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## **Weird Birds:**

Working Paper on Policymaker Perspectives on Unmanned Aerial  
Vehicles and Their Impact on National Security Decision-Making

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## **About the Author**

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The views expressed in this article are those of the author and do not reflect the official policy or position of the Department of Defense or the U.S. government. All errors of fact or omission are the author's alone.

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## 1. INTRODUCTION

No movie about a national security crisis would be complete without a darkened room displaying a blinking screen of real-time military assets as angry advisors bark new missions for them.

In reality, specific military platforms are not debated generally or moved around like a game of high-stakes “Risk” in the White House Situation Room. There are exceptions, as when senior officials consider changes to the nuclear posture of the United States or debate sensitive foreign military sales to worthy or unsavory partners – though these have a strategic baseline for discussion.

But overall, in the tradition of Samuel Huntington’s *Soldier and the State*, civilian U.S. senior national security officials stay out of the details of how and with what tools the military or the intelligence community conducts its operations. This division of labor suits the men and women around the National Security Council (NSC) table. Civilian officials can set strategic objectives or complement the efforts of Department of Defense (DoD) service members without the responsibility of understanding specific capabilities, personnel demands, force employment laydowns, payload options, logistical tails, and associated tradeoffs and risks. Military officials (or their intelligence counterparts) can develop and execute options without being told, as they say, “how to suck eggs.”

The glaring exception to this rule is drones, which were front and center in the increasing operationalization of the National Security Council. A non-military official suggesting that an F-35, or a special operations forces team, or a satellite, be shifted to a theater for a particular mission in the context of an NSC (or senior-level agency equivalent) meeting would raise eyebrows, if not generate eye rolls. Proposing a drone do the same is far less controversial; indeed, it is practically expected in many instances.

Senior policymakers have a complex relationship with drones, both armed and unarmed, that is unique among modern defense capabilities. By chance, I was an eyewitness to and bit player for many iterations of this dynamic in the Barack Obama administration, both at the Department of Defense and on the NSC staff. Had I made a national security bingo card in my years at the White House, “drone” would have been the first box I added, after seeing policymakers regularly consider the utility of such a platform in many different scenarios.

Some of this special treatment was a natural result of civilian, military, and intelligence officials feeling out the policy and doctrine around a relatively new and often controversial platform. Some of it derived from their exposure to intensive and structured processes associated with what became the *Presidential Policy Guidance on Procedures for Approving Direct Action Against Terrorist Targets* (PPG).<sup>1</sup> Some of it was due to providing oversight to tactical capabilities with increasingly strategic reputations. And some was due to the fact that drones offered options where previously there were none (or, none that were so simple). The crux of that relationship was summed up by a meeting I back-benched, dominated by a fierce argument on whether drones were, indeed, “special,” and

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<sup>1</sup> Department of Justice, *Procedures for Approving Direct Action Against Terrorist Targets Located Outside the United States and Areas of Active Hostilities*, [https://www.justice.gov/oip/foia-library/procedures\\_for\\_approving\\_direct\\_action\\_against\\_terrorist\\_targets/download](https://www.justice.gov/oip/foia-library/procedures_for_approving_direct_action_against_terrorist_targets/download).

deserving of special policies for regulation and export, by dint of their public perception rather than their actual capabilities.

This question, and its broader implications, haunted me for years after. Did policymakers grasp why they or others believed drones were special? If policymakers believed, consciously or unconsciously, that drones were “special” in any way, how did that affect drones’ employment, perceived utility, and risk? With this lens, what did policymakers understand – or not – about drones’ capabilities? How was their increasing reliance on drones changing the shape of national security decision making, for better and worse? And how were these judgments shaped by policymakers’ own experiences, affinity with administration actions, or inertia – or simply the sheer overwhelming nature of a job that does not leave much time for digging deep?

## 2. PROJECT AND METHODOLOGY

The specific capabilities of drones and their ongoing evolution have been extensively studied, as have the legal and policy challenges surrounding their employment, their effectiveness in a range of mission sets, the opportunities and risks associated with potential exports, and their association with civilian casualties. Regardless of whether you are an active proponent or critical advocate of drone employment, they have unquestionably changed the way the United States wages war, manages crises, and fights terrorism. But the subtler, less-explored question is whether drones have changed *us*. That is, whether and how drones alter policymaker’s approach to crises and oversight of the use of force. Such shifts could have significant, underappreciated implications for civilian oversight of armed conflict and for democratic control over decisions to use armed force overseas.

This working paper is the first in a Center for a New American Security (CNAS) series dedicated to understanding how 16 years of extensive drone use have affected the dynamics of national security decisionmaking, particularly regarding use of force, and exploring how those dynamics may affect democratic accountability, congressional oversight, and specifically democratic control over the use of force. Using this paper as to start a dialogue, two subsequent policy briefs will make recommendations both to the current administration as it refines national security processes and to Congress if it wishes to reassert control over the associated processes.

A preliminary component of this project is better understanding how senior policymakers *think about* drones, both armed and surveillance, given how integrated they are into formal policy processes, counterterrorism, and crisis response. What are policymakers’ assumptions about these platforms? What do they value about them? What gives them concern? How do they assess how other audiences view drones? Setting aside whether drones merit a sort of mystique, when senior policymakers become personally involved in the deployment of military and intelligence capabilities, it is worth considering what useful and harmful precedents it may be setting, why, and how.

To explore this question, CNAS conducted in-depth structured interviews with advisors who personally supported senior policymakers involved in high-level national security decision processes (primarily from the Obama administration, which was critical to our current understanding of the platform and process). In practice, this meant senior, expert staff directly supporting deputy or principal-level officials personally participating in NSC decision processes, both related to the

terrorism-focused PPG and on broader foreign policy matters. These individuals served, for years, as the fly on the wall, observing the shape of the national security debate and how official views on drones evolved over time. Some are experts in their own right on drone technology, national security law, counterterrorism, or intelligence processes and capabilities. Others were managers of NSC processes with a broad view of the both the mechanics and the subtler drama of decisionmaking.<sup>2</sup> For the purposes of this project, interviewees are anonymous and will be identified when necessary by their basic job function. At the time of most interviews, the Donald Trump administration had not released any plans to definitively alter the Obama administration's policies and practices with regard to drones. Questions did not specifically differentiate between types of drones or applications of drones, but such distinctions are noted when appropriate in answers.

This working paper summarizes those responses. As a foundation, it first lays out a general background on known public, elite, and congressional views on drones, which may indicate some "special" treatment of the capability. It also notes limitations on productive dialogue and feedback loops on matters related to drones, which could impact public and government opinion. Finally, it highlights key issues for further study, formulated to gain feedback from a community of interested experts and practitioners on their merit and potential for policy or legislative action. Later work will apply these findings in recommendations to both the current administration as it refines national security processes and to the Congress if it wishes to alter the oversight structure.

### 3. PUBLIC VIEWS AND PUBLIC-GOVERNMENT DIALOGUE ON DRONES

Though drones have been used by the U.S. military in some form for decades, they have over the last 16 years become a major tool of U.S. foreign policy, with a range of surveillance and remotely operated weapons functions. Their growing role stands in contrast to a long, one-sided, and often poorly informed public debate over the use, capabilities, and impacts of these platforms. Though the Obama administration made gradual moves toward transparency regarding its drone policies in many areas, the effect of the decade-plus in which these were shrouded in secrecy or confusion is still felt in public, expert, and international debate.

#### **Public opinion of drones**

Given the relative lack of transparency and public accountability inherent to U.S. drone usage over time, traditional checks and balances and democratic oversight face real restrictions when it comes to drones. Lacking real and timely data, "the citizenry cannot evaluate US targeted strikes,"<sup>3</sup> nor can the Congress adequately reflect its concerns or support. With these limitations, it is reasonable to question whether public opinion is somewhat skewed, and to what extent policymakers reflect or react to this uninformed public opinion. That there is public opinion data about a specific platform – and one as poorly understood as drones – is itself unusual. With this baseline, it's no surprise that some magical thinking may imbue public consideration of drones.

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<sup>2</sup> Study participants included former DoD, intelligence, State, military, and NSC officials, most of whom had served at multiple agencies and in a variety of roles adjacent to senior policymakers at the highest levels.

<sup>3</sup> Citation redacted; please contact author.

