## Navy

**The aircraft carrier industry will collapse now and drag the navy down with it – budget cuts, cost-overruns, and reach of CVW**

**Goure 13** - vice president at the Lexington Institute in Arlington, Virginia, where he specializes in national security <Daniel. “Drones to The Rescue!” September 2013. <http://www.usni.org/magazines/proceedings/2013-09/drones-rescue>>

The issue is important because, as anyone who has been following the recent budgetary developments in Washington knows, the future of the carrier is under increasing stress. Critics have contended that the Navy’s longstanding strategy of building the Fleet around a core of 11 nuclear aircraft carriers is becoming too expensive, and that the concept has been unable to keep pace with the rapidly growing array of threats from potential adversaries. And with the retirement of aging aircraft systems such as the A-6 and the S-3, some say the overall striking power of the carrier air wing has declined.Indeed, Secretary of Defense Chuck Hagel disclosed on 31 July that one of the largest potential spending cuts that a “strategic choices and management review” panel suggested earlier this year was to reduce the number of carrier strike groups from the current 11 to a new level of only eight or nine. “The basic tradeoff is between capacity . . . and our ability to modernize weapons systems and to maintain our military’s technological edge,” the secretary said. It’s here that the X-47B’s mid-July milestone was especially significant. The drone was developed as part of the Navy’s effort to design and test a UAV-centered unmanned combat air system. During the week that the Bush demonstration was being conducted, the Navy invited four defense contractors to submit preliminary design studies for an unmanned carrier-launched airborne surveillance and strike system, known as UCLASS. The Navy’s hope is to conduct an open competition in Fiscal Year 2014 that will result in the deployment of an operational system by FY 20.¶ The key performance parameters set out in the Navy’s invitation answered several lingering questions about the operational concept for UCLASS. The system’s primary role will be to conduct long-distance intelligence-gathering, surveillance, and reconnaissance (ISR), and to improve targeting. According to published documents, the UCLASS system must be able to conduct two unrefueled orbits at 600 nautical miles or one unrefueled orbit at 1,200 nautical miles. In lightly contested environments, it must be able to conduct strike missions out to 2,000 nautical miles. The drone must be able to lift a 3,000-pound payload, made up primarily of sensors but including 1,000 pounds of air-to-surface weapons such as the 500-pound Joint Direct Attack Munitions (JDAMS) and the Small Diameter Bomb II. Even with such capabilities, contractors will have to keep the price-tag for UCLASS under $150 million, not including items such as sensor packages, weapons, spare parts, and training.¶ The modest performance parameters indicate that, despite the potential, once the UCLASS system gets off the ground, the Navy will take a cautious, step-by-step approach. The focus on the ISR and light-attack missions means that UCLASS drones do not require high speed, extreme agility, or even stealth features. This, in turn, will simplify design and production and, in a time of growing austerity, reduce cost. Just as important, the UCLASS will fill a significant void in carrier-based long-endurance/long-distance ISR, essentially doubling the duration of these operations. The limited air-to-ground capability envisioned for the UCLASS drone means that it will supplement—but not replace—the primary strike force of the carrier air wing, the F/A-18 E/F (and soon the F-35C as well).¶ As currently envisioned, the new system will be only a small step toward defining the carrier air wing of the future. But if it succeeds and is expanded, UCLASS—and the systems that follow it—could prove to be important elements in the debate over future missions for the modern aircraft carrier and how many CVNs to retain in the Fleet.¶ It’s been a long time since there was a serious discussion about the future of the aircraft carrier. Yet, with growing frequency and intensity, Navy strategists (and periodicals such as Proceedings ) have been questioning the central place given to the CVN in Navy strategy and shipbuilding plan The issue that has drawn the greatest attention is how vulnerable critics say the aircraft carrier has become in the face of a number of emerging threats. China has developed new antiship ballistic missiles with guided warheads, which seem designed to target large naval vessels such as carriers. 2 And potential U.S. adversaries have acquired a raft of new weapons for anti-access and area-denial (A2/AD) operations, from manned aircraft and sea-skimming cruise-missiles that can be delivered from land, sea, or air to diesel-electric submarines. Taken together, the critics contend, these will place the United States’ entire surface Navy at greater risk and force the carrier strike group to take additional protective measures that could include operating farther from hostile shores or even restricting overall offense operations significantly. ¶ A second issue, which has gained greater prominence in the face of congressional calls for deep defense spending cuts, is the cost of naval aviation—from building and maintaining aircraft carriers to deploying their air wings and supporting vessels. The soaring cost overruns and construction delays in the production of the USS Gerald R. Ford (CVN-78), the first of a new class of Navy super-carriers, have raised concerns both within the Navy and on Capitol Hill. 4 At the same time, the cost of the carrier air wing is rising visibly even though it is shrinking in size. 5 Navy leadership and a number of outside experts have offered a spirited defense of the Ford -class carriers. 6¶ The third challenge—and the most central for the future of the UCLASS drone and its successors—is that of making sure that the future carrier air wing (CVW) is effective. Early assessments of the potential for UAVs to enhance the utility of the carrier air wing focused on the value of their greater range and persistence. 7 As Representative J. Randy Forbes (R-VA), chairman of the House Armed Services subcommittee on seapower and projection forces, has argued, the issues of reach and persistence remain the most serious weaknesses of the CVW—particularly in the face of the Obama administration’s new, more intense focus on Asia.¶ [T]he long distances in the region, combined with A2/AD challenges, raise questions about the future strike power of the Carrier Air-Wing (CVW). As we posture our forces, is the planned CVW of the 2020s structured to meet the range, persistence, stealth, ISR, and payload demands that will be required to operate in this theater? 8

#### Carriers make basing and the US Navy effective – key to maintaining presence without escalation

**Rabus 13**, Ray, M.A. in political science from Johns Hopkins University and a Juris Doctor, magna cum laude, from Harvard Law School, “Technology On Approach: Unmanned aircraft at sea greatly extend the Navy’s reach and sustainability,” July 13th, http://www.utsandiego.com/news/2013/Jul/14/tp-technology-on-approach/2/?#article-copy

On Wednesday afternoon, Chief of Naval Operations Adm. Jonathan Greenert and I stood on the deck of the aircraft carrier George H.W. Bush, at sea off the Virginia Capes, and watched the winning argument in that debate. The unmanned aircraft X-47B, with its stealthy airframe and 62-foot wingspan, made its first arrested landing onboard a ship. It was a historic moment for aviation, a remarkable achievement of naval power and a powerful demonstration of why aircraft carriers will remain relevant and critical to America’s future naval supremacy. As every naval aviator knows, landing on a carrier is about the most difficult thing you can do. To put it simply, an aircraft carrier, unlike an air base ashore, moves. So landing the X-47B safely aboard the ship without a human operator requires a very sophisticated computer system capable of factoring in airspeed, altitude and angle-of-attack to a pitching, rolling flight deck, not to mention the changing winds and seas. In less than a decade, the air wing on a carrier will include today’s modern manned strike fighters, advanced future manned platforms like the Joint Strike Fighter, and our next generation unmanned carrier aircraft. Today was a glimpse at how the carrier and its changing mix of aircraft will be integral to meeting the challenges of the 21st century. The U.S. Navy and Marine Corps are America’s “Away Team.” We are where it counts, when it counts, not just at the right time but all the time. In military terms, we provide presence. Aircraft carriers are critical to maintaining constant presence and the ability to be on the scene without dangerously escalating a tense situation. The president needs this flexibility when a crisis erupts. A carrier’s ability to be an enduring and mobile presence without needing an inch of another country’s sovereign territory contrasts starkly with attack aircraft at fixed locations based on foreign soil. There are certainly threats to our carriers. Potential adversaries and friends alike are developing more advanced anti-ship cruise missiles and ballistic missiles for targeting ships at sea. However, these same missile technologies pose a greater threat to immobile airfields ashore. Targeting information for fixed shore bases is relatively easy. A moving carrier far at sea is a much harder problem for our adversaries to solve, and our advancing electronic warfare capabilities make it even harder. Add to this the fact that the AEGIS combat system of our cruisers and destroyers, which deploy with our carriers, is proven and reliable in air and missile defense, and the survivability of our carriers looks far more impressive than airfields ashore. The X-47B that “trapped” aboard the Bush on Wednesday is the culmination of an experimental program. It has been one of the Navy’s most successful, meeting all required objectives within budget and on time. The operational unmanned aircraft that will follow it will radically change the way presence and combat power is delivered from aircraft carriers by conducting surveillance and strike missions at extreme distances and over very long periods of time. With this advanced technology, we will put fewer sailors and Marines in harm’s way, and we will push the area of potential action even farther from the decks of our ships. And it’s more efficient. Because unmanned carrier aircraft do not require flights to maintain pilot proficiency, they will deploy only for operational missions, saving fuel costs and extending the service life of the aircraft. Not only will future carrier air wings be more combat effective, they will cost less to build, and less expensive airframes means we can build more and use them differently, like developing swarm tactics and performing maneuvers that require more G force than a human body can withstand. The unmanned systems and platforms we are developing today are wholly integrated with our manned ships, aircraft and submarines.

#### US naval strength key to de-escalate global conflict

**Cropsey 10 –** is a Senior Fellow at Hudson Institute. Previously, he served as Deputy Undersecretary of the Navy during both the Ronald Reagan and George H.W. Bush administrations. (Seth, September 1, “Ebb Tide” <http://www.hudson.org/index.cfm?fuseaction=publication_details&id=7235>) Jacome

Only one statement can be made with certainty about the future of the U.S. Navy: Its strength is a necessary precondition of U.S. continuance as a great power. A robust, globally distributed and technologically superior naval force does not ensure the future of American international preeminence, but a waning fleet composed of fewer and less fearsome vessels guarantees the decline of U.S. influence in the world. Venice, Spain, Holland, France and England learned the identical lesson over the past 500 years: The loss of seapower paralleled and was in large measure responsible for their decline as great powers. Seapower is an uncommonly flexible instrument of national power. It can and has been used to supply humanitarian assistance, as it did for the survivors of the Indian Ocean tsunami in December 2004 and more recently following the Haitian earthquake in January 2010. It can be used to pummel an enemy, as carrier-based strike craft are doing today to our enemies in Afghanistan. The Navy critically supports the amphibious operations of the U.S. Marines. It also supports important national purposes that fall between disaster relief and combat. For example, it supports our trade in and access to strategic resources, keeps sea lanes secure in peace and war, and assures allies of our presence and commitment. By maintaining sufficient combat power to provide allies with security by deterring and protecting against ballistic missile attack, it reduces the incentives to proliferate weapons of mass destruction and lowers the prospect of destabilizing regional security competitions. And the Navy, last but not least, also reinforces U.S. diplomacy, collects intelligence and supports homeland security by monitoring the movement of potentially dangerous cargo destined for U.S. or allied ports. A shorter, more conceptual way of putting all this is to say that U.S. seapower protects our vital interest in a benign international order, thus providing a global common good that simultaneously enables America to do well for itself and to do good for others. Despite the critical role of the Navy, the prevalence of land conflicts in recent years—the 1989 invasion of Panama, the 1990–91 Gulf War, the Balkan wars of the 1990s, the post-September 11 invasions of Afghanistan and Iraq (and the ongoing counterinsurgency campaigns there)—have propelled American seapower into virtual obscurity. This is not to say that the Navy has not participated in all these conflicts, but that the historically unprecedented concentration on land warfare has led a generation of American lawmakers, their staffs, policy experts and the media to take U.S. maritime interests for granted. This has engendered an unprecedented ignorance of the political and broadly strategic role of seapower in providing American and global security. American Presidents from George Washington to George H.W. Bush knew from history and their own experience alike that America was preeminently a seapower, and that American security has been inseparable from the development of seapower and the ideas that govern it. It still is. Indeed, the demand for U.S. seapower will only grow in the years ahead. It will grow, for example, if Iran becomes a nuclear power and the oil-rich Gulf states require shelter under an American deterrent umbrella. The Obama Administration has already increased the demand for naval force by promising to place a U.S. seaborne ballistic missile shield in the Mediterranean to protect Europe against intermediate-range Iranian ballistic missiles. But if Iran is a jihadist state with nuclear ambitions, Pakistan is an existing nuclear state with a potential to turn jihadist or to collapse. Pakistan’s shaky future and Turkey’s increasingly problematic descent into the hands of Islamist rule will almost certainly enlarge demand for U.S. deterrent naval force in the Mediterranean Sea and Indian Ocean. Then there is China, whose growing wealth, nationalism, ambition and need for energy and raw materials have prompted it to cultivate an expanding, increasingly powerful navy, one of whose explicit goals is to deny U.S. naval vessels access to the western Pacific. This is an objective that China’s growing inventory of sophisticated anti-ship ballistic missiles brings into the realm of possibility. The United States is, or at any rate ought to be, as resistant to an Asian hegemon as it was to a European or Eurasian one in the World Wars and the Cold War that followed. To note that China is neither a liberal state nor likely to become one soon is not tantamount to searching abroad for monsters to destroy. Nor is it spiting hope to point out that regional balances against potential hegemons do not burst spontaneously into being. China’s brand of politicized mercantilism precludes meaningful partnerships with the United States on issues of strategic gravity. In that light, Chinese hegemony in East Asia would undermine or neutralize U.S. military, diplomatic and economic relations with nations ranging from Japan to India, exacting a cost to America’s international position that cannot be readily imagined. No single instrument of U.S. policy is more effective than a strong U.S. Navy at moderating Chinese behavior—behavior such as its challenges to U.S. intelligence ships in international waters, its belligerent and recently expanded territorial claims to the South China Sea, or its de facto support for Iran’s nuclear program. American power is a necessary ingredient in a peaceful balance of power and perception in Asia. A U.S. Navy that can defend itself, protect American allies and continue the stabilizing presence of American forces in the western Pacific is the best way to prevent major conflicts. Its absence or abject weakness would be an invitation to calamity.

