### ADV 1: Democratic Deliberation

#### Today’s security apparatus views the public as incapable of making decisions about self-defense. This has created a legitimacy deficit that prevents public from calling for transparency or challenging executive security decisions.

Rana 12 Aziz Assistant Professor of Law, Cornell University Law School; A.B., Harvard College; J.D., Yale Law School; PhD., Harvard University. Connecticut Law Review July, 2012 44 Conn. L. Rev. 1417 COMMENTARY: NATIONAL SECURITY: LEAD ARTICLE: Who Decides on Security?, lexis

Despite over six decades of reform initiatives, the overwhelming drift of security arrangements in

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and then to watch those branches delegate such power back to the executive.

#### The executive’s use of the state secrets privilege assumes judges don’t have the expertise to decide issues of national security.

Chehab 11 Ahmad Georgetown University Law Center Spring, 2011 Wayne Law Review 57 Wayne L. Rev. 335 THE BUSH AND OBAMA ADMINISTRATIONS' INVOCATION OF THE STATE SECRET PRIVILEGE IN NATIONAL SECURITY LITIGATION: A PROPOSAL FOR ROBUST JUDICIAL REVIEW, lexis

Part IV proposes several possible methods of examining the reliability and merit of SSP usage

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some sort of concrete damage toward a particular litigant or class of litigants.

#### A vibrant public sphere is ONLY WAY to check gross forms of national security utilitarianism

Williams 8 \*Daniel R, Associate Professor of Law, Northeastern University School of Law.

Penn State Law Review, Summer, 113 Penn St. L. Rev. 55

The classic Frankfurt School diagnosis of American culture is grim and pessimistic. Jurgen Habermas

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Habermas regard "the public sphere as the definitive institution of democracy." 164

#### Self-imposed exile and fear of the public sphere is pushing us to the brink of annihilation

Williams 8 \*Daniel R, Associate Professor of Law, Northeastern University School of Law.

Penn State Law Review, Summer, 113 Penn St. L. Rev. 55

B. The Underbelly of the Enlightenment Heritage - the Weberian Nightmare What has heretofore

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upon which those slaughtered cultures built their now-defunct way of life.

#### We need a sustained public debate about the validity of secrecy to challenge the assumptions about security decisions and expertise.

Rana 12 Aziz Assistant Professor of Law, Cornell University Law School; A.B., Harvard College; J.D., Yale Law School; PhD., Harvard University. Connecticut Law Review July, 2012 44 Conn. L. Rev. 1417 COMMENTARY: NATIONAL SECURITY: LEAD ARTICLE: Who Decides on Security?, lexis

If the objective sociological claims at the center of the modern security concept are themselves

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, we can expect our prevailing security arrangements to become ever more entrenched.

#### Public debate is key to transform political culture.

Giroux 13 Henry A. | currently holds the Global TV Network Chair Professorship at McMaster University in the English and Cultural Studies Department and a Distinguished Visiting Professorship at Ryerson University. The Shooting Gallery: Obama and the Vanishing Point of Democracy, *Truthout*, 2-12

At a time in history when American society is overtly subject to the quasi militarization

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are now in the shooting gallery and we are all potentially the targets.

### ADV 2: Targeted Killing

#### Public debate about drone policy is on the rise. Obama’s latest attempts at transparency are REACTIONS to the public debate. The administration is on the defensive and looking for ways to justify its policies

Herb and Sink 13 Jeremy Herb and Justin Sink 03/08/13 (The Hill, Obama Faces Turning Point on Drone Policy)

The public address by Obama highlights the administration’s understanding that it needs to give a

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needs to be heard. And Rand Paul made it heard last night.”

#### Obama proposed a drone court to Congress to increase transparency.

The Guardian 13 “Obama drone oversight proposal prompts concern over 'kill courts'” May 24 http://www.theguardian.com/world/2013/may/24/obama-drone-vetting-kill-courts

Proposals to vet future US drone strikes risk creating "kill courts" according to

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

#### Ex Ante review would provide a veil of legitimacy while rubber-stamping the administration’s expansion of its campaign of global terror

Vladeck 13 Steve Vladeck 02/10/13 (Professor of Law and the Associate Dean for Scholarship at American University Washington College of Law. His teaching and research focus on federal jurisdiction, constitutional law, national security law, and international criminal law. “Why a “Drone Court” Won’t Work–But (Nominal) Damages Might...”, LawFare, from a conference hosted by Columbia Law School on targeted killings.)

That brings me to perhaps the biggest problem we should all have with a “

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and practically possible, a drone court would be a very dangerous idea.

#### Drone strikes cause thousands of civilian deaths and do psychological violence to those who must constantly live with the threat of a strike.

Stanford Human Rights Clinic 12 “Living Under Drones Death, Injury, and Trauma to Civilians From US Drone Practices in Pakistan” Stanford International Human Rights and Conflict Resolution Clinic (IHRCRC) and Global Justice Clinic (GJC) at NYU School of Law September http://livingunderdrones.org/wp-content/uploads/2012/10/Stanford-NYU-LIVING-UNDER-DRONES.pdf

First, while civilian casualties are rarely acknowledged by the US government, there is

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loved ones or their homes in drone strikes now struggle to support themselves.

