# NON-MILITARY CP/DA UPDATES

## 1NC

### 1NC---OFF

#### Oversight DA:

#### Oversight’s up. Bipartisan Congressional investigations are widely used.

Reynolds and Maehr 21 [Molly E Reynolds, Senior Fellow - Governance Studies; Naomi Maehr, Research Assistant, Governance Studies - The Brookings Institution; "Amid polarization, bipartisan oversight still exists in Congress"; Brookings; Published: 9-21-2021; Accessed: 6-20-2022; https://www.brookings.edu/blog/fixgov/2021/09/21/amid-polarization-bipartisan-oversight-still-exists-in-congress/; KL]

Since Democrats assumed unified control of government in Washington last January, many of Congress’s highest-profile investigations have been beset by partisan conflict. The House’s effort to investigate the insurrection at the U.S. Capitol on Jan. 6, for example, is now being led by a select committee that has only two Republican members—both named by Democrats. That move came after the House GOP leadership pulled its entire slate of recommended committee members in response to a refusal by Speaker Nancy Pelosi to empanel several proponents of the “Big Lie” about the 2020 election.

But House committees’ oversight of the executive branch extends far beyond these headline-grabbing issues. Even amid House Democrats’ often contentious oversight of the Trump administration in 2019 and 2020, occasional bipartisan investigations emerged—and an early look at the 117th Congress to date suggests oversight can still be bipartisan even during high partisan conflict.

Over the first six months of the 117th Congress (January-June 2021), House committees sent 128 letters to agencies and other actors as part of efforts to oversee the executive branch. Twenty-nine percent of these letters were bipartisan, meaning both the Democratic chair and Republican ranking member signed the letter. This is a noticeable increase in bipartisanship from the 116th Congress, where, in several comparable periods, the share of oversight letters that were bipartisan was much lower. For example, during the first six months of the 116th Congress (January-June 2019), House Democrats sent 363 executive branch oversight letters, of which only 7% were bipartisan.

There are several possible explanations for this shift. With a Republican president in the White House in 2019, Republican ranking members may have been less willing to join oversight of a same-party president than they are now to conduct oversight of a Democratic president. The transition from a Republican president to a Democratic one may also be driving a drop in the number of executive branch oversight letters between the first six months of 2019, when 363 of these were sent by Democratic-led committees, and the first six months of 2021, when only 128 were. (This trend is consistent with historical evidence that indicates House committees are less interested in aggressive oversight of the same party that holds the House majority.)

There is also reason to think that the COVID-19 pandemic may have influenced bipartisanship in oversight as well. After the start of the COVID-19 pandemic midway through the 116th Congress, there was more oversight of the executive branch but less bipartisanship in that oversight, possibly a result of the politization of the pandemic response. As House Democrats ramped up their oversight investigations into the Trump administration’s handling of COVID-19, the share of oversight letters that were bipartisan fell from 8% to 3%. The looming election in November 2020 likely contributed to this trend as well; Republicans who might have otherwise joined Democratic efforts to oversee the executive branch’s handling of the pandemic may have been more reluctant to do so in an election year.

Table

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BIPARTISANSHIP IS NOT REALIZED EQUALLY

In the period under study here, the majority of bipartisan oversight letters come from just a few committees. So far this year, the Committee on Oversight and Reform has sent the most oversight letters that are bipartisan, accounting for 65% of the total bipartisan letters sent by House committees. The Energy and Commerce Committee, the clear leader in bipartisan oversight in the 116th Congress, is tied for second place in the 117th Congress, having sent five bipartisan letters thus far. (While this relative decline may have several causes, one possible explanation involves turnover in the Republican ranking member position between the two congresses.) Having a few committees engage in most of the bipartisanship is consistent with the 116th Congress, where three committees sent roughly half (54%) of the 74 total bipartisan oversight letters.

In both congresses, the large numbers of letters attributed to these committees largely stem from a few investigations in which many letters are sent at once. For example, 23 of the 24 letters sent by the Oversight and Reform Committee in the 117th Congress were a part of a single investigation into the functioning of federal inspectors general. When counting each of these “letter dumps” as one data point, House committees have started a total of 11 bipartisan inquiries so far in the 117th Congress. The Committee on Transportation and Infrastructure is responsible for almost half of these investigations, conducting five distinct bipartisan inquiries throughout the 117th Congress to date.

This variation in how often committees engage in bipartisan oversight may have several explanations, but it does not seem to be neatly related to how ideologically different the Democratic and Republican committee leaders are. When we use a conventional political science measure of members’ relative ideological position, the majority of bipartisan investigations are occurring in committees with neither the most ideologically similar nor the most ideologically different chairs and ranking members.

Bipartisanship in congressional oversight is important not for some intrinsic reason, but because bipartisan engagement on an issue can be a signal that members are fulfilling their institutional role as a counterweight to the executive branch. To be sure, some of the bipartisan oversight work undertaken in the 117th Congress is likely the result of Republicans rediscovering an interest in checking a Democratic president. But a willingness of Democrats to investigate policy implementation by an executive branch controlled by their own party—and to do so in a way that sees some Republicans joining them—is an important indicator of Congress taking its institutional responsibilities seriously.

The current era of hyperpartisanship means that there are fewer high-profile issues that compel members of both parties to conduct thorough investigations together. But, as the emerging congressional attention to the withdrawal from Afghanistan indicates, they do emerge occasionally. Whether Congress can build on some of the trends in bipartisanship discussed here and follow through on the initial indication of bipartisan interest in serious oversight remains to be seen.

#### Military-led assistance entrenches DoD militarization, devastating oversight. It expands human rights abuse, incoherent foreign policy, and inefficiency. Turns case.

Bergmann and Schmitt 21 [Max Bergmann, a senior fellow at the Center for American Progress, where he focuses on European security and U.S.-Russia policy. From 2011 to 2017, he served in the U.S. Department of State in a number of different positions, including as a member of the secretary of state’s policy planning staff, where he focused on political-military affairs and nonproliferation; special assistant to the undersecretary for arms control and international security; speechwriter to then-Secretary of State John Kerry; and senior adviser to the assistant secretary of state for political-military affairs. Prior to serving in the State Department, he worked at CAP as a military and nonproliferation policy analyst and at the National Security Network as the deputy policy director. Bergmann received his master’s degree from the London School of Economics in comparative politics and his bachelor’s degree from Bates College; Alexandra Schmitt, a senior policy analyst on the National Security and International Policy team at the Center. She previously worked on U.S. foreign policy advocacy at Human Rights Watch and received her Master in Public Policy from the Harvard Kennedy School; "A Plan To Reform U.S. Security Assistance"; Center for American Progress; Published: 4-22-2015; Accessed: 6-20-2022; https://www.americanprogress.org/article/plan-reform-u-s-security-assistance/; KL]

Contributes to the militarization of foreign policy

The current security assistance system contributes to the militarization of U.S. foreign policy. Militarizing foreign policy entails the increasing use of the military to solve foreign policy challenges and results in a bloated DOD budget with more resources and authority. Researchers describe it as a phenomenon whereby “the military more and more becomes the primary actor and face of U.S. policy abroad,” leading to a cycle in which the DOD requires and receives significantly more resources than any other foreign policy agency and is thus increasingly relied on to solve U.S. foreign policy problems.62 There are several elements of a militarized foreign policy in today’s security assistance system, but primarily, the DOD’s control of significantly more security assistance resources puts the Pentagon—rather than diplomats—in the driver’s seat in policymaking.

The Pentagon’s significant resources also distort the face of U.S. security assistance on the ground. Gordon Adams, a former White House budget official, warned, “Who owns the ball matters here because it colors the way the U.S. engages overseas. If American engagement wears a uniform … that’s one form of interaction. If it involves the ambassador and the [U.S. Agency for International Development] and people doing governance work, it’s a different set of missions and there’s a hugely different perception.”63 Recipient countries can utilize this to their advantage; foreign officials may more eagerly seek to follow through or make progress on DOD requests or priorities, such as going through with a significant military exercise or a ship visit, while ignoring or slow-rolling State Department requests or priorities, such as releasing a dissident or altering an economic regulation. And if the interlocutor that matters in relations with the United States is the military, the subject that matters is defense. The Pentagon’s priorities can therefore end up carrying more importance with partners than the State Department’s broader foreign policy concerns, making combatant commands more powerful than any diplomat. When the State Department is deprived of resources, or cut out of the decision-making process entirely, diplomats cannot effectively weigh in on whether a proposed sale or package makes sense given a range of other nonmilitary concerns that may exist in a bilateral relationship. In short, money is power, and the DOD has the money.

The net effect is that U.S. foreign policy is less coherent, with Pentagon policy more likely to be out of sync with broader foreign policy concerns. For example, the DOD’s U.S. Africa Command posture review is being conducted with little to no coordination with the State Department, and the rumored outcome is to call for reduced U.S. presence and security investments in order to free up DOD resources to focus on competition with Russia and China.64 Yet the United States still has serious security and geopolitical interests in the continent that are likely not reflected in traditional military-only decision-making. Rachel Stohl, managing director at the Stimson Center, warned that developing military-to-military security assistance programs is “an important relationship, one that should be cultivated, but it is not separate from the diplomatic and foreign policy relationships that have to be developed and take time. If you lose the foreign policy piece and just focus on the security piece, you’re doing a disservice to the larger strategic objectives.”65 The siloed security assistance system leads to disjointed U.S. foreign policy, divorces security concerns from broader economic or diplomatic concerns, and can end up promoting militarized solutions.

Perpetuates the status quo in security relationships

The current security assistance framework at the State Department and the DOD often perpetuates the status quo by creating incentives to continue providing assistance to the same partners. Between congressionally mandated allocations to large security partners in the State Department’s FMF assistance and specific authorities created for certain countries, there are often few built-in incentives to reexamine a partner’s record or backsliding. And when reviews are done, there is strong resistance to shift funding due to the potential fallout. Rarely is the top consideration the effectiveness of assistance. In an interview with the authors in June 2020, Anthony Wier, a former deputy assistant secretary in the State Department’s Bureau of Legislative Affairs, explained, “Right now, the best predictor for what we propose to spend this year is what we proposed last year – in other words, the whole system is basically just drifting from year to year.”66

This greatly affects the perception of other U.S. security assistance partners. Countries know that the United States is unlikely to cut assistance, even despite bad behavior, in order to avoid harming a bilateral relationship. Recipients take note of such reluctance to pull aid even when gross abuses occur and thus ignore U.S. chastising on bad behavior. As long as the United States is unwilling to cut off assistance or move funds elsewhere after a country commits actions that U.S. officials oppose, security assistance will provide no foreign policy leverage.

Harms democratic progress and enables human rights violators

Current security assistance policy, divorced from other foreign aid considerations, hampers pursuing this values-based policy and does not effectively elevate human rights and democracy concerns in the decision-making process. This is dangerous because the United States ends up supporting autocratic regimes with serious governance and stability challenges. Yemen, for example, received more than $300 million in security assistance through the DOD’s train and equip authority between 2010 and 2015, yet researchers documented human rights abuses perpetrated by the government and possible diversion of U.S. aid.67 Worse still, the perception that U.S. aid was fueling conflict led much of the Yemeni public to believe that the United States was primarily responsible for the destruction of the Saudi-led coalition in the current war.68 Today, the conflict in Yemen is the world’s worst humanitarian crisis.

An overly militarized security assistance policy makes it harder to support emerging democracies. Building up security forces without accompanying reforms to strengthen civilian oversight can lead to coup-proofing or consolidation around a political leader, rather than the development of a competent force.69 Often, these impacts are not prioritized by security assistance practitioners; for example, the DOD’s relative spending on building up partner security institutions, such as the Defense Institution Reform Initiative, was $32.6 million in fiscal year 2019, compared with $1.9 billion of overall spending.70 At the same time, the DOD’s investment in institutional capacity building far exceeds the State Department’s investment in these efforts—an example where the State Department will have to incorporate and improve on the DOD’s practices.

While U.S. laws technically prohibit providing security assistance to units found to violate human rights—the Leahy laws—the provisions are riddled with loopholes and are too weak to effectively prioritize human rights in U.S. security assistance.71 Offices and agencies responsible for elevating human rights in U.S. foreign policy, such as the State Department’s Bureau of Democracy, Human Rights, and Labor, are too often cut out of the decision-making process for security assistance programs—especially those run out of the Pentagon. At the same time, the Pentagon maintains its own security assistance accounts, such as Section 127e, that are not required to conduct human rights vetting and operate with little transparency—furthering opportunities to militarize foreign policy.72 And often, such as in the case of Egypt, security assistance is accompanied by paltry amounts of democracy, human rights, and governance funding (DRG), or certifications on human rights are waived entirely, to make providing arms more palatable.73 These small DRG funds or certification stops do little to change the underlying political challenges or are sometimes even hampered by the regime the United States is funding.

Inhibits congressional oversight

By creating two separate security assistance bureaucracies—one at the State Department and one at the DOD—there is no uniform oversight of security assistance by Congress. DOD security assistance residing in Title 10 is a relatively tiny piece—comprising about 2 percent of the overall DOD budget—of the oversight jurisdiction for the Senate and House Armed Services committees and DOD appropriators. Meanwhile, the assistance under State Department authorities comprises a far more significant proportion of the State Department budget—about 15 percent—and therefore can be subject to more expert attention.

Congressional staff are expected to review a continuous flow of piecemeal security assistance notifications from the executive branch and track reports about the myriad authorities. Many congressional staff report being unable to keep up with reviewing even the biggest program, and reports—even those made public—are rarely reviewed in any depth.74 Moreover, these committees rarely talk to each other or coordinate over specific security assistant programs. They also jealously guard their jurisdictions and have a poor track record of communication, let alone cooperation.75

As a result, security assistance rarely gets a vetting before the public eye. The Senate Foreign Relations Committee has held two hearings on security assistance in the last 10 years—and tends to focus on the foreign policy dimensions of the most problematic partnerships.76 Congressional notification requirements are not uniform and only mandated for certain types of authorities, making it impossible to see a “full and authoritative accounting” of U.S. security assistance funding around the world.77

Contributes to an inefficient bureaucracy and coordination nightmare

Because of the patchwork of existing authorities to provide security assistance, there are multiple systems for U.S. officials in Washington and on the ground in embassies to manage. For the security assistance system to work effectively, U.S. officials at the State Department, the Pentagon, and in the field need to closely coordinate—but this does not always happen in the current structure. Military officers conducting and implementing security assistance have to juggle multiple security assistance programs with different types of reporting requirements, human rights vetting standards, and administrative barriers, while also being beholden to two chains of command—the ambassador and the combatant command—with sometimes divergent perspectives.

#### Nuclear war. Congressional oversight pacifies decision-making without wrecking flexibility.

Waxman 19 [Matthew C. Waxman, Liviu Librescu Professor of Law at Columbia Law School and an adjunct senior fellow for Law and Foreign Policy at the Council on Foreign Relations; "War Powers Oversight, Not Reform"; War on the Rocks; Published: 11-19-2019; Accessed: 6-24-2022; https://warontherocks.com/2019/11/war-powers-oversight-not-reform/; KL]

Moreover, focusing only on formal congressional action obscures the more subtle but substantial ways in which Congress influences decisions about military intervention. Crucially, the fact that the president often initiates military campaigns without express authorization by Congress does not mean that congressional checks are altogether absent. Political science and history strongly suggest that, notwithstanding the often-weak electoral incentives of congressional members to formally approve or disapprove military interventions at their outset, congressional politics weigh heavily in presidential decision-making.

Studies show that congressional politics affect both the frequency with which presidents use force abroad and the probability that they will respond militarily to crises. There are many ways in which Congress influences presidential uses of force, which include not only the introduction of legislation to authorize or curtail a use of force but also congressional oversight hearings and influencing public debate over military policymaking. Congressional action or inaction also sends signals about domestic resolve to foreign parties — both adversaries and allies alike — thereby affecting the president’s calculus regarding using force. Such political checks are especially pronounced when Congress and the presidency are controlled by opposing parties. Focusing solely on whether and how Congress formally approves military action on the front end often neglects these other significant ways Congress can influence the use of force and how they might be enhanced.

The Diverse Forms of Modern Conflict

Military conflicts and interventions arise in too many ways and forms to regulate them effectively with a single statutory scheme or a single form of authorization. For the existing War Powers Resolution and some of the proposals to strengthen it, relatively clear lines are often seen as a virtue, because they reduce — though don’t eliminate — opportunities to interpret away requirements. However, trying to draw statutory lines at specific thresholds like armed “hostilities” (as in the War Powers Resolution) or “significant armed conflicts” (as in the proposed War Powers Consultation Act) is a poor way of deciding which types of conflicts should require formal congressional approval.

From the earliest days of the republic, the United States faced varied military contingencies for which neither war declarations nor simple congressional force authorizations were well suited. In the modern era, American conflicts and security crises are even more diverse. They could begin because of a U.S. first strike or an enemy first strike, an attack by or against a U.S. ally, or a breakdown in deterrence or a miscalculation. They might include large-scale ground wars, one-off airstrikes, or a combination of the two, and increasingly they feature cyber operations as well. They can be overt or covert, or both. They may be geographically confined or global, or expected to be short or long. They are waged against states or nonstate groups, with or against a state’s proxy forces, and with or without the help of allies.

Recent controversies over war powers illustrate this point. In 2019, concerns about insufficiently checked presidential war powers have arisen in three vastly different contexts: continuation of a geographically sprawling and indefinite war against terrorist groups, support for a Saudi war in Yemen, and the possibility of a major U.S. war with Iran. The first began after a direct attack on the U.S. homeland, the second is a regional proxy war, and the third could arise through deliberate preemptive U.S. action, a miscalculated spiral of violence, or some other way. Stepping back, the key policy questions about force in each case differ widely. The first is mostly about where and what type of force is used, the second has to do with whether to cut off operational support to a partner, and the third is about how to wield threats of force for deterrence and coercive diplomacy.

Although recent war powers debates have sometimes focused on regional conflicts in which the United States does not put many troops directly in harm’s way (at least not initially), a key aim of war powers reform is often said to be making sure that “big” wars — those that put many vulnerable American boots on the ground — are formally authorized by Congress. Historically, however, the Korean War stands out as the only exception to the tendency of presidents to seek congressional authorization in advance of large ground wars. In any event, these are the types of conflicts for which political checks often work most effectively.

Smaller-scale and less visible conflicts attract less public attention, but their consequences can be significant. “As a matter of democratic principle,” Jack Goldsmith and I have argued, treating low-intensity warfare waged stealthily and from a distance (or in cyberspace) as more appropriately conducted unilaterally than large-scale ground campaigns “probably has matters backwards”:

Light-footprint warfare is still lethal and very consequential warfare, and the lightness of the tools make them relatively easy for a President to deploy extensively. Light-footprint warfare thus has large foreign policy, strategic, and reputational consequences for the United States, akin to much heavier deployments, yet much less public examination. The President’s legal theories treat this as a feature of such warfare. But it is also a bug for U.S. democracy, since the stealthy features mean that public debate and political checks—which reduce error as well as excess, and promote legitimacy—function ineffectively.

This arguably indicates the need to expand or clarify the War Powers Resolution’s definition of the situations requiring explicit congressional approval. But any politically plausible attempts to delineate with bright-line rules which types of military action require specific forms of congressional authorization will probably function poorly in practice, where contextual variables are complex and fast-moving. Such attempts may also still exclude those conflicts for which stronger congressional scrutiny is appropriate. Alternatively, a more flexible legal standard would likely be even easier for the executive branch to bypass. A wide range of military conflicts and challenges warrant a wide range of congressional oversight tools. Moreover, as explained below, requiring congressional approval at the beginning of a military intervention often fails to encourage the right kind of congressional scrutiny.

The Purposes of Legislative Checks

Periodic pushes from both members of Congress and the public for stronger congressional checks on war powers can conceal divisions and uncertainty about why those checks are needed. Some of the goals of these efforts for congressional oversight also point to different solutions.

Sometimes, supporters of war powers reform are pushing for change simply as a matter of constitutional principle. If one believes that Article I’s directive that Congress has the power to declare war includes any use of military force (other than in defending against invasion), and one believes that the president’s Article II roles as chief executive and commander-in-chief confer no authority to initiate such actions, then nothing short of formal congressional authorization for any military intervention is likely to be satisfactory. But there have always been gaps and ambiguities in these constitutional clauses, and many (though not all) war powers reformers believe in evolving constitutional interpretation to meet evolving national conditions in other areas of law. There are good arguments to justify adapting the original allocations of military powers given the dramatic changes over 200 years in American military power, strategy, and interests, as well as dramatic changes in the way other, related constitutional powers are exercised. Reasonable people may disagree about the strength of those arguments and even whether they work in favor of or against presidential discretion, but rigid formalism does not point toward a practical solution.

Other proponents of stronger and formal congressional checks justify them in policy terms: Imposing legislative requirements would help to restrain military adventurism. The expectation here is often that the need to obtain congressional authorization serves as a brake on military responses to crises, whether because Congress is slower to act than the executive branch or because it is more sensitive to certain costs and risks, or just because more procedural hurdles means less action. Strategically, though, foreign policy retrenchment — or even perceptions of it — carries its own dangers. How well requirements for formal congressional force authorization contribute to peace and stability is also far from clear, since some conflicts stem from breakdowns in deterrence. Politically, commitment to this goal is also often tied to who holds presidential office, and is therefore fleeting.

A third justification for war powers reform is that requiring congressional authorization promotes sounder policy through interbranch deliberation. Such requirements, the argument often goes, push the executive and legislative branches to consult one another more thoroughly, and the processes of persuasion and consensus-building result in more consistent and sustainable security policy. This claim has logical appeal, though empirical support is uneven. The 1991 and 2003 Iraq Wars were both authorized: The second turned out to be badly misguided and congressional scrutiny of the first failed to question core planning assumptions that turned out to be wrong. In any event, a legislative overhaul is not needed to achieve better interbranch deliberation.

Improving Legislative Oversight

For all of these reasons, war powers reform should not focus on strengthening any single, formal congressional approval requirement. Instead, Congress should improve the use of its existing tool set for overseeing security and defense policy. As noted above, Congress has a range of tools available to shape and restrain military policy. These include hearings, spending bills, and actions to shape public opinion. Importantly and unlike legislative overhaul proposals, some of these tools do not require Congress as a whole to act — they can be wielded by individual members, especially in key committee positions. In recent years, Congress’ foreign policy and defense committees have atrophied, holding fewer oversight hearings than in the past. A first step to boosting influence is ensuring that foreign relations, armed services, and intelligence committee members have adequate experience and resources, as well as a commitment to shaping and auditing security strategy.

Wars rarely begin out of the blue, but instead are the result of a long series of steps and counter-steps, actions and inactions. This means that Congress needs to focus more heavily on overall military strategy and how American military resources are wielded well in advance of a crisis, rather than treating the outbreak of a crisis as Congress’ moment for influence. Regularly scheduled posture hearings and annual defense authorization bills, for example, should be understood and treated as core parts of Congress’ war powers.

Fixating on congressional authorization of conflicts risks distracting or relieving lawmakers from the important duty of overseeing their conduct. Recent authorized wars in Afghanistan and Iraq show that congressional action at the front end of a conflict does not equate to thorough scrutiny — let alone consensus — of whether means and ends are well aligned or planning assumptions well tested. Congressional oversight of military intervention and conflict should be continuous and focused more heavily on the conduct of campaigns long after their initiation. So, for instance, the outdated 2001 Authorization for Use of Military Force directed at al-Qaeda and its allies ought to be revised, but as an addition to, not a substitute for, unremitting congressional review of how the various parts of that conflict are waged. The energy of reformists in Congress would be better spent on overseeing ongoing conflicts than on pushing new overarching frameworks that are unlikely to be adopted. Plus, the prospect of probing oversight during conflicts would bolster Congress’ political influence over decisions to intervene militarily to begin with.

Some will criticize this oversight agenda as too modest. And yet, it stands a more realistic chance of addressing the problems and improving the political checks laid out above than a dramatic legislative revamping would. Others will criticize it as politically unworkable, essentially asking for a different type of congressional membership, with different political incentives and institutional commitments, than the one that exists. That may be so. If that is the case, though, then ambitions for a radical legislative overhaul — especially one that sticks — do not stand a chance.

## Uniqueness

### 2NC---Security Cooperation Uniqueness

#### SC is decreasing. The DoD only asked for $3.7 billion this year. Insert a chart.

Secretary of Defense 22 [Office of the Secretary of Defense; "Fiscal Year (FY) 2023 President’s Budget: Justification for Security Cooperation Program and Activity Funding"; Department of Defense; Published: 4-2022; Accessed: 6-24-2022; https://comptroller.defense.gov/Portals/45/Documents/defbudget/FY2023/FY2023\_Security\_Cooperation\_Justification\_Book.pdf; KL]

Table

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#### Versus 10.4 for years past. Insert a chart.

Average from 2006 to 2017:

9184.8+10436.1+12776.6+11053.0+10865.2+12661.2+12666.8+8419.2+7549.8+10916.3+8860.2+9439.2 = 124828.4

124828.4/12 = 10402.3666667

$10,402,366,666

Epstein and Rosen 18 [Susan B. Epstein, Coordinator, Specialist in Foreign Policy; Liana W. Rosen, Specialist in International Crime and Narcotics; "U.S. Security Assistance and Security Cooperation Programs: Overview of Funding Trends"; Congressional Research Service; Published: 2-1-2018; Accessed: 6-24-2022; https://sgp.fas.org/crs/natsec/R45091.pdf; KL]

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#### Biden’s ending militarization. Defense spending is low. Insert a chart.

WSJ 22 [The Editorial Board; "America’s Declining Military"; Wall Street Journal; Published: 3-29-2022; Accessed: 6-25-2022; https://www.wsj.com/articles/americas-declining-military-biden-defense-budget-white-house-china-russia-military-pentagon-11648588522; KL]

The Pentagon is seeking $773 billion for fiscal 2023, and spending on national defense reaches $813 billion when other accounts are included. This sounds large, and Mr. Biden is pitching it as a big increase over his request last year. But even defense officials say the Pentagon would see only a 1.5% real increase over last year’s funding after inflation. Defense spending will still be about 3.1% of the economy, close to post-Cold War lows and heading lower over the next decade. (See the nearby chart.)

Chart, line chart

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#### Biden’s upcoming CAT policy solves.

Kirshner 22 [Josh Kirshner, previously served as special assistant to the Under Secretary of State for Arms Control and International Security and as a professional staff member on the House Permanent Select Committee on Intelligence. He is currently a senior vice president at Beacon Global Strategies; "Will Biden’s Conventional Arms Transfer policy be an evolution or a revolution?"; Breaking Defense; Published: 1-14-2022; Accessed: 6-25-2022; https://breakingdefense.com/2022/01/will-bidens-conventional-arms-transfer-policy-be-an-evolution-or-a-revolution/; KL]

The Biden administration is expected to soon release its version of the US Conventional Arms Transfer (CAT) policy, which sets the guardrails for how America sells arms to foreign militaries. While the administration has held its cards close on what the new policy will entail, it is widely expected to put a renewed emphasis on the human rights records of potential arms buyers.

This is not only because the President has been committed to promoting human rights throughout his career, including by convening the first-ever Summit for Democracy in December, but also so he can make clear that his commitment to human rights differs from the Trump administration’s, which largely overlooked such concerns.

The question is, will the Biden CAT policy be revolutionary, or like most presidents’ arms sales policies, evolutionary?

Reflecting the concerns of the immediate post-Vietnam War period, President Jimmy Carter followed through on a campaign promise by publishing Presidential Directive/NSC-13 [PDF] and a “policy statement” on conventional arms transfers – the first from a US president. Carter made clear his intent: “The United States can and should take the first step” in order to reduce the supply of arms globally. He drew a direct link to human rights, stating that US security assistance programs “will promote and advance respect for human rights in recipient countries.”

Not surprisingly, President Ronald Reagan took a very different tact, and his presidential directive on CAT allowed for significantly more defense exports. Of the five CAT policies after Carter, this is the only truly revolutionary one.

Reagan boldly refuted Carter’s rhetoric, stating that the US “will deal with the world as it is, rather than as we would like it to be” and proclaimed that arms transfers would not be “discrete,” but instead an “essential” and “indispensable” part of the United States’ effort to strengthen its national security and defend the free world. Reagan’s revolutionary policy introduced the concept of a “case-by-case” review of sales, giving the government the flexibility to ignore its own CAT policy if it sees fit.

Just weeks after releasing this policy, Reagan approved the world’s then-largest arms sale, a $8.5 billion package to Saudi Arabia that included AWACS surveillance aircraft. The sale was controversial on the Hill, with 44 senators — including then-Senator Joseph Biden — cosponsoring a bill to block the sale.

Fourteen years later, after the end of the Cold War in 1995, President Bill Clinton released the nation’s next CAT policy, which in true Clintonian fashion triangulated between the Carter and Reagan policies.

While his policy echoed elements of Carter’s intent of restraint, Clinton emphasized Reagan’s case-by-case concept by including it in the very first sentence of his criteria, and then reinforced the Republican president’s philosophy by stating that “transfers of conventional arms [are] a legitimate instrument of US foreign policy,” and reaffirmed the link between the health of the defense industrial base and the overall economy.

In practice, Clinton approved several significant arms sales, including $500 million in fighter aircraft to Chile. This reversal of Carter’s refusal to sell advanced weaponry to Latin America resulted in Senate legislation to show liberal opposition to the shift. One of the co-sponsors? Senator Joseph Biden.

President Obama’s CAT policy was the first of the post 9/11 era, more focused on defense exports as a tool to build partner capabilities to fight terrorism, restating Reagan’s mantra that arms transfers are a “legitimate instrument” of national security policy.

While the Obama policy discusses human rights in more detail than previous versions, stating a need for “restraint against the transfer of arms that would… serve to facilitate human rights abuses…,” it does not state that the US should leverage defense export decisions to push recipients to improve their human rights. The human rights community would like to see Biden’s policy clearly state that it will take such an approach.

For all of the differences between Presidents Obama and Trump, and despite the commentary that President Trump’s CAT policy was radically pro-industry, the text of his policy was in truth evolutionary, continuing many elements of the Obama-era policy and actually copying some language verbatim.

Where Trump differed from Obama significantly was in his implementation of the policy, specifically with his White House’s willingness to work directly with defense companies, instead of directing them to State or Defense. Senior White House staff also made the case to push defense exports publicly, making them a key part of Trump’s economic agenda. In this COVID era, how closely Biden ties defense exports to job creation and improving the manufacturing sector is an area to watch.

What Might Biden’s CAT Policy Look Like?

A CAT policy centrally focused on human rights would be revolutionary, recalling the views of the senator from Delaware who consistently pushed back against presidents as they attempted to sell arms abroad in the 1980s and 1990s. However, there are several reasons to believe that Biden will instead favor an evolutionary CAT policy.

First, Biden has made repairing frayed international partnerships and countering China core foreign policy tenets. Increased defense cooperation with partners, including arms sales, is one way to show the US commitment to rebuilding these relationships.

Second, as part of his effort to repair a US economy ravaged by COVID-19, the president has specifically targeted assistance to the manufacturing sector. The aerospace and defense industry supports over 2.5 million domestic jobs [PDF], including highly skilled manufacturing, creating a significant economic incentive for the White House to enable this industry to grow.

Third, he served as Obama’s vice president, and both National Security Advisor Jake Sullivan and Secretary of State Tony Blinken served in prominent roles during the Obama administration. They had a hand in crafting and implementing Obama’s CAT policy; it is unlikely their views on arms sales have changed dramatically over the past four years.

Other changes we may see in Biden’s CAT policy include an increased focus on protecting US-origin military technology from Chinese intellectual property theft, further developing the US position on exporting surveillance technology (as discussed at the Summit for Democracy), and more detail on how the government will consider the export of cyber technologies to foreign militaries.

The rhetoric of Biden’s CAT policy will likely make clear that the Trump era of defense exports is over, and human rights will be a more significant criteria. Indeed, sales went down 21% in fiscal year 2021, which spanned the last three months of the Trump administration and the first nine months of Biden’s. But ultimately, the practical result of the policy will come down to implementation, as Biden and his team grapple with how to balance his commitment to human rights with a rapidly evolving landscape of domestic and international challenges.

### 2NC---Oversight Uniqueness

#### Congress uses informal tools of oversight.

Fontaine and Schulman 20 [Richard Fontaine, Chief Executive Officer at the Center for a New American Security (CNAS). He served as President of CNAS from 2012 to 2019 and as Senior Advisor and Senior Fellow from 2009 to 2012. Prior to CNAS, he was Foreign Policy Advisor to Senator John McCain for more than five years. Fontaine also has worked at the State Department, on the National Security Council, and on the staff of the Senate Foreign Relations Committee; Loren DeJonge Schulman, Adjunct Senior Fellow and the former Deputy Director of Studies and Leon E. Panetta Senior Fellow at CNAS. Before joining CNAS, she served in senior staff positions in the White House National Security Council and Department of Defense; "Congress’s Hidden Strengths: Wielding Informal Tools of National Security Oversight"; The Center for a New American Security (CNAS); Published: 7-30-2020; Accessed: 6-24-2022; https://www.cnas.org/publications/reports/congresss-hidden-strengths; KL]

There is good reason for members to do so. Members of Congress can, individually and together, wield considerable informal influence over American military interventions.5 Legislating war is not only politically difficult but can also be rigid, where policy influence leaves room for flexibility and negotiation.6 Overemphasizing formal authorization, sanctions, or appropriations measures can ignore oversight of “military intervention and conflict [that] should be continuous and focused more heavily on the conduct of campaigns long after their initiation.”7 The preparatory, preventive, and educational work ahead of and during an intervention is an area of vital Congressional concern, and here informal approaches sometimes work best.

History suggests that presidents consider congressional opinion a great deal when making use-of-force decisions, in part because these views can serve as a proxy for domestic will.8 Executives are especially sensitive to such signals “because public defeats threaten to weaken their credibility on the world scene,” whereas shared expressions of resolve may intimidate adversaries.9 George H. W. Bush, for instance, asked Capitol Hill for a last-minute authorization before launching the Gulf War in 1991, hoping to avoid “weakening his hand” in global opinion.10 Senators John McCain, Joseph Lieberman, and Lindsey Graham helped set the political conditions in which George W. Bush pursued the Iraqi “surge” strategy in 2007. Barack Obama ultimately determined not to strike Syria after its regime’s chemical attack, citing insufficient congressional support for such a move.

By exercising its informal influence, Congress can press for initiating a worthy conflict by changing public narratives and assumptions, or it can help to avoid an unwise one. Members of Congress can test prewar intelligence and political assessments and define likely costs and benefits. They can serve as a proxy for a broader public debate and inject a discussion of various courses of action into the body politic, well outside basement Pentagon conference rooms. Once a war is under way, Congress can question existing military and political strategies and test assessments about how the fight is going. Members can form on-the-ground perspectives, offer alternative approaches, and encourage allied involvement. Perhaps most important, they can lobby for a needed change of course, elevate the voice of stakeholders set aside by the executive branch, press for an end to failing wars, or disincentive a dangerously precipitous withdrawal where U.S. forces should stay. All this can be done without a single vote.

#### Those include hearings, reporting requirements, and investigations.

Sahay 21 [Usha Sahay, senior editor at Politico Magazine, where she focuses on foreign policy and global affairs. She is a 2021 graduate of the Harvard Kennedy School, where she received a Master in Public Policy. While at the Kennedy School, Usha was a Belfer Center student fellow, working as a research assistant to Prof. Fredrik Logevall and the Belfer Center Cyber Project. Her paper “Revitalizing NATO: A Role for the U.S. Congress” was the co-winner of the Robert Belfer Award for Best Policy Analysis Exercise in International and Global Affairs. Usha is the creator and host of the War on the Rocks podcast series “A Most Terrible Weapon.” Prior to graduate school, Usha was managing editor of War on the Rocks, and has also been an editor at the Wall Street Journal and HuffPost. She started her career as a Herbert Scoville, Jr. Peace Fellow at the Center for Arms Control and Non-Proliferation. Usha graduated magna cum laude from Columbia University, where she majored in political science and history; "Revitalizing NATO - A Role for the U.S. Congress"; Belfer Center for Science and International Affairs, Harvard Kennedy School; Published: 9-2021; Accessed: 6-24-2022; https://www.belfercenter.org/sites/default/files/files/publication/Revitalizing%20NATO%20-%20A%20Role%20for%20Congress%20-%20Sahay.pdf; KL]

Rethinking Congress’ Role in Foreign Policy

Having established NATO’s challenges, I turn next to examining Congress’ ability to address those challenges. This section seeks to develop an understanding of how Congress can shape foreign policy at a time of high polarization and low institutional capacity.

A quick scan of recent headlines would suggest bleak prospects for congressional influence in foreign policy: a hamstrung and polarized legislature lacking adequate expertise and resources, unable to pass legislation or conduct oversight.42 Indeed, Congress has struggled to fully exercise its most important foreign policy powers – the power of the purse, the power to authorize or prohibit U.S. military action, and the power to hold the executive branch accountable. However, my research uncovered a number of less formal ways in which Congress can shape foreign policy despite the institutional obstacles. I refer to these tactics as “Avenues of Influence” to distinguish them from more formal congressional powers such as budgeting, legislating, and oversight.

This section draws heavily on my interviews, as well as on academic and policy literature. In particular, my thinking has been influenced by the Center for a New American Security’s “Congress’s Hidden Strengths: Wielding Informal Tools of National Security Oversight.”43 In that report, Richard Fontaine and Loren DeJonge Schulman note that while Congress has failed to pass legislation authorizing the use of U.S. military force, lawmakers have other, less formal tools at their disposal to influence debates about U.S. military involvement abroad. I am grateful to the authors for their insights, which I hope to refine and extend to other foreign policy issues such as alliance management.

Calling out wrongdoing. First, Congress is especially well-suited to vocally and forcefully critiquing bad behavior by other actors at home or abroad. As the branch of government that represents the American public, Congress has long embraced a duty to investigate wrongdoing within the broader constitutional system of checks and balances. 44 More generally, it derives unique legitimacy from its role as the voice of the people and the body that ultimately determines whether a policy can be backed by funds. 45 As Richard Fontaine, a former foreign policy advisor to Sen. John McCain, put it, “They have institutional authority and power that doesn’t exist anywhere else in government, from the power of the purse to the confirmation process to other forms of power and leverage.”46

Lawmakers have added incentives to engage in “callouts” because fighting unethical or unlawful behavior plays well with constituents and in the media. In addition, the sheer size of Congress creates a messiness that lends itself to the calling-out function: It is much easier to get a group of lawmakers with different interests to agree on criticizing something than on, say, proposing a new initiative.