#### Specifically, naval supremacy is key to solve US-China war over the South China Sea, Japan, and Taiwan

**Felzenberg and Gray 11** – (Alvin S. Felzenberg, Professorial Lecturer at The Elliott School of International Affairs at George Washington University, Presidential Historian and Adjunct Faculty Member at the Annenberg School for Communication at the University of Pennsylvania, former Fellow at the Institute of Politics at the John F. Kennedy School of Government at Harvard University, served as Principal Spokesman for the 9/11 Commission, holds a Ph.D. in Politics from Princeton University**,**and Alexander B. Gray, Student at the Elliott School of International Affairs at George Washington University and the War Studies Department of King’s College, London, 01-03-2011 “The New Isolationism,” The National Review, January 3rd, Available Online at <http://www.nationalreview.com/articles/print/256150>)

China, while continuing to upgrade its naval capabilities, grows increasingly assertive. In pursuit of its own Monroe Doctrine for East Asia, Beijing has proclaimed its sovereignty over the entire South China Sea, menaced neighbors from India to Vietnam, used its economic muscle to intimidate Japan, and increased its threats against Taiwan. China’s leaders have been studying the writings of the 19th-century American naval theorist Alfred Thayer Mahan, who demonstrated the connection between sea power and economic strength. At the turn of the last century, Theodore Roosevelt found in Mahan the blueprint for achieving unprecedented American influence in world affairs. His efforts to build both a strong navy and a sound economy ushered in the “American century,” the period in which the United States became a force for good throughout the world and a beacon of hope for those yearning to breathe free. In pursuing a “blue-water” ocean-going navy capable of supporting their expanding global economic ambitions, the Chinese are acting from a desire to defend their nation’s trade and access to world markets, with a focus on energy supplies. It is critical that the Chinese — who are closely studying both Mahan’s writings and the history of the Monroe Doctrine — and Americans who see Chinese hegemony over Asia as either inevitable or a price they are willing to pay in exchange for slashing defense spending not draw the wrong lessons from history. Both sides should understand that it was not American might that gave the Monroe Doctrine force, but the then all-powerful British navy. For much of the 19th century, Great Britain had reasons of its own for keeping other nations out of the Western Hemisphere and for wanting to see the United States develop internally. If appropriately funded, the United States Navy has the capacity to play a similar role in China’s rise — perhaps, in the process, influencing how China develops. Should China conclude that the United States intends to remain a visible and active presence in the region, it will respond accordingly. Acting together, the two nations might embark on a series of cooperative ventures designed to help assure a steady flow of trade and an unimpeded exchange of people, goods, and ideas. They can also work together to combat a rise in piracy and terrorism in Asia and elsewhere and to respond to humanitarian crises, like the 2004 Indian Ocean tsunami. For its part, China, should it continue to hold North Korea in check, will achieve some of the status it seeks as a rising world power, with commensurate influence on the world stage. Should China conclude, on the other hand, that the United States intends to turn inward, it may grow even more ambitious and assertive in its region and beyond, potentially menacing world peace. Its smaller neighbors nervously wait to see how the United States will respond to China’s growing assertiveness. Should they come to believe that the U.S. is in retreat, they will make their own accommodations with Beijing. That result would wreak irreparable damage both to America’s economy and to its security. Messrs. Frank and Paul and their supporters have taken it into their minds that a reduced American presence in world affairs, particularly where the military is involved, would be a good thing. They had better think again: World politics, like nature, is hardly prone to respect vacuums. Iran and Venezuela remain as bellicose and destabilizing as ever, in spite of two years of Obama “engagement.” Iran squats beside the Strait of Hormuz, through which much of the world’s energy supply travels. Iran has also, the original Monroe Doctrine be damned, extended its military cooperation with Hugo Chávez’s authoritarian regime. Evidence is strong that Venezuela is providing sanctuary for Hezbollah terrorists in South America. The alliance of these two anti-American and increasingly menacing states could pose a threat to the United States of a kind that would make us nostalgic for the Cuban Missile Crisis. Faced with such challenges, the United States can ill afford military retrenchment as advocated by the new isolationists. While waste in the Pentagon’s budget can and should be cut, the new isolationists want to do it with a chainsaw when a scalpel is needed. In the last decade, the U.S. Navy’s fleet has shrunk to its smallest size since the 19th century, just as potential rivals such as China have not only expanded theirs but have begun to target perceived American maritime vulnerabilities. The U.S. Air Force is fielding an aging and shrinking force, while China is developing an advanced fighter for sale to adversaries of America, including Iran. A world in which the United States willingly ceded power and influence would both be more dangerous and prove less receptive to values that most Americans share, such as respect for human rights, the need to restrain governments through the rule of law, and the sanctity of contracts. By reducing its military strength to alarmingly low levels, the United States would create dangerous power vacuums around the world that other nations, with entirely different values, would be only too happy to fill. That, as history shows, would make war more, rather than less, likely. Congress and the president would do well to reflect on those lessons and remember their duty to provide a dominant American military presence on land, at sea, and in the air.

#### That goes nuclear

**Kulacki 12**, Gregory, Senior Analyst & China Project Manager for the Global Security Program at the Union of Concerned Scientists, “The Risk of Nuclear War with China,” 9/21, <http://www.huffingtonpost.com/gregory-kulacki/the-risk-of-nuclear-war-w_b_1903336.html>

Last week two separate studies warned that China and the United States are pursuing military strategies and implementing defense policies that could lead to a nuclear war. John Lewis and Xue Litai of Stanford University concluded a detailed exposition of China's nuclear war plans with a very sober warning. "Both sides, clinging to incongruous assessments, run the risk of provoking unanticipated escalation to nuclear war by seeking a quick victory or tactical advantages in a conventional conflict. This dilemma is not only real, but perilous." Thomas Christensen of Princeton expressed concern about the same problem; the possibility that a conventional military conflict between the United States and China could end in a nuclear exchange. "For example, if strikes by the United States on China's conventional coercive capabilities or their critical command and control nodes and supporting infrastructure were to appear in Beijing as a conventional attack on its nuclear retaliatory capability or as a precursor to a nuclear first strike, even a China that generally adheres to a No-First-Use posture might escalate to the nuclear level." Neither study suggests that the military or political leadership of China or the United States intends to resort to nuclear weapons in the event of a military conflict. China's commitment not to be the first to use nuclear weapons "at any time under any circumstances" is drilled into the officers and soldiers of China's strategic missile forces. A classified text used to train those forces, The Science of Second Artillery Operations, unambiguously instructs, "In accord with our national principle not to be the first to use nuclear weapons under any circumstances, the Second Artillery's strategic nuclear forces can carry out a retaliatory nuclear attack against the enemy, following the command of the 'high leadership,' only after the enemy has first attacked us with nuclear weapons." Although the United States is unwilling to make a similar commitment, U.S. superiority in conventional weapons and overall military capabilities makes it unlikely the United States would consider using nuclear weapons for any purpose other than preventing a Chinese nuclear attack on the United States. The most recent U.S. Nuclear Posture Review, in an effort to deemphasize the role of nuclear weapons in U.S. defense policy, declared that the "fundamental role of U.S. nuclear weapons...is to deter a nuclear attack on the United States, our allies and partners." The risk of a nuclear war with China lies in the potential for misunderstanding or miscommunication during a conventional conflict. China's current strategy for employing its conventional and nuclear missile forces during a future conflict with the United States is self-consciously designed to create uncertainty, with the expectation that uncertainty will restrain U.S. military action. Unfortunately, China's strategy could also precipitate a large-scale U.S. attack on China's missile forces. There are several Chinese military policies that might confuse U.S. decision-makers in a time of war. Some Chinese conventional missiles are located on the same missile bases as Chinese nuclear missiles. Some Chinese missiles, particularly the DF-21, can be armed with either a conventional or a nuclear warhead. Chinese conventional war plans call for long-range "strategic" conventional missile strikes at key enemy targets, including U.S. military bases on allied soil and the continental United States. If this were not confusing enough already, The Science of Second Artillery Operations contains a section on "lowering the nuclear threshold" that details procedures for alerting China's nuclear forces in a crisis for the express purpose of forcing a halt to an enemy's conventional attacks on a select group of targets, such as Chinese nuclear power plants, large dams and civilian population centers. Although the Science of Second Artillery Operations unambiguously states that if alerting China's nuclear missile forces fails to halt conventional enemy attacks China will hold firm to its "no first use" commitment, U.S. decision-makers might not believe it. Indeed, U.S. interlocutors have repeatedly told their Chinese counterparts that they do not find China's "no first use" pledge credible. The combination of these factors makes a nuclear exchange between the United States and China not only plausible, but also probable if the two countries were to become embroiled in a military conflict. As Lewis and Xue explain, "If, in a time of high tension, the Chinese command authorized a conventional missile attack as an act of preemptive self-defense, the enemy and its allies could not know if the incoming missiles were conventional or nuclear. In a worst-case scenario, a Chinese first-strike conventional attack could spark retaliation that destroys Chinese nuclear assets, creating a situation in which escalation to full-scale nuclear war would not just be possible, but even likely." The Obama administration is "rebalancing" U.S. military forces in response to perceived relative increases in Chinese military capabilities. China sees this so-called "pivot" to Asia, especially when pared with new U.S. military strategies such as "Air-Sea Battle," as a policy of containment. Both sides downplay the risks of conflict, but they also see each other as potential adversaries, and are hedging their diplomatic bets with expensive investments in new military hardware, including new technologies that will expand the conflict into cyberspace and outer space. Territorial disputes between China and U.S. allies, rising nationalist sentiment in the region, and the potential for domestic political instability within China could produce any number of casussen belli that could trigger the conventional conflict that carries the risk of ending in a nuclear war.

**Drones save the carrier industry – cost effectiveness and persistence**

**Goure 13** - vice president at the Lexington Institute in Arlington, Virginia, where he specializes in national security <Daniel. “Drones to The Rescue!” September 2013. <http://www.usni.org/magazines/proceedings/2013-09/drones-rescue>>

The current budget squeeze has revived the debate about whether to reduce the number of the Navy’s aircraft carriers, but the prospective addition of unmanned aerial vehicles to the flattop’s arsenal will make the ships even more valuable in coming years.¶ When the X-47B Salty Dog 502 became the first drone to land on an aircraft carrier in July, Navy officials properly hailed the event as a technological milestone. Not only did the unmanned aerial vehicle (UAV) catapult from the flight deck of the USS George H. W. Bush (CVN-77) and successfully perform touch-and-go exercises and two landings, catching the tailhook wire with precision, but it did all of that autonomously, using its own robot “brain” of complex algorithms without need of a human drone operator as most other UAVs require. “It’s not often you get a chance to see the future, but that is what we got today,” Secretary of the Navy Ray Mabus declared after the demonstration.¶ But the success of the X-47B landing marked more than just a technological achievement; it also injected a new element into the recently revived strategic debate over how many aircraft carriers the Navy will need in coming years. As part of an advanced surveillance-and-strike system that the Navy is developing, drones will soon be able to conduct long-range, ’round-the-clock intelligence-gathering missions and aerial attacks that will make carriers cheaper to build, less costly to operate, and far more effective, and will spawn radical changes in the way the Navy uses them. As a result, the addition of the drone to the naval aviation carrier force may prove to be a major factor in saving the flattop from becoming an endangered species.

