## Case

### AT: Circumvention

#### Obama would comply with the court

Stephen I. Vladeck 9, Professor of Law and Associate Dean for Scholarship at American University Washington College of Law, senior editor of the peer-reviewed Journal of National Security Law and Policy, Supreme Court Fellow at the Constitution Project, and fellow at the Center on National Security at Fordham University School of Law, JD from Yale Law School, 3-1-2009, “The Long War, the Federal Courts, and the Necessity / Legality Paradox,” http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1002&context=facsch\_bkrev

Moreover, even if one believes that suspensions are unreviewable, there is a critical difference between the Suspension Clause and the issue here: at least with regard to the former, there is a colorable claim that the Constitution itself ousts the courts from reviewing whether there is a “Case[ ] of Rebellion or Invasion [where] the public Safety may require” suspension––and even then, only for the duration of the suspension.179 In contrast, Jackson’s argument sounds purely in pragmatism—courts should not review whether military necessity exists because such review will lead either to the courts affirming an unlawful policy, or to the potential that the political branches will simply ignore a judicial decision invalidating such a policy.180 Like Jackson before him, Wittes seems to believe that the threat to liberty posed by judicial deference in that situation pales in comparison to the threat posed by judicial review. ¶ The problem is that such a belief is based on a series of assumptions that Wittes does not attempt to prove. First, he assumes that the executive branch would ignore a judicial decision invalidating action that might be justified by military necessity.181 While Jackson may arguably have had credible reason to fear such conduct (given his experience with both the Gold Clause Cases182 and the “switch in time”),183 a lot has changed in the past six-and-a-half decades, to the point where I, at least, cannot imagine a contemporary President possessing the political capital to squarely refuse to comply with a Supreme Court decision. But perhaps I am naïve.184

## OFfcase

### AT: T Subsets

#### We meet – the plan is a substantial restriction on authority – it limits targeted killing authority for US citizens and creates a statutory check

#### C/I – Substantial means a large amount

**Dictionary.com 12**

sub·stan·tial   [suhb-stan-shuhl] Show IPA adjective 1. of ample or considerable amount, quantity, size, etc.: a substantial sum of money.

#### Anderson is in the context of school districts and assessing a student’s life not authority which clearly can’t be quantified or qualified

#### Prefer our interp:

#### Over limits – their arg restricts the topic to one aff per topic area, kills innovation, creativity and aff ground which is vital to two sided engagement

#### Precision – no ev in the context of the topic proves excluding the aff is arbitrary – turns limits because imprecise limits are worse than not at all

#### Functional limits guarantee ground – ESR etc

#### The next paragraph of their O’ Connor card says the plan meets because its important and it’s a restriction

Justice O’Connor ‘02 Sandra Day, No. 00—1089 TOYOTA MOTOR MANUFACTURING, KENTUCKY,

INC., PETITIONER v. ELLA WILLIAMS, Jan 8, http://www.law.cornell.edu/supct/html/00-1089.ZO.html

We therefore hold that to be substantially limited in performing manual tasks, an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives. The impairment's impact must also be permanent or long-term. See 29 CFR §§1630.2(j)(2)(ii)-(iii) (2001).

#### A race to the most limiting interpretation causes a race to the bottom that kills substantive debate

#### Reasonability is uniquely applicable to determining whether an aff is substantial

Linda **Stadler 93** “NOTE: Corrosion Proof Fittings v. EPA: Asbestos in the Fifth Circuit--A Battle of Unreasonableness ” Tulane Environmental Law Journal Summer, 1993 6 Tul. Envtl. L.J. 423

n3 Matthew J. McGrath, Note, Convergence of the Substantial Evidence and Arbitrary and Capricious Standards of Review During Informal Rulemaking, 54 GEO. WASH. L. REV. 541, 546 n.30 (1986), (quoting H.R. REP. NO. 1980, 79th Cong., 2d Sess. 45 (1945)), reprinted in ADMINISTRATIVE PROCEDURE ACT LEGISLATIVE HISTORY, S. DOC. NO. 248, 79th Cong., 2d Sess. 11, 233, 279 (1945). The substantial evidence standard does however possess some ambiguity as to the definition of "substantial." See, e.g., Chemical Mfrs. Ass'n v. EPA, 899 F.2d 344, 359 (5th Cir. 1990) (stating that "'substantial' is an **inherently imprecise** word"). However, 'substantial' is generally **held to a reasonableness** standard, i.e., would a **reasonable mind** accept it as adequate to support a conclusion. E.g., Consolidated Edison Co. v. NLRB, 305 U.S. 197, 229 (1938).

### AT: Internal Court

#### Doesn’t solve due process --- the CP is the status quo, which doesn’t create codified assurance – external mechanisms key to strong due process protections, intra executive processes cause a high rate of error, a focus on state secrets that kill due process – external review is vital to check presidential backsliding and signal credibility – that’s McKelvey, Adelsberg, Weinberger, Somin, Powell and Feldman.

#### Doesn’t solve legitimacy – external review of US citizen targets is key

Cole 12 (David, Professor of Constitutional Law and Criminal Justice – Georgetown University Law Center, “Obama and Terror: The Hovering Questions,” New York Review of Books, 7-12, 59(12), p. 2)

Policy considerations also strongly favored a civilian criminal trial. The federal courts have successfully prosecuted more than two hundred defendants on “terrorism” charges since September 11. While many of those prosecutions involve dubious practices of entrapment and trumped-up charges of “material support,” federal courts have undoubtedly shown that they can handle terrorism cases. Their judges are seasoned, their rules are clear, and their process has the legitimacy earned through years of application to millions of Americans.

The military commissions, by contrast, are subject to continuing change, with few or no precedents to rely upon. Their military lawyers and judges have no experience with serious terrorist trials. And the proceedings lack legitimacy, both because they remain tainted by the lawless form they initially took under President Bush, and because by design they apply only to noncitizens, and not to Americans. Their track record to date has been dominated by false starts, Keystone Cops procedures, and surprisingly light sentences.

So any rational actor would choose to try KSM in civilian criminal court. That’s precisely what Attorney General Holder did. He’s been widely criticized ever since for failing to prepare the way for the announcement by informing New York officials sufficiently ahead of time, and for failing to defend the announcement forcefully. But Klaidman reveals that the decision to delay informing New York officials was driven by a concern about leaks, and that all relevant officials, including Mayor Michael Bloomberg, supported the decision when it was announced. It was only later, when the New York officials were inundated by the complaints of their constituents, that they reversed course.

