil conflict issues. Prior to coming to Maryland, Imran worked as a Research Fellow at the Middle East Institute’s Center for Pakistan Studies, Washington D.C. Imran holds a Masters Degree in Public Policy from Carnegie Mellon University.)

It is vital to understand the complex relationship between climate change and social stresses. According to models maintained by the Intergovernmental Panel on Climate Change, the world will increasingly suffer from the effects of climate change and have to confront their impacts on communities, economies, and other globally integrated systems. For instance, droughts, desertification, floods, and rising sea level could lead to mass migrations within a country or across borders, burdening resources and possibly contributing to interstate or intrastate conflicts. This paper finds that an exogenous variable such as **climate change holds the potential to disturb the social and political equilibrium of a society,** creating new fault lines in social, political, or ethnic landscapes or exacerbating existing ones. This disequilibrium could lead to the creation of new winners and losers, heighten tensions among them, and ultimately steer society toward conflict. Preexisting social and political configurations will likely determine how a society responds if climate change disturbs this equilibrium**. In the case of Pakistan, the most visible new fault line—between agriculturists and the manufacturing sector—could potentially compound preexisting fault lines. Although these two groups are not engaged in an active confrontation, tensions have increased, and open conflict could be sparked quickly if precautionary measures are not taken. The case study of Pakistan highlights the point that social stresses induced by climatic variability are more complex** than they originally might appear to be. Since these stresses are highly context-specific and join with each other through social feedback loops, societies can successfully neutralize threats posed by climate change only by adopting a prudent and holistic climate adaptation approach. **Pakistan’s weak political structure, its lack of resources, and its misjudged past attempts at adaptation have contributed to the energy crisis** that is the most direct and immediate impact of climatic variability in the country. The country has seen thousands of protests on this issue in the last two to three years, billions of dollars in revenue have been lost, the industrial sector has nearly collapsed, unemployment is rising, and the number of people living below the poverty line is rising as well. All of these trends call into question Pakistan’s viability as a state capable of providing for its citizens. Pakistan’s attempt to address its energy crisis by investing more in nuclear power is a cause for concern, especially when viewed against the backdrop of an eroding legal order in the country. While the effects of climate change can destabilize societies, so can the policy responses meant to address the initial concerns, as well as the confluence of new pressures and preexisting conditions. This paper argues that the social and political stresses brought about by climate change are deeply tied to the existing social structure, political configuration, and historical context of a country. Most scientific studies about climate change’s ability to destabilize societies justifiably identify civil conflict as a probable end. Knowing this, however, does little to enhance our understanding of the path societies could follow as they slip into conflict. This paper argues that understanding the multiple phases that a state passes through on its way to climate-changeinduced conflict could help researchers and policy makers to forecast such conflict and to develop better, more comprehensive adaptation strategies. Climate change will not directly induce new, easy-to-observe, and independently measurable stresses in a society until those stresses are unavoidable. **Yet, as the case of Pakistan suggests, the effects of climatic variation are gradual and ongoing, even if they are sometimes too subtle to be noticed—even by the people experiencing them. By understanding how current Pakistani challenges rooted in climate change—such as food insecurity, water scarcity, energy shortage, and the outbreak of contagious diseases—could lead to deadly conflict we can hope to develop monitoring systems and analytical capacities that might help to prevent low-level conflict from engulfing an entire region and jeopardizing global security.**

#### The only way to mitigate warming is through an international treaty in which the CIA plays a critical role. It’s reverse causal. Mitigation fails with poor intelligence management.

Bruhnke 13. Loius Bruhnke, Naval Postgraduate school. “Climate Change mitigation. Can the U.S. intelligence community help?” June 2013. <https://calhoun.nps.edu/public/bitstream/handle/10945/34635/13Jun_Bruhnke_Louis.pdf?sequence=1> (Associate Director and Regional Disaster Coordinator, North Coast Emergency Medical Services Agency.)

For over a century, earth scientists have contemplated the likely climatic disruptions that would occur should humans continue to increase the relative proportion of atmospheric carbon dioxide through their burning of fossil fuels. Mankind has already increased the amount of carbon dioxide, the most potent greenhouse gas, to levels beyond what the earth has experienced for at least 800-thousand—and likely—more than 15 million years. The earth’s oceans and atmosphere have departed from a state of chemical equilibrium established approximately 11-thousand years ago. There is ample evidence in the form of historically unprecedented planetary events, including the seasonal disappearance of millions of square miles of arctic sea ice, and frequent record breaking weather events, that **we have entered an age of environmental uncertainty precisely when globalization has irreversibly altered human social dynamics. This confluence of uncertainty and its attendant societal dislocations will worsen unless humans are able to stabilize the climate. Damage to the atmosphere is cumulative and pervasive, and climate change mitigation can only be accomplished through concerted international effort**. The result of a multiyear international discussion under the auspices of the United Nations Framework Convention on Climate Change (UNFCCC), the 1997 Kyoto Protocol represented the most important international effort to mitigate climate change to date. Economic fears, along with a disinformation campaign funded by industries reliant on fossil fuel combustion, resulted in widespread public misunderstanding about the expert consensus behind of the growing body of climate science, and in the U.S. failure to ratify the Kyoto treaty. The scientific and observable evidence of climate change and its perils continues to mount. At some future moment, it seems probable that **the U.S. will once again engage in some international effort** to reduce the ongoing human caused accumulation of atmospheric CO2. For lack of other practical alternatives, the U.S. is likely to pursue an approach similar to the Kyoto Protocol. Signatory commitments to Kyoto were not accompanied by any formal monitoring regime, and this **lack of a verification mechanism—along with other shortcomings—is often blamed for Kyoto’s limited achievements. It is likely that the design of any future international CO2 emissions limitation agreement (ICELA) will include a monitoring mechanism**. The Intelligence Community and Treaty Monitoring Most science based U.S. governmental institutions, including those that comprise and inform the national security establishment, recognize the unprecedented threat that CO2 emissions pose to the nation. The potential economic ramifications of reducing national CO2 emissions include the alteration of existing geopolitical relations. **The CIA** has already opened—and subsequently, in the face of persistent conservative Congressional criticism, closed—a **Climate Change Center. Among the stated objectives of this center was the verification of future international climate change agreements. Should the U.S. instigate or participate in a new Kyoto-type initiative, it is reasonable to assume that the Intelligence Community (IC) will be tasked with using its covert sources to identify treaty violations. This would present the IC with a unique opportunity to make an unprecedented contribution to the welfare of the nation and to the entire planet. Poorly managed, however, the IC’s monitoring activities could undermine the international trust on which any such effort will depend.**

#### Unmitigated climate changes risk extinction

Flournoy 11– (Dec. 2011, citing Feng Hsu, PhD in Engingeering Science, NASA scientist at Goddard Space Flight Center, former research fellow of Brookhaven National Laboratory in the fields of risk assessment, risk-based decision making, safety & reliability and mission assurances for nuclear power, space launch, energy infrastructure and other social and engineering systems, Don Flournoy, PhD, University of Texas, Project Manager for University/Industry Experiments for the NASA ACTS Satellite, Professor of Telecommunications, Scripps College of Communications, Ohio University, "Solar Power Satellites," January, Springer Briefs in Space Development, p. 10-1)

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 risk that is simply too high for us to take any chances” (Hsu 2010 ) .