**And, Independtly, Drones are key to make carriers A2AD resistant by enhancing range of attack and flexibility**

**Goure 13**, Daniel, vice president at the Lexington Institute, “Drones to the Rescue,” September, http://www.usni.org/magazines/proceedings/2013-09/drones-rescue

The issue that has drawn the greatest attention is how vulnerable critics say the aircraft carrier has become in the face of a number of emerging threats. China has developed new antiship ballistic missiles with guided warheads, which seem designed to target large naval vessels such as carriers. 2 And potential U.S. adversaries have acquired a raft of new weapons for anti-access and area-denial (A2/AD) operations, from manned aircraft and sea-skimming cruise-missiles that can be delivered from land, sea, or air to diesel-electric submarines. Taken together, the critics contend, these will place the United States’ entire surface Navy at greater risk and force the carrier strike group to take additional protective measures that could include operating farther from hostile shores or even restricting overall offense operations ugh it is shrinking in size. 5 Navy leadership and a number of outside experts have offered a spirited defense of the Ford -class carriers. 6 significantly. 3 A second issue, which has gained greater prominence in the face of congressional calls for deep defense spending cuts, is the cost of naval aviation—from building and maintaining aircraft carriers to deploying their air wings and supporting vessels. The soaring cost overruns and construction delays in the production of the USS Gerald R. Ford (CVN-78), the first of a new class of Navy super-carriers, have raised concerns both within the Navy and on Capitol Hill. The third challenge—and the most central for the future of the UCLASS drone and its successors—is that of making sure that the future carrier air wing (CVW) is effective. Early assessments of the potential for UAVs to enhance the utility of the carrier air wing focused on the value of their greater range and persistence. 7 As Representative J. Randy Forbes (R-VA), chairman of the House Armed Services subcommittee on seapower and projection forces, has argued, the issues of reach and persistence remain the most serious weaknesses of the CVW—particularly in the face of the Obama administration’s new, more intense focus on Asia. [T]he long distances in the region, combined with A2/AD challenges, raise questions about the future strike power of the Carrier Air-Wing (CVW). As we posture our forces, is the planned CVW of the 2020s structured to meet the range, persistence, stealth, ISR, and payload demands that will be required to operate in this theater? 8 The CVW of the near-future also is in flux. The F/A-18 E/F will play a significant role in both air-to-air and air-to-ground missions for the next several decades. The F-35C, long styled as the eventual centerpiece of the air wing, soon will be deployed. The EF-18G Growler is on the decks and will be upgraded with the Next-Generation Jammer. The Navy plans to acquire 75 E-2D Advanced Hawkeyes, which provide a leap forward in airborne ISR and networked fire control, but production of these is slowing. Finally, the MH-60R will provide a substantial increase in the CVW’s antisubmarine warfare capabilities. Yet, if UCLASS is to be anything more than a show horse, it must pull its weight in the continuing evolution of the CVW. This means that its designers will have to address some of the challenges facing the carrier and the air wing and also set the stage for exploiting the full potential of the new Ford -class CVN. The Navy’s invitation to contractors clearly is designed to produce a UCLASS drone system that will be a workhorse for the CVW. In its ISR role, UCLASS will significantly expand the carrier strike group’s ability to see, assess, and respond to threats. This is of particular importance in the context of the Asia-Pacific pivot as well as the proliferation of longer-range antiship missiles. Equally important, UCLASS will make it possible for a single air wing to conduct ’round-the-clock air and maritime surveillance. Finally, in its light-attack role, UCLASS will expand both the reach and flexibility of the air wing, allowing the more capable F/A-18 E/Fs and F-35s to be employed where their advanced features are most appropriate. The ability of the UCLASS to loiter while carrying heavier weapons than a Hellfire missile will be especially valuable in low-intensity conflicts, where exquisite precision strikes have become the norm. 9 Flexibility will be another important attribute for the winning UCLASS design. Given rapid advances in sensors, weapons, and networking, the UCLASS needs to have inherent flexibility and some room for growth to allow the carrier air wings to experiment with it and incorporate lessons learned from the system’s initial employment. Over the longer-term, for the current challenges to the continuation of the aircraft carrier as the Navy’s primary ship, designers of the UCLASS will have to integrate the new program into the operational policies of the carrier air wing and exploit the inherent strengths of the Ford -class CVNs. In his speech marking the successful carrier landing of the X-47B, Navy Secretary Mabus suggested how unmanned systems will address all three of the challenges to the aircraft carrier.

**Iran’s developing A2AD capabilities to close the Strait of Hormuz – causes oil price spikes and economic collapse**

**Isenberg 12**, David, adjunct scholar with the Cato Institute, a US Navy veteran, and the author of the book, Shadow Force: Private Security Contractors in Iraq [“Iran well prepared for the worst,” January 31st, <http://www.atimes.com/atimes/Middle_East/NA31Ak02.html>]

According to the report published by the Center for Strategic and Budgetary Assessments (CSBA), "Iran, in particular, has been investing in new capabilities that could be used to deter, delay or prevent effective US military operations in the Persian Gulf. Iran's acquisitions of weapons that it could use to deny access to the Gulf, control the flow of oil and gas from the region, and conduct acts of aggression or coercion, are of grave concern to the United States and its security partners." The report, "Outside-In: Operating from Range to Defeat Iran's Anti-Access and Area-Denial Threats" [1] notes that Iran has been preparing for a possible military confrontation with the United States for decades. Instead of engaging in a direct military competition, which would be pitting its weaknesses against US strengths, Iran has developed an asymmetric "hybrid" A2/AD strategy that mixes advanced technology with guerilla tactics to deny US forces basing access and maritime freedom of maneuver. Even if Iran did not disrupt Gulf maritime traffic for long, it could still have a devastating impact. A recent report by the International Monetary Fund (IMF) found that Iran's closure of the Strait of Hormuz would "neutralize a large part of current OPEC [Organization of Petroleum Exporting Countries] spare capacity," saying "alternative routes exist, but only for a tiny fraction of the amounts shipped through the strait, and they may take some time to operationalize while transportation costs would rise significantly." "A blockade of the Strait of Hormuz would constitute, and be perceived by markets to presage, sharply heightened global geopolitical tension involving a much larger and unprecedented disruption," it said. The IMF said that "supply disruption would likely have a large effect on prices, not only reflecting relatively insensitive supply and demand in the short run but also the current state of oil market buffers". "A halt of Iran's exports to OECD [Organization for Economic Cooperation and Development] economies without offset from other sources would likely trigger an initial oil price increase of around 20-30% (about US$20-30 a barrel currently), with other producers or emergency stock releases likely providing some offset over time," the report showed. It stressed that "a Strait of Hormuz closure could trigger a much larger price spike, including by limiting offsetting supplies from other producers in the region". "**If you could cut off oil flow for even several weeks the global economy would be in depression.** That would be a serious price to pay; it is a sobering thought," according to Patrick Cronin, a senior advisor at the Center for a New American Security, a Washington DC think-tank.

#### Oil shocks cause war

**Roberts 04** (Paul, Regular Contributor to Harpers and NYT Magazine, “The End of Oil: On The Edge of a Perilous New World”, p. 93-94)

The obsessive focus on oil is hardly surprising, given the stakes. In the fast-moving world of oil politics, oil is not simply a source of world power, but a medium for that power as well, a substance whose huge importance enmeshes companies, communities, and entire nations in a taut global web that is sensitive to the smallest of vibrations. A single oil "event" — a pipeline explosion in Iraq, political unrest in Venezuela, a bellicose exchange between the Russian and Saudi oil ministers — sends shockwaves through the world energy order, pushes prices up or down, and sets off tectonic shifts in global wealth and power. Each day that the Saudi-Russian spat kept oil supplies high and prices low, the big oil exporters were losing hundreds of millions of dollars and, perhaps, moving closer to financial and political disaster — while the big consuming nations enjoyed what amounted to a massive tax break. Yet in the volatile world of oil, the tide could quickly turn. A few months later, as anxieties over a second Iraq war drove prices up to forty dollars, the oil tide abruptly changed directions, transferring tens of billions of dollars from the economies of the United States, Japan, and Europe to the national banks in Riyadh, Caracas, Kuwait City, and Baghdad, and threatening to strangle whatever was left of the global economic recovery. So embedded has oil become in today's political and economic spheres that the big industrial governments now watch the oil markets as closely as they once watched the spread of communism — and with good reason: six of the last seven global recessions have been preceded by spikes in the price of oil, and fear is growing among economists and policymakers that, in today's growth-dependent, energy-intensive global economy, oil price volatility itself may eventually pose more risk to prosperity and stability and simple survival than terrorism or even war.

**Economic collapse leads to extinction**

**Kemp 10**

Geoffrey Kemp, Director of Regional Strategic Programs at The Nixon Center, served in the White House under Ronald Reagan, special assistant to the president for national security affairs and senior director for Near East and South Asian affairs on the National Security Council Staff, Former Director, Middle East Arms Control Project at the Carnegie Endowment for International Peace, 2010, The East Moves West: India, China, and Asia’s Growing Presence in the Middle East, p. 233-4

The second scenario, called Mayhem and Chaos, is the opposite of the first scenario; everything that can go wrong does go wrong. The world economic situation weakens rather than strengthens, and India, China, and Japan suffer a major reduction in their growth rates, further weakening the global economy. As a result, energy demand falls and the price of fossil fuels plummets, leading to a financial crisis for the energy-producing states, which are forced to cut back dramatically on expansion programs and social welfare. That in turn leads to political unrest: and nurtures different radical groups, including, but not limited to, Islamic extremists. The internal stability of some countries is challenged, and there are more “failed states.” Most serious is the collapse of the democratic government in Pakistan and its takeover by Muslim extremists, who then take possession of a large number of nuclear weapons. The danger of war between India and Pakistan increases significantly. Iran, always worried about an extremist Pakistan, expands and weaponizes its nuclear program. That further enhances nuclear proliferation in the Middle East, with Saudi Arabia, Turkey, and Egypt joining Israel and Iran as nuclear states. Under these circumstances, the potential for nuclear terrorism increases, and the possibility of a nuclear terrorist attack in either the Western world or in the oil-producing states may lead to a further devastating collapse of the world economic market, with a tsunami-like impact on stability. In this scenario, major disruptions can be expected, with dire consequences for two-thirds of the planet’s population.

## Terror

#### Drones effectiveness key to combat terrorism - disruption, decapitation, and destroys safe havens, specialists, and training

Byman, 13 -- Georgetown University Security Studies professor

[Daniel, Brookings Institution Saban Center for Middle East Policy Senior Fellow, "Why Drones Work," Foreign Affairs, July/August 2013, http://www.brookings.edu/research/articles/2013/06/17-drones-obama-weapon-choice-us-counterterrorism-byman, accessed 8-28-13, mss]

Despite President Barack Obama’s recent call to reduce the United States’ reliance on drones, they will likely remain his administration’s weapon of choice. Whereas President George W. Bush oversaw fewer than 50 drone strikes during his tenure, Obama has signed off on over 400 of them in the last four years, making the program the centerpiece of U.S. counterterrorism strategy. The drones have done their job remarkably well: by killing key leaders and denying terrorists sanctuaries in Pakistan, Yemen, and, to a lesser degree, Somalia, drones have devastated al Qaeda and associated anti-American militant groups. And they have done so at little financial cost, at no risk to U.S. forces, and with fewer civilian casualties than many alternative methods would have caused. Critics, however, remain skeptical. They claim that drones kill thousands of innocent civilians, alienate allied governments, anger foreign publics, illegally target Americans, and set a dangerous precedent that irresponsible governments will abuse. Some of these criticisms are valid; others, less so. In the end, drone strikes remain a necessary instrument of counterterrorism. The United States simply cannot tolerate terrorist safe havens in remote parts of Pakistan and elsewhere, and drones offer a comparatively low-risk way of targeting these areas while minimizing collateral damage. So drone warfare is here to stay, and it is likely to expand in the years to come as other countries’ capabilities catch up with those of the United States. But Washington must continue to improve its drone policy, spelling out clearer rules for extrajudicial and extraterritorial killings so that tyrannical regimes will have a harder time pointing to the U.S. drone program to justify attacks against political opponents. At the same time, even as it solidifies the drone program, Washington must remain mindful of the built-in limits of low-cost, unmanned interventions, since the very convenience of drone warfare risks dragging the United States into conflicts it could otherwise avoid. NOBODY DOES IT BETTER The Obama administration relies on drones for one simple reason: they work. According to data compiled by the New America Foundation, since Obama has been in the White House, U.S. drones have killed an estimated 3,300 al Qaeda, Taliban, and other jihadist operatives in Pakistan and Yemen. That number includes over 50 senior leaders of al Qaeda and the Taliban -- top figures who are not easily replaced. In 2010, Osama bin Laden warned his chief aide, Atiyah Abd al-Rahman, who was later killed by a drone strike in the Waziristan region of Pakistan in 2011, that when experienced leaders are eliminated, the result is “the rise of lower leaders who are not as experienced as the former leaders” and who are prone to errors and miscalculations. And drones also hurt terrorist organizations when they eliminate operatives who are lower down on the food chain but who boast special skills: passport forgers, bomb makers, recruiters, and fundraisers. Drones have also undercut terrorists’ ability to communicate and to train new recruits. In order to avoid attracting drones, al Qaeda and Taliban operatives try to avoid using electronic devices or gathering in large numbers. A tip sheet found among jihadists in Mali advised militants to “maintain complete silence of all wireless contacts” and “avoid gathering in open areas.” Leaders, however, cannot give orders when they are incommunicado, and training on a large scale is nearly impossible when a drone strike could wipe out an entire group of new recruits. Drones have turned al Qaeda’s command and training structures into a liability, forcing the group to choose between having no leaders and risking dead leaders.