#### Perm do both – solves the internal review arg – their Murphy evidence is horribly generic and doesn’t say zero sum

Solves the politics link --- Obama won’t backlash against himself

#### Daskal concedes the cp alone isn’t sufficient

Daskal, 13 [The Geography of the Battlefield: A Framework for Detention and Targeting Outside the 'Hot' Conflict Zone Jennifer Daskal American University Washington College of Law, April]

Capitalizing on the strategic benefits of restraint, the United States should codify into law what is already, in many key respects, national policy. As a first step, the President should sign an Executive order requiring that out-of-battlefield target and capture operations be based on individualized threat assessments and subject to a least-harmful-means test, clearly articulating the standards and procedures that would apply. As a next step, Congress should mandate the creation of a review system, as described in detail in this Article. In doing so, the United States will set an important example, one that can become a building block upon which to develop an international consensus as to the rules that apply to detention and targeted killings outside the conflict zone.

#### Perm do the CP - the plan text says the USFG – CP is just a potential re clarification

#### This counterplan is a voting issue for deterrence --- fiats the object on the resolution which kills aff offense AND it’s fiat artificially limits the topic, decreasing the scope of discussion and undermining real world education – independently the topic mandates the judge isn’t the executive - the impact is jurisdiction

#### Congressional involvement is key – internal executive review sets a precedent for future administrations to destroy due process

Feldman 13 (Noah, Professor of Constitutional and International Law – Harvard University, “Obama’s Drone Attack on Your Due Process,” Bloomberg, 2-8, <http://www.bloomberg.com/news/2013-02-08/obama-s-drone-attack-on-your-due-process.html>)

The cases cited by the white paper provide no precedent for the idea that due process could be satisfied by some secret, internal process within the executive branch -- not that any such process is even mentioned. The reason they don’t is obvious: There is no such precedent. Never, to my knowledge, in the history of due process jurisprudence, has a court said that a neutral decision maker wasn’t necessary. And as Justice Felix Frankfurter wrote in language cited in the Mathews case, “the essence of due process is the requirement that a person in jeopardy of serious loss [be given] notice of the case against him and opportunity to meet it.” Although the white paper doesn’t say so, Awlaki even tried to get a hearing before he was killed. His father asked a federal court to find that he wasn’t a terrorist. But the court never heard his claim, because the Obama administration persuaded it not to consider the case. When Paul Clement, solicitor general under George W. Bush, told the Supreme Court in the Hamdi oral argument that Hamdi had been given the opportunity to be heard during his interrogation, a notable gasp went through the courtroom. Justice Sandra Day O’Connor later singled out this outrageous claim for special criticism. The Obama administration’s apparent belief that due process can be satisfied in secret inside the executive branch is arguably a greater departure from precedent. It is a travesty of the very notion of due process. And to borrow a phrase from Justice Robert Jackson, it will now lie about like a loaded weapon ready for the hand of any administration that needs it. The white paper should have said that due process doesn’t apply on the battlefield. By instead making due process into a rubber stamp, the administration is ignoring precedent and subverting the idea of the rule of law. When is some law worse than none? When that law is so watered down that it loses the meaning it has had for 800 years.

#### Media spin trumps solvency – executive can’t respond to follow-up questions – crushes legitimacy

Goldsmith 13 (Jack, Henry L. Shattuck Professor – Harvard Law School, “The Intersection of Vague Disclosure and Reduced Drone Strikes,” Lawfare, 5-27, <http://www.lawfareblog.com/2013/05/the-intersection-of-vague-disclosure-and-reduced-drone-strikes/>)

The major challenge to legitimating the shadow war against terrorists is that the Executive branch is hand-tied by its own secrecy rules, and cannot disclose what it is doing to permit Congress and the American people to judge whether it approves. Even Executive branch officials who want to be open about what is going on (as I believe the President and many of his national security officials want to be) are prevented by secrecy rules from being entirely candid. Officials convey information in what I recently described as “limited, abstract, and often awkward terms” that “usually raise more questions than they answer,” a problem exacerbated by the fact that “secrecy rules often preclude the administration from responding to follow-up questions, criticisms, and charges.” Disclosures designed to enhance trust can end (up) deepening mistrust, especially when journalists start reporting on events that don’t fit the administration’s narrative, and the administration cannot (perhaps because of secrecy rules, perhaps because the truth is uncomfortable) respond fully. This dynamic is made worse by the fact that partial disclosures are greeted for demands for more disclosures that the government simply cannot abide.

This is starting to happen with the abstractions that the President used to describe his ostensible curtailment of the war. Ryan Goodman and Sarah Knuckey have a careful analysis of the speech that note its ambiguities and uncertainties on the geographical scope of the war, the continued use of signature strikes, the meaning of non-feasible captures as prerequisite for strikes, whether Americans “not specifically targeted” (in the President’s words) were targeted as part of a signature strike or some other reason that prevented the president from describing their deaths as accidental, whether any member of a terrorist organization or only its leaders are targetable, and the crucial meaning of phrases like “near certainly,” “imminence,” and “associated forces.” Goodman and Knuckey conclude that these ambiguities and uncertainties make it “impossible for the public to, in the President’s words: “make informed decisions and hold the Executive Branch accountable,” and note that “until the White House releases the legal memos that explain its understanding of such terms and its legal justification for the drone program more broadly[,] there is reason to remain deeply skeptical.” Along similar lines, Lesley Clark and Jonathan S. Landay at McClatchy compare the President’s speech with past administration speeches and conclude that the speech might imply an expansion of drone killings.

Pushing in the other direction, however, is the reality that drone strikes (and their consequences) are in some senses verifiable, and the rate of strikes in both Pakistan and Yemen have dropped this year (and having been dropping for a few years in Pakistan). In the end, the credibility of the government’s new standards might turn less on the President’s words, which by themselves cannot establish credibility, but rather on how he is perceived to use drones (and other forms of fire) in fact. It does not follow, of course, that reduced drone strikes mean that the new standards have bite, or are constraining. As David Cole notes in a good if perhaps-too-hopeful NYRB essay:

[The reduction in drone strikes] may reflect a diminishing number of appropriate targets. It may suggest that the administration has for some time been employing more restrictive standards. Or it may reflect increasing acceptance of the view that drone strikes have become counterproductive—a point made publically by former counterterrorism intelligence chief Dennis Blair and retired General Stanley McChrystal, who headed the US forces in Afghanistan.

