### 2ac – T – Restrictions

#### 1. We meet statutory restrictions.

Chehab, Georgetown Law Center, 2012

[Ahmad, 3-30-12, “Retrieving the Role of Accountability in the Targeted Killings Context: A Proposal for Judicial Review” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572, p.26-7, accessed 9-15-13, TAP]

The creation of the Covert Operations Against American Citizens Court (COAACC) would help

AND

the use of electronic eavesdropping in the context of foreign intelligence gathering.121

#### 2. We meet judicial restrictions.

Guiora, University of Utah law professor, 2012

[Amos, Case Western Reserve Journal of Internal Law, vol 45, “Targeted Killing: When Proportionality Gets All Out of Proportion” http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.13.Article.Guiora.pdf, p.239, accessed 9-15-13, TAP]

The solution to this search for an actionable guideline is the strict ¶ scrutiny standard

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balance enabling the ¶ state to act sooner but subject to significant restrictions.

#### 3. Counter-interpretation – restriction means a limit and includes conditions on action.

Snow, COURT OF APPEALS OF ARIZONA judge, 8

(G. Murray, COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT A, STATE OF ARIZONA, Appellee, v. JEREMY RAY WAGNER, Appellant., 2008 Ariz. App. Unpub. LEXIS 613, accessed 9-18-13, CMM)

P10 The term "restriction" is not defined by the Legislature for the purposes

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natural and obvious meaning, which may be discerned from its dictionary definition.").

P11 The dictionary definition of "restriction" is "[a] limitation or qualification

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dictate that the term "restriction" includes the ignition interlock device limitation.

### AT: Constitution

#### The president does not have unfettered constitutional authority to use lethal force.

Vladeck, American University law professor, 2-10-13

[Steve, “Why a drone court won' work - but (nominal) damages might” <http://www.lawfareblog.com/2013/02/why-a-drone-court-wont-work/>, accessed 9-20-13, TAP]

First, and most significantly, even though I am not a particularly strong defender

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cases where the President otherwise would have the power to use lethal force.

### 2ac – Solvency EXTN – AT: Court = Secret

#### The court would release information from trials – that solves.

Opderbeck, Seton Hall University law professor, 2013

[David, 8-2013, “Drone Courts” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2305315>, p.54, accessed 8-28-13, TAP]

A second practical objection is that drone strikes typically¶ involve top secret and other

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from¶ public scrutiny, even if specific operational details must be redacted.

### 2ac – Solvency EXTN – AT: Rubber Stamp

#### High approval rate does not make something a rubber stamp.

Chehab, Georgetown Law Center, 2012

[Ahmad, 3-30-12, “Retrieving the Role of Accountability in the Targeted Killings Context: A Proposal for Judicial Review” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572, p.30, accessed 9-15-13, TAP]

Although not a required form of analysis, these factors nonetheless suggest a rigorous review

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of American efforts to target alleged terrorists and reduce likelihood of collateral damage.

### 2ac – Executive CP – AT: Independent Oversight

#### 1. Perm – do both – shields the link

Chesney et al., University of Texas law professor, 2013

[Robert, Brookings Institute senior fellow, Jack Goldsmith, Harvard University law professor, Matthew Waxman, Columbia University law professor and CFR senior fellow, and Benjamin Wittes, Brookings Institution governance studies senior fellow, 2-25-13, “A Statutory Framework for Next-Generation Terrorist Threats,” http://media.hoover.org/sites/default/files/documents/Statutory-Framework-for-Next-Generation-Terrorist-Threats.pdf, p.8-9, accessed 9-26-13, TAP]

Congress could authorize the president to use force that is consistent with his ¶ extant

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defense regime is ¶ politically and legally more stable when backed by Congress.

#### 3. AND Congressional signal key to legality.

Anderson, American University law professor, 2009

[Kenneth, 5-11-09, “Targeted Killing in U.S. Counterterrorism Strategy and Law” <http://www.brookings.edu/~/media/research/files/papers/2009/5/11%20counterterrorism%20anderson/0511_counterterrorism_anderson.pdf>, p.31-3, accessed 9-22-13, TAP]

What Should Congress Do? ¶ Does this analysis offer any practical policy prescriptions for

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seen by many as a legal non-starter under ¶ international law.

Before addressing what Congress should do in this regard, we might ask from a

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Administration. Perhaps it ¶ is better to let sleeping political dogs lie.