#### Drones keep terrorists on the run – they’re the only game in town

Cilluffo, 11 -- George Washington University Homeland Security Policy Institute director [Frank, "After bin Laden the Threat Remains: Drones, CIA and SOF Still the Only Game in Town," 5-2-11, HSPI Commentary 22, www.gwumc.edu/hspi/policy/commentary022\_after\_bin\_laden.cfm, accessed 8-19-13, mss]

In May 2009, just four months into his tenure as the Director of the Central Intelligence Agency, Panetta assessed the situation this way: “Very frankly, [drone strikes are] the **only game in town** in terms of confronting or trying to disrupt the al Qaeda leadership.” That same year, Petraeus highlighted the imperative behind applying “a lot of pressure” while arguing that “for us, a terrorist is a terrorist, whether he operates on this side of the border or that side of the border.” Today, their assessments remain as valid (if not more so) than they were two years ago. American drone strikes, in conjunction with countless clandestine operations carried out by the CIA, US Special Forces teams (and the Pakistani military), have placed unrelenting pressure on al Qaeda, its offshoots, and fellow-travelers. Although admittedly imperfect and perhaps at times heavy-handed, these reconnaissance and strike missions have served our national interests and helped shield us from harm. In effect, these missions have provided suppressive fire against a concert of jihadi terrorists that now includes not only al Qaeda, but the Haqqani network, Lashkar-e-Tayyiba, Tehrik-e Taliban Pakistan, Harkat-ul-Jihad-al-Islami, and the Islamic Movement of Uzbekistan. This suppressive fire has degraded the performance of these jihadists, limiting their wherewithal to organize, plan, and carry out the large-scale mass-casualty attacks for which they yearn. Yet, suppressive fire is only effective for the duration of the fire. **Let up, and the terrorists will quickly regain** their **lost capabilities and recover the** operational **time and space** they need **to go** back **on the offensive**. Now is certainly not the time to let up. Nevertheless, strike missions are not a panacea and should not be taken lightly. For more than twenty years, the US has worked to cultivate relationships with foreign intelligence services, police, and militaries to aid in the fight against global terrorists. Although these efforts have met with limited success, they must continue. The difficult situation we face today would be far worse if we had not undertaken such — and it would quickly deteriorate if we were to walk away now. The dearth of capable, stable, and trustworthy partners in the FATA region means we will be increasingly forced to rely on these and other unconventional tools of statecraft. Islamabad remains unable to exercise the writ of government over much of its territory (or bureaucracy). Under these circumstances, history teaches us that governments also lack the ability to prevent their soil, citizens, and resources from being usurped. Thus the US must maintain its political flexibility and tactical maneuverability. The US must maintain its ability to carry out unconventional reconnaissance and paramilitary missions. This represents a critical, and increasingly important argument — for Pakistan is not an isolated case. In Yemen, in Somalia, in Sudan — and in a growing list of other un- and undergoverned nation-states we are witness to a similar pattern. In the world’s most dangerous places, the US has few partners and fewer options. At the same time, we face a continued threat from those who would do us grave harm. Under these conditions, and with the capability and moral imperative to protect our citizens, the United States must reject demands to curtail the use of drones, CIA, or Special Forces. When it comes to disrupting the activities of jihadi terrorists, these foils remain the only game in town — their value again demonstrated last night. Today, we owe a debt of gratitude to those nameless, faceless individuals who pilot the drones, collect and analyze the intelligence, and when called upon carry out the paramilitary missions. As we move forward, I hope we continue to provide them with the tools, resources, and room to maneuver necessary to do their jobs as well as they have in the last twenty-four hours.

**There’s no risk of blowback AND drones prevent worse alternatives**

Etzioni, 13 -- George Washington University international affairs professor

[Amitai, "Drones: Say it With Figures," UPI, 4-30-13, www.upi.com/Top\_News/Analysis/Outside-View/2013/04/30/Outside-View-Drones-Say-it-with-figures/UPI-25571367294880/?spt=hs&or=an, accessed 6-11-13, mss]

Drones: Say it with figures

Attacking drones, the most effective counter-terrorism tool the United States has found thus far, is a new cause celebre among progressive public intellectuals and major segments of the media. Their arguments would deserve more of a hearing if, instead of declaring their contentions as fact, they instead coughed up some evidence to support their claims. One argument that is repeated again and again is that killing terrorists with drones generates resentment from Pakistan to Yemen, thereby breeding many more terrorists than are killed. For example, Akbar Ahmed, a distinguished professor at American University, told the BBC on April 9 that, for "every terrorist drones kill, perhaps 100 rise as a result." The key word is "perhaps"; Ahmed cites no data to support his contention. Similarly, in The New York Times, Jo Becker and Scott Shane write that "Drones have replaced Guantanamo as the recruiting tool of choice for militants," citing as their evidence one line Faisal Shahzad, who had tried to set off a car bomb in Times Square, used in his 2010 trial seeking to justify targeting civilians. At the same time, when HBO interviewed children who carry suicide vests, they justified their acts by the presence of foreign troops in their country and burning of Korans. No such self-serving statements can be taken as evidence in themselves. And Peter Bergen, a responsible and serious student of drones, quotes approvingly in The Washington Post a new book by Mark Mazzetti, who claims that the use of drone strikes "creates enemies just as it has obliterated them." Again, however, Mazzetti presents no evidence. One may at first consider it obvious that, when American drones kill terrorists who are members of a tribe or family, other members will resent the United States. And hence if the United States would stop targeting people from the skies, that resentment would abet and ultimately vanish. In reality, ample evidence shows that large parts of the population of several Muslim countries resent the United States for numerous and profound reasons, unrelated to drone attacks. These Muslims consider the United States to be the "Great Satan" because it violates core religious values they hold dear; it promotes secular democratic liberal regimes; it supports women's rights; and it exports a lifestyle that devout Muslims consider hedonistic and materialistic to their countries. These feelings, data show, are rampant in countries in which no drones attacks have occurred, were common in those countries in which the drones have been employed well before any attacks took place, and continue unabated, even when drone attacks are greatly scaled back. As Marc Lynch notes in Foreign Affairs: "A decade ago, anti-Americanism seemed like an urgent problem. Overseas opinion surveys showed dramatic spikes in hostility toward the United States, especially in the Arab world ... It is now clear that even major changes, such as Bush's departure, Obama's support for some of the Arab revolts of 2011, the death of Osama bin Laden, and the U.S. withdrawal from Iraq, have had surprisingly little effect on Arab attitudes towards the United States. Anti-Americanism might have ebbed momentarily, but it is once again flowing freely." The Pew Global Attitudes Project says anti-American sentiments were high and on the rise in countries where drone strikes weren't employed. In Jordan, for example, U.S. unfavorability rose from 78 percent in 2007 to 86 percent in 2012 while Egypt saw a rise from 78 percent to 79 percent over the same period. Notably, the percentage of respondents reporting an "unfavorable" view of the United States in these countries is as high, or higher, than in drone-targeted Pakistan. In Pakistan, a country that has been subjected to a barrage of strikes over the last five years, the United States' unfavorability held steady at 68 percent from 2007-10 (dropping briefly to 63 percent in 2008), but then began to increase, rising to 73 percent in 2011 and 80 percent in 2012 -- a two-year period in which the number of drone strikes was actually dropping significantly. It is also worth noting that these critics attribute resentment to drones rather than military strikes. Do they really think that resentment would be lower if the United States were using cruise missiles? Or bombers? Or Special Forces? If they mean that we should grant these suspected terrorists a free pass if they cannot be brought to a court in New York City to be tried, they should say so. Another frequent claim of drone opponents is that the use of drones greatly lowers the costs of war (at least for the United States) and, thus, promotes military adventurism. For example, Mazzetti (as quoted by Bergen) claims that the use of drones has "lowered the bar for waging war, and it is now easier for the United States to carry out killing operations at the ends of the earth than at any other time in its history." However, there is no evidence that the introduction of drones (and before that, high-level bombing and cruise missiles that were criticized on the same grounds) made going to war more likely or its extension more acceptable. On the contrary, anybody who followed the American disengagement in Vietnam after the introduction of high-level bombing (which was subject to criticism similar to that of drones) or the U.S. withdrawal from Afghanistan -- despite the considerable increase in the use of drone strikes elsewhere -- knows better. In effect, the opposite argument may well hold: If the United States couldn't draw on drones in Yemen and the other new theaters of the counterterrorism campaign, the nation might well have been forced to rely more on conventional troops, a choice that would greatly increase our casualties as well as the resentment by the locals, who particularly object to the presence of foreign troops.

**On the ground interviews prove recruitment’s inevitable – people join AQAP because they need the cash**

Swift, 12 -- Georgetown University National Security Studies professor

[Christopher, University of Virginia's Center for National Security Law fellow, J.D. from Georgetown University Law Center, Ph.D. in Politics and International Studies from the University of Cambridge, "The Drone Blowback Fallacy," Foreign Affairs, 7-1-12, www.foreignaffairs.com/articles/137760/christopher-swift/the-drone-blowback-fallacy?page=show, accessed 6-14-13, mss]

Last month, I traveled to Yemen to study how AQAP operates and whether the conventional understanding of the relationship between drones and recruitment is correct. While there, I conducted 40 interviews with tribal leaders, Islamist politicians, Salafist clerics, and other sources. These subjects came from 14 of Yemen's 21 provinces, most from rural regions. Many faced insurgent infiltration in their own districts. Some of them were actively fighting AQAP. Two had recently visited terrorist strongholds in Jaar and Zinjibar as guests. I conducted each of these in-depth interviews using structured questions and a skilled interpreter. I have withheld my subjects' names to protect their safety -- a necessity occasioned by the fact that some of them had survived assassination attempts and that others had recently received death threats. These men had little in common with the Yemeni youth activists who capture headlines and inspire international acclaim. As a group, they were older, more conservative, and more skeptical of U.S. motives. They were less urban, less wealthy, and substantially less secular. But to my astonishment, none of the individuals I interviewed drew a causal relationship between U.S. drone strikes and al Qaeda recruiting. Indeed, of the 40 men in this cohort, only five believed that U.S. drone strikes were helping al Qaeda more than they were hurting it. Al Qaeda exploits U.S. errors, to be sure. As the Yemen scholar Gregory Johnsen correctly observes, the death of some 40 civilians in the December 2009 cruise missile strike on Majala infuriated ordinary Yemenis and gave AQAP an unexpected propaganda coup. But the fury produced by such tragedies is not systemic, not sustained, and, ultimately, not sufficient. As much as al Qaeda might play up civilian casualties and U.S. intervention in its recruiting videos, the Yemeni tribal leaders I spoke to reported that the factors driving young men into the insurgency are overwhelmingly economic. From al Hudaydah in the west to Hadhramaut in the east, AQAP is building complex webs of dependency within Yemen's rural population. It gives idle teenagers cars, khat, and rifles -- the symbols of Yemeni manhood. It pays salaries (up to $400 per month) that lift families out of poverty. It supports weak and marginalized sheikhs by digging wells, distributing patronage to tribesmen, and punishing local criminals. As the leader of one Yemeni tribal confederation told me, "Al Qaeda attracts those who can't afford to turn away." Religious figures echoed these words. Though critical of the U.S. drone campaign, none of the Islamists and Salafists I interviewed believed that drone strikes explain al Qaeda's burgeoning numbers. "The driving issue is development," an Islamist parliamentarian from Hadramout province said. "Some districts are so poor that joining al Qaeda represents the best of several bad options." (Other options include criminality, migration, and even starvation.) A Salafi scholar engaged in hostage negotiations with AQAP agreed. "Those who fight do so because of the injustice in this country," he explained. "A few in the north are driven by ideology, but in the south it is mostly about poverty and corruption." Despite Yemenis' antipathy toward drones, my conversations also revealed a surprising degree of pragmatism. Those living in active conflict zones drew clear distinctions between earlier U.S. operations, such as the Majala bombing, and more recent strikes on senior al Qaeda figures. "Things were very bad in 2009," a tribal militia commander from Abyan province told me, "but now the drones are seen as helping us." He explained that Yemenis could "accept [drones] as long as there are no more civilian casualties." An Islamist member of the separatist al-Harak movement offered a similar assessment. "Ordinary people have become very practical about drones," he said. "If the United States focuses on the leaders and civilians aren't killed, then drone strikes will hurt al Qaeda more than they help them." Some of the men I interviewed admitted that they had changed their minds about drone strikes. Separatists in Aden who openly derided AQAP as a proxy of Yemen's recently deposed president, Ali Abdullah Saleh, privately acknowledged the utility of the U.S. drone campaign. "Saleh created this crisis in order to steal from America and stay in power," a former official from the now-defunct People's Democratic Republic of Yemen told me. "Now it is our crisis, and we need every tool to solve it." Yemeni journalists, particularly those with firsthand exposure to AQAP, shared this view: "I opposed the drone campaign until I saw what al Qaeda was doing in Jaar and Zinjibar," an independent reporter in Aden said. "Al Qaeda hates the drones, they're absolutely terrified of the drones ... and that is why we need them."