#### Flex Arg

#### The aff is key middle ground---total flex causes worse decision-making in crises

Deborah N. Pearlstein 9, lecturer in public and international affairs, Woodrow Wilson School of Public & International Affairs, July 2009, "Form and Function in the National Security Constitution," Connecticut Law Review, 41 Conn. L. Rev. 1549, lexis nexis

It is in part for such reasons that studies of organizational performance in crisis management have regularly found that "planning and effective [\*1604] response are causally connected." n196 Clear, well-understood rules, formalized training and planning can function to match cultural and individual instincts that emerge in a crisis with commitments that flow from standard operating procedures and professional norms. n197 Indeed, "the less an organization has to change its pre-disaster functions and roles to perform in a disaster, the more effective is its disaster [sic] response." n198 In this sense, a decisionmaker with absolute flexibility in an emergency-unconstrained by protocols or plans-may be systematically more prone to error than a decision-maker who is in some way compelled to follow procedures and guidelines, which have incorporated professional expertise, and which are set as effective constraints in advance.¶ Examples of excessive flexibility producing adverse consequences are ample. Following Hurricane Katrina, one of the most important lessons independent analysis drew from the government response was the extent to which the disaster was made worse as a result of the lack of experience and knowledge of crisis procedures among key officials, the absence of expert advisors replacing those rules with more than the most general guidance about custodial intelligence collection. available to key officials (including the President), and the failure to follow existing response plans or to draw from lessons learned from simulations conducted before the fact. n199 Among the many consequences, [\*1605] basic items like food, water, and medicines were in such short supply that local law enforcement (instead of focusing on security issues) were occupied, in part, with breaking into businesses and taking what residents needed. n200¶ Or consider the widespread abuse of prisoners at U.S. detention facilities such as Abu Ghraib. Whatever the theoretical merits of applying coercive interrogation in a carefully selected way against key intelligence targets, n201 the systemic torture and abuse of scores of detainees was an outcome no one purported to seek. There is substantial agreement among security analysts of both parties that the prisoner abuse scandals have produced predominantly negative consequences for U.S. national security. n202 While there remain important questions about the extent to which some of the abuses at Abu Ghraib were the result of civilian or senior military command actions or omissions, one of the too often overlooked findings of the government investigations of the incidents is the unanimous agreement that the abuse was (at least in part) the result of structural organization failures n203 -failures that one might expect to [\*1606] produce errors either to the benefit or detriment of security.¶ In particular, military investigators looking at the causes of Abu Ghraib cited vague guidance, as well as inadequate training and planning for detention and interrogation operations, as key factors leading to the abuse. Remarkably, "pre-war planning [did] not include[] planning for detainee operations" in Iraq. n204 Moreover, investigators cited failures at the policy level- decisions to lift existing detention and interrogation strictures without n205 As one Army General later investigating the abuses noted: "By October 2003, interrogation policy in Iraq had changed three times in less than thirty days and it became very confusing as to what techniques could be employed and at what level non-doctrinal approaches had to be approved." n206 It was thus unsurprising that detention and interrogation operations were assigned to troops with grossly inadequate training in any rules that were still recognized. n207 The uncertain effect of broad, general guidance, coupled [\*1607] with the competing imperatives of guidelines that differed among theaters of operation, agencies, and military units, caused serious confusion among troops and led to decisionmaking that it is overly kind to call arbitrary. n208¶ Would the new functionalists disagree with the importance of government planning for detention operations in an emergency surrounding a terrorist nuclear attack? Not necessarily. Can an organization anticipate and plan for everything? Certainly not. But such findings should at least call into question the inclination to simply maximize flexibility and discretion in an emergency, without, for example, structural incentives that might ensure the engagement of professional expertise. n209 Particularly if one embraces the view that the most potentially damaging terrorist threats are nuclear and biological terrorism, involving highly technical information about weapons acquisition and deployment, a security policy structure based on nothing more than general popular mandate and political instincts is unlikely to suffice; a structure that systematically excludes knowledge of and training in emergency response will almost certainly result in mismanagement. n210 In this light, a general take on role effectiveness might suggest favoring a structure in which the engagement of relevant expertise in crisis management is required, leaders have incentives to anticipate and plan in advance for trade-offs, and [\*1608] organizations are able to train subordinates to ensure that plans are adhered to in emergencies. Such structural constraints could help increase the likelihood that something more than arbitrary attention has been paid before transcendent priorities are overridden.

#### Syria triggers the DA

**Rothkopf, 9/1/13** – editor of Foreign Policy (David, “Rothkopf: 5 consequences of President Obama's Syria decision” <http://www.newsday.com/opinion/oped/rothkopf-5-consequences-of-president-obama-s-syria-decision-1.5993890>)

3. He's now boxed in for the rest of his term. Whatever happens with regard to Syria, the larger consequence of the president's action will resonate for years. The president has made it highly unlikely that at any time during the remainder of his term he will be able to begin military action without seeking congressional approval. It is understandable that many who have opposed actions (see: Libya) taken by the president without congressional approval under the War Powers Act would welcome Obama's newly consultative approach. It certainly appears to be more in keeping with the kind of executive-legislative collaboration envisioned in the Constitution. While America hasn't actually required a congressional declaration of war to use military force since the World War II era, the bad decisions of past presidents make Obama's move appealing to the war-weary and the war-wary. But whether you agree with the move or not, it must be acknowledged that now that Obama has set this kind of precedent -- and for a military action that is exceptionally limited by any standard (a couple of days, no boots on the ground, perhaps 100 cruise missiles fired against a limited number of military targets) -- it will be very hard for him to do anything comparable or greater without again returning to the Congress for support. And that's true whether or not the upcoming vote goes his way. 4. This president just dialed back the power of his own office. Obama has reversed decades of precedent regarding the nature of presidential war powers -- and whether you prefer this change in the balance of power or not, as a matter of quantifiable fact he is transferring greater responsibility for U.S. foreign policy to a Congress that is more divided, more incapable of reasoned debate or action, and more dysfunctional than any in modern American history. Just wait for the Rand Paul filibuster or similar congressional gamesmanship. The president's own action in Libya was undertaken without such approval. So, too, was his expansion of America's drone and cyber programs. Will future offensive actions require Congress to weigh in? How will Congress react if the president tries to pick and choose when this precedent should be applied? At best, the door is open to further acrimony. At worst, the paralysis of the U.S. Congress that has given us the current budget crisis and almost no meaningful recent legislation will soon be coming to a foreign policy decision near you. Consider House Speaker John Boehner's statement that Congress will not reconvene before its scheduled Sept. 9 return to Washington. Perhaps more important, what will future Congresses expect of future presidents? If Obama abides by this new approach for the next three years, will his successors lack the ability to act quickly and on their own? While past presidents have no doubt abused their War Powers authority to take action and ask for congressional approval within 60 days, we live in a volatile world; sometimes security requires swift action. The president still legally has that right, but Obama's decision may have done more -- for better or worse -- to dial back the imperial presidency than anything his predecessors or Congress have done for decades. 5. America's international standing will likely suffer. As a consequence of all of the above, even if the president "wins" and persuades Congress to support his extremely limited action in Syria, the perception of America as a nimble, forceful actor on the world stage and that its president is a man whose word carries great weight is likely to be diminished. Again, like the shift or hate it, foreign leaders can do the math. Not only is post-Iraq, post-Afghanistan America less inclined to get involved anywhere, but when it comes to the use of U.S. military force (our one indisputable source of superpower strength) we just became a whole lot less likely to act or, in any event, act quickly. Again, good or bad, that is a stance that is likely to figure into the calculus of those who once feared provoking the United States.

