# Wake Round 5

## 2AC

### Case

#### Newest developments take out all impact defense

Jordans, 2011

[Frank, Associated Press, 12-7-11, Clinton warns of bioweapon threat from gene tech, http://www.nbcnews.com/id/45584359/ns/#.UkkMV2T72Ik] /Wyo-MB

GENEVA — New gene assembly technology that offers great benefits for scientific research could also be used by terrorists to create biological weapons, U.S. Secretary of State Hillary Rodham Clinton warned Wednesday.¶ The threat from bioweapons has drawn little attention in recent years, as governments focused more on the risk of nuclear weapons proliferation to countries such as Iran and North Korea.¶ But experts have warned that the increasing ease with which bioweapons can be created might be used by terror groups to develop and spread new diseases that could mimic the effects of the fictional global epidemic portrayed in the Hollywood thriller "Contagion."¶ Speaking at an international meeting in Geneva aimed at reviewing the 1972 Biological Weapons Convention, Clinton told diplomats that the challenge was to maximize the benefits of scientific research and minimize the risks that it could be used for harm.¶ "The emerging gene synthesis industry is making genetic material more widely available," she said. "This has many benefits for research, but it could also potentially be used to assemble the components of a deadly organism."¶ Gene synthesis allows genetic material — the building blocks of all organisms — to be artificially assembled in the lab, greatly speeding up the creation of artificial viruses and bacteria.¶ The U.S. government has cited efforts by terrorist networks such as al-Qaeda to recruit scientists capable of making biological weapons as a national security concern.¶ Advertise¶ "A crude but effective terrorist weapon can be made using a small sample of any number of widely available pathogens, inexpensive equipment, and college-level chemistry and biology," Clinton told the meeting.¶ "Less than a year ago, al-Qaeda in the Arabian Peninsula made a call to arms for, and I quote, 'brothers with degrees in microbiology or chemistry ... to develop a weapon of mass destruction,'" she said.¶ Clinton also mentioned the Aum Shinrikyo cult's attempts in Japan to obtain anthrax in the 1990s, and the 2001 anthrax attacks in the United States that killed five people.¶ Washington has urged countries to be more transparent about their efforts to clamp down on the threat of bioweapons. But U.S. officials have also resisted calls for an international verification system — akin to that for nuclear weapons — saying it is too complicated to monitor every lab's activities.

### PIC

#### Targeted killing is only drone strikes

Bachman, 2013

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Operation ‘Neptune Spear’ as well as the alleged Israeli Mossad Operation to kill the Hamas official Mahmud al-Mabhuh in Dubai in 201122 involved the use of Special Forces on the ground, or intelligence operatives/assets respectively, constitute commando operations as well targeting operations in the wider sense. Such tactical capture and kill operations executed by Special Forces assets are not the focus of this short contribution: its focus is solely on targeted killing, as a means of warfare which is executed by using remotely piloted aircraft, UAVs or drones respectively, as weapons platform.

#### Turn- Judicial review key to maximize effectiveness of SOF

Robinson 12

[Linda Robinson, Adjunct Senior Fellow for U.S. National Security and Foreign Policy Council on Foreign Relations, “Testimony on Special Operations Forces”, July 11, 2012, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&ved=0CDsQFjAC&url=http%3A%2F%2Fi.cfr.org%2Fcontent%2Fpublications%2Fattachments%2FL.RobinsonTestimony070912.pdf&ei=SoBHUpTkHcfwyAHj5IG4Aw&usg=AFQjCNGNooyZRk\_a8DY47epbIKzmoUe8\_A&sig2=c-FTY\_VYboUfeP\_yLiJU0g&bvm=bv.53217764,d.aWc, \\wyo-bb]

There is no more important issue to national security than making sure that special operations forces are developed¶ and employed in a way that maximizes their full potential because they will very likely continue to play a¶ disproportionately large role relative to their size in ensuring U.S. national security in the years ahead. First, we are in¶ a highly resource-constrained environment and security solutions employing small, scalable and highly skilled units¶ such as SOF are cost effective. Second, the small footprint solution – if employed correctly – is often much more¶ acceptable to friends and allies around the world than large-scale military operations. Third, SOF are designed to¶ address many of the threats that will dominate the landscape, to include terrorists, insurgents, transnational criminal¶ networks and other nonstate actors empowered by technology and other forces of globalization. They also play¶ important niche roles in conventional conflicts, countering weapons of mass destruction and against adversaries that¶ employ unconventional tactics. Indeed, one of the key challenges for the employment of SOF is to prioritize their use¶ and develop innovative ways to extend their impact.¶ In the past decade, a great deal of attention and resources has been devoted to developing a world-class direct action or¶ surgical strike capability as part of the special operations’ suite of capabilities. In particular, the national SOF or¶ national mission force is highly optimized in terms of its organization and the enablers provided to it. I see two areas¶ in regard to the direct approach that may warrant further development. One is a policy issue: I believe that an¶ established standard procedure for systematically weighing the costs and benefits of employing unilateral raids or¶ strikes via unmanned drones could improve the viability of this tactic over the longer run. This procedure and as much¶ of the evidence or justification for such strikes as possible should be shared widely. It may also be advisable to institute¶ a congressional or judicial review mechanism. Finally, outside theaters of war the use of the direct approach should be¶ applied to imminent and dire threats to U.S. citizens, soil or vital interests. Measures such as these could shore up the¶ long-term viability of the direct approach and ensure that potential second and third order consequences are¶ deliberately included in each assessment. At a policy level this would help ensure that the right balance between the¶ direct and indirect approach is struck. As both the current and former commanders of U.S. Special Operations¶ Command have said repeatedly in testimony before Congress and elsewhere, the direct approach only buys time for¶ the indirect approach to work, and such a process would help guard against overreliance on the short-term expedient¶ that may be counterproductive over the longer term.

