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### Drone Industry Advantage

#### Backlash undermines domestic drone industry- non-military companies are key

Lowdy ‘13 (Joan Lowy, “Drone industry worries about privacy backlash”, <http://bigstory.ap.org/article/drone-industry-worries-about-privacy-backlash>, March 29, 2013)

It’s a good bet that in the not-so-distant future aerial drones will be part of Americans’ everyday lives, performing countless useful functions. A far cry from the killing machines whose missiles incinerate terrorists, these generally small unmanned aircraft will help farmers more precisely apply water and pesticides to crops, saving money and reducing environmental impacts. They’ll help police departments to find missing people, reconstruct traffic accidents and act as lookouts for SWAT teams. They’ll alert authorities to people stranded on rooftops by hurricanes, and monitor evacuation flows. Real estate agents will use them to film videos of properties and surrounding neighborhoods. States will use them to inspect bridges, roads and dams. Oil companies will use them to monitor pipelines, while power companies use them to monitor transmission lines. With military budgets shrinking, drone makers have been counting on the civilian market to spur the industry's growth. But there's an ironic threat to that hope: Success on the battlefield may contain the seeds of trouble for the more benign uses of drones at home. The civilian unmanned aircraft industry worries that it will be grounded before it can really take off because of fear among the public that the technology will be misused. Also problematic is a delay in the issuance of government safety regulations that are needed before drones can gain broad access to U.S. skies. Some companies that make drones or supply support equipment and services say the uncertainty has caused them to put U.S. expansion plans on hold, and they are looking overseas for new markets. "Our lack of success in educating the public about unmanned aircraft is coming back to bite us," said Robert Fitzgerald, CEO of The BOSH Group of Newport News, Va., which provides support services to drone users. "The U.S. has been at the lead of this technology a long time," he said. "If our government holds back this technology, there's the freedom to move elsewhere ... and all of a sudden these things will be flying everywhere else and competing with us." Since January, drone-related legislation has been introduced in more than 30 states, largely in response to privacy concerns. Many of the bills are focused on preventing police from using drones for broad public surveillance, as well as targeting individuals for surveillance without sufficient grounds to believe they were involved in crimes. Law enforcement is expected to be one of the bigger initial markets for civilian drones. Last month, the FBI used drones to maintain continuous surveillance of a bunker in Alabama where a 5-year-old boy was being held hostage. In Virginia, the state General Assembly passed a bill that would place a two-year moratorium on the use of drones by state and local law enforcement. The bill must still be signed by Gov. Bob McDonnell, a Republican. The measure is supported by groups as varied as the American Civil Liberties Union on the left and the Virginia Tea Party Patriots Federation on the right. "Any legislation that restricts the use of this kind of capability to serve the public is putting the public at risk," said Steve Gitlin, vice president of AeroVironment, a leading maker of smaller drones, including some no bigger than a hummingbird Seattle abandoned its drone program after community protests in February. The city's police department had purchased two drones through a federal grant without consulting the city council. Drones "clearly have so much potential for saving lives, and it's a darn shame we're having to go through this right now," said Stephen Ingley, executive director of the Airborne Law Enforcement Association. "It's frustrating."

#### Resolving public hostility key

Kaste ’13 (Martin Kaste / NPR, “Will Bureaucracy Keep The U.S. Drone Industry Grounded?”, <http://www.ideastream.org/news/npr/179843540>, April 30, 2013)

Tough federal aviation rules and public backlash against drones have raised worries that the U.S. unmanned aerial vehicle industry will be left behind foreign competitors. Developers say the U.S. light drone industry is being overtaken by manufacturers in Israel and Australia. Americans are suspicious of drones. Reports of the unmanned aerial vehicles' use in war zones have raised concerns about what they might do here at home. For instance, in Seattle earlier this year, a public outcry forced the police department to abandon plans for eye-in-the-sky UAV helicopters. The backlash worries Paul Applewhite, an aerospace engineer with 10 years of experience at companies like McDonnell Douglas and Sikorsky. He now runs his own startup company, Applewhite Aero, in an industrial park on the south side of Seattle. Applewhite is developing drones — or UAVs, as the industry calls them. He shows off a 3-pound Styrofoam plane he has dubbed the Invenio. "We bought the airframe and the motor off of an online hobby shop," he says. To make it a UAV, he added a GPS antenna and a circuit board that allows it to fly autonomously. He hopes to sell it to aid agencies; medical teams could use it to fly tissue samples back to a lab, for instance. They'd enter the coordinates, and the Invenio would find its way back. That's the theory. The reality is, Applewhite can't know for sure what his plane can do, because he's not allowed fly it. The Federal Aviation Administration bars the use of UAVs for commercial purposes. That means, even though it's perfectly legal for hobbyists to fly small UAVs, Applewhite may not, because he's in business. He has applied for a special test permit, called a certificate of airworthiness, but that process has dragged on since last August. "We've generated a 62-page document that we've submitted to the federal government," he says, and he assumes he'll have to meet personally with regulators in Washington, D.C., before he's allowed to make a few short flights with his modified toy. "Quite frankly, I could do what I need to do in a cow pasture," he says. "I just need some legal and efficient way to test this aircraft." Applewhite is quick to stress his respect for the FAA's thoroughness in the interest of safety. But in the case of lightweight experimental UAVs, he says, that thoroughness threatens to stifle startups like his — and perhaps a whole nascent industry. He says he's losing valuable time while potential customers go elsewhere. "A lot of our universities that are developing [UAV] training programs, they're buying a vehicle from Latvia," he says. "I think I could compete on that, but I just can't test mine in the United States." Developers say the U.S. light drone industry is being overtaken by manufacturers in Israel and Australia; Seattle's controversial police UAVs came from Canada. The FAA won't comment on the permitting process for UAV tests. Heidi Williams, vice president for air traffic services and modernization at the Aircraft Owners and Pilots Association, defends the FAA's cautious approach. "Their primary mission is ensuring that the airspace environment that we all operate in is safe," says Williams, who is also a pilot. "Things that are really tiny or small to see, sometimes can be very close before you actually have time to see them and react and avoid them." UAV developers admit there's still no reliable way to "teach" small drones to avoid other aircraft, but they say there's little danger as long as they're tested at low altitudes, away from airports — the same rules that already apply to radio-controlled hobby aircraft. Juris Vagners, a professor emeritus of aeronautics at the University of Washington, helped pioneer UAVs in the 1990s. "There was some paperwork, but it wasn't anything like what's going on today," he says. Now the permitting process verges on the absurd. During a recent application, he says, it took a couple of months to satisfy the FAA that the University of Washington is, in fact, a public institution. Vagners blames the red tape on the public's hostility toward drones. "As everyone can't help but be aware, there's the whole big flap about privacy issues," Vagners says. "And the approach that is being taken by the FAA is basically a one size fits all." For example, commercial developers of 3-pound modified toy airplanes find themselves having to apply for an "N-number" — the same flying license plate that's required for Cessnas and 747s. Some frustrated American companies are now taking their prototypes to Mexico and Australia for testing. In Canada, the Canadian Centre for Unmanned Vehicle Systems is offering access to a test site among the flat farm fields of southern Alberta. One American drone developer has already used the facility, which is run by Sterling Cripps. He marvels at the bureaucratic hurdles for UAVs, both in Canada and in the U.S. "Here's the hypocrisy: Our governments allow us to fly UAVs over war-stricken, terrified civilians in other lands, but the moment you bring them back to our precious neck of the woods, where we're not getting shot at, where we have insurance, we have lawyers, they won't allow it," Cripps says. Regulators say they will allow it — eventually. Congress has given the FAA until September 2015 to come up with a plan for integrating commercial UAVs to the domestic airspace. As part of that process, the FAA will pick six sites around the country for UAV testing. The sites are expected to be selected by the end of the year. That's an eternity to UAV developers like Paul Applewhite. "We have a technology — we have an industry — that could be ours for the taking," Applewhite says. "We're losing it because we can't test the vehicles."

#### Armed drones are the issue

Wood ’13 (David Wood, Wood has been a journalist since 1970, a staff correspondent successively for Time Magazine, the Los Angeles Times, Newhouse News Service, The Baltimore Sun and Politics Daily. A birthright Quaker and former conscientious objector, he covers military issues, foreign affairs and combat operations. His 10-part series on the severely wounded of Iraq and Afghanistan won the 2012 Pulitzer Prize for national reporting, A Pulitzer Prize finalist, he has won the Gerald R. Ford Prize for Distinguished Defense Reporting and other national awards. He has appeared on CNN, CSPAN, the PBS News Hour, WUSA , RTV and the BBC, and is a regular guest on National Public Radio’s Diane Rehm Show. He has lectured at the U.S. Army Eisenhower Fellows Conference , the Marine Staff College, the Joint Forces Staff College and Temple University, “Drone Attacks Spur Legal Debate On Definition Of 'Battlefield'”, <http://www.huffingtonpost.com/2013/02/14/drone-attacks-legal-debate_n_2687980.html>, February 14, 2013)

WASHINGTON -- After a CIA Predator drone released its guided bomb high over Yemen on Nov. 3, 2002, the resulting explosion did more than kill six suspected al Qaeda terrorists riding in the targeted car. This strike, the first by an armed drone outside a traditional, recognized war zone, also blew apart long-held notions of "war" and "battlefield" which had guided the application of the legal traditions, treaties and laws of armed conflict for centuries. Until that day, armed drones had been used only in Afghanistan, easily identifiable as a traditional battlefield or war zone because it had supported al Qaeda's 9/11 plotters and the U.S. armed response was justifiable self-defense. Any casual observer could see a war was underway. Yemen was different. The White House was not sending tens of thousands of troops, and there was no solemn Oval Office speech summoning the nation to battle there. However, though few knew it at the time, earlier that year Yemen had been officially designated as a "combat zone" making the killings legal, at least in the eyes of the CIA and the White House of George W. Bush. But ever since that first "non-battlefield" drone strike, generals and legal scholars, pundits and politicians have argued passionately about what, exactly, constitutes an armed conflict, or a war zone, or a battlefield, and what is outside armed conflict. The distinction matters. "Inside an armed conflict, you are allowed to kill people without warning. Outside, you are not," says Notre Dame law professor Mary Ellen O'Connell, a specialist in international laws of war and conflict. "That makes it pretty important to know whether you're on a battlefield or not." And not just if you're standing on a battlefield. As difficult as it is to pin down the law of armed conflict, "it's really important to raise these questions, because we've been lulled since 9/11 into the sense that our government has the ability to decide through its intelligence agencies who is a bad guy and to kill him and the people around him," O'Connell told The Huffington Post. "I don't want to see them drag the law down and lose the world as a place in which the law is held as a high standard." Difficult questions about international law are boiling up because of the Obama administration's accelerating use of armed drones against what it says are suspected terrorists in Pakistan, Yemen and Somalia, and potentially elsewhere as well. In his State of the Union address Tuesday, President Obama seemingly acknowledged the growing public unease about the program's troubling secrecy and whether the strikes are justified and legal. He would, he promised, be "even more transparent" about how the strikes comply with the law. That vague wording promises that the bitter disagreements over what the law says, and how it applies, are only going to get more heated. "I don't think we are ever going to have a precise answer," says Laurie R. Blank, director of the International Humanitarian Law Center at Emory University School of Law and the author of several books on war and international law. In the long history of warfare, there have been clear-cut cases where existing law applies, mostly when two governments are at war in a geographically defined area. "But the nature of the world today is that it makes it difficult to put war into neat and tidy packages," Blank says. War and the law have come a long way from that muddy day in October almost 600 years ago when British infantry and archers memorably clashed with French knights near the Normandy village of Maisoncelles. It was a modest, neatly-defined battle, or armed conflict: the belligerents were drawn up at either end of a small wheat field; the bristling battle lines were barely 1,000 yards apart, and when the carnage was over in a few hours, a pair of professional referees declared British King Henry V the winner and named the battle Agincourt, after a nearby castle. By contrast, many of today's conflicts range over time and space, and belligerents morph from terrorist to civilian to warrior. Do a few suicide bombings in Islamabad define a war zone? Does the taking of hostages at an Algerian gas plant constitute an international armed conflict? Does a skyjacking plot conceived in Afghanistan and planned in Germany, which kills 3,000 people in New York and Washington, create legal war zones or armed conflicts in all four places? What if one of the plotters is hiding in Cleveland? How far does the concept of self-defense go? Can someone just declare an area to be a free-fire "battlefield"? If the United States is at war with terrorists, and there are terrorists inside the United States, can they be targeted with armed drones? If a Taliban sneaks across the Afghan border with Iran, can the U.S. target him there? And is Iran then justified under the U.N. rule of self defense to plant a terrorist bomb in Times Square? Could an al Qaeda terrorist protect himself by becoming an American citizen?

#### Drone usage key to artic exploration- both oil drilling, shipping, and environmental cleanup

Hsu ’13 (Jeremy Hsu, LiveScience, “Drones handle all kinds of work in Arctic -- and there's lots more to do”, <http://www.nbcnews.com/science/drones-handle-all-kinds-work-arctic-theres-lots-more-do-8C11012648>, August 27, 2013)

Small drones may soon take to the skies above Earth's top with the aim of making survival there easier for both humans and wild animals. Such unmanned aircraft represent the first in a coming wave of Arctic drones that could watch out for oil spills, track ice floes and migrating whales, or help the U.S. Coast Guard in search-and-rescue operations. The Federal Aviation Administration (FAA) recently gave its first restricted approval for two commercial drone operations in the Arctic — a first step toward routine use of drones by companies aiming to monitor rich fisheries, expand oil-drilling operations and send more shipping across the increasingly ice-free summer waters of the Arctic Ocean. But several companies had already partnered with the University of Alaska Fairbanks to conduct experimental tests of drones in Alaska under FAA waivers or certificates of authorization. "We've done work for oil companies, but it's also research because they and we are trying to figure out if unmanned aircraft are effective and good for the job," said Ro Bailey, deputy director of the Alaska Center for Unmanned Aircraft Systems Integration at the University of Alaska Fairbanks. [9 Totally Cool Uses for Drones] Such work can benefit scientists and Alaskan citizens as well as oil companies. Unmanned aircraft operated by the University of Alaska Fairbanks have helped check out oil pipelines for energy giant BP, counted Stellar sea lions in the Aleutian Islands and guided a Russian fuel tanker to deliver emergency supplies to Nome, Alaska. Preventing man versus wild Human interest in the Arctic has skyrocketed as the melting ice opens up new opportunities for energy exploration and shipping. Small drones weighing less than 55 pounds (25 kilograms) offer the promise of both helping and monitoring such commercial activities in the territories once ruled by polar bears, sea lions and whales — all while keeping an eye out to prevent unhappy encounters between humans and wildlife. An unmanned Aeryon Scout drone flown by the University of Alaska Fairbanks stayed on the lookout for polar bears during a fuel resupply mission to Nome in January 2012. The small drone (on loan from BP Alaska) also helped monitor ice conditions as the Russian fuel tanker Renda and the U.S. Coast Guard icebreaker Healy made their way into Nome's harbor. [How Unmanned Drone Aircraft Work (Infographic)] "We helped lay out the path for the fuel hose from the fuel tanker to the storage tanks, and we did some monitoring to help humans wandering around to not encounter polar bears," Bailey told LiveScience. "A polar bear encounter is not good for the humans, as you might guess." Drones may also help oil companies watch out for wildlife movements when planning where to drill for oil or lay out pipelines. In a worst-case scenario, drones could spot mammals or birds affected by oil spills and help out cleanup efforts by keeping an eye on the oil spills themselves. The two recent FAA approvals for commercial operations have focused on this type of work. Conoco Phillips plans to use an Insitu ScanEagle drone to survey ice floes and migrating whales in Arctic oil exploration regions off the Alaska coast this summer. Similarly, an AeroVironment Puma drone received the go-ahead to help emergency responders monitor oil spills and wildlife over the Beaufort Sea just north of Alaska. Drone Small drones have proven surprisingly tough in the face of the harsh Arctic climate. The extreme cold temperatures reduce the battery life of drones and cut down on flying times, but Bailey said the unmanned aircraft tested by the University of Alaska Fairbanks have performed well overall. The university has even helped engineer improvements for some drones and the instruments they carry. "In our experience, the unmanned aircraft work fine in temperatures 30 (degrees F) below," Bailey said. "We have more problems with our laptops, because laptops don't like the cold at all." The sturdiness comes in handy for studying the natural hazards found in the Arctic environment. Drones can help spot the heat signatures of wounded people trapped in collapsed buildings in the aftermath of an earthquake, or map the borders of Alaskan wildfires with infrared vision. They can also evaluate the risk of avalanches or monitor glacier lakes capable of unleashing sudden floods. Cutting the red tape Such drone activities may become even more frequent if the FAA can eventually finalize the rules for type-certified unmanned aircraft — a certification of safety and airworthiness that would allow anyone to buy and operate the certified drones without special waivers or certificates. (Pilot licenses would still be a separate issue.) The FAA is also looking to create permanent airspace corridors for drone operations in the Arctic, as charged by Congress through the FAA Modernization and Reform Act of 2012. Those corridors would be open to drone flights for research, commercial or government purposes. The University of Alaska Fairbanks has submitted an application to become one of six new FAA test sites for drones chosen at the end of this year. University researchers expect the demand for small drone operations to rise whenever drones can finally fly with less regulatory hurdles. "We are already tapped with more work than we can handle," Bailey said. "Once the rules are established, they'll cut down on paperwork, but won't cut down on work."

#### Scenario 1: Trans-Alaska Pipeline

#### US Drilling is key to economic growth and open access to pressure resources- prevents Trans-Alaska Pipeline System collapse

Holt ’12 (David Holt, President of Consumer Energy Alliance, “HOLT: Arctic oil and gas exploration could revitalize West Coast”, <http://www.washingtontimes.com/news/2012/oct/23/arctic-oil-and-gas-exploration-could-revitalize-we/>, October 23, 2012)

The United States took a giant step toward securing its energy future this month with the initiation of drilling exploratory wells in the Beaufort and Chukchi seas. The development of these wells marks the first time in nearly two decades that multiple oil drilling rigs have been working off Alaska’s shore simultaneously. While this may seem like a minor development, it has the potential to profoundly change America’s economic and energy future. This begs the question, how can two oil wells have such a significant impact on the energy future of the United States? The answer lies in the abundance of the resources being tapped. Federal officials estimate the Chukchi and Beaufort seas could contain upward of 27 billion barrels of oil and 132 trillion cubic feet of natural gas. Put another way, that’s the largest untapped source of proven oil reserves in North America. For the West Coast in particular, these resources represent a tremendous economic opportunity that could provide the foundation for the region’s future. After all, development is expected to provide more than 50,000 jobs nationwide, significant state and local government revenues, and a more affordable and reliable source of energy for the entire West Coast, one of the largest economic regions of the United States. A more affordable source of energy is critical to the western United States’ long-term success, as the region currently must import more than 1 million barrels of oil a day to meet its energy needs. After being self-sufficient in the 1980s, the West Coast has quadrupled its reliance on OPEC over the past two decades. The production of oil and gas resources in Alaska’s North Slope is also critical for the longevity of one of our nation’s most critical infrastructure assets, the Trans-Alaska Pipeline System. With Prudhoe Bay production declines, the volume of oil transported through the pipeline has dropped to an average of 595,000 barrels a day. Operating at such a low capacity could force the pipeline to close because of weather challenges. If this happens, the main source of domestic crude oil to Western refineries would be sacrificed, and the West Coast’s economy would suffer. The road that led to this situation was paved with a combination of prohibitive regulations, declining production and the lack of a national energy plan. This didn’t begin with the current president, but he hasn’t helped much, either. Since President Obama took office in 2009, oil production on federal lands has reached its lowest point in nearly a decade. Last year alone, production on federal lands dropped 13 percent, and federal offshore production dropped by 17 percent. While the president approved the operations in the Arctic, it took him four years to do so, and final approvals came only after strident objections of opponents that the administration failed to rein in. These opponents would like us to believe it’s too risky to safely explore the Arctic. They argue we should forget about these resources that are nearly a quarter of our known, technically recoverable Outer Continental Shelf reserves. While opponents are concerned with the safety of the Arctic’s sensitive ecosystem, it is unfair to assume the oil and gas industry does not share the same sentiment. For companies such as Royal Dutch Shell PLC, the launch of this project is the culmination of more than $5 billion in investments and six years of preparation, which have enabled the project to receive approval from the Environmental Protection Agency as well as multiple other federal agencies with oversight of the operations. Commandant of the Coast Guard Adm. Robert J. Papp Jr. has stated his belief that both the industry and the Coast Guard are ready for the task. “[Shell] truly did their homework, I believe,” Adm. Papp said, “and I think they are going to be well prepared.” Other Arctic nations — including Canada, Russia, Norway and Greenland — already have established or will soon establish Arctic offshore oil and gas programs. In fact, the United States is one of the last nations to tap into the resources off our own coastline. Doing so is a critical part of any “all of the above” energy portfolio. Technological advances have led to the shale revolution, and they are enabling Arctic exploration as well. As a world leader, the United States needs to seize this opportunity to raise the bar for responsible energy production that will propel our economy forward. We can no longer afford to block access to our natural resources, placing our own economy and quality of life at risk. In the case of Arctic oil and gas programs, the economic health of the entire West Coast of the United States is at stake — which, in California, includes the world’s ninth-largest economy.

#### Race is zero sum and the US is losing

Reichmann ’14 (Deb Reichmann, Associated Press, Journalist for AP, Salon, and RealClear World, “Nations jockey for Arctic position, US not in lead”, <http://www.stltoday.com/news/national/govt-and-politics/nations-vie-for-clout-in-arctic-us-far-from-lead/article_a63ef802-3c0d-5311-9fdd-6c8f283940a6.html>, January 01, 2014)

The U.S. is racing to keep pace with stepped-up activity in the once sleepy Arctic frontier, but it is far from being in the lead. Nations across the world are hurrying to stake claims to the Arctic's resources, which might be home to 13 percent of the world's undiscovered oil and 30 percent of its untapped natural gas. There are emerging fisheries and hidden minerals. Cruise liners loaded with tourists are sailing the Arctic's frigid waters in increasing numbers. Cargo traffic along the Northern Sea Route, one of two shortcuts across the top of the Earth in summer, is on the rise. The U.S., which takes over the two-year rotating chairmanship of the eight-nation Arctic Council in 2015, has not ignored the Arctic, but critics say the U.S. is lagging behind the other seven: Russia, Norway, Sweden, Finland, Iceland, Canada and Denmark, through the semiautonomous territory of Greenland. "On par with the other Arctic nations, we are behind \_ behind in our thinking, behind in our vision," Sen. Lisa Murkowski, R-Alaska, said. "We lack basic infrastructure, basic funding commitments to be prepared for the level of activity expected in the Arctic." At a meeting before Thanksgiving with Secretary of State John Kerry, Murkowski suggested he name a U.S. ambassador or envoy to the Arctic \_ someone who could coordinate work on the Arctic being done by more than 20 federal agencies and take the lead on increasing U.S. activities in the region. Murkowski is trying to get Americans to stop thinking that the Arctic is just Alaska's problem. "People in Iowa and New Hampshire need to view the U.S. as an Arctic nation. Otherwise when you talk about funding, you're never going to get there," Murkowski said. She added that even non-Arctic nations are deeply engaged: "India and China are investing in icebreakers." The U.S. has three aging icebreakers. The melting Arctic also is creating a new front of U.S. security concerns. Earlier this month, Russian President Vladimir Putin said expanding Russia's military presence in the Arctic was a top priority for his nation's armed forces. Russia this year began rehabilitating a Soviet-era base at the New Siberian Islands and has pledged to restore a number of Arctic military air bases that fell into neglect after the 1991 collapse of the Soviet Union. Putin said he doesn't envision a conflict between Russia and the United States, both of which have called for keeping the Arctic a peaceful zone. But he added, "Experts know quite well that it takes U.S. missiles 15 to 16 minutes to reach Moscow from the Barents Sea," which is a part of the Arctic Ocean near Russia's shore. While the threat of militarization remains, the battle right now is on the economic level as countries vie for oil, gas and other minerals, including rare earth metals used to make high-tech products like cellphones. There also are disputes bubbling up with environmental groups that oppose energy exploration in the region; Russia arrested 30 crew members of a Greenpeace ship in September after a protest in the Arctic. China signed a free trade agreement with tiny Iceland this year, a signal that the Asian powerhouse is keenly interested in the Arctic's resources. And Russia is hoping that the Northern Sea Route, where traffic jumped to 71 vessels this year from four in 2010, someday could be a transpolar route that could rival the Suez Canal. In the U.S., the Obama administration is consulting with governmental, business, industry and environmental officials, as well as the state of Alaska, to develop a plan to implement the U.S. strategy for the Arctic that President Barack Obama unveiled seven months ago. Defense Secretary Chuck Hagel rolled out the Pentagon's Arctic blueprint last month, joining the Coast Guard and other government agencies that have outlined their plans for the region. There are no cost or budget estimates yet, but the Navy is laying out what the U.S. needs to increase communications, harden ships and negotiate international agreements so nations will be able to track traffic in the Arctic and conduct search and rescue operations. Critics, however, say the U.S. needs to back the strategy papers with more precise plans \_ plus funding. With the country still paying for two wars, the idea of spending money in an area considered a low security threat makes the Arctic an even tougher sell. "The problem with all of these strategies is that they are absolutely silent on budget issues," said Heather Conley, an expert on the Arctic at the Center for Strategic and International Studies. "How do we meet these new challenges? Well, we're going to have to put more resources to them. It's dark. It's cold. There's terrible weather. We need to enhance our own satellite communications and awareness in the area as ships and commercial activity increases in the Arctic." The U.S. needs helicopters, runways, port facilities and roads in the Arctic, she said \_ not to mention better accommodations in small coastal towns that have a shortage of beds and would be ill-equipped to handle an influx of tourists from a disabled cruise ship. With few assets, the U.S. might be forced to borrow from the private sector. "When Shell drilled two summers ago in the Chukchi Sea and the Beaufort Sea, they had 33 vessels and the Coast Guard had one national security cutter," Conley said. "We're not prepared. It may be another 10 years. The Arctic is not going to wait, and the increased commercial and human activity is already there. Other Arctic states are preparing more robustly, and we are choosing not to." The Obama administration defends its work on the Arctic, saying it is preparing for the rapid changes coming in the far north. "Each Arctic government, including the United States government, has developed an Arctic strategy, and the administration expects to release an implementation plan for our Arctic strategy in the coming months," State Department spokeswoman Jen Psaki said. "We recognize that preparing for increasing human activity in the Arctic will require investment in the region, and we hope to be able to say more on this in the future." Malte Humpert with the Washington-based Arctic Institute says that when the implementation plan is completed, he's going to be looking for specifics \_ timelines, budget numbers, plans for new infrastructure. "There's a lot of good, shiny policy and good ideas about how to move forward, and now it's about finding money," he said. "And that's where the U.S. is really far behind." The funding battle often focuses on icebreakers. The Coast Guard has three: the medium-duty Healy, which is used mostly for scientific expeditions, and two heavy icebreakers, the Polar Sea and Polar Star. Both heavy icebreakers were built in the 1970s and are past their 30-year service lives. The Polar Star, however, was recently given a $57 million overhaul, was tested in the Arctic this summer and currently is deployed in Antarctica. About $8 million has been allocated to study the possibility of building a new icebreaker, which would take nearly a decade and cost more than $1 billion. In the meantime, lawmakers from Washington and Alaska want Congress to rehabilitate the Polar Sea too. "A half-century after racing the Russians to the moon, the U.S. is barely suiting up in the international race to secure interests in the Arctic. Russia, Canada and other nations are investing heavily," Rep. Rick Larsen, D-Wash., wrote in an op-ed published earlier this month. "We are behind and falling farther back."

#### Lack of resources cause Ice Wars

Larsen ’11 (Kaj Larsen, CNN, “'Ice Wars' heating up the Arctic”, <http://www.cnn.com/2011/WORLD/americas/07/15/larsen.arctic.ice.wars/index.html>, July 15, 2011)

Tension is building in the Arctic, where countries are vying for valuable natural resources More oil, natural gas and mineral deposits can be accessed now because of climate change There have been territorial disputes over the underwater land where these deposits rest The Arctic is now seeing naval and military activities it hasn't seen since the Cold War (CNN) -- On a small, floating piece of ice in the Beaufort Sea, several hundred miles north of Alaska, a group of scientists are documenting what some dub an "Arctic meltdown." According to climate scientists, the warming of the region is shrinking the polar ice cap at an alarming rate, reducing the permafrost layer and wreaking havoc on polar bears, arctic foxes and other indigenous wildlife in the region. What is bad for the animals, though, has been good for commerce. The recession of the sea ice and the reduction in permafrost -- combined with advances in technology -- have allowed access to oil, mineral and natural gas deposits that were previously trapped in the ice. The abundance of these valuable resources and the opportunity to exploit them has created a gold rush-like scramble in the high north, with fierce competition to determine which countries have the right to access the riches of the Arctic. This competition has brought in its wake a host of naval and military activities that the Arctic hasn't seen since the end of the Cold War. Now, one of the coldest places on Earth is heating up as nuclear submarines, Aegis-class frigates, strategic bombers and a new generation of icebreakers are resuming operations there. Just how much oil and natural gas is under the Arctic ice? The Arctic is home to approximately 90 billion barrels of undiscovered but recoverable oil, according to a 2008 study by the U.S. Geological Survey. And preliminary estimates are that one-third of the world's natural gas may be harbored in the Arctic ice. But that's not all that's up for grabs. The Arctic also contains rich mineral deposits. Canada, which was not historically a diamond-producing nation, is now the third-largest diamond producer in the world. If the global warming trend continues as many scientists project it to, it is likely that more and more resources will be discovered as the ice melts further. Who are the countries competing for resources? The United States, Canada, Russia, Norway, Denmark, Iceland, Sweden and Finland all stake a claim to a portion of the Arctic. These countries make up the Arctic Council, a diplomatic forum designed to mediate disputes on Arctic issues Lawson Brigham, a professor at the University of Alaska Fairbanks and an Arctic expert, says "cooperation in the Arctic has never been higher." But like the oil trapped on the Arctic sea floor, much of the activity of the Arctic Council is happening below the surface. In secret diplomatic cables published by WikiLeaks, Danish Foreign Minister Per Stieg Moeller was quoted as saying to the United States, "If you stay out, the rest of us will have more to carve up the Arctic." At the root of Moeller's statement is a dispute over control of territories that is pitting friend against foe and against friend. Canada and the U.S., strategic allies in NATO and Afghanistan, are in a diplomatic dispute over the Northwest Passage. Canada and Russia have recently signed development agreements together. In the same way a compass goes awry approaching the North Pole, traditional strategic alliances are impacted at the top of the world. Who owns the rights to the resources? Right now, the most far-reaching legal document is the U.N. Convention on Law of the Sea, or UNCLOS. All of the Arctic states are using its language to assert their claims. The Law of the Sea was initially designed to govern issues like fishing rights, granting nations an exclusive economic zone 200 miles off their coasts. But in the undefined, changing and overlapping territory of the Arctic, the Law of the Sea becomes an imperfect guide, and there are disputes over who owns what. One example is the Lomonosov Ridge, which Canada, Denmark and Russia all claim is within their territory, based on their cartographic interpretations. Also complicating matters is the fact that the U.S. has never ratified the Law of the Sea. That has given other Arctic Council nations more muscle to assert territorial rights. So what's next? With murky international agreements and an absence of clear legal authority, countries are preaching cooperation but preparing for conflict. There has been a flurry of new military activity reminiscent of days past. Two U.S. nuclear-powered attack submarines, the SSN Connecticut and the SSN New Hampshire, recently finished conducting ice exercises in the Arctic. Secretary of the Navy Richard Mabus said the purpose of the recent naval exercises was "to do operational and war-fighting capabilities. Places are becoming open that have been ice-bound for literally millennia. You're going to see more and more of the world's attention pointed towards the Arctic." Other Arctic nations are ramping up their military capabilities as well. Just this month, Russia announced that it is deploying two brigades to the Arctic, including a special forces unit. The Russian air force has recently resumed strategic bomber flights over the Pole. Canada, Denmark and Norway are also rapidly rebuilding their military presence. But despite the buildup, almost all of the activity in the Arctic has been within the scope of normal military operations or research. Have we seen this before? There is a long precedent for countries using the Arctic to demonstrate military primacy. On April 25, 1958, the world's first nuclear-powered submarine -- the USS Nautilus (SSN 571) -- began Operation Sunshine, the first undersea transpolar crossing. Done on the heels of the Sputnik satellite launch, it was a demonstration that the U.S. could go places that its Cold War nemesis could not. For the next three decades, U.S. and Soviet submarines would continue to use the Arctic as a proving ground for military prowess. With the end of the Cold War, that activity waned. But in 2007, a Russian expedition planted a flag on the bottom of the polar sea floor, almost 14,000 feet below the surface. This "neo-Sputnik" has brought renewed interest to the Arctic and launched a flurry of activity -- scientific, economic and military -- that is eerily parallel to the decades of tension between the superpowers. The Cold War may be over, but the dethawing of military activity means that the frigid Arctic is once again becoming a hot spot.

#### Oil shocks would cause extinction

Henderson, Besline Research CEO/President/consultant, 07 (Bill, CounterCurrents.org, February 24, “Climate Change, Peak Oil, and Nuclear War”, http://www.countercurrents.org/cc-henderson240207.htm, 7/9/08)

Countercurrents.org By Bill Henderson

Damocles had one life threatening sword hanging by a thread over his head. We have three: The awakening public now know that climate change is real and human caused but still grossly underestimate the seriousness of the danger, the increasing probability of extinction, and how close and insidious this danger is - runaway climate change, the threshold of which, with carbon cycle time lags, we are close to if not upon. A steep spike in the price of oil, precipitated perhaps by an attack on Iran or Middle East instability spreading the insurgency to Saudi Arabia, could lead to an economic dislocation paralyzing the global economy. Such a shock coming at the end of cheap oil but before major development of alternative energy economies could mean the end of civilization as we know it. And there is a building new cold war with still potent nuclear power Russia and China reacting to a belligerent, unilateralist America on record that it will use military power to secure vital resources and to not allow any other country to threaten it's world dominance. The world is closer to a final, nuclear, world war than at any time since the Cuban missile crisis in 1962 with a beginning arms race and tactical confrontation over weapons in space and even serious talk of pre-emptive nuclear attack. These three immediate threats to humanity, to each of us now but also to future generations, are inter-related, interact upon each other, and complicate any possible approach to individual solution. The fossil fuel energy path has taken us to a way of life that is killing us and may lead to extinction for humanity and much of what we now recognize as nature.