Checking the executive. Congress’ callouts frequently take the form of holding the executive branch accountable, a power with a well-established constitutional and historical basis. Congress exercises oversight of the executive through hearings, reporting requirements, and investigations.47 This is one of the traditional areas of congressional involvement in foreign policy that has eroded in recent years.48 Still, Congress does retain some ability to exercise oversight through traditional mechanisms as well as through more indirect channels, such as shaping the public and media narrative and making its priorities known to the executive branch.49

#### Congress’s foreign policy influence with allies is still significant.

Sahay 21 [Usha Sahay, senior editor at Politico Magazine, where she focuses on foreign policy and global affairs. She is a 2021 graduate of the Harvard Kennedy School, where she received a Master in Public Policy. While at the Kennedy School, Usha was a Belfer Center student fellow, working as a research assistant to Prof. Fredrik Logevall and the Belfer Center Cyber Project. Her paper “Revitalizing NATO: A Role for the U.S. Congress” was the co-winner of the Robert Belfer Award for Best Policy Analysis Exercise in International and Global Affairs. Usha is the creator and host of the War on the Rocks podcast series “A Most Terrible Weapon.” Prior to graduate school, Usha was managing editor of War on the Rocks, and has also been an editor at the Wall Street Journal and HuffPost. She started her career as a Herbert Scoville, Jr. Peace Fellow at the Center for Arms Control and Non-Proliferation. Usha graduated magna cum laude from Columbia University, where she majored in political science and history; "Revitalizing NATO - A Role for the U.S. Congress"; Belfer Center for Science and International Affairs, Harvard Kennedy School; Published: 9-2021; Accessed: 6-24-2022; https://www.belfercenter.org/sites/default/files/files/publication/Revitalizing%20NATO%20-%20A%20Role%20for%20Congress%20-%20Sahay.pdf; KL]

Congress retains significant influence on foreign policy despite today’s constrained environment and the executive branch’s general dominance of this area. Notably, most of these avenues of influence can be pursued in a highly partisan climate. Initiatives like spotlighting rights abuses abroad, critiquing the executive branch, and interacting with allies often have bipartisan support, while tactics like private conversations with foreign counterparts and statements to the media do not require reaching across the aisle at all.80

Perhaps most importantly, many of the legislature’s most important channels of influence are informal ones, largely separate from the formal, constitutional powers that today’s Congress often struggles to exercise. Indeed, Congress wields influence even when it does not pass legislation. As James Lindsay wrote three decades ago:

…focusing on the legislative track record captures only part of the story. Congress influences policy through several indirect means: anticipated reactions, changes in the decision-making process in the executive branch, and political grandstanding. Indeed, the same factors that frustrate congressional attempts to lead on foreign affairs encourage legislators to use indirect means to influence policy.81

Today, these indirect means may be even more important. This section has found that Congress does have a role to play on day-to-day foreign policy issues like alliance management, and that the legislative branch remains relevant despite the institutional and political constraints that hamper its governing capacity.

#### Congress conducts effective foreign policy oversight.

FDD 21 [Foundation for Defense of Democracies, nonprofit, nonpartisan 501(c)(3) research institute focusing on foreign policy and national security; "Congressional Oversight and Biden Administration Foreign Policy"; Published: 2-23-2021; Accessed: 6-21-2022; https://www.fdd.org/analysis/2021/02/23/congressional-oversight-and-biden-administration-foreign-policy/; KL]

Nomination hearings for executive branch officials are an essential tool for Congress to utilize in conducting effective oversight of foreign policy. These hearings allow members of Congress to study an administration’s approach to issues, secure policy commitments based on their own assessments and views, and identify lines of inquiry driven by national security concerns.

Congress has thus far developed an important foundation on U.S. policy toward China, Iran, and Russia through hearings for key Biden administration officials. This foundation will require sustained attention in the months ahead as Congress continues to engage with the Biden administration. The following are summaries of key statements by Cabinet-level officials and the questions that Congress should ask in future hearings for sub-Cabinet nominees and in broader oversight efforts. We periodically make these questions available on a range of national security issues.

#### Accountability is a key Biden priority now

Ebright 2/11 [Katherine Ebright, counsel with the Brennan Center’s Liberty & National Security Program, where she focuses on war powers and the constitutional separation of powers; “The Pentagon Must Submit to Congressional Oversight”; February 11, 2022; DOA: 6/18/22; <https://www.brennancenter.org/our-work/analysis-opinion/pentagon-must-submit-congressional-oversight>; Lowell-ES]

And there has been abuse — not just in the scope of milit­ary oper­a­tions, which [span Africa and Asia](https://watson.brown.edu/costsofwar/files/cow/imce/papers/2021/Costs%20of%20War_2001%20AUMF.pdf), but also in the conduct of those oper­a­tions. As recent report­ing has revealed, the milit­ary has [bombed](https://www.nytimes.com/2022/01/20/us/airstrike-us-isis-dam.html?searchResultPosition=1) crit­ical civil­ian infra­struc­ture, [preven­ted](https://www.nytimes.com/2021/12/12/us/civilian-deaths-war-isis.html?searchResultPosition=2) the collec­tion of evid­ence on civil­ian harm, and [ignored concerns](https://www.nytimes.com/2021/12/12/us/civilian-deaths-war-isis.html?searchResultPosition=2) about reck­less airstrikes from officers in the field. Last month, 50 Demo­cratic lawmakers [urged](https://www.warren.senate.gov/imo/media/doc/2022.01.20%20Letter%20to%20Biden%20re%20drone%20targeting.pdf) DOD to “end this pattern” and “emphas­ize[] the rule of law.” That neces­sar­ily entails abid­ing by report­ing require­ments, instead of forcing lawmakers to learn about milit­ary miscon­duct from invest­ig­at­ive journ­al­ists.

Shortly after taking office, Biden [acknow­ledged](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/04/memorandum-revitalizing-americas-foreign-policy-and-national-security-workforce-institutions-and-partnerships/) that revital­iz­ing our national secur­ity insti­tu­tions would “require[] a recom­mit­ment to the highest stand­ards of trans­par­ency.” He also prom­ised to “work closely and cooper­at­ively with the Congress” to improve the account­ab­il­ity of those insti­tu­tions. Biden’s sign­ing state­ment, which green­lights the DOD’s noncom­pli­ance with congres­sional report­ing require­ments, does not reflect these commit­ments.

Biden must honor Congress’s consti­tu­tional role, and Congress must insist upon its consti­tu­tional right to inform­a­tion to over­see the milit­ary. Should this admin­is­tra­tion continue to enable DOD’s lack of account­ab­il­ity, Congress should rethink whether this agency deserves, and can be trus­ted with, broad oper­a­tional author­it­ies and a budget of [$778 billion](https://www.vox.com/22840615/us-defense-spending-increase-afghanistan-withdrawal).

### 2NC---AT Ukraine Thumper

#### Ukraine was a limited anomaly and Congress is preventing new security cooperation because of their desire to enhance effective oversight

Desiderio et al. 22 [Andrew Desiderio, Lara Seligman, Connor O’Brien; "Pentagon vs. Congress tension builds over monitoring billions in Ukraine aid"; POLITICO; Published: 6-2-2022; Accessed: 6-21-2022; https://www.politico.com/news/2022/06/02/congress-pentagon-ukraine-aid-oversight-00036463; KL]

The Pentagon was already struggling to keep up with Congress’ demands for oversight of its spending. Then, lawmakers earmarked an extra $40 billion for Ukraine.

Concerns are mounting on Capitol Hill about the Biden administration’s ability to properly account for the unprecedented wave of cash and to track the thousands of U.S. weapons heading to Ukraine for its war with Russia. And given the Pentagon’s recent track record concerning congressional oversight, it’s coming under increased scrutiny from members of both parties — from progressive Elizabeth Warren to libertarian Rand Paul.

Some lawmakers are already warning the Biden administration that a future aid package could lose the overwhelming congressional support that has been a hallmark of the previous efforts. A key barometer will be the Pentagon’s handling and complete accounting of the funds, which has lagged in other areas, sparking scrutiny from congressional committees.

Sen. Warren (D-Mass.), a member of the Armed Services Committee, said in an email that a full accounting of the already-appropriated funding will be “critically important for both past and future funding requests.”

“The U.S. government is sending billions in humanitarian, economic, and military assistance to help the Ukrainian people overcome Putin’s brutal war, and the American people expect strong oversight by Congress and full accounting from the Department of Defense,” she added.

Pentagon spokesperson Marine Corps Lt. Col. Anton Semelroth said the department is “committed” to transparency with the public and with Congress about the security assistance funds. But he stressed that war involves risk, and called on Russia to end the conflict.

“Risk of diversion is one of many considerations that we routinely assess when evaluating any potential arms transfer,” Semelroth said. “In this case, risk would be considerably minimized by the full withdrawal from Ukraine by Russian forces.”

While all Democrats and most Republicans voted for the aid package in May, it’s unclear whether that coalition can stick together if President Joe Biden asks Congress for more money before the end of the fiscal year, as many on the Hill predict will be the case. The Pentagon already owes Congress a backlog of reports on its spending for European security, and progressives and conservatives alike have said they’ll be looking for more cooperation before approving another cash infusion.

Amid the Pentagon-Hill squabbling, Biden announced on Wednesday the first tranche of military assistance from the massive funding bill that cleared both chambers last month. And oversight concerns are at the forefront, as the newly announced $700 million package for the first time includes a more advanced, precision-guided rocket system that will allow Ukraine to strike targets even further away — potentially in Russia.

The Biden administration deliberated for weeks over whether to send the High Mobility Artillery Rocket System, known as HIMARS, and medium or long-range munitions. Officials worried that providing longer-range rockets could provoke Russian President Vladimir Putin into escalating the conflict. They ultimately decided to send the shorter-range rockets, which can reach 48 miles, instead of the longer-range munitions, which can fly 190 miles.

Officials worry about the department’s ability to keep track of all the weapons the U.S. is providing, including the HIMARS, as well as ensuring they are being used effectively. Kyiv has given Washington “assurances” that it will only use the rockets on the battlefield in Ukraine, and not to strike targets in Russia, senior administration officials said. But they did not detail those assurances, and there is concern that the Pentagon has no way to monitor the use of the weapons.

Semelroth said the department is “confident in the Ukrainian government’s ability to appropriately safeguard and account for transferred U.S.-origin defense equipment,” noting that Defense Secretary Lloyd Austin has underscored the importance of “accountability” to his Ukrainian counterpart, Oleksii Reznikov.

“Ukrainian leadership have assured us that they understand the importance of accountability, and we are committed to working with them to further enhance accountability in the future,” Semelroth said.

A senior congressional official familiar with the oversight process described it as “quite robust” and said the administration has been briefing Hill committees regularly.

“In most cases, it’s munitions going out of our stocks and into the hands of Ukraine. One Howitzer out for us, one in for them,” the official said, granted anonymity to speak about sensitive briefings.

The $40 billion legislation includes several measures aimed at beefing up oversight of the cash. It requires the Pentagon inspector general’s office to review how the Defense Department spends the emergency funding. It also requires the Pentagon, in coordination with the State Department, to report to Congress on how weapons and equipment sent to Ukraine are being accounted for.

Rep. Ruben Gallego (D-Ariz.), a member of the Armed Services Committee, acknowledged that U.S. weapons sent to war zones have often gone missing or unused, but said “Ukraine is a different story” because its forces are well-trained and have been using the weapons for several years already.

“Obviously, we always have to be on the lookout, but this is not the same scenario that we have in the past,” Gallego said. “There have been agreements between our governments about [some of the weapons’] usage. And I believe so far Ukraine has abided by all of them.”

The Biden administration is using several metrics to determine how best to allocate the money, including the selection of systems that will help beat back Russia, but not fuel a wider conflict. Another consideration is not sending Ukrainians cutting-edge technology, given U.S. concerns the weapons could fall into Russian hands. If that happened, the Russians could reverse-engineer those systems and create new weapons for its military, according to an official with knowledge of the discussions who was not authorized to speak on the record.

“We in the administration have to very prudently measure those risks … and to think very carefully about how can we best … give the Ukrainian military what they need,” Army Secretary Christine Wormuth told the Atlantic Council on Tuesday.

The White House is hoping the latest emergency funding measure is enough to sustain Ukraine through the next several months of the conflict, but Congress is already bracing for the next cash fight.

At a confirmation hearing last week, Gen. Christopher Cavoli, Biden’s nominee to lead U.S. European Command, indicated that he believed that Americans are owed “a thoughtful application of those funds and a full accounting of them.”

That’s going to be a heavy lift for the Pentagon, which already owes the Senate Armed Services Committee “several years” worth of reports, according to Warren. That includes billions of dollars already allocated for the European Deterrence Initiative, a program aimed at bolstering U.S. presence on the continent following Russia’s 2014 seizure of Crimea. Warren said she was “getting sick of the run-around here” and said the Pentagon “has not complied with the law.”

In a recent letter to the Pentagon’s finance chief obtained by POLITICO, Warren wrote that “tracking this spending is a key part of how we protect American interests and support of our allies.”

Although every Democrat in both the Senate and House voted for the $40 billion aid package last month, several progressives were reluctant to support it given their existing concerns about a bloated Pentagon, as well as their general opposition to flooding a war zone with new weapons. Congressional leaders significantly boosted the humanitarian assistance portion, mollifying lawmakers who had considered voting against the bill.

Sen. Paul (R-Ky.), who held up the $40 billion aid package amid his demands that Congress tap a special inspector general to monitor the spending of the Ukraine funds, has raised similar concerns.

A fiscal hawk, Paul joined 10 other GOP senators and 57 House Republicans in voting against the aid bill, with several arguing that there wasn’t stringent enough oversight of the money. Sen. Josh Hawley (R-Mo.) argued the money “comes [with] no meaningful oversight.”

The latest round of emergency funding dwarfs an earlier $14 billion package enacted by Congress in March and supersizes several programs to aid Ukraine’s military, including $6 billion for the Ukraine Security Assistance Initiative, a Pentagon program that helps arm the Ukrainian military. In a government-wide funding deal passed in March, by contrast, lawmakers allocated $300 million for the account.

The package also raises the total authority to ship weapons to Ukraine from U.S. military inventories to $11 billion. Additionally, the Pentagon was granted nearly $9 billion in new funding to replace weapons that have been sent into the fight.

### 2NC---DoS Uniqueness

#### DoS diplomacy is back.

Mathews 21 [Jessica T. Mathews, Distinguished Fellow and former President of the Carnegie Endowment for International Peace; "Present at the Re-creation?"; Foreign Affairs; Published: March/April 2021; Accessed: 6-23-2022; https://www.foreignaffairs.com/articles/united-states/2021-02-16/present-re-creation?check\_logged\_in=1; KL]

In short, what Biden regularly calls “the power of our example” is nothing like what it used to be. When it comes to the pillars of a law-abiding democracy, the United States is now more an example of what to avoid than of what to embrace. The country retains military primacy and the economic heft to impose sanctions, but the former has limited utility, and the latter are seldom effective when wielded unilaterally. To achieve its ends, Washington will have to heal at home—a long, slow process—while it rebuilds its power to persuade. As secretary of state, Antony Blinken will likely lead an important effort to rebuild morale and effectiveness within the country’s diplomatic corps, luring back talented professionals who fled Trump’s chaos, broadening recruitment, pursuing reforms to make the department’s work more efficient and creative, and appointing diplomatic veterans to key posts at home and abroad. But such steps will take a long time to make a difference. Meanwhile, Biden’s team may be seriously overestimating the leverage that the United States retains for initiatives that depend on its example, such as the global summits the president wants to convene on climate change and renewing democracy.

### 2NC---AI Uniqueness

#### DoD has strong tech oversight now

Serbu 3/14 [Jared Serbu, DEPUTY EDITOR/DOD REPORTER; “Congress taps brakes on DoD project to reform IT funding”; March 14, 2022 8:17 am; DOA: 6/20/22; <https://federalnewsnetwork.com/dod-reporters-notebook-jared-serbu/2022/03/congress-taps-brakes-on-dod-project-to-reform-it-funding/>; Lowell-ES]

Last week’s passage of an omnibus spending bill eliminated the threat of a full-year continuing resolution and gave the Defense budget a nearly 4.7% spending increase. But lawmakers were less generous when it came to the matter of expanding a program meant to test major reforms to how DoD funds technology modernization.

The final agreement rejected the Pentagon’s request to significantly expand what’s known as the Software and Digital Technology Pilot Program in 2022. The pilot, in short, lets major IT programs fund development using a single “color of money,” rather than trying to wedge their budgets into the R&D, procurement and operations accounts that were originally designed for major weapons systems.

Congress initially allowed DoD to test the concept with eight technology programs as part of the 2021 appropriations bill. And the department will still be allowed to continue proving its case — that a single color of money doesn’t diminish Congressional oversight — with those same programs. But DoD had asked for permission to add five new programs to the pilot this year.

The House Appropriations Committee had okayed nearly all of them in its version of the 2022 budget. At the committee level, the sole exception was also the department’s boldest: The Navy had proposed to move all 2022 spending for its Next Generation Enterprise Network (NGEN) contract, nearly $1 billion, into the pilot.

But the Senate Appropriations Committee never passed its own version of the bill, one possible explanation for why the final omnibus took a more cautious approach to expanding the program.

Besides NGEN, the Pentagon had also requested to move $186 million in funding for the Joint Artificial Intelligence Center into the pilot, plus three Air Force programs: Strategic Mission Planning and Execution System, Air and Space Operations Center, and Defense Enterprise Accounting and Management System.

Those programs’ omission from the omnibus leaves the Air Force with no participation in the colorless money pilot, though it does still include the Space Force’s Kobayashi Maru program, which was added last year.

Officials in DoD’s technology and acquisition communities have long seen the weapons-centric approach to funding as a barrier to the military’s adoption of modern concepts like continuous software delivery and DevSecOps, since those approaches are almost antithetical to the idea that a software project can be categorized as in the “research” or “procurement” or “operations and maintenance” stages that correspond to a hardware system’s normal lifecycle.

“[Software] doesn’t behave like a weapon system,” Jane Rathbun, the Department of the Navy’s CTO said last year, while also acknowledging that the size of the NGEN request caught lawmakers off guard. “I’ve talked to a hundred people who spend six months with their lawyers deciding whether or not they can use procurement or O&M funding for things. I mean, that slows us down. It would be a cultural shift for the entire Department of Defense, and really enable a DevSecOps culture.”

Doug Bush, the newly-sworn in assistant secretary of the Army for acquisition, logistics and technology, said much the same in a roundtable with reporters last month.

“I don’t believe the private sector distinguishes between R&D and procurement for software. But we do. Does that make sense? I’m not so sure,” he said. “But that’s going to have to be a discussion with Congress to make sure they’re comfortable with how we’re proposing to use the authorities and whether or not we can think about how we budget for software, which will be critically important.” —JS

### 2NC---Biotech Uniqueness

#### Ukraine strengthened biotech oversight.

Nikitin 22 [Beth D. Nikitin, Specialist in Nonproliferation; "Biological Security Engagement in Ukraine: U.S. Cooperation and Threat Reduction Programs"; Congressional Research Service; Published: 3-11-2022; Accessed: 6-23-2022; https://crsreports.congress.gov/product/pdf/IN/IN11886; KL]

During its invasion of Ukraine, the Russian government has accused Ukraine of possessing a clandestine biological weapons program with support from the United States. To the contrary, the United States has cooperated with Ukraine on biological security programs ranging from laboratory security to disease surveillance and pandemic response, as documented by the U.S. embassy website, annual budget requests, and congressional oversight hearings. These programs are rooted in the U.S. Cooperative Threat Reduction Program (CTR). The United States and Ukraine are both members of the Biological Weapons Convention (BWC), which prohibits such weapons, and the United States has stated that both are in full compliance with their obligations. The State Department assesses that the Russian government "maintains an offensive biological weapons program" in violation of the BWC.

Congress has raised questions about this issue in recent hearings. U.S. Director of National Intelligence (DNI) Avril Haines testified on March 10 that "we do not assess that Ukraine is pursuing either biological weapons or nuclear weapons." State Department Spokesman Ned Price said on March 9, "Russia is inventing false pretexts in an attempt to justify its own horrific actions in Ukraine." The allegation has led to concern that Russia may be planning a "false flag" operation in which it plants evidence or uses a biological weapon against Ukraine but blames another party.

In addition, combat operations may put sensitive biological laboratories at risk. A Department of Defense (DOD) press release says, "There are five biological research laboratories in Kyiv. Their work focuses on diagnostics, therapeutics, treatments, prevention and vaccines, not on military use as the Russians and Chinese accuse." U.S. officials and outside experts have expressed concerns that Ukraine's laboratories holding pathogen collections may come under attack or Russian military control. The World Health Organization reportedly urged Ukrainian authorities to destroy research samples of disease pathogens to avoid accidental release should the facilities be damaged in the war. An emergency meeting of the UN Security Council, requested by Russia, discussed the issue on March 11. The United Nations High Representative for Disarmament Affairs Izumi Nakamitsu said that "certain public health facilities are in areas impacted by armed conflict putting the safety of those facilities at risk," and that the United Nations is "not aware" of any biological weapons program in Ukraine. U.S. Ambassador to the United Nations Linda Thomas-Greenfield told the Council: "Ukraine does not have a biological weapons program, and there are no Ukrainian biological weapons laboratories supported by the United States." She also said, "Ukraine owns and operates its own public health laboratory infrastructure. These facilities make it possible to detect and diagnose diseases like COVID-19, which benefit us all. The United States has assisted Ukraine to do this safely and securely."

In the past, the Russian and Chinese governments have repeatedly alleged that U.S. ongoing biological security cooperation programs in Ukraine, Georgia, and Kazakhstan were military in nature. Several U.S. federal agencies, such as the State Department and the Centers for Disease Control and Prevention (CDC), cooperate with Ukraine to meet international biosafety and global health security standards. The Department of Defense Cooperation Threat Reduction (CTR) program also works with partner countries to destroy or secure high-priority biological pathogens ("Select Agents") at their source and to develop the partner's capacity to detect, diagnose, and report a disease outbreak. The Defense Threat Reduction Agency (DTRA) strongly denies any weapons-related aspects. Congress oversees implementation of these programs.

CTR's biological engagement began as a program focused on dismantling the vast biological weapons complex inherited from the Soviet Union. Ukraine and other non-Russian states of the former Soviet Union have been willing partners in dismantling the Soviet biological weapons legacy and securing pathogen collections and laboratories. Facilities in these countries were abandoned by the Russian military when the republics became independent states, and in many cases local governments were not aware of their existence or the dangers they housed. Over time, the United States learned of dangerous pathogen collections dispersed throughout the region. A decade after the dissolution of the Soviet Union, these facilities lacked security and safety measures, had lost expert staff due to economic conditions, and many were in a state of disrepair. The United States, accordingly, accelerated its assistance to these facilities starting in the late 1990s.

Congress first added funds to the DOD's CTR budget for biological threat reduction (BTR) in the late 1990s. The DOD CTR FY2022 Budget Estimate says the BTR "program seeks to facilitate detection and reporting of diseases caused by especially dangerous pathogens (EDPs), including zoonotic diseases, which could affect the armed forces of the United States or its allies and partners." DOD assistance has focused on improving biosafety and security (BS&S) at laboratories housing pathogen collections, including equipment upgrades and training, as well as disease detection, diagnosis, and reporting enhancements (BSV). The BTR program has built secure Central Reference Laboratories (CRL) for pathogen collections in Azerbaijan, Ukraine, and Kazakhstan, and completed upgrades at 39 "Secured Labs" in Armenia, Georgia, Kazakhstan, and Ukraine. In addition, the program has provided Ukraine with Coronavirus Disease 2019 (COVID-19) technical and material assistance, including biosafety equipment, diagnostic supplies, and subject matter expertise.

In light of Russia's apparent persistent dissemination of disinformation regarding biological security cooperation with Ukraine, Congress may examine how the federal government is countering these claims, to include examining how effective the U.S. government has been in presenting information of its own. Congress may also conduct oversight regarding the safety and security of pathogen collections and biological research laboratories during the ongoing Russian invasion of Ukraine. Additional potential oversight topics include whether personnel at those facilities are able to maintain operations and how to leverage CTR funds in the context of security assistance to Ukraine.

### 2NC---CMR Uniqueness

#### Biden solves CMR. It’s the brink.

Golby and Feaver 21 [Jim Golby, senior fellow at the Clements Center for National Security at the University of Texas at Austin; Peter Feaver, professor of political science and public policy and director of the American Grand Strategy Program at Duke University; "Biden Inherits a Challenging Civil-Military Legacy"; War on the Rocks; Published: 1-1-2021; Accessed: 6-25-2022; https://warontherocks.com/2021/01/biden-inherits-a-challenging-civil-military-legacy/; KL]

The new commander-in-chief starts with the enormous advantage of being “not Trump.” He will need all of that advantage — and will need to have learned from Obama-era missteps — in order to navigate through the tricky civil-military waters we have described above. Members of the Biden team come in as seasoned professionals, but we hope that leads them to caution and humility rather than unwariness and hubris as they conduct national security policy. If Lloyd Austin wins over the critics and proves himself to be both fully sensitive to these civil-military realities and savvy in how he seeks to overcome them, he may yet emerge as the successful and strong secretary of defense the Department of Defense so desperately needs. The early slate of civilian nominees named for key roles is a welcome sign. The initial weeks after the inauguration will be of particular importance in setting the tone, especially after the tumultuous and stressful transition. Even so, the norm of civilian management of the Defense Department will be more difficult to reestablish, like so many other civil-military norms that have weakened in recent years, if Congress does grant another recently-retired general legal permission to serve as secretary of defense. Biden, and Austin, will need all the top civilian defense talent they can get.

Notwithstanding all of the other urgent priorities vying for his attention, neglect of the civil-military file would likely impose intolerable costs on Biden down the road — a price that would be vividly evident, sooner or later, when an urgent national security crisis takes center stage. The only prudent course is for the Biden team to attend to both policy and process at the same time — to move out quickly on the pandemic and the economy, while also setting the national security establishment on the path to healthier civil-military relations. Problems in the civil-military foundations of an administration must be fixed before a crisis lays bare the rot that may lie just out of view.

#### CMR has decayed. Congressional oversight is key.

Brooks et al. 21 [RISA BROOKS is Allis Chalmers Associate Professor of Political Science at Marquette University, a Nonresident Senior Associate at the Center for Strategic and International Studies, and an Adjunct Scholar at West Point’s Modern War Institute; JIM GOLBY is a Senior Fellow at the Clements Center for National Security at the University of Texas at Austin, an Adjunct Senior Fellow at the Center for a New American Security, and a co-host of the podcast Thank You for Your Service. He is a retired U.S. Army officer; HEIDI URBEN is an Adjunct Associate Professor in Georgetown University’s Security Studies Program, a Nonresident Senior Associate at the Center for Strategic and International Studies, and an Adjunct Scholar at West Point’s Modern War Institute. She is a retired U.S. Army officer; Published: May/June 2021; Accessed: 4-13-2021; "Crisis of Command"; Foreign Affairs; https://www.foreignaffairs.com/articles/united-states/2021-04-09/national-security-crisis-command; KL]

When U.S. President Donald Trump left office on January 20, many of those concerned about the state of civil-military relations in the United States breathed a deep sigh of relief. They shouldn’t have. Yes, Trump used the military as a political prop, referred to some of its leaders as “my generals,” and faced a Pentagon that slow-rolled his attempts to withdraw troops from battlefields around the world. But problems in the relationship between military officers and elected officials did not begin with Trump, and they did not end when Joe Biden took office.

Civilian control over the military is deeply embedded in the U.S. Constitution; the armed forces answer to the president and legislature. Starting in 1947, Congress built robust institutions designed to maintain this relationship. But over the past three decades, civilian control has quietly but steadily degraded. Senior military officers may still follow orders and avoid overt insubordination, but their influence has grown, while oversight and accountability mechanisms have faltered. Today, presidents worry about military opposition to their policies and must reckon with an institution that selectively implements executive guidance. Too often, unelected military leaders limit or engineer civilians’ options so that generals can run wars as they see fit.

Civilian control is therefore about more than whether military leaders openly defy orders or want to overthrow the government. It’s about the extent to which political leaders can realize the goals the American people elected them to accomplish. Here, civilian control is not binary; it is measured in degrees. Because the military filters information that civilians need and implements the orders that civilians give, it can wield great influence over civilian decision-making. Even if elected officials still get the final say, they may have little practical control if generals dictate all the options or slow their implementation—as they often do now.

Resetting this broken relationship is a tall order. It demands that Congress doggedly pursue its oversight role and hold the military accountable, regardless of who occupies the White House. It requires that defense secretaries hire skilled civilian staffs composed of political appointees and civil servants. But most important, it requires an attentive public that is willing to hold both civilian leaders and the military to account.

### 2NC---AT: Ukraine Thumper

#### Following Congressional guidelines, the DoD is carefully distributing Ukraine funds, but it’s the brink for oversight. The plan’s clash turns case. This is also a link to politics. Congress will scrutinize and fight the plan.

Desiderio et al. 22 [Andrew Desiderio, Lara Seligman, Connor O’Brien; "Pentagon vs. Congress tension builds over monitoring billions in Ukraine aid"; POLITICO; Published: 6-2-2022; Accessed: 6-21-2022; https://www.politico.com/news/2022/06/02/congress-pentagon-ukraine-aid-oversight-00036463; KL]

The Pentagon was already struggling to keep up with Congress’ demands for oversight of its spending. Then, lawmakers earmarked an extra $40 billion for Ukraine.

Concerns are mounting on Capitol Hill about the Biden administration’s ability to properly account for the unprecedented wave of cash and to track the thousands of U.S. weapons heading to Ukraine for its war with Russia. And given the Pentagon’s recent track record concerning congressional oversight, it’s coming under increased scrutiny from members of both parties — from progressive Elizabeth Warren to libertarian Rand Paul.

Some lawmakers are already warning the Biden administration that a future aid package could lose the overwhelming congressional support that has been a hallmark of the previous efforts. A key barometer will be the Pentagon’s handling and complete accounting of the funds, which has lagged in other areas, sparking scrutiny from congressional committees.

Sen. Warren (D-Mass.), a member of the Armed Services Committee, said in an email that a full accounting of the already-appropriated funding will be “critically important for both past and future funding requests.”

“The U.S. government is sending billions in humanitarian, economic, and military assistance to help the Ukrainian people overcome Putin’s brutal war, and the American people expect strong oversight by Congress and full accounting from the Department of Defense,” she added.

Pentagon spokesperson Marine Corps Lt. Col. Anton Semelroth said the department is “committed” to transparency with the public and with Congress about the security assistance funds. But he stressed that war involves risk, and called on Russia to end the conflict.

“Risk of diversion is one of many considerations that we routinely assess when evaluating any potential arms transfer,” Semelroth said. “In this case, risk would be considerably minimized by the full withdrawal from Ukraine by Russian forces.”

While all Democrats and most Republicans voted for the aid package in May, it’s unclear whether that coalition can stick together if President Joe Biden asks Congress for more money before the end of the fiscal year, as many on the Hill predict will be the case. The Pentagon already owes Congress a backlog of reports on its spending for European security, and progressives and conservatives alike have said they’ll be looking for more cooperation before approving another cash infusion.

Amid the Pentagon-Hill squabbling, Biden announced on Wednesday the first tranche of military assistance from the massive funding bill that cleared both chambers last month. And oversight concerns are at the forefront, as the newly announced $700 million package for the first time includes a more advanced, precision-guided rocket system that will allow Ukraine to strike targets even further away — potentially in Russia.

The Biden administration deliberated for weeks over whether to send the High Mobility Artillery Rocket System, known as HIMARS, and medium or long-range munitions. Officials worried that providing longer-range rockets could provoke Russian President Vladimir Putin into escalating the conflict. They ultimately decided to send the shorter-range rockets, which can reach 48 miles, instead of the longer-range munitions, which can fly 190 miles.

Officials worry about the department’s ability to keep track of all the weapons the U.S. is providing, including the HIMARS, as well as ensuring they are being used effectively. Kyiv has given Washington “assurances” that it will only use the rockets on the battlefield in Ukraine, and not to strike targets in Russia, senior administration officials said. But they did not detail those assurances, and there is concern that the Pentagon has no way to monitor the use of the weapons.

Semelroth said the department is “confident in the Ukrainian government’s ability to appropriately safeguard and account for transferred U.S.-origin defense equipment,” noting that Defense Secretary Lloyd Austin has underscored the importance of “accountability” to his Ukrainian counterpart, Oleksii Reznikov.

“Ukrainian leadership have assured us that they understand the importance of accountability, and we are committed to working with them to further enhance accountability in the future,” Semelroth said.

A senior congressional official familiar with the oversight process described it as “quite robust” and said the administration has been briefing Hill committees regularly.

“In most cases, it’s munitions going out of our stocks and into the hands of Ukraine. One Howitzer out for us, one in for them,” the official said, granted anonymity to speak about sensitive briefings.

The $40 billion legislation includes several measures aimed at beefing up oversight of the cash. It requires the Pentagon inspector general’s office to review how the Defense Department spends the emergency funding. It also requires the Pentagon, in coordination with the State Department, to report to Congress on how weapons and equipment sent to Ukraine are being accounted for.

Rep. Ruben Gallego (D-Ariz.), a member of the Armed Services Committee, acknowledged that U.S. weapons sent to war zones have often gone missing or unused, but said “Ukraine is a different story” because its forces are well-trained and have been using the weapons for several years already.

“Obviously, we always have to be on the lookout, but this is not the same scenario that we have in the past,” Gallego said. “There have been agreements between our governments about [some of the weapons’] usage. And I believe so far Ukraine has abided by all of them.”

The Biden administration is using several metrics to determine how best to allocate the money, including the selection of systems that will help beat back Russia, but not fuel a wider conflict. Another consideration is not sending Ukrainians cutting-edge technology, given U.S. concerns the weapons could fall into Russian hands. If that happened, the Russians could reverse-engineer those systems and create new weapons for its military, according to an official with knowledge of the discussions who was not authorized to speak on the record.

“We in the administration have to very prudently measure those risks … and to think very carefully about how can we best … give the Ukrainian military what they need,” Army Secretary Christine Wormuth told the Atlantic Council on Tuesday.

The White House is hoping the latest emergency funding measure is enough to sustain Ukraine through the next several months of the conflict, but Congress is already bracing for the next cash fight.

At a confirmation hearing last week, Gen. Christopher Cavoli, Biden’s nominee to lead U.S. European Command, indicated that he believed that Americans are owed “a thoughtful application of those funds and a full accounting of them.”

That’s going to be a heavy lift for the Pentagon, which already owes the Senate Armed Services Committee “several years” worth of reports, according to Warren. That includes billions of dollars already allocated for the European Deterrence Initiative, a program aimed at bolstering U.S. presence on the continent following Russia’s 2014 seizure of Crimea. Warren said she was “getting sick of the run-around here” and said the Pentagon “has not complied with the law.”

In a recent letter to the Pentagon’s finance chief obtained by POLITICO, Warren wrote that “tracking this spending is a key part of how we protect American interests and support of our allies.”

Although every Democrat in both the Senate and House voted for the $40 billion aid package last month, several progressives were reluctant to support it given their existing concerns about a bloated Pentagon, as well as their general opposition to flooding a war zone with new weapons. Congressional leaders significantly boosted the humanitarian assistance portion, mollifying lawmakers who had considered voting against the bill.

Sen. Paul (R-Ky.), who held up the $40 billion aid package amid his demands that Congress tap a special inspector general to monitor the spending of the Ukraine funds, has raised similar concerns.

A fiscal hawk, Paul joined 10 other GOP senators and 57 House Republicans in voting against the aid bill, with several arguing that there wasn’t stringent enough oversight of the money. Sen. Josh Hawley (R-Mo.) argued the money “comes [with] no meaningful oversight.”

The latest round of emergency funding dwarfs an earlier $14 billion package enacted by Congress in March and supersizes several programs to aid Ukraine’s military, including $6 billion for the Ukraine Security Assistance Initiative, a Pentagon program that helps arm the Ukrainian military. In a government-wide funding deal passed in March, by contrast, lawmakers allocated $300 million for the account.

The package also raises the total authority to ship weapons to Ukraine from U.S. military inventories to $11 billion. Additionally, the Pentagon was granted nearly $9 billion in new funding to replace weapons that have been sent into the fight.

## Link

### 2NC---Security Cooperation Link

#### Overlapping mandates and opacity weaken oversight. Turns case.

Young 20 [Thomas-Durell Young, Senior Lecturer at the Naval Postgraduate School; "The "Politics" of Security Cooperation and Security Assistance"; Office of the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation; Published: 9-10-2020; Accessed: 6-18-2022; https://www.dasadec.army.mil/News/Article-Display/Article/2344014/the-politics-of-security-cooperation-and-security-assistance/; KL]

In 1955 a book titled The Politics of the Prussian Army, 1640–1945 was published; it would soon become a landmark study of civil-military relations.1 Gordon Craig’s unassuming tome became widely influential within and outside the civil-military relations field and spurred the publication of what has become a wide literature on the politics of armies (particularly those of the United Kingdom, Italy, Russia, and France) that takes a different approach to our conventional understanding of civil-military relations.2 What makes these latter books prescient in their instruction is that they disabuse readers of the erroneous assumption that armies are somehow subservient to their political masters and eschew involvement in domestic politics or in any system of governance. As the historical record demonstrates (and, dare one suggest, a reflection of the U.S. Armed Forces in a contemporary setting3), armies are all but inherently political and need to be recognized as such if their effect on civil-military relations is to be properly assessed.

The intrinsically political nature of military organizations is no less true when it comes to armies’ efforts in the education, training, and equipping of foreign partner nations’ armed forces, known as security cooperation (SC) and security assistance (SA). Yet much of the American bureaucracy and legal framework for these activities treat them as fundamentally technical problems that are susceptible to improvement through better procedures. This technicism, to purloin a term from Samuel Huntington,4 is arguably at the heart of many of our failures and disappointments in building partner security forces (for example, those of Afghanistan,5 Iraq,6 and Mali7) or in reforming defense institutions in Central and Eastern Europe.8 Virtually every fix proposed to partners is yet another technical or bureaucratic adjustment rather than an acknowledgment of the fundamentally political nature of these activities, both within a partner nation as well as among U.S. agencies responsible for planning and carrying out the assistance programs.

The objective of this article is to argue that administration officials and Congress face two different political challenges related to improving SC and SA. Unless and until U.S. officials formulate solutions to these political problems, both branches of government will struggle to achieve more effective means of reforming partner nations’ key governmental institutions. First—and perhaps the easiest challenge to address—is that SC and SA have unintended political consequences in the government institutions of recipient countries and are not solely technical tasks. No one has expressed this point better than Mara Karlin, albeit she was speaking in reference to weak states:

Past experience offers two key lessons for U.S. officials as they seek to strengthen the security sectors of weak states. First, like all state-building endeavors, these are political, not technical, exercises. Instead of focusing narrowly on training and equipment, U.S. policymakers responsible for implementing such programs must address the purpose and scope of the U.S. role and the mission, leadership, and organizational structure of the partner’s military.9

Second, SC and SA are highly politicized; both are inefficient, because of the lack of coordination between the Department of Defense (DOD) and Department of State, and ineffective, because of lack of alignment with national security goals (and/or foreign policy objectives). This important reality needs wider appreciation by these departments, as well as by Congress, if the U.S. Government is to improve its ability to find value for money by improving partner nations’ ability to defend their sovereignty, let alone contribute to expeditionary operations. Recent reforms initiated by Congress, most notably in the fiscal year (FY) 2017 National Defense Authorization Act (NDAA), constitute a good first effort at addressing these longstanding problems; however, a review of the evidence shows that this legislation should be augmented to define the problem as largely political in nature, as opposed to accepting the traditional default assumption that it is solely technical, which would have enabled it to call for even deeper reforms within these bureaucracies.

This article argues that, due to internal DOD politics and the interorganizational politics within the U.S. Government, suboptimal results ensue from the way the United States plans and executes SC and SA. It then suggests legislative and policy changes that might better take this reality into account. The stakes are high. If U.S. strategy is to bring troops home from the so-called endless wars overseas and let others do the fighting, then its success must be a core priority. But only by reforming the way the United States organizes itself to build allies’ and partners’ armed forces are we likely to meet with any greater success than we have in the past.

Dramatis Personae

Many organizations throughout DOD have long conducted SC and SA. Key roles are played by the military departments (MILDEPs) in execution of these activities, which are in turn managed and coordinated by the combatant commands and the Defense Security Cooperation Agency (DSCA). Arguably, a deeper understanding of the inherent political nature of SC and SA is necessary to ensure that these programs are planned, managed, and executed in a more effective and efficient manner. Ensuring that these activities actually “build” sustainable defense capacity must be a high priority, given recent congressional dissatisfaction with DOD failures to create institutions capable of managing, controlling, and sustaining their armed forces.