#### No Solvency--

#### Can’t solve blowback—Special forces targeted killings cause civilian casualties

Mackenzie, 2011

[Jean, 5-13-11, Afghanistan War: Are Special Forces and targeted killings the answer?, http://www.globalpost.com/dispatch/news/regions/asia-pacific/afghanistan/110513/afghanistan-war-are-special-forces-and-targete] /Wyo-MB

KABUL, Afghanistan — Still riding the wave of euphoria over the Abbottabad strike that took down America’s most-wanted enemy, some in the U.S. policy establishment are advocating for an increased use of Special Forces and the strategic operations they conduct.¶ Night raids, or “intelligence-driven” attacks on specific individuals or compounds, already represent a much larger part of the Afghanistan war strategy than they did before Gen. David Petraeus assumed command of U.S. and NATO troops here last summer.¶ The attacks are credited with decimating the mid-level Taliban leadership, and many see them as the way forward if U.S. President Barack Obama makes good on his promise to begin a significant drawdown of American troops in Afghanistan beginning in July.¶ But a string of botched strikes over the past years demonstrates what happens when things go wrong. Disastrous public relations fallout from the deaths of innocent civilians may well outweigh the gains made by successful operations in a population-centric conflict whose outcome will ultimately depend on whom the Afghan people choose as their best guarantor of safety and prosperity.¶ The most recent “mistake” occurred just a few nights ago in Nangarhar province.¶ The press release by the media office for the International Security Assistance Force (ISAF) bore the fairly innocuous headline: “One armed individual, one local national killed during security operation.”¶ Closer reading revealed that the “armed individual” was a member of the Afghan National Police, and the “local national” was a twelve-year-old girl, later identified as the police officer’s niece, Nilofar.¶ The U.S. forces had the wrong house. NATO apologized.¶ “We understand any civilian loss of life is detrimental to our cause and to our efforts to secure the population,” said Rear Admiral Hal Pittman, ISAF deputy chief of staff for communication. We are working with our Afghan security force counterparts to understand what happened and take steps to prevent this from happening in the future.”¶ As heartbreaking as the deaths in Nangarhar might be to the family and friends of those involved, they are at least publicly acknowledged to have been military errors.¶ Not so the death of a former mujaheddin commander killed by a NATO strike in September 2010, along with nine others. He was publicly but erroneously identified as Mohammad Amin, the Taliban shadow deputy governor of Takhar province.¶ A report recently released by the Afghanistan Analysts Network (AAN) found that the target of the strike, Zabet Amanullah, was a civilian who was working on the parliamentary election campaign of his nephew. With him in his convoy were election officials and other civilians.¶ The author, Kate Clark, gives a detailed account of the strike, along with biographies of both Amanullah and Amin. She also includes an interview with Amin, alive and well and living in Pakistan, conducted months after the raid by Michael Semple, a renowned expert on the Taliban.¶ Still, up to the present, NATO insists that it got the right man.¶ The nine others were also targeted because of their proximity to a “known terrorist,” according to the report.¶ Figures released by the Unite Nations indicate that the numbers of civilians killed or injured by the international troops is going down, but the effect of those operations that do go wrong is all out of proportion to their numbers.¶ The deaths of nine young boys in Kunar province in March at the hands of NATO attack helicopters sent Afghan President Hamid Karzai into tears, and provoked an angry reaction in the Afghan Parliament.¶ In Paktia last year, three young women, two of them pregnant, were killed in a bungled raid. It took determined media pressure to force an acknowledgement and an apology from the military.¶ But these are the attacks that NATO accepts, and whose victims are counted among those killed. There are many more where the military has denied the accounts of the Afghan government and locals, refused to accept responsibility, and whose casualties are never included in the ranks of dead civilians.¶ The 10 killed in Takhar last year are just the tip of the iceberg.¶ Take a raid in Ghazi Abad, Kunar province, in February, in which NATO insists it targeted and killed more than 30 insurgents.

#### Can’t solve cred or international norms without inclusion of special forces—regulation of all targeted killing is key