#### U.S. is losing the war on terror now. The plan is needed to change that course.

Atkinson 11-12-13. “What’s wrong with the war on terror?” <http://www.gilmermirror.com/view/full_story/24034397/article-What-s-Wrong-with-the-War-on-Terror-?instance=home_news_bullets>

(Connie Atkinson is the author ofThe Brotherhood of Purity,a novel exploring the mind of a terrorist and whether mankind can build a world at peace. She is also a professor of history at the University of New Orleans)

U.S. Drones sweep across the landscape in Pakistan and Afghanistan, killing a few masterminds of terror along with thousands of “collateral damage” victims. The private information of citizens in the U.S. and abroad continues to be compromised and their personal space so violated, that they are x-rayed and grouped at select airports. Trillions of dollars have been spent; thousands of military personnel have been wounded or killed; tens of thousands of civilians have had their lives lost or ruined. After ten plus years fighting the “War on Terror,” how can one not wonder whether this is all really worth it? What is the endgame? When will the sectarian violence in the Middle East, and the hatred, directed toward the West, specifically the U.S., finally stop? This leads to yet another question. Why are the methods for dealing with terrorism so inadequate? For one thing, antiquated ideas of conflict remain the norm because certain groups and individuals, with the means to craft the arguments and predetermined solutions, present their worldview as common sense. Under these circumstances, few of us venture to challenge such “objective truth.” The statistics are bleak. In 1971, there were 241 documented incidents of terrorism worldwide, with 35 fatalities and 230 injuries.(U.S. Dept. of State).Forty years later, in 2011, those figures increased dramatically to 10,283 incidents, with 12,533 fatalities and 25,903 injuries.(US National Counterterrorism Center).The most recent report from the U.S. State Department shows an even starker truth: 2013 has seen yet another increase in terrorism. The Institute for Economics and Peace compiles data on terrorism and publishes it as “The Global Terrorism Index.” It concludes that North Americans suffer the least impact from terrorism; Europeans are 19 times more likely than North Americans to be victims, while civilians in the Middle East have the highest incidence of death from terror related incidents. However, the recent bombing at the Boston Marathon is ample evidence that Americans are not immune to terrorists’ threats. The U.S. Government is charged with protecting its citizens. That is what we expect and demand of them and this creates a dilemma. For even well intentioned military action on foreign soil, such as defending the local population, appears to produce more enemy combatants than it eliminates. Killing terrorists simply facilitates the recruitment of young men for other suicide missions. After all, how would you rather die -- as a helpless victim or as a hero who has sacrificed himself in martyrdom? Perhaps it is time to consider a different approach. For in reality, it's not just about how many enemy combatants are killed, but whether the world can change its thinking to better understand and respect all cultures. How to stop fanning the flames of hatred and vengeance is a discussion worth having over and over until we find the answers. For those who personally witnessed the horrific attacks on 9-11, surviving presents other challenges. The trauma changed us forever and caused us to consider the motivations of terrorism. In the days, weeks, months, and years that followed we have wondered how any man, not much out of his childhood, can be convinced that blowing himself up with as many lives as can be taken with him, is actually condoned and rewarded by God. We asked why radical Islamists call the U.S. a “Great Satan,” even after we saved hundreds of thousands of Moslems from ethnic cleansing. Was this not a noble act of friendship? It is time for a new paradigm, beginning with new bonds of trust and understanding, or the complex problems we face together, as humankind evolves into a global civilization, cannot not be resolved. At the end of Kevin Costner’s epic movie,Dances With Wolves,Lt. John Dunbar must leave the Lakota Sioux tribe he has come to know as his family. As John, now Dances with Wolves, rides away, he hears the voice of Wind in His Hair, a Lakota brave who once hated Dunbar as his enemy, booming from atop a mountain ridge. His voice rises into the cold air and covers the valley. It is a plaintive cry conveying the sorrow both men feel at their parting. Dances With Wolves bows his head as he rides away hearing his Lakota brother cry, “Dances With Wolves, I am Wind in His Hair. Do you see that I am your friend? Can you see that I will always be your friend?” On a good day, our struggle to know and understand each other can have the same effect.

#### Intel is key in winning on the war on terror

Anna-Katherine Staser **McGill 12**, School of Graduate and Continuing Studies in Diplomacy, Norwich University, David Gray, Campbell University, Summer 2012, “Challenges to International Counterterrorism Intelligence Sharing,” http://globalsecuritystudies.com/McGill%20Intel%20Share.pdf

In his article “Old Allies and New Friends: Intelligence-Sharing in the War on Terror”, Derek Reveron states “the war on terror requires high levels of intelligence to identify a threat relative to the amount of force required to neutralize it” as opposed to the Cold War where the opposite was true (455). As a result, intelligence is the cornerstone of effective counterterrorism operations in the post 9/11 world. Though the United States has the most robust intelligence community in the world with immense capability, skills, and technology, its efficiency in counterterrorism issues depends on coalitions of both traditional allies and new allies. Traditional allies offer a certain degree of dependability through a tried and tested relationship based on similar values; however, newly cultivated allies in the war on terrorism offer invaluable insight into groups operating in their own back yard. The US can not act unilaterally in the global fight against terrorism. It doesn’t have the resources to monitor every potential terrorist hide-out nor does it have the time or capability to cultivate the cultural, linguistic, and CT knowledge that its new allies have readily available. The Department of Defense’s 2005 Quadrennial Review clearly states that the United States "cannot meet today's complex challenges alone. Success requires unified statecraft: the ability of the U.S. government to bring to, bear all elements of national power at home and to work in close cooperation with allies and partners abroad" (qtd in Reveron, 467). The importance of coalition building for the war on terrorism is not lost on US decision-makers as seen by efforts made in the post 9/11 climate to strengthen old relationships and build new ones; however, as seen in the following sections, the possible hindrances to effective, long term CT alliances must also be addressed in order to sustain current operations.

#### 4. Over reliance on drones is bad- they increase anti American sentiment, limit out other stratagies, and are not a long term strategy, that’s Schwartz.

### Politics

#### Iranian hardliners block necessary concessions – deal fails.

Carlo Davis 3/21/14, http://www.newrepublic.com/article/117116/russia-threatens-p51-iran-talks-does-it-really-have-power

Of course, securing a final deal in the P5+1 talks was already a massive uphill battle even without any potential Russian sabotage. As Samore told Jeffrey Goldberg in February, the current talks have almost zero chance of achieving the level of nuclear dismantlement that Western powers are demanding; the powerful influence of hardliners in Iran means that President Hassan Rouhani “cannot make the kinds of concessions necessary” to achieve a successful final deal. If Putin’s goal is to see Obama’s Iranian dreams come to naught, he might do best to just sit back and enjoy the ride.

#### Senate letter requires Iran to abandon enrichment – alternative is sanctions.

Jennifer Rubin 3/17/14, Wash Post, http://www.washingtonpost.com/blogs/right-turn/wp/2014/03/17/senate-again-tries-to-stiffen-obamas-spine-on-iran/

The letter sets out the principles that should be embodied in a final deal including: no right for Iran to enrich uranium; dismantling Iran’s nuclear weapons program and preventing it “from ever having a uranium or plutonium path to a nuclear bomb”; addressing the issues in “United Nations Security Council resolutions, including any military dimensions of its nuclear program”; and robust sanctions. The letter also makes clear that if Iran violates the interim deal, uses talks as a stalling tactic or walks away from the talks, “pressure will intensify.” This comes in the context of the next round of Iran talks in Geneva and marks the first time the Senate has gone on record with a statement of the final terms of an acceptable deal. The Senate is insistent that it be involved in the outcome of talks and potential resumption of sanctions; no free hand will be given to the administration. The letter omits any mention of the potential for military action. Perhaps that is simply an effort to focus attention, for now, on the impending talks. Maybe it is simply recognition that no one believes the administration will actually act militarily. Even this letter was too much for a number of Democrats. Senate sources tell me Sen. Carl Levin (D-Mich.) tried to stop its momentum with an alternative that focuses on enforcement of a potential deal. That suggests the White House is still loath to let Congress have its say. Certainly, the administration gives every sign that it is desperate to continue talks and avoid having to take more dramatic steps (economic or military) against the Iranian regime. Two factors overshadow the administration’s evident desire to defer action in favor of endless, fruitless talks. First, Iran is unlikely to do any of the items listed in the letter. Pro-sanctions advocates in Congress will then have added justification for pushing Iran to the brink of economic collapse. Second, we’re arriving at the point at which the real barrier to Iran’s attainment of a nuclear weapons capability is Israel’s military. The rest at this point, especially given the administration’s lack of credibility, is noise.