#### Terrorism goes nuclear - highest probability impact

Neely ’13 (Meggaen Neely, CSIS, “Doubting Deterrence of Nuclear Terrorism”, <http://csis.org/blog/doubting-deterrence-nuclear-terrorism?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+csis-poni+%28PONI+Debates+the+Issues+Blog%29>, March 21, 2013)

The 2010 Nuclear Posture Review (NPR) cites nuclear terrorism as “today’s most immediate and extreme danger.” To counter this danger, the NPR lists research initiatives, securing nuclear materials, and a “commitment to hold fully accountable” any who help terrorists obtain nuclear weapons. Matthew Kroenig and Barry Pavel, the self-described authors of U.S. strategy for deterring terrorist networks, explain further how the United States can discourage terrorists from detonating a nuclear weapon. They make useful distinctions between actors in terrorist organizations, which can have implications for U.S. policies. However, the United States should not rely exclusively on deterrence – that is, those policies that attempt to discourage terrorists from detonating a nuclear weapon. Complementary policies that may be more effective will focus on securing nuclear materials and implementing defensive measures, in addition to conventional counterterrorism strategies. Although this shift will not make the task of preventing nuclear terrorism easier, recognizing the limits of deterrence policies will allow the United States to make smarter choices in defending against nuclear terrorism. Assessing the Threat of Nuclear Terrorism The risk that terrorists will set off a nuclear weapon on U.S. soil is disconcertingly high. While a terrorist organization may experience difficulty constructing nuclear weapons facilities, there is significant concern that terrorists can obtain a nuclear weapon or nuclear materials. The fear that an actor could steal a nuclear weapon or fissile material and transport it to the United States has long-existed. It takes a great amount of time and resources (including territory) to construct centrifuges and reactors to build a nuclear weapon from scratch. Relatively easily-transportable nuclear weapons, however, present one opportunity to terrorists. For example, exercises similar to the recent Russian movement of nuclear weapons from munitions depots to storage sites may prove attractive targets. Loose nuclear materials pose a second opportunity. Terrorists could use them to create a crude nuclear weapon similar to the gun-type design of Little Boy. Its simplicity – two subcritical masses of highly-enriched uranium – may make it attractive to terrorists. While such a weapon might not produce the immediate destruction seen at Hiroshima, the radioactive fall-out and psychological effects would still be damaging. These two opportunities for terrorists differ from concerns about a “dirty bomb,” which mixes radioactive material with conventional explosives. According to Gary Ackerman of the National Consortium for the Study of Terrorism and Responses to Terrorism, the number of terrorist organizations that would detonate a nuclear weapon is probably small. Few terrorist organizations have the ideology that would motivate nuclear weapons acquisition. Before we breathe a sigh of relief, we should recognize that this only increases the “signal-to-noise ratio”: many terrorists might claim to want to detonate a nuclear weapon, but the United States must find and prevent the small number of groups that actually would. Transportable nuclear weapons and loose fissile materials grant opportunities to terrorists with nuclear pursuits. How should the United States seek to undercut the efforts of the select few with a nuclear intent? The Problems with Deterrence The answer for U.S. policy is not deterrence. Deterrence involves convincing an adversary that the costs imposed upon him after taking an action will outweigh any benefits gained. It requires altering the strategic calculus (i.e. the analysis of costs and benefits for taking a particular action) of the adversary. These costs come from either punishment imposed on the adversary or from denying the adversary the expected benefits. In execution, deterrence requires policies of consistency and conditionality towards an adversary: consistency in expressing the imposition of costs or denied benefits if the adversary takes a specific action and conditionality in that the possibility of retaliation depends upon the adversary’s decision to take the undesirable action. These requirements of consistency and conditionality cannot be applied to a transnational threat like nuclear terrorism. Terrorists operate across states’ borders, but the burden remains on states to implement deterrence laws and policies that impose costs or deny benefits. One could point to the “glorification” laws in the United Kingdom, which sought to deter suicide terrorism by criminalizing the praise of martyrdom, as an example of such a policy. However, not all countries are able or willing to implement such laws. Alternatively, even countries that are able and willing may hesitate for fear of violating international or domestic norms. For example, with the “glorification” laws, many accused British policymakers of infringing on the right to free speech. Deterrence requires consistency in the communication of certain retaliation should the adversary take an undesired action. In the aggregate, states’ policies will likely lack this consistency and conditionality required for deterring nuclear terrorism. This results in confusion and a lack of credibility for the threat of imposing costs or denying benefits. Of course, terrorists are not susceptible to more “traditional” forms of deterrence like holding territory at risk (given that they do not own territory) or by threatening suicide terrorists with physical harm.

#### That causes extinction - retaliation

Ayson 10 - Professor of Strategic Studies and Director of the Centre for Strategic Studies: New Zealand at the Victoria University of Wellington (Robert, July. “After a Terrorist Nuclear Attack: Envisaging Catalytic Effects.” Studies in Conflict & Terrorism, Vol. 33, Issue 7. InformaWorld.)

But these two nuclear worlds—a non-state actor nuclear attack and a catastrophic interstate nuclear exchange—are not necessarily separable. It is just possible that some sort of terrorist attack, and especially an act of nuclear terrorism, could precipitate a chain of events leading to a massive exchange of nuclear weapons between two or more of the states that possess them. In this context, today’s and tomorrow’s terrorist groups might assume the place allotted during the early Cold War years to new state possessors of small nuclear arsenals who were seen as raising the risks of a catalytic nuclear war between the superpowers started by third parties. These risks were considered in the late 1950s and early 1960s as concerns grew about nuclear proliferation, the so-called n+1 problem. It may require a considerable amount of imagination to depict an especially plausible situation where an act of nuclear terrorism could lead to such a massive inter-state nuclear war. For example, in the event of a terrorist nuclear attack on the United States, it might well be wondered just how Russia and/or China could plausibly be brought into the picture, not least because they seem unlikely to be fingered as the most obvious state sponsors or encouragers of terrorist groups. They would seem far too responsible to be involved in supporting that sort of terrorist behavior that could just as easily threaten them as well. Some possibilities, however remote, do suggest themselves. For example, how might the United States react if it was thought or discovered that the fissile material used in the act of nuclear terrorism had come from Russian stocks,40 and if for some reason Moscow denied any responsibility for nuclear laxity? The correct attribution of that nuclear material to a particular country might not be a case of science fiction given the observation by Michael May et al. that while the debris resulting from a nuclear explosion would be “spread over a wide area in tiny fragments, its radioactivity makes it detectable, identifiable and collectable, and a wealth of information can be obtained from its analysis: the efficiency of the explosion, the materials used and, most important … some indication of where the nuclear material came from.”41 Alternatively, if the act of nuclear terrorism came as a complete surprise, and American officials refused to believe that a terrorist group was fully responsible (or responsible at all) suspicion would shift immediately to state possessors. Ruling out Western ally countries like the United Kingdom and France, and probably Israel and India as well, authorities in Washington would be left with a very short list consisting of North Korea, perhaps Iran if its program continues, and possibly Pakistan. But at what stage would Russia and China be definitely ruled out in this high stakes game of nuclear Cluedo? In particular, if the act of nuclear terrorism occurred against a backdrop of existing tension in Washington’s relations with Russia and/or China, and at a time when threats had already been traded between these major powers, would officials and political leaders not be tempted to assume the worst? Of course, the chances of this occurring would only seem to increase if the United States was already involved in some sort of limited armed conflict with Russia and/or China, or if they were confronting each other from a distance in a proxy war, as unlikely as these developments may seem at the present time. The reverse might well apply too: should a nuclear terrorist attack occur in Russia or China during a period of heightened tension or even limited conflict with the United States, could Moscow and Beijing resist the pressures that might rise domestically to consider the United States as a possible perpetrator or encourager of the attack? Washington’s early response to a terrorist nuclear attack on its own soil might also raise the possibility of an unwanted (and nuclear aided) confrontation with Russia and/or China. For example, in the noise and confusion during the immediate aftermath of the terrorist nuclear attack, the U.S. president might be expected to place the country’s armed forces, including its nuclear arsenal, on a higher stage of alert. In such a tense environment, when careful planning runs up against the friction of reality, it is just possible that Moscow and/or China might mistakenly read this as a sign of U.S. intentions to use force (and possibly nuclear force) against them. In that situation, the temptations to preempt such actions might grow, although it must be admitted that any preemption would probably still meet with a devastating response. As part of its initial response to the act of nuclear terrorism (as discussed earlier) Washington might decide to order a significant conventional (or nuclear) retaliatory or disarming attack against the leadership of the terrorist group and/or states seen to support that group. Depending on the identity and especially the location of these targets, Russia and/or China might interpret such action as being far too close for their comfort, and potentially as an infringement on their spheres of influence and even on their sovereignty. One far-fetched but perhaps not impossible scenario might stem from a judgment in Washington that some of the main aiders and abetters of the terrorist action resided somewhere such as Chechnya, perhaps in connection with what Allison claims is the “Chechen insurgents’ … long-standing interest in all things nuclear.”42 American pressure on that part of the world would almost certainly raise alarms in Moscow that might require a degree of advanced consultation from Washington that the latter found itself unable or unwilling to provide. There is also the question of how other nuclear-armed states respond to the act of nuclear terrorism on another member of that special club. It could reasonably be expected that following a nuclear terrorist attack on the United States, bothRussia and China would extend immediate sympathy and support to Washington and would work alongside the United States in the Security Council. But there is just a chance, albeit a slim one, where the support of Russia and/or China is less automatic in some cases than in others. For example, what would happen if the United States wished to discuss its right to retaliate against groups based in their territory? If, for some reason, Washington found the responses of Russia and China deeply underwhelming, (neither “for us or against us”) might it also suspect that they secretly were in cahoots with the group, increasing (again perhaps ever so slightly) the chances of a major exchange. If the terrorist group had some connections to groups in Russia and China, or existed in areas of the world over which Russia and China held sway, and if Washington felt that Moscow or Beijing were placing a curiously modest level of pressure on them, what conclusions might it then draw about their culpability.

#### Specifically US-Russia war causes extinction

Corcoran 9 (PhD, Senior Fellow @ Global Security, Frmr. Strategic Analyst at the US Army War College where he chaired studies for the Office of the Deputy Chief of Operations and member of the National Advisory Board for the Alsos Digital Library for Nuclear Issues, we win the qualification game, 4/21, http://sitrep.globalsecurity.org/articles/090421301-strategic-nuclear-targets.htm)

That brings us to Russia, our former main adversary, now a competitive partner and still a potential future adversary, particularly as relations have gradually soured in recent years. Russia is the only other nation with a formidable arsenal of some three thousand strategic weapons. Our opposing arsenals were built up in the period when Mutually Assured Destruction (MAD) was the underlying strategic concept -- each side deterred from striking the other by the prospect of assured retaliatory destruction. The situation became even madder as both sides worked to develop a capability to destroy the other's strike force with a crippling first strike. This resulted in further large increases in the sizes of the arsenals, as well as early warning systems and hair-trigger launch-on-warning alert procedures. The final result was an overall system in which each side could destroy the other in a matter of minutes. And it also raised another chilling specter, Nuclear Winter, in which the atmospheric dust raised from a major nuclear exchange would block sunlight for an extended period and essentially destroy human civilization globally. The collapse of the Soviet Union collapsed this threat, but did not eliminate it. US and Russian nuclear forces remained frozen in adversarial positions. The May 2002 Moscow Treaty began to address this legacy and is leading to a reduction in strategic nuclear forces down to levels of about two thousand on each side by 2012. These levels are still sufficient to destroy not only both nations but also human civilization. It is hard to even construct scenarios where the use of even a few strategic nuclear weapons does not risk a total escalation. Strikes on Russian warning facilities or strike forces would almost certainly bring a wave of retaliatory strikes. Strikes on hardened command centers would be of questionable effectiveness and also risk total escalation. In addition, successful elimination of Russian leaders could greatly complicate any efforts to stop escalation short of a total nuclear exchange.

