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### Plan

#### The United States Federal Government should restrict by statute the President's authority under Title 50 for targeted killing by drones.

### Adv 1

#### Advantage 1: Terrorism

#### Congress blocked Obama’s transfer of drones to the military --- ensures widespread backlash

Auner, 14 [1/21/14, Eric, senior analyst at Guardian Six Consulting, “Congress Resists Pentagon Drone Oversight as U.S. and Partners Continue Targeted Killing”, <http://www.worldpoliticsreview.com/trend-lines/13513/congress-resists-pentagon-drone-oversight-as-u-s-and-partners-continue-targeted-killings>]

As U.S. forces draw down in Afghanistan, the United States continues to carry out targeted killings against suspected terrorist leaders in several theaters—including through the use of armed drones—and to enhance the ability of partner nations to carry out lethal operations. But U.S. drone strikes can kill innocent civilians along with their intended targets, generating **backlash abroad and concerns domestically**. According to reporting last week by the Washington Post, one such strike moved Congress to insert language into the $1.1 trillion spending bill that blocks Obama administration attempts to transfer the U.S. drone program from the CIA tothe Pentagon. Currently, both the CIA and the Department of Defense operate their own drone programs under different legal authorities, with the CIA drone program governed by covert operations statutes. In December, a strike carried out by the military hit a convoy in Yemen, which Yemeni tribal leaders told news organizations was part of a wedding party. In addition to several al-Qaida targets, approximately half a dozen civilians were killed, and the incident raised concerns over the targeting capabilities of the military. Micah Zenko of the Council on Foreign Relations, who has argued that lead authority for drone strikes should be consolidated under the Defense Department, explains that placing the program under Pentagon control “would allow the program to be defended publicly,” which is not the case for the covert drone program controlled by the CIA. He adds that the move would not necessarily have operational implications for how the program is carried out. But in general, he suggests, there is little appetite among lawmakers on either side of the aisle to enact major reforms to U.S. targeted killing programs or to significantly increase oversight. Although the Senate Intelligence Committee approved a plan to improve government oversight of U.S. drone strikes in November, the current partisan configuration may make it less likely that Congress will oppose drone strikes and other methods of targeted killing. Democrats hesitate to oppose their own party’s president, and many conservatives cheer a vigorous prosecution of the fight against terrorism. But a lack of interest in major reform may also reflect a level of basic agreement in Washington on the efficacy of targeted strikes as a counterterrorism tool. According to Clint Watts of the Homeland Security Policy Institute at George Washington University, although the frequency of their use has gone down over the past two years, targeted killings via drone are still “the best available option of interdicting terrorists that produces the fewest civilian casualties.” He says that media accounts frequently exaggerate the extent of collateral damage from drone strikes and usually **fail to consider the consequences of alternative strategies** for going after terrorists. Other approaches, such as “clear, hold and build” counterinsurgency operations and funding local militias, can also cause collateral damage and generate instability in sensitive areas, Watts explains. Moreover, with the domestic controversy over detaining suspected terrorists, the military feels more constrained in its ability to capture suspected terrorists alive. The United States has pursued a range of different types of cooperation with several partner countries in terms of drone strikes, which have taken place in Afghanistan and Pakistan, as well as Yemen, where 450 militants were killed in strikes in 2012 and 119 in 2013, according to the New America Foundation. But Zenko has also cataloged other instances of the U.S. assisting allies in carrying out lethal operations, including assisting the French in Mali and the Ugandan government in its fight against the Lord’s Resistance Army.

#### CIA targeted killing undermines program sustainability – conflicting legal regimes

Burt and Wagner, 12 [Blurred Lines: An Argument for a More Robust Legal Framework Governing the CIA Drone Program Andrew Burt† & Alex Wagner Yale Law School, J.D. expected 2014. ‡ Special Advisor for Rule of Law and Detainee Policy, Office of the Secretary of Defense, and Adjunct Professor of Law, Georgetown University Law Center. All views expressed herein are solely those of the authors and not those of the United States, the Office of the Secretary of Defense, or the Department of Defens The Yale Journal of International Law Online]

The principle of “distinction” between civilians and combatants forms the basis for one of the core concepts of international humanitarian law. During armed conflict, civilians are presumptively assumed not to be taking a direct role in the conduct of hostilities, must not be attacked, and are entitled to various degrees of protection under the Fourth Geneva Convention. Civilians lose these protections under the law of war when they cease operating in a civilian capacity and instead take a direct role in the conduct of hostilities. According to the Interpretive Guidance of the ICRC, civilian “direct participation in hostilities” (DPH) refers to “specific acts carried out by individuals as part of the conduct of hostilities between parties to an armed conflict,” and civilians become targetable while performing those acts.48 For those unprivileged belligerents who assume a larger, consistent role in hostilities (know as a “continuous combat function”), such conduct alters their status, enabling them to be targeted as belligerents, rather than only for the time they commit a specific hostile act. Without the legal status of combatant, and thus the privileges described above, CIA civilians who operate drones that hunt and shoot Hellfire missiles at al Qaeda militants arguably lose both the protection due to civilians and the immunity reserved for lawful combatants, rendering them both lawful targets of attack and criminally liable (for war crimes under international law or for murder under domestic law where the hostilities occur). Two principal problems arise from this uncomfortable similarity in legal status between CIA civilians and the terrorists they combat. The first is one of misalignment: it is less than ideal for the United States to be waging a military, diplomatic, and public relations campaign against a global network of terrorists whose members arguably share the same legal status as a segment of the Americans targeting them, especially when the legal status of the terrorists as unlawful belligerents is part of the justification for pursuing them. Second, U.S. domestic law itself (the Military Commissions Act of 2009) treats the conduct of unprivileged belligerents as inconsistent with the laws of war.49 A legal regime justifying the United States’ global fight against al Qaeda **jeopardizes its sustainability,** but most importantly, its credibility, with this type of contradiction at its core. Indeed, the undeniable success of the drone strikes in pushing al Qaeda to the brink of strategic defeatmakes it **imperative** that critics cannot assert a legal—or perhaps even moral—equivalency between the CIA and al Qaeda. The drone program’s continued viability necessitates a stronger grounding in both international and domestic law.

#### The plan makes targeted killing sustainable and effective—fosters legal clarity and perception of oversight

Waxman, 13 [3/20, Matthew, law professor at Columbia Law School, co-chair, Roger Hertog Program on Law and National Security, Adjunct Senior Fellow for Law and Foreign Policy at the Council on Foreign Relations, member of the Hoover Institution Task Force on National Security and Law, “Going Clear,” Foreign Policy, http://www.foreignpolicy.com/articles/2013/03/20/going\_clear?wp\_login\_redirect=0]

According to Daniel Klaidman at the Daily Beast, "[T]he White House is poised to sign off on a plan to shift the CIA's lethal targeting program to the Defense Department." Many critics of the government's targeted-killing policy have been calling for such a move, hoping that it would (in Klaidman's words) "toughen the criteria for drone strikes, strengthen the program's accountability, and increase transparency." That may be. But if what those critics really want is to end the practice of killing suspected al Qaeda fighters with unmanned aircraft far from active combat zones, they should be careful what they wish for. Although technically "covert" and carried out under statutory and presidential authorities designed to preserve "plausible deniability," it's an open secret that the CIA has been conducting counterterrorism strikes in places like Pakistan and Yemen. The U.S. military conducts similar strikes, usually through Joint Special Operations Command, including in Yemen and Somalia. Many argue that these strikes are illegal or counterproductive -- regardless of who conducts them -- because they deny targeted suspects legal process, violate national sovereignty, cause collateral damage, and fuel radicalism. Others believe, however, that these problems are compounded when the CIA is in charge because of the secrecy and impunity with which it operates. In truth, critics often underestimate oversight of CIA activities and overestimate the openness of military operations. Even if the Pentagon conducts all U.S. drone strikes, the operational details will still be shrouded in secrecy, the CIA will still provide targeting information, and much of the congressional oversight will still be conducted behind closed doors (though it will shift from the intelligence committees to the armed services committees). The CIA is also subject to some statutory congressional reporting requirements that the Defense Department is not. That said, moving all strikes under Defense Department control and eliminating their officially covert status will probably allow executive branch officials and members of Congress to speak more **clearly and openly** about general policy in this area. With regard to the legal rules that govern targeting, it may be that shifting operations to the Defense Department will promote **stricter compliance**. In a 2012 speech, the CIA general counsel stated that the agency conducts its operations "in a manner consistent with the...basic principles in the law of armed conflict" -- not that the CIA is legally required to comply with the rules -- which led many to wonder whether the agency was operating outside their bounds. The military is also much better practiced than the CIA in applying the law of armed conflict and assessing collateral damage. Even if the CIA has in reality been fully compliant, it is in the U.S. interest to promote these international legal rules by communicating unambiguously and demonstrating its own normative commitment to them. Those are things that the military is much better able to do, on account of **tradition, institutional culture, and legal requirements**. So, moving operations to the Pentagon may modestly improve transparency and compliance with the law but -- ironically for drone critics -- it may also entrench targeted-killing policy for the long term. For one thing, the U.S. government will now be better able to defend publicly its practices at home and abroad. The CIA is institutionally oriented toward extreme secrecy rather than public relations, and the covert status of CIA strikes makes it difficult for officials to explain and justify them. The more secretive the U.S. government is about its targeting policies, the less effectively it can **participate in** the **broader debates** about the law, ethics, and strategy of counterterrorism. Many of the criticisms of drones and targeting are fundamentally about whether it's appropriate to treat the fight against al Qaeda and its allies as a war -- with all the legal authorities that flow from that, like the powers to detain and kill. The U.S. government can better defend its position without having to maintain plausible deniability of its most controversial program and without the negative image (whether justified or not) that many audiences associate with the CIA. Under a military-only policy, the United States would also be better positioned to correct lingering misperceptions about targeted killings and to take remedial action when it makes a mistake. Moreover, clearer legal limits and the perception of stricter oversight will make drone policy more legitimate in the public's eyes. Polling shows that Americans support military drone strikes more strongly than CIA ones, so this move will likely strengthen political backing for continued strikes. Consider the case of Guantanamo: The shuttering of black sites, as well as the Supreme Court's decisions that detainees there can challenge their detention in federal court and that all detainees are protected by the Geneva Convention, have muted criticism of the underlying practice of detention without trial. Here, too, the proposed reforms would put the remaining policy on stronger footing. It's difficult to assess fully the pros and cons of getting the CIA out of the lethal targeting business because the government has not explained why it has been using the CIA for some operations and not others. As to efficacy -- how the advantages of targeted strikes match up against the costs -- strategy should dictate which agency should be responsible, not the other way around. That said, the result of shifting control to the Pentagon will likely be a more sustainable, if perhaps more restrained and formalized, long-term policy of targeted killing.

#### Program backlash inhibits effective use, even if it doesn’t end it—the aff is key middle ground

Zenko, 13 [Micah Zenko is the Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR). Previously, he worked for five years at the Harvard Kennedy School and in Washington, DC, at the Brookings Institution, Congressional Research Service, and State Department's Office of Policy Planning, Council Special Report No. 65, January 2013, “U.S. Drone Strike Policies”, i.cfr.org/content/publications/attachments/Drones\_CSR65.pdf‎]

In his Nobel Peace Prize acceptance speech, President Obama declared: “Where force is necessary, we have a moral and strategic interest in binding ourselves to certain rules of conduct. Even as we confront a vicious adversary that abides by no rules, I believe the United States of America must remain a standard bearer in the conduct of war.”63 Under President Obama drone strikes have expanded and intensified, and they will remain a central component of U.S. counterterrorism operations for at least another decade, according to U.S. officials.64 But much as the Bush administration was compelled to reform its controversial counterterrorism practices, it is likely that the United States will ultimately be forced by domestic and international pressure to scale back its drone strike policies. The Obama administration can preempt this pressure by clearly articulating that the rules that govern its drone strikes, like all uses of military force, are based in the laws of armed conflict and international humanitarian law; by engaging with emerging drone powers; and, most important, by matching practice with its stated policy by limiting drone strikes to those individuals it claims are being targeted (which would reduce the likelihood of civilian casualties since the total number of strikes would significantly decrease). The choice the United States faces is not between unfettered drone use and sacrificing freedom of action, but between drone policy reforms by design or drone policy reforms **by default**. Recent history demonstrates that domestic political pressure could severely limit drone strikes in ways that the CIA or JSOC have not anticipated. In support of its counterterrorism strategy, the Bush administration engaged in the extraordinary rendition of terrorist suspects to third countries, the use of enhanced interrogation techniques, and warrantless wiretapping. Although the Bush administration defended its policies as critical to protecting the U.S. homeland against terrorist attacks, unprecedented domestic political pressure led to significant reforms or termination. Compared to Bush-era counterterrorism policies, drone strikes are vulnerable to similar—albeit still largely untapped—moral outrage, and they are even more susceptible to political constraints because they occur in plain sight. Indeed, a negative trend in U.S. public opinion on drones is already apparent. Between February and June 2012, U.S. support for drone strikes against suspected terrorists fell from 83 percent to 62 percent—which represents less U.S. support than enhanced interrogation techniques maintained in the mid-2000s.65 Finally, U.S. drone strikes are also widely opposed by the citizens of important allies, emerging powers, and the local populations in states where strikes occur.66 States polled reveal overwhelming opposition to U.S. drone strikes: Greece (90 percent), Egypt (89 percent), Turkey (81 percent), Spain (76 percent), Brazil (76 percent), Japan (75 percent), and Pakistan (83 percent).67 This is significant because the United States cannot conduct drone strikes in the most critical corners of the world by itself. Drone strikes require the tacit or overt support of host states or neighbors. If such states decided not to cooperate—or to actively resist—U.S. drone strikes, their effectiveness would be immediately and sharply reduced, and the likelihood of civilian casualties would increase. This danger is not hypothetical. In 2007, the Ethiopian government terminated its U.S. military presence after public revelations that U.S. AC-130 gunships were launching attacks from Ethiopia into Somalia. Similarly, in late 2011, Pakistan evicted all U.S. military and intelligence drones, forcing the United States to completely rely on Afghanistan to serve as a staging ground for drone strikes in Pakistan. The United States could attempt to lessen the need for tacit host-state support by making significant investments in armed drones that can be flown off U.S. Navy ships, conducting electronic warfare or missile attacks on air defenses, allowing downed drones to not be recovered and potentially transferred to China or Russia, and losing access to the human intelligence networks on the ground that are critical for identifying targets. According to U.S. diplomats and military officials, active resistance— such as the Pakistani army shooting down U.S. armed drones— is a legitimate concern. In this case, the United States would need to either end drone sorties or escalate U.S. military involvement by attacking Pakistani radar and antiaircraft sites, thus increasing the likelihood of civilian casualties.68 Beyond where drone strikes currently take place, political pressure could severely limit options for new U.S. drone bases. For example, the Obama administration is debating deploying armed drones to attack al-Qaeda in the Islamic Maghreb (AQIM) in North Africa, which would likely require access to a new airbase in the region. To some extent, anger at U.S. sovereignty violations is an inevitable and necessary trade-off when conducting drone strikes. Nevertheless, in each of these cases, domestic anger would partially or fully abate if the United States modified its drone policy in the ways suggested below.

#### Legal backlash concerns create a chilling effect

Goldsmith, 12 [Jack Goldsmith, Harvard Law School Professor, focus on national security law, presidential power, cybersecurity, and conflict of laws, Former Assistant Attorney General, Office of Legal Counsel, and Special Counsel to the Department of Defense, Hoover Institution Task Force on National Security and Law, March 2012, Power and Constraint, P. 199-201]

For the GTMO Bar and its cousin NGOs and activists, however, the al-Aulaqi lawsuit, like other lawsuits on different issues, was merely an early battle in a long war over the legitimacy of U.S. targeting practices—a war that will take place not just in the United States, but in other countries as well. When the CCR failed to achieve what it viewed as adequate accountability for Bush administration officials in the United States in connection with interrogation and detention practices, it started pursuing, and continues to pursue, lawsuits and prosecutions against U.S. officials in Spain, Germany, and other European countries. "You look for every niche you can when you can take on the issues that you think are important," said Michael Ratner, explaining the CCR's strategy for pursuing lawsuits in Europe. Clive Stafford Smith, a former CCR attorney who was instrumental in its early GTMO victories and who now leads the British advocacy organization Reprieve, is using this strategy in the targeted killing context. "There are endless ways in which the courts in Britain, the courts in America, the international Pakistani courts can get involved" in scrutinizing U.S. targeting killing practices, he argues. "It's going to be the next 'Guantanamo Bay' issue."' Working in a global network of NGO activists, Stafford Smith has begun a process in Pakistan to seek the arrest of former CIA lawyer John Rizzo in connection with drone strikes in Pakistan, and he is planning more lawsuits in the United States and elsewhere against drone operators." "The crucial court here is the court of public opinion," he said, explaining why the lawsuits are important even if he loses. His efforts are backed by a growing web of proclamations in the United Nations, foreign capitals, the press, and the academy that U.S. drone practices are unlawful. What American University law professor Ken Anderson has described as the "international legal-media-academic-NGO-international organization-global opinion complex" is hard at work to stigmatize drones and those who support and operate them." This strategy is having an impact. The slew of lawsuits in the United States and threatened prosecutions in Europe against Bush administration officials imposes reputational, emotional, and financial costs on them that help to promote the human rights groups' ideological goals, even if courts never actually rule against the officials. By design, these suits also give pause to current officials who are considering controversial actions for fear that the same thing might later happen to them. This effect is starting to be felt with drones. Several Obama administration officials have told me that they worry targeted killings will be seen in the future (as Stafford Smith predicts) as their administration's GTMO. The attempted judicial action against Rizzo, the earlier lawsuits against top CIA officials in Pakistan and elsewhere, and the louder and louder proclamations of illegality around the world all of which have gained momentum after al-Aulaqi's killing—are also having an impact. These actions are rallying cries for protest and political pushback in the countries where the drone strikes take place. And they lead CIA operators to worry about legal exposure before becoming involved in the Agency's drone program." We don't know yet whether these forces have affected actual targeting practices and related tactics. But they induce the officials involved to take more caution. And it is only a matter of time, if it has not happened already, before they lead the U.S. government to forgo lawful targeted killing actions otherwise deemed to be in the interest of U.S. national security.

#### Drone use prevents planning and executing terrorist attacks

Johnston 12 (Patrick B. Johnston is an associate political scientist at the RAND Corporation, a nonprofit, nonpartisan research institution. He is the author of "Does Decapitation Work? Assessing the Effectiveness of Leadership Targeting in Counterinsurgency Campaigns," published in International Security (Spring 2012)., 8/22/2012, "Drone Strikes Keep Pressure on al-Qaida", www.rand.org/blog/2012/08/drone-strikes-keep-pressure-on-al-qaida.html)

Should the U.S. continue to strike at al-Qaida's leadership with drone attacks? A recent poll shows that while most Americans approve of drone strikes, in 17 out of 20 countries, more than half of those surveyed disapprove of them. My study of leadership decapitation in 90 counter-insurgencies since the 1970s shows that when militant leaders are captured or killed militant attacks decrease, terrorist campaigns end sooner, and their outcomes tend to favor the government or third-party country, not the militants. Those opposed to drone strikes often cite the June 2009 one that targeted Pakistani Taliban leader Baitullah Mehsud at a funeral in the Tribal Areas. That strike reportedly killed 60 civilians attending the funeral, but not Mehsud. He was killed later by another drone strike in August 2009. His successor, Hakimullah Mehsud, developed a relationship with the foiled Times Square bomber Faisal Shahzad, who cited drone strikes as a key motivation for his May 2010 attempted attack. Compared to manned aircraft, drones have some advantages as counter-insurgency tools, such as lower costs, longer endurance and the lack of a pilot to place in harm's way and risk of capture. These characteristics can enable a more deliberative targeting process that serves to minimize unintentional casualties. But the weapons employed by drones are usually identical to those used via manned aircraft and can still kill civilians—creating enmity that breeds more terrorists. Yet many insurgents and terrorists have been taken off the battlefield by U.S. drones and special-operations forces. Besides Mehsud, the list includes Anwar al-Awlaki of al-Qaida in the Arabian Peninsula; al-Qaida deputy leader Abu Yahya al-Li-bi; and, of course, al-Qaida leader Osama bin Laden. Given that list, it is possible that the drone program has prevented numerous attacks by their potential followers, like Shazad. What does the removal of al-Qaida leadership mean for U.S. national security? Though many in al-Qaida's senior leadership cadre remain, the historical record suggests that "decapitation" will likely weaken the organization and could cripple its ability to conduct major attacks on the U.S. homeland. Killing terrorist leaders is not necessarily a knockout blow, but can make it harder for terrorists to attack the U.S. Members of al-Qaida's central leadership, once safely amassed in northwestern Pakistan while America shifted its focus to Iraq, have been killed, captured, forced underground or scattered to various locations with little ability to communicate or move securely. Recently declassified correspondence seized in the bin Laden raid shows that the relentless pressure from the drone campaign on al-Qaida in Pakistan led bin Laden to advise al-Qaida operatives to leave Pakistan's Tribal Areas as no longer safe. Bin Laden's letters show that U.S. counterterrorism actions, which had forced him into self-imposed exile, had made running the organization not only more risky, but also more difficult. As al-Qaida members trickle out of Pakistan and seek sanctuary elsewhere, the U.S. military is ramping up its counterterrorism operations in Somalia and Yemen, while continuing its drone campaign in Pakistan. Despite its controversial nature, the U.S. counter-terrorism strategy has demonstrated a degree of effectiveness. The Obama administration is committed to reducing the size of the U.S. military's footprint overseas by relying on drones, special operations forces, and other intelligence capabilities. These methods have made it more difficult for al-Qaida remnants to reconstitute a new safe haven, as Osama bin Laden did in Afghanistan in 1996, after his ouster from Sudan.

#### Risk of nuclear terrorism is real and high now

Malin, et al, 13 [Bunn, Matthew, Valentin Kuznetsov, Martin B. Malin, Yuri Morozov, Simon Saradzhyan, William H. Tobey, Viktor I. Yesin, and Pavel S. Zolotarev. "Steps to Prevent Nuclear Terrorism." Paper, Belfer Center for Science and International Affairs, Harvard Kennedy School, October 2, 2013, Matthew Bunn. Professor of the Practice of Public Policy at Harvard Kennedy School andCo-Principal Investigator of Project on Managing the Atom at Harvard University’s Belfer Center for Science and International Affairs. • Vice Admiral Valentin Kuznetsov (retired Russian Navy). Senior research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, Senior Military Representative of the Russian Ministry of Defense to NATO from 2002 to 2008. • Martin Malin. Executive Director of the Project on Managing the Atom at the Belfer Center for Science and International Affairs. • Colonel Yuri Morozov (retired Russian Armed Forces). Professor of the Russian Academy of Military Sciences and senior research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, chief of department at the Center for Military-Strategic Studies at the General Staff of the Russian Armed Forces from 1995 to 2000. • Simon Saradzhyan. Fellow at Harvard University’s Belfer Center for Science and International Affairs, Moscow-based defense and security expert and writer from 1993 to 2008. • William Tobey. Senior fellow at Harvard University’s Belfer Center for Science and International Affairs and director of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, deputy administrator for Defense Nuclear Nonproliferation at the U.S. National Nuclear Security Administration from 2006 to 2009. • Colonel General Viktor Yesin (retired Russian Armed Forces). Leading research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences and advisor to commander of the Strategic Missile Forces of Russia, chief of staff of the Strategic Missile Forces from 1994 to 1996. • Major General Pavel Zolotarev (retired Russian Armed Forces). Deputy director of the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, head of the Information and Analysis Center of the Russian Ministry of Defense from1993 to 1997, section head - deputy chief of staff of the Defense Council of Russia from 1997 to 1998.<http://belfercenter.ksg.harvard.edu/publication/23430/steps_to_prevent_nuclear_terrorism.html>]

I. Introduction In 2011, Harvard’s Belfer Center for Science and International Affairs and the Russian Academy of Sciences’ Institute for U.S. and Canadian Studies published “The U.S. – Russia Joint Threat Assessment on Nuclear Terrorism.” The assessment analyzed the means, motives, and access of would-be nuclear terrorists, and concluded that the threat of nuclear terrorism is urgent and real. The Washington and Seoul Nuclear Security Summits in 2010 and 2012 established and demonstrated a consensus among political leaders from around the world that nuclear terrorism poses a serious threat to the peace, security, and prosperity of our planet. For any country, a terrorist attack with a nuclear device would be an immediate and catastrophic disaster, and the negative effects would reverberate around the world far beyond the location and moment of the detonation. Preventing a nuclear terrorist attack requires international cooperation to secure nuclear materials, especially among those states producing nuclear materials and weapons. As the world’s two greatest nuclear powers, the United States and Russia have the greatest experience and capabilities in securing nuclear materials and plants and, therefore, share a special responsibility to lead international efforts to prevent terrorists from seizing such materials and plants. The depth of convergence between U.S. and Russian vital national interests on the issue of nuclear security is best illustrated by the fact that bilateral cooperation on this issue has continued uninterrupted for more than two decades, even when relations between the two countries occasionally became frosty, as in the aftermath of the August 2008 war in Georgia. Russia and the United States have strong incentives to forge a close and trusting partnership to prevent nuclear terrorism and have made enormous progress in securing fissile material both at home and in partnership with other countries. However, to meet the evolving threat posed by those individuals intent upon using nuclear weapons for terrorist purposes, the United States and Russia need to deepen and broaden their cooperation. The 2011 “U.S. - Russia Joint Threat Assessment” offered both specific conclusions about the nature of the threat and general observations about how it might be addressed. This report builds on that foundation and analyzes the existing framework for action, cites gaps and deficiencies, and makes specific recommendations for improvement. “The U.S. – Russia Joint Threat Assessment on Nuclear Terrorism” (The 2011 report executive summary): • Nuclear terrorism is a real and urgent threat. Urgent actions are required to reduce the risk. The risk is driven by the rise of terrorists who seek to inflict unlimited damage, many of whom have sought justification for their plans in **radical interpretations of Islam;** by the spread of information about the decades-old technology of nuclear weapons; by the increased availability of weapons-usable nuclear materials; and by globalization, which makes it easier to move people, technologies, and materials across the world. • Making a crude nuclear bomb would not be easy, but is potentially within the capabilities of a technically sophisticated terrorist group, as numerous government studies have confirmed. Detonating a stolen nuclear weapon would likely be difficult for terrorists to accomplish, if the weapon was equipped with modern technical safeguards (such as the electronic locks known as Permissive Action Links, or PALs). Terrorists could, however, cut open a stolen nuclear weapon and make use of its nuclear material for a bomb of their own. • The nuclear material for a bomb is small and difficult to detect, making it a major challenge to stop nuclear smuggling or to recover nuclear material after it has been stolen. Hence, a primary focus in reducing the risk must be to keep nuclear material and nuclear weapons from being stolen by continually improving their security, as agreed at the Nuclear Security Summit in Washington in April 2010. • Al-Qaeda has sought nuclear weapons for almost two decades. The group has repeatedly attempted to purchase stolen nuclear material or nuclear weapons, and has repeatedly attempted to recruit nuclear expertise. Al-Qaeda reportedly conducted tests of conventional explosives for its nuclear program in the desert in Afghanistan. The group’s nuclear ambitions continued after its dispersal following the fall of the Taliban regime in Afghanistan. Recent writings from top al-Qaeda leadership are focused on justifying the mass slaughter of civilians, including the use of weapons of mass destruction, and are in all likelihood intended to provide a formal religious justification for nuclear use. While there are significant gaps in coverage of the group’s activities, al-Qaeda appears to have been frustrated thus far in acquiring a nuclear capability; it is unclear whether the the group has acquired weapons-usable nuclear material or the expertise needed to make such material into a bomb. Furthermore, pressure from a broad range of counter-terrorist actions probably has reduced the group’s ability to manage large, complex projects, but has not eliminated the danger. However, there is no sign the group has abandoned its nuclear ambitions. On the contrary, leadership statements as recently as 2008 indicate that the intention to acquire and use nuclear weapons is as strong as ever.