#### Scenario 2: Environment

#### Global company development of the Arctic is inevitable and will destroy the environment

Cunningham ’12 (Nicholas Cunningham, “Offshore Oil Drilling in the U.S. Arctic, Part Three: Concerns and Recommendations”, <http://www.thearcticinstitute.org/2012/07/offshore-oil-drilling-in-us-arctic-part_19.html>, July 19, 2012)

On February 17, 2012, the U.S. Department of Interior (DOI) approved of Shell Gulf of Mexico Inc.’s Oil Spill Response Plan (OSRP), the last major hurdle to allowing Shell to move forward with offshore oil drilling in the Chukchi Sea.[i] In theory, Shell has developed a plan to guard against the environmental fallout of a hazardous incident, including a well blowout. Shell has safety vessels standing by, oil collection equipment on hand, and technology ready to drill a relief well in the event it needs to stop a blowout. The reformed Department of Interior believes Shell has adequately demonstrated safety preparedness and response, ensuring against another environmental crisis comparable to the BP/Deepwater Horizon incident in 2010. However, Shell’s OSRP is unproven. It does not fill the fundamental gaps that pervade the regulatory structure of offshore oil drilling, nor does it ensure against a catastrophic blowout. Very little has changed since the blowout in the Gulf of Mexico – there have been only minor reforms to environmental and safety oversight and no legislative action to address the root causes. Also, the science on Arctic ecosystems remains insufficient, and the effects of such a spill are unknown. Before offshore oil drilling commences in the Arctic, these problems need to be addressed. Environmental Sensitivity and Risks to Marine Ecosystems The Chukchi and Beaufort Seas are home to a diverse array of marine life, including salmon, herring, walrus, seals, whales, and waterfowl.5 Additionally, the Chukchi Sea is home to higher occurrences of benthic marine fauna relative to other Arctic habitats.6 Scientific understanding of these ecosystems and the anthropogenic effects on them, are both not yet sufficiently understood. Oil drilling in the marine environment has been shown to have deleterious effects on the marine environment. Evidence suggests that noise from seismic surveys conducted during oil exploration damage acoustic animals such as whales, which can ultimately lead to fatalities if within close proximity.[ii] While whales can generally alter migration patterns to avoid such dangers, an increase in industrial activity may push whales further away from preferred habitats, potentially damaging feeding or spawning patterns. Increased tanker traffic associated with higher oil exploration and production will worsen noise pollution in the Chukchi and Beaufort Seas. Additionally, the impacts of hydrocarbon releases in the marine environment have been shown to cause detrimental impacts on reproductive health, immunological and neurological functioning, as well as higher incidences of mortality for marine wildlife.[iii] Contaminants from oil and gas drilling are also believed to travel higher up on the food chain, ultimately having cascading effects for marine ecosystems. Shell’s 2012 exploration plans include drilling exploratory wells in the Chukchi Sea, where bowhead whales migrate to during the spring months.[iv] The National Wildlife Federation released a report in April 2012 detailing some of the scientific findings of the effects on the Gulf of Mexico from the Deepwater Horizon incident. An estimated 523 dolphins were reported stranded in the oil spill area, 95% of which were dead.[v] These strandings are four times the historic average. The Gulf of Mexico is also the spawning grounds of the Bluefin Tuna, and contact with oil may have reduced juvenile Bluefin Tuna by as much as 20%.[vi] These are only a few examples of the damage that can be done due to an oil discharge. While scientific evidence suggests drilling will damage the marine environment, the full impacts are not well understood, which will be discussed further below. Lack of Science on Arctic Ecosystems Ultimately, the effects of a very large oil spill on the marine environment in the Chukchi and Beaufort Seas are unknown. Since oil production in the Arctic thus far has been limited, impacts have not been thoroughly studied.[vii] Moreover, even the effects of the Deepwater Horizon blowout are so far unknown; the full effects will require years of careful scientific study.

#### Marine ecosystems are critical to the survival of all life on earth.

Craig ‘3 (Robin Kundis Craig, Associate Professor of Law, Indiana University School of Law, 34 McGeorge L. Rev. 155)

Biodiversity and ecosystem function arguments for conserving marine ecosystems also exist, just as they do for terrestrial ecosystems, but these arguments have thus far rarely been raised in political debates. For example, besides significant tourism values - the most economically valuable ecosystem service coral reefs provide, worldwide - coral reefs protect against storms and dampen other environmental fluctuations, services worth more than ten times the reefs' value for food production. n856 Waste treatment is another significant, non-extractive ecosystem function that intact coral reef ecosystems provide. n857 More generally, "ocean ecosystems play a major role in the global geochemical cycling of all the elements that represent the basic building blocks of living organisms, carbon, nitrogen, oxygen, phosphorus, and sulfur, as well as other less abundant but necessary elements." n858 In a very real and direct sense, therefore, human degradation of marine ecosystems impairs the planet's ability to support life. Maintaining biodiversity is often critical to maintaining the functions of marine ecosystems**.** Current evidence shows that, in general, an ecosystem's ability to keep functioning in the face of disturbance is strongly dependent on its biodiversity, "indicating that more diverse ecosystems are more stable." n859 Coral reef ecosystems are particularly dependent on their biodiversity. [\*265] Most ecologists agree that the complexity of interactions and degree of interrelatedness among component species is higher on coral reefs than in any other marine environment. This implies that the ecosystem functioning that produces the most highly valued components is also complex and that many otherwise insignificant species have strong effects on sustaining the rest of the reef system. n860 Thus, maintaining and restoring the biodiversity of marine ecosystems is critical to maintaining and restoring the ecosystem services that they provide. Non-use biodiversity values for marine ecosystems have been calculated in the wake of marine disasters, like the Exxon Valdez oil spill in Alaska. n861 Similar calculations could derive preservation values for marine wilderness. However, economic value, or economic value equivalents, should not be "the sole or even primary justification for conservation of ocean ecosystems. Ethical arguments also have considerable force and merit." n862 At the forefront of such arguments should be a recognition of how little we know about the sea - and about the actual effect of human activities on marine ecosystems. The United States has traditionally failed to protect marine ecosystems because it was difficult to detect anthropogenic harm to the oceans, but we now know that such harm is occurring - even though we are not completely sure about causation or about how to fix every problem. Ecosystems like the NWHI coral reef ecosystem should inspire lawmakers and policymakers to admit that most of the time we really do not know what we are doing to the sea and hence should be preserving marine wilderness whenever we can - especially when the United States has within its territory relatively pristine marine ecosystems that may be unique in the world. We may not know much about the sea, but we do know this much: if we kill the ocean we kill ourselves, and we will take most of the biosphere with us. The Black Sea is almost dead, n863 its once-complex and productive ecosystem almost entirely replaced by a monoculture of comb jellies, "starving out fish and dolphins, emptying fishermen's nets, and converting the web of life into brainless, wraith-like blobs of jelly." n864 More importantly, the Black Sea is not necessarily unique. The Black Sea is a microcosm of what is happening to the ocean systems at large. The stresses piled up: overfishing, oil spills, industrial discharges, nutrient pollution, wetlands destruction, the introduction of an alien species. The sea weakened, slowly at first, then collapsed with [\*266] shocking suddenness. The lessons of this tragedy should not be lost to the rest of us, because much of what happened here is being repeated all over the world. The ecological stresses imposed on the Black Sea were not unique to communism. Nor, sadly, was the failure of governments to respond to the emerging crisis. n865 Oxygen-starved "dead zones" appear with increasing frequency off the coasts of major cities and major rivers, forcing marine animals to flee and killing all that cannot. n866 Ethics as well as enlightened self-interest thus suggest that the United States should protect fully-functioning marine ecosystems wherever possible - even if a few fishers go out of business as a result.

#### Drones prevent oil spills- mapping and clean up

Bailey ’10 (Alan Bailey, GreeingofOil.org, Journalist at PetroleumNews, “Shell strives for smaller Arctic offshore footprint”, <http://www.greeningofoil.com/post/Shell-strives-for-smaller-Arctic-offshore-footprint.aspx>, January 14, 2010)

The use of advanced technologies that reduce environmental impact and improve business efficiency distinguishes Shell in the oil and gas industry, Michael Macrander, Shell’s Alaska lead scientist, told Greening of Oil in December. “The investment that Shell makes in technology and the willingness to embrace new technologies is quite apparent,” Macrander said, pointing to the company’s operations in the Gulf of Mexico and its efforts to address environmental issues in offshore Alaska. “… Shell was a leader in technologies that enabled deepwater exploration and development. … We view technology as a difference-maker.” The use of technologies and techniques that minimize the environmental footprint of oil and gas operations is nowadays a requirement and expectation, forming an essential component of Shell’s “license to operate” in places like the Arctic offshore, he said. “It’s our view that it gives us a competitive advantage if we can demonstrate to the community that Shell takes these things seriously, and we’re willing to invest the time and resources to minimize our footprint,” Macrander said. Shell is planning to drill exploration wells in the Beaufort and Chukchi seas in 2010. The company has already conducted seismic surveys around its targeted exploration prospects. But the Arctic offshore is subject to heightened environmental awareness, while also presenting some significant physical challenges for a company such as Shell. Making headway with local residents, the Inupiat people One challenge is convincing local Inupiat people of Alaska’s North Slope that industry activity in the Beaufort and Chukchi seas is unlikely to have a negative impact on the environment and on the wildlife they subsist on. These are local people who will not get a cent of oil and gas royalties or leasing revenues from the federal government as a result of oil company exploration, development and production in their traditional offshore hunting grounds. And without tax jurisdiction over the Alaska outer continental shelf (federal waters), the largest government body in northern Alaska, the North Slope Borough, has been concerned that OCS oil and gas development is likely to disrupt subsistence hunting activities without bringing significant benefits to the North Slope communities. Environmental groups, cast as protectors of whales and other wildlife, and North Slope Inupiat organizations that represent subsistence hunters of whales, seals, polar bears and other wildlife, have been on the same side in lawsuits, hindering Shell’s progress. Still, Shell continues talking to local residents and work closely with them to find mutually acceptable solutions, a practice that appears to be making headway. In December George Itta, the mayor of the North Slope Borough and a subsistence hunter, announced the borough had opted out of a lawsuit filed in the wake of federal approval of Shell’s 2010 plan to drill in the Beaufort Sea. “This is the first time that the Minerals Management Service has required a shutdown of drilling activities during our fall hunt of the bowhead whale,” Itta said in a statement. “The certainty of this protection is a positive step. The whalers in Barrow, Nuiqsut and Kaktovik can rest assured that their fall hunt will not be interrupted by Shell’s industrial noise.” Itta said he gives Shell “credit for responding to some of our concerns.” But he said a number of permits and issues remain—noise, air and water pollution issues and whalers’ concerns about cow-calf pairs diverted from Camden Bay feeding due to industrial noise. “We expect a huge company like Shell to clear the bar with room to spare,” Itta said. “We need them to provide robust protections, not just minimums. That’s why we continue to engage with them and the agencies. I think we’re making progress. I’d rather work it out this way if we can.” Ocean discharge in process of being resolved The Science Advisory Committee at the University of Alaska Fairbanks is meeting this month to advise Itta on recommendations for reducing industrial discharge into the water. The borough said Shell has agreed to accept the committee’s recommendations as its guidelines for discharge. “Ocean discharge is a real bone of contention for us, and Shell’s decision to live by the SAC’s recommendations is an important step,” Itta said. “I believe we can ultimately get to a plan that works for industry and satisfies our deepest concerns.” Seeking better understanding of Arctic environment A first step in addressing environmental concerns is to gain a better understanding of the Arctic offshore environment, gaining knowledge that includes baseline data that will enable projects to be timed for minimal environmental impact and that will enable the impacts of projects to be measured when those projects take place, Macrander said. With that in mind Shell, in conjunction with ConocoPhillips, has deployed a network of subsea acoustic recorders to pick up sounds made by marine mammals in the Beaufort and Chukchi seas. In the Beaufort Sea five lines of seven or eight recorders have been deployed over the past three years, while an initial deployment of 25 recorders in the Chukchi Sea in 2006 has also now grown to about 40 recorders, Macrander said. “We’re learning a lot about marine mammals,” Macrander said. “We’re learning a lot about sound in the environment. We’re learning where animals are, what they’re doing, how they’re responding to not only industry activities but also things like climate change. We’re finding animals that have expanded their range.” And, among other things, the recorders are providing insights into the movement of walruses, as these animals react to ice leaving the Chukchi Sea, he said. Each recorder sits anchored on the seafloor, operating autonomously to record subsea sounds, together with the timing of the sounds, for later analysis after the recorder has been retrieved from the ocean. The Beaufort Sea recorders can detect the direction that a sound comes from, thus enabling recordings of the same animal sound on multiple recorders to pinpoint the location of the animal. “The reason for doing that was to understand how migrating bowhead whales react to industry activity,” Macrander said. Hunters do not want seismic noise to divert whales One of the initial applications for the acoustic recorders was the determination of the impact on marine mammals of offshore seismic surveying that Shell and other companies were doing. And, although generally speaking there was little observed impact, it turned out that the sound from the seismic surveys traveled much farther through the ocean than the company’s sound models had originally predicted—the nature of the seafloor probably causes greater sound reflection than anticipated, Macrander said. “We had to adjust to that by altering our (wildlife) monitoring capabilities,” he said. “We added more observers … including additional vessels, so we could observe over a larger area, follow what was going on with the marine mammals and protect them.” Native subsistence hunters have expressed particular concern about the possible deflection of bowhead whale migration routes because of noise from industrial activities such as seismic surveying. If, for example, the whales move too far from shore, the whale hunters might not be able to reach them. Past studies have indicated a deflection in whale migration, with the industrial disturbance causing a hole in the migration pattern. However, the acoustic evidence that Shell has assembled indicates that the whales’ migration path tends to flow around the industrial activities and that the whales do not back up and stop, Macrander said. “Over the last two-and-a-half years the data … have pretty strongly indicated that there is a deflection, but it’s probably less than what people had thought it would be,” he said. The data are also addressing the vexed question of what level of sound impacts the whales, following a debate regarding whether sound at a 120-decibel or 160-decibel level has a significant impact. Sound levels of 120 decibels extend for tens of kilometers from a seismic vessel, while 160-decibel sound extends just six to eight kilometers. “Our data seem to indicate that 160 is a much more relevant number,” Macrander said. The sound does not cause a major holdup in whale migration or deny significant areas of habitat to the whales, he said. But acoustic monitoring is just one of a series of observation techniques that together can assemble multiple layers of environmental data, Macrander said. Other techniques include wildlife observation from the air and the tagging of animals. “There’s no one monitoring or study technology that’s going to deliver all the information,” Macrander said. “You really need to have multiple capabilities.” Observing using unmanned drones A potential new technology being actively investigated by both Shell and ConocoPhillips for the observation of wildlife, ocean conditions, ice conditions and weather in the Arctic offshore is the use of unmanned aerial systems, or drones, Macrander said. Drones could perhaps enable observations to be made far out in the Chukchi Sea, for example, in locations where the distance from land and the lack of support infrastructure make a manned airborne operation unacceptably dangerous. Drones could also help with offshore search-and-rescue operations, where the use of manned aircraft puts rescuers at risk. And a drone can fly very quietly for 24 hours on a single gallon of fuel, thus creating minimal environmental impact, while a conventional aircraft with observers onboard creates noise that can disturb the animals being observed. However, whereas conventional aerial wildlife observation enjoys long-accepted data collection protocols that lead to high levels of confidence in observation results, people still need to demonstrate that drones can act as effective wildlife observation devices. “We’re working at that,” Macrander said. “We’re doing a lot of tests and experiments.” And, cautious about opening a door to the private operation of devices that don’t meet the basic see-and-avoid standards of aviation safety, the Federal Aviation Administration has been reluctant to approve the use of drones for offshore observations. Shell has been installing radar and collecting data to demonstrate that there is little risk in using drones in the Arctic offshore, Macrander said. Mitigating impact of Shells’ activities on wildlife In parallel with environmental monitoring, Shell is taking a series of steps aimed at mitigating the impact of its activities on the Arctic wildlife, Macrander said, For example, in 2007 Shell conducted an experiment to test the acquisition of offshore seismic data from floating ice in the Beaufort Sea, to determine whether it would be possible to do seismic surveying on ice in the depths of the winter rather than during the busy summer open water season when wildlife migration occurs. The 2007 experiment did indeed demonstrate that gathering seismic data on the ice is possible, at least as far out as the limit of land-fast ice, but a lack of suitable winter ice cover in 2008 prevented a hoped-for on-ice seismic survey from taking place, Macrander said. Shell is also investigating the use of unmanned submarines to reduce environmental impacts and improve efficiency in the Arctic offshore. These unmanned devices, already a familiar and commonly used technology in the Gulf of Mexico oil industry, can carry sensing technology, for example, to survey for potential drilling hazards such as shipwrecks, seafloor historical sites and shallow gas. Currently, shallow hazard surveying is done using a manned surface vessel that moves continuously around the survey area: An unmanned submarine, driven almost silently by an electric motor, only requires a relatively stationary tender vessel on the surface and, thanks to its high maneuverability, would be able to complete a survey relatively quickly. In addition, the possibility of operating a submarine below the sea ice offers the potential to do surveying outside the open water season. Another way of minimizing on-water traffic and avoiding the need for aerial observation is to use satellite imagery for monitoring ice conditions. Satellite-based synthetic aperture radar, for example, can produce detailed images of sea ice, even on days when there is extensive cloud cover, perhaps enabling the early detection of a hazard such as an ice floe drifting toward an offshore operation. And, with satellites already in orbit, the use of the satellite imagery involves no new environmental impact. Satellite imagery is already providing Shell with an improved understanding of Arctic ice behavior, an understanding that will translate to improved safety in offshore operations, Macrander said. Plans to use drillships vs. fixed structures Shell’s planned use of drillships rather than fixed structures for Arctic exploration drilling also enhances safety because a drillship can shut down its drilling operation and move offsite if threatened by sea ice. And Shell is implementing new technologies to reduce drillship air emissions, Macrander said. But the use of a drillship rather than a fixed structure for exploration drilling means that Shell does not have the capability to grind and re-inject into a well the rock chips and waste mud from the drilling. The company plans to dispose of this waste at sea, but the type of waste to be disposed of has long been known to be environmentally safe, and the waste disposal has been fully permitted, Macrander said. Disposing of the waste in some other way would involve the environmental impact of putting additional vessels on the water, he said. “We don’t want to commit to an option that ends up being a bad choice,” he said. If exploration results lead to offshore oilfield development, modern directional drilling, with wells splaying out from a central point to tap different areas of a subsurface reservoir, would minimize the number of offshore platforms needed, thus minimizing the environmental footprint and reducing the field costs. Curtain of bubbles would surround platforms With many people concerned about the potential impact of industrial noise on the Arctic offshore environment, Shell is also investigating technologies for reducing sound emissions from an offshore facility such as an oil platform, which would be part of a producing field. One possible technology generates air bubbles that reduce sound propagation by taking advantage of the fact that air transmits sound much less readily than water. Essentially, compressed air injected into a bubble generator on the seafloor would create a curtain of bubbles around the offshore structure. “They are looking at the physics of different shapes of bubbles and whether they can produce specific shapes that will sustain themselves as they move to the surface,” Macrander said. Preventing oil spills tops list Oil spill prevention is a key factor in protecting the environment. And when it comes to drilling, the use of state-of-the-art 3-D seismic data to delineate the subsurface geology, coupled with modern drilling technologies, including the use of high-tech drilling muds and downhole sensing, have together made the possibility of a spill from an oil well blowout extremely unlikely. And modern well blowout preventers have also significantly reduced the risk of an oil spill, were well control to be lost. “There is a host of technologies that we employ to get us greater control and greater knowledge about what we’re doing when we drill,” Macrander said. Shell has also pioneered the use of remote operating centers that enable experts in, say, Houston, Texas, to monitor what is happening in a drilling operation perhaps thousands of miles away, watching out for potential problems and providing advice on how to resolve any issues that arise. Then, when it comes to developing an Arctic offshore oil field, the design of platforms, pipelines and other infrastructure components that can withstand the forces from ice and weather in the Arctic environment will be a critical component of oil spill prevention. And Shell has been surveying seafloor ice gouges, to obtain information essential to the design of structures that will not be damaged by the keels of moving ice floes, Macrander said.

### Latin America Advantage

#### Domestic armed drone program is modeled in Latin America- border conflicts risk escalation- legislation key to signal and prevent public backlash through “chilling effect”

Cupolo 12/22 (Diego Cupolo, Diego Cupolo is an independent journalist, photographer and author of Seven Syrians: War Accounts From Syrian Refugees, to be released in January, 2014 by 8th House Publishing. He serves as Latin America regional editor for Global South Development Magazine, “Drone Use Soars in Latin America, Remains Widely Unregulated”, <http://sandiegofreepress.org/2013/12/drone-use-soars-in-latin-america-remains-widely-unregulated/>, December 22, 2013)

Over the last decade, drones have made headlines as tools for covert bombing campaigns in the Middle East and the Horn of Africa. Yet remote-controlled warfare is just one of many functions Unmanned Aerial Vehicles (UAVs) can provide as non-lethal models become less expensive and more accessible to countries around the world. From aerial surveillance to three-dimensional geographic modeling of rugged terrains and even speedy pizza delivery service, manufacturers have begun to promote the infinite capabilities of domestic drones. At the same time, they are specifically targeting developing markets in Latin America for the martial use of drones in law enforcement and military operations. In response, human rights groups have been raising concerns over these fast-evolving technologies, citing the potential for abuse by various state agencies. Recent advancements have allowed governments to adopt and, in some cases, begin building their own UAV fleets, but regulation on domestic drone use remains non-existent throughout the Americas aside from preliminary laws adopted in Brazil, Canada and the United States. “The biggest concern presented by drones is they will become a tool for routine mass surveillance,” said Jay Stanley, a senior policy analyst for the American Civil Liberties Union. “Fleets of small, inexpensive self-launching drones could easily spread over a town, network together and provide comprehensive, 24-7 dragnet surveillance or a single high-flying drone could accomplish the same thing. This technology already exists. It’s called Wide Area Surveillance and it’s being used overseas by the US military.” Stanley was speaking at a hearing organized by the Inter-American Commission on Human Rights (IACHR) in November 2013 where human rights advocates examined the implications of unregulated drone use in Latin America. In the first event of its kind, speakers aimed to spark a wider debate on domestic UAVs while calling for guidelines on the inevitable swarm of flying robots that will soon fill our skies. Rise of the Drone Market Drones are convenient, not to mention economical. Unlike helicopters and other manned aircrafts, they require less maintenance, less fuel, and less risk to human life in potentially dangerous operations – all while drone prices drop with each passing year. “The most basic surveillance drones are small and cost about $600 from a company in Mexico,” W. Alejandro Sanchez, senior research fellow at the Council on Hemispheric Affairs (COHA), said in a phone interview. “From there, the prices get higher, but not as much as most people expect, especially when compared to the cost of a helicopter. Anyone thinking drones are financially unattainable for less developed countries hasn’t looked at the latest models.” The falling prices are opening new markets for multi-use drones around the world. Within the next 10 years, drone spending in the U.S. is expected to reach more than $89 billion as UAVs take on more civilian tasks such as pesticide spraying for agriculture, emergency medical response and humanitarian relief, according to a Bloomberg report. Speaking before the IACHR hearing, Santiago Canton, an Argentine lawyer and director of RFK Partners for Human Rights, listed off Latin American nations that have launched or announced plans to launch their own domestic drone programs. “The Argentinean army has developed its own drone technology for aerial surveillance. Brazil is the country in Latin America that has the highest number of drones, both produced nationally and purchased outside the country,” Canton said. “Bolivia has only purchased drones for its air force, and it has signed an agreement with Brazil to have Brazilian drones identify coca-producing areas. Chile has sophisticated drones and they’ve bought Iranian [drones] for their borders and for surveillance throughout their country.” In addition to the U.S., a total of 14 countries in the Western Hemisphere will soon use or develop UAVs, according to Canton. Many are doing so using Israeli drones and production techniques, as the U.S. has strict regulations on sharing military technology with foreign governments. In recent years, Israel Aerospace Industries has sold its large, 54-foot wingspan “Heron” drones to Mexico and Ecuador, where it has branches in addition to sales offices in Brazil, Colombia, and Chile. Other Israeli drone companies have made “strategic agreements” with Brazilian aircraft manufacturer Embraer to produce drones for “monitoring of ports, agricultural, forest and coastal areas, traffic, etc.,” the Christian Science Monitor reported. Some Latin American countries, including several Caribbean nations, have been allowed to launch U.S. drones in cooperation with U.S. military and other U.S. agencies for drug trafficking and border patrol operations, Canton said. “In addition to joint exercises with the United States, Colombians have manufactured and purchased [drones] and used their own technologies. They use them for their borders, operations against the FARC and also for intelligence gathering,” Canton said. “Mexican Federal Police are using drones in security operations and anti-drug trafficking. Mexico City uses them for demonstrations,” he continued. “Panama uses them to monitor drug trafficking. The Peruvian army uses drones for the Apurimac area where the Sendero Luminoso [Shining Path guerrillas] operate.” The list goes on. From Wide Area Surveillance along the U.S.-Mexico border to volcanic studies in Costa Rica and rainforest conservation programs in Belize, domestic drones are poised to play a growing role in future government and military operations. Still, Canton warns the large majority of drone usage remains under military control with no civilian oversight. “We see the chilling effect that this can have on societies,” Canton said. “When people want to have public demonstrations drones can have a chilling effect and can intimidate people from doing this.” Follow the UAV Leader For the time being, a treaty to regulate drone usage does not exist anywhere in the world. Lawmakers have only begun to talk about the issue and according to Sanchez, it is unrealistic to expect an international agreement anytime soon. “Supporters of drone technology argue that the drones operate under the umbrella of the Geneva Conventions, which were signed in 1949,” Sanchez said. “That was 64 years ago, more or less, and we have to keep up with the times.” When legislation does reach senate floors, Sanchez said he expects Latin American governments to follow U.S., Israeli and European domestic drone programs for guidelines on how to form their own UAV policies. Yet a look inside the U.S presents a mostly grounded domestic drone market due to restrictions from the Federal Aviation Administration (FAA), which prevents the majority of personal and commercial UAVs from taking flight due to the threat of mid-air collisions with manned aircrafts, among other hazards. Still, current regulations are likely to change as the U.S. congress, acting recently under pressure from UAV industry lobbyists, ordered the FAA to speed up drone integration and draft new rules by 2015. “There is a lot of pent up demand for this technology among police departments and federal agencies and, as the FAA loosens its rules, we can expect many police departments to begin using drones,” said Stanley of the ACLU. At the time of publication, legislation on drone use has been introduced in 42 states over the past year and the remaining eight states have enacted legislation. Most of these laws require police to get a search warrant before deploying a drone. “These authorizations usually impose stringent criteria and conditions on the use of drones such as a 400 foot height limit and a ban on deployment over heavily populated areas,” Stanley said. The main gray area in U.S. domestic drone regulation is along the Mexican border, where surveillance UAVs can legally operate within 100-miles of the physical borderline, Stanley said. In this region, the U.S. government employs a drone system called “Argus,” which can simultaneously videotape a 100-square kilometer area with the ability to automatically detect and follow moving pedestrians and vehicles anywhere in the surveillance area. “It’s not hard to figure out who somebody is from their movements and from their location and it’s not hard to imagine those movements and tracks could be logged into databases and stored for years,” Stanley said. Some police departments have already begun experimenting with Wide Area Surveillance systems like Argus, in Philadelphia, Baltimore and Dayton, Ohio, Stanley added. Inter-State Conflicts and the Prospect of Armed Drones As with the U.S.-Mexican boundary, drone use along border areas throughout Latin America could easily and repeatedly provoke inter-state tensions, presenting another problem with unregulated UAV use, according to Sanchez. “What happens if they find some FARC commanders hiding in Venezuela and [the Colombian] government says they do not have the time to organize an operation, but they have an armed drone they can send to eliminate these people,” Sanchez said. “How will that exacerbate inter-state tensions?” Sanchez described a scenario in 2008, where Colombian troops carried out an operation inside Ecuador to assassinate Manuel Reyes, the commander of the FARC at the time. The Colombian government did not inform Quito of the operations and the move was seen as violation of Ecuador’s sovereignty, creating tensions between Ecuador and Colombia. The same could happen with UAVs, Sanchez said. Once drones become widely established as tools for law enforcement and military operations, the probability of such incidents will only increase. The matter would be further complicated if and when Latin American governments begin deploying armed domestic drones. “Drone technology is regarded as useful to find these guerrilla fighters and, given the controversial success of armed drones by countries like the U.S., it is only a matter of time before Latin American militaries decide to follow suit and utilize drones for search-and-destroy missions in the name of national security,” Sanchez wrote in a COHA report titled Latin America Puts Forward Mixed Picture On Use of Drones in Region. “The US has been selling drones as this revolutionary technology that will make life easier, so it’s obvious that Latin American countries will be interested after seeing the hellfire missiles in Pakistan,” he added in a phone interview. With surveillance drones, governments can only locate a target. They must still send helicopters full of armed soldiers to capture or eliminate the threat and this may require a high-risk military operation. Such deployments take time and planning, which may allow targets to get away. Sanchez said there is an obvious advantage to armed drones, but raises concerns over the prospect of such technology in the hands of dictatorial governments. “There’s definitely a need for a technology that’s both cheap and can have some really positive results, but obviously there’s a possibility this technology can be used for all the wrong reasons and, unfortunately, throughout Latin America’s history, the abuse of power [has] tend[ed] to happen quite often,” Sanchez said. The Future is Now Approximately 7,500 UAVs are expected to begin operating in U.S. airspace within the next five years following the introduction of new regulations, said FAA Administrator Michael Huerta at news conference in November. He added the ultimate goal of the American drone industry is to establish a global leadership that will enable the U.S. market to set standards for the industry worldwide. Meanwhile, most Latin American countries are enjoying economic growth, which means militaries have larger budgets at their disposal to build new weapons or buy them from abroad. Security and military operations in Latin America are currently pushing global demand for drones. “Countries like Brazil want to be known as a military power and they want to show they have a vibrant domestic military industry and they can build their own weapons and produce drone technology for sale to other countries,” Sanchez said. Still, the proliferation of drone technology throughout the Americas is advancing more rapidly than regulations. After analyzing the future and present uses of UAVs in Latin American, the IACHR hearing convened with three recommendations to the international community. The first two called on the U.S. to comply with international human rights principles in their use and development of armed drones around the world. The third recommendation set forth the need to “clarify and articulate” the legal obligations of states in regard to drone use, both armed and unarmed, and called for the drafting of legislation on the matter. As time passes and falling price tags encourage more governments to employ surveillance drones, the use of armed drones will only represent the next step in the integration process, Stanley said in his closing statements. “From their uses abroad we know that armed drones can be incredibly powerful and dangerous weapons. When domestic law enforcement officers can use force from a distance it may become too easy for them to do so,” Stanley said. “When it becomes easier to do surveillance, surveillance is used more. When it becomes easier to use force, force will be used more. We have seen this dynamic not only overseas, but also domestically with less lethal weapons such as tasers.” While there is currently a broad consensus against armed drone use in the Americas, Stanley said exceptions have arisen. U.S. police departments have suggested arming UAVs with rubber bullets for riot control. At the same time, U.S. border patrols have proposed outfitting drones with “non-lethal weapons designed to immobilize targets of interest.” “There is very good reason to think that once the current controversies and public spotlight on domestic drones fades away, we will see a push for drones armed with lethal weapons,” Stanley said.