Bachman, 2013

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This article concludes with the prediction that the use of UCAS as a method of warfare (together with Special Forces capture and kill operations) will increase in the future. The overall potential military benefit of using drones as a method of warfare on the battlefield of the future is not disputed and with the USA having become a key player in the use of this form of warfare, other nations are set to follow its lead. The use of drones and targeted killing operations will remain a means of warfare of first choice to counter Asymmetric and Hybrid Threats. It seems certain that targeted killing will continue to be an important element of future US long-term counterterrorism and security strategies. It also seems likely that in light of defence budget cuts, troop reductions as well as a growing unwillingness to scarify the lives of soldiers of Western countries, more states will consider turning utilizing armed drones as a means of show of force in the future. Combat capabilities can be significantly enhanced when the use of UAVs are available: this reflects directly on the dual use nature of such airborne systems, which allow for an unarmed use for reconnaissance as well as armed for combat.140 The recent call by the UN Secretary General to deploy UAVs to Congo to support the African peacekeeping forces of MONUSCO in their attempt to fight rebels in the east of the country highlights the potential use of UAVs outside targeted killing operations.141 This ‘dual use nature’ of UAVs, unarmed versus armed, has been recognized for the use in policing and monitoring roles with the potential of further proliferation and use.¶ The use of drones for executing targeted killing in Afghanistan and Pakistan might well increase in the next years, a forecast which is partly founded in the fact that the USA is moving already now in a transitional role in Afghanistan and plans to end major combat operations there this spring. The withdrawal of combat troops will necessitate the increased use of targeted killing in future, executed by both drones and special forces, in order to close existing combat capability gaps during and after the transition of operational control to the Afghan National Army. In addition, Obama’s decision to appoint John Brennan, his former Security Advisor and key promoter of the use of drones for targeted killing, to the top job of CIA director may likely result in an increase reliance on this means of warfare by the USA.142¶ The future use of drones will not only affect national security strategies and policies, but eventually also impact on how we perceive interstate war within its legal contexts of the jus ad bellum as well as the law of conflict, the jus in bello. These future developments will challenge the international legal fraternity for some time to come: it will be a key responsibility for the international lawyer to discuss and scrutinize these developments within their wider political, legal and military context, and to shape this process. This article concludes with a sobering warning that while targeted killing operations may be an effective means of achieving short-term tactical goals within the scope of a wider operational objective, the unregulated and increased use of targeting killings by the USA (and others) in the ‘war on terror’ may be both immoral as well as illegal in the long run.

#### The counterplan links just as much—Special forces use drone strikes

Kitfield, 2-3-13

[James, Senior correspondent national journal, Targeted Killings: Obama’s Endless War, http://www.nationaljournal.com/magazine/targeted-killings-obama-s-endless-war-20130131] /Wyo-MB

For a president whose foreign policy is defined in large part by his determination to end the wars in Iraq and Afghanistan, it was a signature expression of hope for a more peaceful era to come. Yet even as Obama spoke, his administration was laying a more solid foundation for a largely undeclared and seemingly endless war that rages on. In fact, after a period of relative quiet on the counterterrorism front, the United States rang in the new year with a deadly display of firepower, as drone aircraft operated by the CIA and special-operations forces unleashed a fusillade of Hellfire missiles on suspected terrorists and insurgents in multiple countries.¶ In Pakistan, CIA drones struck seven times within a 10-day span in 2013, marking a major escalation in the pace of the controversial attacks. In North Waziristan, Pakistan, where residents complain of hearing a constant buzz of unseen drones circling overhead, anti-American street protests are frequent in some areas. Likewise in Yemen, after a lull in activity, U.S. counterterrorism forces have reportedly conducted five drone strikes since Christmas, equaling in a matter of days half the total strikes in that country in all of 2011. Coincidentally, that was also the year cleric Anwar al-Awlaki and two other U.S.-born citizens associated with al-Qaida in the Arabian Peninsula became the first Americans to find themselves in the bull’s-eye. By adding them to the target list, the program that has come to define the Obama administration’s counterterrorism policies crossed a Rubicon.

### Politics

#### Farm bill wont be unified and SNAP fights kill any posibility

Schlageck 11-14

(John, Windfield Courier. “Where is the farm bill?” 11-14-13 http://www.winfieldcourier.com/agriculture/article\_20ed67fc-4cc5-11e3-89b4-0019bb2963f4.html//wyoccd)

To say the farm bill has moved like molasses through Congress the past three years is a gross understatement. This branch of our federal government continues to be mired in the mud of partisan politics.¶ Congress seems hell-bent on infighting while this nation’s business is left undone. Kansans and other farm-state lawmakers are urging their colleagues to look back to more bipartisan times and do something Congress hasn’t done much of lately – pass a major piece of legislation.¶ Remember the old axiom: politics is the art of compromise?¶ Farm country needs a farm bill and we could have used it yesterday. Much of the fall corn, beans and milo are out of the fields and farmers are ready to look toward 2014 and next year’s crops.¶ Kansas farmers and ranchers need the certainty of a completed farm bill in order to make business decisions for next year, says Kansas Farm Bureau President Steve Baccus, an Ottawa County farmer.¶ A strong, affordable crop insurance safety net will help producers develop individual risk management plans, he adds. Reauthorizing livestock disaster programs will protect Kansas ranchers from catastrophic losses such as those suffered by South Dakota ranchers after the recent blizzard.¶ Baccus urged Congress to fund all titles in the new farm bill to avoid abandoning important conservation, research and trade programs to the mercy of the appropriations process. He also called on lawmakers to preserve traditional rural-urban cooperation on nutrition issues.¶ “A farm bill without a meaningful nutrition title will make it difficult, if not impossible, for the House and Senate to reach agreement on a bill that can be signed by the president,” Baccus said. “Congress must pass a unified farm bill that continues the partnership between the nutrition and farm communities and their constituents.”¶ Seems the main challenge in arriving at a new farm bill is the differences on food stamps, officially called the Supplemental Nutrition Assistance Program (SNAP).¶ The House has passed legislation to slash approximately $40 billion annually, or about five percent, including changes in eligibility and work requirements. The Senate wants to cut a much smaller $4 billion.¶ SNAP funding has more than doubled during the past five years as the nation’s economy struggled. Democrats contend it is working as intended, providing food to those in need when times are tough. Republicans believe it should be focused on the neediest people.¶ When most Americans think of a farm bill they think of farm subsidies. Few think of all the other things that are covered in this nearly $1 trillion program.¶ Few Americans know that 75 percent of the farm bill is actually helping feed folks who need nutrition assistance. Let me repeat, 75 percent of this bill goes to feed hungry people.¶ Most of the current law’s ag provisions expired in September. Direct payments would have been eliminated and our lawmakers could have taken some of that money applied it to deficit reduction as well as an affordable crop insurance program.¶ If we don’t have a farm bill by 2014 and Congress allows dairy supports to expire, 1930s and 1940s-era farm law would kick in. Some estimates conclude the government will then pay up to four times more for dairy products. If that scenario plays out, many farmers would sell to the government instead of commercial markets, decreasing the commercial supply while raising prices for shoppers at the supermarket.¶ So the question remains – can the House and Senate pass a farm bill?