Despite the opacity, drones as a platform and drone usage have an unusually high approval rating among the American people – an important facet for American democracy (though such polls are usually focused on counterterrorism applications, not broader applications). A series of polls have highlighted such support:

Sixty-five percent of Americans agreed with the U.S. government’s decision to launch drone strikes against terrorists overseas. In the same month, 75 percent of respondents to a Fairleigh Dickinson University PublicMind poll approved of the U.S. military’s use of drones to carry out attacks overseas on targets deemed a “threat to the United States.” And in May 2015, a Pew public opinion poll reported that 58 percent of U.S. adults approved of the use of drones to carry out missile strikes against extremists in Pakistan, Yemen, and Somalia, a 2 percent increase from the same Pew poll of February 2013.<sup>4</sup>

But previous work undertaken by researchers (Jacquelyn Schneider and Julia MacDonald) affiliated with CNAS indicated that there are significant public knowledge gaps about the platforms themselves as well as the way they are governed and utilized on the battlefield. “A majority of respondents consistently over-estimated the capabilities of drones, and incorrectly believed them comparable to (or exceeding) the capabilities of manned platforms. . . . Frequent media references to the risk-mitigating qualities of drones, and to their ability to deliver ‘precision strikes,’ may help explain the public’s unfounded perceptions of drones as uniquely accurate and survivable platforms.”<sup>5</sup> (Note: the description ‘unfounded’ does not reflect a judgment of this paper one way or another, though regardless, the public does not likely have the ability to make such a judgment).

Regardless of their knowledge base, whether and how public views on use of force change based on the availability of drones is complicated. The same survey also found that Americans were, unsurprisingly, more likely to support unmanned uses of forces than manned, but that such preferences may not actually indicate a greater propensity for use of force overall. Likewise, scenarios presented with absence of legal justification (or divided legal justification) did not indicate an increased willingness to use unmanned platforms – in other words, use of drones, no matter how secretive, did not indicate accommodation of extrajudicial killing. Interestingly, when the survey presented a scenario with high risk to civilians, respondents actually preferred manned responses vs. employment of drones

Other CNAS research (by Michael C. Horowitz, Paul Scharre, and Ben FitzGerald) examined a similar question: how the introduction of drones into militaries’ arsenals might change expert and public attitudes about the use of force relative to manned platforms. In scenarios questioning whether to deploy military aircraft into a contested area, expert, American public, and Indian public (intended to provide insight into non-U.S. perspectives) all were more approving of unmanned options than manned options. Interestingly, when asked about a potential escalation scenario, U.S. public and expert “respondents were more likely to escalate when an inhabited aircraft was shot down than when a drone was shot down” – but Indian respondents were far more balanced in their

<sup>4</sup> Jacquelyn Schneider and Julia MacDonald, “U.S. Public Support for Drone Strikes” (Center for a New American Security, September 2016), <https://www.cnas.org/publications/reports/u-s-public-support-for-drone-strikes>.

<sup>5</sup> Schneider and MacDonald, “U.S. Public Support for Drone Strikes”

desire to retaliate.<sup>6</sup> They concluded that “the choice of using drones versus inhabited aircraft has significant effects on the willingness of [both public and expert] respondents to start conflicts – as well as escalate them.”

Concerns about civilian casualties top the list of Americans’ concerns about drones, with nearly half of Americans saying in a 2015 Pew poll that “they are very concerned that U.S. drone strikes endanger the lives of innocent civilians, while another 32% say they are somewhat concerned about this.”<sup>7</sup> Sarah Kreps, a well-known drone expert, has found that “Domestic US public support for lethal drone operations is high, but that support declines greatly when individuals are informed of civilian casualties.”<sup>8</sup> Indeed, another study found that foreign civilian casualties caused an even larger drop in support for drones than the prospect of American military casualties – an effect peculiar to unmanned platforms.<sup>9</sup> In one fascinating study, James Igoe Walsh explored “whether precision weaponry makes individuals more sensitive to civilian harm”:

Respondents were told of a planned US military strike on a militant group in Pakistan and that civilian casualties might result from the US strike. Different groups of respondents were told the US attacks would be carried out by either high precision drone aircraft, high precision manned aircraft, moderate precision bombing, or low precision bombing. The study found: “Respondents primed to expect fewer civilian casualties [due to precision weaponry] expressed more regret, more sympathy with victims’ families, and less satisfaction than did those primed with a higher risk of civilian deaths, despite the fact that the actual outcomes across treatments were identical.” And these emotional responses “weaken when precision strikes are carried out by manned platforms.”<sup>10</sup>

## Talking Past Each Other: Public/Elite Dialogue on Drones

Some of the distinction in how the American people view drones versus manned platforms is obvious: employment of drones for ISR or lethal purposes imply no or minimal risk to American personnel. However, as Schneider and MacDonald note in their research on public perceptions of drones, when it comes to national security, risk is far more complex and nuanced than this simple calculus. They state that “conflict also involves the risk of crisis escalation, risk to civilians, risk to friendly ground troops, and risk of failing to achieve national security objectives.” Risk of establishing norms unhelpful to national security interests, risks that the use of drones can be exploited by terrorist organizations as a recruitment tool, and risks to democratic accountability and public support might also be added to this list, among other issues.

These aspects of risk are unquestionably difficult to define and to establish useful public-government dialogue around – indeed, even overt conflicts over the last two decades have been

<sup>6</sup> Michael C. Horowitz, Paul Scharre, and Ben FitzGerald, “Drone Proliferation and the Use of Force: An Experimental Approach” (Center for a New American Security, March 2017), <http://drones.cnas.org/reports/drone-proliferation-use-force/>.

<sup>7</sup> Pew Research Center, “Public Continues to Back U.S. Drone Attacks,” May 2015, <http://www.people-press.org/2015/05/28/public-continues-to-back-u-s-drone-attacks/>.

<sup>8</sup> Sarah Kreps, “Flying under the radar: A study of public attitudes toward unmanned aerial vehicles,” *Research & Politics*, April-June 2014, 1–7, <http://rap.sagepub.com/content/1/1/2053168014536533.full>.

<sup>9</sup> James Igoe Walsh, “Precision Weapons, Civilian Casualties, and Support for the Use of Force,” *Political Psychology*, 31 no. 5 (2015), <http://www.jamesigoewalsh.com/drone.pdf>.

<sup>10</sup> Ryan Goodman, “Social Science Data on Public Reactions to Drone Strikes and Civilian Casualties,” *Just Security*, July 3, 2014, <https://www.justsecurity.org/12556/social-science-data-public-reactions-drone-strikes-civilian-casualties/>.

subject to limited or strained public debate. Such risks have been even more difficult to unearth when it comes to drones, where for many years the official policy of the U.S. government was to deny some of their activities ever took place, or to maintain a shaky pseudo-monopoly on the platform that limited mature international discussion of appropriate use. Even as policy, practice, and capabilities became more transparent, some government officials were initially both reticent and, by necessity, adversarial, to engage in debate.

As such, understanding how U.S. policymakers think about drones from the outside has been challenging. In another study, Schneider and MacDonald highlighted “the importance of presidents’ personality traits – particularly their willingness to take risks in the use of different types of force” in how they approach conflict. In their assessment, “risk averse leaders” – which they found President Obama to be – “were more likely to use drones to carry out airstrikes.”<sup>11</sup> Indeed, these capabilities aligned well with the president’s distaste for large scale interventions.

Any official drone talking points and fact sheets are likely less nuanced than internal debate, even as the government grew to share more of its thinking on drones at the end of Obama’s second term. The most obvious example of this dynamic is the slow drip of acknowledgment and justification of lethal drone usage. Indeed, the most detailed initial releases on lethal drone usage were about the *legal case* – by nature defensive and unequivocal – for using these platforms for targeted killings.<sup>12</sup>

President Obama did not himself acknowledge the pursuit of the lethal drone program until a 2012 online chat, first describing “very precise precision strikes against al Qaeda and their affiliates,”<sup>13</sup> elevating a term – *precision* – that both clarifies and obscures public and senior leader understanding of drone usage (“precision” being a formal military term that describes a wide range of munitions used across hundreds of platforms intended to hit a specific target, rather than a reflection of a lethal drone’s particular acuity). *Precision, legality, discrimination, rigor* [regarding policymaker review], *effectiveness, closely supervised, and targeted* are frequently found in any administration description of lethal drone usage, reflecting a staunch public stance that these drone programs are both appropriate and justified.<sup>14</sup>

Regardless of how firmly they were believed by senior policymakers under Obama, such statements are hampered by an inability to back them up. As former counterterrorism official Luke Hartig noted in an essay, “Senior Administration officials, as well as congressional supporters, [had] made bold claims about the precision of the drone program but failed to provide detailed accounting of controversial strikes or respond to specific reports of civilian casualties,” citing a wariness of scrutiny

<sup>11</sup> Julia M. MacDonald and Jacquelyn G. Schneider, “Why Americans love drones,” *Bulletin of the Atomic Scientists*, August 24, 2016, <http://thebulletin.org/why-americans-love-drones9804>.