#### Emerging extra-AUMF threats make the AUMF obsolete now – reform is key to overall US CT strategy

**Chesney et al 13** <Benjamin Wittes is a senior fellow in governance studies at the Brookings Institution and codirector of the Harvard Law School–Brookings Project on Law and Security. Matthew Waxman is a professor of law at Columbia Law School and an adjunct senior fellow at the Council on Foreign Relations. He previously served as principal deputy director of policy planning (2005–7) and acting director of policy planning (2007) at the US Department of State. He also served as deputy assistant secretary of defense for detainee affairs (2004–5), director for contingency planning and international justice at the National Security Council (2002–3), and special assistant to National Security Adviser Condoleezza Rice (2001–2). He is a graduate of Yale College and Yale Law School. Jack Goldsmith is the Henry L. Shattuck Professor of Law at Harvard University. Former assistant attorney general, Office of Legal Counsel, Goldsmith holds a JD from Yale Law School, a BA and an MA from Oxford University. Robert Chesney is a professor at the University of Texas School of Law, a nonresident senior fellow of the Brookings Institution, and a distinguished scholar at the Robert S. Strauss Center for International Security and Law. “Is the "War on Terror" Lawful?” February 25, 2013. http://www.hoover.org/publications/defining-ideas/article/141091>

Since September 18, 2001, a joint resolution of Congress known as the Authorization to Use Military Force (AUMF) has served as the primary legal foundation for the “war on terror.” In this essay we explain why the AUMF is increasingly obsolete, why the nation will probably need a new legal foundation for next-generation terrorist threats, what the options are for this new legal foundation, and which option we think is best. ¶ The AUMF authorizes the president to “use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, . . . .” The authorization of “force” in the AUMF is the main legal basis for the president’s power to detain and target members of al Qaeda and The Taliban. In addition, since September 11, Congress, two presidential administrations, and the lower federal courts have interpreted the “force” authorized by the AUMF to extend to members or substantial supporters of the Taliban and al Qaeda, and associated forces.¶ The main reason the AUMF is becoming obsolete is that the conflict it describes – which on its face is one against the perpetrators of the September 11 attacks and those who harbor them – is growing less salient as U.S. and allied actions degrade the core of Al Qaeda and the U.S. military draws down its forces fighting the Taliban in Afghanistan. At the same time that the original objects of the AUMF are dying off, newer terrorist groups that threaten the United States and its interests are emerging around the globe. Some of the terrorist groups have substantial ties to al Qaeda and thus can be brought within the AUMF by interpretation.¶ For example, the President has been able to use force against al Qaeda in the Arabian Peninsula (“AQAP”), a terrorist organization in Yemen, because it is a supporter or associated force of al Qaeda. But this interpretive move is increasingly difficult as newer threatening groups emerge with dimmer ties, if any, to al Qaeda. As a result, we are reaching the end point of statutory authority for the President to meet terrorist threats.¶ We should emphasize at the outset that we do not claim that the increasingly obsolete AUMF demands immediate amendment or alteration. We do not make this claim because we lack access to classified information that would indicate the full nature of the terrorist threats the nation faces, or their connection to al Qaeda, or the nation’s ability to meet the threat given current legal authorities.¶ We also recognize that any new force authorizations carry significant strategic and political consequences beyond their immediate operational consequences. We nonetheless believe strongly – based on public materials and conversations with government officials – that the AUMF’s usefulness is running out, and that this trend will continue and will demand attention, in the medium term if not in the short term. Our aim is to contribute to the conversation the nation will one day have about a renewed AUMF by explaining why we think one will be necessary and the possible shape it might take.¶ Part I of this paper explains in more detail why the AUMF is becoming obsolete and argues that the nation needs a new legal foundation for next-generation terrorist threats. Part II then describes the basic options for this new legal foundation, ranging from the President’s Article II powers alone to a variety of statutory approaches, and discusses the pros and cons of each option, and the one we prefer. Part III analyzes additional factors Congress should consider in any such framework.¶ I. ¶ The Growing Problem of Extra-AUMF Threats and the Need for a New Statutory Framework¶ In this Part we explain why the AUMF is growing obsolete and why a combination of law enforcement and Article II authorities, standing alone, is not an adequate substitute.¶ 1. The Growing Obsolescence of the AUMF¶ The September 2001 AUMF provides for the use of force against the entity responsible for the 9/11 attacks, as well as those harboring that entity. It has been clear from the beginning that the AUMF encompasses al Qaeda and the Afghan Taliban, respectively. This was the right focus in late 2001, and for a considerable period thereafter. But for three reasons, this focus is increasingly mismatched to the threat environment facing the United States. ¶ First, the original al Qaeda network has been substantially degraded by the success of the United States and its allies in killing or capturing the network’s leaders and key personnel. That is not to say that al Qaeda no longer poses a significant threat to the United States, of course. The information available in the public record suggests that it does, and thus nothing we say below should be read to suggest that force is no longer needed to address the threat al Qaeda poses. Our point is simply that the original al Qaeda network is no longer the preeminent operational threat to the homeland that it once was.¶ Second, the Afghan Taliban are growing increasingly marginal to the AUMF. As noted above, the AUMF extended to the Taliban because of the safe harbor they provided to al Qaeda. That rationale makes far less sense a dozen years later, with the remnants of al Qaeda long-since relocated to Pakistan’s FATA region. This issue has gone largely unremarked in the interim because U.S. and coalition forces all along have been locked in hostilities with the Afghan Taliban, and thus no occasion to reassess the AUMF nexus has ever arisen.¶ Such an occasion may well loom on the horizon, however, as the United States draws down in Afghanistan with increasing rapidity. To be sure, the United State no doubt will continue to support the Afghan government in its efforts to tamp down insurgency, and it also will likely continue to mount counterterrorism operations within Afghanistan. It may even be the case that at some future point, the Taliban will again provide safe harbor to what remains of al Qaeda, thereby at least arguably reviving their AUMF nexus. But for the time being, the days of direct combat engagement with the Afghan Taliban appear to be numbered. ¶ If the decline of the original al Qaeda network and the decline of U.S. interest in the Afghan Taliban were the only considerations, one might applaud rather than fret over the declining relevance of the AUMF. There is, however, a third consideration: significant new threats are emerging, ones that are not easily shoehorned into the current AUMF framework.¶ To a considerable extent, the new threats stem from the fragmentation of al Qaeda itself. In this sense, the problem with the original AUMF is not so much that its primary focus is on al Qaeda, but rather that it is increasingly difficult to determine with clarity which groups and individuals in al Qaeda’s orbit are sufficiently tied to the core so as to fall within the AUMF. And given the gravity of the threat that some of these groups and individuals may pose on an independent basis, it also is increasingly odd to premise the legal framework for using force against them on a chain of reasoning that requires a detour through the original, core al Qaeda organi zation.¶ ¶ The fragmentation process has several elements. First, entities that at least arguably originated as mere regional cells of the core network have established a substantial degree of organizational and operational independence, even while maintaining some degree of correspondence with al Qaeda’s leaders. Al Qaeda in the Arabian Peninsula (AQAP) is a good example. Al Qaeda in Iraq (AQI) arguably fits this description as well, though in that case one might point to a substantial degree of strategic independence as well.¶ Second, entities that originated as independent, indigenous organizations have to varying degrees established formal ties to al Qaeda, often rebranding themselves in the process. Al Qaeda in the Islamic Maghreb (AQIM), formerly known as the Salafist Group for Call and Combat, illustrates this path. Al Shabaab in Somalia arguably does as well. And then there are circumstances (such as the ones currently unfolding in Mali, Libya, and Syria) in which it is not entirely clear where the organizational lines lie among (i) armed groups that work in concert with or even at the direction of one of the aforementioned al Qaeda affiliates; (ii) armed groups that are sympathetic and in communication with al Qaeda; and (iii) armed groups that are wholly-independent of al Qaeda yet also stem from the same larger milieu of Salafist extremists.¶ This situation – which one of us has described as the emergence of “extra-AUMF” threats – poses a significant problem insofar as counterterrorism policy rests on the AUMF for its legal justification. In some circumstances it remains easy to make the case for a nexus to the original al Qaeda network and hence to the AUMF. But in a growing number of circumstances, drawing the requisite connection to the AUMF requires an increasingly complex daisy chain of associations – a task that is likely to be very difficult (and hence subject to debate) in some cases, and downright impossible in others.¶ The emergence of this problem should come as no surprise. It has been nearly a dozen years since the AUMF’s passage, and circumstances have evolved considerably since then. It was inevitable that threats would emerge that might not fit easily or at all within its scope. The question is whether Congress should do anything about this situation, and if so precisely what.

#### The plan allows the president to address extra-AUMF threats and identification ensures accountability

**Chesney et al 13** <Benjamin Wittes is a senior fellow in governance studies at the Brookings Institution and codirector of the Harvard Law School–Brookings Project on Law and Security. Matthew Waxman is a professor of law at Columbia Law School and an adjunct senior fellow at the Council on Foreign Relations. He previously served as principal deputy director of policy planning (2005–7) and acting director of policy planning (2007) at the US Department of State. He also served as deputy assistant secretary of defense for detainee affairs (2004–5), director for contingency planning and international justice at the National Security Council (2002–3), and special assistant to National Security Adviser Condoleezza Rice (2001–2). He is a graduate of Yale College and Yale Law School. Jack Goldsmith is the Henry L. Shattuck Professor of Law at Harvard University. Former assistant attorney general, Office of Legal Counsel, Goldsmith holds a JD from Yale Law School, a BA and an MA from Oxford University. Robert Chesney is a professor at the University of Texas School of Law, a nonresident senior fellow of the Brookings Institution, and a distinguished scholar at the Robert S. Strauss Center for International Security and Law. “Is the "War on Terror" Lawful?” February 25, 2013. http://www.hoover.org/publications/defining-ideas/article/141091>

Based on current trends and the lessons from the past decade, we recommend a third approach: Congress sets forth general statutory criteria for presidential uses of force against new terrorist threats but requires the executive branch, through a robust administrative process, to identify particular groups that are covered by that authorization of force. One model to draw on, with modifications, is the State Department’s Foreign Terrorist Organization designation process.¶ Under this process, the Secretary of State – pursuant to specific statutory standards, in consultation with other Departments, and following a notification period to Congress – designates particular groups as terrorist organizations and thereby triggers statutory consequences for those groups and their members. We believe that a listing system modeled on this approach best cabins presidential power while at the same time giving the President the flexibility he needs to address emerging threats. Such a listing scheme will also render more transparent and regularized the now very murky process by which organizations and their members are deemed to fall within the September 2001 AUMF. ¶ The listing is approach is not without significant challenges, however. Some will claim that such a delegation to the president to identify the entities against whom force can be deployed would be unconstitutional. However, Congress has often authorized the president to use force in ways that leave the president significant discretion in determining the precise enemy. In light of this history, the waning of the non-delegation doctrine in other contexts, the congressional specification of the general criteria for the use of force, and the administrative, reporting, and timing limitations on the listing process described below, the constitutional objections can be overcome.¶ A more serious challenge is that the listing approach will appear to codify permanent war, and to diminish the degree of congressional involvement and inter-branch deliberation compared to the second approach. These concerns can be mitigated in several ways. First, the substantive statutory criteria governing this listing process should be as specific as possible. For example, a new AUMF might authorize force against “an organization with sufficient capability and planning that it presents an imminent threat to the United States.” Or it might authorize force against “any group or person that has committed a belligerent act against the U.S. or imminently threatens to do so.”¶ In setting out such criteria, Congress could make clear precisely what it means by key terms such as “imminent” and “belligerent act.” The criteria should, moreover, be expressly linked to international self-defense law. Compliance with that law is an obligation of the United States. And from a diplomatic and international legal-policy standpoint it is important that the United States government as a whole make clear that this is not an open-ended “global war on terror” but a cabined application of traditional self-defense to the new realities of non-state threats.¶ Second, at the front-end of the listing process, the administrative, consultative, and notification procedures should be sufficiently robust to ensure careful deliberation and strong accountability. At the same time, the statute should provide for emergency exercises of Article II power (which the Constitution arguably compels in any event), followed by a process for retroactive listing, to deal with rapidly-moving crises while providing strong incentive for the President to fold his actions into the statutory scheme.¶ Finally, a listing scheme should include thorough ex post reporting and auditing as well. At a minimum the President should have a duty to report to Congress in detail on the intelligence and other factual bases that led to the inclusion of particular groups on the list. The President should also have a duty to file detailed reports with Congress -- in a more robust form than the usually conclusory War Powers Resolution reports -- about how the statutory authorization of force is being implemented.