#### No pass – Obama not investing in solving SNAP issues and conference not making progress on SNAP means wont pass in time

JENNY HOPKINSON, Tom Vilsack: More than agriculture at stake in farm bill, Politico, 11/15/13. <http://www.politico.com/story/2013/11/pro-agriculture-launch-99874.html#ixzz2kv7EFqTc>

During his remarks, Vilsack reiterated the Obama administration’s commitment to finalizing the farm bill by the end of the year; both chambers are working in conference committee to reconcile their versions of the bill.¶ “It’s more than a farm bill,” Vilsack said. “It’s a jobs bill, it’s the opportunity for us to invest in business development in rural America to take advantage of our natural resources. … It’s an energy bill … it’s a trade bill, it’s a reform bill … and it will help to reduce the deficit.”¶ What’s more, he added, “I think there is a link to it getting done and the Congress getting to important work on the budget.”¶ But reaching an agreement will be difficult as lawmakers continue to tussle over contentious provisions, the biggest of which is language to cut the Supplemental Nutrition Assistance Program. While the House bill would cut almost $40 billion from the food aid program over 10 years, the Senate version only calls for a $4 billion reduction over that period.¶ Vilsack declined to provide a dollar figure that the administration would be happy with, saying only, “There’s too much fascination and focus on numbers in this town, I think we need to focus on the policy.”¶ The administration’s silence on SNAP is not sitting well with some lawmakers, however.¶ Speaking on a panel during the Pro launch event, Rep. Jim McGovern (D-Mass) said the nutrition program is key to passing the farm bill.¶ “The White House ought to take some leadership on this issue,” said McGovern, a strong proponent of the program.¶ It’s unlikely, however, that the lead negotiators on the farm bill have made progress on the nutrition title of the bill, which includes SNAP, said Rep. Steve King (R-Iowa) during the event.¶ Many of the less controversial issues are addressed first, and just by staff, before lawmakers are brought in to tackle the bigger issues, King said. The nutrition title will be the most difficult issue to resolve, “and at this point I don’t think there is progress made on nutrition.”¶ The lack of progress on the nutrition title does not bode well for the completion of the bill by Thanksgiving, which lawmakers have set as the time frame needed to get the measure through Congress by the end of the year.

#### No pass – spending partisanship and farm safety net fights

Carl Zulauf, The Ohio State University and Jonathan Coppess, University of Illinois, “3 Possible Outcomes for the 2013 Farm Bill, 11/15/13

As of the writing of this post, we think the first 2 paths have about the same probability of occurring. The last path seems unlikely but we do not think its probability is zero. The last 2 paths would normally not be in the realm of possible farm bill outcomes, but much of the politics and partisanship surrounding this farm bill is consumed with cutting federal spending.¶ If Congress reaches some form of a budget deal, it is expected to be smaller and more designed to replace the current sequestration cuts. Agriculture would be expected to make a contribution to such an agreement, with the most likely source of funds being a cut in direct payments. A much less likely and more drastic outcome would involve eliminating all Title 1 support in order to capture substantially more savings to pay for sequestration.¶ It is easy to point to nutrition programs as the likely reason that a new farm bill will not occur. However, we think the farm safety net issues are just as, and maybe more divisive. Compromise will require not only considerations of content differences but also process considerations of how to get a bill passed in a contentious political environment focused on the level of government spending.¶ Whether the bill is an extension or a new bill, it is distinctly possible that the bill will be attached to the federal budget deficit and concurrent spending resolution that must be passed by Congress.

#### 1st, Restrictions on targeted killing coming now—debates on transparency and oversight thump the disad

Stangler, 9-16-13

[Cole, In These Times staff writer based in northeast D.C., covering Congress, corruption and politics in Washington. His reporting has appeared in The Huffington Post and The American Prospect, Will Syria Re-Energize the Anti-Drone Movement?, http://inthesetimes.com/article/15627/will\_syria\_re\_energize\_the\_anti\_drone\_movement/] /Wyo-MB