<sup>12</sup> E.g., Harold Koh, “The Obama Administration and International Law” (speech at American Society of International Law, March 25, 2010); legal proceedings regarding lethal operations against Sheikh Anwar al-Aulaqi; John O. Brennan, “Strengthening Our Security by Adhering to our Values and Laws” (Harvard Law School, Cambridge, MA, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/09/16/remarks-john-o-brennan-strengthening-our-security-adhering-our-values-an>; Eric Holder, “Attorney General Eric Holder Speaks at Northwestern University School of Law” (Northwestern University School of Law, Chicago, IL, March 5, 2012), <https://www.justice.gov/opa/speech/attorney-general-eric-holder-speaks-northwestern-university-school-law>.

<sup>13</sup> Christi Parsons, “Obama defends ‘judicious’ use of drone strikes during online Q&A,” *Los Angeles Times*, January 30, 2012, <http://articles.latimes.com/2012/jan/30/news/la-pn-obama-drones-google-interview-20120130>.

<sup>14</sup> Jameel Jaffer, *The Drone Memos* (New York: The New Press, 2016), 2.

from outside critics who officials believe “don’t understand the detailed nature of these operations.”<sup>15</sup>

The standard talking point within government and among drone advocates is that drones kill civilians at no higher a rate, and almost certainly at a lower rate, than most other common means of warfare, due to their particular ordnance, low profile, and loiter time; also, that the civilian casualties from targeted strikes have been very low.<sup>16</sup> But public and expert dialogue on this matter was challenged for years by the lack of formal data releases by the United States on strikes outside the area of active hostilities. Drone policy critics have shared anecdotes of their meetings with U.S. officials who were purely in “receive mode” about their concerns, even when the administration may have had a better story to tell. Even today, though the Obama administration issued an admirable executive order on “Pre- and Post-Strike Measures to Address Civilian Casualties in U.S. Operations Involving the Use of Force” requiring regular reporting on strikes outside the area of active hostilities,<sup>17</sup> there often remain significant discrepancies in U.S. versus outside organization accounting of so-called collateral damage (notably, the order also included a requirement for general assessment of the reason for such discrepancies).

Occasional leaks and even some public statements over the course of the administration betrayed concern on the part of some senior officials on the trajectory or sustainability of the lethal drone program as implemented, such as after a March 2011 strike in which many civilians were reportedly killed.<sup>18</sup> Retired General Stanley McChrystal spoke with a reporter about the “resentment created by American use of unmanned strikes ... much greater than the average American appreciates.”<sup>19</sup> President Obama’s first detailed remarks on drones at National Defense University (NDU) in 2013, while very firmly underscoring effectiveness and legality, still acknowledge key questions on this platform. Though he addressed and at least superficially resolved some, he left a few for follow-up: “oversight of lethal actions outside of warzones that go beyond our reporting to Congress;” the need for the “use of force [to] be seen as part of a larger discussion we need to have about a comprehensive counterterrorism strategy;” and the need to revisit the “existing Authorization to Use Military Force, or AUMF, to determine how we can continue to fight terrorism without keeping America on a perpetual wartime footing.”<sup>20</sup> None of these was addressed by the end of his administration.

This inaction is, at least in part, due to Congress, which is by no means monolithic in terms of views on drones – particularly when it comes to export – but has, in terms of exercising oversight, been comparatively muted in public. Recent research conducted by drone expert Sarah Kreps found that “despite the recent spike in strikes [under the Trump administration], Congress has become almost

<sup>15</sup> Luke Hartig, “The Drone Playbook” (New America, August 2016), [https://na-production.s3.amazonaws.com/documents/Drone\\_Playbook\\_Essay\\_8.16.pdf](https://na-production.s3.amazonaws.com/documents/Drone_Playbook_Essay_8.16.pdf).

<sup>16</sup> Rosa Brooks, *How Everything Became War and the Military Became Everything* (New York: Simon and Schuster, 2016), 111.

<sup>17</sup> “Executive Order -- United States Policy on Pre- and Post-Strike Measures to Address Civilian Casualties in U.S. Operations Involving the Use of Force,” White House, executive order, July 1, 2016, <https://obamawhitehouse.archives.gov/the-press-office/2016/07/01/executive-order-united-states-policy-pre-and-post-strike-measures>.

<sup>18</sup> Jaffer, *The Drone Memos*, 18.

<sup>19</sup> David Alexander, “Retired general cautions against overuse of ‘hated’ drones,” Reuters, January 7, 2013 (as quoted in Jaffer, *The Drone Memos*).

<sup>20</sup> “Obama’s speech on drone policy,” *The New York Times*, May 23, 2013, <http://www.nytimes.com/2013/05/24/us/politics/transcript-of-obamas-speech-on-drone-policy.html>.

entirely silent. It has thereby abdicated an essential feature of legislative oversight, which is to ‘refine and enlarge the public view’ of how, why and when the government carries out policy.”<sup>21</sup>

## **Policy as a Lens of Policymaker Perspectives**

In a series of positive actions at the end of the second term, the Obama administration did take steps to formalize and make more transparent its lethal drone program, as well as clarify its views on international norms and export policy for drone platforms. Three years after the president’s NDU speech, the administration declassified much, though not all, of the PPG<sup>22</sup> that guides the process by which the government decides to take strikes outside hot war zones and the associated legal and policy framework. “An informed public can scrutinize our actions and hold us to account,” President Obama said – perhaps glossing over the delayed nature of such oversight and the fact that much of the policy remains redacted.

The PPG is a useful lens on the meticulousness with which the Obama administration approached drone strikes outside the area of active hostilities. As described by Hartig, the PPG

is a dry foray into the gears of government, law, and operational procedures. ... The PPG runs 18 pages and contains eight sections that lay out in meticulous detail the standards for the use of force, as well as the bureaucratic processes for approving direct action. The document only covers the use of force “outside areas of active hostilities,” a phrase that was not defined in the document but was understood as shorthand for places like Yemen and Somalia, rather than traditional war zones with U.S. combat forces on the ground, prior to the conduct of any of these operations, the PPG requires the establishment of an operational plan that provides the legal and policy basis for action. ... The document delves into extensive detail on the composition of various committees of senior government officials that must review proposals for direct action, guidance on specific factors those committees are to consider, and a list of specific information that must be included in a proposal for direct action. ... The PPG also specifies requirements for post-strikes reports to the White House and Congress. In other words, the document covers in minute detail virtually every aspect of the bureaucratic process for capturing or killing terrorists.<sup>23</sup>

This deliberative internal process stands in contrast to the muddled forays into enhancing public scrutiny of its results. While the policy actions President Obama took at the end of his term were improvements for advocates of transparency, they were still limited- and nor were they universally welcomed. When President Obama made his speech at NDU, Charles Dunlap pointed out a logical result of such transparency: that “it telegraphs to adversaries exactly what they need to do protect themselves from a drone strike” (a key component of earlier opposition to such releases). As Dunlap has noted, public viewpoints (or Congressional action) on drones change significantly in the

<sup>21</sup> Miles McCain and Sarah Kreps, “Congress keeps quiet on U.S. drone policy — and that’s a big problem,” *The Washington Post*, August 24, 2017, <https://www.washingtonpost.com/news/monkey-cage/wp/2017/08/24/congress-keeps-quiet-on-u-s-drone-policy-and-thats-a-big-problem/>.

<sup>22</sup> Department of Justice, “Procedures for Approving Direct Action Against Terrorist Targets Located Outside the United States and Areas of Active Hostilities,” May 22, 2013, [https://www.justice.gov/oip/foia-library/procedures\\_for\\_approving\\_direct\\_action\\_against\\_terrorist\\_targets/download](https://www.justice.gov/oip/foia-library/procedures_for_approving_direct_action_against_terrorist_targets/download).