#### The plan bolsters the credibility of threats – solves escalation

Waxman 8/25/13 (Matthew Waxman is a law professor at Columbia Law School, where he co-chairs the Roger Hertog Program on Law and National Security. He is also Adjunct Senior Fellow for Law and Foreign Policy at the Council on Foreign Relations and a member of the Hoover Institution Task Force on National Security and Law. He previously served in senior policy positions at the State Department, Defense Department, and National Security Council. After graduating from Yale Law School, he clerked for Judge Joel M. Flaum of the U.S. Court of Appeals and Supreme Court Justice David H. Souter, “The Constitutional Power to Threaten War” Forthcoming in YALE LAW JOURNAL, vol. 123, 2014, August 25th DRAFT)

Part II draws on several strands of political science literature to illuminate the relationship between war powers law and threats of force. As a descriptive matter, the swelling scope of the president’s practice in wielding threatened force largely tracks the standard historical narrative of war powers shifting from Congress to the President. Indeed, adding threats of force to that story might suggest that this shift in powers of war and peace has been even more dramatic than usually supposed, at least in terms of how formal congressional checks are exercised. Part II also shows, however, that congressional checks and influence – even if not formal legislative powers – operate more robustly and in different ways to shape strategic decision-making than usually supposed in legal debates about war powers, and that **these checks and influence can** enhance **the** potency of threatened force. This Article thus fits into a broader scholarly debate now raging about the extent to which the modern President is meaningfully constrained by law, and in what ways. 20 Recent political science scholarship suggests that Congress already exerts constraining influences on presidential decisions to threaten force, even without resorting to binding legislative actions. 21 Moreover, when U.S. security strategy relies heavily on threats of force, credibility of signals is paramount. Whereas it often used to be assumed that institutional checks on executive discretion undermined democracies’ ability to threaten war credibly, some **recent political science scholarship** also offers reasons to expect that congressional political constraints can actually bolster the credibility of U.S. threats. 22

#### Restrictions inevitable---the aff prevents haphazard ones which are worse

Benjamin Wittes 9, senior fellow and research director in public law at the Brookings Institution, is the author of Law and the Long War: The Future of Justice in the Age of Terror and is also a member of the Hoover Institution's Task Force on National Security and Law, “Legislating the War on Terror: An Agenda for Reform”, November 3, Book, p. 17

A new administration now confronts the same hard problems that plagued its ideologically opposite predecessor, and its very efforts to turn the page on the past make acute the problems of institutionalization. For while the new administration can promise to close the detention facility at Guantanamo Bay and can talk about its desire to prosecute suspects criminally, for example, it cannot so easily forswear noncriminal detention. While it can eschew the term "global war on terror," it cannot forswear those uses of force—Predator strikes, for example—that law enforcement powers would never countenance. Nor is it hastening to give back the surveillance powers that Congress finally gave the Bush administration. In other words, its very efforts to avoid the Bush administrations vocabulary have only emphasized the conflicts hybrid nature—indeed- emphasized that the United States is building something new here, not merely applying something old.¶ That point should not provoke controversy. The evidence that the United States is fumbling toward the creation of hybrid institutions to handle terrorism cases is everywhere around us. U.S. law, for example, now contemplates extensive- probing judicial review of detentions under the laws of war—a naked marriage of criminal justice and wartime traditions. It also contemplates warrantless wiretapping with judicial oversight of surveillance targeting procedures—thereby mingling the traditional judicial role in reviewing domestic surveillance with the vacuum cleaner-type acquisition of intelligence typical of overseas intelligence gathering. Slowly but surely, through an unpredictable combination of litigation, legislation, and evolutionary developments within executive branch policy, the nation is creating novel institutional arrangements to authorize and regulate the war on terror. The real question is not whether institutionalization will take place but whether it will take place deliberately or haphazardly, whether the United States will create through legislation the institutions with which it wishes to govern itself or whether it will allow an endless sequence of common law adjudications to shape them.¶ The authors of the chapters in this book disagree about a great many things. They span a considerable swath of the U.S. political spectrum, and they would no doubt object to some of one another's policy prescriptions. Indeed, some of the proposals are arguably inconsistent with one another, and it will be the very rare reader who reads this entire volume and wishes to see all of its ideas implemented in legislation. What binds these authors together is not the programmatic aspects of their policy prescriptions but the belief in the value of legislative action to help shape the contours of the continuing U.S. confrontation with terrorism. That is, the authors all believe that Congress has a significant role to play in the process of institutionalization—and they have all attempted to describe that role with reference to one of the policy areas over which Americans have sparred these past several years and will likely continue sparring over the next several years.

#### Combined probability approaches zero

**Schneidmiller 9** (Chris, Experts Debate Threat of Nuclear, Biological Terrorism, 13 January 2009, http://www.globalsecuritynewswire.org/gsn/nw\_20090113\_7105.php, AMiles)

There is an "almost **vanishingly small" likelihood** that terrorists would ever be able to acquire and detonate a nuclear weapon, one expert said here yesterday (see GSN, Dec. 2, 2008). In even the most likely scenario of nuclear terrorism, there are 20 barriers between extremists and a successful nuclear strike on a major city, said John Mueller, a political science professor at Ohio State University. The process itself is seemingly straightforward but exceedingly difficult -- buy or steal highly enriched uranium, manufacture a weapon, take the bomb to the target site and blow it up. Meanwhile, variables strewn across the path to an attack would increase the complexity of the effort, Mueller argued. Terrorists would have to bribe officials in a state nuclear program to acquire the material, while avoiding a sting by authorities or a scam by the sellers. The material itself could also turn out to be bad. "Once the purloined material is purloined, [police are] going to be chasing after you. They are also going to put on a high reward, extremely high reward, on getting the weapon back or getting the fissile material back," Mueller said during a panel discussion at a two-day Cato Institute conference on counterterrorism issues facing the incoming Obama administration. Smuggling the material out of a country would mean relying on criminals who "are very good at extortion" and might have to be killed to avoid a double-cross, Mueller said. The terrorists would then have to find scientists and engineers willing to give up their normal lives to manufacture a bomb, which would require an expensive and sophisticated machine shop. Finally, further technological expertise would be needed to sneak the weapon across national borders to its destination point and conduct a successful detonation, Mueller said. Every obstacle is "difficult but not impossible" to overcome, Mueller said, putting the chance of success at no less than one in three for each. The likelihood of successfully passing through each obstacle, in sequence, would be roughly one in 3 1/2 billion, he said, but for argument's sake dropped it to 3 1/2 million. "It's a total gamble. This is a very expensive and difficult thing to do," said Mueller, who addresses the issue at greater length in an upcoming book, Atomic Obsession. "So unlike buying a ticket to the lottery ... you're basically putting everything, including your life, at stake for a gamble that's maybe one in 3 1/2 million or 3 1/2 billion." Other scenarios are even less probable, Mueller said. A nuclear-armed state is "exceedingly unlikely" to hand a weapon to a terrorist group, he argued: "States just simply won't give it to somebody they can't control." Terrorists are also not likely to be able to steal a whole weapon, Mueller asserted, dismissing the idea of "loose nukes." Even Pakistan, which today is perhaps the nation of greatest concern regarding nuclear security, keeps its bombs in two segments that are stored at different locations, he said (see GSN, Jan. 12). Fear of an "extremely improbable event" such as nuclear terrorism produces support for a wide range of homeland security activities, Mueller said. He argued that there has been a major and costly overreaction to the terrorism threat -- noting that the Sept. 11 attacks helped to precipitate the invasion of Iraq, which has led to far more deaths than the original event. Panel moderator Benjamin Friedman, a research fellow at the Cato Institute, said academic and governmental discussions of acts of nuclear or biological terrorism have tended to focus on "worst-case assumptions about terrorists' ability to use these weapons to kill us." There is need for consideration for what is probable rather than simply what is possible, he said. Friedman took issue with the finding late last year of an experts' report that an act of WMD terrorism would "more likely than not" occur in the next half decade unless the international community takes greater action. "I would say that the report, if you read it, actually offers no analysis to justify that claim, which seems to have been made to change policy by generating alarm in headlines." One panel speaker offered a partial rebuttal to Mueller's presentation. Jim Walsh, principal research scientist for the Security Studies Program at the Massachusetts Institute of Technology, said he agreed that nations would almost certainly not give a nuclear weapon to a nonstate group, that most terrorist organizations have no interest in seeking out the bomb, and that it would be difficult to build a weapon or use one that has been stolen.