 “It can be enough to have champions in Congress who are going to really push these issues with the administration, especially if they’re on key committees,” Benjamin says. “We’re having a Drone Summit November 16 and 17, and before these issues around Syria, I was saying, ‘Oh, it’s not even worth it to try and get Congress people to come; they’re not going to want to be seen as speaking out against the administration’s policies.’ And now I feel totally differently. Now I feel like, ‘Yes, let’s push them to come to the drone summit. Let’s get them to be our champions.’ ”¶ One of those champions, at least on the issue of targeted killings, could very well be Grayson, who sits on the House Committee on Foreign Affairs. In These Times asked the congress member if he was interested in addressing and reining in the administration’s use of drones.¶ “Yes, that’s up for debate,” Grayson answered. ”It’s clear now that we’ve killed over 100 children in these drone attacks. It’s difficult to characterize these children as, in any sense, Al-Qaeda members. And the problem with drone attacks is that it makes warfare almost invisible to everyone except the victims. The Obama administration has used drones according to published reports over 100 times in Pakistan and in Yemen. And what they’ve created was the same sort of secret war that we ended up condemning Nixon for in Cambodia. This is a war that kills, this is a war that maims, this is a war that has its collateral damage and its victims in spades—even the occasional American citizen who ends up being killed in these attacks without due process.”¶ Congressional oversight over the administration’s use of drones is restricted to the House and Senate Intelligence Committees, and even committee members receive only limited classified information. For the most part, Congress has shown little interest in drones, holding its first-ever hearings on the topic this year—although the U.S. government adopted drones for targeted killings over a decade ago, shortly after 9/11. The Senate Judiciary Committee held the first two hearings—one in March on the coming introduction of drones into domestic airspace, while the Subcommittee on the Constitution, Civil Rights and Human Rights held another in April devoted to targeted killings (which the administration notably skipped out on). In May, the Congressional Progressive Caucus organized a separate hearing on drones. These hearings generated calls for greater transparency and federal oversight.

#### 5th, Obama wont spend PC and he won’t be effective if he does

Jay Cost, staff writer, 2-11-2013, “Obama the Bargainer,” The Weekly Standard, http://www.weeklystandard.com/articles/obama-bargainer\_699205.html?page=1