#### Obama has no PC.

Charlie Cook 3/24/14, National Journal, http://www.govexec.com/oversight/on-politics/2014/03/six-ways-washington-will-stay-same/81103/?oref=dropdown

President Obama's job-approval ratings are very likely to remain pretty much where they are today, which means he will be running pretty low on political capital. His approval generally oscillates between 38 and 46 percent in most polls, with disapproval usually between 50 and 54 percent (looking only at polls using live interviewers). Obama's approval ratings have ranged from as low as 38 percent in Fox and occasional Gallup nightly tracking to as high as 46 percent in polling by ABC News/Washington Post, CBS News/New York Times, and at times, Gallup. Most often, the president's approval rating runs around 41 percent, as NBC News/Wall Street Journal and the most recent CBS/NYT poll found. Obama's disapproval numbers have run from as low as 47 percent in older CBS News polls to as high as 54 percent in NBC/WSJ's and Fox's polling (there is a Bloomberg News poll that was something of an outlier that showed 48 percent for both approval and disapproval of the president). The most recent (March 14-16) Gallup tracking shows 40 percent approval, 55 percent disapproval. If Obama were a stock, you would say he has a narrow trading range, with a high floor and a low ceiling. Barring some cataclysmic event, his approval is unlikely to stay below 38 percent or above 46 percent for long, meaning that his political capital will remain pretty low for the duration of his presidency.

#### Obama lost on IMF reforms.

Todd Beamon 3/25/14, http://www.newsmax.com/Newsfront/Ukraine-aid-bill-IMF/2014/03/25/id/561679/

In a setback for the Obama administration, Senate Republicans on Tuesday forced Democrats to withdraw a provision that would have blocked legislation to provide $1 billion in loan guarantees to Ukraine and sanction Russia for its annexation of Crimea. The bill would have provided the loan guarantees and imposed sanctions on Russia for its military actions in Ukraine and Crimea. But it also included a White House provision to broaden the lending capacity of the International Monetary Fund. Republicans opposed the IMF measure, saying that it was more important to immediately codify sanctions against Russian President Vladimir Putin and send assistance to Ukraine. Eight Senate Republicans introduced an amendment to the Senate measure to remove the IMF provision. "By adding the IMF issue to this debate, the administration is choosing to divide Congress, weakening our unified front and delaying this urgent help," said Wisconsin GOP Sen. Ron Johnson. Sen. Mike Lee, the Utah Republican, agreed. "In choosing to pick this fight with Congress, the administration is signaling to President Putin a real lack of seriousness in actually addressing the Russian government's conduct," he said. Other Republicans speaking against the IMF provision were Sens. John McCain of Arizona and Bob Corker of Tennessee. Corker is the ranking Republican on the Senate Foreign Relations Committee. The original bill was proposed by Sen. Bob Menendez, the New Jersey Democrat who chairs the panel. The Senate is expected to vote on the altered bill on Thursday. The chamber had voted to end debate Monday night. Senate Majority Leader Harry Reid announced that the IMF provision would be struck from the legislation. The Nevada Democrat said that while he strongly supported IMF reform, the main thing was to get assistance to Ukraine. "We have to get IMF reform. But we can't hold up the other," Reid said. "As much as I think a majority of the Senate would like to have gotten that done with IMF in it, it was headed to nowhere in the House." In addition, the House Foreign Affairs Committee approved its own version of the measure on Tuesday — and it appeared that Congress could send its first rebuke to Russia for its annexation of Crimea by the end of the week. “How the United States meets the Russian invasion of Crimea matters — it’s related to the future vitality of NATO, the negotiations with Iran over its nuclear program, and our own energy policy regarding the export of natural gas," Senate Minority Leader Mitch McConnell said during floor debate on the GOP amendment. "So many developments have unfolded in this crisis in the weeks since the bill was drafted that the legislation will have to be modified — at least to take those realities into account," he added. "And in order for it to become law, the controversial IMF provision must be removed." Menendez, for his part, said he understood the political realities behind of the legislation. "We cannot and should not stand for the violations of international norms that were perpetrated on Crimea by Russia," he said during debate. "The world is watching — and the world's superpower cannot be seen as incapable of rising to Russia's challenge." In the House, Speaker John Boehner said that the IMF provision was "unrelated" to helping Ukraine and that "all it’s going to do is slow the whole process down. "I would hope that we would find a common ground and pass it, so that we can help our friends," the Ohio Republican said. The IMF provision would have increased the power of emerging countries and would have moved $63 billion from a crisis fund to a general account that could be used for economic stabilization efforts worldwide, The Hill reports. The White House expressed regret over the Senate move.

#### CIA report kills PC.

Kappler and Braun 3/24/14, Boston Globe, http://www.boston.com/news/nation/washington/2014/03/24/terror-report-release-may-fuel-congress-cia-spat/7HEmC84J6zCyR1TBvTmucN/story.html

A Senate panel’s vote this week could strain the already rancorous relationship between lawmakers and the CIA, and pressure President Barack Obama to step into the fray. The Senate Intelligence Committee will weigh calling for the release of key sections of a voluminous report on terrorist interrogations, hoping to shed light on the most unsavory elements of the Bush administration’s war on terror after the Sept. 11, 2001, attacks. Despite now serving Obama, the CIA maintains the report underestimates the intelligence value of waterboarding and other methods employed by intelligence officials at undeclared, “black site” facilities overseas. The entire investigation runs some 6,200 pages. For now, senators only want to declassify a 400-page summary and the 20 main recommendations. But the differences between intelligence officials and Senate investigators have spiraled beyond the contents of the review. The dispute became public two weeks ago as the committee chairman, Sen. Dianne Feinstein, accused the CIA of improperly monitoring the computer use of Senate staffers and deleting files, and undermining the separation of powers between the executive and legislative branches. The agency said the intelligence panel illegally accessed certain documents. Each side has registered criminal complaints with the Justice Department.

#### Obama has already come out in support of the plan

AFP, 13 (Staff writers, US military may take over part of CIA drone war, Feb 27, 2013,http://www.spacewar.com/reports/US\_military\_may\_take\_over\_part\_of\_CIA\_drone\_war\_999.html)

President Barack Obama's administration is looking at easing the secrecy around the drone war against Al-Qaeda by shifting control for some air strikes from the CIA to the US military, officials say. But the move would likely not apply to drone attacks in Pakistan, where most of the bombing raids take place. And even if the policy change is carried out, Obama has no intention of abandoning a tactic that his advisers say has decimated the Al-Qaeda network. Faced with growing calls in Congress for more oversight around the drone war, the administration is weighing the change partly to allay concerns from lawmakers and to put the air campaign on a more permanent legal footing, analysts said. "There is serious consideration being given to moving some of these activities to" military control, a US official, who spoke on condition of anonymity, told AFP. The administration believes the strikes are legal and effective but the change is "about transparency and the perceived legitimacy of the operations," the official said. If the military were to take charge of some drone raids, that would subject the operations to more public scrutiny as the armed forces must operate under stricter legal guidelines and answer inquiries at public hearings in Congress. Until now, the "targeted killings" with armed drones in Pakistan, Yemen or Somalia have been carried out under the CIA's authority as officially designated "covert" attacks, which allow officials to deny their existence. But the drone strikes have become an open secret, and lawmakers and rights advocates have demanded the administration discuss the open-ended campaign publicly. "If it's no longer possible with a straight face to deny that we're conducting these operations, then it makes sense to bring at least some of them out into the open, where the oversight is easier to conduct," said John Nagl, a fellow at the Center for a New American Security, a think tank with close ties to the Obama administration. In Congress, there is growing interest "in regaining more of its authority over some of the the operations of the executive branch after a decade of war," he said.

**Issues compartmentalized**

**Edwards 2k** [Distinguished Professor of Political Science, director of the Center for Presidential Studies, Texas A&M University (George C. III, March. “Building Coalitions.” Presidential Studies Quarterly, Vol. 30, Iss. 1.)]