<sup>23</sup> Hartig, “The Drone Playbook.”

wake of these efforts<sup>24</sup>. Still, the bottom line is that some strikes are [after the fact] public, some are not, and it is challenging for government officials to engage in useful dialogue on why: “different authorities, policies, and accountability mechanisms confuse oversight over the use of lethal drones.”<sup>25</sup> Preserving an option for use of force outside traditional civilian-military oversight and accountability mechanisms is one frequent critique, as is lack of public discussion of the existence or prevalence of non-public strikes. Regardless of transparency, limited and stovepiped congressional oversight – and muted strategies to address this – have also hampered useful dialogue on drone policy (oversight is dispersed among the Armed Services and Intelligence committees for all potential drone functions).

A Stimson Center task force report highlighted several challenges with the efficacy of current civilian and congressional oversight of force: The legal justification for use of force in the 2001 AUMF is extraordinarily broad and, based on the Obama administration’s interpretation, implicates groups that were both not in existence at the time and theaters that are beyond Afghanistan. Notification and briefing requirements on individual strikes vary based on the agency that takes them. As the Stimson task force notes, “at best, this fragmented oversight system creates confusion and a danger that critical issues may slip through the cracks.”<sup>26</sup> An Obama administration priority was to see that drone strikes are, as President Obama said, “done through our Defense Department so that we can report, here’s what we did, here’s why we did it, here’s our assessment of what happened.”<sup>27</sup> At the very least such a transition may have assisted in streamlining congressional oversight, as well as embedding strikes within a publicly understood military doctrine and accountability mechanisms. This transition made progress but never reached the finish line, and the Trump administration has reportedly reversed the policy<sup>28</sup>. (Congressional disputes on the transition and associated oversight,<sup>29</sup> as well as internal tensions between DoD, which was slower to invest in drones early on, and other parts of government which saw them as a critical capability from the beginning, also held back this transfer). Even so, the classified nature of such oversight, regardless of committee or agency, presents more subtle challenges highlighted by the task force:

Because the information involved is classified, members of Congress may have only limited ability to object in a meaningful way: they may be unable to share vital details with colleagues not on relevant committees, and they may lack the authority to share details or criticisms with constituents.<sup>30</sup>

Beyond lethal drone policy, the much delayed, fits-and-starts drone export policy has also hampered U.S. ability to credibly lead frank and public debate on international drone norms. The delay was due to a number of factors, including considerations of whether and how unmanned aerial vehicles (UAVs) differed substantially from other lethal platforms the United States sells to allies and

<sup>24</sup> Charles Dunlap, “A Report Card on the Stimson Report Card,” *Lawfare*, March 1, 2016. <https://www.lawfareblog.com/report-card-stimson-report-card>

<sup>25</sup> “Evaluating the Obama Administration’s Drone Reforms” (Council on Foreign Relations, January 31, 2017), [https://www.cfr.org/sites/default/files/pdf/2017/01/Workshop\\_Report\\_Obama\\_Drone\\_Reforms\\_OR.pdf](https://www.cfr.org/sites/default/files/pdf/2017/01/Workshop_Report_Obama_Drone_Reforms_OR.pdf).

<sup>26</sup> Citation redacted. Please contact author.

<sup>27</sup> Remarks by the President in a Conversation on the Supreme Court Nomination.” University of Chicago Law School, Chicago, Illinois. April 8, 2016. <https://obamawhitehouse.archives.gov/the-press-office/2016/04/08/remarks-president-conversation-supreme-court-nomination>

<sup>28</sup> Rachel Stohl, “The Humanitarian Impact of Drones: Country Case Study – The United States.” Stimson Center, October 13, 2017. <https://www.stimson.org/content/humanitarian-impact-drones-country-case-study-united-states>

<sup>29</sup> “Evaluating the Obama Administration’s Drone Reforms.”

<sup>30</sup> Citation redacted. Please contact author.

partners, what standards for use were appropriate, and whether the United States itself might reasonably be able to meet (in reality or perception) any given standard. Ultimately, “in February 2015, the United States issued a new export policy for military unmanned aerial systems, or drones. This policy required that recipients of U.S. drones agree to ‘principles of proper use.’ In October 2016, the United States built upon this policy by spearheading a Joint Declaration for the Export and Subsequent Use of Armed or Strike-Enabled UAVs. This declaration, which has been signed by over 40 countries, lays out important principles for the export and use of armed drones.”<sup>31</sup> But internal debate on these matters generated a self-inflicted “shrinking opportunity to play a significant role in shaping rules of the road for the use of armed drones and for limiting their proliferation,”<sup>32</sup> and much work remains to be done in the international community’s debate. Given still-murky international understanding of U.S. drone usage, absent further engagement there remains the real possibility that other countries are seizing on real or perceived U.S. precedent on surveillance, targeting, and legal basis for use of force.

The haphazard nature of these policy evolutions, and the secrecy they were held in for years, meant that official views on drones were only incrementally scrutinized, challenged, and understood in public, and often through lenses that were somewhat skewed. Constraints on public and congressional knowledge of drones also hampered Congress’s ability to drive public accountability and inform policymakers of whether their actions accurately reflected public assent. In the end, however, the Obama team believed they had made a good-faith effort to establish a lasting legal and policy framework around drones that, because it was now public, would be difficult for the next administration to walk back. The Trump administration has already committed to a more aggressive counterterrorism strategy and to reexamine drone export policies. Recent leaks indicate that a wholesale revision of Obama administration lethal drone policy is underway, and though some leaks have emerged it has not yet been released formally. The president himself has indicated a strong desire to delegate decisions on use of force, though what that formally means in practice as it relates to drones or anything else remains to be seen.

#### 4. UNMANNED AND IN YOUR HEAD: DO DRONES CHANGE THE WAY WE THINK?

CNAS study participants were all asked a series of 20 questions on senior policymakers’ views of drones, in addition to other tailored questions. Respondents were typically advisors personally supporting senior policymakers involved in high-level national security decision processes. In practice, this means senior, expert staff directly supporting deputy or principal level officials personally participating in NSC decision processes. Not all questions and responses are included in the assessment below. These takeaways should not be viewed as generalizable nor are policymaker views monolithic, but they offer a useful lens on how the senior officials that established present norms on drones view the platform and associated process.

Whatever direction the Trump administration goes with its drone policy, understanding the foundation upon which it builds its reforms will be critical. Key policymaker assumptions about the

<sup>31</sup> Elisa Catalano Ewers, Lauren Fish, Michael C. Horowitz, Alexander Sander, and Paul Scharre, “Drone Proliferation: Policy Choices for the Trump Administration.” Center for a New American Security, June 2017. <http://drones.cnas.org/reports/drone-proliferation/>

<sup>32</sup> Micah Zenko, “The Great Drone Contradiction,” *Foreign Policy*, February 19, 2015, <http://foreignpolicy.com/2015/02/19/the-great-drone-contradiction-unmanned-aircraft-systems/>.

relative merits and risks of drones shaped current practices and influenced both oversight and pursuit of strategic objectives.

## **What We Talk About (or Not) When We Talk About Drones**

*Positive aspects of drone discussions*

*Negative aspects of drone discussions*

*Desired additions to drone discussions*

One of the most frequent associations with drones in public debate is the risk of “civilian casualties.” It may come as a surprise to some critics of U.S. drone policy that this, too, is a valued aspect of internal U.S. government debate. Asked what they most appreciated about senior policymaker discussions on drones (of any kind), nearly all respondents first highlighted the time and attention given to matters related to potential risk to non-combatants, or, relatedly, the precision of drone strike capabilities. “It was a very moral conversation,” one national security official commented about the specific application of the PPG, and stands in some contrast to the comparative abstraction with which policymakers debate use of force in active combat theaters. “Rigor” was likewise a frequently highlighted attribute for these debates. Demanding rigorous justification and understanding of non-military effects for particular strikes was seen as an important component of reflection and boundary-setting for this new process. The meticulous debate – sometimes criticized as “micromanagement” by operators – about both specific strike operations and policy more broadly “was an important component of norm-setting,” another national security official noted. A senior legal advisor also pointed to the rigor with which legal discussions about drones were conducted: Even when legal questions appeared straightforward, they were still given stringent attention. Overall, respondents were persuaded that policymaker consideration of drones, at least in the case of strikes, was beneficially deliberative, sometimes to a fault.