In terms of SC and SA, the proverbial elephant in the room is DOD. But this has not always been the case. This is one of the externalities of the George W. Bush administration’s response to the global war on terror; at the time, DOD found that existing U.S. training and particularly equipping programs funded by the Department of State’s appropriations and authorizations (Title 22, U.S. Code) simply were insufficiently responsive and nimble to meet operational commanders’ requirements. Congress responded to DOD’s entreaties for more authority to build partner forces in the FY 2006 NDAA, which authorized DOD (with the concurrence of the Secretary of State) to use its authorizations and appropriations (Title 10, U.S. Code) to build capabilities and capacity in partner armed forces in order to conduct counterterrorism operations. The perhaps predictable, if not inevitable, result of DOD rapidly trying to create capacity within partner armed forces was an embarrassing lack of attention paid to the financial niceties and details that are of great importance to Congress. As a RAND report observed, “DOD lacks the detailed financial data necessary to respond to new congressional reporting requirements. Moreover, DOD leaders are unable to compare SC spending across countries, regions, and programs, which is critical to future prioritization and resourcing decisions.”10

Perhaps it is inaccurate to characterize DOD as an elephant (in any room); in reality, it is more like a herd of independently minded creatures. Title 10 makes it clear that the individual MILDEPs exist in splendid political if not geographical isolation from each other, let alone from the Office of the Secretary of Defense. The MILDEPs’ Major Force Programs reflect the clear objective of Congress that the former retain a high degree of autonomy from the Office of the Secretary of Defense, notwithstanding largely ignored verbiage in the law that explicitly states in the preamble to the three departments’ sections that the exercise of their functions are “subject to the authority, direction, and control of the Secretary of Defense.”11 The record demonstrates that the intent of Congress’s annual appropriations and authorizations easily trumps this provision of the law. The canonical source of the MILDEPs’ autonomy is found in the 12 roles and missions assigned to them in Title 10.12 It is the particular authority of training under which the MILDEPs’ authority to conduct SC and SA reside (for example, continental U.S.-based professional military education and all forms of training).

Other key players in the planning and execution of these programs include the Office of the Secretary of Defense, which provides policy guidance and priorities; DSCA, with its newly enhanced powers granted to it via the FY 2017 NDAA (discussed below); the combatant commands, which act as planners and coordinators of these activities (under the authority of the Unified Command Plan); the Service components that execute many of the in-country training events; and finally, as extensions of the combatant commands, defense cooperation offices resident in-country that manage and direct both training programs and equipment transfers. Given the number of stakeholders, the politics of agreeing priorities, approaches, timing, scope, and so forth, the execution of SC and SA activities can be frightfully untidy.

Since 2006, the previous position of the Department of State, which originally had the lead in funding (and therefore some influence in controlling) these activities, has been eclipsed. While it continues to control funding for its many Title 22 programs, they are largely executed via DSCA and the MILDEPs. Although Congress has recognized that it has, in effect, created the basis for confusion via the two departments’ dual congressionally mandated authorities and authorizations, a political decision to create a clear lead agent for these activities remains missing. One will return to the U.S. Government’s well-used practice of “fudging” when it comes to identifying who’s in charge.

It is instructive at this point to cite the example of the FY 2016 NDAA, which mandated that the “Secretary of Defense, in consultation with the Secretary of State, shall develop and issue to the Department of Defense a strategic framework for Department of Defense security cooperation to guide prioritization of resources and activities.”13 Absent from this legislative language is any reference to “who decides,” consultation being a rather misleading turn of phrase because it implies a relationship of equals (that is, inter pares), as opposed to any suggestion of a hierarchy of authority—not even primus inter pares in this case. In effect, successive legislation since 2006 has changed radically the entire pre-2001 political calculus of how U.S. defense-related advice and assistance are planned and executed. To appreciate the magnitude of this shift, congressional testimony in 2017 acknowledged that DOD’s Title 10 programs had tripled since 2001. For comparison, prior to 2001, the Department of State managed approximately 80 percent of the U.S. Government’s security assistance, whereas by 2017, this figure had dropped to about 50 percent.14 Thus, Congress continues its preference for DOD over the State Department in matters related even to the latter’s core responsibility—that is, diplomacy. It is little wonder, then, that such moves have opened the U.S. Government to criticism that it has militarized its foreign policy.15

The MILDEPs, in various forms and different organizations, largely carry out SC via two different business models: either designing projects from inception to meet specific requirements or training foreign personnel in existing professional military education and training centers funded on an incremental cost basis. In some cases, the invoiced costs of personnel might not even be grounded on such a financially disciplined basis, thereby implying an unintended subsidy by DOD.16 Two aspects of training of foreign personnel by the MILDEPs and defense entities often go unreported. First, data analysis highlights an unpleasant externality: Training partner military personnel doubles the likelihood of a military-led coup d’état.17 Evidently, the recent cases of Field Marshal Abdel Fattah al-Sisi of Egypt and Captain Amadou Sanogo of Mali are far from rare.18 That said, it must be clarified that correlation does not imply causation—but admittedly, these troubling data do raise questions. Second, both DOD and the State Department reported in a 2011 Government Accountability Office audit that neither collects data on SC and SA programs to evaluate their effectiveness.19 It is disappointing that reliance on these programs of spreading Western democratic defense governance concepts is undermined by the damning admission that neither SC nor SA is designed to change behavior.20 This fact is disconcerting but, sadly, not surprising. Marybeth Peterson Ulrich all but excoriates the DOD disconnect between policy intent and program performance regarding U.S. assistance that she saw provided to the Czech Republic in the 1990s during a critical phase in its democratization. By her analysis, some 80 percent of defense and military contacts did not contribute to U.S. policy objectives intended to further the democratization of Czech armed forces.21

That there has been an apparent disconnect between congressional expectations that SC and SA encourage the adoption of democratic norms abroad is hardly subtle and suggests a political causation for these inconsistencies. After all, if there is no government requirement to produce concrete results, no one can ever be held accountable for failure to meet congressional intent. This inherent weakness to the U.S. Government’s approach to assisting its partners is no more glaringly obvious than in its experience in Afghanistan. For instance, who bears ultimate responsibility for the failure of DOD to re-create the Afghan air force: the originating policymaker, Headquarters Air Force, North Atlantic Treaty Organization (NATO) Training Mission–Afghanistan, or U.S. Air Force Central Command?22 A recent (and quite damning) Special Inspector General for Afghanistan Reconstruction’s lessons-learned report on that lack of progress in the country was unsubtly titled Divided Responsibility.23

The Politics of Causation

In defense of her fetching appearance, the sultry character Jessica Rabbit in the 1988 film Who Framed Roger Rabbit? claimed, “I’m not bad; I’m just drawn that way.” This cri de coeur has resonance in that all of these SC and SA programs, the officials overseeing them, and the many individuals who make up the workforce are not “bad.” Rather, they are simply operating within the intent and spirit of their specific congressional appropriations and authorizations. That a RAND report could find in 2016 some 140 core and supporting authorities that applied to DOD security cooperation paints a rather dissolute tableau prior to the passage of the FY 2017 NDAA, which consolidated these authorities.24 But just as political considerations impeded reforms prior to 2016, subsequent congressional intent apparently has strong political support to redraw DOD’s version of its own Jessica Rabbit, and critically, where politics allow, including the Department of State’s security assistance programs.

Congress’s intent to address these shortcomings was made clear in the FY 2017 NDAA, which contained language that has significantly rationalized authorities to make conducting SC less complex in the following:25

* Policy oversight and resource allocation have been centralized in the Office of the Secretary of Defense, while unifying administration and execution of Title 10 SC programs within the Defense Security Cooperation Agency.
* DOD must now provide Congress with a consolidated budget justification for Title 10 activities.
* DOD must also develop an assessment, monitoring, and evaluation (AM&E) framework to create a disciplined and objective method of assessing program effectiveness.
* DOD is required to create an SC workforce development program26 to ensure personnel engaged in these activities have the required levels of education and training to execute these activities (this is to be fulfilled, in part, by the creation of a Security Cooperation University27).

This legislative intent to reform how DOD plans, manages, and executes SC and SA could be interpreted as largely technical and seemingly apolitical. Other than a forlorn plea in key DOD policy statements for “greater coordination” among stakeholders, these new policies that govern security cooperation28 and related Defense Institution Building29 activities of the DOD do not acknowledge, let alone address, the inherent political nature of these activities—save a long-overdue recognition for the need to assess a partner nation’s political appetite to accept assistance.30 Fortunately, this legislation has opened paths to finding solutions to these vexatious conundrums, but there are some other options that should also be considered.

Congress’s call for a disciplined ability to measure whether SC programs are actually effective, in the form of the adoption of an AM&E methodology, is a positive development, but there are some policy nuances that must be addressed. The call for an AM&E methodology should end the previous DOD approach of largely relying on anecdotal evidence (at best) to justify these activities. A common Defense Department–wide method must be created that will enable Congress to determine which programs and approaches are effective and which are not.31

#### Militarizing diplomacy crushes CMR.

Worthington 10 [Samuel A. Worthington, President and Chief Executive Officer of InterAction, the largest alliance of U.S.-based international nongovernmental organizations focused on humanitarian assistance, poverty reduction, and sustainable development working in conflict, disaster, and peaceful zones throughout the world; "Book Reviews: Exporting Security: International Engagement, Security Cooperation, and the Changing Face of the U.S. Military"; PRISM 2, no. 1, Book Reviews; Published: 2010; Accessed: 6-25-2022; https://ciaotest.cc.columbia.edu/journals/prism%20/v2i1/f\_0024318\_19841.pdf; KL]

Even though action is being taken to improve civilian-military relations and to limit humanitarian worker kidnapping, it should not be forgotten that Reveron’s vision of warrior-diplomats and development workers exceeds the military’s capabilities and core skill set. As Secretary Gates stated, the militarization of U.S. foreign policy and civilian activities is not the solution to underfunded civilian agencies. Allowing the expansion of the U.S. military into civilian sectors will not only continue the understaffing of civilian agencies and complicate the mission of the military, but it will also contribute to a variety of obstacles, including insecurity, within the development community.

While the U.S. military provides much-needed technical and operational assistance to other nations during military training, humanitarian disasters, and transnational operations, the effectiveness of DOD as a development and diplomatic actor remains very much in question. Even after years of programs in Iraq and Afghanistan, DOD does not appear to have a methodology for measuring the effectiveness of its development, humanitarian, and diplomatic activities. Best practices and sensibilities of the 21st century require that development organizations assess the community’s needs for the type and placement of buildings and for goods and services, including education and skill development, prior to taking any action. The military lens is necessarily different and often cannot be the same as the lens through which U.S. civilian aid workers and the NGO community view their tasks. The unfortunate result can be unusable buildings that feed the very “hard” feelings the military’s diligent work was intended to transform. The civilian diplomat is similarly shaped by a different skill set and broader orientation to diplomatic relations between states or with nonstate actors. Reveron’s argument for changing the nature of military and security in the world is well founded and unavoidable, but the expansion of the military into development and broader diplomatic fields requires skills and flexibility the military does not have, nor are they skills it should develop. Civilian agencies should lead development operations, and Reveron’s warrior-diplomats should adopt the more focused roles of ensuring better security cooperation, training peacekeepers, and building armed forces in the developing world that respect rule of law and human rights. As the U.S. military evolves and adapts to the lessons of Iraq and Afghanistan, it must cooperate with and help strengthen the U.S. State Department and USAID to align diplomatic, development, and defense policies and capacity. PRISM

#### Security cooperation toasts oversight. Title 10 v. 50 challenges exacerbate problems.

Hathaway et al. 21 [Oona A. Hathaway, Gerard C. and Bernice Latrobe Smith Professor of Law, Yale Law School; Tobias Kuehne, J.D. Candidate, Yale Law School; Randi Michel, J.D., Yale Law School & Ph.D., Yale University; Nicole Ng, J.D. Candidate, Yale Law School; "Congressional Oversight of Modern Warfare: History, Pathologies, and Proposals for Reform"; William & Mary Law Review, Volume 63, Issue 1, Article 4; Published: 10-2021; Accessed: 6-20-2022; https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=3914&context=wmlr; KL]

1. The Rise of Modern Warfare and Its Oversight Challenges

These oversight challenges became particularly apparent in the wake of the 9/11 terrorist attacks. The 9/11 Commission, which was created to investigate the incident and recommend ways to prevent future attacks, stressed that executive branch reforms “will not work if congressional oversight does not change too. Unity of effort in executive management can be lost if it is fractured by divided congressional oversight.”108 Calling oversight “dysfunctional,” the Commission recommended either creating a joint intelligence committee or giving the existing intelligence committees both authorizing and appropriating authorities.109 In short, the Commission concluded, the outdated committee structure required reform to address contemporary cross-cutting national security challenges.

Despite these warnings, the problems the Commission identified only worsened in the years after 9/11. In particular, the convergence of Title 10 and Title 50 operations accelerated considerably. The DOD (whose operations are generally authorized under Title 10) continued to develop its clandestine capabilities for traditional military activities, while the CIA (whose operations are generally authorized under Title 50) acquired new lethal capabilities.110 This convergence was especially evident with respect to operations carried out by special forces and drones. After 9/11, Special Operations Forces (SOF) became a crucial counterterrorism force. Special Operations Command (SOCOM) has more than doubled in size since 2001 and has commandos deployed to nearly 150 countries.111 Likewise, lethal drone strikes have become a central element of the U.S. counterterrorism strategy, with one database cataloging over 14,000 strikes from 2010 to 2020.112

Security cooperation efforts, including programs to train, equip, and otherwise assist foreign defense and security forces, have also expanded significantly since 9/11.113 Indeed, security cooperation formed the foundation of the U.S. counter-ISIS policy in Iraq and Syria,114 and the U.S. government spent over $200 billion on security assistance and security cooperation programs from 2006 to 2018.115 In 2017, Congress authorized security cooperation funds under Title 10 U.S.C. § 127e to support special operations to combat terrorism.116 One Green Beret explained, § 127e programs are “less, ‘We’re helping you,’ and more, ‘You’re doing our bidding.’”117 In 2017, SOCOM reportedly expended nearly $80 million to resource twenty-one programs under the § 127e authority.118

As the role of special forces, drones, and security cooperation has grown, the oversight gaps caused by the artificial Title 10-Title 50 distinction have become increasingly apparent. One scholar explained, “When the CIA and SOF operate together on the battlefield, the legal distinctions regarding operating authorities and procedures, and accountability, can become blurred.”119 This can have far-reaching implications for oversight.120 For example, lethal operations can be carried out by either the DOD or CIA.121 When led by the DOD, the operation falls under Title 10 oversight by HASC and SASC.122 When led by the CIA, even with the same operators, the operation is typically undertaken as a “covert action” and subject to extensive but highly classified reporting to HPSCI and SSCI under 50 U.S.C. § 3093.123 For example, the raid that killed Osama bin Laden was executed by U.S. Navy Seals from Joint Special Operations Command (JSOC) in the DOD.124 However, it was classified as a Title 50 operation under the “command” of the CIA director.125 Because it was considered a CIA operation, only the Gang of Eight—which includes HPSCI and SSCI leadership as well as the House and Senate leadership—was informed. The armed services and foreign relations committees, however, were not.126

Section 127e programs and activities present further oversight challenges. While § 127e includes reporting requirements,127 these operations often elude effective oversight. They are typically highly classified and briefed only to a narrow group of congressional members and staff. Former congressional staffer Tommy Ross explained, “Policymakers and congressional staffers who work in areas likely to be most affected by 127e operations—traditional foreign assistance and diplomacy activities, for example—are generally not included among those briefed .... limiting accountability and profoundly challenging the government’s ability to plan, coordinate, and integrate comprehensive assistance packages.”128 Even within a single committee, only a few members are typically notified of sensitive operations, and staff are sometimes excluded altogether.129

Importantly, special operations, drone strikes, and security cooperation missions often fall outside of the oversight jurisdiction of HFAC and SFRC under the WPR. As discussed in Part I,135 the executive branch has often narrowly defined “hostilities” in the WPR to require “the presence of U.S. ground troops, U.S. casualties or a serious threat thereof.”136 This definition “allows the President to escape the WPR whenever drones are relied upon—regardless of the extent of a military campaign involving drones.”137 Under this contested interpretation of hostilities, the executive branch is not obligated to report special forces operations, including kill/capture missions, to Congress under the WPR.138 This interpretation has largely kept HFAC and SFRC in the dark on the vast majority of counterterrorism operations.

Moreover, similar and sometimes overlapping training and assistance programs can be operated by the CIA, which follows its own distinct reporting regime.130 For example, the CIA reportedly spent over $1 billion over four years on a covert action program to support Syrian rebels.131 This program reportedly operated alongside an overt DOD program authorized and overseen by HASC and SASC.132 The CIA programs would have been reported under Title 50 to HPSCI and SSCI alone, even though they may have directly overlapped, and even competed, with programs authorized by HASC and SASC.133 As one former staffer put it in an interview with us, “I saw in a couple of cases some of these programs that were not only duplicative, but competitive. The DOD and CIA were trying to displace one another from the same landscape.”134

#### Oversight trades off. Unexpected programs weaken strong and ongoing investigations.

Committee on Armed Services 19 [Committee on Armed Services U.S. House of Representatives; "Oversight Plan for the 116th Congress"; Published: 2019; Accessed: 6-25-2022; https://armedservices.house.gov/\_cache/files/b/2/b236a61e-6d45-40cd-9ad8-bc99b83dfa3b/AE1FC7A607C9432146B32AF84E99181B.hasc-oversight-plan-for-the-116th-congress.pdf; KL]

The committee will continue its oversight and assessment of threats to U.S. national security as it considers the fiscal year 2020 and fiscal year 2021 defense budget requests. This effort will involve appropriate oversight hearings with the Secretary of Defense; the Chairman of the Joint Chiefs of Staff; the individual military service secretaries and chiefs of staff; combatant commanders; other officials of the Department of Defense and the military departments; officials from the intelligence community; and the Secretary of Energy, the Under Secretary for Nuclear Security, and other officials of the Department of Energy. In addition, the committee will invite the views and perspectives of outside experts in academia, industry, associations and advocacy organizations, and those in private life with expertise on these matters. Finally, the committee will continue its aggressive outreach program to seek the views and perspectives of service members and their families to include Active Duty, National Guard, and Reserve members across the United States and at deployed locations overseas.

The committee carries out its oversight of the Department of Defense and its subordinate departments and agencies as well as portions of the Department of Energy through activities involving the full committee and its standing subcommittees. The committee will continue to conduct robust oversight and investigations regarding matters within the jurisdiction of the committee. Certain issues and activities will require more extensive review. Investigatory work that may support the oversight responsibilities of standing subcommittees will be conducted in a coordinated manner. Each subcommittee will conduct oversight of the programs within its jurisdiction in accordance with the committee’s rules and the Rules of the House of Representatives.

The oversight agenda below, unless otherwise noted, is designed to support the consideration by the committee and, ultimately, the House of Representatives of the annual defense authorization bill, as well as the committee’s broader oversight responsibilities. The issues identified are expected to be ongoing areas of oversight activity throughout the 116th Congress. In addition, the committee will continue to pay attention to the mandates placed on executive departments and agencies. In this context, pursuant to clause 2(d)(1) of rule X of the Rules of the House of Representatives, the committee will continue to emphasize the examination of relevant rules, regulations, statutes, and court decisions affecting the Department of Defense and the Department of Energy for their effects on efficiency and good management practices.

Given the unique nature of national security issues and related oversight of the Armed Forces, the committee believes that a qualifier is once again necessary with regard to the ability to plan comprehensively and predict all oversight activities. Much of the committee’s most demanding oversight will be, by definition, event-driven and not subject to prior planning. Such events significantly complicate the ability to prescribe with great accuracy or specificity the committee’s entire oversight agenda. For instance, the oversight of defense activities by the committee has historically involved in-depth assessments of military operations and other major events that are generally difficult to predict in advance, such as the recent operations in the Republic of Iraq and the Syrian Arab Republic to counter the Islamic State of Iraq and Syria, the war in the Islamic Republic of Afghanistan, and responses to catastrophic events. These reviews can dominate committee and staff resources, sometimes at the expense of other planned activities. The committee fully expects that this type of event-driven oversight will continue to be required.

#### It signals the dismissal of effective foreign policy.

Bergmann and Schmitt 21 [Max Bergmann, a senior fellow at the Center for American Progress, where he focuses on European security and U.S.-Russia policy. From 2011 to 2017, he served in the U.S. Department of State in a number of different positions, including as a member of the secretary of state’s policy planning staff, where he focused on political-military affairs and nonproliferation; special assistant to the undersecretary for arms control and international security; speechwriter to then-Secretary of State John Kerry; and senior adviser to the assistant secretary of state for political-military affairs. Prior to serving in the State Department, he worked at CAP as a military and nonproliferation policy analyst and at the National Security Network as the deputy policy director. Bergmann received his master’s degree from the London School of Economics in comparative politics and his bachelor’s degree from Bates College; Alexandra Schmitt, a senior policy analyst on the National Security and International Policy team at the Center. She previously worked on U.S. foreign policy advocacy at Human Rights Watch and received her Master in Public Policy from the Harvard Kennedy School; "A Plan To Reform U.S. Security Assistance"; Center for American Progress; Published: 4-22-2015; Accessed: 6-20-2022; https://www.americanprogress.org/article/plan-reform-u-s-security-assistance/; KL]

* U.S. engagement with partners could be dominated by military issues if foreign officials turn to DOD counterparts instead of diplomats for assistance resources. Because the DOD controls its own security assistance accounts, other foreign policy concerns may get trumped if partners go around the State Department to get aid from the Pentagon. Sen. Ben Cardin (D-MD) worried at a 2017 Senate Foreign Relations Committee hearing that the shift to increasing DOD authorities could “send a fundamental message that the United States considers security relationships over all other U.S. foreign policy objectives or concerns, including human rights or good governance.”10 Under the current framework, the State Department’s ability to put the brakes on security assistance or military cooperation under DOD authorities is highly limited because the State Department does not control implementation and can often only approve or disapprove of DOD proposals. While State Department officials and ambassadors can and sometimes do halt or temper problematic efforts, doing so requires exerting significant political capital that is in short supply.11 Centralizing control at the State Department would help to fix this bureaucratic imbalance between diplomacy and the Pentagon.

#### SC gets locked in

Bergmann and Schmitt 21 [Max Bergmann, a senior fellow at the Center for American Progress, where he focuses on European security and U.S.-Russia policy. From 2011 to 2017, he served in the U.S. Department of State in a number of different positions, including as a member of the secretary of state’s policy planning staff, where he focused on political-military affairs and nonproliferation; special assistant to the undersecretary for arms control and international security; speechwriter to then-Secretary of State John Kerry; and senior adviser to the assistant secretary of state for political-military affairs. Prior to serving in the State Department, he worked at CAP as a military and nonproliferation policy analyst and at the National Security Network as the deputy policy director. Bergmann received his master’s degree from the London School of Economics in comparative politics and his bachelor’s degree from Bates College; Alexandra Schmitt, a senior policy analyst on the National Security and International Policy team at the Center. She previously worked on U.S. foreign policy advocacy at Human Rights Watch and received her Master in Public Policy from the Harvard Kennedy School; "A Plan To Reform U.S. Security Assistance"; Center for American Progress; Published: 4-22-2015; Accessed: 6-20-2022; https://www.americanprogress.org/article/plan-reform-u-s-security-assistance/; KL]

The current security assistance framework at the State Department and the DOD often perpetuates the status quo by creating incentives to continue providing assistance to the same partners. Between congressionally mandated allocations to large security partners in the State Department’s FMF assistance and specific authorities created for certain countries, there are often few built-in incentives to reexamine a partner’s record or backsliding. And when reviews are done, there is strong resistance to shift funding due to the potential fallout. Rarely is the top consideration the effectiveness of assistance. In an interview with the authors in June 2020, Anthony Wier, a former deputy assistant secretary in the State Department’s Bureau of Legislative Affairs, explained, “Right now, the best predictor for what we propose to spend this year is what we proposed last year – in other words, the whole system is basically just drifting from year to year.”66

This greatly affects the perception of other U.S. security assistance partners. Countries know that the United States is unlikely to cut assistance, even despite bad behavior, in order to avoid harming a bilateral relationship. Recipients take note of such reluctance to pull aid even when gross abuses occur and thus ignore U.S. chastising on bad behavior. As long as the United States is unwilling to cut off assistance or move funds elsewhere after a country commits actions that U.S. officials oppose, security assistance will provide no foreign policy leverage.

### 2NC---AI Link

#### Military AI challenges CMR. Turns case. Civil-military relations are a pre-requisite to AI.

Burton and Soare 19 [Dr Joe Burton, New Zealand Institute for Security and Crime Science, University of Waikato, Dr Simona R. Soare, Institut d’Etudes Européennes, Université Saint Louis; "Understanding the Strategic Implications of the Weaponization of Artificial Intelligence"; 2019 11th International Conference on Cyber Conflict: Silent Battle, NATO CCD COE Publications; Published: 2019; Accessed: 6-23-2022; https://ccdcoe.org/uploads/2019/06/Art\_14\_Understanding-the-Strategic-Implications.pdf; KL]

Politics in this respect will be integral to outcomes in the deployment of military AI across domains. Strategy has always been the use of force to achieve political objectives, but we assert that politics will shape how AI is used as much as being the goal of the deployment of AI. What AI will not be able to do for combined arms operations, or any other type of operation for that matter, any time in the near future, is lift the fog of war: the veil of uncertainty around the interests driving opponents’ actions. It will not alleviate the security dilemma and may complicate arms control and disarmament efforts as barriers to entry are lowered due to the acceleration of technological progress in the civilian sector.

5. STRATEGIC IMPLICATIONS

The purpose of this article is not to provide definitive conclusions as to how AI will affect strategy. As Clausewitz often stressed, the unseen complexities involved in military affairs do not allow for clear answers.41 The purpose of this paper is rather to enhance understanding of different aspects of what policymakers and military officials will face as AI technologies are integrated into war and conflict. In that spirit, we see several considerations as paramount to current and future strategy and policy.

The first is the requirement for and the simultaneous challenge of greater military-civilian fusion. We recognize this as a tautology that has always been true. However, it seems clear that militaries will need to develop much closer cooperation with the private sector in the development and use of AI technology through ‘spin in’ effects. China has already recognized this, as detailed by Elsa Kania in a recent report, and is working to fuse military and state-owned enterprise efforts to enhance China’s AI capabilities and technologies.42 In this respect, the extent to which China has an inherent advantage over the US because of state control of private enterprise is likely to influence the emerging power struggle over AI. China certainly has some advantages, including a productive and innovative economic and industrial base, and the clear articulation of national strategies around AI, but the notion that direct control over industry confers an advantage should be questioned. Much of historical innovation in technology has been derived from research conducted in private enterprises and research labs, sometimes with government funding. China’s technological progress has also been driven, at least in part, by illegal appropriation of technologies and copyright theft, largely through cyber espionage. This has been amply documented.43 The latest research suggests that China faces significant challenges in developing technologies due to the exponential increase in the complexity of military technology and the difficulties involved in replication and imitation.44 In the US and Europe, conversely, the challenge will be to develop effective cooperation between the military and private sector in the development of AI, while managing concerns around ethics and privacy. Recent reports suggest that the US military is now more trusted to develop AI systems than some of the big tech companies such as Google and Facebook, reflecting recent controversies around social media being used as a platform for AI-enabled information warfare and data privacy breaches.45 However, it is our contention that technology must be jointly and collaboratively developed, and that military control of AI innovation will ultimately be counterproductive, largely because of the need to apply the technology across a wide range of societal activity.

#### AI needs sufficient congressional oversight to be effective

Stone 21 [Corin R. Stone is a Scholar-in-Residence at the Washington College of Law, where she is conducting research, developing programming, and contributing to the Tech, Law and Security courses. She is on leave from the Office of the Director of National Intelligence (ODNI) where, until August 2020, she served as the Deputy Director of National Intelligence for Strategy & Engagement. From 2014-2017, Ms. Stone served as the Executive Director of the National Security Agency (NSA). https://www.justsecurity.org/79254/artificial-intelligence-in-the-intelligence-community-oversight-must-not-be-an-oversight/]//LP

Throughout this series, I have explored the most pressing foundational issues impacting the Intelligence Community’s (IC) ability to meet the urgency of this moment in the global artificial intelligence (AI) race. The current bipartisan support for taking bold action to drive national security use of AI is key to the IC’s success. That support must propel change in the priority areas I have already identified: modernizing the IC’s budget and acquisition processes and enabling a risk-tolerant culture with a new IC AI risk assessment framework

that helps IC officers navigate the uncertainty that necessarily accompanies technological innovation. There is one other area, however, that cannot be ignored if the IC is to keep pace with our nation’s adversaries and provide policymakers with accurate, timely, and impactful insights: congressional oversight.

Congressional oversight of the IC is critical. Congress is the eyes and the ears of the American people. Among other things, it is charged with evaluating IC program performance, and ensuring the IC is efficiently and effectively spending taxpayer dollars and properly executing national security activities consistent with statutory requirements and legislative intent.

Adaptive Oversight

Much like AI itself, congressional oversight of AI activities must evolve and adapt to the world of emerging technology. While there are a variety of rules that govern Congress’ oversight responsibilities, Congress has considerable latitude and discretion in the execution of that oversight, including how they measure executive branch progress. To improve IC oversight engagements, Congress and the IC must start with a shared strategic vision for what a successful AI project looks like and create an approach to oversight that is tailored to achieve this goal.

Current measures and metrics often focus on ensuring projects stay on track in terms of cost and schedule; there are well-defined outputs, such as number of tools built, and static timelines for delivery. Such demonstrable deliverables are objective, consistent, and easy to measure, but they are ill-suited to AI, the underlying technology for which is still evolving. To take full advantage of AI’s emerging possibilities, the IC must have the ability to test, adjust, and pivot as new algorithms and capabilities are developed and applied to different problem sets.

In addition, AI-related metrics must focus on key performance indicators that track the progress of how AI tools evolve rather than on only the final product to both create the opportunity for, and reflect the expectation of, value to the user earlier based on strong communication and feedback loops. Performance evaluation should center on delivery of incremental capabilities, drilling down on speed and functionality together in phases and time-boxing segmented activities, from staffing to new releases to bug-fixes.

The IC and the Committees must learn from industry best practices related to DevSecOps and software, and together develop relevant and adaptive metrics that can be consistently applied but are more aligned with AI’s attributes. This joint process would itself serve as an opportunity for learning and trust building. Once developed, the metrics must continue to drive accountability and demonstrate value, and if timelines slip, the IC must quickly inform the Committees and produce new targets. The IC should expect to use the new metrics first on low-risk activities and ensure the Committees understand the standards and benchmarks the IC is using so they can evaluate programs accordingly.

While pivoting to new metrics is a good start, the IC and the Committees also must remain open to iteration, allowing oversight to change if the initial approach is less than optimal.

Trust, Transparency, and Partnership

There is no dearth of oversight today – each year, there are hundreds of written reports, in-person briefings, phone calls, hearings, and other engagements between congressional overseers and the IC. However, current oversight engagements suggest a lack of confidence and trust in the IC; they are often excessively tactical and focused on execution details that provide neither a strategic perspective on the health of a program nor an understanding of potential long-term opportunities and risks. These engagements drive a continuous cycle of meetings and briefings, requesting deeper levels of detail, in an effort to achieve the desired understanding. Unfortunately, layering detail on top of detail does not produce strategic insight, and this approach is ultimately ineffective – the Committees do not feel sufficiently informed and the IC does not feel sufficiently supported, steering the relationship toward one that is more adversarial than collaborative.

Current oversight processes were not designed to be overly burdensome or act as roadblocks to progress. They were designed to give Congress appropriate insight and confidence that executive branch activities and spending are being carried out efficiently, effectively, and consistently with the law. Unfortunately, the processes have become onerous due to a history of issues that have undermined Congress’ trust and confidence in the IC. The IC must rebuild trust with Congress so overseers can step back from day-to-day operational details and engage with the community at a more appropriate strategic level.

As the IC seeks additional flexibility from the Committees, it should increase trust and transparency through a more informal and open posture with Congress that includes accommodation from deliberative process privilege as needed. This would require a significant cultural shift but, if done carefully, would pay enormous dividends.

#### Development of autonomous tech implicates congressional oversight

CRS 21 [Congressional Research Service; “Defense Primer: U.S. Policy on Lethal Autonomous Weapon Systems”; November 17, 2021; DOA: 6/25/22; <https://crsreports.congress.gov/product/pdf/IF/IF11150>; Lowell-ES]

Lethal autonomous weapon systems (LAWS) are a special class of weapon systems that use sensor suites and computer algorithms to independently identify a target and employ an onboard weapon system to engage and destroy the target without manual human control of the system. Although these systems are not yet in widespread development, it is believed they would enable military operations in communications-degraded or -denied environments in which traditional systems may not be able to operate. Contrary to a number of news reports, U.S. policy does not prohibit the development or employment of LAWS. Although the United States does not currently have LAWS in its inventory, some senior military and defense leaders have stated that the United States may be compelled to develop LAWS in the future if U.S. competitors choose to do so. At the same time, a growing number of states and nongovernmental organizations are appealing to the international community for regulation of or a ban on LAWS due to ethical concerns. Developments in both autonomous weapons technology and international discussions of LAWS could hold implications for congressional oversight, defense investments, military concepts of operations, treaty-making, and the future of war.

### 2NC---Cyber Link

#### Cyber information siloing frustrates oversight and spills over. Turns case.

Hathaway et al. 21 [Oona A. Hathaway, Gerard C. and Bernice Latrobe Smith Professor of Law, Yale Law School; Tobias Kuehne, J.D. Candidate, Yale Law School; Randi Michel, J.D., Yale Law School & Ph.D., Yale University; Nicole Ng, J.D. Candidate, Yale Law School; "Congressional Oversight of Modern Warfare: History, Pathologies, and Proposals for Reform"; William & Mary Law Review, Volume 63, Issue 1, Article 4; Published: 10-2021; Accessed: 6-20-2022; https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=3914&context=wmlr; KL]

B. Siloing and Its Implications for Oversight and National Security

While committees may gain political benefits from guarding their turfs, information siloing frustrates Congress’s ability to carry out effective oversight of the executive branch. The information gaps resulting from siloing of reporting and notification may lead to poorly informed and under-vetted congressional decision-making. Ultimately, information siloing of modern military operations can harm national security and foreign relations.

1. Siloing Obstructs Deliberation and Informed Legislating

Information siloing can obstruct deliberation and thus block informed legislating. If an operation is briefed to only one committee, members who are informed may lack the ability to engage in meaningful deliberation with other members, thereby impeding a proper response.277 A former SFRC staffer expressed the difficulty of conducting effective oversight when the committee is left in the dark on related operations: “[H]ow can you make foreign relations policy without having access to one of the most potentially influential capabilities to influence foreign relations?”278 Another staffer illustrated the dilemma with a hypothetical: imagine there is a critical intelligence program that involves close cooperation with the military of a partner country.279 The foreign relations committees have not been briefed on, and are not aware of, the program. As a result, they may not understand why the administration refuses to press that country on its human rights record—a record that “we would never let go generally.”280 If the foreign relations committees do not know about the intelligence program, they would be unable to understand why U.S. foreign policy toward that country contradicts our values. And they would not be in a position to discuss the appropriateness of this foreign policy trade-off.281 When issues are briefed just to the Gang of Eight, the problems of impeded information sharing become particularly acute. As a former staffer explained, “Then it’s just a small group of members. It causes all kinds of spillover effects.”282 For instance, when Congress was asked to reauthorize the § 215 collection program in 2011, most members were unaware of existing bulk collection programs carried out under intelligence authorities.283 Committee members had to fight to get a document describing these activities opened up to members, and then only in a Sensitive Compartmented Information Facility (SCIF) at the TS/SCI level.284 If that had not been done, members voting on the reauthorization would have been entirely unaware of how it interacted with existing collection programs.285

Indeed, to exercise their authorities over the process of commencing war via authorizations for the use of force or restricting uses of force through the WPR, the foreign relations committees must be fully informed of uses of U.S. military power. After the Soleimani strike, for example, the foreign relations committees weighed what might be an appropriate response to Iranian retaliation, while being left in the dark about the ongoing or potential cyber, intelligence, and other operations between the United States and Iran.286 While the Senate and House ultimately voted to restrain the President from using force, better information sharing would have allowed the senators to make a more informed decision.287

Information siloing poses a particularly acute challenge to deliberation and informed legislating on cross-jurisdictional issues like cyber operations. As a DOD lawyer observed, congressional committees “are not structured to take a holistic approach to the problem of cyberspace,” which challenges traditional paradigms of jurisdiction that are focused on physical spaces (for example, commercial, domestic, and overseas) and actors (for example, government agencies, departments, and private sector).288 Cyber operations and cybersecurity transcend these distinctions and cut across issues of foreign affairs, intelligence, and defense, but congressional committees remain confined by these parameters. The Cyberspace Solarium Commission observed that the dispersal of oversight responsibilities across numerous committees and subcommittees “prevents Congress from effectively providing strategic oversight of the executive branch’s cybersecurity efforts or exerting its traditional oversight authority for executive action and policy in cyberspace.”289 Information siloing also complicates oversight over military cyber operations, which blur the jurisdictional lines between Title 10 and Title 50 that traditionally divided military and intelligence oversight within Congress.290 As Tressa Guenov and Tommy Ross have observed, “It is nearly impossible to consider cyber deterrence and the role of offensive cyber attacks in military operations without encroaching on business, homeland security, foreign policy, and criminal justice issues.”291

Information siloing also limits the ability of committees to consider how various legislative actions might affect and be affected by other programs already in place. Consider a hypothetical example involving Russia. In weighing whether and how to craft sanctions legislation against Russia for election interference, the foreign relations committees should have an understanding of all the tools brought to bear against Russia to counter or deter meddling—including cyber operations, such as those carried out by Cyber Command during the 2018 midterm elections.292 More generally, as relations with Russia remain tense, since the foreign relations committees are charged with overseeing the executive’s conduct of foreign relations with Russia,293 it is critical that they understand the full nature of the bilateral relationship, including hostile and potentially escalatory activities like military cyber operations. However, although there may be informal exchanges of information, the DOD is under no statutory obligation to report cyber operations against Russia to the foreign relations committees.294

The foreign relations committees are particularly affected by their lack of access to information about other programs and operations. While successive iterations of the NDAA have established new reporting and notification requirements for modern military operations, the reports almost all go to the armed services committees. The foreign relations committees receive virtually none of that information. This is even the case for operations with implications falling squarely within the foreign relations committees’ jurisdiction. One telling example is the aforementioned FY 2019 NDAA, which functions as a quasi-AUMF for cyber operations against Russia, China, North Korea, and Iran.295 The consequences extend beyond the committees’ role in use of force authorizations, as well. For example, as described earlier, when HFAC was considering a “massive Pakistan aid package,” the CIA failed to inform the committee of the drone program in that country, even though it had obvious implications for U.S.-Pakistan relations.296 HFAC chairman Howard Berman was ultimately informed about the drone program, but he could not share the information with the rest of the committee because he was the only member read into the highly classified program.297 And in 2014, the SFRC considered and supported legislation to train and equip Syrian rebels, even though the chair and ranking member did not know any details of what media later reported to be the CIA’s parallel covert program,298 which had been initiated the year before.299

2. Siloing Means No Committee Has the Complete Picture

Information siloing means that no committee—and no member— has the complete picture of modern warfare operations. As a result, members are often called on to make crucial decisions without the full range of relevant information in hand. Based on our interviews, information siloing appears to be a particularly significant problem in the counterterrorism context, including special forces operations and drone strikes.300 As former National Security Council Director for Counterterrorism Daniel Rosenthal explained:

[N]umerous members of Congress, countless congressional staffers, and multiple committees all have access to some information about the drone program.... [N]o single member of Congress, congressional staffer, or oversight committee has visibility over all drone platforms, all strikes, taken in all theaters both within and outside of areas of active hostilities.301

The tragic events in Niger that led to the deaths of American special forces, recounted at the outset of this Article, illustrate some of the dangers that can result from this lack of visibility. Those deaths might have been avoided if not for the siloed oversight over those operations, which meant that no one in Congress was aware of the full extent of U.S. involvement in the country. Even when there is the rare collaboration between committees, the foreign relations committees are often the odd man out. This is true even though counterterrorism operations generally require the approval of the U.S. embassy for the country where the operation will take place.302 U.S. embassies and consulates are part of the State Department (organized under the Bureau of Consular Affairs)303 and thus under the oversight jurisdiction of the foreign relations committees.304 These committees are rarely notified of counterterrorism operations, despite the fact that they oversee embassies and diplomatic relations.305 This information gap thus inhibits the committees’ capacity to effectively oversee the agency for which they are responsible.