These questions require difficult political calculations. However, the sources cited above ¶ suggest

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its sovereign prerogatives are challenged by the international soft-law ¶ community.

The deeper issue here is not merely a strategic and political one about targeted killing

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general ¶ approach of overt legislation that removes ambiguity is to be preferred.

The single most important role for Congress to play in addressing targeted killings, ¶

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task—as fundamental as it ¶ is—remains unfortunately poorly understood.

Yet if it is really a matter of political consensus between Left and Right that

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a very powerful, very important, and ¶ very legitimate sovereign state.

Intellectually, continuing to squeeze all forms and instances of targeted killing by ¶ standoff

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a certain ¶ deformation of the IHL concept of hostilities and armed conflict.

#### 6. Ex ante is key.

Chehab, Georgetown Law Center, 2012

[Ahmad, 3-30-12, “Retrieving the Role of Accountability in the Targeted Killings Context: A Proposal for Judicial Review” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572, p.22-5, accessed 9-15-13, TAP]

The argument put forth here, therefore, is that in light of the protections the Constitution affords U.S. AND

executive officials to avoid making them in the first place.”111

#### 8. Congress is key – mistrust overwhelms the CP – anything the executive does is self-serving and non-credible.

Goldsmith, Harvard University law professor, 5-1-13

[Jack, “How Obama Undermined the War on Terror” <http://www.newrepublic.com/node/112964/print>, accessed 9-29-13, TAP]

These are unhappy developments for the president who in his first inaugural address pledged with

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more about the way of the knife through Freedom of Information Act requests.

A related sin is the Obama administration's surprising failure to secure formal congressional support.

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, even if it means that secret war abroad is harder to conduct.

10. Self-restraint CP is illegit – the resolution assumes the president should not have authority – the counterplan moots this assumption by saying the prez won’t abuse authority – takes out the heart of the topic making it impossible for the aff to debate and has no comparative lit – voter because we shouldn’t have to win 2 arguments to get back to ground zero

#### 11. Links to politics.

Cooper, University of Vermont political science professor, 99

(Phillip J., Federal News Service, October 28, 1999, “Prepared Testimony of Phillip J. Cooper Gund Professor of Liberal Arts Department of Political Science University of Vermont before the House Committee on the Judiciary Subcommittee on Commercial and Administrative Law, p. Lexis)

There is certainly the danger that excessive use of broad application of executive orders can

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to be maintained throughout if the tasks of government are to be accomplished.

### AT: Ex Post CP Plank – Base

#### 7. Doesn’t solve accountability – courts defer – political question doctrine and state secrets – and even if the Courts don’t defer – the executive circumvents.

Epps, University of Baltimore law professor, 2-16-13

[Garrett, “Why a Secret Court Won't Solve the Drone-Strike Problem” <http://www.theatlantic.com/politics/archive/2013/02/why-a-secret-court-wont-solve-the-drone-strike-problem/273246/>, accessed 9-4-13, TAP]

Finally, some scholars have suggested that the Congress create a new "cause of

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but we'd be no closer to accountability for the drone-strike decision.

11. Doesn’t solve accountability – ability to sue is limited – especially if they are dead.

Chehab, Georgetown Law Center, 2012

[Ahmad, 3-30-12, “Retrieving the Role of Accountability in the Targeted Killings Context: A Proposal for Judicial Review” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572, p.25-6, accessed 9-15-13, TAP]

While the current process afforded to U.S. citizens is lacking, it

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these claims ex ante would be a better course of action to consider.

#### 12. Wouldn’t sue even if they didn’t die.

Murphy, Professor of Law, Texas Tech University School of Law and Radsan, Professor, William Mitchell College of Law, 9

(Richard and Afsheen, “ARTICLE: DUE PROCESS AND TARGETED KILLING OF TERRORISTS,” 32 Cardozo L. Rev. 405, lexis, accessed 9-27-13, CMM)

But as the dissenting judge in Arar noted, these special factors lose much of

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the mountains of Afghanistan is not likely to hire an American lawyer either.

### 2ac – ATS DA

#### No spill over – limited jurisdiction means it doesn’t set a precedent for the judicial branch – only this court.

Opderbeck, Seton Hall University law professor, 2013

[David, 8-2013, “Drone Courts” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2305315>, p.56-7, accessed 8-28-13, TAP]

The age of the drones has dawned. Rapid technological¶ development will soon permit

AND

an important¶ independent measure of accountability over the use of killer drones.