But such deliberation may be misdirected. Asked about matters they wished policymakers would give less attention to in national discussions on drones, several respondents noted frequent, accidental drift into questioning tactical decisions regarding potential drone strikes or surveillance priorities (e.g., comparisons between types of munitions or how much gas is in the tank). “They get so much into the details of where actual platforms are going [without understanding those details],” one former NSC and State Department official noted. This is common, another respondent stated, in any debate that includes non-operational leaders, but it inevitably leads to “questions of ... [operator] professionalism” that create tension more than aid the debate. Another highlighted a tendency for senior policymakers to try to play intelligence analysts, taking on the “puts and takes of intelligence” and interpreting rather than questioning analysis as it relates to the rationale for potential drone targets. But in a situation creating such precedents, a senior legal advisor noted, more things on the table for discussion is better than fewer, and while it is possible to become too tactical, in low-intensity conflict it is easy for such matters to become strategic. Regardless, these concerns raise the question of whether policymaker rigor in oversight is appropriately focused.

There were undoubtedly positive results from policymakers involving themselves in military platform so intensively and, particularly, applying time and judgment to its most controversial application (counterterror strikes). However, respondents also highlighted more ephemeral questions that were often missing from this meticulous process: What is the actual benefit of always

seeking more intelligence, surveillance, and reconnaissance (ISR) coverage? Do drones skew the debate on whether we might use force if the risk was greater? Why are drones perceived as a less escalatory step in a conflict, especially by civilians? One respondent described this lens: “Without drones we might not undertake this mission; with drones we can do it,” and noted a perception that drones better resolve uncertainty around targets and potential consequences. He and others judged this to be a good thing – a real value add for complex national security challenges in areas where the United States does not have a presence. But it is also noted as a caution: One respondent described aptly, “Drones are seen as a low-hanging-fruit answer to every problem.” Not sure what to do? Send a drone. Need more information? Send a drone.

Put another way, while specific strikes and targets merited significant debate and evaluation, respondents noted a comparative lack of strategic discussion of the efficacy of drone strikes; the “view from the ground” of the impact of taking drone strikes; and whether there are feasible alternatives – including not acting – or other methods of gathering intelligence. One respondent described the need for discussion of how employment of drones is linked to the broader mission and political objectives in the country; another noted how blind the United States is to understanding the immediate impact in a theater like Yemen as opposed to, say, Afghanistan. Drones are a high-demand, low-capacity resource, one former military official noted, and there are a number of alternatives – yet policymakers often turn first to them for solutions. From their responses, a plausible takeaway appears to be that the narrow application of drones (particularly with regard to the PPG) may be judged as effective, but the “left and right” discussions are comparatively lacking.

### **Unknown Unknowns: Policymaker Assumptions About Drones**

#### *Assumptions about drones in need of correction*

The most revealing aspect of this interview series came from asking respondents about the senior policymaker assumptions about drones they would most like to correct. A few comments on the rationale for this question: It is worth noting that these respondents have spent hundreds of hours in the Situation Room and other senior policymaker circles observing many of the national security debates of the last several years – they are critical witnesses to how such assumptions come to be and are sometimes difficult to alter. Second, there is wide divergence in ‘type’ of policymaker – many, though not all, from the defense or counterterrorism world extensively versed in many elements of the platform and its logistics tail, many, though not all, outside it are not. Third, the question was not meant to paint policymakers as incompetent or out of touch. For all the many hours senior officials spend on particular policy matters, they are human, they are overworked, and their capacity for learning and correcting long-held assumptions is sometimes limited. Particularly for officials who join an already-established policy process or debate, the momentum of a given process is difficult to maneuver within.

“Drones are weird birds,” a former defense official summarized. “[In the U.S. context] they were [an] ISR platform first and foremost, retrofitted into weapons platforms, and [in many ways] totally unsuitable for it.” It is unclear how or whether policymakers grasp this evolution and what it means. Below are some of the common assumptions about drones that policymakers could usefully unpack as they consider its application:

**Agility:** One respondent put it succinctly: A drone is still an airplane with associated requirements and limitations. “You can’t just park it overhead – it has to keep moving,” a national security official noted. Another highlighted that drones are in many instances quite loud and noticeable, rather than the silent and invisible spies or killers from above portrayed in the media.

**Capacity and Cost:** While a drone is ‘unmanned,’ several pointed to the need to consider all the resources it still requires. Rather than thinking about a single unmanned air frame, policymakers should think of multiple assets and hundreds of people to maintain it, launch it, fly it, and analyze its feedback. The demand for these platforms far exceeds the available assets and personnel necessary to support them. Similarly, another respondent noted a lack of understanding of the years of work that go into making the employment of drones actually useful – one can’t just, say, send one to Somalia and magically generate intelligence and targets. “People think of drones as a counterterrorism platform, but they are actually an ISR platform [with multiple applications],” the respondent noted, highlighting the need for a lot of build time and analytic work. Consequently, policymakers too long avoided tough discussions on prioritization of this resource-intensive asset with infinite demand. “It’s a chicken-and-egg problem,” another former defense official added, making it difficult to prioritize missions even if one attempts to do so.

**Intelligence Quality and Weapons Precision:** Other respondents voiced the concern that increasing emphasis on drones, particularly for counterterrorism, may result in a false sense of confidence in their capabilities and the intelligence used to support strikes or that turning to a specific platform may skip over the discussion of the kind of effect one wants to achieve. In the middle of a PPG debate, one respondent said, “we discuss it as though [a drone strike] will be 100 percent effective. The ‘then what happens’ if it’s not does not get discussed as much. Time after time we end up discussing a target, but don’t have a broader debate on ‘where are we now.’”

**Low Risk:** Similarly, another respondent highlighted how recent drone employments – with partner approval, or in uncontested airspace, or among low-capability adversaries – have skewed policymakers’ sense of risk regarding these platforms. In reality, the United States does not own all global airspace and cannot universally flout aviation rules in a risk-free way, though its use of drones in many recent crises would imply that. Most drones in popular use now would also be unsuitable in contested air space. Nor is it realistic, one advisor noted, to expect uses of drones, particularly strikes, to stay secret. Likewise, military leaders have different approaches to risk for drones in military airspace versus a manned mission: They require no risk to personnel or associated search and rescue capabilities. This obviously has benefits, but two respondents noted it may dampen how other risks (platforms being shot down, political risks) are perceived or elevated: “Because they are lower cost, we have to protect against thinking they are no cost.”

## **The Good, the Bad, the Difference**

*Policymaker frustrations with drones*  
*Policymaker appreciation of drones’ value*

More, more, more: Respondents were asked what key frustrations policymakers themselves had with drones. These answers required little forethought; the majority immediately noted the lack of

capacity. Every military unit wants more ISR, often in the form of drones, to accompany it in operations, and clearly there is a high demand for ISR across a number of theaters for a wide range of purposes. “There is always a presumption that you need to know more,” one respondent said. A part of this lack of capacity is due to, as one respondent put it, drones becoming “a one-size-fits-all solution to [a] hard problem we don’t know how to solve,” highlighting examples like the search for Joseph Kony or Russian aggression in Ukraine. But part of it is due to the challenges in keeping up with demand for platforms and pilots even for high-priority missions. As a result, one respondent noted, without effective prioritization, the military becomes ISR-poor very fast. “There is always a new situation lending itself to the drone mission,” one former DoD official said.

Part of this lack of capacity derives from how the DoD has prioritized – or not – drone and drone operator production over the last decade, and the tension over which agencies should own certain missions. For years, one respondent believed, the Air Force viewed anything related to drones as a “pariah activity” and resourced and manned it that way; for those who chose to pursue it, it was not a career-progressing path in the service. Such policies had cultural impacts as well.

But such capacity frustrations would not be solved with just more air frames or trained personnel. Respondents regularly referred to the (in some views inaccurate) perception that drone surveillance and drone warfare are “easy” options. In practice, what is viewed as simple – launching a relatively cheap air frame toward a target without putting a pilot at risk – is a lot more complex. Applying drones to a particular problem demands local basing and overflight rights that may evolve over time, as multi-faceted streams of intelligence and crucially though not obviously, multiple airframes. Further, while a superficial view of drones is that they offer an option in national security decisionmaking that takes away the risk to U.S. personnel, “unmanned” does not mean “no men.” Beyond the necessary support personnel, one respondent notes that the fact of the matter is that drones versus manned operations is not always an either/or proposition – drones enable ground forces and vice versa (as in Afghanistan), and drone capabilities are often enhanced by the presence of troops on the ground.