#### doesn’t solve prolif

### AT: Ex Post CP

#### Doesn’t solve – Adelsberg – Bivens remedy not sufficient – due process is premised entirely on providing it before hand – those people wouldn’t get due process – there was one of those ever

#### ( ) Perm – do both – double solvency and results in the cp. Obama would defer to *ex post* review in an emergency – allows for flexible and quick decisions.

#### ( ) Perm – do the cp – plan only commits to review, not prior review – it’s an example of the plan

#### ( ) Doesn’t solve –

#### a) It fails to set-up a legal framework – allowing the executive to fire-then-aim kills legitimacy and causes legal ambiguity – *ex ante* review is key

Crandall 12 (Carla, Law Clerk – Supreme Court of Missouri, “Ready…Fire…Aim! A Case for Applying American Due Process Principles Before Engaging in Drone Strikes,” Florida Journal of International Law, April, 24 Fla. J. Int'l L. 55, Lexis)

Despite the expanded use of drones, however, the legitimacy of these attacks remains unclear. Most commentators who have addressed the legitimacy of more general targeted killings have examined the issue within the framework of either international humanitarian law (IHL) or international human rights law (IHRL). n6 Those limited few who have [\*57] analyzed the subject through the lens of American due process have limited their scrutiny to the absence of post-deprivation rights. n7 They suggest, for instance, that the United States should implement some sort of Bivens-type action as a remedy for the survivors of erroneous drone strikes. n8

As this Article explains, however, none of these approaches yield wholly satisfactory answers as to which framework should govern the use of drones within the context of the war on terror. And though the idea that American due process principles ought to be applied **ex post** represents a significant contribution to the debate, it too ultimately falls flat. Indeed, such an approach unduly narrows the obligation of U.S. officials to the standard of readying, firing, and then aiming- requiring them to perform a detailed review of the strikes only after the fact. Instead, this Article argues that the United States ought to be held to a higher, ex ante standard-that of "aiming" before firing-and posits that such a standard is practically attainable.

In doing so, the Article proceeds as follows. Part II describes the capabilities and current employment of drones and explains why **resolving the legitimacy of their use is so critical**. Specifically, it highlights that, despite the unsettled nature of the law in this area, targeted killings by drone strikes have increased exponentially in recent years-in some instances against arguably questionable targets. Part III examines current attempts to address the legitimacy of drone assaults and explains why they fail to adequately govern the use of these weapons. While this Part explores the applicability of IHRL and IHL, it does not undertake to resolve the debate as to which regime does or ought to apply to these operations. To the contrary, it argues that limitations within each framework have prevented consensus from forming around the applicability of either. Accordingly, U.S. officials [\*58] must arguably look to other sources to find guiding principles to legitimize targeted killings via drones. Though it is admittedly not entirely clear whether constitutional guarantees apply in the foreign locales where these strikes occur-or to the foreign nationals who are often their target-this Part proposes that American due process principles nevertheless ought to be invoked before such strikes occur, because failing to do so allows the executive to act with impunity in a legal void. Part IV argues that, in Hamdi v. Rumsfeld n9 and Boumediene v. Bush, n10 the Supreme Court signaled the process that may be due before drones are used to eliminate known terrorist targets. In extending the Hamdi and Boumediene analysis to targeted killings by drones, this Part also begins the inquiry into the procedural protections that due process may demand before U.S. officials engage in such actions. Part V concludes.

#### b) it still allows for the use of secret evidence which results in a high error rate – that’s McKelvey.

#### c) the cp stills destroys accountability and results in collateral damage – vote aff because of irreversibility

Crandall 12 (Carla, Law Clerk – Supreme Court of Missouri, “Ready…Fire…Aim! A Case for Applying American Due Process Principles Before Engaging in Drone Strikes,” Florida Journal of International Law, April, 24 Fla. J. Int'l L. 55, Lexis)

First, though it was noted above that the calculus is not solely governed by the degree of deprivation, clearly the consequences of a drone attack impose the severest sanction a state can levy against an individual. Accordingly, one might expect the U.S. government-whether actually required to do so or not-to at least be able to show that no added protections are necessary or feasible in the target selection process.

Government officials might support this claim, for instance, with a showing that, when a drone is used, there is no risk of erroneously depriving someone of his or her life. However, as discussed above, there is considerable reason to question an assertion that all persons on the U.S. kill-list qualify as legitimate drone targets. n161 Further, even granting as much would not necessarily prove dispositive in light of the massive collateral damage caused by drone strikes. n162 For these "collateral victims," there is of course an easy argument that their deprivation would be "erroneous."

Perhaps more significantly, though, Boumediene held that, in the face of the relatively lesser deprivation of detention, some procedural protections were not enough. n163 In other words, habeas review was deemed necessary because the procedural protections that were embodied in the CSRTs were insufficient to prevent an erroneous determination of a detainee's combatant status. Sources likewise indicate that because the process for placing individuals on the JIPTL is subject to abuse, there is a significant risk of erroneously classifying listed individuals as legitimate targets. n164 Accordingly, the arguable lack of any procedural protections for drone targets certainly seems inconsistent with Boumediene.

Finally, it is also worth emphasizing the obvious fact that, unlike an erroneous detention-as was the concern in both Hamdi and Boumediene-there is clearly no mechanism to reverse an error in drone targeting. It is arguable, in fact, that the only reason the Boumediene Court did not make a determination as to the general sufficiency of the CSRTs themselves is that habeas review was an available alternative to correct any insufficiencies that might flow from the tribunal's [\*84] proceedings. In contrast, **it is obviously not possible to retroactively correct an erroneous determination about the legitimacy of a drone strike**. **This reality alone arguably provides a** strong rationale **for** robust pre-strike review.