Thus, with the festivities finished and the glow of the inauguration fading, it is fair to ask: Just how powerful will President Obama be in his second term? In other words, how successful will he be at persuading the diverse agents of our government to do what he wants them to do? If the lessons of his first term guide our expectations for the second, then the most likely answer is: not very. At first blush, this assertion might sound absurd. A weak President Obama? Proof of the contrary is in the pudding: The massive stimulus, the health care bill, and financial reform were all epic in their scope and ambition. Surely both left and right agree—whether they celebrate or bemoan the fact—that Obama is a very strong, liberal president. But presidential power—the ability to persuade—has many sources, some external, some internal. The external sources are all reducible to “the political context.” How many seats does the president’s party control in Congress? What is the status of the opposition party? What was the relative strength of the president and his party in the last election? What is his job approval rating? And so on. All of these factors set the boundaries for how easily the president can persuade others. In 2009 and 2010, President Obama enjoyed a very favorable political context. Today, the political context is more favorable to him than it was in 2011, but markedly diminished from the heady days of 2009. So, for instance, President Obama can call for action on “climate change” until he is blue (or, perhaps, green) in the face, but the political environment—including arguably the most conservative House of Representatives since the 1920s—means he lacks the power to make it happen. The internal sources of strength are the president’s political skills, which he deploys in particular circumstances. So the question becomes: How good is he at persuading others, given the political context? If political context is the science of presidential power, quantifiable in electoral results and congressional voting scores, persuasive skill is the art. Here, we must put down the American Political Science Review and pick up Machiavelli’s Prince. As for President Obama’s first term, no other incoming president in recent history had such a surplus of political capital and misused it so terribly. The reason? He lacks important skills that are integral in the exercise of presidential power. All presidents are unique, each possessing or lacking skills useful to a chief executive. Obama is notable in that he has mastered some vital skills better than any recent predecessor, but he exhibits virtually no facility with others. His strengths have been enumerated extensively by a fawning press corps. His favorable coverage is due not only to the media’s ideological commitment to his policy goals, but also to his natural gifts. He awes the press, and many other groups in society, by his very presence. Moreover, he knows he has this power over them. This ability, more than any other, made him president and remains his single greatest source of power. Yet though he affects some people intensely, he himself seems largely unaffected by others. This helps explain why he has used his speaking ability so unevenly: He is wont to misread people, and therefore situations. His Tucson speech, for instance, after the shooting of Rep. Gabrielle Giffords, was a political stroke of genius. He intuited what the moment called for and delivered it perfectly. By contrast, his 2009 speech to the International Olympic Committee pitching Chicago was a waste of time and made him look small. Similarly, he has time and again left business leaders feeling nonplussed, inviting them to the White House mainly to serve as window dressing for another teleprompter performance. It is on Capitol Hill that Obama seems most out of touch with his audience. In particular, he does not understand what the key players in Congress expect, yet he is convinced he knows them better than they know themselves. What’s more, he gives little and inconsistent guidance as to what he expects from them. That goes for both Republicans and Democrats. For Republicans, the warning signs appeared early, on the stimulus bill passed in the president’s first month in office. Obama and his team were supremely confident that they could get a $900 billion package through Congress with solid Republican support, so much so that when House minority whip Eric Cantor warned that they would receive no backing from House Republicans, they told him not to embarrass himself with such an absurd prediction. Team Obama failed to anticipate how turned off the congressional GOP would be by the spending side of the package: Democratic appropriators were unloading a wish list that had accumulated during more than a decade of Republican governance. The White House also thought the Republicans would be attracted to the tax cuts that constituted roughly one-third of the package. But the White House did not understand how Republicans view taxes—specifically, the difference between tax credits, which the stimulus favored heavily, and rate cuts, which Republicans prefer. None of this should have come as a surprise to anyone who had done any homework on the congressional GOP. After all, Republicans killed a 1993 stimulus bill that was qualitatively similar, but less than a tenth the size of the 2009 package. What did Team Obama surmise when its predictions fell flat? It certainly did not take time to gauge the congressional GOP more carefully, to build a more nuanced picture of Republicans’ motives and expectations. Instead, it adopted the cartoonish caricature one finds in a Paul Krugman column: Republicans are contemptible knaves, willing to let the economy go down the drain to embarrass the president. The stimulus also featured another theme of presidential-congressional relations under Obama: mixed messages from the White House. Early in the negotiations over the bill, President Obama told House minority leader John Boehner and Cantor that he was interested in their ideas. He did not want to play partisan games; he just wanted to jump-start the economy. Yet when Cantor presented the president a list of suggestions, Obama brought the dialogue to an icy conclusion by infamously declaring, “I won, so I think I trump you on that.” During the deliberations on the bill, the president’s chief of staff, Rahm Emanuel, was known to respond to other GOP suggestions by shouting, “We have the votes. F— ’em!” For the first two years of Obama’s tenure, congressional Republicans did not register with the White House at all. Contact was so sparse that when the GOP took control of the House of Representatives, the White House did not even have Boehner’s cell phone number so the president could place a congratulatory call. The case of Michigan Republican Dave Camp is illustrative. According to Bob Woodward in The Price of Politics, The administration’s approach to Congress was different from what he was used to. He had first come to Washington as a congressional staffer during the Reagan administration. Reagan had deployed administration liaisons all over Congress. Camp could remember Reagan getting on the phone with a lowly freshman congressman to discuss legislation. .  .  . During Obama’s first two years in office, Camp was the ranking Republican on the Democrat-controlled Ways and Means Committee. He was one of the more politically moderate House Republicans. Yet the administration’s Hill staff didn’t even seem to know who he was. He never saw them. During the debt ceiling battle of 2011, the president again exhibited cluelessness about the motivations of congressional Republicans. Precious time during the month of July was wasted as Obama insisted again and again on decoupling the Bush-era tax cuts, making permanent the cuts for those making under $250,000, and letting the cuts in the high-end rates expire. His argument was that the congressional GOP could avoid the wrath of Grover Norquist because it would not actually have to vote to increase taxes. It seemed never to cross his mind that tax rate increases such as he was proposing were anathema to congressional Republicans. The bigger problem during the debt ceiling fight, and probably the biggest contributor to the near-default of the country that summer, was Obama’s failure to heed Boehner’s warning that $800 billion in additional tax revenue was his “red line,” above which he could not go. The justification for that figure was that it was all that could be squeezed out of tax reform (and even that was optimistic according to many analysts); beyond that, tax rates would have to be raised in order to bring in more revenue. In late July, after Boehner had made a “grand bargain” offer that included $800 billion in new revenue, Obama asked for another $400 billion. Memories diverge on exactly who said what—Boehner is convinced Obama said he had to have the extra money, while Obama believes he only suggested it. This ambiguity might have been avoided if Obama had not made the rookie mistake of making such a big request over the phone instead of in person. And, anyway, he should have known not to ask, given Boehner’s previous warnings about his red line. Unsurprisingly, the deal blew up shortly afterwards. It boils down to the difference between listening and waiting to talk. With congressional Republicans, Obama always seems to do the latter. So, once again, he was left disappointed, and once again he assumed the worst of his negotiating partners. He surmised that there were simply too many extreme Tea Party Republicans who were prepared to breach the debt ceiling, and that Boehner lacked control of his caucus. Again, a basic understanding of Republican history would have corrected this notion. Like Newt Gingrich and Denny Hastert before him, Boehner is responsible to a majority of the Republican caucus, which for generations has opposed the kinds of rate increases that $1.2 trillion in new revenue would have required. Not only did Obama fail to listen during the debt ceiling struggle, he consistently sent the other side mixed messages. A case in point: Obama’s demagogic April 2011 speech blasted Paul Ryan’s budget as “leaving seniors at the mercy of the insurance industry” and abandoning “the fundamental commitment this country has kept for generations.” In private, however, Obama had praised Ryan for offering a serious proposal and emphasized that both sides had to avoid scaring the elderly for political points. Worse, he had held a bipartisan summit that very day to encourage the two sides to come together on a plan. Obama’s problems communicating with Congress are not limited to the right side of the aisle. Although Democrats need not worry about White House demagoguery or fret that Obama fails to understand their concerns, he has nevertheless done a poor job of engaging them in dialogue. In particular, the White House has often cut congressional Democrats out of the loop, inhibiting interbranch coordination and angering leaders by what they feel is trampling on their institutional rights. Indeed, the president’s signature achievement—Obamacare—almost did not happen because of this. The process by which the health care bill was written was chaotic, to say the least. At one point five bills were circulating on Capitol Hill, three in the House and two in the Senate. Each differed, sometimes dramatically, in how to expand coverage and how to pay for it. And yet the White House did virtually nothing in 2009 to coordinate these efforts. In fact, White House aides privately thought the final House bill was a liberal fantasy, and they had worked out a deal with medical providers that did not include the so-called public option. Yet the president never came out against that proposal, or any other, for that matter. After multiple calls over the summer of 2009 for President Obama to set some ground rules on what he expected, he gave a speech in early September that, though his aides promised specificity, was once again vague. Finally, in early January, when the two chambers had passed their bills and it came time to work out the finer points, President Obama actually stormed out of a meeting after Nancy Pelosi tartly expressed her frustration with his lack of leadership. It was left to Emanuel to finish the negotiations. Worse, the needless delays due to the lack of presidential leadership sapped public support for the reform effort, led to Scott Brown’s victory in the Senate race in Massachusetts that January, and eventually forced Democrats to pass a gratuitously slipshod and ill-conceived bill that otherwise never would have become law. After the 2010 midterms, House Democrats lost their majority, but not all of their clout. It would have been virtually impossible for Boehner to pass a compromise debt ceiling plan through the House in 2011 without at least some Democratic support, so it was appropriate for Pelosi and her leadership team to be kept in the loop. For a while, they were, but as Boehner and Obama approached a grand bargain, House Democrats were excluded. Amazingly, so was Harry Reid. Any deal would obviously have to bear the imprimatur of the Senate majority leader, yet he was cut out of the final talks. It was only after the New York Times scooped the Boehner-Obama grand bargain that the White House brought Senate Democrats into the loop. Unsurprisingly, they were apoplectic, believing that the deal extracted too little from the congressional GOP, and feeling that they had been ignored. In fact, it was the outrage of the Senate Democrats that prompted the White House to go back to Boehner at the last minute to ask for more tax revenue, scuttling the big deal once and for all. All of these stories point in the same direction: This president does not have a solid congressional outreach program, does not have a steady grasp of the expectations of legislators in either party, and does a notably poor job of communicating to them what he expects. Thus, a drifting and listless policy process, finally given direction by some power player outside the White House, often acting to avert imminent disaster, has marked almost every major deal during his tenure. There is little reason to expect anything different in the next four years. In the end, President Obama simply does not spend enough time talking to members of Congress. He is too aloof, and most accounts suggest he dislikes the seemingly petty, parochial nature of Capitol Hill. In an interview with journalist Ron Suskind, President Obama articulated what he believes to be the core of a president’s job, and what he learned from the troubles of his first term: The reason people put me in this office is people felt that I had connected our current predicaments with the broader arc of American history and where we might go as a diverse and forward-looking nation. And that narrative thread we just lost, in the day-to-day problem solving that was going on. .  .  . What the president can do, that nobody else can do, is tell a story to the American people about where we are and where we need to go. While this statement would surely make the republicans of the founding generation turn over in their graves, it does encapsulate the job of the modern president, but only in part. Yes, he is to stand, almost godlike, above the political process and tell a story, but the modern presidential deity is not in line with the watchmaker God of the 18th-century rationalists. It is not enough to put the pieces in motion, then stand back. Instead, a president must be more like the God of the Old and New Testaments, above the world and sovereign over it, but also intimately involved in it, guiding, encouraging, cajoling, and threatening people to make the right choices. The ideal modern president, to borrow a phrase from Theodore Roosevelt, is one “actually in the arena, whose face is marred by dust and sweat and blood.” President Obama does not much care for the arena, and his successes came despite this distaste, not because of it. In fact, Nancy Pelosi probably deserves most of the credit for the legislative victories of 2009-2010. She functioned as a de facto prime minister, with her eyes always on big, national projects while she dealt with the provincial concerns of this committee chair or that subcommittee member. She, not Obama, was the one “in the arena.” What this means is that major breakthroughs on legislation in the next four years are likely to depend on political actors outside the White House. Pelosi’s power is only a fraction of what it was, but policy success will still depend on congressional entrepreneurs as long as the White House remains disengaged. Thus, a whole host of issues will likely go unaddressed, above all, the looming entitlement crisis. One issue that could see movement is immigration reform, a topic of discussion where there is overlap between the parties and there are potential leaders in Congress, like Marco Rubio, who could help in whipping his party and negotiating a compromise with the other side.