Information sharing restrictions and narrow notification and reporting obligations allow the executive branch to control committees’ access to information. Like the foreign relations committees, the intelligence committees generally do not receive reporting or notification on military cyber operations. As one congressional staffer observed, “When it comes to DOD activities, HPSCI feels itself pretty frozen out.”306 The intelligence committees are only briefed on operations conducted under intelligence authorities. If Cyber Command and the CIA conduct coordinated or supported cyberattacks, each agency will brief its respective oversight committee on its own activities, and neither committee will have the full picture.307 Moreover, it is often up to the executive to determine how much of a joint operation to disclose.308

Indeed, agencies sometimes exploit congressional committee jurisdictional divisions and turf wars to avoid onerous oversight. In the case of cyber operations, the armed services committees are perceived by some observers as friendlier to the military and less willing to engage in rigorous oversight.309 The executive branch “will hand-feed the congressional committees that they care about, but they will do anything in their power to avoid cooperating with the ‘other’ committees.”310 As a former Cyber Command lawyer put it, “If you’re the CIA you may say you aren’t talking to the armed service committees, they do not have my interests at heart, and vice versa.”311 Information silos can thus privilege the executive branch at Congress’s expense.

3. Information Siloing Exacerbates Institutional Jealousies and Impedes Agency Coordination

Information siloing may reinforce interagency competition within the executive branch, which may inhibit the government’s broader capacity to effectively address security threats. Andru Wall explains that siloing is both “legally incongruous and operationally dangerous because it suggests statutory authorities are mutually exclusive and it creates concerns about interagency cooperation at exactly the time in history when our policy and legal structures should be encouraging increased interagency coordination and cooperation against interconnected national security threats.”312 In fact, when agencies compete with one another, they can leverage information silos to advance their own equities with their congressional patrons.

A former congressional staff member recalled an incident in which the CIA and the DOD sought to displace each other from parallel operations in the same country, which included efforts to elevate concerns up to the host country’s head of state. “The oversight seams made this challenging,” the staff member recalled, “on these committees, the agencies played members off each other, getting members to be advocates for them rather than overseers.”313 Members of Congress made calls to the White House on behalf of their agencies, asking why the other agency was involved. “This was embarrassing from an oversight standpoint, but also potentially damaging from a national security standpoint,” the staffer added.314

\* \* \*

This Part has examined the ways in which information siloing impedes Congress’s ability to provide effective oversight of modern warfare and thus harms national security. Ironically, while Congress publicly recognizes the challenges facing executive branch coordination and has urged stronger coordination,315 it has not applied the same logic or solutions to its own institutional structure. Siloing, therefore, does not merely cut out certain committees, but it also hinders Congress’s ability to effectively carry out its legislating, war making, and oversight roles. The next Part considers possible reforms to address this problem.

#### Cyber cooperation and info sharing uniquely challenge oversight.

Lewallen 20 [Jonathan Lewallen, Assistant Professor, University of Tampa; "Cybersecurity Information Sharing and Congress's Oversight Role"; 66 Wayne Law Review 151; Published: 2020; Accessed: 6-20-2022; https://heinonline.org/HOL/LandingPage?handle=hein.journals/waynlr66&div=7&id=&page=; KL]

Members of Congress value position-taking and credit-claiming opportunities, and legislative activity and constituent service tend to provide those opportunities to a greater degree than oversight; legislative action tends to be more visible than all but the highest-profile oversight hearings. 4 0 To the extent that oversight provides clear position-taking opportunities, it does so when either district, state, or party interests are involved. Cybersecurity information sharing may be a case where the lack of a clear partisan dimension hinders the prospects for effective oversight; members of the presidential out-party lack obvious incentives to elevate attention to information sharing by embarrassing the current administration

Another challenge is not necessarily unique to cybersecurity information sharing: how to measure whether oversight activities were successful. The stated congressional policy (as expressed through law) is for agencies to coordinate information exchange about cybersecurity threats with SLTT governments and the private sector. Sharing more information cannot be the end goal because too much information can actually be less helpful.' 4 ' Cybersecurity threats change over time and, thus, so will the specific information about those threats that would need to be shared, which in turn changes some of the appropriate metrics of "success." Is sharing the information alone enough to consider the policy successful, or does that information also have to be timely and acted upon?

One general oversight challenge is specific to information sharing: the information related to cybersecurity threats and vulnerabilities is to flow between agencies, SLTT governments, and the private sector without also flowing to Congress. Legislators already face an information disadvantage relative to the bureaucracy; bureaucrats know more about the policy problems and likely effects of proposed alternatives to a greater degree.' That disadvantage may be exacerbated with cybersecurity information sharing: Congress does not know what information agencies and companies could be but are not sharing. And whereas Congress can rely on constituents, interest groups, and other "fire alarms" to help reduce its information asymmetry for other policies,"' almost by definition these groups do not know what information agencies are not sharing, either. Conversely, the problem definition and uncertainty reduction functions that bureaucracies perform for Congress may suffer because agencies also do not know what threat or vulnerability information the private sector is not sharing. Congress finds itself in a position of promotion-"what can we do to help?"- without knowing what kind of information would be shared with more resources, incentives, and support. And while oversight does not necessarily have to be adversarial, that advocacy position creates a conundrum: Congress can provide positive incentives for participation or improvement but fewer sanctions for non-participation.

Overlapping agency responsibility for cybersecurity generally and information sharing specifically poses another challenge to effective congressional oversight. Multiple agencies may share information about the same cyber vulnerabilities and threats, which then creates confusion about responsibility for both the private sector and for Congress. 1 4 The Department of Health and Human Services played a significant role in notifying the U.S. health care sector about the 2018 "WannaCry" ransomware attack on entities and industries around the world (including the British National Health Service), but some legislators looked to the DHS and Office of Management and Budget for a response in the attack's aftermath.14 1 Overlapping responsibility may also manifest when agencies share information with, or receive information from, an industry outside its traditional substantive jurisdiction, as when the Department of Homeland Security shares vulnerability information about healthcare devices or when the Department of Defense Cyber Command works with the banking sector. 146 Changing technology can make new industries vulnerable and require information sharing in a new domain; the U.S. Farm Credit Administration, for example, recently moved to "cloud computing" and, thus, created new data and system vulnerabilities relevant to cybersecurity information sharing policies and introduced agriculture policy, concerns into the cybersecurity domain.1 47

Overlap in agency responsibility and issue involvement raises questions about who in Congress is responsible for conducting oversight; in the Farm Credit Administration case, would it be the homeland security or the agriculture committees? Both have some claim to jurisdiction, and the resulting competition and turf battles among committees can send conflicting signals to agencies about congressional directives. 148 Legislative turf battles, then, can lead to more agency overlap as committees advocate for the agencies under their jurisdiction to gain authority over cybersecurity information sharing, which in turn would give those committees more policymaking authority in the future. 149

#### Cyber friction impacts oversight. Only transparency can ensure public support, trust, and adherence.

Trautman 15 [Lawrence J. Trautman, Associate Professor, Business Law & Ethics, Prairie View A&M University - College of Business; "Congressional Cybersecurity Oversight: Who’s Who and How It Works"; Journal of Law and Cyber Warfare; Published: 9-10-2015; Accessed: 6-20-2022; https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2638448; KL]

A. INHERENT TENSION SURROUNDING NATIONAL SECURITY MATTERS

Sensitive information, which has national security significance, must be safeguarded to ensure the vital national security interests of any nation state. So many aspects of cybersecurity have the potential for use by: terrorists; foreign entities as a tool to conduct industrial espionage against U.S. business; and nation state adversaries, or others intent upon creating serious disruptions. These various threats mean that cybersecurity policy in many ways must be treated just like the strategic and operational plans of a country at war.33

Admiral Bob Inman, USN (Retired) is former Director of the National Security Agency, Deputy Director of Central Intelligence, an experienced venture capitalist and seasoned corporate director of many well known and important U.S. corporations such as AT&T, Fluor, SAIC, Xerox (just to name a few). In the author’s opinion, Admiral Inman is perhaps the most experienced and thoughtful senior executive in the U.S. intelligence community. During congressional testimony, Admiral Inman counseled

For the public support, [oversight] will be critical for funding and sustaining a significant level of intelligence activities by the country in the years ahead. There has to be oversight. The media would like to do it. It’s not feasible with the issues of protection of sources and methods, so there must be mechanisms in both the Congress and the executive branch which work. Optimally, I would prefer a joint committee for oversight in the Congress. There may be other reasons that that’s simply not achievable, not practical… The oversight activities must be bipartisan in their daily conduct for them to be fully effective… I don’t have great confidence in an Inspectors General process for focusing on the broad issues. They’re good for trying to ferret out corruption, criminal activity, but the President, any President needs wise advice that constantly is assessing, are the country’s needs being met where they don’t have the requirement for institutional loyalty.34

During his Senate confirmation hearings to become Deputy Director of Central Intelligence, Robert M. Gates said, “Intelligence is a force multiplier for military operations. It more than pays for itself. There’s no sense in building new weapons if you can’t detect and assess enemy threats, or even identify targets during crisis.”35 Gates believes that congressional oversight of the U.S. intelligence community and activities is “a key element in preserving intelligence programs, and in maintaining public understanding and support for intelligence.”36 Indeed, “the gravest danger facing intelligence is that intelligence studies, or even intelligence operations, may become influenced by policy or even political influences. Every effort must be made to see that intelligence reports and analyses are not made into props for policymakers. Intelligence has to be completely objective.” 37

Oversight has created an environment that fosters adherence to the rules at all levels and discourages corner cutting or abuses. The committees have contributed to improving the quality of our work and to efficiency. And, finally, the congressional committees and executive oversight organizations such as the Intelligence Oversight Board and the President’s Foreign Intelligence Advisory Board should give Americans confidence that their intelligence service is accountable, carries out its activities according to the law and that we are guided by standards and values acceptable to them.

The relationship between the congressional oversight committees and the intelligence community is unique in the world the first attempt ever to conduct secret intelligence operations accountable to the people and responsible to the law and to the Congress. While the oversight process may occasionally lead to frictions in the gray area resulting from the overlap between congressional authorities and the duties of the executive, it has now been the practice of both branches of Government for 10 years now to try to resolve such difficulties in a spirit of comity and mutual understanding. This unique relationship between us depends on mutual trust, candor, and respect and I assure you I intend to conduct myself with this in mind…

Because intelligence is secret and our Agency is closed to public scrutiny, I believe we must take the initiative to reach out to policymakers, the Congress, the private sector, and critics and experts of all stripes for help in improving the substance of our work, our efficiency and our effectiveness… Intelligence must be relevant, timely, and responsive to the real requirements of the policymaker if it is to be useful and effective. And relevance can be insured only by a close, day to day, working relationship. At the same time, intelligence must remain independent. Our very existence depends upon a reputation for integrity and for objectivity.38

Admiral Michael S. Rogers was questioned at length by Senators McCain, Reed, Inhofe, Wicker, Ayotte, Lee, Manchin, Blumenthal, Donnelly, Kaine and King during his confirmation hearing to become: Director of the National Security Agency; Chief, Central Security Services; and Commander, U.S. Cyber Command. When asked by Senator Tim Kayne to speak about the “unique challenges in defining ‘war’ in cyberspace, what war is, what hostilities are, what military action is,” Admiral Rogers responded

Whatever we do within the cyber arena, international law will pertain; that if we find ourselves getting to a point where we believe that cyber is taking us down an armed conflict scenario, that the rules and the law of armed conflict will pertain every bit as much in this domain as it does in any other. I don’t think cyber is inherently different in that regard. I think those sets of procedures, those sets of policies and law, as a Nation have stood us in good stead. I think they represent a good point of departure for us.

Senator KAINE: … Would it be your view then that pure cyber war somebody wipes out our grid and then we think about taking activity to respond is that not war? It could have a huge effect on human life. It could have huge effect on the economies of the two nations. Is that not war unless it then leads to armed conflict?

Admiral ROGERS: … I believe that an offensive, destructive act that has significant impact for us, I believe now we’re starting to get on the boundaries of is that an act of war. Now, everything varies on a case by case basis and I’m always concerned about broad general statements.39

Professor Frederick R. Chang, former National Security Agency (“NSA”) Director of Research said in congressional testimony that, “we are paying a heavy price for our technological dependence and the problem is worsening with the passage of time. Our trust in cyberspace has been taken from us by hackers, cybercriminals and sophisticated cyber attackers who intend to do us harm.”40 Towards the end of 2010 Senator John McCain observed

CYBERCOM was established… by the Secretary of Defense… Since then I have shared the concerns… about ensuring that the role, mission, legal authorities, and rules of engagement that CYBERCOM will employ are well thought out and understood… The Department must have a centralized command to address the challenges of cyber warfare, to provide the support to the regional combatant commands, and to ensure that DOD, while focused on its own military networks and information grid, also is ready, if directed by the President, to assume a position of leadership and support to civilian authorities in this regard.

Continuing intrusions and attacks by difficult to identify and locate actors on our civilian and military networks and web sites demand not only a robust defensive capability, but the ability to respond offensively when the circumstances call for it. One need only consider the examples of cyber warfare conducted against the Republic of Georgia in 2008 and Estonia in 2007 to appreciate the nature of this form of modern warfare.41

Thoughtful observers remain mindful that “the issue of congressional oversight of intelligence is complex, combining as it does the political and structural complexities of Congress with the difficulty of monitoring something of strategic significance that, by definition, operates in the shadows.”42 Professor Jennifer Kibbe stated that “intelligence is more crucial than ever to national security, but as the executive branch and the intelligence community try to maximize the utility of intelligence in meeting national security needs, it is imperative that the congressional overseers meet their obligations as well.”43 Professor Kibbe offers the following three reasons that congressional oversight of intelligence-related issues is particularly important

1. The first, most obvious reason is the inherent secrecy of the subject…

2. [Because] ‘the intelligence community is constrained in its ability to convince the American public that it can be trusted and deserves their support,’ Congress also plays an important role in explaining and representing the intelligence community to the public; and

3. A third-reason legislative oversight is so important is that, done well, it helps to improve the intelligence product, whether that means collection, analysis or covert action. When administration and intelligence officials know that they will have to explain a funding choice or particular operation to Congress, it has the effect of adding a layer to their own internal vetting.44

#### New OCOs through the DoD don’t require congressional authorization or oversight

Bailey 20 [Dr. Christopher E. Bailey is an Associate Professor at the National Intelligence University in Bethesda, Maryland specializing in national security law, international law, and professional ethics. He is also an adjunct instructor in the Master of Science in Cyber Security program at the University of Charleston (West Virginia). Dr. Bailey is licensed to practice law in California and the District of Columbia and is a member of the American Society of International Law. “Offensive Cyberspace Operations: A Gray Area in Congressional Oversight” Boston University International Law Journal https://heinonline-org.proxy.lib.umich.edu/HOL/Page?collection=journals&handle=hein.journals/builj38&id=253&men\_tab=srchresults]//LP

Next, there are new questions about the nature of presidential and congressional oversight. The new statutory authorization allows for a range of offensive cyberspace operations that could be properly characterized as a covert action, but absent executive oversight required, such as is required for a presidential finding and Memorandum of Notification to the Congressional intelligence committees. 50 The new language creates an important change in congressional reporting requirements; the statute provides that "[the Secretary of Defense] shall brief the congressional defense committees about any military activities or operations in cyberspace, including clandestine military activities or operations in cyberspace, occurring during the previous quarter during the quarterly briefing required by section 484 of this title."'5 1 In other words, the DoD and U.S. CYBERCOM can conduct a broader range of offensive cyberspace operations, some which may be construed by an adversary as a hostile or wrongful act in violation of international law, but the Secretary of Defense is no longer constrained by the requirement of a presidential finding, Congressional leadership. In one sense, the 2019 NDAA has a broader requirement for congressional reporting than the covert action statute; the 2019 NDAA does not include a provision that could be used to limit congressional reporting on sensitive military cyber operations to the "gang of eight. '5 4 The traditional controls on uses of force, whether involving covert actions or armed conflict, exist to ensure executive and congressional oversight, as well as political accountability through elections, in the conduct of U.S. foreign policy.55 There is a distinct difference between purely defensive actions, which are either responses against an on-going attack or the preparation of capabilities for prospective conflict, and offensive operations that could initiate or escalate a crisis. On one hand, it is true that the DoD experienced difficulties in obtaining mission approval within the executive branch for peacetime cyber operations that involved conduct beyond intelligence collection or a response to an on- going attack. That there has been disagreement over the propriety of certain activities is no doubt a reflection on the unique nature of certain cyber activities and the perhaps unknowable consequences that may result from them. Indeed, the United States has periodically faced intelligence crises resulting from ill- advised operations, such as the 1985-87 Iran-Contra affairs, that had been decided within a limited group of senior officials, without the benefit of interagency review and debate.56 Thus, the short-circuited approval process encapsulated in the 2019 NDAA albeit to intended to facilitate timely responses to on-going attacks is not necessarily a positive development. However, strong presidential control and prior congressional notification perform an important function: they ensure that the United States uses unacknowledged force only in pursuit of "identifiable foreign policy objectives of the United States and is important to the national security of the United States."'5 7 The need to inhibit unintended escalation with a foreign adversary mandates high quality intelligence to minimize the risk of misattribution and collateral damage, as well as tight political control. Now, however, the DoD can conduct a range of offensive cyberspace operations (i.e., "defend forward" 52 prior or contemporaneous reporting to Congress, 53 or even reporting to the senior through "persistent engagement" 58 ) independent of any explicit finding to that effect. The DoD has the authority to conduct a broad range of activities that it may consider "short of hostilities," 59 but ones that an adversary may consider as a hostile or internationally wrongful act.

#### Congressional oversight is needed to maximize cybersecurity programs effectiveness

Francis and Ginsberg 16 [ Kathryn A. Francis is an Analyst in Government Organization and Management at the Congressional Research Service. Wendy Ginsberg is an Analyst in American National Government at the Congressional Research Service “The Federal Cybersecurity Workforce: Background and Congressional Oversight Issues for the Departments of Defense and Homeland Security” https://ecommons.cornell.edu/bitstream/handle/1813/79313/CRS\_Federal\_Cybersecurity\_Workforce.pdf?sequence=1&isAllowed=y]//LP

The absence of data may make it difficult for Congress to determine to what extent the flexibilities are used, and what challenges may inhibit their maximum use. Ultimately, this could affect future decisions regarding the authorization of additional flexibilities or changes to the structure of existing flexibilities. For example, suppose that DHS uses the OPM-issued hiring flexibility to fill 200 cybersecurity positions—20% of the maximum allowed by the flexibility (up to 1,000 positions). If DHS had no additional positions to fill, additional flexibilities might not be needed. If DHS encountered implementation challenges that prevented further use of the flexibility, however, structural changes to the flexibility may be needed. Similarly, suppose that DHS does not use the pay flexibilities authorized under P.L. 113-277. While the lack of use could indicate that the flexibilities are not needed, it may also stem from budget constraints. A lack of data on how frequently the flexibilities for DOD intelligence positions are being used to fill positions affiliated with the U.S. Cyber Command may make it difficult for Congress to gauge the utility of new flexibilities authorized for Command positions under P.L. 114-92. It appears that some positions affiliated with the Command are being filled using the existing flexibilities for DOD intelligence positions. The Departments of the Army and Navy, for example, are using the flexibilities to fill cybersecurity positions in units that support the Command. 79 The flexibilities, therefore, might not be needed as much or used as often as envisioned if a sizeable portion of covered positions can be filled using existing flexibilities. Pursuant to its oversight authority, Congress could consider several oversight policy options to enhance its knowledge and awareness of identification and recruitment efforts for the federal cybersecurity workforce. Seven options are presented in this section, though other policy options exist. The first two policy options relate to monitoring OPM and OMB initiatives to define and identify federal cybersecurity positions. The remaining five options relate to monitoring the implementation of hiring and pay flexibilities used to fill DOD and DHS cybersecurity positions. CRS takes no position on the advisability of these and other potential policy options. DOD and DHS could be required to report their use of OPM-issued hiring flexibilities for cybersecurity positions. The requirements could include, (1) the number of positions filled using the flexibility; (2) the pay plan, occupation, series, and grade of the position; (3) the nature of action of each hire; and (4) any challenges encountered in implementing the flexibilities. Such data might enhance Congress’s capacity to determine the extent to which these flexibilities are being, or have been used—and any barriers to maximizing their use. This information could, in turn, assist Congress in addressing any barriers to using statutorily authorized flexibilities and determining the utility of additional flexibilities

#### More intelligence causes decrease in congressional oversight

Boyd 10 [“Improving U.S. Congressional Oversight of Intelligence Services: A Comparative Policy Approach”; Vol. 28, No. 1 of American Intelligence Journal, pp. 29-39; DOA: 6/23/22; <https://www.jstor.org/stable/pdf/44327128.pdf?refreqid=excelsior%3A65d8e7be9fc9021eaf55b6ecf1242f28&ab_segments=&origin=>; Lowell-ES]

When in the 1970s the Congress created the two committees dedicated to the oversight of intelligence, the overall goal was to achieve awareness of intelligence activities." Since then, the Intelligence Community size, budget, and capabilities have grown exponentially, increasing the challenge of maintaining this awareness and conducting oversight. Many of the advantages and disadvantages of the three courses of action above relate to the ability of the Congress to effectively maintain accountability of the intelligence services rather than increased transparency to the public. All three involve trade-offs with regard to the cost of conducting oversight, measured in dollars, hours, and trees (to create paper). A strong argument can be made that, despite the criticism of the 9/11 Commission, academics, and the press, U.S. Congressional intelligence oversight is among the best in the world. Oversight is occurring and there has been greater accountability and transparency in the past three years in particular. Because effective oversight is occurring, option one, maintaining the status quo of a strong oversight mandate, is the most acceptable option. Option two is not recommended because there is likely never to be sufficient political will to adopt a joint intelligence oversight committee. However, if the Congress does want to make a change and still keep its strong oversight committees, option three is unique in that it creates a central point of contact into Congress to liaison directly with the public. This type of position may fill a gap that may grow wider in the post-9/11 world—the gap between the public and its government that is best bridged through accountability and transparency. Despite the best intentions of the government, its actions can be flawed in practice and a law can be the cause of inequity or injustice. The German Bundestag model of a Petitions Committee can serve as a central point of contact for citizens to contact Congress with a complaint or suggestion for legislation. This can be a bold new way for Congress to express its commitment to transparency and accountability and mitigate growing concerns, in particular, regarding the activities of our intelligence services.

## Internal Link

### 2NC---DoD Bad/DoS Better

#### Overlap. DoD SC is extremely untidy.

Young 20 [Thomas-Durell Young, Senior Lecturer at the Naval Postgraduate School; "The "Politics" of Security Cooperation and Security Assistance"; Office of the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation; Published: 9-10-2020; Accessed: 6-18-2022; https://www.dasadec.army.mil/News/Article-Display/Article/2344014/the-politics-of-security-cooperation-and-security-assistance/; KL]

Perhaps it is inaccurate to characterize DOD as an elephant (in any room); in reality, it is more like a herd of independently minded creatures. Title 10 makes it clear that the individual MILDEPs exist in splendid political if not geographical isolation from each other, let alone from the Office of the Secretary of Defense. The MILDEPs’ Major Force Programs reflect the clear objective of Congress that the former retain a high degree of autonomy from the Office of the Secretary of Defense, notwithstanding largely ignored verbiage in the law that explicitly states in the preamble to the three departments’ sections that the exercise of their functions are “subject to the authority, direction, and control of the Secretary of Defense.”11 The record demonstrates that the intent of Congress’s annual appropriations and authorizations easily trumps this provision of the law. The canonical source of the MILDEPs’ autonomy is found in the 12 roles and missions assigned to them in Title 10.12 It is the particular authority of training under which the MILDEPs’ authority to conduct SC and SA reside (for example, continental U.S.-based professional military education and all forms of training).

Other key players in the planning and execution of these programs include the Office of the Secretary of Defense, which provides policy guidance and priorities; DSCA, with its newly enhanced powers granted to it via the FY 2017 NDAA (discussed below); the combatant commands, which act as planners and coordinators of these activities (under the authority of the Unified Command Plan); the Service components that execute many of the in-country training events; and finally, as extensions of the combatant commands, defense cooperation offices resident in-country that manage and direct both training programs and equipment transfers. Given the number of stakeholders, the politics of agreeing priorities, approaches, timing, scope, and so forth, the execution of SC and SA activities can be frightfully untidy.

#### Experience. A DOD STUDY agrees.

Bushley 17 [U.S. Army Capt. Adam Bushley, Rule of Law attorney for Task Force Wolverine, 86th Infantry Brigade Combat Team; "Governance: The Missing Ingredient in Security Cooperation"; U.S. Army Command and General Staff College; Published: 2017; Accessed: 6-18-2022; https://apps.dtic.mil/sti/pdfs/AD1038564.pdf; KL]

Typically, guides, best practice manuals, and actual policies describe how the organization will address specific challenges through developed and approved programmatic approaches. When done correctly, these approaches reflect state-of-the-art concepts grounded in evidence that provide staff direction in a specific subject matter. Using DOS’s SC/SA oversight authority, such reference material could help ensure SC/SA programs are appropriately tailored, based on country context, and implemented effectively in accordance with clearly articulate national strategic or operational level end states for the region and the U.S. as a whole. If done correctly, these policy directives would coordinate and prioritize SC/SA programs (based on allocation of resources) within the ICS and the rest of the interagency.106 In essence, such material would be a road map with do’s and don’ts based upon best fit approaches and lessons learned. According to one RAND study commissioned by the Office of the Secretary of Defense (OSD), “Military planners in the field often have little experience managing security cooperation and rotate every two to three years.”107 Since most Security Cooperation Officers (SCO) are new to the field of SC/SA, by the time they understand the position and how power and resources are distributed and contested, they often redeploy. DOD civilians, while more experienced, are too few in number to make up the difference; specific and direct DOS guidance on how to implement SC/SA programs in order to meet strategic country or NSS objectives through tailored and effective SC/SA programming could help. 108

### 2NC---AT: Leahy Laws

#### Leahy laws fail.

Bergmann and Schmitt 21 [Max Bergmann, a senior fellow at the Center for American Progress, where he focuses on European security and U.S.-Russia policy. From 2011 to 2017, he served in the U.S. Department of State in a number of different positions, including as a member of the secretary of state’s policy planning staff, where he focused on political-military affairs and nonproliferation; special assistant to the undersecretary for arms control and international security; speechwriter to then-Secretary of State John Kerry; and senior adviser to the assistant secretary of state for political-military affairs. Prior to serving in the State Department, he worked at CAP as a military and nonproliferation policy analyst and at the National Security Network as the deputy policy director. Bergmann received his master’s degree from the London School of Economics in comparative politics and his bachelor’s degree from Bates College; Alexandra Schmitt, a senior policy analyst on the National Security and International Policy team at the Center. She previously worked on U.S. foreign policy advocacy at Human Rights Watch and received her Master in Public Policy from the Harvard Kennedy School; "A Plan To Reform U.S. Security Assistance"; Center for American Progress; Published: 4-22-2015; Accessed: 6-20-2022; https://www.americanprogress.org/article/plan-reform-u-s-security-assistance/; KL]

While U.S. laws technically prohibit providing security assistance to units found to violate human rights—the Leahy laws—the provisions are riddled with loopholes and are too weak to effectively prioritize human rights in U.S. security assistance.71 Offices and agencies responsible for elevating human rights in U.S. foreign policy, such as the State Department’s Bureau of Democracy, Human Rights, and Labor, are too often cut out of the decision-making process for security assistance programs—especially those run out of the Pentagon. At the same time, the Pentagon maintains its own security assistance accounts, such as Section 127e, that are not required to conduct human rights vetting and operate with little transparency—furthering opportunities to militarize foreign policy.72 And often, such as in the case of Egypt, security assistance is accompanied by paltry amounts of democracy, human rights, and governance funding (DRG), or certifications on human rights are waived entirely, to make providing arms more palatable.73 These small DRG funds or certification stops do little to change the underlying political challenges or are sometimes even hampered by the regime the United States is funding.

## Impact

### 2NC---Oversight Impact---Nuc War

#### Nuclear war. Congressional influence caps every impact.

Seymour 21 [Margaret Seymour, Lt. Gen. Bernard E. Trainor USMC Veterans Fellow at the Foreign Policy Research Institute, active duty intelligence officer with the U.S. Marine Corps; "Building Soft Power Back Better?"; Policy Commons; Published: 3-19-2021; Accessed: 6-23-2022; https://policycommons.net/artifacts/1434834/building-soft-power-back-better/2056054/; KL]

Summary

The Biden administration has multiple competing priorities: COVID-19 and its economic impacts, long-ignored racial fissures, and a growing tenuous relationship with truth, reality, and trust among the populace, just to name a few. President Joseph Biden also has the challenge of representing the United States on the foreign stage. In that capacity, he is charged with crafting a new foreign policy—one that champions a balance of hard and soft power, tailored for the most efficient use of resources and the most effective results. He is off to a good start; in his interim national security guidance released in early March, President Biden acknowledges the role of soft power resources in building and maintaining U.S. strength, even if he doesn’t call the concept out by name. He posits, Focusing on economic strength, alliances, and institutions and exporting American values and ideals are good starts to restoring American soft power abroad—a critical component of American leadership. In fact, the post-WWII world order, and, more recently, the post-Cold War international system with the United States emerging at the sole superpower, was only possible through U.S. soft power. Historically, the United States has maintained its power and influence abroad, in part, due to its appeal. This appeal must be restored. This is not a call for a post-Trump 180, the path away from soft power and towards a hard power-dominant foreign policy is decades-long. True reinvigoration is going to require not only a criticism of the past four years, but also deep introspection on President Biden’s own contribution to the trend as a senator and vice president. In other words, building a smart power approach to foreign policy is going to take more than simply rejoining a few international accords or hosting some impressive state dinners. Frankly, it’s going to take more time than this administration has, even with the possibility of a second term. But if we take Biden at his promise to serve as a transitional leader, we can certainly start rebuilding the foundation of a foreign policy approach that will serve generations of Americans and citizens abroad for decades. This starts with rebuilding relationships. Based on Biden’s picks for high-level positions, it appears that he understands the power of relationships, choosing long-term confidants and establishment experts. Biden values trust and interpersonal history—and this approach must be applied to international relations. President Biden campaigned on his personal relationships with key international leaders, which is critical, but the administration must also craft relationships with populations and other non-state actors. While the new administration understands the potential threat from non-state actions, it would be well-advised to also consider the potential opportunities in non-state groups and craft a national security strategy that acknowledges the growing power and role of such groups. For example, this strategy must include a prioritization of immigration and refugee programs, such as the Special Immigration Visa Program. While the Trump administration infamously decreased the levels of immigrants admitted under this program, the United States has arguably never fulfilled its responsibilities to the men and women who have assisted missions in Afghanistan and Iraq. Not only should the Biden administration reintroduce the Iraqi Special Immigrant Visa (SIV) Program, but it also should offer a permanent fix to the Afghan program as well as create a new program to reward our allies in the Syrian conflict. Such programs would establish the United States as a leader in refugee rights and protections. The success of future conflicts will be heavily reliant on the ability to gain and maintain the trust of civilian populaces. Without interpreters, translators, and other host-nation citizens, the success of U.S. missions abroad would and will continue to be threatened. More than that, failing to uphold promises to allies abroad threatens American legitimacy and standing in the international community. In the new world order described by the administration, these wicked international problems “respect no borders or walls, and must be met with collective action.” While the COVID-19 pandemic has made the increasingly global nature of the international order abundantly clear, biological disease isn’t the first challenge to transcend borders. Counterterrorism, the threat of nuclear war, economic structures, and climate change all present challenges not to a single state or region, but to an entire international structure. These problems can only be addressed with global solutions. Unfortunately, relationships are more easily broken than repaired, and the United States has been breaking relationships with allies aboard for decades. Take, for example, the spying controversies of the Obama and Bush administrations and repeated criticisms of the North Atlantic Treaty Organization by President Trump. The Biden administration can—and must—repair these relationships with verbal commitments, and it must back up these promises with action. Moreover, President Biden must be careful that these relationships are built between world leaders and the United States, not just with the Biden administration. Nations do not want to build relations with a four-year president or a two-year Congress. Foreign partners want lasting relationships with the American nation. This will require Biden to return to his political home: Congress. He must work with Congress to pass legislation that cannot be overturned with executive orders by future administrations. In this sense, it not only matters what Biden does, but also how he does it. While the executive branch has sweeping powers when it comes to foreign policy, unilateral executive action will not be enough to rebuild U.S. international power and influence. It’s one thing to rejoin the Paris Climate Agreement, but it’s another to live up to a global commitment to combatting climate change. President Biden must also rebuild the primary institutions which govern (or should govern) American foreign policy: the Intelligence Community and the Department of State. The Intelligence Community, among other reforms, must be remade. It must evolve, or rather be revolutionized from a hierarchy centered on collection and technology into a flattened community driven by analysis. This community must be flexible, adaptable, and empowered to adjust to the information age, to include the robust inclusion, or even prioritization, of open source intelligence. For too long, the United States has thrown money and advanced technology at the Intelligence Community, under the premise that more information makes for better intelligence. Unfortunately, “more” information is not always necessary nor sufficient for better intelligence, and the overreliance on such goals has led to an Intelligence Community deficient in quality analysis and timely assessments.

### 2NC---Oversight Solves NATO

#### Oversight solves NATO effectiveness. Congress improves burden sharing and trust.

Sahay 21 [Usha Sahay, senior editor at Politico Magazine, where she focuses on foreign policy and global affairs. She is a 2021 graduate of the Harvard Kennedy School, where she received a Master in Public Policy. While at the Kennedy School, Usha was a Belfer Center student fellow, working as a research assistant to Prof. Fredrik Logevall and the Belfer Center Cyber Project. Her paper “Revitalizing NATO: A Role for the U.S. Congress” was the co-winner of the Robert Belfer Award for Best Policy Analysis Exercise in International and Global Affairs. Usha is the creator and host of the War on the Rocks podcast series “A Most Terrible Weapon.” Prior to graduate school, Usha was managing editor of War on the Rocks, and has also been an editor at the Wall Street Journal and HuffPost. She started her career as a Herbert Scoville, Jr. Peace Fellow at the Center for Arms Control and Non-Proliferation. Usha graduated magna cum laude from Columbia University, where she majored in political science and history; "Revitalizing NATO - A Role for the U.S. Congress"; Belfer Center for Science and International Affairs, Harvard Kennedy School; Published: 9-2021; Accessed: 6-24-2022; https://www.belfercenter.org/sites/default/files/files/publication/Revitalizing%20NATO%20-%20A%20Role%20for%20Congress%20-%20Sahay.pdf; KL]

Congress’ defense of NATO against the Trump administration’s efforts to undermine the alliance illustrates the direct and indirect ways in which lawmakers can push back against the executive-branch. Congress inserted language in the National Defense Authorization Act to block withdrawal of U.S. troops from Germany, while the House passed a resolution prohibiting the use of U.S. funds to withdraw from NATO. In a highly symbolic move, Congress invited NATO Secretary-General Jens Stoltenberg to address the legislature.50 In addition, Speaker of the House Nancy Pelosi led a delegation to the Munich Security Conference, a prominent transatlantic policy conference, where members emphasized Congress’ involvement in foreign policy to counteract allies’ fears about Trump’s behavior. 51 Congress’ active efforts during this period affirm the broader proposition of this report – that Congress does play a role in foreign policy issues like alliance management.52 The question is whether lawmakers will be willing to play that role in future administrations when alliances are no longer seen as being under threat.

“Bad cop” for allies. The function of critiquing undesirable actions extends to foreign nations. Congress frequently serves as a useful source of pressure on other countries, drawing attention to problematic behavior and opening the door for the executive branch to follow up with negotiations or other measures.

When it comes to NATO, Congress has played the “bad cop” most frequently in the area of burden-sharing. Members routinely put pressure on allies to increase their contributions to the alliance, which gives executive-branch negotiators political cover to make the same demand because they can claim Congress is tying their hands. NATO expert Stanley Sloan is worth quoting at length on the history of congressional involvement in burden-sharing:

From the very beginning, the congressional partner regularly raised questions about the persistent burden-sharing issue. This questioning began with the initial debate in the Senate on whether it should give its advice and consent to the Treaty. The administration of President Harry Truman reassured senators that the European allies would contribute to their own defense and that the United States would not end up carrying a disproportionate share of the burden. As the European states recovered from the devastation of World War II, some senators argued that the Europeans had become capable of defending themselves. Montana’s Senator Mike Mansfield (D) famously promoted resolutions from the mid-1960s into the early 1970s that sought to force administrations to begin withdrawing US forces from Europe. While US administrations—Democratic and Republican—sought to contain the financial burdens and to get the Europeans to compensate the United States for some of NATO’s costs, the established pattern persisted into the post– Cold War years. Over all these years, Congress did most of the complaining while successive presidents of both parties urged allies to do more but largely defended the alliance and its costs as necessary for US national interests [emphasis added]. 53

Interviewees with experience in the executive branch repeatedly told me that congressional “complaining” or “needling,” sometimes seen as unproductive grandstanding, is actually a useful way to pressure allies and get issues on the agenda.54 To be sure, congressional critiques can also cause headaches for the executive branch if they create diplomatic friction. Interviewees emphasized the need for useful congressional pressure that is coordinated with the executive and stops short of disrupting fragile bilateral relationships.

Spotlighting rights abuses abroad. Congress is similarly well-suited to draw attention to violations of human rights and other illiberal behavior in foreign countries. In addition to the reasons above, Congress has an advantage in this area because it interacts directly with issue-based advocacy groups, which frequently lobby members to take action on issues like arms sales and human rights.55

Members can target other countries’ bad behavior in a variety of ways. They may bring resolutions, circulate “Dear Colleague” letters, or condemn the behavior in floor statements or in the media. One of the most common tactics is also the most controversial: sanctions. The experts I interviewed were nearly unanimous in their agreement that Congress over-relies on sanctions. As American University’s Jordan Tama told me, “It tends to be a way for Congress to be able to demonstrate that it’s doing something without an issue without being particularly costly. You don’t have to spend money to impose sanctions, so there’s no need for appropriations.”56 Indeed, sanctions may have become a go-to tool precisely because they are one of the few things that are still easy for Congress to do in today’s climate.

Sanctions have proved especially frustrating in the case of Turkey, which is subject to U.S. sanctions due to its purchase of the S-400 missile system from Russia. Interviewees expressed concern that Congress would not be able to unwind the sanctions on Turkey even after it came into compliance with U.S. demands, and worried more generally that Congress had over-involved itself. 57 In this way, a congressional effort to punish bad behavior by an ally may have overstepped its bounds and crossed into the territory of undermining a delicate relationship.