#### Extinction

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

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

#### Causes US-Russia miscalc—extinction

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War involving significant fractions of the U.S. and Russian nuclear arsenals, which are by far the largest of any nations, could have globally catastrophic effects such as severely reducing food production for years, 1 potentially leading to collapse of modern civilization worldwide, and even the extinction of humanity. 2 Nuclear war between the United States and Russia could occur by various routes, including accidental or unauthorized launch; deliberate first attack by one nation; and inadvertent attack. In an accidental or unauthorized launch or detonation, system safeguards or procedures to maintain control over nuclear weapons fail in such a way that a nuclear weapon or missile launches or explodes without direction from leaders. In a deliberate first attack, the attacking nation decides to attack based on accurate information about the state of affairs. In an inadvertent attack, the attacking nation mistakenly concludes that it is under attack and launches nuclear weapons in what it believes is a counterattack. 3 (Brinkmanship strategies incorporate elements of all of the above, in that they involve intentional manipulation of risks from otherwise accidental or inadvertent launches. 4 ) Over the years, nuclear strategy was aimed primarily at minimizing risks of intentional attack through development of deterrence capabilities, and numerous measures also were taken to reduce probabilities of accidents, unauthorized attack, and inadvertent war. For purposes of deterrence, both U.S. and Soviet/Russian forces have maintained significant capabilities to have some forces survive a first attack by the other side and to launch a subsequent counter-attack. However, concerns about the extreme disruptions that a first attack would cause in the other side's forces and command-and-control capabilities led to both sides’ development of capabilities to detect a first attack and launch a counter-attack before suffering damage from the first attack. 5 Many people believe that with the end of the Cold War and with improved relations between the United States and Russia, the risk of East-West nuclear war was significantly reduced. 6 However, it also has been argued that inadvertent nuclear war between the United States and Russia has continued to present a substantial risk. 7 While the United States and Russia are not actively threatening each other with war, they have remained ready to launch nuclear missiles in response to indications of attack. 8 False indicators of nuclear attack could be caused in several ways. First, a wide range of events have already been mistakenly interpreted as indicators of attack, including weather phenomena, a faulty computer chip, wild animal activity, and control-room training tapes loaded at the wrong time. 9 Second, terrorist groups or other actors might cause attacks on either the United States or Russia that resemble some kind of nuclear attack by the other nation by actions such as exploding a stolen or improvised nuclear bomb, 10 especially if such an event occurs during a crisis between the United States and Russia. 11 A variety of nuclear terrorism scenarios are possible. 12 Al Qaeda has sought to obtain or construct nuclear weapons and to use them against the United States. 13 Other methods could involve attempts to circumvent nuclear weapon launch control safeguards or exploit holes in their security. 14 It has long been argued that the probability of inadvertent nuclear war is significantly higher during U.S.–Russian crisis conditions, 15 with the Cuban Missile Crisis being a prime historical example. It is possible that U.S.–Russian relations will significantly deteriorate in the future, increasing nuclear tensions. There are a variety of ways for a third party to raise tensions between the United States and Russia, making one or both nations more likely to misinterpret events as attacks. 16

#### Iraq drone use solves Mid East War

McLeary 12-26-13 (Paul, U.S. to Send More Drones, Missiles to Iraq”, Navy Times, 12-26, <http://www.navytimes.com/article/20131226/NEWS08/312260006/U-S-send-more-drones-missiles-Iraq>)

As the Iraqi government struggles to contain the exploding violence that slaughtered more than 8,000 civilians in 2013 — which the United Nations says is the highest level of violence since 2008 — Baghdad is looking to the United States for help. According to a report in the New York Times, Iraq has requested 10 relatively low-tech ScanEagle drones along with 48 Raven drones in order to track al-Qaida fighters who have been operating with impunity in the vast expanses of Anbar providence and in Western Iraq, which shares a border with Syria. All of the drones will be delivered in 2014. Seventy-five Hellfire missiles were also delivered to Iraq last week, the paper reported. The fighting in Syria has allowed al-Qaida to gain a foothold in the ungoverned spaces where the Assad regime has lost control, and Islamist fighters flush with foreign funding have taken control of a large part of the previously secular rebellion there. The chaos in Syria has in turn allowed al-Qaida to push back into Iraq, where Sunnis at odds with the Shia-led government in Baghdad have turned a blind eye to their presence, or have been intimidated into silence. In response, the Baghdad government of Nouri al-Malaki — while not asking for armed drones operated by the United States or other American assistance — has beefed up its requests for material support. In July, the U.S. announced over $4 billion in Foreign Military Sales to Iraq that included everything from infantry carriers to ground-to-air rockets. The Pentagon’s request to Congress included $2.4 billion for 681 Stinger anti-aircraft missiles and 40 truck-mounted launchers, Sentinel radars, and three Hawk anti-aircraft batteries with 216 Hawk missiles. These systems “will provide Iraq with the ability to contribute to regional air defenses and reduce its vulnerability to air attacks and **also** enhance interoperability between the government of Iraq, the US, and other allies,” the Pentagon wrote at the time. The United States is also planning to begin delivering F-16 fighters to Iraq late next year. In July, Defense News reported that the deal “included 50 Stryker infantry carriers, 12 helicopters, and hundreds of millions of dollars worth of maintenance and logistical support for Iraq’s thousands of American-made military vehicles that have been languishing under the breakdown of the Iraqi logistics system in the wake of the December 2011 American withdrawal. “While the sale of 50 General Dynamics-made nuclear, biological and chemical Stryker reconnaissance vehicles worth about $900 million may have raised the most eyebrows, a source with knowledge of the negotiations between American and Iraqi military officials said that the real concern for both parties was the $750 million, five-year logistics contract that would cover the maintenance on thousands of American-made vehicles. The vehicles include BAE Systems’ M88A1 recovery vehicle, the M88A2 Hercules, M113 infantry carrier, Howitzers, and AM General-produced Humvees.” Whether low-tech and short-range drones and infantry vehicles can make much of a difference in Iraq’s new struggle with al-Qaida and an increasingly angry Sunni minority may be unlikely without reforms and outreach to aggrieved populations. But **it does mark a shift in the fight against a resurgent al-Qaida, and a new path for cooperation between Washington and Baghdad**.

#### Iraq spills over – now key

Spyer 3-28-14 (Jonathan, senior research fellow at the Global Research in International Affairs (GLORIA) Center and a fellow at the Middle East Forum, “War Across the Borders”, Middle East Forum, 3-28, <http://www.meforum.org/3803/middle-east-borders>)

It has become a commonplace to claim that the unrest in the Arab world is challenging the state borders laid down in the Arab world following the collapse of the Ottoman Empire in 1918. This claim, however, is only very partially valid. It holds true in a specific section of the Middle East, namely the contiguous land area stretching from Iran's western borders to the Mediterranean Sea, and taking in the states currently known as Iraq, Syria and Lebanon. In this area, **a single sectarian war is currently taking place**. The nominal governments in Baghdad, Damascus and Beirut may claim to rule in the name of the Iraqi, Syrian and Lebanese peoples. But the reality of power distribution in each of these areas shows something quite different. In each of these areas, local, long suppressed differences between communities are combining with the region-wide cold war between Iran and Saudi Arabia to produce conflict, discord and latent or open civil war. In each case, sectarian forces are linking up with their fellow sect members (or co-ethnics, if that's a word, in the case of the Kurds) in the neighboring "country" against local representatives of the rival sect. Let's take a look at the rival coalitions. These are not simply theoretical constructs. The cooperation between the relevant sides is largely overt, and has been extensively verified. On one side, there are the Shia (and Alawi) allies of Iran. These are the Maliki government in Iraq, the Assad regime in Syria, and Hizballah, the Iranian proxy force which dominates Lebanon. Both Hizballah and the Maliki government, at the behest of Iran, have played a vital role in the survival of Bashar Assad and his current resurgence. Hizballah's role is well-documented. The movement maintains around 5,000 fighters at any one time in Syria. They have just completed a spearhead role in a nearly year long campaign to drive the rebels from the area adjoining the Lebanese border. They are also deployed in Damascus. Assad's Achilles heel throughout has been the lack of committed fighters willing to engage on his behalf. Hizballah, working closely with Iran, has played a vital role in filling that gap. In addition, Hizballah is working hard to suppress any Sunni thoughts of insurrection in Lebanon itself. Its forces cooperated with the Lebanese Army in crushing Sunni Islamists in Sidon in June, 2013. It also offers support to Alawi elements engaged in a long running mini-war with pro-Syrian rebel Sunnis in the city of Tripoli. Maliki's role on behalf of Assad is less well-reported but no less striking. It is first of all worth remembering that the Iraqi prime minister spent from 1982-90 in exile in Iran, and his political roots and allegiances are, unambiguously, to Shia Islamism. Regular overflights and ground convoys have used Iraqi territory since the start of the Syrian civil war to carry vital Iranian arms and supplies from Iran to Assad's forces in Syria. A western intelligence report obtained by Reuters in late 2012 confirmed this, noting that "planes are flying from Iran to Syria via Iraq on an almost daily basis, carrying IRGC (Iranian Revolutionary Guard Corps) personnel and tens of tons of weapons to arm the Syrian security forces and militias fighting against the rebels." It also asserted that Iran was "continuing to assist the regime in Damascus by sending trucks overland via Iraq" to Syria. In addition, Iraqi Shia volunteers from the Abu Fadl al-Abbas Brigades and other formations have helped to fill Bashar's gap in available and committed infantry. The Maliki government has made no effort to stop the flow of such fighters across the border – even as it engages in a U.S.-supported counter insurgency against Sunni jihadis in western Anbar province in Iraq. So the Iran-led regional bloc is running a well-coordinated, well-documented single war in three countries. The Sunni Arab side of the line is predictably more chaotic and disunited. On this side, too, there are discernible links, but no single, clear alliance. Unlike among the pro-Iran bloc, only the most radical fringe of the Sunnis cross the borders to engage in combat. There is no Sunni equivalent to the Qods Force cadres active in Syria and Lebanon. Among the Sunni radicals, the Islamic State of Iraq and Syria (ISIS) group now controls a single contiguous area stretching from eastern Syria to western Anbar province in Iraq, and taking in Fallujah city in Iraq. Jabhat al-Nusra, the Syrian franchise of al-Qaeda, is now active also in Lebanon. It has on a number of occasions penetrated Hizballah's security sanctum in the Dahiyeh neighborhood of south Beirut. More broadly, Saudi Arabia is the patron of the Sunni interest in both Lebanon and Syria. It is currently backing rebel forces in the south of Syria, and pro-Saudis dominate the Syrian National Coalition, which purports to be the political leadership of the rebellion. It also supports and promotes the March 14th movement in Lebanon, and recently pledged $3 billion for the Lebanese Armed Forces – presumably in a bid to build a force that could balance Hizballah. But both Qatar and Turkey also play an important role in backing the Syrian rebels, and have their own clients among the fighting groups. Saudi and Turkish fear and distrust of radical Sunni Islamist fighting groups prevent the emergence of a clear "Sunni Islamist international" to rival the Shia international of Iran. Still, it is undeniable that cooperation exists among the various Sunni forces in Lebanon, Syria and Iraq. It's just that it's a complicated and sometimes chaotic criss-crossing of various rival interests and outlooks on the Sunni side, rather than a coherent single bloc. And finally, of course, there is a single contiguous area of Kurdish control stretching from the Iraq-Iran border all the way to deep within Syria. This zone of control is divided between the Iraqi Kurds of the Kurdish Democratic Party and the Syrian Kurds of the rival, PKK-affiliated Democratic Union Party (PYD). Once again, it is a contiguous area of control based on ethnic affiliation. None of this means that the official borders of these three countries are going to officially disappear in the immediate future. The U.S. administration and others are committed to their survival, so they are likely to survive for now, in the semi-fictional and porous state in which they currently exist. This, however, should not obscure the more crucial point that the entire area between the Iraq-Iran border and the Mediterranean Sea is currently the site of a single war, following a single dynamic, fought between protagonists defined by ethnic and sectarian loyalty.

#### Causes Baloch secessionist wars

Byman, 6 (Prof of Security Studies-Georgetown, 8/20, “What Next,” http://www.washingtonpost.com/wp-dyn/content/article/2006/08/18/AR2006081800983\_pf.html)

The consequences of an all-out civil war in Iraq could be dire. Considering the experiences of recent such conflicts, hundreds of thousands of people may die. Refugees and displaced people could number in the millions. And with Iraqi insurgents, militias and organized crime rings wreaking havoc on Iraq's oil infrastructure, a full-scale civil war could **send global oil prices soaring** even higher. However, the greatest threat that the United States would face from civil war in Iraq is from the spillover -- the burdens, the instability, the **copycat secession attempts** and even the **follow-on wars** that could emerge in neighboring countries. Welcome to the new "new Middle East" -- a region where **civil wars could follow** one after another, like so many Cold War dominoes. And unlike communism, these dominoes may actually fall. For all the recent attention on the Israeli-Hezbollah conflict, far more people died in Iraq over the past month than in Israel and Lebanon, and tens of thousands have been killed from the fighting and criminal activity since the U.S. occupation began. Additional signs of civil war abound. Refugees and displaced people number in the hundreds of thousands. Militias continue to proliferate. The sense of being an "Iraqi" is evaporating. Considering how many mistakes the United States has made in Iraq, how much time has been squandered, and how difficult the task is, even a serious course correction in Washington and Baghdad may only postpone the inevitable. Iraq displays many of the conditions most conducive to spillover. The country's ethnic, tribal and religious groups are also found in neighboring states, and they share many of the same grievances. Iraq has a history of violence with its neighbors, which has fostered desires for vengeance and fomented constant clashes. Iraq also possesses resources that its neighbors covet -- oil being the most obvious, but important religious shrines also figure in the mix -- and its borders are porous. Civil wars -- whether in Africa, Asia, Europe or the Middle East -- tend to spread across borders. For example, the effects of the Jewish-Palestinian conflict, which began in the 1920s and continued even after formal hostilities ended in 1948, contributed to the 1956 and 1967 Arab-Israeli wars, provoked a civil war in Jordan in 1970-71 and then triggered the Lebanese civil war of 1975-90. In turn, the Lebanese conflict helped spark civil war in Syria in 1976-82. With an all-out civil war looming in Iraq, Washington must decide how to deal with the most common and dangerous ways such conflicts spill across national boundaries. Only by understanding the refugee crises, terrorism, radicalization of neighboring populations, copycat secessions and foreign interventions that such wars frequently spark can we begin to plan for how to cope with them in the months and years ahead. Refugees Spread The Fighting Massive refugee flows are a hallmark of major civil wars. Afghanistan's produced the largest such stream since World War II, with more than a third of the population fleeing. Conflicts in the Balkans in the 1990s also generated millions of refugees and internally displaced people: In Kosovo, more than two-thirds of Kosovar Albanians fled the country. In Bosnia, half of the country's 4.4 million people were displaced, and 1 million of them fled the country altogether. Comparable figures for Iraq would mean more than 13 million displaced Iraqis, and more than 6 million of them running to neighboring countries. Refugees are not merely a humanitarian burden. They often continue the wars from their new homes, thus spreading the violence to other countries. At times, armed units move from one side of the border to the other. The millions of Afghans who fled to Pakistan during the anti-Soviet struggle in the 1980s illustrate such violent transformation. Stuck in the camps for years while war consumed their homeland, many refugees joined radical Islamist organizations. When the Soviets departed, refugees became the core of the Taliban. This movement, nurtured by Pakistani intelligence and various Islamist political parties, eventually took power in Kabul and opened the door for Osama bin Laden to establish a new base of operations for al-Qaeda. Refugee camps often become a sanctuary and recruiting ground for militias, which use them to launch raids on their homelands. Inevitably, their enemies attack the camps -- or even the host governments. In turn, those governments begin to use the refugees as tools to influence events back in their homelands, arming, training and directing them, and thereby exacerbating the conflict. Perhaps the most tragic example of the problems created by large refugee flows occurred in the wake of the Rwandan genocide in 1994. After the Hutu-led genocide resulted in the death of 800,000 to 1 million Tutsis and moderate Hutus, the Tutsi-led Rwandan Patriotic Front "invaded" the country from neighboring Uganda. The RPF was drawn from the 500,000 or so Tutsis who had already fled Rwanda from past pogroms. As the RPF swept through Rwanda, almost 1 million Hutus fled to neighboring Congo, fearing that the evil they did unto others would be done unto them. For two years after 1994, Hutu bands continued to conduct raids in Rwanda and began to work with Congolese dictator Mobutu Sese Seko. The new RPF government of Rwanda responded by attacking not only the Hutu militia camps, but also its much larger neighbor, bolstering a formerly obscure Congolese opposition leader named Laurent Kabila and installing him in power in Kinshasa. A civil war in Congo ensued, killing perhaps 4 million people. The flow of refugees from Iraq could worsen instability in all of its neighboring countries. Kuwait, for example, has just over 1 million citizens, one-third of whom are Shiite. The influx of several hundred thousand Iraqi Shiites across the border could change the religious balance in the country overnight. Both these Iraqi refugees and the Kuwaiti Shiites could turn against the Sunni-dominated Kuwaiti government, seeing violence as a means to end the centuries of discrimination they have faced at the hands of Kuwait's Sunnis. Terrorism Finds New Homes The war in Iraq has proved to be a disaster for the struggle against Osama bin Laden. Fighters there are receiving training, building networks and becoming further radicalized -- and the U.S. occupation is proving a dream recruiting tool for young Muslims worldwide. As bad as this is, a wide-scale civil war in Iraq could make the terrorism problem even worse. Such terrorist organizations as Hezbollah, the Liberation Tigers of Tamil Eelam (LTTE), the Armed Islamic Group (GIA), the Irish Republican Army (IRA) and the Palestine Liberation Organization (PLO) were all born of civil wars. They eventually shifted from assaulting their enemies in Lebanon, Sri Lanka, Algeria, Northern Ireland and Israel, respectively, to mounting attacks elsewhere. Hezbollah has attacked Israeli, American and European targets on four continents. The LTTE assassinated former Indian prime minister Rajiv Gandhi because of his intervention in Sri Lanka. The IRA began a campaign of attacks in Britain in the 1980s. The GIA did the same to France the mid-1990s, hijacking an Air France flight then moving on to bombings in the country. In the 1970s, various Palestinian groups began launching terrorist attacks against Israelis wherever they could find them -- including at the Munich Olympics and airports in Athens and Rome -- and then attacked Western civilians whose governments supported Israel. In Afghanistan, the anti-Soviet struggle in the 1980s was a key incubator for bin Laden's movement. Many young mujaheddin went to Afghanistan with only the foggiest notion of jihad. But during the fighting in Afghanistan, individuals took on one another's grievances, so that Saudi jihadists learned to hate the Egyptian government and Chechens learned to hate Israel. Meanwhile, al-Qaeda convinced many of them that the United States was at the center of the Muslim world's problems -- a view that almost no Sunni terrorist group had previously embraced. Other civil wars in Muslim countries, including the Balkans, Chechnya and Kashmir, began for local reasons but became enmeshed in the broader jihadist movement. Should Iraq descend into a deeper civil war, the country could become a sanctuary for both Shiite and Sunni terrorists, possibly even exceeding the problems of Lebanon in the 1980s or Afghanistan under the Taliban. Right now, the U.S. military presence keeps a lid on the jihadist effort. There are no enormous training camps such as those the radicals enjoyed in Afghanistan. Likewise, Hezbollah and other Shiite terrorist groups have maintained a low profile in Iraq so far, but the more embattled the Shiites feel, the better the chance they will invite greater Hezbollah involvement. Shiite fighters may even strike the Sunni backers of their Iraqi adversaries, such as Saudi Arabia and Kuwait, or incite their own Shiite populations against them. And lost in the focus on Arab terrorist groups is the Kurdish Workers Party (PKK), an anti-Turkish group that has long fought to establish a Kurdish state in Turkey from bases in Iraq. The more Iraq is consumed by chaos, the more likely it is that the PKK will regain a haven in northern Iraq. The Sunni jihadists would be particularly likely to go after Saudi Arabia given its long, lightly patrolled border with Iraq, as well as their interest in destabilizing the ruling Saud family. The turmoil in Iraq has energized young Saudi Islamists. In the future, the balance may shift from Saudis helping Iraqi fighters against the Americans to Iraqi fighters helping Saudi jihadists against the Saudi government, with Saudi **oil infrastructure an obvious target**. Radicalism Is Contagious Civil wars tend to inflame the passions of neighboring populations. This is often just a matter of proximity: Chaos and slaughter five miles down the road has a much greater emotional impact than a massacre 5,000 miles away. The problem worsens whenever ethnic or religious groupings also spill across borders. Frequently, people demand that their government intervene on behalf of their compatriots embroiled in the civil war. Alternatively, they may aid their co-religionists or co-ethnics on their own -- taking in refugees, funneling money and guns, providing sanctuary. The Albanian government came under heavy pressure from its people to support the Kosovar Albanians who were fighting for independence from the Serbs. As a result, Tirana provided diplomatic support and covert aid to the Kosovo Liberation Army in 1998-99, and threatened to intervene to prevent Serbia from crushing the Kosovars. Similarly, numerous Irish and Irish American groups clandestinely supported the Irish Republican Army, providing money and guns to the group and lobbying Dublin and Washington. Sometimes, radicalization works in the opposite direction if neighboring populations share the grievances of their comrades across the border, and as a result are inspired to fight in pursuit of similar goals in their own country. Although Sunni Syrians had chafed under the minority Alawite dictatorship since the 1960s, members of the Muslim Brotherhood (the leading Sunni Arab opposition group) were spurred to action when they saw Lebanese Sunni Arabs fighting to wrest a share of political power from the minority Maronite-dominated government in Beirut. This spurred their own decision to organize against Hafez al-Assad's regime in Damascus. By the late 1970s, their resistance had blossomed into civil war, but Assad's regime was not as weak as Lebanon's. In 1982, Assad razed the center of the city of Hama, a Muslim Brotherhood stronghold, killing 20,000 to 40,000 people and snuffing out the revolt. Iraq's neighbors are vulnerable to this aspect of spillover. Iraq's own divisions are mirrored throughout the region; for instance, Bahrain, Kuwait and Saudi Arabia all have sizable Shiite communities. In Saudi Arabia, Shiites make up about 10 percent of the population, but they are heavily concentrated in its oil-rich Eastern Province. Bahrain's population is majority Shiite, although the regime is Sunni. Likewise, Iran, Syria and Turkey all have important Kurdish minorities, which are geographically concentrated adjacent to Iraqi Kurdistan. Populations in some countries around Iraq are already showing dangerous signs of radicalization. In March, after the Sunni jihadist bombing of the Shiite Askariya shrine in Iraq, more than 100,000 Bahraini Shiites took to the streets in anger. In 2004, when U.S. forces were battling Iraqi Sunni insurgents in Fallujah, large numbers of Bahraini Sunnis protested. There has been unrest in Iranian Kurdistan in the past year, prompting Iran to deploy troops to the border and even shell Kurdish positions in Iraq. The Turks, too, have deployed additional forces to the Iraqi border to prevent any movement of Kurdish forces between the two countries. Most ominous of all, tensions are rising between Shiites and Sunnis in the key Eastern Province of Saudi Arabia. As in Bahrain, many Saudi Shiites saw the success of Iraq's Shiites and are now demanding better political and economic treatment. The government made a few initial concessions, but now the kingdom's Sunnis are openly accusing the Shiites of heresy. Religious leaders on both sides have begun to warn of a coming civil war or schism within Islam. The horrors of such a split are on display only miles away in Iraq. Secession Breeds Secessionism Iraq's neighbors are just as fractured as Iraq itself. Should Iraq fragment, **voices for secession elsewhere will gain strength**. The dynamic is clear: One oppressed group with a sense of national identity stakes a claim to independence and goes to war to achieve it. As long as that group isn't crushed immediately, others with similar goals can be inspired to do the same. The various civil wars in the former Yugoslavia in the 1990s provide a good example. Slovenia was determined to declare independence, which led the Croats to follow suit. When the Serbs opposed Croatian secession from Yugoslavia by force, the first of the Yugoslav civil wars broke out. The European Union foolishly recognized both Slovene and Croatian independence, hoping that would end the bloodshed. However, many Bosnian Muslims wanted independence, and when they saw the Slovenes and Croats rewarded for their revolts, they pursued the same course. The new Bosnian government feared that if it did not declare independence, Serbia and Croatia would gobble up the respective Serb- and Croat-inhabited parts of their country. When Bosnia held a March 1992 referendum on independence, 98 percent voted in favor. The barricades went up all over Sarajevo the next day, kicking off the worst of the Balkan civil wars. It didn't stop there. The eventual success of the Bosnians -- even after four years of war -- was an important element in the thinking of Kosovar Albanians when they agitated against the Serbian government in 1997-98. Serbian repression sparked an escalation toward independence that ended in the 1999 Kosovo War between NATO and Serbia. Kosovo, in turn, inspired Albanians in Macedonia to launch a guerrilla war against the Skopje government in hope of achieving the same or better. In Iraq's case, the first candidate for secession is obvious: Kurdistan. If any group on Earth deserves its own country, it is surely the Kurds -- a distinct nation of 25 million people living in a geographically contiguous space with their own language and culture. However, if the Iraqi Kurds declare their independence and are protected by the international community, it is not hard to imagine Kurdish groups in Turkey and Iran following suit. Moreover, the Kurds are not the only candidates. Shiite leader Abdul Aziz Hakim has called for autonomy for Iraq's Shiite regions -- a likely precursor for demands of outright independence. If Iraqi Shiites try to split off, other Shiites in the Gulf region might agitate against their own regimes along similar lines. Moreover, if ethnic or sectarian self-determination begins spreading throughout the Middle East more generally, secessionist movements could also **spread to** unlikely groups such as Iran's minority Azeri and **Baluch populations**. Beware of Neighborly Interventions Another critical problem of civil wars is the tendency of neighboring states to get involved, turning the conflicts into regional wars. **Foreign governments may intervene** overtly or covertly to "stabilize" the country in turmoil and stop the refugees pouring across their borders, as the Europeans did during the Yugoslav wars. Neighboring states will intervene to eliminate terrorist groups setting up shop in the midst of the civil war, as Israel did repeatedly in Lebanon. They also may intervene to stem the flow of "dangerous ideas" into their country. Iran and Tajikistan intervened in the Afghan civil war on behalf of co-religionists and co-ethnicists suffering at the hands of the rabidly Sunni, rabidly Pashtun Taliban, just as Syria intervened in Lebanon for fear that the conflict there was radicalizing its Sunni population. In virtually every case, these interventions brought only further grief to the interveners and to the parties of the civil war. Opportunism is another powerful motive. States often harbor designs on their neighbors' land and resources and see the chaos of civil war as an opportunity to achieve long-frustrated ambitions. Much as Croatia's Franjo Tudjman and Serbia's Slobodan Milosevic may have felt the need to intervene in the Bosnian civil war to protect their ethnic brothers, it seems clear that a more important motive for both was to carve up Bosnia between them. Many states attempt to influence the course of a civil war by providing money, weapons and other support to one side. In effect, they use their intelligence services to create proxies who can fight the war for them. But states find that proxies are rarely able to secure their interests, typically leading them to escalate to open intervention. Both Israel and Syria employed proxies in Lebanon, for example, but found them inadequate, prompting their own invasions. Pakistan is one of the few countries to succeed in using a proxy force (the Taliban) to secure its interests in a civil war. However, the nation's support of these radical Islamists encouraged the explosion of Islamic fundamentalism in Pakistan itself -- increasing the number of armed groups operating from Pakistan and creating networks for drugs and weapons to fuel the conflict. Today, Pakistan is a basket case, and much of the reason lies in its costly effort to prevail in the Afghan civil war. Covert foreign intervention is proceeding apace in Iraq, with Iran leading the way. U.S. military and Iraqi sources think there are several thousand Iranian agents of all kinds already in Iraq. These personnel have simultaneously funneled money, guns and other support to friendly Shiite groups and established the infrastructure to wage a large-scale clandestine war if necessary. Iran has set up an extensive network of safe houses, arms caches, communications channels and proxy fighters, and will be well-positioned to pursue its interests in a full-blown civil war. The Sunni powers of Jordan, Kuwait, Saudi Arabia and Turkey are frightened by Iran's growing influence and presence in Iraq and have been scrambling to catch up. Turkey may be the most likely country to overtly intervene in Iraq. Turkish leaders fear both the spillover of Turkish secessionism and the possibility that Iraq is becoming a haven for the PKK. Turkey has already massed troops on its southern border, and officials are threatening to intervene. What's more, none of Iraq's neighbors thinks that it can afford to have the country fall into the hands of the other side. An Iranian "victory" would put the nation's forces in the heartland of the Arab world, bordering Jordan, Kuwait, Saudi Arabia and Syria; several of these states poured tens of billions of dollars into Saddam Hussein's military to prevent just such an occurrence in the 1980s. Similarly, a Sunni Arab victory (backed by the Jordanians, Kuwaitis and Saudis) would put radical Sunni fundamentalists on Iran's doorstep -- a nightmare scenario for Tehran. Add in, too, each country's interest in preventing its rivals from capturing Iraq's oil resources. If these states are unable to achieve their goals through clandestine intervention, they will have a powerful incentive to launch a conventional invasion.