## Solvency

#### The United States Congress should revise Public Law 107-40 to set forth criteria that prohibits the Presidential use of drone strikes against new terrorist threats where the President has not undergone administrative review to identify particular groups covered.

**Domestic and international backlash to status quo drone policy causes rollback now – reforming drone policy solves legitimacy which is key to basing rights and continued drone use**

**Zenko 13**, Micah, Fellow in the Center for Preventive Action at the Council on Foreign Relations “Reforming U.S. Drone Strike Policies,” January 2013, Council Special Report No. 65

Over the past decade, the use of unmanned aerial systems—commonly referred to as drones—by the U.S. government has expanded exponentially in scope, location, and frequency. From September 2001 to April 2012, the U.S. military increased its drone inventory from ﬁfty to seventy-ﬁve hundred—of which approximately 5 percent can be armed. Yet despite the unprecedented escalation of its ﬂeet and missions, the U.S. government has not provided a clear explanation of how drone strikes in nonbattleﬁeld settings are coordinated with broader foreign policy objectives, the scope of legitimate targets, and the legal framework. Drones are critical counterterrorism tools that advance U.S. interests around the globe, but this lack of transparency threatens to limit U.S. freedom of action and risks proliferation of armed drone technology without the requisite normative framework. Existing practices carry two major risks for U.S. interests that are likely to grow over time. The ﬁrst comes from operational restrictions on drones due to domestic and international pressure. In the United States, the public and policymakers are increasingly uneasy with limited transparency for targeted killings. If the present trajectory continues, drones may share the fate of Bush-era enhanced interrogation techniques and warrantless wiretapping—the unpopularity and illegality of which eventually caused the policy’s demise. Internationally, objections from host states and other counterterrorism partners could also severely circumscribe drones’ effectiveness. Host states have grown frustrated with U.S. drone policy, while opposition by nonhost partners could impose additional restrictions on the use of drones. Reforming U.S. drone strike policies can do much to allay concerns internationally by ensuring that targeted killings are defensible under international legal regimes that the United States itself helped establish, and by allowing U.S. officials to openly address concerns and counter misinformation. The second major risk is that of proliferation. Over the next decade, the U.S. near-monopoly on drone strikes will erode as more countries develop and hone this capability. The advantages and effectiveness of drones in attacking hard-to-reach and time-sensitive targets are compelling many countries to indigenously develop or explore purchasing unmanned aerial systems. In this uncharted territory, U.S. policy pro- vides a powerful precedent for other states and nonstate actors that will increasingly deploy drones with potentially dangerous ramiﬁcations. Reforming its practices could allow the United States to regain moral authority in dealings with other states and credibly engage with the international community to shape norms for responsible drone use. The current trajectory of U.S. drone strike policies is unsustainable. Without reform from within, drones risk becoming an unregulated, unaccountable vehicle for states to deploy lethal force with impunity. Consequently, the United States should more fully explain and reform aspects of its policies on drone strikes in nonbattleﬁeld settings by ending the controversial practice of “signature strikes”; limiting targeted killings to leaders of transnational terrorist organizations and individuals with direct involvement in past or ongoing plots against the United States and its allies; and clarifying rules of the road for drone strikes in nonbattleﬁeld settings. Given that the United States is currently the only country—other than the United Kingdom in the tra- ditional battleﬁeld of Afghanistan and perhaps Israel—to use drones to attack the sovereign territory of another country, it has a unique opportunity and responsibility to engage relevant international actors and shape development of a normative framework for acceptable use of drones. Although reforming U.S. drone strike policies will be difficult and will require sustained high-level attention to balance transparency with the need to protect sensitive intelligence sources and methods, it would serve U.S. national interests by ■allowing policymakers and diplomats to paint a more accurate portrayal of drones to counter the myths and misperceptions that currently remain unaddressed due to secrecy concerns; ■placing the use of drones as a counterterrorism tactic on a more legitimate and defensible footing with domestic and international audiences; increasing the likelihood that the United States will sustain the inter- national tolerance and cooperation required to carry out future drone strikes, such as intelligence support and host-state basing rights; ■exerting a normative inﬂuence on the policies and actions of other states; and ■providing current and future U.S. administrations with the requisite political leverage to shape and promote responsible use of drones by other states and nonstate actors.

#### Presidential use of drone strikes is on its last straw, reform of the AUMF stops court strikedown

**Barnes 13** [Beau, International Parliamentary Fellow as staff to a congressional candidate for the Mercy Corps, honor graduate of Lewis and Clark College where he focused on National Security Law and Policy/International Law, joint-degree student at Boston University Law School and the Fletcher School of Law and Diplomacy, where he focuses on national security law and policy, “The War On Terror Has Changed – Now The Rules Should, Too,” 5-16 <http://cognoscenti.wbur.org/2013/05/16/authorization-for-use-of-military-force-beau-barnes>]

The law that forms the foundation of the war on terror is almost obsolete, undermining the legal basis of U.S. counterterrorism operations. On Thursday, the Senate Armed Services Committee will take a long-overdue first step to fix this problem, a development we should all applaud.¶ On September 14, 2001, Congress passed the Authorization for Use of Military Force (AUMF), authorizing “all necessary and appropriate force against those nations, organizations, or persons” behind the 9/11 attacks. Over a decade later, al-Qaida, the group that perpetrated the attacks, is on the ropes. But other armed groups – like the Haqqani Network, al-Shabab, and al-Qaida in the Islamic Maghreb – have become targets of the Obama administration’s worldwide counterterrorism efforts. The statute’s explicit reference to the 9/11 attacks, however, means it can’t authorize military action against groups with only superficial links to al-Qaida. In the wake of 9/11, the AUMF provided legal authority and demonstrated congressional support for the U.S. invasion of Afghanistan. But the Bush administration soon abandoned the AUMF, justifying the war on terror on the basis of the president’s inherent constitutional powers as commander-in-chief. These interpretations were soon discredited, both in the court of public opinion and in actual courts, with the Supreme Court repeatedly chastising the Bush administration’s legal approach to counterterrorism.¶ In a laudable attempt to bring U.S. counterterrorism policy back within the rule of law, the Obama administration has invoked the AUMF as the basis for its global “targeted killing” operations, known by most simply as “drone strikes.” But, like its predecessor, this administration has also stretched the law to serve its purposes, and is currently contemplating even more implausible interpretations of the AUMF. The president and his legal team are pushing us closer to a place where every terrorist is a member of al-Qaida.¶ How we justify counterterrorism operations is not just a question for the lawyers – it’s a policy choice with far-reaching domestic and international implications. Military might and covert operations alone can’t win the global struggle against al-Qaida and its ideological comrades-in-arms. We need credible arguments too, both to secure support from potential partners and undermine extremist justifications. As former Defense Department general counsel Jeh Johnson argued, “we must guard against aggressive interpretations of our authorities that will discredit our efforts, provoke controversy and invite challenge.” The administration has already read nearly all meaning out of the legal concepts of “imminence” and “hostilities” — another far-fetched legal interpretation might be the last straw for the administration’s legitimacy in the arena of counterterrorism. Alternatives to the AUMF exist, but they’re not good. Relying on inherent presidential power runs into considerable legal and political difficulties. Legally, this approach would risk intervention by a Supreme Court with a willingness to strike down excessive claims of executive power. Politically, it would be difficult to sustain for a president who ran for office largely on the promise of repudiating Bush-era legal excesses.¶ A rationale base d on the international law of self-defense is similarly unappealing. Although the Obama administration maintains that the AUMF “does not authorize military force against anyone the Executive labels a ‘terrorist,’” using this legal argument would lead to precisely that result, usurping Congress’s constitutionally provided role in national security policy. Since the United States plays an important role in setting norms of international conduct, our government should not claim legal rights that it is not prepared to see proliferate around the globe. UN officials recognize that the Obama administration’s “expansive and open-ended interpretation of the right to self-defense threatens to destroy the prohibition on the use of armed force.” CIA director John Brennan noted in 2012 that U.S. drone strikes “are establishing precedents that other nations may follow” – a concern that is already materializing.¶ With international armed groups unlikely to disappear any time soon, one option rises above the rest: it’s time for a new AUMF. President Obama is understandably reluctant to legally entrench President Bush’s war on terror, but a properly drafted law could provide legitimacy to existing operations and constrain future presidents. Indeed, our concern shouldn’t be a new counterterrorism statute, but what happens in its absence.¶ A new AUMF should not provide a blanket authorization to kill anyone the president considers an enemy. Instead, it should create a framework for continued counterterrorism operations that addresses which groups are valid targets, the circumstances under which they can be targeted, and where such operations can occur. Unlike the current AUMF, a new law should include an expiration date, but not be legally tied to any specific event

#### Emerging extra-AUMF threats make the AUMF obsolete now – reform is key to overall US CT strategy

**Chesney et al 13** <Benjamin Wittes is a senior fellow in governance studies at the Brookings Institution and codirector of the Harvard Law School–Brookings Project on Law and Security. Matthew Waxman is a professor of law at Columbia Law School and an adjunct senior fellow at the Council on Foreign Relations. He previously served as principal deputy director of policy planning (2005–7) and acting director of policy planning (2007) at the US Department of State. He also served as deputy assistant secretary of defense for detainee affairs (2004–5), director for contingency planning and international justice at the National Security Council (2002–3), and special assistant to National Security Adviser Condoleezza Rice (2001–2). He is a graduate of Yale College and Yale Law School. Jack Goldsmith is the Henry L. Shattuck Professor of Law at Harvard University. Former assistant attorney general, Office of Legal Counsel, Goldsmith holds a JD from Yale Law School, a BA and an MA from Oxford University. Robert Chesney is a professor at the University of Texas School of Law, a nonresident senior fellow of the Brookings Institution, and a distinguished scholar at the Robert S. Strauss Center for International Security and Law. “Is the "War on Terror" Lawful?” February 25, 2013. http://www.hoover.org/publications/defining-ideas/article/141091>