#### No way to sue – the process is ex parte.

Wittes, Brookings Institution governance studies senior fellow, 2-18-13

[Benjamin, “Carrie Cordero on FISA Court Lessons for a “Drone Court”” <http://www.lawfareblog.com/2013/02/carrie-cordero-on-fisa-court-lessons-for-a-drone-court/>, accessed 10-6-13, TAP]

Carrie Cordero, Georgetown’s Director of National Security Studies and a former Justice Department national

AND

to just how extensive court involvement in national security operational matters can be.

#### No link – the Court has eliminated the prospect of ATS suits – and this evidence disproves the impact because there have been a flood of ATS claims in the past

Posner, professor at the University of Chicago Law School, 4-24-13 [Eric, The United States Can’t Be the World’s Courthouse: Why the Supreme Court just killed off a whole category of human rights suits. http://www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/04/the\_supreme\_court\_and\_the\_alien\_tort\_statute\_ending\_human\_rights\_suits.single.html]

Two things America is known for—its love of lawsuits and its delight in

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be the world’s policeman. It cannot be the world’s courthouse, either.

#### Zero risk of the link – multiple legal barriers

Rosen, Professor of Law and Director, Center for Military Law and Policy, Texas Tech, ’11 [Richard, Drones and the US Courts, 37 Wm. Mitchell L. Rev. 5280, http://apps.law.georgetown.edu/state-secrets-archive/resourcedocuments/DRONESANDTHEUSCOURTS\_202.docx.]

Those targeted by drones may sue federal officials in their individual capacities for the damages suffered, either alleging a common law tort, a violation of international law, or a violation of the Constitution.68 None is likely to be successful.

First, under the Federal Employees Liability Reform and Tort Compensation Act of 1988 (

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functions.74 If the exceptions apply, the case is dismissed.75

Second, some have suggested the possibility of Bivens actions76 for the victims of drone

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extraterritorial reach of any constitutional provisions, other than the Suspension Clause.”84

Even if the Constitution has universal extraterritorial application, a Bivens remedy for constitutional violations

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drone strikes in the nation’s war with al Qaeda and the Taliban.88

Finally, even if the courts recognized a Bivens remedy for the victims of drone

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officials will qualify for immunity from Bivens claims arising from such attacks.92

#### And “state secrets” solves the risk

Rosen, Professor of Law and Director, Center for Military Law and Policy, Texas Tech, ’11 [Richard, Drones and the US Courts, 37 Wm. Mitchell L. Rev. 5280, http://apps.law.georgetown.edu/state-secrets-archive/resourcedocuments/DRONESANDTHEUSCOURTS\_202.docx.]

Assuming a complaint survives the jurisdictional, justiciability, immunity, and other hurdles to

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“even the most compelling necessity cannot overcome the claim of privilege.”95

Not only will the state secrets doctrine thwart plaintiffs from acquiring or introducing evidence vital

AND

to the means, methods, and circumstances under which drones are employed.

### 2ac – Pakistan DA

#### 4. No unique link – the legwork for strikes already exists.

Adelsberg, Yale University JD candidate, 2012

[Samuel, 6 Harv. L. & Pol'y Rev. 437, “SHORT ESSAYS: Bouncing the Executive's Blank Check: Judicial Review and the Targeting of Citizens” Lexis, accessed 9-15-13, TAP]

National Security Concerns

A major concern for the military and intelligence community would likely be the effect of

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of the supporting intelligence" n83 and perform a collateral damage assessment. n84

Although not as public, the CIA apparently also has robust internal targeting procedures.

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"legalistic and carefully argued, often running up to five pages." n87

The purpose of surveying the known targeting procedures is to demonstrate that there is already

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that list could be put through the GTP with hearings before the CTRC.

#### No link – it can handle requests quickly.

It is fast

It can handle a lot of requests

McKelvey, Vanderbilt University JD Candidate, 2011

[Benjamin, Vanderbilt journal of transnational law editorial board executive development editor, Vol 44, “Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power” http://www.vanderbilt.edu/jotl/manage/wp-content/uploads/mckelvey-pdf.pdf, p.1379-80, accessed 9-15-13, TAP]

FISA is an existing legislative model that is applicable both in ¶ substance and structure

AND

of managing real-time executive ¶ decisions that affect national security.219

The motivation for passing FISA makes this an obvious choice ¶ for a legislative model

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is conducted only in lawful circumstances ¶ after a demonstration of sufficient evidence.