#### Those LA drone border infringements escalate

Sanchez ’13 (Alejandro Sanchez, Senior Research Fellow at the Council on Hemispheric Affairs, “Latin America Puts Forward A Mixed Picture on the Use of Drones in the Region”, <http://www.coha.org/latin-america-puts-forward-a-mixed-picture-on-the-use-of-drones-in-the-region/>, October 8, 2013)

Over the past decade, a growing number of nations have been utilizing drones in their security operations. Most notably, the U.S. is using this new technology to target and eliminate suspected terrorists along the Pakistan-Afghanistan border.[1] So far, Latin American militaries have generally used drones for surveillance operations, but their role most likely will greatly expand in the near future. Latin American countries that currently operate drones include Bolivia, Brazil, Colombia, Mexico, Peru and Venezuela. They are either home-built or have been purchased from other countries with a sophisticated drone industry like Israel; it is important to highlight that the international suppliers of this technology may vary depending on each government’s diplomatic relations and agenda of operations. For example, the Colombian military has acquired drones from the U.S. and Israel, obviously benefiting from the existing close political relations among these governments.[2] On the other hand, Venezuela has turned to countries like Russia and Iran.[3] Additionally, countries like Brazil, Colombia and Peru are trying to fabricate their own home-made drones.[4] Thanks to increasingly cheaper technology, the cost of purchasing or domestically fabricating basic drones has become more affordable for regional armed forces. For example, media reports put Peru’s homegrown drones at costing $150,000 USD, while Brazil’s AGX drone system is roughly estimated at $35,000 USD. Presently, Latin American drone usage is centered around patrol and surveillance operations, particularly for combating drug trafficking.[5] Their success rate varies widely so far, but drones are regarded as useful and (moderately) cheap, like those being used in other parts of the world. Moreover, drones have civilian applications as well. For example, in Peru, drones are used as an “eye in the sky” in archaeological and agricultural projects.[6] An undated photo of a predator drone. Photo Source: Reuters/File An undated photo of a predator drone. Photo Source: Reuters/File However, it is only a matter of time (and adequate funds) before Latin American militaries decide to utilize drones for offensive operations within their own borders. Consider if the Peruvian army could use an armed drone if it obtained credible intelligence of where “José,” the nom de guerre of the leader of the insurgent movement Shining Path, is hiding in the Peruvian highlands.[7] Likewise, the Colombian military might use these weapons if it identified the location of leaders of its domestic narco-insurgent movements, the FARC and ELN. As a final example, the Mexican military may be tempted to use an armed drone to eliminate a high-profile target such as Joaquín “El Chapo” Guzmán, leader of the Sinaloa cartel (arguably, a better alternative to arresting him).[8] An obvious advantage of armed drones is that they are ready to act, as opposed to a time-costly and riskier military deployment. Finally, it is worth stressing that such weapons are potentially problematic because they can escalate inter-state tensions. Inter-state warfare is rare in Latin America, but there have been incidents that could have ended in a conflict. For example, in 2008 Colombia carried out a successful military operation in Ecuador to eliminate Manuel Reyes, then-commander of the FARC, but the Colombian government did not inform Quito of the operation.[9] This was regarded as a violation of Ecuador’s sovereignty, which sparked tensions between Ecuador and its ally Venezuela against Colombia. Given this precedent, what would happen if Colombia deployed an armed drone into Ecuador for a strike against a suspected FARC commander? Or would Mexico use an armed drone within Guatemala if it suspected that a leader of the Zetas Cartel (which already has a presence there) was hiding right across the border?[10] What would be the repercussions of such incidents, particularly if civilians are killed? Latin America has been successful at avoiding inter-state warfare throughout most of the past century. Today its security challenges are mostly internal and come from entities like narco-terrorist movements and drug cartels; in the case of Shining Path or FARC, these groups operate in isolated regions. Hence, drone technology is regarded as useful to find these guerrilla fighters and, given the (controversial) success of armed drones by countries like the U.S., it is only a matter of time before Latin American militaries decide to follow suit and utilize drones for search-and-destroy missions in the name of national security. [11] While the proliferation of drones may not be halted, it is necessary for Western military powers to keep in mind that they must lead by example when it comes to using drones, as this tactic sets the standard of how other nations will utilize them in the (very) near future.

#### Domestic drone legislation key

Nedzarek ’13 (Rafal Nedzarek, Works at Department of Strategic Analyses - National Security Bureau (Poland) and International Police Cooperation Bureau - National Police Headquarters (Poland), Atlantic-Community, Political Science Think Tank, “Developing Drone Norms Through Domestic Legislation”, <http://www.atlantic-community.org/-/developing-drone-norms-through-domestic-legislation>, July 10, 2013)

Any constructive debate on Unmanned Aerial Vehicles (UAVs) ought to begin with an assertion that these platforms are here to stay. As such, they are not just an international issue but will very soon become a national issue, raising concerns about privacy and law enforcement. It is therefore necessary for any norms for drones to first of all be initiated at the national level. Domestic principles and norms should then be transferred to international operations. Already constituting a large part of the US Air Force, drones are also gradually proliferating among other NATO members. UAVs serve as valuable Intelligence, Surveillance and Reconnaissance (ISR) platforms, keeping servicemen out of harm's way for a relatively low price-tag. Although the use of UAVs offers many advantages, it also poses various problems that, if disregarded, could collectively outweigh the overall military utility of these platforms. In the post-Cold War world of trans-border asymmetric threats drones offer a tempting prospect of flexible monitoring and timely interventions without "embroilment." However, chasing this promise has led to a state of affairs which puts the transatlantic partners in a bad light. To many critics, the well-off "core" countries use drones to surveil and castigate – through forcible measures – individual citizens of the countries of the ‘periphery'. Although securing the world's under-governed regions may often seem like the right course of action, this might create an ominous impression of Western domination. An aspect of drone use which seems to be the most detrimental to international reputation is the practice of targeted killing. Although not a novelty, this procedure has grown in frequency in the last decade. As part of a larger initiative targeted killings prove problematic on the legal front. A myriad of largely independent operations are framed collectively as a single coherent campaign of the "global war on terror." Combined with the low intensity of contemporary armed conflicts, this framework obscures judgment on concurrent applicability of international humanitarian law and international human rights law. Apart from legal issues, there is also the question of overall fairness of the pursued policies. Conducting covert operations across the globe is bound to result in "blowback." In the case of UAVs, Western governments faced vocal domestic opposition from their own citizens. Popular uneasiness about possible uses of battle-tested systems for domestic purposes has been confirmed by the law-enforcement agencies' growing interest in UAVs. Dystopian visions are reinforced by the rapid development of sophisticated video surveillance platforms offering real-time footage of unprecedented resolution. These unsettling current trends call for greater transparency and democratic oversight. It seems absolutely crucial to discontinue armed drone use by intelligence agencies. Once restricted to respective militaries, the combat use of drones should be further barred from areas outside clearly designated war zones. If targeted killings are to continue, they must be subject to meticulous supervision of relevant congressional or parliamentary committees. Also, information pertaining to the use of targeted killings – including a description of the employed criteria as well as statistics on enemy combatant and civilian casualties – should be made obtainable to citizens within the "freedom of information" framework. Finally, as the use of drones by law-enforcement agencies intensifies, legal regulations will soon need to be imposed on the limits of domestic aerial surveillance. All these improvements are ways of assuring the public opinion that individual liberties will not be threatened and that Western governments respect human rights of the citizens of belligerent countries. Another UAV-related issue that looms on the horizon is the possibility of granting full autonomy to robotic combat platforms. Increasing numbers of critics argue that autonomous drones could deploy force indiscriminately. To avoid this, the installed weapons systems should remain under human control – both to rule out deadly glitches and to prevent the dissolution of legal responsibility. Effective curbs on fully autonomous combat platforms could be introduced relatively easily through domestic legislation. However, there is little chance to introduce any effective international regulations on this matter. There will be no international push for any legally-binding measures until the indiscriminateness of autonomous weapons has been proven on the field of battle. Even then, any possible treaty could share the fate of the Anti-Personnel Mine Ban Convention, which has not been signed by several major powers. The only positive global influence we will have to contend with is to lead by example through imposing domestic regulations on our own use of unmanned aerial vehicles, autonomous or not.

#### Latin American escalation high now

**Oppenheimer ‘13** [Andrés Oppenheimer, Pulitzer Prize winner, Master's degree in Journalism from Columbia University, Latin American editor and syndicated foreign affairs columnist with The Miami Herald, “Andres Oppenheimer: Escalating border disputes hurt Latin America,” <http://www.miamiherald.com/2013/09/21/3639908/andres-oppenheimer-escalating.html>]

Despite constant presidential summits proclaiming a new era of Latin American economic integration and political brotherhood, an escalation of border conflicts in recent weeks should draw alarm bells everywhere.¶ Judging from what I’m hearing from U.S. and European diplomats, escalating tensions between several Latin American countries over century-old border disputes are not only resulting in growing military expenditures, but are also affecting talks on trade, investment and security issues with the region.¶ U.S. and European officials complain that it’s hard to negotiate agreements with Central American or South American economic blocs because their members refuse to sit at the same table with their neighbors because of border disputes or political conflicts.¶ Among the several territorial disputes that have been heating up in recent weeks:¶ • Colombian President Juan Manuel Santos, speaking Sept. 18 aboard a warship patrolling waters that are being disputed between his country and Nicaragua, said that Nicaragua’s latest legal claims against Colombia at the International Court of Justice in The Hague are “unfounded, unfriendly and reckless.”¶ Santos, who has said that Colombia will not accept a recent ICJ ruling that would give Nicaragua 30,000 square miles of potentially oil-rich waters between the two countries, accuses Nicaraguan President Daniel Ortega of having “expansionist goals.” Many Colombians fear Nicaragua is planning to invite Chinese companies to explore oil in the area.¶ Colombia is expected to bring the issue to the United Nations General Assembly this week.¶ Panama’s President Ricardo Martinelli, who is also accusing Nicaragua of encroaching on his country’s territorial waters, has said that he plans to sign a joint letter with Colombia, Costa Rica and Jamaica to U.N. Secretary Ban Ki-moon denouncing Nicaragua’s expansionist ambitions.¶ • Ortega is not only quarreling with Colombia and Panama over territorial waters, but also with Costa Rica over land along the San Juan River on their common border.¶ That long-standing conflict escalated in recent weeks after the Nicaraguan president made a rambling speech before his country’s army seemingly suggesting that Nicaragua may seek to make a legal claim before the ICJ over Costa Rica’s province of Guanacaste.¶ Costa Rican President Laura Chinchilla issued a statement on Aug. 15 calling Nicaragua an “adversary country” that “invaded” part of her country two years ago. The two presidents accuse one another of inflaming nationalist passions to cover up for their domestic political troubles.¶ • Bolivia earlier this year took its territorial claims against Chile to the ICJ, demanding a passage to the Pacific Ocean through what is today northern Chile. The two countries do not have full diplomatic relations, and Bolivia’s President Evo Morales recently accused his Chilean counterpart of “lying” about the conflict.¶ • Peru, which took its dispute with Chile over waters along the two countries’ maritime border to the ICJ in 2008, is expecting a ruling within the next few months. U.S. officials say that Washington’s efforts to negotiate economic agreements with the Central American Integration System, the region’s economic bloc, have been hurt by the fact that the presidents of Nicaragua and Costa Rica will often not sit at the same table, or go to summits hosted by the other country.¶ Asked whether the Obama administration is concerned about this, Roberta Jacobson, the State Department’s top official in charge of Latin American affairs, told me that while the United States is not getting involved in these territorial disputes, “it is always a concern when partners and allies in this hemisphere have tensions with each other. It complicates cooperation.”¶ European diplomats, in turn, complain that Paraguay’s suspension from South America’s Mercosur economic bloc and a lingering political dispute between Paraguay and Venezuela over membership in that bloc have further complicated long-delayed European Union-Mercosur free trade negotiations.¶ Jose Miguel Insulza, head of the 34-country Organization of American States, told me in an interview last week that “this is a problem, because no extra-regional interlocutor will be very interested in conducting a negotiation when all parts of the deal are not sitting at the same table.”¶ My opinion: Regardless of who is right on each of these border disputes, it’s time to isolate them from regional and international negotiations. Border disputes should be subject to a diplomatic quarantine, as if they were animals with dangerously contagious diseases.¶ With the regional economy expected to grow slower this year because of stagnant commodity prices and other external factors, Latin America cannot afford to allow century-old disputes to delay its much-needed economic integration within itself, and with the rest of the world.

#### Latin America is key to global stability and existential crises

Democracy, warming, econ, prolif, poverty, energy

**O’Neil ’13** [Shannon O’Neil is Senior Fellow for Latin America Studies at the Council on Foreign Relations, “Latin America’s Secret Success Story,” <http://www.thedailybeast.com/articles/2013/07/16/latin-america-s-secret-success-story.html>]

Ahead of the Biennial of the Americas conference, Shannon K. O’Neil on how the United States’ neighbors to the south have quietly been surging in global importance.¶ Latin America rarely looms large on the global scene, overshadowed by Europe, the Middle East, and Asia on the agendas and in the imagination of policymakers, business leaders, and the global chattering classes. But under cover of this benign neglect, the region has dramatically changed, mostly for the better.¶ Its economies have flourished. Once known for hyperinflation and economic booms and busts, Latin America is now a place of sound finances and financial systems. Exports—ranging from soy, flowers, copper, and iron ore to computers, appliances, and jets—have boomed. GDP growth has doubled from 1980s levels to an annual average of 4 percent over the past two decades, as has the region’s share of global GDP, increasing from 5 percent in 2004 to nearly 8 percent in 2011.¶ Many of the countries have embraced globalization, opening up their economies and searching for innovative ways to climb the value-added chain and diversify their production. Trading relations too have changed: U.S. trade has expanded at a fast clip even as these nations diversified their flows across the Atlantic and Pacific. These steps have lured some $170 billion in foreign direct investment in 2012 alone (roughly 12 percent of global flows). Led by Brazil and Mexico, much of this investment is going into manufacturing and services.¶ Already the second largest holder of oil reserves in the world (behind only the Middle East), the hemisphere has become one of the most dynamic places for new energy finds and sources. From the off shore “pre-salt” oil basins of Brazil to the immense shale gas fields of Argentina and Mexico, from new hydrodams on South America’s plentiful rivers to wind farms in Brazil and Mexico, the Americas’ diversified energy mix has the potential to reshape global energy geopolitics. Democracy, too, has spread, now embraced by almost all of the countries in the region. And with this expanded representation has come greater social inclusion in many nations. Latin America is by all accounts a crucible of innovative social policies, a global leader in conditional cash transfers that provide stipends for families that keep kids in school and get basic healthcare, as well as other programs to reduce extreme poverty. Combined with stable economic growth, those in poverty fell from roughly two in five to one in four Latin Americans in just a decade.¶ These and other changes have helped transform the basic nature of Latin American societies. Alongside the many still poor is a growing middle class. Its ranks swelled by 75 million people over the last 10 years, now reaching a third of the total population. The World Bank now classifies the majority of Latin American countries as “upper middle income,” with Chile and Uruguay now considered “high income.” Brazil’s and Mexico’s household consumption levels now outpace other global giants, including China and Russia, as today nearly every Latin American has a cell phone and television, and many families own their cars and houses.¶ The region still has its serious problems. Latin America holds the bloody distinction of being the world’s most violent region. Eight of the ten countries with the world’s highest homicide rates are in Latin America or the Caribbean. And non-lethal crimes, such as assault, extortion, and theft are also high. A 2012 study by the pollster Latino Barometro found that one in every four Latin American citizens reported that they or a family member had been a victim of a crime during the past year. Latin America also remains the most unequal region in the world, despite some recent improvements. Studies show this uneven playing field affects everything from economic growth to teenage pregnancy and crime rates.¶ These countries as a whole need to invest more in education, infrastructure, and basic rule of law to better compete in a globalizing world. Of course, nations also differ—while some countries have leaped ahead others have lagged, buffeted by everything from world markets to internal divisions.¶ Nevertheless, with so much potential, and many countries on a promising path, it is time to recognize and engage with these increasingly global players. And while important for the world stage, the nations of the hemisphere are doubly so for the United States. Tied by geographic proximity, commerce, communities, and security, the Americas are indelibly linked. As the United States looks to increase exports, promote democratic values, and find partners to address major issues, such as climate change, financial stability, nuclear non-proliferation, global security, democracy, and persistent poverty, it could do no better than to look toward its hemispheric neighbors, who have much to impart.

#### Those escalate to global war

James Francis Rochlin (Professor of Political Science, University of British Columbia Okanagan) 1994 “Discovering the Americas” p. 130-1

While there were economic motivations for Canadian policy in Central America, security concerns were perhaps more impotant. Canada possessed an interest in promoting stability in the face of potential decline of US hegemony in the Americas. Perceptions of declining US influence in the region – which had some credibility in 1979-84 due to wildly inequitable divisions of wealth in some US client state in Latin America, in addition to political repression, underdevelopment, mounting external debt, anti-american sentiment produced by decades of subjugation to US strategic and economic interest and so on – were linked to the prospect of explosive events occurring in the hemisphere. Hence, the Cental American imbroglio was viewed as a fuse which could ignite a cataclysmic process thoughout the whole region. Analysts at the time worried that, in a worst-case scenario, instability created by a regional war, beginning in Central America and spreading elsewhere in Latin Ameica, might preoccupy Washington to the extent that the United States would be unable to perform adequately its important hegemonic role in the international arena – a concern expressed by the director of research for Canada’s Standing Committee Report on Central America. It was feared that such a predicament could generate increased global instability and perhaps even a hegemonic war. This is one of the motivation which led Canada to become involved in efforts at regional conflict resolution, such as Contradora, as will be seen in the next chapter

#### Global nuclear war

**Manwaring 05** – adjunct professor of international politics at Dickinson

(Max G., Retired U.S. Army colonel, Venezuela’s Hugo Chávez, Bolivarian Socialism, and Asymmetric Warfare, October 2005, pg. PUB628.pdf)  
President Chávez also understands that the process leading to state failure is the most dangerous long-term security challenge facing the global community today. The argument in general is that failing and failed state status is the breeding ground for instability, criminality, insurgency, regional conflict, and terrorism. These conditions breed massive humanitarian disasters and major refugee flows. They can host “evil” networks of all kinds, whether they involve criminal business enterprise, narco-trafficking, or some form of ideological crusade such as *Bolivarianismo.* More specifically, these conditions spawn all kinds of things people in general do not like such as murder, kidnapping, corruption, intimidation, and destruction of infrastructure. These means of coercion and persuasion can spawn further human rights violations, torture, poverty, starvation, disease, the recruitment and use of child soldiers, trafficking in women and body parts, trafficking and proliferation of conventional weapons systems and WMD, genocide, ethnic cleansing, warlordism, and criminal anarchy. At the same time, these actions are usually unconfined and spill over into regional syndromes of poverty, destabilization, and conflict.62 Peru’s *Sendero Luminoso* calls violent and destructive activities that facilitate the processes of state failure “armed propaganda.” Drug cartels operating throughout the Andean Ridge of South America and elsewhere call these activities “business incentives.” Chávez considers these actions to be steps that must be taken to bring about the political conditions necessary to establish Latin American socialism for the 21st century.63 Thus, in addition to helping to provide wider latitude to further their tactical and operational objectives, state and nonstate actors’ strategic efforts are aimed at progressively lessening a targeted regime’s credibility and capability in terms of its ability and willingness to govern and develop its national territory and society. Chávez’s intent is to focus his primary attack politically and psychologically on selected Latin American governments’ ability and right to govern. In that context, he understands that popular perceptions of corruption, disenfranchisement, poverty, and lack of upward mobility limit the right and the ability of a given regime to conduct the business of the state. Until a given populace generally perceives that its government is dealing with these and other basic issues of political, economic, and social injustice fairly and effectively, instability and the threat of subverting or destroying such a government are real.64 But failing and failed states simply do not go away. Virtually anyone can take advantage of such an unstable situation. The tendency is that the best motivated and best armed organization on the scene will control that instability. As a consequence, failing and failed states become dysfunctional states, rogue states, criminal states, narco-states, or new people’s democracies. In connection with the creation of new people’s democracies, one can rest assured that Chávez and his Bolivarian populist allies will be available to provide money, arms, and leadership at any given opportunity. And, of course, the longer dysfunctional, rogue, criminal, and narco-states and people’s democracies persist, the more they and their associated problems endanger global security, peace, and prosperity.65

### Plan Text

#### The FAA should issue rulemaking applying Public Law 112–95 Title 3 Subsection B as prohibiting the use of drones for targeted killing operations of suspected or known terrorists on United States soil.

### Solvency

#### The plan solves fears over domestic drone uses- expands a **congressional restriction** and the FAA is key to *enforce* the DAPT Act

Lynch and Glaser 12\10 (Jennifer Lynch is a Senior Staff Attorney with the Electronic Frontier Foundation, April Glaser is a staff writer, The FAA Creates Thin Privacy Guidelines For The Nation's First Domestic Drone "Test Sites", <https://www.eff.org/deeplinks/2013/12/faa-creates-thin-privacy-guidelines-nations-first-domestic-drone-test-sites>, December 10, 2013)

Commercial unmanned aerial systems are set to start flying over US airspace in 2015. In November the Federal Aviation Administration released its final privacy rules for the six drone “test sites” that the agency will use to evaluate how drones will be integrated into domestic air traffic. These new privacy requirements were issued just days after Senator Markey (D-MA) introduced a new bill, the Drone Aircraft Privacy and Transparency Act, intended to codify essential privacy and transparency requirements within the FAA's regulatory framework for domestic drones and drone test sites. In 2012 Obama signed the Federal Aviation Administration Modernization and Reform Act, which mandated that the FAA implement “test sites” to fly domestic drones before opening the door to nationwide regulations and licensing for commercial drone flying. 24 states have applied to be FAA drone test sites. While the FAA's rules do establish minimal transparency guidelines for the new drone test sites, the new rules apply only to the test sites and do not apply to the drones that are already authorized to fly. The new transparency rules require each test site operator to create, post, and enforce its own privacy policy, as well as set up “a mechanism to receive and consider comments from the public.” The FAA rules further state that test sites must require all drone operators to establish “a written plan for the operator's use and retention of data collected by the UAS.” Although the FAA’s rules require the test site privacy policies to be made available to the public, there seems to be no similar requirement for the UAS operators’ “written plans.” There also appears to be no FAA oversight for these transparency rules — the rules basically call for the test sites to police themselves. While we appreciate the steps the FAA has taken so far, the agency could and should go further to require similar transparency from all drone operators. The FAA has already authorized almost 1,500 permits for domestic drones since 2007, but, despite our two Freedom of Information Act lawsuits for drone data, we still don’t know much about where these drones are flying and what data they are collecting. EFF submitted comments in the FAA's rule-making process about what a good privacy policy for the drone test sites would look like, and only a few of our proposals were adopted into the new rules. The FAA did not, as EFF recommended, develop and provide a model privacy policy for all test site operators, something that would have been relatively easy to produce considering the federal reach of the agency. The FAA also could have gone further to ensure that data collected at drone test sites does not exceed Constitutional and other legal limitations. Nine states have passed laws that restrict the use of drones by either law enforcement or private citizens. Some of these states have also applied to be drone test sites, which would then test those existing state policies. It is especially important for the FAA to define basic data collection procedures for domestic drones because the technology enables a kind of surveillance not achievable by manned aerial or ground-based law enforcement or commercial entities. Some drones are capable of staying in the air for 16-24 hours at a time, much longer than a manned aircraft ever could. Drones can fly altitudes above 20,000 feet with super high resolution cameras and can monitor and track many people at once or intercept phone calls and text messages. Drones also cost far less to purchase, operate and maintain than helicopters and planes. A number of drone bills have been introduced in Congress over the last two years, but Senator Markey's proposed legislation is demanding of both the FAA and drone operators when it comes to protecting the constitutional rights of Americans. The Drone Aircraft Privacy and Transparency Act calls for the FAA to institute and enforce guidelines for all licensed domestic drone flights—not just test sites—that include clear data minimization procedures, as well as transparency rules that require drone test site operators to disclose their data collection practices and how drone operators use, retain, and share all collected data. Markey's bill requires the FAA to create a publicly searchable database of all awarded drone operator licenses, the logistical details of their operation, and each drone operator's data collection and minimization statement. Creating a database like this is within the FAA’s purview. The agency already runs other databases about aircrafts in national airspace, listing who is in the air, accident reports, and safety information. Law enforcement agencies across the country are already flying drones without set national privacy guidelines in place. But at this point our most successful tactic for learning more about drones has been to sue for access to information. The American public shouldn't have to submit a FOIA request just to know if drones are overhead. Senator Markey’s bill is a strong start to what needs to be an ongoing conversation about the future of American privacy standards in light of the coming age of domestic drones. We need more lawmakers to speak up for greater transparency and accountability of both government and commercial operation of drones in our national airspace.

#### Domestic armed drones on border regions is setting an international precedent- legislation key to establish a framework for modeling