#### Extinction

Mir, 12 [Columnist for The Nation (Pakistan) & Author of the book Gwadar on the Global Chessboard, “Balochistan and geopolitics,” http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/columns/02-Mar-2012/balochistan-and-geopolitics]

Today, the "province" of Balochistan resides in Pakistan, though part of greater Balochistan belongs to Iran as well, and perhaps some to Afghanistan. About 50 percent of the population of Balochistan is said to be Pashtun. Here's some more from the article: Balochistan and geopolitics ... The rationale of these ill-intentioned pseudo thinkers is absolutely absurd. According to them, since the Pakistani elite is exploiting Balochistan, so it should be balkanised. Those who believe that Balochistan should not be a part of Pakistan are geopolitical imbeciles. Indeed, the propagandists making these claims are clueless about regional realities because: • Pakistan: It will fight a war, even a nuclear war of national survival to defend itself. • Iran: The Iranian Seistan is part of Balochistan, which the imperialists want to carve out. Therefore, Iran will fight a war in unison with Pakistan to defend Balochistan against the US threats. • Afghanistan: The Taliban are winning; the Americans are leaving. No Afghan - not even Karzai - will cede the Afghan territory to become 'greater independent Balochistan'. Nor can landlocked Kabul take up fights with both Islamabad and Tehran. • Turkey: The Turks will support Pakistan and oppose independent Balochistan. Those who are plotting Balochistan also support Kurdistan to balkanise Turkey. Turkey will oppose Balochistan splitting by Nato, even if Nato is foolhardy to play the diabolical game of neocons. • India: It has been supporting the destabilisation of Balochistan and will continue to do so. But for India to overtly support Balochistan can lead to a nuclear war with Pakistan. Besides this can also trigger freedom movements in Kashmir, Khalistan, Assam, Tamil Nadu and a dozen other places. Playing the US-Israel game will spoil its relations with Iran, Russia and China. • China: It will support Pakistan. USA's aim in Balochistan is to block China from Gwadar. Balochistan today, Xinjiang tomorrow! China's defence begins from Pakistan. • Russia: It is Pakistan's new friend. Besides, the Pak-Iran link is supported by Moscow. So, the geopolitics of the region negates any viability of an independent Balochistan. In addition, anti-Americanism in Pakistan has a complex dynamic. The US meddling in Balochistan will not create an 'independent Balochistan', but will initiate a war, perhaps, **leading to World War III.**

### Adv 2

#### Advantage 2: Norms

#### A Subpoint --- CIA

#### Reserving the act for military members demonstrates US compliance

Nauman 12 [Joshua, JD, LLM, Commander, Judge Advocate General’s Corps, U.S. Navy, “Civilians on the Battlefield: By Using U.S. Civilians in the War on Terror, Is the Pot Calling the Kettle Black?” 91 Neb. L. Rev., google scholar]

Similarly, the prosecution of enemy belligerents by military commission for, among other things, using lethal force against an enemy uniformed combatant, runs the risk of creating a mixed message. Specifically, the United States asserts it is per se unlawful for an enemy civilian to take up arms against a lawful combatant, but it is not unlawful for a U.S. civilian to take up arms against an enemy belligerent. 258 There remains a very important moral distinction: the United States deliberately targets those who, either through current action, or through membership in al-Qaeda, pose a direct threat to the United States, whereas the enemy deliberately targets innocent civilians. Nonetheless, we are a nation bound by the rule of law, and therefore legal distinctions matter. So long as we are able to successfully defend ourselves, we should do all that is within our power to preserve the rule of law and maintain a consistent position or message with regard to who may, or may not, properly engage in warfare. The United States should draw and maintain clear distinctions between its service member combatants and its civilian support personnel. Using the broad definitions of DPH as discussed supra, the United States should honor those definitions by ensuring that its civilian employees and contractors do not, themselves, directly participate in hostilities. While instances of DPH on the part of civilians by the United States are not per se LOAC violations, they nonetheless weaken the necessary LOAC wall between civilian and combatant and provide critics with support for the argument that the United States exhibits a limited respect for international law. The use of CIA operatives in the War on Terror is not likely to abate. As numerous U.S. government officials have stated, we are “at war” with terrorists and the United States will continue to use every means at its disposal in the prosecution of this war.259 In this author’s view, however, there is a better path. The United States can still bring to bear all of the vast resources of the U.S. Government, including the CIA, but can insist that only military members apply the ultimate application of lethal force.260 DPH is clearly more broad than simply “pulling the trigger,” so this proposal does not necessarily obviate the risk that other activities engaged in by the CIA or other civilians are, themselves, also DPH. However, reserving the distinct act of applying lethal force to uniformed members of the military will serve the important purpose of showing that the United States reserves the most extreme, overt form of direct participation to those in uniform. **Some may say this is form over substance, but appearance matters**, particularly when the United States is often setting the tone in the conduct of modern warfare, and the world is watching. One of the defining and most beneficial aspects of modern democracies is their state monopoly on the use of lethal force. Generally speaking, the United States, like other industrialized democracies, limits the official, sanctioned use of deadly force to the judicial system, law enforcement, and the military. This state monopoly on the use of lethal force does not eliminate murder, but murder is investigated and punished and there does not exist widespread use of vigilante justice or extra-judicial killings. The United States does not rely on tribal justice or gang warfare to mete out justice or control the population. Because of this feature of our democracy, we can employ lethal force in ways and at times of our choosing, all according to the rule of law. Accordingly, to more fully and perfectly respect the LOAC built up over the past 150 years, the United States should insist that in the “war” on terror, where the use of deadly force is concerned, uniformed service members should apply the force. While some may label this as overly idealistic, idealism is precisely the point. The rule of law, and in particular, the LOAC, is all about ideals. These ideals, and especially the ideal of distinguishing between combatants and civilians, have dramatically reduced the suffering and carnage imposed on civilian populations over the last 150 years. War is still horrific and inevitably leads to death, but limiting the application of this force by and against combatants helps to minimize the carnage and make war arguably more humane. We now return to the opening hypothetical . . . Applying Professor Corn’s functional discretion test, the UAV technician would not exercise discretion that implicates LOAC principles, nor would the MWR employee. However, the intelligence analyst that provides targeting advice to the commander, even if through a military member, may in fact be making decisions that directly implicate the LOAC principles of distinction and proportionality. Therefore, the intelligence analyst is taking a DPH. Similarly, if the drone strike is a CIA operation, the CIA officers would certainly be exercising discretionary functions that directly implicate the LOAC. Additionally, if the enemy were to apply a MCA-type legal regime to U.S. civilian actions, then the CIA officers, the UAV technical support contractor, and the intelligence analyst would likely all be guilty of taking a direct part in the killing of either a protected person or a privileged combatant, all while acting as an unprivileged belligerent. By changing how it employs civilians in the War on Terror, the United States can continue to comply with and remain a leading champion of the LOAC, while at the same time maintain a more consistent approach to civilian participation in war, regardless of whose side they are on. As a world leader, we owe nothing less.

#### B Subpoint --- Convergence

#### Bifurcated authority causes functional convergence

Alston, 11 [Harvard National Security Journal, 2 Harv. Nat'l Sec. J. 283, “The CIA and Targeted Killings beyond Borders,” Philip Alston, John Norton Pomeroy Professor of Law, New York University School of Law, p. lexis]

B. Transparency as to Legal Authority and Operational Responsibility: The Old “Double-Hatting” Trick

A degree of transparency in relation to operational responsibility is essential both in terms of facilitating public or political accountability and establishing whether operations are being conducted with the necessary legal authority under domestic law. If one does not know which agency is responsible, it is impossible to know to whom questions should be directed. The division of labor between the DOD and the CIA, both in relation to drone killings and night-raid killings, is thus central to the present inquiry. In the earlier section examining “who is doing what” in relation to night raids, we saw that there is now extensive fluidity between the JSOC (DOD) special forces and their CIA counterparts, to the point where it is virtually impossible for anyone outside the two agencies to know who is in fact responsible in a given context.232 Many terms have been used to describe the resulting situation—leveraging, comingling, fungibility, doublehatting— but there has been almost no sustained analysis of the legal implications of this intentional blurring of what were once generally considered to be legally mandated hard and fast distinctions.

#### The convergence trend wrecks accountability through ambiguity about our legal architecture

Chesney, 12 [Charles I. Francis Professor in Law at the University of Texas School of Law (Robert Chesney, “Military-Intelligence Convergence and the Law of the Title 10/Title 50 Debate,” http://jnslp.com/wp-content/uploads/2012/01/Military-Intelligence-Convergence-and-the-Law-of-the-Title-10Title-50-Debate.pdf]

Leon Panetta appeared on PBS Newshour not long after the raid that killed Osama bin Laden.1 He was the Director of the Central Intelligence Agency at that time, and during the course of the interview he took up the question of the CIA’s role in the attack. It had been “a ‘title 50’ operation,” he explained, invoking the section of the U.S. Code that authorizes theactivities of the CIA.2 As a result, Panetta added, he had exercised overall “command.”3 This surely confused at least some observers. The mission had been executed by U.S. Navy SEALs from Joint Special Operations Command (JSOC) after all, and both operational and tactical command seemed to have resided at all times with JSOC personnel.4 But for those who had been following the evolution of the CIA and JSOC during the post-9/11 period, Panetta’s account would not have been surprising. The bin Laden raid was, from this perspective, merely the latest example of an ongoing process of convergence among military and intelligence activities, institutions, and authorities. The convergence trend is not a post-9/11 novelty. It has much deeper roots than that. The trend has accelerated considerably over the past decade, however, thanks to an array of policy, budgetary, institutional, and technological developments. And as the trend accelerates, it is becoming increasingly clear that it has **profoundly important implications** for the domestic law architecture governing military and intelligence activities. That architecture is a complex affair, including what might be described as “framework” statutes and executive branch directives generated in fits and starts over the past forty years. Ideally, it serves to mediate the tension between the desire for flexibility, speed, and secrecy in pursuit of national defense and foreign policy aims, on one hand, and the desire to preserve a meaningful degree of democratic accountability and adherence to the rule of law, on the other. Of course, the legal architecture has never been perfect on this score, or even particularly close to perfection. But the convergence trend has made the current architecture considerably less suited towards these ends. First, it reduces the capacity of the existing rules to promote Accountability. The existing rules attempt to promote accountability in two ways. They promote it within the executive branch by requiring explicit presidential authorization for certain activities, and they promote accountability between the executive branch and Congress by requiring notification to the legislature in a broader set of circumstances Convergence undermines these rules by exposing (and exacerbating) the incoherence of key categorical distinctions upon which the rules depend, including the notion that there are crisp delineations separating intelligence collection, covert action, and military activity. As a result, it is possible, if not probable, that a growing set of exceptionally sensitive operations – up to and including the use of lethal force on an unacknowledged basis on the territory of an unwitting and non-consenting state – may be beyond the reach of these rules. Second, the convergence trend undermines the existing legal architecture along the rule-of-law dimension by exposing latent confusion and disagreement regarding which substantive constraints apply to military and intelligence operations. Is international law equally applicable to all such operations? Is an agency operating under color of “Title 50” at liberty to act in locations or circumstances in which the armed forces ordinarily cannot? These questions are not in fact new, but thanks to convergence they are increasingly pressing. Government lawyers are well aware of these issues, and in fact have been grappling with them for much of the past decade, if not longer.5 For many years, however, public reference to them was quite limited. The most important early post-9/11 example came in 2003, when The Washington Times reported that the Senate Select Committee on Intelligence was quietly attempting to expand its oversight authority in order to encompass certain clandestine military operations in response to concern about the expanding role of special operations units in the war on terrorism.6 That effort failed in the face of fierce pushback from the Pentagon and the Senate and House Armed Services Committees,7 but not before drawing at least some attention to the disruptive impact convergence even then was having on the accountability system.8 In more recent years, the media has begun to pay more sustained attention, frequently noting that the complications associated with convergence impact question of substantive authority as well as accountability. In 2010, for example, The Washington Post reported that a fierce interagency debate was underway in connection with “which agency should be responsible for carrying out attacks” online, with the CIA categorizing certain attacks as covert actions which are “traditionally its turf” and the military taking the position that such operations are “part of its mission to counter terrorism, especially when, as one official put it, ‘al- Qaeda is everywhere.’”9 And the same Washington Post story indicated that the Justice Department’s Office of Legal Counsel had produced a draft opinion in spring 2010 “that avoided a conclusive determination on whether computer network attacks outside battle zones were covert or not,” but that nonetheless concluded that “[o]perations outside a war zone would require the permission of countries whose servers or networks might be implicated.”10 Subsequent stories about the use of lethal force in Yemen have also raised the issue of host-state permission, suggesting that JSOC but not the CIA would be obliged to act only with such permission, and that as a result JSOC units might at times prefer to operate under color of the CIA’s authority11 (as happened in Pakistan with Osama bin Laden, and again in Yemen with Anwar al-Awlaki).12 These accounts give a sense of the range of legal questions that convergence generates, as well as the debates that surround them within the government. And that in turn is enough to frame the investigation that follows. I proceed in two parts, beginning in Part I with a descriptive account of the convergence trend itself. Part I opens with a focus on events in the 1980s and 1990s that presaged the accelerated convergence of the post-9/11 period. Attempts by the military to develop within the special forces community capacities quite similar to those of the CIA are described in Part I.A, and CIA flirtations with the use of deadly force against terrorists are described in Part I.B. Against that backdrop, Part I.C. then explores how convergence has manifested over the past decade, with an emphasis on the CIA’s kinetic turn, JSOC’s parallel expansion, the development of hybrid CIA-JSOC operations, and the emergence of cyberspace as an operational domain. Readers already familiar with the convergence phenomenon may wish to skip ahead to Part II, which examines the impact of convergence on the domestic legal architecture relevant to such activities.13 Part II.A. clarifies what I have in mind when I refer to a domestic legal architecture, as it traces the emergence and growth of standing rules relating to (i) the internal executive branch decisionmaking process, (ii) information-sharing between the executive branch and Congress, and (iii) substantive authorizations and prohibitions relating to certain types of activity. The remainder of Part II analyzes the impact of convergence on each of these rules, demonstrating the manner in which convergence creates new problems for (and exacerbates existing problems in) the existing legal architecture. The **key issues** include: the increasingly large and significant set of military operations that are not subject to either presidential authorization or legislative notification; lingering suspicion with respect to **what law if any** restrains the CIA’s use of lethal force; confusion with respect to whether and why the CIA might be at greater liberty than JSOC to conduct operations without host-state consent; and the difficulty of mapping the existing architecture onto operations conducted in cyberspace. I embed my recommendations for reform within the analysis at each step along the way.

#### Spills over internationally

Mustin and Rishikof, 11 [BS, JD, MBA, MA in International Affairs AND BA, MA, JD, Chair of the ABA Standing Committee on Law and National Security, Professor of law and chair of the Department of National Security Strategy at the National War College, Jeff Mustin and Harvey Rishikof, Summer 2011, “Projecting Force in the 21st Century – Legitimacy and the Rule of Law,” 63 Rutgers L. Rev. Iss. 4]

V. POLICY IMPLICATIONS If these definitions are accepted as true, the result is that it has become legally easier for the executive branch to order covert action than to order conventional armed conflict. To commit military troops for a traditional military action, a president must have a casus belli and subsequently seek jus ad bellum justification and (typically) international support. This would usually involve the political and diplomatic gyrations involved in garnering both domestic legal support from Congress and international legal support from the United Nations Security Council. Alternatively, to authorize a covert action, a president may forgo these diplomatic and political gyrations and merely issue a classified finding to conduct a covert action. While the president must report this action to Congress,34 the president may restrict disclosure to the ―Gang of Eight‖ when ―it is essential to limit access to the finding to meet extraordinary circumstances affecting vital interests of the United States . . . .‖35 Thus, while covert action is not without legal accountability, it is a much more direct way for the president to commit forces. Additionally, forces conducting covert action operate by stealth. By their nature, they will have much lower visibility in the public eye. This provides the executive a lawful option to commit force while theoretically lessening the media accountability for those actions. As a result, covert action also vests an immense amount of authority in the executive and the "Gang of Eight" to conduct operations without the accountability to their constituents typically found in a democratic society.36 Covert action also enables unilateral action. The stealthy nature of covert action means that an executive would be discouraged from seeking international cooperation. Any international support would likely be limited to notifying host nations of the presence of troops, and those notifications, as a tactical matter, would likely be last minute and very directive in nature.37 This type of unilateral action contrasts the cooperative intent for international law,38 and, in the words of one legal scholar, ―[u]nilateral action- covert or overt - generates particularly high emotions, because many view it as a litmus test for one‘s commitment to international law.‖39 Excessive use of covert action might be deemed by some nations as a rebuke of international law or evidence of a hubristic foreign policy. The continued and constant use of this instrument when lethality is the goal raises issues of international legitimacy. Despite these reservations, covert action can be a useful policy tool. It is much more flexible and rapid than a traditional military activity, meaning it is much more suited to countering an adaptive enemy.40 Covert operations are generally more acute in their scope and objectives, which provides policymakers a scalpel to apply instead of the massive hammer of the U.S. military. Also, there are times when foreign policy maneuvers require stealth. One might imagine the need to retrieve unsecured nuclear material as a mission requiring immediacy and discreetness inappropriate for a large military unit. A textbook case of covert action as a useful policy tool was the May 2011 raid on the compound of Osama bin Laden. The direct action strike was a Title 50 action conducted by DoD special operations assets.41 The likely legal scenario for this operation was that President Obama issued his finding, which authorized the CIA to ―own‖ the operation and, under subsequent Title 50 authorities, allowed Joint Special Operations Command to conduct the raid because the President determined ―that another agency is more likely to achieve a particular objective . . . .‖42 The need for stealth, even from the host nation, was obvious, and the covert action provided the acute desired result. While the bin Laden raid demonstrates a positive result and the operation shows a clear need to maintain an ability to conduct covert action, it is important to emphasize that covert action is not without policy hazards. The danger in **blurring the line** between covert action and traditional military activities is that policymakers will choose to authorize what might normally be characterized as a traditional military activity under the guise of a covert action in order to circumvent the need for accountability or international support. Applying traditional military force without transparency is not the raison d’etre for a covert capability.

#### It’s reverse causal—JSOC operations retain strategic advantages while satisfying oversight demands—uniquely boosts our influence on drone norms

Zenko, 13 [POLI CY INNOVATION MEMORANDUM NO. 31 Date: April 16, 2013 From: Micah Zenko Re: Transferring CIA Drone Strikes to the PentagonMicah Zenko is the Douglas Dillon fellow in the Center for Preventive Action at the Council on Foreign Relations]

The main obstacle to acknowledging the scope, legality, and oversight of U.S. targeted killings beyond traditional or “hot” battlefields is the division of lead executive authority between the Joint Special Operations Command (JSOC)—a subunit of the Department of Defense (DOD) Special Operations Command—and the Central Intelligence Agency (CIA). In particular, the U.S. government cannot legally acknowledge covert actions undertaken by the CIA. The failure to answer the growing demands for transparency increases the risk that U.S. drone strikes will be curtailed or eliminated due to mounting domestic or international pressure. To take a meaningful first step toward greater transparency, President Barack Obama should sign a directive that consolidates lead executive authority for planning and conducting nonbattlefield targeted killings under DOD. 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. 2 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. The CIA should, however, retain the ability it has had since 9/11 to conduct lethal covert actions in extremely **rare circumstances**, such as against immediate threats to the U.S. homeland or diplomatic outposts. Each would require a separate presidential finding, and should be fully and currently informed to the intelligence committees. Of the roughly 420 nonbattlefield targeted killings that the United States has conducted, very few would have met this criteria. The president should direct that U.S. drone strikes be conducted as DOD Title 10 operations. That decision would enhance U.S. national security in the following ways: 3  Improve the transparency and legitimacy of targeted killings, including what methods are used to prevent civilian harm.  Focus the finite resources of the CIA on its original core missions of intelligence collection, analysis, and early warning. (There is no reason for the CIA to maintain a redundant fleet of armed drones, or to conduct military operations that are inherently better suited to JSOC, the premier specialized military organization. As “traditional military activities” under U.S. law, these belong under Title 10 operations.)  Place all drone strikes under a single international legal framework, which would be clearly delineated for military operations and can therefore be articulated publicly.  Unify congressional oversight of specific operations under the armed services committee, which would end the current situation whereby there is confusion over who has oversight responsibility.  Allow U.S. government officials to counter myths and misinformation about targeted killings at home and abroad by acknowledging responsibility for its own strikes.  Increase pressure on other states to be more transparent in their own conduct of military and paramilitary operations in nonbattlefield settings by establishing the precedent that the Obama administration claims can have a normative influence on how others use drones. A FIRST STEP FORWARD In an interview, President Obama revealed, “I think creating a legal structure, processes, with oversight checks on how we use unmanned weapons is going to be a challenge for me and for my successors for some time to come—partly because technology may evolve fairly rapidly for other countries as well.” The Obama administration has two central objectives for its targeted killing reforms: preventing constraints on its ability to conduct lethal operations and setting precedents for the use of armed drones by other states. By law, institutional culture, and customary practice, drone strikes conducted by the CIA cannot reach the minimum thresholds of transparency and accountability required to achieve either objective. JSOC is also a highly secretive organization, but the United States could provide a much clearer and more detailed explanation of the outstanding issues regarding targeted killing **without compromising** the military’s **sources and methods**—should the president prioritize such change. Moreover, according to a February 2013 poll, U.S. public support for military drone strikes (75 percent) was higher than for those conducted by the CIA (65 percent). Without ending CIA targeted killings, the Obama administration cannot undertake any of the reforms that it has stated are necessary both to ensure drone strikes do not go the way of third-country renditions and enhanced interrogation techniques, but also to establish the precedents of greater openness in how such operations are conducted by others.