Besides not considering the full range of available views, members of Congress are **not** generally **in a position to make trade-offs** between policies. Because of its **decentralization**, Congress usually considers policies **serially**, that is, **without reference to other policies**. Without an integrating mechanism, members have few means by which to set and enforce priorities and to emphasize the policies

#### Political capital theory is wrong, winners win

**Hirsch ‘2-7-13** (“There’s No Such Thing as Political Capital”, Michael Hirsh February 7, 2013, former foreign editor and chief diplomatic correspondent for Newsweek. He is currently a senior editor in the magazine's Washington bureau. He is a lecturer and has appeared numerous times as a commentator on Fox News, CNN, MSNBC, National Public Radio,. Hirsh was co-winner of the Overseas Press Club award for best magazine reporting from abroad in 2001 for "prescience in identifying the al Qaeda threat half a year before September 11 and for Newsweek's coverage of the war on terror, which also won a National Magazine Award, http://www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207)

**There’s No Such Thing as Political Capital**

The idea of political capital—or mandates, or momentum—is so poorly defined that presidents and pundits often get itwrong. On Tuesday, in his State of the Union address, President Obama will do what every president does this time of year. For about 60 minutes, he will lay out a sprawling and ambitious wish list highlighted by gun control and immigration reform, climate change and debt reduction. In response, the pundits will do what they always do this time of year: They will talk about how unrealistic most of the proposals are, discussions often informed by sagacious reckonings of how much “political capital” Obama possesses to push his program through. Most of **this** talk **will have no bearing on what actually happens** over the next four years. Consider this: Three months ago, just before the November election, if someone had talked seriously about Obama having enough political capital to oversee passage of both immigration reform and gun-control legislation at the beginning of his second term—even after winning the election by 4 percentage points and 5 million votes (the actual final tally)—this person would have been called crazy and stripped of his pundit’s license. (It doesn’t exist, but it ought to.) In his first term, in a starkly polarized country, the president had been so frustrated by GOP resistance that he finally issued a limited executive order last August permitting immigrants who entered the country illegally as children to work without fear of deportation for at least two years. Obama didn’t dare to even bring up gun control, a Democratic “third rail” that has cost the party elections and that actually might have been even less popular on the right than the president’s health care law. And yet, for reasons that have very little to do with Obama’s personal prestige or popularity—variously put in terms of a “mandate” or “political capital”—chances are fair that both will now happen. What changed? In the case of gun control, of course, it wasn’t the election. It was the horror of the 20 first-graders who were slaughtered in Newtown, Conn., in mid-December. The sickening reality of little girls and boys riddled with bullets from a high-capacity assault weapon seemed to precipitate a sudden tipping point in the national conscience. One thing changed after another. Wayne LaPierre of the National Rifle Association marginalized himself with poorly chosen comments soon after the massacre. The pro-gun lobby, once a phalanx of opposition, began to fissure into reasonables and crazies. Former Rep. Gabrielle Giffords, D-Ariz., who was shot in the head two years ago and is still struggling to speak and walk, started a PAC with her husband to appeal to the moderate middle of gun owners. Then she gave riveting and poignant testimony to the Senate, challenging lawmakers: “Be bold.” As a result, momentum has appeared to build around some kind of a plan to curtail sales of the most dangerous weapons and ammunition and the way people are permitted to buy them. It’s impossible to say now whether such a bill will pass and, if it does, whether it will make anything more than cosmetic changes to gun laws. But one thing is clear: The political tectonics have shifted dramatically in very little time. Whole new possibilities exist now that didn’t a few weeks ago. Meanwhile, the Republican members of the Senate’s so-called Gang of Eight are pushing hard for a new spirit of compromise on immigration reform, a sharp change after an election year in which the GOP standard-bearer declared he would make life so miserable for the 11 million illegal immigrants in the U.S. that they would “self-deport.” But this turnaround has very **little to do with Obama’s personal influence**—his political mandate, as it were. It has almost entirely to do with just two numbers: 71 and 27. That’s 71 percent for Obama, 27 percent for Mitt Romney, the breakdown of the **Hispanic vote** in the 2012 presidential election. Obama drove home his advantage by giving a speech on immigration reform on Jan. 29 at a Hispanic-dominated high school in Nevada, a swing state he won by a surprising 8 percentage points in November. But the movement on immigration has mainly come out of the Republican Party’s recent introspection, and the realization by its more thoughtful members, such as Sen. Marco Rubio of Florida and Gov. Bobby Jindal of Louisiana, that without such a shift the party may be facing demographic death in a country where the 2010 census showed, for the first time, that white births have fallen into the minority. It’s got nothing to do with Obama’s political capital or, indeed, Obama at all. The point is not that “political capital” is a meaningless term. Often it is a synonym for “mandate” or “momentum” in the aftermath of a decisive election—and just about every politician ever elected has tried to claim more of a mandate than he actually has. Certainly, Obama can say that because he was elected and Romney wasn’t, he has a better claim on the country’s mood and direction. Many pundits still defend political capital as a useful metaphor at least. “It’s an unquantifiable but meaningful concept,” says Norman Ornstein of the American Enterprise Institute. “You can’t really look at a president and say he’s got 37 ounces of political capital. But the fact is, it’s a concept that matters, if you have popularity and some momentum on your side.” The real problem is that the idea of political capital—or mandates, or momentum—is so poorly defined that presidents and pundits often get it wrong. “Presidents usually over-estimate it,” says George Edwards, a presidential scholar at Texas A&M University. “The best kind of political capital—some sense of an electoral mandate to do something—is very rare. It almost never happens. In 1964, maybe. And to some degree in 1980.” For that reason, political capital is a concept that misleads far more than it enlightens. It is distortionary. It conveys the idea that we know more than we really do about the ever-elusive concept of political power, and it discounts the way unforeseen events can suddenly change everything. Instead, it suggests, erroneously, that a political figure has a concrete amount of political capital to invest, just as someone might have real investment capital—that a particular leader can bank his gains, and the size of his account determines what he can do at any given moment in history. Naturally, any president has practical and electoral limits. Does he have a majority in both chambers of Congress and a cohesive coalition behind him? Obama has neither at present. And unless a surge in the economy—at the moment, still stuck—or some other great victory gives him more momentum, it is inevitable that the closer Obama gets to the 2014 election, the less he will be able to get done. Going into the midterms, Republicans will increasingly avoid any concessions that make him (and the Democrats) stronger. But the abrupt emergence of the immigration and gun-control issues illustrates how suddenly shifts in mood can occur and how political interests can align in new ways just as suddenly. Indeed, **the pseudo-concept of political capital masks a larger truth** about Washington that is kindergarten simple: You just don’t know what you can do until you try. Or **as Ornstein himself once wrote years ago**, “**Winning wins.”** In theory, and in practice, depending on Obama’s handling of any particular issue, even in a polarized time, he could still deliver on a lot of his second-term goals, depending on his skill and the breaks. Unforeseen catalysts can appear, like Newtown. Epiphanies can dawn, such as when many Republican Party leaders suddenly woke up in panic to the huge disparity in the Hispanic vote. Some **political scientists** **who study** the elusive calculus of **how to pass legislation** and run successful presidencies **say** that **political capital is**, at best, **an empty concept**, and that **almost nothing in** the **academic literature** **successfully quantifies** or even defines **it**. “It can refer to a very abstract thing, like a president’s popularity, but there’s no mechanism there. That makes it kind of **useless**,” says Richard Bensel, a government professor at Cornell University. Even Ornstein concedes that the calculus is far more complex than the term suggests. **Winning** on one issue often **changes the** **calculation** for the next issue; there is never any known amount of capital. “The idea here is, if an issue comes up where **the conventional wisdom is that president is not going to get what he wants**

, and [they]he gets it, then each time that happens, it **changes the calculus** of the **other actors**” Ornstein says. “If they think he’s going to win, they may **change positions to get on the winning side**. **It’s a bandwagon effect**.” ALL THE WAY WITH LBJ Sometimes, a clever practitioner of power can get more done just because [they’re]he’s aggressive and knows the hallways of Congress well. Texas A&M’s Edwards is right to say that the outcome of the 1964 election, Lyndon Johnson’s landslide victory over Barry Goldwater, was one of the few that conveyed a mandate. But one of the main reasons for that mandate (in addition to Goldwater’s ineptitude as a candidate) was President Johnson’s masterful use of power leading up to that election, and his ability to get far more done than anyone thought possible, given his limited political capital. In the newest volume in his exhaustive study of LBJ, The Passage of Power, historian Robert Caro recalls Johnson getting cautionary advice after he assumed the presidency from the assassinated John F. Kennedy in late 1963. Don’t focus on a long-stalled civil-rights bill, advisers told him, because it might jeopardize Southern lawmakers’ support for a tax cut and appropriations bills the president needed. “One of the wise, practical people around the table [said that] the presidency has only a certain amount of coinage to expend, and you oughtn’t to expend it on this,” Caro writes. (Coinage, of course, was what political capital was called in those days.) Johnson replied, “Well, what the hell’s the presidency for?” Johnson didn’t worry about coinage, and he got the Civil Rights Act enacted, along with much else: Medicare, a tax cut, antipoverty programs. He appeared to understand not just the ways of Congress but also the way to maximize the momentum he possessed in the lingering mood of national grief and determination by picking the right issues, as Caro records. “Momentum is not a mysterious mistress,” LBJ said. “It is a controllable fact of political life.” Johnson had the skill and wherewithal to realize that, at that moment of history, he could have unlimited coinage if he handled the politics right. He did. (At least until Vietnam, that is.)