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Drones are proliferating at home and abroad. A new high-tech realm is emerging, where remotely controlled and autonomous unmanned systems do our bidding. Unmanned Aerial Vehicles (UAVs) and Unmanned Aerial Systems (UAS) – commonly known as drones – are already working for us in many ways. This new CIP International Policy Report reveals how the military-industrial complex and the emergence of the homeland security apparatus have put border drones at the forefront of the intensifying public debate about the proper role of drones domestically. Drones Over the Homeland focuses on the deployment of drones by the Department of Homeland Security (DHS), which is developing a drone fleet that it projects will be capable of quickly responding to homeland security threats, national security threats and national emergencies across the entire nation. In addition, DHS says that its drone fleet is available to assist local law-enforcement agencies. Due to a surge in U.S. military contracting since 2001, the United States is the world leader in drone production and deployment. Other nations, especially China, are also rapidly gaining a larger market share of the international drone market. The United States, however, will remain the dominant driver in drone manufacturing and deployment for at least another decade. The central U.S. role in drone proliferation is the direct result of the Pentagon’s rapidly increasing expenditures for UAVs. Also fueling drone proliferation is UAV procurement by the Department of Homeland Security, by other federal agencies such as NASA, and by local police, as well as by individuals and corporations. Drones are also proliferating among state-level Air National Guard units. Despite its lead role in the proliferation of drones, the U.S. government has failed to take the lead in establishing appropriate regulatory frameworks and oversight processes. Without this necessary regulatory infrastructure – at both the national and international levels – drone proliferation threatens to undermine constitutional guarantees, civil liberties and international law. This policy report begins with a brief overview of the development and deployment of UAVs, including a summary of the DHS drone program. The second section details and critically examines the role of Congress and industry in promoting drone proliferation. In the third part, we explore the expanding scope of the DHS drone program, extending to public safety and national security. The report’s fourth section focuses on the stated objectives of the homeland security drone program. It debunks the dubious assertions and myths that DHS wields in presentations to the public and Congress to justify this poorly conceived, grossly ineffective and entirely nonstrategic border program. The report’s final section summarizes our conclusions, and then sets forward our recommendations. I. UAV OVERVIEW AND ORIGIN OF HOMELAND SECURITY DRONES UAVs are ideal instruments for what the military calls ISR (intelligence, surveillance and reconnaissance) missions. Yet, with no need for an onboard crew and with the capacity to hover unseen at high altitudes for long periods, drones also have many nonmilitary uses. Whether deployed in the air, on the ground or in the water, unmanned drones are ideally suited for a broad range of scientific, business, public-safety and even humanitarian tasks. That is due to what are known as the “three Ds” capabilities – Dull (they can work long hours, conducting repetitive tasks), Dirty (drones are impervious to toxicity) and Dangerous (no lives lost if a drone is destroyed). Indicative of the many possibilities for UAV use, some human rights advocates are now suggesting drones can be used to defend human rights, noting their ISR capabilities could be used to monitor human rights violations by repressive regimes and non-state actors in such countries as Syria.1 Manufacturers, led by the largest military contractors, are rapidly producing drones for a boom market, whose customers include governments (with the U.S. commanding dominant market share), law enforcement agencies, corporations, individual consumers and rogue forces. Drones are proliferating so rapidly that a consensus about their formal name has not yet formed. The most common designation is Unmanned Aerial Vehicles (UAVs), although Unmanned Aerial Systems (UAS) is also frequently used. Other less common terms include Unmanned Systems (US) and Remotely Piloted Aircraft (RPA). The more inclusive “Unmanned Systems” term covers ground and marine drones , while highlighting the elaborate control and communications systems used to launch, operate and recover drones. However, because most drones require staffed command-and-control centers, Remotely Piloted Aircraft may be the best descriptive term. DRONES TAKE OFF Although the U.S. military and intelligence sectors had been promoting drone development since the early 1960s,2 it was the Israeli Air Force in the late 1970s that led the way in drone technology and manufacture. However, after the Persian Gulf War in 1991, the U.S. intelligence apparatus and the U.S. Air Force became the major drivers in drone development and proliferation.3 Because the intelligence budget is classified, there are no hard figures publicly available that quantify the intelligence community’s contributions to drone development in the United States. It has been credibly estimated that prior to 2000, such contributions made up about 40% of total drone research and development (R&D) expenditures, with the U.S. Air Force being the other major source of development funds for drone research by U.S. military contractors.4 In the early 1990s, as part of a classified weapons project, the U.S. Air Force and the CIA underwrote and guided the development and production of what became the Predator UAV, the first war-fighting drones that were initially deployed in ISR missions during the Balkan wars in 1995. General Atomics Aeronautical Systems (GA-SI), an affiliate of privately held, San Diego-based company General Atomics, produced the first Predator UAVs – now known as Predator A – with research and development funding from Pentagon, the Air Force and a highly secret intelligence organization called the National Reconnaissance Organization.5 The 1995 deployment of the unarmed Predator A by the CIA and Air Force sparked new interest within the U.S. military and intelligence apparatus, resulting in at least $600 million in new R&D contracting for drones with General Atomics. According to a U.S. Air Force study, “The CIA’s UAV program that existed in the early 1990’s and that still exists today gave Predator and GA-ASI an important opportunity that laid the foundation for Predator’s success.” The study goes on to document what is known of the collaboration between the intelligence community and General Atomics.6 General Atomics is a privately held firm, owned by brothers Neal and Linden Blue. The Blue brothers bought the firm (which was originally a start-up division of General Dynamics) in 1986 for $50 million and the next year hired Ret. Rear Admiral Thomas J. Cassidy to run GA-SI. The Blue brothers are well connected nationally and internationally with arch-conservative, anti-communist networks. These links stem in part from their past associations with right-wing leaders; one such example being the 100,000-acre banana and cocoa farm Neal Blue co-owned with the Somoza family in Nicaragua, another being Linden Blue’s 1961 imprisonment in Cuba shortly before the Bay of Pigs for flying into Cuban airspace, and especially their record of providing substantial campaign support for congressional hawks.7 In 1997, the U.S. Air Force’s high-tech development and procurement divisions took the first steps toward weaponizing the Predator. This push led to the Air Force’s “Big Safari” rapid high-tech acquisitions program, which proved instrumental in having an armed Predator ready for deployment in 2000. The newly weaponized MQ Predator-B was in action from the first day of the invasion of Afghanistan on October 21, 2001, when a Hellfire missile was fired from a remote operator sitting in an improvised command and control center situated in the parking lot of the CIA headquarters in Langley, Virginia.8 The post-9/11 launch of the “global war on terrorism” opened the floodgates for drone R&D funding and procurement by the CIA and all branches of the U.S. military, led by the Air Force. Starting in Afghanistan, and later in Iraq, the Predator transitioned from an unmanned surveillance aircraft to what General Atomics proudly called a “Hunter-Killer.” Since 2004, the CIA and the Joint Special Operations Command, a covert unit of the U.S. military, have routinely made clandestine strikes in Pakistan and more recently in Yemen and Somalia. These clandestine strikes increased during the first Obama Administration and continued into the second amid growing criticism that drone strikes were unconstitutional and counterproductive.9 The rise of the Predators along with later drone models produced by General Atomics – the Reaper, Guardian and Avenger drones – can be attributed to aggressive marketing, influence-peddling and lobbying initiatives by General Atomics and General Atomics Aeronautical Systems (GA-SI). The selling of the Predator could also count on the close personal ties forged over decades in the military-industrial complex, which resulted in key R&D grants from the military and intelligence sectors. Another important factor in the Predator’s increasing popularity has been General Atomics’ willingness to adapt models to meet varying demands from DOD, DHS and the intelligence community for different armed and unarmed variants. Also working in General Atomics favor is its ongoing commitment to curry favor in Congress with substantial campaign contributions and special favors. Speaking at the Citadel on December 11, 2001, President George W. Bush underscored the Predators’ central role in U.S. global counterterrorism missions: “Before the war, the Predator had skeptics because it did not fit the old ways. Now it is clear the military does not have enough unmanned vehicles.”10 At the time, there was widespread public, media and congressional enthusiasm for UAVs where suspected terrorists were purportedly killed with surgical precision while UAV pilots sat in front of video screens out of harm’s way drinking coffee. Little was known then about the high-accident rates for the UAVs or the shocking collateral damage from their targeted strikes. Nor was it well known that the Predators were being piloted from command and control centers at the CIA and at Creech Air Force Base in Nevada. PREDATORS ALIGHT ON THE BORDER In the late-1990s, about the same time that the U.S. Border Patrol started contracting for ground-based electronic surveillance, the agency also began planning to integrate drone surveillance into ground-based electronic surveillance systems. It is also when it began the practice of entering into sole-source contracts with high-tech firms.11 The Border Patrol’s grand high-tech plan was to integrate drone ISR operations with its planned Integrated Surveillance Intelligence System (ISIS).12 The plan, albeit never detailed in the project proposal, was to integrate geospatial images from yet-to-be acquired Border Patrol UAVs into an elaborate command, control and communications systems managed by the Border Patrol – an agency not known for its high-level technical or management skills.13 Soon after the CIA and the U.S. Air Force began flooding General Atomics with procurement contracts for armed Predators in 2001, disarmed Predator UAVs were summoned for border security duty. In 2003, the Border Patrol – with funding not from the Customs and Border Protection (CBP) budget but rather from the Homeland Security’s newly created Science and Technology Directorate – began testing small, relatively inexpensive UAVs for border surveillance. In 2005, CBP took full control over the DHS drone program, with the launch of its own Predator drone program under the supervision of the newly created Office of Air and Marine (OAM). OAM was a CBP division that united all the aerial and marine assets of the Office of the Border Patrol and Immigration and Customs Enforcement (ICE). According to the CBP, “The UAV program focuses operations on the CBP priority mission of anti-terrorism by helping to identify and intercept potential terrorists and illegal cross-border activity.” Tens of billions of dollars began to flow into the Department of Homeland Security for border security – the term that superseded border control in the aftermath of 9/11 – and the DHS drone program was propelled forward. To direct OAM, DHS appointed Michael C. Kostelnik, a retired Air Force major general. During his tenure in the Air Force, Kostelnik supervised weapons acquisitions and was one of the leading players in encouraging General Atomics to quickly equip the Predator with bombs or missiles.14 The more expensive, armed Predator drones and their variants became the preferred border drone as a result of widespread enthusiasm for the surge in Predator operations in Iraq and Afghanistan and the close collaborative relationship that developed between General Atomics Aeronautical Systems and CBP. CBP began using its first Predator for operations in October 2005, but the drone crashed in April 2006 in the Arizona desert near Nogales due an error made by General Atomics’ contracted pilot. Crash investigators from the National Transportation Safety Board found the pilot had shut off the drone’s engine when he thought he was redirecting the drone’s camera. As Kostelnik explained to the Border and Marine Subcommittee of the House Homeland Security Committee, “There was a momentary loss link that switched to the second control” – and the Predator fell out of the sky.15 The Fleet By early 2013, CBP had a fleet of seven Predator drones and three Guardians drones, all stationed at military bases. Two Guardians – Predators modified for marine surveillance – are based at the Naval Air Station in Corpus Christi, Texas, while another patrols the Caribbean as part of a drug war mission from its base at the Cape Canaveral Air Force Station in Florida. Four of the seven Predators are stationed at Libby Army Airfield, part of Fort Huachuca near the Mexican border in southeastern Arizona, while two have homes at the Grand Forks Air Force Base in North Dakota. The tenth Predator drone will also be based at Cape Canaveral. According to the CBP Strategic Air and Marine Plan of 2010, OAM intends to deploy a fleet of 24 Guardians and Predators. In 2008, as part of its acquisition strategy, CBP planned to have the 24-drone fleet ready by 2016, boasting that OAM would then be capable of deploying drones anywhere in national airspace in three hours or less.16 In late 2012, CBP signed a major new five-drone contract with General Atomics. The $443.1 million five-year contract includes $237.7 million for the prospective purchase of up to 14 additional Predators and Predator variations, and $205.4 million for operational costs and maintenance by General Atomics crews.17 This new contract was signed, despite increasing budget restrictions, a series of critical reports by the Congressional Research Service (CRS), Government Accountability Office and the DHS Office of Inspector General, and continuing technical failures and poor results. Only One Source CBP insists that General Atomics Aeronautical Systems is the only “responsible source” for its drone needs and that no other suppliers or servicers can satisfy agency requirements for these $18-20 million drones. According to CBP’s justification for sole-source contracting, U.S. national security would be put at risk if DHS switched drone contractors. In a November 1, 2012 statement titled “Justification for Other than Full and Open Competition,” DHS contends that “The Predator-B/Guardian UAS combination is unmatched by any other UAS available. To procure an alternative system…or support services…would detrimentally impact national security,” most notably due to “decreased interdictions of contraband (e.g., illegal narcotics, undocumented immigrants).” Furthermore, CBP claimed, “The GA-ASI MQ-9 UAS provides the best value to OAM’s documented and approved operational requirements and programmatic constraints. With 38% of planned systems on-online, MQ-9 operations are mature, well-understood, and a critical component of DHS’s daily Homeland Security campaign.” When asked by this author for information documenting specific data, comparative studies, cost-benefit evaluations, record of the achievements of the drone program, or threat assessment to support such conclusions, CBP simply responded: CBP deploys and operates the UAS only after careful examination where the UAS can most responsibly aid in countering threats of our Nation’s security. As threats change, CBP adjusts its enforcement posture accordingly and may consider moving the location of assets.18 II. MORE DRONE BOOSTERISM THAN OVERSIGHT IN CONGRESS The Pentagon, military, intelligence agencies and military contractors are longtime proponents of UAVs for intelligence, surveillance and reconnaissance (ISR) missions. Following President Bush’s declaration of a “global war on terrorism,” the White House became directly involved in expanding drone deployment in foreign wars – especially in directing drone strikes. The most unabashed advocates of drone proliferation, however, are in Congress. They claim drones can solve many of America’s most pressing problems – from eliminating terrorists to keeping the homeland safe from unwanted immigrants. However, there has been little congressional oversight of drone deployments, both at home and abroad. Since the post-9/11 congressional interest in drone issues – budgets, role in national airspace, overseas sales, border deployment and UAVs by law enforcement agencies – drone legislation would “increase the number of unmanned aerial vehicles and surveillance equipment….”19 Drone promotion by U.S. representatives and senators in Congress pops up in what at first may seem the unlikeliest of places. Annually, House members join with UAS manufacturers to fill the foyer and front rooms of the Rayburn House Office Building with displays of the latest drones – an industry show introduced in glowing speeches by highly influential House leaders, notably Buck McKeon, the Southern California Republican who chairs the House Armed Service Committee and co-chairs the Congressional Unmanned Systems Caucus (CUSC). Advances in communications, aviation and surveillance technology have all accelerated the coming of UAVs to the home front. Yet drones are not solely about technological advances. Money flows and political influence also factor in. Congressional Caucus on Unmanned Systems At the forefront of the money/politics nexus is the Congressional Caucus on Unmanned Systems (CCUS). Four years ago, the CCUS (then known as the House Unmanned Aerial Vehicle Caucus) was formed by a small group of congressional representatives – mainly Republicans and mostly hailing from districts with drone industries or bases. By late 2012, the House caucus had 60 members and had changed its name to encompass all unmanned systems – whether aerial, marine or ground-based.20 This bipartisan caucus, together with its allies in the drone industry, has been promoting UAV use at home and abroad through drone fairs on Capitol Hill, new legislation and drone-favored budgets. CCUS aims to “educate members of Congress and the public on the strategic, tactical, and scientific value of unmanned systems; actively support further development and acquisition of more systems, and to more effectively engage the civilian aviation community on unmanned system use and safety.”21 In late 2012, the caucus comprised a collection of border hawks, immigration hardliners and leading congressional voices for the military contracting industry. The two caucus co-chairs, Howard “Buck” McKeon, R-California, and Henry Cuellar, D-Texas, are well positioned to accelerate drone proliferation. McKeon, whose southern California district includes major drone production facilities, notably General Atomics, is the caucus founder and chair of the House Armed Services Committee. Cuellar, who represents the Texas border district of Laredo, is the ranking member (and former chairman) of the House Subcommittee on Border and Maritime Security. Other caucus members include Brian Bilbray (R-Calif.), who heads the House Immigration Reform Caucus; Candice Miller (R-Minn.), who heads the Homeland Security subcommittee that reviews the air and marine operations of DHS; Joe Wilson (R-SC); Jerry Lewis (R-Calif.); Dana Rohrabacher (R-Calif.); Loretta Sanchez (D-Calif.); and Duncan Hunter (R-Calif.). Eight caucus members were also members of the powerful House Appropriations Committee in the 112th Congress. The caucus and its leading members (along with drone proponents in the Senate) have played key roles in drone proliferation at home and abroad through channeling earmarks to Predator manufacturer General Atomics, prodding the Department of Homeland Security to establish a major drone program, adding amendments to authorization bills for the Federal Aviation Administration and Department of Defense to ensure the more rapid integration of UAVs into the national airspace, and increasing annual DOD and DHS budgets for drone R&D and procurements. To accelerate drone acquisitions and deployment at home, Congress has an illustrative track record of legislative measures (see accompanying box). Congressional support for the development and procurement of Predators dates back to 1996, and is reflected in the defense and intelligence authorization acts. An Air Force-sponsored study of the Predator’s rise charted the increases mandated by the House Armed Service and the House Intelligence committees over the Predator budget requests made by the Air Force in its budgets requests. Between 1996 and 2006 (ending date of study), “Congress has recommended an increase, over and above USAF requests, in the Predator budget for nearly 10 years in a row. This has resulted in a sum total increase of over a half a billion dollars over the years.”22 Association of Unmanned Vehicle Systems CCUS cosponsors the annual drone fete with the Association of Unmanned Vehicle Systems International (AUVSI), an industry group that brings together the leading drone manufacturers and universities with UAV research projects. AUVSI represents the interests in the expansion of unmanned systems expressed by many of the estimated 100 U.S. companies and academic institutions involved in developing and deploying the some 300 of the currently existing UAV models.23 The drone association has a $7.5-million annual operating budget, including $2 million a year for conferences and trade shows to encourage government agencies and companies to use unmanned aircraft.24 AUVSI also has its own congressional advocacy committee that is closely linked to the caucus. The keynote speaker at the drone association’s annual conference in early 2012 was Representative McKeon. The congressman was also the featured speaker at AUVSI’s AIR Day 2011, in recognition, says AUVSI’s president, that Congressman McKeon “has been one of the biggest supporters of the unmanned systems community.” The close relationship between the congressional drone caucus and AUVSI was reflected in a similar relationship between CBP/OAM and AUVSI. Tom Faller, the CBP official who directed the UAV program at OAM, joined the AUVSI 23-member board-of-directors in August 2011, a month before the association hosted a technology fair in the foyer of the Rayburn House Office Building. OAM participated in the fair. Faller resigned from the unpaid position on Nov. 23, 2011 after the Los Angeles Times queried DHS about Faller’s unpaid position in the industry association. Faller is currently subject of a DHS internal ethics-violation investigation.25 Contracts, contributions, earmarks and favors Once a relatively insignificant part of the military-industrial complex, the UAV development and manufacturing sector is currently expanding faster than any other component of military contracting. Drone orders from various federal departments and agencies are rolling in to AUVSI corporate members, including such leading military contractors as General Atomics, Lockheed Martin and Northrop Grumman.26 (Unlike most major military contractors, General Atomics is not a corporation but a privately held firm, whose two major figures are Linden and Neal Blue, both of whom have high security clearances) U.S. government drone purchases – not counting contracts for an array of related UAV services and “payloads” – rose from $588 million to $1.3 billion over the past five years.27 The FY2013 DOD budget includes $5.8 billion for UAVs, which does not include drone spending by the intelligence community, DHS or other federal entities. The Pentagon says that its “high-priority” commitment to expenditures for drone defense and warfare has resulted in “strong funding for unmanned aerial vehicles that enhance intelligence, surveillance, and reconnaissance capabilities.”29 While the relationship between increasing drone contracts and the increasing campaign contributions received by drone caucus members can only be speculated, caucus members are favored recipients of contributions by AUVSI members. In the 2010 and 2012 election cycles, political action committees associated with companies that produce drones donated more than $2.4 million to members of the congressional drone caucus.30 The leading recipient was McKeon, with Representative Silvestre Reyes, the influential Democrat from El Paso (who lost his seat in the 2012 election), coming in a close second.31 General Atomics counted among McKeon’s top five contributors in the last election. (See Figure 1) Frank W. Pace, the director of General Atomics Aeronautical Systems, contributed to two candidates – Buck McKeon and Jerry Lewis – during the 2012 electoral campaign. (See Figure 2) Who were the top recipients of the General Atomics campaign contributions in the 2012 cycle? Four of the top five recipients were not surprising – Buck McKeon, Jerry Lewis, Duncan Hunter and Brian Bilbray – given their record of support for UAVs, and their position among the most influential drone caucus members. (See Figure 3) The relationship that has been consolidating between General Atomics and the U.S. Air Force since the early 1990s has been mediated and facilitated in Congress by influential congressional representatives, led by southern Californian Republican Rep. Jerry Lewis, a member of the House Appropriations Defense Committee and vice-chairman of the House Permanent Select Committee on Intelligence. Lewis, a favored recipient of General Atomics campaign contributions, used his appropriations influence to ensure that the Air Force gained full control of the UAV program by 1998. Lewis, a prominent member of the “Drone Caucus,” has received at least $10,000 every two years in campaign contributions from General Atomics’ political action committee – $80,000 since 1998, according to OpenSecrets.org. During the 2012 campaign cycle, General Atomics was the congressman’s top campaign donor.32 The top ranking recipient of General Atomics’ campaign contributions is not a CUSC member. Senator Diane Feinstein’s (D-Calif.) contributions from General Atomics easily placed her at the top of the list. Feinstein, who chairs the powerful Senate Intelligence Committee, was also favored in campaign contributions by Linden Blue, the president of General Atomics. (See Figure 4) Senator Feinstein has been a highly consistent supporter of the intelligence community and military budgets. Her failure to oppose the clandestine drone strikes ordered by the White House and CIA have sparked widespread criticism by those who argue the strikes are unconstitutional, illegal under international law and counterproductive as a counterterrorism tactic.33 In 2012, General Atomics was Feinstein’s third largest campaign contributor, while other leading contributors were the military contractors General Dynamics (from which General Atomics emerged), BAE Systems and Northrup Grumman.34 Feinstein’s connections to General Atomics extend beyond being top recipient of their campaign contributions. Rachel Miller, a former (2003-2007) legislative assistant for Feinstein, has served as a paid lobbyist for General Atomics, both working directly for the firm (in 2011) and as a General Atomics lobbyist employed by Capitol Solutions (2009 - present), one of the leading lobbying firms contracted by General Atomics.35 And did you know that Linden Blue plans to marry Retired Rear Adm. Ronne Froman? Few others knew about the engagement of this high-society San Diego couple until Senator Feinstein announced the planned marriage at a mid-November 2012 meeting of the downtown San Diego business community – news that quickly appeared in the Society pages of the San Diego Union-Tribune. There has been no explanation offered why Feinstein broke this high-society news, but the announcement certainly did point to the senator’s likely personal connections to Blue and Froman (who was hired by General Atomics as senior vice-president in December 2007 and has since left the firm).36 Campaign contributions and personal connections create goodwill and facilitate contracts. General Atomics also counts on the results produced by a steady stream of lobbying dollars – which have risen dramatically since 2003, and been averaging $2.5 million annually since 2005. In 2012, General Atomics spent $2,470,000 lobbying Congress.37 Congressional earmarks were critical to the rise of the Predator, both its earlier unarmed version as well as the later “Hunter-Killer.” The late senator Daniel K. Inouye, the Hawaii Democrat who chaired the Senate Appropriations Committee, told the New York Times that if the House ban on commercial earmarks that was introduced in 2010 had been in effect earlier, ‘’we would not have the Predator today.’’ Tens of millions of dollars in congressional earmarks in the 1990s went to General Atomics and other military contractors for the early development of what became the Predator program, reported the New York Times.38 Inouye was a source of a number of these multimillion earmarks for General Atomics, whose large campaign contributions to the influential Hawaii senator from 1998 to 2012 ($5000 in this last campaign) could be regarded as thank-you notes since Inouye faced insignificant political opposition. Besides campaign contributions, General Atomics routinely hands out favors to congressional representatives thought likely to support drone proliferation. A 2006 report by the Center for Public Integrity identified Jerry Lewis as one of two congressional members and more than five dozen congressional staffers who traveled overseas courtesy of General Atomics. The center’s report, The ‘Top Gun’ of Travel, observed this “little-known California defense contractor [has] far outspent its industry competitors on travel for more than five years — and in 2005 landed promises of billions of dollars in federal business.” Most of this business was in the form of drone development and procurement by the Pentagon and DHS. Questioned about this pattern of corporate-sponsored trips, Thomas Cassidy, founder of General Atomics Aeronautical Systems, said, “[It’s] useful and very helpful, in fact, when you go down and talk to the government officials to have congressional people go along and discuss the capabilities of [the plane] with them,” A follow-up investigation by the San Diego Union-Tribune reported, “Most of that was spent on overseas travel related to the unmanned Predator spy plane made by General Atomics Aeronautical Systems, an affiliated company.”39 Looking desperately for oversight In practice, there’s more boosterism than effective oversight in the House Homeland Security Committee and its Subcommittee on Border and Maritime Security, which oversees DHS’s rush to deploy drones to keep the homeland secure. The same holds true for most of the more than one hundred other congressional committees that purportedly oversee the DHS and its budget.40 Since DHS’s creation, Congress has routinely approved annual and supplementary budgets for border security that have been higher than those requested by the president and DHS. CCUS member and chair of the House Border and Maritime Security subcommittee, Representative Candice Miller, R-Michigan, is effusive and unconditional in her support of drones. Miller described her personal conviction that drones are the answer to border insecurity at the July 15, 2010 subcommittee hearing on UAVs.41 “You know, my husband was a fighter pilot in Vietnam theater, so—from another generation, but I told him, I said, ‘Dear, the glory days of the fighter jocks are over.’” “The UAVs, the Unmanned Aerial Vehicles are coming,” continued Miller, “and now you see our military siting in a cubicle sometimes in Nevada, drinking a Starbucks, running these things in theater and being incredibly, incredibly successful.” The uncritical drone boosterism in Congress was underscored in a Washington Post article on the use of drones for border security. In his trips to testify on Capitol Hill, Kostelnik said he had never been challenged in Congress about the appropriate use of homeland security drones. “Instead, the question is: ‘Why can’t we have more of them in my district?’” remarked the OAM chief.42 Since 2004, the DHS’s UAV program has drawn mounting concern and criticism from the government’s own oversight and research agencies, including the Congressional Research Service, the Government Accountability Office and the DHS’s own Office of Inspector General.43 These government entities have repeatedly raised questions about the cost-efficiency, strategic focus and performance of the homeland security drones. Yet, rather than subjecting DHS officials to sharp questioning, the congressional committees overseeing homeland security and border security operations have, for the most part, readily and often enthusiastically accepted the validity of undocumented assertions by testifying CBP officials. The House Subcommittee on Border and Maritime Security has been especially notorious for its lack of critical oversight. As part of the budgetary and oversight process, the House and Senate committees that oversee DHS have not insisted that CBP undertake cost-benefit evaluations, institute performance measures, implement comparative evaluations of its high-tech border security initiatives, or document how its UAV program responds to realistic threat assessments. Instead of providing proper oversight and ensuring that CBP/OAM’s drone program is accountable and transparent, congressional members from both parties seem more intent on boosting drone purchases and drone deployment. As CBP was about to begin its first drone deployments in 2005 as part of the Operation Safeguard pilot project, the Congressional Research Service observed: “Congress will likely conduct oversight of Operation Safeguard before considering wider implementation of this technology.” Unfortunately, Congress never reviewed the results of Operation Safeguard pilot project, and CBP declined requests by this writer to release the report of this UAV pilot project.44 Congress has been delinquent in its oversight duties. In addition to the governmental research and monitoring institutions, it has been mainly the nongovernmental sector – including the American Civil Liberties Union, Electronic Frontier Foundation, Center for Constitutional Rights, and the Center for International Policy – that has alerted the public about the lack of transparency and accountability in the DHS drone program and the absence of responsible governance over the domestic and international proliferation of UAVs. In September 2012, the Senate formed its own bipartisan drone caucus, the Senate Unmanned Aerial Systems Caucus, co-chaired by Jim Inhofe (R-Okla.) and Joe Manchin (D-W.Va.). “This caucus will help develop and direct responsible policy to best serve the interests of U.S. national defense and emergency response, and work to address any concerns from senators, staff and their constituents,” said Inhofe.45 It is still too early to ascertain if the Senate’s drone caucus will follow its counterpart in the House in almost exclusively focusing on promoting drone proliferation at home and abroad. It is expected, however, that caucus members will experience increased flows of campaign contributions from the UAS industry. While Senator Manchin just won his first full-term in the 2012 election, Senator Inhofe has been favored by campaign contributions from military contractors, including General Atomics ($14,000 in 2012), since he took office in 2007. His top campaign contributor was Koch Industries. For its part, AUVSI, the drone industry association, gushed in its quickly offered commendation. “I would like to commend Senators Inhofe and Manchin for their leadership and commitment in establishing the caucus, which will enable AUVSI to work with the Senate and stakeholders on the important issues that face the unmanned systems community as the expanded use of the technology transitions to the civil and commercial markets,” said AUVSI President and CEO Michael Toscano. “It is our hope to establish the same open dialogue with the Senate caucus as we have for the past three years with the House Unmanned Systems Caucus,” the AUVSI executive added.46 There is rising citizen concern about drones and privacy and civil rights violations. The prospective opening of national airspace to UAVs has sparked a surge of concern among many communities and states – eleven of which are considering legislation in 2013 that would restrict how police and other agencies would deploy drones. But paralleling new concern about the threats posed by drone proliferation is local and state interest in attracting new UAV testing facilities and airbases for the FAA and other federal entities. FAA and industry projections about the number of UAVs (15,000 by 2020, 30,000 by 2030) that may be using national airspace – the same space used by all commercial and private aircraft – have sparked a surge of new congressional activism, with several new bills introduced by non-drone caucus members in the new Congress that respond to the new fears about drone proliferation. Yet there is no one committee in the House or the Senate that has assumed the responsibility for UAV oversight to lead the way toward creating a foundation of laws and regulations establishing a political framework for UAV use going forward. At this point, there is no federal agency or congressional committee that is providing oversight over drone proliferation – whether in regard to U.S. drone exports, the expanding drone program of DHS, drone-related privacy concerns, or UAV use by private or public firms and agencies. Gerald Dillingham, top official of the Government Accountability Office, testified in Congress about this oversight conundrum. When asked which part of the federal government was responsible for regulating drone proliferation in the interest of public safety and civil rights, the GAO director said, “At best, we can say it’s unknown at this point.”47 III. CROSSOVER DRONES Homeland security drones are expanding their range beyond the border, crossing over to local law enforcement agencies, other federal civilian operations, and into national security missions. BORDER SECURITY TO LOCAL SURVEILLANCE The rapid advance of drone technology has sparked interest by police and sheriff offices in acquiring drones. The federal government has closely nurtured this new eagerness. Through grants, training programs and “centers of excellence,” the Departments of Justice and Homeland Security have been collaborating with the drone industry and local law enforcement agencies to introduce unmanned aerial vehicles to the homeland. One example is DHS’s Urban Areas Security Initiative (UASI), a Federal Emergency Management Agency (FEMA) program established to assist communities with counterterrorism projects that provides grants to enable police and sheriffs departments to launch their own drone programs. In 2011, a DHS UASI grant of $258,000 enabled the Montgomery County Sheriffs Office in Texas to purchase a ShadowHawk drone from Vanguard Defense Industries. DHS UASI grants also allowed the city of Arlington, Texas to buy two small drones.48 Miami also counted on DHS funding to purchase its UAV. According to DHS, UASI “provides funding to address the unique planning, organization, equipment, training, and exercise needs of high-threat, high-density urban areas, and assists them in building an enhanced and sustainable capacity to prevent, protect against, respond to, and recover from acts of terrorism.”49 However, in the UASI project proposals there is little or no mention of terrorism or counterterrorism. Instead, local police forces want drones to bolster their surveillance capabilities and as an adjunct to their SWAT teams and narc squads. DHS is not the only federal department promoting drone deployment in the homeland. Over the past four decades, the Department of Justice’s criminal-justice assistance grants have played a central role in shaping the priorities and operations of state and local law enforcement.50 Through its National Institute of Justice, the Department of Justice (DOJ) has been working closely with industry and local law enforcement to “develop and evaluate low-cost unmanned aircraft systems.”51 In 2011, National Institute of Justice grants went to such large military contractors and drone manufacturers as Lockheed Martin, ManTech and L-3 Systems to operate DOJ-sponsored “centers of excellence” devoted to the use of technology by local law enforcement for surveillance, communications, biometrics and sensors.53 In an October 4, 2012 presentation to the National Defense Industrial Association, OAM chief Kostelnik explained that the CBP drones were not limited to border control duties. The OAM was, he said, the “leading edge of deployment of UAS in the national airspace.” This deployment wasn’t limited to what are commonly understood homeland security missions but extended to “rapid contingency supports” for “Federal/State/Local missions.” According to CBP: OAM provides investigative air and marine support to Immigration and Customs Enforcement, as well as other federal, state, local, and international law enforcement agencies.53 Incidents involving CBP drones in local law enforcement operations have surfaced in media reports, but CBP has thus far not released a record of its support for local and state police, despite repeated requests by media and research organizations. DHS and CBP/OAM in particular have failed to define the legal and constitutional limits of its drone operations. Rather than following strict guidelines about the scope of its mission and the range of homeland security drones, Kostelnik argued before the association of military contractors that “CBP operations [are] shaping the UAS policy debate” in the United States. According to Kostelnik, the CBP’s drones are “on the leading edge in homeland security.” This cutting edge role of the CBP/OAM drones not only extends to local and state operations, including support for local law enforcement, but also to national security. “[The] CBP UAS deployment vision strengthens the National Security Response Capability.” Border Security to National Security Most of the concern about the domestic deployment of drones by DHS has focused on the crossover to law-enforcement missions that threaten privacy and civil rights – and without more regulations in place will accelerate the transition to what critics call a “surveillance society.” Also worth public attention and congressional review is the increasing interface between border drones and national security and military missions. The prevalence of military jargon used by CBP officials – such as “defense in depth” and “situational awareness” – points to at least a rhetorical overlapping of border control and military strategy. Another sign of the increasing coincidence between CBP/OAM drone program and the military is that the commanders and deputies of OAM are retired military officers. Both Major General Michael Kostelnik and his successor Major General Randolph Alles, retired from U.S. Marines, were highly placed military commanders involved in drone development and procurement. Kostelnik was involved in the development of the Predator by General Atomics since the mid-1990s and was an early proponent of providing Air Force funding to weaponize the Predator. As commander of the Marine Corps Warfighting Laboratory, Alles was a leading proponent of having each military branch work with military contractors to develop their own drone breeds, including near replicas of the Predator manufactured for the Army by General Atomics.57 In promoting – and justifying – the DHS drone program, Kostelnik routinely alluded to the national security potential of drones slated for border security duty. On several occasions Kostelnik pointed to the seamless interoperability with DOD UAV forces. At a moment’s notice, Kostelnik said that OAM could be “CHOP’ed” – meaning a Change in Operational Command from DHS to DOD.58 DHS has not released operational data about CBP/OAM drone operations. Therefore, the extent of the participation of DHS drones in domestic and international operations is unknown. But statements by CBP officials and media reports from the Caribbean point to a rapidly expanding participation of DHS Guardian UAVs in drug-interdiction and other unspecified operations as far south as Panama. CBP states that OAM “routinely provides air and marine support to other federal, state, and local law enforcement agencies” and “works with the U.S. military in joint international anti-smuggling operations and in support of National Security Special Events [such as the Olympics].” According to Kostelnik, CBP planned a “Spring 2011 deployment of the Guardian to a Central American country in association with Joint Interagency Task Force South (JIATF-South) based at the naval station in Key West, Florida.59 JIATF-South is a subordinate command to the United States Southern Command (USSOUTHCOM), whose geographical purview includes the Caribbean, Central America and South America. In mid-2012, CBP/OAM participated in a JIATF-South collaborative venture called “Operation Caribbean Focus” that involved flight over the Caribbean Sea and nations in the region – with the Dominican Republic acting as the regional host for the Guardian operations, which CBP/OAM considers a “prototype for future transit zone UAS deployments.” CBP says that OAM drones have not been deployed within Mexico, but notes that “OAM works in collaboration with the Government of Mexico in addressing border security issues,” without specifying the form and objectives of this collaboration.60 As part of the U.S. global drug war and as an extension of border security, unarmed drones are also crossing the border into Mexico. The U.S. Northern Command has acknowledged that the U.S. military does fly a $38-million Global Hawk drone into Mexico to assist the Mexico’s war against the drug cartels.61 Communities, state legislatures and even some congressional members are proceeding to enact legislation and revise ordinances to decriminalize or legalize the consumption of drugs, especially marijuana, targeted by the federal government’s drug war of more than four decades. At the same time, DHS has been escalating its contributions to the domestic and international drug war – in the name of both homeland security and national security. Drug seizures on the border and drug interdiction over coastal and neighboring waters are certainly the top operative priorities of OAM. Enlisting its Guardian drones in SOUTHCOM’s drug interdiction efforts underscores the increasing emphasis within the entire CBP on counternarcotic operations. CBP is a DHS agency that is almost exclusively focused on tactics. While CBP as the umbrella agency and the Office of the Border Patrol and OAM all have strategic plans, these plans are marked by their rigid military frameworks, their startling absence of serious strategic thinking, and the diffuse distinctions between strategic goals and tactics. As a result of the border security buildup, south-north drug flows (particularly cocaine and more high-value drugs) have shifted back to marine smuggling, mainly through the Caribbean, but also through the Gulf of Mexico and the Pacific.62 Rather than reevaluating drug prohibition and drug control frameworks for border policy, CBP/OAM has rationalized the procurement of more UAVs on the shifts in the geographical arenas of the drug war – albeit couching the tactical changes in the new drug war language of “transnational criminal organizations” and “narcoterrorism.” The overriding framework for CBP/OAM operations is evolving from border security and homeland security to national security, as recent CBP presentations about its Guardian deployments illustrates. Shortly before retiring after seven years as OAM first chief, Major General Kostelnik told a gathering of military contractors: “CPB’s UAS Deployment Vision strengthens the National Security Response Capability.”63 He may well be right, but the U.S. public and Congress need to know if DHS plans to institute guidelines and limits that regulate the extent of DHS operational collaboration with DOD and the CIA. IV. No Transparency, No Accountability, No Defined Limits to Homeland Security Drone Missions The UAV program of CBP’s Office of Air and Marine is not top secret – there are no secret ops, no targeted killings, no “signature” strikes against suspected terrorists, no clandestine bases – like the CIA and U.S. military UAV operations overseas. While the UAV program under DHS isn’t classified, information about the program is scarce – shielded by evasive program officials, the classification of key documents, and the failure of CBP/OAM to share information about the number, objectives and performance of its UAV operations. DHS has also not been forthcoming about its partnerships and shared missions with local law enforcement, foreign governments and the U.S. military and intelligence sectors. CBP has kept a tight lid on its drone program. Over the past nine years, CBP has steadily expanded its UAV program without providing any detailed information about the program’s strategic plan, performance and total costs. Information about the homeland security drones has been limited, for the most part, to a handful of CBP announcements about new drone purchases and a series of unverifiable CBP statistics about drone-related drug seizures and immigrant arrests.

#### Domestic armed drones are generating public fear

Gucciardi ’13 (Anthony Gucciardi, creator of Storyleak, accomplished writer, producer, and seeker of truth. His articles have been read by millions worldwide and are routinely featured on major alternative news websites like the infamous Drudge Report, Infowars, NaturalNews, G Edward Griffin's Reality Zone, and many others, “NEW PRECEDENT: ARMED DOMESTIC DRONE STRIKES WILL SOON BE REALITY”, <http://www.storyleak.com/armed-domestic-drone-strikes-reality/>, May 23, 2013)

A new precedent has been set. Despite extensive denial that drone strikes would endanger Americans, Attorney General Eric Holder has now openly admitted that four US citizens were killed through overseas drone strikes since 2009. While not on United States soil, the deaths of the US citizens in nations like Yemen and Pakistan highlight the new precedent being set by US government heads who wish to use drones as a form of lethal enforcement on US soil. With Holder admitting that Americans have already died via drone strikes following his statements that Obama can already initiate drone strikes on US soil, we are now seeing the way paved to go ahead and announce armed drones to fight terrorism here in the US. We all remember the initial rhetoric that drones were ‘no real threat’, and that they were simply unarmed scouting machines used to save lives overseas. Then, we saw them rapidly enter the nation, and we heard the same tired reassurances. We saw them killing innocents overseas with the high powered weaponry being attached to these ‘scouting’ drones, and we see them still doing so today. But, once again, we’re told not to worry. Political talking heads like Eric Holder assure us that domestic drones, for which over 1,400 permits have been issued, are not meant to be used as weapons. Well, that is unless Obama decides to use the drones as a weapon of war on US soil. ARMED DOMESTIC DRONES IN THE NEAR FUTURE Despite the message of assurance regarding the promise that domestic drones would never turn into government-controlled war machines, Eric Holder decided to go ahead and announce that it would actually be entirely ‘legal’ for Obama to issue a drone strike on a US citizen on domestic soil. In fact, CNN reports that Holder does not ‘rule out’ the possibility of domestic drone strikes, and that a scenario could occur in the future. And to strike someone with a drone, of course, you would need weaponry. You would need an armed drone. In other words, Holder is going against the major promise by the FAA official who ‘promised’ that no armed drones will be flying on domestic soil. But don’t worry, Holder says the government has ‘no intention’ right now of issuing drone strikes on US soil. Just like the government never targeted Constitution and conservative-based groups through the IRS and would never use domestic drones to spy on you. Quite simply, if any power is given to these individuals in government, be sure of one thing: they will use it. And knowing the track record of drone strikes overseas and how they greatly affect the innocent, drone strikes on US soil against citizens is an even more serious threat. The 3,000 plus deaths from drone strikes overseas in Pakistan alone, which vastly affect the innocent and non-threatening, have even prompted Google employees and big firms alike to develop charts and interactive maps to detail the deaths in a manner that portrays the reality of the situation. One design firm known as Pitch recently went and created an interactive chart that, along with detailing how less than 2% of strike victims are high priority targets, documents the drone strike deaths throughout recent years. We continue to hear these major announcements from Holder regarding drone strikes, and each time it pushes the precedent further. Each time, he warps the ‘law’ to justify what is being done with drone attacks, and each time we come closer to the announcement that we ‘need’ to use armed drones against domestic terrorists. Just wait for the next terrorist hunt in the US for a high profile crime case to hear more from Holder and the gang on why we need armed domestic drones to keep us safe. It already happened with Dorner and others.