#### C Subpoint ---- Oversight

#### Congress key to accountability – solves inflated assertions in a legal vacuum

Schiff, 3/12/14 [Op-Ed Contributor Let the Military Run Drone Warfare By ADAM B. SCHIFF March 12, 2014, Adam B. Schiff, Democrat of California, is a member of the House Permanent Select Committee on Intelligence.’]

It has been widely reported that the C.I.A. has been responsible for unmanned drone attacks. Last May, President Obama spoke at the National Defense University to articulate the legal and policy basis of the government’s drone program, promising transparency and reform. But the single biggest reform — ensuring that only the Department of Defense carries out lethal strikes — remains stalled by Congressional opposition and bureaucratic inertia. Those roadblocks must no longer stand in the way of reforms to increase the transparency, accountability and legitimacy of our drone program. First, Congress needs to get out of the way and allow the president to move the drone program to the Joint Special Operations Command (J.S.O.C.) at the Pentagon. **Though it may appear that we’d just be shuffling the chairs**, this change would have two benefits: It would allow our other agencies to focus on their core mission of intelligence gathering, rather than paramilitary activities, and it would enable us to be more public about the successes and failures of the drone program, since such operations would no longer be covert. Some Republicans and Democrats on both the House and Senate intelligence committees argue that the J.S.O.C. lacks expertise in targeting and may cause more collateral damage. But these claims are more anecdotal than evidentiary, and the intelligence committees have yet to be presented with the facts to back them up. They also ignore the joint role that Defense Department and intelligence agency personnel play in identifying and locating targets. These combined efforts would continue, even if the agency pulling the trigger changed. Second, we must hold **ourselves** accountable by being more open about the effect of our drone strikes. While there may still be a need for covert drone operations in some parts of the world, greater disclosure would be in our interest. In the absence of official accounts, inflated and often wildly inaccurate assertions of the number of civilian casualties — generally advanced by our enemies — fill the informational vacuum. I’ve proposed legislation, along with my fellow California Democrat Senator Dianne Feinstein, to require an annual report of the number of civilian and combatant casualties caused by drone strikes, including an explanation of how we define those terms. Finally, with regard to the uniquely difficult situation of an American citizen who has taken up arms against his own nation and who cannot feasibly be arrested, the Obama administration must go further to explain what protections are in place to ensure due process for any American who may be targeted. A 2011 strike targeted and killed Anwar al-Awlaki, an American-born cleric and top operative of Al Qaeda’s branch in Yemen, and other Americans may be targeted in the future. I’ve put forward a proposal to require an independent review of any decision to target an American with lethal force. These reports should be declassified after 10 years. Knowing that they’ll be made public will help ensure that the task is approached with the appropriate rigor. The United States is the only country with a significant armed drone capability, but that distinction will not last forever. As other nations develop and deploy these technologies, we will be better positioned to urge their responsible and transparent use if we have set an example ourselves. We must hold ourselves to a high standard and do it in public, not behind closed doors. That is the commitment the president has made, and it’s a promise worth keeping.

#### Congressional action builds confidence—key to global dialogue and norm development

Kreps and Zenko, 14 [“The Next Drone Wars Preparing for Proliferation”, SARAH KREPS is Stanton Nuclear Security Fellow at the Council on Foreign Relations and Assistant Professor of Government at Cornell University. MICAH ZENKO is Douglas Dillon Fellow in the Center for Preventive Action at the Council on Foreign Relations, Foreign Affairs, http://www.foreignaffairs.com/articles/140746/sarah-kreps-and-micah-zenko/the-next-drone-wars]

As the only country to have used drones extensively, the United States must take the lead in regulating their use and export. So far, the United States has kept its exports of armed drones to a minimum (much to the chagrin of the defense industry), sending them only to the United Kingdom. Washington should maintain such restraint. It should also revisit its own targeted-killing policies, lest other countries follow the United States’ example. The U.S. government has articulated its drone policy to the public only in an ad hoc manner. Behind closed doors, the White House reportedly oversees targeting decisions in a regular review process that includes the Pentagon, the State Department, and other agencies, but it ignores bigger strategic questions about the impact that **unilateral measures** on the part of the United States to restrain its own drone use could have on other states. A separate, independent review panel should be formed to answer these questions, and an unclassified version of the findings should be made available to the public. It could be modeled on the Guantanamo Review Task Force, which was charged with determining which detainees could be released or prosecuted and brought together the Departments of Justice, Defense, State, and Homeland Security; the director of national intelligence; and the Joint Chiefs of Staff. Or it could be modeled on the panel set up by the White House last summer to review the National Security Agency’s surveillance operations. Those two panels are good precedents for how to deal with the U.S. drone program since they brought together both outside experts and experts from across various government agencies to review sensitive U.S. national security policies -- and they recommended meaningful reforms. Congress, which has deferred to the executive branch on drone policy, should take a more active role by holding extensive hearings on drones’ unique use in counterterrorism and other strikes. These hearings should continue to scrutinize the Authorization for the Use of Military Force, which the Obama administration has cited as its legal justification for drone strikes on suspected terrorists, including the U.S. citizen Anwar al-Awlaki in Yemen. But they should also focus on how drones are used in disputed areas and across borders and against publicly undefined targets, such as militants and criminals -- the most common and the most dangerous scenarios. The United States should also come clean about how it has used armed drones, which could prompt Israel and the United Kingdom to do the same. The United States and the United Kingdom have released some overall strike data, but little regarding civilian casualties, with the British military claiming it cannot collect such data “because of the immense difficulty and risks that would be involved.” Last summer, the Obama administration responded to a Freedom of Information Act request by declaring that there is “no information that can be provided at the unclassified level.” Israel has been even more reticent, refusing to acknowledge that it has conducted any drone strikes. More transparency could correct some misconceptions about drones, such as that the United States violates sovereign airspace and does not take precautions to mitigate civilian harm. Greater openness would generate public confidence in the legitimacy of drone use and could shape how other states conducted and justified their own lethal missions. REINING IN THE ROBOTS The United States, however, cannot go it alone; if the regulation of the proliferation and use of armed drones is going to work, it must be a multilateral effort. Some drone exports are currently covered by the Missile Technology Control Regime (MTCR), created in 1987 to regulate nuclear-capable missiles and related technologies. The voluntary arrangement does cover armed drones but mentions them only as an afterthought. The regime’s guidelines lump them in with cruise missiles. And they deal only with armed and unarmed unmanned systems with ranges of at least 300 kilometers and payloads of over 500 kilograms. Those limits are arbitrary and outdated; the defense contractor General Atomics has developed a version of the Predator for export designed precisely to get around them. The MTCR also has enforcement and membership problems. Its 34 participating states are free to interpret and implement its provisions at their own discretion. But more important, China, India, Iran, Israel, and Pakistan, which either have or aspire to develop drones, are not even members. Some nonmember states, such as Israel, which is nominally a “unilateral adherent” to the regime, act as they please and are dominating the drone export market. According to the consulting firm Frost & Sullivan, between 2005 and 2012, Israel exported $4.6 billion worth of drone systems to countries in Asia, Europe, and Latin America. Washington should take the lead in creating better and more appropriate international regulations, building on proven initiatives. A new and enhanced drone regime would be drone-specific, covering all exports and uses of armed-capable drones, including those that fall outside the purview of the MTCR. Moreover, its membership would go beyond that of the MTCR, which is largely limited to industrialized countries, and include all states that have or could soon acquire armed drones. Although surveillance drones make strikes by other weapons platforms more likely, given their wide availability on the commercial market, it is unrealistic to try to further limit their spread by including them in this new drone regime. To win international support to either update the MTCR or create such a new regime, Washington will have to be more forthcoming about its own use of drones. It could offer more transparency in order to garner the consensus vote that is required to modify the MTCR or to guarantee broad, credible participation in a new control regime. This kind of bargaining strategy might mirror the way nuclear-armed states have compelled nonnuclear weapons states to agree to nonproliferation. Commitments by the United States and Russia to make aggressive progress on their own disarmament after the fall of the Soviet Union convinced nonnuclear weapons states to agree in 1995 to an indefinite extension of the Nuclear Nonproliferation Treaty. Of course, even if the United States revealed some elements of its own closely guarded drone program, including that it uses drones in such places as Yemen, countries such as China might not agree to join a new regime. But given that the Obama administration has shown little inclination to stop using drones in areas in which the United States is not engaged in traditional combat, greater disclosure is the only concession it could realistically offer.

#### The impact is Asian conflict

Brimley, et al 13 [\*vice president \*\*AND director of the Technology and National Security Program \*\*\*AND deputy director of the Asia Program at the Center for a New American Security (Shawn Brimley, Ben Fitzgerald, and Ely Ratner, 17 September 2013, “The Drone War Comes to Asia,” <http://www.foreignpolicy.com/articles/2013/09/17/the_drone_war_comes_to_asia?page=0,1>]

It's now been a year since Japan's previously ruling liberal government purchased three of the Senkaku Islands to prevent a nationalist and provocative Tokyo mayor from doing so himself. The move was designed to dodge a potential crisis with China, which claims "indisputable sovereignty" over the islands it calls the Diaoyus. Disregarding the Japanese government's intent, Beijing has reacted to the "nationalization" of the islands by flooding the surrounding waters and airspace with Chinese vessels in an effort to undermine Japan's de facto administration, which has persisted since the reversion of Okinawa from American control in 1971. Chinese incursions have become so frequent that the Japanese Air Self-Defense Forces (JASDF) are now scrambling jet fighters on a near-daily basis in response. In the midst of this heightened tension, you could be forgiven for overlooking the news early in September that Japanese F-15s had again taken flight after Beijing graciously commemorated the one-year anniversary of Tokyo's purchase by sending an unmanned aerial vehicle (UAV) toward the islands. But this wasn't just another day at the office in the contested East China Sea: this was the first known case of a Chinese drone approaching the Senkakus. Without a doubt, China's drone adventure 100-miles north of the Senkakus was significant because it aggravated already abysmal relations between Tokyo and Beijing. Japanese officials responded to the incident by suggesting that Japan might have to place government personnel on the islands, a red line for Beijing that would have been unthinkable prior to the past few years of Chinese assertiveness. But there's a much bigger and more pernicious cycle in motion. The introduction of indigenous drones into Asia's strategic environment -- now made official by China's maiden unmanned provocation -- will bring with it additional sources of instability and escalation to the fiercely contested South and East China Seas. Even though no government in the region wants to participate in major power war, there is widespread and growing concern that military conflict could result from a minor incident that spirals out of control. Unmanned systems could be just this trigger. They are less costly to produce and operate than their manned counterparts, meaning that we're likely to see more crowded skies and seas in the years ahead. UAVs also tend to encourage greater risk-taking, given that a pilot's life is not at risk. But being unmanned has its dangers: any number of software or communications failures could lead a mission awry. Combine all that with inexperienced operators and you have a perfect recipe for a mistake or miscalculation in an already tense strategic environment. The underlying problem is not just the drones themselves. Asia is in the midst of transitioning to a new warfighting regime with serious escalatory potential. China's military modernization is designed to deny adversaries freedom of maneuver over, on, and under the East and South China Seas. Although China argues that its strategy is primarily defensive, the capabilities it is choosing to acquire to create a "defensive" perimeter -- long-range ballistic and cruise missiles, aircraft carriers, submarines -- are acutely offensive in nature. During a serious crisis when tensions are high, China would have powerful incentives to use these capabilities, particularly missiles, **before they were targeted** by the United States or another adversary. The problem is that U.S. military plans and posture have the potential to be equally escalatory, as they would reportedly aim to "blind" an adversary -- disrupting or destroying command and control nodes at the beginning of a conflict. At the same time, the increasingly unstable balance of military power in the Pacific is exacerbated by the (re)emergence of other regional actors with their own advanced military capabilities. Countries that have the ability and resources to embark on rapid modernization campaigns (e.g., Japan, South Korea, Indonesia) are well on the way. This means that in addition to two great powers vying for military advantage, the region features an increasingly complex set of overlapping military-technical competitions that are accelerating tensions, adding to uncertainty and undermining stability. This dangerous military dynamic will only get worse as more disruptive military technologies appear, including the rapid diffusion of unmanned and increasingly autonomous aerial and submersible vehicles coupled with increasingly effective offensive cyberspace capabilities. Of particular concern is not only the novelty of these new technologies, but the lack of well-established norms for their use in conflict. Thankfully, the first interaction between a Chinese UAV and manned Japanese fighters passed without major incident. But it did raise serious questions that neither nation has likely considered in detail. What will constrain China's UAV incursions from becoming increasingly assertive and provocative? How will either nation respond in a scenario where an adversary downs a UAV? And what happens politically when a drone invariably falls out of the sky or "drifts off course" with both sides pointing fingers at one another? Of most concern, how would these matters be addressed during a crisis, with no precedents, in the context of a regional military regime in which actors have powerful incentives to strike first? These are not just theoretical questions: Japan's Defense Ministry is reportedly looking into options for shooting down any unmanned drones that enter its territorial airspace. Resolving these issues in a fraught strategic environment between two potential adversaries is difficult enough; the United States and China remain at loggerheads about U.S. Sensitive Reconnaissance Operations along China's periphery. But the problem is multiplying rapidly. The Chinese are running one of the most significant UAV programs in the world, a program that includes Reaper- style UAVs and Unmanned Combat Aerial Vehicles (UCAVs); Japan is seeking to acquire Global Hawks; the Republic of Korea is acquiring Global Hawks while also building their own indigenous UAV capabilities; Taiwan is choosing to develop indigenous UAVs instead of importing from abroad; Indonesia is seeking to build a UAV squadron; and Vietnam is planning to build an entire UAV factory. One could take solace in Asia's ability to manage these gnarly sources of insecurity if the region had demonstrated similar competencies elsewhere. But nothing could be further from the case. It has now been more than a decade since the Association of Southeast Asian Nations (ASEAN) and China signed a declaration "to promote a peaceful, friendly and harmonious environment in the South China Sea," which was meant to be a precursor to a code of conduct for managing potential incidents, accidents, and crises at sea. But the parties are as far apart as ever, and that's on well-trodden issues of maritime security with decades of legal and operational precedent to build upon. It's hard to be optimistic that the region will do better in an unmanned domain in which governments and militaries have little experience and where there remains a dearth of international norms, rules, and institutions from which to draw. The rapid diffusion of advanced military technology is not a future trend. These capabilities are being fielded -- right now -- in perhaps the most geopolitically dangerous area in the world, over (and soon under) the contested seas of East and Southeast Asia. These risks will only increase with time as more disruptive capabilities emerge. In the absence of political leadership, these technologies could very well lead the region into war.

#### Incidents escalate—drone crisis triggers US battle plans

Walker, 14 [1/9/14, Richard, Former NY News Producer, “U.S. Interventionism in Asia Could Spark War With China”, <https://americanfreepress.net/?p=14557>]

A war with China is a real possibility. All it might take is the kind of near collision between United States and Chinese naval vessels that happened recently in the East China Sea or a dog fight between Japanese and Chinese fighter planes in the skies over the disputed Senkaku Islands in the East China Sea. It could also start with a confrontation between Philippine and Chinese vessels in energy-rich parts of the South China Sea now claimed by Beijing. There have been many close calls lately as China begins to assert itself around the world, and most experts admit that once the genie is out of the bottle it will be impossible to put it back in. This may have already occurred. In December 2012, Japan scrambled fighters after Chinese surveillance planes were spotted over the Senkaku Islands, territory China has since declared a Chinese air defense zone. Japan has been concerned by China’s use of drones close to its airspace and has vowed to retaliate by deploying U.S. made drones like the Global Kitty Hawk it hopes to buy from Washington. China has been developing its own drones, most likely with stolen U.S. technology. Some experts have forecast there will be a drone war in the region before long. Since his inauguration, President Barack Obama, like his predecessor, George W. Bush, has paid little heed to China’s growing naval ambitions. He has ignored repeated warnings from allies like India, Japan, Australia, Vietnam, the Philippines and South Korea that the Chinese have been building a formidable military that has been shaped specifically to dominate the Western Pacific. Hard Assets Alliance Neocons, who want America to continue to meddle around the world, issued warnings as far back as 2005 when Robert D. Kaplan wrote in The Atlantic Monthly that if China moved into the Pacific it would encounter a “U.S. Navy and Air Force unwilling to budge from the coastal shelf of the Asian mainland,” resulting in a “replay of the decades-long Cold War, with a center of gravity not in the heart of Europe but among Pacific atolls.” In AMERICAN FREE PRESS in 2007, this reporter wrote that China was not many years away from challenging U.S. dominance in Asia. At the time, a Council on Foreign Relations (CFR) task force had recommended the U.S. needed to “defeat China swiftly and decisively in any military conflict.” The CFR recommended expanding U.S. forces into Asia and shifting the balance of its naval and maritime power from the Atlantic to the Pacific. Globalists also wanted the U.S. to “invest heavily in new technologies appropriate for a naval and air battle with the Chinese.” Since 2007, with an eye to defeating the U.S. in a war in the region, China has greatly expanded its short-and medium-range ballistic missile arsenal, giving it the capability to target all U.S. bases in Japan, Taiwan, South Korea and the Philippines. It has also new anti-ship missiles capable of destroying U.S. aircraft carriers. By using an overwhelming number of short-and medium-range missiles, the Chinese could destroy U.S. bases and make resupply difficult in a future conflict. As the National Air Space Intelligence Center has pointed out, “China has the most active and diverse ballistic missile development program in the world.” A sign of how the U.S. might react in the opening exchanges of a conflict was contained in a Pentagon document leaked to The Washington Post in 2012. It talked of a plan that envisioned the U.S. destroying China’s surveillance and missile targeting capabilities “deep inside the country.” The plan talked of a “blinding campaign” followed by a massive naval and air assault—the same “shock and awe” tactic used against Iraq, which resulted in scores of dead civilians. The assumption here is that China would not go nuclear once the missiles started flying. The bottom line is this could be the defining war of the 20th century if Washington refuses to bring U.S. troops and ships home and let Asia sort out its own troubles.

#### Extinction

**Wittner 11** (Lawrence S., Emeritus Professor of History – State University of New York Albany and Former Editor – Peace and Change Journal, “Is a Nuclear War With China Possible?”, 11-28, www.huntingtonnews.net/14446)

While nuclear weapons exist, there remains a danger that they will be used. After all, for centuries national conflicts have led to wars, with nations employing their deadliest weapons. The current deterioration of U.S. relations with China might end up providing us with yet another example of this phenomenon. The gathering tension between the United States and China is clear enough. Disturbed by China’s growing economic and military strength, the U.S. government recently challenged China’s claims in the South China Sea, increased the U.S. military presence in Australia, and deepened U.S. military ties with other nations in the Pacific region. According to Secretary of State Hillary Clinton, the United States was “asserting our own position as a Pacific power.” But need this lead to nuclear war? Not necessarily. And yet, there are signs that it could. After all, both the United States and China possess large numbers of nuclear weapons. The U.S. government threatened to attack China with nuclear weapons during the Korean War and, later, during the conflict over the future of China’s offshore islands, Quemoy and Matsu. In the midst of the latter confrontation, President Dwight Eisenhower declared publicly, and chillingly, that U.S. nuclear weapons would “be used just exactly as you would use a bullet or anything else.” Of course, China didn’t have nuclear weapons then. Now that it does, perhaps the behavior of national leaders will be more temperate. But the loose nuclear threats of U.S. and Soviet government officials during the Cold War, when both nations had vast nuclear arsenals, should convince us that, even as the military ante is raised, nuclear saber-rattling persists. Some pundits argue that nuclear weapons prevent wars between nuclear-armed nations; and, admittedly, there haven’t been very many—at least not yet. But the Kargil War of 1999, between nuclear-armed India and nuclear-armed Pakistan, should convince us that such wars can occur. Indeed, in that case, the conflict almost slipped into a nuclear war. Pakistan’s foreign secretary threatened that, if the war escalated, his country felt free to use “any weapon” in its arsenal. During the conflict, Pakistan did move nuclear weapons toward its border, while India, it is claimed, readied its own nuclear missiles for an attack on Pakistan. At the least, though, don’t nuclear weapons deter a nuclear attack? Do they? Obviously, NATO leaders didn’t feel deterred, for, throughout the Cold War, NATO’s strategy was to respond to a Soviet conventional military attack on Western Europe by launching a Western nuclear attack on the nuclear-armed Soviet Union. Furthermore, if U.S. government officials really believed that nuclear deterrence worked, they would not have resorted to championing “Star Wars” and its modern variant, national missile defense. Why are these vastly expensive—and probably unworkable—military defense systems needed if other nuclear powers are deterred from attacking by U.S. nuclear might? Of course, the bottom line for those Americans convinced that nuclear weapons safeguard them from a Chinese nuclear attack might be that the U.S. nuclear arsenal is far greater than its Chinese counterpart. Today, it is estimated that the U.S. government possesses over five thousand nuclear warheads, while the Chinese government has a total inventory of roughly three hundred. Moreover, only about forty of these Chinese nuclear weapons can reach the United States. Surely the United States would “win” any nuclear war with China. But what would that “victory” entail? A nuclear attack by China would immediately slaughter at least 10 million Americans in a great storm of blast and fire, while leaving many more dying **horribly** of sickness and radiation poisoning. The Chinese death toll in a nuclear war would be far higher. Both nations would be reduced to smoldering, radioactive wastelands. Also, radioactive debris sent aloft by the nuclear explosions would **blot out the sun** and bring on a “**nuclear winter**” **around the globe**—destroying agriculture, creating worldwide famine, and generating chaos and destruction.