### Plan

#### The United States Congress should create a statutory cause of action for damages for those unlawfully injured by targeted killing operations or their heirs that overrides the state secrets and official immunity doctrine and replaces them with carefully considered procedures for balancing the secrecy concerns.

### Solvency

#### The plan overcomes current legal barriers to judicial review.

Vladeck 13 Steve Vladeck 02/10/13 (Professor of Law and the Associate Dean for Scholarship at American University Washington College of Law. His teaching and research focus on federal jurisdiction, constitutional law, national security law, and international criminal law. “Why a “Drone Court” Won’t Work–But (Nominal) Damages Might...”, LawFare, from a conference hosted by Columbia Law School on targeted killings.)

At first blush, it may seem like many of these issues would be equally

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not most–of these cases, these legal issues would be overcome.

#### Law suits are a visible platform to spur public debates about human rights and generate media attention about executive secrecy.

Wexler 13 Lesley Wexler Professor of Law and Thomas A. Mengler Faculty Scholar, University of Illinois College of Law “The Role of the Judicial Branch during the Long War: Drone Courts, Damage Suits, and FOIA Requests” May 8 http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2262412

This chapter suggests the judiciary may play an important role in the debate over the

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Even the threat of such a judicial role may influence executive branch behavior.

#### Mobilizing civil society organizations is the most effective way to retrain executive power.

Cole 11 David, Professor, Georgetown University Law Center. Where Liberty Lies: Civil Society and Individual Rights After 9/11 Wayne Law Review, Winter, 57 Wayne L. Rev. 1203, lexis

The force of ordinary electoral politics also cannot account for the shift in U.

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law will have substantial deterrent effect, with or without actual court decisions.

#### The aff advances a broader movement for more transparency and public accountability in war-making- we need to bring the debate to the public

Wexler 13 Lesley Wexler Professor of Law and Thomas A. Mengler Faculty Scholar, University of Illinois College of Law “The Role of the Judicial Branch during the Long War: Drone Courts, Damage Suits, and FOIA Requests” May 8 http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2262412

When the executive branch began deploying drones to engage in targeted killings, the public

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this area and the future prospect for such rulings seem quite dim.166

#### Courts are rallying point

Cole 11 David, Professor, Georgetown University Law Center. Where Liberty Lies: Civil Society and Individual Rights After 9/11 Wayne Law Review, Winter, 57 Wayne L. Rev. 1203, lexis

Learned Hand's assertion that as long as "liberty lies in the hearts of men

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can and often do enforce constitutional rights where the political branches would not.

#### Bivens innovations spillover – executives will try to demonstrate that they’re making improvements in other areas

Margulies 10 \* Peter, Professor of Law, Roger Williams University. Judging Myopia in Hindsight: Bivens Actions, National Security Decisions, and the Rule of Law, 96 IOWA L. REV. 195

A carefully crafted damages remedy restrains official myopia and thereby curbs this counterproductive cycle.

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policy that Justice Kennedy identified in Boumediene as a central threat to constitutionalism.

#### Civil society organizations write the dominant narrative that influences court and executive decision

Cole 11 David, Professor, Georgetown University Law Center. Where Liberty Lies: Civil Society and Individual Rights After 9/11 Wayne Law Review, Winter, 57 Wayne L. Rev. 1203, lexis

Like the popular constitutionalists, Joseph Margulies and Hope Metcalf criticize post-9/

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and sustaining that culture, and to invoking it in times of crisis.

#### Probability should be evaluated before magnitude- each internal link makes their scenario less likely.

Rescher in 83, Prof. of Philosophy Nicholas Rescher, University of Pittsburgh Professor of Philosophy, “Risk: A Philosophical Introduction to the Theory of Risk Evaluation and Management” 1983

On this issue there is a systemic disagreement between pro- babilists working in mathematics

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. Probabilities below the     threshold are treated as though they were zero.'3

#### People have a cognitive bias against high probability-low magnitude impacts. You should undervalue their DAs – the longer the chain of events the less likely the scenario

Yudkowsky 6 [Eliezer, 8/31/2006. Singularity Institute for Artificial Intelligence Palo Alto, CA. “Cognitive biases potentially affecting judgment of global risks, Forthcoming in Global Catastrophic Risks, eds. Nick Bostrom and Milan Cirkovic,[singinst.org/upload/cognitive-biases.pdf](http://singinst.org/upload/cognitive-biases.pdf%22%20%5Ct%20%22_blank).

4. The Conjunction Fallacy Linda is 31 years old, single, outspoken,

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a futurist, disjunctions make for an awkward and unpoetic-sounding prophecy.

#### Courts are critical to de-normalize the Jack Bauer syndrome

Delmas 6, Candice, Pf Philosophy, Georgia State University, "Liberalism and the Worst-Result Principle: Preventing Tyranny, Protecting Civil Liberty" Philosophy Theses. Paper 14.

If Endo can be seen as typical of effective judicial review, Hirabayashi and Korematsu

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court is a central element in the liberal project of safeguarding civil liberty.