# 2AC

## Circumvention

### 2aC

#### This is the only card specific about targeted killing

**Goldsmith ’12** [Jack Goldsmith is a Harvard Law professor and a member of the Hoover Task Force on National Security and Law. He served in the Bush administration as assistant attorney general in charge of the Office of Legal Counsel, “Fire When Ready,” 3-19-12, <http://www.foreignpolicy.com/articles/2012/03/19/fire_when_ready?page=full>, March 19, 2012]

When the Obama administration made the decision to kill Awlaki, it did not rely on the president's constitutional authority as commander in chief. Rather, it relied on authority that Congress gave it, and on guidance from the courts. In September 2001, Congress authorized the president "to use all necessary and appropriate force against those nations, organizations, or persons he determines" were responsible for 9/11. Whatever else the term "force" may mean, it clearly includes authorization from Congress to kill enemy soldiers who fall within the statute. Unlike some prior authorizations of force in American history, the 2001 authorization contains no geographical limitation. Moreover, the Supreme Court, in the detention context, has ruled that the "force" authorized by Congress in the 2001 law could be applied against a U.S. citizen. Lower courts have interpreted the same law to include within its scope co-belligerent enemy forces "associated" with al Qaeda who are "engaged in hostilities against the United States." International law is also relevant to targeting decisions. Targeted killings are lawful under the international laws of war only if they comply with basic requirements like distinguishing enemy soldiers from civilians and avoiding excessive collateral damage. And they are consistent with the U.N. Charter's ban on using force "against the territorial integrity or political independence of any state" only if the targeted nation consents or the United States properly acts in self-defense. There are reports that Yemen consented to the strike on Awlaki. But even if it did not, the strike would still have been consistent with the Charter to the extent that Yemen was "unwilling or unable" to suppress the threat he posed. This standard is not settled in international law, but it is sufficiently grounded in law and practice that no American president charged with keeping the country safe could refuse to exercise international self-defense rights when presented with a concrete security threat in this situation. The "unwilling or unable" standard was almost certainly the one the United States relied on in the Osama bin Laden raid inside Pakistan. These legal principles are backed by a system of internal and external checks and balances that, in this context, are without equal in American wartime history. Until a few decades ago, targeting decisions were not subject to meaningful legal scrutiny. Presidents or commanders typically ordered a strike based on effectiveness and, sometimes, moral or political considerations. President Harry Truman, for example, received a great deal of advice about whether and how to drop the atomic bomb on Hiroshima and Nagasaki, but it didn't come from lawyers advising him on the laws of war. Today, all major military targets are vetted by a bevy of executive branch lawyers who can and do rule out operations and targets on legal grounds, and by commanders who are more sensitive than ever to legal considerations and collateral damage. Decisions to kill high-level terrorists outside of Afghanistan (like Awlaki) are considered and approved by lawyers and policymakers at the highest levels of the government. The lawyers and policymakers are guided in part by Supreme Court and lower court decisions that, in the context of reviewing military detentions, have interpreted the meaning, scope, and limits of the congressional authorization to use force. The executive branch also has tools at its disposal -- an elaborate intelligence bureaucracy, precision weapons, and computer targeting algorithms -- to minimize collateral damage in war like never before (indeed, these tools sometimes force an operation or target to be avoided or aborted). We do not know the full details of targeting decisions, but we do know -- from administration speeches and press coverage of internal deliberations -- that Obama administration policymakers and lawyers seriously grapple with the legal limits of their authorities, construe them narrowly to meet the case at hand, and are constrained in who they target. Congress too is involved. The executive branch only targets enemy forces that fall within the parameters set by Congress in 2001. All major targeting operations conducted as "covert actions" must, under laws in place before 9/11, be conducted in conformity with presidential "findings" and reported to congressional intelligence committees. These committees lack a formal veto, but they have many ways to push back against covert actions they dislike. House Minority Leader Nancy Pelosi is said to have scaled back a covert operation in 2004 to influence the outcome of elections in Iraq by complaining to the White House, while the House Intelligence Committee reportedly persuaded the Obama administration not to arm the Libyan rebels in 2011. Operations by the U.S. military are also reported to and scrutinized by congressional armed services committees through less formal means. More broadly, Congress as a whole is well aware of the president's targeted killing program, and many congressional committees have held public hearings on targeted killing in the last few years. And yet, in contrast to its actions to tighten the president's traditional military authorities in other contexts (like interrogation, military detention, and military commissions), Congress has not tightened the president's power to target. Instead, Congress chose to reaffirm the 2001 authorization on which the president has rested his targeting practices in December 2011, and to bless the judicial construction of the statute that extended the president's authorities to co-belligerents like Awlaki, all without a word about limitations on targeted killing. Congress did this against the backdrop of many public reports that the 2001 statute was relied on to kill Awlaki. The targeted killing of Awlaki was also subject to a limited but important form of judicial scrutiny. In 2010, the ACLU and the Center for Constitutional Rights brought a novel lawsuit that sought to enjoin the president from killing Awlaki. Judge John Bates of the U.S. District Court for the District of Columbia dismissed the case, in part because of "the impropriety of judicial review." Bates explained that the Constitution places "responsibility for the military decisions at issue in this case 'in the hands of those who are best positioned and most politically accountable for making them'" -- Congress and the president. This ruling, based on extensive precedent, is almost certainly right. Commanders in chief have always had discretion over targeting decisions in wars authorized by Congress. No court has ever suggested that judicial approval for these decisions was appropriate or necessary. This is so even though the U.S. military killed U.S. citizens in the Civil War and most likely in World War II as well, when some fought in the Italian and German armies. The Supreme Court itself has ruled -- in the context of military commissions and military detention -- that U.S. citizenship does not by itself preclude the commander in chief from exercising traditional forms of military force. This is the background against which to assess Attorney General Holder's claim that the Constitution "guarantees due process, not judicial process." Holder was referring to the Fifth Amendment's prohibition on taking life without due process, a further legal limitation on the targeted killing of U.S. citizens. Critics belittled Holder for distinguishing due process from judicial process, but Holder is right. The Supreme Court has ruled in many contexts that due process does not always demand judicial scrutiny. It has also ruled that the type and extent of process due depends on the nature and circumstances of the deprivation, including a balance between the interests of the individual and the government. A U.S. citizen's interest is obviously at its height when he is targeted with lethal force. The government's interest is at its height when it seeks to incapacitate a threatening enemy in a congressionally sanctioned war. Holder only defended the wartime authority to kill a U.S. citizen who presents "an imminent threat of violent attack against the United States" and for whom "capture is not feasible," and only when operations are "conducted in a manner consistent with applicable law of war principles." In these circumstances, he claimed, high-level executive deliberation, guided by judicial precedent and subject to congressional oversight, is all the process that is due. Is Holder right? It is hard to say for sure because the due process clause has never before been thought relevant to wartime presidential targeting decisions. The system described above goes far beyond any process given to any target in any war in American history. Awlaki was not given a formal notice and opportunity to defend himself in court, but war does not permit such formal practices. One predicate for the killing was that Awlaki was in hiding -- beyond legal process or the reasonable possibility of capture -- and plotting and directing attacks on the United States. The U.S. government made clear that if Awlaki "were to surrender or otherwise present himself to the proper authorities in a peaceful and appropriate manner, legal principles with which the United States has traditionally and uniformly complied would prohibit using lethal force or other violence against him in such circumstances." And as Judge Bates noted, while Awlaki's placement on a targeting list was publicly disclosed in January 2010, Awlaki publicly disclaimed any intention of challenging his status or turning himself in. It is hard to see how the executive branch could have taken its constitutional responsibilities more seriously while honoring its obligation to keep the nation safe. In light of Judge Bates's ruling and the analysis on which it rests, and until Congress thinks the president's approach to targeting requires change, the current system -- executive deliberation guided by judicial precedent and subject to congressional oversight -- almost certainly satisfies any constitutional requirement. In any event, it belies the claim that the president is not subject to checks and balances. This conclusion will not assuage critics like Andrew Rosenthal who insist that "the president must receive judicial input before ordering the death of an American citizen." What Rosenthal and other krytocrats have not explained is how the Constitution permits, much less demands, such ex ante judicial input. These critics have not grappled with Judge Bates's analysis. Nor have they explained how a presidential request for judicial approval to target and kill a terrorist suspect is consistent with the constitutional limitation of judicial power to cases and controversies between parties in court. It is also unclear whether judges possess the competence to assess and quickly act upon military targets, or whether they would welcome the responsibility for targeting decisions. Perhaps Congress could devise a lawful and effective scheme of judicial or administrative review of the president's targeting decisions. But it has shown no inclination to do so, and it appears to support the current arrangement.

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

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

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

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### 2AC- T

#### We meet- the plan has the FAA *increases statutory restrictions* on presidential war powers authority- the phrase “United States federal government” checks extra-topicality arguments- their interpretation requires prohibition which is bad for aff flexibile- our interpretation is restrict means to limit

CAC 12,COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, COUNTY OF LOS ANGELES, Plaintiff and Respondent, v. ALTERNATIVE MEDICINAL CANNABIS COLLECTIVE et al., Defendants and Appellants, DIVISION ONE, 207 Cal. App. 4th 601; 143 Cal. Rptr. 3d 716; 2012 Cal. App. LEXIS 772

We disagree with County that in using the phrases “further restrict the location or establishment” and “regulate the location or establishment” in [\*615] section 11362.768, subdivisions (f) and (g), the Legislature intended to authorize local governments to ban all medical marijuana dispensaries that are otherwise “authorized by law to possess, cultivate, or distribute medical marijuana” (§ 11362.768, subd. (e) [stating scope of section's application]); the Legislature did not use the words “ban” or “prohibit.” Yet County cites dictionary definitions of “regulate” (to govern or direct according to rule or law); “regulation” (controlling by rule or restriction; a rule or order that has legal force); “restriction” (a limitation or qualification, including on the use of property); “establishment” (the act of establishing or state or condition of being established); “ban” (to prohibit); and “prohibit” (to forbid by law; to prevent or hinder) to attempt to support its interpretation. County then concludes that “the ordinary meaning [\*\*\*23] of the terms, ‘restriction,’ ‘regulate,’ and ‘regulation’ are consistent with a ban or prohibition against the opening or starting up or continued operation of [a medical marijuana dispensary] storefront business.” We disagree.¶CA(9)(9) The ordinary meanings of “restrict” and “regulate” suggest a degree of control or restriction falling short of “banning,” “prohibiting,” “forbidding,” or “preventing.” Had the Legislature intended to include an outright ban or prohibition among the local regulatory powers authorized in section 11362.768, subdivisions (f) and (g), it would have said so. Attributing the usual and ordinary meanings to the words used in section 11362.768, subdivisions (f) and (g), construing the words in context, attempting to harmonize subdivisions (f) and (g) with section 11362.775 and with the purpose of California's medical marijuana [\*\*727] statutory program, and bearing in mind the intent of the electorate and the Legislature in enacting the CUA and the MMP, we conclude that HN21Go to this Headnote in the case.the phrases “further restrict the location or establishment” and “regulate the location or establishment” in section 11362.768, subdivisions (f) and (g) do not authorize a per se ban at the local level. The Legislature [\*\*\*24] decided in section 11362.775 to insulate medical marijuana collectives and cooperatives from nuisance prosecution “solely on the basis” that they engage in a dispensary function. To interpret the phrases “further restrict the location or establishment” and “regulate the location or establishment” to mean that local governments may impose a blanket nuisance prohibition against dispensaries would frustrate both the Legislature's intent to “[e]nhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects” and “[p]romote uniform and consistent application of the [CUA] among the counties within the state” and the electorate's intent to “ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes” and “encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.”

#### FAA rulemaking has statutory authority- function is essentially legislative

**Mikva, 83** – DC Circuit Court of Appeals Chief Judge

[Abner, “Eve Bargmann, M.D., et al., Petitioners, V. J. Lynn Helms, Administrator, Federal Aviation Administration, Federal Aviation Administration, Drew Lewis, Secretary Of Transportation, Department Of Transportation, Respondents,” No. 82-1801, United States Court Of Appeals For The District Of Columbia Circuit, Decided 8-23-1983, Decided, l/n, accessed 1-23-14]

PROCEDURAL POSTURE: Petitioners, physicians, air passengers, and others, appealed an order of respondent Federal Aviation Administration (FAA), which held that it lacked statutory authority to institute a rulemaking to upgrade the quality of first-aid kits carried on board commercial aircraft. OVERVIEW: The FAA only required airlines to carry equipment in their medical kits for treatment of injuries likely to occur in flight or in minor accidents. The gist of the petition for rulemaking was that the contents of these first-aid kits were inadequate to treat the more serious medical problems that airline passengers sometimes developed. The petitioners requested the FAA to consider upgrading domestic air carriers' medical kits toward the more comprehensive kits used by several international carriers and toward several "model" kits recommended by medical experts. In rejecting the FAA's argument that it did not have authority to upgrade the kits, the court first determined that it was well within the tradition of the court's review of agency action on petitions for rulemaking to make an independent inquiry into an agency's allegation that it lacked the statutory authority to act. It then held that the FAA had the necessary rulemaking authority to consider the request under 49 U.S.C.S. § 1421(a)(6). OUTCOME: The court reversed the order of the FAA and held that it had the necessary power of decision. CORE TERMS: rulemaking, kit, flight, emergency, medical equipment, aircraft, statutory authority, promulgate, aviation, inflight, air, airline, passengers, medicine, induced, air carriers, present case, bandage, Federal Aviation Act, petitioners' request, agency's decision, judicial review, reviewability, administered, recommended, stethoscope, landing, pilot, rules of practice, issue presented LexisNexis® Headnotes Administrative Law > Agency Rulemaking > General Overview Transportation Law > Air Transportation > Charters Transportation Law > Air Transportation > Commercial Airlines > General Overview HN1Go to the description of this Headnote. The Federal Aviation Administration requires air carriers to provide approved first-aid kits for treatment of injuries likely to occur in flight or in minor accidents. 14 C.F.R. § 121.309(d).In particular, the FAA requires these first-aid kits to include: limited numbers of bandage compresses, antiseptic swabs, ammonia inhalants, and roller bandages; 1/8 of an ounce of burn compound; one (each) arm and leg splint; one roll of adhesive tape; and a pair of scissors. 14 C.F.R. § 121. Administrative Law > Agency Rulemaking > Formal Rulemaking Administrative Law > Judicial Review > Standards of Review > Arbitrary & Capricious Review Environmental Law > Litigation & Administrative Proceedings > Judicial Review HN2Go to the description of this Headnote. Under section 10(e)(2)(A) of the Administrative Procedure Act, 5 U.S.C.S. § 706(2)(A): the reviewing court shall decide all relevant questions of law, interpret statutory provisions, and hold unlawful and set aside agency action, findings, and conclusions found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. The parameters of this standard will vary with the context of the case. **When an agency's decision** not to promulgate rules **reflects its** broad **rulemaking discretion, *the agency's determination is essentially*** a ***legislative*** one, and the reviewing court should do no more than assure itself that the agency acted in a manner calculated to negate the dangers of arbitrariness and irrationality. It is well within the tradition of the court's review of agency action on petitions for rulemaking to make an independent inquiry into an agency's allegation that it lacks the statutory authority to act. Transportation Law > Air Transportation > Certificates > Operating Certificates Transportation Law > Air Transportation > U.S. Federal Aviation Administration > Duties & Powers Transportation Law > Interstate Commerce > Federal Powers HN3Go to the description of this Headnote. The Federal Aviation Administration derives its authority to regulate safety from those provisions of the Federal Aviation Act of 1958, 49 U.S.C.S. §§ 1301-1542, which carry forward several of the safety provisions of the Civil Aeronautics Act of 1938, Act of June 23, 1938, ch. 601, 52 Stat. 973. In particular, section 601(a) of the 1958 Act empowers the Administrator: to promote safety of flight in civil aircraft in air commerce by prescribing and revising from time to time: (6) such reasonable rules or regulations or minimum standards governing other practices, methods, and procedure, as the Administrator may find necessary to provide adequately for national security and safety in air commerce. 49 U.S.C.S. § 1421(a)(6). Section 604 of the 1958 Act authorizes the FAA to issue air carrier operating certificates which shall prescribe such terms, conditions and limitations as are reasonably necessary to assure safety in air transportation. 49 U.S.C.S. § 1424(b). And section 313(a) provides the Administrator with the power to issue rules consistent with the provisions of this Act, as he shall deem necessary to carry out the Act's provisions. 49 U.S.C.S. § 1354(a).Congress gives the FAA plenary authority to make and enforce safety regulations governing the design and operation of civil aircraft in order to insure the maximum possible safety. COUNSEL: Cornish F. Hitchcock, Alan B. Morrison, for Petitioners. John H. Cassady, III, Federal Aviation Administration, for Respondents. Darlene M. Freeman, Vicki L. Sherman, Federal Aviation Administration, for Respondents. JUDGES: Wald and Mikva, Circuit Judges, and Swygert, \* Senior Circuit Judge, United States Court of Appeals for the Seventh Circuit. Opinion for the Court filed by Circuit Judge Mikva. \* Sitting by designation pursuant to 28 U.S.C. § 294(d). OPINION BY: MIKVA OPINION [\*638] MIKVA, Circuit Judge: **The sole issue** presented **for review** in this case **is** **whether the** Federal Aviation Administration (**FAA) lacks statutory authority** to institute a rulemaking to upgrade the quality of first-aid kits currently carried on board commercial aircraft. Specifically, the FAA contends that it lacks the power, under its mandate to regulate "safety" in the Federal Aviation Act of 1958, to require commercial aircraft to carry medical equipment designed to treat health problems that [\*639] "occur" in flight but are not "caused by" flight. We find that the statute portends [\*\*2] such power and we reverse. In doing so, however, we emphasize that the FAA need not require such equipment. ***Our decision*** today ***holds*** merely that ***the FAA has*** the ***statutory authority*** to proceed with a rulemaking on the subject should it deem such action advisable on the merits.

#### And our interpretation of authority is statutory capacity and not enforcement

Oxford Dictionary of Politics, 3rd Edition, 2009

(“Authority,” Oxford University Press via Oxford Reference, Georgetown University Library)

authority

The right or the capacity, or both, to have proposals or prescriptions or instructions accepted without recourse to persuasion, bargaining, or force. Systems of rules, including legal systems, typically entitle particular office-bearers to make decisions or issue instructions: such office‐bearers have authority conferred on them by the rules and the practices which constitute the relevant activity. Umpires and referees, for example, have authority under the rules and practices constitutive of most sporting contests. Law enforcement officers are authorized to issue instructions, but they also receive the right to behave in ways which would not be acceptable in the absence of authorization: for example, to search persons or premises. To have authority in these ways is to be the bearer of an office and to be able to point to the relation between that office and a set of rules. In itself, this says nothing aboutthecapacity in factof such an office‐holder to have proposals and so forth accepted without introducing persuasion, bargaining, or force. A referee, for example, may possess authority under the rulesof the game, but in fact bechallenged or ignored by the players. A distinction is therefore drawn between de jure authority—in which a right to behave in particular ways may be appealed to—and de facto authority—in which there is practical success. A different distinction is drawn between a person who is in authority as an office‐bearer and a person who is an authority on a subject. The latter typically has special knowledge or special access to information not available to those who accept the person's status as an authority. Sometimes the two forms are found together: for example, the Speaker of the Commons possesses authority (to regulate the business of the House, under its rules of procedure), and is also an authority (on its rules of procedure). Attempts have been made to find common features between these two usages. These focus primarily on the ‘internal’ relationship between the authority‐holder and the authority‐subject, the process of recognition of the status involved, and on the willingness of the authority‐subject to adopt the judgement of the authority‐holder (instead of his or her own, or in the absence of the ability to formulate one).

#### The resolution says United States federal government- means FAA is not extra-topical- agencies are the *heart of public policy* and implement congressional statutes- interpretations that exclude our affirmative kill real-world debate

Howell and Lewis ‘2 (G. Howell, Harvard University, David E. Lewis, Princeton University, “Agencies by Presidential Design William”, THE JOURNAL OF POLITICS, Vol. 64, No. 4, Pp. 1095-1114, November 2002)

The administrative state is the nexus of public policy making in the modern era. While Congress writes the laws, administrative agencies do the work of translating vague and often conflicting legislative provisions into concrete pub- lic policy. To understand what the federal government does, one must under- stand the bureaucracy-which agencies constitute it, how these agencies are structured, and who controls them.

#### No single legislation is a plan

Howell and Lewis ‘2 (G. Howell, Harvard University, David E. Lewis, Princeton University, “Agencies by Presidential Design William”, THE JOURNAL OF POLITICS, Vol. 64, No. 4, Pp. 1095-1114, November 2002)

As a collective decision-making body, Congress almost always has a diffi- cult time enacting new legislation. Coordination problems and multiple veto points make it extremely unlikely that any single legislative bill will be acted upon, much less enacted into law. The institution's capacity to legislate, how- ever, is not fixed. Depending upon the composition of its membership, the pros- pects for lawmaking can vary dramatically. When members of Congress vehemently disagree over public policy matters, obstacles encountered along the legislative circuit will likely prove insurmountable. However, when a con- sensus prevails, members may effectively forge the governing coalitions needed to enact sweeping public policy changes.

#### We restrict war powers

#### First- Secrecy and initiating force are war powers authority- it’s a question of presidential *energy* and not action

Yoo ‘1 (John C. Yoo, Deputy Assistant Attorney General Office of Legal Counsel, “MEMORANDUM OPINION FOR THE DEPUTY COUNSEL TO THE PRESIDENT”, <http://www.justice.gov/olc/warpowers925.htm>, September 25, 2001)

Constitutional Text. The text, structure and history of the Constitution establish that the Founders entrusted the President with the primary responsibility, and therefore the power, to use military force in situations of emergency. Article II, Section 2 states that the "President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States." U.S. Const. art. II, § 2, cl. 1. He is further vested with all of "the executive Power" and the duty to execute the laws. U.S. Const. art. II, § 1. These powers give the President broad constitutional authority to use military force in response to threats to the national security and foreign policy of the United States. (3) During the period leading up to the Constitution's ratification, the power to initiate hostilities and to control the escalation of conflict had been long understood to rest in the hands of the executive branch. (4) By their terms, these provisions vest full control of the military forces of the United States in the President. The power of the President is at its zenith under the Constitution when the President is directing military operations of the armed forces, because the power of Commander in Chief is assigned solely to the President. It has long been the view of this Office that the Commander-in-Chief Clause is a substantive grant of authority to the President and that the scope of the President's authority to commit the armed forces to combat is very broad. See, e.g., Memorandum for Honorable Charles W. Colson, Special Counsel to the President, from William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel, Re: The President and the War Power: South Vietnam and the Cambodian Sanctuaries (May 22, 1970) (the "Rehnquist Memo"). The President's complete discretion in exercising the Commander-in-Chief power has also been recognized by the courts. In the Prize Cases, 67 U.S. (2 Black) 635, 670 (1862), for example, the Court explained that, whether the President "in fulfilling his duties as Commander in Chief" had met with a situation justifying treating the southern States as belligerents and instituting a blockade, was a question "to be decided by him" and which the Court could not question, but must leave to "the political department of the Government to which this power was entrusted." (5) Some commentators have read the constitutional text differently. They argue that the vesting of the power to declare war gives Congress the sole authority to decide whether to make war. (6) This view misreads the constitutional text and misunderstands the nature of a declaration of war. Declaring war is not tantamount to making war - indeed, the Constitutional Convention specifically amended the working draft of the Constitution that had given Congress the power to make war. An earlier draft of the Constitution had given to Congress the power to "make" war. When it took up this clause on August 17, 1787, the Convention voted to change the clause from "make" to "declare." 2 The Records of the Federal Convention of 1787, at 318-19 (Max Farrand ed., rev. ed. 1966) (1911). A supporter of the change argued that it would "leav[e] to the Executive the power to repel sudden attacks." Id. at 318. Further, other elements of the Constitution describe "engaging" in war, which demonstrates that the Framers understood making and engaging in war to be broader than simply "declaring" war. See U.S. Const. art. I, § 10, cl. 3 ("No State shall, without the Consent of Congress . . . engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay."). A State constitution at the time of the ratification included provisions that prohibited the governor from "making" war without legislative approval, S.C. Const. art. XXVI (1776), reprinted in 6 The Federal and State Constitutions 3247 (Francis Newton Thorpe ed., 1909). (7) If the Framers had wanted to require congressional consent before the initiation of military hostilities, they knew how to write such provisions. Finally, the Framing generation well understood that declarations of war were obsolete. Not all forms of hostilities rose to the level of a declared war: during the seventeenth and eighteenth centuries, Great Britain and colonial America waged numerous conflicts against other states without an official declaration of war. (8) As Alexander Hamilton observed during the ratification, "the ceremony of a formal denunciation of war has of late fallen into disuse." The Federalist No. 25, at 133 (Alexander Hamilton). Instead of serving as an authorization to begin hostilities, a declaration of war was only necessary to "perfect" a conflict under international law. A declaration served to fully transform the international legal relationship between two states from one of peace to one of war. See 1 William Blackstone, Commentaries \*249-50. Given this context, it is clear that Congress's power to declare war does not constrain the President's independent and plenary constitutional authority over the use of military force. Constitutional Structure. Our reading of the text is reinforced by analysis of the constitutional structure. First, it is clear that the Constitution secures all federal executive power in the President to ensure a unity in purpose and energy in action. "Decision, activity, secrecy, and dispatch will generally characterize the proceedings of one man in a much more eminent degree than the proceedings of any greater number." The Federalist No. 70, at 392 (Alexander Hamilton). The centralization of authority in the President alone is particularly crucial in matters of national defense, war, and foreign policy, where a unitary executive can evaluate threats, consider policy choices, and mobilize national resources with a speed and energy that is far superior to any other branch. As Hamilton noted, "Energy in the executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks." Id. at 391. This is no less true in war. "Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand." Id. No. 74, at 415 (Alexander Hamilton). (9) Second, the Constitution makes clear that the process used for conducting military hostilities is different from other government decisionmaking. In the area of domestic legislation, the Constitution creates a detailed, finely wrought procedure in which Congress plays the central role. In foreign affairs, however, the Constitution does not establish a mandatory, detailed, Congress-driven procedure for taking action. Rather, the Constitution vests the two branches with different powers - the President as Commander in Chief, Congress with control over funding and declaring war - without requiring that they follow a specific process in making war. By establishing this framework, the Framers expected that the process for warmaking would be far more flexible, and capable of quicker, more decisive action, than the legislative process. Thus, the President may use his Commander-in-Chief and executive powers to use military force to protect the Nation, subject to congressional appropriations and control over domestic legislation. Third, the constitutional structure requires that any ambiguities in the allocation of a power that is executive in nature - such as the power to conduct military hostilities - must be resolved in favor of the executive branch. Article II, section 1 provides that "[t]he executive Power shall be vested in a President of the United States." U.S. Const. art. II, § 1. By contrast, Article I's Vesting Clause gives Congress only the powers "herein granted." Id. art. I, § 1. This difference in language indicates that Congress's legislative powers are limited to the list enumerated in Article I, section 8, while the President's powers include inherent executive powers that are unenumerated in the Constitution. To be sure, Article II lists specifically enumerated powers in addition to the Vesting Clause, and some have argued that this limits the "executive Power" granted in the Vesting Clause to the powers on that list. But the purpose of the enumeration of executive powers in Article II was not to define and cabin the grant in the Vesting Clause. Rather, the Framers unbundled some plenary powers that had traditionally been regarded as "executive," assigning elements of those powers to Congress in Article I, while expressly reserving other elements as enumerated executive powers in Article II. So, for example, the King's traditional power to declare war was given to Congress under Article I, while the Commander-in-Chief authority was expressly reserved to the President in Article II. Further, the Framers altered other plenary powers of the King, such as treaties and appointments, assigning the Senate a share in them in Article II itself. (10) Thus, the enumeration in Article II marks the points at which several traditional executive powers were diluted or reallocated. Any other, unenumerated executive powers, however, were conveyed to the President by the Vesting Clause. There can be little doubt that the decision to deploy military force is "executive" in nature, and was traditionally so regarded. It calls for action and energy in execution, rather than the deliberate formulation of rules to govern the conduct of private individuals. Moreover, the Framers understood it to be an attribute of the executive. "The direction of war implies the direction of the common strength," wrote Alexander Hamilton, "and the power of directing and employing the common strength forms a usual and essential part in the definition of the executive authority." The Federalist No. 74, at 415 (Alexander Hamilton). As a result, to the extent that the constitutional text does not explicitly allocate the power to initiate military hostilities to a particular branch, the Vesting Clause provides that it remain among the President's unenumerated powers. Fourth, depriving the President of the power to decide when to use military force would disrupt the basic constitutional framework of foreign relations. From the very beginnings of the Republic, the vesting of the executive, Commander-in-Chief, and treaty powers in the executive branch has been understood to grant the President plenary control over the conduct of foreign relations. As Secretary of State Thomas Jefferson observed during the first Washington Administration: "the constitution has divided the powers of government into three branches [and] has declared that the executive powers shall be vested in the president, submitting only special articles of it to a negative by the senate." Due to this structure, Jefferson continued, "the transaction of business with foreign nations is executive altogether; it belongs, then, to the head of that department, except as to such portions of it as are specially submitted to the senate. Exceptions are to be construed strictly." Thomas Jefferson, Opinion on the Powers of the Senate (1790), reprinted in 5 The Writings of Thomas Jefferson, at 161 (Paul L. Ford ed., 1895). In defending President Washington's authority to issue the Neutrality Proclamation, Alexander Hamilton came to the same interpretation of the President's foreign affairs powers. According to Hamilton, Article II "ought . . . to be considered as intended . . . to specify and regulate the principal articles implied in the definition of Executive Power; leaving the rest to flow from the general grant of that power." Alexander Hamilton, Pacificus No. 1 (1793), reprinted in 15 The Papers of Alexander Hamilton, at 33, 39 (Harold C. Syrett et al. eds., 1969). As future Chief Justice John Marshall famously declared a few years later, "The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations. . . . The [executive] department . . . is entrusted with the whole foreign intercourse of the nation . . . ." 10 Annals of Cong. 613-14 (1800). Given the agreement of Jefferson, Hamilton, and Marshall, it has not been difficult for the executive branch consistently to assert the President's plenary authority in foreign affairs ever since. In the relatively few occasions where it has addressed foreign affairs, the Supreme Court has agreed with the executive branch's consistent interpretation. Conducting foreign affairs and protecting the national security are, as the Supreme Court has observed, "'central' Presidential domains." Harlow v. Fitzgerald, 457 U.S. 800, 812 n.19 (1982). The President's constitutional primacy flows from both his unique position in the constitutional structure, and from the specific grants of authority in Article II that make the President both the Chief Executive of the Nation and the Commander in Chief. See Nixon v. Fitzgerald, 457 U.S. 731, 749-50 (1982). Due to the President's constitutionally superior position, the Supreme Court has consistently "recognized 'the generally accepted view that foreign policy [is] the province and responsibility of the Executive.'" Department of the Navy v. Egan, 484 U.S. 518, 529 (1988) (quoting Haig v. Agee, 453 U.S. at 293-94). "The Founders in their wisdom made [the President] not only the Commander-in-Chief but also the guiding organ in the conduct of our foreign affairs," possessing "vast powers in relation to the outside world." Ludecke v. Watkins, 335 U.S. 160, 173 (1948). This foreign affairs power is exclusive: it is "the very delicate, plenary and exclusive power of the President as sole organ of the federal government in the field of international relations - a power which does not require as a basis for its exercise an act of Congress." United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 320 (1936). Conducting military hostilities is a central tool for the exercise of the President's plenary control over the conduct of foreign policy. There can be no doubt that the use of force protects the Nation's security and helps it achieve its foreign policy goals. Construing the Constitution to grant such power to another branch could prevent the President from exercising his core constitutional responsibilities in foreign affairs. Even in the cases in which the Supreme Court has limited executive authority, it has also emphasized that we should not construe legislative prerogatives to prevent the executive branch "from accomplishing its constitutionally assigned functions." Nixon v. Administrator of General Servs., 433 U.S. 425, 443 (1977).

#### Second- The plan restricts presidential war powers overreach into DOMESTIC authority- that’s a core part of the topic because we need to learn how drones, cyber etc. affect domestic politics not just international countries

Yoo ‘1 (John C. Yoo, Deputy Assistant Attorney General Office of Legal Counsel, “MEMORANDUM OPINION FOR THE DEPUTY COUNSEL TO THE PRESIDENT”, <http://www.justice.gov/olc/warpowers925.htm>, September 25, 2001)

Second, the Constitution makes clear that the process used for conducting military hostilities is different from other government decisionmaking. In the area of domestic legislation, the Constitution creates a detailed, finely wrought procedure in which Congress plays the central role. In foreign affairs, however, the Constitution does not establish a mandatory, detailed, Congress-driven procedure for taking action. Rather, the Constitution vests the two branches with different powers - the President as Commander in Chief, Congress with control over funding and declaring war - without requiring that they follow a specific process in making war. By establishing this framework, the Framers expected that the process for warmaking would be far more flexible, and capable of quicker, more decisive action, than the legislative process. Thus, the President may use his Commander-in-Chief and executive powers to use military force to protect the Nation, subject to congressional appropriations and control over domestic legislation.

#### Third- The plan increases judicial restrictions- creates a tort remedy for enforcement

DAPT ’13 (H.R. 2868: Drone Aircraft Privacy and Transparency Act of 2013 (<https://www.govtrack.us/congress/bills/113/hr2868/text>, July 20, 2013)

(a) In General

A public agency, entity, or individual officially representing a public agency or entity may not use an unmanned aircraft system or request information or data collected by another entity using an unmanned aircraft system for protective activities, or for law enforcement or intelligence purposes, except pursuant to a warrant issued using the procedures described in the Federal Rules of Criminal Procedure (or, in the case of a State court, issued using State warrant procedures) by a court of competent jurisdiction, or as otherwise provided in the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

#### No limits explosion - ONLY the FAA can regulate drones

Electronic Frontier Foundation 12

<https://www.eff.org/foia/faa-drone-authorizations> "Drone Flights in the US"

The Federal Aviation Authority, part of the DOT, is the sole entity within the federal government responsible for authorizing domestic drone flights, providing a certification or authorization for any drone flying over 400 feet.