One former defense official noted that the ISR capacity frustration with the DoD does not end with its own capabilities; the strict limits on selling drone platforms to allies was also an ongoing critique. Enabling allies with additional intelligence should be a vital function of drone platforms, but with long-standing limits on exports, allies and partners are hindered from being a source of further capacity.

**Low cost, low cost, low cost:** When asked what they believed policymakers appreciated most about the value and utility of drones, the low cost – to budgets, to risk to personnel, to risk to civilians, to politics – was cited by nearly all respondents. “Drones are perceived to have low cost and high benefit. They offer the ability to ‘do something’ with little risk,” particularly in “gray areas – it’s a low-cost way to be somewhere you’re otherwise not supposed or able to be,” a former defense official summed up. Drones allow you to “do something and say so” at low cost, another national security official agreed, with no risk to personnel. They offer “an attractive tradeoff,” another noted, describing policymakers’ appreciation of the “lower-cost investment in getting outcomes. Drones are a precise tool when used correctly for protective or selective effects with no boots on the ground.”

What's the difference? Drones vs. manned options: Whether this valuation of drones led to a better appreciation of their capabilities and impacts is debatable. Some respondents stated flatly that even within the community of senior officials who discuss drones regularly, some senior officials have no clear understanding of the capabilities of drones versus manned ISR, manned strike platforms, or other surveillance capabilities; for example, "there are things you can do with manned platforms you can't do with unmanned." This lack of understanding may result in policymakers demanding drones for particular missions where they are not appropriate or most effective (part of a tendency of micromanagement). Others were not as firm, pointing to the value in policymakers making the effort "to understand a military capability as a military capability, including basing, overflight, political ramifications, etc. It was healthy that they dug into what it meant in a number of ways," even if they by necessity did not become experts. On the other side of the equation, the "military prefers to think about the effect – not political ramifications – [of] platforms." But the way discussions over drones took shape "also made military think about the politics of this capability" – a potentially beneficial rebalancing. But perhaps a little learning may be a dangerous thing: One former military official worried that fascination played a role in the calculus of decisionmaking. "There is a fascination about a drone operator in Arizona taking out a terrorist in Yemen," the official said. Unsurprisingly, "we need education on [the] whole capability set."

Only one responded with pointed frustrations about drone capabilities themselves, commenting that he did not believe they were as accurate as perceived by senior policymakers and that the target can still be missed, even with impeccable ISR.

## **Understanding Stakeholder Views of Drones**

To the extent drone policy, process, and capabilities have generated public debate, these discussions were for many years one-sided or highly constrained. For this reason, we wanted a better understanding of what assumptions policymakers held about stakeholder views on drones.

The most notable responses were respondents' perceptions of how Congress views drones. While there is a sense that oversight committees are generally supportive of drone capabilities and drone operations, there is also a view from several respondents that members are both happy the capability exists and happy to keep it at arm's length in terms of oversight. "Drones are like effective toys to them," one former national security official said. Another noted the belief that policymakers did not really have to think of Congress in terms of drone oversight. One of the results is that, without strong congressional oversight, there was no strong demand signal to offer an endgame for counterterrorism operations. "Drones need a John McCain figure," he said. Others, however, take a different view: some members of Congress are far more weeds when it comes to drone strikes than comparable other operations, and thus more wedded to the current approach.

Some respondents believed policymakers had a more nuanced view of the American people's assessment of drones. The bottom line, one former defense official stated, is that "Americans don't want boots anywhere" – and drones can enable that. Interestingly, one respondent noted that policymakers may overweight the negative views of critical advocacy groups as representative of a broader population, "but that's not necessarily a bad thing." One official noted that the American

people may overestimate the ability of drones to “kill anyone, anywhere, anytime,” which some viewed as good, others as bad. Another agreed: “Americans like it because it’s low-risk and extends our power – or they view it as cowardly.” Mostly, however, the American people were believed to focus on the drone counterterrorism (CT) mission, “which is a fraction of what drones do.”

Other results were not generally cohesive, but offer a useful picture of how policymakers view stakeholders.

**Locals in areas of operations:** Some respondents believed policymakers sensed drones/drone strikes were viewed extremely negatively – “big brother America dropping bombs from the sky.” Another said “Terrifying. Drones create degrees of anxiety and fear. They find it cowardly and counterproductive, and believe it is rare that it gets just one bad guy. It breeds resentment.” But at the same time, one noted that some policymakers believe there is a nuance to this view: If you got the bad guy, and if the operation is seen as precise, it is not seen negatively.

**Partner governments in areas of operations:** One respondent noted that policymakers viewed them as supportive of operations and in awe of the technology, but at the same time wary about pressures to use drones for other than American purposes. But another contradicted this view, believing partner governments found drones to be a violation of their sovereignty, and were even unhappy about hosting agreements.

**Advocacy groups:** Respondents noted an occasional tendency to lump in advocacy organizations into a single bucket unfairly, commenting that there’s a difference between, say, the Red Cross and Code Pink. One former defense official stated, “We are terrible at talking about what we do [in relation to civilian casualties]. We offer no counternarrative. Some of these organizations are reasonable grown-ups trying to help us figure it out.”

## **What Would You Ask?**

Respondents were asked to identify a single question they would ask senior policymakers about drones if given the chance. Remarkably, for a group that was generally positive on the utility of drones with some reservations, the questions tended toward the extremely skeptical. “Would you do it all again?” one asked. “Do you wish these were ever invented?” Another wanted to know, “Has this been effective? Has the focus and resources dedicated to drones led to better outcomes for the country?” In a similar tone, one wished to highlight how drones have in some ways taken the place of national strategy: “How would your objective change if drones were not an option? Would you have the same goals?” Another was similarly focused on forcing assessment of the need for drones: “Why do you have a drone for [any particular mission]? The default should be that we don’t need one.” One questioned whether policymakers understood drone capabilities. “Do you know what a drone actually does – do you think it’s eyes on everything, or eyes through a very small soda straw?” He also questioned policymaker views of risk – how they view civilian casualties resulting from a drone strike versus from U.S. forces on the ground. Does one make the United States more responsible?

Others were concerned for the future. “If drones [have the potential to be] the answer for every policy problem, how does that change the policy process? Shouldn’t we be making more of them, if

the demand is so high? Intelligence will always be imperfect, and it's understandable that we will always want to know as much as possible. But drones are lulling us [into] a false sense that that is possible." Another asked to what degree policymakers are "thinking about how we need to protect ourselves from drones, now that they are the experts." As one former military official summed up, drones present a double-edged sword. The benefits that are clear to policymakers are also clear to other countries; "proliferation could be destabilizing and counterproductive to our interests."

## **Norms, Risk, Transparency, Accountability: How Do These Link to Drones?**

The last part of the interview series asked respondents to free-associate with a number of terms (norms, risk, transparency, accountability) to get a sense of which concepts were the most strongly felt in their experience in the drone policy debate and how they were viewed. These discussions offer a fascinating window into what are, in the minds of those who were among the closest to the debate, significant leftovers or issues meriting focus with regard to drones. Answer highlights are noted below.

### **Norms**

- “Rules for export and use. Who do we trust with this technology? Drones aren’t new in terms of the questions they raise.”
- “As technology advances, proliferation and norms are a big issue. ISIS has drones, my neighbor has drones with no norms on use. And privacy is not enough a part of the debate.”
- “Decreasing barriers to overflight and use of force.”
- “Targeting and kinds of targets.”
- “High standards and high threshold for when to take action, with minimal casualties.”
- “What country are we in, and what is our relationship with that country?”

### **Risk**

- “Strategic risk and over-reliance on drones as [the] primary tool for counterterrorism. There are other tools – capabilities, capacity building – and things that are less expensive.”
- “Taking an aggressive strategy vs. confidence and near-certainty in regard to civilian casualties.”
- “Low tactical risk but higher strategic risk ... regarding perceptions.”
- “That drones offer decreased risk and lesser escalation has been embraced.”
- “Short-term operational risk and risk to relationship[s] with partners. Lurking longer-term risk – what is the endgame? Precedent? Unleashing [of capability]? Hard to quantify this risk.”
- “Civilian casualties.” (repeated answer)
- “We don’t define risk resulting from drones because they are unmanned. We don’t consider the idea that drones are out there and bad guys will adapt behavior with drones if they see and hear them. We only think of risk to U.S. bodies.”