In general, Congress’ strength lies in calling attention to bad behavior and getting it on the bilateral agenda – but then stepping aside to let diplomats negotiate with the problematic partner, a process that is often delicate. One former Senate staffer invoked the common saying that “Congress is a hammer, not a scalpel,”58 while a current staffer similarly described the role as that of a “sharpener.” “Our job,” this staffer argued, “is to take the plans and policies of the executive branch and improve them. That is where we can add the most value, especially in foreign policy.”59

Influencing the executive agenda and shaping the narrative: A third set of strengths has to do with Congress’ ability to put priorities on the executive branch’s agenda and generally shape the domestic and international narrative around particular issues.60 These strengths, which are closely related to the “calling out wrongdoing” idea, similarly stem from Congress’ status as the representative of the American people, which endows its priorities with a unique legitimacy.

Narrative-shaping through hearings and more: Congressional attention to a given foreign policy priority can significantly influence the debate over that issue at home and abroad. Interviewees who have worked in the executive branch and with NATO agreed that both actors pay close attention to what happens in Congress. As Fontaine and Schulman argue, “Congress can play a vital role in encouraging, convening, and organizing public and alternative sources of information.”61 For instance, they argue that congressional hearings can uncover new issues or new ways of thinking about old issues. 62 Nicholas Burns, former U.S. ambassador to NATO, told me that calling a hearing “shines a bright light on a big issue...It’s a convening power to ask members of the administration to appear before Congress and to engage in conversation and debate about the administration's policies.”63 As a 2018 Foreign Affairs article noted, “Hearings and investigations draw attention to neglected issues and can force administrations to rethink decisions. They can divert the executive branch from its priorities and focus the attention of the press.”64

The same applies to other non-legislative tools such as requests for briefings, resolutions, letters to the president and Cabinet officials, floor statements, and media interviews. 65 Even resolutions, far from serving a purely symbolic function, can frame the narrative and push the administration to care about something.66

Reporting requirements: Congress can also influence the executive branch’s agenda by requesting a report on a particular issue, such as the amount each NATO ally is spending on defense.67 The executive branch sometimes dismisses congressionally mandated reports as busy work and even a waste of taxpayer money68, but Hill staffers argued that reports force the administration to pay attention to an issue. 69 “The point is not to get the report,” one emphasized. “The point is to make a bunch of people think about it.”70

Informal authority, institutional memory, and longevity: Current and former staffers pointed out that the executive branch relies heavily on Congress because congressional staffers’ tenures last much longer than a presidential administration. Committee staff in particular have years of expertise and many relationships, which makes them an attractive source of consultation for administration officials as well as members of foreign governments.71 One staffer said that administration officials have two additional incentives (beyond simply getting congressional support for a policy) to build strong consultative relationships with Hill staffers: First, these relationships can help ensure that a policy retains support after that particular administration leaves office, since congressional staffers (especially committee staffers) stay for a long time. Second, relationships on the Hill expand administration staffers’ professional networks for future job searches. 72

The point about durability is particularly important for NATO, since allies are worried that America may again elect a president with Trump-like views on alliances. The executive branch will be eager to secure congressional buy-in on its transatlantic policy to make clear that the policy will not easily be reversed under future administrations. 73

These findings are consistent with James Curry’s research, which finds that committee leaders and committee staff have become more influential sources of expertise as the traditional legislative process has eroded.74 Committee staffers can use their influence and longevity as a source of influence with the executive branch.

Relationships abroad: Closely related, members of Congress and congressional staff have strong relationships with representatives of foreign governments. One staffer argued that congressional relationships with foreign dignitaries are underused and that behind-thescenes diplomacy with members of Congress can have an important impact.75 Foreign dignitaries are often eager to engage with members of Congress, which is a source of legislative strength.76 Again, however, there’s a balance to be struck, as interviewees emphasized that the executive branch should retain the lead in diplomatic negotiations.

Travel: An important part of congressional relationships with foreign counterparts is travel. Many experts argued that members of Congress can have a significant impact by traveling to a NATO-related location and meeting with stakeholders. 77 Lawmakers sometimes travel with congressional delegations (CODELs) to places like NATO headquarters in Brussels and the Munich Security Conference. CODELs offer a chance to communicate American priorities to foreign governments, including wielding threats of punitive action if a country is seen as not cooperating.78 To be sure, it’s difficult to get members on these trips, in part because traveling to seemingly glamorous places like Europe may come off to constituents as spending taxpayer dollars on a luxurious getaway.79 More generally, NATO is low on the list of places that are worth members’ limited time. Still, members should note that travel offers a way to have a big impact, particularly on foreign governments.

### 2NC---Oversight Turns AI Democracy

#### Oversight is key to effective and democratic AI deployment

Lee and Lai 22 [Dr. Nicol Turner Lee is a senior fellow in Governance Studies, the director of the Center for Technology Innovation, and serves as Co-Editor-In-Chief of TechTank. Dr. Turner Lee researches public policy designed to enable equitable access to technology across the U.S. and to harness its power to create change in communities across the world. Her work also explores global and domestic broadband deployment and internet governance issues. She is an expert on the intersection of race, wealth, and technology within the context of civic engagement, criminal justice, and economic development. Samantha Lai is a Research Assistant within the Center for Technology Innovation at The Brookings Institution. https://www.brookings.edu/blog/techtank/2022/05/17/the-u-s-can-improve-its-ai-governance-strategy-by-addressing-online-biases/]//LP

The fact of the matter is that if the federal government gets bias identification and mitigation wrong, it will erode the trust in the efficacy of autonomous systems, especially among everyday citizens whose lives are becoming more dependent on them. Below are some of the use cases in housing, hiring, criminal justice, healthcare, finance, political disinformation, and facial recognition that are already raising red flags due to limited oversight.

A history of biased and discriminatory laws has reinforced racism in the criminal justice system, which disproportionately polices and incarcerates low-income people and people of color. Black people are incarcerated at five times the rates of white people. And the introduction of AI in this space has only created an additional perpetrator of injustices within the system. The PATTERN algorithm, created by the Department of Justice as part of the First Step Act, was used to predict recidivism and shorten criminal sentences based on good behavior. Yet the algorithm has been shown to exhibit biases against people of color, overpredicting recidivism among minority inmates at rates of two to eight percent compared to white inmates. Other risk assessment algorithms have exhibited similar biases, taking for example the COMPAS algorithm that had been used in the states of New York, Wisconsin, California, and more. A ProPublica article found that Black people were twice as likely as white people to be labeled high risk but not re-offend, while white people were more likely to be labeled as low risk but then re-offend. Such risk-assessment tools receive widespread use across the criminal justice system, from initial sentencing to determining early releases, exacerbating existing biases within the system with little oversight

The U.S. should identify and determine specific use cases for recommendations of more stringent oversight and potential regulatory actions, including in financial services, healthcare, employment, and criminal justice.

When contemplating AI risk, it is important to outline and specify which use cases require stringent oversight and regulatory actions. The NAIAC could be a vehicle to employ frameworks similar to the EU AI Act, specifying and classifying use cases with different degrees of risk to determine appropriate levels of regulation. There are also multiple agencies working to combat AI biases across different sectors, like the one previously mentioned at the U.S. Equal Employment Opportunity Commission (EEOC). Recently, NIST has also released guidelines on managing biased AI. To proceed, there should be an inventory, assessment, and coordination of red flag areas among government agencies that prompt discussions on both remedies, and potential enforcements to directly address higher-risk scenarios that foreclose on equal opportunities for vulnerable populations.

Beyond these important considerations, stakeholders in these emerging technologies must trace back to the roots of the problems, which lie in the lack of diversity in design teams and data that continues to carry on trauma and discrimination of the past. By reviewing the existing civil rights regime, outlining cases in need of oversight, encouraging more democratic participation in AI governance, and incorporating anti-racist principles into every aspect of the algorithmic design process, it is possible that, with the joint efforts of tech companies, government institutions, civil rights groups, and citizens, existing AI biases could be upended. More importantly, the protections for historically marginalized groups can be better integrated into national governance, bringing the U.S. closer to the goals of equal opportunity for all in the digital age.

### 2NC---Oversight Turns AI

#### Military AI without oversight result in violence and war

Coolidge 21 [Kelsey Coolidge is a social science researcher and non-profit professional with a specialization in peace and conflict, gender, urbanization, and environmental sustainability. This expertise is crafted from a curiosity to better understand current global challenges in order to create a more just, sustainable, and peaceful future. Kelsey is driven to translate vision into action by employing monitoring and evaluation techniques as well as data-based evidence to help non-profits thrive https://peacesciencedigest.org/artificial-intelligence-in-u-s-counterterrorism-and-the-inescapable-fog-of-endless-war/]//LP

It is not surprising that the question of how artificial intelligence data is analyzed and made meaningful is a thorny one, especially considering recent controversies within Google’s own “ethical AI” team. Timnit Gebru was abruptly fired (along with others who supported her) from her position as co-lead of the ethical AI team at Google in what appeared to be retaliation for refusing to retract a paper that identified how AI data analytics could perpetuate bias in Google’s own search engine. This move called into question the credibility of AI research emanating not just from Google but from all big tech firms who regularly produce research papers. If AI can perpetuate and amplify bias, this emerging technology—an increasingly powerful tool for state surveillance—cannot be understood to be separate from the broader social and political context in which it is situated. In the context of war and the preparation for war, the application of AI to military activities should raise even greater alarm because perpetuating bias in this scenario is lethal to civilian populations under threat of covert U.S. drone strikes. This reality must heighten demands for civilian oversight of and accountability mechanisms for U.S. military operations globally and also call into question the legal authority by which military operations are conducted without congressional oversight.

The troubling implications of AI in military operations is not lost on AI researchers and professionals, 4,500 of whom have signed on to the campaign to stop killer robots according to the non-profit organization AI for Peace. The campaign calls on countries to legislate a ban on AI weapons through national laws and to create a new international treaty banning AI weapons and “establish[ing] the principle of meaningful human control over the use of force”; it further calls on all tech companies and organizations to pledge not to contribute to the development of AI weapons. Yet, it is equally important to draw attention to the potential that AI and other types of emerging technology hold for preventing violence and building peace. Technological innovations have included the tracking and countering of hate speech, models helping countries understand and act on COVID’s impact on marginalized communities, and early warning and response systems with regard to election violence.

The complex landscape of emerging technology in peace and security reveals a more fundamental truth about institutions of power. With incredibly high levels of defense spending and a prioritization of militarized domestic and international security in the U.S., it follows that new technology like AI is applied to enhance the nation’s capacity to create war and violence. Put more precisely: If we don’t invest in or plan for peace, then our technological innovations will not be developed with the goal of managing conflicts without violence and building peace. Technology is neutral—AI did not create racial, ethnic, gender, or other forms of bias—but its application is not. Without effort to transform institutions of power or contend with historical legacies that create inequities, new technological tools will only amplify and reinforce these problems. When it comes to military operations, new technology will only become more dangerous, unregulated, and lethal—and will only continue perpetuating the racial and ethnic biases present in the wars waged throughout U.S. history.

Ongoing revelations show that significant NSA surveillance activities take place outside of either Foreign Intelligence Surveillance Court (FISC) or congressional oversight, even though these policies directly impact Americans’ privacy. These activities should, at the very least, be subject to congressional review, since American interests are being adversely impacted by them.

#### Oversight of emerging tech is solves rogue executive AI use

Manley et al 19 [Laura Manley was the inaugural Director of the Technology and Public Purpose (TAPP) Project at the Harvard Kennedy School Belfer Center for Science and International Affairs. The project aims to steer rapid technology-driven change in directions that serve net, long-term public good. At TAPP, Laura launched several new initiatives including the TAPP Fellowship, Tech Fact Sheets for Policymaker Series, and the Tech Spotlight to make advances in tech more inclusive, safer, and fairer. She has also testified twice to Congress on her research to improve science and technology expertise in government. https://www.belfercenter.org/publication/building-21st-century-congress-improving-congresss-science-and-technology-expertise]//LP

The Constitution of the United States of America gives Congress the power to draft legislation for the nation and to conduct oversight of the executive and judicial branches.

As the world has become more complex, so too have Congress’s responsibilities. When paradigm-shifting technologies like artificial intelligence and quantum computers are created, Congress’s role is to pass legislation that protects the public while encouraging innovation, and to conduct oversight on how the executive branch uses the technologies.

Congress is one of the most advised bodies in the world. Members of Congress can connect with the world’s experts in groundbreaking fields by holding information-gathering hearings in their committees; they can task support agencies like the Congressional Research Service (CRS) and the Government Accountability Office (GAO) with providing in-depth information on a topic; they can ask august bodies like the National Academies to conduct far-reaching research. Members are also inundated with unsolicited information from a variety of external sources.

#### SOP failure causes groupthink and mission failure

Adler, Polisci Professor at ISU, 96 — David Gray Adler, Professor of Political Science at Idaho State University, 1996 (“The Judiciary and Presidential Power In Foreign Affairs: A Critique,” *Perspectives on Law and the Public Interest* (1 Persp. on L. & Pub. Int. 1), Fall, Available Online to Subscribing Institutions via Hein Online, p. 1-9)

Secrecy undermines the foundation of learning: criticism. People on the inside of the national security establishment cannot be trusted to make reasonable judgments—not because they are bad people (one assumes that, for the most part, they are deeply committed and well-intentioned)—but because they inhabit a deeply error-prone system that lacks the basic elements of self-correction. Saddam Hussein is dead today because he created a system in which no one could tell him that if he kept obscuring the fact that he had no WMD, he would die. Open societies thrive not because they have smarter people, or better armies, or perfect markets. They thrive because, in their very imperfection, they enable continuous learning. Open societies can’t always act as effectively as non-open societies. For a while, planned economies looked like they were better at putting Sputnik in orbit, and spy agencies unfettered by democratic qualms, we feared, could foment revolution from Korea to Cuba. But in the long run, openness made us learn, adapt, and become better. That is why, eventually, either China will open up or America will continue to lead into the twenty-first century. But only if we stay an open society. Secrecy has been allowed to metastasize under the Bush-Obama national security system. As the FISA Court order to Verizon showed, even the operation of the law is secret. The Department of Justice issues secret memos; these become unchallenged interpretations of law that FISA Court judges are asked to endorse without the benefit of an opponent's criticism. Any good lawyer knows that if you read the briefs of one side only, they seem overwhelmingly persuasive—until you read the other side's brief. These decisions, in turn, remain secret, and thus immune to criticism even after they have been issued. And that complete immunity from criticism insulates them from good reason. They are, by design, hobbled, incapable of embodying good judgment.

### 2NC---Oversight Turns Ethical AI

#### AI and Big Data require oversight to be implemented ethically

Broeders et al. 17 [Dennis Broeders is Associate Porfessor of Security and Technology and Senior Fellow of the Hague Program for Cyber Norms and the Institute of Security and Global Affairs, Leiden University https://www.sciencedirect.com/science/article/pii/S0267364917300675#s0110]//LP

The use of Big Data in the security domain requires intensified oversight. An effective and confidence-inspiring oversight regime, in its turn, requires a higher degree of data processing transparency. In this, transparency is not an aim in itself but serves the interests of accountability. Citizens and organisations must also have opportunities to discuss the accuracy and proportionality of decisions based on data analyses and made by government institutions and, if necessary, to have them assessed by the courts. 13.1. Big Data, big oversight? Current oversight of data processing leaves a lot to be desired, even more so in view of the ongoing rapid digitisation of government and use of data analysis. DPAs and the various forms of oversight on security and intelligence agencies do not appear to be properly equipped to face the challenges of the Big Data era in terms of powers, expertise and financial resources.74 In the Netherlands, many parties, including the oversight committee CTIVD itself75, believe that the planned expansion of the powers of the Dutch general and military intelligence agencies requires oversight capacity and technical expertise to be significantly expanded at all levels.76 Although the powers and resources of national DPAs will in principle be increased through the entry into force of the GDPR, it is up to the national legislatures to allocate the corresponding financial resources, powers and capacity. As indicated above, oversight of the analysis phase will be of paramount importance. Therefore, if possibilities for collecting and analysing data increase, independent oversight should be strengthened. For regulating the intelligence services, it would be appropriate, in view of the need to protect fundamental rights, to introduce an overriding power/the possibility of passing judgments regarding lawfulness.77 13.2. Increasing (layered) transparency Big Data also requires greater transparency in the government's data-processing activities. There is still a lot to be gained on this point, as data processing is a ‘black box’ in many cases. In addition, data subjects are not so quick to invoke their right to information because they often simply do not know that their data is being collected. Given the sensitive nature of the work of law enforcement and national security agencies, there cannot be full transparency, which is precluded by the danger of ‘gaming the system’ and the need to protect sensitive and classified information. Nevertheless, it is possible to work with a layered system of transparency, as was suggested above in relation to reports by the police and the intelligence services to the competent oversight authorities, which, in their turn, report to parliament. It would also be desirable to give citizens more insight into the frequency of data collection, the reasons why it is done, and, if possible, what effect complex data analyses have. In the field of security, some organisations have the legal right to keep all or parts of their operations secret from data subjects and the general public. However, the growing amount of data that the government can obtain under existing secrecy provisions is out of step with the data processing transparency that is required. There are indications, moreover, that the agencies involved in national security are prone to a culture of ‘overclassification’.78 Furthermore, better information meets a democratic need; a well-informed discussion of the use of Big Data solutions requires a better understanding of the use of data by government organisations in the area of security policy. Therefore, data processing transparency should be enhanced, and a better balance should be achieved between the secrecy requirement and the interests of openness as regards Big Data applications that affect fundamental freedoms. Greater transparency is needed in at least two areas. A growing number of organisations in the field of security is involved in Big Data applications, above all in the area of fighting fraud. There is a lack of good regulation in this area. Although a lot of relevant information about data processing in partnerships is contained in publically available covenants and decisions, this is not very accessible. Citizens should not have to be detectives to find the relevant information. There should be greater openness when organisations intend to work with Big Data applications, for example, by requiring them to draw up a policy plan detailing what Big Data applications they use, what public policy they pursue, at what cost and what results they expect from the application. At the accountability level, too, more is possible than is currently being done, for example in annual reporting. Compared to the Netherlands, some European countries are practising a significantly higher degree of openness about their intelligence techniques and operations, without this hindering the work of their intelligence services in any noteworthy way. This is being done in Belgium, for example, with the aim of being able to conduct an informed discussion about how the intelligence and security services work, what their powers are and how they are monitored and regulated.79

### 2NC---Oversight Solves Cyber

#### Oversight solves cyber.

Trautman 15 [Lawrence J. Trautman, Associate Professor, Business Law & Ethics, Prairie View A&M University - College of Business; "Congressional Cybersecurity Oversight: Who’s Who and How It Works"; Journal of Law and Cyber Warfare; Published: 9-10-2015; Accessed: 6-20-2022; https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2638448; KL]

Cybersecurity remains perhaps the greatest challenge to the economic and physical well being of governments, individuals, and businesses worldwide. During recent months the United States has witnessed many disruptive and expensive cyber breaches. No single U.S. governmental agency or congressional committee maintains primary responsibility for the numerous issues related to cybersecurity. Good oversight stands at the core of good government. Oversight is Congress’s way of making sure that the administration is carrying out federal law in the way Congress intended. So many aspects of cybersecurity have the potential for use by: terrorists; by foreign entities as a tool to conduct industrial espionage against U.S. business; and by nation state adversaries, or others intent upon creating serious disruption. These various threats mean that cybersecurity policy in many ways must be treated just like the strategic and operational plans of a country at war.

#### Oversight ensures intel is used democratically

Kibbe 10 [Jennifer Kibbe, Associate Professor of Government at Franklin & Marshall College; “Congressional Oversight of Intelligence: Is the Solution Part of the Problem?”; March 10, 2010; DOA: 6/24/22; <https://doi.org/10.1080/02684521003588104>; Lowell- ES]

Despite the difficulty involved, however, something must be done. The last seven years have shown that intelligence is more crucial than ever to national security, but as the executive branch and the intelligence community try to maximize the utility of intelligence in meeting national security needs, it is imperative that the congressional overseers meet their obligations as well. The importance of legislative oversight of the executive branch in general has long been recognized. ‘Quite as important as legislation’, noted Woodrow Wilson, ‘is vigilant oversight of administration’.3 In the intelligence arena, however, congressional oversight is at an added premium. The first, most obvious reason is the inherent secrecy of the subject. In other areas, such as the environment or banking, the media plays a valuable role in helping Congress monitor the actions of the federal government on behalf of the public. In the largely classified world of intelligence, in all but a few exceptional cases, the media is effectively precluded from playing that supporting role, thus enhancing the importance of legislative oversight.

A second less recognized but equally important reason that oversight is so critical to the intelligence enterprise is that, because ‘ . . . the intelligence community is constrained in its ability to convince the American public that it can be trusted and deserves their support’, Congress also plays an important role in explaining and representing the intelligence community to the public.4

A third reason legislative oversight is so important is that, done well, it helps to improve the intelligence product, whether that means collection, analysis or covert action. When administration and intelligence officials know that they will have to explain a funding choice or particular operation to Congress, it has the effect of adding a layer to their own internal vetting. This article explains the major problems with the congressional oversight system, analyzes why it is so hard to reform, and examines what constructive steps might be taken to improve the situation.

### 2NC---Oversight Solves Biotech

#### Congressional oversight key to successful biotech development

Pallone 16 [Frank Pallone, Jr. was sworn in for his 17th full term in the U.S. House of Representatives on January 3, 2021. Pallone represents New Jersey's Sixth Congressional District, which includes most of Middlesex County as well as the Bayshore and oceanfront areas of Monmouth County. Pallone is the Chairman of the House Energy and Commerce Committee, which has one of the broadest jurisdictions of any congressional committee. He has served as Chairman since the beginning of the 116th Congress in 2019 and before that he served as the Committee’s Ranking Member in the 114th and 115th Congresses. The Committee’s jurisdiction includes issues pertaining to health care, energy, environment, commerce, food and drug safety, consumer protection, telecommunications, and the internet. Pallone has held a seat on the Committee since 1993. https://www.govinfo.gov/content/pkg/CHRG-114hhrg25164/html/CHRG-114hhrg25164.htm]//LP

We need to ensure that this Panel's work does not become yet another undertaking by experts whose recommendations go unanswered. Congressional oversight is key to ensuring that Federal departments and agencies are meeting their mandates and doing so in an effective and efficient way. And therefore, I urge the committee to follow through on the Panel's recommendations by holding not just this session, but a series of hearings to assess the Nation's ability to prepare for and respond to biological threats. I would like to thank our panelists once again for coming and sharing their expertise. I look forward to hearing from each of you about what our Nation can do to improve our biodefense network. Thirdly, there is a major revolution in our understanding of how the biological world works and our ability to manipulate it. The advances in bioscience and biotechnologies should be part of the foundation of U.S. biodefense against both natural and deliberate epidemics. These advances are going to be extremely beneficial to humankind across many different fields that go beyond biomedicine. But it also means that we now have created a world in which there is wide access to advanced biological knowledge and the materials needed to build and disseminate biological weapons. As the Defense Science Board said in 2001, an age ago in terms of scientific advances, there are no technical barriers to nonstate actors, including terrorist groups and lone wolves, carrying out devastating bioattacks that could kill millions and cost billions. But these advances in science and in biotechnology also, for the first time, give us powerful tools that could allow us to prevent and to rapidly detect and quench epidemics, whatever their cause. And I'm going to give you some examples of critical technologies which might help realize the Panel's assertion that innovation is a key ingredient and that dramatic improvements in biodefense are within reach. First of all, the potential destructive power of biological weapons is akin to that of nuclear weapons. In 1993, the Congressional Office of Technology Assessment estimated that a kilogram of aerosolized anthrax dropped on Washington, DC, in ideal weather conditions would result in 1 to 3 million deaths. That's about the same toll as a 1-megaton hydrogen bomb. These statements are not based on speculation, but on decades of development and field testing by the U.S. military during the Offensive Biological Weapons program of the United States, which was ended by President Nixon in 1969. We also know that the USSR had a massive secret offensive BW program created after they signed the Biological Weapons Convention in 1972. These were both ambitious, and at least in the case of the U.S., highly successful programs. During the cold war, the U.S. field tested many different bioweapons in realistic conditions, including releases from air, boats, ships, and subways. Declassified U.S. documents from the '60s clearly recognized the strategic power of bioweapons. We do not now know the fate of the Soviet effort. In the half-century since the U.S. ended its Offensive BW program, there has been a revolution in bioscience. Advances in many fields, including pharmacology and aerosol biological, and our ability to read, write, and edit DNA, the code of life, have resulted in tremendous beneficial achievements. But these advances have also meant the global spread of bioknowledge and access to sophisticated biotechnologies. The materials and know-how needed to build a bioweapon have many legitimate uses. These are dual-use technologies, and as the chairman said, this makes the task of collecting intelligence about covert bioweapons programs exceedingly difficult. We are going to see an increase in the tempo of naturally occurring epidemics, which we can talk about in the discussion. I want to end by saying that there are two critical technologies that have not gotten sufficient attention in our biodefense program. The first is rapid diagnostics, upon which we've spent very little money and for which there is a very big market problem that makes it difficult for private companies to pursue diagnostics. And the second is vaccines.

### 2NC---Oversight Solves Downside Tech Risks

#### Oversight is necessary for tech policies to succeed

Davies 09 [J. Clarence (Terry) Davies is a Senior Advisor to the Project on Emerging Nanotechnologies, and Senior Fellow at Resources for the Future. Dr. Davies, a senior advisor to the nanotechnology project and a senior fellow at Resources for the Future, is one of the foremost authorities on environmental research and policy. He helped pioneer the related fields of risk assessment, risk management, and risk communication, and his work has advanced our understanding of cross-media pollution, the tendency of pollutants to move across boundaries, from air to water to land, revealing shortcomings in the legal and regulatory framework. http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.359.8129&rep=rep1&type=pdf]//LP

An adequate oversight system must, at a minimum, be able to assess potential risks from a technology, minimize the chances that the risk will occur and maintain surveillance to identify risks that do occur. It should perform these functions while minimizing adverse impacts on technological innovation or market functions and while giving the public confidence that the system is effective and that it allows public opinion to be heard. The starting point for any oversight system is the ability to identify the risks that a technology may pose and to assess the likelihood and the magnitude of such risks. Such an assessment requires both general scientific knowledge and data about each specific technology and product. The relationship between science and data is complex. Without an adequate scientific framework there is no way to know what data to collect. For example, which aspects of a nanomaterial are most relevant in determining its toxicity? As noted above, more than a dozen characteristics have been suggested even for relatively simple nanomaterials. What will be needed in addition with more complex active nanotechnologies? Without better scientific knowledge we do not know what data to collect and examine. On the other hand, progress in developing the necessary scientific knowledge often depends on having a lot of data on specific materials. Only by having such data can we develop and test the needed scientific hypotheses. Oversight cannot directly improve scientific knowledge. It can, however, make clear the need for such knowledge, frame the questions that need to be answered and, through requirements imposed on manufacturers, generate the data needed by scientists. How to apply adequate oversight when the state of scientific knowledge is not adequate is one of the basic dilemmas in developing and applying 21st-century oversight mechanisms. In most cases, the science related to risk will be primitive and uncertain, but the potential risks will be serious enough so that lack of oversight will not be an acceptable option. Once information about the potential risks of a new material or product has been obtained, an adequate oversight system must be able to impose requirements that prevent adverse effects from occurring or at least minimize the risks from the new product. This can be done in a variety of ways. Restrictions may be put on the product as a condition for allowing it to be marketed. Standards may be established to prevent worker or environmental exposure while the product is being manufactured, transported, stored, used or disposed of. Restrictions or requirements may be imposed on the product after it has been marketed, or the manufacturer may be required to withdraw the product from the market altogether. Additional steps can be taken to encourage green design and pollution prevention. Because of the complexity of new technologies and the rapid pace of invention and adoption, the science will probably be inadequate to fully identify all the risks a new material or product will pose. For this reason, even more than in the past, it will be necessary to establish requirements and systems for identifying adverse effects of a product after it is in commercial use. A high degree of international cooperation will be necessary for such systems to work effectively. These oversight requirements should be applied with a constant awareness of the need to encourage technological innovation and economic growth. The “cowboy ideology” that views regulation as antithetical to free markets has proven to be false in sector after sector. Productive markets require effective regulation. However, there is an undeniable tension between the two. It is unlikely that government agencies will improve their efficiency, speed and expertise sufficiently to keep pace with technological innovation. To avoid setting up large obstacles to that innovation, oversight mechanisms will have to rely more on manufacturers to assess and control risks. At the same time, oversight will have to be structured to assure that manufacturers know what information is needed, collect the information in a reliable way and do not abuse their responsibility.

#### Only way to promote public trust

Pauwels 13 [Eleonore Pauwels is a research scholar with the Synthetic Biology Project within the Science and Technology Innovation Program at the Woodrow Wilson International Center for Scholars, in Washington, DC. https://academic.oup.com/bioscience/article/63/2/79/534322?login=true]//LP

The respondents expressed a strong appetite for more information about synthetic biology. There was a broad consensus that “more should be done to inform the American public” about synthetic biology research. In Hart Research Associates (2009), 9 in 10 of the respondents agreed with this statement, including 73% who strongly agreed. The participants also approached synthetic biology with a sense of tentative support and guarded optimism. Although most did not want to stand in the way of this research, they also did not want to let it proceed without government oversight. In Hart Research Associates (2010), the large majority of the respondents believed that rather than synthetic biology being banned, research and development should move forward with a focus on uncovering possible effects on humans and the environment (63%). Only one in three (33%) respondents supported a ban on synthetic biology research until its implications and risks could be better understood (figure 5). The majority of the participants also felt that when it comes to synthetic biology research, voluntary guidelines do not provide adequate oversight. More than half (52%) of them thought that synthetic biology should be regulated by the federal government, whereas 36% thought that voluntary guidelines developed jointly by industry and government could provide adequate oversight (figure 6). nce again, the focus group data contributed nuanced insights into what the participants saw as the best approaches to managing the risks associated with synthetic biology and what they saw as possible ways of increasing public trust. Here is a comment from a participant: I feel [that federal regulation] is the best approach, because I don't agree with banning [synthetic biology]. Technology should advance, and in order to advance… there's risks with it. Anything that we have today comes at a risk, but… I think of the four [options provided], the federal government would be the best. And I guess it would be more in the spotlight than just some private company and its investors. He continued his explanation by referring to the broad principle of political accountability: “At least…, technically, we choose the government, so if they screw up, we can vote them out of office. And with all of the people on television discussing everything, it's probably harder for the government to whitewash an issue as opposed to a private company.” After having discussed with the participants the best approach to managing the risks associated with synthetic biology, the focus groups' moderator asked questions concerning the ways in which the federal government could work to increase public trust. The concern over the competence of government agencies to regulate synthetic biology brought forward many suggestions that scientists or research institutions needed to participate in oversight along with the regulatory agencies. One of the participants expressed her reason for involving scientists in the regulatory process: “I think [that] they should be part of the team, because they bring so much knowledge and understanding.” In general, keeping regulation above the political fray by involving scientific experts was important for the participants. The participants also spoke about enacting a hybrid approach—a kind of private–public partnership that would lead to a better system of checks and balances. As was mentioned by one of the participants, “I guess I would feel more comfortable if there was a system of checks and balances… like the government. Not that that's my first choice, but it seems like it's the only independent option for checking—a system of checks and balances.” Another participant went even further: “So, we're going to have to set up, I believe, a total new framework of so-called ‘commissions and oversights.’” Another participant mentioned the idea of having a third-party overseeing the industry activity: “Regulation [should include] a third party, an unrelated organization, [to] watch over the industry. And that's why we have them, because they have no interest. They are not connected. They are not getting any profit. They are there to certify or check, independent of those who are making the money.” This idea of a system of checks and balances seemed to be the best way of securing accountability and providing the public with information about the research applications: “The knowledge that should something go wrong, there will be repercussions—the checks and balances thing—just so long as if anything goes wrong, someone will be held accountable. They won't be just buying their way out of it. There will be a nice little way to know.” In a nutshell, what these quantitative and qualitative data tell us is that public perceptions toward synthetic biology are ambivalent: If there is no trace of candid optimism, there is also no unilateral technology rejection. The survey respondents and focus group participants showed enthusiasm for synthetic biology applications when those applications were developed to address societal, medical, and sustainability needs. Tinkering with the DNA of existing or newly designed organisms was seen as a potential concern if this research were to be done without sufficiently funded investigations of its potential risks and long-term implications for humans and the environment. In general, the participants also remained quite skeptical about futuristic technological visions based on hype or technoscientific promises; they supported an allocation of funding for research that would lead to applications that actually meet social and sustainability goals. When it comes to oversight, their priorities were to promote transparency and accountability and to ensure a form of tailored governance in which expertise is accompanied by independent checks and balances and in which diverse knowledge sources might help deal with the uncertainty surrounding a new technology.

### 2NC---Exec Flex Impact

#### Congressional oversight is key to executive restraint

Black 19 , Professor of Law, University of South Carolina (Derek, “Congressional oversight is at the heart of America’s democracy,” https://theconversation.com/congressional-oversight-is-at-the-heart-of-americas-democracy-114121]//LP

President Donald Trump increasingly acts as though he believes he can ignore Congress and set wide-ranging national policies on his own. He has, for instance, recently taken unilateral steps to cut off foreign aid to countries he says are sending too many migrants to the United States. He wants to redirect some of the Pentagon’s budget to building the border wall that Congress rejected. His administration has separated families at the border, rolled back student loan protections and energy efficiency standards, and reportedly blocked AT&T Inc.’s US$85 billion acquisition of Time Warner. Congress has responded by scheduling hearings and requesting documents from the administration. So far, Trump has largely dismissed this congressional oversight as “presidential harassment” and attempted to resist by claiming executive privilege exempts him from oversight. In his State of the Union address, Trump went so far as to say that “if there is going to be peace and legislation, there cannot be war and investigation.” As a constitutional law scholar, I’m certain that the answer to who wins this fight is clear. Presidential power to override Congress is limited to a very small set of circumstances. As for everything else, the Constitution empowers Congress to set the nation’s course and keep it on track through oversight. Congress can eliminate almost every federal agency in the country or, instead, redirect agencies’ efforts toward building homes for the poor and require daily reports on progress toward that goal. As long as the votes are there in Congress to pursue a course of action, presidents can’t do much about it. Carrying out laws Oversight allows Congress to ensure the executive is properly carrying out the laws as Congress intends. The Brookings Institution, a centrist think tank, has created a new “oversight tracker,” which shows that Congress is doing this across a wide range of issues and agencies: energy, education, immigration, commerce, civil rights, rule of law, ethics and more. Congress is asking the administration important policy questions. Are adequate rules, resources and incentives in place to reunite families who have been separated at the border? Are the nation’s anti-trust laws being used to achieve political rather than legal ends? Are student loan providers being held accountable for their failure to treat students fairly? Why have energy efficiency improvements slowed down or reversed? All federal agencies, commissions and offices that presidents direct were created by Congress. Congress has created more and more federal agencies over time, and increased the scope of the executive branch’s authority. But the power of individual presidents remains constitutionally limited to the powers that Congress gives them. The important lesson for today is that the vast majority of federal power lies in the hands of legislators, not presidents. Save the most central functions of the executive – law enforcement, managing the Treasury, foreign affairs and the military – presidents only have the power and agencies that Congress gives them. Holding agencies accountable No matter how much power Congress bestows upon presidents and agencies, that power is constrained by the continuing and final checks the Constitution gives Congress. Presidents may nominate agency heads, ambassadors and federal judges at their discretion, but senators confirm or reject them. Equally important, the president’s constitutional power to make those appointments only covers high-ranking officials. Congress can, on a case-by-case basis, choose who will appoint inferior officers and limit the president’s ability to remove them. For instance, to address ethical breaches by the executive branch following Watergate, Congress passed legislation establishing an independent counsel, an official which a special court rather than the president or attorney general would appoint for the sake of impartiality. Congress also sets all the agencies’ budgets on an annual basis and dictates how they will spend their budgets. In short, lawmakers wield enormous authority over the presidency and they may ask for almost anything they want. The people can fire Congress every two years, but they rely on their representatives to hold the White House accountable all the time. Americans need Congress to make sure presidents and their staff are enforcing the law in ways that meet the public’s needs. Ultimately, the executive branch – like Congress – works for the people, not presidents.

#### That rogue executive power gets applied domestically

Kann 21 [Alyssa Kann, Research Associate at Digital Forensic Research Lab; “Rethinking War Powers: Options for Reestablishing Congressional Authority”; Fall 2021; DOA” 6/25/22; <https://jqas.org/wp-content/uploads/2022/02/Kann-Analysis1.pdf>; Lowell-ES]

That this executive overreach in military operations has empowered so many human rights abuses is both disturbing on its own and disturbing in the precedent it creates for this over-extended power to potentially be applied further. National security reporter Spencer Ackerman argues that Trump using the War on Terror apparatus against domestic protesters during the protests for George Floyd is “allowing the war on terror to be its most authentic self”—in other words, that the executive powers the president has gained via militaristic executive overreach are always at risk of being applied domestically, and not globally.41 He stated in an interview with Vox, “We might perhaps better appreciate it when remembering that in the summer of 2020, the Trump administration maneuvered a lot of the mechanisms of the war on terror against its domestic opponents. There’s going to be another rightwing administration. It will probably look more like Trump’s than not. It may be more competent, and it may be bolder, and it will have a precedent blessed by Obama’s Justice Department that says if it’s too hard to kill people, you declare to be dangerous terrorists, just ... sorry.”

This danger that Ackerman points out is clear. Burns points out that the extent of executive overreach in military matters means that “we have started to rely on the virtue of the officeholder significantly more than relying on the system that keeps all members of government accountable.” This is not a sustainable or healthy situation for the U.S. to be in. Years and years of executive overreaches have created dangerous precedents that presidents can fall back on to justify further overreaches and further over-extend executive powers.

