



## FRIENDS COMMITTEE ON NATIONAL LEGISLATION

### **What are drones?**

Unmanned Aerial Vehicles (UAVs), commonly known as “drones” are aerial systems that can be remotely controlled for short and long range military and civilian purposes. Drones are usually equipped with a camera and can also be armed with missiles. This paper will focus primarily on the use of armed drones.

### **How are they being used by the United States?**

The use of drones by the United States Government is constantly evolving. Currently, the U.S. military, the Department of Homeland Security and the Central Intelligence Agency (CIA) own and operate drones overseas (in Afghanistan, Pakistan, Yemen and other locations) and along the U.S.-Mexico border. In the last decade the U.S. government has come to rely increasingly on drones for surveillance and air strikes. Even local law enforcement agencies have begun to use drones for surveillance. It is unlikely that domestic drones will be armed, but as use rises, there are growing concerns related to privacy and civil rights.

### **How many drones does the U.S have and how much do they cost?**

According to recent reports, the Pentagon now has some 7,000 aerial drones, compared with fewer than 50 a decade ago. The fiscal year 2012 budget included nearly \$5 billion for drone research, development and procurement.<sup>1</sup> This figure represents the known costs; it does not include funding that may be classified. The CIA has about 30 Predator and Reaper drones, which are operated by Air Force pilots from a U.S. military base in an unnamed U.S. state.<sup>2</sup> The Department of Homeland Security has at least nine unarmed Predator drones with a tenth purchase planned for September 2012.<sup>3</sup> The cost per flight hour varies by type of drone. Predator and Reaper drones cost about \$2,500-3,500 per flight hour; larger armed systems such as the military's Global Hawk cost about 10 times as much: approximately \$30,000 per flight hour.

### **What is Congress' role regarding drones?**

Congress' primary role with respect to the U.S. drones program has been funding research and development and procurement by the U.S. military and the Department of Homeland Security. Congress has exercised little or no oversight related to the tactical or strategic use of drones. Because of the belief that there's no downside to the use of drones, they have become relatively popular with many members of Congress. There is even a pro-drones caucus chaired by Rep. Buck McKeon (CA), who is also chair of the House Armed Services Committee.

### **What is the Administration's role regarding drones?**

Recent news articles are beginning to detail the extent to which the White House is involved in decision to use drone strikes. According to press reports, President Obama personally oversees a so called “kill list” that includes pictures and biographies of terrorism suspects and affiliates around the world. Pundits speculate that President Obama has put himself at the helm of the process to inject “moral authority” when the U.S. chooses to use deadly force through drone strikes.<sup>4</sup>

### **Who decides when and how drones will be used?**

Currently, there are two primary agencies using drones abroad—the U.S. military and the CIA. Decisions to use drones for surveillance are generally made within the usual military and civilian chain-of-command structures. The process for deciding to use drones *for strikes*—particularly in countries that are not declared combat zones—is less well known. The American Security Project reports that, as often as weekly, more than 100 members of the national security structure gather via teleconference to sift through

intelligence, biographies, and photos of terrorism suspects. The decision to target someone is made here, but the President must approve the decision before action is taken.<sup>5</sup>

Regulation of drone use depends primarily on the location in which they are deployed. In declared combat zones (such as Afghanistan), there are clear rules of engagement and chain of command. In countries not declared combat zones (such as Yemen), the U.S. is supposed to work with the government of the country in which it operates drones. There are significant lapses in meeting this requirement, most notably in Pakistan where the U.S. often takes unilateral action.<sup>6</sup>

## **Are drones illegal?**

Experts are not in agreement about the legality of drones in use either domestically or internationally.

Targeted assassinations test the legal limits of the Obama administration's power—most notably in September 2011 when Anwar al-Awlaki, a U.S. citizen accused of being the organizational leader of al Qaeda in the Arabian Peninsula (AQAP), was killed in Yemen by a U.S. drone strike. The American Civil Liberties Union (ACLU) has filed Freedom of Information Act (FOIA) requests related to this largely ignored incident.<sup>7</sup> The ACLU has also filed additional FOIA requests related to the legal justification of targeted killings. After a D.C. circuit court ruled in favor of the CIA, the ACLU appealed; oral arguments are scheduled for September 20, 2012.<sup>8</sup>

Some contend that the use of drones to target suspected terrorists internationally is legal under Article 51 of the United Nations Charter, which covers rights to “self-defense.” According to the UN Special Rapporteur, article 51 applies if “*either* the targeted state agrees to the use of force in its territory by another nation, *or* the targeted state or a group operating within its territory, was responsible for an act of aggression against the targeting state.” According to this interpretation, only one requirement must be satisfied to justify the use of unilateral force.<sup>9</sup>

Others argue it is in the best interest of the United States to outline special rules on the use of drones due to their potentially ubiquitous nature. Mary Ellen O’Connell, professor of Law at University of Notre Dame, argues that “Just as with torture, targeted killing is not the way to greater security. It is generally unlawful, immoral, and ineffective.”<sup>10</sup>

Other than the ACLU challenge, there has been very little legal challenge to the U.S. use of drones for targeted killing abroad. Legal justifications have been cited but not tested.<sup>11</sup> The lack of confirmed information related to the U.S. drone program makes it very difficult to draw objective conclusions and leads to little more than conjecture.