## K

### 2AC

#### Legal restraints work – the theory of the exception is self-serving and wrong

Scheuerman ‘6 (William E. Scheuerman 6, Professor of Political Science at Indiana University, Carl Schmitt and the Road to Abu Ghraib, Constellations, Volume 13, Issue 1

Yet this argument relies on Schmitt’s controversial model of politics, as outlined eloquently but unconvincingly in his famous Concept of the Political. To be sure, there are intense conflicts in which it is naïve to expect an easy resolution by legal or juridical means. But the argument suffers from a troubling circularity: Schmitt occasionally wants to define “political” conflicts as those irresolvable by legal or juridical devices in order then to argue against legal or juridical **solutions** to them. **The claim** also **suffers from** a certain **vagueness** and lack of conceptual precision. At times, it seems to be directed against trying to resolve conflicts in the courts or juridical system narrowly understood; at other times it is directed against any legal regulation of intense conflict. The former argument is surely stronger than the latter. After all, **legal devices have undoubtedly played a positive role** **in taming** or at least minimizing the potential dangers of harsh **political antagonisms**. In the Cold War, for example, international law contributed to the peaceful resolution of conflicts which otherwise might have exploded into horrific violence, even if attempts to bring such conflicts before an international court or tribunal probably would have failed.22 Second, Schmitt dwells on the legal inconsistencies that result from modifying the traditional state-centered system of international law by expanding protections to non-state fighters. His view is that irregular combatants logically enjoyed no protections in the state-centered Westphalian model. By broadening protections to include them, international law helps undermine the traditional state system and its accompanying legal framework. Why is this troubling? The most obvious answer is that Schmitt believes that the traditional state system is normatively superior to recent attempts to modify it by, for example, extending international human rights protections to individuals against states. 23 But what if we refuse to endorse his nostalgic preference for the traditional state system? Then a sympathetic reading of the argument would take the form of suggesting that the project of regulating irregular combatants by ordinary law must fail for another reason: it rests on a misguided quest to integrate incongruent models of interstate relations and international law. We cannot, in short, maintain core features of the (state-centered) Westphalian system while extending ambitious new protections to non-state actors. This is a powerful argument, but it remains flawed. Every modern legal order rests on diverse and even conflicting normative elements and ideals, in part because human existence itself is always “in transition.” When one examines the so-called classical liberal legal systems of nineteenth-century England or the United States, for example, one quickly identifies liberal elements coexisting uneasily alongside paternalistic and authoritarian (e.g., the law of slavery in the United States), monarchist, as well as republican and communitarian moments. The same may be said of the legal moorings of the modern welfare state, which arguably rest on a hodgepodge of socialist, liberal, and Christian and even Catholic (for example, in some European maternity policies) programmatic sources. In short, **it is by no means self-evident that trying to give coherent legal form to a transitional** political and social **moment is always doomed to fail**. Moreover, there may be sound reasons for claiming that the contemporary transitional juncture in the rules of war is by no means as incongruent as Schmitt asserts. In some recent accounts, **the general trend** towards extending basic protections to non-state actors **is** plausibly interpreted in a more **positive** – **and by no means incoherent** – light.24 Third, Schmitt identifies a deep tension between the classical quest for codified and stable law and the empirical reality of a social world subject to permanent change: “The tendency to modify or even dissolve classical [legal] concepts…is general, and in view of the rapid change of the world it is entirely understandable” (12). Schmitt’s postwar writings include many provocative comments about what contemporary legal scholars describe as the dilemma of legal obsolescence. 25 In The Partisan, he suggests that the “great transformations and modifications” in the technological apparatus of modern warfare place strains on the aspiration for cogent legal norms capable of regulating human affairs (17; see also 48–50). Given the ever-changing character of warfare and the fast pace of change in military technology, it inevitably proves difficult to codify a set of cogent and stable rules of war. The Geneva Convention proviso that legal combatants must bear their weapons openly, for example, seems poorly attuned to a world where military might ultimately depends on nuclear silos buried deep beneath the surface of the earth, and not the success of traditional standing armies massed in battle on the open field. “Or what does the requirement mean of an insignia visible from afar in night battle, or in battle with the long-range weapons of modern technology of war?” (17). As I have tried to show elsewhere, these are powerful considerations deserving of close scrutiny; Schmitt is probably right to argue that the enigma of legal obsolescence takes on special significance in the context of rapid-fire social change.26 Unfortunately, he seems uninterested in the slightest possibility that we might successfully adapt the process of lawmaking to our dynamic social universe. To be sure, he discusses the “motorization of lawmaking” in a fascinating 1950 publication, but only in order to underscore its pathological core.27 Yet **one** possible **resolution** of the dilemma he describes **would be** to figure how **to reform the process** whereby rules of war are adapted to novel changes in military affairs in order **to minimize the danger of** anachronistic or **out-of-date law. Instead, Schmitt** simply **employs the dilemma of legal obsolescence as a battering ram** against the rule of law and the quest to develop a legal apparatus suited to the special problem of irregular combatants.

#### Extinction first – VTL inevitable

Bernstein ‘2 (Richard J., Vera List Prof. Phil. – New School for Social Research, “Radical Evil: A Philosophical Interrogation”, p. 188-192)

There is a basic value inherent inorganic being, a basic affirmation, "The Yes' of Life" (IR 81). 15 "The self-affirmation of being becomes emphatic in the opposition of life to death. Life is the explicit confrontation of being with not-being. . . . The 'yes' of all striving is here sharpened by the active `no' to not-being" (IR 81-2). Furthermore — and this is the crucial point for Jonas — this affirmation of life that is in all organic being has a binding obligatory force upon human beings. This blindly self-enacting "yes" gains obligating force in the seeing freedom of man, who as the supreme outcome of nature's purposive labor is no longer its automatic executor but, with the power obtained from knowledge, can become its destroyer as well. He must adopt the "yes" into his will and impose the "no" to not-being on his power. But precisely this transition from willing to obligation is the critical point of moral theory at which attempts at laying a foundation for it come so easily to grief. Why does now, in man, that become a duty which hitherto "being" itself took care of through all individual willings? (IR 82). We discover here the transition from is to "ought" — from the self-affirmation of life to the binding obligation of human beings to preserve life not only for the present but also for the future. But why do we need a new ethics? The subtitle of The Imperative of Responsibility — In Search of an Ethics for the Technological Age — indicates why we need a new ethics. Modern technology has transformed the nature and consequences of human action so radically that the underlying premises of traditional ethics are no longer valid. For the first time in history human beings possess the knowledge and the power to destroy life on this planet, including human life. Not only is there the new possibility of total nuclear disaster; there are the even more invidious and threatening possibilities that result from the unconstrained use of technologies that can destroy the environment required for life. The major transformation brought about by modern technology is that the consequences of our actions frequently exceed by far anything we can envision. Jonas was one of the first philosophers to warn us about the unprecedented ethical and political problems that arise with the rapid development of biotechnology. He claimed that this was happening at a time when there was an "ethical vacuum," when there did not seem to be any effective ethical principles to limit ot guide our ethical decisions. In the name of scientific and technological "progress," there is a relentless pressure to adopt a stance where virtually anything is permissible, includ-ing transforming the genetic structure of human beings, as long as it is "freely chosen." We need, Jonas argued, a new categorical imperative that might be formulated as follows: "Act so that the effects of your action are compatible with the permanence of genuine human life"; or expressed negatively: "Act so that the effects of your action are not destructive of the future possibility of such a life"; or simply: "Do not compromise the conditions for an indefinite continuation of humanity on earth"; or again turned positive: "In your present choices, include the future wholeness of Man among the objects of your will."

#### Realism inevitable and good to solve war

Kaplan 11 (Robert, senior fellow at the Center for a New American Security and author "Libya, Obama and the triumph of realism" Aug 28, [www.ft.com/intl/cms/s/0/a76d2ab4-cf2d-11e0-b6d4-00144feabdc0.html#axzz1WPqHMjK3&utm\_source=twitterfeed&utm\_medium=twitter](http://www.ft.com/intl/cms/s/0/a76d2ab4-cf2d-11e0-b6d4-00144feabdc0.html#axzz1WPqHMjK3&utm_source=twitterfeed&utm_medium=twitter), AD: 11/5/11)

Realism is dead, clamour the cheerleaders of the Arab spring. The collapse of dictatorships in Tunisia, Egypt, and now Libya heralds a new birth of freedom that supposedly consigns realism to the graveyard. But Barack Obama – by taking part in the Libyan operation but not leading it – has been nothing if not a realist. Realism, as a theory of international relations, posits that tragedy is not the triumph of evil over good, but instead the triumph of one good over another that causes suffering. It was the US president’s realist views that led him to argue against taking a leadership role in [Libya](http://www.ft.com/intl/indepth/libya-uprising), to keep America’s powder dry for more important crises to come – a demonstrable good. Realism also keeps Mr Obama from owning post-Gaddafi Libya, which is destined, even in the best of circumstances, to be a weak and fragile state. Here he is supporting democracy where he can, and stability where he must. He provides diplomatic support for protesters in Syria but will not intervene. He longs for a democratic rebellion in Iran but fears such a rebellion in Saudi Arabia. That, coupled with his impatience for troop withdrawals in Afghanistan, implies a rejection of nation-building in the Middle East, so as – in effect – to focus on something more crucial: maintaining US maritime power in Asia. Thus does realism triumph. Realism supposedly died at the end of the cold war, when the spread of free societies across eastern Europe highlighted the role of idealism in foreign policy. But then came the terrorist attacks of September 11 2001, and the debacle of Iraq, and realism rose from the ashes. It will rise again now, given that the Middle East and East Asia are bound to get messier. Today’s attacks on realism are just as spurious as those that came before. It is said the theory failed the US by providing the rationale to support Arab dictators. But for any foreign policy to stay relevant for so long is itself a mark of success. The US also derived great benefits from this policy: stable bilateral relations and Arab-Israeli peace agreements ensued; trade routes in the Mediterranean and Arabian seas, on which global commerce and energy supplies depend, were made secure. More important, the political and technological conditions for democratic change in the Arab world were not propitious until recently, and the US should never be in the business of demanding revolutionary overthrows across a quarter of the earth for years on end. Realism counsels dealing with the material at hand, not seeking perennially to change it from half a world away. There is also the charge that realism is cynical, and does not therefore represent western values. But realism in the service of the national interest is the most consistently humanitarian approach possible – because realism is about the avoidance of war through the maintenance of a balance of power. The humanitarian interventionism in the Balkans notwithstanding, the greatest humanitarian gesture in living memory was US president Richard Nixon’s trip to China in 1972, engineered by Henry Kissinger, his national security adviser. By dropping the notion that Taiwan was the real China, they obtained China’s agreement to stop supporting communist insurgencies throughout south-east Asia. Also, with the US implicitly providing protection against the Soviet Union and an economically resurgent Japan, China was able to devote itself to the peaceful growth that would lift most of Asia out of poverty. As more than a billion people saw their living standards rise, there was a consequent explosion of personal freedoms. Such can be the wages of realism. Declaring realism dead because of events in the Middle East is also to demonstrate profound ignorance about Asia. There, nationalism is on the rise, as are military budgets. A half-dozen rising naval powers, principally China, have competing claims in the energy-rich South China Sea. This is a world of amoral balance-of-power calculations that will help define the 21st century. The futures of Libya, Yemen and Syria will all be decidedly troubled, even after all their dictators are overthrown, while post-Mubarak Egypt is an economic wreck with Nasserite and Islamist tendencies. In truth, the Middle East is undergoing less a democratic revolution than a crisis in central authority. Because instability is a given, realism – which counsels that interests are paramount in facing a multiplicity of situations – will once again prove to be the only credible belief system for those who, like Mr Obama, seek to wield power.

#### The alt’s pacificism lets injustice go unstopped – we can acknowledge that all violence is tragic while still recognizing that it’s necessary in some instances

Debra Bergoffen 8, Professor of Philosophy and a member of the Women's Studies and Cultural Studies programs at George Mason University, Spring, The Just War Tradition: Translating the Ethics of Human Dignity into Political Practices, Hypatia Volume 23, Number 2

The just war tradition is riddled with ambiguities. It speaks of a single human community bounded by universal moral laws, as it recognizes and, under certain conditions, legitimates the division of that community into enemy factions in violation of those laws. It recognizes the inevitability of war while speaking of the demands of peace. It sets up reason as the arbiter of wartime strategies, while noting that armed conflicts, once begun, may not be amenable to the rule of reason. Given these ambiguities, a result of the ways in which just war theory attempts to negotiate the competing demands of justice and the politics of power, it is no accident that the just war tradition has been ridiculed by power "realists" for its utopian naïveté and dismissed by pacifists for sacrificing the principles of peace to the demands of war.¶ Twentiethand twenty-first-century war waging has bolstered "realist" and pacifist critiques of the just war doctrine. The trench warfare strategy of World War I, the Allied bombing strategies of World War II, the genocidal evil of Nazi Germany, and the nuclear capacities of the United States and the USSR mocked the just war premise that war could be morally and rationally [End Page 72] constrained. Ironically, the cold-war policy of mutual assured destruction, with its acronym MAD, made the case for the pacifist argument that a just war in a world of nuclear weapons was impossible. MAD did not, however, create the conditions for peace envisioned by just war advocates.¶ The twenty-first century, young as it is, has managed to establish itself as an heir to the twentieth century's mockery of the idea of a just war. Erasing the "never again" post–World War II just war promise with multiple spectacles of genocides, betraying the promise of a post–cold-war world of peaceful coexistence with the reality of a world dominated by ideological wars of terror, a U.S.–declared war on terrorism, and the proliferation of nuclear and biological weapons, **this century has made it increasingly difficult for the just war tradition to establish itself as a counterweight to the politics of violence**.¶ Given the destructive powers of modern weaponry and the absolutist ideologies of contemporary conflicts, and given the fact that the just war tradition is historically tied to the idea of the sovereign state as the sole legitimate source of war and to Western notions of natural law and rights, it might seem time to declare the very idea of a just war a relic of more manageable and naïve times, and a symptom of Eurocentric ideology. It might seem time to face the fact that politically motivated violence is more chaotic than envisioned by just war advocates, and less amenable to the rule of reason required by just war restrictions.¶ Before writing the just war obituary, however, we need to note the ways in which institutional responses to the evils of unbridled violence—war crimes tribunals, a body of international laws and treaties delineating the particulars of war crimes and crimes against humanity, the development of human rights laws—speak the language of just war theory. For these institutions and laws insist that political and military officials are bound by just war morality and hold military and political actors punishably responsible for failing to adhere to the moral obligations of the just war code. These developments suggest that despite the antipathy between current technologies and ideologies of war and the principles of just war doctrines, **the just war insistence that the political and moral worlds are tethered remains relevant**.¶ To see whether just war theory can meet the challenges of its origins and of our times we need to see how it fares against the criticisms of power-politics advocates, such as Carl von Clausewitz (1780–1831), and how it stands up to pacifist and nonviolent rejections of all forms of political violence.¶ In his classic text, On War, Clausewitz argued that even when/if the original objectives of war are limited, war, once begun, cannot escape its absolutist logic.1 According to Clausewitz, as an act of force intended to compel an enemy to surrender, war is subject to the rules of unintended consequences and escalation that no rule of justice can counter (Shaw 2003, 19). In advancing his thesis of reality politics, Clausewitz analyzed the very idea of the just war, the thesis [End Page 73] that war could and should be limited both in its objectives and in its conduct. He made it clear that it is the logic of war, not the technologies of warfare, that constitute its inherent peril. He anticipated Rwanda. Machetes were all the Hutu needed to perpetuate genocide.¶ Clausewitz's argument against the just war premise of rule-governed war has been joined by two other arguments that point to serious loopholes in just war theory. The first of these arguments demonstrates the ways in which the logic of just war itself can become a justification for unlimited war waging. The point of just war doctrine is to distinguish morally justifiable from morally unjustifiable political violence. Thus, just war doctrine can be invoked to establish the righteousness of certain types of war (for example, holy wars, wars to make the world safe for democracy, wars to liberate the proletariat from the exploitations of capitalism, or wars to create democratic states). Once appealed to in this way, however, just war principles, far from limiting or preventing war, become a war-enhancing tool, a (self-) righteous justification of unlimited war (Coates 1997, 2–3). The second objection concerns the authority to declare war. Just war thinking assumes that war is the province of legitimate states. It presumes that legitimate states have some interest in limiting wars. The logic of this link among legitimate states, war making, and limited war is less than compelling. It is, however, thoroughly undermined in our postmodern world of international conglomerates, paramilitary armies, and "rogue" states, where legitimate states no longer monopolize the power of war making (Coates 1997, 6; Shaw 2003, 63).¶ Arguments against the just war premise that war can be contained both in its objectives and its conduct do not necessarily make the "realist" case for unrestrained power politics, however. Instead of linking the failed logic of just war thinking to the inevitable amorality of politics, pacifists, among whom we may include such eighteenth-century advocates of perpetual peace as Immanuel Kant, and those who would limit the fight against injustice to nonviolent methods argue that the failures of just war theory alert us to our moral obligation to reject the very idea of war. They see the fact of the inevitability of unlimited war as requiring us to reject of all forms of politically sanctioned violence. Sara Ruddick, for example, recommends a suspicion of the "rhetoric and reason of deliberate collective violence" and advocates developing nonviolent methods of resistance to violence (Ruddick 1990, 232).¶ Power-politics advocates, nonviolence proponents, and perpetual-peace defenders agree that once political violence begins it cannot be controlled. Their differences concern how to deal with this absolute trajectory of war. Power-politics realists argue that it renders all talk of war and justice superfluous. Pacificists argue that it renders all recourse to war unjustifiable. Just war theorists reject the idea that political violence is always either self-interested or unjust. **They find that rules of war have and can be observed, and that our desires and** [End Page 74] **behaviors are better accounted for by the ambiguous logic of justice and war than the clear-cut justice or war logic of power-politics and pacifist advocates**.¶ Between the ambiguous agenda of the just war tradition and its realist and pacifist critics, we are confronted with the violence of war, the realities of injustice, the moral demand of peace with justice, and the question of how to counter the violence of injustice without unleashing the absolute logic of war. **Different as they are in their prescriptions for international order, political realists and nonviolent pacifists find the demands of power politics radically incompatible with the demands of morality**. Whether it is the realists accusing nonviolence proponents of a naïve utopianism, or the pacifists finding the realists lacking in moral courage and imagination, both agree that the just war tradition is fundamentally misguided in its attempt to tether a politics that accepts the legitimacy of violence to the moral demands of justice. It seems to me, however, that it is precisely this ambiguity of the just war tradition that constitutes its value for the feminist pursuit of global justice; for in invoking the utopian imagination and yoking the realities of violence to the demands for justice, **it puts injustice on trial within the context of the dialectics of power politics**. **The ambiguity of the just war tradition signals its commitment to the intersection of the ethical and the political**. Its strength lies in the ways in which it looks to the moral imagination to set the political agenda. Rather than severing the political from the moral, or finding current visions of politics morally impossible, it looks for ways to translate moral discourses into (imperfect) political strategies.¶ My sympathy for the project of the just war tradition owes much to Simone de Beauvoir and her principle of ambiguity, which, in part at least, requires that we tie our "impossible" visions of justice to the concrete realities of human existence. Specifically, Beauvoir reminds us that violence and evil are part of the horizon of our world. The complexity of our condition and tragedy of our situation is such that violence, though never morally justified, is sometimes morally necessary (Beauvoir 1947/1991). Violence is never moral because it is an assault on our humanity. Invoking it, however, is sometimes necessary to preserve our humanity. **When injustice cannot be rectified in any other way, the resort to violence is justified**. As justified, however, it remains tragic. Beauvoir's concept of the tragic here is crucial; for it stops the logic of justified war from sliding into a doctrine of (self-) righteous, absolute war. Though The Second Sex is notable for its refusal to include violent revolution in the arsenal of liberatory strategies to be taken up by women, it nowhere calls upon women to renounce violence. Further, when Beauvoir discusses the liberatory meanings of violence available to patriarchal men but not women and calls women's exclusion from certain violent practices a curse, she makes it clear that, although she is not renouncing her Ethics of Ambiguity assessment of the tragic relationship between violence and justice, she finds the turn to violence, under certain circumstances, an affirmation of one's dignity. [End Page 75]¶ Between her discussions of what must be done when confronted by the Nazi soldier in The Ethics of Ambiguity and her invocation of the power of the imagination in her defense of the slave and the harem women who do not rebel in The Second Sex, we find Beauvoir validating the utopian imagination as an antidote to passivity in the face of injustice and accepting the idea of legitimate war/violence. By joining the utopian demands for justice with the acceptance of violence through the idea of the tragic, however, she rejects the legitimacy of unrestrained violence. **However legitimate the cause, absolute war is never legitimated**. Here, she and just war advocates share common ground. Both find that the intersecting demands of politics and ethics require a logic of ambiguity rather than a logic of the either/or. In posing the question of feminist justice in the context of the question of war, peace, and human rights, I take up the ambiguities of this common ground.

## Adv CP

### 2AC

#### Domestic armed drones are generating public fear

Gucciardi ’13 (Anthony Gucciardi, creator of Storyleak, accomplished writer, producer, and seeker of truth. His articles have been read by millions worldwide and are routinely featured on major alternative news websites like the infamous Drudge Report, Infowars, NaturalNews, G Edward Griffin's Reality Zone, and many others, “NEW PRECEDENT: ARMED DOMESTIC DRONE STRIKES WILL SOON BE REALITY”, <http://www.storyleak.com/armed-domestic-drone-strikes-reality/>, May 23, 2013)

A new precedent has been set. Despite extensive denial that drone strikes would endanger Americans, Attorney General Eric Holder has now openly admitted that four US citizens were killed through overseas drone strikes since 2009. While not on United States soil, the deaths of the US citizens in nations like Yemen and Pakistan highlight the new precedent being set by US government heads who wish to use drones as a form of lethal enforcement on US soil. With Holder admitting that Americans have already died via drone strikes following his statements that Obama can already initiate drone strikes on US soil, we are now seeing the way paved to go ahead and announce armed drones to fight terrorism here in the US. We all remember the initial rhetoric that drones were ‘no real threat’, and that they were simply unarmed scouting machines used to save lives overseas. Then, we saw them rapidly enter the nation, and we heard the same tired reassurances. We saw them killing innocents overseas with the high powered weaponry being attached to these ‘scouting’ drones, and we see them still doing so today. But, once again, we’re told not to worry. Political talking heads like Eric Holder assure us that domestic drones, for which over 1,400 permits have been issued, are not meant to be used as weapons. Well, that is unless Obama decides to use the drones as a weapon of war on US soil. ARMED DOMESTIC DRONES IN THE NEAR FUTURE Despite the message of assurance regarding the promise that domestic drones would never turn into government-controlled war machines, Eric Holder decided to go ahead and announce that it would actually be entirely ‘legal’ for Obama to issue a drone strike on a US citizen on domestic soil. In fact, CNN reports that Holder does not ‘rule out’ the possibility of domestic drone strikes, and that a scenario could occur in the future. And to strike someone with a drone, of course, you would need weaponry. You would need an armed drone. In other words, Holder is going against the major promise by the FAA official who ‘promised’ that no armed drones will be flying on domestic soil. But don’t worry, Holder says the government has ‘no intention’ right now of issuing drone strikes on US soil. Just like the government never targeted Constitution and conservative-based groups through the IRS and would never use domestic drones to spy on you. Quite simply, if any power is given to these individuals in government, be sure of one thing: they will use it. And knowing the track record of drone strikes overseas and how they greatly affect the innocent, drone strikes on US soil against citizens is an even more serious threat. The 3,000 plus deaths from drone strikes overseas in Pakistan alone, which vastly affect the innocent and non-threatening, have even prompted Google employees and big firms alike to develop charts and interactive maps to detail the deaths in a manner that portrays the reality of the situation. One design firm known as Pitch recently went and created an interactive chart that, along with detailing how less than 2% of strike victims are high priority targets, documents the drone strike deaths throughout recent years. We continue to hear these major announcements from Holder regarding drone strikes, and each time it pushes the precedent further. Each time, he warps the ‘law’ to justify what is being done with drone attacks, and each time we come closer to the announcement that we ‘need’ to use armed drones against domestic terrorists. Just wait for the next terrorist hunt in the US for a high profile crime case to hear more from Holder and the gang on why we need armed domestic drones to keep us safe. It already happened with Dorner and others.

## XO

### 2AC- XO

#### the counterplan is not a logical opportunity cost- the counterplan doesn’t test whether the statutory restriction is a good idea

#### the counterplan links to politics but the plan doesn’t- only the counterplan has Obama act

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

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

#### Law is key to modeling

Maxwell ’12 (Mark David Maxwell, Colonel, Judge Advocate with the U.S. Army, TARGETED KILLING, THE LAW, AND TERRORISTS, Joint Force Quarterly, <http://www.ndu.edu/press/targeted-killing.html>, Winter 2012)

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.

#### The *risk and fear* of Obama reneging on the CP means it doesn’t solve signal

Groll 8/8 (Elias Groll, “The Sudden and Unexpected Return of the Drone War”, <http://blog.foreignpolicy.com/posts/2013/08/08/the_sudden_and_unexpected_return_of_the_drone_war_yemen>, August 8, 2013)

The drone war is back. Amid fears that al Qaeda-affiliated terrorists in Yemen are plotting a major attack, U.S. drones reportedly launched three strikes in the country on Thursday alone, killing 12 suspected al Qaeda militants. In fact, the Obama administration is arguably waging its most intense drone campaign ever in Yemen, with nine suspected drone strikes in the last 13 days and six in the last three. The concentrated bombing is all the more striking considering that just days ago the State Department was shuttering nearly two dozen embassies around the world in response to what seemed an amorphous terrorist threat. The fierce campaign comes on the heels of the White House announcing a major overhaul of its use of drones. With his speech in May outlining a plan to take the United States off its "perpetual wartime footing," the president gave hope to critics of his surprisingly robust drone policy that the strikes would soon be curtailed. But according to Josh Begley, a web developer who tracks drone strikes and runs Dronestream, U.S. drones have struck five times in Pakistan and 11 times in Yemen since Obama's speech. Not since January -- when, during a five-day period, Washington carried out eight suspected strikes -- have U.S. missiles rained down on Yemen with such frequency. While three-strike days are not unprecedented in Yemen, they are far more common in Pakistan. According to Begley's analysis, there have been three likely instances in which U.S. drones struck Yemen three times in one day. In Pakistan, that has occurred 13 times. The interactive map below, courtesy of Begley, shows strikes in Yemen before (yellow dots) and after (red dots) Obama's speech (the first U.S. drone strike in Yemen took place way back in 2002). Some dots below are obscured because of multiple strikes in the same location. The flurry of strikes raises questions about the Obama administration's stated commitment to dial back its aggressive wartime tactics. In a major speech earlier this year, President Obama announced to much fanfare that he hoped to wind down the war on terror and that stricter guidelines would be put in place to govern the use of drone strikes, though those rules largely remain classified and unreleased. "America does not take strikes to punish individuals; we act against terrorists who pose a continuing and imminent threat to the American people, and when there are no other governments capable of effectively addressing the threat," Obama said. "And before any strike is taken, there must be near-certainty that no civilians will be killed or injured -- the highest standard we can set." In a letter to Congress in May, Attorney General Eric Holder hinted at this new, stricter policy. "When capture is not feasible, the policy provides that lethal force may be used only when a terrorist target poses a continuing, imminent threat to Americans, and when certain other preconditions, including a requirement that no other reasonable alternatives exist to effectively address the threat, are satisfied." What those "other preconditions" amount to remains shrouded in mystery. But as articulated in the letter, the administration's new critieria for drone strikes turn on the presence of a "continuing, imminent threat" directed at Americans. Administration officials explain that the prior guidance allowed drone strikes against groups or individuals threatening "U.S. interests" whereas the new policy tightens that guideline to require "U.S. persons" to be threatened by those targeted by drones. This time around, the U.S. government has been making an elaborate, dramatic argument that the latest threat out of Yemen poses imminent danger to Americans. The administration's decision to close and evacuate a slew of diplomatic posts served as a highly visible signal of the perceived seriousness of this threat -- and, most importantly, its implications for U.S. persons. While Obama's speech in May and subsequent policy guidance has been interpreted as an effort by the president to avoid having his legacy defined by the aggressive use of drones, the address itself was notable for its defense of the administration's tactics, which Obama argued have not only undermined terrorist groups but also saved civilian lives. That conviction has been on manifest display in the administration's response this week to the threat emanating from Yemen. Beyond vague hints, apocalyptic warnings, and bizarre leaks, however, U.S. officials have released little information about the nature of that threat. As a result, it remains difficult to evaluate Obama's commitment to his new policy. "There has been an awful lot of chatter out there. Chatter means conversation about terrorists, about the planning that's going on, very reminiscent of what we saw pre-9/11," Sen. Saxby Chambliss, the Georgia Republican, said on NBC's Meet the Press. Later in the week, administration officials revealed that the source of the warning came from an intercepted communication between the head of al Qaeda, Ayman al-Zawahiri, and the chief of the Yemen-based al Qaeda in the Arabian Peninsula. Given the murky nature of the threat, it remains unclear whether, in repeatedly striking targets in Yemen in recent days, the Obama administration is ramping up the pressure on al Qaeda in the Arabian Peninsula in general or simply responding to a specific intelligence threat. The White House's secret legal guidelines would appear to require that the strikes be tied to a specific threat to U.S. persons, but that's a legal standard for which there is no outside oversight or determination. If the U.S. government wants to up the pressure and return to the 2009-2010 heyday of the decade-long drone war, there is nothing stopping it. Meanwhile, for observers of the U.S. national security establishment, the strikes in Yemen upset a commonly accepted wisdom in Washington: that the accession of John Brennan as CIA director heralded the end of aggressive drone strikes. Brennan reportedly favors moving the drone program from the the CIA to the Pentagon, where it will theoretically be subject to greater oversight and transparency. With the transfer of the program, it was also thought that drone strikes would gradually decrease as they moved out of the shadowy world of the CIA and into the, comparatively speaking, more open world of the Defense Department. But events this week in Yemen represent a profound challenge to that line of thinking. And until the White House offers a clear explanation for how it is targeting terrorists and why, prickly questions about the administration's commitment to dialing back the war on terror are likely to persist.

## Politics

### Iran

#### Sanctions will pass now- its veto-proof

Koring, 1-15 -- Globe and Mail (Canada) International Affairs and Security Correspondent

[Paul, "Showdown on Iran looms in U.S. Senate; Hawks are circling over Capitol Hill and Obama's bargain with Tehran is further imperilled by members of his own party", The Globe and Mail (Canada), PAS) Accessed on LexisNexis 1-16-14]

Rapprochement with Iran - the United States' most unpredictable enemy since the mullahs toppled the Shah more than three decades ago - might eventually emerge as President Barack Obama's most significant foreign-policy achievement.¶ Ending the enmity, if not quite deserving of the Nobel Peace Prize the President has already pocketed, would avert the risk of a nuclear-weapons race in the region. The pact to expose Tehran's nuclear program to international inspection is only a first step.¶ But hawks are circling over Capitol Hill and Mr. Obama's bargain with Tehran is imperilled, not just by doubters like Benjamin Netanyahu in Jerusalem and John Baird in Ottawa who claim Iran's leaders can't be trusted, but more importantly, by defecting Democrats.¶ **Nearly two dozen** Democrat senators have joined Republicans in backing a bill that would slap new sanctions on Iran. Mr. Obama has vowed to veto any new sanctions. But a showdown looms. In a rare show of bipartisanship, the pro-sanctions group is nearing the magic number of 67 - sufficient to provide the **veto-overriding** two-thirds majority in the 100-seat Senate that could doom the deal under which Tehran has agreed to stop enriching uranium to anywhere close to weapons-grade.¶ President Obama's domestic problems with his Congressional flank were made worse Tuesday by some internal politicking in Iran.¶ Iran's President Hassan Rouhani boasted United States had capitulated to Tehran in the deal, saying on Twitter that "world powers surrendered to Iranian nation's will." That may please hard-liners at home but is certain to inflame them in the United States. The White House sought to dampen the impact, saying Mr. Rouhani was playing to a domestic audience. "It doesn't matter what they say. It matters what they do," said Mr. Obama's spokesman, Jay Carney.

#### Sanctions will pass now- AIPAC lobbying

Fallows 1-17 -- national correspondent for The Atlantic

[James “The Iran Vote: This Really Matters, and You Should Let Your Senators Know,” 1-14-14, <http://www.theatlantic.com/politics/archive/2014/01/the-iran-vote-this-really-matters-and-you-should-let-your-senators-know/283070/> DOA: 1-17-14]

That derailment is what seems to be underway in the Senate right now. Republicans led by Mitch McConnell are pushing for a sanctions bill that is universally recognized (except by its sponsors) as a poison-pill for the current negotiations. Fine; opposing the administration is the GOP's default position. But a striking number of Democrats have joined them, for no evident reason other than **AIPAC's whole-hearted,** priority-one **support** for the sanctions bill. The screen clip below is from AIPAC's site, and here is some political reporting on AIPAC's role in the sanctions push: NYT, Politico, JTA, Jerusalem Post-JTA, and our own National Journal here and here. Also see Greg Sargent in the Washington Post. In the long run, **these Democrats** are not in a tenable position. Or not a good one. They **are opposing** what **their president**, his secretaries of state and defense, our normal major allies, and even the Russians and Chinese view as a step toward peace. And their stated reason for doing so—that new sanction threats will "help" the negotiations, even though every American, French, British, German, etc., and Iranian figure involved in the talks says the reverse—doesn't pass the straight-face test.

Obama will use unilateral sanctions relief—solves

Adam Kredo, 1/21/14, White House Seeks to Bypass Congress on Iran Deal, freebeacon.com/white-house-seeks-to-bypass-congress-on-iran-deal/

The White House has been exploring ways to circumvent Congress and unilaterally lift sanctions on Iran once a final nuclear agreement is reached, according to sources with knowledge of White House conversations and congressional insiders familiar with its strategy.

The issue of sanctions relief has become one of the key sticking points in the Iran debate, with lawmakers pushing for increased economic penalties and the White House fighting to roll back regulations.

While many in Congress insist that only the legislative branch can legally repeal sanctions, senior White House officials have been examining strategies to skirt Congress, according to those familiar with internal conversations.

Sen. Mark Kirk (R., Ill.), who is leading the charge on new sanctions legislation, said that it is unacceptable for the White House to try to bypass Congress on such a critical global issue.

“The American people must get a say in any final nuclear agreement with Iran to ensure the mullahs never get the bomb,” Kirk told the Washington Free Beacon. “The administration cannot just ignore U.S. law and lift sanctions unilaterally.”

Congressional insiders say that the White House is worried Congress will exert oversight of the deal and demand tougher nuclear restrictions on Tehran in exchange for sanctions relief.

Top White House aides have been “talking about ways to do that [lift sanctions] without Congress and we have no idea yet what that means,” said one senior congressional aide who works on sanctions. “They’re looking for a way to lift them by fiat, overrule U.S. law, drive over the sanctions, and declare that they are lifted.”

Under the interim nuclear deal with Iran that began on Monday, Tehran will receive more than $4 billion in cash, according to the White House.