**Plan boosts Obama’s capital**

Douglas **Kriner 10**, Assistant Profess of Political Science at Boston University, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 59-60

Presidents and politicos alike have long recognized Congress's ability to reduce the political costs that the White House risks incurring by pursuing a major military initiative. While declarations of war are all but extinct in the contemporary period, Congress has repeatedly moved to authorize presidential military deployments and consequently to tie its own institutional prestige to the conduct and ultimate success of a military campaign. Such authorizing legislation, even if it fails to pass both chambers, creates a sense of **shared legislative-executive responsibility** for a military action's success and provides the president with **considerable political support** for his chosen policy course.34 Indeed, the desire for this political cover—and not for the constitutional sanction a congressional authorization affords—has historically motivated presidents to seek Congress's blessing for military endeavors. For example, both the elder and younger Bush requested legislative approval for their wars against Iraq, while assiduously maintaining that they possessed sufficient independent authority as commander in chief to order the invasions unilaterally.35 This fundamental tension is readily apparent in the elder Bush's signing statement to HJ Res 77, which authorized military action against Saddam Hussein in January of 1991. While the president expressed his gratitude for the statement of congressional support, he insisted that the resolution was not needed to authorize military action in Iraq. "As I made clear to congressional leaders at the outset, my request for congressional support did not, and my signing this resolution does not, constitute any change in the long-standing positions of the executive branch on either the President's constitutional authority to use the Armed Forces to defend vital U.S. interests or the constitutionality of the War Powers Resolution."36

#### DA is not an opportunity cost - don't evaluate their disad because the same agent could choose both and opportunity cost is the key to all decision making and the only lens through which to make your decision

## 1AR

#### Congress would invoke the power of the purse- solves

**Elsea et al ’13** (Jennifer K. Elsea, Legislative Attorney; Michael John Garcia, Legislative Attorney; Thomas J. Nicola, Legislative Attorney; CRS Report for Congress, “Congressional Authority to Limit Military Operations”, <http://fpc.state.gov/documents/organization/206121.pdf>, February 19, 2013)

The Purpose Statute states that funds may be used only for purposes for which they have been appropriated; by implication it precludes using funds for purposes that Congress has prohibited. When Congress states that no funds may be used for a purpose, an agency would violate the Purpose Statute if it should use funds for that purpose; it also in some circumstances could contravene a provision of the Antideficiency Act, 31 U.S.C. Section 1341. Section 1341 prohibits entering into obligations or expending funds in advance of or in excess of an amount appropriated unless authorized by law. If Congress has barred using funds for a purpose, entering into an obligation or expending any amount for it would violate the act by exceeding the amount— zero—that Congress has appropriated for the prohibited purpose.

#### Xo links to politics – congress backlashes on other agenda items.

Clay Risen, assistant editor of *The New Republic*, 8.4.**10**

[http://www.prospect.org/web/page.ww?section=root&name=ViewPrint&articleId=8140]

Congress provides an additional, if somewhat less effective, check on executive orders. In theory, any executive order can be later annulled by Congress. But in the last 34 years, during which presidents have issued some 1,400 orders, it has defeated just three. More often, Congress will counter executive orders by indirect means, holding up nominations or bills until the president relents. “There’s always the potential that a Congress angry about one issue will respond by limiting other things you want,” says Mayer.

#### Links to politics – immense opposition to bypassing debate

Hallowell ’13 [Billy Hallowell, writer for The Blaze, B.A. in journalism and broadcasting from the College of Mount Saint Vincent in Riverdale, New York and an M.S. in social research from Hunter College in Manhattan, “HERE’S HOW OBAMA IS USING EXECUTIVE POWER TO BYPASS LEGISLATIVE PROCESS” Feb. 11, 2013, <http://www.theblaze.com/stories/2013/02/11/heres-how-obamas-using-executive-power-to-bylass-legislative-process-plus-a-brief-history-of-executive-orders/>, KB]

“In an era of polarized parties and a fragmented Congress, the opportunities to legislate are few and far between,” Howell said. “So presidents have powerful incentive to go it alone. And they do.”¶ And the political opposition howls.¶ Sen. Marco Rubio, R-Fla., a possible contender for the Republican presidential nomination in 2016, said that on the gun-control front in particular, Obama is “abusing his power by imposing his policies via executive fiat instead of allowing them to be debated in Congress.”¶ The Republican reaction is to be expected, said John Woolley, co-director of the American Presidency Project at the University of California in Santa Barbara.¶ “For years there has been a growing concern about unchecked executive power,” Woolley said. “It tends to have a partisan content, with contemporary complaints coming from the incumbent president’s opponents.”

#### No strike – institutional and political checks

**Keck, 13** - Zachary Keck is associate editor of The Diplomat (“Five Reasons Israel Won't Attack Iran”, The National Interest, 11/28, http://nationalinterest.org/commentary/five-reasons-israel-wont-attack-iran-9469

4. Israel’s Veto Players Although Netanyahu may be ready to attack Iran’s nuclear facilities, he operates within a democracy with a strong elite structure, particularly in the field of national security. It seems unlikely that he would have enough elite support for him to seriously consider such a daring and risky operation. For one thing, Israel has strong institutional checks on using military force. As then vice prime minister and current defense minister Moshe Yaalon explained last year: “In the State of Israel, any process of a military operation, and any military move, undergoes the approval of the security cabinet and in certain cases, the full cabinet… the decision is not made by two people, nor three, nor eight.” It’s far from clear Netanyahu, a fairly divisive figure in Israeli politics, could gain this support. In fact, Menachem Begin struggled to gain sufficient support for the 1981 attack on Iraq even though Baghdad presented a more clear and present danger to Israel than Iran does today. What is clearer is that Netanyahu lacks the support of much of Israel’s highly respected national security establishment. Many former top intelligence and military officials have spoken out publicly against Netanyahu’s hardline Iran policy, with at least one of them questioning whether Iran is actually seeking a nuclear weapon. Another former chief of staff of the Israeli Defense Forces told The Independent that, “It is quite clear that much if not all of the IDF [Israeli Defence Forces] leadership do not support military action at this point…. In the past the advice of the head of the IDF and the head of Mossad had led to military action being stopped.”