#### Executive constraint is necessary to prevent rights violations

Ng and Gray 21 [Yee-Fui Ng is a Senior Lecturer, Faculty of Law, and Deputy Director, Australian Centre for Justice Innovation, Monash University. Stephen Gray is a Senior Lecturer, Faculty of Law, Monash University. https://www.unswlawjournal.unsw.edu.au/wp-content/uploads/2021/04/07-Ng-Gray.pdf]//LP

In exceptional situations of disaster and crisis, the executive government tends to take a pre-eminent role in managing emergencies and threats to the nation, while the other branches of government, Parliament and the courts, tend to relinquish their robust scrutiny roles, leading to a ‘government by decree’.220 This tendency, coupled with a ‘sophisticated bureaucratic and regulatory state … with the capacity to observe, police and regulate its citizens’, 221 generates great risks for individual rights and liberties. As we are faced with the largest worldwide public health crisis for a century, it is timely to consider what lessons can be gleaned from adopting a long-run historical perspective to major crises involving emergency powers such as wars and pandemics. In times of war, it can be observed that temporary coercive measures have become permanent, or reincarnated in similar forms in other legislation. The external wars with defined boundaries have been reimagined as internal amorphous threats in the form of the ‘War on Terror’, justifying the continuation of broad-ranging executive powers beyond a clearly defined emergency period. These sweeping executive powers have then been strategically deployed by successive governments for unintended purposes: to attack dissidents, protestors, journalists and whistle-blowers. The Second World War has also been used to successfully wrest financial power from the States to the Commonwealth, paving the way to an enduring vertical fiscal imbalance where the States are now permanently beholden to the Commonwealth for the funding of their programmes and policies. Yet wars can be distinguished from pandemics, as national security concerns create a centralising force, where there is a need for a uniform approach and secrecy in the governmental approach, which needs to be concealed from the enemy. In such crises, the ‘national-level executive branch will have access to unique information in the form of intelligence resources and capability assessments’.222 On the other hand, we argue that pandemics create a centrifugal or decentralising force, as information needs to be deployed to the whole of the community, and subnational governments tend to play a strong role in health-care provision. Thus, pandemic regulation requires intergovernmental coordination and cooperation between the Commonwealth and the States, as administration of quarantine is ‘intimately entwined with the state government functions of public health, policing, customs, harbours and marine and government health officers’.223 On that basis, Ginsburg and Versteeg have contended that in crises such as a pandemic – in which information is dispersed, the crisis is slow-moving, and local governments are needed to implement the crisis response – the executive should be structurally more bound, i.e. subject to legal and parliamentary checks and balances, than in national security crises.224 Yet Australia’s modern approach to pandemic regulation displays strong centralising features. From the fledgling federalist efforts during the 1918 Spanish Flu that failed spectacularly, the Commonwealth government has through fiscal dominance and strengthened national federalist arrangements managed to solidify its powers in terms of managing risks of infectious diseases in Australia. This centralisation is exhibited in the information-gathering processes in COVID-19. While Ginsburg and Versteeg contend that there should be decentralisation of information-gathering processes in a pandemic, as valuable information is dispersed amongst public and private actors such as universities, pharmaceutical companies and healthcare providers as to the best health response,225 this has not been the case in Australia. Rather, in Australia, information has been centralised in the form of the Chief Medical Officer in the Commonwealth and States – a medical technocratic response to crisis governance.226 Although it is reasonable in a public health crisis for politicians to defer to medical experts, reliance on such advice needs to be supplemented with greater procedural and legislative safeguards to prevent abuse.227 Further, this technocratic approach may have flow-on effects on the way that Australian courts and legislatures may see their role. For instance, Ginsburg and Versteeg’s empirical study of 106 countries has shown that Australia was in a small minority of democratic countries worldwide ‘where the legislature, courts and subnational units have not (yet) exercised active oversight’ during COVID-19,228 whereas in 82% of countries, there was either legislative involvement, judicial enforcement, or resistance from subnational units. Thus, Australian legislatures and judiciaries have been remarkably acquiescent to the executive government in COVID-19 compared to other democracies worldwide. In terms of individual rights and liberties, a distinction can be made between individual versus population-wide coercive measures. While far-reaching population-wide restrictions tend to be rolled back by governments as soon as possible, as it is not tenable to maintain widespread restrictions on the freedom of association and movement for the whole populace for an extended period, the coercive individual biosecurity measures pose a fundamental threat to individual rights and freedoms. The permissive legislative regime for individual coercive measures that allows biosecurity officials to subject individuals to executive detention and invasive bodily treatments therefore present a significant risk of misuse. There have been cases in Australia and overseas where the power of quarantine has been used by governments for reasons beyond genuine public health concerns, e.g. to target and segregate certain races or vulnerable groups.229 As Mariner, Annas and Parmet observe: ‘Measures like quarantine, surveillance, and behavior control have historically been targeted at people who are already disadvantaged, those on the margins of society, especially immigrants, the poor, and people of color’. 230 For instance, entire ethnic groups were quarantined during the Sydney plagues.231 More recently, in the handling of COVID-19 in Australia, concerns were raised that the hard-line housing commission tower lockdown in Melbourne,232 which confined 3,000 vulnerable individuals to their rooms for 14 days, enforced by a battalion of police that stormed into the housing commission towers immediately during the government announcement. This was seen to be a heavy-handed approach that directly targeted a vulnerable lower socio-economic group, while equivalent outbreaks in affluent areas were not treated in the same way.233 In late 2020, the Victorian Ombudsman found that this ‘hard lockdown’ imposed on residents at the Melbourne public housing tower was in breach of the human rights of those residents, including the right to humane treatment when deprived of liberty.234

### 2NC---AT Oversight Bad---Overreaction

#### Oversight-avoidance causes Congressional overreach---devastates military effectiveness

**Berger 19** Rick Berger, 7-16-2019, "The Pentagon should treat Congress as a partner, not an obstacle," Defense News, <https://www.defensenews.com/opinion/commentary/2019/07/16/the-pentagon-should-treat-congress-as-a-partner-not-an-obstacle/> *Rick Berger is a research fellow with the American Enterprise Institute. He previously served as a staff member on the Senate Budget Committee.*

A strong U.S. military rests upon broad, bipartisan support among the American people translated through their representatives in Congress. Yet, amid the onset of great power competition and a generational conflict against jihadis, the Pentagon’s atrophied outreach to Congress has undermined support for the U.S. military. Although the Pentagon’s “[Year Without a Briefing](https://thehill.com/policy/defense/446363-pentagon-reaches-one-year-without-on-camera-briefing-from-top-spokesperson)” has rightly garnered a great deal of attention, the American public isn’t the only audience getting the cold shoulder from the Department of Defense. The Pentagon has failed to treat Congress as a partner in executing America’s defense strategy. In explanations both of budget choices and policy decisions, senior defense leaders have repeatedly neglected to invest in relationship building with Capitol Hill or to provide sufficient information to lawmakers and senior staff. This administration’s penchant for secrecy at the Pentagon further strains an already dysfunctional relationship based on mutual distrust. If Congress believes it hasn’t received sufficient answers to its oversight questions, it responds with public excoriations, punishments and regulatory actions that levy inefficiency on the daily operations of the Pentagon. The building, fearing such outcomes, refuses to share adequate information with Congress, hoping that such information can be kept secret, or that congressional complaints will blow over in time. If nothing else, the silence emanating from the building engenders mistrust and cynicism about the choices the military makes. Clearly, Congress understands that some of these strategic messaging and outreach snafus stem from the White House. In particular, anemic information flow about the president’s decision to [launder](https://www.realcleardefense.com/articles/2019/05/15/in_building_the_wall_white_house_digs_deeper_hole_for_the_military_114427.html) border wall funding through the military or the Office of Management and Budget’s abuse of the overseas contingency operations account cannot be laid at the Pentagon’s feet. But Capitol Hill has proven much less forgiving of the Pentagon’s failures of communication and lack of outreach. The department [struggled](https://warontherocks.com/2019/05/hard-choices-and-strategic-insolvency-where-the-national-defense-strategy-falls-short/) even to provide a basic account of how the 2020 military budget request matched the new defense strategy. This year’s congressional defense legislation is [filled with pages and pages](https://www.defensenews.com/opinion/commentary/2019/05/28/a-flat-budget-will-prove-fatal-for-military-transformation/) expressing severe bipartisan displeasure over the Pentagon’s lack of documentation and insufficient justifications for important acquisition decisions. In early March, Congress learned of the plan to decommission the aircraft carrier Harry S. Truman from the press, and the rationale behind the decision remained opaque for weeks.

### 2NC---AT Oversight Bad

#### Foreign policy most effective with oversight. No holdup – all bipart.

USIP 19 [United States Institute of Peace, a Congressional established independent institution devoted to the nonviolent prevention and mitigation of deadly conflict abroad;“Congressional Oversight for Effective Foreign Policy”; May 14, 2019; DOA: 6/23/22; <https://www.usip.org/publications/2019/05/congressional-oversight-effective-foreign-policy>; Lowell-ES]

While sharp differences arise in some foreign policy areas, the subcommittee plans to focus on how to make U.S. diplomatic and development efforts more efficient and effective today and in the future, said Bera, a California Democrat who chairs the panel. He and Zeldin, the panel’s ranking Republican, appeared last week at USIP as part of the Institute’s Bipartisan Congressional Dialogue, which brings together leaders from both political parties to address urgent national security and foreign policy challenges.

“We would like to take a deep dive into the vacancies and their causes at State and USAID that even precede this administration,” Bera said, ticking off areas of concern. “How can we make sure they have the tools to do their job in the most effective way? How do we modernize these organizations? We are losing the next generation of senior development and diplomatic leadership. How do we retain them?”

Zeldin, who represents a district on New York’s Long Island, called oversight a critical congressional function that does not imply a clash between lawmakers and the executive branch.

“We want to know whether appropriated funds are being spent as intended and congressional intent is followed in execution of a law” he said. “It’s important to see if agencies are communicating well with each other.”

Bipartisan Consensus

While some of the stark differences in policy are often focused on by the media, there is a wide bipartisan consensus on many foreign policy issues, Bera said. He cited as an example a recent hearing on Central America’s Northern Triangle, the area comprised of Honduras, Guatemala and El Salvador and the source of most migrants seeking entry to the U.S. While there is clearly a “challenge on the border,” he said, both sides recognize American policy has to address the root causes of the immigration issue. Consensus on that part of the immigration question unfortunately receives little public notice, he said.

“If you marked up 15 bills, the most controversial will get the media attention,” Zeldin said. “If there’s no controversy, none will get attention and you won’t know it took place.”

Both lawmakers stressed that a long-term, consistent foreign policy is critical to advancing U.S. interests around the world. Asked by USIP President Nancy Lindborg, who moderated the conversation, about the extended horizon needed to strengthen fragile states that are often the breeding ground of extremism, Bera said that as a physician, practicing prevention was for him essentially second nature.

“That is the reason bipartisanship is so important to me,” he said. “We are going to have Democratic presidents and Republican presidents. What you’re talking about cannot be accomplished in a four or eight-year term.”

#### Congressional oversight is vital to effective foreign policy---empirics

ROSS 18 [Tommy Ross is a senior associate at the Center for Strategic and International Studies. He served as Deputy Assistant Secretary of Defense for Security Cooperation at the Pentagon and was the senior defense and intelligence adviser to Senate Majority Leader Harry Reid. He has also held other senior positions in the House and Senate. https://warontherocks.com/2018/06/at-a-crossroads-part-iii-reasserting-congress-oversight-role-in-foreign-policy/]//LP

Congressional oversight of foreign policy hasn’t always been this way. A far cry from today’s marginalized and demoralized bodies, Congress’ foreign affairs committees once stood side-by-side with the presidency at the center of America’s foreign policymaking. One need only look at Henry Cabot Lodge’s famous campaign leading to the Senate’s 1919 rejection of the Treaty of Versailles and the League of Nations, on the grounds that the Senate had not been adequately consulted, to see the impact of aggressive congressional oversight of foreign policy. Or consider the heady era of the mid-20th century, when Congress faced a new international landscape shaped by two world wars and the emergence of the Cold War and mutually assured destruction. Far from shrinking from these responsibilities, Congress undertook a historic effort to write — and then re-write — the rules of the road for foreign policy. In 1951, lawmakers replaced the Marshall Plan with the Mutual Security Act, then overtook that legislation ten years later with the Foreign Assistance Act of 1961, which remains the foundational statute governing U.S. aid overseas. Congress enacted the War Powers Act in 1973 and, in 1976, passed the landmark Arms Export Control Act. As congressional oversight of foreign policy gained strength during the Vietnam War, scholar Linda Fowler notes that “the Senate Foreign Relations Committee was at the vanguard of the resurgence of Congress in international affairs,” citing the panel’s establishment of a special investigative subcommittee to examine executive branch foreign policies. That subcommittee, chaired by Sen. Stewart Symington, identified a range of executive branch abuses, uncovered expansive military operations whose existence or scope had been previously undisclosed, and paved the way for the Church Committee and, ultimately, establishment of the Senate Select Committee on Intelligence. It also defined for Congress a role of comprehensive, sustained oversight of U.S. foreign activities, presence, and commitments. These debates were messy, complex, and occasionally partisan, but the results were substantial. However, the 1980s and 90s saw the beginning of a dramatic decline in congressional engagement — and effectiveness — in conducting foreign policy oversight. Fowler’s work documents the decrease in oversight hearings conducted by both the Foreign Relations and Armed Services Committees in the Senate, beginning in the 1990s. Likewise, Congress’ ability to enact legislation setting out the priorities, expectations, and authorities of the State Department crumbled. This final installment in a three-part series (part I addressed defense oversight and part II examined intelligence) about congressional national security oversight argues regular State Department authorization bills — and their focus on bureaucratic and programmatic management — are essential to effective oversight. And effective oversight in this arena has never been more urgently needed: Draconian cuts to both State and the U.S. Agency for International Development proposed in the Trump administration’s 2018 and 2019 budgets present America’s foreign policy establishment with a colossal crisis. Regardless of the outcome of November’s mid-term elections, both the House and Senate foreign affairs committees will see new leadership. These new leaders will have an opportunity to set their committees on a path to reestablish their place at the center of foreign policymaking. Doing so will require a smart strategy for regaining the committees’ capacity to legislate, a renewed focus on structural and management issues impacting the foreign policy enterprise, investment in the committees’ own oversight capacity, and attention to long-simmering cross-committee jurisdictional challenges. Oversight is a profound responsibility, deeply embedded in the Constitution’s grant of powers to the Legislative Branch. Effective oversight means a serious, objective, and persistent examination of whether the Executive Branch is making use of the taxpayer resources entrusted to it in ways that are effective, efficient, accountable, and in accordance with law and congressional direction. It also means — critically, in this era of increasingly sophisticated threats and responses — helping to educate the public. To achieve both goals, it must be conducted with balance, bipartisanship, and restraint against tendencies to pursue political vendettas.

# AFF

## DoS CP

### 2AC---Links to Tradeoff

#### DoS Title 22 links to DoD tradeoff and causes confusion.

Young 20 [Thomas-Durell Young, Senior Lecturer at the Naval Postgraduate School; "The "Politics" of Security Cooperation and Security Assistance"; Office of the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation; Published: 9-10-2020; Accessed: 6-18-2022; https://www.dasadec.army.mil/News/Article-Display/Article/2344014/the-politics-of-security-cooperation-and-security-assistance/; KL]

Since 2006, the previous position of the Department of State, which originally had the lead in funding (and therefore some influence in controlling) these activities, has been eclipsed. While it continues to control funding for its many Title 22 programs, they are largely executed via DSCA and the MILDEPs. Although Congress has recognized that it has, in effect, created the basis for confusion via the two departments’ dual congressionally mandated authorities and authorizations, a political decision to create a clear lead agent for these activities remains missing. One will return to the U.S. Government’s well-used practice of “fudging” when it comes to identifying who’s in charge.

## Oversight DA

### 2AC---SC Uniqueness

#### SC big high

RAND 19 [RAND; "Taking Stock of RAND's Security Cooperation Research"; Published: 2019; Accessed: 6-25-2022; https://www.rand.org/ard/topics/security-cooperation.html; KL]

The type of security cooperation that DoD deploys depends on the objective at hand and capabilities of the partner nation. DoD tends to deploy building partner capacity programs and security force assistance to less developed partner nations in an effort to improve their tactical and operational capabilities, while defense institution building initiatives are used in similar contexts to strengthen ministries of defense at the strategic level. On the other hand, programs aimed at interoperability tend to be targeted at more-developed allies. DoD conducts about 3,000 to 4,000 security cooperation events each year in more than 130 countries, while total U.S. assistance to foreign militaries and police forces runs from $15 billion to $20 billion per year. Security cooperation activities touch tens of thousands of foreign security forces around the world every year. What do we know about security cooperation? Are the strategic and operational goals of the enterprise being met? Does security cooperation "work"? If so, under what conditions?

### 2AC---Oversight Uniqueness

#### Oversight is dead.

Khan 21 [Alyssa Khan, Research Associate at Digital Forensic Research Lab; "Rethinking War Powers: Options for Reestablishing Congressional Authority Over US Foreign Policy"; Marcellus Policy Analysis; Published: Fall 2021; Accessed: 6-23-2022; https://jqas.org/wp-content/uploads/2022/02/Kann-Analysis1.pdf; KL]

American military actions—most not subject to public scrutiny or congressional accountability—have occurred in at least 20 countries in 20 years. These military operations have been made possible through increasingly broad presidential war powers, despite the fact that the Constitution reserved most war powers for Congress. In addition to over half a million lives lost in these military operations and trillions spent, this executive encroachment on war powers has eroded governmental accountability, civil rights, democratic institutions, and the role of the public and Congress in war making.

This executive overreach in military affairs has occurred in a variety of ways, particularly through Congress’ passage of the 2001 and 2002 Authorizations for Use of Military Force (AUMF). Yet many scholars have described a broader trend in the past several decades of increasing executive power in military affairs, such as presidents justifying unilateral operations through their inherent authorities as president and through international organizations.

#### Oversight low---warmaking

Shackelford 21 [ELIZABETH SHACKELFORD, U.S. diplomat; “To Stop Endless Wars, Biden Needs to Give Up Some Power”; Feb 09, 2021; DOA: 6/23/22; <https://slate.com/news-and-politics/2021/02/biden-aumf-endless-forever-wars.html>; Lowell-ES]

Several of the operations launched under the 2001 AUMF target the Islamic State, a terrorist organization that did not even exist in 2001. Nearly all have resulted in civilian casualties and high financial costs, and most have incurred U.S. troop casualties as well. None was subjected to the congressional oversight that our Constitution envisioned would raise the bar for lethal action and keep us out of wars of choice.

The danger of the steady expansion of executive war-making authority was on full display a year ago with the Trump administration’s strike against Iranian Gen. Qassem Soleimani. Congress called foul, passing a law requiring congressional authorization for any further military action against Iran, but that effort provided cold comfort in the wake of the provocative attack. Congress’ attempt to enforce its oversight failed even to reach the threshold necessary to escape a veto. Biden has the power to insulate America from future risks of an unpredictable executive wielding war power independently, but only if he chooses to do so.

#### The impacts non-uq - Presidents circumvent the WPR today

FCNL 22 [The Friends Committee on National Legislation, FCNL Education Fund, and Friends Place on Capitol Hill are national nonprofit, nonpartisan Quaker organizations working collectively to advance peace, justice, and environmental stewardship. https://www.fcnl.org/updates/2022-06/war-powers-resolution-activist-guide]//LP

Even with the War Powers Act written into law, the president and Congress have been at odds in regards to the proper division of war powers post-1973. U.S. presidents have consistently said that the War Powers Act is an unconstitutional infringement on the executive branch’s powers. President Reagan used the military without congressional authorization in Grenada. President George H.W. Bush did get authorization for the first Gulf War but asserted that he did not need permission from Congress to go to war. The use of military force over the decades has cost Americans and humanity at large millions of lives and trillions of dollars. Constitutional scholars have argued that Bush’s 1989 invasion of Panama did not comply with the requirements under the War Powers Act and was not authorized by Congress, in accordance with Article I of the Constitution. Similarly, in 1998 President Clinton sent troops to Kosovo to conduct an extensive air campaign without Congressional authorization. One week after the attacks on September 11, 2001, Congress passed an Authorization for the Use of Military Force (AUMF) against the “nations, organizations, or persons” who planned, aided, or committed the attacks, as well as anyone who harbored those nations, organizations or persons. This law paved the way for President George W. Bush and the three subsequent presidents to send U.S. forces not only to Afghanistan but also to Pakistan, Somalia, Syria, Yemen, and other nations as part of the War on Terror. After more than two decades, the terror threats to the United States and its allies look very different from those at the time of the attacks on September 11. According to the Department of Homeland Security, the vast majority of attempted terrorist attacks since 2011 have emanated from domestic groups rather than foreign ones. The 2001 AUMF has been used as grounds for the use of military force against groups like the Islamic State of Iraq and Syria (ISIS), Al Qaeda, and Al Shabaab, despite the fact that these groups were formed many years after the attacks on September 11. Many in Congress now support a sunset of the 2001 “War on Terror” AUMF and a repeal of the 2002 AUMF that authorized the war in Iraq. But while expressing the desire to repeal and replace these laws and end endless wars, the Biden administration has not articulated a coherent strategy that would actually do so. The use of military force –both authorized and unauthorized – over the decades has cost Americans and humanity at large millions of lives and trillions of dollars. It has also contributed to the destabilization of multiple countries, an expanding refugee crisis, accelerating climate devastation, and the rise of new terror groups, all of which have made the United States and people around the globe less secure.

### 2AC---CMR Uniqueness

#### CMR collapsed. Military’s prestige is inevitable.

Brooks et al. 21 [RISA BROOKS is Allis Chalmers Associate Professor of Political Science at Marquette University, a Nonresident Senior Associate at the Center for Strategic and International Studies, and an Adjunct Scholar at West Point’s Modern War Institute; JIM GOLBY is a Senior Fellow at the Clements Center for National Security at the University of Texas at Austin, an Adjunct Senior Fellow at the Center for a New American Security, and a co-host of the podcast Thank You for Your Service. He is a retired U.S. Army officer; HEIDI URBEN is an Adjunct Associate Professor in Georgetown University’s Security Studies Program, a Nonresident Senior Associate at the Center for Strategic and International Studies, and an Adjunct Scholar at West Point’s Modern War Institute. She is a retired U.S. Army officer; Published: May/June 2021; Accessed: 4-13-2021; "Crisis of Command"; Foreign Affairs; https://www.foreignaffairs.com/articles/united-states/2021-04-09/national-security-crisis-command; KL]

PARADISE LOST

Evidence of the decline in civilian control over the military isn’t hard to find. Over the last few decades, senior military leaders have regularly thwarted or delayed presidential decisions on military policy. In 1993, Colin Powell, the chairman of the Joint Chiefs of Staff, helped block President Bill Clinton from ending the policy that banned gays from the military, resulting in the now defunct “don’t ask, don’t tell” compromise. Both President Barack Obama and Trump complained that officers boxed them in—limiting military options and leaking information—and forced them to grudgingly accept troop surges they did not support. Obama’s generals signaled that they would accept nothing less than an aggressive counterinsurgency in Afghanistan—despite White House opposition. Obama later fired Stanley McChrystal, then commander of U.S. forces in Afghanistan, after members of the general’s staff disparaged White House officials in remarks to a reporter. Trump, for his part, saw senior military leaders push back against his orders to withdraw troops from Afghanistan and Syria. Although these moves were signature campaign promises, Trump eventually backed off when military leaders told him they couldn’t be done and that the policies would harm national security.

Of course, senior military leaders do not always get everything they want, but they often get more than they should. Their power also extends beyond headline-grabbing decisions about overseas deployments or troop reductions. The military’s influence manifests hundreds of times a day through bureaucratic maneuvers inside the Pentagon, in policy discussions in the White House, and during testimony on Capitol Hill. These mundane interactions, perhaps more than anything else, steer decision-making away from civilians in the Office of the Secretary of Defense and toward uniformed personnel. Inside the Pentagon, for instance, military leaders often preempt the advice and analysis of civilian staff by sending their proposals straight to the secretary of defense, bypassing the byzantine clearance process that non-uniformed staffers must navigate.

There are signs of the erosion of civilian control outside the Pentagon, as well. Congress too rarely demands that the military bow to civilian authority, instead weighing in selectively and for partisan reasons. During the Obama administration, for example, some commentators and at least one member of Congress suggested that Martin Dempsey, the chairman of the Joint Chiefs of Staff, should resign in protest over the president’s management of the campaign to defeat the Islamic State, also known as ISIS. The goal was to use Dempsey’s role as the president’s chief military adviser as leverage in a partisan battle over Obama’s foreign policy. Under Trump, many Democrats cheered on the retired and active-duty generals who pushed back against the president’s decisions. These “adults in the room” included James Mattis (the secretary of defense), John Kelly (the secretary of homeland security and then White House chief of staff), and H. R. McMaster (Trump’s national security adviser). At the extreme, some of Trump’s opponents even urged senior military leaders to contemplate removing Trump from office. In August 2020, two well-known retired army officers, John Nagl and Paul Yingling, penned an open letter to Mark Milley, the chairman of the Joint Chiefs of Staff, telling him to do just that if the president refused to leave office after losing the 2020 election. Although these efforts may have comforted those concerned about Trump’s erratic policies, they undermined civilian control by suggesting that it was the military’s job to keep the executive in check. When politicians endorse military insubordination that serves their interests, they do long-term damage to the principle of civilian primacy.

Oversight itself has also become politicized. Politicians increasingly turn to those with military experience to run the Pentagon. Trump decided to appoint a former general, Mattis, as secretary of defense, and Biden did the same, putting Lloyd Austin in the post. In both cases, Congress had to waive a requirement that officers be retired for at least seven years before serving in the department’s top job. The rule, which had been broken only once before, is designed to prioritize leaders with distance from the mindset and social networks associated with military service. Ideally, defense secretaries should be comfortable operating as civilians—not soldiers. Mattis’s and Austin’s nominations, and subsequent confirmations, therefore represent a break with over seven decades of law and tradition, beginning with the 1947 reforms, stipulating that the secretary of defense cannot be a recently retired general.

There is no obvious reason to think that those with military experience are better suited to controlling the military on behalf of Congress or the president—and plenty of reasons to suspect the opposite. In the military, soldiers are taught to follow orders, not scrutinize their implications, as a cabinet official should. Military personnel, moreover, are ideally taught to stay out of partisan debates, whereas the secretary’s job demands well-honed political skill and experience. Yet as Mattis’s and Austin’s appointments show, military service is becoming a litmus test for Pentagon policy jobs traditionally held by civilians, and this is true even at lower levels.

Meanwhile, the public is failing to insist that elected leaders hold the military to account. Many Americans would rather put troops on a pedestal and admire the military from afar. Repeating the mantra “Support our troops” has become a substitute for the patriotic duty of questioning the institution those troops serve. Large numbers of citizens are now reluctant to even offer their opinions in response to survey questions about the military, let alone to criticize military leaders. In a 2013 YouGov survey, for instance, 25 to 30 percent of the nonveterans asked consistently chose “I don’t know” or “no opinion” in response to questions about the military.

At best, these trends immunize the military from scrutiny; at worst, they give it a pass to behave with impunity. An October 2017 White House press conference epitomized this exceptionalism: during a discussion of Trump’s condolence call to the widow of a slain soldier, Kelly, who had served in the military for more than four decades and whose own son was killed fighting in Afghanistan, refused to call on journalists who didn’t know someone who had had a family member killed in combat. Sarah Huckabee Sanders, the White House press secretary, later admonished journalists for daring to question Kelly. Debating “a four-star Marine general,” she said, was “highly inappropriate.”

ORIGIN STORY

Part of the decline in civil-military relations can be blamed on institutional changes. As the United States became a global power, elected leaders developed a bureaucratic structure to manage the military on a day-to-day basis. When it became clear at the start of the Cold War that the U.S. defense establishment had become too large for the president and the legislature to control on their own, Congress passed the National Security Act of 1947. The law established what would eventually become the Department of Defense and placed at its head a civilian secretary of defense, who would bring experience managing bureaucratic and domestic politics. That person would have the exclusive job of ensuring that the military’s activities aligned with the nation’s goals as determined by its elected political leaders. And Congress granted the secretary a civilian staff composed of individuals who could draw on their experiences in government, business, and academia.

But in 1986, Congress unintentionally undid much of this work. That year, it overhauled the 1947 law by passing the Goldwater-Nichols Department of Defense Reorganization Act, which shifted power and resources away from civilian leaders and to their military counterparts. Since that law passed, large, well-resourced military staffs have displaced civilians in the Pentagon and across the rest of the government. Today, for example, ambassadors and other civilian officials frequently depend on the military’s regional combatant commands for resources, including planes and logistical support, necessary to do their jobs. Regional combatant commanders also have responsibilities that cross national boundaries, giving them de facto diplomatic authority and frequent contact not only with their military counterparts overseas but also with foreign government leaders. The military officials who govern security assistance and cooperation programs have also grown in number and influence, further sidelining their civilian counterparts in the State Department.

It is a truism in national security discourse that diplomats are underfunded relative to the military. Even former defense secretaries, including Mattis and Robert Gates, have warned Congress of the risks of underfunding the State Department. But no one ever does much about it. Without a serious attempt at rebalancing, the military’s personnel and resource advantages will only further undermine civilian control, giving the military extra speed and capacity that it can leverage during bureaucratic fights to make and implement policy.

At the same time, there has also been a hollowing out of the processes of civilian control within the Department of Defense itself. In recent years, the Pentagon has faced immense difficulties recruiting, retaining, and managing the civilian professional staff responsible for overseeing the uniformed military. These challenges are the result of underinvestment in the civilian workplace. There is little systematic training to prepare civilian officials for their responsibilities, and they are often thrown into the deep end of the Pentagon and left to sink or swim. In contrast, service members benefit from thorough professional military education programs and other developmental opportunities throughout their careers.

By 2018, this situation had deteriorated to a point where the bipartisan National Defense Strategy Commission, a congressionally appointed panel, concluded that a lack of civilian voices in national security decision-making was “undermining the concept of civilian control.” To be sure, these problems became more acute during the Trump administration, when the Pentagon was littered with acting officials and unfilled positions. But the civilian bench was shallow long before Trump took over.

PLAYING POLITICS

Partisan polarization has also undermined civilian control. After 9/11, the public’s esteem for the military spiked, and politicians noticed. Elected leaders became increasingly willing to disregard civil-military norms, avoid serious oversight and accountability, and encourage military insubordination to score political points against their political opponents.

Today, politicians on both sides of the aisle capitalize on the military’s prestige to shield themselves from criticism and attack their rivals—often a cost-free strategy, given the military’s popularity. During campaigns, candidates often claim that troops prefer them over their opponent; in 2020, a Trump ad featured the tagline “Support our troops,” and Biden cited a Military Times poll to suggest that it was he who enjoyed their support. Candidates regularly seek the endorsement of retired generals and even use them as partisan attack dogs. At the 2016 Republican National Convention, the Trump adviser Michael Flynn, who had then been out of the military for just two years, criticized Trump’s opponent, Hillary Clinton, and encouraged the crowd to chant “Lock her up!” As president, Trump repeatedly delivered partisan speeches in front of uniformed audiences, once telling officers at MacDill Air Force Base, “We had a wonderful election, didn’t we? And I saw those numbers—and you like me, and I like you.” In over-the-top campaign videos, some post-9/11 veterans running for office use their experience as a means of dividing those who served from those who did not. In 2020, the Republican Texas congressman and former Navy SEAL Dan Crenshaw released an Avengers-themed ad entitled “Texas Reloaded” that featured attack helicopters, fighter jets, and Crenshaw himself parachuting out of a plane.

More frequently ignored, however, are the less egregious moments of politicization, such as presidents donning bomber jackets and flight suits in public speeches to military audiences or venturing to West Point to make major foreign policy addresses rather than to a civilian university. All these actions reinforce the belief that military service is superior to other kinds of public service.

Even though politicians try to gain electoral advantage through such behavior, what they are ultimately doing is damaging their own authority. By lionizing the armed forces, politicians teach the public to expect elected officials to make concessions to military leaders or defer to them on important decisions. This same dynamic motivates civilian leaders to encourage officers to serve as “the adults in the room,” resist or oppose their partisan opponents’ policies, or resign in protest against a lawful order from an elected president. Although there may be short-term advantages to such behavior (assuming, of course, that the military leaders are correct), it subverts the broader principle that civilians get to pursue the policies they were elected to carry out.

The military has also played a role in the degradation of civilian control. For one thing, its nonpartisan ethic is in decay. Whereas the majority of senior military officers did not identify with a political party as late as 1976, nearly three-quarters do so today, according to surveys of senior officers attending various war colleges conducted between 2017 and 2020. Many service members are comfortable airing their partisan political commentary on social media to wide audiences, an outspokenness that would have made past generations of soldiers blush. Retired generals involved in politics—especially through campaign endorsements—reinforce to those in uniform that the military is riven by partisan divides. Senior military leaders have largely failed to address this behavior, either looking the other way or attributing it to a few bad apples. Their silence, however, normalizes partisanship in the military, with those in uniform concluding that it is acceptable to openly pick political sides. Recent surveys of senior active-duty officers found that roughly one-third had observed their colleagues make or share disparaging comments about elected officials on social media.

Service members also make civilian control that much harder when they act as if they are superior to their civilian counterparts. Research consistently shows that many in the military believe that their decision to serve in uniform makes them morally superior to those Americans who did not make that choice. According to a 2020 survey by the research institution NORC, this sense of superiority extends even to their views of those Americans whose jobs also entail significant risks—including doctors fighting the pandemic and diplomats serving in combat zones or in hardship assignments. At the extreme, military personnel question the legitimacy of the civilians who oversee them, especially if they suspect that those leaders don’t share their partisan views.

Another factor undermining civilian authority is the military’s attachment to the notion that it should have exclusive control over what it views as its own affairs. This concept, endorsed by the political scientist Samuel Huntington, contends that the military has a right to push back when civilians attempt to interfere in military matters. According to this view, autonomy is a right, not a privilege. But military and political affairs are not as distinct as many officers have been led to believe, and the experience of other countries suggests that alternative models are just as plausible: throughout Europe, for example, military leaders are accustomed to much more intrusive oversight than their U.S. counterparts.

HOLLYWOOD TREATMENT

Trends in American culture underpin many of these problems. Americans increasingly fetishize the armed forces and believe that the only true patriots are those in uniform. According to Gallup polling, the public consistently has more confidence in the military than in any other national institution. That admiration, coupled with declining trust and confidence in civilian organizations, means that large segments of the population think that those in uniform should run the military, and maybe even the country itself.

This adoration has grown in part out of efforts to bring the military out of its post-Vietnam malaise. In 1980, Edward Meyer, the army chief of staff, declared his force a “hollow army,” and that same year, an operation intended to rescue U.S. hostages in Iran ended in disaster, showing the public just how depleted its armed forces had become. While Congress attempted to rectify the situation by ramping up military spending, the military cannily worked to rehabilitate its image through popular culture. In the 1980s, the Pentagon cooperated with big-budget movies such as Top Gun, a practice it has continued to the present with such superhero films as Captain Marvel. By conditioning its cooperation and provision of equipment on approval of the script, the military learned that it could influence storylines and enhance its brand.

Another contributing problem is the military’s tendency to recruit heavily from particular subsections of American society. With few calls for shared sacrifice or national mobilization during the wars in Afghanistan and Iraq, the majority of the public had little to do besides thank the troops for their service. The military, meanwhile went to great lengths to honor soldiers with patriotic displays centered on the nobility of military service, notably during college and professional sporting events. These trends all reinforced the notion that military service members were truly exceptional—better, different, and more selfless than the civilians who cheered them on.

### 2AC---Ukraine Thumper

#### Ukraine thumps.

Yousif 22 [Elias Yousif, TLDR. Research Analyst, Conventional Defense, Stimson. More quals. Research Analyst with the Stimson Center’s Conventional Defense Program. His research focuses on the global arms trade and arms control, issues related to remote warfare and use of force, and international security cooperation and child soldiers prevention. Prior to joining the Stimson Center, Elias was the Deputy Director of the Security Assistance Monitor at the Center for International Policy where he analyzed the impact of U.S. arms transfer and security assistance programs on international security, U.S. foreign policy, and global human rights practices. Elias was previously a Campaigns and Research Officer with Crisis Action in Beirut, Lebanon, where he worked on advocacy and policy proposals to improve civilian protection, humanitarian access, and conflict resolution in Syria, Yemen, and South Sudan. He also worked with Crisis Action in Washington, D.C. as a Campaigns and Advocacy Associate, where he advised on U.S. policy related to civilian harm in the Middle East and Sub-Saharan Africa. Elias received his BA from American University; "Ukraine to Set Record for U.S. Security Assistance • Stimson Center"; Stimson Center; Published: 5-23-2022; Accessed: 6-25-2022; https://www.stimson.org/2022/ukraine-to-set-record-for-u-s-security-assistance/; KL]

Less than halfway through the year, the May 19, 2022 passage of more than $41 billion in emergency funding for Ukraine positions the country to become the largest single recipient of U.S. security sector assistance in 2022. The latest funding includes at least $6 billion in direct military aid to Ukraine, and billions more for Ukraine and other European partners. Altogether, even a conservative estimate places the value of the military assistance Ukraine will receive in 2022 as equivalent to what the U.S. provided Afghanistan, Israel, and Egypt in FY2020 combined.

In the aftermath of Russia’s 2014 annexation of Crimea, Ukraine had already become the most significant recipient of U.S. security assistance in Europe, receiving $2.7 billion in American military aid between 2014 and 2021. But now, those totals are being quickly eclipsed as the United States and its western allies rush billions of dollars worth of weaponry to Kyiv.

The unprecedented sum reflects both the strategic earthquake resulting from Russia’s invasion as well as the West’s evolving assessment of Ukraine’s prospects in its fight with Moscow. With such enormous quantities of weaponry now making their way to Ukraine, it’s worth reflecting on the evolution of this extraordinary surge in international military assistance and its consequences.

What’s Been Committed to Ukraine Since the February 24, 2022 Invasion

After Russia crossed into Ukraine on February 24, 2022, the United States massively expanded its security assistance efforts and began making use of emergency authorities to expedite the transfer of weaponry and equipment to the country. Since February 2022, the United States has provided $3.9 billion in security sector assistance to Ukraine. In short, in less than three months between February and April 2022, the United States provided one billion more in security assistance than it did in the seven years between 2014 and 2021.

The United States has provided a wide range of weapons and equipment. According to U.S. government reports, as of May 6th, United States had committed the following:

* More than 1,400 Stinger anti-aircraft systems
* 5,500 Javelin anti-armor systems
* 14,000 other anti-armor weapon systems
* 700 Switchblade drones and an undisclosed number of Phoenix Ghost Tactical Drones
* 16 helicopters
* Hundreds of High Mobility Multipurpose Wheeled Vehicles
* 90 155mm Howitzer artillery pieces and nearly 200,000 shells
* 200 armored personnel carriers
* 7,000 small arms
* 50 million rounds of small arms ammunition

The vast quantity of weapons and equipment provided to Ukraine totals over $3.8 billion so far and excludes the billions in military related assistance in the emergency supplemental passed by Congress on May 19. The new funding package adds an additional $6 billion for the Ukraine Security Assistance Initiative – the Ukraine-specific program that funds defense acquisition for the government in Kyiv – and an additional $4 billion in Foreign Military Financing for Ukraine and other European allies. Additionally, the bill adds $9.05 billion to replenish U.S. weapons stockpiles depleted by a series of transfers to Ukraine and other neighboring states. The bill also raises the statutory limit for what the President is permitted to transfer from existing U.S. weapons stockpiles to $11 billion, providing another pool of equipment that the President can draw from.

Arriving at an exact total for military aid committed to Ukraine in the aftermath of this bill’s passage is challenging. Much of the assistance is being made available to Ukraine and “and countries impacted by the situation in Ukraine.” In addition, the funding for stockpile replenishment may not represent the exact equivalent of military hardware that has already been transferred to Kyiv. Nevertheless, estimates of the aggregate value of military aid committed to Kyiv would likely make Ukraine the largest yearly U.S. security assistance recipient of the 21st century.

The Evolution of U.S. Security Assistance to Ukraine

Changes in the scale, scope, and makeup of U.S. security assistance over the first four months of the conflict in Ukraine reflect shifting war imperatives, political realities, and appraisals of potential conflict outcomes.

The earliest days of the war following Russia’s invasion in February 2022 were characterized by positional urban fighting and small unit tactics. The United States, Kyiv, and other international partners were focused on equipping forces defending key urban areas with weaponry that could be quickly delivered and used without significant sustainment or training need. The result was thousands of shoulder-fired anti-armor and anti-air missiles, thousands of small arms, and millions of rounds of small arms ammunition pouring into the country. Just over two weeks after the beginning of the conflict, by March 16, 2022, U.S.-origin equipment committed to Ukraine included:

* 600 Stinger anti-aircraft systems
* 2,600 Javelin anti-armor systems
* Tactical drones
* 200 shotguns
* 200 machine guns
* 40 million rounds of small arms ammunition
* 1 million grenade, mortar, and artillery rounds

While the United States did provide a handful of rotary aircraft and armored personnel carriers, much like Ukraine’s other military patrons, Washington was acutely concerned that the provision of more advanced or heavy weaponry could provoke an escalation from Moscow. In striking the balance of providing weapons to help Ukraine defend itself, Washington sought to test the limits of assistance without sparking a wider war or a direct retaliation from the Kremlin, especially as President Putin rattled his nuclear saber. Those sensitivities were on full display after a surprise proposal from Poland to transfer some of its Soviet-era fighter jets to Ukraine in exchange for new U.S. aircraft was shot down by the Biden Administration for fear it was too direct an incitement of Russian animosity.