President Barack Obama could unilaterally unravel sanctions through several executive channels, according to former government officials and legal experts.

Executive orders grant the president significant leverage in the how sanctions are implemented, meaning that Obama could choose to stop enforcing many of the laws on the books, according to government insiders.

Those familiar with the ins and outs of sanctions enforcement say that the White House has long been lax with its enforcement of sanctions regulations already on the books.

“It’s no secret that the president, with executive power, can determine sanctions implementation, particularly with waivers and the decision not to sanction certain entities,” said Jonathan Schanzer, a former terrorism finance analyst at the Treasury Department, which is responsible for enforcing sanctions.

“The financial pressure has always been about closing loopholes and identifying new ones to close,” Schanzer added. “If you stop that process of constant gardening, you leave a backdoor open.”

Obama could also use executive waivers to “bypass restrictions imposed by the law,” according to a report by Patrick Clawson, director of research at the Washington Institute for Near East Policy (WINEP).

The president has a lot of leverage when it comes to sanctions and could effectively “turn a blind eye” to Iranian infractions.

“In the case of Iran, such an approach could allow Washington to reach a nuclear accord without Congress having to vote on rescinding, even temporarily or conditionally, certain sanctions,” Clawson wrote. “No matter how stiff and far-reaching sanctions may be as embodied in U.S. law, they would have less bite if the administration stopped enforcing them.”

One former senior government official said that President Obama’s legal team has likely been investigating the issue for quite some time.

“I’d be shocked if they weren’t putting the various sanctions laws under a microscope to see how they can waive them or work around them in order to deliver to Iran sanctions relief without having to worry about Congress standing in their way,” said Stephen Rademaker, who served as deputy legal adviser to former President George H.W. Bush’s National Security Council (NSC).

Executive branch lawyers are often tasked with finding ways to get around existing legislation, Rademaker said.

“I’m sure pretty early in the negotiating process they developed a roadmap” to ensure the president has the authority to promise Iran significant relief from sanctions, said Rademaker, who also served as chief council for the House Committee on International Relations. “I’m sure they’ve come up with an in depth analysis of what they can do relying exclusively on the president’s legal authority.”

The White House has been known to disregard portions of the sanctions laws that it disagrees with, according to Schanzer.

#### Healthcare thumps the link- democrats abandoning Obama, guarantees sanctions now. PC is not high enough to outweigh the Israel lobby

Finkel 1-15-- editor of Against the Current

[David “Will the Iran deal hold?” <http://internationalviewpoint.org/spip.php?article3239>, DOA: 1-17-14]

A politically weakened U.S. president is pulled by a powerful domestic lobby and influential foreign governments toward launching a war that U.S. imperialism right now doesn’t want, that the world doesn’t want, and that the large majority of the American public doesn’t want — what will be the outcome? It’s an interesting, if dangerous and scary, test of how U.S. politics actually work. The initial results, at least, are in: The unleashed fury of the Israeli government and the “pro-Israel” lobby, the monarchy of Saudi Arabia, the neoconservative warmongers and the much-feared religious right weren’t able to block the Obama administration and European partners from reaching a six-month interim agreement with Iran over that country’s nuclear enrichment program. Any socialist, progressive or sane person must welcome this agreement. That’s not because it resolves the proliferation of nuclear weapons, or changes the hideous character of the Iranian regime in relation to its own population, or addresses the multiple underlying issues of the Middle East crisis — it does none of these things — but because it pushes back the imminent danger of a really catastrophic war. That’s one strike against the widely held theory that the toxic influence of the Israel Lobby can drag the United States into wars that this country‘s ruling class disapproves. The political fight, of course, is hardly over. We’ll explore the underlying reasons for the Israeli and Saudi sound and fury over the deal with Iran, which in fact have little to do with the rather distant specter of an Iranian atomic bomb. But we need to note the U.S. political context in which the fight will play out. If anything, this might have been expected to strengthen the hand of the “war party.” A Wounded Presidency The spectacular disaster of the Afford­able Care Act website is a self-inflicted wound from which the Obama administration will not easily, or perhaps ever, fully recover. Certainly all of us who support single-payer health insurance realized that the fantastically tangled system of “Obamacare” would ultimately fail, due to its scheme for subsidizing the parasitical private insurance industry, but no one could have expected such an immediate display of arrogant incompetence in the “rollout.” The Republican Party has regained big chunks of the ground lost during its own government shutdown fiasco. It’s true that Congress’s approval ratings remain even deeper in the toilet than the President’s, but that fact affects both capitalist parties — and now, Congressional Democrats who stood united against repealing “Obamacare,” because that would have represented the effective end of the Obama presidency and virtual suicide for the party, are angry, alienated and afraid to be near him. Whatever political capital the President had for immigration reform, seriously raising the minimum wage, protecting food stamps from savage cuts, or much of anything else including the climate change crisis, has been dissipated. The Democrats’ chances of regaining the House of Representatives in the November 2014 midterm election, marginal to begin with, are now much less than those of losing the Senate as well. In these circumstances, this might be considered a favorable moment for the power of the Israel Lobby, Saudi Arabia and rightwing militarists to derail the Obama administration’s deal with Iran. In fact, France made a last-minute move to block the first version of the interim agreement — right after Saudi Arabia signed off on a huge purchase of French weapons (a point worth noting in case anyone thought it’s only the USA that has a military-industrial complex). The President’s **loss of control over his own party** is such that many prominent Democratic Senators have taken to the airwaves loudly denouncing his “appeasement” of the Iranians and abandonment of Israel in its hour of existential peril.

### 2AC- Laundry List

#### Laundry list thumps- elections, trade, budget, energy and Podesta nomination

Peckingpaugh et al. 1/16 (Tim L. Peckinpaugh (Partner of K&L Law Firm- focus on Energy), Darrell L. Conner (Government Affairs Counselor), Sean P. McGlynn (Government Affairs Analyst), “2014 Legislative & Regulatory Outlook”, <http://www.klgates.com/2014-legislative--regulatory-outlook-01-16-2014/>, January 16, 2014)

As this memo makes clear, the combined factors of the 2013 budget deal, the recent Senate rules changes, and the appointment of John Podesta would seem to increase the likelihood for both legislative and regulatory action even during an election year. While it’s certainly reasonable to expect that legislative and regulatory action may begin to slow as Congress gets closer to the election in November, it’s important to engage lawmakers and regulators early in 2014 to ensure that you are influencing the policymaking process when it matters most and before it is too far developed. And remember, there is always the possibility – if not an almost certainty – that a lame duck session will occur to complete Congressional work in 2014.

### Politics 2AC

#### Reid is blocking proves that capital is irrelevant and it won’t come up for a vote now

Los Angeles Times 1/26/14 ("Harry Reid Earns An Assist on Iran")

But the bill's authors were willing to live with the risk. They aren't happy with the terms Obama agreed to with Iran, and they say their aim is to strengthen the president's hand. It's hard, however, to see the proposal as anything but a direct rebuke to Obama over his conduct of foreign policy.¶ Initially, the bill had impressive momentum, with 16 Democrats joining 43 Republicans in support. Its backers predicted that they would soon have more than 60 votes, the number needed to move a bill forward in the Senate.¶ But then Reid planted his feet. He controls the Senate calendar, and he let senators know that he saw no need to act on the sanctions bill soon. "At this stage, I think we're where we should be," Reid blandly told reporters.

#### Obama just caved to Congress and restricted the NSA- triggers their losers lose argument

Nakashima and Miller 1/17 ( Ellen Nakashima and Greg Miller, Washington Post, “Obama calls for significant changes in collection of phone records of U.S. citizens”, <http://www.washingtonpost.com/politics/in-speech-obama-to-call-for-restructuring-of-nsas-surveillance-program/2014/01/17/e9d5a8ba-7f6e-11e3-95c6-0a7aa80874bc_story.html?tid=ts_carousel>, January 17, 2014)

President Obama on Friday made a forceful call to narrow the government’s access to millions of Americans’ phone records as part of an overhaul of surveillance activities that have raised concerns about official overreach. The president said he no longer wants the National Security Agency to maintain a database of such records. But he left the creation of a new system to subordinates and lawmakers, many of whom are divided on the need for reform. In a speech at the Justice Department, Obama ordered several immediate steps to limit the NSA program that collects domestic phone records, one of the surveillance practices that was exposed last year by former intelligence contractor Edward Snowden. Obama directed that from now on, the government must obtain a court order for each phone number it wants to query in its database of records. Analysts will be able to review phone calls that are two steps removed from a number associated with a terrorist organization instead of three. And he ordered a halt to eavesdropping on dozens of foreign leaders and governments that are friends or allies. The changes, White House officials said, mark the first significant constraints imposed by the Obama administration on surveillance programs that expanded dramatically in the decade after the Sept. 11, 2001 attacks. But the most significant change he called for, to remove the phone database from government hands, could take months if not longer to implement. And already critics from diverse camps — in Congress and outside it — are warning that what he has called for may be unworkable. Obama is retaining the vast majority of intelligence programs and capabilities that came to light over the past six months in a deluge of reports based on leaked documents. Even the most controversial capability — the government’s access to bulk telephone records, known as metadata — may well be preserved, although with tighter controls and with the records in the hands of some outside entity. The database holds phone numbers and call lengths and times, but not actual phone call content. Obama recognized that others have raised alternatives, such as the moving custodianship of the records to the phone companies or an independent third party — and that such plans face significant logistical and political hurdles. He gave subordinates including Attorney General Eric H. Holder Jr. until March 28 to develop a plan to “transition” the bulk data out of the possession of the government. Existing authorities for the phone records program are set to expire on that date, requiring a reauthorization by the Foreign Intelligence Surveillance Court (FISC). Both in his speech and in the specifics of his plan, Obama straddled competing security and civil liberties imperatives. His proposals are aimed at containing a public backlash triggered by Snowden, but also preserving capabilities that U.S. intelligence officials consider critical to preventing another terrorist attack. [Read the text of Obama’s speech.] Reaction to Obama’s call to end the phone records collection was mixed and underscored the political challenge he faces in achieving his goal. The chairmen of the House and Senate intelligence committees issued a joint statement focusing on Obama’s remarks that “underscored the importance of using telephone metadata to rapidly identify possible terrorist plots.” Sen. Dianne Feinstein (D-Calif.) and Rep. Mike Rogers (R-Mich.) added that they have reviewed the existing NSA bulk collection program and “found it to be legal and effective,” indicating they would oppose efforts to end it. “Ending this dragnet collection will go a long way toward restoring Americans’ constitutional rights and rebuilding the public’s trust,” Sens. Ron Wyden (D-Ore.), Mark Udall (D-Colo.) and Martin Heinrich (D-N.M.) said in a joint statement. “Make no mistake, this is a major milestone in our longstanding efforts to reform the National Security Agency’s bulk collection program.” Adam B. Schiff (D-Calif.), a House Intelligence Committee member who opposes bulk collection, said he thought that ultimately the NSA would have to transition to a model in which the government seeks data from individual phone companies, without forcing the companies to hold the data for longer than they do now. But many civil liberties groups said Obama failed to advance real reform by leaving open the door to third-party storage of records and data retention mandates. “He doesn’t commit to ending the bulk data collection of telephone records,” said Anthony Romero, executive director of the American Civil Liberties Union. “He gets close to understanding the concerns, but he backs away from the real reform, which is to end the bulk data collection. He gets to the finish line, but he doesn’t cross it.” Romero said he was trying to bridge irreconcilable positions: “Clearly this is a president who wants to agree with the criticism of the bulk data collection and retention, and yet wishes to retain that power notwithstanding the serious concerns,” Romero said. “And you can’t have it both ways.” John McLaughlin, a former CIA deputy director, said Obama “was trying to find a midway here.” Obama’s dilemma, he said, is responding to dual challenges: the perception that the program might one day be abused, and the reality that al-Qaeda and its affiliates are growing stronger. “So as president, he’s got to think, ‘I don’t want to take any chances here.’ ” Obama also called on Congress to establish a panel of public advocates who can represent privacy interests before the FISC, which hears government applications for surveillance in secret. Obama has instructed Holder to reform the use of national security letters — a form of administrative subpoena used to obtain business and other records — so that the traditional gag order that accompanies them does not remain in place indefinitely. But he did not, as has been recommended by a White House review panel, require judicial approval for issuance of the letters. The president also addressed another major NSA surveillance program, which involves collection of e-mail and phone calls of foreign targets located overseas, including when they are in contact with U.S. citizens or residents. He acknowledged that the information has been valuable, but directed subordinates to develop new protections for the information collected on U.S. persons. He also said he will order that certain privacy safeguards given Americans whose data are collected be extended to foreigners, including limits on the use of the information and how long it can be kept. Accompanying his speech, Obama issued a new directive Friday that states that the United States will use signals intelligence only “for legitimate national security purposes, and not for the purpose of indiscriminately reviewing the e-mails or phone calls of ordinary people.” It says that authorities will not collect intelligence “to suppress criticism or dissent” or to give U.S. companies a competitive advantage. Unless there is a compelling national security purpose, Obama said, “we will not monitor the communications of heads of state and government of our close friends and allies.” Friendly leaders “deserve to know that if I want to learn what they think about an issue, I will pick up the phone and call them, rather than turning to surveillance,” he said. As he made the case for reforms, Obama also cautioned that “we cannot unilaterally disarm our intelligence agencies.” And he caustically criticized foreign intelligence services that “feign surprise” over disclosures of U.S. surveillance while “constantly probing our government and private sector networks and accelerating programs to listen to our conversations, intercept our e-mails or compromise our systems.” He noted that some countries that “have loudly criticized the NSA privately acknowledge that America has special responsibilities as the world’s only superpower . . . and that they themselves have relied on the information we obtain to protect their own people.” Expressing frustration at those who “assume the worst motives by our government,” Obama said at another point in his speech: “No one expects China to have an open debate about their surveillance programs, or Russia to take privacy concerns of citizens in other places into account.” But he said the United States is held to a higher standard “precisely because we have been at the forefront in defending personal privacy and human dignity.” The president’s speech comes after months of revelations about the breadth and secrecy of the NSA’s surveillance activities, based on hundreds of thousands of documents taken by Snowden. New revelations based on the documents are expected to continue this year.

### 2AC- Politics

#### No link and turn

#### Obama wouldn’t fight the plan

Baker ’13 (Peter Baker, NY Times, “Pivoting From a War Footing, Obama Acts to Curtail Drones”, <http://www.nytimes.com/2013/05/24/us/politics/pivoting-from-a-war-footing-obama-acts-to-curtail-drones.html?pagewanted=all&_r=0>, May 23, 2013)

WASHINGTON — Nearly a dozen years after the hijackings that transformed America, President Obama said Thursday that it was time to narrow the scope of the grinding battle against terrorists and begin the transition to a day when the country will no longer be on a war footing. Declaring that “America is at a crossroads,” the president called for redefining what has been a global war into a more targeted assault on terrorist groups threatening the United States. As part of a realignment of counterterrorism policy, he said he would curtail the use of drones, recommit to closing the prison at Guantánamo Bay, Cuba, and seek new limits on his own war power. In a much-anticipated speech at the National Defense University, Mr. Obama sought to turn the page on the era that began on Sept. 11, 2001, when the imperative of preventing terrorist attacks became both the priority and the preoccupation. Instead, the president suggested that the United States had returned to the state of affairs that existed before Al Qaeda toppled the World Trade Center, when terrorism was a persistent but not existential danger. With Al Qaeda’s core now “on the path to defeat,” he argued, the nation must adapt. “Our systematic effort to dismantle terrorist organizations must continue,” Mr. Obama said. “But this war, like all wars, must end. That’s what history advises. It’s what our democracy demands.” The president’s speech reignited a debate over how to respond to the threat of terrorism that has polarized the capital for years. Republicans contended that Mr. Obama was declaring victory prematurely and underestimating an enduring danger, while liberals complained that he had not gone far enough in ending what they see as the excesses of the Bush era. The precise ramifications of his shift were less clear than the lines of argument, however, because the new policy guidance he signed remains classified, and other changes he embraced require Congressional approval. Mr. Obama, for instance, did not directly mention in his speech that his new order would shift responsibility for drones more toward the military and away from the Central Intelligence Agency. But the combination of his words and deeds foreshadowed the course he hopes to take in the remaining three and a half years of his presidency so that he leaves his successor a profoundly different national security landscape than the one he inherited in 2009. While President George W. Bush saw the fight against terrorism as the defining mission of his presidency, Mr. Obama has always viewed it as one priority among many at a time of wrenching economic and domestic challenges. “Beyond Afghanistan, we must define our effort not as a boundless ‘global war on terror,’ ” he said, using Mr. Bush’s term, “but rather as a series of persistent, targeted efforts to dismantle specific networks of violent extremists that threaten America.” “Neither I, nor any president, can promise the total defeat of terror,” he added. “We will never erase the evil that lies in the hearts of some human beings, nor stamp out every danger to our open society. But what we can do — what we must do — is dismantle networks that pose a direct danger to us, and make it less likely for new groups to gain a foothold, all the while maintaining the freedoms and ideals that we defend.” Some Republicans expressed alarm about Mr. Obama’s shift, saying it was a mistake to go back to the days when terrorism was seen as a manageable law enforcement problem rather than a dire threat. “The president’s speech today will be viewed by terrorists as a victory,” said Senator Saxby Chambliss of Georgia, the top Republican on the Senate Intelligence Committee. “Rather than continuing successful counterterrorism activities, we are changing course with no clear operational benefit.” Senator John McCain, Republican of Arizona, said he still agreed with Mr. Obama about closing the Guantánamo prison, but he called the president’s assertion that Al Qaeda was on the run “a degree of unreality that to me is really incredible.” Mr. McCain said the president had been too passive in the Arab world, particularly in Syria’s civil war. “American leadership is absent in the Middle East,” he said. The liberal discontent with Mr. Obama was on display even before his speech ended. Medea Benjamin, a co-founder of the antiwar group Code Pink, who was in the audience, shouted at the president to release prisoners from Guantánamo, halt C.I.A. drone strikes and apologize to Muslims for killing so many of them. “Abide by the rule of law!” she yelled as security personnel removed her from the auditorium. “You’re a constitutional lawyer!” Col. Morris D. Davis, a former chief prosecutor at Guantánamo who has become a leading critic of the prison, waited until after the speech to express disappointment that Mr. Obama was not more proactive. “It’s great rhetoric,” he said. “But now is the reality going to live up to the rhetoric?” Still, some counterterrorism experts saw it as the natural evolution of the conflict after more than a decade. “This is both a promise to an end to the war on terror, while being a further declaration of war, constrained and proportional in its scope,” said Juan Carlos Zarate, a counterterrorism adviser to Mr. Bush. The new classified policy guidance imposes tougher standards for when drone strikes can be authorized, limiting them to targets who pose “a continuing, imminent threat to Americans” and cannot feasibly be captured, according to government officials. The guidance also begins a process of phasing the C.I.A. out of the drone war and shifting operations to the Pentagon. The guidance expresses the principle that the military should be in the lead and responsible for taking direct action even outside traditional war zones like Afghanistan, officials said. But Pakistan, where the C.I.A. has waged a robust campaign of air assaults on terrorism suspects in the tribal areas, will be grandfathered in for a transition period and remain under C.I.A. control. That exception will be reviewed every six months as the government decides whether Al Qaeda has been neutralized enough in Pakistan and whether troops in Afghanistan can be protected. Officials said they anticipated that the eventual transfer of the C.I.A. drone program in Pakistan to the military would probably coincide with the withdrawal of combat units from Afghanistan at the end of 2014. Even as he envisions scaling back the targeted killing, Mr. Obama embraced ideas to limit his own authority. He expressed openness to the idea of a secret court to oversee drone strikes, much like the intelligence court that authorizes secret wiretaps, or instead perhaps some sort of independent body within the executive branch. He did not outline a specific proposal, leaving it to Congress to consider something along those lines. He also called on Congress to “refine and ultimately repeal” the authorization of force it passed in the aftermath of Sept. 11. Aides said he wanted it limited more clearly to combating Al Qaeda and affiliated groups so it could not be used to justify action against other terrorist or extremist organizations. In renewing his vow to close the Guantánamo prison, Mr. Obama highlighted one of his most prominent unkept promises from the 2008 presidential campaign. He came into office vowing to shutter the prison, which has become a symbol around the world of American excesses, within a year, but Congress moved to block him, and then he largely dropped the effort. With 166 detainees still at the prison, Mr. Obama said he would reduce the population even without action by Congress. About half of the detainees have been cleared for return to their home countries, mostly Yemen. Mr. Obama said he was lifting a moratorium he imposed on sending detainees to Yemen, where a new president has inspired more faith in the White House that he would not allow recidivism. The policy changes have been in the works for months as Mr. Obama has sought to reorient his national security strategy. The speech was his most comprehensive public discussion of counterterrorism since he took office, and at times he was almost ruminative, articulating both sides of the argument and weighing trade-offs out loud in a way presidents rarely do. He said that the United States remained in danger from terrorists, as the attacks in Boston and Benghazi, Libya, have demonstrated, but that the nature of the threat “has shifted and evolved.” He noted that terrorists, including some radicalized at home, had carried out attacks, but less ambitious than the ones on Sept. 11. “We have to take these threats seriously and do all that we can to confront them,” he said. “But as we shape our response, we have to recognize that the scale of this threat closely resembles the types of attacks we faced before 9/11.”

#### B) Obama uses the plan to shift blame- solves losers lose

Wehner ’13 (Peter Wehner, “Barack Obama’s Staggering Incompetence”, <http://www.commentarymagazine.com/2013/09/02/barack-obamas-staggering-incompetence/>, September 2, 2013)

It’s reported that President Obama was ready to order a military strike against Syria, with or without Congress’s blessing, but “on Friday night, he suddenly changed his mind.” According to the Huffington Post: Senior administration officials describing Obama’s about-face Saturday offered a portrait of a president who began to wrestle with his own decision – at first internally, then confiding his views to his chief of staff, and finally summoning his aides for an evening session in the Oval Office to say he’d had a change of heart. In light of all this, it’s worth posing a few questions: 1. Why didn’t the president seek congressional authority before the administration began to beat the war drums this past week? Did the idea not occur to him? It’s not as if this is an obscure issue. When you’re in the White House and preparing to launch military force against a sovereign nation, whether or not to seek the approval of Congress is usually somewhere near the top of the to-do list. And why has the urgency to act that we saw from the administration during the last week–when Assad’s use of chemical weapons was referred to by the secretary of state as a “moral obscenity”–given way to an air of casualness, with Obama not even calling Congress back into session to debate his military strike against Syria? 2. The president didn’t seek congressional approval for his military strike in Libya. Why does he believe he needs it in Syria? 3. Mr. Obama, in his Rose Garden statement on Saturday, still insisted he has the authority to strike Syria without congressional approval. So what happens if Congress votes down a use-of-force resolution? Does the president strike Syria anyway? If so, will it be an evanescent bombing, intended to be limited in scope and duration, while doing nothing to change the war’s balance of power? Or does the president completely back down? Does he even know? Has he thought through in advance anything related to Syria? Or is this a case of Obama simply making it up as he goes along? This latest volte-face by the president is evidence of a man who is completely overmatched by events, weak and confused, and deeply ambivalent about using force. Yet he’s also desperate to get out of the corner he painted himself into by declaring that the use of chemical weapons by the Assad regime would constitute a “red line.” As a result he’s gone all Hamlet on us. Not surprisingly, Obama’s actions are being mocked by America’s enemies and sowing doubt among our allies. (Read this New York Times story for more.) What explains this debacle? It’s impossible for us to know all the reasons, but one explanation appears to be a CYA operation. According to Politico, “At the very least, Obama clearly wants lawmakers to co-own a decision that he can’t back away from after having declared last year that Assad would cross a ‘red line’ if he used chemical weapons against his own people.” And the Washington Post reports: Obama’s proposal to invite Congress dominated the Friday discussion in the Oval Office. He had consulted almost no one about his idea. In the end, the president made clear he wanted Congress to share in the responsibility for what happens in Syria. As one aide put it, “We don’t want them to have their cake and eat it, too.” Get it? The president of the United States is preparing in advance to shift the blame if his strike on Syria proves to be unpopular and ineffective. He’s furious about the box he’s placed himself in, he hates the ridicule he’s (rightly) incurring, but he doesn’t see any way out. What he does see is a political (and geopolitical) disaster in the making. And so what is emerging is what comes most naturally to Mr. Obama: Blame shifting and blame sharing. Remember: the president doesn’t believe he needs congressional authorization to act. He’s ignored it before. He wants it now. For reasons of political survival. To put it another way: He wants the fingerprints of others on the failure in Syria. Rarely has an American president joined so much cynicism with so much ineptitude.

#### The FAA shields

Selin 13 (Jennifer L., Center for the Study of Democratic Institutions, "What Makes an Agency Independent")

The OAP, ONDCP and the Federal Reserve Board are three examples of agencies at the extremes in terms of independence. Yet there are agencies with high estimates on one dimension and low estimates on the other. Take, for example, the FAA, which is a bureau located in the Department of Transportation and authorized to implement law relating to aviation safety. While the Administrator of the FAA serves a five year term, he is not protected by for cause protections.40 The FAA’s decision maker dimension estimate is relatively low at -0.788. However, the FAA’s decisions are largely insulated from political review. The FAA bypasses both OMB budget and legislative communication review, is authorized to deal in property as the agency deems necessary, and uses ALJs in making policy. As such, the FAA’s policy decision dimension estimate is relatively high at 2.084.

#### Their link assumes Obama retaliating against Congress- not an agency

#### Prefer specificity- Obama won’t retaliate against agencies if it hurts him politically

Harter, 87 -- lawyer, J.D. University of Michigan [Philip, "Executive Oversight of Rulemaking," American University Law Review, 36 Am. U.L. Rev. 557, Winter 1987, l/n, accessed 1-25-14]

Even if the President disagrees with an agency's decision, the agency head is still free to publish the rule -- but again, he or she must be wary of the political consequences. The officer may be fired for disregarding the will of the President. n43 The action taken would remain intact until changed through an appropriate process. It is likely, however, that an official with a strong political constituency could survive any threat of removal because the President would hesitate to sack someone if doing so would cause him considerable political liability. This political reality protects against the President directing officials to take action beyond the prevailing political consensus.

### Iran

#### And no impact to first strike

Bronner ‘12 (Ethan, NYT staff reporter, 1/26/12, http://www.nytimes.com/2012/01/27/world/middleeast/israelis-see-irans-threats-of-retaliation-as-bluff.html?\_r=1&hp)

JERUSALEM — Israeli intelligence estimates, backed by academic studies, have cast doubt on the widespread assumption that a military strike on Iranian nuclear facilities would set off a catastrophic set of events like a regional conflagration, widespread acts of terrorism and sky-high oil prices. Prime Minister Benjamin Netanyahu has said he thinks Iranian citizens will welcome an attack. The estimates, which have been largely adopted by the country’s most senior officials, conclude that the threat of Iranian retaliation is partly bluff. They are playing an important role in Israel’s calculation of whether ultimately to strike Iran, or to try to persuade the United States to do so, even as Tehran faces tough new economic sanctions from the West. “A war is no picnic,” Defense Minister Ehud Barak told Israel Radio in November. But if Israel feels itself forced into action, the retaliation would be bearable, he said. “There will not be 100,000 dead or 10,000 dead or 1,000 dead. The state of Israel will not be destroyed.” The Iranian government, which says its nuclear program is for civilian purposes, has threatened to close the Strait of Hormuz — through which 90 percent of gulf oil passes — and if attacked, to retaliate with all its military might. But Israeli assessments reject the threats as overblown. Mr. Barak and Prime Minister Benjamin Netanyahu have embraced those analyses as they focus on how to stop what they view as Iran’s determination to obtain nuclear weapons. No issue in Israel is more fraught than the debate over the wisdom and feasibility of a strike on Iran. Some argue that even a successful military strike would do no more than delay any Iranian nuclear weapons program, and perhaps increase Iran’s determination to acquire the capability. Security officials are increasingly kept from journalists or barred from discussing Iran. Much of the public talk is as much message delivery as actual policy. With the region in turmoil and the Europeans having agreed to harsh sanctions against Iran, strategic assessments can quickly lose their currency. “They’re like cartons of milk — check the sell-by date,” one senior official said. But conversations with eight current and recent top Israeli security officials suggested several things: since Israel has been demanding the new sanctions, including an oil embargo and seizure of Iran’s Central Bank assets, it will give the sanctions some months to work; the sanctions are viewed here as probably insufficient; a military attack remains a very real option; and postattack situations are considered less perilous than one in which Iran has nuclear weapons. “Take every scenario of confrontation and attack by Iran and its proxies and then ask yourself, ‘How would it look if they had a nuclear weapon?’ ” a senior official said. “In nearly every scenario, the situation looks worse.” The core analysis is based on an examination of Iran’s interests and abilities, along with recent threats and conflicts. Before the United States-led war against Iraq in 1991, Saddam Hussein vowed that if attacked he would “burn half of Israel.” He fired about 40 Scud missiles at Israel, which did limited damage. Similar fears of retaliation were voiced before the Iraq war in 2003 and in 2006, during Israel’s war against Hezbollah in southern Lebanon. In the latter, about 4,000 rockets were fired at Israel by Hezbollah, most of them causing limited harm. “If you put all those retaliations together and add in the terrorism of recent years, we are probably facing some multiple of that,” a retired official said, speaking on the condition of anonymity, citing an internal study. “I’m not saying Iran will not react. But it will be nothing like London during World War II.” A paper soon to be published by the Institute for National Security Studies at Tel Aviv University, written by Amos Yadlin, former chief of military intelligence, and Yoel Guzansky, who headed the Iran desk at Israel’s National Security Council until 2009, argues that the Iranian threat to close the Strait of Hormuz is largely a bluff. The paper contends that, despite the risks of Iranian provocation, Iran would not be able to close the waterway for any length of time and that it would not be in Iran’s own interest to do so. “If others are closing the taps on you, why close your own?” Mr. Guzansky said. Sealing the strait could also lead to all-out confrontation with the United States, something the authors say they believe Iran wants to avoid. A separate paper just published by the Begin-Sadat Center for Strategic Studies says that the fear of missile warfare against Israel is exaggerated since the missiles would be able to inflict only limited physical damage. Most Israeli analysts, like most officials and analysts abroad, reject these arguments. They say that Iran has been preparing for an attack for some years and will react robustly, as will its allies, Hezbollah and Hamas. Moreover, they say, an attack will at best delay the Iranian program by a couple of years and lead Tehran to redouble its efforts to build such a weapon. But Mr. Barak and Mr. Netanyahu believe that those concerns will pale if Iran does get a nuclear weapon. This was a point made in a public forum in Jerusalem this week by Maj. Gen. Amir Eshel, chief of the army’s planning division. Speaking of the former leaders of Libya and Iraq, he said, “Who would have dared deal with Qaddafi or Saddam Hussein if they had a nuclear capability? No way.”

## Canada

### 2Ac

### 1NC/ 2AC- Cyber War

#### No cyber war

Cavelty ’12 (Myriam Dunn Cavelty, Dr. Myriam Dunn Cavelty is Head of the New Risk Research Unit at the Center for Security Studies, ETH Zurich, Switzerland and was Fellow at the “stiftung neue verantwortung” in Berlin, Germany, Center for Security Studies (CSS), “The militarisation of cyber security as a source of global tension”, <http://www.academia.edu/1471717/The_militarisation_of_cyber_security_as_a_source_of_global_tension>, March 29, 2012)

Cyber war remains unlikely Since the potentially devastating effects of cyber attacks are so scary, the temptation is very high not only to think about worst-case scenarios, but also to give them a lot of (often too much) weight despite their very low probability. However, most experts agree that strategic cyber war remains highly unlikely in the foreseeable future, mainly due to the uncertain results such a war would bring, the lack of motivation on the part of the possible combatants, and their shared inability to defend against counterattacks. Indeed, it is hard to see how cyber attacks could ever become truly effective for military purposes: It is exceptionally diffcult to take down multiple, specific targets and keep them down over time. the key difficulty is proper reconnaissance and targeting, as well as the need to deal with a variety of diverse systems and be ready for countermoves from your adversary. Furthermore, nobody can be truly interested in allowing the unfettered proliferation and use of cyber war tools, least of all the countries with the offensive lead in this domain. Quite to the contrary, strong arguments can be made that the world’s big powers have an overall strategic interest in developing and accept- ing internationally agreed norms on cyber war, and in creating agreements that might pertain to the development, distribution, and de- ployment of cyber weapons or to their use (though the effectiveness of such norms must remain doubtful). the most obvious reason is that the countries that are currently openly discussing the use of cyber war tools are precisely the ones that are the most vulnerable to cyber warfare at- tacks due to their high dependency on information infrastructure. the features of the emerging information environment make it extremely unlikely that any but the most limited and tactically oriented instances of computer attacks could be con- tained. More likely, computer at- tacks could ‘blow back’ through the interdependencies that are such an essential feature of the environment. Even relatively harmless viruses and worms would cause considerable random disruption to businesses, governments, and consumers. this risk would most likely weigh much heavier than the uncertain benefits to be gained from cyber war activities.