#### CIA larger issue than the plan—it’ll keep escalating

Conor Friedersdorf, The Atlantic, 3/24/14, False Equivalence and the Feud Between the CIA and the Senate, www.theatlantic.com/politics/archive/2014/03/false-equivalence-and-the-feud-between-the-cia-and-the-senate/284596/

But now that the Justice Department is involved in the dispute between Feinstein’s Intelligence Committee staff and the CIA—deciphering whether the CIA violated the Constitution or federal law by searching Senate computers, or whether Democratic staffers hacked into the CIA’s system to obtain classified documents—things have escalated to an unprecedented level. What vexes me about how this dispute is being covered—not just in this Politico story, but in many media outlets—is the false equivalence implicit in the juxtaposition: as if the CIA and the Senate committee stand accused of like transgressions. If the charges against the CIA are true, our nation's foreign spy agency, which is forbidden from conducting any surveillance in the U.S., snooped on our legislature. That's a transgression against our constitutional framework. If the accusations against the Senate intel committee are accurate, its staffers, who have security clearances, obtained documents that the CIA ought to have turned over anyway. Are we prepared to accept that, during a comprehensive congressional inquiry into torture, the CIA was justified withholding torture documents? Senate staffers committed no great sin getting documents wrongly denied them. To its credit, the Politico article quotes Majority Leader Harry Reid articulating some of these points about the separation of powers. But the analysis next offered is the following: With no clear resolution in sight, Capitol Hill and the CIA are stuck in the awkward spot of trying to maintain business as usual, when the reality is it’s anything but. “This is the most serious feud since the Intelligence committees were established,” said Amy Zegart, a former National Security Council staffer and senior fellow at Stanford University’s Hoover Institution. Most alarming, Zegart explained, is Feinstein’s Senate floor broadside earlier this month against the CIA. The senator’s remarks broke from her well-established reputation as a staunch defender of another wing of the intelligence community, the National Security Agency, amid scores of Edward Snowden-inspired leaks to the media. “When someone who says they can be trusted now says they can’t, it’s really bad,” Zegart said. Incredible. "Business as usual" is implicitly defined as the desirable state of affairs. And what's deemed "most alarming"? Not CIA torture. Not the CIA withholding torture documents from a Senate investigation. Not the CIA spying on Congress, or trying to intimidate oversight staffers with criminal charges for doing their jobs. Bizarrely, the thing declared "most alarming" are Feinstein's words! By attacking rather than deferring to the CIA, she disrupted business as usual. Her act of "saying" is emphasized as the important factor. Then a bit farther on: Feinstein and [CIA Director John] Brennan are standing by their contradictory explanations of what happened in the course of the Democratic staff’s investigation into the Bush-era CIA programs. Absent a meeting of the minds, some say the only way for the chairwoman to save face is for Brennan to go. The article might have said, "Absent a meeting of the minds, some say the Senate intel committee should show its oversight ability is intact by forcing Brennan to resign." Instead, the focus is on Feinstein's ability to save face, as if her face-saving itself—not its implications for good governance—is what's important. Perhaps face-saving is what they're gossiping about in Washington, D.C.? In the article's defense, it then goes on to quote former Representative Pete Hoekstra, who has a far more sensible analysis of the stakes: "The real question it will come down to is whether Dianne Feinstein believes she can have a working relationship with John Brennan. And if she believes that relationship is beyond repair and it’s going to be difficult to rebuild that trust between the oversight committee and the CIA … then there’s really only one alternative. And that’s Brennan has to step aside." The reporter also quotes House Intelligence Committee Chairman Mike Rogers: “Our oversight is alive and well and robust. That won’t change,” House Intelligence Committee Chairman Mike Rogers said in an interview. But the Michigan Republican also warned that the dispute needed to be resolved, and soon—otherwise there could be consequences. “I think if this doesn’t get handled right in the next short period of time this has the potential of having other broader implications, and I hope it doesn’t get to that,” Rogers said. “You don’t want everything to become adversarial,” he added. “The oversight will continue. If it’s adversarial or not, it will continue. It’s always better when both sides agree to a framework on what will be provided; otherwise, it becomes a subpoena exchange, and that’s just not helpful.” This is why the Tea Party should subject Rogers to a primary challenge: A man charged with overseeing the CIA actually believes that the spy agency would agree to a framework where it voluntarily provided overseers with all they needed to know! It's hard to say whether he's been co-opted or is staggeringly naive. The article goes astray again by putting forth the following passage without rebuttal: In the absence of answers of what happened, several intelligence veterans said the Feinstein-CIA dispute is taking up lawmakers’ limited oxygen supply on complex issues ranging from Snowden’s revelations about government surveillance overreach to cybersecurity threats and tensions flaring in Ukraine, Syria, Egypt and other global hotspots. Implicit in this treatment is the notion that CIA spying on Congress is a tertiary concern, a controversy distracting us from more important issues. I'd argue that, if there's a limited oxygen supply in Washington, D.C., safeguarding the separation of powers and adequate oversight of the CIA is far more important than, say, Syria. It is troubling, but unsurprising, that intelligence veterans think otherwise.

#### Best evidence goes aff

**Lauter 1/19**, David, Washington Bureau LA Times, “Obama comes out swinging for second term,” 1/19, <http://touch.latimes.com/#section/-1/article/p2p-74090688/>

WASHINGTON — In President Obama's first term, a promise of bipartisanship withered on stony ground; as his second begins, he has openly embraced confrontation. On a parade of hot-button political issues, including the budget, gun control and immigration, Obama has begun to hammer on weak points in the Republican coalition. He has made little effort to woo members of the opposition in Congress, whose positions he has characterized publicly as "intransigent," "extreme" and "absurd." Instead, he appears intent on dividing them. That approach has unified Democrats, who remain staunchly supportive of the president, while exacerbating splits in Republican ranks, according to polls. While the strategy involves considerable risk, Obama and his aides seem convinced it offers their best hope of winning major legislative victories in an era of deep partisan divisions in Washington and in the wider electorate. The administration wants to "stay away from inside-the-Beltway, elite negotiations and try to pursue an outside-in strategy, where the president seeks to mobilize public opinion and put pressure on a minority of Republicans," said William Galston of the Brookings Institution, a public policy think tank. The idea, he said, is to find weak spots in the GOP coalition, then "stick a wedge into the crack and wiggle it back and forth until it breaks." During the first term, Obama and his aides engaged in lengthy negotiations and offered concessions aimed at winning a handful of Republican votes during battles over healthcare and the economic stimulus. That effort proved futile, whether because of Obama's inability to reach across the aisle (the Republican view), the intransigence of his opposition (the Democratic version) or the inherent problems of compromise in a divided country. During the presidential campaign, Obama and top aides suggested that the Republican determination to oppose him would wane if he won reelection. "The fever will break," became a favored White House metaphor. That hasn't happened, and the current White House strategy tacitly acknowledges that bridging the partisan gaps will probably remain beyond Obama's power. At the same time, Obama and his advisors feel more confident they can prevail — as they did during the "fiscal cliff" battle over tax rates in December. White House senior advisor Valerie Jarrett said Obama was not adopting "a confrontational strategy," but was acting confidently "with the experience of four years." "His intent isn't to cause fracases in the Republican party," she added, saying that the focus is on policy. "The way he looks at it is, these are causes that can actually bring our country together." Republicans disagree, of course, and say Obama's approach guarantees nothing will get done. "The president is really good at campaigning and really bad at governing," said Republican strategist Whit Ayres. "Anything that's going to get through this Congress is going to have to be done in a bipartisan way," he said, but Obama has shown "no inclination or ability" to accomplish that. "This White House hasn't seemed to have figured out that the election is over, and the time for governing has come," he added. Whichever view is right, the legislative clock runs quickly for second-term presidents. Next year, members of Congress will begin to focus on the 2014 midterm election. After that, the 2016 presidential contest will rapidly take shape. Even if he avoids the kinds of scandals or blunders that hindered the second terms of Dwight Eisenhower, Richard Nixon, Ronald Reagan, Bill Clinton and George W. Bush, history suggests Obama has a relatively short period in which to collect legislative victories. "In second terms the window of opportunity is pretty narrow, maybe 18 months," said University of Texas professor H.W. Brands, one of a group of historians who have met several times with Obama for off-the-record dinners to discuss the presidency. "After that, they are really lame ducks." Obama and his aides dismiss the idea that a softer approach to the opposing party would lead to a better result. Members of Congress chiefly vote based on their political self-interest, not personal relationships, Obama said at a recent news conference. "The reason that, you know, in many cases, Congress votes the way they do, or talks the way they talk, or takes positions and negotiations that they take — it doesn't have to do with me; it has to do with the imperatives that they feel in terms of their own politics," he said. Many outside experts agree. The biggest fear for many lawmakers is the risk of being challenged in a primary election if they cooperate with the other side, said Alan Abramowitz, professor of political science at Emory University, who has extensively studied the country's rising political partisanship. The gap between the two parties in the just-completed 112th Congress was bigger than at any time since the 1880s, according to data analyzed by University of Georgia political scientist Keith T. Poole. To convince members to break party discipline in such a divided body, the president has to provide significant counter-pressure. White House aides "see that they have the advantage" with public opinion on guns, taxes and other major issues Obama has tackled, Abramowitz said, and "that plays into this more confrontational approach." White House officials believe events have vindicated their strategy. In December's confrontation over the federal budget, Obama made an initial offer that embodied an extensive Democratic wish list. House Republicans denounced him for not negotiating seriously, vowed to block his plans to raise income tax rates on the wealthiest Americans, then gave in when the deadline arrived. Obama made some concessions, but far fewer than in previous negotiations. In the end, Speaker John A. Boehner (R-Ohio) allowed a tax increase on the wealthy to come to the House floor and pass despite opposition from most of his caucus. The bill marked the first time any Republican in Congress had voted for an income tax hike in more than 20 years. Republican leaders then vowed to recoup their losses in a fight over the federal debt ceiling. On Friday, they backed away from that confrontation too, judging the risks too high, and proposed a new budget deadline later in the spring.