### **Transparency**

- “The delicate balance between the need for public discussion of results [of use of drones] vs. the need for protection of sources and methods to allow more operations.”
- “Lack of discussion of numbers of specific drone strikes and numbers of combatant, non-combatants, and unknowns casualties is the most woefully underperformed of President Obama’s goals for drone policy. [Changing this] would go a long way to addressing some concerns.”
- “Civilian casualties.” (repeated answer)
- “Not enough.”
- “None. Even when the military [undertakes the mission], people don’t [necessarily] understand what it means.”
- “Highly non-transparent in non-military use. In military use, same as any other capability.”
- “We are collecting a lot of data and there’s no responsible ‘owner.’ And there’s not enough information on what collection plans are and how they are prioritized. Thus they aren’t always appropriately used.”

### **Accountability**

- “There’s higher accountability [for drone strikes] than virtually any other operation in the U.S. government. [The PPG process] is very controlled. The majority of civilian casualties are totally unforeseen and generate an immediate investigation and change to TTPs (tactics, techniques, and procedures).”
- “The unresolved [shifts in authority, operations] to the DoD – and how to think about it.” (x2)
- “Actually increased accountability – civilians have never dug in higher with use of force than they have with drones.”
- “Transparency. Regardless of how good [any agency] is at using this tool, the U.S. government has to be able to defend the action. If we can’t be transparent, accountability is less robust. As it stands, it’s easy to avoid necessary conversations.”
- “This isn’t drone-specific, but the DoD takes care of [after action, discipline] if there are any bad incidents. But we need broader public accountability even if no one [does] anything wrong. There are adverse impacts [to civilians] that need to be explained and [debated]. Accountability at the unit level doesn’t [need to] change, but broader accountability is where the challenges are.”

## 5. TAKEAWAYS AND AREAS FOR FURTHER STUDY

The Trump administration appears no closer to generating a steady and deliberative national security policy process than it was in its first few weeks. Likewise, while solid rumors have come out about a revision to some of the Obama administration's drone policies, the White House has made no effort to confirm, clarify, or announce such a policy change. At the same time, one consistent theme in President Trump's approach to national security is a consistent willingness to delegate authority to the military.

Regardless of the status of this debate, this working paper highlights a few areas that may inform the shaping of Trump administration policy processes, key drone policy decisions, and congressional considerations for oversight. Some reinforce recommendations from prior efforts; others indicate new areas for attention or study.

### **Drones overall**

**The Anatomy of a Drone:** Responses generally suggested that many policymakers did not fully understand the requirements and specific capabilities of drones commensurate with their narrow management of these platforms, and, indeed, that the cost, manpower, and time demands were at times underestimated, particularly by non-operator agencies. Less clear was whether most policymakers understand the effectiveness of precision weapons in general and as associated with the value added of, for example, UAV loiter capabilities, but certainly it is a worthwhile question. Moreover, sometimes drones are not always the best tool for the job – a manned capability, something with a more sophisticated set of sensors, or even ground capabilities may be preferred. As policymakers involve themselves in drone policy and employment – or as they grow comfortable with delegating relevant authorities to operational commanders – they may benefit from a more end-to-end understanding of the personnel and resources required for stand-off surveillance, operational support, and strike missions. Similarly, policymakers may benefit from education on the specific surveillance capabilities and limitations of drones and the comparative advantages of manned versus unmanned platforms.

**Prioritization:** That drone platforms of all types are a high-demand resource, and that prioritization of where such platforms should be employed is extremely fraught, were the strongest conclusions from this interview series. A key factor in such disputes is almost certainly the “have a complex problem, call a drone” attitude noted by some participants, particularly outside the CT space. At the same time, one respondent noted, if that is the demand signal, why is there not significantly more investment in necessary platforms and personnel? Another factor may be lack of analysis or understanding of where and how certain kinds of drones are most effective – providing direct support to military operations? Lethal strike outside areas of active hostilities? ISR enabling either of those functions, or against other challenges? Finally, mixed perceptions on who “owns” drones, and whether they are viewed as strategic versus tactical or enabler assets (or military service assets, or intelligence community assets), feeds into that tension. Relevant rule sets certainly exist, but whether they are understood and aligned with national security interests is a separate question. Analysis on where drones have the greatest value, and processes to help balance ISR and strike requirements – incorporating appropriate stakeholders – could be a valuable option to further explore.

**Propensity for Use of Force:** It is almost impossible to answer the question posed by one of the respondents: If drones did not exist, would policymakers choose not to act in certain scenarios? But it might be possible, over time to determine if policymakers would make different choices – particularly for CT strikes - if they had better data or were better informed across a range of factors like alternatives, risk, capabilities, escalation, and after action assessments. Would they pursue non-lethal tactics or longer-term capacity-building scenarios to address immediate or longer-term risks? Would they expand use of drones if their use was judged to be even more effective than understood? Would they alternately work with and through partners, who may or may not respect American norms? Or, as some respondents asked, have drones offered a low-risk option to identify and respond to threats that would otherwise have no true “solution”? Getting into policymaker heads to make this determination is not realistic, but considering how to better enable policymakers to make such judgments in real time or as part of an overall strategy may have real merit.

**Proliferation and Norm-Setting:** Some responses highlighted the double-edged sword of drone capabilities, in which they are clearly valuable assets, but, as one said, “proliferation could be destabilizing and counterproductive to our interests.” The final questions of many respondents for policymakers drove home these concerns: Were the senior policymakers overseeing drones, particularly those who stood as arbiters of U.S. lethal drone programs, consciously thinking of how future adversaries would quite soon have access to the same capabilities, and how this would affect U.S. security interests? It is less clear if these conflicting facets were actively discussed in the same context. An earlier CNAS report noted that, in two key areas,

drone exports and transparency on U.S. drone strikes, the United States has yet to fully adjust its policies to a world where many actors have access to and use drones. ... The lack of transparency surrounding drone strikes that is intended to preserve U.S. freedom of action has perpetuated the perception that U.S. actions are illegitimate or, even worse, illegal

The perception that normal rules of international law do not apply to actions with drones could incentivize malign behavior by others. If other nations begin using drones in ways that are widely seen as illegitimate or illegal, it could undermine the legitimacy of U.S. actions.<sup>33</sup>

These perceptions are mitigatable with greater transparency, and the rigorous process of the PPG (or its successor) may well play an important role in norm-setting for other actors. How norm establishment will evolve if the Trump administration does indeed delegate decisions drone strike decision-making authority to agencies will be necessary to explore.

**Need to Know:** Drones have enabled a game-changing ability to be somewhere and have eyes on a situation that might otherwise be entirely off limits to U.S. policymakers. But a bigger question might be the degree to which policymakers (and operators) are growing reliant on ever-increasing streams of real-time intelligence for decisionmaking – and if that influx of data is even processable in a realistic timeframe. The line between utility and crutch may be difficult to define. A larger question may be how the drones have impacted the intelligence enterprise overall. As policymakers have grown more reliant on them and technology has improved, the intelligence community has put greater emphasis on “targeting,” which is highly intensive, which may be impacting its investments in strategic analysis. This is both a resource and personnel challenge as well as a question of overall purpose.<sup>34</sup>

**Cost and Risk:** That “low cost” was one of the most frequent descriptors of drones – for a number of purposes – bears greater consideration. That drones are financially more costly than generally assumed is one facet of this issue, given that their cost is not airframe alone, but operators, analysts, basing infrastructure, fuel, technology, etc. How drones should fit in terms of prioritization for personnel and acquisition more broadly demands greater analysis.