### DA

#### 4th, Restrictions inevitable---only a question of whether they are deliberate or haphazard

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A new administration now confronts the same hard problems that plagued its ideologically opposite predecessor, and its very efforts to turn the page on the past make acute the problems of institutionalization. For while the new administration can promise to close the detention facility at Guantanamo Bay and can talk about its desire to prosecute suspects criminally, for example, it cannot so easily forswear noncriminal detention. While it can eschew the term "global war on terror," it cannot forswear those uses of force—Predator strikes, for example—that law enforcement powers would never countenance. Nor is it hastening to give back the surveillance powers that Congress finally gave the Bush administration. In other words, its very efforts to avoid the Bush administrations vocabulary have only emphasized the conflicts hybrid nature—indeed- emphasized that the United States is building something new here, not merely applying something old.¶ That point should not provoke controversy. The evidence that the United States is fumbling toward the creation of hybrid institutions to handle terrorism cases is everywhere around us. U.S. law, for example, now contemplates extensive- probing judicial review of detentions under the laws of war—a naked marriage of criminal justice and wartime traditions. It also contemplates warrantless wiretapping with judicial oversight of surveillance targeting procedures—thereby mingling the traditional judicial role in reviewing domestic surveillance with the vacuum cleaner-type acquisition of intelligence typical of overseas intelligence gathering. Slowly but surely, through an unpredictable combination of litigation, legislation, and evolutionary developments within executive branch policy, the nation is creating novel institutional arrangements to authorize and regulate the war on terror. The real question is not whether institutionalization will take place but whether it will take place deliberately or haphazardly, whether the United States will create through legislation the institutions with which it wishes to govern itself or whether it will allow an endless sequence of common law adjudications to shape them.¶ The authors of the chapters in this book disagree about a great many things. They span a considerable swath of the U.S. political spectrum, and they would no doubt object to some of one another's policy prescriptions. Indeed, some of the proposals are arguably inconsistent with one another, and it will be the very rare reader who reads this entire volume and wishes to see all of its ideas implemented in legislation. What binds these authors together is not the programmatic aspects of their policy prescriptions but the belief in the value of legislative action to help shape the contours of the continuing U.S. confrontation with terrorism. That is, the authors all believe that Congress has a significant role to play in the process of institutionalization—and they have all attempted to describe that role with reference to one of the policy areas over which Americans have sparred these past several years and will likely continue sparring over the next several years.