#### ( ) Links to the net-benefits –

#### a) politics – their link ev proves Obama hates ANY type of review mech – it’s a distinction without a difference

#### b) prez powers – if their solvency arg is true, Obama would still be worried about the threat of review and take a long time to make a decision

#### Links to politics

THC, 13 [February 18, “interesting solution to the drone/targeted killing issue”, The Handsome Camel, Citing Steven Vladeck, and Garrett Epps of the Atlantic, http://thehandsomecamel.wordpress.com/2013/02/18/interesting-solution-to-the-dronetargeted-killing-issue/]

Anyway, Vladeck’s proposal solves these problems by presenting ripe, non-advisory cases in a setting where representation of the victim/target is possible — and frames the issue in familiar tort terms, to boot. And **even ex post liability**, says Vladeck, might force officials to consider whether the use of lethal force is really justified. As Epps points out, this is likely a political non-starter. But legally I think it’s got merit.

#### CP requires congressional action

Taylor, 13 [February, Paul Taylor, Senior Research FellowA FISC for Drones? Center for Policy & Researchhttp://transparentpolicy.org/2013/02/a-fisc-for-drones/]

Additionally, in search and seizure warranting, there an ex post review will eventually be available. That will likely not be the case in drone strikes and other targeted killings unless such a process is specifically created. There are simply too many hurdles to judicial review (including state secrets, political questions, discovery problems, etc) for the courts to create such an opportunity without congressional action.

#### ( ) Also – the CP only reviews cases when a lawsuit is filed against a wrongful drone strike –

#### a) they can’t because they are DEAD

#### b) too many legal obstacles means the executive is functionally unrestrained

Murphy and Radsan – Their Author – 9 (Richard, AT&T Professor of Law – Texas Tech University School of Law, and Afsheen John, Professor – William Mitchell College of Law; Assistant General Counsel – Central Intelligence Agency, “Due Process and Targeted Killing of Terrorists,” Cardozo Law Review, November, 32 Cardozo L. Rev. 405, Lexis)

As to legal hurdles, Boumediene itself poses a **high one to lawsuits** by non-U.S. citizens for overseas attacks. Here we may seem to contradict our earlier insistence that Boumediene presupposes some form of constitutional protection worldwide for everyone.212 Yet Boumediene shows that the requirement of judicial process depends on a pragmatic analysis.213 As part of its balancing, Boumediene made clear that courts should favor the interests of American citizens and of others with strong connections to the United States.214 Although the Boumediene petitioners lacked the preference in favor of citizens, they persuaded a slim majority of the Court to extend constitutional habeas to non-resident aliens detained at Guantanamo. This result, however, took place under exceptional circumstances: among them, Guantanamo is de facto United States territory;215 the executive had held detainees there for years and claimed authority to do so indefinitely; and the Supreme Court doubted the fairness and accuracy of the CSRTs.216 Absent such circumstances, Boumediene leaves courts to follow their habit of deferring to the executive on national security. For targeted killing, that may mean cutting off non-citizens from American courts.

The state-secrets privilege poses another barrier to Bivens-style actions. This privilege allows the government to block the disclosure of information in court that would damage national security.217 It could prevent a case from proceeding in any number of ways. For instance, the government could block plaintiffs from accessing or using information needed to determine whether a Predator attack had a sound basis through human or technical sources of intelligence.218 By this trump card, the government could prevent litigation from seriously compromising intelligence sources and methods.219

#### Doesn’t cause rubber stamping – doesn’t assume the 1acs limited court – vladeck assumes they don’t have expertise – somin is about the court the plan creates, says experience is guaranteed – the plan text solves because its binding

#### Flex isn’t a net benefit – can’t determine direct interference – if the CP solves it constrains Obama

### Condo

### AT: Debt Ceiling

#### Latin American instability collapses the U.S. economy

Boris **Saavedra**, retired Brigadier General in the Venezuelan Air Force, Fall 20**03**, Security and Defense Studies Review, http://www.ndu.edu/chds/journal/PDF/2003-0403/Saavedra-article.pdf, p. 215

The United States shares with its Latin American neighbors an increasingly and vitally important financial, commercial, and security partnership. Any kind of political-economic-social-security deterioration in the region will profoundly affect the health of the U.S. economy—and the concomitant power to act in the global security arena.

#### No econ decline war---best and most recent data

Daniel W. Drezner 12, Professor, The Fletcher School of Law and Diplomacy, Tufts University, October 2012, “The Irony of Global Economic Governance: The System Worked,” <http://www.globaleconomicgovernance.org/wp-content/uploads/IR-Colloquium-MT12-Week-5_The-Irony-of-Global-Economic-Governance.pdf>

The final outcome addresses a dog that hasn’t barked: the effect of the Great Recession on cross-border conflict and violence. During the initial stages of the crisis, multiple analysts asserted that the financial crisis would lead states to increase their use of force as a tool for staying in power.37 Whether through greater internal repression, diversionary wars, arms races, or a ratcheting up of great power conflict, there were genuine concerns that the global economic downturn would lead to an increase in conflict. Violence in the Middle East, border disputes in the South China Sea, and even the disruptions of the Occupy movement fuel impressions of surge in global public disorder. ¶ The aggregate data suggests otherwise, however. The Institute for Economics and Peace has constructed a “Global Peace Index” annually since 2007. A key conclusion they draw from the 2012 report is that “The average level of peacefulness in 2012 is approximately the same as it was in 2007.”38 Interstate violence in particular has declined since the start of the financial crisis – as have military expenditures in most sampled countries. Other studies confirm that the Great Recession has not triggered any increase in violent conflict; the secular decline in violence that started with the end of the Cold War has not been reversed.39 Rogers Brubaker concludes, “the crisis has not to date generated the surge in protectionist nationalism or ethnic exclusion that might have been expected.”40¶ None of these data suggest that the global economy is operating swimmingly. Growth remains unbalanced and fragile, and has clearly slowed in 2012. Transnational capital flows remain depressed compared to pre-crisis levels, primarily due to a drying up of cross-border interbank lending in Europe. Currency volatility remains an ongoing concern. Compared to the aftermath of other postwar recessions, growth in output, investment, and employment in the developed world have all lagged behind. But the Great Recession is not like other postwar recessions in either scope or kind; expecting a standard “V”-shaped recovery was unreasonable. One financial analyst characterized the post-2008 global economy as in a state of “contained depression.”41 The key word is “contained,” however. Given the severity, reach and depth of the 2008 financial crisis, the proper comparison is with Great Depression. And by that standard, the outcome variables look impressive. As Carmen Reinhart and Kenneth Rogoff concluded in This Time is Different: “that its macroeconomic outcome has been only the most severe global recession since World War II – and not even worse – must be regarded as fortunate.”42