Just as important, as Rosa Brooks notes in her book, *How Everything Became War and the Military Became Everything*, calling “drones killing civilians” as the greatest concern about this platform is a red herring; it is, instead, that by “lowering or disguising the costs of lethal force, their availability can blind us to the potentially dangerous longer-term consequences of our strategic choices.”<sup>35</sup> In other words: is a low-level forever war in any way serving our national security interests, or is it simply best the thing to do without putting Americans in harms way. Hugh Gusterson summarized facets of this view in his book *Drone*, highlighting General David Deptula calling this “the ability to project power without projecting vulnerability”; former Director of National Intelligence Admiral Dennis Blair on the political advantage drones give a president, enabling him or her “to look tough without incurring American casualties”; and British commentator Stephen Holmes on “waging war against which antiwar forces are apparently unable to rally even modest support.”<sup>36</sup>

The parallel for drones used for surveillance was brought out in the interviews, as well: Faced with a complex problem with no easy solution, applying drones as a means of gathering more information

<sup>33</sup> Elisa Catalano Ewers, Lauren Fish, Michael C. Horowitz, Alexander Sander, and Paul Scharre, “Drone Proliferation: Policy Choices for the Trump Administration.” Center for a New American Security, June 2017. <http://drones.cnas.org/reports/drone-proliferation/>

<sup>34</sup> Krohley, Nicholas. “The Intelligence Cycle is Broken. Here’s How to Fix it.” *Modern War Institute* <https://mwi.usma.edu/intelligence-cycle-broken-heres-fix/>

<sup>35</sup> Brooks. *How Everything Became War and the Military Became Everything*.

<sup>36</sup> Hugh Gusterson, *Drone* (Cambridge, MA, and London: The MIT Press, 2016).

– which will not necessarily assist in solving the problem – may be useful, but it may also be delaying or substituting for the need to make hard choices.

One of the interview respondents noted how the absence of immediate personnel risk meant that the DoD’s role in discussions on both drone operations and drone policy is skewed and potentially curtails overall debate on risk. There is clearly no easy solution to this matter, and potential responses may range from the very tactical to very bureaucratic. But the notion of asking whether or how one would address particular challenges without drones – or if drones were judged to be high cost - merits more thought, and protecting against thinking drones are no-cost merits more consideration.

**Micromanagement:** Drones both enable micromanagement and have become a platform policymakers have sought to micromanage. Some respondents noted that this tendency created frustrations but, at least initially, was a good thing for boundary-setting. Micromanagement was also implied to be justified as a substitute for external oversight or transparency in the case of the lethal drone program. However, with a few respondents highlighting instances of turning to drones for information gathering when such platforms were either inappropriate or duplicative of human judgment in the field, reliance on such micromanagement will create problems. Rosa Brooks covers an odd but likely not exceptional event in her book:

With little preamble, he [an NSC staffer] told me that Central Command needed to move a surveillance platform to a position from which it could monitor fast-breaking events in Kyrgyzstan. This was a creative and interesting idea. ... But there was one big problem with my White House colleague’s request: neither one of us had the authority to order Central Command to immediately shift a potentially vital asset from wherever it was currently being used to the skies over Kyrgyzstan.<sup>37</sup>

Brooks goes on to outline the dozens of questions that should, rightfully, come with such a request, given that “drones are not [moved or] put into foreign airspace without a great deal of planning, an enormous amount of legal advice, and the right senior officials signing off on the whole idea.” Her anecdote summarizes the interplay between two mid-level officials, but study respondents noted similar tendencies among senior officials to try to move drones around the globe when events called for it (with similarly frustrated reactions from the Department of Defense).

Whether drones were themselves a key impetus for some of the publicly seen tensions between the Obama administration and the DoD over micromanagement is unclear, but they almost certainly played a role. Beyond the incentives to play “Risk” with this platform, drones – via the PPG – provided an opportunity for policymakers to “dig in on matters of use of force” far more than they had in other instances. While this may have created structural accountability around the outcomes of PPG strikes, it also created real tensions between civilians and operators. Part of the stress, one respondent noted, is over policymakers’ inability to make the case for why some of their tactical questions and interventions have strategic effects (as is increasingly the case in many theaters).

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<sup>37</sup> Brooks. *How Everything Became War and the Military Became Everything*.

But drones have enabled micromanagement beyond Washington, as well. Peter Singer wrote about how, “with the new technologies ... strategic and operational commanders [are] now getting into the tactical commander’s business,” but also a multitude of potential commanders or, resulting in in “power struggles galore.” Regardless of the merits of micromanagement, the demand for it is unlikely to go away anytime soon.

## **Counterterrorism**

**Bureaucracy vs. strategy:** Jameel Jaffer comments in his edited volume, *The Drone Memos*, that in “bureaucratizing the [drone] program, the president normalized it.” Respondents saw significant value in the intensive and rigorous nature of the PPG process established in the last administration, in some ways implying that the lack of oversight applied by both the Hill and the judiciary merits that the executive branch go above and beyond in its careful consideration of drone targets and operations outside warzones. But there was a parallel impression that this time-intensive rigor crowded out discussion of “the strategic value of UAV strikes” for counterterrorism purposes, strategic goals of the CT campaign, longer-term alternatives to drone strikes, and the broader security relationship with the target country. It was, by comparison, one of the most highly organized, staffed, and repeatable processes in the high-level policy world. Was this highly bureaucratized process providing a false sense of appropriateness? Did the repetitive/meticulous nature of the process make it difficult for participants, particularly newcomers, to raise broader questions?

That said, respondents *did* favorably compare the weight given to use-of-force considerations for lethal drone strikes to that of the more abstract debates around other military strategies, raising the question of whether there are fruitful lessons in civilian oversight to be applied in parallel decision processes.

**Civil-Military Relations and Accountability:** An undercurrent of many respondents’ discussions was the question of how civilians in senior positions are overseeing use of force in the CT context. That President Obama himself personally weighed the merits of individual strikes in some cases has been, in the past, a powerful argument for why the lethal drone program was receiving sufficient oversight. Indeed, the methodical and highly process-driven PPG workflow provided far more insights to policymakers over the relative costs and merits of individual strikes than comparable actions in Afghanistan (a notion that seemed to be a point of pride to some respondents). In doing so, it is worth asking whether this tighter linkage of civilians to use-of-force scenarios could or should be replicated in other instances.

But at the same time, when operations go awry in areas of active hostilities, there is a clearer understanding of accountability for those involved within the military chain of command: unit-level after-action reviews; mechanisms for redress for victims; and, though still flawed, a public accounting of what went wrong. None of these are straightforward when it comes to the lethal drones program. Transparency is limited and accountability is flattened and spread among participants, with the potential for more finger-pointing when things go wrong and less taking responsibility. This and other matters raise a broader question of how civilian oversight of use of force and civil-military accountability are being reset with this program.

**Civilian Casualties and Transparency:** Overall, respondents seemed satisfied that, in a narrow sense, appropriate measures were being taken to prevent civilian casualties, and when such casualties were confirmed, significant review and reform were undertaken to prevent them in the future (in other words, there was no impression that civilian casualties were structurally or deliberately underreported or excessive for the given operation; while this is unlikely to be something respondents might share with a mere think-tanker, they were remarkably candid on other scores). Indeed, one respondent noted that lethal drone strikes drew a higher level of internal accountability than virtually any other operation in the U.S. government. However, there was real concern about how the U.S. government talks about – or doesn't talk about – civilian casualties stemming from drone strikes, lack of awareness of how strikes are perceived in-country and by partner forces, and the overall strategic risk stemming from both the reality and the perception of such casualties. One respondent emphasized the “need [for] broader public accountability even if no one did anything wrong [in a strike that impacted civilians]. There are adverse impacts [to civilians] that need to be explained and debated.” Defensiveness may be hindering valuable public debate and even the ability to gain allies on the current CT strategy. Lack of transparency and external accountability seemed to be a great anxiety regarding the sustainability of this CT approach.

**Congressional Oversight:** Though not every respondent brought up Congress, most who did were striking in how policymakers did not see Congress playing much of a role in the oversight of the lethal drone program (of note, at least one saw the opposite problem – a Congress that was wedded to the current policy and ambivalent about reform). The broad interpretation of the 2001 Authorization for Use of Military Force and its longevity – along with Congress's apparent lack of willingness to engage in fraught political debate on post-9/11 wars – have had real implications for democratic accountability. The Stimson Center task force notes a number of concerns with current congressional oversight, highlighting “At best, this fragmented oversight system creates confusion and a danger that critical issues may slip through the cracks.”

Even were oversight to be rationalized, matters of classification would make it difficult for members of Congress to engage in dialogue with their constituents about the effects, limitations, and concerns regarding any facet of the drone program. While general public satisfaction with the program has kept the pressure off of Congress, perceptions that the Trump administration is more willing to risk collateral damage could easily lessen that support and increase demand for stronger congressional oversight.