#### We solve the Impact- specialized courts are fast- wouldn’t compromise operations

Somin, 13 [April 23rd, HEARING ON “DRONE WARS: THE CONSTITUTIONAL AND COUNTERTERRORISM IMPLICATIONS OF TARGETED KILLING” TESTIMONY BEFORE THE UNITED STATES SENATE JUDICIARY SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND HUMAN RIGHTS April 23, 2013, Illya, Professor of Law]

B. Possible Institutional Safeguards. One partial solution to the problem of target selection would be to require officials to get advance authorization for targeting a United States citizen from a specialized court, similar to the FISA Court, which authorizes intelligence surveillance warrants for spying on suspected foreign agents in the United States. The specialized court could act faster than ordinary courts do and without warning the potential target, yet still serve as a check on unilateral executive power. In the present conflict, there are relatively few terrorist leaders who are American citizens. Given that reality, we might even be able to have more extensive judicial process than exists under FISA. Professor Amos Guiora of the University of Utah, a leading expert on legal regulation of counterterrorism operations with extensive experience in the Israeli military, has developed a proposal for a FISA-like oversight court that deserves serious consideration by this subcommittee, and Congress more generally.22 The idea of a drone strike oversight court has also been endorsed by former Secretary of Defense Robert Gates, who served in that position in both the Obama and George W. Bush administrations. Gates emphasizes that “some check on the president’s ability to do this has merit as we look to the long-term future,” so that the president would not have the unilateral power of “being able to execute” an American citizen.23 We might even consider developing a system of judicial approval for targeted strikes aimed at non-citizens. The latter process might have to be more streamlined than that for citizens, given the larger number of targets it would have to consider. But it is possible that it could act quickly enough to avoid compromising operations, while simultaneously acting as a check on abusive or reckless targeting. However, the issue of judicial review for strikes against non-citizens is necessarily more difficult than a court that only covers relatively rare cases directed at Americans.

## 1AR

#### Restrictions key to pres flex

Waxman 8/25/13 (Matthew Waxman is a law professor at Columbia Law School, where he co-chairs the Roger Hertog Program on Law and National Security. He is also Adjunct Senior Fellow for Law and Foreign Policy at the Council on Foreign Relations and a member of the Hoover Institution Task Force on National Security and Law. He previously served in senior policy positions at the State Department, Defense Department, and National Security Council. After graduating from Yale Law School, he clerked for Judge Joel M. Flaum of the U.S. Court of Appeals and Supreme Court Justice David H. Souter, “The Constitutional Power to Threaten War” Forthcoming in YALE LAW JOURNAL, vol. 123, 2014, August 25th DRAFT)

A. Democratic Constraints on the Power to the Threaten Force¶ At first blush, including the power to threaten war or force in our understanding of how the President wields military might seems to suggest a conception of presidential war powers even more expansive in scope and less checked by other branches than often supposed, especially since the President can by threatening force put the United States on a path to war that Congress will have difficulty resisting. That is partially true, though recent political science scholarship reveals that democratic politics significantly constrain the President’s decisions to threaten force and, moreover, that Congress plays important roles in shaping those politics even in the absence of binding legislative action.¶ Whereas most lawyers usually begin their analysis of the President’s and Congress’s war powers by focusing on their formal legal authorities, political scientists usually take for granted these days that the President is – in practice – the dominant branch with respect to military crises and that Congress wields its formal legislative powers in this area rarely or in only very limited ways. A major school of thought, however, is that congressional members nevertheless wield significant influence over decisions about force, and that this influence extends to threatened force, so that Presidents generally refrain from threats that would provoke strong congressional opposition. Even without any serious prospect for legislatively blocking the President’s threatened actions, Congress under certain conditions can loom large enough to force Presidents to adjust their policies; even when it cannot, congressional members can oblige the President expend lots of political capital. As Jon Pevehouse and William Howell explain:¶ **When** members of **Congress** vocally **oppose a use of force, they undermine the president’s ability to convince foreign states that he will see a fight through to the end**. Sensing hesitation on the part of the United States, allies may be reluctant to contribute to a military campaign, and adversaries are likely to fight harder and longer when conflict erupts— thereby raising the costs of the military campaign, decreasing the president’s ability to negotiate a satisfactory resolution, and increasing the probability that American lives are lost along the way. Facing a limited band of allies willing to participate in a military venture and an enemy emboldened by domestic critics, presidents may choose to curtail, and even abandon, those military operations that do not involve vital strategic interests. 145¶ This statement also highlights the important point, alluded to earlier, that force and threatened force are not neatly separable categories. Often limited uses of force are intended as signals of resolve to escalate, and most conflicts involve bargaining in which the threat of future violence – rather than what Schelling calls “brute force” 146 – is used to try to extract concessions.