#### CIA authority sets a precedent that collapses accountability and influence

Alston, 11 [Harvard National Security Journal, 2 Harv. Nat'l Sec. J. 283, “The CIA and Targeted Killings beyond Borders,” Philip Alston, John Norton Pomeroy Professor of Law, New York University School of Law, p. lexis]

3. Self-interest: Setting Prudent Precedents for Others Because the United States inevitably **contributes disproportionately** to the shaping of global regime rules, and because it is making more extensive overt use of targeted killings than other states, its approach will heavily influence emerging global norms. This is of particular relevance in relation to the use of drones. There are strong reasons to believe that a permissive policy on drone-fired targeted killings will come back to haunt the United States in a wide range of potential situations in the not too distant future. In 2011, a senior official noted that while for the past two decades the United States and its allies had enjoyed “relatively exclusive access to sophisticated precision-strike technologies,” that monopoly will soon come to an end.605 In fact, in the case of drones, some 40 countries already possess the basic technology. Many of them, including Israel, Russia, Turkey, China, India, Iran, the United Kingdom, and France either have or are seeking drones that also have the capability to shoot laser-guided missiles. Overall, the United States accounts for less than one-third of worldwide investment in UAVs.606 On “Defense Industry Day,” August 22, 2010, the Iranian President unveiled a new drone with a range of 1,000 kilometers (620 miles) and capable of carrying four cruise missiles.607 He referred to the drones as a “messenger of honor and human generosity and a saviour of mankind,” but warned ominously that it can also be “a messenger of death for enemies of mankind.”608 To date, the United States has opted to maintain a relatively flexible and open-ended legal regime in relation to drones, in large part to avoid setting precedents and restricting its own freedom of action.609 But this policy seems to assume that other states will not acquire lethal drone technology, will not use it, or will not be able to rely upon the justifications invoked by the United States. These assumptions seem questionable. American commentators favoring a permissive approach to targeted killings abroad are generally very careful to add that such killings would under no circumstances be permitted within the United States.610 Thus when the United States argues that targeted killings are legitimate when used in response to a transnational campaign of terror directed at it, it needs to bear in mind that other states can also claim to be so afflicted, even if the breadth of the respective terrorist threats is not comparable. Take Russia, for example, in relation to terrorists from the Caucasus. It has characterized its military operations in Chechnya since 1999 as a counter-terrorism operation and has deployed “seek and destroy” groups of army commandoes to “hunt down groups of insurgents.”611 It has been argued that the targeted killings that have resulted are justified because they are necessary to Russia’s fight against terrorism.612 Althoughallowing the use of military and special forces outside the country’s borders against external threats.”618 China is another case in point. It has consistently characterized unrest among its Uighur population as being driven by terrorist separatists. But Uighur activists living outside China are not so classified by other states. That means that China could invoke American policies on targeted killing to carry out a lethal attack against a Uighur activist living in Europe or the United States. The Chinese Foreign Ministry welcomed the killing of Osama bin Laden as “a milestone and a positive development for the international anti-terrorism efforts,” adding ominously in reference to the Uighur situation that, “China has also been a victim of terrorism.”619 When a journalist asked how American practice in Pakistan compared to possible Chinese external action against a Uighur to a senior United States counterterrorism official, the latter distinguished the situations from one another on the unconvincing grounds of Pakistan’s special relationship with the United States.620 A more realistic note was struck by Anne-Marie Slaughter after bin Laden’s killing when she observed that “having a list of leaders that you are going to take out is very troubling morally, legally and in terms of precedent. If other countries decide to apply that principle to us, we’re in trouble.”621 The conclusion to be drawn is that the United States might, in the not too distant future, need to rely on **international legal norms** to delegitimize the behavior of other states using lethal drone strikes. For that reason alone, it would seem prudent today to be contributing to the construction of a regime that strictly limits the circumstances in which one state can seek to kill an individual in another state without the latter’s consent and without complying with the applicable rules of international law. To the extent that the United States genuinely believes it is currently acting within the scope of those rules it needs to provide the evidence. IX. Conclusion This Article has not sought to spell out the options open to the United States in order to bring its conduct within the law. The bottom line is that intelligence agencies—particularly those that are effectively unaccountable—should not be conducting lethal operations abroad. Beyond that proposition, there is a great deal that the CIA could do if it so wished, including making public its commitment to comply with both IHL and IHRL, disclosing the legal basis on which it is operating in different situations involving potential killings, providing information on when, where, and against whom drone strikes can be authorized, and publishing its estimates on the number and rate of civilian casualties. Full transparency is neither sought nor expected, but basic compliance with the standards applied by the U.S. military, and both consistently and insistently demanded of other countries by the United States, is indispensable. Examining the CIA’s transparency and accountability in relation to targeted killings also sheds light on a range of other issues that international human rights law needs to tackle in a more systematic and convincing manner. They include the approach adopted by international law to the activities of intelligence agencies, the (in)effectiveness of existing monitoring mechanisms in relation to killings governed by a mixed IHL/IHRL regime, and the techniques needed to monitor effectively human rights violations associated with new technologies such as unmanned drones and robotics. International human rights institutions need to respond more robustly to the growing chorus of proposals that targeted killings be liberated from the hard-fought legal restraints that apply to them. There is a great deal at stake and these crucial issues have been avoided for too long. The principal focus of this Article has been on the question of CIA accountability for targeted killings, under both U.S. law and international law. As the CIA, often in conjunction with DOD Special Operations Forces, becomes ever more deeply involved in carrying out extraterritorial targeted killings both through kill/capture missions and drone-based missile strikes in a range of countries, the question of its compliance with the relevant legal standards becomes even more urgent. Assertions by Obama administration officials, as well as by many scholars, that these operations comply with international standards are undermined by the total absence of any forms of credible transparency or verifiable accountability. The CIA’s internal control mechanisms, including its Inspector General, have had no discernible impact; executive control mechanisms have either not been activated at all or have ignored the issue; congressional oversight has given a “free pass” to the CIA in this area; judicial review has been effectively precluded; and external oversight has been reduced to media coverage which is all too often dependent on information leaked by the CIA itself. As a result, there is no meaningful domestic accountability for a burgeoning program of international killing. This in turn means that the United States cannot possibly satisfy its obligations under international law to ensure accountability for its use of lethal force, either under IHRL or IHL. The result is the steady undermining of the international rule of law, and the setting of legal precedents which will inevitably come back to haunt the United States before long when invoked by other states with highly problematic agendas.

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#### We meet – the AFF restricts the War Powers clause of Title 50

Stevenson, 13 [3/6, Charles, PhD, professor of American foreign policy, Nitze School of Advanced International Studies, Johns Hopkins University, former professor at the National War College, “Overseeing the New Ways of War,” http://www.rollcall.com/news/stevenson\_overseeing\_the\_new\_ways\_of\_war-222773-1.html]

The situation becomes especially murky when both the CIA and the Pentagon are conducting drone operations in the same area, as in Yemen, or when the CIA and the Joint Special Operations Command work together, as in the bin Laden raid. The Pentagon **operates under** laws called **Title 10** of the U.S. Code, while the CIA is controlled by the war powers **provisions of Title 50**. What we need is a “Title 60” to bridge the gaps.

#### This is authority --- their evidence reflects an inaccurate and broader reading of Title 50

Chesney, 12 [2012, Robert, Charles I. Francis Professor in Law at the University of Texas School of Law, non-resident Senior Fellow of the Brookings Institution, “Military-Intelligence Convergence and the Law of the Title 10/Title 50 Debate,” JOURNAL OF NATIONAL SECURITY LAW &POLICY, Vol. 5:539]

Title 50 is a portion of the U.S. Code that contains a diverse array of statutes relating to national security and foreign affairs. These include the standing affirmative grants of authority through which Congress originally empowered the CIA to carry out its various functions. That set in turn includes the sweeping language of the so-called fifth function, which the executive branch has long construed to grant authority to engage in covert action. Separately, Title 50 also contains the statutes that define covert action, require presidential findings in support of them, and oblige notification of them to SSCI and HPSCI. As a result, Title 50 authority has also become a shorthand, in this case one that refers to the domestic law authorization for engaging in quintessential intelligence activities such as intelligence collection and covert action.

#### The plan says it’s a restriction on authority – this is a solvency, not a T question

#### Counter interp – authority refers to permissions granted – their interp conflates power and authority

Taylor, 96 [Ellen Taylor, 21 Del. J. Corp. L. 870 (1996), Hein Online]

The term authority is commonly thought of in the context of the law of agency, and the Restatement (Second) of Agency defines both power and authority.'89 Power refers to an agent's ability or capacity to produce a change in a legal relation (whether or not the principal approves of the change), and authority refers to the power given (permission granted) to the agent by the principal to affect the legal relations of the principal; the distinction is between what the agent can do and what the agent may do.

#### Reasons to prefer:

#### AFF Ground – no other AFF beats circumvention or the Executive CP – this debate also centers the topic lit – proves its inevitable as a counterplan and functional limits solve – oversight debates are vital to sustainable topic innovation and creativity

#### Predictability – excluding permissions granted wrecks topic coherence – turns the terminal impact to limits by creating a one sided topic – their evidence reflects a singular reading of “authority” and “Title 50” that is incomplete

#### And, reject a race to the most limiting interpretation – causes a race towards anti educational t arguments

### AT: Military Futurology

#### Not an arg

#### No link to interventions – the aff communicates to a specialized judge, not the public

#### Gateway issues bad – allow contradictory offense, kill 2ac strategy and has no basis for priority – justifies infinite intrisncess

#### Doesn’t turn the case – neg has the burden of rejoinder to refute our predictions

#### Perm do both

### AT: War Powers DA

#### No link – Congress already imposed a restriction on the executive led transfer:

#### Proves two things:

#### A --- Status quo links – their evidence is about any intrusion

#### B --- Link spillover is empirically denied

**Miller, 1/15/14** (Greg, Washington Post, “Lawmakers seek to stymie plan to shift control of drone campaign from CIA to Pentagon” http://www.washingtonpost.com/world/national-security/lawmakers-seek-to-stymie-plan-to-shift-control-of-drone-campaign-from-cia-to-pentagon/2014/01/15/c0096b18-7e0e-11e3-9556-4a4bf7bcbd84\_story.html)

Congress has moved to block President Obama’s plan to shift control of the U.S. drone campaign from the CIA to the Defense Department, inserting a secret provision in the massive government spending bill introduced this week that would preserve the spy agency’s role in lethal counterterrorism operations, U.S. officials said. The measure, included in a classified annex to the $1.1 trillion federal budget plan, would restrict the use of any funding to transfer unmanned aircraft or the authority to carry out drone strikes from the CIA to the Pentagon, officials said. The provision represents an unusually direct intervention by lawmakers into the way covert operations are run, impeding an administration plan aimed at returning the CIA’s focus to traditional intelligence gathering and possibly bringing more transparency to drone strikes.

#### Syria thumper

**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.

#### Paul is from 98

### AT: CP

#### Doesn’t solve – lacks teeth and clarity

Harris, 05 [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.

#### Perm do both – Obama wouldn’t backlash against himself

#### Perm do the plan and request that the Privacy and Civil Liberties Oversight Board issue a binding ruling on whether current executive over another isuse

#### Executive action isn’t credible

Goldsmith, 13 [May 1st, Jack Goldsmith teaches at Harvard Law School and is a member of the Hoover Institution Task Force on National Security and Law. He is the author, most recently, of Power and Constraint, How Obama Undermined the War on Terror http://www.newrepublic.com/article/112964/obamas-secrecy-destroying-american-support-counterterrorism]

And so Barack Obama greatly expanded the secret war that George W. Bush began. In the fall of 2009, Obama approved a "long list" of new CIA paramilitary operation proposals, as well as CIA requests for more armed drones, more spies, and larger targeting areas in Pakistan. "The CIA gets what it wants," said the president, approving the CIA requests, and conveying what Mazzetti thinks was his first-term attitude toward the Agency. The Department of Defense also got most of what it wanted. Obama approved an initiative by General David Petraeus to expand "military spying activities throughout the Muslim world," and gave special operations forces "even broader authorities to run spying missions across the globe" than they possessed under the Bush administration. Mazzetti describes Obama's souped-up secret war as "the way of the knife," a reference to Obama counterterrorism czar (and now CIA director) John Brennan's claim that the administration had replaced the "hammer" of large deployments with the "scalpel" of secret pinpoint missions. Its most famous use was the Abbottabad raid to kill bin Laden. But its most enduring legacy is Obama's significant expansion of the CIA and JSOC drone-strike campaign against Al Qaeda and affiliates, especially in Pakistan and Yemen. In 2009, the Obama administration conducted more drone strikes in those countries than the Bush administration had done in the seven years after 9/11; and to date, it has conducted almost nine times more drone strikes there than its predecessor. The administration's most controversial drone strike came against an American citizen, Anwar al-Awlaki, a leader of Al Qaeda in the Arabian Peninsula, the Yemeni organization responsible for the failed Detroit "underwear bomb" attack on Christmas in 2009 and other attempted attacks against the United States. Government lawyers gave the green light to kill al-Awlaki in 2010, but the administration had no idea where in Yemen he was. By 2011, the CIA and JSOC both had spies on the ground in Yemen and were "running two distinct drone wars," with different targeting lists, from bases in Saudi Arabia (for the CIA) and Ethiopia and Djibouti (for JSOC). In the fall of 2011, in part because of prior JSOC targeting mistakes and in part because of the CIA's extraordinary successes in Pakistan, Obama tasked the CIA alone with finding and killing al-Awlaki. On September 30, a CIA Reaper drone fired on a convoy near the Saudi Arabian desert and completed the mission. At the end of president Obama's first term, Mazzetti remarks, Americans seemed "little concerned about their government's escalation of clandestine warfare." By that point Obama's way of the knife had both decimated the senior leadership of Al Qaeda and reversed the Republicans' traditional advantage on national security. "Ask Osama bin Laden and the 22 out of 30 top Al Qaeda leaders who have been taken off the field whether I engage in appeasement," said the boastful president in December 2011, flicking away Republican charges that he was soft on terrorism. "Or whoever is left out there, ask them about that," he added. But in the last few months the Obama administration's secret war—and especially its drone program—have come under attack on multiple fronts. In 2011, The Washington Post reported the CIA's counterterrorism chief bragging of his Al Qaeda strikes that "we are killing these sons of bitches faster than they can grow them now." It is unclear whether this statement is true today. The core Al Qaeda organization appears debilitated. But its affiliate organizations are operating in Somalia, Yemen, and Iraq. And powerful new affiliates appear to be springing up elsewhere, including Al Qaeda in the Islamic Maghreb in post-Qaddafi North Africa, and the Al Nusra Front in revolutionary Syria. Secrecy is the essence of the type of war that Obama has chosen to fight. In this light, questions about the strategic success of Obama's drone campaign, and his secret war more generally, are growing. "We cannot kill our way to victory," former Congresswoman Jane Harman, who was a member of the House Intelligence Committee, testified in a counterterrorism hearing last month. General Stanley McChrystal, who presided over JSOC from 2003 to 2008, made a similar point in a recent interview in Foreign Affairs. The "danger of special operating forces," he noted, is that "you get this sense that it is satisfying, it's clean, it's low risk, it's the cure for most ills." But history provides no example of "a covert fix that solved a complex problem," he continued, adding that a too-heavy reliance on drone strikes is also "problematic" because "it's not a strategy in itself; it's a short-term tactic." One reason McChrystal questions the strategic efficacy of heavy reliance on drones is that "inhabitants of that area and the world have significant problems watching Western forces, particularly Americans, conduct drone strikes inside the terrain of another country." Last summer, Pew Research reported "considerable opposition" in "nearly all countries," and especially in predominantly Muslim countries, to Obama's drone program. It also found that Lebanon, Egypt, Jordan, and Pakistan now had a less favorable attitude toward the United States than at the end of the Bush administration. And a Gallup poll in February found that 92 percent of the people in Pakistan disapprove of the American leadership and 4 percent approve—historically bad numbers for the United States that are largely attributable to the way of the knife. These are discouraging numbers for a president who hoped to diminish the terrorism threat by establishing "a new beginning between the United States and Muslims ... based upon mutual interest and mutual respect," as Obama said in Cairo in 2009. The president added in that speech that the United States during the Bush era had acted "contrary to our ideals," and he pledged to "change course." But as the polls abroad show, Obama's change of course has not made the world think better of American ideals. Ben Emmerson, a United Nations special rapporteur on counter-terrorism and human rights, recently suggested that some American drone attacks might be war crimes. Since he launched an investigation in January, he has noted that most nations "heavily disput[e]" the legal theory underlying Obama's stealth wars, and concluded that American drone strikes violate Pakistan's sovereignty, contrary to international law. Most Americans are little interested in the popularity abroad of the way of the knife. To date, they very strongly support what they know about the president's drone campaign against foreign terrorist suspects. Support for targeting American citizens such as Anwar al-Awlaki, however, has dropped, and the focus on American citizens is affecting other elements of the way of the knife. In large part this has resulted from the administration's stilted explanations about the legal limits on killing Americans and the secret processes for placing American suspects on target lists. When a less-than-convincing Justice Department white paper on the topic leaked to the press in February, it stoked suspicions that the administration had big plans and something to hide. Questions grew when the administration continued to withhold legal memos from Congress, and when John Brennan danced around the issue during his confirmation hearings to be director of the CIA. Senator Rand Paul then cleverly asked Brennan whether the president could order a drone to kill a terrorist suspect inside the United States. When Brennan and Attorney General Eric Holder seemed to prevaricate, Paul conducted his now-famous filibuster. "I cannot sit at my desk quietly and let the president say that he will kill Americans on American soil who are not actively attacking the country," Paul proclaimed. The president never said, or suggested, any such thing. But with trust in Obama falling fast, Paul was remarkably successful in painting the secret wars abroad as a Constitution-defying threat to American citizens at home. Paul's filibuster attracted attention to the issue of drone attacks on Americans in the homeland. A more serious challenge to the president comes from growing concerns, including within his own party, about the legal integrity of his secret wars abroad. Anne-Marie Slaughter, a former senior official in Obama's State Department, recently gainsaid "the idea that this president would leave office having dramatically expanded the use of drones—including [against] American citizens—without any public standards and no checks and balances." Many in Congress want to increase the transparency of the processes and legal standards for placing a suspect (especially an American) on a targeting list, to tighten those legal standards (perhaps by recourse to a "drone court"), and to establish a more open accounting of the consequences (including civilian casualties) from the strikes. "This is now out in the public arena, and now it has to be addressed," Senator Dianne Feinstein, a Democrat, recently said. Others in Congress worry about the obsolescence of the legal foundation for the way of the knife: the congressional authorization, in 2001, of force against Al Qaeda. "I don't believe many, if any, of us believed when we voted for [the authorization] that we were voting for the longest war in the history of the United States and putting a stamp of approval on a war policy against terrorism that, 10 years plus later, we're still using," said Senator Richard Durbin, also a Democrat, in a Wall Street Journal interview. "What are the checks and balances of the system?" he asked. Senator John McCain, who led bipartisan efforts against what he saw as Bush-era legal excesses, is now focusing similar attention on Obama. "I believe that we need to revisit this whole issue of the use of drones, who uses them, whether the CIA should become their own air force, what the oversight is, [and] what the legal and political foundations [are] for this kind of conflict," he said last month. These are unhappy developments for the president who in his first inaugural address pledged with supercilious confidence that, unlike his predecessor, he would not expend the "rule of law" for "expedience's sake." Obama reportedly bristles at the legal and political questions about his secret war, and the lack of presidential trust that they imply. "This is not Dick Cheney we're talking about here," he recently pleaded to Democratic senators who complained about his administration's excessive secrecy on drones, according to Politico. And yet the president has ended up in this position because he committed the same sins that led Cheney and the administration in which he served to a similar place. The first sin is an extraordinary institutional secrecy that Obama has long promised to reduce but has failed to. In part this results from any White House's inevitable tendency to seek maximum protection for its institutional privileges and prerogatives. The administration's disappointing resistance to sharing secret legal opinions about the secret war with even a small subset of Congress falls into this category. Much of what the administrat-ion says about its secret war seems incomplete, self-serving, and ultimately non-credible. But the point goes deeper, for secrecy is the essence of the type of war that Obama has chosen to fight. The intelligence-gathering in foreign countries needed for successful drone strikes there cannot be conducted openly. Nor can lethal operations in foreign countries easily be acknowledged. Foreign leaders usually insist on non-acknowledgment as a condition of allowing American operations in their territories. And in any event, an official American confirmation of the operations might spark controversies in those countries that would render the operations infeasible. The impossible-to-deny bin Laden raid was a necessary exception to these principles, and the United States is still living with the fallout in Pakistan. For official secrecy abroad to work, the secrets must be kept at home as well. In speeches, interviews, and leaks, Obama's team has tried to explain why its operations abroad are lawful and prudent. But to comply with rules of classified information and covert action, the explanations are conveyed in limited, abstract, and often awkward terms. They usually raise more questions than they answer—and secrecy rules often preclude the administration from responding to follow-up questions, criticisms, and charges. As a result, much of what the administration says about its secret war—about civilian casualties, or the validity of its legal analysis, or the quality of its internal deliberations—seems incomplete, self-serving, and ultimately non-credible. These trust-destroying tendencies are exacerbated by its persistent resistance to transparency demands from Congress, from the press, and from organizations such as the aclu that have sought to know 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. Nearly every element of Obama's secret war rests on laws—especially the congressional authorization of force (2001) and the covert action statute (1991)—designed for different tasks. The administration could have worked with Congress to update these laws, thereby forcing members of Congress to accept responsibility and take a stand, and putting the secret war on a firmer political and legal foundation. But doing so would have required extended political efforts, public argument, and the possibility that Congress might not give the president precisely what he wants. The administration that embraced the way of the knife in order to lower the political costs of counterterrorism abroad found it easier to avoid political costs at home as well. But this choice deprived it of the many benefits of public argumentation and congressional support. What Donald Rumsfeld said self-critically of Bush-era unilateralism applies to Obama's unilateralism as well: it fails to "take fully into account the broader picture—the complete set of strategic considerations of a president fighting a protracted, unprecedented and unfamiliar war for which he would need sustained domestic and international support." Instead of seeking contemporary congressional support, the administration has relied mostly on government lawyers' secret interpretive extensions of the old laws to authorize new operations against new enemies in more and more countries. The administration has great self-confidence in the quality of its stealth legal judgments. But as the Bush administration learned, secret legal interpretations are invariably more persuasive within the dark circle of executive branch secrecy than when exposed to public sunlight. On issues ranging from proper targeting standards, to the legality of killing American citizens, to what counts as an "imminent" attack warranting self-defensive measures, these secret legal interpretations—so reminiscent of the Bushian sin of unilateral legalism—have been less convincing in public, further contributing to presidential mistrust. Feeling the heat from these developments, President Obama promised in his recent State of the Union address "to engage with 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." So far, this promise, like similar previous ones, remains unfulfilled. The administration has floated the idea of "[shifting] the CIA's lethal targeting program to the Defense Department," as The Daily Beast reported last month. Among other potential virtues, this move might allow greater public transparency about the way of the knife to the extent that it would eliminate the covert action bar to public discussion. But JSOC's non-covert targeted killing program is no less secretive than the CIA's, and its congressional oversight is, if anything, less robust. A bigger problem with this proposed fix is that it contemplates executive branch reorganization followed, in a best-case scenario, by more executive branch speeches and testimony about what it is doing in its stealth war. The proposal fails to grapple altogether with the growing mistrust of the administration's oblique representations about secret war. The president cannot establish trust in the way of the knife through internal moves and more words. Rather, he must take advantage of the separation of powers. Military detention, military commissions, and warrantless surveillance became more legitimate and less controversial during the Bush era because adversarial branches of government assessed the president's policies before altering and then approving them. President Obama should ask Congress to do the same with the way of the knife, even if it means that secret war abroad is harder to conduct. Administration officials resist this route because they worry about the outcome of the public debate, and because the president is, as The Washington Post recently reported, "seen as reluctant to have the legislative expansion of another [war] added to his legacy." But the administration can influence the outcome of the debate only by engaging it. And as Mazzetti makes plain, the president's legacy already includes the dramatic and unprecedented unilateral expansion of secret war. What the president should be worried about for legacy purposes is that this form of warfare, for which he alone is today responsible, is increasingly viewed as illegitimate.

#### The counterplan is a voting issue - not a logical opportunity cost, don’t refute the desirability of Congressional action AND kills topic education because topic lit assumes an executive that can’t be constrained by fiat

#### Links to politics

**Simon, 2/1/14** (Stephanie, Politico, “Obama faces backlash on executive power” <http://www.politico.com/story/2014/02/barack-obama-executive-power-backlash-102966.html?hp=f3>)

The GOP has watched in mounting frustration as Obama has deftly circumvented Congress and marshaled the federal bureaucracy to enact a host of liberal priorities. It’s been an ambitious, aggressive executive power play – and, as laid out in a Politico Pro special report, there’s much more to come. But Obama’s use of executive power could come back to haunt him. Republicans in Congress, infuriated at being bypassed, are using every shred of authority they can muster to try to halt or delay the president’s agenda. At the very least, they figure, they can whip up public outrage, drive down Obama’s approval rating and perhaps persuade him to retreat. The executive agenda outlined in the Politico Pro report — which described an administration eager to shape everything from the content of third-grade math tests to the recipe for Reese’s Pieces to the fuel sources that power our homes — spooks voters, and not just Republicans, said Rep. Chris Stewart (R-Utah). “This is something that people react to viscerally,” Stewart said. Republican lawmakers have called dozens of hearings – and made even more speeches – to rake over the administration’s regulatory actions, though they have little power to block them. No cause is too small: Truckers’ hours. Silica dust exposure. Junk food marketing. The effect of health insurance mandates on substitute teachers. And yes, ceiling fan efficiency standards.

### AT: Other CP

#### Doesn’t solve statutory change in authority – lacks comparative evidence

**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)

Hence, preventing abuse and lost convictions is only half the story; clarifying the CIA mandate with respect to domestic and law enforcement type activities can capture advantages such as improved coordination with law enforcement agencies (particularly in avoiding an overly cautious or "conservative" approach on the part of the CIA to activities that approach law enforcement), and greater efficiency in the fight against terrorism and other transnational threats. Additionally, clarification of the CIA mandate could **bolster public confidence in the mission** and activities of the Agency and might help **allay concerns on the part of civil libertarians** about post-September 11 intelligence reforms. 193 According to Paul Pillar of the National Intelligence Council, "among the most effective weapons the United States has in fighting terrorism is the long-term strength of its intelligence agencies, based in part on their integrity and the trust they have with the American people."194 Finally, the sensitivities inherent in intelligence collection in a democracy argue in favor of clear and transparent governing authorities for their own sake.

C. Alternatives to and Disadvantages of Statutory Amendment

A review of the alternatives to **statutory clarification** of the CIA mandate reveals that, despite its possible disadvantages, **formal amendment of the CIA charter represents the best policy solution to the dilemmas discussed** in this Note. This Section discusses the primary alternatives to legislative action: **reliance on the courts**, congressional oversight, and use of presidential guidance documents. This Section then examines the possible drawbacks to formal amendment of the CIA mandate.

#### Permutation do the first plank – ending its opposition is functionally indistinct from the plan – proves the CP is just plan plus or they leave the authority on the books

#### CP is a voting issue for deterrence

1. No comparative literature - not sustainable
2. Causes the wrong agent debates

#### Schiff says that Congress needs to stop stalling, that isn’t talking about supporting and funding it

#### If the CP is less than the plan it doesn’t solve

Kriner, 10 – associate professor of political science and the Director of Undergraduate Studies at Boston University (Douglas, After the Rubicon : Congress, Presidents, and the Conduct of Waging War, p. 155-156)

The models also investigate the effect of legislative actions to curtail presidential discretion in the conduct of military affairs on a venture’s expected duration. However, not all legislative actions to curtail an ongoing operation have equal legal or political weight. To capture some of this variance in the types of actions members introduce, the analysis divides all congressional challenges into two categories based on whether or not the demands they place on the president are legally binding. Concurrent resolutions or provisions expressing the sense of Congress are primarily vehicles for position taking and public posturing, not substantive assertions of congressional influence over the conduct of military affairs. Through these nonbinding actions, the president’s opponents in Congress can criticize the executive’s deployment of troops, call for their return home, or saddle the president with reporting and other requirements while avoiding the costs associated with legally binding actions, such as exposing members to countercharges of failing to support the troops in the field or triggering the interbranch constitutional struggle inevitably touched off by an effort to invoke the War Powers Resolution. These open expressions of congressional criticism may have some effect on raising the political costs to the president. However, because such actions fail to carry any concrete consequences for the president and hence are often seen as hollow rhetoric, their impact should be limited. Nonbinding resolutions do not put new alternatives to the administration’s policy onto the national agenda, and therefore they do not represent serious institutional challenges to the president’s preeminence in military affairs. Similarly, the signals nonbinding actions send to foreign actors are also ambiguous. On the one hand, such actions are publicly visible signs of congressional unease over the administration’s conduct of a use of force; on the other, they demonstrate Congress’s unwillingness to use the formal legislative means at its disposal to rein in presidential conduct of which it does not approve. Consequently, the effects of nonbinding actions to curtail a conflict should be limited, if they have any influence at all.