Since September 18, 2001, a joint resolution of Congress known as the Authorization to Use Military Force (AUMF) has served as the primary legal foundation for the “war on terror.” In this essay we explain why the AUMF is increasingly obsolete, why the nation will probably need a new legal foundation for next-generation terrorist threats, what the options are for this new legal foundation, and which option we think is best. ¶ The AUMF authorizes the president to “use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, . . . .” The authorization of “force” in the AUMF is the main legal basis for the president’s power to detain and target members of al Qaeda and The Taliban. In addition, since September 11, Congress, two presidential administrations, and the lower federal courts have interpreted the “force” authorized by the AUMF to extend to members or substantial supporters of the Taliban and al Qaeda, and associated forces.¶ The main reason the AUMF is becoming obsolete is that the conflict it describes – which on its face is one against the perpetrators of the September 11 attacks and those who harbor them – is growing less salient as U.S. and allied actions degrade the core of Al Qaeda and the U.S. military draws down its forces fighting the Taliban in Afghanistan. At the same time that the original objects of the AUMF are dying off, newer terrorist groups that threaten the United States and its interests are emerging around the globe. Some of the terrorist groups have substantial ties to al Qaeda and thus can be brought within the AUMF by interpretation.¶ For example, the President has been able to use force against al Qaeda in the Arabian Peninsula (“AQAP”), a terrorist organization in Yemen, because it is a supporter or associated force of al Qaeda. But this interpretive move is increasingly difficult as newer threatening groups emerge with dimmer ties, if any, to al Qaeda. As a result, we are reaching the end point of statutory authority for the President to meet terrorist threats.¶ We should emphasize at the outI kno set that we do not claim that the increasingly obsolete AUMF demands immediate amendment or alteration. We do not make this claim because we lack access to classified information that would indicate the full nature of the terrorist threats the nation faces, or their connection to al Qaeda, or the nation’s ability to meet the threat given current legal authorities.¶ We also recognize that any new force authorizations carry significant strategic and political consequences beyond their immediate operational consequences. We nonetheless believe strongly – based on public materials and conversations with government officials – that the AUMF’s usefulness is running out, and that this trend will continue and will demand attention, in the medium term if not in the short term. Our aim is to contribute to the conversation the nation will one day have about a renewed AUMF by explaining why we think one will be necessary and the possible shape it might take.¶ Part I of this paper explains in more detail why the AUMF is becoming obsolete and argues that the nation needs a new legal foundation for next-generation terrorist threats. Part II then describes the basic options for this new legal foundation, ranging from the President’s Article II powers alone to a variety of statutory approaches, and discusses the pros and cons of each option, and the one we prefer. Part III analyzes additional factors Congress should consider in any such framework.¶ I. ¶ The Growing Problem of Extra-AUMF Threats and the Need for a New Statutory Framework¶ In this Part we explain why the AUMF is growing obsolete and why a combination of law enforcement and Article II authorities, standing alone, is not an adequate substitute.¶ 1. The Growing Obsolescence of the AUMF¶ The September 2001 AUMF provides for the use of force against the entity responsible for the 9/11 attacks, as well as those harboring that entity. It has been clear from the beginning that the AUMF encompasses al Qaeda and the Afghan Taliban, respectively. This was the right focus in late 2001, and for a considerable period thereafter. But for three reasons, this focus is increasingly mismatched to the threat environment facing the United States. ¶ First, the original al Qaeda network has been substantially degraded by the success of the United States and its allies in killing or capturing the network’s leaders and key personnel. That is not to say that al Qaeda no longer poses a significant threat to the United States, of course. The information available in the public record suggests that it does, and thus nothing we say below should be read to suggest that force is no longer needed to address the threat al Qaeda poses. Our point is simply that the original al Qaeda network is no longer the preeminent operational threat to the homeland that it once was.¶ Second, the Afghan Taliban are growing increasingly marginal to the AUMF. As noted above, the AUMF extended to the Taliban because of the safe harbor they provided to al Qaeda. That rationale makes far less sense a dozen years later, with the remnants of al Qaeda long-since relocated to Pakistan’s FATA region. This issue has gone largely unremarked in the interim because U.S. and coalition forces all along have been locked in hostilities with the Afghan Taliban, and thus no occasion to reassess the AUMF nexus has ever arisen.¶ Such an occasion may well loom on the horizon, however, as the United States draws down in Afghanistan with increasing rapidity. To be sure, the United State no doubt will continue to support the Afghan government in its efforts to tamp down insurgency, and it also will likely continue to mount counterterrorism operations within Afghanistan. It may even be the case that at some future point, the Taliban will again provide safe harbor to what remains of al Qaeda, thereby at least arguably reviving their AUMF nexus. But for the time being, the days of direct combat engagement with the Afghan Taliban appear to be numbered. ¶ If the decline of the original al Qaeda network and the decline of U.S. interest in the Afghan Taliban were the only considerations, one might applaud rather than fret over the declining relevance of the AUMF. There is, however, a third consideration: significant new threats are emerging, ones that are not easily shoehorned into the current AUMF framework.¶ To a considerable extent, the new threats stem from the fragmentation of al Qaeda itself. In this sense, the problem with the original AUMF is not so much that its primary focus is on al Qaeda, but rather that it is increasingly difficult to determine with clarity which groups and individuals in al Qaeda’s orbit are sufficiently tied to the core so as to fall within the AUMF. And given the gravity of the threat that some of these groups and individuals may pose on an independent basis, it also is increasingly odd to premise the legal framework for using force against them on a chain of reasoning that requires a detour through the original, core al Qaeda organi zation.¶ ¶ The fragmentation process has several elements. First, entities that at least arguably originated as mere regional cells of the core network have established a substantial degree of organizational and operational independence, even while maintaining some degree of correspondence with al Qaeda’s leaders. Al Qaeda in the Arabian Peninsula (AQAP) is a good example. Al Qaeda in Iraq (AQI) arguably fits this description as well, though in that case one might point to a substantial degree of strategic independence as well.¶ Second, entities that originated as independent, indigenous organizations have to varying degrees established formal ties to al Qaeda, often rebranding themselves in the process. Al Qaeda in the Islamic Maghreb (AQIM), formerly known as the Salafist Group for Call and Combat, illustrates this path. Al Shabaab in Somalia arguably does as well. And then there are circumstances (such as the ones currently unfolding in Mali, Libya, and Syria) in which it is not entirely clear where the organizational lines lie among (i) armed groups that work in concert with or even at the direction of one of the aforementioned al Qaeda affiliates; (ii) armed groups that are sympathetic and in communication with al Qaeda; and (iii) armed groups that are wholly-independent of al Qaeda yet also stem from the same larger milieu of Salafist extremists.¶ This situation – which one of us has described as the emergence of “extra-AUMF” threats – poses a significant problem insofar as counterterrorism policy rests on the AUMF for its legal justification. In some circumstances it remains easy to make the case for a nexus to the original al Qaeda network and hence to the AUMF. But in a growing number of circumstances, drawing the requisite connection to the AUMF requires an increasingly complex daisy chain of associations – a task that is likely to be very difficult (and hence subject to debate) in some cases, and downright impossible in others.¶ The emergence of this problem should come as no surprise. It has been nearly a dozen years since the AUMF’s passage, and circumstances have evolved considerably since then. It was inevitable that threats would emerge that might not fit easily or at all within its scope. The question is whether Congress should do anything about this situation, and if so precisely what.

#### The plan allows the president to address extra-AUMF threats and identification ensures accountability

**Chesney et al 13** <Benjamin Wittes is a senior fellow in governance studies at the Brookings Institution and codirector of the Harvard Law School–Brookings Project on Law and Security. Matthew Waxman is a professor of law at Columbia Law School and an adjunct senior fellow at the Council on Foreign Relations. He previously served as principal deputy director of policy planning (2005–7) and acting director of policy planning (2007) at the US Department of State. He also served as deputy assistant secretary of defense for detainee affairs (2004–5), director for contingency planning and international justice at the National Security Council (2002–3), and special assistant to National Security Adviser Condoleezza Rice (2001–2). He is a graduate of Yale College and Yale Law School. Jack Goldsmith is the Henry L. Shattuck Professor of Law at Harvard University. Former assistant attorney general, Office of Legal Counsel, Goldsmith holds a JD from Yale Law School, a BA and an MA from Oxford University. Robert Chesney is a professor at the University of Texas School of Law, a nonresident senior fellow of the Brookings Institution, and a distinguished scholar at the Robert S. Strauss Center for International Security and Law. “Is the "War on Terror" Lawful?” February 25, 2013. http://www.hoover.org/publications/defining-ideas/article/141091>

Based on current trends and the lessons from the past decade, we recommend a third approach: Congress sets forth general statutory criteria for presidential uses of force against new terrorist threats but requires the executive branch, through a robust administrative process, to identify particular groups that are covered by that authorization of force. One model to draw on, with modifications, is the State Department’s Foreign Terrorist Organization designation process.¶ Under this process, the Secretary of State – pursuant to specific statutory standards, in consultation with other Departments, and following a notification period to Congress – designates particular groups as terrorist organizations and thereby triggers statutory consequences for those groups and their members. We believe that a listing system modeled on this approach best cabins presidential power while at the same time giving the President the flexibility he needs to address emerging threats. Such a listing scheme will also render more transparent and regularized the now very murky process by which organizations and their members are deemed to fall within the September 2001 AUMF. ¶ The listing is approach is not without significant challenges, however. Some will claim that such a delegation to the president to identify the entities against whom force can be deployed would be unconstitutional. However, Congress has often authorized the president to use force in ways that leave the president significant discretion in determining the precise enemy. In light of this history, the waning of the non-delegation doctrine in other contexts, the congressional specification of the general criteria for the use of force, and the administrative, reporting, and timing limitations on the listing process described below, the constitutional objections can be overcome.¶ A more serious challenge is that the listing approach will appear to codify permanent war, and to diminish the degree of congressional involvement and inter-branch deliberation compared to the second approach. These concerns can be mitigated in several ways. First, the substantive statutory criteria governing this listing process should be as specific as possible. For example, a new AUMF might authorize force against “an organization with sufficient capability and planning that it presents an imminent threat to the United States.” Or it might authorize force against “any group or person that has committed a belligerent act against the U.S. or imminently threatens to do so.”¶ In setting out such criteria, Congress could make clear precisely what it means by key terms such as “imminent” and “belligerent act.” The criteria should, moreover, be expressly linked to international self-defense law. Compliance with that law is an obligation of the United States. And from a diplomatic and international legal-policy standpoint it is important that the United States government as a whole make clear that this is not an open-ended “global war on terror” but a cabined application of traditional self-defense to the new realities of non-state threats.¶ Second, at the front-end of the listing process, the administrative, consultative, and notification procedures should be sufficiently robust to ensure careful deliberation and strong accountability. At the same time, the statute should provide for emergency exercises of Article II power (which the Constitution arguably compels in any event), followed by a process for retroactive listing, to deal with rapidly-moving crises while providing strong incentive for the President to fold his actions into the statutory scheme.¶ Finally, a listing scheme should include thorough ex post reporting and auditing as well. At a minimum the President should have a duty to report to Congress in detail on the intelligence and other factual bases that led to the inclusion of particular groups on the list. The President should also have a duty to file detailed reports with Congress -- in a more robust form than the usually conclusory War Powers Resolution reports -- about how the statutory authorization of force is being implemented.

#### Alternative measures for dealing with these threats will fail – plan is key

**Chesney et al 13** <Benjamin Wittes is a senior fellow in governance studies at the Brookings Institution and codirector of the Harvard Law School–Brookings Project on Law and Security. Matthew Waxman is a professor of law at Columbia Law School and an adjunct senior fellow at the Council on Foreign Relations. He previously served as principal deputy director of policy planning (2005–7) and acting director of policy planning (2007) at the US Department of State. He also served as deputy assistant secretary of defense for detainee affairs (2004–5), director for contingency planning and international justice at the National Security Council (2002–3), and special assistant to National Security Adviser Condoleezza Rice (2001–2). He is a graduate of Yale College and Yale Law School. Jack Goldsmith is the Henry L. Shattuck Professor of Law at Harvard University. Former assistant attorney general, Office of Legal Counsel, Goldsmith holds a JD from Yale Law School, a BA and an MA from Oxford University. Robert Chesney is a professor at the University of Texas School of Law, a nonresident senior fellow of the Brookings Institution, and a distinguished scholar at the Robert S. Strauss Center for International Security and Law. “Is the "War on Terror" Lawful?” February 25, 2013. http://www.hoover.org/publications/defining-ideas/article/141091>

Consider first the option of Congress doing nothing. This is, at bottom, a choice to address extra-AUMF threats through a combination of increasingly strained executive branch interpretations of the AUMF, law enforcement and intelligence measures, and whatever supplemental military force the President can and will assert based on his Article II authorities. It is our contention that at some point even strained interpretations of the AUMF will not be possible, and that even before we reach that point, the strained interpretations will call into question the legitimacy of congressional and democratic backing for the president’s uses of force. That leaves law enforcement measures and Article II powers, which in combination are far from ideal.¶ To be very clear, we do not claim that all terrorism-related threats can or should be dealt with militarily. Law enforcement and intelligence tools can have tremendous effect, and we strongly endorse the view that the President’s authority to use them should not be unduly constrained out of a misguided sense that most or all terrorism scenarios require a military solution. But law enforcement and intelligence tools are not a panacea. In some circumstances – such as the late 1990s in Afghanistan and today in certain areas of Pakistan, Yemen, Somalia, and the Sahel region – these options simply do not provide sufficient capacity to capture individuals or to otherwise disrupt their activities. And in some circumstances, these tools are equally inadequate to the task of long-term incapacitation.¶ Bearing this in mind, the next issue is whether the President’s inherent powers under Article II are adequate to address any gap that may emerge between what defense of the nation demands and what law enforcement and intelligence options can provide in extra-AUMF scenarios. We are skeptical, for three reasons.¶ First, it is worth bearing in mind that some administrations are more comfortable resorting to claims of Article II authority than others. The Obama administration, for example, has consciously distanced itself from the Bush administration on this dimension, at least in the counterterrorism setting (as opposed to the operation in support of the revolution in Libya, which relied on a surprisingly bold stand-alone Article II argument). In a situation where a military response is appropriate but officials are reluctant to act without statutory cover, a serious problem arises unless there is time to seek and receive legislative support.¶ Second, presidential action based on statutory authority has more political and legal legitimacy than action based on Article II alone. Article II actions leave the president without overt political support of Congress, which can later snipe at his decisions, or take actions to undermine them. We saw this happen, for example, in response to many of the Bush administration’s unilateral assertions of authority, and also to some degree in response to President Obama’s unilateral assertion of authority in Libya. This is a problem that grows with reliance on Article II over time. Also, of course, any subsequent judicial review of the president’s use of force is more likely to be upheld if supported by Congress.