#### Debt ceiling doesn’t collapse the economy

Tom Raum 11, AP, “Record $14 trillion-plus debt weighs on Congress”, Jan 15, <http://www.mercurynews.com/news/ci_17108333?source=rss&nclick_check=1>

Democrats have use doomsday rhetoric about a looming government shutdown and comparing the U.S. plight to financial crises in Greece and Portugal. It's all a bit of a stretch. "We can't do as the Gingrich crowd did a few years ago, close the government," said Senate Majority Leader Harry Reid (D-Nev.), referring to government shutdowns in 1995 when Georgia Republican Newt Gingrich was House speaker. But those shutdowns had nothing to do with the debt limit. They were caused by failure of Congress to appropriate funds to keep federal agencies running. And there are many temporary ways around the debt limit. Hitting it does not automatically mean a default on existing debt. It only stops the government from new borrowing, forcing it to rely on other ways to finance its activities. In a 1995 debt-limit crisis, Treasury Secretary Robert Rubin borrowed $60 billion from federal pension funds to keep the government going. It wasn't popular, but it helped get the job done. A decade earlier, James Baker, President Ronald Reagan's treasury secretary, delayed payments to the Civil Service and Social Security trust funds and used other bookkeeping tricks to keep money in the federal till. Baker and Rubin "found money in pockets no one knew existed before," said former congressional budget analyst Stanley Collender. Collender, author of "Guide to the Federal Budget," cites a slew of other things the government can do to delay a crisis. They include leasing out government-owned properties, "the federal equivalent of renting out a room in your home," or slowing down payments to government contractors. Now partner-director of Qorvis Communications, a Washington consulting firm, Collender said such stopgap measures buy the White House time to resist GOP pressure for concessions. "My guess is they can go months after the debt ceiling is not raised and still be able to come up with the cash they need. But at some point, it will catch up," and raising the debt limit will become an imperative, he suggested.

#### Won’t pass---GOP irrational

Paul Krugman 10/1, Professor of Economics and International Affairs at Princeton, “Commentary: Rebels without a clue,” http://www.rutlandherald.com/article/20131001/OPINION04/710019982

No sane political system would run this kind of risk. But we don’t have a sane political system; we have a system in which a substantial number of Republicans believe that they can force President Barack Obama to cancel health reform by threatening a government shutdown, a debt default, or both, and in which Republican leaders who know better are afraid to level with the party’s delusional wing. For they are delusional, about both the economics and the politics.¶ On the economics: Republican radicals generally reject the scientific consensus on climate change; many of them reject the theory of evolution, too. So why expect them to believe expert warnings about the dangers of default? Sure enough, they don’t: The GOP caucus contains a significant number of “default deniers,” who simply dismiss warnings about the dangers of failing to honor our debts.¶ Meanwhile, on the politics, reasonable people know that Obama can’t and won’t let himself be blackmailed in this way, and not just because health reform is his key policy legacy. After all, once he starts making concessions to people who threaten to blow up the world economy unless they get what they want, he might as well tear up the Constitution. But Republican radicals — and even some leaders — still insist that Obama will cave in to their demands.¶ So how does this end? The votes to fund the government and raise the debt ceiling are there, and always have been: Every Democrat in the House would vote for the necessary measures, and so would enough Republicans. The problem is that GOP leaders, fearing the wrath of the radicals, haven’t been willing to allow such votes. What would change their minds?

#### The DA is not intrinsic – it’s within the agential ambit of the USFG to do the plan and pass the debt ceiling

#### Plan popular and Obama won’t fight it

Rosen 13 (Jeffrey, Legal Affairs Editor – New Republic, “A New Idea to Limit Drone Strikes Could Actually Legitimize Them,” New Republic, 2-11, <http://www.newrepublic.com/article/112392/drone-courts-congress-should-exercise-oversight-instead>)

On Sunday, Robert Gates, the former Pentagon chief for Presidents Obama and Bush, endorsed an idea that has been floated by Democratic lawmakers in the wake of John O. Brennan's confirmation hearings to be CIA Director: a drone court that would review the White House’s targeted killings of American citizens linked to al Qaida. The administration has signaled its openness to the idea of a congressionally created drone court, which would be modeled on the secret Foreign Intelligence Surveillance Court that reviews requests for warrants authorizing the surveillance of suspected spies or terrorists. But although senators at the Brennan hearings were rightly concerned about targeted killings operating without any judicial or congressional oversight, the proposed drone court would raise as many constitutional and legal questions as it resolved. And it would give a congressional and judicial stamp of approval to a program whose effectiveness, morality, and constitutionality are open to serious questions. Rather than rushing to create a drone court, Congress would do better to hold hearings about whether targeted drone killings are, in fact, morally, constitutionally, and pragmatically defensible in the first place.

From the administration’s perspective, the appeal of a drone court is obvious: Despite the suggestion in the recently released Department of Justice White Paper white paper that the president’s unilateral decisions about targeted killings can’t be reviewed by judges, the administration cites Supreme Court cases that suggest the opposite: namely, that the president’s decision to designate Americans as enemy combatants can only be justified when authorized by Congress, with the possibility of independent judicial review.

#### Political capital isn’t key and Obama isn’t spending it

**Allen, 9/27/13** - politics reporter for Politico (Jonathan, “President Obama’s distance diplomacy” <http://www.politico.com/story/2013/09/government-shutdown-barack-obama-house-gop-97483.html?hp=t3_3>)