#### Links to politics

#### Statutory action key to operational clarity

Wall, 11 [ARTICLE Demystifying the Title 10-Title 50 Debate: Distinguishing Military Operations, Intelligence Activities & Covert Action, Andru E. Wall, Senior Associate with Alston & Bird LLP; former senior legal advisor for U.S. Special Operations Command Central (2007 to 2009). While this article was cleared for publication as required by my security clearance and nondisclosure agreements, the views expressed herein are my own and do not necessarily reflect the position of the U.S. government or Department of Defense. I thank Harvard Law School for its generous support of this paper and Jack Goldsmith, Hagan Scotten, Mark Grdovic, Nick Dotti, Chris Costa, Michael Bahar, and Lenn Ferrer for their invaluable comments and suggestions. To my beloved wife, Yashmin, and two adorable children, Isabella and David Alejandro, thank you for your extraordinary patience and support as I repeatedly disappeared to work on this article.]

VI. Conclusion This article identified four general concerns that are colloquially described as “Title 10-Title 50” issues. Two concerns, military transparency and rice bowls, fall squarely within the policy realm. They are genuine concerns, but generally reflect policy concerns, including a competition for scarce resources, rather than legal challenges. Military leaders must vigilantly ensure the U.S. military retains the respect and admiration of the American public and executive branch bureaucrats will always seek to protect their domains, but debates over transparency and rice bowls should not keep military operators awake at night. On the other hand, the critical questions of operational authorities and congressional oversight are central to our national security framework and must be carefully defined and understood by operators and policy-makers alike. Congress’s failure to provide necessary interagency authorities and budget authorizations threatens our ability to prevent and wage warfare. Congress’s stubborn insistence that military and intelligence activities inhabit separate worlds casts a pall of illegitimacy over interagency support, as well as unconventional and cyber warfare. The U.S. military and intelligence agencies work together more closely than perhaps at any time in American history, yet Congressional oversight and statutory authorities sadly remain mired in an obsolete paradigm. After ten years of war, Congress still has not adopted critical recommendations made by the 9/11 Commission regarding congressional oversight of intelligence activities. Congress’s stovepiped oversight sows confusion over statutory authorities and causes Executive Branch attorneys to waste countless hours distinguishing distinct lines of authority and funding. Our military and intelligence operatives work tirelessly to coordinate, synchronize, and integrate their efforts; they deserve interagency authorities and Congressional oversight that encourages and supports such integration.

### AT: Pakistan DA – 2ac

#### No Pakistan collapse and it doesn't escalate

Dasgupta 13

Sunil Dasgupta is Director of the University of Maryland Baltimore County Political Science Program at the Universities at Shady Grove and non-resident Senior Fellow at the Brookings Institution, East Asia Forum, February 25, 2013, "How will India respond to civil war in Pakistan?", http://www.eastasiaforum.org/2013/02/25/how-will-india-respond-to-civil-war-in-pakistan/

India is not likely to initiate an intervention that causes the Pakistani state to fail. Bill Keller of the New York Times has described Pakistani president Asif Ail Zardari as overseeing ‘a ruinous kleptocracy that is spiraling deeper into economic crisis’. But in contrast to predictions of an unravelling nation, British journalist-scholar Anatol Lieven argues that the Pakistani state is likely to continue muddling through its many problems, unable to resolve them but equally predisposed against civil war and consequent state collapse. Lieven finds that the strong bonds of family, clan, tribe and the nature of South Asian Islam prevent modernist movements — propounded by the government or by the radicals — from taking control of the entire country.

Lieven’s analysis is more persuasive than the widespread view that Pakistan is about to fail as a state. The formal institutions of the Pakistani state are surprisingly robust given the structural conditions in which they operate. Indian political leaders recognise Pakistan’s resilience. Given the bad choices in Pakistan, they would rather not have anything to do with it. If there is going to be a civil war, why not wait for the two sides to exhaust themselves before thinking about intervening? The 1971 war demonstrated India’s willingness to exploit conditions inside Pakistan, but to break from tradition requires strong, countervailing logic, and those elements do not yet exist. Given the current conditions and those in the foreseeable future, India is likely to sit out a Pakistani civil war while covertly coordinating policy with the United States.

#### Drone strikes ceased in Pakistan

Mir, 3/14/14 [One year without any civilian casualty by a drone Amir Mir Friday, March 14, 2014 From Print Edition, <http://www.thenews.com.pk/Todays-News-2-238164-One-year-without-any-civilian-casualty-by-a-drone>]

Brennan, who runs the drone programme being the CIA director, had a secret meeting with the Chief of Army Staff General Raheel Shareef on February 21 during a short trip to Rawalpindi. He was appointed the Central Intelligence Agency chief on March 7, 2013. In fact, the CIA-controlled drones have not carried out even a single attack in any part of Pakistan during the last 77 days. Brennan has stopped the drone strikes in Pakistan despite the fact that he had led the transformation of the US approach to counter terrorism from that of a ground war in Afghanistan to targeted strikes against the most wanted al-Qaeda terrorists, often involving the use of drones, especially in Pakistan. To recall, Imran Khan’s Tehrik-e-Insaf Party had named Brennan in an FIR lodged with the Hangu Police in December 2013, seeking registration of a case against him and the Islamabad station chief of the CIA [Craig Osth] for killing Pakistani civilians in drone attacks in the tribal areas and thus “waging war against the state of Pakistan”. Brennan, who has played a key role in the American efforts to disrupt the al-Qaeda network since the 9/11 terrorist attacks, is the one to have advised Obama to launch a raid on Osama bin Laden’s compound in Abbottabad. Brennan enjoys the full trust and confidence of Obama and has been involved in virtually all the major national security issues during the past five years. He had visited Pakistan at a time when the CIA-led drone attacks in the tribal areas of Pakistan have been cut back sharply after the Sharif government had asked for restraint. The CIA has had seven different directors in the nine years since the first drone struck the Pakistani territory, killing commander Nek Mohammad. However, the CIA under Brennan has not bombed Pakistan since December 25, 2013 for almost 77 days, the longest pause since 2004. Interestingly, however, while there was no drone attack in Pakistan during the last two months, the Taliban had intensified their terrorist activities despite the fact that the Sharif government is holding peace talks with them.

#### Link is empirically wrong

Cole, 3/10/14 [The Escalation of Drone Warfare in Afghanistan, Pakistan and Africahttp://www.globalresearch.ca/the-escalation-of-drone-warfare-in-afghanistan-pakistan-and-africa/5372784?utm\_source=rss&utm\_medium=rss&utm\_campaign=the-escalation-of-drone-warfare-in-afghanistan-pakistan-and-africa]

Pakistan Drone strikes in Pakistan are undertaken both by the CIA and by Joint Special Operations Command (JSOC) utilising both US military bases and CIA facilities in Afghanistan. Although the CIA did have use of at least one airbase in Pakistan – Shamsi airbase in Baluchistan Province – they were ordered to leave following growing public opposition to the strikes and the deaths of Pakistani troops in a November 2011 US air strike on the border. While there has been some suggestion that other Pakistani bases may have been involved in drone operations it seems (as far as is known) that US drones are no longer based within Pakistan. The prospect of a full US military withdrawal from Afghanistan will therefore, as the New York Time put it recently, imperil drone operations in Pakistan. News reports have suggested that US armed drones could be moved to airbases to the north of Afghanistan with Tajikistan being specifically mentioned. While the US has other bases in the region, the further away the drones are based, the longer flights take to get back and forth to Pakistan consequently leaving less time to be looking for targets. However the Gray Eagle drone, a more advanced version of the Predator/Reaper with a much longer range is known to be in operation with US Special Forces. While drones with much longer flight times and ranges such as the Avenger and even the X-47B, are being developed and tested, they are still some way off from going into production let alone deployment.

#### DA doesn’t assume JSOC shift:

#### One, results in more effective drone ops because of highly trained personal and organizational culture – that’s Sahadi

#### Two, avoids the link

Glaser, 14 [Obama’s Broken Promise to Shift Drone War to Defense Department John Glaser, February 26, 2014 , <http://antiwar.com/blog/2014/02/26/obamas-broken-promise-to-shift-drone-war-to-defense-department/> ]

Keeping the drones with the CIA also offers legal cover for drone strikes, former officials argued. By law, the military is not supposed to conduct hostile actions outside a declared war zone, although Special Forces do so on occasion acting at the CIA’s behest. One caveat to this is that Obama orders military operations in secret all over the world all the time. Special Operations Command operates in scores of countries without the knowledge or consent of Congress or the American people. But their missions and activities are secret and – to reluctantly cite Donald Rumsfeld – their activities are an unknown unknown. CIA drone strikes, on the other hand, have proven next to impossible to fully hide from the public and that extra attention would probably lead to pressure for the Obama administration to open up DoD drone strikes to transparency and accountability – something he can avoid if he keeps it with CIA.

#### Turn – civilian backlash – codified Title 10 authority key – no offense CIA ops aren’t secret anyway

Zenko, 13 [POLI CY INNOVATION MEMORANDUM NO. 31 Date: April 16, 2013 From: Micah Zenko Re: Transferring CIA Drone Strikes to the PentagonMicah Zenko is the Douglas Dillon fellow in the Center for Preventive Action at the Council on Foreign Relations]

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.

### AT: Patent Reform (2ac)

#### Full spectrum competitiveness resilient

**Price 10 –** Miller-McCune Magazine (Tom, 3/13 “U.S. Challenged for High-Tech Global Leadership,” http://www.miller-mccune.com/science-environment/u-s-challenged-for-high-tech-global-leadership-10818/

Despite negative trends, U.S. R&D continues to lead the world by a **large margin**. In 2007, America’s $369 billion R&D spending exceeded all of Asia’s $338 billion and all of the European Union’s $263 billion. The United States spent more than the next four countries — Japan, China, Germany and France — **combined**.

America’s share of all high-tech manufacturing has risen — and it continues to lead the world — even though the U.S. share of exports has declined. That’s because the United States consumes so much of its product domestically. The United States makes nearly a third of the world’s high-tech goods, compared with the European Union’s 25 percent and China’s 14 percent. It’s the world leader in communications, semiconductors, pharmaceuticals and aerospace. It trails only the EU in scientific instruments and China in computers.

U.S. inventors obtained 81,000 U.S. patents in 2008, more than double Japan’s 35,000 and all of Europe’s 23,000. America’s 49 percent share of those patents dropped from 55 percent in 1995.

U.S. inventors also led in what the report calls “high-value” patents — those that were given protection by the EU and Japan as well as by the United States. The U.S. share of 30 percent was down from 34 percent in 1997.

**China obtained just about 1 percent of both kinds of patents.** But its scientists have become the second-most-prolific contributors to scholarly journals, another area in which the United States continues to lead the world.

The globalization of science is illustrated by the worldwide growth in many measures of scientific prowess, no matter which countries dominate, the board said. For example, high-tech exports more than tripled to $2.3 trillion worldwide between 1995 and 2008. The estimated number of researchers increased to 5.7 million in 2007 from 4 million in 1995. Global R&D expenditures totaled $1.1 trillion in 2007, up from $525 billion in 1996. Cross-boarder co-authorship also increased from 8 percent of scientific articles published in 1988 to 22 percent in 2007.

**Foreign corporations actually invested more in U.S.-based research** ($34 billion) in 2006 **than U.S. firms invested overseas** $28.5 billion. Both more than doubled since 1995.

#### Won’t pass

**Brown, 3/28/14** (Alex, “Patent Action Delayed and the FCC’s Tech is Outdated” National Journal, <http://www.nationaljournal.com/tech-edge/patent-action-delayed-and-the-fcc-s-tech-is-outdated-20140328>)

SENATE JUDICIARY DELAYS PATENT MARKUP: The committee Thursday delayed the long-awaited markup of Chairman Patrick Leahy's patent reform legislation until at least April 3, an expected move announced amid chatter that members are earnestly working to forge a grand compromise on how to best slay patent trolls. Leahy promised he is "working closely with other members of this committee to craft a manager's amendment that will bring in additional provisions" and said a compromise could be brokered "in the next few days."

Still, onlookers have heard this tune before, and many are again growing worried that April could slip by without anything passed out of committee. And while Leahy gave lip service to Sen. Hatch's bill on fee shifting and a bill from Sen. Cornyn aimed at shell companies, notably absent was any such endorsement of Sen. Schumer's crusade to expand review methods to guard against low-quality patents. Schumer, for his part, said he would continue fighting for the controversial measure.

#### Senate bill doesn’t solve

**Kamdar, 3/20/14** - staff, Electronic Frontier Foundation (Adi, “Thousands Speak Out in Favor of Strong Patent Reform from the Senate” <https://www.eff.org/deeplinks/2014/03/thousands-speak-out-favor-strong-patent-reform-senate>)

The Innovation Act was a great start and passed the House with overwhelming bipartisan support. Unfortunately, the proposed Senate bills are not as comprehensive. Currently, the most popular Senate bill—Sen. Leahy's Patent Transparency and Improvements Act—touches upon **a few** major reforms, but by no means goes far enough: transparency in ownership, cracking down on bad faith demand letters, and a stay on end-user cases if a manufacturer intervenes. We need more. The Innovation Act, for example, features extremely important fee shifting provisions and delayed discovery costs. Of course, no bill would be ideal without addressing the elephant in the room: poor quality software patents.

#### CIA thumps

**Klapper, 3/24/14** (Bradley, “Terror Report Release May Fuel The Spat Between Congress And The CIA” Associated Press, <http://www.huffingtonpost.com/2014/03/24/terror-report-congress_n_5020547.html>)

If senators vote this week to release key sections of a voluminous report on terrorist interrogations, an already strained relationship between lawmakers and the CIA could become even more rancorous, and President Barack Obama might have to step into the fray. The Senate Intelligence Committee hopes that by publishing a 400-page summary of its contentious review and the 20 main recommendations, it will shed light on some of 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 that 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. The dispute boiled into the open earlier this month with competing claims of wrongdoing by Senate staffers and CIA officials. The intelligence committee's chairwoman, Sen. Dianne Feinstein, accused the CIA of improperly monitoring the computer use of Senate staffers and deleting files, 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. This week's vote could fuel the fight, if it goes in favor of disclosure. It would start a process that forces CIA officials and Senate staffers to go line-by-line through the report and debate which elements can be made public and which must stay secret because of ongoing national security concerns. The CIA and the executive branch hold all the keys as the final determiners of what ought to remain classified. Senators primarily have the bully pulpit of embarrassing the CIA publicly and the last-resort measure of going after the agency's budget.

#### Link is denied or inevitable

**Bennett 14** – (2/19, John, “McCain Vows New Fight Over Control of US Armed Drone Program,” http://www.defensenews.com/article/20140219/DEFREG02/302190025/McCain-Vows-New-Fight-Over-Control-US-Armed-Drone-Program)

A senior US lawmaker intends to **renew his fight** to require the Obama administration to fully shift its armed drone program from the CIA to the Defense Department.

Sen. John McCain, R-Ariz., a senior Armed Services Committee member, told Defense News on Wednesday, just before Congress left for a weeklong recess, that **he will push the issue** when the panel crafts its 2015 Pentagon policy bill in coming months.

“We’re going to have that debate,” McCain said in a brief interview. “**There is no doubt** about it.”

McCain’s comments come weeks after he expressed disgust with language reportedly inserted into the classified portion of a Pentagon-funding section of an omnibus spending bill blocking the shift of the drone program from the CIA to the military.

The administration of President Barack Obama last year signaled it wanted to move most — or all — of the program from the spy agency to the military. But that plan hit a number of legal and operational snags, and was not fully completed before Congress passed the omnibus.

But McCain says the fight isn’t over.

“I would like to make sure they are cooperating with other countries,” McCain said, referring to concerns among some lawmakers and analysts that the Obama administration avoids getting clearance from leaders of countries before flying drones into their airspace.

“Mostly, I want to see it moved over to DoD. That’s my primary goal,” McCain said.

Many analysts say that other than possibly taking up a new immigration reform measure, **Congress** likely **is finished with major legislation this year**. The mid-term election cycle is in full swing, and both parties seem content to battle it out back home after five years of bitter partisan fights here.

But Congress is expected, as it has for 52 consecutive years, to pass a defense authorization bill. And McCain’s intentions will revive a battle between two powerful camps on Capitol Hill.

Lawmakers on both sides of the debate have strong opinions about whether it is the job of the military or intelligence community to kill al-Qaida leaders and operatives. And behind the issue of whether the CIA should be firing missiles from remotely piloted aircraft is a simmering congressional turf war between the chambers’ Armed Services and Intelligence committees.

If the Defense Department is handed control of the CIA’s armed drone fleet and strike missions against al-Qaida targets, it would also gain what intelligence analysts say is the program’s sizable budget and control over one of the White House’s primary tactics for combating the terrorist group.

On one side are pro-military lawmakers like McCain. They believe the military should be the US entity charged with killing America’s foes, and that the CIA should get back to collecting and analyzing intelligence.

On the other side are members like Senate Intelligence Committee Chairwoman Sen. Dianne Feinstein, D-Calif. These members, largely Democrats, are skeptical of the military’s ability to use what they see as the CIA’s rigorous decision process before carrying out armed strikes. ■

#### The Medicare fix passed *this evening*

Condon 3-31

[“Senate passes Medicare "doc fix" at last minute” *CBS News*, 3/31/14 <http://www.cbsnews.com/news/senate-passes-medicare-doc-fix-at-last-minute/> //GBS-JV]

With no time left to spare, the Senate on Monday passed a bill to ensure that Medicare reimbursement rates to doctors aren't cut.¶ The bill is only a temporary modification to the Sustainable Growth Rate, which makes cuts to Medicare reimbursements to keep costs under control. Had Congress failed to pass the so-called Medicare "doc fix" before Tuesday, Medicare reimbursements to physicians would have been cut by about 24 percent. The legislation passed Monday staves off that cut for another year.¶ Concerned about the impact those cuts would have on Medicare patients, Congress over the years has repeatedly passed a version of the "doc fix." Lawmakers have been working on a longterm solution, but Democrats and Republicans have disagreed over how to pay for the legislation.

#### Won’t pass – Senate GOP won’t compromise

**Byers, 3/26/14** (Alex, “Early, if cautious, support for W.H. NSA proposal — Cornyn gets political on patents — FTC confirms Target investigation” Politico, <http://www.politico.com/morningtech/0314/morningtech13414.html>)

CORNYN GETS POLITICAL ON PATENTS — Reform advocates are optimistic about the progress being made this week on patent reform, but even in March, midterm politicking could put a kink in their plans. Sen. John Cornyn, for example, signaled Tuesday he could take a hard line when it comes to including litigation reform provisions like fee-shifting, which he's long supported. "There's no reason to make a bad deal, here in the waning months of this year," he said. That’s because GOP-ers could put patent reform "high on the agenda next year, when Republicans will control both houses," he told on Capitol Hill Tuesday. Still, the Senator is still "hopeful" that he and Senate Judiciary Chairman Patrick Leahy can craft a compromise — the two talked specifically about patent reform proposals Monday night. We’re tracking.

#### No PC

**Cook, 3/17/14** – editor of the Cook Political Report for National Journal (Charlie, “6 Ways Washington Will Stay the Same” <http://www.nationaljournal.com/off-to-the-races/6-ways-washington-will-stay-the-same-20140317>)

3. 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. 4. Obama's relations with Congress will remain poor for the duration of his time in office, pretty much as they have been since his earliest days in the White House. More specifically, Obama and his White House have no relationship at all with the tea party and most conservative Republicans on Capitol Hill, an awful relationship with the more establishment Republicans, and a distant and uncomfortable relationship with congressional Democrats. Perhaps the title of the movie He's Just Not That Into You pretty much describes how the president's attitude toward his own party members seems to be, and their view of him has become pretty much reciprocal. It's hard to see how any of that changes either before or after the 2014 midterms.

#### DA not intrinsic – a logical policymaker could do both, they haven’t introduced an opportunity cost, which is debates core function

#### No impact and innovation strong now

**Merbeth, 14 –** Chief Policy Council for Intellectual Ventures (Russ, “Five Fairy Tales To Quash in 2014” 2/18, <http://www.intellectualventures.com/insights/archives/five-fairy-tales-to-quash-in-2014>)

With a lot of activity ahead in 2014, we would like to knock down five of the most heavily-promoted fables and fairy tales. Fairy Tale 1: Patent litigation is “exploding.” There is no shortage of gigantic patent battles, especially in the smartphone industry. But patent wars have erupted in this country with every wave of new technology, from the Sewing Machine War of 1851 to railroads, radio and aviation. As Adam Mossoff of George Mason University documents, the so-called “explosion” is a myth. The rate of patent litigation, as a share of total patents, is right **in line with** historical **trends**. From 1790 to 1860, about 1.65 percent of patents were in litigation. Today, it’s about 1.5 percent. Fairy Tale 2: Patent “trolls” are behind more than half of new lawsuits. One problem here is that critics define anybody who owns and defends a patent, but doesn’t actually make a product, as a “non-practicing entity (NPE)” or “troll.” But NPE’s include legions of independent inventors and universities. By one careful analysis, between 20 and 30 percent of “NPE” lawsuits actually come from independent inventors and one of the biggest patent verdicts last year, for $1.7 billion, went to Carnegie Mellon University. Most people wouldn’t call these folks trolls. In a rigorous study for Congress, the Government Accountability Office concluded that only one-fifth of the patent lawsuits filed between 2007 and 2011 came from NPE’s. Fairy Tale 3: Lawsuits by “NPE’s” cost society $29 billion a year. This much-hyped estimate comes from researchers at Boston University. But as David Schwartz of IIT and Jay Kesan of University of Illinois document, it’s wrong on many counts. First, at least 20 percent of the “NPE” or “troll” lawsuits come from independent inventors. Second, about three-quarters of the “cost” is in royalty payments and settlements to patent holders. Those aren’t costs or “deadweight losses” to society as a whole – they’re a wash, **because they are transfers** from one company to another. Third, the estimate is almost certainly biased upward. It’s based on a survey of companies that are much more likely than average to be defendants in patent lawsuits. Fairy Tale 4: The “explosion” of patent lawsuits is killing innovation and tech entrepreneurs. This is a constant refrain from Silicon Valley tech giants, but the data just isn’t there. In 2013, venture capital funding **soared to its highest level since the peak of the dot-com bubble** in 2000. The biggest and fastest-growing field for venture investing – software – was also the field in which patent volumes have soared the most. Fairy Tale 5: Operating companies are “good,” and non-practicing companies are “trolls.” For practical purposes, the line between these two kinds of companies is hopelessly blurred. Some of the biggest technology companies also own NPEs that enforce billions of dollars’ worth of patents. Some major technology companies have also spent billions of dollars buying patent portfolios, and some have filed lawsuits accusing other companies of infringing those patents. Indeed, one tech company that is highly critical of “trolls” has itself been accused of “troll-like” behavior. There’s nothing inherently good or bad about the specific business model, and there is nothing wrong with defending legitimate patent rights. What matters is the actual behavior of the company, and specifically whether it files frivolous infringement suits in order to game the legal system.

#### Turn – kills small inventors

**Barstow, 3/18/14** - David Barstow is president of DDB Technologies and the lead inventor on five patents related to interactive sports-media technology (“Protecting inventors from harmful patent reform” Washington Times, lexis)

The patent protection provided for high-tech inventors is under attack from two directions. Later this month, the Supreme Court will take on the fundamental question of whether software technology can be patented. At the same time, Congress is considering patent-reform legislation that would seriously harm technology innovators. The consequences are huge, not just for patents, but for inventors like me who need to protect their inventions, and indeed, for our country's future ability to grow through innovation. My story illustrates the importance of patents for small businesses and individual inventors. In the late 1980s, my brother and I invented and patented a way of using telecommunications and computer simulation to allow fans to follow live sports events like baseball games on their home computers. Our creation attracted much attention in the early days of the Internet and was quickly hailed as a "peek at sports broadcasting in the 21st century." Initially, the leagues and media companies ignored us, but eventually, they decided that computer simulation via the Internet might be a good idea after all. By the early 2000s, the technology had become widespread. It is now used by hundreds of websites to provide interactive services to millions of sports fans around the world. It was gratifying to see our technology proliferate, but we wondered what happened to the protection that we thought the patents would provide. Unfortunately, our only option was litigation, and we sued Major League Baseball for patent infringement. We encountered all of the advantages that big guys have over little guys in court - money, time and lawyers. Fortunately, we were able to survive the battle. After five years and millions of dollars were wasted on both sides, we settled on the courthouse steps, securing our ownership rights, and a patent license for MLB. The Supreme Court's imminent decision about software-technology patents will hopefully resolve an issue that has confounded the courts and lawmakers and thrown the American invention process into chaos. It will have a wide ripple effect - deciding whether many patent applications are even allowed to proceed - and has the potential of hurting innovators around the country for whom software is a critical element of their invention. Congress, too, is on the cusp of hurting small businesses and individual inventors. Most of the legislation is aimed at eliminating abuse of the patent system by so-called "patent trolls," who file lawsuits against unsuspecting individuals - bullying them into settling so that they can avoid expensive legal fees, despite no evidence of wrongdoing. No doubt, there is some exploitation - as there is in all forms of litigation. Some of the proposed remedies overreach and would seriously harm legitimate inventors, especially startups, who already face huge barriers when trying to use the U.S. patent system to protect their inventions. One proposed remedy is "fee shifting," where the loser in patent litigation pays the legal fees incurred by the winner. This remedy is attractive in concept, and would probably be a deterrent against abuse by some patent trolls, but it would be devastating for small businesses and individual inventors. The problem is that little guys are already at a great disadvantage in litigation. Big guys with deep pockets can win, even when they are wrong, simply by outlasting the little guys. While my brother and I were ultimately vindicated in court, the financial cost was immense. If "fee shifting" had been in place, the risk of litigation would have been too much for our nascent company. Even though we were the victims, we would not have been able to hold the big guys accountable for their wrongdoing. As the Supreme Court and Congress seek to prevent patent abuse by trolls, let's make sure we don't also destroy the protections the patent system is supposed to provide to small businesses and individual inventors like me.