#### No link – judges have expertise with sensitive information.

Adelsberg, Yale University JD candidate, 2012

[Samuel, 6 Harv. L. & Pol'y Rev. 437, “SHORT ESSAYS: Bouncing the Executive's Blank Check: Judicial Review and the Targeting of Citizens” Lexis, accessed 9-15-13, TAP]

[\*445] Rather, as recognized by the Founders in the Fourth Amendment

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ideal candidates to ensure that the executive exercises constitutional restraint when targeting citizens.

#### Terrorists won’t be able to steal nuclear weapons – Pakistan’s weapons are secure.

Hundley, Pulitzer Center on Crisis Reporting senior editor, 2012

[Tom, 9-5-12, “Pakistan and India: Race to the End” http://pulitzercenter.org/reporting/pakistan-nuclear-weapons-battlefield-india-arms-race-energy-cold-war, accessed 9-11-13, TAP]

With both sides armed to the teeth, it is easy to exaggerate the fears

AND

secure against internal threats, according to those who know the country best.

### 2ac – Yes Debt Ceiling DA

#### 1) Alt cause – politics and corruption prevent a solution to starvation

Michael Sanera and Jane Shaw, ‘96

[Center for the Environmental Education Research Director, and Political Economy Research Center Senior Associate, *Facts Not Fear*, pg. 66-7]

If there is enough food to go around, why do people starve? The

AND

between troops made it difficult to get food to those who needed it.

#### Won’t pass – Boehner wants more budget reforms

Sherman and Bresnahan, Politico, 10-3-13

(Jake and John, “Government shutdown: John Boehner to allies: I want a fiscal deal,” http://dyn.politico.com/printstory.cfm?uuid=595E8906-5E01-427C-BFAE-E44727AD6A72, accessed 10-4-13, CMM)

Speaker John Boehner told a small group of his closest congressional allies Thursday afternoon that

AND

budging, and the targeted bills by Republicans shows they are digging in.

#### The GOP won’t back down – Obama has no leverage.

Hooper, The Hill, 10-4-13

(Molly, Peter Schroeder and Bernie Becker, “'This isn't some damn game',” http://thehill.com/video/in-the-news/326605-boehner-rallies-his-troops-at-closed-door-conference, accessed 10-4-13, CMM)

Speaker John Boehner (R-Ohio) urged Republicans to stick together Friday at

AND

as painful and visible as possible in an effort to pressure the GOP.

#### PC down – public opinion

Shabad, The Hill, 10-4-13

(Rebecca, “Obama's approval drops to 41 percent, lowest in two years, poll finds,” http://thehill.com/blogs/blog-briefing-room/news/326717-obamas-approval-drops-to-lowest-level-in-two-years, accessed 10-4-13, CMM)

President Obama’s approval rating has dropped to one of the lowest levels in two years

AND

, but Gallup's numbers suggest the negative news is also hurting the president.

#### No perception impact.

O’Toole, CNN Money, 9-30-13

[James, “Rating agencies an afterthought in debt ceiling fight” <http://money.cnn.com/2013/09/30/news/economy/rating-agencies/index.html>, accessed 10-4-13, TAP]

The latest fiscal showdown in Washington could spark another downgrade of the U.S

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I don't think that would create a cascade of selling," he said.

#### Winners win on controversial issues

Hirsh, National Journal, 2-7-13

(Michael, “There’s No Such Thing as Political Capital,” http://www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207?page=1, accessed 2-7-13, CMM)

Naturally, any president has practical and electoral limits. Does he have a majority

AND

right. He did. (At least until Vietnam, that is.)

#### Obama supports the plan.

Roberts, The Guardian, 5-24-13

[Dan, “Obama drone oversight proposal prompts concern over 'kill courts'” http://www.theguardian.com/world/2013/may/24/obama-drone-vetting-kill-courts, accessed 9-18-13, TAP]

The president has asked Congress to consider establishing a special court or oversight board to

AND

but raises serious constitutional issues about presidential and judicial authority," he said.

#### Turn – the plan is popular.

Hosenball, Reuters, 2-8-13

[Mark, “Support grows for U.S. "drone court" to review lethal strikes” <http://www.reuters.com/article/2013/02/09/us-usa-drones-idUSBRE91800B20130209>, accessed 9-4-13, TAP]

During a fresh round of debate this week over President Barack Obama's claim that he

AND

. citizen alleged to be a "senior operational leader of Al Qaeda."