### 1NC/ 2AC- Cyber Terror

#### No cyberterror

– empirics, hollow threats, no capabilities, no motive, disincentives, and focus on other strategies

Healey ‘11 Director of the Cyber Statecraft Initiative at the Atlantic Council of the United States (Jason, “Cyberterror is Aspirational Blather,” <http://www.acus.org/new_atlanticist/cyberterror-aspirational-blather>, October 3, 2011)

The Atlantic Council’s Cyber Statecraft Initiative recently hosted a conference call to discuss the terrorist use of the Internet and how it has evolved in the ten years since 9/11. The call featured Matt Devost of FusionX, Neal Pollard of PriceWaterhouseCooper and Rick Howard of VeriSign/iDefense – who have been tracking this and many other online threats for years. While this conversation was off the record, this blog attempts to capture the spirit. Terms such as “cyber 9/11” and “cyber terrorism” have been used frequently to describe the security threats posed by terrorists online. Cyber technologies, like any other, enable terrorist groups to do their terrorizing more effectively and efficiently. In the past few years it is increasingly common for them to use the Internet for propaganda, fundraising, general support, and convergence. Videos and anonymous discussion forums allow for the dissemination of training information and the call to arms for more individuals to participate and join groups. Importantly, the panelists agreed that these groups have not yet used cyber attack capabilities in any significant way to cause casualties or actually terrorize anyone. While Ibrahim Samudra or Irahabi 007 hacked to raise funds through credit-card fraud, this is a traditional support activity, not “cyber terror”. The US government was a relatively early advocate of a strict definition of cyber terrorism, as nearly a decade ago they were calling it as “a criminal act perpetrated through computers resulting in violence, death and/or destruction, and creating terror for the purpose of coercing a government to change its policies.” Not defacing a webpage, not flooding a website (even of the South Korean president) and not stealing credit card information. Some terrorists groups may talk about waging an e-Jihad, but such talk remains, for now, aspirational blather. For decades, the rule of thumb for intelligence analysts has been that adversaries with motives for damaging cyber attacks do not have the capabilities, while those with the capabilities do not yet have the motives. A large-scale cyber attacks is more difficult than is generally believed and few adversaries have both the motive and capability. Additionally, terrorist groups have many disincentives for pursing cyber capabilities. For example, their leadership tends to be conservative and they tend to stick with what they know will work – suicide bombers, road-side bombs, and kinetic assaults. These actually kill and terrorize people which, as yet, no cyber attack has accomplished. The Congressional Research Service summed this up as “lower risk, but less drama.”

# 1AR

## T

### 1AR – T Overview

#### This is a legal topic in the rotation, which warrants legal precision and accuracy over contrived debate interpretations ---- we’re the only ones with a legal interp --- that’s 2AC YOO and DAPT

#### If we win that our aff is legally accurate and tests Obama’s war powers authority, then any alternative would contrive debate that ruins the educational value of the activity

#### The neg’s interp forces us to do inaccurate research about the lit – how agencies TRANSLATE policy is vital to how those policies are implemented and understood – that’s 2AC Howell

#### This interp applies to an aff that has a military restrict itself, not this aff which is a civilian agency expanding jurisdiction over TK

#### There’s a functional check ---- only the FAA has drone jurisdiction so it checks limits explosion --- at best, we only allow the FAA ban TK aff – that’s 1 more aff on the topic

#### No abuse ---- we haven’t no linked any DAs --- guarantees all ground that would otherwise exist

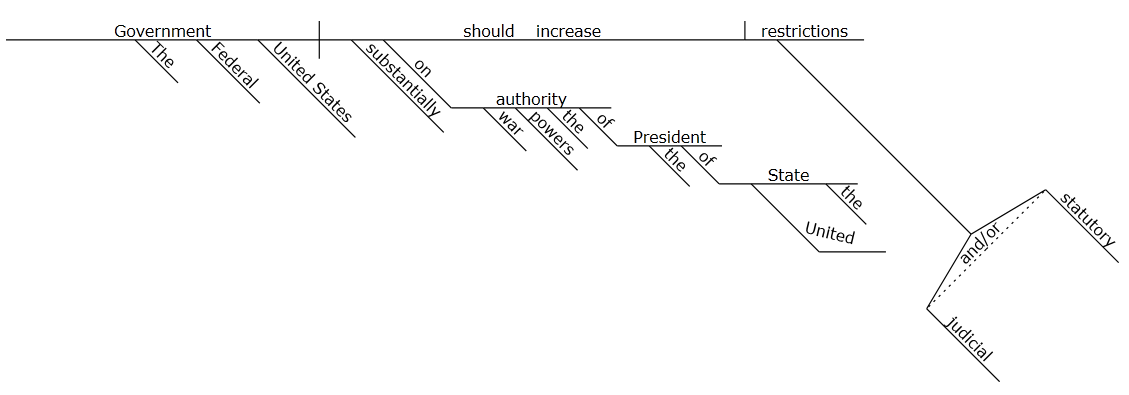
#### Their interp forces the same, stale affs that we’ll see at the NDT --- this topic was not meant to have a Yemen drones good/bad

#### Our interp tests Obama’s war powers ---- it’s not a question of *subject* increases the statutory restriction, it’s the *object* which means it solves all of their ground DAs

#### Aff choice outweighs on this topic ---- the neg gets an overwhelming structural advantage through circumvention and the self-restraint CP --- you should be lenient in this case

### 1AR – Diagram!

#### We’ve got a diagram – proves that the most grammatical reading of the resolution is about the Government increasing restrictions -- The resolution’s requirement of restricting the WPA means that the restriction must be OUTSIDE the purview of the war making authority ---- which means we guarantee the war powers link



### XT: FAA = Legislative

#### FAA rulemaking is legislative- carries the force of law

**Banaszewski, 98** -- B.B.A., Aviation Administration, University of North Dakota

[Denise, “'VALIDLY ADOPTED INTERPRETATIONS": DEFINING THE DEFERENCE STANDARD IN AVIATION CERTIFICATE ACTION APPEALS,” Washington Law Review, 73 Wash. L. Rev. 637, July 1998, l/n, accessed 1-23-14]

The FAA establishes and implements aviation safety policy primarily through two interrelated rulemaking processes. First, the agency is authorized by Congress to promulgate **legislative rules**, the Federal Aviation Regulations (FARs). n22 The agency promulgates legislative rules under the Administrative Procedure Act (APA). n23 Legislative rules "**carry the force of law**" and bind the public and the agency. n24 Because much regulatory language tends to be vague, the FAA must both promulgate and interpret the FARs.

## Ptx

### Overview

#### Finishing

Bronner ‘12 (Ethan, NYT staff reporter, 1/26/12, http://www.nytimes.com/2012/01/27/world/middleeast/israelis-see-irans-threats-of-retaliation-as-bluff.html?\_r=1&hp)

JERUSALEM — Israeli intelligence estimates, backed by academic studies, have cast doubt on the widespread assumption that a military strike on Iranian nuclear facilities would set off a catastrophic set of events like a regional conflagration, widespread acts of terrorism and sky-high oil prices. Prime Minister Benjamin Netanyahu has said he thinks Iranian citizens will welcome an attack. The estimates, which have been largely adopted by the country’s most senior officials, conclude that the threat of Iranian retaliation is partly bluff.

They are playing an important role in Israel’s calculation of whether ultimately to strike Iran, or to try to persuade the United States to do so, even as Tehran faces tough new economic sanctions from the West. “A war is no picnic,” Defense Minister Ehud Barak told Israel Radio in November. But if Israel feels itself forced into action, the retaliation would be bearable, he said. “There will not be 100,000 dead or 10,000 dead or 1,000 dead. The state of Israel will not be destroyed.” The Iranian government, which says its nuclear program is for civilian purposes, has threatened to close the Strait of Hormuz — through which 90 percent of gulf oil passes — and if attacked, to retaliate with all its military might. But Israeli assessments reject the threats as overblown. Mr. Barak and Prime Minister Benjamin Netanyahu have embraced those analyses as they focus on how to stop what they view as Iran’s determination to obtain nuclear weapons. No issue in Israel is more fraught than the debate over the wisdom and feasibility of a strike on Iran. Some argue that even a successful military strike would do no more than delay any Iranian nuclear weapons program, and perhaps increase Iran’s determination to acquire the capability. Security officials are increasingly kept from journalists or barred from discussing Iran. Much of the public talk is as much message delivery as actual policy. With the region in turmoil and the Europeans having agreed to harsh sanctions against Iran, strategic assessments can quickly lose their currency. “They’re like cartons of milk — check the sell-by date,” one senior official said. But conversations with eight current and recent top Israeli security officials suggested several things: since Israel has been demanding the new sanctions, including an oil embargo and seizure of Iran’s Central Bank assets, it will give the sanctions some months to work; the sanctions are viewed here as probably insufficient; a military attack remains a very real option; and postattack situations are considered less perilous than one in which Iran has nuclear weapons. “Take every scenario of confrontation and attack by Iran and its proxies and then ask yourself, ‘How would it look if they had a nuclear weapon?’ ” a senior official said. “In nearly every scenario, the situation looks worse.” The core analysis is based on an examination of Iran’s interests and abilities, along with recent threats and conflicts. Before the United States-led war against Iraq in 1991, Saddam Hussein vowed that if attacked he would “burn half of Israel.” He fired about 40 Scud missiles at Israel, which did limited damage. Similar fears of retaliation were voiced before the Iraq war in 2003 and in 2006, during Israel’s war against Hezbollah in southern Lebanon. In the latter, about 4,000 rockets were fired at Israel by Hezbollah, most of them causing limited harm. “If you put all those retaliations together and add in the terrorism of recent years, we are probably facing some multiple of that,” a retired official said, speaking on the condition of anonymity, citing an internal study. “I’m not saying Iran will not react. But it will be nothing like London during World War II.” A paper soon to be published by the Institute for National Security Studies at Tel Aviv University, written by Amos Yadlin, former chief of military intelligence, and Yoel Guzansky, who headed the Iran desk at Israel’s National Security Council until 2009, argues that the Iranian threat to close the Strait of Hormuz is largely a bluff. The paper contends that, despite the risks of Iranian provocation, Iran would not be able to close the waterway for any length of time and that it would not be in Iran’s own interest to do so. “If others are closing the taps on you, why close your own?” Mr. Guzansky said. Sealing the strait could also lead to all-out confrontation with the United States, something the authors say they believe Iran wants to avoid. A separate paper just published by the Begin-Sadat Center for Strategic Studies says that the fear of missile warfare against Israel is exaggerated since the missiles would be able to inflict only limited physical damage. Most Israeli analysts, like most officials and analysts abroad, reject these arguments. They say that Iran has been preparing for an attack for some years and will react robustly, as will its allies, Hezbollah and Hamas. Moreover, they say, an attack will at best delay the Iranian program by a couple of years and lead Tehran to redouble its efforts to build such a weapon. But Mr. Barak and Mr. Netanyahu believe that those concerns will pale if Iran does get a nuclear weapon. This was a point made in a public forum in Jerusalem this week by Maj. Gen. Amir Eshel, chief of the army’s planning division. Speaking of the former leaders of Libya and Iraq, he said, “Who would have dared deal with Qaddafi or Saddam Hussein if they had a nuclear capability? No way.”

#### Oil shocks turn the WHOLE scenario

El Zayat, 13 [January, Tamer El Zayat is a senior economist at the National Commercial Bank, Jeddah, What does 2013 hold for oil markets?, <http://www.arabnews.com/what-does-2013-hold-oil-markets>]

On the supply front in 2013, it seems the geopolitical uncertainty in the Middle East and the North American oil bonanza will vie for the top spot. The news early last year that Iran had begun enriching Uranium up to 20 percent, the threshold for making Uranium weapons-grade, deepened therift between Tehran and the west**,** and I do believe that the confrontation will escalate especially that the European sanctions that took effect early July weighed heavily on Iran’s exports that fell by 50 percent to just 2.65 million barrels a day by the end of December. An Israeli attack similar to the one undertaken against the Iraqi Osirak nuclear reactor in 1981 is not a farfetched scenario, especially that the Jewish state is adamant in maintaining superiority not only in terms of nuclear capability, but also nuclear deterrence. This cloudy geopolitical specter has obviously added between $10-$20 per barrel in the form of risk premium to oil prices and will continue to be factored in 2013 given the importance of the Strait of Hormuz, where 17-18 million barrels a day pass through the 50 km waterway, representing around 40 percent of seaborne oil and 18 percent of globally traded oil. However, the shale boom in the US will offset part of the geopolitical risk premium especially that one of the aforementioned constrains pertaining to pipelines will start to relatively ease, with the extra domestic supply finding its way to domestic markets, thus, reducing the US demand for imports. As many as twenty pipelines could come on stream transporting 1 million barrels per day to the gulf coast that accounts for 50 percent of US refining capacity. The two most important pipelines are the 400 thousand barrels Seaway pipeline that will commence operations early 2013 and the 700 thousand barrels Keystone XL pipeline that will be operational late 2013, both from Cushing to the Gulf Coast. The Canadian tar sands from Alberta will also be able to make use of these pipelines, which will augment the positive impact from a logistics basis. Thus, North America is expected to account for 60 percent of the 900 thousand barrels a day increase in non-OPEC supply next year. The aforementioned supply dynamics can act as a drag on prices, but in my opinion OPEC, and in particular Saudi Arabia as a swing producer will play a pivotal role in balancing the oil markets. When supply concerns were escalating in 2011, the Kingdom spearheaded a new quota for OPEC members in December 2011 to 30 million barrels, the first change in three years, and pumped oil at the highest rate in three decades. It also ensured that its overseas storage tanks in Rotterdam, Okinawa, and Sidi Kerir are full. However, the recent buildup in inventory in the US and the OECD’s forward demand cover that stands at 59.1 days have certainly been on the radar of the OPEC that enhanced compliance as evident from the reduced production to 30.62 million barrels a day in November, a 12-month low. The Kingdom has also recently been unilaterally decreasing its supply, curbing output to a 14-month low of 9.5 million barrels a day in December. Will 2013 be a repeat of the 1986? A question that many analysts pose to compare the North Sea substantial increase in output that eventually led to more than 50 percent decline in oil prices between December 1985 and July 1986, from $23 to $9.8 per barrel, with shale oil discoveries. The International Energy Agency had even subscribed to such theme predicting that by 2020 the US will surpass Saudi Arabia to become the largest producer of oil and that by 2030 it will be net exporter. Nevertheless, I do believe that comparing tight oil reserves from shale oil and conventional oil from the North Sea ignores three aspects, notably thehigh marginal cost of extraction, the technological challenges and the rapid aging of the fields. Another important aspect that will prevent a repeat of the 1986 saga is the relative solidarity among OPEC members and the financial strength of the Gulf members that will enable them to counter any abrupt surge in global supply with a reduced supply quota of their own. On the short-run, it is clear that OPEC will likely consider supply cuts next year to prevent prices from falling and to ensure market balance. On a longer-term supply perspective, the unfolding Iranian standoff had raised concerns about disruptions to the Strait of Hormuz and the lack of alternative routes for oil transportation. The world’s spare capacity, mostly located in Saudi Arabia, UAE and Kuwait will be constrained in case of closure. Currently, there are alternatives that are either under construction or in need of maintenance. For instance, in the UAE a 1.8 million barrels a day pipeline from Abu Dhabi to Fujairah on the Gulf of Oman is almost operational. Another alternative is a northern pipeline in Iraq that has 1.6 million barrels a day, but requires major repairs that can last for more than 2 years. Most importantly, in Saudi Arabia, a pipeline from the Eastern province to Yanbu can transport around 5 million barrels a day in crude oil instead of refined products. Looking ahead, the issue of midstream projects that bypass the Strait of Hormuz will be of prime importance to the GCC to enhance their shock response. There is little doubt that OPEC and Saudi Arabia will be instrumental in mitigating concerns and ensuring market balance in the oil markets, which leads me to believe in a range-bound oil price that will end 2013 at an annual average of $110 per barrel for Brent, with Saudi curbing its production to an annual average of 9.5 million barrels per day. To conclude, if some people believe that the only constant thing in life is change, I do believe that the only thing constant in the world economy these days is uncertainty.

## Uq

### Yes Sanctions – 1AR Wall

#### GROUP the uniqueness- three arguments-

#### FIRST- sanctions are inevitable- veto-proof majorities in Congress for sanctions now- that’s Koring.

#### SECOND- AIPAC IS AN AFF WARRANT - democrats are abandoning the democrat on Iran sanctions now- proves PC is ineffective ON THIS ISSUE- right now democrats care more about what the Israel lobby thinks than what the president thinks- that’s Fallow.

#### THIRD- healthcare thumps the link- Obama’s PC was destroyed by the ACA rollout- democrats are angry at Obama and afraid to listen to him- proves that Obama doesn’t have enough PC to stop sanctions. This is the most specific evidence in the round- it is the only evidence that is comparative between political capital and the Israel lobby- proves our uniqueness argument that the Israel lobby will get sanctions through congress now- that's the Finkel evidence.

#### HERE’s evidence:

#### PC and spin fails---no support behind Obama

Weber 1/1 -- FoxNews Staff

[Joseph, “After rough year, Obama looks for 2014 comeback, amid some unsolicited New Year's resolutions,” <http://www.foxnews.com/politics/2014/01/01/after-rough-year-obama-looks-for-2014-comeback-amid-some-unsolicited-new-year/> DOA: 1-1-14]

However, Obama’s political power began to wane soon after, starting with his failed effort to tighten federal gun laws in the wake of two mass shootings and concluding with the disastrous rollout of his signature health care law. Obama’s job approval rating continued to fall as the HealthCare.gov website continued to malfunction and millions of Americans learned they, in fact, could not keep their existing insurance policies -- earning him PolitiFact’s lie-of-the-year award. “It’s never too late to get it right,” Dan Holler, communications director for the conservative group Heritage Action for America, said Tuesday. “So the president should finally honor the promise he made to the American people when he said they could keep their health insurance and doctors.” Along the way, even some members of the liberal media, among the president's strongest supporters, have piled on. A Washington Post political blogger wrote Obama had “the worst year in Washington.” And perhaps even worse, MSNBC commentator Chris Matthews hinted at a lost second term. “It’s not just a bad year in terms of the rollout,” Matthews said. "There’s erosion in interest. ... It feels like the seventh or eighth year of a presidency. It doesn't feel like the fifth.” His comments were included in a 15-page Republican National Committee release this week that chronicled Obama’s rough year and included the IRS scandal, in which agents targeted Tea Party groups, and revelations about the National Security Agency spying on friendly foreign leaders. Moreover, Obama “standing on the sidelines” as the events unfolded has even thrown in jeopardy his entire political legacy, the RNC argues. Democratic strategist Joe Trippi says the president and his administration could improve their lot almost immediately by being more transparent about ObamaCare enrollment numbers, releasing them every two weeks instead of every month “no matter how bad they are.” He thinks the president would have limited success trying to further extend a hand to a Congress that is stuck in partisan gridlock and should instead focus on finishing what he started. “There’s no spin that will fix things,” Trippi said Monday. “It’s now about getting things done. You cannot just say ObamaCare is great. What matters is will 7.5 million people really sign up?”

### They say sargent

#### Sargent ev says NO DEMS

**Sargent, 1/22/14** – editor of The Plum Line blog for the Washington Post (Greg, “Another blow to the Iran sanctions bill” <http://www.washingtonpost.com/blogs/plum-line/wp/2014/01/22/another-blow-to-the-iran-sanctions-bill/?tid=pm_pop>

Meanwhile, announcements like the one earlier this month indicating that the deal with Iran is moving forward make a vote still less likely. With Murray now opposed, that means virtually the whole Dem leadership is a No. On the other hand, those who adamantly want a vote — insisting it would only help the White House and make success more likely, despite what the White House itself wants – will be looking for any hook they can find to reactivate pressure.

### 1AR- Veto

#### AND its veto-proof now- prefer insider knowledge

Gray, 1-10 -- staff writer [Rosie, "Senate Reaches Veto-Proof Majority On Iran Sanctions," Buzzfeed, 1-10-14, www.buzzfeed.com/rosiegray/senate-reaches-veto-proof-majority-on-iran-sanctions, accessed 1-20-14]

#### Support for the Iran sanctions bill in the Senate has reached a veto-proof majority, according to a Senate aide close to the process. “Based on the current counts that I’ve seen, it’s well above 67,” the aide said. CNN’s Jim Sciutto reported on Twitter that the number of yes votes on the Kirk-Menendez sanctions bill had reached 77. The number is not exactly 77, the aide told BuzzFeed, but is above the two-thirds majority required to override a presidential veto. The aide declined to provide the specific whip count or to say which senators have joined on.

**Reid blocks and it’s veto proof**

**Ziaberi, 1/24/14** ­ - interview with Kaveh Afrasiabi, the author of several books on Iran’s foreign policy and a former advisor of Center for Strategic Research (Kourosh, “Congress New Sanctions Bill Scuttles the Geneva Deal” Iran Review, <http://www.iranreview.org/content/Documents/Congress-New-Sanctions-Bill-Scuttles-the-Geneva-Deal.htm>)

Iran Review conducted an interview with Prof. Afrasiabi regarding the proposed sanctions bill by the U.S. Senate, the implementation of the Joint Plan of Action and the difficulties ahead and President Rouhani’s difficult path for reaching a comprehensive agreement with the West over Iran’s nuclear program. What follows is the text of the interview. Q: The U.S. Senate majority leader Harry Reid (D., Nev) has announced that he will not permit a vote on new anti-Iran sanctions to come on the floor and so the efforts made by the 77 Senators who are said to be voting in favor of new sanctions would be killed. He has said that the Senate doesn’t have any plans to introduce a new round of sanctions; meanwhile, he has said that we will not allow Iran to produce nuclear weapons. Why do you think he has made it clear that he will not allow new sanctions to be imposed? Does it signify that even the Senators have realized the importance and significance of the Geneva deal and that it should be given a chance to take effect? A: I think the new sanctions bill is deeply problematic for the US since if passed. It not only scuttles the Geneva deal, it will also heighten tensions between U.S. and some of its key global trade partners, so it’s no surprise that the US Congress is putting the brakes on. On the other hand, the White House has been persuasive that at this point we must let the Geneva deal run its course without intrusion by Congress. Still, the mere threat of the pending bill as a coercive leverage vis-à-vis Iran, serves its own role, given the bumpy road ahead on negotiating a final deal.

No veto override

Lindsay 11-25 (James,- Senior Vice President, Director of Studies, and Maurice R. Greenberg Chair @ Council on Foreign Relations, Expertise: U.S. foreign and defense policy; international security; globalization; Congress; domestic politics of U.S. foreign policy; public opinion. “Will Congress Overrule Obama’s Iran Nuclear Deal?”)

Does this mean that Congress is going to take Iran policy out of Obama’s hands? Not quite. Any sanctions bill could be vetoed, something the president presumably would do to save his signature diplomatic initiative. The odds that sanctions proponents could override a veto aren’t good. **Congress hasn’t overridden one in foreign policy sinc**e it imposed anti-apartheid sanctions on South Africa over Ronald Reagan’s objections back in 1986. In that respect, Obama is in a much stronger position than he was back in September when he sought to persuade Congress to authorize a military strike on Syria. Then the difficulties of passing legislation worked against him; now they work for him. One reason Obama should be able to make a veto stick is party loyalty. Many congressional Democrats **won’t see it in their interest to help Republicans rebuke him**, **and he** only **needs thirty-four senators to stand by him**. Senator Reid has already begun to soften his commitment to holding a sanction vote. As Majority Leader he has considerable freedom **to slow down bills** and to keep them from being attached to must-pass legislation that would be politically hard for Obama to veto.

### 1AR- NSA Thumper

#### More restrictions are popular but squo triggers PC backlash

Wilson 1/17 (Scott Wilson, Chief White House correspondent for the Washington Post. Previously, he was the paper’s deputy Assistant Managing Editor/Foreign News after serving as a correspondent in Latin America and in the Middle East. He was awarded an Overseas Press Club citation and an Interamerican Press Association award for his work abroad. For his coverage of the Obama administration, he received the 2011 Gerald R. Ford Prize for Distinguished Reporting on the Presidency and the 2012 Aldo Beckman Award given by the White House Correspondents’ Association. He joined the Post in 1997, “Obama acknowledges real-world limits on changing U.S. intelligence practices”, <http://www.washingtonpost.com/politics/obama-acknowledges-real-world-limits-on-changing-us-intelligence-practices/2014/01/17/21be329c-7f9c-11e3-93c1-0e888170b723_story.html>, January 17, 2014)

Four months after taking office, President Obama spoke at the National Archives, steps away from the Constitution, and described in sharply critical terms “the season of fear” in the United States that followed the Sept. 11, 2001, attacks. Torture had been practiced in interrogations. Terrorism suspects were held without trial in an offshore military prison. U.S. troops invaded a country without links to the attacks on New York and Washington. The National Security Agency was exposed for eavesdropping on U.S. citizens without warrants. “In other words,” Obama said, “we went off course.” It was understood that Obama, the constitutional law lecturer, would find the country’s compass. But as Obama acknowledged Friday, in a speech delivered just around the corner from the archives at the Justice Department, he is still navigating the politically complicated legacy of the “war on terror.” It is a legacy that has profound implications for his own as president. “When you cut through the noise, what’s really at stake is how we remain true to who we are in a world that is remaking itself at dizzying speed,” Obama said Friday, in an echo of his message almost five years ago. Obama moved quickly to fulfill his pledge to close the military prison at Guantanamo Bay, Cuba, although political obstacles have prevented him from seeing it through. Also in those first days, he officially banned the practice of torture in interrogation, methods that had ceased by the close of the Bush administration. But those were issues where Obama’s policy inclinations, his principles and the politics of his party all came together — the easiest remnants of post-9/11 national security policy to criticize and work to end. Now he faces a more consequential challenge in changing, amid public pressure at home and abroad, a series of intelligence practices that he has called useful in preventing another terrorist attack in the United States. “This is the hard stuff,” said Anthony D. Romero, executive director of the American Civil Liberties Union. “The surveillance collection issues will go to the heart of what America is all about for generations to come. The due process issues, the torture issues certainly go to American values. But they will not affect the vast majority of Americans or others around the world. This is where the rubber meets the road.” Obama spoke both as a longtime lawyer and as a second-term commander in chief, more defensive than contrite over the work done by U.S. intelligence officers and of the utility and care with which the NSA’s bulk collection program has been managed. “It may seem sometimes that America is being held to a different standard, and I’ll admit the readiness of some to assume the worst motives by our government can be frustrating,” Obama said. “But let us remember that we are held to a different standard precisely because we have been at the forefront in defending personal privacy and human dignity.” The changes Obama ordered to NSA practices emphasize additional oversight — the “checks and balances and accountability” that he first mentioned at the National Archives years ago. Other than curtailing American eavesdropping on allied leaders, the agency’s collection efforts will remain largely intact, an enduring concern to privacy groups who argue that the government has no right to collect information about U.S. citizens without a warrant. Many of the programs disclosed by The Washington Post and the British newspaper the Guardian in recent months, based on documents provided by former NSA contractor Edward J. Snowden, will remain untouched. Having run for office as a critic of the Bush administration’s national security policies, Obama was always going to be measured, in part, by how he scaled back the excesses of post-9/11 national security practices and preserved the essentials in a still-dangerous world. The reviews on that account have been mixed. Obama withdrew U.S. troops from Iraq, a conflict he once called a “dumb war,” and has set an end-of-the-year end date for U.S. participation in Afghanistan’s war. At the same time, he has expanded the battlefield for the U.S. drone fleet and stepped up the tempo of strikes from the Bush years, another counterterrorism tool that many within his party say should have far more accountability and oversight. Only the bombings in Boston last year could be considered a successful mass terrorist attack on Obama’s watch, although there have been some near misses. As Obama alluded to several times Friday, technological leaps have both greatly expanded U.S. surveillance capabilities and made obsolete the rules governing those practices. Setting those limits now involves a set of decisions, some of which Obama presented Friday, that put into conflict his role as a commander in chief and the promises he made as a new president, particularly to those in his own party. Obama made himself vulnerable to conservative charges that by ending some Bush administration national security policies, he was putting the nation at risk of another attack. He argued that American values and national security policy could coexist. But he and his advisers were also mindful that his credibility on the subject — and more broadly, his political viability — would likely be only a terrorist attack away from ruin as a result. As the more visible elements of post-9/11 national security policy diminished, namely the large military deployments overseas, the secret elements typified by drone strikes and electronic spying grew under a president who had promised unprecedented transparency. He captured the conflict in his Friday speech. “I maintained a healthy skepticism toward our surveillance programs after I became president,” Obama said Friday, even though he had previously acknowledged that he was unaware of the sensitive “head of state” program that targeted the personal cellphones of such allies as German Chancellor Angela Merkel. Obama’s political considerations are particularly challenging on the question of surveillance, resembling those he had to consider when deciding whether to increase the U.S. presence in Afghanistan four years ago. Now, as then, many in his party are demanding more change to the NSA’s spying practices than he is willing to carry out. A Washington Post-ABC News poll in November found that Democrats were twice as likely to disapprove of Obama’s handling of the NSA than of his overall job performance. The party ambivalence was reflected on Capitol Hill in the hours after Obama’s speech. Some Democrats applauded the president for addressing the controversy, particularly over the phone-record collection program, while others urged him to do more. “The reforms outlined by President Obama today are a welcome first step in reining in the government’s unacceptable infringement on Americans’ privacy rights,” Sen. Tom Udall (D-N.M.) said in a statement. “But I’m not satisfied these reforms go far enough.” Behind Obama’s words Friday was a question asked increasingly around the West Wing: How does he want to be remembered? To a president who has already made history by being the first African American to hold the office, Obama’s answer goes beyond a simple record of his administration. He is mindful of history and his place in it, and to many of his advisers and supporters, any assessment of his legacy should provide the end of the sentence: “He was the president who . . .” Successfully ended the “season of fear” and the government excesses that defined it? Or cemented in place a vast surveillance state he once opposed? On Friday, he began to provide the answer. “I have often reminded myself that I would not be where I am today were it not for the courage of dissidents, like Dr. King, who were spied on by their own government,” Obama said. “And as a president, a president who looks at intelligence every morning, I also can’t help but be reminded that America must be vigilant in the face of threats.”

### 1AR- FAA Shield

#### FAA shields the link

Herz ’12 – professor of law and co-director of the Floersheimer Center for Constitutional Democracy (Michael E., “Political Oversight of Agency Decisionmaking”, Administrative Law JOTWELL, 1-23-2012)

Mendelson begins with two important but often overlooked points. First, we know remarkably little about the content and scope of presidential oversight of rulemaking. Second, there’s presidential oversight and there’s presidential oversight; that is, some presidential influence is almost indisputably appropriate and enhances the legitimacy of agency decisionmaking, and some (e.g. leaning on the agency to ignore scientific fact or to do something inconsistent with statutory constraints) is not. Although presidents have long exerted significant influence on agency rulemaking, and although that influence has been regularized and concentrated in OIRA for three decades, it remains quite invisible. The OIRA review process is fairly opaque (though less so than it once was), influence by other parts of the White House even more so, and official explanations of agency action almost always are silent about political considerations. As a result, the democratic responsiveness and accountability that, in theory, presidential oversight provides goes unrealized. Presidents take credit when it suits them, but keep their distance from controversy. (Although Mendelson does not make the connection explicit, her account resonates with critiques by supporters of a nondelegation doctrine with teeth who are dismayed by Congress’s desire to take credit but not blame.)

#### Obama uses the plan to shift blame- solves losers lose

Wehner ’13 (Peter Wehner, “Barack Obama’s Staggering Incompetence”, <http://www.commentarymagazine.com/2013/09/02/barack-obamas-staggering-incompetence/>, September 2, 2013)

It’s reported that President Obama was ready to order a military strike against Syria, with or without Congress’s blessing, but “on Friday night, he suddenly changed his mind.” According to the Huffington Post: Senior administration officials describing Obama’s about-face Saturday offered a portrait of a president who began to wrestle with his own decision – at first internally, then confiding his views to his chief of staff, and finally summoning his aides for an evening session in the Oval Office to say he’d had a change of heart. In light of all this, it’s worth posing a few questions: 1. Why didn’t the president seek congressional authority before the administration began to beat the war drums this past week? Did the idea not occur to him? It’s not as if this is an obscure issue. When you’re in the White House and preparing to launch military force against a sovereign nation, whether or not to seek the approval of Congress is usually somewhere near the top of the to-do list. And why has the urgency to act that we saw from the administration during the last week–when Assad’s use of chemical weapons was referred to by the secretary of state as a “moral obscenity”–given way to an air of casualness, with Obama not even calling Congress back into session to debate his military strike against Syria? 2. The president didn’t seek congressional approval for his military strike in Libya. Why does he believe he needs it in Syria? 3. Mr. Obama, in his Rose Garden statement on Saturday, still insisted he has the authority to strike Syria without congressional approval. So what happens if Congress votes down a use-of-force resolution? Does the president strike Syria anyway? If so, will it be an evanescent bombing, intended to be limited in scope and duration, while doing nothing to change the war’s balance of power? Or does the president completely back down? Does he even know? Has he thought through in advance anything related to Syria? Or is this a case of Obama simply making it up as he goes along? This latest volte-face by the president is evidence of a man who is completely overmatched by events, weak and confused, and deeply ambivalent about using force. Yet he’s also desperate to get out of the corner he painted himself into by declaring that the use of chemical weapons by the Assad regime would constitute a “red line.” As a result he’s gone all Hamlet on us. Not surprisingly, Obama’s actions are being mocked by America’s enemies and sowing doubt among our allies. (Read this New York Times story for more.) What explains this debacle? It’s impossible for us to know all the reasons, but one explanation appears to be a CYA operation. According to Politico, “At the very least, Obama clearly wants lawmakers to co-own a decision that he can’t back away from after having declared last year that Assad would cross a ‘red line’ if he used chemical weapons against his own people.” And the Washington Post reports: Obama’s proposal to invite Congress dominated the Friday discussion in the Oval Office. He had consulted almost no one about his idea. In the end, the president made clear he wanted Congress to share in the responsibility for what happens in Syria. As one aide put it, “We don’t want them to have their cake and eat it, too.” Get it? The president of the United States is preparing in advance to shift the blame if his strike on Syria proves to be unpopular and ineffective. He’s furious about the box he’s placed himself in, he hates the ridicule he’s (rightly) incurring, but he doesn’t see any way out. What he does see is a political (and geopolitical) disaster in the making. And so what is emerging is what comes most naturally to Mr. Obama: Blame shifting and blame sharing. Remember: the president doesn’t believe he needs congressional authorization to act. He’s ignored it before. He wants it now. For reasons of political survival. To put it another way: He wants the fingerprints of others on the failure in Syria. Rarely has an American president joined so much cynicism with so much ineptitude.