#### That’s the largest internal link to innovation

**Banys, 13** - Christopher D. Banys is a trial lawyer who has earned a strong reputation for representing individual inventors and small, inventor-owned companies in patent-infringement suits against major corporate infringers across the country (“Patent Reform: The “Innovation Act” will stifle innovation, hurting inventors, start ups and small businesses.” Congressional Testimony, <http://banyspc.com/patent-reform-the-innovation-act-will-stifle-innovation-hurting-inventors-start-ups-and-small-businesses/>)

The Goodlatte “Innovation Act,” while well-intentioned, will bar the courthouse doors to individual inventors and small companies leaving only large PAE’s and Corporations the practical ability to enforce their rights. The Goodlatte “Innovation Act” makes radical and unnecessary changes to the Patent Act that undermine the very purpose of the Patent System as it has existed for over 200 years and will close the courthouse doors to all but the most well-funded, corporate litigants. Strong Patents Are Essential To The American Way We should begin with the basic understanding that patents, provided for by the Framers of the Constitution themselves, have served this nation for centuries and helped make America the innovative envy of the world. Our patent system enabled Edison and the Wright Brothers to protect their inventions, and provided the security and incentive to invent by ensuring that, for a limited time, no one would steal their inventions or free-ride on their work without facing justice in court. Importantly, unlike real property, which can be physically defended if necessary, an inventor has only the right granted in his patent to protect him against free-riders and thieves. The great bargain our nation has long struck with inventors is that, in exchange for publishing the details of their invention for the world to see, the nation provides the inventor with a patent right to exclude others from performing her invention without her permission. Millions of U.S. patents have issued since the founding of this great Republic, for inventions great and small. In each patent is a guarantee to the inventor that, in exchange for publishing the invention, he will have the sole right to use the invention and can take violator to court. It will come as no surprise that, like the turn of the 20th century, the last 20 years saw an explosion of new technology – this time focused largely in software and computer hardware. Life in the early 1990s – without Internet, home computers or cell phones – seems almost as antiquated as the Old West. In every instance, it was inventors who made possible the technological improvements we enjoy today. Equally unsurprising is that the skills required to break with convention and come up with something radically new and innovative are most often borne by individuals outside the norm. Most inventive genius comes from inventors who – while brilliant in their fields – are unskilled in the unrelated areas of business deals, manufacturing, marketing and distribution. Many hi-tech inventors are lovingly referred to as “geeks” – with amazing minds but sometimes lacking the social skills needed for success in the business world. Two salient points come from these observations: First, inventors create new technology, but sharper businessmen often take over the manufacturing part after the inventor has done her work. Second, much of the revolutionary innovation – one of the hallmarks of America – is done by individuals, not major corporations. Be they college professors or long-suffering dreamers and computer hackers, some of the very best innovations begin with the little guy. In a very real sense, this is the story of Silicon Valley. Is it any wonder, then, that so many patents issued in the computer-science field in the 1990s and 2000s? During the Dot-Com boom, literally thousands of companies sprang up in the high tech space, many with great ideas but poor business plans. Importantly, the contributions these great innovators made to technology are not lessened by the fact that their start-ups failed – other more successful businesses were able to stand on their shoulders. When these start-up companies went bust, many of their inventors went on with their patents intact. A few companies rose above the fray through amazing business skill, good timing and luck – and went on to become some of the most profitable corporations in history. Many of these companies now back the “Innovation Act.” A Look At Corporate Infringement Inventing is not for the faint of heart. An inventor has to be willing to risk years of toil in obscurity for the chance at a breakthrough. She then risks her finances spending tens of thousands of dollars and many years prosecuting her patent in the U.S. Patent and Trademark Office (“PTO”) where the invention is scrutinized by a technical expert before being issued. If the inventor is fortunate, she will ultimately obtain a U.S. Patent – a landmark event for most small inventors. Unfortunately, success does not follow immediately. First, the inventor must find either the capital or a partner to commercialize the invention. This can be extremely daunting for an individual. The unequal bargaining power between an individual and a major corporation leads to all manner of advantage taking by the company – even with a strong patent in the inventor’s hands. And the inventor must police the patent – if others are allowed to free-ride, no one will invest in her invention – they will simply use her invention without compensation. But that means litigation. A patent owner considering litigation faces a daunting task. Patent litigation takes years and costs millions – for plaintiffs and defendants alike. The American Invents Act created new procedures in the PTO that force the inventor back into the patent office to fight off invalidity challenges before the case is heard in court. Importantly, while Congress has created a “faster/cheaper” option for corporate defendants to try to destroy asserted patents, it has done nothing to create a faster and cheaper process for meritorious inventors to stop infringers. In fact the opposite is true – defendants have more options than ever, but there is precious little an inventor can do to quickly and cheaply resolve a case of clear infringement. When a major company releases a new product on the market, it is literally filled with innovation. Many of the inventions contained in a new phone or a new “app” were conceived by the company itself. Many more were conceived by others – and often those inventions are protected by patents. The question is, what is a company to do when it wants to release a product that it either knows, or at least ought to suspect, contains inventions owned by others and protected by patents? Well, patents are public, and they are published on the Patent and Trademark Office’s website for all to see. All major product manufacturers employ smart, capable in-house counsel with patent expertise. The PTO database is searchable. But do any major manufacturers search the patent database to see if their new product will infringe another inventors’ patent before they release the product? Do they reach out the inventor to see if the company can obtain a license? The answer is almost always no. Instead, major manufacturers simply release their products on the marketplace – other inventors’ patents notwithstanding. Simple business principles motivate this behavior. First, many inventors will choose not to enforce their rights. Often, in my experience, small companies are afraid to enforce their patents against large infringers for fear of business retribution – even in cases where the larger company actively stole the technology. Only where a startup faces bankruptcy in the face of infringement will it bring suit. Likewise with individual inventors: They too have a difficult time finding counsel willing to take their case on contingent fee. Patent litigation is extremely expensive – a financial burden that falls much harder on individual inventors and small startups – the very engine of innovation – than it does on the major corporations who complain so loudly in Washington. Time to trial is too long, expert witnesses are expensive, discovery grows more cumbersome and litigious – not less – every time a well- intentioned body limits discovery in a way that encourages corporate infringers to hide their confidential technical information from the inventor’s view. The Rise Of PAEs These costs drive small companies and individual inventors to sell their patents to Patent Assertion Entities (“PAEs”), rather than bring suit in their own name. Just as they are not often businessmen, inventors are seldom professional litigators. Indeed, the PAE phenomenon is driven by the very fact that patent litigation is so expensive and uncertain that few small inventors have the stomach and the capital to see it through on their own. PAEs come in all shapes and sizes. Some of the largest are formed by the very corporations backing this bill, in order to bring patent litigation against their rivals – the very same tactics they decry when suits are brought against them. Other PAEs specialize in helping inventors navigate the court system to get justice against infringers who free-ride on inventor’s patents. Still others are actually owned by the inventors themselves and serve as a vehicle to license the patents, if possible, and litigate, if necessary. There is nothing inherently evil about a PAE. Dealing With Frivolous Lawsuits Much ado has been made of frivolous lawsuits and “demand letters.” To me, the demand letter issue seems overblown. While I almost never serve a demand letter in a patent case, I understand that some other law firms make it a standard practice for their clients. A demand letter is just that, a letter. A written communication. It carries no weight or legal authority outside of whatever the reader may wish to give it. In my experience, clients of mine who come to me after they have sent out letters seeking a license from companies that appear to be infringing their patent rights are most often greeted with silence. For me, the biggest reason not to send them is that they seldom accomplish much. The fact that there has been such a hullaballoo about demand letters lately feels to me like an issue that has been created for the cameras. In practice, if a company receives a truly frivolous demand letter, the overwhelming majority of lawyers would recommend ignoring the letter altogether. It seems to me that a recycle bin could resolve the issue of frivolous demand letters far more effectively than a bill from Congress – and without the unintended negative consequences a new patent bill will occasion. Frivolous litigation is another matter – one that cannot be ignored. But here again, a measure of caution is needed. Arthur Miller famously said (after hearing lawyers complain for months): “a frivolous lawsuit is any case brought against your client and litigation abuse is anything the opposing lawyer is doing.” There is much wisdom in that. The courts already have powerful tools at their disposal to combat truly frivolous litigation tactics – and are in the best position to determine when a case is frivolous and when it is not. There are two cases pending right now before the U.S. Supreme Court that will likely increase the frequency with which fees are awarded in patent cases. Extreme caution is called for whenever Congress is called to intervene in the court system and tip the balance in favor of one party over the other. Here, there are two sides to the “frivolous litigation” story, and only one side – that of the accused infringer – is ever heard in Congress. In truth, all cases exist on a spectrum from the strongest case ever, to the most ridiculous. The overwhelming majority fall somewhere in the middle. Few are frivolous, and for good reason – no contingent fee lawyer will risk his own money pushing a bad case (he won’t be in business for long). And few lawyers want the reputational risk of pushing ridiculous cases. Those few that get reported are sensational precisely because they are outliers. The proper course, in my view, is for Congress to proceed with great caution. Rebranding, through legislation, meritorious cases that may not ultimately prevail as “frivolous” devalues patents generally, by creating more uncertainly and still less willingness for small inventors in particular to stand up for their rights. The courts are better situated to deal with the problem of frivolous lawsuits, and, given public statements by the Federal Circuit and the Supreme Court’s willingness to look at the issue, Congress should at least wait to see the judicial response before taking action that tips the playing field further against small inventors. The Goodlatte Bill If this bill passes as drafted, American inventors, like Edison, the Wright Brothers and their modern-day equivalents will be unable to enforce their rights. Without the ability to enforce their rights, individual inventors and small start-ups will have no recourse when a major corporation takes their inventions without just compensation. Ultimately, this bill undermines the very protections and incentives for inventors that have helped make America the great engine of innovation in the world. This Bill threatens to breach the contract our nation made with the inventors who obtained valid patents by making enforcement so difficult, expensive and risky, that the patents are hardly worth enforcing at all. Some Negative Repercussions From The Bill The Bill would enact an un-American “loser pays” system, like that in Europe, that will all but bar the courthouse door to individual inventors and startups. Not every case that loses is “frivolous.” Large companies can afford loser pays – individuals and small companies risk bankruptcy with every decision by the judge and jury. Regardless of how strong his/her case, individual inventors and small startups will be afraid to assert their rights for fear of financial ruin if they do not prevail (and adding to this fear is the increased complexity and cost of litigation that the bill would create); corporations would have much less to worry about. Under the Bill, the plaintiff must pay for discovery, including attorney fees, outside of “core discovery.” “Core discovery” is extremely limited (and likely insufficient in many cases); many corporations have begun using email to communicate important technical changes – keeping few records elsewhere – and these new rules would mean that an individual inventor would have no real chance of seeing this important evidence – she couldn’t afford to pay the defendants’ big- firm fees to get it. The Bill creates dangerous perverse incentives for declaratory judgment actions. Under the Declaratory Judgment Act, a party can file a patent suit to obtain a declaration that a patent is invalid and/or not infringed by the party. In such cases, the inventor is the party being sued. Courts have allowed such cases to proceed where the patentee has done little more than send a letter offering a license to a potentially infringing party. Under the Bill, “loser pays” applies to these actions, creating unfair risk to patentees who never even file suit. Merely seeking a license outside of court could land a small inventor in a declaratory lawsuit with financial ruin hanging in the balance. In addition, the Bill does not require any heightened pleading requirements for plaintiffs who file a declaratory judgment action for patent invalidity or non-infringement. The Bill places arbitrary and dramatic limits on discovery. It would essentially repeal the Federal Rules of Civil Procedure for patent cases, and replace them with limits so severe, many cases that could have been proven before will be unwinnable after – and to make matters worse, inventors will not always know ahead of time if the “core discovery” will be sufficient, leading to more uncertainty up-front and more risk downstream. Defendants would have a powerful incentive to claim that important documents and communications are not “core” leading to more litigation – not less. The Bill eliminates notice pleading and Form 18. Elimination of notice pleading forces the courts to place form over substance. It would require detailed claim charts in the complaint, leading to new litigation battles before the case even gets off the ground – and before the facts are even in. Many meritorious cases risk dismissal merely because the defendant keeps evidence of its infringement a secret. This is why the courts abandoned fact pleading years ago. Making matters worse, under the Bill, defendants do not have to provide detailed invalidity contentions or even non-infringement contentions in their answers. This is one-sided and unfair and will lead to more – not less litigation costs. The Bill creates unequal disclosure obligations. Individuals and small companies must list everyone with any financial interest in the litigation and put their own financial health at risk; corporations get a free pass. The Bill stays all cases until claim construction is complete. The courts should be left to determine how to mange their own dockets. Long experience has shown that claim construction is most helpful when conducted in the middle of the case, not at the beginning. Placing it at the outset advantages defendants, who (with full knowledge of their own confidential information) craft their arguments to avoid infringement while depriving inventors of technical discovery. The customer-suit exception gives fertile ground to major manufacturers to claim that they are in fact the “customer” of their suppliers, forcing inventors to proceed against smaller, usually foreign suppliers first – raising costs and reducing the likelihood that the inventor can collect a fair recovery. This dramatically undermines the purpose of the Patent Act – to allow the inventor to stop all infringers – not just the component makers. At a minimum, the Bill should be redrafted to exclude any manufacturer from the stay. A Better Solution First and foremost, Congress just recently passed a historic overhaul of the patent system. The effects of that overhaul will not be fully known for several more years. Congress should be very cautious about enacting still more changes until the effects of the America Invents Act are known. To act rashly is to risk overcorrection – to the detriment of our entire system of innovation. Second, and equally important, is to fully fund the Patent and Trademark Office. If there is a concern about patents in America, the solution is to make sure the experts at the PTO have the tools they need to make sure that only quality patents issue in the first place. A better PTO will go very far towards addressing whatever problems the current system confronts. Third, Congress should respect the courts and allow the Supreme Court to address the issue of fee shifting in truly frivolous cases, before rushing to pass an act with sweeping and likely detrimental effects on most inventors in America. Fourth, if Congress must enact changes to the patent landscape, it should do so in the fairest way possible. Automatic fee shifting disproportionately affects individual inventors. Many cases that are objectively reasonable at the start do not end with victory for the plaintiff in large part due to the uncertainties of patent litigation. Large corporations can easily afford fee shifting. So too can many PAEs. Individual inventors – even those with very strong cases – will be afraid to bring cases if financial ruin lies behind every decision by the judge and jury. With their patents too hard to enforce, small inventors will be disincentivized to invent at all. Finally, much of the cost of patent litigation is driven by the lengthy nature of the cases, and the side disputes that inevitably flow from the process. Unscrupulous large law firms can increase their billing by dragging cases out and engaging in needless stonewalling – all the while blaming plaintiffs. Congress should focus on legislation that will speed resolution of cases fairly, not bills that shift the financial burden of enforcing patent rights off of rich corporations and on to the backs of individual inventors. Rather than making inventors pay for discovery, Congress should encourage the courts to resolve patent cases with 18 months, as it did with the PTO in the America Invents Act. Speedy trial is the best defense against high costs, frivolous litigation and unfair patent infringements. Rather than applying one-sided solutions, like detailed fact pleading for inventors, but not for corporations, Congress should focus on fair solutions. Notice of infringement theories should indeed come early, as most courts now require – but it is unfair for defendants to demand detailed pleadings before technical discovery, when often the documents needed to prove a case are held confidential by defendants. And if inventors must notify accused infringers of their exact infringement theories, defendants – who have ready access to their own technical information – should be equally required to provide detailed non-infringement and invalidity theories in their responsive pleadings. That type of equality may indeed speed up resolution and, if properly implemented, could in fact reduce costs and litigation burdens. In sum, the Goodlatte Bill, as drafted, will do more harm than good. The best course for Congress is to proceed lightly, and with fairness in mind for small inventors. The future of American innovation hangs precariously in the balance.

#### CIA fight thumps

**Klapper, 3/24/14** (Bradley, “Terror Report Release May Fuel The Spat Between Congress And The CIA” Associated Press, <http://www.huffingtonpost.com/2014/03/24/terror-report-congress_n_5020547.html>)

If senators vote this week to release key sections of a voluminous report on terrorist interrogations, an already strained relationship between lawmakers and the CIA could become even more rancorous, and President Barack Obama might have to step into the fray. The Senate Intelligence Committee hopes that by publishing a 400-page summary of its contentious review and the 20 main recommendations, it will shed light on some of 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 that 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. The dispute boiled into the open earlier this month with competing claims of wrongdoing by Senate staffers and CIA officials. The intelligence committee's chairwoman, Sen. Dianne Feinstein, accused the CIA of improperly monitoring the computer use of Senate staffers and deleting files, 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. This week's vote could fuel the fight, if it goes in favor of disclosure. It would start a process that forces CIA officials and Senate staffers to go line-by-line through the report and debate which elements can be made public and which must stay secret because of ongoing national security concerns. The CIA and the executive branch hold all the keys as the final determiners of what ought to remain classified. Senators primarily have the bully pulpit of embarrassing the CIA publicly and the last-resort measure of going after the agency's budget.

### Condo

### Ellis Added a Card

#### Their DA and CP competition are based on a ludicrous understanding of the word “restrict”

**Coffey, 82** - US Circuit Judge, dissenting (VICTOR D. QUILICI, ROBERT STENGL, et al., GEORGE L. REICHERT, and ROBERT E. METLER, Plaintiffs-Appellants, v. VILLAGE OF MORTON GROVE, et al., Defendants-Appellees Nos. 82-1045, 82-1076, 82-1132 UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT 695 F.2d 261; 1982 U.S. App. LEXIS 23560, lexis)

Pursuant to section 83, a municipality can enact an ordinance reasonably restricting or confining the use and possession of firearms. A municipality can also require registration of firearm ownership. What the legislature has authorized is limited regulation of firearm possession by local units of government, but not prohibition. Section 83 does not allow a municipality such as Morton Grove to categorically prohibit handgun possession. [\*\*35] To limit or restrict involves a circumscription which falls far short of an absolute prohibition.

"The words 'prohibit' and 'restrict' are not synonymous. They are not alike in their meaning in their ordinary use . . . . 'To restrict is to restrain within bounds; to limit; to confine and does not mean to destroy or prohibit.'"

## 1AR

### China

#### Lack of US-led norms cause Chinese drone aggression in maritime disputes---that increases tensions

Christopher Bodeen 13, writer for the Huffington Post, May 3rd, 2013, "China's Drone Program Appears To Be Moving Into Overdrive," Huffington Post, www.huffingtonpost.com/2013/05/03/china-drone-program\_n\_3207392.html

BEIJING -- Determined to kill or capture a murderous Mekong River drug lord, China's security forces considered a tactic they'd never tried before: calling a drone strike on his remote hideaway deep in the hills of Myanmar.¶ The attack didn't happen – the man was later captured and brought to China for trial – but the fact that authorities were considering such an option cast new light on China's unmanned aerial vehicle program, which has been quietly percolating for years and now appears to be moving into overdrive.¶ Chinese aerospace firms have developed dozens of drones, known also as unmanned aerial vehicles, or UAVs. Many have appeared at air shows and military parades, including some that bear an uncanny resemblance to the Predator, Global Hawk and Reaper models used with deadly effect by the U.S. Air Force and CIA. Analysts say that although China still trails the U.S. and Israel, the industry leaders, its technology is maturing rapidly and on the cusp of widespread use for surveillance and combat strikes.¶ "My sense is that China is moving into large-scale deployments of UAVs," said Ian Easton, co-author of a recent report on Chinese drones for the Project 2049 Institute security think tank.¶ China's move into large-scale drone deployment displays its military's growing sophistication and could challenge U.S. military dominance in the Asia-Pacific. It also could elevate the threat to neighbors with territorial disputes with Beijing, including Vietnam, Japan, India and the Philippines. China says its drones are capable of carrying bombs and missiles as well as conducting reconnaissance, potentially turning them into offensive weapons in a border conflict.¶ China's increased use of drones also adds to concerns about the lack of internationally recognized standards for drone attacks. The United States has widely employed drones as a means of eliminating terror suspects in Pakistan and the Arabian Peninsula.¶ "China is following the precedent set by the U.S. The thinking is that, `If the U.S. can do it, so can we. They're a big country with security interests and so are we'," said Siemon Wezeman, a senior fellow at the arms transfers program at the Stockholm International Peace Research Institute in Sweden, or SIPRI.¶ "The justification for an attack would be that Beijing too has a responsibility for the safety of its citizens. There needs to be agreement on what the limits are," he said.¶ Though China claims its military posture is entirely defensive, its navy and civilian maritime services have engaged in repeated standoffs with ships from other nations in the South China and East China seas. India, meanwhile, says Chinese troops have set up camp almost 20 kilometers (12 miles) into Indian-claimed territory.

#### That causes arms racing in the China Seas --- escalation is likely

Jonathan Kaiman 13, writer for the Guardian located in Beijing, and Justin McCurry, Tokyo correspondent for the Guardian, citing Ron Huisken, Senior Fellow at the Strategic & Defence Studies Centre at Australian National University, PhD from ANU, Jan 8 2013, “Japan and China step up drone race as tension builds over disputed islands,” http://www.theguardian.com/world/2013/jan/08/china-japan-drone-race

Drones have taken centre stage in an escalating arms race between China and Japan as they struggle to assert their dominance over disputed islands in the East China Sea.¶ China is rapidly expanding its nascent drone programme, while Japan has begun preparations to purchase an advanced model from the US. Both sides claim the drones will be used for surveillance, but experts warn the possibility of future drone skirmishes in the region's airspace is "very high".¶ Tensions over the islands – called the Diaoyu by China and the Senkaku by Japan – have ratcheted up in past weeks. Chinese surveillance planes flew near the islands four times in the second half of December, according to Chinese state media, but were chased away each time by Japanese F-15 fighter jets. Neither side has shown any signs of backing down.¶ Japan's new conservative administration of Shinzo Abe has placed a priority on countering the perceived Chinese threat to the Senkakus since it won a landslide victory in last month's general election. Soon after becoming prime minister, Abe ordered a review of Japan's 2011-16 mid-term defence programme, apparently to speed up the acquisition of between one and three US drones.¶ Under Abe, a nationalist who wants a bigger international role for the armed forces, Japan is expected to increase defence spending for the first time in 11 years in 2013. The extra cash will be used to increase the number of military personnel and upgrade equipment. The country's deputy foreign minister, Akitaka Saiki, summoned the Chinese ambassador to Japan on Tuesday to discuss recent "incursions" of Chinese ships into the disputed territory.¶ China appears unbowed. "Japan has continued to ignore our warnings that their vessels and aircraft have infringed our sovereignty," top-level marine surveillance official Sun Shuxian said in an interview posted to the State Oceanic Administration's website, according to Reuters. "This behaviour may result in the further escalation of the situation at sea and has prompted China to pay great attention and vigilance."¶ China announced late last month that the People's Liberation Army was preparing to test-fly a domestically developed drone, which analysts say is likely a clone of the US's carrier-based X-47B. "Key attack technologies will be tested," reported the state-owned China Daily, without disclosing further details.¶ Andrei Chang, editor-in-chief of the Canadian-based Kanwa Defence Review, said China might be attempting to develop drones that can perform reconnaissance missions as far away as Guam, where the US is building a military presence as part of its "Asia Pivot" strategy.¶ China unveiled eight new models in November at an annual air show on the southern coastal city Zhuhai, photographs of which appeared prominently in the state-owned press. Yet the images may better indicate China's ambitions than its abilities, according to Chang: "We've seen these planes on the ground only — if they work or not, that's difficult to explain."¶ Japanese media reports said the defence ministry hopes to introduce Global Hawk unmanned aircraft near the disputed islands by 2015 at the earliest in an attempt to counter Beijing's increasingly assertive naval activity in the area.¶ Chinese surveillance vessels have made repeated intrusions into Japanese waters since the government in Tokyo in effect nationalised the Senkakus in the summer, sparking riots in Chinese cities and damaging trade ties between Asia's two biggest economies.¶ The need for Japan to improve its surveillance capability was underlined late last year when Japanese radar failed to pick up a low-flying Chinese aircraft as it flew over the islands.¶ The Kyodo news agency quoted an unnamed defence ministry official as saying the drones would be used "to counter China's growing assertiveness at sea, especially when it comes to the Senkaku islands".¶ China's defence budget has exploded over the past decade, from about £12.4bn in 2002 to almost £75bn in 2011, and its military spending could surpass the US's by 2035. The country's first aircraft carrier, a refurbished Soviet model called the Liaoning, completed its first sea trials in August.¶ A 2012 report by the Pentagon acknowledged long-standing rumours that China was developing a new generation of stealth drones, called Anjian, or Dark Sword, whose capabilities could surpass those of the US's fleet.¶ China's state media reported in October that the country would build 11 drone bases along the coastline by 2015. "Over disputed islands, such as the Diaoyu Islands, we do not lag behind in terms of the number of patrol vessels or the frequency of patrolling," said Senior Colonel Du Wenlong, according to China Radio International. "The problem lies in our surveillance capabilities."¶ China's military is notoriously opaque, and analysts' understanding of its drone programme is limited. "They certainly get a lot of mileage out of the fact that nobody knows what the hell they're up to, and they'd take great care to protect that image," said Ron Huisken, an expert on east Asian security at Australian National University.¶ He said the likelihood of a skirmish between Chinese and Japanese drones in coming years was "very high".