#### Winners win

#### a). uniquely true now

**Rottinghaus 11/7** (Brandon Rottinghaus is an associate professor of political science and the Senator Don Henderson Scholar at the University of Houston, Obama Will Have to Bargain for His Mandate, <http://www.usnews.com/debate-club/does-barack-obama-have-a-mandate/obama-will-have-to-bargain-for-his-mandate>)

It would be tempting for the White House (and pundits) to suggest to the voters that the president gained a mandate at the end of a hard won victory. Yet, the truth is that mandates are not concretely "born" but are instead "bargained." Political science scholars argue that mandates are perceptions of political opportunity by presidents who use them as a bargaining tool. A president will claim a mandate if he believes he can prospectively mobilize more voters than members of Congress to support his policy views. Historically, claiming a mandate is the equivalent of putting a major policy change on the national agenda. In general, presidents claim mandates to attempt to use that language and positioning to pressure Congress.¶ [[See a collection of political cartoons on the 2012 campaign](http://www.usnews.com/cartoons/campaign-2012-cartoons).]¶ For the 2012 election to be a "mandate" in this way, the president must claim not only that the people back him but also what specific policies they are suggested to support. The president's speech on election night only vaguely hinted that his healthcare initiative was proving successful and popular. It remains to be seen in the coming days whether or not the White House suggests a mandate for a specific policy or initiative which they can use to bargain with Congress.¶ Even if a mandate is claimed, Congress has to agree with the White House about the veracity of the claim. If Congress rejects the president's claims of a mandate—or, as House Speaker John Boehner did in a statement after the president's re-election, assert that the American people re-elected a Republican Congress, too—then the Republicans in the House and Senate are poised to discredit any claim of an Obama mandate and balk at negotiations over new Obama policy initiates or solutions to immediate issues involving automatic tax and spending increases to take place at the first of the year. It is not clear that either side has an advantage in these negotiations, considering the dynamic with either the present or future Congress.¶ [[See photos of 100 Years in Presidential Races.]](http://www.usnews.com/photos/100-years-of-presidential-races)¶ Imminent scholar of democracy Robert Dahl wrote that "no elected leader is uniquely privileged to say what an election means." Clearly the president's victory signals faith in him and his efforts to handle the nation's fragile economy and delicate foreign policy. Voters clearly trusted his vision for the future, even if only slightly more than Mitt Romney's vision. Yet these outcomes do not make a mandate. The White House must push for something tangible or the president's re-election is just an invitation to struggle for four more years.

#### b). inaction burns capital

**Kuttner 11** (Robert, Co-Founder and Co-Editor – American Prospect and Distinguished Senior Fellow – Demos (Think Tank), “Barack Obama’s Theory of Power”, The American Prospect, 5-16,[http://prospect.org/cs/articles?article=barack\_obamas\_theory\_of\_power](http://prospect.org/cs/articles?article=barack_obamas_theory_of_power" \t "_blank))