Those calculations changed in late March, as stiff Ukrainian resistance and failures in the Russian assault allowed Kyiv to withstand much of the Kremlin’s initial offensive, especially around the capital. Incapable of managing their stretched logistics and maintaining pressure around so many axes of advance, Russia elected to withdraw from significant portions of the country and re-orient their war effort toward seizing the country’s east and, potentially, coastal south.

The battlefield transition also catalyzed a transition in Washington’s view of the conflict and the nature of its security assistance to Ukraine. Strategically, it crystallized assessments that Ukraine and its government would survive the conflict with significant territory under its control and could potentially reclaim some areas it lost to Russia in the conflict’s initial phase. With the imminent and existential threat relatively at bay, and with somewhat more generous time horizons, new opportunities to consider security packages with more advanced weaponry with longer lead times became viable.

Additionally, a battle for Ukraine’s east represents a fundamentally different operational context. Far from the positional urban fighting that Ukraine was able to master early on, the famed Eurasian steppe presents new advantages for Russia. Shorter supply lines, a more concentrated frontline, and open terrain that advantages Russia’s mechanized armor and long-range heavy firepower will create significant tactical challenges for Ukrainian defenders. As Ukraine’s foreign minister put it to a NATO gathering, “the battle for Donbas will remind you of the Second World War with large operations, thousands of tanks, armored vehicles, planes, artillery.”

Accordingly, in this new phase of the conflict, the United States has dramatically enhanced its security assistance to Ukraine, expanding to newer, more advanced weapons systems that speak to the particular battlefield realities of this new phase in the war. With battlefield outcomes now being determined by the accuracy and range of heavy weaponry, the U.S. has committed additional artillery, air defense systems, advanced radar systems, more rotary aircraft, and a slew of never before seen drones that will see some of their first combat in Ukraine. The change reflects both the new battlefield challenges Ukraine will face in the Donbas, but also the view from Washington that Russia’s warnings against providing additional weaponry to Kyiv are mostly rhetorical.

In addition, the United States has expanded its assistance in non-material but strategically significant ways. Perhaps most important has been Washington’s provision of real-time intelligence to Ukrainian forces. Reports suggest that Ukraine has made use of the information to target high-ranking Russian military officials and to sink Russia’s famed Black Sea flagship, the Moskva. The U.S. has also begun providing training to Ukrainian troops on some of the new weapon systems they are set to receive, though the training continues to take place outside of Ukraine.

Extraordinary Authorities

Since 2014, the United States has relied on a handful of conventional security cooperation and assistance authorities to support Ukraine’s defense and security forces, including Foreign Military Financing, International Military Education and Training, and the purpose-built Ukraine Security Assistance Initiative. These programs followed typical Congressional appropriations processes and reflected a more methodical approach to building Ukrainian security capacity.

However, current events have changed the traditional assistance model. In late 2021, as the U.S. intelligence community became convinced that a Russian invasion was imminent, the United States faced a new urgency to shore up Ukrainian defenses against the substantially more developed military might of the Kremlin. The Biden Administration reached for new and exceptional tools to get hardware to Ukrainians quickly.

The most prominent of those exceptional tools has been the Presidential Drawdown Authority, which allows the Executive Branch to take weapons, ammunition, and other materiel from existing U.S. stocks and provide them to other countries without congressional authorization. The Biden Administration has invoked the authority ten times for Ukraine since August 2021. To put that in context, a 2016 Government Accountability Office report found that the authority was invoked just 11 times between 2011 and 2015. The authority offers some advantages in the current context, including reducing lead times for materiel from months or years to days and weeks.

Additionally, in March 2022, the President invoked an emergency authority under the Arms Export Control Act, which allows the Executive Branch to bypass the statutorily mandated congressional notification process and proceed immediately with an international arms sale or export. The authority requires the Executive to certify that an emergency exists that creates a national security imperative for the immediate sale or export of defense articles or services without the typical 15-30 pause for notification and congressional consideration. The authority has only been invoked on a handful of occasions, including in 2019 when President Trump controversially used it to transfer munitions and other defense articles to members of the Saudi-led coalition fighting in Yemen without congressional notification and despite strong congressional opposition.

Congress has also passed an updated version of the World War II-era Lend Lease Act, authorizing the Administration to provide military equipment to Ukraine and other countries in the region on an indefinite basis and without the need to come back to Congress for additional funding. During the Second World War, President Franklin D. Roosevelt used the statute to arm Britain and, to a lesser degree, Russia.

In addition, with the passage of the most recent 41 billion dollar package, the President has now submitted and been granted two emergency supplemental funding requests to Congress amounting to more than $54 billion related to Ukraine including at least $32.3 billion for European theatre defense and security assistance.

Conclusion

The war in Ukraine has fundamentally shifted the focus of U.S. military assistance. For the first time in the 21st century, the largest recipient of U.S. security assistance is not in the Middle East or Central Asia, but in Europe. The war in Ukraine has become the defining foreign policy priority of the Biden Administration, and with a growing consensus in Western capitals that the end to the war is nowhere in sight, it is likely that the volume of military assistance the United States provides to Ukraine will continue to climb.

### 2AC---No Link

#### Normal means involves Congressional oversight.

Committee on Armed Services 19 [Committee on Armed Services U.S. House of Representatives; "Oversight Plan for the 116th Congress"; Published: 2019; Accessed: 6-25-2022; https://armedservices.house.gov/\_cache/files/b/2/b236a61e-6d45-40cd-9ad8-bc99b83dfa3b/AE1FC7A607C9432146B32AF84E99181B.hasc-oversight-plan-for-the-116th-congress.pdf; KL]

Emerging Threats and Security Cooperation

The United States faces a complex array of threats to national security in the political, economic, military, and social domains. State and non-state actors are increasingly leveraging rapid advances in technology to pose new and evolving threats, particularly in the realm of space, cyberspace, proliferation of weapons of mass destruction, high performance computing, and other emerging and disruptive technologies. Furthermore, threats to national security are no longer isolated to state or non-state actors. As identified by the intelligence community, infectious disease outbreaks and climate change threaten security and stability around the globe and have significant implications for U.S. national security as well as military operations.

The committee will conduct oversight of numerous cross-cutting Department of Defense activities central to addressing these emerging and unforeseen threats, including oversight of countering weapons of mass destruction programs, counterterrorism operations, humanitarian assistance operations, and security cooperation.

Further, the committee will conduct oversight of security cooperation and building partner capacity (BPC) programs in the 116th Congress. The National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328) contained comprehensive reform of the authorities, funding, programs, and oversight of security cooperation. The committee will monitor and evaluate the implementation of these security cooperation provisions to ensure that they are sufficient to meet requirements, properly executed, and consistent with national security objectives. The committee will also review and act upon additional reforms, as appropriate.

The committee will maintain oversight of the Department's activities in theaters where security cooperation is the primary means of achieving U.S. objectives, such as Africa and Central and South America. Additionally, the committee will continue to examine the Department's coordination within the interagency to ensure the range of the Department’s activities occurring in Africa contribute to U.S. national security objectives. The committee will examine the issues affecting U.S. national security in Central and South America, including illicit trafficking and transnational organized crime. The committee is particularly concerned about instability in Central America.

### 2AC---AT: Human Rights Link

#### No link to NATO.

PN = partner nation

Bushley 17 [U.S. Army Capt. Adam Bushley, Rule of Law attorney for Task Force Wolverine, 86th Infantry Brigade Combat Team; "Governance: The Missing Ingredient in Security Cooperation"; U.S. Army Command and General Staff College; Published: 2017; Accessed: 6-18-2022; https://apps.dtic.mil/sti/pdfs/AD1038564.pdf; KL]

As stated previously, CRS research found that regardless of the strategic objective sought, the programs implemented in fragile or failing states were almost universally the least successful programs.189 Likewise, they also found the opposite to be true—the higher the degree of good governance and legitimacy in a partner nation’s institutions, the greater the likelihood of a successful SC/SA program.190 Therefore, if SC/SA efforts focused on strengthening defense institutions, power structures, incentives, the rules of the game, and norms and behaviors, long-term U.S. SC/SA objectives could be more effectively achieved with a PN with a more legitimate and accountable defense institution.

### 2AC---Military Turn

#### The best diplomacy is a strong military. Oversight destroys US leadership. Extinction.

O’Rourke 22 [Ronald O'Rourke, Specialist in Naval Affairs; "Renewed Great Power Competition: Implications for Defense—Issues for Congress"; Congressional Research Service; Published: 2-10-2022; Accessed: 6-23-2022; https://apps.dtic.mil/sti/pdfs/AD1159700.pdf; KL]

Maintaining U.S. Superiority in Conventional Weapon Technologies

As part of the renewed emphasis on capabilities for high-end conventional warfare, DOD officials have expressed concern that U.S. superiority in conventional weapon technologies has narrowed or in some cases even been eliminated by China and (in certain areas) Russia. In response, DOD has taken a number of actions in recent years that are intended to help maintain or regain U.S. superiority in conventional weapon technologies, including increased research and development funding for new militarily applicable technologies such as artificial intelligence (AI), autonomous unmanned weapons, hypersonic weapons, directed-energy weapons, biotechnology, and quantum technology. 68 A February 2, 2022, press report stated:

The Pentagon’s research and engineering chief is crafting a new strategy for investment in 14 critical technology areas, writing in a new memo that “creative application” of emerging concepts is key to maintaining an edge over adversaries.

The Feb. 1 memo, first reported by Inside Defense, does not lay out a timeline for when the strategy will be complete, but notes the work will be informed by the 2022 National Defense Strategy and structured around three pillars: Mission focus, foundation building and succeeding through teamwork.

“Successful competition requires imagining our military capability as an ever-evolving collective, not a static inventory of weapons in development or sustainment,” Undersecretary of Defense for Research and Engineering Heidi Shyu wrote in the memo, obtained by C4ISRNET. “In many cases, effective competition benefits from sidestepping symmetric arms races and instead comes from the creative application of new concepts with emerging science and technology.”

The technologies identified in the memo ranges from “seed areas”—like quantum science, biotechnology, advanced materials and future-generation wireless technology—to commercially available capabilities such as artificial intelligence, space, microelectronics, integrated networks, renewable energy, human-machine interfaces and advanced computing and software.

The memo also highlights technology needs that are specific to the Defense Department, including hypersonic weapons, directed energy, cyber and integrated sensing.

“By focusing efforts and investments into these 14 critical technology areas, the department will accelerate transitioning key capabilities to the military services and combatant commands,” Shyu writes. “As the department’s strategy evolves and technologies change, the department will update its critical technology priorities.”69

Innovation and Speed of U.S. Weapon System Development and Deployment

In addition to the above-mentioned efforts for maintaining U.S. superiority in conventional weapon technologies, DOD is placing new emphasis on innovation and speed in weapon system development and deployment, so as to more quickly and effectively transition new weapon technologies into fielded systems. The 2018 NDS places states

Deliver performance at the speed of relevance. Success no longer goes to the country that develops a new technology first, but rather to the one that better integrates it and adapts its way of fighting. Current processes are not responsive to need; the Department is overoptimized for exceptional performance at the expense of providing timely decisions, policies, and capabilities to the warfighter. Our response will be to prioritize speed of delivery, continuous adaptation, and frequent modular upgrades. We must not accept cumbersome approval chains, wasteful applications of resources in uncompetitive space, or overly risk-averse thinking that impedes change. Delivering performance means we will shed outdated management practices and structures while integrating insights from business innovation.70

The individual military services have taken various actions in recent years to increase innovation and speed in their weapon acquisition programs. Some of these actions make use of special acquisition authorities provided by Congress in recent years that are intended in part to reduce the time needed to transition new weapon technologies into fielded systems, including Other Transaction Authority (OTA) and what is known as Section 804 Middle Tier authority.71

On January 23, 2020, DOD released a new defense acquisition framework, called the Adaptive Acquisition Framework, that is intended to substantially accelerate the DOD’s process for developing and fielding new weapons.72 In previewing the new framework in October 2019, DOD described it as “the most transformational acquisition policy change we’ve seen in decades.” 73

Some observers argue that DOD is not doing enough or moving quickly enough to generate and implement innovations in response to great power competition, and have proposed steps for doing more or moving more quickly.74 <<<FOOTNOTE 74 BEGINS>>> 74 See, for example, Elaine McCusker and Emily Coletta, “Is the U.S. Military Ready to Defend Taiwan?” National Interest, February 6, 2022; Christopher Zember, “Change How OTAs Are Used to Make Them an Essential Tool Against China,” Breaking Defense, February 3, 2022; Robert A. McDonald Sr., M. Sam Araki, and Robert Wilkie, “These Seven Principles Could Help DoD Acquisition in the Face of the China Threat,” Defense News, February 1, 2022; Daniel K. Lim, “Startups and the Defense Department’s Compliance Labyrinth,” War on the Rocks, January 3, 2022; Mike Brest, “Chinese Military Progress ‘Stunning’ While US Slowed by ‘Brutal’ Bureaucracy, Joint Chief Warns,” Washington Examiner, October 28, 2021; Sandra Erwin, “Hyten Blasts ‘Unbelievably’ Slow DoD Bureaucracy as China Advances Space Weapons,” Space News, October 28, 2021; Alex Marquardt and Oren Liebermann, “Senior US General Warns China’s Military Progress Is ‘Stunning’ as US Is Hampered by ‘Brutal’ Bureaucracy,” CNN, October 28, 2021; Meghann Myers, “Risk Aversion and Secrecy Are Costing US Its Military Advantage, No. 2 General Says,” Military Times, October 8, 2021; Ryan Tracy, “As Google, Microsoft and Amazon Seek Bigger Defense Role, Some Are Leery,” Wall Street Journal, September 7, 2021; Peter Spiegel, “How America Found Itself Fighting the Last War—Again,” Financial Times, August 18, 2021; Arnold Punaro, “Book Excerpt: Pruning The Acquisition Kudzu,” Breaking Defense, July 29, 2021; Mike Glenn, “Pentagon Must Pick Up the Pace to Counter China, Top General Warns,” Washington Times, July 26, 2021; Bryan Clark and Dan Patt, “Give Combatant Commanders the Tools to Innovate,” Defense News, July 13, 2021; Elaine McCusker and Dan Patt, “Faster Weapon Buys: Try Evolutionary Innovation,” Breaking Defense, July 2, 2021; Melissa Flagg and Jack Corrigan, “Ending Innovation Tourism, Rethinking the U.S. Military’s Approach to Emerging Technology Adoption,” Center for Security and Emerging Technology (CSET), July 2021, 22 pp.; Michèle A. Flournoy, “America’s Military Risks Losing Its Edge, How to Transform the Pentagon for a Competitive Era,” Foreign Affairs, May/June 2021; Missy Ryan, “The U.S. System Created the World’s Most Advanced Military. Can It Maintain an Edge?” Washington Post, April 1, 2021; Chris Dougherty, “Want an Agile Pentagon? Don’t Go Chasing ‘Waterfalls,’ Four-Year Strategy Reviews Aren’t Good Enough. Biden’s Pentagon Should Take a Page from Software Firms,” Defense One, March 22, 2021; Matthew Beinart, “Pentagon Needs New Acquisition Authorities To Stay Ahead In AI Tech Race, Commission Officials Say,” Defense Daily, March 12, 2021; Joe Gould, “Pentagon Processes ‘Antithetical’ to AI Development, Former Google CEO Warns,” C4ISRNet, March 12, 2021; Bill Greenwalt, “Competing in Time: How DoD Is Losing The Innovation Race To China, Despite Reforms, the Pentagon and Congress Have Failed to Break Out of a Cold War, CentralPlanning Model That’s Stifled Innovation.,” Breaking Defense, March 9, 2021; Joe Gould, “Pentagon’s Dated Budget Process Too Slow to Beat China, New Report Says,” Defense News, February 25, 2021; Sydney J. Freedberg Jr., “Experts Tell Congress How To Turn Innovation Into Reality,” Breaking Defense, February 23, 2021; Bryan Clark and Dan Patt, “The Pentagon Needs Budget Agility to Compete with China,” Defense One, February 12, 2021; Nate Ashton, “Urgently Needed: Tech-Savvy Defense Leaders,” Defense News, February 10, 2020; William Greenwalt and Dan Patt, Competing in Time: Ensuring Capability Advantage and Mission Success through Adaptable Resource Allocation, Hudson Institute, February 2021, 64 pp.<<<FOOTNOTE 74 ENDS>>> A January 2020 GAO report on weapon system reliability in defense acquisition, however, states

DOD has taken steps to accelerate weapon system development, and decision-making authority has been delegated to the military services. In an environment emphasizing speed, without senior leadership focus on a broader range of key reliability practices, DOD runs the risk of delivering less reliable systems than promised to the warfighter and spending more than anticipated on rework and maintenance of major weapon systems. 75

DOD officials and other observers argue that to facilitate greater innovation and speed in weapon system development and deployment, U.S. defense acquisition policy and the oversight paradigm for assessing the success of acquisition programs will need to be adjusted to place a greater emphasis on innovation and speed as measures of merit in defense acquisition policy, alongside more traditional measures of merit such as minimizing cost growth, schedule delays, and problems in testing. As a consequence, they argue, defense acquisition policy and the oversight paradigm for assessing the success of acquisition programs should place more emphasis on time as a risk factor and feature more experimentation, risk-taking, and tolerance of failure during development, with a lack of failures in testing potentially being viewed in some cases not as an indication of success, but of inadequate innovation or speed of development.76 <<<FOOTNOTE 76 BEGINS>>> 76 See, for example, Tate Nurkin, “To Catch China and Russia in Hypersonic Race, US Must Embrace Risk Now,” Breaking Defense, February 9, 2022; Corey Dickstein, “Vice Chairman Nominee Says US Military Must Adapt New Tech Faster to Compete with China, Russia,” Stars and Stripes, December 8, 2021; Sam LaGrone, “Eliminating ‘Risk Aversion’ Key to Weapons Development, Says Vice Chair Nominee Grady,” USNI News, December 8, 2021; Bryan Clark, “Pentagon And Congress Risk Bungling Drive To Modernize U.S. Military,” Forbes, July 8, 2020; John Grady, “Officials: U.S. Must Move Faster in Testing and Fielding Hypersonics, 5G Networks,” USNI News, June 30, 2020; Michèle A. Flournoy and Gabrielle Chefitz, “Breaking the Logjam: How the Pentagon Can Build Trust with Congress,” Defense News, April 1, 2020; Ankit Panda, “Getting Critical Technologies Into Defense Applications,” National Interest, February 1, 2020; Ankit Panda, “Critical Technologies and Great Power Competition,” Diplomat, January 29, 2020; Michael Rubin, “The Simple Reason Why America Could Lose the Next Cold War to Russia or China,” National Interest, January 14, 2020; George Franz and Scott Bachand, “China and Russia Beware: How the Pentagon Can Win the Tech Arms Race,” National Interest, November 29, 2019; Scott Maucione, “Special Report: Failure Is an Option for DoD’s Experimental Agency, But How Much?” Federal News Week, October 30, 2019; Sydney J. Freedberg Jr., “Stop Wasting Time So We Can Beat China: DoD R&D Boss, Griffin,” Breaking Defense, August 9, 2018. <<<FOOTNOTE 76 ENDS>>>

Mobilization Capabilities for Extended-Length Conflict

The renewal of great power competition has led to an increased emphasis in discussions of U.S. defense on U.S. mobilization capabilities for an extended-length conflict.77 The term mobilization is often used to refer specifically to preparations for activating U.S. military reserve force personnel and inducting additional people into the Armed Forces. In this report, it is used more broadly, to refer to various activities, including those relating to the ability of the industrial base to support U.S. military operations in a larger-scale, extended-length conflict against China or Russia. Under this broader definition, mobilization capabilities include but are not limited to capabilities for

• inducting and training additional military personnel to expand the size of the force or replace personnel who are killed or wounded;

• producing new weapons and supplies to replace those expended in the earlier stages of a conflict, and delivering those weapons and supplies to distantly deployed U.S. forces in a timely manner;

• repairing battle damage to ships, aircraft, and vehicles;

• replacing satellites or other support assets that are lost in combat; and

• manufacturing spare parts and consumable items.

Some observers have expressed concern about the adequacy of U.S. mobilization capabilities, particularly since this was not a major defense-planning concern during the 20 to 25 years of the post-Cold War era, and have recommended various actions to improve those capabilities. 78 <<<FOOTNOTE 78 BEGINS>>> 78 See, for example, Maiya Clark, “Revitalizing the National Defense Stockpile for an Era of Great-Power Competition,” Heritage Foundation, January 4, 2022; Hal Brands and Michael Beckley, “Washington Is Preparing for the Wrong War With China, A Conflict Would Be Long and Messy,” Foreign Affairs, December 16, 2021; Seth Cropsey and Harry Halem, “The U.S. Is Wholly Unequipped to Resupply Forces in a Great-Power Conflict,” Defense News, October 21, 2021; Marcus Weisgerber, “Digital Engineering Could Speed Wartime Arms Production,” Defense One, June 8, 2021; Government Accountability Office, Navy Ships[:] Timely Actions Needed to Improve Planning and Develop Capabilities for Battle Damage Repair, GAO-21-246, June 2021, 46 pp.; Tristan Abbey, “America’s Stockpiles Are Hardly Strategic,” Defense One, February 9, 2021; Mark Cancian and Adam Saxton, “US War Surge Production Too Slow, CSIS Finds,” Breaking Defense, January 19, 2021; Robert “Jake” Bebber, “State of War, State of Mind: Reconsidering Mobilization in the Information Age, Pt. 1,” Center for International Maritime Security (CIMSEC), January 11, 2021 (drawn from Robert “Jake” Bebber, “State of War, State of Mind: Reconsidering Mobilization in the Information Age,” Journal of Political Risk, October 20, 2020); Mark F. Cancian, Adam Saxton, Owen Helman, Lee Ann Bryan, and Nidal Morrison, Industrial Mobilization: Assessing Surge Capabilities, Wartime Risk, and System Brittleness, Center for Strategic and International Studies (CSIS), January 2021, 57 pp.; Ryan Pickrell, “China Is the World’s Biggest Shipbuilder, and Its Ability to Rapidly Produce New Warships Would Be a ‘Huge advantage’ in a Long Fight with the US, Experts Say,” Business Insider, September 8, 2020; Marcus Weisgerber, “US Shipyards Lack Needed Repair Capacity, Admiral Says,” Defense One, August 27, 2020; Megan Eckstein, “Lack of U.S. Warship Repair Capacity Worrying Navy,” USNI News, August 26, 2020; Paul McLeary, “Navy Plans For Wartime Ship Surge; Looks To Small Commercial Yards,” Breaking Defense, August 25, 2020; David Barno and Nora Bensahel, “Preparing for the next Big War,” War on the Rocks, January 26, 2016; Robert Haddick, “Competitive Mobilization: How Would We Fare Against China?” War on the Rocks, March 15, 2016; David Barno and Nora Bensahel, “Mirages of War: Six Illusions from Our Recent Conflicts,” War on the Rocks, April 11, 2017; Mark Cancian, “Long Wars and Industrial Mobilization,” War on the Rocks, August 8, 2017; Joseph Whitlock, “The Army’s Mobilization Problem,” U.S. Army War College War Room, October 13, 2017; Alan L. Gropman, “America Needs to Prepare for a Great Power War,” National Interest, February 7, 2018; Elsa B. Kania and Emma Moore, “The US Is Unprepared to Mobilize for Great Power Conflict,” Defense One, July 21, 2019. See also William Greenwalt, Leveraging the National Technology Industrial Base to Address Great-Power Competition: The Imperative to Integrate Industrial Capabilities of Close Allies, Atlantic Council, April 2019, 58 pp. <<<FOOTNOTE 78 ENDS>>> On April 24, 2019, the National Commission on Military, National, and Public Service, a commission created by the FY2017 National Defense Authorization Act (S. 2943/P.L. 114-328 of December 23, 2016),79 held two hearings on U.S. mobilization needs and how to meet them.80 DOD officials are now focusing more on actions to improve U.S. mobilization capabilities.81 A February 2, 2022, press report stated:

If a war against a major adversary breaks out, it’s going to require the military to resupply troops at a pace it hasn’t seen in a long time, Air Force Gen. Jacqueline Van Ovost, head of U.S. Transportation Command, said on Wednesday [February 2].

And to keep up with that frenetic tempo, TRANSCOM is going to have to use machine learning and artificial intelligence to streamline its logistics operations, Van Ovost said in an online conversation hosted by the Center for Strategic and International Studies.

“We can’t afford to sift through reams and reams of data” in a major war, Van Ovost said. “We really do need to apply machine learning and artificial intelligence to turn that data into knowledge, for which we can make decisions. Creating that decision advantage is going to give us that time and space and options for senior leaders to come up with different options to reduce risk, to increase effectiveness.”

Van Ovost said American allies and partners, as well as its potential competitors, are already making fast progress in these areas, and the U.S. must do the same at all levels to be more effective and efficient....

Van Ovost expressed interest in recent work studying the feasibility of using rockets to rapidly move large cargo loads anywhere in the world. TRANSCOM has signed research agreements with companies such as SpaceX and xArc to see how the technology might work, including cargo loading and determining flight frequency.82

### 2AC---Polarization Turn

#### Polarization makes congressional oversight ineffective

Friedrichs and Tama 3/11/22 [Gordon Friedrichs, postdoctoral researcher at the Chair for Multi-Level Governance at the Department of Political Science at Freiburg University AND Jordan Tama, Provost Assoc Professor at School of International Service at American University; March 11, 2022; DOA: 6/23/22; “Polarization and US foreign policy: key debates and new findings” <https://doi.org/10.1057/s41311-022-00381-0>; Lowell-ES]

Domestic polarization not only affects the policymaking process but also the way policies become implemented. Scholars of US foreign policy have shown that over time, the highly contentious forces of domestic politics in some policy areas, such as international economics, have incentivized the president to rely more heavily on other instruments, such as military deployments and defense procurement (Milner and Tingley 2015). Others have shown that partisan incentives have reduced presi- dents’ use of force abroad and influenced how presidents carry out military operations (Howell and Pevehouse, 2007; Kriner 2010). Meanwhile, others have found that greater prospects for legislative success incline the president to engage in more high-risk military interventions and fewer humanitarian interventions (Marshall and Prins 2016). In addition, studies on presidential use of executive agreements suggest that domestic polarization inclines presidents to advance their agenda unilaterally (Caruson and Farrar-Myers 2007; Amirfar and Singh 2018).

Polarization also influences the effectiveness of US foreign policy execution. As some scholars have argued, polarization has limited the rally-around-the-flag effect in response to external security threats (Myrick 2021). In addition, political and material costs for the execution of certain partisan foreign policies and visions of international order have increased in times of domestic polarization (Bafumi and Parent 2012; Kreps et al. 2018). As a consequence of the widening gap domestically for a cohesive strategy, the executive branch is more incentivized to politicize US foreign policy through wedge-issues to weaken political opposition (Snyder et al. 2009). This, in turn, has contributed to a polarization of US relationships with allies and partners (Drezner 2018).

### 2AC---Morale Turn

#### Congressional oversight is bad for policy implementation because it undermines agency morale

Marvel and McGrath 16 [John Marvel is an associate professor in the Schar School of Policy and Government, where he teaches courses on organization theory and public administration. Rob McGrath is an Associate Professor and Director of Undergraduate Programs at the Schar School, George Mason University. He holds a PhD in political science from the University of Iowa and a BA from Saint Peter’s College in his native New Jersey and spent two years (2013-2015) as a Robert Wood Johnson Foundation Scholar in Health Policy Research at the University of Michigan. “Congress as manager”{ Journal of Public Policy https://www.jstor.org/stable/pdf/26775351.pdf?refreqid=excelsior%3Ae8b3afaa1639be3c927190917a3a1dd8&ab\_segments=&origin=]//LP

Part of the job of any manager, in any organisational setting, is to motivate employees. Doing so involves cultivating employee work attitudes (e.g. job satisfaction, organisational commitment) and behaviours (e.g. arriving to work on time, aiding coworkers) that are thought to be associated with individual- and organisational-level performance. In exercising its oversight function, however, Congress is not necessarily interested in doing these things. Instead, it is primarily interested in ensuring federal agencies’ responsiveness to legislative preferences.4 However, in pursuing responsiveness, Congress can unwittingly harm agency morale. Before fully developing this argument below, we define the empirical focus of our study – agency morale – and discuss its importance for agency performance. We use the term “agency morale” to denote agency employees’ collective feelings of autonomy and job satisfaction. Theory and evidence from the organisational behaviour literature suggest that, at the individual level, both of these traits are positively related to job performance. In a meta-analysis of 312 independent samples, Judge et al. (2001) found a correlation between job satisfaction and job performance of 0.30. Similarly, in a meta-analysis of 101 independent samples, Spector (1986) found a correlation between autonomy and job performance of 0.26. In fact, these correlations likely underestimate the total impact of job satisfaction and autonomy on performance, given that both are associated with numerous other work attitudes and behaviours that are themselves related to performance. These include, for instance, organisational commitment, role conflict, role ambiguity, emotional distress, absenteeism, turnover intention and actual turnover (Spector 1986; Mathieu and Zajac 1990; Tett and Meyer 1993; Meyer et al. 2002; Riketta 2002). Theories of public sector organisational effectiveness and political control pay special attention to autonomy. The former typically emphasises autonomy’s salutary operational qualities: it allows agencies to use their expertise to solve pressing implementation problems, make and execute decisions quickly, and pursue their missions in an administratively rational manner (see, e.g. Wilson 1989; Wolf 1993; Meier 1997; Rainey and Steinbauer 1999; Brewer and Selden 2000). These theories also assume that autonomy has motivational benefits at the employee level. Individuals – particularly individuals with high levels of formal education and professional training – value autonomy and work harder when it is given to them (see, e.g. Gagné and Deci 2005). In contrast, theories of political control tend to view autonomy as necessary – bureaucracies have expertise that political actors lack, and so delegations of authority are sometimes unavoidable – but potentially problematic, given that bureaucracies are nonelectoral institutions. Yet, even political theories note the importance of autonomy for organisational performance. Gailmard and Patty (2007, 2012), for example, argue that congressional principals, who generally prefer informed to uninformed policymaking, proactively grant autonomy and policymaking discretion to bureaucratic agents in order to incentivise investments in expertise. Whatever their differences, both schools tend to agree that autonomy is systematically associated with organisational performance and the development of policy expertise. Consequently, we believe it is important to examine whether congressional oversight is associated with agency autonomy. Congressional oversight and its managerial consequences We expect that congressional oversight will be negatively associated with autonomy and job satisfaction when such oversight is primarily meant to monitor and control the bureaucracy for political reasons, rather than to aid it in the performance of agency duties (Weingast and Moran 1983; Ferejohn and Shipan 1990; Shipan 2004). Congress is often unlike the manager or firm owner described in standard economic accounts of principal-agent theory. In these accounts, it is usually assumed that the principal is concerned with securing some outcome and is, moreover, happy to let the agent choose whatever means or behaviours best serve that end (for a review, see Eisenhardt 1989). The congressional impulse to control, however, often seeks to dictate the bureaucracy’s choice of means. This impulse is intensified in our separation of powers system, where Congress often competes with the president for agency influence (Shapiro 1994; Whitford 2005). Below, we identify three particular mechanisms through which congressional oversight can harm agency morale and conclude by arguing that oversight’s relationship with morale is ultimately conditional on whether it is adversarial or friendly. Mechanism I: micromanagement Consistent with the predilection of Congress to be interested in control rather than performance, scholars have long noted that its oversight relationship with the federal bureaucracy has been characterised by micromanagement, or “intervention by Congress in administrative details” (Gilmour and Halley 1994, 10). As early as 1885, Woodrow Wilson complained that Congress “has entered more and more into the details of the administration, until it has virtually taken into its own hands all the substantial powers of government” (Wilson 1896, cited in Beermann 2006). Similarly, Wilson wrote that “Congress is commonly criticized for ‘micromanaging’ government agencies; it does and it always has” (1989, 241). More recently, Behn identified political micromanagement as one of public administration’s most pressing problems and elucidated how it hampers agency performance: “The legislative branch is, for some reason, unhappy with the way an executive-branch agency is performing; so the legislators impose some rules on the agency … These new rules prevent, or at least constrain, the agency from doing what the legislature dislikes. Unfortunately, these rules also constrain the agency from producing the results for which it is responsible” (1995, 316). There is reason to believe that oversight has become increasingly driven by this impulse to micromanage and constrain bureaucratic discretion. Summarising a series of 10 case studies on oversight, Gilmour and Halley concluded: The cases show a “congressional co-manager” intervening directly in the details of policy development and management rather than enacting vague, wide-ranging, sweeping statutes to change fundamental policy directions … Gone almost without a trace is the post-New Deal Congress that optimistically delegated broad-scale public problems and policy questions for solution and resolution by the executive branch. Much diminished as well is an executive branch relied upon by Congress for neutral competence and specialized expertise. Instead, the story … is one of the retrieval of executive discretion and the highly specific redefinition—by Congress—of prior delegations of authority. (1994, 335–336) In the same vein, Aberbach (1990) showed that the average number of pages per statute enacted by Congress rose sharply between the 80th (1947–1948) and the 103rd (1993–1994) sessions of Congress, indicating an increased command-and-control orientation in legislative-bureaucratic relations. More recently, Balla and Deering (2013) coded a sample of all congressional hearings that occurred during the 96th (1979–1981), 100th (1987–1989), 104th (1995–1997) and 108th (2003–2004) sessions of Congress. They found that most hearings – over 80% in each session – are police patrols, as opposed to fire alarms, indicating that Congress has an abiding interest in monitoring what the federal bureaucracy is doing and in how it is doing it. As a recent illustration of this mechanism, scholarly research and witness testimony from administrators from the Centers for Medicare and Medicaid Services (CMS) attest that members of Congress are keen to micromanage policies governing provider payment (Pham et al. 2009). Besides this micromanagement mechanism, there are at least two more possible avenues by which oversight may harm agency morale. First, preparing for and participating in oversight hearings, especially high-profile ones, levies opportunity costs on agency employees. Rather than focussing on, say, fulfilling their missions, or competently implementing legislative policy, agency employees must respond to the priorities of a committee holding an oversight hearing. We call these opportunity costs short term to differentiate them from the more fundamental (and psychological) crowding-out of experienced meaning that congressional micromanagement entails. Finally, it is reasonable to assume that negative congressional attention whose aim is to publicly embarrass high-level agency managers would be demoralising to the agency as a whole. A recent example of this involves the General Services Administration (GSA) and the attention it received in 2012, after stories of wasteful spending at its Western Regions Conference surfaced in the media. The aftermath included many high-profile oversight hearings and numerous internal reports that sought to assign responsibility for the agency’s actions. As “fraud, waste and abuse” are anathema to both parties, Democrats as well as Republicans relentlessly attacked the GSA in hearings. In this instance, Congress can be seen to have had a genuine interest in improving GSA performance into the future. In other words, this was an ideal opportunity for Congress to act as a genuine performance manager – that is, to take a sincere interest in remedying whatever underlying organisational problems (e.g. issues with organisational culture, ineffective internal accountability structures, etc.) may have contributed to the GSA scandal. Instead, Congress appeared to be more interested in obtaining whatever political mileage it could by publicly scolding top-level GSA employees.

### 2AC---Oversight Fails---AI

#### Without massive reforms congressional oversight of AI fails

Engler 20 [Alex C. Engler is a Fellow in Governance Studies at The Brookings Institution, where he studies the implications of artificial intelligence and emerging data technologies on society and governance. Engler also teaches classes on data science and visualization at Georgetown’s McCourt School of Public Policy, where he is an adjunct professor and affiliated scholar. https://www.brookings.edu/research/how-the-biden-administration-should-tackle-ai-oversight/]//LP

Had Democrats decisively won control of the White House and the Senate, there would be a robust conversation around legislatively expanding the federal government’s authority for technology oversight. While this conversation would take a backseat to issues like fighting the COVID-19 pandemic and shoring up the economy, legislation on new data privacy and algorithmic consumer protections could have had a chance in the first term of the Biden administration. Even a technology oversight agency would have been possible, and perhaps still is, pending the results from the Georgia special elections. Yet, even without a Democratic majority in the Senate, there are meaningful steps that the Biden administration can take to further reasonable oversight of the technology sector, and specifically the largely unregulated use of artificial intelligence (AI) and algorithmic decision-making. The Biden administration can reverse Trump-era executive orders and agency regulations, instead requiring federal agencies to enforce existing discrimination laws on algorithmic systems and expanding their regulatory capacity to do so. President-elect Biden should push Congress to enact new algorithmic consumer protections in any new legislative compromises on privacy or antitrust, and further support the revival of the Office of Technology Assessment. These efforts are likely not sufficient in the long term. The digital economy accounts for over 9% of GDP–larger than the finance sector–and was growing at 6.8% per year before the pandemic. Since the rise of the modern regulatory state in the 1970s, perhaps no other segment of the overall economy has experienced such growth while remaining largely unregulated. Even that framing understates the importance of data systems and algorithms, which are affecting nearly every part of our society. While the economic growth is undeniable, the mass proliferation of data systems and algorithms—especially in the form of permissionless innovation—has enabled extensive societal harms. A new regulatory agency, or expanded capacity of an existing agency such as the Federal Trade Commission, is necessary. For now, however, the Biden administration should take the available steps to curtail the direct harms, especially algorithmic discrimination, enabled by AI. EXECUTIVE ACTIONS TO ENFORCE EXISTING LAWS The use of algorithmic decision-making in many industries poses serious challenges for regulatory enforcement of existing laws. Health insurance companies implement risk prediction tools that are likely prioritizing care in racially biased ways, which is illegal for any providers receiving federal funds from programs like CHIP and Medicaid or insurers participating in the Affordable Care Act exchanges. AI systems used to perform automated video interviews are undoubtedly deeply flawed as well, and there is cause for investigation to see if they discriminate against people with disabilities in violation of the Americans with Disabilities Act. The algorithms that manage Uber and Lyft drivers can make decisions that obscure the lines between employee and independent contractor for purposes of enforcing the Fair Labor Standards Act. However, the Office of Civil Rights within the Department of Health and Human Services, the Equal Opportunity Employment Commission, and the Department of Labor, respectively, may not be equipped to handle these questions. The Biden administration should be more proactive than the Trump White House, which took minimal action to avoid problems associated with the use of algorithms. Following a February 2019 executive order, the Office of Management and Budget (OMB) issued its final guidance on the regulation of artificial intelligence on Nov. 17, 2020. While there are serious and reasonsed aspects of the document, it makes clear that AI innovation, and not regulatory protection, is the foremost priority of the Trump administration. For instance, while it seems encouraging that the guidance includes mention of “fairness and non-discrimination” as well as “disclosure and transparency,” these were part of a long list of required considerations before implementing new regulations. A careful reading of this document—such as the section offering a series of non-regulatory interventions—suggests it is meant to deter, not encourage or enable, new regulatory safeguards for AI applications. It is possible that this is an overly critical reading of the White House guidance—to its credit, it does prompt agencies to think more about AI regulation. However, the status quo is untenable, as it functionally inoculates companies from anti-discrimination laws when they use algorithms. Since this guidance from OMB Director Russell Vought downplays the well-documented discriminatory harms from some AI systems, the Biden administration should amend this guidance to ensure that current law is appropriately enforced on algorithmic systems. Specific agency-level guidance needs reversal as well, such as a rule from the Department of Housing and Urban Development that places an insurmountable burden of proof on claims of discrimination against algorithms used for mortgage loan or rental applications. In order to execute on this guidance, federal agencies will need the capacity to investigate algorithmic systems. These ex-post audits should focus on highly impactful, large-scale AI systems, and especially those that have already been implicated by nonprofits and academic evaluations. While it may seem as though this would require the models themselves, this is far less important than access to the underlying datasets and model outputs. Therefore, regulatory agencies should use available administrative subpoena powers to gain access to the relevant corporate datasets. There are already about 335 of these authorities across the federal government. The auditing of these massive data systems may be a daunting task for many agencies. In order to support this new responsibility, the Biden administration should direct the United States Digital Service (USDS) to hire a line of data scientists and engineers to support the algorithmic regulatory capacity of federal agencies. USDS has been a successful initiative to bring technical talent into the federal government to modernize services, and it is well-positioned to bring in the talent needed to build secure data environments and conduct algorithmic audits. The Biden administration should make this endeavor a policy priority, using hiring authority within the Office of Science and Technology Policy (OSTP) and Presidential Innovation Fellowships to bring in more expertise. Lastly, Biden should also endorse the revival of the Office of Technology Assessment, which seeks to provide Congress with additional capacity and more informed technology sector oversight. The fast pace of technological development and proliferation has left Congress behind, especially since the defunding of the original Office of Technology Assessment in 1995. Further, congressional offices have reduced staff funding in their Washington offices, leading to younger, less-experienced staff working on a larger number of policy issues. This is hardly an ideal outcome for handling the novel and complex challenges posed for AI and technology governance. Of course, this is not to argue that the Biden administration should only work to rein in the use of AI. The administration should continue the extensive new funding streams from the National Science Foundation for National AI Institutes. The administration should also keep engaging the Global Partnership on AI, working toward democratic norms for AI’s role in the world. Investing in AI research and working toward global consensus on AI are both critically important. However, it is AI oversight that needs a course correction. To keep citizens safe from the overuse and abuse of algorithmic systems, the Biden administration has much work to do—but it also has the tools to get started.