The White House’s distance diplomacy with Republicans is an approach that tacitly acknowledges three inescapable realities: There’s no one to negotiate with on the GOP side; Obama’s direct involvement in a pact would poison it for many rank and file Republicans; and Democrats don’t trust him not to cut a lousy deal. Indeed, Democrats are urging Obama to stay at arm’s length from Congress so there’s no confusion over his message that he won’t negotiate on an increase in the debt limit, which the nation is expected to breach as early as Oct. 17 without legislative action. “I believe the president has made it very clear, as we have tried to make it clear: There are no negotiations. We’re through,” Senate Majority Leader Harry Reid (D-Nev.) told POLITICO. In past installments of the fiscal-failure soap opera, overheated rhetoric about government shutdowns and a default on the national debt has been matched by sober and direct deal-making behind the scenes — usually in the form of a virtual handshake between Vice President Joe Biden and Senate Minority Leader Mitch McConnell. In the winter 2010 debate over tax cuts, Biden and McConnell agreed to extend all of the Bush-era tax cuts for two years, infuriating the left. In 2011, Boehner and Obama secretly discussed for weeks a possible grand-bargain deal — but when the details were leaked, Democrats were furious and the negotiations fell apart. And in 2012, Biden and McConnell averted the so-called fiscal cliff — but that greatly upset Reid, who believed the White House gave away too much to Republicans whose backs were against the wall. Indeed, many Democrats had buyer’s remorse on aspects of those agreements, particularly a budget sequestration plan that has squeezed domestic and military spending, and the locking in of much of the Bush tax rates. When Chief of Staff Denis McDonough and other senior White House aides quietly discussed budget issues with a group of Senate Republicans earlier this year, top Democrats believed it made little sense to continue negotiations that appeared to be going nowhere and didn’t seem likely to help their party. So they’ve asked Obama himself to steer clear of this round of the debt fight and try to force Republicans to come to him. The Senate, on a party line 54-44 vote on Friday, sent a bill that would keep the government operating but dropped a House provision defunding Obamacare. Now the House is expected to load up the measure with more provisions that aren’t acceptable to Democrats — though it has been hard for House GOP leaders to herd their troops on a budget bill and a separate plan to raise the debt ceiling. “You first need the Republicans to have a position to negotiate – they don’t yet,” Sen. Chuck Schumer (D-N.Y.), who often advises the White House on strategy, said Friday when asked about Obama’s posture. “Until the House Republican Caucus figures out what it wants to do, nobody can deal with them.” Other than a terse phone call to Speaker John Boehner last Friday to reiterate that he won’t negotiate on the debt limit, Obama hasn’t talked to House Republicans — the key constituency in the fight. The White House has let Reid take the lead in the latest fights, even scrapping a potential meeting at the White House with Obama and the three other congressional leaders to allow the process to play out on Capitol Hill. With Republicans fighting with each other over Obamacare, Democrats believe it makes far more sense to keep the focus on the GOP intraparty warfare, rather than risk putting Obama middle of a politically sensitive negotiation. Republicans sourly note that Obama has been quicker to talk with Russian President Vladimir Putin — and now Iranian President Hassan Rouhani — than with House Speaker John Boehner. “Grandstanding from the president, who refuses to even be a part of the process, won’t bring Congress any closer to a resolution,” said Brendan Buck, a spokesman for House Speaker John Boehner. When McDonough went to the Hill this week for closed-door talks, it was to reassure fellow Democrats that the president wouldn’t fold early, as he’s been accused of doing in past budget battles. Obama isn’t expected to meet with congressional leaders until after the Tuesday deadline to stop a government shutdown. Asked if he believed that Obama would eventually have to engage directly in the fiscal fights, Reid said: “Not on the debt ceiling and not on the CR. Maybe on something else – but not these two. We have to fund the government and pay our bills.” Whether Obama can sustain his no-negotiation position on the debt ceiling remains to be seen. Senate Republicans — even those who have balked at calls to use the threat of a government shutdown to defund Obamacare — say the president won’t get a clean debt ceiling increase. “It’s what’s wrong with the government right now,” said Sen. Roy Blunt (R-Mo.), who voted to break a GOP-led filibuster blocking the continuing resolution. “I suppose the Congress might say we don’t want a negotiation on the debt ceiling either.” If Obama can’t get 60 votes in the Senate for a clean debt ceiling increase, he will very likely to have to engage in direct talks with Republicans, even Democrats privately concede. But for now, Democratic leaders say the president is doing what he has to: Making speeches to attack Republicans, and letting his allies on the Hill deal with the nitty-gritty of legislating and horse-trading. Republican Rep. Mike Rogers (R-Mich.), who has worked with the White House on national security issues, says the president’s always had a “laissez-faire” approach to Congress.

#### Obama’s PC is low and decreasing

**Steinhauser, 9/26/13 –** CNN Political Editor (Paul, “Obama's support slips; controversies, sluggish economy cited” <http://www.cnn.com/2013/09/26/politics/cnn-poll-of-polls-obama/?hpt=po_c2>)

As he battles with congressional Republicans over the budget and the debt ceiling, and as a key component of his health care law kicks in, new polling suggests that President Barack Obama's standing among Americans continues to deteriorate. The president's approval rating stands at 45%, according to a CNN average of four national polls conducted over the past week and a half. And a CNN Poll of Polls compiled and released Thursday also indicates that Obama's disapproval rating at 49%. In the afterglow of his re-election and second inauguration, the percentage of those approving of Obama's job performance hovered in the low 50s as the year began, according to CNN Poll of Poll averages. But his numbers slipped to the upper 40s by spring and now have edged down to the mid 40s. At the same time, his disapproval numbers have edged up from the low 40s to right around the 50% mark. Anxiety and skepticism over the Affordable Care Act, better known as Obamacare, continuing concerns over the sluggish economy, and a drop in the president's approval on foreign policy -- once his ace in the hole -- all appear to be contributing to the slide of Obama's general approval rating. "Not a precipitous drop, but more like a continued erosion in the president's numbers," says CNN Chief Political Correspondent Candy Crowley. "The Boston Marathon bombings, Edward Snowden's 'big brother' revelations, the 'non-coup' in Egypt, the 'now we bomb, now we don't' policy in Syria, an economic recovery that remains disappointing, the uncertainty of how/what will change under the new health care system, shall I go on?" "It all adds up to an awful lot of uncertainty and unfairly or not, uncertainty tends to breed lower poll numbers for the guy in charge," added Crowley, anchor of CNN's "State of the Union." Besides being the main indicator of a president's standing with the public, a presidential approval rating is a good gauge of his clout in dealing with Congress. The drop in his numbers comes as the president pushes back against attempts by congressional Republicans to use deadlines to keep the federal government funded and to extend the nation's debt ceiling to try and defund the health care law. A slew of national polls conducted this month indicate that a majority doesn't support shutting down the government in order to defund Obamacare. But if the fight shifts to the debt ceiling, public opinion appears to turn against the president, who reiterated on Thursday that he will not negotiate with the GOP in Congress over extending the debt ceiling.

#### Oversight for drone usage on American citizens has bipartisan support

Greenwald 13 (Glenn, Political Commentator – Guardian, “Domestic Drones and Their Unique Dangers,” The Guardian, 3-29, <http://www.theguardian.com/commentisfree/2013/mar/29/domestic-drones-unique-dangers>)

What is most often ignored by drone proponents, or those who scoff at anti-drone activism, are the unique features of drones: the way they enable more warfare, more aggression, and more surveillance. Drones make war more likely precisely because they entail so little risk to the war-making country. Similarly, while the propensity of drones to kill innocent people receives the bulk of media attention, the way in which drones psychologically terrorize the population - simply by constantly hovering over them: unseen but heard - is usually ignored, because it's not happening in the US, so few people care (see this AP report from yesterday on how the increasing use of drone attacks in Afghanistan is truly terrorizing local villagers). It remains to be seen how Americans will react to drones constantly hovering over their homes and their childrens' schools, though by that point, their presence will be so institutionalized that it will be likely be too late to stop. Notably, this may be one area where an actual bipartisan/trans-partisan alliance can meaningfully emerge, as most advocates working on these issues with whom I've spoken say that libertarian-minded GOP state legislators have been as responsive as more left-wing Democratic ones in working to impose some limits. One bill now pending in Congress would prohibit the use of surveillance drones on US soil in the absence of a specific search warrant, and has bipartisan support.