Obama’s critics contend that his prolonged fantasy of bipartisanship, his failure to lay the blame for the depressed economy squarely on the Republicans, and his reluctance to use his bully pulpit to tell a coherent story, particularly about jobs, needlessly weakened the Democrats and led to avoidable losses in the 2010 midterm. More fundamentally, under Obama government has lost credibility as a necessary force for economic recovery and fairness, undermining the Democrats’ core appeal to voters. At the very least, Obama failed to drive the agenda or exploit the full possibilities of presidential leadership in a crisis. In the formulation of the political historian James MacGregor Burns, Obama ran and inspired voters as a “transformational” figure but governed as a “transactional” one. Notwithstanding a vow to profoundly change Washington, Obama took the Washington power constellation as a given. Despite an economic emergency, he moved neither Congress nor public opinion very much and only seldom used his oratorical gifts. “He is so damned smart and confident that he thinks he just has to explain things to the American people once,” says former House Appropriations Chair David Obey. “He doesn’t appreciate that you have to reinforce a message 50 times.” Obama’s reticence, his reluctance to lay blame, make sharp partisan distinctions, or practice a politics of class, reflects the interplay of his personality and his tacit theory of power—one that emphasizes building bridges to opponents, defying ideological categories, shying away from the kind of mass mobilization that swept him into office, and practicing a kind of Zen detachment. At moments in American history, that conception of the presidency has suited the times. This doesn’t seem to be one of those moments. Yet in the third year of his presidency, there are signs of a learning curve. It may be that Obama is playing his own elegant brand of rope-a-dope, biding his time, letting the Republicans lead with their chins, waiting for just the right moment to dramatize their extremism and exploit their schisms—then demonstrating a toughness that has largely eluded him until now and reshaping the political center as a more progressive one. The hope of a new, more combative Obama was kindled by portions of his April 13 speech at George Washington University, which showed an Obama that we’ve seldom seen during his presidency. “The man America elected president has re-emerged,” exulted The New York Times’ lead editorial. Obama departed from his usual reluctance to be partisan, explicitly criticizing the self-annihilating Republican designs so usefully spelled out in Rep. Paul Ryan’s proposed 10-year budget. The president resorted to a formulation he seldom uses—the injustices of class: “The top 1 percent saw their income rise by an average of more than a quarter of a million dollars each. That’s who needs to pay less taxes?” Obama said. “They want to give people like me a $200,000 tax cut that’s paid for by asking 33 seniors each to pay $6,000 more in health costs. That’s not right. And it’s not going to happen as long as I’m president.” At last, Obama shifted the mind-numbing debate from the scale of the budget and its deficits to its content and political meaning. He did what his progressive critics have long advocated, drawing a clear, bright, partisan line and pledging to defend Medicare, Medicaid, and Social Security. But the budgetary details of the speech showed an Obama who was still the transactional leader of the Burns paradigm. Obama devoted most of the speech to his own plans for cutting the deficit. Jobs and recovery were hardly mentioned. Most of the proposed deficit reductions came from cuts to programs rather than from tax increases. And Obama was far too generous with the word, we. As in: But after Democrats and Republicans committed to fiscal discipline during the 1990s, we lost our way in the decade that followed. We increased spending dramatically for two wars and an expensive prescription-drug program—but we didn’t pay for any of this new spending. Instead, we made the problem worse with trillions of dollars in unpaid-for tax cuts. [Emphasis added.] As Tonto said to the Lone Ranger, What do you mean, we? This fiscal deterioration, of course, was the Republicans’ handiwork. Why not point that out? Obama seemed to come to his partisanship reluctantly, almost apologetically. At one point in the speech, having just flayed the Republicans for their sheer extremism, he added, “I’m eager to hear other ideas from all ends of the political spectrum.” He further mixed his own message by declaring, “We will all need to make sacrifices.” Indeed, the main ideological themes of the speech had been undermined by Obama’s earlier compromises. The left pole that Obama defined in the budget debate had already been moved to the right by his yearlong emphasis on deficit reduction; his prior concessions in the December 2010 tax deal, which failed to restore higher tax rates on the rich; and the 2011 budget deal, which cut $38 billion in programs. If the bipartisan Gang of Six, spawn of Obama’s own Bowles-Simpson commission, does reach agreement, it will only add pressure to alter Social Security, Medicare, and Medicaid for the worse—thus fatally blurring Obama’s bright line. Was Obama’s speech—the most resolutely political, partisan, progressive, and effective in recent memory—a turning point or a one-off? Is Obama now revising his theory and practice of presidential power? As the political scientist Richard Neustadt observed in his classic work, Presidential Power, a book that had great influence on President John F. Kennedy, the essence of a president’s power is “the power to persuade.” Because our divided constitutional system does not allow the president to lead by commanding, presidents amass power by making strategic choices about when to use the latent authority of the presidency to move public and elite opinion and then use that added prestige as clout to move Congress. In one of Neustadt’s classic case studies, Harry Truman, a president widely considered a lame duck, nonetheless persuaded the broad public and a Republican Congress in 1947-1948 that the Marshall Plan was a worthy idea. As Neustadt and Burns both observed, though an American chief executive is weak by constitutional design, a president possesses several points of leverage. He can play an effective outside game, motivating and shaping public sentiment, making clear the differences between his values and those of his opposition, and using popular support to box in his opponents and move them in his direction. He can complement the outside bully pulpit with a nimble inside game, uniting his legislative party, bestowing or withholding benefits on opposition legislators, forcing them to take awkward votes, and using the veto. He can also enlist the support of interest groups to pressure Congress, and use media to validate his framing of choices. Done well, all of this signals leadership that often moves the public agenda. The most effective presidents have worked all these levers. Think of Franklin Roosevelt, or Ronald Reagan, or Lyndon B. Johnson during the era of the War on Poverty and the civil-rights crusade. But except in the endgame of the battle for health careand his recent turnabout in defending Medicare, Obama has been relatively disengaged on all of these fronts. He left the details of his signature legislation andattendant bargaining to his staff. Says a senior Democrat who speaks frequently to Obama, “He is just not someone who enjoys what most of presidential politics entails.” Reviewing Obama’s relatively short career, a few core principles emerge in which he deeply believes. These have remained constants. Building Bridges. Obama, famously, is convinced both by his life journey and his prior experience in politics that he can persuade almost any adversary to find areas of common ground. “Much of Obama’s self-confidence,” wrote David Remnick in his biography of Obama, The Bridge, “resided in his belief that he could walk into a room, with any sort of people, and forge a relationship and even persuade those people of the rightness of his position.” From the Harvard Law Review, to the Illinois Senate, to the Iowa precinct caucuses, Obama’s political life before his presidency only strengthened that conviction. Obama has a deep certitude that the voters, especially political independents, are sick of partisan division and want a leader who will rise above it to solve practical problems. In service of that goal, he has bent over backward to praise his opposition rather than attack it, frequently offering concessions in advance. Mostly, he has pursued common ground by giving ground. The experience of his first two years, when Republicans wanted nothing so much as to destroy him, did not shake Obama from these strategic beliefs. “He doesn’t have a fighter’s instinct, but he is in the middle of a hugely consequential fight,” says a veteran Senate Democrat. “They will keep pushing him as long as he keeps backing up.” His drawing of bright lines in the April 13 speech was very much the exception. Defying Categories. This core political instinct interacts with, and is reinforced by, Obama’s personal reticence and determination not to be the angry black man. From his first entry into electoral politics, he defined himself as a different sort of African American and a different sort of liberal. Even though his voting record as a U.S. senator was one of the most progressive, as president he has almost gone out of his way to distance himself from the liberal base. In an interview with The New York Times’ Peter Baker on the eve of the 2010 elections, Obama expressed regrets for looking too much like “the same old tax-and-spend liberal Democrat.” Courting Elites, Wary of Mass Mobilization. Obama and his campaign staff brilliantly enlisted an army of volunteers who thought of themselves as a movement built on the values of sweeping change and the tactics of community organizing. Obama repeatedly vowed that he would use these engaged citizens to press Congress to enact health reform and other urgent priorities. But once elected, Obama’s political staff quickly downgraded Obama for America into Organizing for America, a denatured arm of the Democratic National Committee—out of concern that an independent movement might be more of a pressure group than an amen chorus. While he has maintained a close—and politically damaging—alliance with Wall Street (and lately, under Chief of Staff Bill Daley’s tutelage, has reached out to the U.S. Chamber of Commerce), Obama has been detached from the one recent popular rising that could help him win lost ground in the crucial states of the Midwest—the backlash against union busting and draconian budget cuts by Midwestern Republican governors and legislators. Though the line attributed to FDR speaking to supporters—“Now, make me do it”—is probably apocryphal, Roosevelt did make good use of popular groups to his left, as did Lyndon Johnson in his complex alliance with Martin Luther King. Obama and his political staff are distinctly uncomfortable with independent mobilizations making him do anything. At a time when progressive movements lack the energy of the 1930s or 1960s, the president has not chosen to help animate them. Zen Leadership. The adjectives widely used to describe Obama are words like diffident, detached, aloof, professorial. Obama practices restraint to a fault. As a policy expert and intellectual, he is hands-on when it comes to White House deliberation but mostly hands-off with Congress. As Burns demonstrated, power is enhanced in the course of its exercise. But Obama, despite his eloquence and capacity to motivate, seems to believe that power should be conserved and presidential leadership reserved for emergencies. He waited long and disabling months beforebecoming personally engaged in the health-reform battle. This left the details obscure, voters anxious, and Democrats at the August 2009 town meetings playing the role of pinata. By the time the bill finally passed, the victory was politically Pyrrhic. An exasperated David Obey told me, “Obama sat and let Jubilation T. Cornpone tie up Max Baucus for all those months. Hell, Chuck Grassley made it clear to me that he’d never vote for the thing.” Obama and his team never embraced such strategies as forcing Republicans (and conservative Democrats) to take awkward votes or using the veto to define clear and principled differences. David Axelrod told me that the White House considered it futile and self-defeating to bring up measures in the Senate that couldn’t win. This stance, the opposite of Harry Truman’s, has infuriated Obama’s allies in the House. During the last session, important progressive legislation on jobs and energy independence passed the House but was never even brought to a vote in the Senate. In one emblematic episode in December 2009, House Speaker Nancy Pelosi pulled out all the stops to get the House to narrowly pass a $154 billion public-investment, jobs, and unemployment-extension bill. The White House, however, rebuffed Pelosi’s entreaties to urge Majority Leader Harry Reid to bring the measure to a vote in the Senate. At the time, Obama’s aides were convinced that job growth was around the corner, had already moved on to deficit reduction as the theme of the 2010 State of the Union address, and were laying plans for “Recovery Summer,” a conceit that entirely backfired. Except on such rare occasions at late stages of the health debate, it was not Obama’s style to call in wavering Democrats to give them an LBJ-style treatment—or to call them in at all, even to discuss major pending policy decisions. A number of senior Democrats were livid that they were kept in the dark about the April 13 budget speech, which had evidently been months in preparation. They first heard about it when David Plouffe, the White House political director, made the rounds of the Sunday talk shows, three days before the speech. “You’ve heard of the ‘great man’ theory,” says Robert Borosage, who co-directs the progressive Campaign for America’s Future. “They believe in the ‘great speech’ theory.” Obama’s stirring speech at the 2004 Democratic National Convention established the novice as presidential timber. During the campaign, his superb address on race, a subject he dearly wanted to avoid, saved his candidacy from being destroyed by the controversy over the Rev. Jeremiah Wright. But as president, much of the time Obama has been AWOL rather than a defining presence driving the debate. His great speeches, like April’s budget address, often come late in the game, after concessions have been made and damage done. Obama seems to relish demonstrating that he can score the occasional touchdown run starting from his own end zone. But politics, like football, is a game of cumulative scoring. If you keep giving ground, the clock eventually runs out. Hands off, above the fray, turning the other cheek, representing decency and common purpose, conserving rather than wielding power, uncomfortable with popular movements he doesn’t control—by some alchemy, this style of leadership is expected to produce the voter approval that puts polite pressure on the other party to join the quest for consensus. Reciprocity and compromise then result in effective government and popular adulation. This has been Obama’s operating theory of power. For the most part, it hasn’t worked.