#### Old defense doesn’t apply

Richard Javad Heydarian 3-11-2014; South China Sea disputes: “The gloves are off” Richard Javad Heydarian is a specialist on Asian geopolitical/economic affairs and author of "How Capitalism Failed the Arab World: The Economic Roots and Precarious Future of the Middle East Uprisings"http://www.aljazeera.com/indepth/opinion/2014/03/south-china-sea-disputes-gloves-201431152920241884.html

While it is true that the South China Sea disputes have been a permanent feature of regional affairs for some decades, recent years have been particularly disconcerting. Since 2009, China has stepped up its para-military patrols in the area, with growing reports of Chinese surveillance vessels "harassing", among others, Filipino as well as Vietnamese ships and fishermen. In mid-2012 , the Philippines and China came dangerously close to an armed conflict over the Scarborough Shoal in the South China Sea. Equipped with superior military hardware, and backed by intensive diplomatic pressure, China eventually managed to outmanoeuvre the Philippines by effectively gaining control of the disputed shoal. By mid-2013, China pushed the envelope even further , with Chinese para-military vessels allegedly aiming to overrun Philippine military fortifications in the Second Thomas Shoal in the South China Sea, which is eerily close to the hydrocarbon-rich areas off the coast of the Philippine province of Palawan. The balance of forces on the ground has rapidly shifted in China's favour. Thanks to its relatively resilient economy, China has effortlessly accelerated its military spending, with a greater focus on its naval capabilities. The ultimate aim, many analysts claim, is to make China a pre-eminent naval power in Asia - eventually, challenging the US naval hegemony in the Pacific theatre. In response, Southeast Asian states have accelerated their efforts at establishing a legally-binding Code of Conduct (CoC) in the South China Sea, hoping to dissuade China from reinforcing its para-military fortifications and surveillance patrols across the contested areas. There have also been parallel efforts by the Philippines, Vietnam, and Singapore to increase American military presence in Southeast Asia to hedge against China's territorial assertiveness.

#### China’s recent test proves conflict is possible

Harress, 14 [The Rise of China's Drone Fleet and Why It May Lead to Increased Tension in Asia by Christopher Harress on January 11 2014 12:30 PM, http://www.ibtimes.com/rise-chinas-drone-fleet-why-it-may-lead-increased-tension-asia-1535718]

China has successfully flown its first stealth drone for around 20 minutes in Chengdu, again narrowing the gap between its aerial prowess and that of Western nations. The flight took place in November 2013, and while appearing to be a harmless [test flight](http://www.ibtimes.com/rise-chinas-drone-fleet-why-it-may-lead-increased-tension-asia-1535718), the drone’s capability may carry a more alarming message than some might think. China’s [fleet](http://www.ibtimes.com/rise-chinas-drone-fleet-why-it-may-lead-increased-tension-asia-1535718) of drones has become the most extensive fleet among the few countries that operate them and that has raised questions about stability in the region. Recently, U.S. ally Japan has become irate over Chinese drone flights over the disputed Senaku Island group, called Diaoyu in China, saying they will shoot down any drone that refuses to leave Japanese airspace. Then, to further complicate matters, there is the planned increase of American troops in the demarcation zone in South Korea expected this February. It was reported in Vice magazine recently that China has copied nearly all of America’s drone fleet, although nothing has led officials to believe they stole any specific technology, despite cyberattacks on American [aviation](http://www.ibtimes.com/rise-chinas-drone-fleet-why-it-may-lead-increased-tension-asia-1535718) manufacturers. Those attacks, which have been occurring for about six years according to government sources, were only discovered last year. It is believed that a Chinese espionage group has stolen hundreds of terabytes of information from over 141 companies across 20 major industries, including aerospace and defense, according to a report by Mandiant, an information-security company based in Virginia. Backing up this evidence is China’s Lijian stealth drone, which bares a very striking resemblance to the American-built Northrup Grumman Corporation (NYSE:NOC) X-47B . It has also been reported by various media that America’s F-35 joint strike fighter was delayed because of espionage fears. Obama has called for a stop to cyberattacks on the U.S., but China has said that they were the work of rogue hackers. Drones China currently has over 900 different types of drones, ranging from micro, blimps, unmanned combat air vehicles, and rotary-wing UAV.

### CP

#### Their ENTIRE strat is based on the notion that there’s a meaningful difference between Congress supporting the shift and the plan restricting the CIA—this assumes restriction means you immediately shutter the CIA which is a terrible interp with no real world bearing—Coffey says it’s not flat out prohibition

#### Their DA and CP competition are based on a ludicrous understanding of the word “restrict”

**Coffey, 82** - US Circuit Judge, dissenting (VICTOR D. QUILICI, ROBERT STENGL, et al., GEORGE L. REICHERT, and ROBERT E. METLER, Plaintiffs-Appellants, v. VILLAGE OF MORTON GROVE, et al., Defendants-Appellees Nos. 82-1045, 82-1076, 82-1132 UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT 695 F.2d 261; 1982 U.S. App. LEXIS 23560, lexis)

Pursuant to section 83, a municipality can enact an ordinance reasonably restricting or confining the use and possession of firearms. A municipality can also require registration of firearm ownership. What the legislature has authorized is limited regulation of firearm possession by local units of government, but not prohibition. Section 83 does not allow a municipality such as Morton Grove to categorically prohibit handgun possession. [\*\*35] To limit or restrict involves a circumscription which falls far short of an absolute prohibition.

"The words 'prohibit' and 'restrict' are not synonymous. They are not alike in their meaning in their ordinary use . . . . 'To restrict is to restrain within bounds; to limit; to confine and does not mean to destroy or prohibit.'"

#### Seriously the only difference is USC

**Barron and Lederman, 8 -** \* Professor of Law, Harvard Law School AND \* Visiting Professor of Law, Georgetown University Law Center (David and Martin, “THE COMMANDER IN CHIEF AT THE LOWEST EBB - FRAMING THE PROBLEM, DOCTRINE, AND ORIGINAL UNDERSTANDING” 121 Harv. L. Rev. 689, January, lexis)

Another approach would distinguish between statutes that prescribe a particular affirmative obligation to use force and those that impose a negative limitation preventing its use. n196 This distinction reflects the oft-stated view that a "Take Hamburger Hill" or "Land at Utah Beach" statute would be constitutionally dubious, even if a restriction on aggressive military action would not be. Presumably, if the distinction clearly prohibited no more than these particular hypothetical statutes, it would hardly invite the kind of claims of preclusive power that are likely to generate legal controversy. There are, after all, few statutes that mandate such detailed military actions. In fact, however, a positive-negative distinction is no more coherent or stable here than it is in other areas of the law. Statutes frequently do not lend themselves to unambiguous characterizations one way or the other; laws that from one perspective appear as limitations can often be fairly recast as directory. Thus, a number of constraining measures that have recently been proposed or enacted could be deemed impermissibly affirmative.

For example, the recent legislative initiative (which President Bush vetoed) that would have required the withdrawal of some troops from Iraq and altered the mission of others n197 could be viewed both as an "affirmative" command directing how troops should be used going forward and as a restriction on the continuation of the Iraq War at current levels and according to the President's current objectives. n198 The same difficulty arises even with respect to measures directly germane to the war on terrorism. Consider a proposed restriction contained in a recent defense authorization bill. It would require Combatant Status Review hearings, using statutorily prescribed procedures, [\*756] for detainees in the war on terrorism who have been held for more than two years. n199 The measure could be viewed as a restriction on executive discretion to detain enemy combatants in the war on terrorism, but it is also legitimate to view it as a command to use certain procedures in handling detainees - after all, the measure applies not only to future detainees, but also to many currently being held. In fact, the Bush Administration issued a Statement of Administration Policy that characterized this provision as "imposing on the U.S. military an unprecedented and onerous burden" and stated that it, along with related provisions in the bill concerning detainees, "would interfere with the President's constitutional authority as Commander in Chief and Chief Executive during a time of armed conflict." n200

#### Congress key to legal clarity

Mark David Maxwell, Colonel, Judge Advocate with the U.S. Army, Winter 2012, TARGETED KILLING, THE LAW, AND TERRORISTS, Joint Force Quarterly, http://www.ndu.edu/press/targeted-killing.html

The weakness of this theory is that it is not codified in U.S. law; it is merely the extrapolation of international theorists and organizations. The only entity under the Constitution that can frame and settle Presidential power regarding the enforcement of international norms is Congress. As the check on executive power, Congress must amend the AUMF to give the executive a statutory roadmap that articulates when force is appropriate and under what circumstances the President can use targeted killing. This would be the needed endorsement from Congress, the other political branch of government, to clarify the U.S. position on its use of force regarding targeted killing. For example, it would spell out the limits of American lethality once an individual takes the status of being a member of an organized group. Additionally, statutory clarification will give other states a roadmap for the contours of what constitutes anticipatory self-defense and the proper conduct of the military under the law of war. Congress should also require that the President brief it on the decision matrix of articulated guidelines before a targeted killing mission is ordered. As Kenneth Anderson notes, “[t]he point about briefings to Congress is partly to allow it to exercise its democratic role as the people’s representative.”74 The desire to feel safe is understandable. The consumers who buy SUVs are not buying them to be less safe. Likewise, the champions of targeted killings want the feeling of safety achieved by the elimination of those who would do the United States harm. But allowing the President to order targeted killing without congressional limits means the President can manipulate force in the name of national security without tethering it to the law advanced by international norms. The potential consequence of such unilateral executive action is that it gives other states, such as North Korea and Iran, the customary precedent to do the same. Targeted killing might be required in certain circumstances, but if the guidelines are debated and understood, the decision can be executed with the full faith of the people’s representative, Congress. When the decision is made without Congress, the result might make the United States feel safer, but the process eschews what gives a state its greatest safety: the rule of law.

#### Moral hazard DA

**Mustin and Rishikof, ’11** \*BS, JD, MBA, MA in International Affairs \*\*AND BA, MA, JD, Chair of the ABA Standing Committee on Law and National Security, Professor of law and chair of the Department of National Security Strategy at the National War College (Jeff Mustin and Harvey Rishikof, Summer 2011, “Projecting Force in the 21st Century – Legitimacy and the Rule of Law,” 63 Rutgers L. Rev. Iss. 4)//CC

While the bin Laden raid demonstrates a positive result and the operation shows a clear need to maintain an ability to conduct covert action, it is important to emphasize that covert action is not without policy hazards. The danger in blurring the line between covert action and traditional military activities is that policymakers will choose to authorize what might normally be characterized as a traditional military activity under the guise of a covert action in order to circumvent the need for accountability or international support. Applying traditional military force without transparency is not the raison d’etre for a covert capability. For a case study, one need not look further than our current military conflict in AF/PAK. Is the precision bombing campaign being conducted truly a traditional military activity or a covert action? While arguments can be made for both sides, the mission of precision bombing, especially over an extended duration, has traditionally fallen to the United States Air Force or United States Navy. The action, despite its legal authorization, is certainly overt; newspapers chronicle the airstrikes daily.«3 One must wonder, then, how the concept of “covert” is being understood on the modern battlefield.

### AT: Impact

#### No Pakistan takeover

**ASG 10 – The Afghanistan Study Group**—an ad hoc group of public policy practitioners, former U.S. government officials, academics, business representatives, policy-concerned activists and association leaders concerned with the Obama administration’s policy course in Afghanistan, 2010 (“America’s Interests,” *A New Way Forward: Rethinking U.S. Strategy in Afghanistan*, August 16th, Available Online at http://www.afghanistanstudygroup.org/NewWayForward\_report.pdf, Accessed 08-29-2010)

Fortunately, the danger of a radical takeover of the Pakistani government is small. Islamist extremism in Pakistan is concentrated within the tribal areas in its northwest frontier, and largely confined to its Pashtun minority (which comprises about 15 percent of the population). The Pakistani army is primarily Punjabi (roughly 44 percent of the population) and remains loyal. At present, therefore, this second strategic interest is not seriously threatened.

#### No chance it goes nuclear

**Enders 2** (Jan 30, David, Michigan Daily, “Experts say nuclear war still unlikely,” http://www.michigandaily.com/content/experts-say-nuclear-war-still-unlikely, mrs)

\* Ashutosh Varshney – Professor of Political Science and South Asia expert at the University of Michigan

\* Paul Huth – Professor of International Conflict and Security Affairs at the University of Maryland

\* Kenneth Lieberthal – Professor of Political Science at the University of Michigan. Former special assistant to President Clinton at the National Security Council

University political science Prof. Ashutosh Varshney becomes animated when asked about the likelihood of nuclear war between India and Pakistan.

"Odds are **close to zero**," Varshney said forcefully, standing up to pace a little bit in his office. "The assumption that India and Pakistan cannot manage their nuclear arsenals as well as the U.S.S.R. and U.S. or Russia and China concedes less to the intellect of leaders in both India and Pakistan than would be warranted."

The worlds two youngest nuclear powers first tested weapons in 1998, sparking fear of subcontinental nuclear war a fear Varshney finds ridiculous.

"The decision makers are aware of what nuclear weapons are, even if the masses are not," he said.

"Watching the evening news, CNN, I think they have **vastly overstated the threat of nuclear war,"** political science Prof. Paul Huth said.

Varshney added that there are numerous factors working against the possibility of nuclear war.

"India is committed to a no-first-strike policy," Varshney said. "It is virtually impossible for Pakistan to go for a first strike, because the retaliation would be gravely dangerous."

Political science Prof. Kenneth Lieberthal, a former special assistant to President Clinton at the National Security Council, agreed. "Usually a country that is in the position that Pakistan is in would not shift to a level that would ensure their total destruction," Lieberthal said, making note of India"s considerably larger nuclear arsenal.

"American intervention is another reason not to expect nuclear war," Varshney said. "If anything has happened since September 11, it is that the command control system has strengthened. The trigger is in very safe hands."

#### No impact to prolif

Colin H. **Kahl 12**, security studies prof at Georgetown, senior fellow at the Center for a New American Security, was Deputy Assistant Secretary of Defense for the Middle East, “Not Time to Attack Iran”, January 17, <http://www.foreignaffairs.com/articles/137031/colin-h-kahl/not-time-to-attack-iran?page=show>

Kroenig argues that there is an urgent need to attack Iran's nuclear infrastructure soon, since Tehran could "produce its first nuclear weapon within six months of deciding to do so." Yet that last phrase is crucial. The International Atomic Energy Agency (IAEA) has documented Iranian efforts to achieve the capacity to develop nuclear weapons at some point, but there is no hard evidence that Supreme Leader Ayatollah Ali Khamenei has yet made the final decision to develop them. In arguing for a six-month horizon, Kroenig also misleadingly conflates hypothetical timelines to produce weapons-grade uranium with the time actually required to construct a bomb. According to 2010 Senate testimony by James Cartwright, then vice chairman of the U.S. Joint Chiefs of Staff, and recent statements by the former heads of Israel's national intelligence and defense intelligence agencies, even if Iran could produce enough weapons-grade uranium for a bomb in six months, it would take it at least a year to produce a testable nuclear device and considerably longer to make a deliverable weapon. And David Albright, president of the Institute for Science and International Security (and the source of Kroenig's six-month estimate), recently told Agence France-Presse that there is a "low probability" that the Iranians would actually develop a bomb over the next year even if they had the capability to do so. Because there is no evidence that Iran has built additional covert enrichment plants since the Natanz and Qom sites were outed in 2002 and 2009, respectively, any near-term move by Tehran to produce weapons-grade uranium would have to rely on its declared facilities. The IAEA would thus detect such activity with sufficient time for the international community to mount a forceful response. As a result, the Iranians are unlikely to commit to building nuclear weapons until they can do so much more quickly or out of sight, which could be years off.

#### Regional cooperation prevents the impact

**Innocent and Carpenter, 9 –** \*foreign policy analyst at Cato who focuses on Afghanistan and Pakistan AND \*\*vice president for defense and foreign policy studies at Cato (Malou and Ted, “Escaping the Graveyard of Empires: A Strategy to Exit Afghanistan,” http://www.cato.org/pubs/wtpapers/escaping-graveyard-empires-strategy-exit-afghanistan.pdf)

Additionally, regional stakeholders, especially Russia and Iran, have an interest in a stable Afghanistan. Both countries possess the capacity to facilitate development in the country and may even be willing to assist Western forces. In July, leaders in Moscow allowed the United States to use Russian airspace to transport troops and lethal military equipment into Afghanistan. Yet another relevant regional player is the Collective Security Treaty Organization, made up of Russia, Kazakhstan, Tajikistan, Kyrgyzstan, Uzbekistan, Armenia, and Belarus. At the moment, CSTO appears amenable to forging a security partnership with NATO. CSTO secretary general Nikolai Bordyuzha told journalists in March 2009 of his bloc’s intention to cooperate. “The united position of the CSTO is that we should give every kind of aid to the anti-terror coalition operating in Afghanistan. . . . The interests of NATO and the CSTO countries regarding Afghanistan conform unequivocally.”83

**Mutual interests** between Western forces and Afghanistan’s surrounding neighbors can converge on issues of transnational terrorism, the Caspian and Central Asia region’s abundant energy resources, cross-border organized crime, and weapons smuggling. Enhanced cooperation alone will not stabilize Afghanistan, but engaging stakeholders may lead to tighter regional security.

### Turn kills DA

#### Turns the DA

**McNeal 13** [3/15, Gregory, JD, professor at Pepperdine University, former Assistant Director of the Institute for Global Security, former legal consultant to the Chief Prosecutor of the Department of Defense Office of Military Commissions, “Presidential Politics, International Affairs and (a bit on) Pakistani Sovereignty,” Lawfare, http://www.lawfareblog.com/2013/03/presidential-politics-international-affairs-and-a-bit-on-pakistani-sovereignty/]

Other political constraints from outside the U.S. may also impose costs on the conduct of targeted killings and those costs may serve as a form of accountability. For example, in current operations, targeted killings that affect foreign governments (as in domestic public opinion in Pakistan) or alliances (as in the case of UK support to targeting) all have associated with them higher political costs. Other international political constraints can impose accountability on the targeting process. For example, if Pakistan wanted to credibly protest the U.S. conduct of targeted killings, they could do so through formal mechanisms such as complaining at the UN General Assembly, petitioning the UN Security Council to have the matter of strikes in their country added to the Security Council’s agenda, or they could lodge a formal complaint with the UN Human Rights Committee. (UPDATE: In Emmerson’s letter he notes that the Pakistani government says they have at least made “public statements” regarding their lack of consent and their calls for “an immediate end to the use of drones by any other State on the territory of Pakistan.”). **Pakistan could also expel U.S. personnel from their country, reject U.S. foreign aid, cut off diplomatic relations, and even threaten to shoot down U.S. aircraft.** Despite apoplectic headlines, ledes and press releases, the fact that Pakistan has not pursued these means of international political accountability says a lot about the credibility of the sovereignty complaint. Another international political mechanism can be seen in the form of overflight rights. As Zenko notes, sovereign states can constrain U.S. intelligence and military activities; “[t]hough not sexy and little reported, deployingCIA drones or special operations forces requires **constant behind-the-scenes diplomacy**: with very rare exceptions—like the Bin Laden raid—the U.S. military follows the rules of the world’s other 194 sovereign, independent states.” Other international political checks can be seen in the conduct of military operations. For example, during the 1991 Gulf War, the U.S. lawfully targeted Iraqi troops as they fled on what became known as the “highway of death.” The images of destruction broadcast on the news caused a rift in the coalition. Rather than lose coalition partners, the U.S. chose to stop engaging fleeing Iraqi troops, even though those troops were lawful targets. The U.S. government has similarly noted the importance of international public opinion, even highlighting its importance in its own military manuals. For example, the Army’s Civilian Casualty Mitigation manual states civilian casualties may “lead to ill will among the host-nation population and political pressure that can limit freedom of action of military forces. If Army units fail to protect civilians, for whatever reason, **the legitimacy of U.S. operations is likely to be questioned by the host nation and other partners**.”(See more here).

#### Outweighs link

Fair et al. 13 [1/23, C. Christine, assistant professor at Georgetown University’s Security Studies Program, Karl Kaltenthaler, professor of political science at the University of Akron, and William Miller, assistant professor of public administration at Flagler College, “You Say Pakistanis All Hate the Drone War? Prove It,” http://www.theatlantic.com/international/archive/2013/01/you-say-pakistanis-all-hate-the-drone-war-prove-it/267447/]

How **Obama Can Turn the Tide of Public Opinion** The narrative of analysts who presume to speak on behalf of all Pakistan is vitally important. Local and international media react to it. Pakistan's government and even the military are responsive to it. Increasingly, anti-drone commentary has influenced American views on drones and emboldened drone critics at home. The United States has avoided discussing this program publicly **because it is covert.** Officials likely suspect that being more transparent about the program will have little effect because they, too, assume that Pakistanis universally oppose the drones. **However, our analysis suggests that such assumptions are dead wrong.** Pakistanis are indeed responsive to information about this program -- for better or for worse. If the United States wants to make this program sustainable, it will likely have to find ways of being more transparent. The drone war may be a war against militants. But there is also a war for Pakistani hearts and minds about the legitimacy of the war against militancy as well as the means to fight it, including the use of armed drones. Washington needs to be more assertive and transparent in discussing drone strikes in Pakistan because it must draw to its side the **large swath of the population that doesn't even know about the program**. This may mean using radio, non-cable TV (including local Pakistani networks) or even hyperlocal media such as SMS -- and it means doing so in Urdu and perhaps other vernacular languages. So far, the United States seems content to communicate with Pakistanis using the language only a miniscule fraction of the country knows: English. There is space for a genuine struggle over Pakistani public opinion, but the U.S. government has to enter the fray with greater openness and transparency. This may be **the only way to save the drone program President Obama so values**.

### JSOC solves

#### JSOC solves—1ac Zenko

Ackerman, 13 [Little Will Change If the Military Takes Over CIA’s Drone Strikes By Spencer Ackerman 03.20.13 12:23 PM, http://www.wired.com/dangerroom/2013/03/military-drones/]

Nor does the change to military drone control restrict the relevant legal authorizations in place. The Obama administration relies on an expansive interpretation of a 2001 congressional authorization to run its global targeted-killing program. If that authorization constrains the military to the “hot” battlefield of Afghanistan, someone forgot to tell the Joint Special Operations Command to get out of Yemen.

#### JSOC shift solves

Grenier, 14 [ Rules of Engagement: The Legal, Ethical and Moral Challenges of the Long War February 21, 2014 Robert Grenier, former Director, C.I.A. Counterterrorism Center; former C.I.A. Station Chief, Islamabad, Pakistan; former Managing Director, Kroll, Inc.; Chairman of ERG Partners,http://dronecenter.bard.edu/transcript-rules-engagement/]

With regard to transparency, I think this issue of whether a given action should be taken by the CIA or by JSOC or by others in the defense community is a little bit of a red herring. At the end of the day, I think it’s probably the same people who are going to be doing pretty much the same things under the same authorities—in this case, probably Title 50 authorities, which govern the intelligence world, versus Title 10 authorities, which govern the military. When you’re taking actions outside of an active war zone—and help me out here, Chuck, if I wander off the path—then normal Title 10 authorities do not apply; it’s Title 50 authorities. However, you can take individuals, uniformed military, and bring them into the intelligence rubric in order to take action. I think the most obvious recent example of that was in the killing of bin Laden. As I understand it, the JSOC operators who raided Abbottabad, Pakistan, and killed bin Laden were operating under the authority of Leon Panetta, who was the CIA director at the time. They were essentially choppered over for that purpose and then, presumably, when they went back across the border into Afghanistan, they turned back into pumpkins. With regard to, as you say, things that used to happen all the time back in the Cold War, I think there are some important distinctions that we need to make here. Any time now, since theChurch-Pike hearings of the 1970s and the reforms that took place subsequent to that, any action whose purpose is to affect events on the ground, as opposed to merely report on them, can only be engaged in with presidential approval, under the terms of a so-called presidential finding. Now, back in the dark ages, when presidents may have leaned back and said, “Can’t you do something about Fidel Castro?” then it was perhaps possible to do all sorts of things that would be absolutely illegal now. But since the Ford administration, any time the intelligence community was called upon to do anything which, again, affected the situation on the ground, whether it was killing or whether it was spreading propaganda—something that was designed to have an effect in the real world—it could only be done if approved by the president himself or herself under a finding. Does that help you? CHARLES BLANCHARD: I talked a little bit about transparency. JSOC isn’t exactly a warm and open, press-friendly organization. I think the CIA is just inherently, by its very nature, culturally not going to be transparent. I think that’s true of the Special Forces within DoD as well. That’s not as true of other parts of the military. One solution might be, as part of a new authorization for the use of military force, to effectively do a knit on Title 50 to allow these authorities to be done someplace else. That might be an option. But I do think we’re in sort of a silly world now, where people read about it in the paper, public officials talk about what’s being done, general counsels of various departments are giving speeches, and yet we don’t talk about what’s happening. When there’s a drone strike that appears to have gone wrong, even if we don’t believe what’s being said has actually occurred, we’re not allowed to talk about it.

#### Operations are still deniable

Wirbel, 10 [StratCom: The Fulcrum for Drone Warfare - Page: 1Loring Wirbel, Citizens for Peace in Space,http://nebraskansforpeace.org/fulcrum-drone-warfare

This is where the JSOC and Blackwater come in. According to Jeremy Scahill’s article in the December 21/28, 2009 issue of The Nation magazine, JSOC established a deniable operation in Karachi, Pakistan, staffed exclusively by members of two Blackwater/Xe subsidiaries, ‘Blackwater Select’ and ‘Total Intelligence Solutions Inc.’ The teams at this office are involved in both extraordinary renditions of individuals and UAV bombing missions in the frontier areas of the Pakistan/Afghanistan border. This report coincides with back-to-back articles in The New York Times in August 2009 claiming that Blackwater was responsible for both an earlier ‘hit squad’ team organized out of then-Vice President Dick Cheney’s office, and a later armed UAV effort to augment the CIA’s own. In essence, the expansion of drone assaults by CIA and JSOC have made ground-based assassination squads largely unnecessary.