#### Oversight of AI fails

Stone 21 [Corin R. Stone, Scholar-in-Residence at the Washington College of Law; “Artificial Intelligence in the Intelligence Community: Oversight Must Not Be an Oversight”; November 30, 2021; DOA: 6/25/22; <https://www.justsecurity.org/79254/artificial-intelligence-in-the-intelligence-community-oversight-must-not-be-an-oversight/>; Lowell-ES]

But intelligence oversight is complicated and has not sufficiently evolved with the times. When it comes to assessing progress of IC programs, standard oversight processes typically track defined, pre-determined requirements, cost, and timelines. These metrics have worked reasonably well for large programs like the acquisition of satellites and buildings, for which there is a clear beginning, middle, and end, with easily identifiable milestones and a definite budget. However, AI is different; its development moves back and forth across a spectrum of activities often without discrete steps, and failure is a necessary part of the process as the technology evolves and matures. Traditional metrics are, therefore, less effective for AI, as the value (or lack thereof) of certain milestones may only become clear partway through the development process and desired end-states may shift.

### 2AC---Oversight Fails---Cybersecurity

#### Congress can’t keep up in cybersecurity due to political divisions

Marks 21 [Joe Marks writes The Cybersecurity 202 newsletter focused on the policy and politics of cybersecurity. Before joining The Washington Post, Marks covered cybersecurity for Politico and Nextgov, a news site focused on government technology and security. He also covered patent and copyright trends for Bloomberg BNA and federal litigation for Law360 https://www.washingtonpost.com/politics/2021/12/08/congress-cant-even-pass-easy-cyber-stuff/]//LP

Expansive new cyber reporting requirements now appear dead in Congress. Congress has cut requirements for companies to share cyber threat information with the government from its must-pass defense bill, which passed the House last night and is expected to pass the Senate shortly. The failure of such a popular and bipartisan effort – which would have marked the largest expansion of government involvement in private-sector cybersecurity in years – raises questions about whether Congress is up to the task of responding to a wave of ransomware and other attacks that have battered industry in recent years. It would have required companies in critical industry sectors such as energy and transportation to alert the Cybersecurity and Infrastructure Security Agency whenever they’re hacked or hit with other significant cyber incidents. It would have required disclosures from a far broader group of companies if they paid ransoms to hackers. But the measure also looked meager given the hacking threats facing industry. More than 90 percent of cyber experts and current and former officials supported the changes in a recent Cybersecurity 202 poll. The government has already imposed far more stringent cyber requirements on several key industry sectors in just the past few months. “This result is beyond disappointing and undermines national security,” said House Homeland Security Chairman Bennie G. Thompson (D-Miss.) and Rep. Yvette Clarke (D-N.Y.), chair of the committee’s cyber panel and a sponsor of the House version of the bill. Sen. Rick Scott (R-Fla.) wanted to curtail a cyber reporting provision in a major defense policy bill. It ended up getting cut entirely. (Jabin Botsford/The Washington Post) The dispute centered on the ransomware provision, which Sen. Rick Scott (R-Fla.) considered too broad, Senate aides told me. Scott wanted to substitute a provision that would have limited ransomware reports to just critical infrastructure — that’s a group of 16 industry sectors that includes financial services, health care and chemical facilities among others. The fight over the provision lasted so long that by the time they’d reached a compromise, House and Senate negotiators who were putting together the final bill ended up leaving it out entirely, as Tim Starks reports for CyberScoop. The fine print Because of some peculiarities about how the bill came together this year, lawmakers could still try to add amendments in the Senate, including the cyber reporting provisions. But leaders of the House and Senate Armed Services Committees are begging them not to out of fear one or more of those amendments will prevent the bill from passing entirely. If that happens, it would mark the first time in more than five decades Congress has failed to pass the bill, known as the National Defense Authorization Act. Sen. Gary Peters (D-Mich.) championed a cyber reporting provision that got cut from the National Defense Authorization Act. (Jabin Botsford/The Washington Post) The blame game: Thompson and Clarke laid the blame for provision being cut at the feet of Senate Republican leaders as did Senate Homeland Security Chairman Gary Peters (D-Mich.). “I am disappointed Senate Republican leaders blocked these common sense provisions that have broad bipartisan support — including from the bipartisan leaders of the Senate Homeland Security and Intelligence Committees,” Peters said. “Cyberattacks, including ransomware attacks, are one of the greatest threats to our national and economic security.” An aide for Scott told The Hill’s Maggie Miller that Scott was disappointed the full provision got left out of the NDAA and that he’d only wanted to limit its scope. He denied Republicans were to blame.

#### Congressional oversight over cyber fails

Cordero and Thaw 20 [Carrie Cordero and David Thaw; Member of the Homeland Security Advisory Council, CNN legal and national security analyst and professor of law at Georgetown / Professor at the University of Pittsburg in the School of Law with a focus in cybersecurity; “Rebooting Congressional Cybersecurity Oversight”; January 30, 2020; DOA: 6/24/22; <https://www.cnas.org/publications/reports/rebooting-congressional-cybersecurity-oversight>; Lowell-ES]

Currently, existing laws, executive structure, and congressional oversight mechanisms are a mismatch for the nature of the cybersecurity challenges presented by a complex, technologically integrated society. Existing mechanisms for congressional cybersecurity oversight are likewise disjointed and uncoordinated. Unlike in many other policy areas, there is no one clear committee or clear set of committees responsible for cybersecurity issues. These are divided among many committees in both the House of Representatives and the Senate, often along historical lines that may not match current expertise. The Judiciary committees often encounter cybersecurity issues in the context of surveillance, cybercrime enforcement, and privacy issues. The Armed Services committees are called upon to consider cybersecurity issues when evaluating legislation concerning offensive and defensive cyber capabilities, which are part of the government’s response to counter hostile cyber activities by foreign nation-states. The Intelligence committees engage on cybersecurity activities most recently from the perspective of protecting electoral system infrastructure from foreign influence and malign cyber activities related to foreign interference in democratic processes. And the Homeland Security committees are heavily involved in cybersecurity oversight due to the critical cybersecurity functions that DHS provides in securing the federal government’s civilian networks and in coordinating information sharing between government entities and the private sector. The lack of a coordinating function among these committees limits Congress’ ability to obtain a comprehensive picture of the cybersecurity problem, particularly when these committees advance legislation solely from their own jurisdictions.39

To develop a successful cybersecurity approach, Congress must first be able to obtain a comprehensive picture of the problem. This is challenging, and not just because of the lack of committee coordination. The complex nature of the problem itself, previously illustrated, requires gathering information about the interaction of a large set of actors, economic sectors, and government departments. How would increased organized criminal investigative activities impact the incentives of potential nation-state actors? How would the responses by those foreign actors alter the availability of malicious tools and code to third parties targeting private organizations and individuals? How might proposals to legalize “hacking back” affect adversaries’ incentives to engage in false-flag operations? These are complicated questions spanning many different areas yet attempts to address any one area impact nearly all others. This is no easy challenge for Congress, made worse by the fact that it is happening in real time, and pressure to act is growing on executive agencies Congress must oversee.

Since January 2019, in the 116th Congress, there have been at least 13 hearings involving cybersecurity topics. These 13 hearings have been conducted by seven different congressional committees, including three committees in the House of Representatives and four committees in the Senate. From January 2017 to December 2018, in the 115th Congress, there were at least 56 hearings involving cybersecurity topics. These 56 hearings were conducted by 17 different congressional committees, including eight committees in the House of Representatives and seven committees in the Senate. (See Appendix A for a list of these hearings.) Meanwhile, specific members of Congress have launched the Cyberspace Solarium Commission, mandated by the 2019 National Defense Authorization Act and comprised of members from both chambers of Congress, as well as outside experts. The commission is charged with “evaluating divergent approaches to defending the United States in cyberspace and driving consensus toward a comprehensive strategy.”40 The commission’s recommendations for developing this strategy are scheduled to be delivered in a 2020 report.

The lack of committee coordination is only one aspect of the problem, however. There are many different aspects to the cybersecurity problem, most of which are interrelated and equally vulnerable to adversaries who seek to compromise U.S. systems. In other words, attackers don’t care how they get in—only that they do. Their mechanisms do not neatly (or even weakly) follow committee jurisdiction. While the disjointed committee patchwork could be interpreted as an argument for intelligence oversight–style reform of congressional committee structure, this is as deceptively incomplete an answer as is the myth of information sharing or effective increased deterrence through criminal penalty. Because it is precisely the patchwork nature of the problem—which spans questions in national defense, law enforcement, agriculture, energy, transportation, finance, healthcare, manufacturing, consumer protection, and a host of other areas—that makes uncoordinated oversight and legislation challenging at best. At worst, it runs the risk of benefiting adversaries by promoting a false sense of security when problems are addressed in one area at the expense of ignoring another.

#### Cybersecurity Oversight fails

Cordero and Thaw 20 [Carrie Cordero is the Robert M. Gates Senior Fellow and General Counsel at CNAS. Her research and writing interests focus on homeland security and intelligence community oversight, transparency, surveillance, cybersecurity, and related national and homeland security law and policy issues. David Thaw is a professor at the University of Pittsburgh and holds appointments in the School of Law and the School of Computing and Information. He is also an Affiliated Fellow of the Information Society Project at Yale Law School. https://www.jstor.org/stable/pdf/resrep27475.pdf?acceptTC=true&coverpage=false&addFooter=false]//LP

Cybersecurity oversight is due for a reboot. This paper explores the need for refreshed congressional oversight of cybersecurity. After laying out why cybersecurity oversight presents special challenges, this paper suggests that the disparate nature of the cybersecurity policymaking legal framework is mismatched to the nature of the cybersecurity problem, resulting in difficulty legislating in this space. It then provides two key recommendations to guide a congressional cybersecurity oversight reboot. Cybersecurity is a broad challenge spanning many disciplines and industries. This paper argues that the current “patchwork” legal framework is ill suited to address cybersecurity questions either for legislative oversight or effective policymaking. The paper provides an overview of the nature and scope of the cybersecurity problem, with a focus on how the complexity of the field affects congressional oversight activities. Congress has been conducting a substantial amount of oversight in this area in recent years. Those efforts, however, have not yet resulted in legislative actions that have demonstrably improved national cybersecurity. This paper seeks to aid the effort to craft legal authorities that deal with an increasingly complex set of cyberthreats. This short exposition provides a path to rebooting Congress’ approach to cybersecurity oversight in a way that would allow these issues to be addressed more comprehensively. Cybersecurity is a complex, integrated challenge spanning topics as diverse as (but not limited to) international affairs, national security and defense, criminal law, civil liability, data protection, privacy and personal responsibility. Cybersecurity also involves many different actors, ranging from governments to companies to organizations to individuals. And it involves virtually every type of computing and information technology in use today, representing a plethora of technologies far more diverse than the personal computers and servers of yesteryear. Thus, perhaps the greatest challenge of developing a comprehensive cybersecurity governance framework is the fact that it is a highly complex problem, pervasive and interrelated across many aspects of government, the private sector, and society. From a federal government perspective, cybersecurity presents a set of interrelated challenges. Cybersecurity responses to malign cyber activities of hostile nation-states cannot be resolved the same way traditional kinetic defense threats would be handled. For example, cybersecurity cannot just be handed off to one agency, such as the Department of Defense (DoD) or the Department of Homeland Security (DHS). Although those departments play important roles, neither can—as a result of limits on legal authorities and their appropriate roles and responsibilities— address the problem comprehensively. The current “patchwork” legal framework is ill suited to address cybersecurity questions either for legislative oversight or effective policymaking. Most commonly, the term cybersecurity refers to some type of defensive technical security problem. Its meaning varies both descriptively and normatively across industrial sectors, types of actors, and disciplinary backgrounds. In reality, however, cybersecurity problems generally describe only one piece of a complex puzzle. The lack of a framework for defining these issues diminishes the ability of policymakers to create policy that adequately addresses the full spectrum of cybersecurity problems. This spectrum is broad and is not limited to traditional defensive boundaries. It includes strategic and adversarial planning and operations, spanning parties from private sector targets to law enforcement to military operations. In a fully internetworked world of connected appliances, vehicles, Internet of Things devices, and mobile devices, holistic consideration of cybersecurity questions is necessary. This discussion takes an expansive view of the elements that impact “cybersecurity”— ranging from technical aspects of system security to principles of international law in the context of armed conflict. This wide view is unified by the theme of efforts to improve the health of the U.S. information and computing infrastructure as an empirical matter, agnostic of any particular normative policy prescription of consumer protection, economic policy, or related issues. The technological aspects of cybersecurity further complicate this problem in two ways. First, they create a degree of opacity for nontechnologists in understanding key elements of the problem. Second, the highly technical nature of cybersecurity lends itself to the false belief that technical measures can provide complete solutions. Nothing could be further from the truth. Indeed, solutions focusing on technological “silver bullets” often are beneficial to adversaries because of the false sense of security they provide. Many of the most effective methods of “hacking” often rely on human vectors. Just as a technological perimeter is an infeasible system in an interconnected world, a cyber border defended by the Armed Forces is impractical.

### 2AC---Oversight Fails---OCOs

#### Congressional oversight over OCOs legally fails

Lorber 13 [Eric Lorber, Principal, Cyber, Risk & Regulatory; “Executive Warmaking Authority and Offensive Cyber Operations: Can Existing Legislation Successfully Constrain Presidential Power?”; 15 U. Pa. J. Const. L. 961 2013; DOA: 6/24/22; <https://scholarship.law.upenn.edu/jcl/vol15/iss3/6>; Lowell-ES]

The lack of congressional oversight of offensive cyber operations under the Intelligence Authorization Act also likely does not seriously shift the balance between congressional and executive war-making powers. The reason is inherent in the limitations of the legislation itself: the Intelligence Authorization Act specifies reporting requirements, but does not require the non-use or withdrawal of forces.234 Further, these reports must be made in a “timely” fashion (the definition of which is undefined) and only to a small number of Congressmen (at most eight).235 Thus even if the President had to report offensive cyber operations to Congress, it is unclear he would have to do so in a way that gave Congress an effective check, as these reports would be made only to a small group of Congressmen (who would not be able to share the information, because of its classified nature, with other members of the legislature) and could be done well after the employment of these capabilities. The resulting picture is one of increased presidential flexibility; the War Powers Resolution and the Intelligence Authorization Act—while arguably ineffective in many circumstances—provide increased congressional oversight of presidential war-making actions such as troop deployments and covert actions. Yet these statutes do not cover offensive cyber operations, giving the President an increasingly powerful foreign policy tool outside congressional reach.

### 2AC---Oversight Fails---Polarization

#### A polarized congress fails to successfully limit the power of the president

Devins 09 [Neal Devins is a Goodrich Professor of Law and Professor of Government, College of William and Mary. “Presidential Unilateralism and Political Polarization: Why Today's Congress Lacks the Will and the Way to Stop” Willamette Law Review 45 https://heinonline-org.proxy.lib.umich.edu/HOL/Page?collection=usjournals&handle=hein.journals/willr45&id=402&men\_tab=srchresults]//LP

Finally and, for my purposes, most significant, party polarization contributes to the rise of presidential unilateralism. When the Congress is polarized, members of the President's party are not likely to break ranks and vote to limit presidential initiatives. When government is unified, this means that no bill will get through Congress to limit presidential initiatives. When Congress is divided, members of the President's party will resist any opposition party efforts to repudiate the President. More than that, since divided government is increasingly common (thirty of the past forty years), it is also increasingly difficult for Congress to enact significant legislation. As such, Presidents have even more incentive to act unilaterally-since they cannot get Congress to enact their legislative agenda Consider, for example, Bill Clinton's health care reforms and George W. Bush's faith-based initiatives. In both instances, the President went to Congress seeking legislative authorization for his policy agenda. In both cases, Congress did not bite, leaving it to the President either to abandon his policy initiative or pursue his initiative through unilateral action. Clinton did so by issuing several directives that, among other things, "established a patient's bill of rights for federal employees . . . and set penalties for companies that deny health coverage to the poor and people with pre-existing medical conditions."51 Bush likewise acted unilaterally, establishing the White House Office of Faith Based Initiatives and ordering an audit of government agencies to make sure that their practices did not improperly discourage or forbid faith-based organizations.5 2 Political polarization, moreover, encourages Presidents to act unilaterally and take greater control of the administrative state. Specifically, with political polarization and divided government shifting the locus of government policymaking away from lawmaking and towards executive and administrative action, Presidents (beginning with Ronald Reagan) have used the Office of Management and Budget to review agency policymaking.53 Likewise, in an effort to ensure that agency policymaking conforms to the President's policy agenda, Presidents (again beginning with Ronald Reagan) have made use of signing statements and pre-regulatory directives.54 Finally, Presidents have used their appointments power to ensure agency loyalty to the President's agenda.55 More than any President before him, George W. Bush pushed the boundaries of presidential unilateralism. "What almost no one disputes," wrote Adam Liptak in The New York Times, "is that a central legacy of the Bush presidency will be its distinctively muscular vision of executive power." 56 The architect of this campaign was Vice President Dick Cheney. 7 A witness to Watergate and its aftermath, Cheney helped staff the "White House with conservative veterans of the 1970s and 1980s who believed that" the President should push his agenda "without having to compromise" and that Watergate-era reforms had wrongly "emasculated the presidency."'5 8 More to the point, just as the Nixon administration pushed the boundaries of executive power, the Bush administration extended the efforts of Ronald Reagan and Bill Clinton to assert broad inherent power over national security, to make use of executive orders to unilaterally advance policy objectives, and to centralize presidential control of the administrative state. To cite a few well known examples: the assertion of the power to indefinitely detain so-called enemy combatants, the establishment of a military tribunal system without formal congressional approval, the warrantless wiretapping of U.S. citizens, the robust use of executive privilege, and the expansive use of presidential signing statements to direct agency policymaking-including agency non-enforcement of laws that the President deems unconstitutional.

### 1AR---Uniqueness

#### The Congressional Oversight system is failing now

Foster 20 [Jason Foster served as counsel to four congressional committees in the U.S. House and Senate, where he directed fact-finding inquiries to inform their oversight and legislative functions. He draws on his decades of experience navigating a broad array of high-profile disputes to help clients develop strategic research and intelligence useful in tackling legal, regulatory, and public affairs challenges. https://thefederalist.com/2020/08/15/congressional-oversight-is-broken-heres-how-to-fix-it/]//LP

The interview was a rough listen: two political allies frustrated with each other and with the reality that accountability in Washington, D.C., is hard. Hugh Hewitt seemed to think that a subpoena from Chairman Ron Johnson’s committee to James Comey would force the former FBI Director to confess his role in an attempted coup on President Donald Trump—if Johnson only had the guts to issue it. Johnson seemed to think that he was powerless to force more transparency on the issues that concern Hewitt and his conservative radio audience. Both are mistaken. Similar conversations are often heard on the other side of the political spectrum too, as the base of each party demands that the subject of the latest outrage be “hauled” up to Capitol Hill and “grilled” under the TV lights. Except that almost never works. From Ollie North 33 years ago to Bill Barr three weeks ago, it hardly ever goes well for the committee or satisfies the base voters hungry for red meat. Sally Yates versus Lindsey Graham is another recent example. This model of congressional hearing—confronting a lone hostile witness—has an awful track record. It should be obvious why. Who’s going to do most of the talking? The witness chews up most of the clock arguing with the premise of hostile questions from one side of the aisle and fielding soft balls from allies on the other. By contrast, in a well-designed hearing, a majority of the witnesses testify to facts that the majority of the committee wants to highlight. At its best, a congressional hearing tells a story with friendly witnesses. Victims and whistleblowers should outnumber villains. And a credible, neutral figure, like an inspector general or subject matter expert, can refute any disingenuous political spin. But even a well-designed hearing is a bad way to gather facts. That’s not its purpose. The hearing comes after doing the hard work behind the scenes. That means first scouring reams of documents and questioning key witnesses with trained, professional interrogators who don’t need to play to the cameras for sound bites. It’s not sexy, but it’s effective. Unfortunately, too many judge the success of oversight by the amount of press coverage rather than the facts uncovered. The media and Members alike prefer the dopamine of the confrontation over data. These one-witness show trials, where politicians grandstand and berate a single “target” witness simply don’t work, no matter how much people might want them for the entertainment value or how much a chairman might fancy himself as Perry Mason. If Senator Johnson could subpoena James Comey to appear on Hugh Hewitt’s radio program, it would be quite a show even though we probably wouldn’t learn much. Comey has already testified multiple times on Trump-Russia issues. Of course, Hugh Hewitt doesn’t have to yield half of his time to adversaries like Kamala Harris on the other side. Senator Johnson does. Outside critics like Hewitt are right to be frustrated with how ineffective congressional oversight has become. However, they need to understand the process, study the procedural limitations that committee chairmen face, and work constructively to support reforms that could make a real difference. Sometimes the problem is lack of guts, but more often, it’s a lack of experience, procedural tools, and the expertise to use them. A subpoena is not a magic bullet. In the modern era, Congress has essentially forgotten how to enforce them. It abandoned the historical practice of using its inherent constitutional authority to impose consequences directly on witnesses who are in contempt. Now, it turns to the Executive or Judicial Branches for help rather than standing up for itself and the people it’s elected to represent. Reclaiming the Legislative Branch’s proper role as the First Branch of government would mean re-learning the full scope of its own authorities and summoning the political will to use them. It would mean allocating resources to recruit and retain more senior, more experienced staff—or failing that, contracting with top-notch outside professionals to help do battle with the legal talent arrayed against it. The most effective practitioners of legislative oversight have been long-serving, career legislators—like John Dingell and my former boss, Chuck Grassley—who stay close to their constituents back home while devoting significant time and staff resources to the job of acting as a check and balance on the Executive Branch. Too few aspire to be like Dingell and Grassley. Too many Members and staff see their time on Capitol Hill as just a stepping stone to something bigger and better, and it shows. Rather than just cursing the problem, critics could help by focusing on solutions. There are organizations working to strengthen the Legislative Branch to serve the people it represents more effectively. If you are concerned about countering the permanent, unelected bureaucracy in Washington, then you should join them in working for a stronger, more competent Congress.

#### Post-Watergate President have recognized the importance of congressional oversight

Bies 19 [John E. Bies is Chief Counsel at American Oversight, a non-profit focused on government accountability. He served for eight years in the Obama administration at the Department of Justice, first as Counselor to Attorney General Eric Holder and then spending seven years as a Deputy Assistant Attorney General in the Office of Legal Counsel where he advised White House and executive branch officials on FOIA, Congressional oversight, executive privilege, ethics, separation of powers, and other constitutional, statutory, and administrative law issues. https://www.lawfareblog.com/constitutional-hardball-and-congresss-oversight-authority]//LP

At least since Watergate, if not for longer, the executive branch has recognized the important role congressional oversight plays in the constitutional system and has understood itself to have a constitutional obligation to accommodate legitimate oversight requests from Congress. This long-standing executive branch perspective is embodied in a 1982 memorandum to all agency heads regarding how to respond to congressional requests, often referred to as the Reagan memo. This memorandum, which remains in force, explicitly states that it is executive branch policy “to comply with congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the Executive Branch.” While the Reagan memo recognizes there may be times when it is necessary to withhold information to protect important executive branch confidentiality interests, it emphasizes the expectation that such impasses should be rare and limited to “compelling circumstances.” Instead, the Reagan memo underscores the importance of engaging in a good faith negotiation to accommodate the interests of both branches: “Historically, good faith negotiations between Congress and the Executive Branch have minimized the need for invoking executive privilege, and this tradition of accommodation should continue as the primary means of resolving conflicts between the Branches.” This process of good faith negotiation has become known as the accommodation process. To be sure, in nearly every administration since the Reagan memo, there have been a handful of contentious issues where a dispute between Congress and the executive branch regarding access to executive branch information reached a high-profile impasse. These instances of interbranch conflict have been controversial matters that garnered significant media coverage and public interest. But the salience of these occasional instances of conflict should not obscure the extent to which the branches have been able to resolve the vast majority of disputes through good faith engagement in the accommodation process. Every year Congress issues hundreds if not thousands of oversight requests to the White House and executive branch agencies. Yet the number of disputes that reach the level of public consciousness in a presidential term can usually be counted on one hand. This is because in most oversight matters, the branches reach a reasonable accommodation, which often includes some disclosure of agency information arguably subject to a potential executive privilege claim, and thus avoid impasse and escalation. This approach to accommodation is not driven just by policy but also by recognition of a constitutional obligation to seek such reasonable accommodations. The U.S. Court of Appeals for the D.C. Circuit has explained this constitutional mandate in a manner worth quoting at length in light of present circumstances: The framers ... expect[ed] that where conflicts in scope of authority arose between the coordinate branches, a spirit of dynamic compromise would promote the resolution of the dispute in the manner most likely to result in efficient and effective functioning of our governmental system. Under this view, the coordinate branches do not exist in an exclusively adversarial relationship to one another when a conflict in authority arises. Rather, each branch should take cognizance of an implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular fact situation. \* \* \* [Because] it was a deliberate feature of the constitutional scheme to leave the allocation of powers unclear in certain situations, the resolution of conflict between the coordinate branches in these situations must be regarded as an opportunity for a constructive modus vivendi, which positively promotes the functioning of our system. The Constitution contemplates such accommodation. Negotiation between the two branches should thus be viewed as a dynamic process affirmatively furthering the constitutional scheme. In 1981, Reagan’s attorney general described the essence of this process: “The accommodation required is not simply an exchange of concessions or a test of political strength. It is an obligation of each branch to make a principled effort to acknowledge, and if possible to meet, the legitimate needs of the other branch.” There are important ramifications of recognizing a constitutionally based obligation to engage in a serious and good faith effort to reach a reasonable accommodation when there is a disagreement between the branches. Every executive branch official swears an oath to uphold the Constitution upon taking office, and this commitment should be understood to include the constitutional mandate to engage in good faith to seek reasonable accommodations.

### 1AR---Ukraine Thumper

#### Ukraine spending destroys oversight now

Harrigan 6/16 [https://reason.com/2022/06/16/the-u-s-is-spending-130-million-a-day-on-military-aid-for-ukraine-without-meaningful-congressional-oversight/]//LP

Yesterday the Biden administration announced that it would send an additional $1 billion in military aid to Ukraine as the country continues to combat invading Russian forces. The new aid package comes on the heels of The Wall Street Journal reporting earlier this week that the U.S. is now "sending roughly $130 million a day in military aid to Ukraine plus economic and other assistance." American financial support for Ukraine has largely been uncontroversial in Congress. Lawmakers approved a $40 billion aid package in May, adding billions of dollars to the money President Joe Biden originally requested. "The leaders of both parties raised few questions about how much money was being spent or what it would be used for," wrote The New York Times. Just 11 senators voted against the bill's passage as it breezed through Congress. One of them, Sen. Rand Paul (R–Ky.), drew criticism from both parties for delaying Senate approval of the $40 billion package after expressing concern that Congress was "trying yet again to ram through a spending bill" and had failed to outline oversight mechanisms. Paul unsuccessfully sought to add language to the bill appointing an inspector general to supervise the spending. Meanwhile, Senate Minority Leader Mitch McConnell (R–Ky.) emphasized the need to get help to Ukraine "right now," and Senate Majority Leader Chuck Schumer (D–N.Y.) charged that Paul "doesn't want to aid Ukraine." Unfortunately, those arguments are helping lawmakers avoid important debates about the amount and nature of aid the U.S. is sending to Ukraine, as well as the potential for future misuse as billions of fast-passed dollars flood into a war zone without proper oversight. American politicians have chosen a risky course of action and are neglecting to realistically discuss the U.S. role in this conflict. American officials told The Wall Street Journal that they have "little direct knowledge" of where equipment goes once it reaches the Ukrainian government. One military aid component of the May package, totaling $6 billion, is a transfer account that Congress doesn't have strong control over. "The statutory language requires that [the Department of Defense] report to Congress 15 days before any transfers occur," explains the Center for Strategic International Studies. "Congress could block such transfers, but that is difficult to do politically and procedurally." Oversight experts warn that issues surrounding transfers are inevitable. "Even if it's a noble cause, there's going to be theft. There's going to be misconduct," warned Special Inspector General for Afghanistan Reconstruction John Sopko, whose office has uncovered rampant misuse of U.S. funds that took place during nation-building efforts in Afghanistan. "If there's one thing we learned from Afghanistan, you've got to have oversight in the beginning." Many components of the May package and other aid installments deserve more scrutiny from lawmakers than they have received. Not-insignificant chunks of money are going toward countering "Russian disinformation and propaganda narratives," bolstering the Department of Justice's "efforts to pursue high value asset seizures from sanctioned individuals," paying the salaries of Ukrainian government officials, and prepping munitions for military skirmishes that aren't related to the conflict in Ukraine. In rushing the passage of aid, Congress has neglected to debate whether these are appropriate spending priorities for the U.S.—especially, as Paul notes, when the American economy is already in such bad shape. And there's a deeper, more conflict-relevant concern at hand. The end goals for U.S. assistance are still murky, even as American politicians repeat their opposition to Russian aggression and support for Ukraine regaining its territory and sovereignty. Rajan Menon, director of the Grand Strategy program at Defense Priorities and a professor at the City College of New York, argues that the U.S. must determine what its precise aims are in order to shape responsible policy. Without establishing clear objectives, politicians can shift the goal posts and more easily justify staying involved. Menon asks, for instance, whether the eventual goal is to restore Ukrainian borders to their pre-2022 state or if it's to reclaim Crimea. "The latter is…ambitious, it's far more dangerous, and it will make the war even longer than [it] otherwise will be," Menon explains. "To say…this is all up to Ukraine to decide is to overlook the fact that we are its principal arms supplier and therefore are deeply implicated in this war. Kyiv is certainly entitled to make its choices but that doesn't release us from the obligation to make our one." In eschewing proper debate over military aid to Ukraine, American lawmakers are opting out of an uncomfortable—but necessary—conversation. "If we ramp up arms supplies to Ukraine, which is already urgently calling for more, we should take into account that Russia may at some point treat us as a co-belligerent," Menon points out. "Simply assuming that that would be a bridge too far for them would be a mistake." U.S. politicians need to discuss the line not to be crossed before America is effectively acting as a co-combatant rather than allowing Russia to make that determination itself. Providing military aid to Ukraine strikes many Americans as the right move. It might seem like the best available option, given that alternatives include putting American boots on the ground or securing a no-fly zone over Ukrainian airspace—both of which would prove disastrous. But those impulses don't relieve U.S. lawmakers of their responsibility to ensure aid is being directed toward appropriate uses and being used properly. To willingly avoid those discussions all but ensures that the war in Ukraine will be another conflict involving fiscal irresponsibility on America's part.

#### Ukraine spending is being done with zero oversight

Brian 5/13 [Danielle Brian is the executive director of the Project On Government Oversight, a nonprofit watchdog that investigates and exposes waste, corruption and abuse of power. https://thehill.com/opinion/finance/3487430-theres-no-oversight-of-billions-in-ukraine-aid-we-need-an-inspector-general/]//LP

As the Senate works to pass the almost $40 billion in emergency supplemental funds for Ukraine just passed by the House, leaders in Washington must also ensure proper oversight of this spending. They can and must do both quickly. The Biden administration and Senate must also prioritize installing permanent inspectors general to government agencies so they can monitor aid to Ukraine. These independent watchdogs can ensure that taxpayer money is not siphoned off by fraudsters or war profiteers and that weapons remain in the hands of the Ukrainian military. The simplest route would be to install permanent inspectors general at existing offices tasked with doling out the aid and ensure those offices have the resources they need to oversee surge funding like this. The Pentagon and State Department, the two agencies overseeing the bulk of spending for Ukraine assistance, are both missing permanent internal watchdogs — and the Pentagon has been missing one for over six years The need for effective inspectors general is already apparent given the level and nature of U.S. assistance committed to Ukraine. The speed at which the U.S. has transferred this defense material to the country presents real oversight challenges in terms of both spending and monitoring its use. Oversight and monitoring of arms transfers are generally difficult in the first place, but without U.S. personnel on the ground in Ukraine, something we do not advocate for, it’s even more challenging to monitor whether U.S. arms are staying in the hands of the Ukrainian military. The State and Defense Departments desperately need internal watchdogs to prevent, detect and investigate abuse of funds as well as ineffective or insufficient tracking of weapons by the agencies’ respective monitoring programs.

### 1AR---No Link

#### The DoS oversees the plan.

Bushley 17 [U.S. Army Capt. Adam Bushley, Rule of Law attorney for Task Force Wolverine, 86th Infantry Brigade Combat Team; "Governance: The Missing Ingredient in Security Cooperation"; U.S. Army Command and General Staff College; Published: 2017; Accessed: 6-18-2022; https://apps.dtic.mil/sti/pdfs/AD1038564.pdf; KL]

DOS has long had oversight over SC/SA programs in order to define, synchronize, and deconflict U.S. strategic objectives. This is because Congress has consistently authorized, expected, and in many cases, mandated DOS to provide this oversight role.

There is an overlap between DOS and DOD when it comes to arms trades, training, and military alliances. Former Secretary of Defense Robert Gates helped popularize the term “shared responsibility” regarding SC/SA as it refers to the joint responsibility between DOD and DOS in supporting U.S. foreign SC/SA programs, relationships overseas, and national security interests.89 According to ADP 1, the DOD’s role is to deter enemies, counter threats, and fight and win the nation’s wars. The DOS is responsible for foreign policy and U.S. diplomatic relations. DOS’s role in the shared responsibility of SC/SA programs is to calculate and measure associated trade-offs between short-term limited scope program objectives and long-term national interests. Some have described DOS as having veto power over some DOD developed plans, even when they are DOD directed authorities. 90

Again, Secretary Gates’s shared responsibility concept is not new. While the legal framework for SC/SA programs has evolved over time, the general roles of responsibility in which DOD implements and administers the security programs, while DOS performs the key oversight functions, has stayed constant. For the fifteen years following WWII, the U.S. Government followed the principle that military assistance necessitated “civilian leadership, influence, and oversight” over military assistance programs under the Mutual Defense Assistance Act (1949). 91

#### The 2017 NDAA solves oversight.

Anderson and Dalton 19 [Dr. James Anderson, Assistant Secretary of Defense for Strategy, Plans and Capabilities. Prior to his current appointment in the Department of Defense, Dr. Anderson served for three years as the vice president for academic affairs at the Marine Corps University. His previous positions include dean of Academics and deputy director at the Marine Corps War College, director of the program in Advanced Security Studies at the George C. Marshall Center for European Security Studies, and director of Middle East policy in the International Security Affairs Office of the Secretary of Defense. Dr. Anderson earned his doctorate in international relations and master of arts in law and diplomacy from the Fletcher School at Tufts University; Melissa Dalton, the Cooperative Defense Project at the Center for Strategic and International Studies; "Shifting the Burden Responsibly: Oversight and Accountability in U.S. Security Sector Assistance"; Center for Strategic and International Studies (CSIS); Published: 4-25-2019; Accessed: 6-25-2022; https://www.csis.org/analysis/shifting-burden-responsibly-oversight-and-accountability-us-security-sector-assistance-0; KL]

Security cooperation is often behind the news we read at night but rarely the frontline story. Luckily we’re also blessed with another influential group that cares deeply about security cooperation – the Congress. In FY ’17 Congress undertook the largest, most sweeping, and most substantial reforms to security cooperation in our nation’s history. The FY ’17 NDAA consolidated dozens of authorities into a narrow band of activities in Chapter 16. It set up requirements for human rights vetting, institutional capacity building, and assessment monitoring and evaluation.

With lots of work in the trenches by both DOD and Congress, this all hit at once, and it was welcome. Implementing an ambitious vision remains a challenge, particularly for those activities that were funded out of service accounts or regional initiatives. Many security cooperation activities were not being looked at holistically across the spectrum. Programs were siloed and oversight sometimes limited.

Congress believed that the entire system needed oversight from a single executor with visibility across all the authorities and all the different pots of money. This is how we got the Title 10, Chapter 16, Section 382 in the U.S. Code. The notion that the secretary’s designee, the undersecretary of defense for policy – my immediate boss – shall have, quote, “the responsibility for the oversight of strategic policy guidance and the responsibility of overall resource allocation for security cooperation programs and activities of the Department of Defense.” End quote.

This is where we are trying to go with security cooperation: a holistic DOD-wide enterprise with visibility across the spectrum of security cooperation activities, administered with policy oversight, and aligned tightly to strategy.

How we define security cooperation is changing as well. At one point security cooperation meant – basically meant train and equip programs. We’re moving away from that. Security cooperation enterprise now encompasses everything from equipment, to training, to conventional arms sales, to exercises with both high-end and developing partners.

Meanwhile, we are prioritizing interoperability and making arms sales quicker and more efficient. In the last 10 years the department has reduced the average time to process foreign military sales by 30 percent. And I know our colleagues at DSCA are working hard to streamline things even more.

We are also trying to move off of year-to-year planning. My office has been involved in a push over the last two years to align security cooperation planning with planning, programming, budgeting, and execution cycle as well as the global force management cycle, planning two years out from the current fiscal year.

Further, we are trying to look at security cooperation programs as more life-cycle events, planning five years out from conception, evaluating them annually, and ensuring that security cooperation activities are built with specific achievable, measurable objectives in mind. We’re also looking at how to make our investments sustainable and effective. A big part of this revolves around institutional capacity building using our experience as a department to help partners develop their defense ministry apparatus. We are still working on the best ways to do this, but this is critical to our mission. Merely transferring equipment or providing training is insufficient if the partner military lacks the professional and bureaucratic apparatus to effectively absorb and employ their capabilities.

One tool that has helped us cover down and provide engagement in this field has been our regional centers. We have five of them. The George C. Marshall Center in Germany is just one example. Last week they held an important and timely conference on Ukrainian defense reform efforts. Engagements such as these are valuable, and they’re not very expensive. The regional centers provide an excellent example of how small investments can yield high returns over time.

The state partnership program has also proved a cost-effective, small-footprint tool for supporting security cooperation goals of the geographic combatant commands and our diplomatic community. Over the last 24 years, we have established 73 partnerships with 79 countries across all six geographic commands. These partnerships have brought diplomatic and military engagement via the national guard elements resulting in individual, professional, and institutional contacts and relationships, enhancing influence and trust on a worldwide basis.