## **What are the potential long term implications of the use of drones?**

Widespread and indiscriminate use of drones may carry some significant negative consequences for the U.S. A decade after the tragic events of 9-11, the U.S. is still struggling to define its role in the world. From the wars in Iraq and Afghanistan, to military intervention in Libya—including a U.S. drone strike credited for ending the exile of former Libyan President Muammar Gaddafi—to uncertainty about what to do in Syria, the mission of U.S. foreign policy seems vague and scattered, and ill-suited to promoting peace.

With the lack of overarching strategy, many leaders may see drones as a low cost—human and financial—alternative to war. Under this logic, the U.S. may decide not to invade Yemen or Somalia with ground troops, but instead conduct undeclared wars in these and other countries, with little or no Congressional or public oversight, and operating outside of legal norms.

Indeed, some administration officials do acknowledge that drones may create potential long term issues. Dennis Blair, the former Director of National Intelligence, said “[Drone strikes are] the politically advantageous thing to do — low cost, no U.S. casualties, gives the appearance of toughness... Any damage it does to the national interest only shows up over the long term.”

Such long term damage is known as “blowback” – incidents that arise in later years as an unintended consequence of actions taken today. The events of September 11<sup>th</sup>, 2001, for example, are often linked back to U.S. 1980’s support for *mujahedeen* fighters resisting Soviet occupation. One must wonder how young men in Northern Pakistan will internalize the hundreds of drone strikes—mostly under this administration—that have taken place in their country over the last decade.

As the U.S. expands drone bases across the country—there are some 64 bases in the U.S. where drone operate from<sup>12</sup>—this may be a time to pause and evaluate the potential outcomes of this policy. Currently, hundreds of companies are developing small and large scale drone technology.<sup>13</sup> Over 50 other countries are also starting to develop the technology. This raises a serious question: what happens when everyone has drones? The U.S., in conjunction with the international community, may benefit from recognizing this potential and beginning to outline international laws on drone use. Restricting the use of drones worldwide is undoubtedly in the best interest of a more peaceful world.

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#### Citations:

- 1) *New York Times*, “Predator Drones and Unmanned Aerial Vehicles,” 30 July 2012, <http://nyti.ms/8yfNSP>
- 2) Greg Miller and Julie Tate, “CIA shifts focus to killing targets,” *Washington Post*, 01 September 2011, <http://wapo.st/qgEF2Q>
- 3) Andrew Becker and G.W. Schulz, “At U.S. border, drones generate lots of buzz, few results,” *California Watch*, 15 June 2012, <http://bit.ly/LhfWci>
- 4) Jo Becker and Scott Shane, “Secret ‘Kill List’ Proves a Test of Obama’s Principles and Will,” *New York Times*, May 29, 2012 <http://nyti.ms/N6Cxpj>
- 5) Joshua Foust and Ashley S. Boyle, “The Strategic Context of Lethal Drones: A framework for discussion,” American Security Project, 16 August 2012 <http://bit.ly/N648FP>
- 6) Joshua Foust and Ashley S. Boyle, “The Strategic Context of Lethal Drones: A framework for discussion,” American Security Project, 16 August 2012 <http://bit.ly/N648FP>
- 7) *American Civil Liberties Union*, “Anwar Al-Awlaki - FOIA Request,” <http://bit.ly/sEKv4y>
- 8) *American Civil Liberties Union*, “Predator Drone FOIA,” <http://bit.ly/GStCYR>
- 9) Joshua Foust and Ashley S. Boyle, “The Strategic Context of Lethal Drones: A framework for discussion,” *American Security Project*, 16 August 2012 <http://bit.ly/N648FP>
- 10) Joe Volk, “Questions for Mary Ellen O’Connell About U.S. Drones and Targeted Killing,” *Friends Committee on National Legislation*, 17 November 2010, <http://bit.ly/QTiWIy>
- 11) Mary Ellen O’Connell, “The International Law of Drones,” *American Society of International Law*, 12 November 2010, <http://bit.ly/9UJU8W>
- 12) Lorenzo Franceschi-Bicchierai, “Revealed: 64 Drone Bases on American Soil,” *Wired*, Danger Room blog, 13 June 2012, <http://bit.ly/NyvwR4>
- 13) Larry Abramson, “Drones: From War Weapon To Homemade Toy,” *National Public radio*, 02 August 2012 <http://n.pr/NnUygX>